Pregnancy as a Crime

An Interim Update on the First Three Years After Dobbs

From June 2022 to June 2025 — the first three years after the Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization*, which overturned *Roe v. Wade* — prosecutors initiated at least **902 cases** across the country charging individuals with crimes related to their pregnancy, pregnancy loss, or birth.

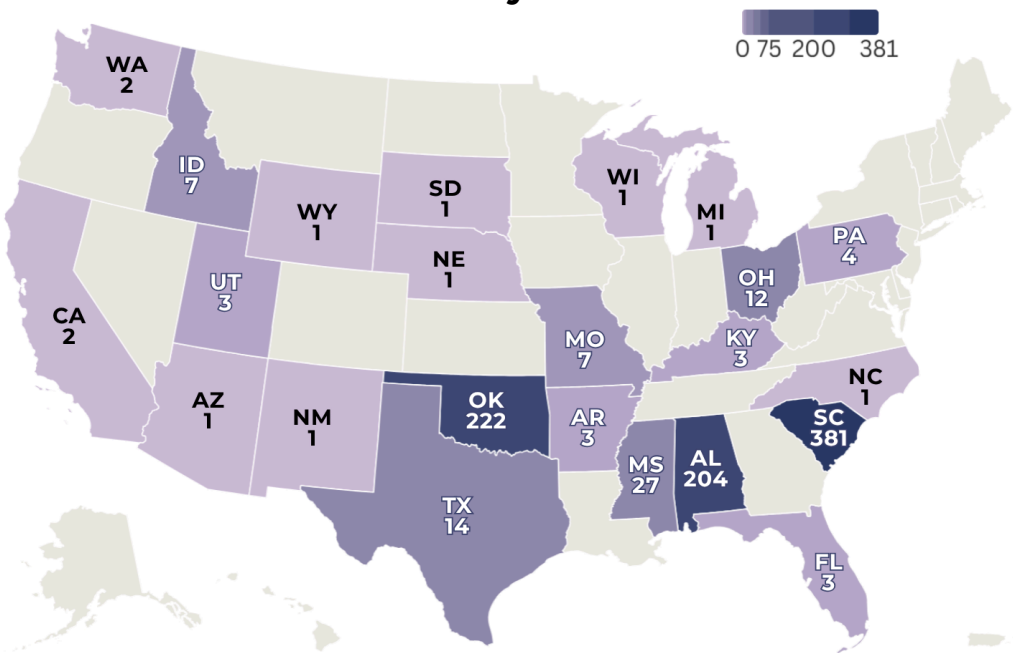
This document provides a preliminary update on pregnancy-related prosecutions in the United States during the first three years after the *Dobbs* decision. This update focuses on pregnant people and the charges and allegations brought against them. These data are part of the Pregnancy Prosecutions Tracking Study, an ongoing research study examining pregnancy criminalization in the three years after *Dobbs*, co-led by Pregnancy Justice, co-Principal Investigators Professors Wendy A. Bach and Madalyn K. Wasilczuk, and Dr. Kendra Hutchens.[1]

In the first three years after *Dobbs*, prosecutors initiated at least **902 cases** charging pregnant people with crimes related to pregnancy, pregnancy loss, or birth.

Geography

Prosecutors initiated cases in 23 states: Alabama, California, Florida, Idaho, Kentucky, Mississippi, Nebraska, New Mexico, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Texas, Wisconsin, and Wyoming. The majority of the reported cases occurred in South Carolina (381), Oklahoma (222), and Alabama (204). Data collection remains ongoing.

