

National Advocates for Pregnant Women

Annual Report 2004



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Letter from the Executive Director

Dear Friends and Allies:

On April 25, 2004 I stood on stage before a million people marching on Washington and the millions more tuned in to C-SPAN that day. With my children by my side, I looked out on a sea of people and felt a sea change.

For many years and with many allies, NAPW has been working to expand the scope and vision of America's reproductive rights movement. While the March for Women's Lives still had abortion as its focus, the people organizing and attending it — and the messages they sent — prove that change can happen and that progress is possible.

What a difference from 1989, when a major reproductive rights march on Washington largely ignored women of color-led organizations and other progressive organizations and activists. To challenge this exclusion, to demonstrate the strength and diversity of the movement, and to develop strategies to oppose state-based attacks on reproductive rights, Loretta Ross, Sabrae Jenkins and I organized the 1989 Conference in Defense of Roe.

It brought together women of color working at the grassroots, state and national levels with progressive white women leaders and activists. Byllye Avery, Loretta Ross, Luz Alvarez Martinez, Charon Asetoyer, Marlene Garber Fried and Anne Finger were just a few of the women who participated. We spent two days together articulating a vision of reproductive and social justice, making clear that no event as important as a march on Washington should ever again overlook this vision, these leaders or the women and families they represented.

Extraordinary commitment and hard work by many of these conference participants succeeded in transforming the 2004 March from one limited to "choice," to a true March for Women's Lives that recognized the effects of poverty, racism and the war on drugs. Loretta Ross became co-director of the March, and many women who had participated in the 1989 conference, far from being ignored, were honored.

I was among those honored with time to speak. In



The March for Women's Lives: (left to right) Loretta Ross, Lynn Paltrow, Luz Alvarez Martinez and Dazon Dixon.

my few seconds I reminded the throngs watching that women who continue their pregnancies to term are also hurt by anti-abortion laws used as "weapons of maternal destruction."

With the leadership of NAPW National Educator and Organizer Wyndi Anderson, NAPW staff, interns and allies also marched that day. Five of them wrote about their experiences, explaining, in the case of John and Amber Marlowe, why they marched in spite of their profound opposition to abortion; how for Freeda Lynne Cathcart, a birthing rights activist, the march was about more than abortion; and for Acrea McIntosh and Adam Posner, how transformative and meaningful the march was for them. Their essays form a special part of this year's annual report.

Today, NAPW has the experience, vision and plan to lead other successful efforts for change. Our four years as an independent nonprofit have confirmed the conviction on which NAPW was established: that working at the nexus of reproductive rights, drug policy reform and other intersecting issues strengthens our ability to protect reproductive rights, and provides us with a growing base to demand compassionate, humane and effective policies on behalf of pregnant and parenting women, drug users and families.

Our belief that persistent efforts to build local and

state-based activism will make a difference was likewise borne out in 2004. Too often, national organizations undermine grassroots and state-based political efforts: rather than build strength and capacity, they swoop in and take credit for local action, supplanting rather than supporting local leadership. NAPW's work in Utah, South Carolina and Kansas is providing a model of local and national cooperation and movement-building that we hope to expand in the years to come.

For example, when the state of Utah arrested Melissa Rowland in March 2004 — claiming that she had caused the stillbirth of one of her twins and that her decision to delay having a cesarean section constituted murder — NAPW worked with Mormon mothers as well as local reproductive rights, drug policy reform, harm reduction, mental health and patients' rights organizations to oppose the prosecution. A local, cross-issue coalition was formed that put pressure on the state to reduce the charges, and kept prosecutors from introducing legislation that would have legitimized the arrest. The coalition continues to work together to increase access to care rather than punishment.

In another exciting development for NAPW's local and state-based activism, in 2004 we hired Danisha Nelson as our South Carolina Community Organizer. In the short time she's been on board, Danisha has helped develop a state-based women's health coalition and an advocacy training program for women in recovery. This work provides a model for building grassroots support and strength across the country.

In 2004, NAPW continued to use litigation as a successful means of challenging punitive policies. In Glens Falls, New York, for example, we helped get charges dismissed against a woman who drank alcohol while pregnant, while in Missouri we helped stop prosecution of a woman who admitted to smoking marijuana once while pregnant. We continued our national leadership role speaking out against policies to sterilize and punish rather than treat, and were called upon by popular media and medical and law journals to define cutting-edge issues regarding the rights of pregnant and parenting women.

Because we have been willing to represent some of the most vulnerable and least popular women in America, NAPW has learned lessons and strategies that

can be used on behalf of all women to counter growing threats to human rights and family well-being. As a national thought leader, NAPW is increasingly being called upon to address why existing strategies are not working. And our experience has given us the answer: the reproductive rights movement needs a major paradigm shift, from one that solely defends the right to choose abortion; to one that defends the humanity of all women, including those who use drugs and those who continue to term.

With this shift in mind, NAPW used 2004 to begin planning a cross-cutting conference and development of an affirmative agenda of state interventions that will support, honor, and promote the rights and well-being of pregnant and parenting women and their families.

The end of 2004, however, reminded us how much work needs to be done. In the wake of the elections, numerous arrests of pregnant women and new mothers have taken place. Victims of recent anti-abortion legislation and the continuing power of the war on drugs, women in Missouri, Oregon, Oklahoma, Tennessee, Hawaii, Texas, Missouri and South Carolina are facing new criminal charges for doing no more than suffering a stillbirth, using a drug, or struggling with an addiction. Prosecutors and legislators in Nevada, Indiana and other states are promoting legislation to legitimize the arrest of pregnant drug-using women, or to treat an unconfirmed positive drug test at delivery as a basis for terminating parental rights. Meanwhile, both the Democratic Party and some pro-choice leaders are considering compromising on women's reproductive freedom and humanity.

NAPW is at a critical juncture. We are confident that with expanded support we can not only continue to stop many of these punitive interventions — we can change the culture and politic to a positive reproductive and social justice agenda. We are excited about our victories, the progress we have seen in applying our theories of intersectional and multi-level work, and our ability to build a smarter and more effective reproductive, family, and social justice movement in America. We hope you will continue to support and participate in our cutting-edge work.

LYNN M. PALTROW

Litigation, Litigation Support and Legal Advocacy

Throughout 2004, NAPW was actively involved in numerous court challenges to punitive criminal and civil child welfare actions brought in the name of fetal rights and the war on drugs. Through litigation and litigation support, we continued our commitment to representing some of America's most vulnerable citizens, challenging efforts to expand the war on drugs and keeping mothers out of jail and children with their families.

NAPW provided essential legal support to local lawyers suddenly faced with cases that raised a host of legal and medical issues unfamiliar to them. Combining our legal skills with a vast collection of materials, we were able to provide lawyers as well as defendants, activists, researchers and the media with vital legal, scientific, policy and advocacy information about the complex and interconnected issues raised in the cases we took on.

NAPW used each case as an opportunity to empower local activists and the women who are directly affected; to mobilize a growing number of medical, public health and social justice organizations; and to move academics, health care providers and educators to become effective political activists. Whether joining an amicus (friend of the court) brief, writing a public letter opposing a prosecution, or preparing an analysis of a new policy, NAPW recognizes that these cases are not only about the woman charged – they are a part of a larger political effort to demean and disempower all women. As in the past, no matter what our involvement, NAPW does not litigate and leave. We litigate and build.

NEW YORK VICTORY: STATE V. STACEY GILLIGAN

On September 27, 2003, Stacey Gilligan, a 22-year-old woman from Glens Falls, New York, gave birth to a baby boy who allegedly tested positive for alcohol. Several days later, Ms. Gilligan was arrested by Glens Falls police and charged with two counts of child endangerment. The counts allege that Ms. Gilligan “knowingly fed her blood” (via the umbilical cord) containing alcohol to

From the NYCLU/NAPW Press Release on Gilligan Victory

“Richard Wexler, Executive Director of the National Coalition for Child Protection Reform, a non-profit child advocacy organization and one of the amici said, ‘Everytime a grandstanding prosecutor tries to score political points by taking a swing at so-called ‘bad mothers’ the blow lands squarely on children.’”

her baby in the process of giving birth.

In response to this arrest NAPW, with the aid of Drug Policy Alliance (DPA) staff, organized more than 50 medical, public health, child welfare and family justice organizations, as well as leading medical health care providers and experts, to send an open letter to the Warren County District Attorney's office opposing the prosecution. While taking seriously the problems posed by alcohol and drug abuse, these signatories condemned the arrest and prosecution of pregnant women as dangerous to the welfare of women and children.

In collaboration with the New York Civil Liberties Union (NYCLU), NAPW also wrote and filed an amicus brief on behalf of the American Public Health Association, the National Council on Alcoholism and Drug Dependence, and the National Coalition for Child Protection Reform, asking the Glens Falls City Court to dismiss the prosecution because it violated New York law and the well-established consensus in the medical community that such prosecutions are irrational, ineffective, and counterproductive. We then provided local counsel with model briefs and research assistance on his motion to dismiss.

On April 8, 2004, Judge David B. Krogman, a Justice of the New York State Supreme Court ruling as a city court judge, dismissed child-endangering charges against Stacey Gilligan. After careful examination of state case law and legislation, the Court ruled that the charges were “without legal basis.” It found that the state's child endangerment law was not intended to apply to preg-

nant women in relationship to the fetuses they carry, and held that “public policy and due process considerations militate against the prosecutions of mothers for transfer of drugs through the umbilical cord for that brief instant before the mother and the newborn are separated.”

Despite this important victory, language in the decision and comments to the press make clear that we still have much to do regarding the humanity of pregnant women and people who suffer alcoholism and other drug dependencies. In the opinion the judge described Ms. Gilligan’s alcohol use as “despicable and reprehensible.” The prosecutor warned that in spite of the ruling, she “expected other prosecutors in New York State to charge pregnant women in similar cases with endangering the welfare of a child.”

NAPW will continue education and outreach efforts to make clear that despite what prosecutors and politicians say, the arrest and prosecution of Stacey Gilligan and other women like her is not an effective child protection method. Rather, it sends a dangerous message that seeking pre- and postnatal care can lead to criminal sanctions, and it fails to address underlying mental health and social welfare issues that need to be addressed in order for recovery to occur. As Ms. Gilligan told Craig Smith of WNYT-News Channel 13, “I have always had depression my whole life. I did not want to hurt my baby and never thought of hurting him, but I have a drinking problem and I would like help for it.”

IN THE MATTER OF BOBBIJEAN P.: A STATE IMPOSED MEANS TEST FOR PROCREATION

In *In Re: Bobbijean P.*, State Judge Marilyn L. O’Connor of Monroe County (N.Y.) Family Court concluded that a couple’s fourth and youngest child was “neglected,” and banned the couple from procreating until they were able to support and regain custody of all four of their children. Describing the parents as “drug users,” Judge O’Connor wrote, “The generosity and kindness of society have been abused enough. The respondents’ existing children have been neglected enough, and this court will do what it can in this particular case to end this pattern of behavior.”

The judge — who conveniently chose to write her opinion in a case where neither parent was represented by counsel — admitted in the ruling that her decision

was both “unusual” and without legal precedent. She also had failed to ask for any input from friends of the court who could knowledgeably address drug addiction and parenting issues. Instead, the judge relied on only one witness, a New York Department of Health and Human Services case worker who had no expertise in addiction, treatment or recovery.

NAPW immediately recognized the significance of this case. While the decision treated a host of complex economic and public health issues as exclusively matters of personal responsibility, we saw the broader implications — a decision that demonized drug users and created a financial means test for procreation.

We responded through public education as well as litigation. We prepared an analysis entitled: *Too Poor To Procreate: How the Monroe County Court Opinion in the Matter of Bobbijean P. Furthers the Rational for Service Cuts to Poor Families and Fails to Advance the Welfare of Children*. We knew that our allies across the country needed a way to understand and respond to the decision.

