


2014

Who Are the Mothers Who Need Safe Haven
Laws? An Empirical Investigation of Mothers Who
Kill, Abandon, or Safely Surrender Their
Newborns, 29 Wis. J.L. Gender & Soc'y 213
(2014)

Diane S. Kaplan
John Marshall Law School, 7kaplan@jmls.edu

Follow this and additional works at: <http://repository.jmls.edu/facpubs>

 Part of the [Family Law Commons](#), [Law and Gender Commons](#), and the [Law and Society Commons](#)

Recommended Citation

Diane S. Kaplan, Who Are the Mothers Who Need Safe Haven Laws? An Empirical Investigation of Mothers Who Kill, Abandon, or Safely Surrender Their Newborns, 29 Wis. J.L. Gender & Soc'y 213 (2014)

<http://repository.jmls.edu/facpubs/486>

This Article is brought to you for free and open access by The John Marshall Institutional Repository. It has been accepted for inclusion in Faculty Scholarship by an authorized administrator of The John Marshall Institutional Repository.

**WHO ARE THE MOTHERS WHO NEED SAFE HAVEN LAWS?
AN EMPIRICAL INVESTIGATION OF MOTHERS WHO KILL,
ABANDON, OR SAFELY SURRENDER THEIR NEWBORNS**

*Diane S. Kaplan**

“There are two ways to be fooled. One is to believe what isn’t true;
the other is to refuse to believe what is true.”
Søren Kierkegaard 1813-1855

| | | |
|------|--|-----|
| I. | INTRODUCTION TO STUDY | 448 |
| | A. Neonaticide..... | 449 |
| | B. Safe Haven Laws..... | 456 |
| II. | METHODOLOGY | 458 |
| | A. Case Totals | 459 |
| | B. Case Cohorts..... | 459 |
| | C. Case Time Periods..... | 460 |
| III. | GENERAL MATERNAL DEMOGRAPHICS..... | 461 |
| | A. Identified and Unidentified Mothers | 461 |
| | B. Age | 462 |
| | C. Race/Ethnicity | 464 |
| | D. Religion | 467 |
| | E. Marital Status | 468 |
| | F. Persons With Whom Mothers Lived | 468 |
| | G. Highest Educational Levels Achieved | 468 |
| | H. Employment | 469 |
| IV. | OBSTETRIC AND MENTAL HEALTH HISTORIES..... | 469 |
| | A. Live Birth Histories..... | 469 |
| | B. Mental Illness Histories..... | 472 |
| | C. Repeat Offenders | 473 |
| V. | PREGNANCY, LABOR, DELIVERY..... | 476 |
| | A. Pregnancy Acknowledgment..... | 477 |
| | B. Concealment..... | 477 |
| | C. Labor..... | 478 |

* Diane S. Kaplan is a graduate of The University of California at Berkeley and the Yale Law School where she was an editor of the Yale Law Journal. She wishes to thank the following people for their contributions to this study: Data Analysts Samuel Benjamin Rooney and A.J. Young, Statistician Dr. Fred McCall-Perez, Librarian Anne Abramson, Research Assistants Maria Sarantakis, Dina Ninfo, Mary Kerkorian, Michael Eismach, Shawna Leavitt Cohen, and Editor Sherry Guthrie. The author dedicates this study to the researchers cited throughout the footnotes, without whose prior work this study would not have been possible.

448 WISCONSIN JOURNAL OF LAW, GENDER & SOCIETY [Vol. 29:3

| | | |
|-------|--|-----|
| | D. Delivery..... | 479 |
| VI. | INFANT SURRENDERS | 481 |
| | A. State Totals..... | 481 |
| | B. Physical Condition of SSI at Time of Surrender | 481 |
| | C. Ages of SSI..... | 481 |
| | D. Surrendering Persons | 482 |
| | E. Assisted Surrenders | 483 |
| | F. Surrender Sites..... | 483 |
| | G. Were Surrendered Infants Ever in Danger of Abandonment or Death? | 484 |
| VII. | INFANT ABANDONMENTS AND DISCOVERIES | 484 |
| | A. Infant Discovery Sites | 484 |
| | B. Containers..... | 486 |
| | C. Length of Time from Birth to Discovery..... | 488 |
| | D. Discoverers..... | 489 |
| | E. Physical Condition of SAI at Discovery..... | 490 |
| | F. Mother's Intent | 490 |
| VIII. | NEONATICIDAL METHODS..... | 492 |
| | A. Active and Passive Kills Cohorts | 492 |
| | B. Active Kills..... | 492 |
| | C. PRE vs. POST Active Kills | 493 |
| IX. | POLICE INVESTIGATIONS | 494 |
| | A. How Were Mothers Found..... | 494 |
| | B. Did Mother Deny Giving Birth?..... | 495 |
| | C. Did Mother Acknowledge Giving Birth to a Live Infant? | 496 |
| X. | LEGAL OUTCOMES | 497 |
| | A. Summaries..... | 497 |
| | B. Prosecution Charges | 499 |
| | C. Verdicts: Convictions and Acquittals | 501 |
| | D. Sentences..... | 504 |
| | E. Legal Dispositions: Plea Bargain or Trial..... | 504 |
| | F. Appeals | 505 |
| | G. Successful and Unsuccessful Defenses | 505 |
| XI. | CONCLUSION | 509 |

I. INTRODUCTION TO STUDY

Who are the Mothers who kill their infants at birth? Why do they kill? How do they kill? Once the infant is disposed of, what becomes of the Mother? Neonaticide is the killing of a newborn within the first 24 hours of birth.¹ In response to the discovery of 13 abandoned newborns, Texas passed the first

1. Phillip J. Resnick, *Murder of the Newborn: A Psychiatric Review of Neonaticide*, 126 AM. J. PSYCHIATRY, 1414, 1414-20 (1970).

2014] WHO ARE THE MOTHERS WHO NEED SAFE HAVEN LAWS? 449

Safe Haven law in 1999.² Within 9 years, all states enacted similar laws. The purpose of Safe Haven Laws is to deter neonaticidal behaviors by allowing Mothers who are bearing unwanted pregnancies to legally surrender their newborns with anonymity and immunity from prosecution. The laws are based on the assumption that if these women have the choice between killing their newborns or legally surrendering them, they will choose the latter.³ This article presents an empirical study of 559 cases of women who killed, abandoned or legally surrendered their newborns at Safe Haven sites. Although the data analyses were subject to statistical analysis,⁴ the study's value lies not in its mathematical precision, but rather, in the portal of observation it provides into a phenomenon that is largely invisible to the public eye. The 559 cases present the largest number of neonaticidal and surrender events studied to date and more accurately portray a forest rather than an individual tree.

A. *Neonaticide*

Credible studies disparately estimate that between 5% - 45.6% of juvenile homicides occur within the first 24 hours of birth.⁵ These frequency rates differ drastically, in part because there are no national⁶ and few state databases⁷ that

2. TEX. FAM. CODE ANN. § 262.301 et seq. (West 1999); TEX. PENAL CODE ANN. § 22.041 (West 1999).

3. K. Drescher-Burke et al., *Discarded infants and neonaticide: A review of the literature*, NAT'L ABANDONED INFANTS ASSISTANCE RESOURCE CTR., U. CAL. BERKLEY, at 8 (Sept. 2004).

4. This study used standardized statistical measures to analyze the data such as the Student's t-test, Chi-square analysis and Z-tests. .05 was used as the level of significance for p-values. Percentages that exceeded .5% were rounded up to the next number.

5. M. Brozovsky & H. Falit, *Neonaticide: Clinical and Psychodynamic Considerations*, 10 J. AM. ACAD. CHILD PSYCHIATRY 673, 673-74 (1971) (in 1967, 45.6% of children murdered within the first year of life are murdered within the first 24 hours of birth); Cheryl L. Meyer & Michelle Oberman, *Denial of Pregnancy, in MOTHERS WHO KILL THEIR CHILDREN UNDERSTANDING THE ACTS OF MOMS FROM SUSAN SMITH TO THE "PROM MOM"* 39, 46 (New York University Press, 2001) Resnick (1970), *supra* note 1, at 1419 ("...hundreds and possibly thousands of neonaticides still occur in this country each year."); U. S. Department of Health and Human Services, CHILDREN'S BUREAU, ADMINISTRATION ON CHILDREN, YOUTH & FAMILIES, (2001) (This study estimates that from 1992 to 1997 the number of discarded infants nationally increased 62% (from 65 to 105) and the number of infants found dead increased 312.5% (from 8 to 33)); Marcia E. Herman-Giddens et al., *Newborns Killed or Left to Die By a Parent*, 289 JAMA 1425 (2003) ("The risk of homicide on the first day of life (neonaticide) is ten times greater than the rate during any other time of life."); Mary D. Overpeck, et al., *Risk Factors for Infant Homicide in the United States*, 339 NEW ENG. J. MED. 1211, 1211-16 (1998) (in a study of U.S. live births and deaths from 1983-1991, researchers found within the first year of life 5% of the homicides occurred on the first day of life but stated that the 5% total was underestimated due to undisclosed births and deaths).

6. Kristen Beyer, et al., *Investigative Analysis of Neonaticide: An Exploratory Study*, 35 CRIM. JUST. & BEHAV. 522 (2008); U.S. DEP'T HEALTH & HUM. SERVICES, ADMIN. FOR CHILD. & FAM., 1998 NATIONAL ESTIMATES OF THE NUMBER OF BOARDER BABIES, ABANDONED INFANTS, AND DISCARDED INFANTS (1998) (there are no categories for neonate deaths within the first 24 hours of birth).

track neonaticides and, in part, because the rate estimates are wholly dependent on detected events. If, as is generally assumed, many neonaticides are undetected because they are successfully concealed, the true prevalence rates remain unknown and the perpetrators unknowable.

In an effort to understand the perpetrators of neonaticides, in 1970 Dr. Phillip J. Resnick published a study entitled, "Murder of the Newborn: A Psychiatric Review of Neonaticide."⁸ The study found Neonaticidal Mothers to be a distinctly different cohort from mothers who committed other types of infanticides.⁹ According to Dr. Resnick, mothers who committed infanticides did so because they were psychotic, or by accident, or for revenge or altruism.¹⁰ In contrast, Resnick found that mothers who committed neonaticide did so primarily because the infant was unwanted due to the shame of a non-marital pregnancy, not because of mental illness, accident, altruism or revenge.¹¹ Resnick divided Neonaticidal Mothers into two categories:

In the first group are young, immature, passive women who submit to, rather than initiate, sexual relations. They often deny their pregnancy, and premeditation is rare. The women in the second group have strong instinctual drives and little ethical restraint. They tend to be older, more callous, and are often promiscuous.¹²

Since Resnick's seminal work, additional studies have examined both the act of neonaticide and its perpetrators. Among this research are studies conducted by medical and mental health experts who applied psychoanalytic or forensic methodologies to analyze Neonaticidal Mothers¹³ and secondary

7. Texas created a tracking program for Safely Surrendered infants in 2004. Wendy Hundley, *Baby Moses law saves children's lives but is rarely used, records show*, DALLAS NEWS, Dec. 29, 2011, <http://www.dallasnews.com/news/local-news.20111229-baby-moses-law>; Cara Buckley, *Safe-Haven Laws Fail to End Discarding of Babies*, N.Y. TIMES, Jan. 13, 2007, <http://www.nytimes.com/2007/01/13/nyregion/13babies.html>.

8. Resnick (1970), *supra* note 1, at 1414-20 (the study was based on a worldwide review of 37 neonaticides and 131 infanticides from 1751-1968); *See also* Phillip J. Resnick, *Child Murder By Parents: A Psychiatric Review of Filicide*, 126 AM. J. PSYCHIATRY 325 (1969).

9. Resnick (1970), *supra* note 1, at 1414-20.

10. *Id.* at 1415-16.

11. *Id.* ("The 'unwanted child' murders are committed because the victim is no longer wanted by his mother.")

12. *Id.* at 1419.

13. Anna M. Spielvogel & Heidi C. Hohener, *Denial of Pregnancy: A Review and Case Reports*, 22 BIRTH ISSUES IN PERINATAL CARE 220, 220-26 (1995) (study of 3 psychiatric case histories of women who denied pregnancies); Catherine Bonnet, *Adoption at Birth: Prevention Against Abandonment or Neonaticide*, 17 CHILD ABUSE & NEGLECT 501 (1993) (French study of 22 women from 1987-1989 who denied and concealed their pregnancies, 4 of whom committed neonaticide); Margaret G. Spinelli, *A Systematic Investigation of 16 Cases of Neonaticide*, 158 AM. J. PSYCHIATRY 811 (2001) (hereinafter known as "Spinelli (2001)"); Margaret G. Spinelli, *Neonaticide: A Systematic Investigation of 17 Cases*, in INFANTICIDE: PSYCHOSOCIAL AND LEGAL PERSPECTIVES ON MOTHERS WHO KILL 105, 105-18 (Margaret G. Spinelli ed., American Psychiatric Publishing, Inc. 2003)

2014] WHO ARE THE MOTHERS WHO NEED SAFE HAVEN LAWS? 451

studies that analyzed socio-demographic data from such sources as public health, medical, hospital and police records, media reports, legal documents, and birth and death certificates.¹⁴ Most studies depict Neonaticidal Mothers as prima parous,¹⁵ unwed¹⁶ teens or young adults who are so withdrawn,

(hereinafter known as “Spinelli (2003)”); Margaret G. Spinelli, *Denial Of Pregnancy: A Psychodynamic Paradigm*, 38 J. AM. ACAD. PSYCHOANALYSIS & DYNAMIC PSYCHIATRY 117 (2010) (hereinafter known as “Spinelli (2010)”) (forensic analysis of 17 Neonaticidal Mothers); Miller, Laura J., *Denial of Pregnancy*, in *INFANTICIDE: PSYCHOSOCIAL AND LEGAL PERSPECTIVES ON MOTHERS WHO KILL* 81, 81-104 (Margaret G. Spinelli ed., American Psychiatric Publishing, Inc. 2003); C. M. Green & S.V. Manohar, *Neonaticide and Hysterical Denial of Pregnancy*, 22 BRIT. ISSUES IN PERINATAL CARE 121 (1990) (a single case study); P.T. d’Orban, *Women Who Kill Their Children*, 134 BRIT. J. PSYCHIATRY 560 (1979) (study of 89 cases of women in Holloway Prison, England who were charged with the murder or attempted murder of their children from 1970-75, 11 of which were neonaticide cases); Brozovsky & Falit, *supra* note 5, 673-83 (case study of 2 Neonaticidal Mothers); Saunders, Edward, *Neonaticides Following “Secret” Pregnancies: Seven Case Reports*, 104 PUBLIC HEALTH REPORTS 368, 368-72 (study of 7 Neonaticidal Mothers); MICHELLE OBERMAN & CHERYL MEYER, *WHEN MOTHERS KILL: INTERVIEWS FROM PRISON* app. B at 151-55 (Michelle Oberman ed., New York University Press 2008) (study of 40 imprisoned infanticidal and neonaticidal mothers); Robert Sadoff, *Mothers Who Kill Their Children*, 25 PSYCHIATRIC ANNALS 601 (1995) (forensic evaluation of Mothers charged with infanticide).

14. Herman-Giddens, et al., *supra* note 5, at 1425-29 (review of neonaticidal deaths over a 16 year period in North Carolina); Michael Craig, *Perinatal Risk Factors for Neonaticide and Infant Homicides: Can We Identify Those at Risk?*, 97 J. ROYAL SOC’Y MED. 57 (2004) (review of international neonaticide studies for the purpose of evaluating prevention possibilities); Overpeck, et al., *supra* note 5 (study conducted of live births and deaths within the first year of life in U.S. from 1983-1991); Jaana Haapasalo & Sonja Petaja, *Mothers Who Killed or Attempted to Kill Their Children: Life Circumstances, Childhood Abuse, and Types of Killing*, 14 VIOLENCE & VICTIMS 219 (study of 48 maternal Finnish infanticide cases from 1970-1996, 15 of which were neonaticides); H. Putkonen et al., *Neonaticides May Be More Preventable and Heterogeneous Than Previously Thought – Neonaticides in Finland 1980-2000*, 10 ARCHIVES WOMEN’S MENTAL HEALTH 15 (2007) (study of 50 infanticide cases, 32 of which were neonaticides); P. Finnegan & G. Erlick Robinson., *Denial of Pregnancy and Childbirth*, 27 CAN. J. PSYCHIATRY 672 (1982) (Canadian study of 3 women who denied pregnancy and birth); Sadoff, *supra* note 13; K. Dreschler-Burke et al., *supra* note 5, at 3; Mauro V. Mendlowicz et al., *A Case-Control Study of the Socio-Demographic Characteristics of 53 Neonaticidal Mothers*, 21 INT’L J. L. & PSYCHIATRY 209, 209-18 (1998); Saunders, *supra* note 13; Susan Crimmins et al., *Convicted Women Who Have Killed Children: A Self-Psychology Perspective*, 12 J. INTERPERSONAL VIOLENCE 49 (1997); Susan Hatters Friedman et al., *Characteristics of Women Who Deny or Conceal Pregnancy*, 48 PSYCHOSOMATICS 117, 177-122 (2007); Dominique Bourget & John M.W. Bradford, *Homicidal Parents*, 35 CAN. J. PSYCHIATRY 233 (1990); Beyer et al., *supra* note 6, at 522-35; Brozovsky & Falit, *supra* note 5, at 673-83; Meyer & Oberman, *supra* note 5, at 39-67.

15. Prima Parous refers to a Mother’s first pregnancy. Nulli parous refers to a Mother’s first birth. Meyer & Oberman, *supra* note 5, at 40; Finnegan et al., *supra* note 14, at 672; Beyer et al., *supra* note 6, at 526 (62.5% of forty neonaticidal women reported this pregnancy as their first); d’Orban, *supra* note 13, at 564 (45% of the women in this study were prima parous).

16. Meyer & Oberman, *supra* note 5, at 22, 40 (only 1 of 37 women in this study had been married); d’Orban, *supra* note 13 at 561 (all 11 Neonaticidal Mothers in Holloway Prison, Great Britain were single); Beyer et al., *supra* note 6, at 526 (85% of women in this

immature, and passive that they lack the problem-solving skills necessary to end the pregnancy, relinquish the child, or plan for the birth;¹⁷ many have histories of traumatizing emotional, familial or sexual abuse¹⁸ but do not have histories of mental illness;¹⁹ most have unstable or nonexistent relations with the infant's father;²⁰ most do not receive prenatal care;²¹ some continue to menstruate, do not gain weight, and do not experience breast or abdominal enlargement;²² some experience no pain during labor while others mistake labor pains for indigestion or defecation;²³ most deliver alone and unassisted.²⁴ In

study were never married); Spinelli (2010), *supra* note 13, at 120 (all 17 women in this study were single). See also Sara J. Emerick et al., *Risk Factors for Traumatic Infant Death in Oregon, 1973 to 1982*, 77 PEDIATRICS 518 (1986).

17. Meyer & Oberman, *supra* note 5, at 54; Miller, *supra* note 3, at 90-93; Velma Dobson & Bruce Sales, *The Science of Infanticide and Mental Illness*, 6 PSYCH. PUB. POL'Y & L. 1097, 1104 (2000); Spinelli (2010), *supra* note 13, at 120; Beyer et al., *supra* note 6, at 523; Green & Manohar, *supra* note 13, at 121-23; Brozovsky & Falit, *supra* note 5, at 677.

18. Bonnet, *supra* note 13, at 506-07 (20% of the 22 women in this study had been sexually abused as children; all had traumatic childhood sexual traumas); Spinelli (2003), *supra* note 13, at 112 (53% of the women in this study reported histories of childhood sexual trauma; 100% reported emotional abuse.); Spinelli (2010), *supra* note 13, at 122 (all 17 women in this study had experienced abuse and neglect; 9 reported sexual trauma; 9 reported physical abuse; 11 reported sexual or physical trauma, and 7 reported both).

19. Resnick (1970), *supra* note 1, at 1415 (only 17% of the neonaticidal mothers in this study were diagnosed as psychotic); d'Orban, *supra* note 13, at 561 (only 1 of 11 Mothers had been previously diagnosed with a psychiatric illness; none were in treatment at the time of the offense; 3 were subsequently diagnosed with psychiatric disorders); Miller, *supra* note 13, at 87 ("The presence of denial does not necessarily imply a psychiatric disorder or a specific psychological conflict."); Green & Manohar, *supra* note 13, at 12.1-22 (in a single case study the Mother had no prior history of mental illness); Beyer et al., *supra* note 6, at 527 (none of studied offenders were determined to be psychotic at the time of the offense although 12 out of 40 were diagnosed with a psychiatric issue before or after committing a neonaticidal offense).

20. Laura J. Miller, *supra* note 13, at 89 ("Secure, committed relationships with the father of the fetus are rare among women with known cases of pervasive pregnancy denial."). See also Cheryl L. Meyer & Michelle Oberman, *supra* note 5, at 48; Michelle Oberman, *Mothers Who Kill: Coming to Terms with Modern American Infanticide*, 24 AM. CRIMINAL L. REV. 1 (Fall 1996); Margaret G. Spinelli, *supra* note 13, at 110; Margaret G. Spinelli (2010), *supra* note 13, at 121.

21. Marcia E. Herman-Giddens et al., *supra* note 5, at 1427 (Less than 20.6% of Mothers in study received prenatal care); Sara J. Emerick et al., *supra* note 16, at 518-522; Laura J. Miller, *supra* note 13, at 90; P.T. d'Orban, *supra* note 13 at 570; Sadoff, *supra* note 13 at 602; K. DRESCHER-BURKE ET AL., *supra* note 3, at 7; Michael Craig, *supra* note 14, at 59.

22. Finnegan et al., *supra* note 14, at 674 ("It is still unclear whether certain women experience few early physical changes and, therefore, do not realize they are pregnant, or, rather that they suppress the normal physical changes. It is most likely that the majority of these disturbed women, especially in the later stages, do experience physical changes which they then rationalize."); C. Brezinska et al., *Denial of pregnancy: obstetrical aspects*, 15 J. PSYCHOSOMATIC OBSTETRICS & GYNECOLOGY 1, 5 (1994).

23. Meyer & Oberman, *supra* note 5, at 53; Spinelli (2003), *supra* note 13, at 110; Brozovsky & Falit, *supra* note 5, at 680.

2014] WHO ARE THE MOTHERS WHO NEED SAFE HAVEN LAWS? 453

some cases the physical collusion of the Mother's body is accompanied by the collusion of her social network of family, friends and lovers who claim not to have known of the pregnancy.²⁵ The act of neonaticide occurs either passively when the Mother fails to take any action to sustain the infant's life,²⁶ or actively when the Mother engages in conduct such as stabbing, beating or suffocating that results in the infant's death.²⁷ Afterward, many Mothers resume their normal daily activities as if the pregnancy, delivery and death had never occurred.²⁸

According to many studies, a primary constant among these Mothers is that the pregnancy is unwanted,²⁹ usually because the Mother is unwed and fears ostracism by her social network – her own mother,³⁰ partner, family or religious community.³¹ A major focal point in the literature is the manner in which the Mother copes with the unwanted pregnancy. Most of the literature attributes the Mother's behavior to a condition referred to as “pregnancy denial,”³² a psychological spectrum that ranges from psychotic dissociation³³ of

24. Overpeck et al., *supra* note 5, at 1214 (95% of infants killed on the first day of birth were not born in hospitals); Meyer & Oberman, *supra* note 5, at 40; Brozovsky & Falit, *supra* note 5, at 677; Spinelli (2010), *supra* note 13, at 124; Beyer et al., *supra* note 6, at 531.