Cases by State



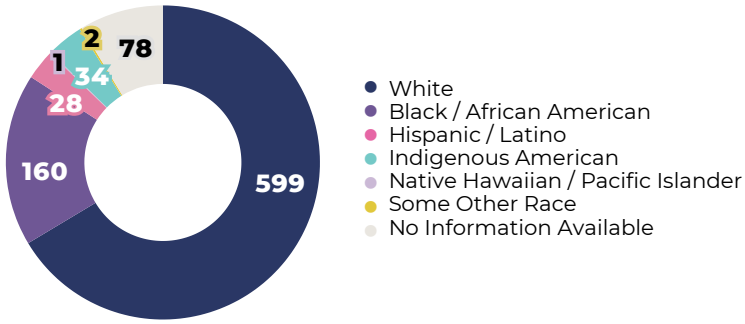
Race/Ethnicity*

To the extent that the files contained data on race and ethnicity, 599 of the 902 individuals were reported as white, 160 as Black, 28 as Hispanic or Latino, 34 as Indigenous American, 2 as Some Other Race, 1 as Native Hawaiian/ Pacific Islander, and for 78 individuals, no information was reported with respect to race or ethnicity.

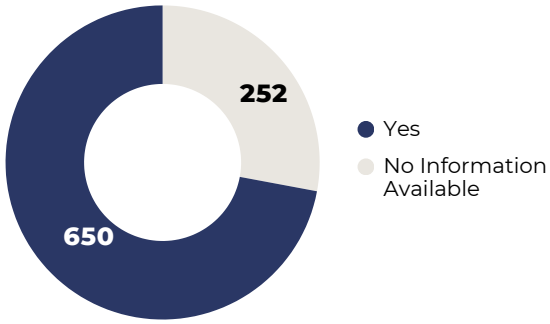
Economic Status

The majority of cases involved individuals with low-incomes. We categorized individuals as low-income if they received court-appointed counsel, a means-tested benefit like public housing, Temporary Assistance for Needy Families, Medicaid, or Supplemental Nutrition Assistance, as well as if the file indicated they are experiencing homelessness.

Race/Ethnicity



Low-Income Status

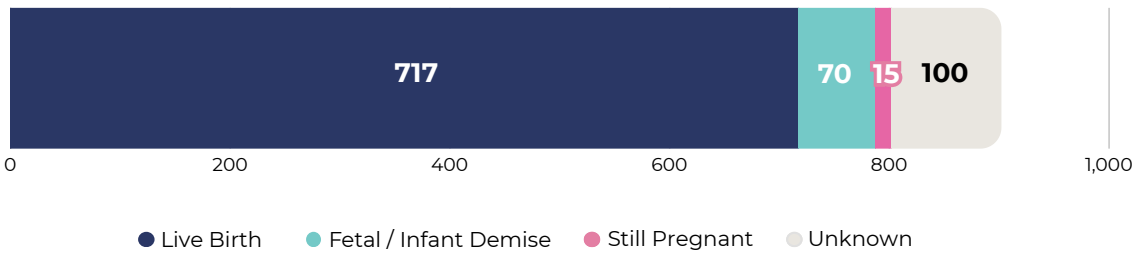


**Information concerning the race of the defendants was dependent, like all the report data, on information contained within court, police, or jail records. This information is notoriously unreliable, particularly when it comes to recording ethnicity and multiracial identity. At times, documents reported inconsistent racial or ethnic identities for the same defendant, failed to separate race from ethnicity, or neglected to record race or ethnicity at all. Data regarding Hispanic/Latino ethnicity and Native American identity are particularly unreliable in these settings.*[2]

