Of children and cocaine

Drug testing of pregnant women justified, can save the lives of at-risk children

MATT LOFTIS

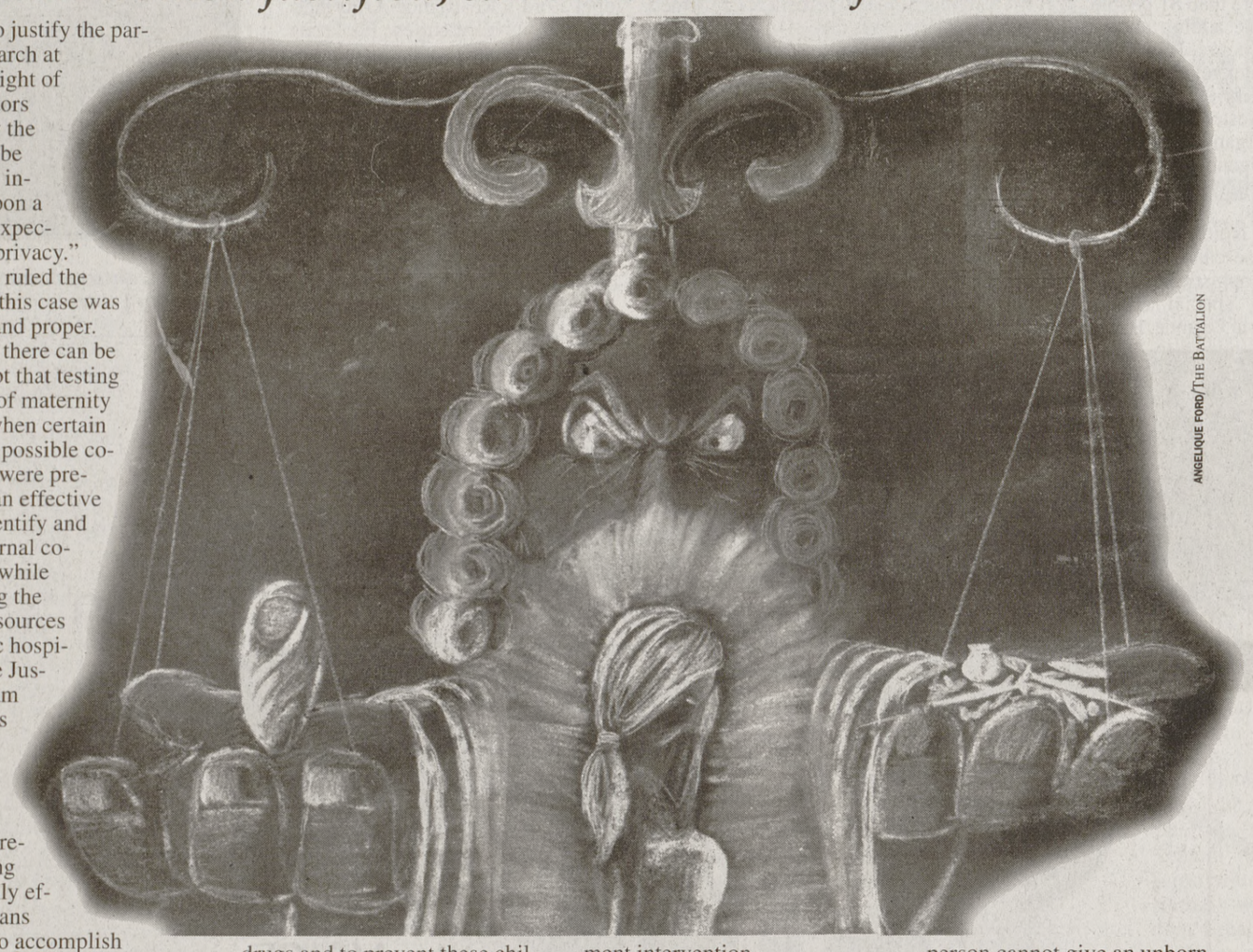
The U.S. Supreme Court is currently deliberating on a South Carolina case in which state and local officials were sued after hospitals reported to police test results of pregnant women testing positive for cocaine use. These women were subsequently arrested and prosecuted for distributing illegal narcotics to a minor.

Women appealed the decisions alleging the use of urine samples constituted an unlawful search. Therefore, the hospitals' actions were unconstitutional. This defense, however, has been shot down in both trial and appeals courts due to the belief children of any age should not be given illegal drugs and that those responsible should be punished. It is commendable that the Supreme Court has decided to take this case and finally set a precedent on protection of the unborn.

The case, Ferguson v. Charleston, could alter views on the status of unborn children. The fact that the Supreme Court took the case indicates that it has an interest in adding to the debate over the rights of the unborn. Whatever objection mothers have, the issue in question is whether broad provisions can be made for the protection of their unborn children. The tests in dispute were performed solely on women with a history of cocaine abuse, therefore establishing a lawful reason for the seizure and disclosure of information to police.

