

## Blaming Mothers: American Law and the Risks to Children's Health

By Linda C. Fentiman. New York: New York University Press, 2017. 416 pp. \$55.00 hardcover.

In *Blaming Mothers: American Law and the Risks to Children's Health*, Linda Fentiman outlines psychosocial constructions of risk of harm to children, how the law reflects and supports complex and often unconscious constructions of this risk, and the development of cultural narratives that portray women, themselves, as dangerous to their children's health. Linda Fentiman is Professor of Law at the Elisabeth Haub School of Law at Pace University. She has written on the intersection of criminal law, mental illness, and substance abuse, with a focus on reproductive rights, abortion, and fetal protection laws and policies.

In this book, Professor Fentiman broadly explores some of the most controversial topics affecting health and American families. She examines criminal and civil legal proceedings against pregnant women for fetal harm, abortion, and fetal personhood statutes; substance use and pregnancy; environmental toxins; and vaccination controversies. She also conducts a frank analysis of our cultural emphasis, and what she argues is oversell in favor of breastfeeding by medical and public health entities.

In her discussion of pregnant women exposing their developing fetuses to risk of harm, or actual harm, she outlines recent cases in which prosecutors and law enforcement have responded to ethically complex situations involving preterm births, complicated deliveries, and still births. The cases outlined have no simple answers. One example is of Jennifer Jorgenson, a New York woman who was prosecuted for manslaughter after she was involved in a motor vehicle accident. The prosecution argued that Ms. Jorgenson was driving recklessly and not wearing a seatbelt and alleged that she was under the influence of alcohol and an antianxiety drug, although her intoxication was contested. Ms. Jorgenson was eight months pregnant at the time of the accident. She was injured and consented to a cesarian section. She gave birth to a daughter who died six days later. Ms. Jor-

genson was charged with three counts of manslaughter (the two passengers of the car she struck and her daughter), as well as other drug- and motor vehicle-related charges. In a jury trial, she was acquitted of the charges related to the deaths of passengers in the other vehicle, the reckless driving charges, and driving under the influence, but found guilty of manslaughter in her daughter's death. Her conviction was ultimately overturned by the New York Court of Appeals, which ruled that "a child injured *in utero* could not be a 'person' under New York homicide law (p 103)."

This discussion of a pregnant woman's legal responsibility toward her fetus and the fetus as a separate legal entity has obvious relevance to our national conversation on abortion. Professor Fentiman focuses on this topic and discusses incursions on women's bodily autonomy and autonomy in health care decision-making. She notes that post-*Roe v. Wade* legislation has aimed to undercut *Roe* and to "redefine the fetus as a 'person' who can claim constitutional protections and other rights (p 105)." She cites fetal homicide laws in 38 states, as well as the Federal government, that make the killing of a fetus a homicide, distinct from injuring or killing a pregnant woman. Fentiman describes how critics of these fetal homicide laws argue that "they create a slippery slope, that makes it more likely that pregnant women themselves will be held liable, civilly or criminally for harming or risking harm to their fetuses (p 105)."

Fentiman also describes prominent examples of pregnant women being punished or involuntarily committed to treatment for using illicit substances. For example, she highlights the 2013 civil commitment of Alicia Beltran, "a twenty-eight-year-old pregnant Wisconsin woman who had become addicted to prescription painkillers but had weaned herself off them (p 11)." Ms. Beltran was arrested and handcuffed, and involuntarily committed for drug treatment after acknowledging prior use at a prenatal appointment. She was committed to an inpatient drug treatment facility "for seventy-eight days; during that time she was offered counseling but no . . . prenatal care, and she lost her job (p 149)." Rather than using fear of punishment to deter substance use, Fentiman argues for comprehensive medical care inclusive of substance use treatment, as well as social and logistical support for pregnant women with substance use disorders. Indeed, medical and public health experts

broadly oppose the criminalization of substance use by pregnant women.<sup>1</sup>

This book has clear relevance to forensic psychiatrists. It provides a systematic examination of the cultural and legal landscape within which forensic evaluations may be contextualized. Fentiman presents irrational and reactive cultural and legal responses to situations related to maternal risk to children. Through her identification and examination of these concerns, an opportunity is provided for forensic psychiatrists to be thoughtful about presenting psychiatric opinions, informed by evidence-based medical models, to the court when relevant (for instance, on substance use disorders or relationship dynamics).

Fentiman is unsentimental and unflinching in this ambitious book. She addresses a broad range of topics that are prominent in the current discourse on parenting and children's health, as well as women's rights and autonomy. She clearly delineates how conscious and unconscious beliefs about race, wealth (and poverty), and ideals and fantasies of motherhood have a profound effect on a woman's right to make decisions about her personal health care, including bodily autonomy, and her children's health care.

#### Reference

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## The Evolution of Forensic Psychiatry: History, Current Developments, Future Directions

Edited by Robert L. Sadoff. New York: Oxford University Press, 2015. 404 pp. \$76.95.

Robert L. Sadoff, described by some as the founder of modern forensic psychiatry, edited *The Evolution of Forensic Psychiatry: History, Current Developments, Future Directions*. The book received the 2017 Manfred S. Guttmacher Award, an honor cospon-

sored by the American Psychiatric Association (APA) and the American Academy of Psychiatry and the Law (AAPL) to recognize an outstanding contribution to the literature of forensic psychiatry. At the 2017 APA Annual Meeting, Kenneth Weiss, MD, shared the editor's goal in preparing the text: to present "the current history of the field, the outstanding programs teaching concepts and practices, and proposals for future development."<sup>1</sup> Drawing on a "who's who" of chapter contributors, Sadoff met his goal.

The text provides a historical review of the field of forensic psychiatry and training as well as giving a contemporary view of recent developments and trends in the field. It is organized into seven core sections: "History," "Current Developments: Teaching Forensic Psychiatry," "Child and Adolescent Psychiatry," "Psychiatry Subspecialties and Forensic Psychiatry," "Forensic Psychiatry and Other Professions," "Forensic Psychiatry and Legal Issues," and "Future Directions." Each section has three to six chapters, each with a distinct focus. Although the text is organized in a logical and approachable manner, each chapter or section can be read independently and in any order.

The text uniquely summarizes the major scientific, legal, and policy factors that have influenced the field. Many of its contributors share personal perspectives about their journey as the field has developed and their viewpoints on future directions. This approach personalizes the experience for the reader. For example, several authors share their own beginnings in forensic psychiatry, teaching, and creating forensic training programs. Seasoned forensic psychiatrists may share in the authors' experiences. For those starting their forensic careers, it is helpful to understand the evolution of the field as it informs today's training programs as well as the practice of forensic psychiatry.

Beyond the traditional topics found in many forensic psychiatry textbooks, Sadoff includes chapters written from the unique viewpoints of practitioners of other disciplines that interact with the legal system, including lawyers, judges, and law enforcement personnel. In the chapter written by a criminal defense attorney, for example, the author provides several firsthand accounts of working with clients with mental illness and cases using forensic psychiatry experts. Although she comments on the role of the expert witness, she also shares examples of situations