



The Opportunity Agenda

Building the National Will to Expand Opportunity in America

CHANGING THE STORY

National Advocates for Pregnant Women's Media Advocacy Surrounding the Criminal Prosecution of Theresa Lee Hernandez

This case study examines how the National Advocates for Pregnant Women (NAPW) used local, mainstream media coverage to change the public conversation about the rights of the “unborn” and one of society’s most demonized and marginalized groups: pregnant women who are unable to overcome their drug problems in the short term of a pregnancy. No easy task, this effort required careful framing and messaging, community education and organizing, the willingness to listen to and defer to local allies, the identification, support and training of credible local spokespeople, and aggressive and nimble tactics that took advantage of the media hooks presented by a criminal case.

In 2004 Theresa Lee Hernandez, a 28-year-old Oklahoma woman, was arrested and charged with first- and second-degree murder for having suffered a stillbirth in her 32nd week of pregnancy. The state claimed that her use of methamphetamine caused the stillbirth and early news coverage was sensationalistic and blaming: “Meth-addict mom charged with murder in son’s stillborn death”. NAPW understood that the media frame had to be changed so that Oklahoma public officials and the public at large heard and saw a story based on science and the prosecution’s real implications. The story NAPW wanted to tell had three components:

- (a) Treating fetuses as persons and women who suffer still births as murderers is bad for mothers and babies and will undermine future maternal, fetal and child health.
- (b) Miscarriages and stillbirths are a “normal” outcome of many pregnancies; there is no medical or scientific evidence linking methamphetamine use to still births.
- (c) Drug use during pregnancy is a health issue best addressed through education and community-based treatment, not through the criminal justice system.

NAPW’s media strategy was to focus on local media and use local experts as spokespeople and opinion leaders. Op-eds and letters-to-the-editor were successfully placed in Oklahoma’s major newspapers and respected doctors and public health leaders repeatedly delivered the NAPW’s message in both print and broadcast news coverage of the case. Over time the tone and substance of the coverage shifted and the medical community’s opposition to the prosecution became the main focus, captured in headlines like, “Hernandez Case Highlights Treatment Issue” and “Health Officials Decry Prosecution.” The result of NAPW’s campaign was a suspended sentence for Theresa Hernandez and a pledge from the District Attorney that not only would he bring no more such prosecutions, but that he would ask the Legislature to fund a pilot program to divert pregnant women with substance problems into treatment, not prison.