25. Brozovsky & Falit, *supra* note 5, at 673-83 (describes a “community of denial”); Bonnet, *supra* note 13, at 505 (several women in this study had engaged in sexual activities hours before delivery with men who did not notice the pregnancy); Spinelli (2010), *supra* note 13, at 122 (describes a swimmer whose coach did not know she was pregnant); Finnegan et al., *supra* note 14, at 674; Meyer & Oberman, *supra* note 5, at 56-57; Spinelli (2003), *supra* note 13, at 109, 113; Beyer et al., *supra* note 6, at 524.

26. Miller, *supra* note 13, at 94 (citing Green & Manohar, *supra* note 13); Drescher-Burke et al., *supra* note 5, at 2; Bonnett, *supra* note 13, at 508.

27. Bonnet, *supra* note 13, at 507.

28. Brozovsky & Falit, *supra* note 5, at 677.

29. Resnick (1970), *supra* note 1, at 1415; Beyer et al., *supra* note 6, at 523; Steven E. Pitt & Erin M. Bale, *Neonaticide, Infanticide, and Filicide: A Review of the Literature*, 23 BULL. AM. ACAD. PSYCHIATRY & L. 375, 377 (1995); Bourget & Bradford, *supra* note 14, at 235; Herman-Giddens et al., *supra* note 5, at 1425; Dreschler-Burke et al., *supra* note 3, at 6.

30. Brozovsky & Falit, *supra* note 5, at 682 (“The patient does to the infant what she fears her Mother would do to her.”); Bourget & Bradford, *supra* note 14, at 235.

31. Miller, *supra* note 13, at 88 (“Pregnancy is a visible, public marker of having had a sexual relationship. Such acknowledgement of sexuality can be terrifying when . . . cultural or familial attitudes forbid sexuality.”); Spielvogel & Hohener, *supra* note 13, at 220-26; Pitt & Bale, *supra* note 29, at 379; Meyer & Oberman, *supra* note 5, at 44, 50; Spinelli (2003), *supra* note 13, at 110; Brozovsky & Falit, *supra* note 5, at 679; Sadoff, *supra* note 13, at 602.

32. Everett Dulit, *Girls Who Deny a Pregnancy Girls Who Kill the Neonate*, 25 ADOLESCENT PSYCHIATRY 219, 223 (2000) (according to the “Psychiatric Glossary” of the American Psychiatric Association, denial is “a defense mechanism, operating unconsciously, used to resolve emotional conflict and to allay anxiety by disavowing thoughts, feelings, wishes, needs or external reality factors that are consciously intolerable.”); Spielvogel & Hohener *supra* note 13, at 220 (“Denial in psychiatry is defined as the unconscious psychic process when an observation or established fact is ignored or refused recognition to avoid anxiety or pain.”); Spinelli (2003), *supra* note 13, at 108-09, 114 (analogizes pregnancy denial to pregnancy hysteria where the body of a woman who is not pregnant but believes that she is pregnant shows signs of pregnancy). It is important to note that all women who experience pregnancy denial do not commit neonaticide. Spinelli (2010), *supra* note 13, at

the pregnancy, to intermittent episodes of conscious awareness and denial of the pregnancy,³⁴ to highly orchestrated concealment of the pregnancy as a prelude to murder.³⁵ The Diagnostic and Statistical Manual of Mental Disorders defines dissociation as “a disruption of the usually integrated functions of consciousness, memory, identity, or perception. The disturbance may be sudden or gradual, transient or chronic.”³⁶ In lay terminology, dissociation is a psychological coping mechanism by which the brain blocks a person’s conscious awareness of a fact, usually a highly threatening fact.³⁷ As a consequence, dissociation can prevent a new experience from triggering the conscious re-emergence of a past trauma.³⁸ As applied to pregnancy, dissociation may prevent a woman who has experienced sexual trauma in the past from being consciously aware of an unwanted pregnancy.³⁹ However,

128 (Neonaticide is an unusual result of pregnancy denial); Brozovsky & Falit, *supra* note 5, at 678-81; Finnegan et al., *supra* note 14, at 673-74.

33. AM. PSYCHIATRIC ASSN., DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS 477-78 (4th ed. 1994) (hereinafter known as “DSM-IV”).

34. Miller, *supra* note 13, at 82 (“... denial of pregnancy occurs along a spectrum of severity.”); Miller, *supra* note 13, at 81-102 (proposes three categories of pregnancy denial: pervasive, awareness without emotional attachment, and psychotic); Green & Manohar, *supra* note 13, at 123 (“The line between conscious and unconscious denial is not a fixed one.”); Beyer et al., *supra* note 6, at 523; Drescher-Burke et al., *supra* note 5, at 3 (Denial varies with the individual); Spinelli (2010), *supra* note 13, at 123-29 (of the 17 women in this forensic study, 5 denied knowledge of the pregnancy until delivery and 12 described intermittent awareness); Spielvogel & Hohener, *supra* note 13, at 220; Brezinska et al., *supra* note 22; Meyer & Oberman, *supra* note 5, at 53.

35. Beyer et al., *supra* note 6, at 530 (“All of the offenders in our study were cognitively aware that they were pregnant.”); d’Orban, *supra* note 13, at 560-71 (most of the eleven women in this forensic study of neonaticidal Mothers in Holloway Prison, England deliberately concealed their pregnancies); Miller, *supra* note 13, at 82-86; Spielvogel & Hohener, *supra* note 13, at 223; Brezinska et al., *supra* note 22; Meyer & Oberman, *supra* note 5, at 5.

36. DSM-IV, *supra* note 33, at 477; Spielvogel, & Hohener, *supra* note 13, at 220 (“Dissociation is defined as the splitting off of clusters of mental contents such as memory, bodily awareness, affect, or part of identity from conscious awareness.”).

37. Spinelli (2003), *supra* note 13, at 110 (“Denial is an attempt to avoid an intolerable reality.”); Miller, *supra* note 13, at 87 (“Denial is an emotional-focused, rather than a problem-focused, strategy; threatening information is actively excluded from conscious awareness.”).

38. Spinelli (2010), *supra* note 13, at 126 (dissociation allows past traumas to bypass current) *See also* Spielvogel & Hohener, *supra* note 13, at 222.

39. Bonnet, *supra* note 13, at 506 (“... the presence of the fetus triggered the re-emergence of traumatic childhood memories connected to sexuality and revealing sexual pleasure. . . rather than confront the traumatic, unthinkable past, they preferred to eliminate the fetus.”); Finnegan et al., *supra* note 14, at 674 (“Pregnancy is seen as a period of psychological maturation during which old conflicts related to sexuality, aggression, dependency, autonomy and motherhood are rekindled and old solutions reworked. Anxiety associated with these conflicts may threaten the pregnant woman’s ability to cope in an adaptive fashion and may result in denial of pregnancy as a defense.”).

2014] *WHO ARE THE MOTHERS WHO NEED SAFE HAVEN LAWS?* 455

upon delivery the woman is confronted with the reality of the pregnancy and, in a psychotic break with reality, panics and kills the infant.⁴⁰

There is considerable variation in the professional use of the dissociation diagnoses of Neonaticidal Mothers. Some studies find that dissociation causes a Mother to deny the pregnancy and eventually kill the infant.⁴¹ Other studies find that denial of the pregnancy causes the Mother to dissociate during delivery and kill the infant in a state of amnesia,⁴² or shock and panic.⁴³ Some studies use the terms dissociation and denial interchangeably.⁴⁴ Other studies distinguish unconscious dissociation from conscious or recurring episodes of denial because, “[f]or a fact to be denied, prior knowledge of the fact must exist.”⁴⁵ Some researchers find that dissociation and/or denial cause the Mother to conceal the pregnancy.⁴⁶ Others find that because concealment requires conscious awareness of the concealed fact, Mothers who dissociate do not and cannot conceal their pregnancies.⁴⁷ Some recent studies have created the term “neonaticide syndrome”⁴⁸ to explain the range of pregnancy denial behaviors.⁴⁹ Other recent studies have formulated a very different explanation of

40. Brozovsky & Falit, *supra* note 5, at 682 (“The actual birth of the baby suddenly confronts them with reality; unable to use denial any longer, they suddenly become acutely disorganized and murder the infant.”); Meyer & Oberman, *supra* note 5, at 55, 66.

41. Spinelli (2010), *supra* note 13, at 128 (“During labor and delivery, the woman cannot control or manipulate the factors which contribute to the conflict situation. There is no escape from the inevitable. Both the affect and the content of the idea which have been fended off gain mastery over the ego.”).

42. Meyer & Oberman, *supra* note 5, at 55; Laura J. Miller, *supra* note 13, at 94; Spinelli (2003), *supra* note 13, at 107; Brozovsky & Falit, *supra* note 5, at 677.

43. Meyer & Oberman, *supra* note 5, at 55, 66.

44. Finnegan, et al., *supra* note 14, at 674; Pitt & Bale, *supra* note 29, at 379; Bonnet, *supra* note 13 at 507; Spinelli (2010), *supra* note 13, at 117-131.

45. Spinelli (2003), *supra* note 13, at 113.

46. Miller, *supra* note 13, at 84 (“Pregnancies denied are also pregnancies concealed.”).

47. Miller, *supra* note 13, at 94 (“...women with delusional denial do not usually conceal their pregnancies.”).

48. DSM-IV defines a syndrome as “A grouping of signs and symptoms, based on their frequent co-occurrence, that may suggest a common underlying pathogenesis, course, familial pattern, or treatment selection.” DSM-IV, *supra* note 34, at 771; Judith Mac Farlane, *Criminal Defense in Cases of Infanticide and Neonaticide*, in *INFANTICIDE: PSYCHOSOCIAL AND LEGAL PERSPECTIVES ON MOTHERS WHO KILL 155* (Margaret G. Spinelli, ed., 2003) (Dr. Spinelli has proposed that the diagnoses of neonaticide syndrome be accepted by the DSM-IV so that it can be used as a legal defense); LITA LINZER SCHWARTZ & NATALIE ISSER, *ENDANGERED CHILDREN: HOMICIDE AND OTHER CRIMES 90* (CRC Press 2d ed. 2012) (neonaticide syndrome includes elements of pregnancy denial, concealment and unassisted delivery).

49. It is important to note that neonaticide syndrome, which takes place during the pregnancy, should not be confused with postpartum depression, which occurs a few days to a few weeks after delivery. Unlike post-partum depression, which was recognized in the DSM-III (1980), neonaticide syndrome was not recognized in the DSM-IV (1994). SCHWARTZ & ISSER, *supra* note 48, at 51.

neonaticidal behaviors. According to these studies, the “offenders are well aware of their pregnancies.”⁵⁰

Whether the Mother dissociates, denies, or malingers, the consequences of her conduct are the same – she kills the infant to save herself. Perhaps because of the unresolved questions of whether dissociation can prevent a pregnant woman from conscious awareness of her pregnancy or cause her to have intermittent awareness and unawareness, the neonaticide syndrome diagnosis has not been recognized as a diagnostic category in the most recent editions of the Diagnostic and Statistical Manual of Mental Disorders.⁵¹ Instead, it is used primarily as a descriptive, and sometimes, legal construct.⁵² Nonetheless, the question of whether a Neonaticidal Mother cannot control her behavior due to an unconscious mental condition lies at the crossroads of a major conflict between the mental health and legal systems. With only one case that was a subject of this study, the neonaticide syndrome defense⁵³ has been uniformly rejected by the criminal law system.

B. Safe Haven Laws

A typical Safe Haven statute⁵⁴ provides that a mother,⁵⁵ father,⁵⁶ or parental agent⁵⁷ may legally surrender an uninjured newborn at a safe haven site with anonymity and immunity from prosecution.⁵⁸ The age limits for surrendered infants range from 72 hours⁵⁹ to 1 year.⁶⁰ Places typically

50. Kristen Beyer et al., *supra* note 6, at 530 (“All of the offenders in our study were cognitively aware that they were pregnant.”); d’Orban, *supra* note 13, at 560-71 (most of the eleven women in this forensic study of Neonaticidal Mothers in Holloway Prison, England deliberately concealed their pregnancies).

51. AM. PSYCHIATRIC ASSN., DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS (5th ed. 2013); DSM-IV, *supra* note 34.

52. SCHWARTZ & ISSER, *supra* note 48, at 51 (as a legal construct Neonaticide Syndrome includes pregnancy denial, pregnancy concealment, and unassisted delivery).

53. “Neonaticide Syndrome” defenses include dissociation, pregnancy denial, amnesia, and shock and panic at birth.

54. See *Infant Abandonment*, GUTTMACHER INST. (MAR. 1, 2014, 10:30 PM), http://www.guttmacher.org/statecenter/spibs/spib_IA.pdf for updated chart of the 50 state safe haven laws.

55. See GA. CODE ANN. § 19-10A (2002).

56. See 325 ILL. COMP. STAT. 2/1 to 2/999 (2001).

57. See Iowa, IOWA CODE §§ 233.1 – .4 (2001).

58. See ALASKA STAT. § 47.10.013(c)–(f) (2008); CAL. HEALTH & SAFETY CODE § 1255.7 (Deering 2001); CAL. PENAL CODE § 271.5 (Deering 2001); COLO. REV. STAT. § 19-3-304.5 (2000); DEL. CODE ANN. tit. 11, § 1102A (2003); DEL. CODE ANN. tit. 16, § 907A (2003); 16 DEL. CODE ANN. tit. 16, § 902 (2007); FLA. STAT. § 39.201 (2)(g) (2000); FLA. STAT. § 383.50 (2012).

59. See COLO. REV. STAT. § 19-3-304.5 (2000); MINN. STAT. § 260C.217 (2000); MISS. CODE ANN. §§ 43-15-201 to -209 (2001); UTAH CODE ANN. §§ 62A-4a-801 to -802 (2001); UTAH CODE ANN. § 76-5-109 (2001); WASH. REV. CODE ANN. § 13.34.360 (LexisNexis 2002).

60. MO. REV. STAT. § 210.950 (2003); N.D. CENT. CODE, § 27-20-02 (2001); N.D. CENT. CODE § 50-25.1–15 (2001).

2014] WHO ARE THE MOTHERS WHO NEED SAFE HAVEN LAWS? 457

designated as Safe Haven sites include hospital emergency rooms,⁶¹ fire stations,⁶² and police stations.⁶³ The surrendering person may be asked, but not required, to provide identifying information about themselves or background medical information for the infant.⁶⁴ Most Safe Haven laws require the surrender site to address the immediate medical needs of the infant before transferring custody to the state child welfare agency, which then commences judicial proceedings to terminate the parental rights of the biological parents and place the infant into foster care or an adoptive home.⁶⁵

Most Safe Haven laws were passed without funding.⁶⁶ Few states provided resources for implementation programs, public awareness campaigns or administrative oversight to track the numbers of surrendered newborns.⁶⁷ Currently, most safe surrenders are not publicly reported. Despite the lack of funding and publicity, the political appeal of Safe Haven laws is easily understood. Safe Haven laws offer a low cost, non-punitive, pro-life, pro-choice, pro-child, pro-Mother, pro-politician solution to an under-detected and complex social problem. Unfortunately, the speed and enthusiasm with which these laws were passed was based on *ad hoc* media reports of sporadic events rather than systemic research of the underlying nature of the problem.⁶⁸ For example, there were no known answers to such questions as: What cohort of Mothers should the Safe Haven Laws target? Are these Mothers capable of using the laws? Are Mothers who commit neonaticide the same cohort as Mothers who legally surrender their newborns? Why do neonaticides and unsafe abandonments occur in a nation where reproductive responsibility is widely encouraged and sex education, contraception, abortion and adoption services are widely available?⁶⁹

61. See R.I. GEN. LAWS §§ 23-13.1-1 to -5 (2002).

62. See HAW. REV. STAT. §§ 587D-1 to -7 (2007); HAW. REV. STAT. § 709-902 (2007).

63. See ARIZ. REV. STAT. § 13.3623.01 (2001).

64. See LA. CHILD. CODE ANN. art. 1149-60 (2004); LA. REV. STATE ANN. § 17:81(R) (2012); MD. CODE ANN. CTS. & JUD. PROC. §5-641(LexisNexis 2002); MASS. ANN. LAWS ch.119, § 391/2 (LexisNexis 2004); MICH. COMP. LAWS SERV. §§ 712.1-.2 (LexisNexis 2001); MICH. COMP. LAWS SERV. § 750.135(2) (LexisNexis 2001).

65. See FLA. STAT. §39.201(2)(g) (2000); FLA. STAT. §383.50 (2000).

66. See Buckley, *supra* note 7.

67. *Id.*

68. Unintended Consequences: 'Safe Haven' Laws Are Causing Problems, Not Solving Them, EVAN B. DONALDSON ADOPTION INST., <http://www.adoptioninstitute.org/old/whowe/Last%20report.pdf> (last visited Mar. 26, 2013).

69. Pitt & Bale, *supra* note 29, at 380 ("Evidence suggests that a relationship exists between the availability of abortion and neonaticide."); David Lester, *Legal Abortions and Neonatal Homicide after Roe v. Wade*, 72 PSYCHOL. REP. 46, (1993) (explaining rates of neonaticide were lower in the 10 years after *Roe v. Wade* than in the ten years before); Miller, *supra* note 13, at 92 ("Neonaticide rates have varied according to factors such as availability of birth control, abortion, environmental resources, and child care help. Circumstances in which a women cannot chose *not* to be pregnant, might be abandoned or punished if pregnant, or has insufficient help or resources to raise a child promote neonaticide.").

The adoption and mental health professions vociferously opposed Safe Haven laws. Mental health professionals argued that Safe Haven laws were altruistic but meaningless since a truly Neonaticidal Mother would be too subject to dissociation to be capable of using them.⁷⁰ Adoption proponents argued that Safe Haven laws provided a “shadow system”⁷¹ of child abandonment that undermined the benefits of adoption such as pre and postnatal care for the Mother and infant, hospital births, informational disclosures to the infant, and legal protections for the infant, biological and adoptive parents. Some opponents argued that Safe Haven laws would encourage Mothers to irresponsibly relinquish their infants without coming to terms with the pregnancy, birth, and nature of their loss.⁷²

In sum, Safe Haven proponents assumed that the Safe Haven laws would save infants’ lives. Mental health professionals assumed that the psychological conditions of dissociation and denial would prevent Safe Haven laws from saving infants’ lives because a dissociating Mother would be incapable of using them. Adoption proponents assumed that Safe Haven laws would encourage irresponsible abandonments. This study makes no such assumptions.

II. METHODOLOGY

The data are organized into 9 sections: (II) Methodology, (III) General Maternal Demographics, (IV) Obstetric and Mental Health Histories, (V) Pregnancy, Labor, and Delivery, (VI) Infant Surrenders, (VII) Infant Abandonments and Discoveries, (VIII) Neonaticidal Methods, (IX) Police Investigations, and (X) Legal Outcomes. The author acknowledges limitations in this study due to its reliance on media reports as its primary source of information.⁷³ Although the media report facts that are known to it, the non-reporting of facts does not mean the non-occurrence of such facts. Consequently, unreported facts may create unknown bias within the study.⁷⁴ Since unknown bias is not correctible, if it is strong enough it can distort known information. To minimize unknown bias distortions this study specifies unreported and unknown data as appropriate.

70. See *Policies in Brief: Infant Abandonment*, ALAN GUTTMACHER INST., https://www.guttmacher.org/statecenter/spibs/spib_IA.pdf (last visited Feb. 9, 2013).

71. EVAN B. DONALDSON ADOPTION INST., *supra* note 68; ALAN GUTTMACHER INST., *supra* note 70; Drescher-Burke et al., *supra* note 3, at 9.

72. ALAN GUTTMACHER INST., *supra* note 70.

73. Several other studies in this field have also primarily relied on media as their primary source of information: Kristen Beyer et al., *supra* note 6, at 522-535; Edward Saunders, *supra* note 13; CHILDREN’S BUREAU, ADMINISTRATION ON CHILDREN, YOUTH & FAMILIES, , *supra* note 6; Michelle Oberman, *supra* note 20, at 1-110; Cheryl L. Meyer & Michelle Oberman, *supra* note 5, at 39-67; Lita Linzer Schwartz & Natalie Isser, *supra* note 48, at 703-718.

74. *Accuracy, Errors and Uncertainty*, <http://gozips.uakron.edu/~dorfi/AccuracyErrorUncertaintyNotes.pdf> (last visited Dec. 29, 2012).

2014] WHO ARE THE MOTHERS WHO NEED SAFE HAVEN LAWS? 459

A. Case Totals

The study researched newborn deaths, abandonments, and surrenders in all 50 states. It found media reports of 559 events in 41 states but no media reports in 9 states. **Figure 2-1** presents the total number of events per state. A finding of 0 means either that no events occurred or, if events did occur, they were not detected or reported. **Figure 2-1** shows a high correlation between state populations and the number of events reported per state: The 5 states with the highest number of events are also the 5 states with the highest population levels; the 19 states with the lowest number of events are among the 20 states with the lowest population levels.⁷⁵

| Figure 2-1. TOTAL EVENTS PER STATE | | | | | | | |
|------------------------------------|--------|---------------|--------|-------------------|--------|---|--------|
| STATE | EVENTS | STATE | EVENTS | STATE | EVENTS | STATE | EVENTS |
| CA | 92 | NJ | 29 | MA | 11 | NM, OR | 4 |
| NY | 56 | PA, VA | 21 | AL, LA, MI | 9 | IA, NE, RI | 3 |
| TX | 50 | NC, WA | 15 | IN, MO, TN, WI | 7 | AR, AZ, DE, ME, WV | 2 |
| FL | 41 | CO, GA | 13 | CT, MN, UT | 6 | ND, NV, VT | 1 |
| IL | 33 | OH, OK, MD | 12 | KY, SC | 5 | AK, HI, ID, KS, MS, MT, NH, SD, WY | 0 |

B. Case Cohorts

| Figure 2-2. INFANT COHORTS | MATERNAL COHORTS | TOTAL |
|----------------------------------|--|-------|
| DAI: Deceased Abandoned Infants | MDAI: Mothers of Deceased Abandoned Infants | 235 |
| SAI: Surviving Abandoned Infants | MSAI: Mothers of Surviving Abandoned Infants | 253 |
| SSI: Safely Surrendered Infants | MSSI: Mothers of Safely Surrendered Infants | 71 |

75. Annual Estimates of the Resident Population for the United States, Regions, States, and Puerto Rico: April 1, 2000 to July 1, 2009, Population Estimates 2000 to 2009 (NST-EST2009-01), U.S. CENSUS BUREAU, <http://web.archive.org/web/20100807105933/http://www.census.gov/popest/states/NST-ann-est.html> (last visited Mar. 8, 2013).

Figure 2-2 presents the 6 cohorts into which the 559 cases are divided. The DAI (Deceased Abandoned Infants) and MDAI (Mothers of Deceased Abandoned Infants) cohorts consist of 235 cases of infants who were killed by their Mothers at birth or were abandoned by their Mothers shortly after birth. The SAI (Surviving Abandoned Infants) and MSAI (Mothers of Surviving Abandoned Infants) cohorts consist of 253 cases of infants who were abandoned by their Mothers shortly after birth but were discovered alive and rescued. The MDAI, DAI, MSAI and SAI cohorts totaled 488 cases over a 6 year period, for an average of 81 neonaticidal events per year. The SSI (Safely Surrendered Infants) and MSSSI (Mothers of Safely Surrendered Infants) cohorts consist of 71 cases of infants who were legally surrendered under Safe Haven laws. The data for the DAI, MDAI, SAI and MSAI cohorts are substantial. The data for the SSI and MSSSI cohorts are not. Both the quantity and quality of the safe surrender data are presumed to be distorted by unknown bias because most states do not publicize the surrenders. Nonetheless, even the small amount of SSI and MSSSI data provide interesting insights into those cohorts and are applied when available.

The study also researched the fathers of each infant category but those data were too insubstantial to create meaningful cohorts. Nonetheless, the lack of such information is itself meaningful since its absence reflects the prevalence of most fathers' absence throughout the pregnancy, birth, abandonment, death or surrender of the infant.

