

# GZS Baskerville Pages 00

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# Speech at November 7th Fathers' Rally in Washington D.C

[http://www.fa-ir.org/alabama/baskerville\\_speech.htm](http://www.fa-ir.org/alabama/baskerville_speech.htm)

**Stephen Baskerville, 11-07-02**

We are met here today in this city of government, where so many have assembled before, because once again our Constitution has been betrayed by the government over which it was intended to reign.

As we stand on this historic spot on this fine autumn day, I see in the distance a copper dome that sits atop one of the great buildings of this majestic city. That building is the Library of Congress, where for a quarter century my father labored in this country's federal service to provide for his family. That building is a monument both to the achievement of human knowledge and to the achievement of strong government with dedicated public servants like my father.

But we are not here because of strong government. We are here because of intrusive government. We are here because of invasive government. Because of government that is out-of-control. Government that comes in the night and takes away the children.

We are here today to announce to the world that the stealing of children has no place in a free and decent society. It has no place whether it is perpetrated by a stranger, by a parent, or by a court of law.

We are here because the tears of children, and the blood of their fathers, cry out to all of us against one of the most shameful episodes in our country's history: a time when officials of our government, their lips cynically dripping with the words "best interest of the child," ruthlessly use and abuse children to increase their own, already dangerous power: They cry out, against crooked judges, who earn their daily bread by ripping as many children as they can from the loving embrace of their parents.

1. They cry out, against profiteering lawyers, who line their pockets with the patrimony of our children.
2. They cry out against fraudulent psychotherapists, who pervert their trade into a system of institutionalized child abuse.
3. And they cry out, against the plainclothes secret police agents of the Office of Child Support Enforcement.

But that is not all:

1. They cry out as well against cowardly politicians who have sworn to protect and defend our Constitution, but instead protect and defend a national system of kangaroo courts, presided over by gangsters in judicial robes.
2. And they cry out against pressure groups that profess feminism and practice Stalinism.
3. Finally, they cry out against all of us, who for too long have tolerated the invasion of our families and the violation of our children by petty tyrants who are supposed to be the servants of our democracy.

From these crimes in our land, none of us is without guilt. The fathers of this country have indeed abdicated our responsibility. But we will not expunge our guilt with money, for that is not where we have failed. What we have abdicated is our duty to protect our children from a dangerous and destructive machine that is using children as pawns and weapons for the power and profit of grown-ups.

A great responsibility rests upon all of us here, a responsibility to our own children, yes, but also to all children and all their parents who have lived and will live under our Constitution: to those who have come before and those who will follow to the children who have baptized us with their tears and to the parents who have hallowed our cause, in some cases, with their blood.

So as you join us here today and enlist yourselves in our cause, never forget that it is you: You who have had your beloved children torn from your arms.

- You who are missing precious years watching your children grow tall and strong.
- You who may have no hope of ever again seeing your children in this world.
- You who have been reviled with the names of "batterer" and "deadbeat," who have seen the hearts of your children turned against you, and their young minds poisoned with hate and bitterness.
- You who have endured reproach, and plunder, and jail for the love of your children. Remember that you are the heroes of our time, and I promise you now that, God willing some day, somehow your children will know of your sacrifice and your heroism. And when they do, they will say: That man, who spoke out against injustice was my father.
- That man, who was not afraid of tyrants and bullies was my father.
- That man, who loved me so much that he sacrificed everything for me, and children like me, that man was my father.

# Could your kids be given to 'gay' parents?

[http://www.worldnetdaily.com/news/article.asp?ARTICLE\\_ID=39222](http://www.worldnetdaily.com/news/article.asp?ARTICLE_ID=39222)

**Stephen Baskerville, WorldNetDaily.com, 07-01-04**

In the debate over gay marriage, strikingly little attention has been paid to the impact on children. Some question the wisdom of having children raised by two homosexuals, but the best they can seem to argue is that serious flaws vitiate the literature defending it.

Almost no attention has been devoted to what may be the more serious political question of who will supply the children of gay "parents," since obviously they cannot produce children themselves. A few will come from sperm donors and surrogate mothers, but very few. The vast majority will come, because they already do come, from pre-existing heterosexual families. In Massachusetts, "Forty percent of the children adopted have gone to gay and lesbian families," according to Democratic state Sen. Therese Murphy.

Sen. Murphy seems totally oblivious to the implications. "Will you deny them their rights?" she asks. With some 3 percent of the population, gay couples already seem to enjoy a marked advantage over straight ones in the allocation of supposedly superfluous children.

But whose rights are being denied depends on how deeply we probe and what questions we ask. Granting gay couples the "right" to have children by definition means giving them the right to have someone else's children, and the question arises whether the original parent or parents ever agreed to part with them.

Not necessarily. Governments that kind-heartedly bestow other people's children on homosexual couples also have both the power and the motivation to confiscate those children from their original parents, even when the parents have done nothing to warrant losing them.

Sen. Murphy formulaically asks us to take pity on "children who have been neglected, abandoned, abused by their own families." But this is far from the whole picture.

Ever since the federal government became involved in the child-abuse business some 30 years ago, governments nationwide have had the means and the incentive to seize children from their parents with no due process finding that the parents have actually abused their children. The 1974 Child Abuse Prevention and Treatment Act (CAPTA, also known as the Mondale Act) provides generous financial incentives to states to remove people's children under the guise of protecting them. In the aftermath of CAPTA, the foster-care rolls exploded, as children were torn from their parents and federal funds poured into state coffers and foster-care providers. According to the Child Welfare League of America, "There were many instances then, as now, of children being removed unnecessarily from families." Many foster homes were far more abusive than the families from which the children had been removed.

But the federal government, ever ready to create a new program to address the problems created by its existing programs, had a solution. The 1997 Adoption and Safe Families Act provided more federal money to transfer children from foster care into adoption, enlarging the client base of stakeholders with a vested financial interest in available children. Gay marriage expands this client base still further.

Among the states that have taken fullest advantage of this gravy train is Massachusetts. A typical case is that of Neil and Heidi Howard, whose children were seized by the state's Department of Social Services (DSS) with no charge of abuse against either parent and no evidentiary hearing. DSS tried to put the children up for adoption and were prevented only by lengthy court proceedings and extensive publicity in the Massachusetts News. Other families are not so fortunate.

This traffic in children has been in full flow since well before gay marriage. Belchertown attorney Gregory Hession alleges a "child protection racket" rife with "baby stealing and baby selling." Hession describes courts where the hallways are clogged with parents and children being adopted. "You could hardly walk. You had never seen such mass adoptions before." Reporter Nev Moore of the News describes the auction blocks for children operated by DSS:

If you prefer to actually be able to kick tires instead of just looking at pictures you could attend one of DSS's quaint "Adoption Fairs," where live children are put on display and you can walk around and browse. Like a flea market to sell kids. If one of them begs you to take him home you can always say, "Sorry. Just looking."

This is the bureaucratic milieu – largely hidden from all but those who must endure it – into which gay marriage advocates want to inject millions of new couples in search of children to adopt.

The number of truly abused children cannot begin to fill this demand without government help. We know that statistically child abuse in intact two-parent families is rare, and two-thirds of reports are never substantiated. Yet even in those instances of confirmed abuse, a little digging reveals the pernicious hand of the government generating business (and children) for itself.

Child abuse is overwhelmingly a phenomenon of single-parent homes. Government and feminist propaganda suggest that single-parent homes result from paternal abandonment. In fact, they are usually created by family court judges, who have close ties to the social service agencies that need children. By forcibly removing fathers from the home through unilateral or "no-fault" divorce, family courts create the environment most conducive to child abuse and initiate the process that leads to removal of the children from the mother, foster care, and adoption. Gay adoption is simply the logical culmination in the process of turning children into political instruments for government officials.

What this demonstrates is that same-sex marriage cannot be effectively challenged in isolation. Opponents must bite the bullet and confront the two evils that pose a far more serious and direct threat to the family than gay marriage: the child protection gestapo and the even more formidable "no-fault" divorce machine.

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Failure to grasp this nettle will leave social conservatives exposed to ever more contempt from a public that is crying out for leadership to rescue the family but which has been led to view social conservatives, however unjustly, as puritanical bigots who want to deny equal rights to homosexuals – rights that entail powers of totalitarian dimensions, undreamed of before the sexual revolution.

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## Report from Washington

<http://mensnewsdaily.com/archive/a-b/baskerville/2004/baskerville060804.htm>

### Dr. Stephen Baskerville, ACFC, 06-08-04

WASHINGTON, DC - As parents around the globe become increasingly outspoken in their opposition to the anti-family, anti-father policies of the world's governments, we in Washington have not been idle. Here is a quick note to let you know what we have been up to.

Last weekend I spoke in Atlanta before the Libertarian Party National Convention. The theme was the government's attack on fathers and families and why the Libertarian Party could benefit by adopting a platform on the family that recognizes and opposes this onslaught, which is being ignored and even abetted by the two major parties. I called for shared parenting, consideration of several different proposals for making marriage an enforceable contract, and federal legislation to protect the constitutional rights of parents against arbitrary government action against them and their children. The invitation to speak at the conference was arranged largely by William Wagener, who also videotaped it. We hope that tape will be available on the internet soon.

