

How a private message gets you sent to prison | Prospect Magazine

By Ethan Zuckerman

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Jessica Burgess sent her teenage daughter Celeste a message on Facebook in April 2022: “Hey we can get the show on the road the stuff came in... The 1 pill stops the hormones and then you gotta wait 24 hour 2 take the other.” Her daughter, around 23 weeks pregnant, took the pills and aborted her fetus.

After a tipoff, local police investigated and both Burgess and her daughter are being charged with felony crimes in the US state of Nebraska. The evidence against them: the messages mother and daughter sent on Facebook, obtained by serving its parent company, Meta, with a warrant.

The Burgess case is receiving attention in the US owing to the Supreme Court decision that eliminated the constitutional right to an abortion, allowing individual states to limit or prohibit the termination of a pregnancy. While Burgess is being prosecuted under an earlier Nebraska law, which banned most abortions after 20 weeks of pregnancy, her case raises the spectre that digital data may be used to prosecute women seeking abortions in jurisdictions that have since introduced near-blanket bans. US social media has been filled with warnings to women to delete period and fertility tracking tools for fear this data could be used against them. Experts warn that other digital traces—texts to a friend about an unexpected pregnancy, searches for information about pharmaceutical abortion—are likely to be incriminating.

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