C. Case Time Periods

The case data are divided into two 3-year time periods: PRE (1996, 1997, 1998), before the passage of Safe Haven Laws and POST (2005, 2006, 2007), after the passage of Safe Haven Laws. The purpose of the two time periods is to detect what influences, if any, Safe Haven laws have had on neonaticidal events.

Figure 2-3 U.S. TOTAL SAI AND DAI EVENTS: PRE AND POST

| COHORT | PRE EVENTS | PRE % | POST EVENTS | POST % | EVENT CHANGES PRE TO POST |
|--------------|------------|-------|-------------|--------|---------------------------|
| SAI | 164 | 60% | 89 | 42% | -75 (-46%) |
| DAI | 111 | 40% | 124 | 58% | +13 (+12%) |
| Total | 275 | - | 213 | - | -62 (-23%) |

2014] *WHO ARE THE MOTHERS WHO NEED SAFE HAVEN LAWS?* 461

According to **Figure 2-3**, from PRE to POST there was not only a 23%⁷⁶ decrease in the DAI/SAI events, but there was also a significant 12% increase in DAI events. Consequently, an abandoned infant had an 18% higher probability of dying in POST than in PRE. The 23% decrease in events is also notable in light of the 9.7% increase in the U.S. population from 1996 to 2007⁷⁷ since it suggests that as the national population increased, the overall rate of neonaticidal events decreased.⁷⁸ However, despite the 23% decrease in events in the POST period, the 12% increase in death rates in the POST DAI period also suggests that even if Safe Haven laws are reducing the total number of neonaticidal events, they are not also reducing the total number of neonaticidal deaths.

III. GENERAL MATERNAL DEMOGRAPHICS

A. *Identified and Unidentified Mothers*

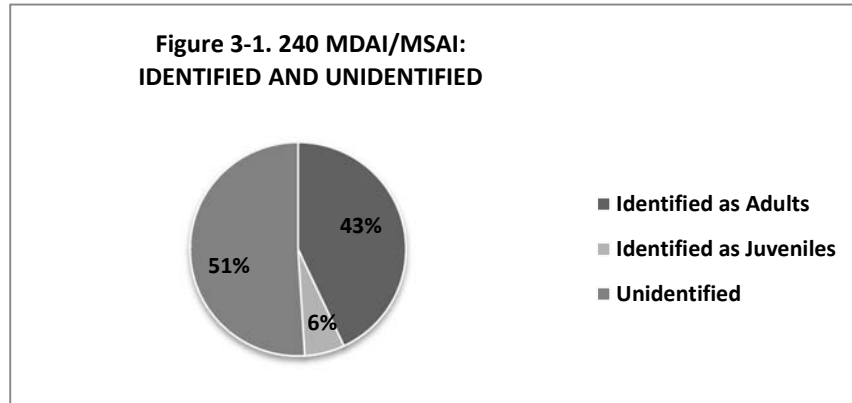
Figure 3-1 shows the identities of 49% (240) of the combined MDAI/MSAI cohorts,⁷⁹ of whom 43% were adults and 6% were juveniles. The identities of the remaining 51% were not reported, either because the Mother's identity was not known or was known but not disclosed. The fact that a Mother was identified does not mean that her name was also publicly disclosed, although the media did report the names of 37% of the MDAI/MSAI. 11% more MDAI/MSAI were identified in POST than in PRE. The media did not report the names of any MSSSI, although 17% (12) left identifying information at the surrender site.

76. Percentages of .5 or more are rounded up to the nearest number

77. *Id.*

78. If it is assumed that the 71 SSI should be included in the POST SAI cohort because the Safe Haven laws rescued them from death, then the POST SAI survivorship rate increases from 42% to 56%. This assumption, however, is highly speculative since even if the true numbers of safe surrenders were known, it would still be unknown whether the SSI and SAI cohorts were the same infants. No such proof of this assumption exists.

79. "MDAI/MSAI" refers to combined data of the MDAI and MSAI cohorts. "MDAI/MSAI/MSSI" refers to combined data for all 3 cohorts. "MDAI vs. MDAI" compares the data between the 2 cohorts.



B. Age

The ages of 255 Mothers were disclosed, of whom 54% were MDAI, 40% were MSAI, and 5% were MSSSI. The highest age concentrations for MDAI/MSAI were the teens and 20s. The mean and median ages for both cohorts were 21. The shape of **Figure 3-2** shows a rapid increase in neonaticidal events in the teen years, followed by a rapid decrease in events in the 20s, after which events began to level off in the 30s until they ended at age 42. It also shows that the combined ages for MDAI/MSAI ranged from 12 to 42.

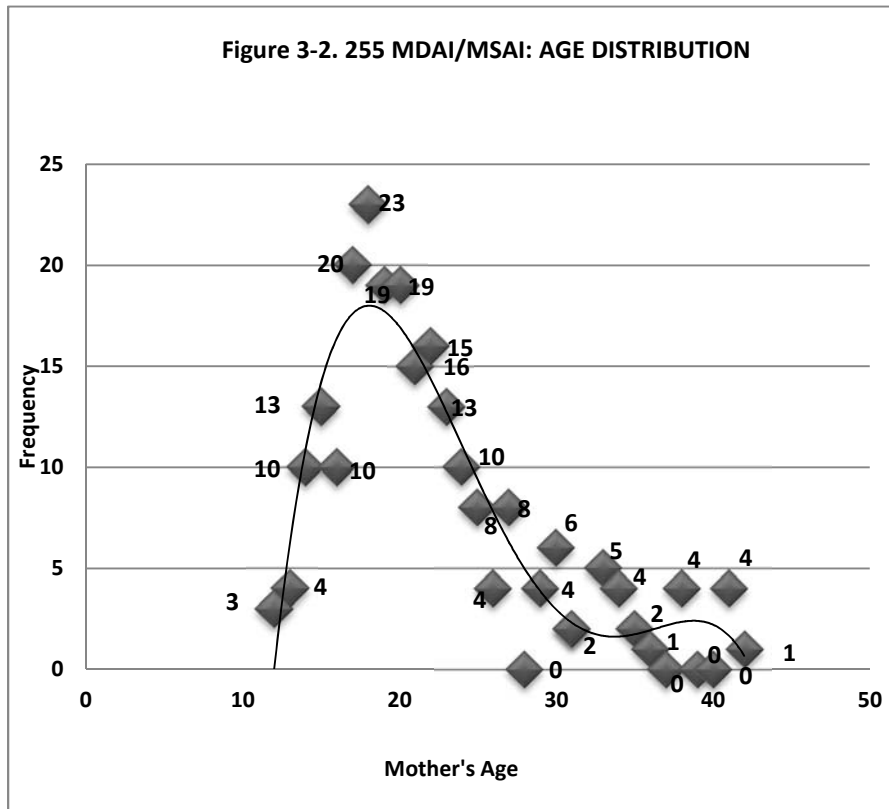
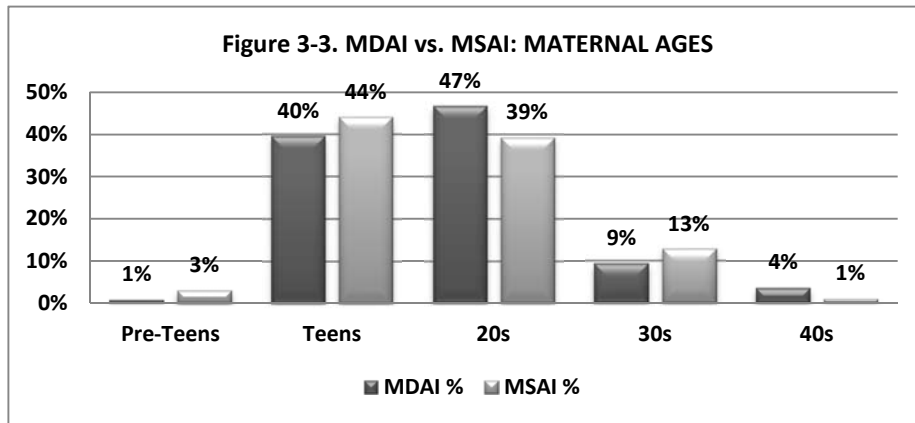


Figure 3-3 shows no significant differences between the MDAI and MSAI for any age group, which means that the Mother's age bore no correlation as to whether the infant survived or died.

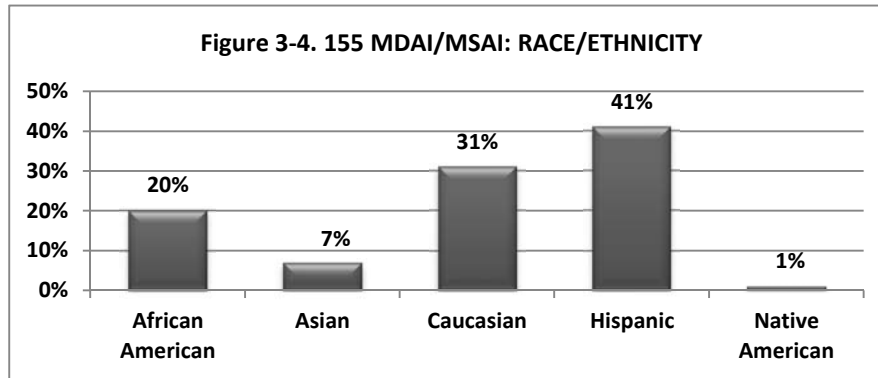


The youngest mother, *Mother 1*, was a 12 year-old immigrant from Thailand who had spent half of her life in refugee camps.⁸⁰ She became pregnant from a sexual relationship with her 13 year-old cousin. She knew of her pregnancy and concealed it to avoid being beaten by her own mother.⁸¹ She delivered alone into a toilet at a YMCA. A maintenance worker discovered the infant's body ten hours later inside a plastic bag in the bathroom's garbage receptacle. *Mother 1* was arrested as a juvenile, prosecuted, and convicted of first degree reckless homicide.⁸² She was sentenced to 1 year of probation, placed in foster care, and required to make monthly visits to the infant's grave.⁸³

The media reported the ages of only 14 MSSJ, of whom 3 were in their teens, 6 were in their 20s, and 5 were in their 30s. Although the MSSJ data were too sparse to compare to the MDAI and MSAI cohorts, they suggest that the highest age concentrations for MSSJ were the 20s and 30s, making that cohort older than the MSAI and MDAI.

C. Race/Ethnicity

Figure 3-4 shows the race/ethnicity of 32% (155) of MDAI/MSAI. Hispanics and Caucasians constituted 72% of the entire demographic. The author notes that since the media tended to report the race/ethnicity of minorities more than Caucasians, it is quite possible that the Caucasian rates are underrepresented.



80. Keith Edwards, *Girl Accused of Killing Baby Wants Case In Juvenile Court*, Milwaukee Journal-Sentinel, June 24, 1998, at 5.

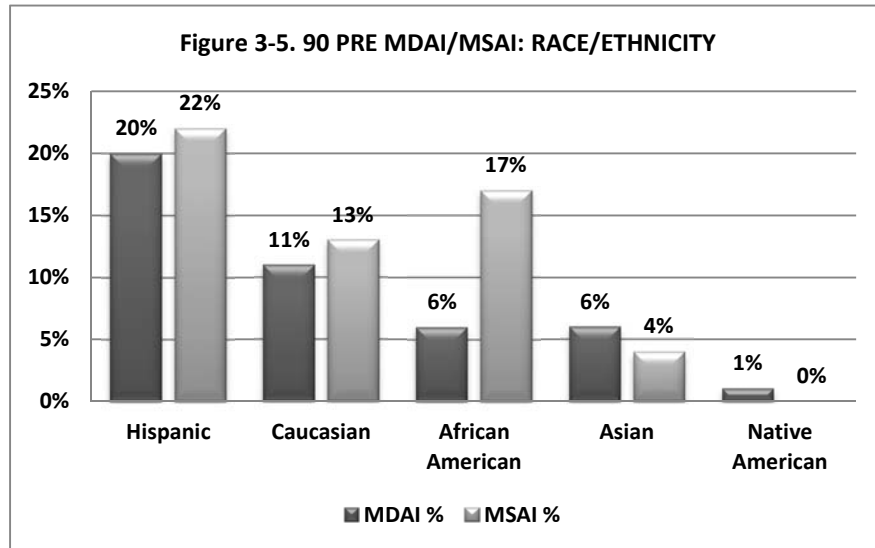
81. *Id.*

82. *Id.*

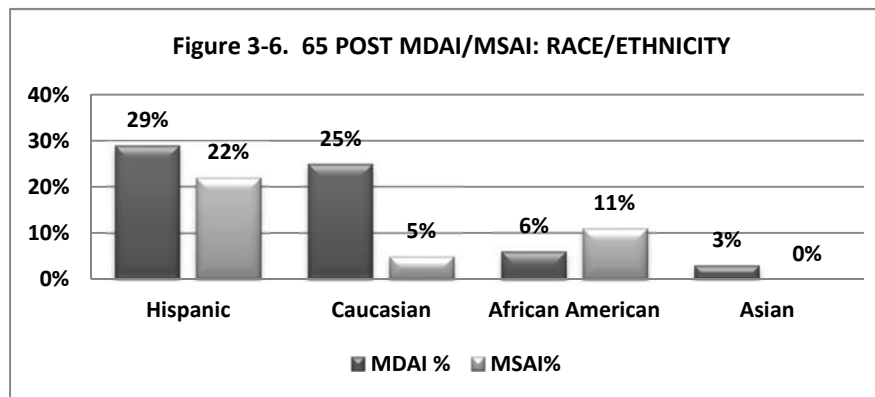
83. *Teen Who Killed Her Newborn Faces Year of Supervision*, Deseret News (Nov. 26, 1998), <http://www.deseretnews.com/article/664812/Teen-who-killed-her-newborn-faces-year-of-supervision.html>.

2014] *WHO ARE THE MOTHERS WHO NEED SAFE HAVEN LAWS?* 465

Figures 3-5 and 3-6 show the race/ethnicity totals of MDAI/MSAI in the PRE and POST periods. According to **Figure 3-5**, Hispanics comprised the largest demographic of PRE Mothers: 42% were Hispanic, 24% were Caucasian, 23% were African American, 10% were Asian,⁸⁴ and 1% were Native American.



According to **Figure 3-6**, Hispanics also comprised the largest demographic of POST Mothers: 51% were Hispanic, 30% were Caucasian, 17% were African American, and 3% were Asian.



In sum, from PRE to POST, overall Hispanic rates increased 7%, with a 9% increase in MDAI rates but no change in MSAI rates; overall Caucasian rates increased 6%, with a 14% increase in MDAI rates and an 8% decrease in

84. Asian includes Asian Indian.

MSAI rates; overall African American rates decreased 6%, with no change in MDAI rates but a 6% decrease in MSAI rates; overall Asian rates decreased 7%, with a 3% decrease in MDAI rates and a 4% decrease in MSAI rates.

These rate changes show no pattern and, hence, do not suggest that Safe Haven laws affected the race/ethnicity demographic.⁸⁵

| Race/ Ethnicity | 2000 U.S. Population | PRE | Difference | 2010 U.S. Population | POST | Difference |
|---------------------|-------------------------|-----|------------|-------------------------|------|------------|
| African American | 12% | 22% | -10% | 12% | 17% | -5% |
| Asian | 4% | 10% | -6% | 5% | 3% | 2% |
| Caucasian | 69% | 24% | 45% | 64% | 30% | 34% |
| Hispanic | 13% | 42% | -29% | 16% | 51% | -35% |
| Native American | 2% | 1% | 1% | 2% | 0% | 2% |

Figure 3-7 compares the race/ethnicity demographic to the U.S. race/ethnicity population rates in the PRE and POST periods.⁸⁷ According to this data, the Hispanic, African American and Caucasian demographics followed similar patterns in both periods. Averaging together the PRE and POST periods, the Hispanic MDAI/MSAI rates exceeded their general population rates by 29%; African American MDAI/MSAI rates exceeded their general population rates by 8%; but Caucasian MDAI/MSAI event rates were 40% lower than their general population rates. However, it is important to reiterate that this study's Caucasian rates are likely underestimated because of the media's tendency to report the race/ethnicities of minorities but not Caucasians. The Asian event rates showed more consistency with their U.S. population rates than the other race/ethnicity demographics: Asian rates were 6% higher than their U.S. population rates in the PRE period but were 2% lower in the POST period. The media reported the race/ethnicity of only 7 MSSI, of whom 3 were Caucasian, 3 were Hispanic, and 1 was Guyanese Indian.

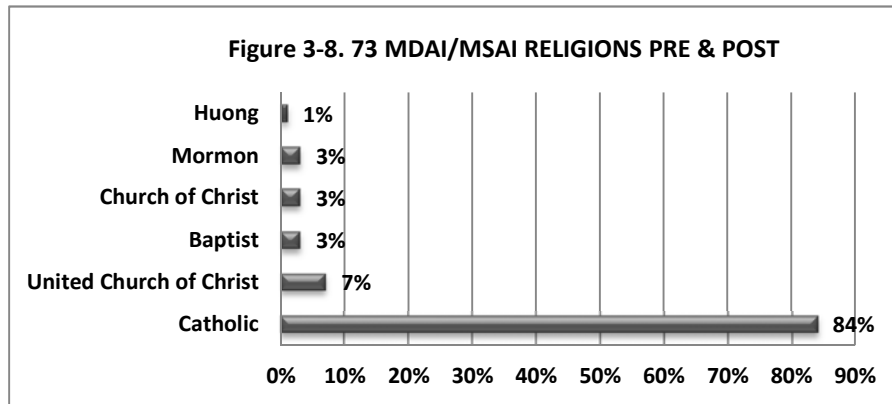
85. The data do not show causation based on race/ethnicity, only correlation.

87. *Id.*

87. *Overview of Race and Hispanic Origin: 2010*, U.S. CENSUS (March 2011), <http://www.census.gov/prod/cen2010/briefs/c2010br-02.pdf> (last visited Mar.8, 2013).

D. Religion

Only 15% (73) of the MDAI/MSAI religions were reported. According to **Figure 3-8**, although Catholics comprised 25% of the U.S. population in 2009⁸⁸ they comprised 84% of the religion demographic. An additional 9% of MDAI/MSAI were also members of religions that banned or disapproved of various types or uses of contraception. This 93% anti contraception-religion rate is consistent with the psychiatric studies that observed the fundamentalist or devoutly religious backgrounds of many Neonaticidal Mothers who suffered from dissociation.⁸⁹ According to those studies, one of the primary causes of dissociation in pregnant women is the occurrence of a non-marital pregnancy that so violates the Mother's religious practices and beliefs and so threatens her familial, social and sexual relationships that she denies its existence.⁹⁰



However, this study's data does not support the psychiatric dissociation or denial diagnoses of the religion demographic. Instead, this data shows that 40% of the Mothers who were members of religions that opposed reproductive responsibility knew of their pregnancies. For example, after giving birth in a dormitory room at the Baptist College she attended, **Mother 2** stated that she had not used contraception or aborted the fetus because both practices were forbidden by her religion and her college.⁹¹ **Mother 3**, a Mormon, admitted to

88. Barry A. Kosmin & Ariela Keysar, *American Religious Identification Survey (ARIS) 2008*, ARIS SUMMARY REPORT, (Trinity College March 2009), http://commons.trincoll.edu/aris/files/2011/08/ARIS_Report_2008.pdf (last visited Mar.11, 2013).

89. Robert Sadoff, *supra* note 13, at 602 (Neonaticidal Mothers have strict fundamentalist upbringing); C. M. Green and S.V. Manohar, *supra* note 13, at 121 (Neonaticidal Mothers comes from "strict protestant" families that live in socially isolated communities in North America).

90. Robert Sadoff, *supra* note 13, at 602; C. M. Green and S.V. Manohar, *supra* note 13, at 121.

91. Michael Stone, *Woman Sentenced to 8 Year's Probation in Newborn Death*, Times Free Press (Aug. 3, 2010), <http://www.timesfreepress.com/news/2010/aug/03/woman-sentenced-8-years-probation-newborn-death/>.

concealing her pregnancy yet asserted pregnancy denial as a defense to the criminal charges.⁹² *Mother 4* was an active member of the Church of Christ.⁹³ She knew of her pregnancy and did not conceal it because she had wanted the child until she lost her job and was evicted from her home late in the pregnancy. When labor commenced she left her own mother's home and went into an alley where she delivered the infant. She then put the infant into a plastic bag that she put into a dumpster. The corpse was found twelve hours later by a family member who noticed that *Mother 4* was no longer pregnant and contacted the police. At the sentencing hearing *Mother 4* acknowledged that she had "made a grave mistake" and that the murder of the infant had been a "horrendous and selfish act."⁹⁴

E. Marital Status

The marital status of only 58 Neonaticidal Mothers were reported, of whom 45 (78%) were single and 13 (22%) were married:

| Figure 3-9: MARITAL STATUS OF 58 MOTHERS | # | % |
|---|-----------|------------|
| Married | 13 | 22% |
| Single | 45 | 78% |

F. Persons With Whom Mothers Lived

The majority of Neonaticidal Mothers (63%) lived with their parents:

| Figure 3-10: PERSONS WITH WHOM 137 MOTHERS LIVED | # | % |
|---|-----------|------------|
| Parents | 86 | 63% |
| Boy Friend | 18 | 13% |
| Extended Family | 13 | 9% |
| Husband | 9 | 7% |
| Friends | 7 | 5% |
| Alone | 4 | 3% |

G. Highest Educational Levels Achieved

Although the educational levels of only 12% (58) MDAI/MSAI were reported, **Figure 3-11** clearly shows that women of all educational levels engaged in neonaticidal behaviors: All Mothers received some level of

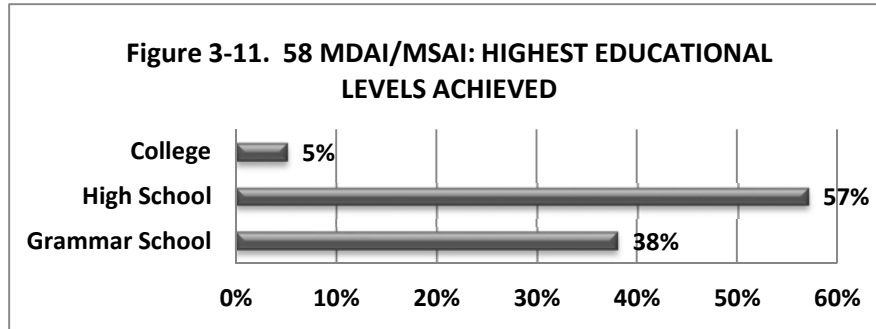
92. Stephen Hunt, *Mental Illness Spares Woman Jail in Death of Her Newborn*, Salt Lake Trib., Sept. 15, 1998, at B1.

93. David Doege, *Letters Vouch for Woman Held in Death*, Milwaukee Journal-Sentinel, Oct. 30, 1998, at 3.

94. David Doege, *Woman Charged With Homicide in Death of Her Newborn Boy*, MILWAUKEE J. SENTINEL, October 21, 1998, at 3.

2014] *WHO ARE THE MOTHERS WHO NEED SAFE HAVEN LAWS?* 469

education; over one-third completed grammar school; the majority completed high school; 5% graduated from college.⁹⁵



H. Employment

Only 8% (37) of MDAI/MSAI jobs were reported, the vast majority of which were low-paying. **Figure 3-12** categorizes these jobs as follows: Manual Labor includes cooks, childcare workers, factory workers, field workers, food-service workers, and maintenance workers. Office/Store Worker includes bookkeepers, travel agents, food-service managers, store clerks, and one women's shelter worker. Professional Occupation includes journalists, business owners, teachers, technicians, and insurance claims adjusters.