ACFC Executive Director Mike McCormick and I have also been working with groups in Washington to create a coalition to initiate new action on behalf of families. Among efforts is the development of federal legislation to preserve the rights of parents against arbitrary action by the government at all levels. We are working on revising the Parents' Rights and Responsibilities Act (PRRA) of 1995 to make it a law that will preserve the constitutional rights of all parents not to have their children interfered with or taken away, *even when there is a divorce or separation*. I will explain more about this bill, our proposed revisions, and its implications in a later missive. For now I will just say that among its merits is that it would protect the parent-child bond from the federal level, without actually involving the federal government in family law. It would also serve as a lightening rod to mobilize a broad-based pro-family coalition with non-custodial parents working side-by-side with mainstream political groups whose aim is to preserve the family, reform the judiciary, and roll-back the power of government generally. More soon.

Iowa's shared parenting legislation, recently signed by Gov. Thomas Vilsack, may have national implications. Aside from setting a good example for other states, Iowa is important in national family politics. The bill passed the Iowa Senate unanimously, whereas the Democrats had previously had a party line against it. The bill was signed by Democratic Governor Thomas Vilsack, who had previously vetoed it and who is being tipped as a possible running mate for John Kerry. Further, Iowa Republican Senator Charles Grassley is reputed by many to be the most pro-family member of the US Senate. He was the original lead sponsor of the PRRA (see above), and getting him to sponsor a modified version could be highly advantageous in getting it passed.

*Finally, our ability to continue this work depends on the time and resources we can devote to it. I am still a part-time president but we hope this will change as the membership of ACFC grows. If you have not done so already, please join ACFC and get your friends, associates, and others to do so. Also please affiliate your group to ACFC or start a group if you have not done so already. Mike McCormick will soon be sending out information on how to do so.*

[Stephen Baskerville](#)

President

American Coalition for Fathers & Children

Washington, DC

# Strengthening Marriage Through Divorce and Custody Reform

"The Family in America", volume: 18, number: 05

[http://www.profam.org/pub/fia/fia\\_1805.htm](http://www.profam.org/pub/fia/fia_1805.htm)

**Stephen Baskerville, Ph.D.\*, 06-01-04**

As the battle over same-sex marriage heats up, we may wish to consider other ways to defend and strengthen marriage as an institution. Any comprehensive strategy for restoring marriage must address its nemesis: divorce. Of all the threats to marriage and the family today, divorce is clearly the most direct. Yet it is also the least understood and most neglected.

Confronting divorce can strengthen the campaign for marriage by restoring a more constructive and proactive balance to issues where traditional marriage advocates are made to appear "intolerant." Michael McManus writes that "divorce is a far more grievous blow to marriage than today's challenge by gays."<sup>[1]</sup> The present failure of family advocates to address divorce is becoming conspicuous and threatens to undermine their moral authority elsewhere. "People who won't censure divorce carry no special weight as defenders of marriage," writes columnist Froma Harrop.<sup>[2]</sup>

This failure stems in part from the view that divorce is a private matter in the lives of individuals, not something of political significance or connected with public policy. The divorce epidemic is usually depicted as a cultural spin-off of the 1960's sexual revolution, where loosening moral standards led to the breakdown of the family and unleashed a plethora of social ills connected with fatherless children. Consequently, the remedy is seen as marriage therapy, and the role of public policy is limited to funding the therapy. The most prominent response today, the Bush administration's \$1.5 billion plan to promote marriage through counseling, ignores divorce and the laws which facilitate it.

In fact, the divorce revolution has always been driven by politics. Without addressing the political dynamic, measures to bring divorce under control — and by extension, efforts to strengthen marriage generally — are likely to have limited efficacy.

"No-fault" divorce laws were introduced in the United States and other industrialized countries during the 1970s and are being expanded today into other regions of the world. The campaign was based on misleading information from the start. Laws advertised as allowing couples to divorce without legal grounds by mutual consent actually created involuntary or unilateral divorce, permitting one spouse to dissolve a marriage for any reason or no reason without incurring any liability for the consequences. "In all other areas of contract law, those who break a contract are expected to compensate their partner or partners," writes Robert Whelan, "but under a system of 'no-fault' divorce, this essential element of contract law is abrogated. Divorce comes to be regarded as one of those things that just happens."<sup>[3]</sup>

In fact, the legal implications go further, since the courts do not remain neutral, but invariably side with the violator of the agreement to punish the faithful spouse. Attorney Steven Varnis points out that "the law generally supports the spouse seeking the divorce, even if that spouse was the wrongdoer, by granting divorces with little regard for a spouse who may not desire it."<sup>[4]</sup>

Most people clearly did not realize what had happened. "I never knew what no-fault divorce really meant," says a woman quoted by Judy Perejko. "Never, in my wildest dreams, did I imagine that one person could force another person into a divorce."<sup>[5]</sup> Indeed, only now are even well-informed people fully comprehending the implications. Not until 1996 did Maggie Gallagher publish a book whose title accurately describes what happened: *The Abolition of Marriage*. Yet those who did understand availed themselves of the opportunity. Not only do some estimates now predict that two-thirds of marriages will end in divorce,<sup>[6]</sup> some 80% of the approximately 1.5 million annual divorces are unilateral and over the objection of one spouse.<sup>[7]</sup>

Yet even today, it is likely that we still are not seeing the full picture and that the consequences of abolishing one of the most universal institutions of human civilization reach far beyond what even most educated people imagine.

Three decades of unrestrained divorce have created extensive interests, including many public officials, with a stake in encouraging it. Critics like Parejko point to a lucrative "divorce industry," the legal and psychotherapeutic interests who thrive on divorce. But even more than an industry, divorce has become a regime—a vast bureaucratic empire spanning all three branches of federal, state, and local government. Comprising some 35% of civil litigation,<sup>[8]</sup> divorce and custody are the cash cow of the judiciary and bring earnings to a host of executive and legislative officials as well, plus semi-public hangers-on. Divorce is now both big business and big government, often with no clear delineation between the two.

While its ideological origins may lie in the sexual revolution, the institutional foundations of the divorce apparatus were laid in the welfare state. Government-enforced divorce extended the principles of welfare to create single-parent homes among the affluent as welfare did among the poor. The major governmental institutions of divorce were all created as part of welfare: juvenile/family courts, child support enforcement, child protection services.

Like welfare, the creation of single-parent homes through divorce is closely tied to the feminist revolution. Barbara Whitehead has described how, throughout the twentieth century, "divorce became an increasingly important measure of women's political freedom, as well as an expression of feminine initiative and independence."<sup>[9]</sup>

The effect has been to weaken the family through its most vulnerable point: the father. The ideologically palatable way to present this in public policy debates was likewise borrowed from welfare experience and attributed the problem to fathers abandoning their children. "Husbands abandon wives and children with no looking back," writes one scholar. "Today, the principal cause of fatherlessness is paternal choice ... the rising rate of paternal abandonment."<sup>[10]</sup>

No evidence is provided by these scholars that this is true. In the largest federally funded study on the subject, Sanford Braver has



shown that at least two-thirds of divorces are initiated by women, whether measured by official filings or surveys of couples. Few of these divorces involve grounds such as desertion, adultery, or violence; the reasons usually given are "growing apart" or "not feeling loved or appreciated."<sup>[11]</sup> Another study found similar results, adding that "who gets the children is by far the most important component in deciding who files for divorce."<sup>[12]</sup>

These are scholarly estimates; others put the proportion much higher. Shere Hite reports that "ninety-one percent of women who have divorced say they made the decision to divorce, not their husbands." David Chambers, a divorce attorney, insists that "the wife is the moving party in divorce actions seven times out of eight."<sup>[13]</sup>

This single fact changes the political dynamic fundamentally. Clearly more is at work here than couples deciding to part ways. Under no-fault laws, divorce became a means not simply of ending a marriage, but of seizing monopoly control over property and above all children, who become political instruments conferring leverage backed by penal sanctions. Further, by extending the reach of the state over the children and the involuntarily divorced parent, unilateral divorce has turned children into weapons of not only parental but governmental power. Family breakup is less a spontaneous social phenomenon than a conscious and planned power grab. Contrary to what governments tell us, fathers are not abandoning their children: The government's divorce machinery is separating children from their fathers.

The nexus of government's divorce machinery lies in the judiciary: the little-understood political underworld of family law. Unlike other tribunals, family law courts usually exclude the public, leave no record of their proceedings, and keep no statistics on their decisions, so information is scant.

There is even a sense in which they are not really courts, but closer to administrative agencies; one judge describes them as a "social service delivery system." Uniquely, their mandate is not even to administer justice as such, but to determine "the best interest of the child." Because this requires no wrongdoing by litigants, family courts would appear to be the only courts that can summon and order law-abiding citizens who are simply minding their own business.

Family courts handle matters such as divorce, custody, child support, child protection, domestic violence, truancy, and juvenile crime. Their workload therefore is determined almost entirely by the existence of broken homes. Recalling Charles Dickens' observation that "the one great principle of the law is to make business for itself," it may not be overly cynical to suggest that family court personnel have a vested interest in encouraging divorce. While family courts, like all courts, complain of being "overburdened," it is clearly in their interest to be overburdened, since judicial powers and salaries, like any other, are determined by demand. "Judges and staff work on matters that are emotionally and physically draining due to the quantity and quality of the disputes presented," Judge Robert Page explains. "They should be given every consideration for salary and the other 'perks' or other emoluments of their high office." Judge Page suggests his colleagues' aim should be to increase their volume of work by ensuring that divorce settlements are attractive for divorcing parents: "With improved services more persons will come before the court seeking their availability.... As the court does a better job, more persons will be attracted to it as a method of dispute resolution.... The better the family court system functions, the higher...the volume of the persons served."<sup>[14]</sup>

Family court judges are usually appointed and promoted by commissions dominated by lawyers and other professionals.<sup>[15]</sup> They are political positions, in other words, answerable to the bar associations who control their appointments or finance their election campaigns and who also have an interest in maximizing the volume of litigation.<sup>[16]</sup> Judges, therefore, sit atop a large political machinery in which they wield substantial powers of patronage.