The U.S. 4th Circuit Court of *Appeals* rejected the appellants' objection that the drug tests violated their Fourth Amendment rights because the law does not require an absolute need to search, but it must be "important enough to justify the particular search at hand, in light of other factors that show the search to be relatively intrusive upon a genuine expectation of privacy." The court ruled the search in this case was justified and proper.

"Here, there can be little doubt that testing the urine of maternity patients when certain indicia of possible cocaine use were present was an effective way to identify and treat maternal cocaine use while conserving the limited resources of a public hospital," wrote Justice William W. Wilkins in the court's majority opinion. "Indeed, prenatal testing was the only effective means available to accomplish the primary policy goal of persuading women to stop using cocaine during their pregnancies in order to reduce health effects on children exposed to cocaine in utero."



ANGELIQUE FORD/THE BATTALION

Doctors were given ample reason to suspect certain mothers of drug abuse when pregnant, and subjecting these women to drug tests is surely a reasonable search based on their history. These invasions of a person's privacy were made with the sole interest of protecting children from the debilitating effects of drugs and to prevent these children from being born with an addiction or deformity.

Acting in protection of minors, born or not, is sufficient in warranting search based on an historical probability.

The defense has also analogized their position to that of doctors who report gunshot wounds and signs of child abuse. If there is a situation of overt endangerment of a child, then a doctor is compelled to report the situation to law enforcement officials. In much the same way, drug abuse forces law enforcement intervention.

However, the appellants reject these arguments because the system of testing and arrest is overly intrusive on women's privacy and that the tests are unfairly biased toward particular races and levels of socioeconomic status.

The women claim blacks and lower class women are tested and prosecuted and that, because the entire operation is actually a law enforcement act, it is unfair that they were subjected to the tests under the guise of prenatal care.

So far, lower courts have ruled on the assumption that a person cannot give an unborn child cocaine because they are minors. This assumption necessitates a new view of whether or not unborn children have a right to life and good health.

However the court rules, it is about time it decided to look at an issue on which there are already heavy assumptions about the rights of the unborn and the responsibilities and rights of pregnant women.

Matt Loftis is a sophomore journalism and french major.

No Slacking

American society's mindset not as horrible as some seem to think

DANIEL MCMAHAN

Why are Americans often so restless in the midst of their prosperity? That is the question Alexis de Tocqueville, 19th century French writer and social commentator, sought to answer in his book Democracy in America.

Tocqueville could not comprehend the priorities of Americans at that time and questioned their values. Tocqueville endorsed a lifestyle of tranquility and a sense of self–satisfaction with the pleasures of everyday life. He found it odd that, despite the success of the American people, they were never satisfied and were continually driven to pursue even greater accomplishments.

Tocqueville's interpretations of the emerging American entrepreneurial spirit are understandable. In his time, Tocqueville witnessed America's westward expansion and the California gold rush. To European onlookers like Tocqueville, the fever with which Americans were pursuing wealth and prosperity would certainly have seemed bizarre, especially given European standards of prosperity at the time depended upon more than the girth of one's wallet.

Tocqueville's piece is a classic that provides much insight into the contrasting values between the respective continents at the time. Although his observations and conclusions — given the time period — are arguably accurate, they are, of course, bogus when applied today.

Why then did an article from Tocqueville's book, *Democracy in America*, appear in the *Houston Chronicle*'s Outlook section on Oct. 8? *The Chronicle* is a well-respected newspaper and obviously not a collection of literary works. Being so, one can only make the assumption that the intention of the respective editors is to imply that Tocqueville's work has relevance in today's American society. The notion is dreamy and romantic, but rather absurd as well.

The Chronicle's implication doubles as an accusation toward the American people who are responsible for today's prosperity. Today's "49ers" are being put on trial here. The endorsement of Tocqueville's work with reference current era of American prosperity is a condescending gesture. Today's movers and shakers are being accused of being culturally deficient as if participation in the rat race diminishes today's business afficionado.

When all the fine print is sorted through and the contents of Tocqueville's work is deciphered, the core argument is that the pursuit of wealth and prosperity is a less noble and fulfilling cause than is the enjoyment of the pleasures at hand. While this attitude was probably very popular in the 1960s, it is are rather perplexing today.

> ***Human nature is a term that knows no discrete definition. The drive and hunger with which some citizens of the world pursue success is just a microcosm of the human spirit.***

Had the attitudes of Americans over the past century been molded to support this argument, it is highly unlikely that many of the major accomplishments that can be credited to the hard work of Americans would have occurred.

The Internet still would be a daydream, Wall Street would be a dirt road hosting saloons and brothels, transportation would still be in the form of a four legged animal — certainly not an airplane — and polio would have been a deadly illness for decades more.

Phrases like "all work and no play make a bore of a day," give Tocqueville's argument relevance in today's world. Human nature is a term that knows no discrete definition. The drive and hunger with which some citizens of the world pursue success is just a microcosm of the human spirit. It should in no way be criticized, especially when it is responsible for so many of the technological advances that benefit all in today's world.