The analysis in part explained:

. . .there were no allegations in this case of physical abuse, and no evidence of actual medical harm . . . The primary basis for finding neglect is that the mother used drugs and had a “prior history of ‘cocaine babies’.” Alcohol and drug addiction, like untreated mental illness and other diseases, can affect parenting ability. But both Constitutional and state law prohibit treating conditions women suffer during pregnancy (including addiction) as a form of neglect. Moreover, both the law and the best interests of the child require that courts ask, “Can these people parent?” — not, “Do they use drugs?”

Ultimately the decision is not about drug abuse, housing or parenting ability — it is about the kind of individual blame and false economic analysis that fueled America’s eugenic sterilization policies. Although the decision does not rest on the claim that certain individuals must be stopped from passing on bad genes, it is based on the same kind of cost analysis; social problems from high taxes, to poverty, to the overburdening of our child welfare system can be solved by controlling the birth rates of certain individuals.

By sending the message that the system has plenty to offer troubled parents when, in fact, it does not, and by

offering a seemingly quick fix solution — stop the bad people from procreating — the judge has done nothing to protect children and much to justify further government cuts in programs that in fact can improve the lives of families and children.

In October 2004, with Anna Schissel and Rebekah Diller of the NYCLU, NAPW organized and filed an amicus brief in support of a motion to vacate the order. We represented a diverse group of public health, children's rights and social justice organizations including the Child Welfare Organizing Project, Doctors of the World-USA and The Family Defense Clinic. As testament to our organizing abilities and our commitment to building alliances, both Feminists for Life of New York and Planned Parenthood of the Rochester/Syracuse Region signed on to the brief.

The brief argues that Judge O'Connor's decision violates well-established federal constitutional and state law, that drug dependency during pregnancy does not justify the extraordinary no-procreation condition, and that the prohibition was based on speculative and unfounded economic assumptions that undermine the interests of low-income and other marginalized families.

At the end of 2004 we were awaiting a decision in the case.

KENTUCKY VICTORY: STATE V. HARRIS

In February 2002, Misti Harris was indicted for child abuse based on the claim that she had injected herself with Oxycontin while pregnant. NAPW immediately stepped in to provide Ms. Harris with legal, public health and community support. In April 2002, the trial court reluctantly dismissed the charges against her. While the court felt bound by a State Supreme Court decision finding that such prosecutions violate state law and constitutional principles, the judge nevertheless wrote: "... it is this Court's hope that the Kentucky law will sometime be able and willing to protect innocent and unborn children from harm caused by the conduct of another human being."

The state appealed the ruling. NAPW continued working with sister organizations, local counsel, state-based activists and local and national public health groups to oppose the prosecution. With the Drug Policy

Alliance we organized and wrote a public health amicus brief on behalf of local and national organizations. On February 13, 2004, the Kentucky Court of Appeals held that the trial court properly dismissed the indictment against Ms. Harris and refused the State's invitation to overturn precedent against such arrests.

The State did not appeal the decision. We hope this reaffirmation of Kentucky law and policy will be the last word.

MISSOURI: STATE V. KEILA LEWIS AND MORE

On April 4, 2003, Keila Lewis gave birth to S.H., who tested positive at birth for marijuana. The State contended that Ms. Lewis admitted to smoking once during pregnancy — a single marijuana joint in September — and that she had been in the presence of other people who were smoking marijuana during her pregnancy. Ms. Lewis was arrested and charged with the felony of endangering the welfare of a child, despite the fact that there is no scientific evidence that a single prenatal exposure to marijuana can cause any harm.

Again NAPW recognized the magnitude of the case, which made clear that prosecution of pregnant women is neither limited to certain drugs, nor in fact designed to protect children. We sprang into action, providing model briefs to the local public defender and linking her to public defenders in Kansas City with whom NAPW had previously worked. We also worked with the Drug Policy Alliance and Professors Jane Aiken and Catherine Johnson of the Washington University School of Law, in St. Louis, Missouri, to file a public health amicus brief in support of a motion to dismiss, on behalf of the National Council on Alcoholism and Drug Dependence, the Institute for Health and Recovery, the National Association of Nurse Practitioners in Women's Health, Global Lawyers and Physicians, and other organizations and medical health professionals.

The brief argued that the prosecuting attorney's decision to bring criminal charges against Keila Lewis for smoking a marijuana cigarette while she was pregnant and being in the vicinity of others who were smoking marijuana during her pregnancy was unlawful, counterproductive and without medical basis. It pointed out that prosecution would contradict a series of carefully crafted state laws designed to address the issue of

pregnancy and drug use through the provision of education and treatment within the health care and civil child welfare systems, when there is actual evidence of an inability to parent. It further reminded the court that the state legislature, in alliance with the public health community, recognized that prosecuting new mothers under circumstances like these does not further the important state interests of maternal and fetal health.

Near the end of 2004 we received the heartening news that the court had dismissed the charges. In 2003 NAPW and DPA had also filed an amicus brief in the Missouri *Smith* case, challenging prosecution of a Kansas City woman who had allegedly used cocaine while pregnant. While there still has been no ruling on the *Smith* case, no new Kansas City prosecutions have been brought since our filing.

UTAH'S ASSAULT ON PREGNANT WOMEN: STATE V. ROWLAND

In March 2004, Melissa Rowland was arrested for murder based on the allegation that her decision to delay having a caesarean section caused the stillbirth of one of her twins. Despite laws (and the consensus of major medical groups) giving pregnant women the right to decide whether to undergo surgery, NAPW had long anticipated this kind of prosecution as the consequence of fetal rights advocacy, feticide and related laws, and prosecutions of pregnant drug-using women. Combining our legal, writing and advocacy skills, NAPW went to work, demonstrating the value not only of our analysis, but of our local and national organizing strategy.

NAPW made the *Rowland* case a top priority. We immediately identified and reached out to Ms. Rowland's public defender, who graciously accepted our offer to help. Simultaneously, we prepared a written analysis and commentary that gave progressive groups across the country a way of responding to the arrest. NAPW quickly became recognized as the leading expert on the issues raised. From local press to *Newsweek* and the *New York Times*, we were called upon for comment; columnists such as Ellen Goodman, Sheryl McCarthy and Julianne Malveaux adopted our message and spread the word about how shameful and counterproductive this prosecution was. We also made sure to refer press to

Thank you so very much for all the research you're doing and passing on to us. It's absolutely essential and so much appreciated.

Andrea, Local Salt Lake City Activist

As Lynn Paltrow of National Advocates for Pregnant women sees it, the real conflict is not between mother and fetus but "between the pregnant woman on behalf of herself and the fetus and the raw power of the state to tie her down and force her to go under the knife."

Doctor's Orders, Court Orders

Ellen Goodman

Boston Globe Syndicated Columnist

March 21, 2004

"People have very appropriate feelings about pregnancy and the value of fetal life," says Lynn Paltrow, executive director of National Advocates for Pregnant Women, a legal advocacy group. But, she says, "we have a problem with empowering doctor's advice with the force of criminal law."

M. May Stand for Many Things, but Not Murder

Sheryl McCarthy

Newsday (New York)

March 25, 2004

local activists and other state and national leaders.

Additionally, we helped to build (but not take over) the strength of local activists. We connected them to a wide range of resources including maternity and midwifery groups familiar with the risks of C-sections. NAPW National Educator and Organizer Wyndi Anderson reached out to local women's, drug policy and patients advocacy organizations, building bridges that had not previously existed. These local activists emerged as champions of Ms. Rowland's, and were able to maintain their activism despite the prosecutor's and press's attempts to portray this woman not as a mother who had exercised her constitutional rights, but as a mentally ill, drug-using monster who deserved punishment. The activists demonstrated, held press briefings, went to court hearings and visited Ms. Rowland in jail. Indeed, they were apparently so effective the judge in the case

The Utah coalition has continued to work together. They successfully applied for a Ms. Foundation grant to continue their collaboration and they have thus far been able to deter prosecutors from introducing legislation that would give them the authority to control and punish pregnant women through arrests and “prenatal courts” as at least one of them had suggested.

Rowland’s case sparked national attention and piqued the interests of groups advocating a mixed bag of causes, including women’s reproductive choice, criminal-justice reform and an individual’s right to make medical choices. Many of these groups—some statewide, some national—formed a loose coalition that attended Rowland’s court dates and saw her prosecution as evidence that change was needed.

Members of the same coalition, which includes the Utah Progressive Network, the National Organization for Women and its Utah Chapter, Code Pink, the Harm Reduction Project, JEDI for Women, NAPW, and the International Cesarean Awareness Network, hosted a community forum Thursday at the Salt Lake City and County Building to discuss the fallout of a case that they see as having ended without much resolution.

Wyndi Anderson of the National Advocates for Pregnant Women flew in from Washington, D.C., because she sees the potential for a “knee-jerk reaction” as Utahns reel from the emotional issues surrounding the death of an unborn child. She says the tendency to want to “strike” as a quick way to solve a problem could result in legislation that criminalizes drug-addicted pregnant women, but “it’s not a crime to be pregnant and drug-addicted.”

Instead, she said, it’s a health issue, and its sufferers need rehabilitative help.

Activists Hope Rowland Case Generates Dialogue
Doug Smeat, *Deseret Morning News*, April 16, 2004

issued an order, (unconstitutional for sure), limiting their free speech in or around the courthouse!

We also set in motion a research project to analyze press coverage of the case, assessing how often news coverage of the case discussed the nature and risk of C-sections as compared to the alleged harms to the fetus caused by Ms. Rowland’s exercise of her constitutional rights.

Rather than face trial on homicide charges, Ms. Rowland chose to plead guilty to lesser charges of child endangerment. This enabled her to get out of jail and out of Utah. Although she pled guilty to non-existent crimes, even this possibility would not have existed but for the pressure of local activists and national commentators who overwhelmingly objected to the original charges.

ANTI-ABORTION LAWS HURT EVERYONE: WYHCS HOSPITAL AND BABY DOE, V. JANE AND JOHN DOE

In January 2004, Pennsylvania resident Amber Marlowe went to the hospital to deliver her seventh baby. For reasons far from compelling, the hospital believed she was endangering her fetus by refusing a C-section. Rather than respect her informed decision, the hospital sought

and obtained a court order giving the hospital custody of the fetus before, during, and after delivery, as well as the right to force Ms. Marlowe to have the C-section. This woman knew her body, and she and her husband John believed in their right to delivery with dignity. They left the hospital before the order could be executed and Amber gave birth to a healthy baby through vaginal delivery.

Because of our past work, local press sought NAPW’s expertise and commentary right away. We provided them with a wealth of information demonstrating the consensus in both law and medicine against such court-ordered interventions. We also got word to the couple of our interest in supporting them.

The family called and we quickly established a warm rapport. Because the family was anxious to find immediate Pennsylvania-based representation, we linked them to the Women’s Law Project. Meanwhile, NAPW agreed to help them explore the possibility of filing a licensing complaint against the doctors and hospital that violated both the Marlowe’s rights and good medical practice.

We immediately recognized the magnitude of the Marlowe’s case for broadening the base — and the vision — of the reproductive rights movement. Papers filed for

Paltrow and Connell [an ally at the Illinois ACLU] were highly critical of the Wyoming Valley Healthcare System for seeking the court order, saying they believed the hospital violated the Marlowe's rights.

"This hospital should be worried," Paltrow said. "It was bad medicine. They were about to force someone to have what turned out to be unnecessary surgery."

Judge's and Hospital's Decisions in the Wrong, say Legal Experts

**By Terrie Mogan-Besecker
Wilkes-BarreTimes Leader
Jan. 16, 2004**

the hospital clearly demonstrated how anti-abortion legal arguments and principles could be used to undermine the health and rights of even those who hold profound religious objections to abortion. This family, though deeply opposed to abortion, came to understand how dangerous anti-abortion laws were even for them. With the Marlowes' permission we began to direct responsible press inquiries to them, encouraging good journalists to pursue the story.