Among the clients of court patronage, along with attorneys, are experts who help determine custody and "the best interest of the child." To understand this, it is necessary to remember that under no-fault divorce a parent's role in ending a marriage has no bearing on custody, even when it is clear who ended it; neither does the other parent's willingness to hold the marriage together. A parent who abrogates or violates a marital contract he or she freely entered incurs no suggestion thereby of being less fit or deserving of monopoly custody. Neither is there any recognition of the centuries-old principle that a non-divorcing, legally unimpeachable parent has a simple right to be left alone with his or her children. Instead we witness the peculiar spectacle of a judge taking it upon himself to determine "the best interest of the child" on whom he is forcibly inflicting a divorce and whose family he is using the power of his public office to dissolve.

This apparently unexceptionable phrase is in fact highly problematic. Not only is it vague; it provides no explanation for how it is in the interest of children to separate them from one of their parents six days out of seven, and perhaps altogether, at the simple request of the other. The best interest standard "is powerless to pre-empt divorce in the first place, which would be in the child's best interest in the majority of cases."<sup>[17]</sup>

Yet there is a more telling case against the "best interest." It transfers from parents to government officials the power to determine what is best for other people's children, over the objections of parents who have done nothing to forfeit the right to decide for themselves what is best for their children. "Such a criterion is dangerous, because it renders the claims of all parents to their natural children tenuous," writes Robyn Blumner, of the Florida American Civil Liberties Union. "Children could be given over to any set of new parents who offer a more advantaged upbringing." With respect to adoptions, the Illinois Supreme Court has held:

If the best interests of the child are to be the determining factor, persons seeking babies to adopt might profitably frequent grocery stores and snatch babies when the parent is looking the other way. Then, if custody proceedings can be delayed long enough, they can assert that they have a nicer home, a superior education, a better job, or whatever, and the best interests of the child are with the baby snatchers.<sup>[18]</sup>

"The law, thankfully, is otherwise," the court concludes. Not in the case of divorce. The court has succinctly described precisely the custody principles of divorce court.

Many accept this practice on the assumption that judges must decide what is best for children when parents “cannot agree.” But allowing one parent to surrender both parents’ decision-making rights over the children to government officials because of “disagreement” — without any infraction by the other (who may disagree only with the loss of his or her children) — invites collusion between the divorcing parent and state officials. Judges and civil servants are not necessarily disinterested parties, as Judge Page has acknowledged. “I don’t love your children,” he tells an interviewer. “I don’t even know them. It is a legal fiction that the law’s best interest is your children.”<sup>[19]</sup>

The best interest standard also provides a lucrative formula for legal practitioners. “It provides what might be called hair-trigger litigability,” writes Walter Olson, author of *The Litigation Explosion*. “Everything comes to be relevant and nothing, as the lawyers say, dispositive. Does your ex swear? Smoke? Gamble?... Roam the beach gathering driftwood?... Perhaps none of these peccadillos significantly endangers a child, but all can have some effect and you never know what will tip the balance. So it can’t hurt to bring them all up.”<sup>[20]</sup>

The best interest also justifies patronage in appointing expert consultants armed with an array of quasi-scientific child development theories. “As...the presentation of cases involves greater use of social sciences,” writes Judge Page, “family courts utilize experts in many fields...to advise on issues requiring specialized knowledge.”<sup>[21]</sup> Principles of justice and constitutional protections are excised from proceedings in favor of social science theory, sometimes colored by political ideology. “Family lawyers... maintain that justice has no place in their courts where their decisions are driven instead by questions of ‘need,’” writes Melanie Phillips. “Family court judges thus preside with equanimity over injustice, having turned themselves into a division of the therapy and social work industries.”<sup>[22]</sup> These experts too may not be wholly objective, since the more children that are brought before the courts by divorcing parents expecting favorable verdicts from the experts, the more employment is created for the experts.

Psychotherapists maintain a ubiquitous presence in family court proceedings. Braver, himself a psychologist, calls such expert advice “little more than guesswork.” “There is absolutely no credible evidence that these [methods] are valid predictors of which spouse will make the best primary parent,” he writes. “In fact, there is no evidence that there *is* a scientifically valid way for a custody evaluator to choose the best primary parent.” Some argue the “best primary parent” is the parent who remains loyal to the marriage agreement and the family. Braver attributes the one-sidedness of evaluators’ recommendations to “gender bias,” but pecuniary interest may be a sounder explanation. He quotes a custody evaluator to the effect that “almost all” his business would be lost without custody battles driven by pursuit of the “best interest.”<sup>[23]</sup> “What a bonanza those courts are for my ilk,” writes Harvard child psychiatrist Robert Coles. “We are the ones who get the patients.”<sup>[24]</sup> These experts rarely testify in open court, so they are not subject to cross-examination, and they may be covered by judicial immunity, so they are not accountable for their testimony.

Journalistic investigations have uncovered practices consistent with Braver’s experience. David Brown of the *Ottawa Citizen* has described “how the psychology field generates business for itself” in family court by launching investigations of parents who are under no suspicion of unfitness or wrongdoing. “Assessors are not required by law to have any specialized training, pass any exams, or follow any particular rules,” reports Donna Laframboise of Canada’s *National Post*. “No one evaluates them independently to ensure that they are competent and unbiased, or keeps track of how well families whose lives have been rearranged according to their dictates have fared afterward.” The *New York Daily News* likewise found that “there are no standards... for how much time the experts should spend with family members, how their meetings should be conducted, or what tests should be applied.”<sup>[25]</sup>

While a variety of pecuniary interests are involved, the main financial fuel of the divorce machinery is child support. This too grew out of the welfare apparatus.

Most people view child support as a measure requiring a relatively small number of men to take responsibility for offspring they have sired and then abandoned. No-fault divorce transformed it into a regime whereby “a father is forced to finance the filching of his own children.”<sup>[26]</sup> Coerced child support has thus weakened marriage by making it, almost literally, a man’s ball-and-chain. “By allowing a faithless wife to keep her children and a sizable portion of her former spouse’s income,” writes Bryce Christensen, “current child-support laws have combined with no-fault jurisprudence to convert wedlock into snare for many guiltless men.”<sup>[27]</sup>

This system of forcing parents to subsidize divorces they oppose is itself subsidized by federal taxpayers. Child support enforcement was originally federalized less to provide for abandoned children than to recover welfare costs, since no constitutional provision mandates federal involvement. Yet shortly after its creation in 1975, the machinery was dramatically expanded, with no explanation, to *all* child support cases, including the vast majority *not* on welfare. Today welfare cases, consisting mostly of unmarried parents, account for just 17% of all child-support cases, and the proportion is shrinking. The remaining 83% are non-welfare cases consisting largely of involuntarily divorced middle-class fathers with pockets to mine. These non-welfare cases currently account for 92% of the monies collected.<sup>[28]</sup> Promoted to help poor children whose mostly young and unmarried fathers had allegedly abandoned them, the program became a means to plunder previously married middle-aged and middle-class fathers whose children were taken from them through no fault or agreement of their own.

Advertised as a program to reduce government spending, child support enforcement has incurred a steadily mounting deficit. Taxpayers lost \$2.7 billion in 2002.<sup>[29]</sup> Though it provided little help for impoverished children, this funding created a financial windfall for middle-class divorcing mothers. A program advertised as helping the children of broken homes has become an engine for creating more of them. Christensen describes “the linkage between aggressive child-support policies and the erosion of wedlock”: “Politicians who have framed such [child support] policies...have — however unintentionally — actually reduced the likelihood that a growing number of children will enjoy the tremendous economic, social, and psychological benefits which the realization of that ideal [a two-parent family] can bring.”<sup>[30]</sup>

The social devastation wrought by divorce and the horrors of the divorce litigation itself have recently produced a crescendo of voices calling for reform. Yet by ignoring the politics, most remedies have proven ineffective, and some risk becoming part of the problem. Most responses have involved some combination of psychotherapy mixed with law enforcement.



Some jurisdictions now require divorcing couples to adopt “mediation” as an alternative to litigation. This sounds benign, but it is unlikely to reduce divorce, since mediation aims less to prevent divorce than to facilitate it. “Conciliation, understood as attempted reconciliation of spouses, appears to be less and less a feature of divorce proceedings,” writes Helen Alvare, who notes that it is “being replaced today by the use of mediation not to save a marriage, but to make the terms of its dissolution more amicable.”<sup>[31]</sup> Mediator Judy Parejko is harsher. “Mediation was pitched to the public as a service that would reduce the costs of litigation,” she writes. “But such well-intentioned messages served to cover up that no-fault was inherently *forced* divorce.” Indeed, given that “the ranks of mediators are filled with lawyers, mental health professionals, and social workers,” mediation can be imposed on parents who never agreed to divorce in order to satisfy patronage clients of the judge. Parejko reports that her court-affiliated mediation was terminated by a judge, and she was locked out of her office for trying to repair marriages. She writes of her colleagues: “They were in the business of mediation, charging a hefty fee for their settlement work, and without a steady flow of customers, their business would dry up.”<sup>[32]</sup> Some suggest that mediation further undermines due process of law, since it “takes place without rules of evidence, without recording, and without any judicial oversight,” often to the disadvantage of the non-divorcing parent. “Parties may be required to attend mediation *before going to court*.”<sup>[33]</sup> The emphasized words do not likely mean the court will deny a divorce to the belligerent, divorcing parent until that parent mediates; more likely, they mean the court will hold the children of the resisting, non-divorcing parent until that parent capitulates.