And what would Tocqueville say to those people who define success by different standards than wealth? Is the artist who labors for days on end in quest of the perfect masterpiece also guilty in the eyes of Tocqueville of "living for all the wrong reasons"?

Promoting a lackadaisical existence and scolding ambition is a recipe for mediocrity, and mediocrity is...well, nothing special.

Daniel McMahan is a senior industrial engineering major.

BAD CHECKING

McSorley punishment takes away from NHL's authority over players

MARCUS WHITE

Last season the National Hockey League (NHL) experienced an unheard-of event, and no, it was not the defeat of the Dallas Stars. It was violence in a hockey rink. That is what hockey is all about, right? On Oct. 6, a Vancouver court responded to that question with a resounding "No" after finding Boston Bruin Marty McSorley guilty of assault with a weapon. McSorley was charged after hitting Donald Brashear in the back of the head with his stick.

According to the Vancouver court, McSorley not only crossed, but leaped over the line separating violence that is part of the game with potentially dangerous behavior with his hit on Brashear. Hockey players step on the rink with a certain implied level of expectancy for rough and hazardous play. In that respect, what might be considered assault on a public street is common in an NHL game. The Vancouver court made a mistake by charging McSorley, and future disciplinary action should be left to on-ice consequences.

The NHL has long encouraged physical play within the confines of a game. In doing so, the NHL has drawn a fine line between good play and unnecessary roughness. Often, players cross that line and find themselves in the penalty box or facing game suspensions. As for McSorley's hit, there is no question whether he crossed the line. McSorley was punished with a 23-game suspension, the harshest penalty ever handed down by an NHL commissioner. In this particular case, NHL Commissioner Gary Bettman did an exceptional job of using his authority as commissioner to send a message that McSorley's play would not be tolerated.

> ***Offenses during the game should be handled by the league.***

The law officials in Vancouver, however, had a different opinion. McSorley was arrested, charged with assault and eventually convicted. While McSorley does not face any jail time for his offense, he was placed on 18 months of probation and cannot play hockey against or come into contact in any way with Brashear during that time. McSorley's 17-year NHL career is likely over as a result of this ruling.

Offenses during the game should be handled by the league. Each and every one of these athletes are well aware of the implied consent he gives when he decides to enter professional sports. These athletes, hockey or otherwise, are paid well for the risks they take every game.

It is not the job of any outside agency to police a particular professional sport. Will major league pitchers in now be charged with assault when they hit a batter with a pitch? Should law enforcement officials punish NFL players for late hits? Most anyone would say no, reasoning that these are all things that happen in the course of a regular game.

McSorley was out of line when he hit Brashear. Certainly, he deserved to be suspended, and the NHL made it clear it did not endorse that kind of physical play during hockey games. It should have been left at that.

Hockey is one of the more violent professional sports. From time to time, tempers will flare, and the heat of the action will take hold of the players; fights will occur, and cross-checks will be made. Players will be injured as a result of such violent behavior. While it is important to impress upon these athletes the need to respect their opponents, the enforcement of that respect should not take place off of the ice.

The Vancouver court made a mistake by charging and convicting McSorley with assault. NHL fans can only hope that this ruling does not affect the intensity of the game. Hockey is not the same sport without the crushing blows and the dropping of the gloves.

Marcus White is a sophomore general studies major.

Mail Call

Rights are universal, do not require testing

In response to Jason Bennyhoff's Oct. 16th column.

Bennyhoff's article about idiots abusing the right to free speech was right on track. He did miss a few points, though. He should have included writers and editors who publish articles without proofreading them for accuracy and coherency.

It is a tragedy that "criminals continuously abuse the right to bear arms and evangelists steal from their congratulations," but I am tired of reading opinions that are not researched or presented in an organized, educated way.

If Bennyhoff wants someone to see his point of view, it is important to express his ideas in a way that others can understand. *The Battalion* should not be a forum for the pseudo-intellectual rambling of someone who believes he is more intelligent and more deserving of constitutional rights than others.

Erica Redden
Class of '02

Bennyhoff could have been a little more tactful when insulting a good deal of America. What bothered me was his lack of knowledge of the law. If he is going to insult the Constitution, he should know what he is insulting.

The right to bear arms is reserved to defend ourselves against governments, both foreign and domestic. If our government, without our permission, starts enforcing laws that infringe upon our personal freedoms, we have the Constitutional right to defend those freedoms.

Nobody can walk into a gun store and buy a gun. In Texas and in many other states, a buyer must undergo a background check to make sure they are not a convicted felon or mentally unstable. If the buyer passes that and still wants a handgun, they must then take a course that teaches proper handgun safety and knowledge of firearm laws. The course is followed by a written exam and a field test. These two tests prove that someone can operate the weapon as well as understand the laws that pertain to it.

Both tests are difficult and require competence. Our gun laws, like so many of our laws, weed out those who cannot cut it.

Please do the student body a favor and research the topics you write about. When a columnist from the school paper gets the facts wrong due to laziness, it makes the paper and the University look bad.

Joshua Thomas
Class of '02

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