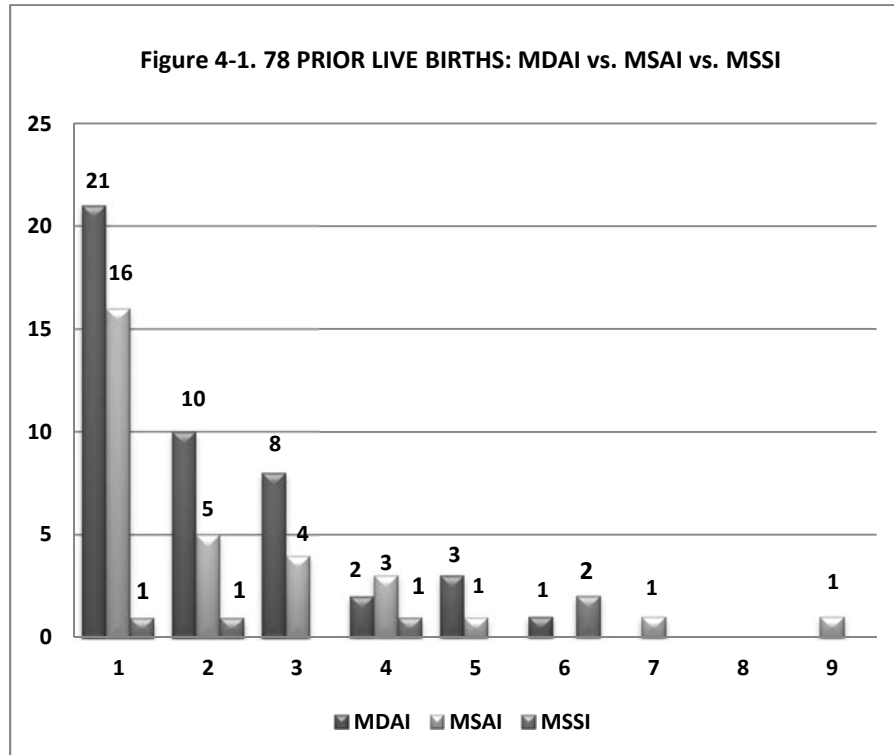
| Figure 3-12. 37 MDAI/MSAI OCCUPATIONS: PRE and POST | TOTALS |
|--|---------------|
| Manual Labor | 20 |
| Office/Store Worker | 12 |
| Professional Occupations | 5 |

IV. OBSTETRIC AND MENTAL HEALTH HISTORIES

A. Live Birth Histories

According to **Figure 4-1**, the number of prior live births per MDAI/MSAI/MSSI ranged from 1 to 9. In total, 78 Mothers had 184 live births, of whom 43 were MDAI, 30 were MSAI, and 5 were MSSSI. The 73 MDAI/MSAI had a total of 165 live births. The 5 MSSSI had a total of 19 live births, including 1 Mother with 6 children. The number of live births was of inverse proportion to the number of Mothers who bore them: 38 Mothers had 1 prior live birth; 6 had 4 prior live births; 1 had 9 prior live births.

95. The 5% college graduation rate was 5 times smaller than the 2009 national average of 25% for women in the United States. *Educational Attainment in the United States: 2009*, U.S. CENSUS (February 2012), <http://www.census.gov/prod/2012pubs/p20-566.pdf> (last visited Mar.11, 2013).



Mother 5 was a 17 year-old Mexican immigrant who lived with her eighteen-month old child and her own mother and sister.⁹⁶ She concealed her pregnancy from everyone, as she had done with her prior pregnancy.⁹⁷ When her family suspected that she was again pregnant, she falsified a pregnancy test out of fear that her mother would force her to leave the family residence.⁹⁸ At the commencement of labor, *Mother 5* brought two large plastic bags into the family bathroom where she delivered the infant.⁹⁹ She then smothered the infant in a towel, placed the body inside the plastic bags and tightly tied them

96. *Bail Set For Teen Charged With Newborn's Murder*, Valley Morning Star, June 6, 2007 at http://www.themonitor.com/news/local/bail-set-for-teen-charged-with-newborn-s-murder/article_8952211c-e513-5701-8543-dea8956f9dcc.html.

97. *Million Dollar Bail: Family Says Lyford Girl May Argue Insanity Defense In Newborn's Death*, Copyright 2011 Freedom Communications, <http://www.valleymorningstar.com/common/printer/view.php?db=vmstar&id=4524>.

98. Fernando Del Valle, *Million Dollar Bail: Family says Lyford girl may argue insanity defense in newborn's death*, Valley Morning Star, June 7, 2007, <http://www.highbeam.com/doc/1G1-164612210.html>.

99. Robert Wilcox, *Confessed Lyford baby-killer skips arraignment hearing and is at-large*, Raymondville Chronicle News, April 30, 2008, <http://www.raymondvillechroniclenews.com/news/2008-04-30/news/015.html>.

2014] *WHO ARE THE MOTHERS WHO NEED SAFE HAVEN LAWS?* 471

closed.¹⁰⁰ The following day family members found the corpse inside the Mother's bedroom.¹⁰¹ At the beginning of the police investigation, *Mother 5* claimed the infant had been stillborn.¹⁰² However, after the autopsy determined the infant had been born alive, she admitted to the live birth.¹⁰³ Upon her arrest for capital murder, *Mother 5* confessed to the police and then fled.¹⁰⁴ She remains a fugitive.¹⁰⁵

Mother 6 was a 24 year-old single mother of two children who had been pregnant four times.¹⁰⁶ She placed the third child for adoption¹⁰⁷ and concealed both her third and fourth pregnancies.¹⁰⁸ She delivered the fourth child alone in her bathroom while other people were present within the residence but unaware of the delivery.¹⁰⁹ The live infant was subsequently discovered outdoors inside a carrying bag by a passerby.¹¹⁰ The infant tested positive for amphetamines.¹¹¹ *Mother 6* pleaded guilty to felony child endangerment.¹¹² She was sentenced to 1 year in a drug rehabilitation program and 5 years of probation.¹¹³

Mother 7 was a 27 year-old single mother of five children.¹¹⁴ She concealed the pregnancy from her boyfriend. She delivered in her residence and within six hours of the birth abandoned the live infant inside a fast food restaurant bathroom. She was subsequently identified by the restaurant's

100. *Id.*

101. Fernando Del Valle, *Million Dollar Bail: Family says Lyford girl may argue insanity defense in newborn's death*, Valley Morning Star, June 7, 2007, <http://www.highbeam.com/doc/1G1-164612210.html>.

102. *Id.*

103. *Id.*

104. Robert Wilcox, *Confessed Lyford baby-killer skips arraignment hearing and is at-large*, Raymondville Chronicle News, April 30, 2008 <http://www.raymondvillechronicle.com/news/2008-04-30/news/015.html>.

105. Robert Wilcox, *"Lameduck" Guerra Takes Death Penalty Off Table For Confessed Lyford Baby-Killer*, Raymondville Chronicle, July 2, 2008, http://raymondville.our-hometown.com/news/2008-07-02/Front_page/001.html.

106. Jaxon Van Derbeken, Henry K. Lee, *Attempted Murder Charge Filed In Case Of Abandoned Newborn; Woman Said She Did Not Want Another Child, Investigators Report*, The San Francisco Chronicle (California), February 25, 2007, at D1.

107. Bruce Gerstman, *Mother To Serve One Year In Jail For Leaving Baby; Woman Will Also Serve Five Years Probation For Child Endangerment*, Contra Costa Times (Walnut Creek, CA), May 30, 2007, at a3.

108. *Id.*

109. *Id.*

110. Cecilia M. Vega, *Abandoned Newborn Found, Treated*, The San Francisco Chronicle, February 24, 2007 at B2.

111. Bruce Gerstman, *Jail term for mother who left newborn*, Contra Costa Times, May 30, 2007, http://www.contracostatimes.com/westerncontracosta/ci_6019507.

112. Henry K. Lee, *Richmond: Mom who put son in plastic bag gets year*, San Francisco Chronicle, May 31, 2007, at B3.

113. *Id.*

114. Amanda Lamb, *Woman Pleads Guilty to Leaving Newborn at McDonald's*, WRAL (April 25, 2007), <http://www.wral.com/news/local/story/1289490/>.

surveillance cameras.¹¹⁵ The police investigation revealed that *Mother 7* had been aware of Safe Haven laws.¹¹⁶ She pleaded guilty to child abuse and received a 5 year suspended sentence, 5 years of probation, and 150 hours of community service.¹¹⁷

Mother 8 was a 41 year-old homeless mother of five children with a history of drug abuse.¹¹⁸ She did not conceal her pregnancy. She delivered alone in an alley and later stated that she had been too drunk and high on drugs to remember the delivery. The infant's body was found in the alley two days later. *Mother 8* pleaded guilty to aggravated manslaughter and was sentenced to 5 years of imprisonment and 10 years of probation.¹¹⁹

Mother 9 was a 33 year-old mother of seven children, all of whom had been placed for adoption.¹²⁰ She was aware of her pregnancy and delivered alone in her residence. The live infant was found in critical condition within five hours of birth inside a dumpster.¹²¹ *Mother 9* pleaded guilty to felony child endangerment and received a suspended 10-year sentence and 3 years of probation.¹²²

Mother 10 was a 43 year-old mother of nine children.¹²³ The live infant was discovered inside a toilet bowl in a Disney World bathroom within one hour of birth. *Mother 10* was identified after she returned to the Philippines and was not extradited.

B. Mental Illness Histories

Figure 4-2 presents the mental illness histories of 9% (44) of MDAI and MSAI who suffered from mental illness, drug abuse, alcohol abuse, sexual abuse, domestic violence or low IQs.¹²⁴ The data show very low frequency rates

115. *Id.*

116. *Id.*

117. Thomasi McDonald, *Rumor Led to Newborn's Mother*, The News & Observer (Raleigh), Dec. 9, 2006, <http://www.newsobserver.com/2006/12/09/40083/rumor-led-to-newborns-mother.html>.

118. Colleen Jenkins, *Mom Who Let Baby Die in Alley Gets 5 Years*, St. Petersburg Times, Aug. 10, 2007, http://www.sptimes.com/2007/08/10/Hillsborough/Mom_who_let_baby_die_.shtml.

119. *Id.*

120. *Mother Offers No Plea In Baby's Abandonment*, St. Louis Post-Dispatch, Dec. 17, 1996, at 17A.

121. *Id.*

122. Tim Bryant, *Woman Who Left Newborn in Trash Bin Gets Probation*, St. Louis Post-Dispatch, Feb. 7, 1998, at 18.

123. *National News Briefs; Abandoned Baby Was Woman's Ninth Child*, N.Y. Times, Feb. 7, 1998, § A, at 13 (National Desk).

124. The data of this section, more so than other sections, demonstrate a limitation caused by using media reports as a primary source of information. The media reported that only 4% of Mothers had histories of drug abuse but there were no reports that a Mother did not have a history of illegal drug use. Consequently, it is not possible to conclude from these data that only 4% of Mothers had histories of drug abuse since it is possible that drug abuse was not detected or reported. For purposes of Section IV, it is assumed that the absence of data is as likely to reflect undetected as well as nonexistent facts.

2014] *WHO ARE THE MOTHERS WHO NEED SAFE HAVEN LAWS?* 473

in all mental illness categories and no patterns or distinctions between the MDAI and MSAI cohorts. These low mental illness rates are consistent with the findings of psychiatric studies that most Neonaticidal Mothers either are not diagnosed with or do not suffer from mental illness prior to their pregnancies.¹²⁵ However, **Figure 4-2** also shows that only 2% (8) of MDAI/MSAI experienced sexual abuse, a finding that is contrary to the psychiatric claims that sexual abuse is a major cause of neonaticide.¹²⁶

Figure 4-2. MENTAL ILLNESS HISTORIES OF 44 MDAI vs. MSAI[^]

| DIAGNOSES | MDAI # | MDAI % | MSAI # | MSAI % | TOTALS |
|---|--------|--------|--------|--------|--------|
| Mental Illness | 9 | 4% | 5 | 2% | 14 |
| Drug Abuse | 10 | 4% | 8 | 3% | 18 |
| Alcohol Abuse | 2 | 1% | 1 | 0% | 3 |
| Sexual Abuse | 5 | 2% | 3 | 1% | 8 |
| Domestic Violence | 5 | 2% | 5 | 2% | 10 |
| Low IQ | 5 | 2% | 3 | 1% | 8 |
| [^] Five Mothers were diagnosed with multiple mental health issues | | | | | |

Figure 4-3 presents a breakdown of the mental illness diagnoses of 12 MDAI/MSAI. Depression was the most frequent diagnosis and applied to a majority of the cases. Interestingly, 5 of these Mothers raised the neonaticide syndrome defenses of pregnancy denial and/or shock and panic at birth. All of these defenses failed and all 5 Mothers were convicted.

| Figure 4-3. MDAI/MSAI MENTAL ILLNESS DIAGNOSES [^] | FREQUENCY |
|---|-----------|
| Bi Polar | 2 |
| Depression | 7 |
| Post-Traumatic Stress Disorder | 1 |
| Psychosis | 1 |
| Schizophrenia | 2 |
| [^] One Mother received multiple diagnoses | |

C. Repeat Offenders

Despite the findings of **Figures 4-2** and **4-3** that Neonaticidal Mothers are not typically diagnosed with mental illness issues, some Mothers repeatedly engaged in abandonments and murders that clearly demonstrated aberrant behaviors. Specifically, 7 MDAI/MSAI were repeat offenders who had abandoned or killed 14 newborns. Their ages ranged from 15 to 27. Two repeat offenders were Hispanic, 2 were Caucasian, 1 was African American, and the race/ethnicity of 2 others was not reported. All had previously given birth between 1 and 5 times; 6 acknowledged their pregnancies; 5 concealed their

125. See note 19

126. See note 18

pregnancies; 5 delivered alone at home; none received prenatal care. All 7 were arrested; 6 were prosecuted; 5 were convicted of either homicidal offenses if the infant died or child abuse if the infant survived. One repeat offender was not convicted because she died in the course of a prosecution. Another was ordered to attend drug treatment and parenting classes. Sentences ranged from 2 years of imprisonment to capital punishment for homicide convictions, and 2 to 4 years of imprisonment for child abuse convictions. The capital punishment sentence was subsequently reduced to life imprisonment.¹²⁷

Mother 11 was an unmarried Hispanic with a history of drug abuse who lived with her parents and two children.¹²⁸ She subsequently bore and abandoned three infants between 2005 and 2006, of whom two survived and one died.¹²⁹ She knew of her pregnancies and concealed them to avoid her parents' anger and insistence that she keep the children.¹³⁰ She delivered alone each time in her bedroom.¹³¹ During the criminal proceedings *Mother 11* repeatedly stated that she had abandoned the infants in the hope that they would be parented by someone who could provide them with a better life than she could.¹³² She was convicted of second-degree murder, felony child

127. After the development of this study's data, another repeat offender was found and identified by the media. From 1996-2006 a Caucasian Mormon woman from Utah is reported to have killed 6 newborns by strangulation or suffocation, all of whose corpses were put inside plastic bags and boxes that were left in her garage. She became pregnant by her husband and gave birth 10 times – 6 newborns were killed, one was stillborn, and 3 became her daughters whom she raised. She acknowledged and concealed the 6 unwanted pregnancies and delivered all 6 alone in her residence. She is currently charged with first-degree murder for all six deaths. Her reported motive was methamphetamine and alcohol addiction. *Police Reveal Motive of Mom Charged with Killing Her Newborns*, Digital Journal (Blog) July 9, 2014; *Motive for Baby Deaths Given*, Key West Citizen, The (Key West, FL), July 9, 2014; *Police Give Motive in Dead Baby Case*, 7/8/14 Associated Press (AP) Newswires 22:33:37, AP Online, July 8, 2014; *Police: Utah Mother Accused of Killing Six Babies Was Addict*, 7/9/14 dpa Int'l. Serv. in English 03:36:38, July 9, 2014.

128. "Orosi Mother Guilty Of Murdering Newborn" Thursday October 8, 2009 The Fresno Bee by Eddie Jimenez http://www.fresnobee.com/406/story/1667325.html?storylink=omni_popular; David Castellon, *Doctor describes infant's autopsy in Nancy Ortiz's trial*, Visalla Times-Delta, accessed Oct. 13, 2009, http://www.denverda.org/DNA_Documents/Familial_DNA/News%20Report%20re%20Ortiz.pdf; Maggi Martin, *Woman Arrested After Infant Abandoned; Newborn Had Only A Blanket When She Was Left With Two Strangers*, Plain Dealer (Cleveland, Ohio), July 23, 1997, at 1A.

129. "Nancy Ortiz Sentenced To Prison For The Death Of Her Abandoned Baby" Press Release Office Of The Tulare County District Attorney contact person Assistant District Attorney Shani Jenkins, November 23, 2009 page 1 [http://www.datulareco.org/press release 243.htm](http://www.datulareco.org/press%20release%20243.htm); *Orosi Mother Who Abandoned 3 Infants Found Guilty Of Second Degree Murder In 1 Child's Death*, Legal News, October 9, 2009 by AP www.fresnobee.com.

130. Eddie Jimenez, *Orosi Mother Guilty Of Murdering Newborn*, Oct. 8, 2009, The Fresno Bee, <http://www.fresnobee.com/406/story/1667325.html?storylink=omni>

131. *Id.*

132. *Id.*

2014] WHO ARE THE MOTHERS WHO NEED SAFE HAVEN LAWS? 475

endangerment, felony child abuse, and received a sentence of 22 years to life imprisonment.¹³³

Mother 12 was an 18 year-old illegal immigrant from El Salvador.¹³⁴ She attended high school where she walked with her head down and spoke to no one.¹³⁵ Her father, a cook, began sexually molesting her when she was 13 years old.¹³⁶ When she became pregnant at ages 15 and 18 her father threatened to kill *Mother 12's* mother (his wife) if she disclosed the incest, pregnancies or deaths of the infants.¹³⁷ Between 2000 and 2005 she gave birth twice in the toilet at her family residence. The births were attended by her father who made her toss the infants down a garbage chute. One infant died in the garbage pile at the bottom of the chute and was not found for two years. The second infant was discovered when a neighbor heard crying coming from the chute. That infant survived the fall with a fractured skull and blackened eye.¹³⁸ During the criminal proceedings, *Mother 12* was diagnosed with an IQ of 72, depression and stress disorder.¹³⁹ The father was convicted of aggravated manslaughter, assault, and sexual assault for which he received a 35-year sentence.¹⁴⁰ *Mother 12* was also prosecuted and pleaded guilty to reckless manslaughter. Her original sentence of 5 years was reduced to 4 years. Afterward she was deported.¹⁴¹

Mother 13 was a 27 year-old Caucasian with three children, a history of drug abuse and two prior abandonments. After giving birth to her sixth child, she walked into a stranger's home, told the resident she had just found the infant, called 911, and walked out leaving the infant behind.¹⁴² The infant's umbilical cord was closed with a roach clip¹⁴³ and a medical examination found cocaine in her blood system.¹⁴⁴ When arrested in 1997 and charged with child endangerment, *Mother 13* fled, leaving behind her three other children.¹⁴⁵ Upon

133. "Nancy Ortiz Sentenced To Prison For The Death Of Her Abandoned Baby," Press Release Office Of The Tulare County District Attorney contact person Assistant District Attorney Shani Jenkins, November 23, 2009 page 1

134. *Rapist Father Sentenced*, Grand Rapids Press, Apr. 26, 2007, at A3.

135. Jonathan Miller, *Two Births and a Death, That Almost Escaped Notice*, N.Y. Times, Oct. 16, 2005, § 1, at 37.

136. Jonathan Miller, *Woman Admits She Threw Baby Down Air Shaft*, N.Y. Times, Mar. 29, 2006, at B6.

137. *Id.*

138. Miller, *Two Births*.

139. Miller, *Woman*.

140. *Rapist Father*.

141. Michaelangelo Conte, *N.J. Woman Who Threw Babies Down Air Shaft Released From Prison, Held by Immigration Officials*, Jersey Journal, (Oct. 27, 2009), http://www.nj.com/hoodson/index.ssf/2009/10/west_new_york_woman_who_threw.html.

142. Maggi Martin, *Woman Arrested After Infant Abandoned; Newborn Had Only A Blanket When She Was Left With Two Strangers*, Plain Dealer (Cleveland, OH), July 23, 1997, at 1A.

143. *Id.*

144. James Ewinger, *Abandoned Baby In Foster Care As Case Studied*, Plain Dealer (Cleveland, OH), July 26, 1997, at 2B.

her return, she sought to be reunited with her children, agreed to receive counseling, and was not prosecuted.

Mother 14 was a 26 year-old Caucasian with a history of drug abuse who lived with her two year-old child.¹⁴⁶ Between 1992 and 1999 she committed three neonaticides. The first infant was found in a river; the second infant was found in a plastic bag in the Grand Canyon; the third infant was found inside a toilet. Seven years after discovery, DNA testing linked the infant found in the river to *Mother 14*.¹⁴⁷ Due to decomposition, autopsies could not determine the cause of death for either that infant or the infant found in the Grand Canyon. An autopsy did determine that the third infant had drowned in a toilet. *Mother 14* was arrested for the first two infants' deaths but died during the prosecution while giving birth to the third infant.¹⁴⁸

Mother 15 was a 26 year-old African American who lived with her husband and three children. She was employed at a day care center and previously had been employed as a prison guard.¹⁴⁹ She had dropped out of high school as a teenager but eventually acquired a GED. *Mother 15* killed one infant in 1998 and abandoned another in 2003. She concealed both pregnancies and delivered both infants while alone in her residence. She killed the first infant by binding and gagging him with duct tape, then placing him inside a plastic bag that she put into a dumpster. The deceased infant was discovered one week later by a garbage scavenger.¹⁵⁰ It took another five years to link the infant to his Mother through DNA testing. The second infant was found alive in a roadside ditch covered with ant bites.¹⁵¹ *Mother 15* was originally convicted of capital murder and sentenced to death for the 1998 neonaticide. On appeal, her sentence was reduced to life imprisonment.¹⁵²

V. PREGNANCY, LABOR, DELIVERY

Section V presents data on the pregnancies, labors and deliveries of the MDAI and MSAI cohorts. None of the following analyses are divided between PRE and POST because the data showed no significant differences between those periods. The data on MSSI are referred to when available but were too sparse to be included in the overall analyses.

145. Michele Fuetsch, *Mother Accused of Child Endangerment*, Plain Dealer (Cleveland, OH), July 24, 1997, at 1B.

146. Jeffrey P. Haney, *DNA Links Orem Woman, Baby*, Deseret News (Nov. 4, 1999), <http://www.deseretnews.com/article/726237/DNA-links-Orem-woman-baby.html>.

147. *Id.*

148. *Id.*

149. *Woman Accused of Abandoning Babies*, Lubbock Avalanche-Journal (Aug. 10, 2003), http://lubbockonline.com/stories/081003/sta_080103073.shtml.

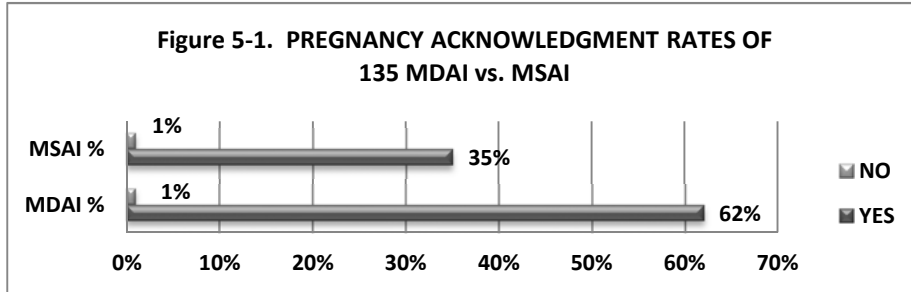
150. *Id.*

151. *Id.*

152. Leaving baby girl in ditch puts 20 years on top of life term mom is serving for killing son. Ryan Myers. The Beaumont Enterprise. Nov 14, 2007.