Some jurisdictions now require waiting periods and parent education for divorcing couples, ostensibly to impress upon them the harm done to the children. A Colorado proposal that parents with minor children wait one year is opposed by the Colorado Bar Association, the Colorado Domestic Violence Coalition, and the Colorado chapter of the Academy of Matrimonial Lawyers.<sup>[34]</sup>

Parent “education” classes are sweeping the nation, which some view as evidence of serious determination by governments to control divorce. From 1994 to 1998, “the number of US counties with this kind of curriculum tripled from 541 to 1516.”<sup>[35]</sup>

Yet on close inspection, the message of this curriculum is usually not that divorce is harmful, but that failing to cooperate with divorce is harmful. “This basically says: Divorce isn’t the death of a family,” according to attorney Andrew Shepard. “It’s the reorganization of a family.”<sup>[36]</sup> The effect can therefore be to shift blame onto the parent who opposes the reorganization. “The fact that one parent didn’t want the divorce—or that one of them had broken the promises they’d made when they were married—these were issues I was supposed to ignore,” writes Parejko.<sup>[37]</sup> Conducted by divorce practitioners, these programs add recipients to the patronage and further transfer control of children to government officials. The Canadian Bar Association (CBA) “urges the federal government to require parents to take mandatory parental education before they are permitted to *pursue court proceedings involving their children*.” As with mediation, it appears that the government is requiring the classes before it will permit the divorce; a closer look at the careful wording reveals precisely the opposite. Officials can still seize children at the initiation of divorce proceedings, and parents who want them returned must first submit to “education” by government instructors. “We want to pull away from the idea that parents have rights in relation to their children,” says Jennifer Cooper, chairwoman of the CBA’s family law section, which represents 2,200 divorce lawyers.<sup>[38]</sup>

A similar measure in Virginia is likewise described awkwardly in the *Washington Post*, which reports that parent re-education is “mandatory for anyone, married or not, *who goes to court over custody, visitation, or child support*.” Again, the fine print reveals how the measure, far from checking divorce, can be used to intimidate parents who resist it. “Even lawyers are rooting for the classes.”<sup>[39]</sup>

The principle that citizens can be coercively “educated” into accepting government action they regard as morally wrong (while the government holds their children) has an Orwellian quality. Parejko reports that such education “stayed away from presenting any of the dismal facts about how divorce increased certain risks for children.... No one ever addressed the simple fact that—in most cases—having both parents stay living together was what most every child would want.”<sup>[40]</sup> No one pretends that parents who disagree with divorce in principle and refuse to attend such classes or object to the curriculum are thereby denied a divorce and left in peace with their children while the divorcing parent departs alone. Instead, resisting parents become open to charges of being “uncooperative,” “angry,” or “in denial,” whereupon they may be ordered into more education, such as anger management classes, until they acquiesce. They will also likely be refused access to their children until their education is complete. “Divorce is a great destroyer that is eating the heart out of society as well as savaging children’s lives,” writes Patricia Morgan. “Its depredations will not be reversed given ever so many mediators or conciliators.”<sup>[41]</sup>

Another avenue for reform is investigations of the courts, which bring government practices into public view. Yet no official inquiries appear to have been conducted in the United States, and the few held in other countries, dominated largely by legal practitioners, have asked limited questions. Some proffered solutions may serve to increase divorce.

Investigations do highlight the incontestable fact that family courts generate by far the highest volume of complaints against the judiciary. Yet most investigations have ascribed shortcomings to operations that are “inefficient.” Formulated thus, such a finding can be interpreted to mean that the courts are “overburdened” or “understaffed” and that the solution may be found in increased funding. An investigation by the Australian Law Reform Commission found that “procedures are so riddled with inefficiencies, and its cases so poorly handled, that people are being denied justice.” Though harsh, the wording is consistent with divorce practitioners’ own view that justice will come with more funding, more courts, and higher salaries. The Commission’s report recommends, “more judges are needed in the Family Court.”<sup>[42]</sup> In Britain, a report to the Lord Chancellor written largely by divorce professionals details how children are separated from innocent parents on an enormous scale and for extended periods as a result of divorce court proceedings. It then recommends a large increase in the budget and powers of the divorce court apparatus. The head of the social workers’ union describes that apparatus as “a complete shambles,” but likewise proposes to increase the size of the shambles with “more resources.”<sup>[43]</sup>

The question not being asked here is why it should be assumed that more funding, more judges, and more courts will produce any result other than more divorces and more fatherless children.

These dynamics help illuminate the failure of therapeutic measures adopted to address the family crisis by both Democratic and Republican administrations over the last decade.

The first major policy response was the fatherhood programs of the Clinton administration. President Bill Clinton ordered a “Presidential Fatherhood Initiative” called “Strengthening the Role of Fathers in Families,” and Vice President Al Gore chaired a Federal Staff Conference on Fatherhood, which issued a report entitled *Nurturing Fatherhood*. Though marked by extensive use of therapeutic language about enhancing “relationships” and “encouraging good fathering,” in practice these programs were devoted almost entirely to expanding federal child support enforcement. A campaign launched by the Department of Health and Human Services (HHS) in 1999, “challenging fathers to remain connected to their children even if they do not live with them,” made clear that the relationships HHS most hoped to enhance were between fathers and federal officials:

Activities funded...include Fatherhood Development Workshops on effective practices for working with young unemployed and underemployed fathers; the development of a manual for workers to use in helping low-income fathers learn to interact more effectively with the child support enforcement system; and a peer learning college for child support enforcement experts to identify systemic barriers these young fathers face in becoming responsible fathers.[\[44\]](#)

Under the Bush administration, fatherhood programs were relabeled as marriage promotions. Yet the substance was a strikingly similar amalgam of therapy and law enforcement, with emphasis on the latter. In January 2003, HHS announced \$2.2 million in grants to faith-based groups to “promote fatherhood and healthy marriage.” Yet only 25% of the funds were earmarked for marriage; the rest deputized private groups to collect child support. In May, HHS announced more grants “to support healthy marriage and parental relationships with the goals of improving the well-being of children.” Here again, supporting relationships seems to mean collecting child support. Michigan’s enforcement agency received \$1 million.[\[45\]](#)

While perhaps valuable in calling attention to marriage dissolution, these programs do not address the underlying dynamic driving involuntary divorce. By placing divorce practitioners on the federal payroll and further expanding child support programs that subsidize divorce, these measures could arguably exacerbate the problem. Ironically, the Bush proposals seem to realize former First Lady Hillary Clinton’s vision that “it takes a village” to raise a child, the village in this case directed by federal officials. “The policy is designed to mobilize the entire community — including clerical, political, medical, business, and judicial leaders — to support children by strengthening marriage,” says Michigan’s child support agency.[\[46\]](#)

More substantial reforms gaining support include changes in divorce and custody law. Two proposals under consideration in many state and national legislatures involve modification of no-fault laws and a presumption of joint custody following divorce. Both contain promise, though they also have limitations.

Rolling back no-fault divorce faces political opposition from those who object that forcing people to remain married violates their civil liberties. No prominent voice seems to be advocating control over anyone’s personal associations. (G.K. Chesterton once pointed out that even a complete prohibition on divorce was never in practice more than a prohibition on remarriage.)[\[47\]](#) “The alternative to liberal or ‘no-fault’ divorce is not no divorce,” writes Robert Whelan, “but divorce which is granted only...after due legal process to establish fault.”[\[48\]](#)

The obvious counter-argument, that failed marriages often entail imperfections on both sides, does not necessarily justify abandoning all standards of justice. “There is fault on both sides in every human relationship,” Fred Hanson acknowledged when the new laws were being drafted. “The faults, however, are far from equal. No secular society can be operated on the theory that all faults are equal.” Hanson was the dissenting member of the National Conference of Commissioners of Uniform State Laws, which designed state no-fault laws. “To do justice between parties without regard to fault is an impossibility,” he warned. “I wonder what’s to become of the maxim that no man shall profit by his own wrong—or woman either, for that matter.”[\[49\]](#) Today we have the answer to that question.

Concerning custody law, some fathers’ groups advocate a presumption of joint custody or “shared parenting” on divorce. Some family advocates see this as making divorce less painful, rather than preventing it. This criticism is not entirely fair. Considerable evidence indicates that children thrive better when they have continued contact with both parents following divorce. More to the point, by removing children as weapons or spoils, joint custody laws have been shown to reduce the incidence of divorce in the first place.[\[50\]](#)

One obstacle to reforming divorce and custody laws is the volume of legislation that would be required, which, judging from past experience, could simply be ignored by the judiciary or bring unintended consequences. Family law is reserved to states in the US, and many across the political spectrum oppose federal involvement in families. Changes would, therefore, have to be effected state by state with possibly uneven results.

An alternative approach that may achieve the desired effect of strengthening family integrity and the marriage contract while avoiding government regulation of family life is simply to enforce the already-existing right of parents and their children not to be separated without cause. An extensive body of state and federal case law, reflecting centuries of Common Law tradition, already recognizes the right to parent one’s children free from government interference.[\[51\]](#) Yet this body of law is simply ignored in divorce. Enforcing it could offer a more effective and less invasive method of preserving family bonds than extensive “social engineering” through changes in marriage and custody laws or government-sponsored family therapy.