Pregnancy Outcomes

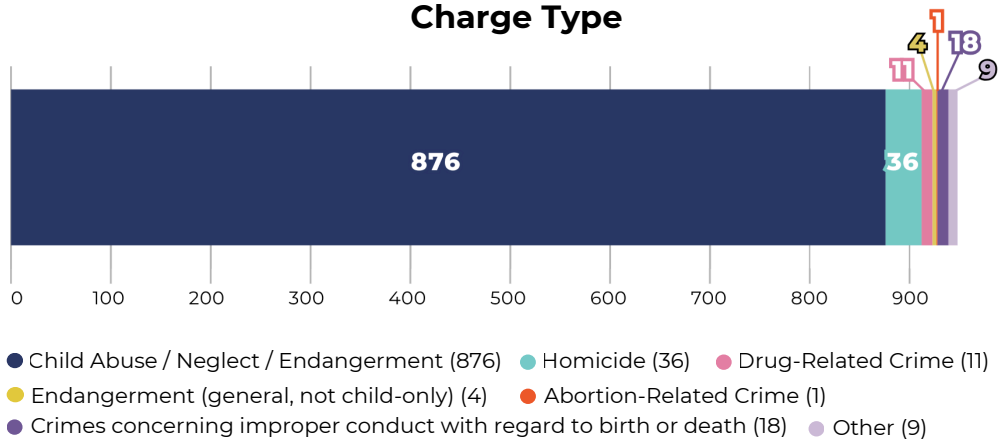
The majority of cases involved a live birth, representing 717 of the 902 cases. **70 cases involved fetal or infant demise.** Fetal/infant demise cases often include allegations that a defendant committed acts during a pregnancy that led to a pregnancy loss, including stillbirth or miscarriage, or a newborn's death.

Pregnancy Outcomes



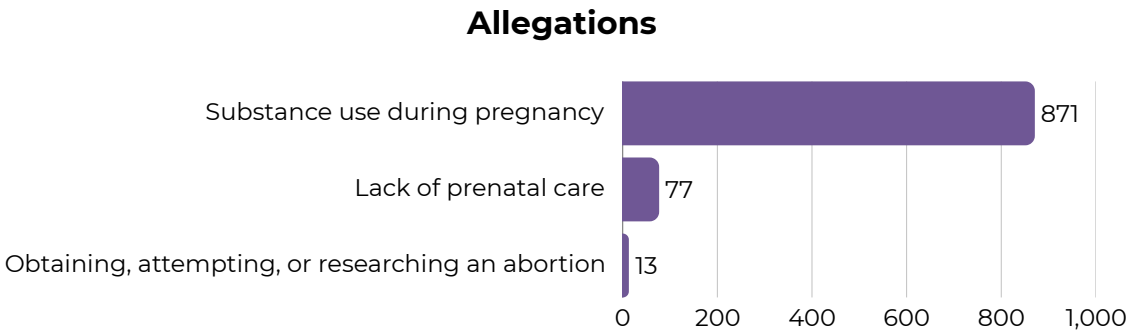
Charges

Prosecutors used a variety of criminal statutes to charge the defendants in these cases, often bringing more than one charge against an individual defendant. In total, the 902 defendants faced 955 charges for conduct related to pregnancy, pregnancy loss, or birth. The majority of charges (876/955) asserted some form of child abuse, neglect, or endangerment.



Allegations

Charging documents (along with supporting police reports, affidavits, and other court files) reveal a clearer picture of what acts police and prosecutors consider criminal when associated with pregnancy. Our study categorized allegations found in the assembled case files and below we have highlighted three notable allegations.



Substance Use During Pregnancy and Prenatal Care

As has been the case for decades, nearly all the cases alleged that the pregnant person used a substance during pregnancy. In 550 cases, substance use was the only allegation made against the pregnant person. In the midst of a wide-ranging crisis in maternal healthcare and despite maternal healthcare deserts across the country, prosecutors or police argued that pregnant people's failure to obtain prenatal care was evidence of a crime in 77 of 902 cases.