A. Pregnancy Acknowledgment

135 MDAI/MSAI were questioned about whether they had known of their pregnancies. According to **Figure 5-1**, 97% (131) acknowledged that they had known of their pregnancies while only 1% (2) did not.



B. Concealment

Mothers primarily concealed their pregnancies by wearing baggy clothes and misinforming people about the cause of their weight gain. Significantly, 21% (104) of MDAI/MSAI concealed their pregnancies, of whom twice as many were MDAI than MSAI. Accordingly, twice as many infants died than survived when the pregnancy was concealed. It is also notable that 79% of the MDAI/MSAI who acknowledged their pregnancies also concealed their pregnancies, while 9% did not.

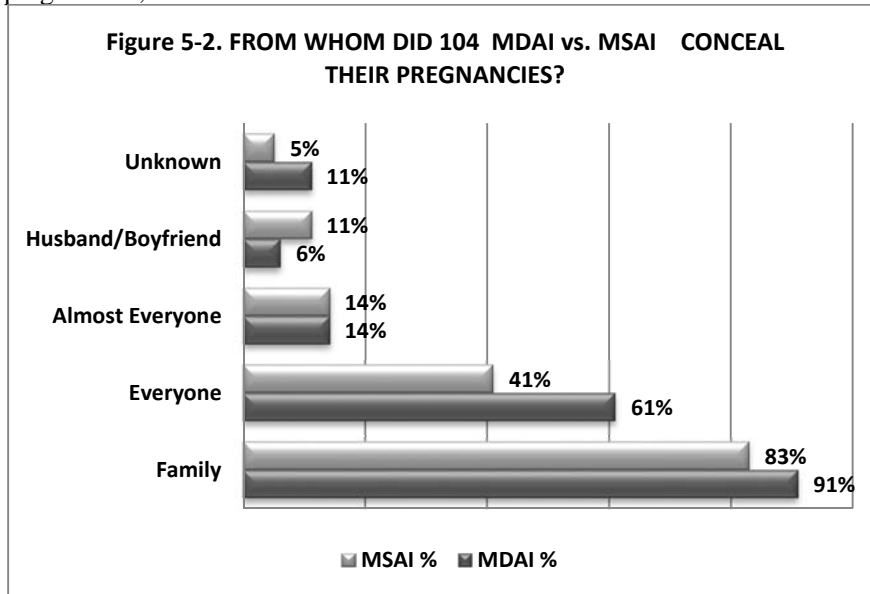


Figure 5-2 shows that 89% of 104 MDAI/MSAI concealed their pregnancies. Most primarily concealed from family and everyone although 22% more MDAI than MSAI concealed from everyone. Otherwise, there were

no major differences among the persons from whom MDAI and MSAI concealed and, therefore, no correlation as to whether an infant survived or died based on the persons from whom the Mother hid her pregnancy. The fact that 17% of MDAI/MSAI concealed their pregnancies from their husbands or boyfriends suggests that those men either did not want the child or were not the father of the child.

Figure 5-3 lists the reasons for concealment provided by 37 MDAI/MSAI. Most Mothers gave multiple reasons for their concealments. Three constants run throughout the list — fear of family rejection, an unwanted child, and self-protection.

| FIGURE 5-3. REASONS FOR CONCEALMENT | 37 MDAI/MSAI |
|--|---------------------|
| Fear of Family Rejection | 19 |
| Child Unwanted | 11 |
| Shame | 6 |
| Adultery | 4 |
| Fear of Child's Father | 4 |
| Unable to Care for Child | 4 |
| Did Not Want Others to Know | 1 |
| Fear of Deportation | 1 |

C. Labor

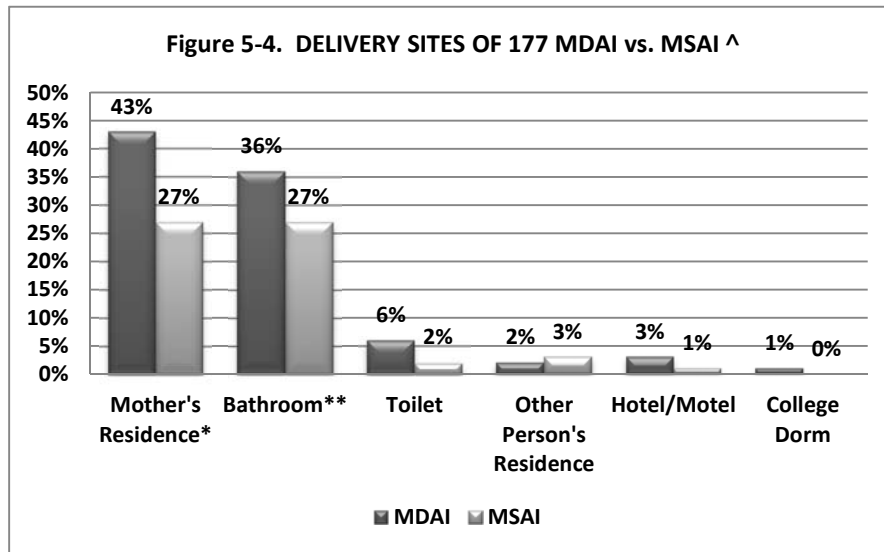
Information about labor was reported for only 8% (41) MDAI/MSAI, of whom 33 said they knew when they had been in labor and 8 said they had not known. Of the 33 who knew they had been in labor, 18 were MDAI and 15 were MSAI. Seventeen Mothers experienced labor pains, 1 did not; 9 said their labors were brief; 2 reported having no memory of their labors, 1 claiming to have passed out and 1 claiming to have been high on drugs. Of the 8 Mothers who did not know they were in labor, 2 mistook their labor for defecation, 2 for stomach pains, and 1 for constipation.

The dearth of information about labor suggests an investigative blind spot. Of the 41 MDAI/MSAI whose labor experiences were investigated and reported, 36 delivered alone. Yet there were no reported inquiries about why these Mothers did not seek help if they were in pain. Knowledge and concealment of an unwanted pregnancy explain solitude during labor but do not explain solitude if the Mother does not know she is pregnant or in labor. From both forensic and mental health perspectives, it makes sense to investigate awareness, pain, duration, and reasons for solitude during labor—yet media reports, criminal records, and mental health literature provide scant information about this issue.¹⁵³

153. Research studies that did investigate the labor experience of Neonaticidal Mothers include Margaret G. Spinelli (2010), *supra* note 3, at 117-131 (Dr. Spinelli attributes that lack of labor pains to dissociation that blocks awareness of the labor

D. Delivery¹⁵⁴

Figure 5-4 shows the delivery sites of 177 Mothers, of whom 62% (110) were MDAI and 38% (67) were MSAI. According to this data, more infants died than survived when delivered in a Mother's residence, bathroom, toilet, hotel or college dorm. The media also reported that 6 of the 71 MSSI delivered at the Mother's residence, 1 delivered in her workplace bathroom, and 1 delivered at a Safe Haven site.



^ Many Delivery Sites overlap, such as when a Mother delivered in the Toilet in the Bathroom of her Residence

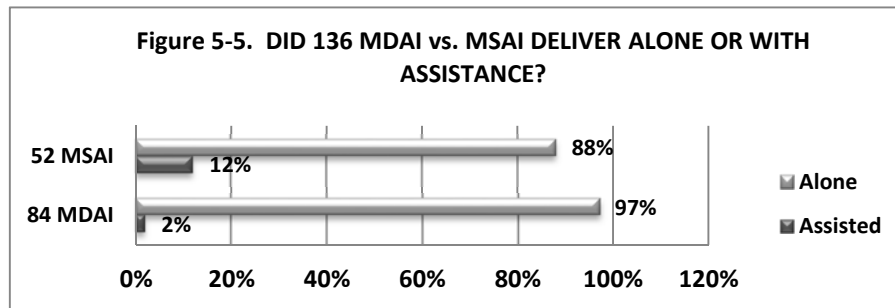
(*) Mothers Residence includes Mother's parent's residence

(**) Bathrooms are located in residences, workplaces, indoors and outdoors

According to **Figure 5-5**, the vast majority of 136 Mothers delivered alone, of whom 88% were MSAI and 97% were MDAI. Consequently, 9% more infants died than survived when a Mother delivered alone and 10% more infants survived than died when the delivery was assisted. Of the 136 Mothers who delivered alone, 74 delivered in locations, such as their residences, where other people were present but unaware of the delivery. Interestingly, more infants died than survived when other people were in close proximity to the delivery site. The media also reported that 2 MSSI were assisted in their deliveries and 2 delivered alone.

experience.); Michelle Oberman, *supra* note 20, at 24-25 (in a study of 47 Mothers, all experienced cramping and stomach pains that they attributed to defecation.).

154. This study excludes "boarder babies," infants who were born in and then abandoned in hospitals or medical facilities



Mother 16 was a 20-year-old Asian college student who had previously placed an infant for adoption.¹⁵⁵ She knew she was pregnant and concealed the pregnancy from her parents by wearing baggy clothing.¹⁵⁶ She delivered the infant in a flower bed next to a McDonald's parking lot. After delivery, she placed the infant inside a plastic bag that she put into a trashcan. She then removed the plastic bag and placed it inside another trashcan farther away from the restaurant. Her actions were observed by a passerby who contacted the police.¹⁵⁷ The live infant was discovered with skull injuries from being tossed into the garbage cans. *Mother 16* was convicted of second-degree assault and sentenced to 3 years of incarceration.¹⁵⁸

Mother 17 was a 41 year-old Caucasian who lived with her common-law husband and six children.¹⁵⁹ She knew she was pregnant but did not conceal the pregnancy. She delivered the infant at her residence in a bath tub filled with water. Shortly afterward, a neighbor noticed that although *Mother 17* was no longer pregnant, there was also no infant.¹⁶⁰ During the police investigation, *Mother 17* acknowledged having given birth but claimed the infant had been stillborn. She led the police to the shallow grave in her yard where she had buried the corpse. She was arrested for capital murder and received a sentence of life imprisonment without parole. The conviction was reversed on appeal, in part because decomposition prevented a second autopsy from determining the

155. Gil Bailey, *Newborn is Left in Trash Bin*, Seattle Post-Intelligencer, June 25, 1996, B1.

156. *Student Suspected of Abandoning Baby Released*, Gil Bailey, Seattle Post-Intelligencer, June 26, 1996, News Section, pg. B2.

157. Gil Bailey, *Newborn is Left in Trash Bin*, Seattle Post-Intelligencer, June 25, 1996, B1.

158. *Mother Gets Three Years for Tossing Baby in Bin*, Seattle Times, Ronald K. Fitten, April 26, 1997, Local News Section.

159. "Mother Charged with killing newborn son Pleads Guilty To Manslaughter" al.com Everything Alabama, February 2, 2010 by Kim Lanier http://blog.al.com/live/2010/02/colby_pleads_guilty_to_manslau_1.html

160. Paul Cloos, *Orange Beach Mother to Get New Trial in Newborn's Death*, AL.com, (Sept. 4, 2009), http://blog.al.com/live/2009/09/orange_beach_mother_to_get_new.html.

2014] *WHO ARE THE MOTHERS WHO NEED SAFE HAVEN LAWS?* 481

infant's cause of death.¹⁶¹ To avoid retrial, *Mother 17* pleaded guilty to manslaughter, at which time she admitted that the infant had been born alive.¹⁶²

VI. INFANT SURRENDERS

A. State Totals

The data on Safe Surrenders is presumed to be underestimated because the media reported only 71 surrenders from 2005 to 2007 although there were hundreds of unverifiable claims of surrenders throughout the country. For example, the California government site www.babysafe.ca.gov stated that 407 infants had been surrendered in California between 2001 and 2012. However, only 21 Safe Surrenders were reported in California from 2005 to 2007. Nonetheless, this study has developed data on the available information in the hope that it may shed some light on the MSSSI cohort. The media reported 21 Safe Surrenders in 2005, 20 in 2006, and 30 in 2007. **Figure 6-1** shows the number of reported surrenders in 20 states from 2005-2007.

| Figure 6-1. 71 REPORTED SURRENDERS 2005-2007 | SSI TOTALS |
|---|-------------------|
| CA | 21 |
| FL | 8 |
| CO | 5 |
| IL, NY, SC, TX | 4 |
| CT, OK | 3 |
| IN, LA, MA, NJ | 2 |
| AZ, IA, MD, OH, PA, TN, UT | 1 |

B. Physical Condition of SSI at Time of Surrender

The media reported the physical condition of 49 SSI at the time of surrender. The majority (46) were surrendered in good condition; 1 had a low body temperature; 1 had minor injuries due to lack of medical care; and 1 weighed only 1 lb. 12.8 ounces.

C. Ages of SSI

The media reported the ages of 28 SSI at the time of surrender. **Figure 6-2**, shows that 92% (26) were surrendered within the first week of birth and more than half (16) were surrendered within the first day of birth. Two other infants were surrendered two and three weeks after birth. The two delayed surrenders suggest that those Mothers were either undecided about relinquishing custody or uninformed about Safe Haven laws until after the infant's birth.

161. *Ex Parte Colby*, 41 So.3d 1, 1999. Supreme Court of Alabama.

162. *See* FN 158.

| Figure 6-2. AGES OF 28 SSI AT TIME OF SURRENDER | FREQUENCY |
|--|------------------|
| 30 minutes | 1 |
| 1-2 hours | 4 |
| 4-7 hours | 9 |
| 18 hours | 1 |
| 1 day | 1 |
| 3 days | 2 |
| 6 days | 8 |
| 2 weeks | 1 |
| 3 weeks | 1 |

D. Surrendering Persons

Figure 6-3 lists the categories of 39 persons who surrendered infants at Safe Haven sites. The majority (95%) of surrenderers were relatives, 79% of whom were the Mother. **Mother 18** concealed her pregnancy from everyone except the father.¹⁶³ When he refused to support the infant, she researched the Safe Haven law on the internet. The morning her contractions started she delivered the infant in a bathroom at work, left through the back door, and walked a mile to the nearest fire station where she legally surrendered the infant.¹⁶⁴ Contrarily, not all attempted surrenders were successful. In one case, a 31 year-old man claiming to have found an infant in a park tried to surrender the child at a hospital.¹⁶⁵ After it was determined that the man was the infant's father and the Mother was 13 years-old, the man was charged with rape and the surrender failed.¹⁶⁶

| Figure 6-3. 39 SURRENDERING PERSON | FREQUENCY |
|---|------------------|
| Mother | 31 |
| Possible Mother | 1 |
| Father | 3 |
| Parent | 1 |
| Grandmother | 1 |
| Friend | 1 |
| Unidentified Man | 1 |
| Unreported | 32 |

163. Eva Kis, *Mother's Plan, Ordeal, Bring Hope for Baby; Surrendered Infant is Lakeland's First Under "Safe Haven" Law*, The Ledger (Lakeland, FL), July 24, 2007, at A1.

164. *Id.*

165. "Baby Girl's Mom Is Located" copyright 2006 Rochester Democrat and Chronicle (New York) April 4, 2006 SECTION: NATIONAL Pg. 1A by Lauren Stanforth staff writer

166. "Man Who Left Baby Charged With Rape" copyright 2006 Rochester Democrat and Chronicle (New York) April 5, 2006 SECTION: NATIONAL Pg. 1A by Victoria E. Freile and Greg Livadas staff writers

E. Assisted Surrenders

| Figure 6-4. PARTIES WHO ASSISTED 10 SURRENDERS | # |
|---|----------|
| Infant's Father | 2 |
| Stranger | 2 |
| Paramedics | 2 |
| Internet | 2 |
| Friend | 1 |
| Firefighter | 1 |
| Relative | 1 |
| Safe Haven Hotline | 1 |
| Women's Health Clinic | 1 |

Figure 6-4 shows the persons or resources that assisted 10 MSSIs with their surrenders. The number of assisters exceeds 10 because some Mothers received assistance from multiple sources.

F. Surrender Sites

| Figure 6-5. Conforming and Nonconforming Surrender Sites | # Conforming | % Conforming | # Nonconforming | % Nonconforming |
|---|-------------------------|-------------------------|----------------------------|----------------------------|
| Hospital | 34 | 49% | 3 | 4% |
| Fire Station | 20 | 28% | 7 | 10% |
| Police Station | 1 | 1% | 1 | 1% |
| Church | 0 | 0% | 1 | 1% |
| No Facility | 0 | 0% | 2 | 3% |
| Total | 56 | 80% | 14 | 20% |

Safe Haven laws designate specific sites where an infant can be legally surrendered. Most states choose surrender sites that are equipped with emergency medical resources to assist the newborn. **Figure 6-5** shows the sites utilized in 70 of the 71 cases. Interestingly, 20% of these surrenders were treated as legal even though they did not conform to statutory requirements. Non-conforming Surrenders occurred when infants were left near but not within designated sites, or were not handed over to designated persons, or were left at non-designated locations that were followed by phone calls to the police. For example, *Mother 19* delivered at home and then called the local fire station to pick up the infant. They did.¹⁶⁷

167. "Few Mothers Use Safe Haven Laws For Newborns" copyright 2005 Capital City Press The Advocate (Baton Rouge, Louisiana) April 21, 2005 SECTION: NEWS Pg. 1-B; 2-B by Emily Kern

G. Were Surrendered Infants Ever in Danger of Abandonment or Death?

This study can only ask but cannot answer this question. The data identified only 1 MSSSI who may have abandoned rather than surrendered her newborn. When *Mother 20* told her grandmother that she had found the infant on their doorstep, the grandmother took *Mother 20* and the infant to a Safe Surrender site.¹⁶⁸ It was not until after the surrender that the grandmother learned the infant had been her great grandchild. Other than this one case, the data identified no SSI who showed evidence of physical endangerment. All reported SSI were surrendered in healthy condition, many dressed in infant clothing, wrapped in blankets, or left in baskets with formula or toys. The purpose of the Safe Haven laws is to save newborns from death and unsafe abandonments. With only one possible exception, there was no evidence that any of the 71 SSI were ever in danger.

Although sparse and possibly affected by unknown bias, the MSSSI data suggest some interesting insights into this cohort: Most MSSSI were in their 20s and 30s, making that cohort older than the MDAI/MSAI cohorts; of 7 MSSSI, 3 were Hispanic and 3 were Caucasian; only 1 of 6 MSSSI lived with her parents; 5 of 5 MSSSI had between 1 and 6 prior live births resulting in 19 children; 6 of 8 MSSSI delivered at home; 7 of 9 MSSSI surrendered their newborns because they could not afford another child, 1 because she could not bear the shame of a non-marital pregnancy, and 1 because she was overwhelmed. The majority of surrenders complied with statutory requirements. More infants were surrendered by their Mothers than by any other person. In sum, the MSSSI cohort bore some similarities to the MDAI/MSAI cohorts but overall appear to have born more children, been older, and lived more independently than the MDAI/MSAI.

VII. INFANT ABANDONMENTS AND DISCOVERIES

A. Infant Discovery Sites

Discovery sites are not necessarily abandonment sites since many infants are abandoned in one place but discovered in another. For example, infants delivered indoors may be discovered outdoors; infants disposed of in garbage receptacles may be discovered in landfills or waste facilities; infants born in one county may be discovered in another county.¹⁶⁹ According to **Figure 7-1** there were substantial similarities between the DAI and SAI discovery sites in both PRE and POST and approximately two-thirds of all infants were discovered outdoors in both periods.

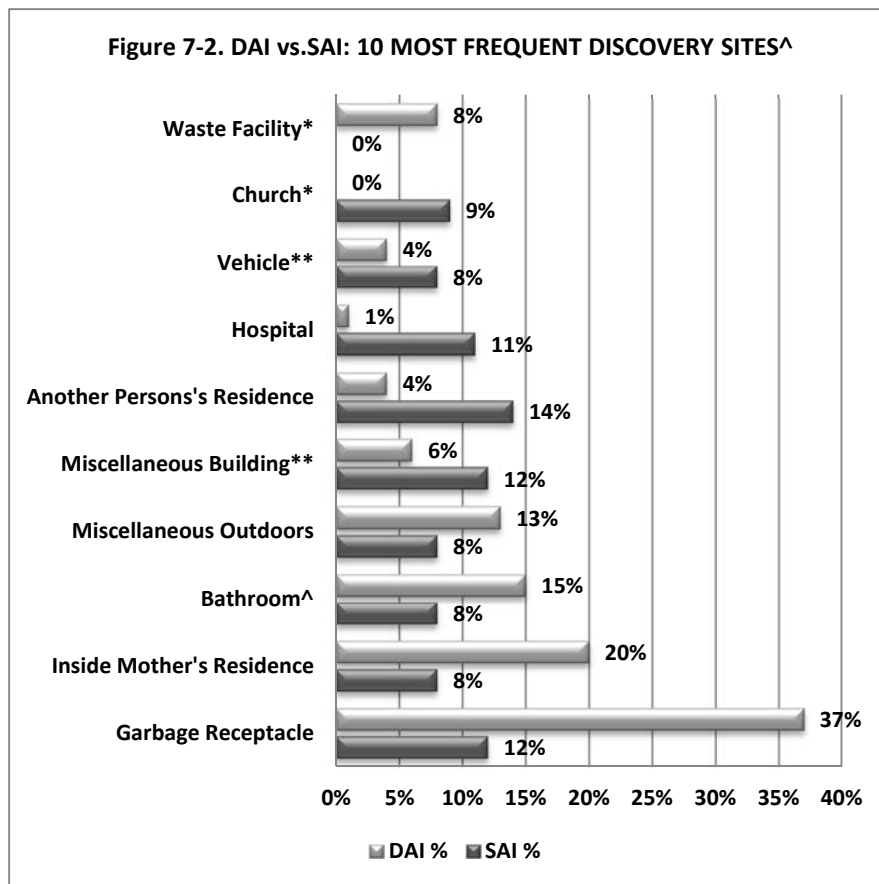
168. "Teen Mother Of Abandoned Baby Won't Be Charged" copyright 2005 P.G. Publishing Co. Pittsburgh Post-Gazette (Pennsylvania) February 8, 2005 SECTION: LOCAL Pg. A-9 by Michael A. Fuoco

169. A total of 185 DAI/SAI were discovered in the same county as their Mother's residence. Although 128 MDAI/MSAI delivered at their residences, 19 infants were discovered in counties outside their Mothers' residences.

2014] WHO ARE THE MOTHERS WHO NEED SAFE HAVEN LAWS? 485

| Figure 7-1. DISCOVERY LOCATIONS: PRE vs. POST | SAI % | DAI % | LOCATION | PRE% | POST % |
|--|-------|-------|----------|------|--------|
| OUTDOOR | 70% | 67% | OUTDOOR | 69% | 68% |
| INDOOR | 30% | 33% | INDOOR | 31% | 32% |

Figure 7-2 presents the 10 sites where SAI and DAI were most frequently discovered. The majority of DAI (85%) were discovered in or near garbage receptacles (37%), inside the Mother’s residence (20%), and in bathrooms (15%), or throughout the miscellaneous outdoors (13%). The majority of SAI (58%) were discovered in or near another person’s residence (14%), garbage receptacles or miscellaneous buildings (12%), hospitals (11%), or churches (9%).