As a rule governing when children may be removed from their parents, this would entail replacing the “best interest of the child” standard with a more precise policy explicitly and categorically stipulating what constitutional case law already provides: that no child should be forcibly separated from a parent without legally recognized grounds of wrongdoing or without agreement by that parent to a divorce or separation. Thus “custody” would not so much be actively awarded as simply passively left to remain with the parent of whichever gender who remains true to the marriage. Given the role of child custody in determining who files for divorce, this would provide a powerful disincentive with virtually no government interference in private life.

This option seems consistent with most lay people's understanding of basic justice and the proper scope of government power. "There's really not much we can do about people—male or female—who will selfishly turn their spouse and children's lives upside down by ripping apart a family without even offering a coherent reason," observes Tim O'Brien. Yet we could reduce the consequences, "by simply amending our no-fault divorce law to give the (rebuttable) presumption of custody of any minor children to the defendant [who does not divorce], regardless of gender." O'Brien elaborates on what must seem unexceptionable to the uninitiated:

It is reasonable to presume that "the best interests of the child" will be better served by remaining with the parent who does not abandon commitments for frivolous reasons and wants to maintain the family. The spouse/parent who still wishes to leave may, of course, do so—with his or her clothes and any other personal belongings. The more dedicated, responsible party should keep the children, home, property and claim on future child support.

This policy would both reduce divorce and render redundant most of the government's family machinery. "The immediate effect...would undoubtedly be a plummeting divorce rate, reducing the necessity for child support," O'Brien adds. "The only parents who would incur such obligations are those who have voluntarily taken them on in exchange for being released from the marriage contract."<sup>[52]</sup>

Theoretically, additional legislation is not necessary to protect these rights; enforcement of existing constitutional rights should be sufficient to protect the rights of citizens to their children, their property, and their freedom. It would carry few financial costs and could reduce the need for expensive and invasive federal programs that thrive on family destruction by addressing its symptoms rather than its cause. Even the federal judiciary, whose increasing involvement in child support and domestic violence cases contributes to what some see as "activism," might regain its place as constitutional defender were it required to confront the constitutional implications of removing children from legally unimpeachable parents.

Yet recognizing that the willingness of the federal judiciary to review practices of family courts is unlikely, the legislative and executive branches at both the state and federal levels could also play a leadership role.

Several years ago, Congress considered legislation to do something like this. The Parental Rights and Responsibilities Act declared that parents' rights to direct the upbringing of their children are fundamental rights which the government can curtail only under conditions of "compelling interest." It specifically stipulated that "No federal, state, or local government, or any official of such a government acting under color of law, shall interfere with or usurp the right of a parent to direct the upbringing of the child of the parent."<sup>[53]</sup> The measure was defeated due to intensive special interest lobbying. Yet the bill's most significant weakness may have been that it exempted parents who lose their children through involuntary divorce. In other words, the proposed law stipulated that the government could not interfere with or separate children from a parent unless the other parent requested it by filing for divorce, in which case the government could intervene with no further explanation. Indeed, by specifically exempting divorce, the proposed law could even have been interpreted as endorsing government-enforced separation of children from parents. A substantial constituency that could have been mobilized to support this bill was thus specifically excluded from its protections. Similar legislation, this time including divorced parents, could rally the coalition that failed to emerge in the 1990s.

Finally, given the judicial proclivity to interpret statutory language differently from legislative intent, further measures might be considered. Officials that knowingly remove children from their parents without cause are violating well-established constitutional rights. Congress and state legislatures or federal and state inspectors general could demonstrate their commitment to preserving family and marital bonds by investigating federal, state, and local agencies with a view to identifying and curtailing violations of civil rights of American parents now being carried out under color of law.

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# Violence Against Women Panel Commits Violence Against Democracy

<http://mensnewsdaily.com/archive/a-b/baskerville/2004/baskerville041604.htm>

**Dr. Stephen Baskerville, ACFC, 04-16-04**

WASHINGTON, DC | APRIL 15, 2004 - American citizens were treated to rigged public policy formulation today, as the National Advisory Committee on Violence Against Women began its 2-day meeting in Washington. The federal panel is charged with advising the government under the Violence Against Women Act.

The meeting was scheduled to last a total of 13 hours. Of that time, the panel reserved 30 minutes for the public to express its concerns, which was scheduled from 11:30 am to 12:00 noon. In fact, the public comments began at 11:40, in part because panel member Judge Abbi Silver spent part of the public comment time announcing her pregnancy and birthday, to vigorous applause from other panel members. After this the moderator announced with evident regret that the panel was required to allow citizens some input into the process.

Members of the public were then told they would be given 3-4 minutes each to voice their concerns. The first speaker, Karen Baker, Director of National Sexual Violence Resource Center, spoke without interruption for 5-1/2 minutes. I spoke next and was cut off promptly at 4 minutes. Other speakers (in order) were Stanley Green of Stop Abuse for Everyone (SAFE), Jan Brown of the Domestic Violence Helpline for Men, David Burroughs, Chair of the Forum for Equity and Fairness in Family Issues, Lee Newman, Executive Director of Violence Intervention Program (New Hampshire chapter of SAFE). All speakers except Ms. Baker had their presentations punctuated with warnings of the time limit from the moderator ("50 seconds...", 30 seconds...") and held to 4 minutes or less. When one scheduled citizen failed to show up, Mr. Burroughs volunteered to submit additional testimony. Though the session was still well below the scheduled 30 minutes in length, his request was denied, and the panel adjourned for lunch.

Following past meetings, the Committee has made available a transcript of public comments after about 6-8 months.

The NAC is already a rigged process, comprised of a membership heavily weighted with domestic violence professionals.

The NAC is officially co-chaired by Attorney General John Ashcroft and Department of Health and Human Services Secretary Tommy Thompson. Citizens wishing to express their views on this travesty of the democratic process and contempt for the views of American citizens can write to these officials or their member of Congress:

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Testimony of Stephen Baskerville, President  
American Coalition for Fathers and Children  
to the  
National Advisory Committee on Violence Against Women  
April 15, 2004

The American Coalition for Fathers and Children is America's premier shared-parenting organization. We represent about 45,000 members through our affiliate organizations. Indirectly, our constituency consists of some 15 million non-custodial parents and their families.

Our concern is to ensure that children receive the benefits of a stable, two-parent home and when this is not possible to see that they have the advantages of being raised by both a mother and a father.

Research shows that domestic violence and child abuse are overwhelmingly phenomena not of married, intact families but of separated and separating families, and that the safest place for women and children is an intact, two-parent home. [Callie Marie Rennison and Sarah Welchans, Intimate Partner Violence (Washington, DC: US Department of Justice, Bureau of Justice Statistics, May 2000, NCJ 178247), p. 5; Jean Bethke Elshtain, "The Lost Children," in Cynthia R. Daniels (ed.), Lost Fathers: The Politics of Fatherlessness in America (New York: St. Martin's, 1998), p. 129; Report of the American Psychological Association Presidential Task Force on Violence and the Family, "Issues and Dilemmas in Family Violence," Issue #4 (Washington, DC: n.d.)]

In those relatively rare instances when domestic violence and child abuse occur within two-parent families, we recognize that extreme case will warrant the separation from an abusive parent. But again, we know that this is seldom the case.

What is more common, and what most concerns us, is where fabricated allegations of domestic violence and child abuse are used to break up families, to separate children from loving, innocent parents, and to bring the penal system to bear on those parents without

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due process of law. Abundant documentary evidence suggests that knowingly false accusations are routine in child custody cases and that they are seldom, if ever, punished. We also have documentary evidence that restraining orders are routinely issued not to punish criminal wrongdoing (which they cannot do) but for the express purpose of separating children from their parents to gain an advantage in custody disputes.

It is widely recognized that manipulating access to children and needlessly separating children from fit loving parents is itself a form of violence. False allegations are also recognized in most areas of the law as a criminal act. This is especially the case, and significantly endangers the safety of children, where false accusations are used to remove, not an abusive parent, but a protective parent.

You will no doubt hear statistics demonstrating that men and women perpetrate domestic violence in roughly equal numbers. But further, some facts of which you may be unaware:

The overwhelming majority of restraining orders are issued against fathers.

Yet fathers commit a tiny minority of child abuse and about half the domestic violence.

The vast majority of child physical and sexual abuse is committed in single-parent homes, home usually where the father is not present. "Contrary to public perception, research shows that the most likely physical abuser of a young child will be that child's mother, not a male in the household." [Patrick Fagan and Dorothy Hanks, The Child Abuse Crisis: The Disintegration of Marriage, Family, and the American Community (Washington, DC: Heritage Foundation "Backgrounder," 3 June 1997), p. 16.]

The father is the parent most likely to be the protector of children. "The presence of the father . . . placed the child at lesser risk for child sexual abuse," according to David L. Rowland, Laurie S. Zabin, and Mark Emerson, in a study of low-income families. "The protective effect from the father's presence in most households was sufficiently strong to offset the risk incurred by the few paternal perpetrators." ["Household Risk and Child Sexual Abuse in a Low Income, Urban Sample of Women," Adolescent and Family Health, vol. 1, no. 1 (Winter 2000), pp. 29-39.]