This family became a strong ally, and press coverage from their case prompted valuable opportunities to promote evidence-based hospital policies and the rights of pregnant women. For example, legal counsel from hospitals in New York and Pennsylvania called NAPW for material and guidance in examining their policies on treatment of pregnant women. As a result, we had the opportunity to help ensure that these hospital policies were evidence-based and founded in respect for the rights of pregnant women. We also received a call from another Pennsylvania woman who said that she too had been threatened with a court-ordered intervention. A self-described traditional Catholic, this mother has now agreed to speak out about her experiences and has been interviewed by sympathetic press.

SOUTH CAROLINA – THE FIGHT CONTINUES FOR REGINA MCKNIGHT AND OTHER WOMEN

In 2001, 22-year-old Regina McKnight became the first woman in U.S. history to be tried and convicted of homicide by child abuse based on the fact that she suffered a stillbirth. The loss of her baby was blamed on her drug use. Despite the lack of any credible evidence that

the stillbirth was caused by cocaine she took, and though all agreed she had no intention of losing the pregnancy, the jury deliberated for less than fifteen minutes and Ms. McKnight, a woman with no criminal record, was sentenced to twenty years imprisonment with eight years suspended. It now appears she will not be released until 2010.

NAPW spearheaded Ms. McKnight's appeal, enlisting the aid of law firm Jenner & Block on behalf of the DKT Liberty Project, and working with local counsel C. Rauch Wise and the DPA. In spite of excellent briefing, compelling amicus briefs and a powerful oral argument, a bare majority of the South Carolina State Supreme Court upheld the conviction and a new interpretation of the state's homicide law. The Court held that a pregnant woman who unintentionally heightens the risk of a stillbirth could be found guilty of "extreme indifference to human life" homicide. Under this decision, a conviction for homicide is permitted on any evidence that a pregnant woman engaged in activity "public[ly] know[n]" to be "potentially fatal" to a fetus.

At that point we divided the labor. NAPW with counsel David Goldberg, led the effort to seek review in the U.S. Supreme Court. Attorneys Julie Carpenter and Matt Hersh of Jenner & Block and staunch ally C. Rauch Wise began the process of filing a habeas petition, challenging Ms. McKnight's conviction in the state court system based on ineffective assistance of counsel at trial. Known as a Post Conviction Relief proceeding (PCR), this action argues that even if having a stillbirth is a crime, Ms. McKnight was not adequately or fairly represented at trial and that there was no evidence that her drug use or anything else she had control over caused the stillbirth.

Unfortunately, but not surprisingly, the U.S. Supreme Court declined to review the homicide conviction. (The Court accepts about 2% of the roughly 7,000 petitions to review cases it receives each year.) So we turned our efforts to supporting the PCR proceedings and mobilizing public attention and opposition.

The PCR team did a brilliant job, including finding expert witness Dr. Kim Collins of the Medical University of South Carolina. Qualified as an expert more than 200 times for both defense and prosecution cases in state and federal courts, Dr. Collins is a forensic

pathologist who has done extensive research on the issue of prenatal exposure to cocaine. She testified that her research shows no increased risk of stillbirth associated with cocaine use. Everyone in the courtroom, including the judge, seemed thunderstruck by the fact that the state simply had had no scientific evidence to support its case.

Dr. Collins further testified that two infections listed on the autopsy report – not exposure to cocaine – provided the explanation for the stillbirth. In short, Ms. McKnight suffered a stillbirth as a result of an infection wholly unrelated to her drug use.

During the PCR hearing, the trial lawyer admitted that with a death penalty case also on her docket, she had not given Ms. McKnight's case the attention it deserved, nor realized the kind of defense she should have mounted. She also admitted that she had not obtained the expert testimony at trial that was so clearly needed.

It was an extremely hard day for Ms. McKnight. NAPW had managed to reach her stepfather in time for him to attend. Ms. McKnight, who is imprisoned on the opposite side of the state, had not seen a family member in years, and she could not stop crying or smiling. We had brought her clothes so she would not have to attend court in prison garb, but policy prohibited her from changing out of her bright orange jump suit. We did at least persuade the guard to let her put on the new sneakers we had brought.

In Fall 2004, we were once again profoundly disappointed, though not entirely surprised. In a four-sentence ruling, the court held that there had been no ineffective assistance of counsel. Ironically – and outrageous – the court acknowledged that had Ms. McKnight been represented at trial by our PCR team, she likely would not have been convicted in the first place.

The *McKnight* case is not over. The decision will be appealed. And despite the losses, the exemplary legal work on the case has provided new arguments, insights and strategies for cases across the country, where we continue to win and to keep the terrible law created in



The McKnight Case Is Not Over:
*Regina McKnight with her stepdad
at her Post Conviction Relief
hearing.*

South Carolina within that state's borders. The injustice in the *McKnight* case has helped us mobilize growing opposition to this extraordinary expansion of the war on drugs to women's wombs.

FETAL RIGHTS – MATERNAL AND CHILD HEALTH WRONGS: STATE V. WARD

At the end of 2003, events in Texas provided a frightening example of how the war on abortion and the war on drugs intersect to harm pregnant and parenting women and their families. For years, anti-choice activists in

Texas sought to pass a law declaring the legal rights of fetuses. In 2003 they finally succeeded, passing laws amending the definition of an individual in the Texas criminal and civil codes to mean “a human being who is alive, including an unborn child at every stage of gestation from fertilization until birth.” Passed by a vote of 100-1 in the House of Representatives and approved by a voice vote in the Senate, this bill, the Prenatal Protection Act, “grants personhood to fertilized eggs and embryos.”

What followed demonstrates how claims of fetal rights are really assaults on the human rights and dignity of pregnant women, and the health and well-being of pregnant women and their future children. On September 22, less than a month after the legislation went into effect, Rebecca King, District Attorney for the 47th Judicial District of Texas, wrote a letter addressed to “All Physicians Practicing in Potter County,” demanding that they report pregnant women with drug problems to the DA's office. Applying the new definition of “individual” to the state's delivery of drugs to a minor law, DA King claimed this meant physicians were now required to turn in pregnant patients who used illegal drugs. While the DA's letter suggested that the reporting and arrests would lead to treatment, NAPW research found not a single treatment program for women (much less pregnant and parenting women) within 100 miles of the DA's home office in Amarillo, Texas.

Sadly, local doctors obeyed the DA's order — instead

of controlling Federal constitutional privacy principles — and began turning in their patients. In February 2004, a Texas grand jury indicted Tracy Ward, a 30-year-old African-American woman from Amarillo, for Delivery of a Controlled Substance to a child in violation of Texas's Health and Safety Code §481.122. The punishment for violation of this statute is two to 20 years in prison. The State argued that Ms. Ward delivered “crack-cocaine” to the fetus. In October 2003, Ms. Ward had called an ambulance because she was experiencing complications with her pregnancy. She allegedly told ambulance drivers she had smoked cocaine within hours of calling them. Ms. Ward's son tested positive for cocaine at birth.

In response to the letter and prosecution, NAPW began working with lawyers and activists in Amarillo, state-based activists at the Texas ACLU, and national activists including DPA and the Breaking the Chains project. We armed a leading local activist with background literature and research that helped dispel myths about drug use and pregnancy and demonstrated the harm of a prosecutorial response.

It quickly became clear that not even the “pro-life” legislators who had sponsored the fetal rights legislation wanted the law to be used to arrest pregnant women and new mothers. Under pressure from local activists, the legislator who sponsored the bill asked the State Attorney General to issue an opinion clarifying that it did not require doctors to turn in their patients. NAPW and DPA joined in this request, filing a letter explaining how its application to pregnant women with drug and other health related issues would undermine both maternal and fetal health. More than 20 public health and advocacy groups and 27 health experts and activists also joined the letter. Together, these physicians, health care professionals, medical ethicists, midwives, child welfare advocates, public health advocates, women's rights advocates and researchers explained that the law had “been wrongly invoked to require physicians to report pregnant patients . . . to local law enforcement agencies” and that “[i]f no measures are taken to clarify the proper interpretation of these new provisions, women across the state who were never meant by the legislature to be treated as criminals will be arrested and prosecuted because of their addictions.”

At the same time NAPW was working at the state

“When you enlist secret police then you are intentionally, deliberately, and devastatingly undermining the very relationship needed to produce healthy children,” said Lynn Paltrow, an attorney and executive director of National Advocates for Pregnant Women. “This interpretation of the law demonstrates absolute disregard for maternal and fetal health frightening women away from getting the healthcare they need during pregnancy.”

**Physicians Fear District Attorney's
Interpretation of Fetal Protection Law**
Betsey Blaney
Associated Press
Sept 27, 2004, October 24, 2004

level, we reached out to Ms. Ward's local lawyer, providing him with model briefs and arguments to file a motion to dismiss and challenge the legitimacy of the charges. Unfortunately, the trial court denied the motion to dismiss and Ms. Ward decided to plead guilty to the charge. Because Texas permits what are known as “conditional pleas,” however, she was able to get out of jail on probation and allowed to appeal the ruling arguing that treating a pregnant woman with a drug problem as a drug dealer is unconstitutional and inhumane.

Lead counsel on appeal, Professor Larry Cunningham of the Texas Tech University School of Law, asked for NAPW's help. We provided extensive legal background and materials for the appeal and secured volunteer counsel Bernadette Hoppe to help us draft an amicus brief on behalf of leading public health and child welfare organizations. We worked with local civil rights activists to bring an affirmative lawsuit against the doctors who had been reporting the women. (Regardless of the DA's legal assertions, the U.S. Supreme Court made clear in the *Ferguson* case that doctors who obtain information from their patients in the guise of medical care, knowing that it will be used to further criminal prosecutions, are violating the Fourth Amendment's prohibition on unreasonable searches and seizures.)

By the end of 2004 there was still no opinion from the Attorney General, and he indicated he would not issue one until the *Ward* case had been appealed. In the meantime, as many as seventeen other women had been reported and arrested. Considering the success of

NAPW's open letter in the Glens Falls case — and the critical need to challenge the legitimacy of these arrests not only in the courts, but in the court of public opinion — we drafted an open letter to the Potter County DA and began the significant organizing effort of getting both state-based and national organizations to sign on.

The letter asks the DA to end the policy of treating pregnant drug-using patients as criminals who should go to jail rather than as soon-to-be mothers who need confidential healthcare and family treatment. It argues that the policy creates a significant threat to maternal, fetal and child health by deterring pregnant and parenting women from seeking prenatal care, and discourages the creation of desperately needed health services for pregnant women and families. We hope to surpass our record of 50 groups and individuals signing on and plan to send the letter in the early part of 2005.

OKLAHOMA & HAWAII

Thanks to our research, investigative efforts and growing reputation for effective litigation, NAPW is learning about and being called upon for help in an ever-increasing number of cases across the county. In many of these cases we provide local counsel with model briefs and information about how to challenge the legitimacy of the arrests. In other cases we help draft briefs or offer to organize and write amicus briefs.

OKLAHOMA

Oklahoma is the state that recently elected Tom Coburn to the U.S. Senate. During his election campaign he told the press, "I favor the death penalty for abortionists and other people who take life ... If somebody intentionally takes life at any stage, and that's innocent life, that is murder." It should not be surprising then that a woman who suffers a stillbirth in Oklahoma would be viewed as a murderer too.

Theresa Lee Hernandez suffered a stillbirth on April 17, 2004, Ms. Hernandez allegedly tested positive for methamphetamine after giving birth. On September 8, she was charged with first-degree murder. The State contends that Ms. Hernandez ingested "toxic" levels of methamphetamine while she was pregnant and that her drug use, rather than numerous more likely biological and genetic factors, caused the death of the fetus. In the

alternative, the State argues that Ms. Hernandez could be charged for murder in the second degree for "causing the death of Baby Boy Hernandez" while committing the crime of child neglect. The State contended that by ingesting methamphetamine, Ms. Hernandez violated Oklahoma's child neglect statute by failing to provide adequate care, shelter, food, medical care, and/or supervision to "Baby Boy Hernandez."