([^]) Refers to Sites that overlap with other Sites, such as when an infant was discovered in a garbage receptacle in a hospital bathroom. In total, there was a 20% overlap among sites
 (*) Includes inside or within close proximity
 (**) “Waste Facility” includes Recycling Plants and Landfills

Figure 7-3 shows the likelihood of survival for each of the 10 most frequent discovery sites. Places of high visibility that are frequently trafficked by the public such as churches, hospitals, another person's residence, and vehicles show the highest likelihood of rescue. For example, 23 of 24 infants abandoned in or near churches were rescued in time to survive. Places of low visibility such as garbage receptacles, waste facilities, and inside the Mother's residence corresponded with lower survival rates.

| Figure 7-3. LIKELIHOOD OF SURVIVAL BY DISCOVERY SITE | LIKELIHOOD OF SURVIVAL |
|---|-------------------------------|
| Church* | 96% |
| Hospital* | 93% |
| Other Person's Residences | 80% |
| Vehicles* | 69% |
| Miscellaneous Building* | 68% |
| Miscellaneous Outdoors | 39% |
| Bathroom | 36% |
| Inside Mother's Residence | 30% |
| Garbage Receptacle/Dumpster* | 26% |
| Waste Facility | 0% |
| (* Includes in or near Discovery Site) | |

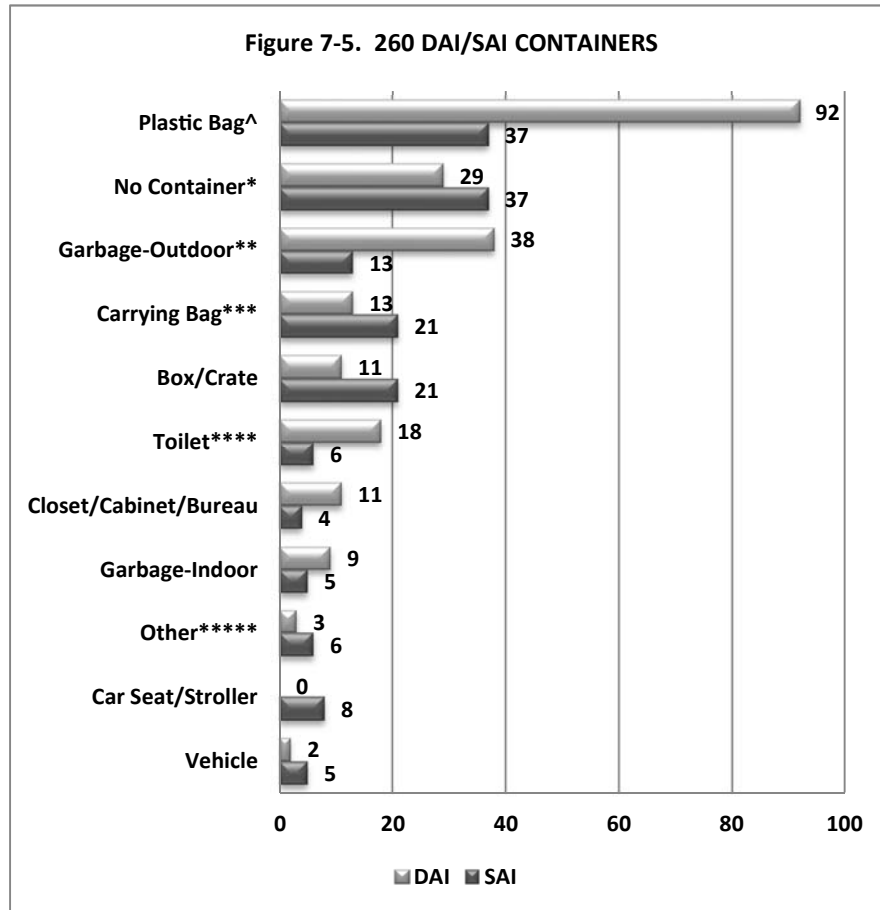
Figure 7-4 shows the sites with the highest probabilities of discovery in the PRE and POST periods. Significantly, the discovery rates of infants found in or near garbage receptacles or hospitals decreased from 31% in PRE to 22% in POST while the discovery rates of infants found inside the Mother's residence, bathrooms and vehicles increased from 22% in PRE to 34% in POST.

| Figure 7-4. LIKELIHOOD OF DISCOVERY BY SITE: SIGNIFICANT DIFFERENCES PRE vs. POST | PRE % | POST % |
|--|--------------|---------------|
| Garbage Receptacles & Hospital | 31% | 22% |
| Mother's Residence/ Bathroom/ Vehicle | 22% | 34% |

B. Containers

Figure 7-5 presents the containers in which 260 infants were discovered, of whom 48% (126) were SAI and 52% (134) were DAI. The data clearly show that plastic bags were the primary death weapon used by Neonaticidal Mothers. Significantly, 49.6% (129) of the 260 infants were discovered inside plastic bags, of whom two-thirds died and one-third survived. More DAI were discovered in or near outdoor garbage receptacles while more SAI were discovered with no container, or inside a carrying bag, box/crate, car seat, stroller or vehicle.

2014] WHO ARE THE MOTHERS WHO NEED SAFE HAVEN LAWS? 487



([^]) These Containers are not exclusive. For example, many infants who were found in Garbage Receptacles were also inside Plastic Bags.

(^{*}) “No Container” includes blankets and clothing

(^{**}) “Outdoor Garbage” includes dumpsters, cans, and garbage piles

(^{***}) “Carrying Bag” includes backpacks, duffle bags, and purses

(^{****}) “Toilet” includes bowl, septic tank, and outhouse

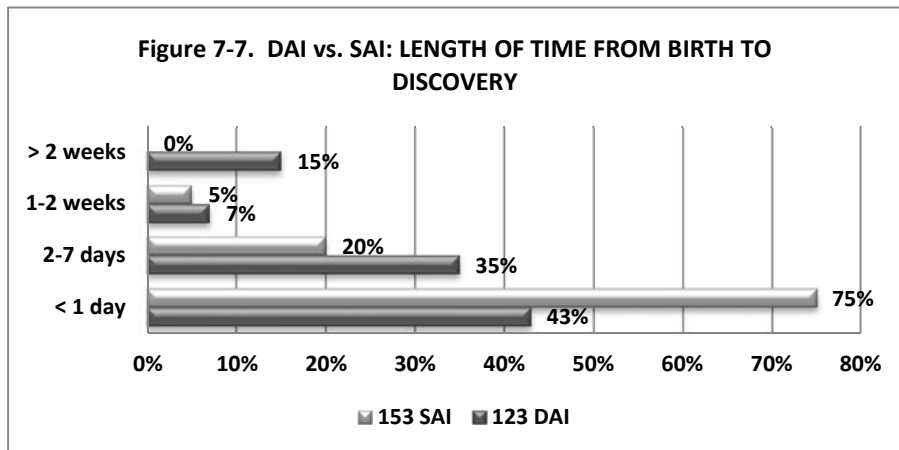
(^{*****}) “Other” includes bassinets, baskets, bathtubs, buckets, and envelopes

Figure 7-6 shows the likelihood of an infant’s survival when abandoned inside specific containers. Infants were more likely to die than survive when found inside unsafe containers that caused death by asphyxiation or drowning such as toilets, garbage receptacles, closets/cabinets/bureaus, or plastic bags. Infants were more likely to survive than die when found inside safe containers such as infant carriers or vehicles. Interestingly, 56% of infants abandoned with no container survived, 87% of whom were found in locations that people frequented such as street corners, residential doorsteps, public parks, in or near hospitals, churches or apartments buildings. Conversely, the 44% who were

found with no container but died were found in sites such as graves, dumpsters, wooded areas, and bodies of water.

| Figure 7-6. CONTAINERS | LIKELIHOOD OF SURVIVAL |
|---------------------------|------------------------|
| Infant Carrier | 100% |
| Vehicle | 71% |
| Unreported Container | 67% |
| Box/Crate | 66% |
| Carrying Bag | 62% |
| No Container | 56% |
| Indoor Garbage Container | 36% |
| Plastic Bag | 29% |
| Closet/Cabinet/Bureau | 27% |
| Outdoor Garbage Container | 25% |
| Toilet | 25% |

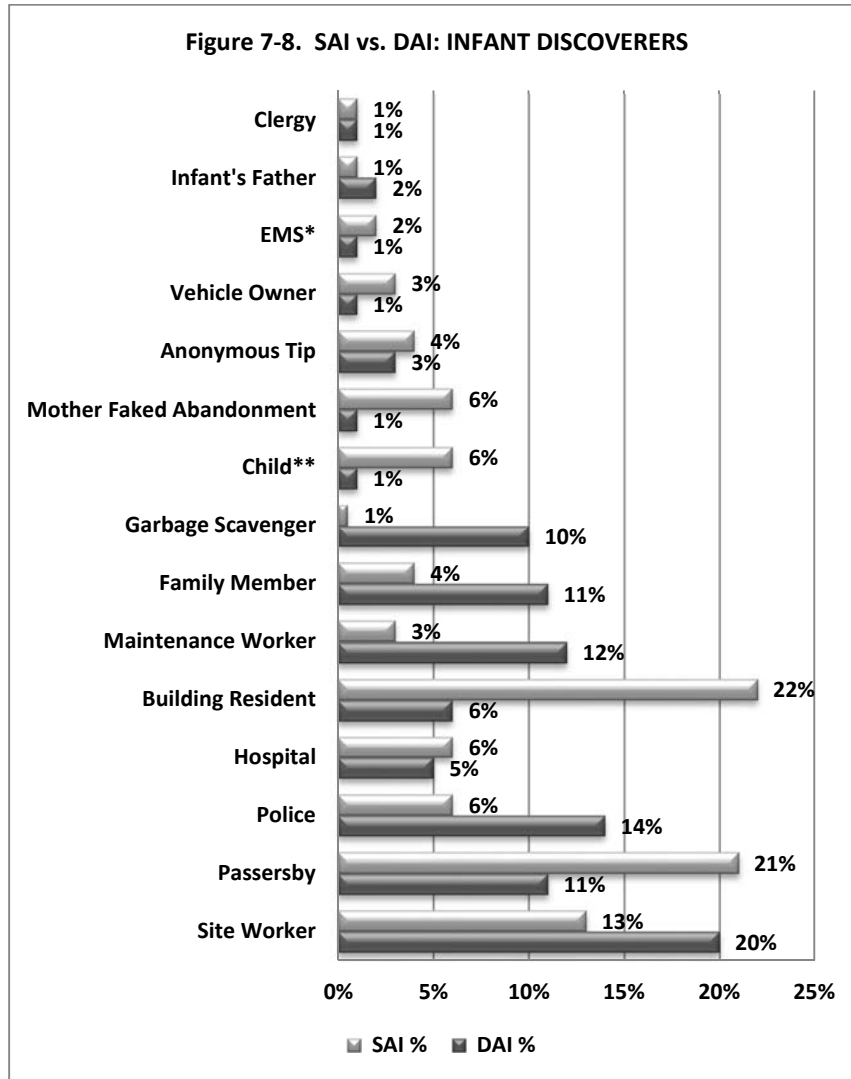
C. Length of Time from Birth to Discovery



(>) Refers to infants who were discovered two weeks or more after birth

(<) Refers to infants who were discovered within the first day of birth

The following data are based on medical determinations, autopsies and coroner's reports of an infant's age when discovered. **Figure 7-7** shows that significantly more infants were discovered within 24 hours of birth than at any other time. There was also a direct correlation between the infant's age when discovered and survival rates: More infants survived when discovered within the first day of birth and more infants died when discovered after the first day of birth. However, 25% of infants discovered after the first day of birth did survive, suggesting that those infants were abandoned several days after birth and found shortly thereafter.

D. Discoverers

(*)“EMS” refers to Emergency Medical Service providers

(**)“Child” refers to a stranger, not a family member

Abandoned infants survive only if they are found. **Figure 7-8** presents the discoverers of 416 DAI and SAI. Although most infants were discovered coincidentally by passersby, site workers, and residents of the building near where the infant was abandoned, the discoverers of DAI and SAI notably differed: 72% of DAI were found by site workers, police, hospitals, maintenance workers, family members and garbage scavengers; 55% of SAI were found by passersby, residents of the building near where the infant was abandoned, children, or by Mothers who faked the abandonments by claiming to have found the infant.

E. Physical Condition of SAI at Discovery

Figure 7-9 presents the physical condition of 204 SAI at the time of discovery. The majority (74%) were discovered in good health; 23% were discovered hypothermic or cold; at least 25% were discovered with multiple physical conditions such as hypothermia, dehydration and blood loss; 3% were determined to have drugs in their systems such as methamphetamines, cocaine or marijuana.

| Figure 7-9. PHYSICAL CONDITION OF 204 SAI WHEN DISCOVERED [^] | CASE TOTALS |
|---|-------------|
| Healthy | 151 |
| Hypothermic/Cold | 46 |
| Critical | 12 |
| Dehydrated | 10 |
| Physically Injured | 8 |
| Other* | 8 |
| Premature | 7 |
| Illegal Drugs | 7 |
| Blood Loss | 4 |
| Naked | 4 |
| Respiratory Problems | 3 |
| ^(^) There is an overlap among these categories because many infants were discovered with multiple physical conditions ^(*) "Other" includes rash, syphilis, blood infection, brain damage, sunburn, insect bites and unresponsive | |

F. Mother's Intent

The following data posit that it may be reasonable to infer whether a Mother intended an abandoned infant to be rescued and survive or die without rescue based on the location and conditions of the discovery site.¹⁷⁰ Examples of the former are discoveries in frequently trafficked public places such as hospitals, churches, stores, restaurants, and residential doorsteps. Examples of the latter are discoveries in toilets, closets, drawers, garbage receptacles, wooded areas, railroad tracks, bodies of water, and plastic bags.

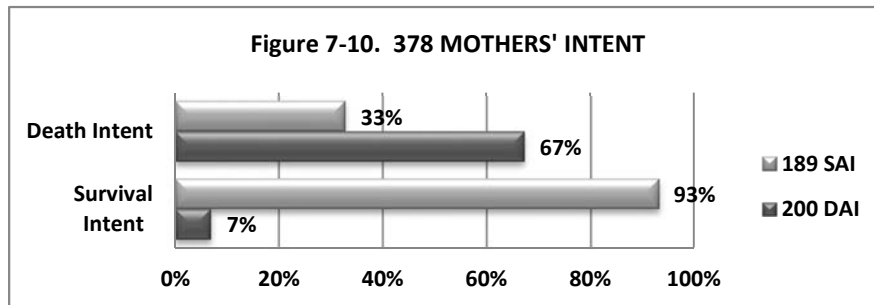
According to **Figure 7-10**, 67% of the infants whose Mothers may not have wanted them to be rescued were discovered in locations that decreased their likelihood of discovery, yet 33% survived—possibly due to the happenstance of unanticipated discoverers.¹⁷¹ Conversely, 93% of the infants

170. This analysis is included because three data analysts who worked separately on these data and did not consult with each other independently drew the identical inference that the abandonment/discovery location of the infant may have correlated with the Mother's Intent.

171. **Figure 7-10** is based on 80% of all DAI/SAI cases and excludes 20% because a reasonable inference of Mother's Intent could not be made due to insufficient facts or ambiguities within known facts.

2014] *WHO ARE THE MOTHERS WHO NEED SAFE HAVEN LAWS?* 491

whose Mothers may have wanted them to be rescued were discovered in locations that increased their likelihood of discovery, but 7% died. For example, **Mother 21** telephoned the police to inform them that she had abandoned an infant outside a particular building.¹⁷² **Mother 22** resuscitated her infant before leaving him on church steps.¹⁷³ **Mother 23** initially put her infant inside a garbage can but then removed him and handed him to a doorman.¹⁷⁴ **Mother 24** left her infant outside an American Legion Hall and, as she drove out of the parking lot, honked her horn until someone came to the door to retrieve him.¹⁷⁵ **Mother 25** left her infant inside a Department of Children and Family Services bathroom.¹⁷⁶ **Mother 26** was 12 years old when she left her newborn son outside a hospital, wrapped in a blanket inside a crate with a note that said, "This is Jacob. Please help him. I can't keep him. I'm only 12. He's a very good baby."¹⁷⁷ Her age was later confirmed by a handwriting expert.¹⁷⁸



172. Brian Barber, *Phone Tip Leads To Abandoned Baby*, Tulsa World (Oklahoma), Feb. 21, 1998.

173. Brian Bennett, *Woman Gives Birth Solo, Abandons Baby*, The Times-Picayune Publishing Co., July 10, 1997, at A19.

174. Doug Irving, *Mom Who Momentarily Dumped Baby Faces No Charge*, Chicago Tribune Company, July 2, 1998, at 3.

175. *Abandoned baby left at veteran's post; hunt on for mother*, Whittier Daily News (California), September 15, 2006.

176. David Cazares, *State Agency Asks Parents To Claim Baby Left On Floor*, Sun-Sentinel (Fort Lauderdale, FL), August 22, 1997, http://articles.sun-sentinel.com/1997-08-22/news/9708220061_1_parental-rights-baby-child-protection-officials.

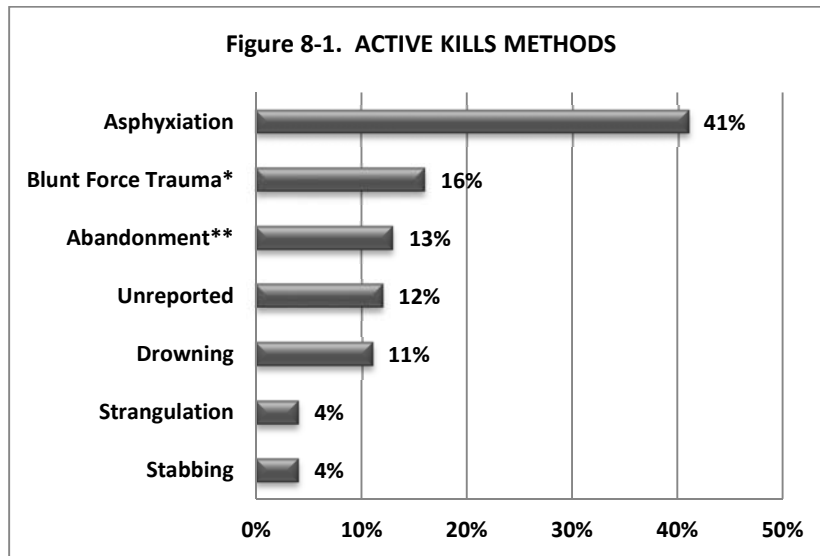
177. Michael A. Fuoco, *Found Baby's Mom 12 to 15 And Very Sad, Expert Declares*, Pittsburgh Post-Gazette, Oct. 21, 1999, at B1.

178. *Id.*

VIII. NEONATICIDAL METHODS

A. Active and Passive Kills Cohorts

This section subdivides the MDAI cohort into Active and Passive Kills cohorts. Active Kills refers to cases where a Mother committed an act that resulted in an infant's death such as stabbing, strangulation, beating, drowning, abandonment or asphyxiation inside a plastic bag. Passive Kills refers to cases where infants died from medical neglect. The data consist of 74 Active Kills Mothers in PRE and 61 in POST; 2 Passive Kills Mothers in PRE and 10 in POST.

B. Active Kills

(*) Blunt Force Trauma refers to beatings or the tossing of an infant out a window or into a garbage receptacle

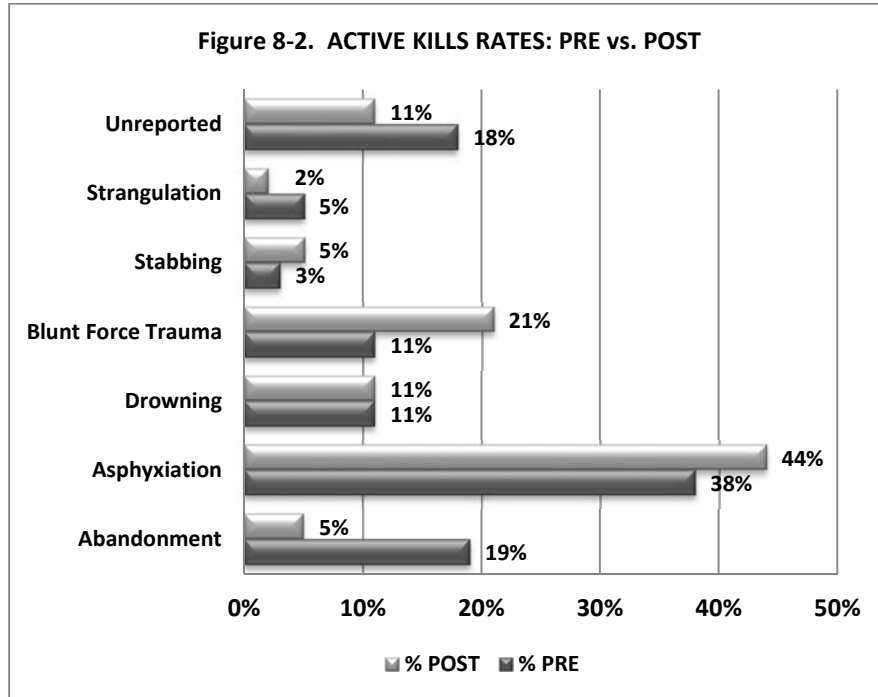
(**) Abandonment includes dehydration, hypothermia, exposure, and starvation

Figure 8-1 shows the neonaticidal methods used by 135 Active Kills Mothers.¹⁷⁹ Asphyxiation and blunt force trauma frequently occurred together when an infant was placed inside a plastic bag that was tossed into a garbage receptacle. Abandonments occurred when a Mother discarded an infant at a location other than the place of birth such as on a railroad track, along a roadside, in a dumpster, alley or field, or under a bush or car.

179. The media did not report the specific homicidal methods used in 12% of the Active Kill cases.

C. PRE vs. POST Active Kills¹⁸⁰

Figure 8-2 compares 74 Active Kills Mothers in PRE and 61 in POST. The two most frequently used methods, blunt force trauma and asphyxiation, also had the highest increases from PRE to POST: blunt force trauma increased by 10% and asphyxiation increased by 6%. However, abandonment, the third most frequent Active Kills method, decreased by 14% from PRE to POST.



Mother 27 was a 15 year-old African American high school honors student.¹⁸¹ After giving birth in her family apartment she stabbed and then threw the infant out a fourth floor window. A few hours later, children playing behind the apartment building found the live infant who died on the way to the hospital.¹⁸² **Mother 28** was a 19 year-old Asian college student who, after delivering alone in a dormitory bathroom, strangled the infant with her Victoria's Secret underwear, put the body inside a plastic bag, and tossed the

180. The media reported only 2 Passive Kills Mothers in PRE and 10 in POST. Consequently, the Passive Kills data were too insufficient to permit a meaningful comparison between the PRE and POST periods.

181. Shock over Teen in Baby Slay. Tara George. NY Daily News. June 6, 1997. Section: News.

182. Newborn is Beaten to Death. NY Daily News. June 5, 1997.

bag down a garbage chute.¹⁸³ The body was eventually found in a dumpster by a cleaning service.¹⁸⁴ *Mother 29* was a 20 year-old Caucasian who lived with her parents and nineteen-month-old son.¹⁸⁵ She delivered alone in her family bathtub where she drowned the infant while family members were present in the residence but unaware of the delivery. After the infant's body was discovered in garbage outside her home *Mother 29* claimed the infant had been stillborn. When she eventually confessed to drowning the infant she also stated that she did not believe in abortion.¹⁸⁶ *Mother 30* was a 22 year-old Mexican immigrant who had lived with her boyfriend until she informed him of the pregnancy.¹⁸⁷ After delivering in her trailer she slammed the infant against a cabinet, put the body inside a plastic bag, and tossed the bag into a dumpster.¹⁸⁸ The corpse was found by a garbage scavenger.¹⁸⁹ *Mother 30* eventually confessed to the police that she felt rage and hatred toward the infant because the pregnancy was the reason her boyfriend had abandoned her.¹⁹⁰

IX. POLICE INVESTIGATIONS

A. How Mothers Were Found

66% (321) MDAI/MSAI were found or identified in the course of police investigations. **Figure 9-1** presents the means by which 62% (200) were found. It does not distinguish between PRE and POST or MDAI and MSAI because the data showed no significant differences between those time periods or cohorts. In total, 41% of MDAI/MSAI were found through police investigations, frequently instigated by anonymous tips, a few of which were made by the Mother; 22% were found by hospital staff members who contacted the police after a Mother who had denied giving birth was diagnosed as postpartum; and 19% were found by family members or friends who then contacted the police.