A British study found children are up to 33 times more likely to be abused when a live-in boyfriend or stepfather is present than in an intact family. [Robert Whelan, Broken Homes and Battered Children: A Study of the Relationship between Child Abuse and Family Type (London: Family Education Trust, 1993), p. 29.]

At a time when the Bush administration is proposing to spend \$1.5 billion over 5 years to promote fatherhood and marriage for the benefit of children, other government agencies should not be promoting policies that are exacerbating the crisis if fatherless children.

We are especially concerned that domestic violence policy dangerously blurs the ancient distinction between sin and crime. We urge therefore that all forms of violent assault be treated with formal criminal charges and that those accused be given full due process protections.

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# Massachusetts' Family 'Justice'

<http://www.humaneventsonline.com/article.php?id=3578>

**Stephen Baskerville, 04-13-04**

For all the furor sparked by the Massachusetts ruling on homosexual marriage, the full picture has yet to emerge. Strange to say, even opponents of same-sex marriage have seriously underestimated what is being done by Margaret Marshall and the Massachusetts courts.

The ruling on gay marriage is only the tip of an iceberg. For all their professed concern about "privacy" and "rights," Marshall and her colleagues are staging nothing less than a political *coup* that dramatically extends judicial and all governmental power into private life. Mandating homosexual marriages is minor endeavor compared with the more serious business of destroying heterosexual ones.

Family destruction is not some unfortunate by-product of a well-intentioned quest for ever-expanding definitions of equality. It results from a deliberate attack on families by judicial ideologues who practice not justice but gender justice: an extremist ideology which demands that heterosexual men be separated from their wives and children and punished for their alleged crimes against women, children, and gays.

To glimpse this we must look behind the headline cases to the hidden underworld of family law. Advocates on both sides of the gay marriage debate have pointed out, in the words of Mike McManus, that "divorce is a far more grievous blow to marriage than today's challenge by gays." They are right in ways they may not realize. In divorce court, the forcible destruction of the family is not some theoretical prognostication; it is already the daily reality for millions of citizens.

Marshall presides over a judiciary where families are forcibly separated by government agents, where children are torn from their parents with no justification given, and where parents are railroaded into jail with no semblance of due process of law. In Marshall's court system, litigants find their hearing tapes doctored, their case files falsified, and themselves framed -- all with the full knowledge of judges. Mothers are ordered to divorce their husbands or lose their children. Fathers are forced to confess to crimes they have not committed. Attorneys who speak out are disbarred. Citizens who are minding their own business are summoned to court and ordered to pay the inflated fees of attorneys they have not hired and jailed when they are unable.

This is not all the work of Marshall alone, but her ruling is the culmination of not simply judicial "activism" but a combination of ideological extremism and judicial corruption that has transformed the Massachusetts judiciary into a Soviet-like system of kangaroo courts. In *McLarnon v. Jokisch*, Marshall invoked environmental law (and applied it to divorce!) to grant immunity to government officials and witnesses who use perjury, false allegations, and falsified documents to remove children from their parents and criminalize the parents. In a divorce case, the "defendant" - a parent who is being involuntarily divorced - is now the only party in the courtroom without immunity.

The defendant in that case, Edward McLarnon, is a forensic audio-visual investigator whose independently corroborated evidence of doctored hearing tapes was published in December 2000 by the *Massachusetts News*. His attorney Gregory Hession says the court removed documents from his file, falsified the docket, and withheld the case file for months. When McLarnon complained, he was assessed \$3,500 in attorneys' fees and jailed by the same judges whose tapes were allegedly edited. Hession says he could find no interest in the tampering from the Middlesex Probate Court and Probate Court Register's office, the Middlesex District Attorney, the Massachusetts Attorney General and Inspector General, the Judicial Conduct Commission, or Marshall's Supreme Judicial Court. In fact, Marshall herself later assessed McLarnon an additional \$16,400 in attorneys' fees (attorneys he had not hired), for which the state moved to seize his house and car.

The *Massachusetts News* also broke the story of Heidi Howard, who was told by the state Department of Social Services (DSS) to take out a restraining order against her husband and divorce him. When she refused, DSS seized her children and threatened to put them up for adoption, for which the state receives federal funds. Neither parent was ever charged with any wrongdoing. News reporter Nev Moore says similar cases abound.

There is reason to believe her. Financial incentives and quotas created by the Adoption and Safe Families Act in 1997, championed by the Clinton administration, have resulted in a "child protection racket" rife with "baby stealing and baby selling," according to Hession. "I am appalled by how many times this pattern is repeated." In family court recently the hallway was clogged with parents and children being adopted. "You could hardly walk. You had never seen such mass adoptions before." Forty percent of Massachusetts children adopted have gone to gay and lesbian couples, according to Democratic state Senator Therese Murray, who supports gay marriage. It is not difficult to see who will supply the children of gay "parents."

Harry Stewart is another victim of Massachusetts family justice, a lay preacher who was jailed for six months for refusing to confess to domestic violence. Stewart was never accused of any violence and may have been a victim himself. Forced confessions and self-denunciation are a standard requirement of "batterers" programs.

These cases typify "the new Orwellian [judicial] system, which has no protection for certain categories of unfavored perpetrators of 'crimes' against the state, such as parents," says Hession. "It is a system skewed by political agendas, not truth...where government [is] intruding into family autonomy, paternal authority, child raising, and even minor family conflicts." Hession is risking his livelihood. Barbara Johnson, an attorney and whistleblower who ran for governor on a platform of court reform, is now being disbarred.

Such experiences "are depressingly common in Massachusetts," says attorney David Grossack. "There seem to be networks of feminists tied in with every courthouse in Massachusetts who can create a media storm if a decision is unfavorable to them. Inexplicable decisions, nonsensical restraining orders, and gender bias in the extreme are the rule, not the exception."

Marshall claimed in her gay marriage ruling that the state constitution "forbids the creation of second-class citizens." Yet that is precisely what she has created in married heterosexual parents, especially fathers. "The hue and cry about civil rights for lesbians and gays is particularly galling for Massachusetts' fathers," reads a letter just published in several Massachusetts newspapers. "Our civil and human rights have been ruthlessly violated by these same judges for decades.... Margaret Marshall is always found on the same side of the issue: ...against fathers and their inalienable right to the custody, care, and protection of their children."

If opponents of same-sex unions truly wish to save marriage -- and liberty -- they must wake up soon to the fact that homosexual marriage will not destroy the institution of heterosexual marriage. It is already rising from the ashes.

# Is There Really a Fatherhood Crisis?

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[http://www.independent.org/tii/media/pdf/tir\\_08\\_4\\_baskerville.pdf](http://www.independent.org/tii/media/pdf/tir_08_4_baskerville.pdf)

**Stephen Baskerville, ACFC President, 03-01-04**

During the past decade, family issues such as marriage and fatherhood have rocketed to the top of the domestic-policy agenda. The past two presidential administrations, along with numerous local governments, have responded to the continuing crisis of the family by devising measures to involve governmental machinery directly in the management of what had previously been considered private family life. The Bush administration has proposed \$300 million annually to “promote responsible fatherhood” and for federal promotion of “healthy marriages.” Earlier, President Bill Clinton created a “Presidential Fatherhood Initiative,” and Vice President Al Gore chaired a federal staff conference on “nurturing fatherhood.” Congress has established bipartisan task forces on fatherhood promotion and issued a resolution affirming the importance of fathers. Almost 80 percent of the respondents to a 1996 Gallup poll saw fatherhood as the most serious social problem today (NCF 1996).

A generation of fatherhood advocates has emerged who insist that fatherlessness is the most critical social issue of our time. In *Fatherless America*, David Blankenhorn calls the crisis of fatherless children “the most destructive trend of our generation” (1995, 1). Their case is powerful. Virtually every major social pathology has been linked to fatherless children: violent crime, drug and alcohol abuse, truancy, unwed pregnancy, suicide, and psychological disorders—all correlating more strongly with fatherlessness than with any other single factor, surpassing even race and poverty. The majority of prisoners, juvenile detention inmates, high school dropouts, pregnant teenagers, adolescent murderers, and rapists come from fatherless homes (Daniels 1998, *passim*). Children from affluent but broken families are much more likely to get into trouble than children from poor but intact ones, and white children from separated families are at higher risk than black children in intact families (McLanahan 1998, 88). The connection between single-parent households and crime is so strong that controlling for this factor erases the relationship between race and crime as well as between low income and crime (Kamarck and Galston 1990, 14).

Given these seemingly irrefutable findings, a case might be made that both liberals and conservatives should rethink their priorities. Rather than spending more on antipoverty programs, as the left advocates, or on ever harsher law enforcement, beloved of the right, both sides should get together and help restore fatherhood as a solution to social ills. On its surface, the government’s fatherhood campaign seems to make good sense. As currently conceived, however, it may be having precisely the opposite effect of that advertised.

The policymakers’ discovery of fatherhood has a disturbing side. In August 2002, Health and Human Services (HHS) secretary Tommy Thompson announced mass arrests of parents he says have disobeyed government orders, calling them the “most wanted deadbeat parents.” The roundups were carried out under a program started by the Clinton administration called Project Save Our Children. The Clinton years saw repeated and increasingly harsh measures against “deadbeat dads.” The 1998 Deadbeat Parents Punishment Act was accompanied by a “child support crackdown . . . to identify, analyze, and investigate [parents] for criminal prosecution.” HHS secretary Donna Shalala announced the Federal Case Registry to monitor almost 20 million parents, whether or not they had child-support arrearages, and the Directory of New Hires database, which records the name of every newly hired individual in the country (HHS 1998b).