NAPW began working with Ms. Hernandez's public defender to prepare a motion to dismiss. Building on lessons from the *McKnight* case, we were able to link counsel to forensic experts and offer suggestions on challenging the scientific and medical evidence likely to be presented in the case. NAPW also began work on a sign-on letter similar to that in Texas, asking the prosecutor to drop the charges for the sake of maternal and fetal health.

Given the hostile environment and the obvious need to organize a response, we sent Wyndi Anderson to meet with reproductive rights, public health, drug policy reform and civil rights activists to explain the importance of the case. Wyndi built new alliances with local and state based-activists and had the opportunity to meet Ms. Hernandez. She described their meeting this way:

We walked into a very small room and Theresa was sitting at the desk — handcuffed to the wall. Physically, she is a small woman. Her long hair was twisted and braided on top of her head. The orange clothing made her white skin seem bright underneath the fluorescent lights in the room. She looked sick and scared.

We have heard that Ms. Hernandez receives hate mail and is taunted by other prisoners as a "baby killer." Given her medical history and what is known about methamphetamine, it is extremely unlikely that she lost the pregnancy as a result of her depression-related drug use. NAPW continues to organize support for the sign-on letter, which we plan to send in 2005.

HAWAII

In October 2003, Tayshea Aiwohi became the first woman in Hawaii to be prosecuted for manslaughter based on the claim that her use of methamphetamine while pregnant caused her son to die shortly after birth. NAPW jumped into action, quickly becoming a key resource for lawyers, activists and media. We helped link medical experts and potential trial experts to local

counsel and activists; provided model briefs to counsel; and gave technical support to an excellent group of local health activists who joined in strong opposition. (Local counsel discouraged amicus support at the trial level.)

Despite excellent briefing, the trial judge upheld the charges. Ms. Aiwohi pled guilty and received probation — a conditional plea that allows Ms. Aiwohi to appeal. NAPW is working on a public health amicus brief in support of that appeal.

THE DRUG WAR AND THE WAR ON FAMILIES

Drug use, real and merely alleged, has increasingly become a basis for child welfare interventions against poor families. NAPW has been contacted by families and child welfare attorneys from New York to California, distraught by the abuses of child welfare authorities willing to remove children from their families, but not willing to learn about drug use, addiction, treatment and family rehabilitation. For example, in Ohio, a pregnant woman in recovery called to say that a drug test resulted in a false positive. Terrified that this test result coupled with her history would result in a call to child welfare when she delivered, she asked for our help. While NAPW is simply too small to provide direct help, we used our growing networks to link her to someone who could advocate on her behalf. Even with our small staff, we do, sometimes, as in a Connecticut case, get more involved.

Throughout the year NAPW was a resource for excellent stories such as Maia Szalavitz's piece in *City Limits*, and gave a range of researchers, policy makers and state health agency experts information about the danger of treating drug use as presumptive neglect.

"We had the welfare queen," says Lynn Paltrow, an attorney and founder and executive director of National Advocates for Pregnant Women. "The only thing that could top the welfare queen was the crack mother welfare queen."

**The Demon Seed That Wasn't
Debunking the "Crack Baby" Myth.**

**By Maia Szalavitz
City Limits Monthly
March 2004**

CONFUSING DRUG TREATMENT WITH DRUG ADDICTION: CONNECTICUT'S PUNITIVE CHILD WELFARE INTERVENTIONS

In 2003, NAPW received a call from a distraught grandmother. She said that her daughter, who had been struggling with a heroin addiction, became pregnant and got herself into a methadone treatment program. Though methadone is a treatment universally recommended by the federal government and medical authorities, the community hospital where she delivered viewed methadone treatment the same as illegal drug use. Rather than familiarizing themselves with the treatment and encouraging the family support that existed for this woman, the hospital reported her to child welfare authorities. Charges were filed and the baby was removed to stranger foster care. While the family was able to regain custody of the newborn, child welfare authorities continued to treat this young woman who was in successful treatment as if she were an active drug user and a neglectful parent.

In this case, the state asserted that successful methadone treatment is a form of neglect, and that a parent's history of past drug use — and indeed any behavior/condition a pregnant woman experiences that may affect a child at birth — provides the basis for finding that a healthy child is uncared for. In spite of an evident ability to care for her child as well as extraordinary family support, this mother was not allowed to be alone with her own child, forcing other family members to supervise her at all times. The grandmother had to leave her job to ensure that the family could care for and maintain custody of a healthy newborn with a loving and attentive mother. This case was unique, however, in that the lawyer appointed for the child understood that the child welfare intervention in this case was counterproductive, and was willing to fight the prejudice and misinformation apparently motivating the state's intervention.

We linked the family and their counsel to NAPW Board member Robert G. Newman, MD, an internationally renowned expert on methadone treatment. At the end of 2004, NAPW began preparing an amicus brief explaining the value of methadone treatment and the danger of treating a pregnant woman's history of drug use or any other action as a basis for counterproductive child welfare interventions. In the process of organizing

amici to sign on, we distributed the brief widely to legal services offices across the state. Many in those offices had never before understood the value of methadone treatment and the impropriety of treating it and drug use itself during pregnancy as evidence of civil neglect.

We believe that a major national initiative is needed to address the ways in which child welfare laws are being used to undermine pregnant women's rights and to advance the war on drugs. Until we can develop the collaborations and funding to help make that happen, we will continue to work with such allies as the National Coalition on Child Protection Reform and legal services attorneys around the country struggling to ensure that children are not needlessly and traumatically removed from parents based on drug tests and prejudice rather than real evidence of an inability to parent.

WILL I LOSE MY BABY? E-MAILS TO NAPW:

Hello, I am in great need for some assistance and help. I am a proud mother of a baby girl, . . . I am also a recovering drug addict, on Methadone Maintenance. Child Protective Services, came into my life . . . , due to the fact of me being on Methadone. They detained the baby saying, she and I were Tox-Positive. I'm confused, I thought it was a legal form of treatment. At least it was in the mid 90's when my first two children were born. Not to mention at the time of birth I was in a residential facility, where she was to come home to with me. I

admit I am an addict, trying to move forward, living in today, it sure is hard when society won't let go of the past . . .

I am now 36 weeks pregnant, and this pregnancy has been particularly difficult for me. I have had to deal with severe morning sickness (or, should I say, all-day sickness) for a lot of it, and sometimes it has been so bad that I have not been able to keep any food down for a couple of days straight. I smoked a little bit of marijuana prior to becoming pregnant, but once I found out I was expecting I stopped and tried to stay away from it. However, it soon became apparent that the only thing that allowed me to not feel so ill and to be able to keep food down was to smoke here and there, and so I started to occasionally. I DID NOT smoke to "get high;" I simply did it so that I could nourish my baby properly (eat) and prevent vomiting 24/7. My question is, how can I find out what my hospital's (or state's) policy is on this and whether or not they can do this to me? I am terrified, because I love my baby so much and do not want to lose her. The only reason I smoked pot at all while pregnant was because I was so severely sick through a lot of it--so much so that I could not give my baby the nourishment that she needed. However, I do not think that a doctor or someone from DSS would be so understanding of this, simply because it is illegal and they would probably see it as abusing my unborn infant. WHAT CAN I DO?? I am NOT a bad person . . . I do not want to be seen as some drug-addict mother who will be unfit to care for her child. . . . I love my baby . . . and I am really terrified . . .

Public Education and Social Marketing

NAPW is committed to undoing decades of misinformation and political posturing about pregnancy and drug use. From traditional tools such as press releases, to posting information on our web site, to delivering creative Power Point presentations, we are getting our message out. NAPW takes every opportunity to expose the propaganda behind destructive and dehumanizing stereotypes about pregnant women and drug users.

Increasingly, NAPW is establishing itself as a thought-leader, defining and framing the arguments as well as commenting on the strategies of others.

Through speaking engagements and other public education efforts in 2004, NAPW kept our commitment to working at both the local and national levels, and to recognizing, learning from, and building on the ways that reproductive health, drug policy, and other social justice issues intersect.

Sometimes we demonstrate this commitment over the course of a single day or two. In early 2004, for example, Executive Director Lynn Paltrow spent a morning in Paramus, New Jersey presenting to the Regional Perinatal Addiction Project for the Northern New Jersey Maternal Child Health Consortium. They

had called seeking advice about a protocol that was being developed to drug test pregnant women. Though sympathetic, the group had never considered the possibility that tests results would be used as a basis for prosecution or involvement of child welfare agencies poorly prepared and resourced to evaluate — let alone treat — drug addiction. With the help of New Jersey based activist Mary Barr, a mother and former drug-user, we were able to sensitize the group to the larger drug policy, criminal justice and child welfare issues that were implicated.

When Lynn arrived back in her office the phone was ringing. It was a call from the *New York Times* asking for background information and comment for a national story about how fetal rights laws intersect with drug policy and reproductive rights issues. Truly it was one of those days when the commitment to working at all levels was palpable.

On another powerful two-day “junket,” NAPW presented on a Friday evening to Brown University members of Students for Sensible Drug Policy, a national campus-based student drug policy reform organization, and the next afternoon to the board of CHOICE-USA, the national campus-based pro-choice organization. We shared the lessons and strategies of each group with the other, provided numerous examples of positive campus collaborations that could take place, and made sure that the Executive Directors of both organizations met over lunch in Washington, DC.

Our public education efforts can range from a presentation to the board of the Nancy Thurmond Substance Abuse Initiative at the Strom Thurmond Institute in Clemson, South Carolina to leading workshops at the 5th National Conference on Harm Reduction in New Orleans to speaking on stage at the March for Women’s Lives.

Sometimes we take the lead on an issue. For example, NAPW was out front with our unrelenting challenge of baseless medical conclusions presented in a New Jersey child fatality report, and with our highly publicized and ongoing confrontations with the C.R.A.C.K. program. (Both described below.) Other times, NAPW plays a supporting role, as in our efforts to help challenge the myth of the “crack baby.” Always we work collaboratively, creating liaisons with individuals

We desperately need a paradigm shift in the reproductive rights movement,” says Lynn Paltrow, executive director of National Advocates for Pregnant Women, a New-York based organization devoted to protecting the rights of pregnant and parenting women. “We’ve done a terrible job of articulating our beliefs in terms of values.” For Paltrow, those values include protecting women from the consequences of being forced to carry unwanted pregnancies as well as preserving the rights of women who do have children to make decisions about how they bear them.

The Fetal Frontier
Sharon Lerner
Village Voice
December 14, 2004

and organizations able to complement our abilities and expertise to create a broader, stronger voice.

THE “CRACK BABY” LABEL

In 2003, a research doctor and pediatrician led a group of doctors and scientists to finally speak out against the pejorative and medically baseless term “crack baby.” When they did, they came to NAPW for the technical support to follow through.

Outraged by a New Jersey child welfare case in which parents who had starved adoptive foster children claimed that their emaciation was due their having been born “crack babies,” medical researchers contacted NAPW for aid in presenting a medical response to the media’s repeated and unjustified use of such terms as “crack baby,” “crack addicted baby,” and “ice baby.” Despite the lack of a medical or scientific basis, the *New York Times* had repeatedly used the terms.

Determined to challenge these examples of stigmatization and misinformation, a group of scientists, including virtually every leading U.S. and Canadian researcher on the subject of prenatal exposure to cocaine, drafted a letter asking the *New York Times* to drop the term and forbid its use as a matter of official style policy. In response, the paper published a shortened version of the letter.

In 2004 the effort continued, with the group deciding to send an open letter to media across the country.

Text continues on page 15

Perspectives From NAPW Staff, Supporters and Allies Who Marched for Women's Lives

Why We Marched

John & Amber Marlowe, April 26, 2004



On April 25th 2004, we participated in the March for Women's Lives with people whose values and ideals of life are very different from our own. We did not march to support abortion, selfishness or lawlessness. We believe that a child is a person from the moment of conception, and do not believe

any person has the right to decide the fate of another. We believe that every child is a blessing from God no matter what the circumstances are.