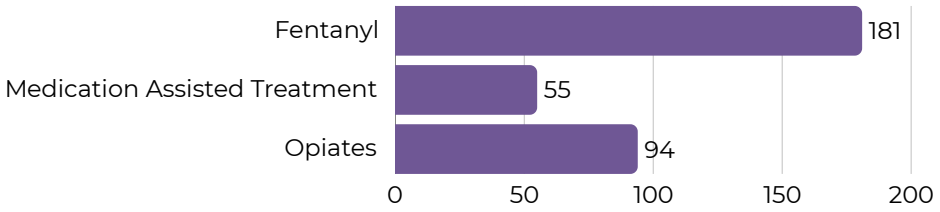
Abortion

Thirteen cases included allegations pertaining to abortion, including obtaining, attempting, or researching an abortion. Although it is not always clear how the state intends to use that evidence, these cases show that even when abortion is not charged, pregnant people's contemplation of abortion can be weaponized against them. Even when prosecutors do not or cannot charge abortion-specific crimes, they wield criminal laws to condemn and punish abortion.

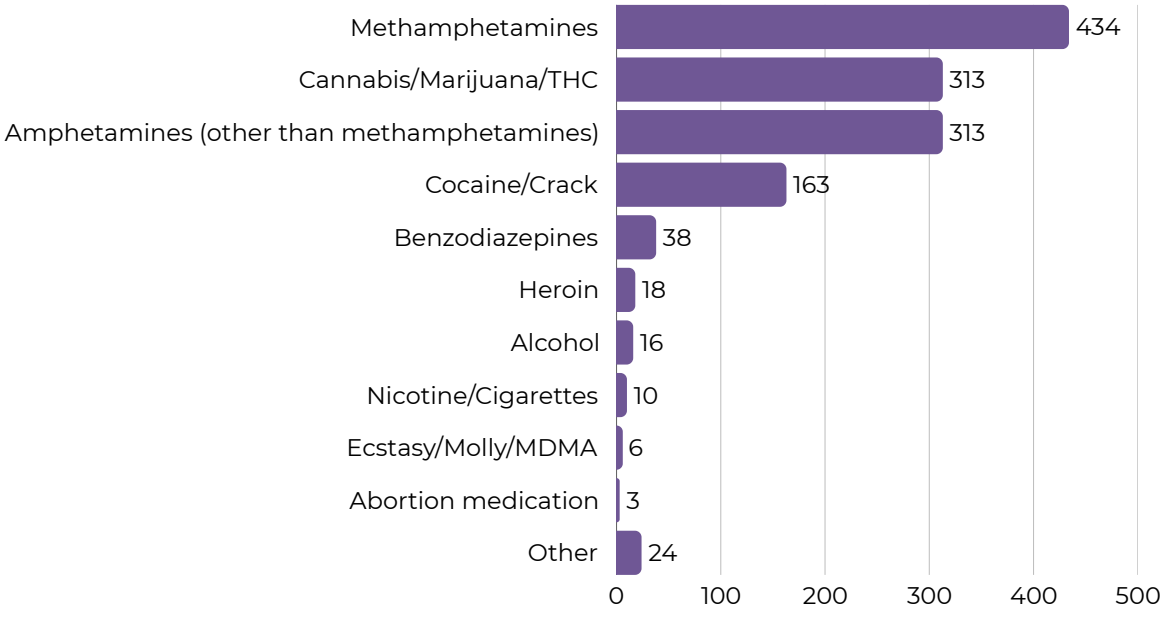
Substances Alleged

As drug use patterns changed, pregnancy prosecutions shifted from targeting the use of crack cocaine to the use of methamphetamines, amphetamines, marijuana, and opiates.