Amid all this attention, little informed discussion has occurred about the appropriate role of public policy with respect to fatherhood and families. Marshalling federal agencies to “promote” something as private and personal as a parent’s relationship with his own children raises questions. The assumption that the government has a legitimate role in ameliorating the problem of fatherlessness also glides quickly over the more fundamental question of whether the government has had a role in creating the problem. What we see in the “fatherhood crisis” may be an optical illusion. What many are led to believe is a social problem may in reality be an exercise of power by the state.

The conventional wisdom—enunciated by political leaders, media commentators, and scholars—assumes that the problem stems from paternal abandonment. Clinton claimed that the fathers pursued by his administration “have chosen to abandon their children” (1992). Blankenhorn writes, “Today, the principal cause of fatherlessness is paternal choice . . . the rising rate of paternal abandonment” (1995, 22–23). David Popenoe, author of the essay “Life Without Father,” writes that fathers “choose to relinquish” the responsibilities of fatherhood (1998, 34). Yet none of these policymakers or writers cites any evidence for this claim; in fact, no government or academic study has ever shown that large numbers of fathers are abandoning their children. Moreover, studies that answer the question directly have arrived at a different conclusion.

In the largest federally funded study ever undertaken on the subject, Arizona State University psychologist Sanford Braver demonstrated that few married fathers voluntarily leave their children. Braver found that overwhelmingly it is mothers, not fathers, who are walking away from marriages. Moreover, most of these women do so not with legal grounds such as abuse or adultery but for reasons such as “not feeling loved or appreciated.” The forcibly divorced fathers were also found to pay virtually all child support when they are employed and when they are permitted to see the children they have allegedly abandoned (1998, chap. 7).

Other studies have reached similar conclusions. Margaret Brinig and Douglas Allen found that women file for divorce in some 70 percent of cases. “Not only do they file more often, but . . . they are more likely to instigate separation.” Most significantly, the principal incentive is not grounds such as desertion, adultery, or violence, but control of the children. “We have found that who gets the children is by far the most important component in deciding who files for divorce” (2000, 126–27, 129, 158, *emphasis in original*). One might interpret this statistic to mean that what we call divorce has become in effect a kind of legalized parental kidnapping.

Moreover, the vast machinery devoted to divorce and custody litigation now has the power not only to seize children whose parents

have done nothing legally wrong, but also to turn forcibly divorced parents into outlaws without any wrong action on their part and in ways they are powerless to avoid. What we are seeing today is nothing less than the criminalization of parents, most often the fathers. A father who is legally unimpeachable can be turned into a criminal by the regime of involuntary divorce.

Partly responsible is “no-fault” divorce, or what marriage advocate Maggie Gallagher terms “unilateral” divorce, which allows one spouse to abrogate the marriage contract without incurring any liability for the consequences (1996, 143–52). “In all other areas of contract law those who break a contract are expected to compensate their partner or partners,” writes researcher Robert Whelan, “but under a system of ‘no fault’ divorce, this essential element of contract law is abrogated” (1995, 3). When children are involved, their separation from one parent is then enforced by the state, with criminal penalties against that parent for literally “no fault” of his own.

We do not know precisely how many are affected. Approximately 1.5 million divorces are granted annually in the United States. Some studies predict 65 percent of marriages will end in divorce. Some 80 percent of divorces are unilateral, and the figure may be higher when children are involved in approximately three-fifths of divorces. All told, more than a million children become victims of divorce each year (Furstenberg and Cherlin 1991, 22; Gallagher 1996, 5, 9, 22, 84–86; Martin and Bumpass 1989). These figures imply that at least 700,000 parents are involuntarily divorced each year, and control of their children is taken over by the government. For all we can be certain, all 12–20 million parents now being pursued as quasi-criminals by the federal government have been separated involuntarily from their children through no legal fault of their own (HHS 1998b; OCSEA 2001).

It is difficult to overestimate the importance of this point, which contradicts the assumptions of policymakers who call for repeated crackdowns on allegedly dissolute fathers. “Children should not have to suffer twice for the decisions of their parents to divorce,” Senator Mike DeWine declared in June 1998, “once when they decide to divorce, and again when one of the parents evades the financial responsibility to care for them” (Congressional Record, June 5, 1998, S5734). Yet most fathers and noncustodial mothers make no such decision.

Punitive measures imposed on noncustodial parents might be justifiable if, as is popularly believed (and as government statements strongly imply), those parents were deserting their families, giving legitimate grounds for divorce or even agreeing to it. Parents who dissolve marriages arguably give the state an interest in ensuring the well-being of their children. It is not clear, however, what compelling public interest justifies removing children from parents who do not act to dissolve their marriages.

Some reply that even fathers whose children are taken from them through no fault or agreement of their own are still obliged to support them financially and to obey other court orders. That all parents have a legal and moral responsibility to care and provide for their children is not at issue. The question not being asked, however, is why parents charged with no civil or criminal wrongdoing must surrender to the government the right to rear their own children. Requiring an unimpeachable parent “to finance the filching of his own children,” as attorney Jed Abraham puts it (1999, 151), encourages government officials to seize control of the children, property, and persons of as many citizens as they can, thereby increasing their jurisdiction and the demand for their services.

### **Government’s Family Machinery**

For all the recent concern about both family breakdown and judicial power, it is surprising that so little attention is focused on family courts. They are certainly the arm of government that routinely reaches deepest into individuals and families’ private lives. “The family court is the most powerful branch of the judiciary,” according to Judge Robert Page of the New Jersey Family Court. “The power of family court judges,” by their own assessment, “is almost unlimited” (1993, 9, 11). Supreme Court justice Abe Fortas once characterized them as “kangaroo court[s]” (In Re Gault, 387 U.S. 1, 27–28 [1967]).

Very little information is available on these courts. They usually operate behind closed doors and leave no records. Statistics are virtually nonexistent because judges and bar associations lobby to prevent the compilation of figures (Levy, Gang, and Thompson 1997).

Most strikingly, they claim exemption from due process of law and even from the Constitution itself. As one father reports being told by the chief judicial investigator in New Jersey, “The provisions of the U.S. Constitution do not apply in domestic relations cases since they are determined in a Court of Equity rather than [in a] Court of Law.”<sup>1</sup> A connected rule known as the “domestic relations exception” is said to justify the federal courts’ refusal to scrutinize family-law cases for constitutional rights violations (60 U.S.L.W. 4532 [June 15, 1992]). A substantial body of federal case law recognizes parenting as an “essential” constitutional right “far more precious than property rights” that “undeniably warrants deference, and, absent a powerful countervailing interest, protection.” This “fundamental liberty interest,” federal courts have held, “cannot be denied without violating those fundamental principles of liberty and justice which lie at the base of all our civil and political institutions” (Hubin 1999, 124). Yet divorce courts virtually never apply such apparently unequivocal constitutional principles, and the federal courts resist becoming involved.

A father brought before these courts is likely to have only a few hours’ notice of a hearing that may last thirty minutes or less, during which he will lose all decisionmaking authority over his children, be told when and where he is authorized to see them, and ordered to begin paying child support. His name will be entered on a federal registry, his wages will immediately be garnished, and the government will have access to all his financial information.

No allegations of wrongdoing, either civil or criminal, are required. And no agreement to a divorce or separation is necessary. Yet from this point, if he tries to see his children outside the authorized times or fails to pay the child support (or courtordered attorneys’ fees), he will be subject to arrest.

A parent pulled into divorce court against his will also must submit to questioning about his private life, questioning that Abraham has characterized as an “interrogation.” He can be forced to surrender personal diaries, correspondence, financial records, and other documents normally protected by the Fourth Amendment. His personal habits, movements, conversations, writings, and purchases are subject to inquiry by the court. His home can be entered by government agents. His visits with his children can be monitored and



restricted to a "supervised visitation center." Anything he says to his spouse or children as well as to family counselors and personal therapists can be used against him in court, and his children can be used to inform on his compliance. Fathers are asked intimate questions about how they "feel" about their children, what they do with them, where they take them, how they kiss them, how they feed and bathe them, what they buy for them, and what they discuss with them. According to Abraham, fathers against whom no evidence of wrongdoing is presented are ordered to submit to "plethysmographs," a physical-response test in which an electronic sheath is placed over the penis while the father is forced to watch pornographic films of children (1999, 148, 58). A parent who refuses to cooperate can be summarily incarcerated or ordered to undergo a psychiatric evaluation.

The parent from whom custody is removed no longer has any say in where the children reside, attend school, or worship. He has no necessary access to their school or medical records or any control over medications or drugs. He can be enjoined from taking his children to the doctor or dentist. He can be told what religious services he may (or must) attend with his children and what subjects he may discuss with them in private.

In family court, it is not unusual for a father earning \$35,000 a year to amass \$150,000 in attorney's fees, according to Washington attorney William Dawes. Unlike any other debt, these fees may be collected by incarceration. In fact, unlike the inmates in a medieval debtors' prison, he is punished even though he did not incur the debt voluntarily. One of the most astonishing practices of family courts is ordering fathers to pay the fees of attorneys, psychotherapists, and other officials they have not hired and summarily jailing them for not complying.