So why did we march to support "Pro-choice?" Because "Pro-choice" is the only choice that keeps America free. We marched because we experienced first-hand what America will look like if the "Pro-life" position prevails. We learned the hard way when we went to deliver our seventh child.

Doctors at a Pennsylvania hospital, people who hardly knew us, decided that this seventh wanted child needed to be delivered by a cesarean section. We have no religious objection to surgery, but after six previous natural, healthy deliveries my wife knew her own body and knew that a c-section was unnecessary. She refused to agree to unnecessary surgery that creates additional risks to both the mother and the child. The doctors treated us very poorly. They made it clear that our opinions, experience, and desires meant nothing to them. We as the parents were simply obstacles in the way of what they wanted.

Because we would not give in, lawyers for the hospital went to court asking for the right to override our wishes and to force my wife to have surgery. They based their legal filings on the "Pro-life" arguments used to oppose abortion – that the fetus is a separate legal person with separate legal rights. They argued that this child still inside the womb was exactly the same as one that had already been born, and that we as her parents had no right to stand in the way of surgery that would benefit her. The hospital's lawyers didn't mention that in order to do this they would have to cut through my wife's body. They didn't mention the additional risks c-sections entail or that we were making this decision to protect both my wife and our child. They did not mention that my wife had not given up her constitutional rights when she became pregnant. Based on the hospital's one-sided arguments, the local court granted the order, giving the hospital custody of our child before, during, and after delivery and giving the hospital the right to force my wife to have the surgery.

We fled from this overbearing hospital before the court order

was obtained. My wife delivered a wonderful, healthy baby naturally without any complications whatsoever. Neither the baby nor the mother were actually in any danger – except from the fetal rights theories that the doctors used against our family.

The subject in question is not when does a child become a person, but rather are we as Americans ready to surrender ourselves and our children to the authority of the State. The same government that has the power to say a woman cannot have an abortion, has the power to say a woman must have an abortion – or in our case a totally unnecessary cesarean operation. Any laws passed giving a fetus rights, takes away personal rights, and if personal rights can be taken away from one group such as pro-choice, then they can be taken away from anybody. We learned that the people pushing for anti-abortion laws are actually pushing for forced abortion and c-section laws; they are one and the same.

As people who have read the entire Bible cover to cover many times, we cannot understand why a Christian would press for anti-abortion laws governing a non-Christian's body or children. God commanded Israel not to sacrifice their own children to Molech. He never said to stop the Amorites. America is not a Christian nation. It is a mixed nation with Christian roots. People who support the "Pro-life" movement should understand that they are placing power in a secular system that does not necessarily hold the same values they do.

We marched in Washington to preserve our rights as granted by God our creator and established through the Constitution of the United States. Among those marching were people with whom we strongly disagree about many things – but ultimately all of us were there to stop laws that give the government the power to control our decisions and our lives. We marched in Washington to stop bad government. We marched in Washington in support of the "Pro-choice" movement because we have six daughters and if they choose to have children, we want that choice to still be available. ■

The Day I Called Myself a Feminist

Acree Paulette McIntosh



I have always been apprehensive about calling myself a feminist. Everything I knew about feminism was about white women. Nevertheless, I was raised to be a strong, vocal, independent woman. I've always known that being a girl was a wonderful thing to be and that being a black

girl was particularly wonderful. Yet, until I attended the April 25th March for Women's Lives I didn't see how any of that might make me a feminist.

Before I got to college I thought feminists were a bunch of bored middle-class white women who read the *Feminine Mystique*, burned their bras, and didn't want to be called "baby." Although my narrow understanding of feminism was incorrect, all the women I met in college who called themselves feminists did seem to be young white vegetarians who may or not have been lesbians but were definitely angry at men. In their need to reject patriarchal standards of beauty, some didn't shave or wear makeup (a select few didn't bathe). They listened to Ani DiFranco, Tori Amos, and Kate Bush.

In a Women's Studies class discussing sisterhood, one white woman remarked that it was strange that a Black woman would feel more comfortable seeking support from the Black community than from white "sisters." Another student (she was one of these vegetarian, man hating, Ani DiFranco listening feminists) agreed, arguing that we should all just be women and unite without regard to race. This was not the first (and unfortunately not the last) time I would hear this plea for mindless colorblindness. I responded as politely as I could, stating: "My reality as a Black woman is different from yours. We can't just all hold hands and sing Kumbaya and make real differences disappear. No change can be made unless you deal with race." She didn't respond and the class moved on to another topic. After hearing this "we're all just women" idea from one too many white feminists on my campus, I was even less inclined to don the title.

That all changed for me on Sunday, April 25 when I attended the March for Women's Lives. I decided to go only a few days before the event. On the morning of, I awoke at 4:00 in the morning not knowing what to expect and hoping I wouldn't miss the bus. I was incredibly anxious; worrying if so-called "pro-lifers" would attack (they have killed abortion doctors and clinic workers). I dressed and ate breakfast quickly, arriving at 125th and Broadway at 4:45 am. Around 5:00 other people started showing up. All were white with the exception of a Black man and Chinese woman. Six hours later (our driver got lost) we arrived in DC. I think I expected to see only white faces when we got there.

I was elated to be found wrong. I didn't just see white women; I saw women who looked like me. I actually ran into a roommate from college and another friend I had made at a training called Black and Female: What is the Reality? I saw Black women of all ages and class backgrounds. There was a large group of girls who were from the heart of DC (I could tell by their hairstyles, Nikes, Rocawear shirts and DC accents). There were women from Howard, Spellman, and Clark Atlanta. I saw older Black women with their daughters and granddaughters. I was so proud to stand

with these women. I felt included in a profound way.

I knew I belonged even when confronted by a group called Black Genocide.com. Along Pennsylvania this all-male black group of protesters stood next to huge signs of dead babies next to pictures of black men being lynched. They seemed to be arguing that ensuring women's reproductive rights would result in the annihilation of the black race. How dare any Black man (or any man for that matter) tell a Black woman what she must do with her body? I wondered how many of these men have coerced some woman into sex, sex without a condom? How many of them have coerced girlfriends into having abortions for babies they just weren't ready to have? How many of these men have children that they are not raising?

I know that racism does play a role in reproductive rights issues, but my right to control my body is not the same as genocide. Being part of the sea of people who were on the Washington mall that day also helped me to know that I was not alone in that understanding.

I realized that feminism does include me. Although I had read works by bell hooks, Patricia Hill Collins, and Kimberle Crenshaw, where I learned that feminism does apply to me because I am living, it did not become real to me until the march. I understood that feminism looks different for each woman (as black women we are always defining and redefining ourselves) but our goal is the same: the right to control our bodies and lives. ■

Straight Guy with a Feminist Eye

Adam Posner



When I first said I planned to go to Washington D.C. for the March for Women's Lives, I was greeted with bemusement from my male friends. Like many guys, my friends feel a conflict between maintaining their masculinity and actively supporting women's rights. They're also deathly afraid of man-eating feminists. Emboldened by my belief in Women's Rights, I boarded the bus from New York City. It turned out to be one of the best decisions I've ever made.

I planned to march with the Marymount Manhattan College chapter of the Feminist Majority Leadership Alliance. I met up with the group at 5 o'clock in the morning. For \$35 I was given a roundtrip bus ticket, some sort of freeze dried oatmeal square and a warm smile. My bus had forty women and seven men. When we arrived in Washington D.C., none of the men had been eaten.

We spent about an hour getting from the bus to the Metro.

The Metro station was overrun with everyone who had bussed in for the event. Kenie and Kelly, our group's leaders, escorted us down to an out-of-the-way tunnel in the station while we sent delegates to buy Metro cards. Kenie, a communications major, was making a documentary about the day. She came up to me in the tunnel with her camera for an interview. She asked why, as a man, I was passionate enough to come to Washington D.C. for a feminist march. I babbled something about how I couldn't imagine not going when protecting reproductive rights is such a divisive issue, yet is so obviously the right thing to do.

When we exited the Metro onto the streets, we joined the huge crowd as they made their way towards the Washington Monument. We held up signs for the F.M.L.A. as well as any other signs we could find. The homemade signs "Does Halliburton make coat hangers?" and "Keep your rosaries off my ovaries" — were even better. Swept up in the energy and excitement, I marched, I shouted and I chanted — except occasionally when I declined to join in on anatomically specific chants, such as, "TWO! FOUR! SIX! EIGHT! WE'RE THE ONES WHO OVULATE!" During those moments I held the video camera while Kenie and Kelly led the others in the chant. Having gotten my marching legs and a little time to think, I told Kenie that I wasn't satisfied with my first answer to her question. As she ran the video again and we marched up the mall, I said I was there because America is the land of the free for white men and white men only, and until the white men acknowledge that, full freedom will not be enjoyed by everyone.

We marched back from the Washington Monument toward the Capitol. We made our way down the gravel path adjacent to the grass and made our way to a spot on the mall near the afternoon stage. The speeches were delivered by a mix of celebrities and famous feminists. There was still no man-hating going on. I didn't see a single woman who seemed interested in cutting off my penis to spite her uterus. This was confirmed when Gloria Steinem thanked all her "brother-feminists" and I was greeted with applause and smiles. The feminist reality is that the march was comprised of the most diverse, intelligent, and compelling women I have ever met. Not every one of these women might need a man, but their cause could surely use some more.

As the day closed, I finally realized why I had come to the march. As a white, heterosexual man, I am part of the only group that is not covered by the umbrella of political correctness. This is because that umbrella was created to protect other groups from the white, heterosexual men.

My generation has always resented being open game for the anger of the less advantaged, because we didn't take part personally in the atrocities and discriminations committed by our white, male ancestors. We distance ourselves from history, but we live off its royalties. I think it's counterproductive to waste my time feel-

ing guilty about what was done before me. But what I do think about is whether the white man's mantra is really the white man's myth. The mantra says, "I never would have owned slaves!" or "I never would have kept women from voting!" thereby absolving us from any current responsibility because of our 20/20 hind-sighted benevolence.

Generations from now, white men will be saying, "I never would have tried to take away a woman's right to choose!" distancing themselves from their male ancestors who attempted to use political power to do just that. My generation of white men has to decide whether our great-great-grandkids will be talking about us the way we talk about our forefathers. I do know one thing for sure though; they won't be talking about me, because I didn't pass the buck. On April 25th, 2004, I marched for women's lives. ■

Choice for Women Isn't Only About Abortion

Freeda Lynne Cathcart

Founder of *Mothers United for Midwifery*



One in a million, part of a small contingent in a sea of masses, I was witness to the historic March for Women's Lives on April 25 in Washington D.C.

My husband, four sons and I marched with the National Advocates for Pregnant Women. We were a testament that the March for Women's

Lives was about a much broader issue than abortion rights.

It was about women's ability to access good quality health care. It was about whether women can be trusted to make their own health care decisions.

We marched in memory of Angela Carder, a 27-year-old pregnant woman who in the name of fetal rights was forced to have a Caesarian section that resulted in her death and the death of her fetus. We marched in celebration of childbirth and the rights of woman and families to decide if or when a Caesarian is necessary. We marched in honor of mothers who bear and raise children without compensation or any kind of meaningful state support to ensure the health and welfare of their families.

In the last century, important gains have been made on behalf of women's rights. Yet, under current Supreme Court precedent, discrimination on the basis of pregnancy is not prohibited "sex" discrimination under the 14th Amendment.

Without this protection, government institutions, employers and health care providers may, under too many circumstances,

continue to discriminate against women and limit their participation in society as full and equal citizens.

For example, while many states now permit adults to determine whether or what treatment they will accept if they become critically ill or incompetent, some states exclude pregnant women from this right of self-determination.

One college student was shocked to learn that several women in our country had been forced to have Caesarean sections against their wills. Many people were disturbed to learn that a mother was charged with murder in Utah not because she didn't have a Caesarean but because she didn't have it when one doctor thought she should and one of her twins died.