183. Preliminary Hearing Held for Chu. Stacy Matros. Daily Trojan. Vol. 132, No. 66, Dec 5 1997, pg 1.

184. Niles Woman Fights Extradition in Killing of Newborn. Chicago Tribune. June 28, 1997. James Hill.

185. A Matter of Justice: What's the Right Sentence for Killing Your Newborn. Jim O'Hara. Post-Standard. June 22, 2009. Syracuse.com

186. *Id.*

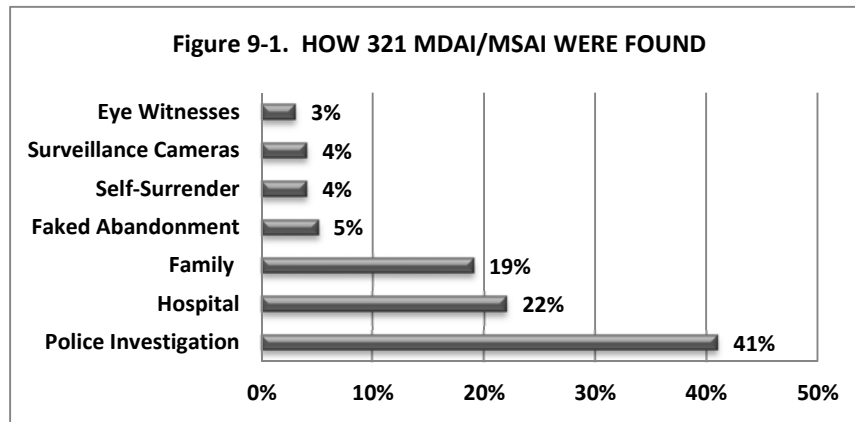
187. Patricia Farrell Aidem, *Bail unchanged in baby case*, The Daily News of Los Angeles, June 8, 2006, at SC1; *Appeals court upheld woman's conviction for killing her newborn daughter*, Los Angeles Daily News, Sept. 15, 2009, <http://www.dailynews.com/20090916/appeals-court-upheld-womans-conviction-for-killing-her-newborn-daughter>.

188. *Id.*

189. Carol Rock, *Dead baby found in trash bin mom believes linked to mobile home park*, The Daily News of Los Angeles, May 4, 2006, at SC1.

190. *Appeals court upheld woman's conviction for killing her newborn daughter*, Los Angeles Daily News, Sept. 15, 2009, <http://www.dailynews.com/20090916/appeals-court-upheld-womans-conviction-for-killing-her-newborn-daughter>.

2014] *WHO ARE THE MOTHERS WHO NEED SAFE HAVEN LAWS?* 495



B. Did Mother Deny Giving Birth?

| Figure 9-2. 40 MDAI vs. MSAI WHO DENIED GIVING BIRTH IN THE COURSE OF A POLICE INVESTIGATION | 25 MDAI | % MDAI | 15 MSAI | % MSAI |
|---|----------------|---------------|----------------|---------------|
| Yes | 6 | 24% | 4 | 27% |
| Yes, But Later Admitted Giving Birth | 19 | 76% | 11 | 73% |

Figure 9-2 compares 40 MDAI and MSAI who denied giving birth in the course of the police investigation. The data show no significant differences between the two cohorts: 76% of MDAI and 73% of MSAI initially denied giving birth but eventually admitted to the birth, whereas 24% of MDAI and 27% of MSAI denied giving birth throughout the investigation. For example, *Mother 31* was 20 years-old when she went to a hospital emergency room because of stomach pains.¹⁹¹ While waiting to be admitted she delivered an infant in the hospital toilet and then returned to the waiting room.¹⁹² Less than an hour later the infant's corpse was discovered by a patient.¹⁹³ *Mother 31* denied knowing that she had been pregnant.¹⁹⁴ She was arrested for negligent homicide but not prosecuted.¹⁹⁵

191. Bob Anderson, *Woman delivers and abandons baby at Independence hospital*, *The Advocate* (Baton Rouge, Louisiana), Sept. 5, 1998, at 3B.

192. *Id.*

193. *Id.*

194. *Id.*

195. *Id.*

C. Did Mother Acknowledge Giving Birth to a Live Infant?

| Figure 9-3. MDAI vs. MSAI WHO ACKNOWLEDGED LIVE BIRTH | MDAI # | MDAI % | MSAI # | MSAI % |
|--|--------|--------|--------|--------|
| No | 15 | 22% | 5 | 9% |
| Yes | 30 | 44% | 47 | 80% |
| Yes, Eventually | 23 | 34% | 7 | 11% |
| Totals | 68 | - | 59 | - |

Figure 9-3 presents the responses of 127 MDAI and MSAI who were questioned about whether they had given birth to a live infant. The data show that 84% (107) admitted giving birth to a live infant, although 28% (30) initially claimed to have miscarried or given birth to a stillborn infant. The primary reasons for the initial denials were evasion of arrest and the exchange of the admission of a live birth for a plea bargain. All the MDAI stillbirth claims were rebutted by coroners' findings of live births and all the MSAI claims were rebutted by the infants' survival upon discovery. Significantly, twice as many MSAI as MDAI acknowledged giving birth to a live infant and three times as many MDAI as MSAI who initially denied the live birth eventually admitted to it. Another 16% (20) denied giving birth to a live infant throughout the investigation.

Mother 32 was a 35 year-old Caucasian who lived with her husband and three children in an affluent suburb.¹⁹⁶ At the time of her infant's death she was a successful owner of her own business.¹⁹⁷ When *Mother 32* became pregnant by her lover she concealed the pregnancy from everyone by wearing baggy clothing and lying.¹⁹⁸ She told her husband that her expanded stomach was caused by a fibroid tumor.¹⁹⁹ On the day of delivery she went with her husband and children to a race track where she gave birth alone in a public bathroom.²⁰⁰ After the birth she placed the infant into a plastic bag inside a garbage receptacle, cleaned herself and rejoined her family.²⁰¹ The infant's body was found several days later by a maintenance worker.²⁰² After media reports of the infant's discovery, *Mother 32* made several phone calls to the police to inquire about the investigation.²⁰³ Once the police turned their attention to her, *Mother*

196. Craig Kapitan, 'Baby Joseph' murder trial begins, 2007-2012, TDCAA, <http://www.tdcaa.com/node/1434>.

197. *Id.*

198. *Id.*

199. *Id.*

200. *Id.*

201. Holly Huffman, DNA leads to arrest in 'Baby Joseph' slaying case, The Eagle, April 8 2006, http://209189226235/stories/040806/local_20060408004.php.

202. Craig Kapitan, 'Baby Joseph' murder trial begins, 2007-2012, TDCAA, <http://www.tdcaa.com/node/1434>.

203. *Id.*

2014] *WHO ARE THE MOTHERS WHO NEED SAFE HAVEN LAWS?* 497

32 denied both the pregnancy and birth.²⁰⁴ However, once DNA linked her to the infant she admitted that she had given birth but claimed the infant had been stillborn and that she had concealed the pregnancy because it was the result of a rape.²⁰⁵ At trial, her lover testified that he and *Mother 32* had been involved in a long-term sexual relationship.²⁰⁶ His testimony was confirmed by professional colleagues who had observed the couple engaging in sexualized conduct at bars and clubs.²⁰⁷ *Mother 32* asserted miscarriage as a defense despite a coroner's ruling of live birth and death by homicide.²⁰⁸ She was convicted of first-degree murder, sentenced to 2 years of imprisonment and fined \$10,000.²⁰⁹ During the sentencing it was disclosed that her husband had received a vasectomy several years earlier but that *Mother 32* had had three more pregnancies after the vasectomy, the deceased infant being the third.²¹⁰

X. LEGAL OUTCOMES

A. Summaries

Figures 10-1 and **10-2** summarize the arrest, prosecution, conviction and acquittal data of the combined MDAI/MSAI cohorts. According to **Figure 10-1**, 37% (180) of the 488 MDAI/MSAI were arrested, 24% (116) were prosecuted, 20% (97) were convicted, and 1% (3) were acquitted.

204. *Id.*

205. *Id.*

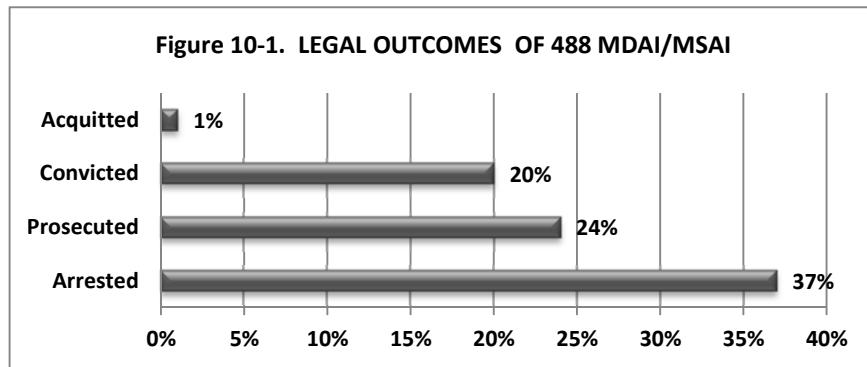
206. Meredith Stancik, *Taped interview sheds light on 'Baby Joseph's' Death*, KBTX-TV Channel 3, Nov. 8, 2007, <http://www.kbtx.com/home/headlines/11095526.html>

207. Craig Kapitan, *Mom guilty in baby's death*, Star Local Media, Nov. 20, 2007, http://starlocalmedia.com/thecolonycourierleader/news/mom-guilty-in-baby-s-death/article_7b69f45c-96ac-5c05-8d6c-4e3f8a19db5e.html.

208. Meredith Stancik, *Testimony continues in 'Baby Joseph' murder trial*, KBTX-TV Channel 3, Nov. 8, 2007, <http://www.kbtx.com/home/headlines/11120686.html>.

209. Craig Kapitan, *Mom guilty in baby's death*, Star Local Media, Nov. 20, 2007, http://starlocalmedia.com/thecolonycourierleader/news/mom-guilty-in-baby-s-death/article_7b69f45c-96ac-5c05-8d6c-4e3f8a19db5e.html.

210. Craig Kapitan, *'Baby Joseph' murder trial begins*, 2007-2012, TDCAA, <http://www.tdcaa.com/node/1434>.



According to **Figure 10-2**, of the 37% MDAI/MSAI who were arrested, 64% were prosecuted, 84% were convicted, and 3% were acquitted.

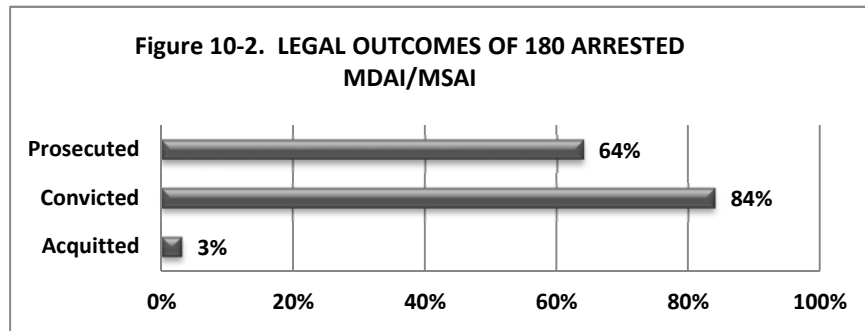
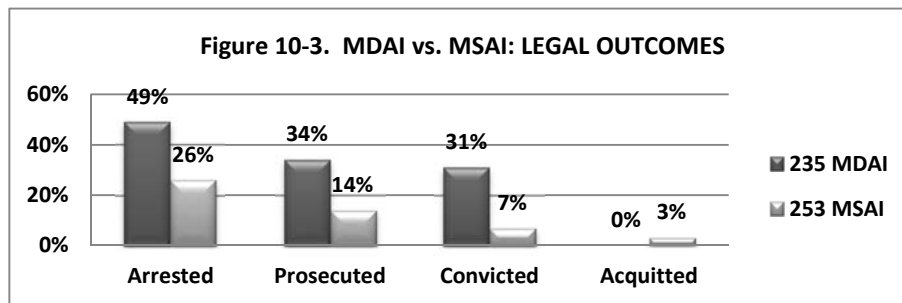


Figure 10-3 compares the MDAI and MSAI arrest, prosecution, conviction and acquittal rates. MDAI were twice as likely to be arrested and prosecuted, and four times more likely to be convicted than were MSAI. Conversely, MSAI had three times more acquittals than MDAI, which had none. These rate differentials clearly show that the criminal system more aggressively prosecuted MDAI than MSAI.



The next two charts separate out the MDAI and MSAI arrest, prosecution, conviction and acquittal rates into the PRE and POST periods. **Figure 10-4**

2014] *WHO ARE THE MOTHERS WHO NEED SAFE HAVEN LAWS?* 499

shows substantial increases in the MDAI arrest (13%), prosecution (17%), and conviction (16%) rates from PRE to POST but no acquittals in either time period.

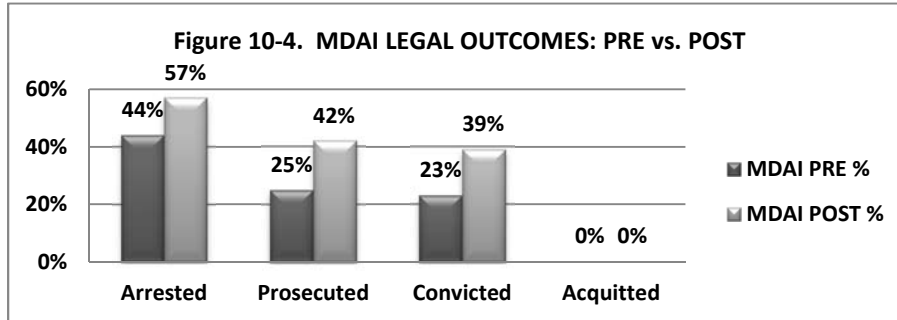
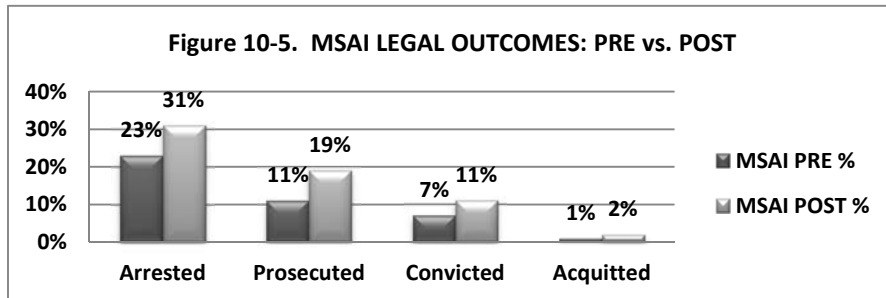


Figure 10-5 shows that MSAI arrest (8%), prosecution (8%), conviction (4%) and acquittal (1%) rates also increased from PRE to POST but only about half as much as the MDAI rates.



B. Prosecution Charges

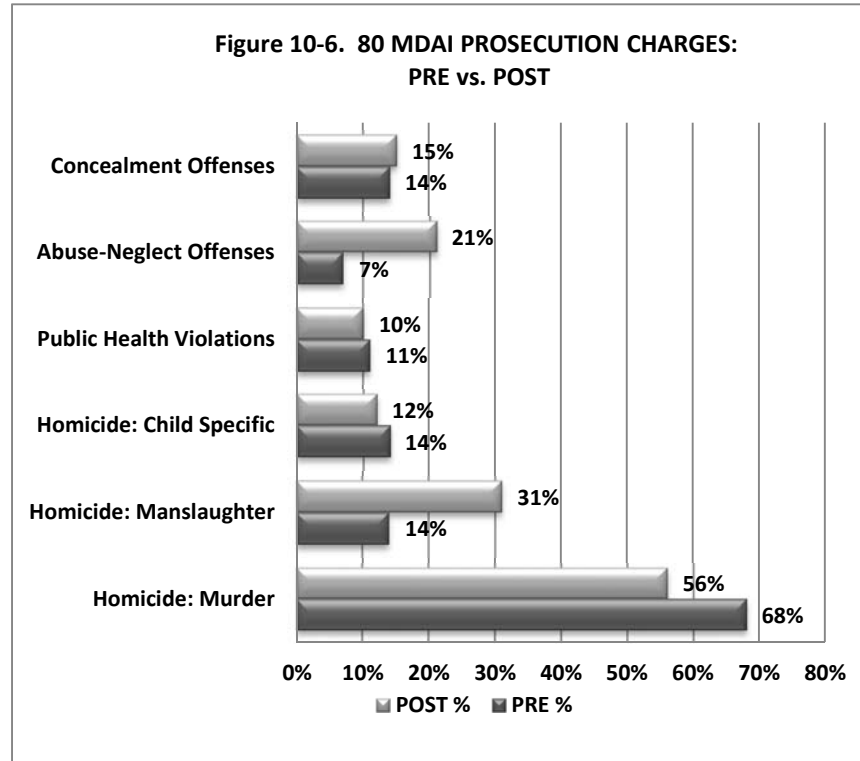
The media reported that 64% (115) of the 180 MDAI/MSAI who were arrested were also prosecuted. **Figure 10-6** summarizes the 6 categories of prosecution charges for 80 MDAI, of whom 28 were PRE and 52 were POST. According to the data, MDAI were prosecuted primarily for homicides,²¹¹ concealment offenses,²¹² abuse-neglect offenses²¹³ and public

211. Homicidal Offenses include Child Specific Homicides (such as Child Abuse Resulting in Death), Manslaughter (such as Involuntary Manslaughter, Aggravated Manslaughter and Negligent Homicide), and Murder (such as Capital Murder, First Degree Murder and Second Degree Murder).

212. Concealment Offenses includes Obstruction of Justice, Tampering with Evidence, Lying to Police Officers, and Filing False Police Reports.

213. Abuse-Neglect Offenses includes Child Cruelty, Injury to a Child, Reckless Endangerment, and Failure To Secure Medical Care For An Injured Child

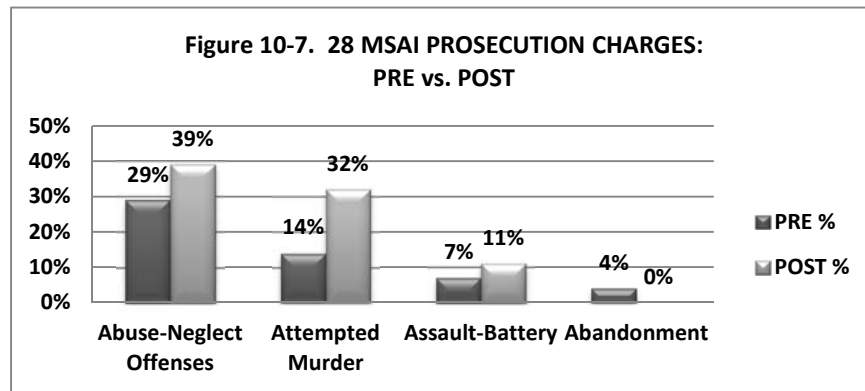
health violations.²¹⁴ Between PRE and POST, manslaughter and abuse-neglect prosecution rates more than doubled, murder prosecution rates decreased by 12%, and the less severe prosecution charges showed no significant changes.



The media reported that 35 of the 65 MSAI who were arrested were also prosecuted and the prosecution charges of 28, of whom 12 were PRE and 16 were POST. According to **Figure 10-7**, in both the PRE and POST periods MSAI were primarily prosecuted for abuse-neglect offenses and attempted murder.²¹⁵ Only 1 PRE MSAI was prosecuted for abandonment. From PRE to POST, abandonment prosecutions ceased while prosecution rates for attempted murder increased 18%, abuse-neglect offenses increased 10%, and assault-battery increased 4%. Once again, the increase in the most severe prosecution charge, attempted murder, shows that MSAI events were more aggressively prosecuted in POST than in PRE.

214. Public Health Violations include Abuse of a Corpse, Improper Disposal of Fetal Remains, Illegal Disposal of a Body, Failure to Report a Birth, and Failure to Report a Death.

215. Attempted Murder includes Suspicion of Attempted Murder



C. Verdicts: Convictions and Acquittals

Figure 10-8 shows the very high conviction and very low acquittal rates of 100 MDAI/MSAI in both the PRE and POST periods. 98% of the arrested MDAI/MSAI were convicted, of whom 75% were MDAI and 23% were MSAI. From PRE to POST, the MDAI conviction rate increased by 21% but there was no significant change in the MSAI conviction rate between the two periods. No MDAI were acquitted of all charges although 3 MSAI were so acquitted, 1 in PRE and 2 in POST. For example, *Mother 33* faked her abandonment by contacting the police and claiming to have found an infant on her front porch.²¹⁶ She was prosecuted for child abuse-neglect and filing a false police report.²¹⁷ Once acquitted, she was reunited with the child.²¹⁸ *Mother 34* claimed throughout the criminal proceedings that she had not known of the pregnancy and was acquitted at trial after successfully asserting a pregnancy denial defense.²¹⁹ *Mother 35* knew of her pregnancy and purposefully concealed it from others.²²⁰ After giving birth in a hotel room she abandoned

216. Danielle Zielinski, *Mental Evaluation Delayed*, Daily Press (Newport, VA), Dec. 6, 2006, at C7.

217. Danielle Zielinski, *Woman Who Claimed She Found Infant Is Acquitted*, Daily Press (Newport News, Va.), May 10, 2007, at B1.

218. Nicolas Zimmerman, *Charges Dismissed Against New Mom*, Daily Press (Newport News, Va.), July 17, 2008, at A4.

219. *Briefly: Jury clears woman who left newborn in toilet at home*, Portland Press Herald, May 25, 1999, at 1B.

220. Christine L. Pratt, *found not guilty woman who left newborn baby on doorstep avoids conviction*, The Daily Record (Wooster, OH), Dec. 14, 2007, <http://www.the-daily-record.com/local%20news/2007/12/14/found-not-guilty-woman-who-left-newborn-baby-on-doorstep-avoids-conviction>.

the infant on a stranger's doorstep.²²¹ She was tried and acquitted of child endangerment charges.²²²

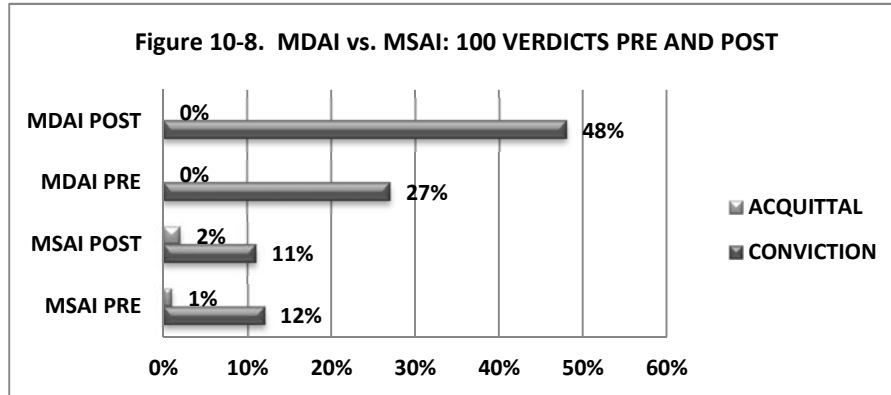


Figure 10-9 shows the 6 categories of conviction offenses of 71 MDAI, of whom 30% (22) were PRE and 69% (49) were POST.²²³ Not only did the quantity and severity of MDAI conviction verdict increase significantly from PRE to POST but every conviction verdict except murder increased as well. For example, conviction rates for public health violations increased 8%, child-specific homicides and concealment offenses increased 7%, and abuse-neglect offenses increased 4%. The majority of MDAI were convicted of murder or manslaughter in both periods despite the 8% decrease in murder convictions from PRE to POST. These conviction rate increases are notable because there were 25 more MDAI convictions in POST than in PRE but there were also 18 fewer MDAI cases in POST than in PRE.

