



October 12, 2017

District Attorney's Office
Butler County Government Center
124 West Diamond Street, P.O. Box 1208
Butler, PA 16003

Dear Mr. Goldinger and Ms. Pitchford:

As physicians, health care professionals, public health advocates, legal advocates, and experts in reproductive health and gender equality, we are greatly concerned about the recent arrest of a woman accused of felony assault of her unborn child because she allegedly used heroin while pregnant, even though Pennsylvania law clearly states that she cannot be prosecuted for this crime.¹ It is particularly troubling that she was arrested only after seeking medical assistance which resulted in an emergency cesarean section and birth of her child. We are further concerned about the additional charges now being sought against her, even though Pennsylvania's Drug Overdose Response law grants immunity for certain drug related charges for those who seek medical assistance.²

While we do not in any way condone a person's use of alcohol, cigarettes, or drugs that might affect pregnancy outcome or a person's ability to parent, our commitment to the care of pregnant women and their children requires us to speak out against dangerous and counterproductive measures such as the arrest of pregnant women and new mothers.

As every leading medical organization to address this issue has concluded, including the American Medical Association, the American College of Obstetricians and Gynecologists, The American College of Nurse-Midwives, the American Academy of Pediatrics, and the March of Dimes, issues related to alcohol and drug use during pregnancy are health issues best addressed through education and community-based treatment, not through the criminal justice system.³

Drug dependency is a medical condition - not a crime. Pregnant women do not experience drug dependencies because they want to harm their fetuses or because they don't care about their children.

Like other medical conditions, drug dependency is best addressed through medical treatment. Medical knowledge about addiction and dependency treatment demonstrates that patients do

¹ See 18 Pa.C.S.A. § 2608; *Commonwealth v. Bullock*, 913 A.2d 207 (PA 2006).

² 35 P.S. §780-113.7(a); "purpose of the statute is to encourage persons to report an overdose and to ensure the victim would receive help." *Commonwealth v. Carontenuto*, 148 A.3d 448, 451 (Pa. Super. Ct. 2016).

³ See Public Health Statements, attached to letter.

not, and cannot, simply stop their drug use as a result of threats of arrest or other negative consequences. In fact, threat-based approaches do not protect children. They have been shown to deter pregnant and parenting women from seeking health care and drug and alcohol treatment, rather than from using drugs.⁴

Health risks to women, fetuses, and children whether from inadequate nutrition, exposure to alcohol, drugs, or other factors can be mitigated through prenatal care, counseling, and continued medical supervision. For this to be effective, however, the patient must trust her health care provider to safeguard her confidences and stand by her while she attempts to improve her health (even when those efforts are not always successful). Converting the physician's exam room into an interrogation chamber and turning health care professionals into agents of law enforcement destroys this trust.⁵

Unfortunately, many people with alcohol or drug use disorders find it difficult to obtain the help they need. There is also a general lack of available substance use disorder treatment in Pennsylvania, especially in Butler County and especially for pregnant women.⁶

We therefore ask you, in the interests of maternal, fetal, and child health to drop this dangerous and counter-productive prosecution.

Signed,



National Advocates for Pregnant Women, and:

Delaware County Women's Center
Every Mother is a Working Mother Network, Philadelphia, PA
Maternity Care Coalition, Philadelphia, PA
National Association of Perinatal Social Workers
National Council on Alcoholism and Drug Dependence, Inc.
National Perinatal Association
New Voices for Reproductive Justice, Pittsburgh, PA
Philadelphia Women's Center

⁴ See Poland, et al., *Punishing Pregnant Drug Users: Enhancing the Flight From Care*, 31 Drug and Alcohol Dependence 199 (1993).

⁵ See *The AMA Code of Medical Ethics' Opinions on Confidentiality of Patient Information*, 14 American Medical Association Journal of Ethics 715 (2012) ("The patient should feel free to make a full disclosure of information to the physician in order that the physician may most effectively provide needed services.")

⁶ According to the PA Department of Drug and Alcohol Programs, there are only 14 residential programs that serve women with children (none in Butler county); 5 half way house programs with services for pregnant women (none in Butler county); and 18 programs that provide residential women specific treatment tracks (none in Butler county) in all of Pennsylvania. Women and Children's Annual Report, State Fiscal Year 2015-2016, available at, <http://www.ddap.pa.gov/Reports/State%20Plan%20and%20Annual%20Reports/2016-17%20Women%20and%20Children's%20Report.pdf>.

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