Many doctors are now trained to believe that there is a certain point during pregnancy where there is a gray area about whether or not the obstetrician is the mother's health care provider or the baby's. If the mother does not submit to an obstetrician's advice, anti-abortion, fetal rights ideology has convinced some doctors that they should try to get a court order to force her to submit.

Anti-choice legislation that uses terms like "unborn child" does more than erode abortion rights; it undermines maternal civil rights and puts health care providers at risk for prosecution.

A Pennsylvania certified professional midwife attended an out-of-hospital birth in 2002. During the birth, there was a complication, and the midwife asked the mother if she wanted to transfer to the hospital. The mother decided she wanted to proceed where they were.

After the birth, the baby was transferred to the hospital, where the baby died. During the inquest on the baby's death, a physician said the mother was incompetent to make a decision because she was in labor.

Recently, more than a year after the inquest, Judy Wilson, the midwife, was arrested on charges of manslaughter, endangering the life of a minor and practicing midwifery without a license. Pennsylvania does not provide a statute to license certified professional midwives.

When midwives face criminal charges rather than peer review, mothers lose access to their health care providers.

Last year, the U.S. infant mortality rose for the first time since

1958, placing us 26th in world. The main difference between the United States and the 25 better-performing countries is that mothers in the 25 have access to quality midwifery care.

Studies document that the best outcomes for birth, whether low- or high-risk, are out of hospital under the care of a qualified midwife.

Pick up a phone book. Look in the yellow pages for midwives or birthing centers. You won't find any in our area. You will find five listings for abortion providers.

During the 2004 General Assembly session, the Virginia Medical Society misled our legislators to believe that providing licensing for certified professional midwives wouldn't be prudent. Who does the state trust to make decisions regarding the well-being of an infant - the mother who has voluntarily chosen to carry her pregnancy or an obstetrician who gets paid to attend the birth?

The signs at the March on the Mall said, "If you can't trust me with a choice, how can you trust me with a child?" The truth is that many states in our nation still don't trust mothers with the ability to make decisions while they're pregnant or when they're giving birth. Those states make the decision for them by preventing them access to their health care provider of choice.

Virginia legislators who do not vote to license certified professional midwifery as an autonomous profession do not trust mothers, and they are not pro-choice.

The March for Women's Lives was about much more than the right to have an abortion. The march was about trusting women with choices.

Having access to abortion and birth control are just the beginning of the journey for women's rights in regard to reproductive health care. The sign my son wrote reminded attendees of another step on our journey for equal rights: "Someday we'll have a choice; midwives will be one."

This letter originally appeared in the Roanoke Times & World News (Roanoke, VA), June 6, 2004, Sunday Metro Edition, page 3.



National Advocates for Pregnant Women 39 West 19th Street Suite 602 New York, NY 10011
Phone 212.255.9252 www.advocatesforpregnantwomen.org

On February 25, 2004, 30 leading medical doctors, scientists and psychological researchers released the letter, calling on them to stop the use of “crack baby,” “crack addicted baby,” and similarly stigmatizing terms such as “ice babies,” and “meth babies.”

NAPW did the background research, identified numerous examples of the use of these terms in media outlets, and helped redraft the consensus statement requesting the media stop using such terms. We also prepared a press release and worked with Dr. David C. Lewis, Professor of Medicine and Community Health, and Donald G. Millar, Distinguished Professor of Alcohol & Addiction Studies at Brown University, to represent this ad hoc group, none of whom wanted to take individual credit for the collective effort. We then distributed the letter through the PR Newswire service, the DPA press office and Brown University, ensuring distribution to hundreds of outlets nationwide. Additionally, we collaborated with Join Together, a national resource center for communities working to reduce substance abuse and gun violence, to post the letter on their web site.

The letter states in part:

As medical and psychological researchers with many years of experience studying addictions and prenatal exposure to psychoactive substances, we are writing to request that the terms “crack baby” and “crack addicted baby” be dropped from usage. These terms and similarly stigmatizing terms, such as “ice babies” and “meth babies,” lack scientific validity and should not be used.

Throughout almost 20 years of research, none of us has identified a recognizable condition, syndrome or disorder that should be termed “crack baby.” Some of our published research finds subtle effects of prenatal cocaine exposure in selected developmental domains, while other of our research publications do not. This is in contrast to Fetal Alcohol Syndrome, which has a narrow and specific set of criteria for diagnosis.

The term “crack addicted baby” is no less defensible.

We are deeply disappointed that American media continues to use a term that not only lacks any scientific basis but endangers and disenfranchises the children to whom it is applied.

This letter has made and will continue to make a difference. For example, follow-up stories about the New Jersey case that prompted the letter did not men-

tion cocaine exposure or use the media-created and stigmatizing term “crack baby!” The letter was also the subject of media coverage. For example, the letter was the subject of an article in the prestigious *Columbia Review of Journalism*, “The Damage Done, Crack Babies Talk Back.” This article made clear that the letter has “legs” and is providing a basis for ongoing criticism of the media. People familiar with the *New York Times* tell us that the editorial staff took note of the article’s critique of that paper’s coverage. The letter was also widely distributed at conferences and local activists used it to respond to new inaccurate press reports.

NEW JERSEY: A RARE ADMISSION

Medical misinformation and destructive and stigmatizing language often play a significant role in justifying counterproductive drug war legislation and punitive state intervention in the lives of women and families. In 2004, NAPW was pleased to see that our assertive strategies and collaborations with leading professionals produced some positive results against this disturbing trend.

In June 2003, the New Jersey Department of Human Services (NJ DHS) issued a report claiming that a full 13% of infant deaths in the state were “due to” pregnant women’s drug use. NAPW discovered that, in fact, the report cited no data establishing a link between drug use and infant fatalities. At our request, NAPW Board member Dr. Robert Newman pressed the author of the report, NJ DHS Commissioner Gwendolyn L. Harris, for the supporting information.

The Commissioner wrote back conceding that the agency, in fact, had no basis for reporting a causal link between drug use during pregnancy and child fatality. NAPW, along with Dr. Newman’s organization, the Baron Edmond de Rothschild Chemical Dependency Institute of Beth Israel Medical Center, demanded a formal retraction of the report. We sent a copy of our letter to leading policymakers and children’s advocates, as well as reporters who had uncritically reported the findings. We challenged them to be more skeptical and to demand proof when reporting claims of harm from certain drugs.

In an example of unqualified success, the Commissioner wrote us on January 30, 2004, stating:

I am writing in response to your letter to the New Jersey

Department of Human Services (NJ DHS) regarding a report, *Substance Abuse and Neglect Child Fatality Analysis*, created by NJ DHS that identified the use of illicit drugs by mothers as the key-contributing factor in certain child deaths due to abuse or neglect. I apologize for the delay in our response. We agree that the report should not have correlated illicit drug use with pregnancy outcomes and are making the appropriate changes to this report and subsequent publications. Any copies of the report that are used or distributed will contain these modifications and we will make every effort to make corrected versions available to recipients.

The Commissioner also reiterated a commitment to children and caregivers and reported on new funding and programs designed to meet some of their needs. In addition to winning this rare admission, NAPW was sought as an advisor by important organizations addressing child welfare, reproductive rights, and drug policy issues. For example, the National Center on Addiction and Substance Abuse at Columbia University and the National Abandoned Infants Resource Center asked for our help in developing positions on issues relating to drug-using pregnant women.

PUBLIC RECOGNITION AND MEDIA EXPOSURE

For an organization of our size, without a single staff person devoted to media relations, NAPW garners extraordinary media attention. This year we not only continued to provide media with information and commentary, we stepped to the next level as thought leaders.

In 2004 NAPW was quoted in, referred to, or appeared in diverse range of media outlets and including the *New York Times*, *Newsweek*, *The Village Voice*, *ColorLines Magazine*, *Rochester Democrat & Chronicle*, *Salt Lake City Tribune*, *Seattle Post-Intelligencer*, *CBS Early Show*, *MSNBC*, and a variety of radio stations across the country. We also reached international audiences through the *Philippine Daily Inquirer*, *The Guardian* (London), *Bristol United Press*, *CBC* and *BBC Radio*. Each appearance provided an opportunity to educate audiences about the myths and misinformation relating to pregnancy and parenting, drug use, the war on drugs, and to challenge anti-abortion legislation as a divisive



Making Room for the Media: NAPW office furniture is rearranged by the CBS Early Show staff, for an NAPW television interview.

and diversionary tactic.

Increasingly, NAPW is providing the defining message for leading journalists and commentators. In the Rowland case, for example, our message was picked up and endorsed by commentators across the country including syndicated columnist Ellen Goodman, Gail Rosenblum (Minneapolis, MN), Sheryl McCarthy of *Newsday* (NY) and Julianne Malveaux of *The Sun Reporter*, *Ethnic News Watch*. We know we are having an impact when an article in the *Orange County Register* (CA) uses NAPW's language in a headline — *Pregnancy 'a crime waiting to happen' stirs fears* — , and when an editorial in the Dekalb, IL *Northern Star* cites our position on the Unborn Victims of Violence Act.

We also know that we have achieved some kind of milestone when NAPW's executive director is inducted into the 2004 Massapequa High School's Hall of Fame, when NAPW is highlighted in *The Nation* magazine, and when Paul Walsh in his new book, *Will Al Franken and Bill O'Reilly Please Shut Up*, identifies NAPW as one of the nation's "100 most powerful Liberal and Conservative groups in America." While we can't recommend the book, we can't help but enjoy the fact that Mr. Walsh places NAPW in the same league as Amnesty International, the Christian Coalition, and the IMF!

ARTICLES AND COMMENTARIES

From prestigious medical journals to traditional print sources to on-line journals, NAPW staff, board members and allies have been challenging the prejudice against pregnant women, drug users and low income and families of color and exposing how abortion, fetal rights and drug war issues distract attention from significant public health and social justice problems.

Our publications for 2004 include opinion editorials and letters in *Women'snews.com*, *Tompaine.com*, *AlterNet.com*, *The Los Angeles Times*, *The Hartford Courant*, and *Newsday*, as well as articles and commentaries in the *Wayne State Journal of Law and Society* and a commentary in the prestigious *Journal of Obstetrics and Gynecology* about the *Rowland* case, co-authored by Howard Minkoff, M.D. and Lynn Paltrow.

PUBLIC MEETINGS AND PRESENTATIONS

NAPW continued our diverse and significant public education efforts by participating in meetings and presenting at such venues as:

- *Civil Rights for Pregnant Women*, presentation to Law Students for Choice and the Medicine and Health Law Society, Rutgers University School of Law, Newark.
- Breaking the Chains, Communities of Color and the War on Drugs, Southwest Regional Conference, Texas Southern University, Houston, Texas.
- Students for Sensible Drug Policy, *In Harm's Way, Women and the War on Drugs*, Providence, Rhode Island.
- *Is Pregnancy a Crime Waiting to Happen?* presentation to Students for Choice, University of California, San Francisco Medical School.
- NAACP South Carolina Health Conference, Augusta, Georgia.
- 5th National Harm Reduction Conference, *Working Under Fire: Drug Users' Health and Justice; What Does Harm Reduction Look Like for Women and Children and Especially for those in the Child Welfare System?* and



AMA Panelists: Including Professor Michele Goodwin (2nd from left) and NAPW Executive Director.

May 21, 2004

Dear Lynn:

More than 2 weeks after The Merry-Go-Round of Childbirth and we are still remembering and enjoying your outstanding participation.

We deeply appreciate your taking the time to share your knowledge and experience with us. Presenting the disparities in women's health and the political channeling, I expect, will make us more pro active.

Our thanks and gratitude for educating us.

Sincerely,

Harriet Barry

**The Executive Board of the Elisabeth Bing
NYC Chapter of Lamaze Int'l.**

Great program yesterday . . . so many thought provoking arguments were made and I learned so much about civil rights, women, and even my own personal views that I never would have had exposure to otherwise. I even had a debate with my super conservative father . . .

Thanks,

**E-mail to Emily Berger, about Rutgers Law School
Panel with Wyndi Anderson and Lynn Paltrow**

Loyola Law School Presentation, New Orleans, Louisiana.