221. *Id.*

222. *Id.*

223. The media reported that 75 MDAI had been convicted but reported the Conviction Charges of only 71 MDAI.

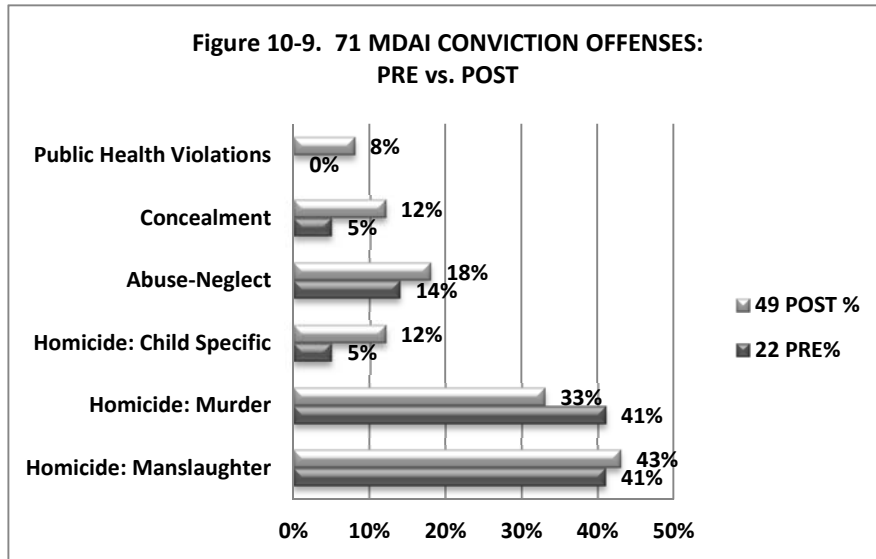


Figure 10-10 shows the 3 categories of conviction offenses for 22 MSAI, 12 of PRE and 10 of POST. Although the data are sparse, they suggest some interesting differences in MSAI conviction offenses between the two periods. For example, abuse-neglect convictions decreased from 67% in PRE to 20% in POST while assault-battery convictions increased from 8% in PRE to 20% in POST.

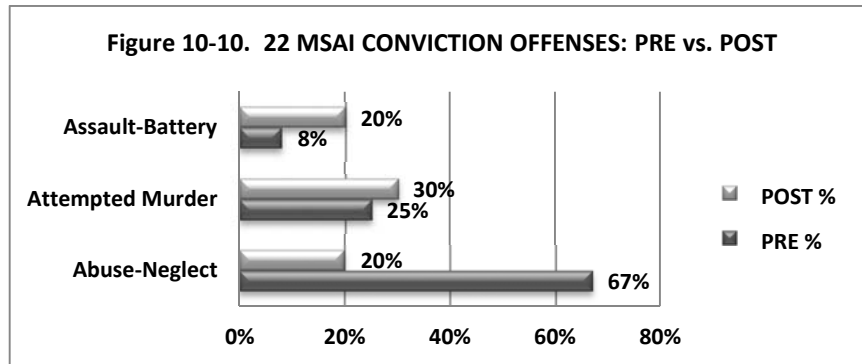
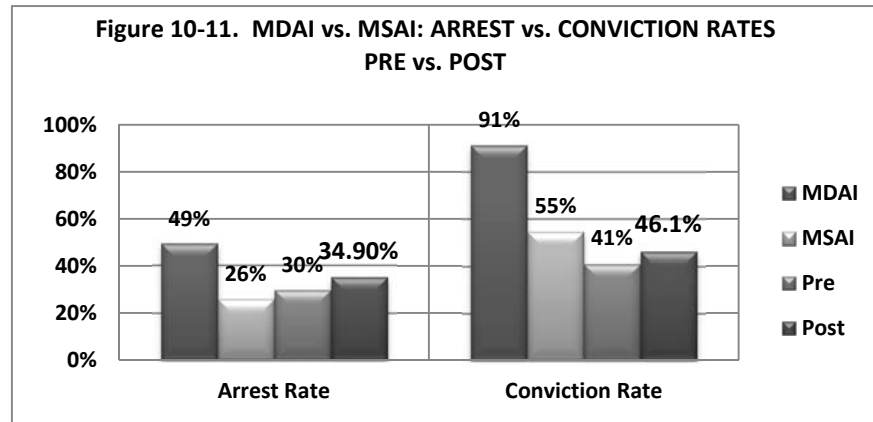


Figure 10-11 summarizes the arrest and conviction rates of MDAI and MSAI in the PRE and POST periods: 49% of all MDAI were arrested, 91% of whom were convicted; 26% of all MSAI were arrested, 55% of whom were convicted. Consequently, MDAI were 88% more likely to be arrested and 65% more likely to be convicted than MSAI. Nonetheless, there were no significant differences between MSAI and MDAI arrest and conviction rates in the PRE and POST periods. For example, 30% of MDAI/MSAI were arrested in PRE,

of whom 41% were convicted; 35% of MDAI/MSAI were arrested in POST, of whom 46% were convicted. In sum, the conviction rates of both MDAI and MSAI increased from PRE to POST although 31% of MDAI but only 9% of MSAI were arrested and convicted in both periods.



D. Sentences

The incarceration sentences for 61 MDAI ranged from 30 days (1 MDAI) to life imprisonment (2 MDAI), 9 of which were sentence ranges (e.g. 9-20 years) rather than specific time periods. Consequently, the incarceration median was 7 to 8 years. Other types of sentences included probation periods for 12 MDAI that ranged from 1-10 years; fines for 3 MDAI that ranged from \$1500 to \$10,000; and counseling services for 2 MDAI.

The incarceration sentences for 14 MSAI ranged from 1 year (2 MSAI) to 20 years (1 MSAI). The MSAI incarceration median was 3 years. Other types of sentences included probation periods that ranged from 6 months to 10 years (12 MSAI), drug rehabilitation (1 MSAI) and parenting classes (1 MSAI).

E. Legal Dispositions: Plea Bargain or Trial

Figure 10-12 shows the legal dispositions of 96 MDAI/MSAI cases. Interestingly, the rates of the cases that were resolved by trial rather than plea bargain were almost identical: 32% MDAI and 33% MSAI entered plea bargains while 68% MDAI and 67% MSAI were resolved by trial. More interestingly, the 67% to 68% trial rates significantly exceeded the national criminal trial rate of 5%²²⁴ and suggest that most Neonaticidal Mothers were not offered plea bargains.

224. Lindsey Devers, *Research Summary: Plea and Charge Bargaining*, INCORPORATED, 1 (CSR January 24, 2011), <https://www.bja.gov/. . ./PleaBargainingResearchSummary.pdf>

2014] *WHO ARE THE MOTHERS WHO NEED SAFE HAVEN LAWS?* 505

| Figure 10-12. 96 LEGAL DISPOSITIONS MDAI vs. MSAI CASES | MDAI% | MSAI% | DIFFERENCE |
|--|--------------|--------------|-------------------|
| Plea Bargain | 32% | 33% | +1% |
| Trial | 68% | 67% | -1% |

F. Appeals

Nine of the 97 convictions were appealed, 3 of which resulted in partial reversals.²²⁵ One sentence was reduced from capital punishment to life imprisonment and another was reduced from 5 to 4 years. One capital murder conviction was reversed because an amended autopsy report could not confirm that the infant had been born alive. Rather than go to trial again, the Mother pleaded guilty to manslaughter in exchange for admitting that the infant had been born alive.

G. Successful and Unsuccessful Defenses

| Figure 10-13. SUCCESSFUL and UNSUCCESSFUL DEFENSES | UNSUCCESSFUL | SUCCESSFUL |
|---|---------------------|-------------------|
| Dissociation/Denial | 10 | 1 |
| Shock/Panic at Birth | 7 | 0 |
| Failure to Prove Live Birth | 4 | 1 |
| Death Due to Medical Cause | 2 | 0 |
| Miscarriage | 2 | 0 |
| Low IQ | 1 | 0 |
| Insanity | 1 | 0 |
| Death Due to Natural Causes | 1 | 0 |
| Failure to Prove Cause of Death | 0 | 1 |
| TOTALS | 28 | 3 |

The media reported nine defenses that were raised in 26 cases.²²⁶ According to **Figure 10-13**, three defenses succeeded in exculpating the Mothers, but only one time each: dissociation/denial, failure to prove live birth,

²²⁵ Eight of the appealed cases were MDAI, 1 was MSAI, 3 were PRE, and 6 were POST.

²²⁶ The defenses were raised in 11 PRE cases and 14 POST cases; 21 MDAI cases and 4 MSAI cases.

and failure to prove cause of death. The unsuccessful defenses were dissociation/denial (10), shock/panic at birth (7), failure to prove live birth (4), death due to medical cause and miscarriage (2), low IQ, insanity, and death due to natural causes (1), and failure to prove cause of death (1). Although dissociation/denial and low IQ failed to protect three Mothers from conviction the courts did regard those defenses as a mitigating factor in reducing the severity of their sentences.

Seventeen MDAI/MSAI raised neonaticide syndrome defenses by which they claimed that dissociation/denial during pregnancy and/or shock/panic during delivery caused them to murder or abandon their newborns. However, 13 of these Mothers eventually conceded knowledge of their pregnancies and 12 also admitted to purposely concealing their pregnancies. The courts rejected the 13 neonaticide syndrome defenses and all 13 Mothers were convicted. The fact that most of these Mothers knew of and concealed their pregnancies yet asserted neonaticide syndrome defenses raises the question of whether dissociation/denial and knowledge of pregnancy can co-exist. Assuming the validity of the dissociation/denial diagnoses, the legal system has yet to accept their truth or relevance when determining criminal culpability.

For example, *Mother 36* was a 21 year-old Caucasian who lived with her parents while attending college and working as an insurance claims adjuster.²²⁷ When she became pregnant through consensual sex with her boyfriend he offered to pay for an abortion.²²⁸ She responded in a letter stating, "Neither of us have any obligation because she is going to die."²²⁹ Despite her efforts to conceal the pregnancy many people became aware of it, including co-workers whose offers of assistance she also refused.²³⁰ After delivering alone in a bathroom at her parents' residence *Mother 36* put the infant inside a plastic bag and put the bag into a dumpster.²³¹ At the beginning of the police investigation, she denied having given birth. Once she admitted to the birth she claimed the infant had been stillborn.²³² At trial she unsuccessfully asserted the defenses of pregnancy denial and stillbirth.²³³ She was convicted of second-degree murder and sentenced to 19 years to life imprisonment.²³⁴

227. Tracey Tully, *Mother Accused of Killing Newborn*, The Times Union (Albany New York), March 28, at A1.

228. Bryce Butler, *Strawbridge's Attorneys Promise Appeal of Murder Verdict*, The Altamont Enterprise, Thursday February 3, 2000.

229. Bryce Butler, *Strawbridge attorneys promise appeal of murder verdict*, THE ALTAMONT ENTERPRISE, February 3, 2000, at 5.

230. Tracey Tully, *Mother Accused of Killing Newborn*, The Times Union (Albany New York), March 28, at A1.

231. *Id.*

232. *Id.*

233. *Id.*; *Pathologist Says Baby's Lungs Showed It Had Breathed*, The Altamont Enterprise, Thursday January 20, 2000.

234. Carol De Mare, *Mother Gets 19 To Life For Killing Baby*, Albany Times Union (Albany New York), April 1, 2000.

2014] WHO ARE THE MOTHERS WHO NEED SAFE HAVEN LAWS? 507

Mother 37 was a 24 year-old Hispanic immigrant from Mexico.²³⁵ She lived with her three children and common-law husband, a convicted drug dealer who had had a vasectomy.²³⁶ She claimed that she became pregnant by her husband but concealed the pregnancy for fear that he would accuse her of adultery.²³⁷ After giving birth in her backyard, **Mother 37** put the infant into a nearby garbage pile.²³⁸ Later that day, she went to the hospital where she was diagnosed as post-partum although she denied having given birth.²³⁹ When the hospital staff contacted the police, she was questioned about the infant's location.²⁴⁰ She misdirected the police twice by sending them to two false locations.²⁴¹ Two days later the police found the corpse inside the garbage pile at her residence.²⁴² An autopsy determined the infant had died of asphyxiation.²⁴³ Initially, **Mother 37** raised pregnancy denial as a defense but eventually pleaded guilty to voluntary manslaughter and was sentenced to 3 years of imprisonment.²⁴⁴

Mother 38 was a 17 year-old Caucasian high school student who lived with her parents.²⁴⁵ She knew of her pregnancy and concealed it from her family and boyfriend.²⁴⁶ One of the people who learned of the pregnancy informed her about Safe Haven laws.²⁴⁷ She delivered alone at her parents' residence while other people were present in the house.²⁴⁸ The infant was discovered within the first day of birth inside a garbage can outside the

235. Jose Luis Jim Tnez, *Mother please not guilty in baby's death; Woman is accused of abandoning boy*, The San Diego Union-Tribune, May 19, 2006 at B-3.

236. Jose Louis Jimenez, *Judge agonizes over just sentence for mother in death of newborn son*, The San Diego Tribune, Sept. 27, 2007.

237. *Id.*

238. *Woman wanted to conceal pregnancy from common-law husband*, 10News.com, Sept. 26, 2007, <http://www.10news.com/news/woman-who-allowed-newborn-son-to-die-sentenced-to-3-years>.

239. Jose Luis Jim Tnez, *Mother Plead Not Guilty In Baby's Death; Woman Accused Of Abandoning Boy*, The San Diego Union-Tribune, May 19, 2006, at B-3:S,C; B-4:E.

240. *Woman wanted to conceal pregnancy from common-law husband*, 10News.com, Sept. 26, 2007, <http://www.10news.com/news/woman-who-allowed-newborn-son-to-die-sentenced-to-3-years>.

241. *Id.*

242. *Id.*

243. Jose Luis Jim Tnez, *Mother please not guilty in baby's death; Woman is accused of abandoning boy*, The San Diego Union-Tribune, May 19, 2006 at B-3.

244. *Id.*

245. Joy Powell, *Newborn baby found dead at Oakdale home*, Star Tribune (Minneapolis, MN), April 12, 2007, at 4B.

246. *Woman wanted to conceal pregnancy from common-law husband*, 10News.com, Sept. 26, 2007, <http://www.10news.com/news/woman-who-allowed-newborn-son-to-die-sentenced-to-3-years>.

247. *A teen's dark dread, a baby's lost life*, Star Tribune (Minneapolis), April 9, 2007, at 10A.

248. Katy Zillmer, *Nicole Beecroft case goes back to court*, Lillie News, Sept. 30, 2009, <http://www.lillienews.com/content/nicole-beecroft-case-goes-back-court-0#.UxPIO3IX9g0>.

residence.²⁴⁹ She had been stabbed 135 times.²⁵⁰ *Mother 38* initially denied having given birth. At trial she raised stillbirth and shock and panic at birth as defenses but was convicted of first-degree murder and sentenced to life imprisonment.²⁵¹ The conviction was reversed on appeal due to prosecutorial misconduct. At her second trial she again raised stillbirth as a defense and was again convicted.²⁵²

Mother 39, Dana Deegan, was a 25 year-old Native American.²⁵³ She lived on an Indian Reservation in a trailer with her drug-addicted common-law husband and three children.²⁵⁴ She delivered the infant in her shower, dressed and fed him, wrapped him in a blanket, and placed him inside a basket.²⁵⁵ She then left the trailer with her three children and did not return for two weeks.²⁵⁶ When she returned she placed the corpse in a plastic bag that she put inside a suitcase that she buried in a ditch.²⁵⁷ The body was found thirteen months later; it took another nine years to identify Deegan as the Mother through DNA testing.²⁵⁸ During the nine year period she told no one about the pregnancy or the infant's death.²⁵⁹

At the beginning of the FBI investigation, Deegan initially denied that the infant was hers. Once she admitted to the birth she claimed the infant had been stillborn and that she had suffered from dissociation throughout the pregnancy.²⁶⁰ Eventually she admitted to intentionally abandoning the live infant inside her home, knowing he would die.²⁶¹ During the criminal proceedings, Dr. Phillip Resnick, the seminal researcher and foremost authority on neonaticidal behaviors, appeared as an expert witness on Deegan's behalf.²⁶² He affirmed her dissociation defense, which he said was caused by the extensive sexual and domestic abuse she had suffered throughout her life, first

249. Jim Anderson, *Judge hears appeal in baby's death*, Star Tribune, February 20, 2010.

250. *Id.*

251. Katy Zillmer, *Nicole Beecroft case goes back to court*, Lillie News, Sept. 30, 2009, <http://www.lillienews.com/content/nicole-beecroft-case-goes-back-court-0#.UxPIO3IX9g0>.

252. Jim Anderson, *Judge hears appeal in baby's death*, Star Tribune, February 20, 2010. As of the printing of this article there were no reports about the outcome of the appeal.

253. *Dana Deegan sentenced for second degree murder*, US Fed News Service, May 12, 2008.

254. *Id.*; *United States v. Deegan*, 605 F.3d 625, 627-28 (8th Cir. 2010).

255. *Id.* at 644 (8th Cir. 2010); *Dana Deegan sentenced for second degree murder*, US Fed News Service, May 12, 2008.

256. *Dana Deegan sentenced for second degree murder*, US Fed News Service, May 12, 2008.

257. *Woman sentenced to 10 years in infant's death*, AP Worldstream, May 13, 2008.

258. *United States v. Deegan*, 605 F.3d 625, 627 (8th Cir. 2010).

259. *Dana Deegan sentenced*, KXMBTV Bismark, May 12, 2008, <http://www.kxnet.com/getArticle.asp?s=rss&ArticleId=237645>.

260. *United States v. Deegan*, 605 F.3d 625, 627 (8th Cir. 2010).

261. *Id.*

262. *Dana Deegan sentenced*, KXMBTV Bismark, May 12, 2008, <http://www.kxnet.com/getArticle.asp?s=rss&ArticleId=237645>.

2014] *WHO ARE THE MOTHERS WHO NEED SAFE HAVEN LAWS?* 509

from her father and then from her husband.²⁶³ He also testified that her failure to acknowledge this pregnancy was due in part to three prior pregnancies and miscarriages during which she had experienced regular menstrual spotting.²⁶⁴ Despite Dr. Resnick's testimony, Deegan was convicted of second-degree murder and sentenced to 10 years of imprisonment.²⁶⁵ Her conviction and sentence were affirmed on appeal. When asked why she had abandoned her infant to die, she replied:

I couldn't take anymore. I couldn't handle it. I had everything on my shoulders. I couldn't even help myself. I had nobody to help me. I had no job, no nothing. I had all my babies to care for, a welfare mom. I had the feeling of being worthless. What could I do? I was overwhelmed and depressed. I didn't want to live through any more of it anymore. I didn't want to be there anymore, as a spouse, as a mother, as a daughter.²⁶⁶

XI. CONCLUSION

This study identifies many of the primary characteristics of Neonaticidal Mothers. Four of the most significant data points are the 97% pregnancy acknowledgment rate, the 89% concealment rate, the 94% unassisted delivery rate, and the 93% anti contraception-religion rate. The data also showed that most Neonaticidal Mothers were in their late teens and early 20s; lived with their parents; concealed their pregnancies for reasons including fear of family rejection, an unwanted child, and self-protection; most completed high school; few received prenatal care; few had histories of drug, alcohol, sexual or domestic abuse, mental illness or low IQs; most had not previously given birth; most abandoned their infants outdoors; most admitted to having given birth but many initially denied the birth or that the infant had been born alive.

The data identified only a few significant differences between the MDAI and MSAI cohorts: Twice as many MDAI as MSAI concealed their pregnancies; twice as many MSAI as MDAI acknowledged giving birth to a live infant; and three times as many MDAI as MSAI initially denied giving birth to a live infant but later admitted to it. Other differences between the two cohorts included the higher MSAI assisted delivery rate and education levels and the higher MDAI prior live birth, labor awareness, and unassisted delivery rates. Otherwise, with only one speculative exception, the data suggest that although the consequences of their conduct differed, the MSAI and MDAI are the same cohort. The one exception hypothecates that a subset of MSAI may

263. *United States v. Dana Deegan*, 605 F.3d 625, pages 24, 25, 32 (8th Cir. May 25, 2010).

264. *Id.* at 32.

265. *Dana Deegan sentenced*, KXMBTV Bismark, May 12, 2008, <http://www.kxnet.com/getArticle.asp?s=rss&ArticleId=237645>

266. *Id.* at 28.

have purposefully abandoned their infants in locations and under conditions that would increase the possibility of their rescue rather than death.

Similarly, there were only three statistically significant data points that distinguished the PRE and POST periods. First, despite the 23% decrease in overall events from PRE to POST, the 12% increase in DAI events in POST shows that Safe Haven laws have not increased infant survival rates. Consequently, if Safe Haven laws are deterring neonaticidal behaviors there is no indication that they are also reducing the number of neonaticidal deaths. Second, during the POST period, 9% fewer infants were discovered in or near garbage receptacles and through hospital diagnoses of post-partum Mothers who initially denied giving birth, whereas in the PRE period 12% more infants were discovered in or near vehicles, inside the Mother's residence or in bathrooms. Third, although there were significant increases in arrest, prosecution and conviction rates from PRE to POST, such data suggest changes in law enforcement and prosecutorial behaviors, not neonaticidal behaviors. Other interesting differences from PRE to POST were the increases in Hispanic and Caucasian rates, the decreases in African American and Asian rates, the increases in blunt force trauma and asphyxiation rates, and the decrease in abandonment rates.

The lack of information about the MSSSI cohort leaves unanswered the question of whether these Mothers would have endangered their infants' lives but for the Safe Haven option. If so, then Safe Haven laws are successfully saving infants' lives by decriminalizing child abandonments. However, if higher rates of MSSSI than MDAI/MSAI give birth to more children whom they parent, live more—independently of their own parents, are older than MDAI/MSAI and are more capable of or willing to legally surrender their newborns, then the Safe Haven laws are being used but not by the target population of Mothers who endanger their unwanted infant's lives.

This study also leaves many questions about Neonaticidal Mothers unanswered. For example, do either the mental health or legal system truly understand the neonaticide phenomenon? Both systems analyze neonaticide differently because both are informed by opposing operational values. The mental health system places high value on therapeutic treatments to enable people to achieve their human potential. The legal system places high value on human accountability to punish people for conduct that is illegal and harmful to others. While the mental health system seeks insight and behavioral awareness, the legal system seeks control. Is the mental health system, which places a premium on helping people without judging them, correct in its diagnosis that Neonaticidal Mothers are so threatened by an unwanted pregnancy that they are incapable of acknowledging its existence? Or, is the legal system, which places a premium on judging people without helping them, correct in its high conviction rates and low acceptance rates of neonaticide syndrome defenses? Do defense attorneys understand that neonaticide syndrome defenses are a direct route to conviction because the Mother is inevitably impeached by evidence that she knew of and concealed her pregnancy? Do politicians understand that Safe Haven laws may not be saving infants' lives if the women who need them don't know about them and the women who use them would

2014] *WHO ARE THE MOTHERS WHO NEED SAFE HAVEN LAWS?* 511

not otherwise kill or abandon their infants? Do state governments understand that without tracking systems there is no way to know if the laws are reaching their intended population and that Safe Haven information can be publicized with little cost on social network sites, in churches in Hispanic parishes, high school locker rooms, college dorms, grocery stores, at bus stops, on local television and radio news programs? Are they all in denial, blinded by their own perspectives?