Opioid-Related Alleged Substances



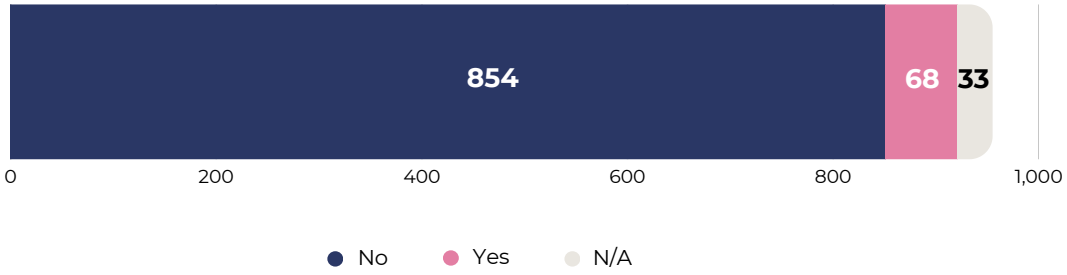
Non-Opioid-Related Alleged Substances



No Proof of Harm Required

Supporters of pregnancy-related prosecutions claim these prosecutions protect the fetus from harm perpetrated by the pregnant person. However, prosecutors overwhelmingly charged pregnant people under statutes that allow them to obtain convictions without proving that the pregnant person actually harmed the fetus or infant. In the majority of charges (854 of 955 charges), proof of harm was not required.

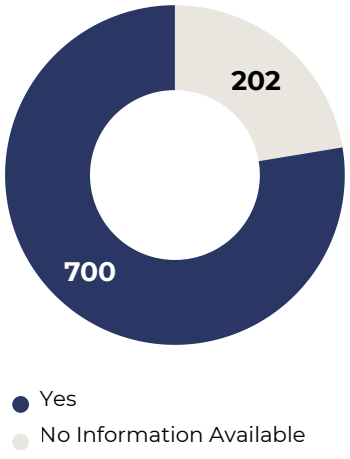
Proof of Harm Required



Healthcare and Family Policing Systems

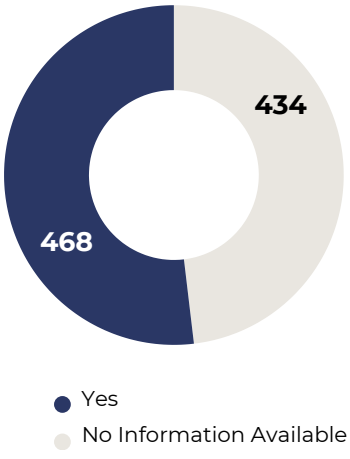
Our data indicate that pregnancy criminalization engages multiple systems to support prosecutions, notably the healthcare and family policing systems. In 700 cases, the medical system was involved in the case and in 468 cases, the family policing system was involved in the case. These data, likely an undercount, suggest the criminal legal system works closely with the healthcare system and family policing system to surveil and punish pregnant people.

Information Obtained or Disclosed in a Medical Setting*



**Medical Setting includes Emergency Medical Services (EMS)*

Family Policing System Involvement



Methods

Our data derive from cases that are part of the Pregnancy Prosecutions Tracking Study, a research study examining pregnancy criminalization in the United States in the three years after the *Dobbs* decision. This research builds off our first report in 2024 and subsequent 2025 interim update.[3]

The research team relied on several techniques to identify cases: intakes from Pregnancy Justice, outreach, web and media searches, and records requests. Our data include cases that met four criteria: researchers had access to the charged person's name, date of case initiation, and county and state of indictment; the charging document confirmed that the case met part one of the study's definition of a pregnancy-related prosecution;[4] the prosecution occurred between June 24, 2022 and June 23, 2025; and the prosecution targeted a pregnant person. Trained researchers coded cases according to a standardized protocol to develop our preliminary dataset. Data were analyzed using R. For more information and notes on study limitations, please see our first report, *Pregnancy as a Crime*.

Allegations Not Facts

The primary sources for our data are court files and police investigation reports. These documents detail what police and prosecutors alleged happened in a particular case. These documents, standing alone, are not proof of the assertions they contain – but when police and prosecutors make allegations, it can lead to guilty pleas, convictions, and punishment. Understanding allegations teaches us a great deal about the nature and scope of pregnancy criminalization.