Local and National Organizing

NAPW engages in both local grassroots organizing and national grassroots organizing. In South Carolina, for example — home to the nation's most punitive fetal rights laws — 2004 saw us partnering with Terry McGovern's Women's Health and Human Rights Advocacy Initiative and Be Present, Inc. to identify and reach out to people truly working at the grassroots level. With these sister organizations, NAPW helped facilitate the South Carolina Women's Health Coalition and created other forums where we could begin to know one another, exchange essential health, funding and policy information, and develop the relationships necessary for effective grass roots advocacy. On the national level we are mobilizing organizations, scientists, health providers and academics to take action against policies that increasingly ignore the evidence and substitute punishment and prejudice.

That this intersectional work advances concrete reproductive rights and drug policy reform goals was borne out in 2004. Early in the year we received an urgent e-mail from a South Carolina activist asking local reproductive rights activists to oppose a state-based version of the federal Unborn Victims of Violence Act. NAPW analyzed the legislation and realized that the people at greatest risk of arrest under this law would be pregnant women with drug and other health problems. While South Carolina case law makes it a crime to be pregnant and risk harm to a viable fetus, this statute would make any woman with a drug or alcohol problem who suffered a miscarriage — even after one day of pregnancy — potentially liable for murder. We provided this analysis to allies across all fields. Significantly, once armed with this information, local drug policy advocates became the most influential opponents of this anti-abortion bill.

C.R.A.C.K.

In 2004, NAPW continued our leading role challenging the myths promulgated by the C.R.A.C.K. (Children Requiring a Caring Kom munity) program. We continued work on our extensive law review article,

attacking point by point each of their misleading statements about drug-using pregnant women, their children, drug treatment and contraceptive services.

We also prepared and distributed numerous fact sheets debunking C.R.A.C.K.'s misinformation and continued to disseminate accurate information through our informal Internet network of national activists. In March, NAPW staff member Wen-Hua Yang participated in and presented at a National Strategy Session to Stop C.R.A.C.K. NAPW provided financial support for the conference organized by INCITE and the Committee on Women, Population and the Environment. The conference had an emphasis on organizing by women of color.

NAPW continued to influence the public discussion about the program. A story in the British newspaper, *The Independent* was picked up by numerous U.S. papers. This story helped to expose C.R.A.C.K.'s insensitivity and the threat it poses to reproductive rights and social justice in general.

MORE ON THE MARCH FOR WOMEN'S LIVES

NAPW wanted to make clear to participants and the audience that anti-abortion laws threaten all pregnant women. To make our point, NAPW marchers dressed as pregnant women, carried a banner with our new logo, wore T-shirts explaining who we were, and handed out flyers explaining why we had dressed this way:

Why We Are Marching Dressed As Pregnant Women

Each year 6.3 million women become pregnant. The vast majority continues those pregnancies to term. These women are not celebrated or supported by our government. From employment discrimination, to lack of paid parental leave, to state scrutiny and possible punishment, pregnant women and mothers face a wide array of state policies that undermine them and their families.



On the Big Screen: *NAPW Executive Director Lynn Paltrow speaking at the March for Women's Lives.*

NAPW wants to make the point that reproductive rights also includes the right to continue a pregnancy to term without fear of discrimination or arrest.

As a result of anti-abortion efforts to establish fetal rights separate from and hostile to those of the pregnant woman more and more pregnant women are being treated as criminals. NAPW seeks to highlight the fact that if fetuses are legal persons then a pregnant woman who refuses a cesarean section against her doctor's wishes can be treated as a child abuser. If fetuses are "legal persons" pregnant women can be arrested and jailed as criminals if any aspect of their lives or health is deemed to pose a risk to fetal health. NAPW research shows that close to 300 women have been arrested based on claims of fetal rights. Low-income pregnant women, particularly those of color, have been targeted for criminal searches and arrest based on the claim that their drug use or other health problems are a form of child abuse.

The debate about abortion in this country is deliberately manipulated to keep us from focusing on the lack of commitment to America's mothers and their children. NAPW marchers hope to draw attention to the fact that

11 million children lack health insurance, that 25 percent live below the poverty line and new EPA regulations will permit mercury emission particularly toxic to pregnant women and fetuses. NAPW is marching:

In Memory Of Angela Carder, a 27-year-old pregnant woman who in the name of fetal rights was forced to have a cesarean section that resulted in her death and the death of her fetus.

In Support Of Regina McKnight and other women who instead of having access to drug treatment and compassionate health care have been targeted for criminal investigation and arrest based on the argument that the fetus is a person and their drug problems during pregnancy is a form of child abuse.

In Defense Of All Families but particularly families of color who in the name of fetal rights are having their children removed at birth based on nothing more than a single unconfirmed positive drug test.

In Celebration Of Childbirth and the rights of women and families to decide for themselves if a c-section is necessary.

In Honor Of Mothers, because the majority of women who have abortions also bear and raise children, without compensation or any kind of meaningful state support to ensure the health and well-being of their families.

In Tribute To all the families who, while our policy makers are wasting precious time and resources dreaming up ever more restrictions on access to abortion and contraceptive services, are struggling to find ways to stay together and survive.

In addition to our presence in the streets we were honored with time on the main stage. C-SPAN and NPR covered NAPW's presentation, and Lynn Paltrow joined Susan Sarandon and Margaret Cho for an in depth interview with DEMOCRACY NOW. BBC Radio also gave us the privilege of describing the March both the night before and then shortly after it was over, when we could report on the phenomenal turnout. Finally, in August we had a reprise of the successful march, bringing NAPW to the March for Women's Lives, NEW YORK.

WOMEN'S HEALTH AND HUMAN RIGHTS ADVOCACY INITIATIVE IN SOUTH CAROLINA AND BEYOND

Throughout the year, NAPW continued our close collaboration with Terry McGovern and the Women's Health and Human Rights Advocacy Initiative at Columbia University's Mailman School of Public Health to research and develop grassroots activism in South Carolina. Working with WHHRAI, NAPW helped to identify state-based grassroots activists and helped organize a Women's Health Conference to bring local and statewide advocates together. From that we held follow-up meetings and began planning for another meeting with state policymakers as we facilitated and nurtured the formation of a South Carolina Women's Health Coalition. We integrated this work with Be Present, Inc. and their project to build community of color opposition to the war on drugs with this developing coalition. At these conferences and meetings we:

- Discussed the status of women's health, with a focus on racial disparities and the most under-served counties;
- Identified strategies to eliminate barriers to quality healthcare and improve health outcomes including those relating to pregnancy and drug use;
- Fostered collaborations to support a cohesive and comprehensive women's health agenda;
- Shared information and tools for accessing resources and developing leadership in advocacy.

Unfortunately, there has been no real national grassroots reproductive rights or social justice strategy in place for the last 30 years. The South Carolina model demonstrates how such organizing can begin and how effective it can be. This work has been nothing less than thrilling. By identifying providers who have a political perspective, but also know how to work with government agencies and on behalf of real clients in need, we have found an extraordinarily grounded base for developing activism. People are hungry for real information, excited to share knowledge about the real barriers to care, and very willing to become activists in all the ways that their lives and jobs allow.

Parallel to the coalition-building effort, NAPW, in conjunction with Be Present, Inc., has been training



South Carolina Women's Health Coalition: Core members with Danisha Nelson, NAPW's Community Organizer in the front.

women in recovery to become advocates. Powerful and knowledgeable about the barriers to care and the steps needed for change, these women are becoming spokespersons and activists, as well as members of the Women's Health Coalition.

This work has given us new hope and new resources for action not only in South Carolina, but in all states that seek to emulate it. In Utah, Kansas and Oklahoma, our National Educator and Organizer has organized meetings with local and state-based activists, legislators and leaders to provide information and inspiration about the threats posed by anti-abortion, fetal rights and drug policies that are harming an ever broader group of women, children and families. These meetings have been highly successful, often getting groups that have never met before to sit down together to plan collaborative strategies that emphasize compassion and science-based responses to a range of women's reproductive and health issues.

COLLABORATIONS AND SOLICITED CONSULTATIONS

Increasingly, NAPW is being asked for advice by other leading organizations around the country. In 2004, for example, the Reproductive Health Technologies Project sought our advice and input on their project to determine how reproductive technologies and claims of fetal rights affect reproductive rights. Planned Parenthood of New York City asked our advice

on how to respond to increasing claims of fetal rights as well and we serve on the Fetal Status and Choice Committee created by the Board of Directors of Physicians for Reproductive Choice and Health to examine changing notions of fetal status and their effects on choice and the provider-patient relationship. We also worked with the Boston Women's Health Book Collective to make sure issues relating to women and drug use were included in the latest edition of *Our Bodies, Ourselves*, provided consultations to colleagues at Justice NOW, Policy Research Associates and Caught in the Net, and were asked to serve in an advisory capacity to Physicians and Lawyers for National Drug Policy.

NAPW actively sought and successfully built collaborations in 2004. For example, we formally endorsed the National Latina Agenda for Reproductive Justice Blueprint for Action, joined the Institute for Reproductive Health Access' *Protect Women, Protect Medicaid: Statement of Principles*, continued our support of the Sister Song Collective, and built links with environmental and domestic violence prevention groups. All of this is in addition to our core collaborations with harm reduction, drug policy reform, reproductive and civil rights advocacy organization.

ENVIRONMENTAL PROTECTION AND REPRODUCTIVE FREEDOM

In 2004, NAPW made a special effort to reach out to the environmental movement. While President Bush was signing the Unborn Victims of Violence Act into law and declaring his commitment to a "culture of life," he was simultaneously deregulating coal-burning power plants. Such plants release mercury into the environment, creating significant health hazards, especially for pregnant women, fetuses and children. Because NAPW recognized the links between environmental and reproductive rights issues, we signed on to a Natural Resources Defense Council petition opposing the deregulation, and sought out environmental activists to write about the connection between assaults on reproductive freedom and assaults on the environment. The talented Professor Joni Seager quickly responded, writing a moving commentary published in the *Baltimore Sun*, "Protectors of unborn put them in peril."

Last week President Bush signed the "Unborn Victims of Violence Act," a bill that creates a separate federal offense to cause injury or death to a "child in utero" including everything from zygote to fetus. At the signing ceremony, Bush triumphed this bill as heralding a new era of justice for the "unborn child," concluding his remarks at the signing ceremony with a declaration that "with this action ... we reaffirm that the United States of America is building a culture of life."

But what's this administration doing about other well-known, well-publicized threats to the fetus – threats such as mercury pollution? On this less ideologically-driven issue, scientists worldwide unanimously agree: Mercury exposure is a particular danger to fetuses and children. Even small exposures cause significant neurological changes. While coal-burning power-plants are the single biggest human-made source of mercury pollution in the U.S., the technology and regulatory framework for reducing these emissions are easily at hand.

How, then, can we reconcile the President's professed concern about fetal health with his new mercury-pollution regulations, which dramatically weaken our ability to curtail mercury pollution? . . .

Protector's of Unborn Put Them in Peril
Joni Seager
Baltimore Sun
April 7, 2004

DOMESTIC VIOLENCE, REPRODUCTIVE FREEDOM & DRUG POLICY REFORM

While President Bush was making it a federal crime to attack the fetus as if it exists separate from the pregnant woman carrying it, federal funding for the Violence Against Women Act was being reduced for programs designed to protect women, including pregnant women, from violence. The leading cause of maternal death in America is murder of pregnant women, yet virtually none of the public discussion about the Unborn Victims of Violence Act dealt with the fact that fetuses can't be protected in a culture that does not value or protect the women who carry them.

NAPW consistently addresses the intersection of domestic violence issues with reproductive rights and drug policy issues in our writing, speaking and organizing. Since so many of the women we represent have a history of abuse, we view opportunities to build bridges

among these movements as essential to bringing about change.

Throughout the year, NAPW worked directly with advocates against domestic violence to build bridges and a basis for joint action. NAPW Board member Maria Arias represented us at a meeting sponsored by the Family Violence Prevention Fund's Building Common Ground Project, bringing together pro-choice leaders with leaders on issues of domestic violence. We also prepared a discussion paper for the meeting on the way our issues overlap. Executive Director Lynn Paltrow presented at the American Medical Association's National Advisory Council on Violence and Abuse, where we made significant connections to doctors across the country with whom we have continued to collaborate. For example, one doctor we met joined the South

Carolina Women's Health Coalition, while a doctor from Texas helped in our effort to organize public health opposition to the arrest of pregnant drug using women in that state.

INTERNATIONAL

Although our work is focused on the United States, NAPW is increasingly asked to provide comment for international press and to help advocates and activists in other countries. For example, in January 2004, an article in the Philippine press highlighted our work on the *McKnight* case, while Canadian, British and other broadcasters have asked us for comment. We are frequently asked to speak at international conferences, but limited financial and staff resources have thus far prevented us from participating.

Who We Are

STAFF

Lynn M. Paltrow is the Founder and Executive Director of NAPW. Ms. Paltrow is a leading national litigator and strategist in cases involving the intersection of the war on reproductive freedom and the war on drugs. Ms. Paltrow has worked on numerous cases challenging the prosecution and punishment of pregnant women, including: *In re: A.C., California v. Stewart, Johnson v. Florida*, and *Whitner v. South Carolina*. Ms. Paltrow also conceived of and filed the first affirmative federal civil rights challenge to a hospital policy of searching pregnant women for evidence of drug use and turning that information over to the police. In the case of *Ferguson et. al., v. City of Charleston et. al.*, the United States Supreme Court agreed that such a policy violates the 4th Amendment's protections against unreasonable searches and seizures.

Ms. Paltrow frequently lectures and writes about the intersection of drug and reproductive rights policies. She is also a founding member of Be Present, Inc., a national organization devoted to empowering women and girls. She has served as a senior staff attorney at the ACLU's Reproductive Freedom Project, as Director of

Special Litigation at the Center for Reproductive Law and Policy, and as Vice President for Public Affairs for Planned Parenthood of New York City. She is the recipient of the Arthur Garfield Hays Civil Liberties Fellowship, the Georgetown Women's Law and Public Policy Fellowship, and the Justice Gerald Le Dain Award for Achievement in the Field of Law.

Wyndi Marie Anderson is NAPW's National Educator and Organizer and continues temporarily to act as Executive Director of South Carolina Advocates for Pregnant Women. She is a leading social justice advocate who has been working for the protection of human rights for over ten years. Her recent work on behalf of pregnant and parenting women and their families has earned her national recognition as a leader in both the women's rights and the drug policy reform movements. She has been profiled in local (*The [Charleston] Post & Courier*) and national (*Ms. Magazine*) publications, and is frequently sought for comment by media. As co-founder and Executive Director of the South Carolina Advocates for Pregnant Women and founder and President of the South Carolina Women's Choice Fund, Ms. Anderson

has been one of the most consistent and vocal advocates for women's rights in the state.

A graduate of the College of Charleston, and the 2002 recipient of its Young Alumni of the Year Award, Ms. Anderson spent four years in Washington, DC, working in various social justice movements including the labor rights movement, where she received her training as a grassroots organizer, before returning her attention to human rights in South Carolina. Since 1998, her work has focused primarily on securing legal rights and access to appropriate health care for pregnant and parenting women, as well as ensuring that all women have access to a full range of reproductive health care services.

Danisha Nelson is NAPW's South Carolina Strategic Community Organizer. Ms. Nelson has a strong background in the education sector, where she worked as a recruiter, teacher, and counselor. Her focus has been on empowering minority students as well as mentoring troubled and abandoned youths. Ms. Nelson is a graduate of Grambling State University.

Wen-Hua Yang is NAPW's Office Manager. She comes to NAPW with an interest in human rights and social justice. She was the Associate in the Asia Division of Human Rights Watch, and the Program Coordinator for the China Summer Program at Where There Be Dragons, an experiential education program for teenagers. Ms. Yang is currently working towards her Masters degree in Public Administration at New York University, where she is focusing on public policy. She is a graduate of Mount Holyoke College.

Debra Harper is NAPW's pro bono web designer. She currently works at DrugSense/MAP, where she spearheaded development of Drug Policy Central Hosting after realizing the need to contain and formalize DrugSense/MAP's growing and increasingly important role providing Internet services and technical support to the drug reform community. She is part of the team available to assist any of the 100+ Drug Policy Central clients who seek Internet support.

Clarissa Shine, a student at the High School for Leadership and Public Service, provided occasional assistance with office duties.

Acree McIntosh, a recent college graduate and activist, provided administrative and research assistance.

CONSULTANTS

David Goldberg, an attorney in private practice, has shared his extraordinary legal skills with NAPW in the McKnight case and is drafting a motion to dismiss and an amicus brief in two of NAPW's cases.

Kamlesh Singh is NAPW's bookkeeper and works at God's Love We Deliver.

Heather Hiles and **Jill Minkus** of **IFF Advisors, LLC** consult with NAPW on developing effective strategies and tools for creating a diversified funding base, and developing national advocacy and organizing strategies.

Jean Jeremie, CPA, is responsible for auditing NAPW's books and records.

BOARD OF DIRECTORS

Maria Arias is an Assistant Professor at CUNY Law School and Director of the Battered Women's Right's Clinic at CUNY Law School. She also serves on the Board of Be Present, Inc.

Julie Chartoff is a Staff Attorney at Harlem Legal Services, working specifically on cases involving domestic violence and women's rights. She is familiar with a range of issues concerning drug treatment.

Maria Guarascio (Secretary) is an attorney in private practice who served as volunteer staff on *Ferguson et. al. v. City of Charleston*.

Sara Kershner (Co-President) is National Organizer of Generation Five, an organization committed to ending child sexual abuse through the development of supported and effective leadership. She recently completed her MPH at Harvard University. Prior to graduate school, she founded and worked with the Harm Reduction Coalition, a national nonprofit committed to mobilizing a public health, social justice approach to drug-related harm.

Dr. Robert Newman is Director of The Edmond de Rothschild Foundation Chemical Dependency Institute of Beth Israel Medical Center. He is also President Emeritus of Continuum Health Partners, a major non-

profit hospital corporation, and a professor in the Albert Einstein College of Medicine's departments of Psychiatry and Epidemiology and Social Medicine.

Lynn M. Paltrow, is Founder and Executive Director of NAPW.

Susan Weiler (Co-President) is an attorney and former volunteer staff attorney at Center for Reproductive Law and Policy. She currently works in the arts.

Ivan Zimmerman (Treasurer) is WYNC Radio's General Counsel, and former General Counsel to Planned Parenthood of New York City.

ADVISORY BOARD

While NAPW regularly consults with a number of medical, public health and social justice activists, the following individuals comprise NAPW's formal advisory board. They are committed to our development and to ensuring our understanding of a broad base of intersectional issues.

Corinne Carey, an attorney, is currently a Researcher in the United States Division of Human Right Watch. Prior to that she was Director of the Harm Reduction Law Project, which provided legal services to people who use drugs. Her research provided the foundation for the *NAPW Overview of State and Federal Laws*. She is author of *Crafting A Challenge to the Practice of Drug Testing Welfare Recipients: Federal Welfare Reform and State Responses as the Most Recent Chapter in the War on Drugs*, 46 BUFFALO L. REV. 281 (1998).

Phillip Oliver Coffin, is a former NAPW Board member who resigned to attend Medical School at University of California, San Francisco. Prior to medical school, he served as a project director at the Center for Urban Epidemiologic Studies at the New York Academy of Medicine, where he studied HIV prevention among drug users. He received his Masters degree in International Affairs from Columbia University, where he studied political, legal and public health issues in social policy.

Gloria Knighton is an administrative assistant, paralegal, and former staff member of the Center for Reproductive Law and Policy. She is a treatment serv-



Making It All Happen: Some of NAPW's wonderful 2004 interns and staff.

ices consumer.

Deborah Peterson Small, an attorney, is Executive Director of Break the Chain. Previously she was Director of Public Policy & Community Outreach for the Drug Policy Alliance. Ms. Small is a nationally recognized leader in the fields of drug policy reform, civil rights and community organizing.

INTERNS AND FELLOWS

NAPW's ability to produce quality work is in large measure due to the contributions of talented interns and fellows who volunteer and are placed with our organization.

In 2004, the following students helped make our work possible:

Emily Berger, Rutgers University School of Law-Newark, Legal Intern

Erin Collins, New York University School of Law, Legal Intern

Julie Capehart, New York University School of Law, Legal Intern

Jessica Dell, CUNY School of Law, Legal Intern

Catherine Gain, New York University School of Law, Brennan Center Public Advocacy Clinic

Tiffany Lyttle, New York University School of Law,
Brennan Center Public Advocacy Clinic

Kim McGuire, Hampshire College, Civil Liberties
Program, Intern

Adam Posner, Marymount Manhattan College, Intern

Caitlin Shannon, Brooklyn Law School, Legal Intern

Grants and Donations

NAPW is extremely grateful for the support of three key foundations that keep our work going: the Ford Foundation, the Tides Fund for Drug Policy Reform, and the Overbrook Foundation. In reaching out to other foundations, we confront the reality that there is relatively little support for women's rights and drug policy reform issues, and limited support overall for social justice and legal advocacy. Our public education efforts, therefore, continue to include not only those in policymaking positions but also leaders in the world of philanthropy.

Realizing that we could never rely solely on foundation support, NAPW has from the beginning been developing a base of individual donors committed to our vision and supportive of our strategies. Each year we have nearly doubled the number of individual donors, and we will continue building up this base. At the end of 2004 we had significant and unexpected help with this from Katha Pollitt of *The Nation* magazine. In the final issue of the year, she praised NAPW as one of several nonprofit groups to which *The Nation's* readers should contribute. To make that task easier, NAPW linked with Network for Good, which allows people to make online donations through our website.

To expand our donor base and raise the funds we so desperately need to continue our work and to get to the next level of activism and leadership, NAPW is working with IFF Advisors, LLC to assist us in all aspects of our fundraising and development efforts. IFF brings not only extraordinary fundraising experience but profound political experience and insights as well.

We wish to acknowledge the extraordinary contributions interns, volunteer and cooperating pro-bono

Another holiday season—and only a year after the last one. How did that happen? Probably you are feeling a bit tapped out just now, what with having given your savings, your house and your firstborn to MoveOn, ACT and similar. The elections swallowed up huge lashings of progressive cash, leaving other causes lean and hungry. So, generous Nation readers, down a couple of egg-nogs and whip out that battered checkbook. Here's a list of excellent organizations, some familiar from years past, some new, with an emphasis on ones with a personal touch, a political mission and extremely low administrative costs: . . .

National Advocates for Pregnant Women. This spirited group, headed by the brilliant civil liberties lawyer Lynn Paltrow, supports the rights of poor, often minority, sometimes drug-using women to respectful healthcare and social services, and fights punitive "fetal rights" prosecutions and legislation. The women NAPW supports are at the center of a perfect storm made of antichoice politics, racism and the "war on drugs": They need support and treatment, not to be arrested in their beds in the maternity ward, as happened in South Carolina, and clapped into prison. Pregnant women have constitutional rights too. And remember, as with all civil liberties issues, today it's them; tomorrow it could be you. Send checks to 39 West 19th Street New York, NY 10011-4225 (www.advocatesforpregnantwomen.org).

Subject to Debate
Stuff These Stockings
Katha Pollitt
The Nation

lawyers, and advocates make to our efforts. They have enabled NAPW to accomplish the work of a far bigger

and better funded organization. If the financial value of their work was included in NAPW's budget, our budget would be close to a million dollars. Information about our

actual budget is available at www.guidestar.org.

We hope 2005 will see an increase in both foundation and individual support of NAPW's visionary work.



April 25, 2004: A group of activists begin to gather for the March for Women's Lives.



National Advocates
for Pregnant Women

N A P W



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