References

1. Wendy A. Bach and Madalyn K. Wasilczuk, *Pregnancy as a Crime: A Preliminary Report on the First Year After Dobbs*, Pregnancy Justice (Sep. 23, 2024); *Pregnancy as a Crime: An Interim Update on the First Two Years After Dobbs.*

2. Nancy Rodriguez & Rebecca Tublitz, UCI School Soc. Ecology, Exploring Latino/a Representation in Local Criminal Justice Systems: A Review of Data Collection Practices and Systems-Involvement 6 (2023), https:// socialecology.uci.edu/sites/default/files/users/mkcruz/sjc_latinos_in_cjs_march_2023.pdf [https://perma. cc/6R2J-ANEF] (finding that criminal justice systems do not consistently keep data about Hispanic/Latino/a ethnicity); Amie M. Schuck et al., The "Invisible" Hispanic? The Representation of Hispanics in Criminal Justice Research: What Do We Know and Where Should We Go?, 2 J. Ethnicity Crim. Just 5, 8 (2004) (noting that one reason for the relative lack of research on Hispanics, Asians, and Native Americans in criminal justice is a lack of data); Michael L. Walker, Indefinite: Doing Time in Jail 52 (2022) (explaining that correctional officers often categorization incarcerated people by race based on appearance rather than self-identification); Ayobami Laniyonu & Samuel T. Donahue, Effect of Racial Misclassification in Police Data Estimates of Racial Disparities, 61 Criminology 295, 296 (2022) (demonstrating that a mismatch between racial self-identification and officer-identification can bias estimates of racial disparities in policing data).

3. All data provided by this document should be considered provisional and subject to change. For further information about the methods used in this study (inclusion and exclusion criteria, data collection, and limitations), supra 1, at 8–9.

4. The study defines a pregnancy-related prosecution as one in which: 1. the criminal charge is based on allegations related to a pregnancy, pregnancy loss, or birth, and prosecutors argue those allegations meet an element of the criminal offense; or 2. the State imposes harsher and/or different penalties (e.g., parole or probation revocation, sentence enhancement, or modification to pretrial release conditions) on a person for being pregnant, even if the precipitating charge itself is not associated with pregnancy.

Acknowledgments

This research is co-led by Pregnancy Justice, co-Principal Investigators Professors Wendy A. Bach and Madalyn K. Wasilczuk, and Dr. Kendra Hutchens. The research team at Pregnancy Justice is Michele Ko, Senior Research Manager; Dana Sussman, Senior Vice President; Imaan Khasru, Research Associate; and Alexa Pierce, Research Assistant. Laurel Beaty conducted data analysis and Beth Holden managed coding.

We would like to thank and acknowledge former Senior Research Associate at Pregnancy Justice Fikayo Walter-Johnson; Mishka Terplan and Sarah Roberts; Blake Rocap and Cristina I. Ramirez (formerly) of the University of Texas School of Law's Sissy Farenthold Reproductive Justice Defense Project; Brittany VandeBerg at the University of Alabama; Janet Levit, Rebecca Reingold, and the students in the University of Tulsa College of Law's Reproductive Justice Practicum, along with Eliza Washington-Harris and Caitlin Beasley (formerly) at Metriarch; Anthony Flores, Brancen Gregory, and Polina Rozhkova (formerly) at the Oklahoma Policy Institute; and Rahul Bhargava, Catherine D'Ignazio, Harini Suresh, Walla Rahama, and Yujia Gao of the Data Against Feminicide Project.

We'd like to thank the following research assistants: Olutayo Alston, Hailey Alderson, Madison Blair, Nancy Blanco, Thalia Charles, Tova Cohen, Sydney Cox, Ashlyn Doane, Izabella Forero, Maya Gardner, Monica Johnston, Ashley Landin, Nicole Lane, Han Lemberg, Natalia Lewis, Peyton Little, Perri Mahfouz, Sonali Muthukrishnan, Archana Murthy, Charlsey Newman, Stevon Porchá, Julia Ronney, Hiba Soban, Shayla Stewart, Sophia Thompson.