Family law is now criminalizing constitutionally protected activities as basic as free speech, freedom of the press, and even private conversations. In some jurisdictions, it is a crime to criticize family-court judges or otherwise to discuss family-law cases publicly, and fathers have been arrested for doing so. Fathers who speak out against family courts report that their children are used as weapons to silence their dissent, and attorneys regularly advise their clients not to join fathers' rights groups, speak to the press, or otherwise criticize judges. Following his congressional testimony critical of the family courts, Jim Wagner of the Georgia Children's Rights Council (CRC) was stripped of custody of his two children and ordered to pay \$6,000 in legal fees. When he could not pay within fifteen days, the court jailed him. "We believe . . . the court is attempting to punish Wagner for exposing the court's gender bias and misconduct to a congressional committee," said Sonny Burmeister, president of the council (CRC 1992, 9). Though precluded by law from endorsing political ideologies, the U.S. Department of Justice publishes a paper by the National Council of Juvenile and Family Court Judges, an association of ostensibly impartial judges who sit on actual cases, that attacks fathers' groups for their "patriarchal values" and for advocating "the rights of fathers instead of their responsibilities." The ostensibly apolitical judges ask, "How can we learn to counter the sound bites of fathers' rights groups?" (qtd. in McHardy and Hofford 1999).

Like other state court judges, family-court judges are either elected or appointed and are promoted by commissions dominated by lawyers and other professionals (Tarr 1999, 61, 67, 69–70). These judges, in other words, occupy political positions and are answerable to the bar associations that naturally have an interest in maximizing the volume of litigation (Corsi 1984, 107–14; Watson and Downing 1969, 98, 336). They also wield extensive powers of patronage that enable them to force litigants to pay attorneys and expert witnesses. These powers are not limited to family courts; judges' patronage powers have long been recognized (Jacob 1984, 112). Yet in no other courts has patronage so thoroughly eclipsed justice. Although family courts, like most courts, claim to be overburdened, it is clearly in their interest to be overburdened because judicial powers and earnings are determined by demand. As Judge Page explains, "Judges and staff work on matters that are emotionally and physically draining due to the quantity and quality of the disputes presented; they should be given every consideration for salary and the other 'perks' or other emoluments of their high office. . . . With the improved status of judges and family-court systems comes their proper position in judicial budgets as worthy of appropriate funding" (1993, 19). Though caseloads are large, the aim in improving the court's status is apparently to increase that load still further. If the judiciary is viewed in part as a business, then the more satisfied the customers—in this case, the bar associations and divorcing parents who expect custody—the more customers will be attracted. Again, in Judge Page's words, "With improved services more persons will come before the court seeking their availability. . . . As the court does a better job more persons will be attracted to it as a method of dispute resolution. . . . The better the family-court system functions the higher . . . the volume of the persons served" (1993, 20). In this view, the more attractive the courts make divorce settlements for custodial parents, the more prospective custodial parents will file for divorce and the more children will be removed from, in most instances, their fathers.

### **Batterers or Protectors?**

A punitive quality seems to pervade the treatment of fathers in general throughout divorce court, but the presumption of guilt becomes explicit with accusations of spousal or child abuse. Fathers accused of abuse during divorce are seldom formally charged, tried, or convicted because there is usually no evidence against them; hence, they never receive due process of law or the opportunity to clear their names, let alone recover their children. Yet the accusation alone prohibits a father's contact with his children and causes his name to be entered into a national database of sex offenders (Parke and Brott 1999, 49–50).

Although initial accusations do not necessarily result in the father's arrest, they do confirm his status as a quasi-criminal whose movements are controlled by the court. This control takes the form of an ex parte restraining order, whose violation results in imprisonment. Orders separating fathers from their children for months, years, and even life are issued without the presentation of any evidence of wrongdoing. They are often issued at a hearing at which the father is not present and about which he may not even know, or they may be issued over the telephone or by fax with no hearing at all. A father receiving an order must vacate his residence immediately and make no further contact with his children.

Boston attorney Elaine Epstein, former president of the Massachusetts Women's Bar Association, has written that "allegations of abuse are now used for tactical advantage" in custody cases and that restraining orders are doled out "like candy." "Restraining orders and orders to vacate are granted to virtually all who apply," and "the facts have become irrelevant," she writes. "In virtually all cases, no notice, meaningful hearing, or impartial weighing of evidence is to be had." Massachusetts judges alone issue some sixty thousand

orders each year (1993, 1).

Arresting fathers for attending public events such as their children's musical recitals or sports activities—events any stranger may attend—is common. In 1997, National Public Radio reported on a father arrested in church for attending his daughter's first communion. During the segment, an eight-year-old girl wails and begs to know when her father will be able to see or call her. The answer, because of a lifetime restraining order, is never. Even accidental contact in public places is punished with arrest. New Jersey municipal court judge Richard Russell captured the rationale in a 1994 judges' training seminar: "Your job is not to become concerned about the constitutional rights of the man that you're violating as you grant a restraining order. Throw [the man] out on the street, give him the clothes on his back and tell him, see ya around. . . . They have declared domestic violence to be an evil in our society. So we don't have to worry about the rights" (qtd. in Bleemer 1995, 1).

Some argue that judges must "balance" the rights of accused men with the genuine need of women for protection, yet we do not normally restrain citizens from their basic constitutional rights, including the right of free movement and free association (especially with their own children) merely because someone asks us to do so. We assume that all citizens are innocent until proven guilty, that they have a right to due process of law, that they should enjoy basic freedom until evidence of an infraction is presented against them, and that knowingly false accusations will be punished.

Some suggest that protective orders are issued on the principle of "better safe than sorry," yet this suggestion begs the most telling question of how protective orders can prevent violence, inasmuch as violence is already illegal. A father whose wife obtained a restraining order against him was, according to the St. Petersburg Times, "enjoined and restrained from committing any domestic violence upon her" (Schroeder and Sharp 1992, 2). Was he, along with the rest of us, not so restrained to begin with? The orders seem designed not so much to prevent wrongdoing as to eliminate and criminalize fathers. Forcing a father to stay away from his children even though he has done no wrong may provoke precisely the kind of violent response it ostensibly intends to prevent. "Few lives, if any, have been saved, but much harm, and possibly loss of lives, has come from the issuance of restraining orders and the arrests and conflicts ensuing therefrom," retired judge Milton Raphaelson of the Dudley, Massachusetts, District Court writes. "This is not only my opinion; it is the opinion of many who remain quiet due to the political climate. Innocent men and their children are deprived of each other" (2001, 4).

Connected here is the rapidly growing system of government-funded visitation centers for which fathers not necessarily convicted of any crime must pay as much as \$80 an hour to see their own children under the gaze of social workers. "People yell at you in front of the children. They try to degrade the father in the child's eyes," the Massachusetts News quotes father Jim O'Brien in August 1999. "I wish I'd never come here. . . . They belittle you." When O'Brien asked his daughter if she'd made her first communion in the six years since he had seen her, the social worker jumped in and said, "You're not allowed to ask that!" (Maguire 2000).

The practice of supervised visits is promoted by the Supervised Visitation Network (SVN), a group whose membership has mushroomed since its founding in 1992. The "standards and guidelines" on SVN's Internet site make clear that supervised visitation is not limited to cases of violence or potential violence by the noncustodial parent against the children, which it clearly regards as exceptional, but is appropriate in any circumstances of "conflict" between parents. SVN defines family violence to include matters that are not physical or illegal or, indeed, violent: "Family violence is any form of physical, sexual, or other abuse inflicted on any person in a household by a family or household member" (SVN 2001, emphasis added).

Domestic violence is now a major industry funded through interlocking government programs at the federal, state, and local levels and by private foundations and international organizations. The premise on which this industry is largely based—that domestic violence is a political crime perpetrated exclusively by men against women—has already been refuted by many studies that show that men and women commit domestic violence at roughly equally rates, so it requires no further treatment here (Fiebert 1997; Straus forthcoming). In a legal sense, of course, it does not matter what percentage of domestic violence is committed by which sex because the important issue is due process of law for every individual. Yet the very recognition of a special category of "domestic violence," separate from other forms of assault—a category defined by the private relationship between the parties rather than by the nature of their actions—blurs the distinction between crime and noncriminal personal conflict.

The power to criminalize nonviolent private behavior, personal imperfections, and routine family disagreements is conveyed concisely in the term abuse, which is ambiguous and elastic enough to be stretched beyond what is usually considered physical and criminal. "You do not have to be hit to be abused" is now a standard line in the abuse literature. Abuse can be defined as "criticizing you for small things" and "making you feel bad about yourself." Criminal justice agencies now accept these definitions in official publications. The National Victim Assistance Academy, a project funded by the U.S. Department of Justice and published on its Internet site, includes such items as "extreme jealousy and possessiveness," "name calling and constant criticizing," and "ignoring, dismissing, or ridiculing the victim's needs" in its chapter on domestic violence (Coleman et al. 2000). By these criteria, violence becomes whatever the alleged victim says it is. In her influential book *The Battered Woman*, psychologist Lenore Walker excuses a woman who violently attacked her husband because he "had been battering her by ignoring her and by working late" (1979, xv).

What matters here is to what degree this domestic violence hysteria is aimed specifically at removing children from their fathers. There is reason to believe that this objective is the main thrust behind it. Feminists point out that most domestic violence occurs during "custody battles" and that the vast preponderance of domestic violence takes place among divorced and separated couples (Rennison and Welchans 2000, 4–5). Susan Sarnoff of Ohio State University points out that the Violence Against Women Act II, passed by Congress in 2000, not only legitimizes the making of knowingly false accusations, "but . . . offers abundant rewards for doing so—including the 'rights' to refuse custody and even visitation to accused fathers—with virtually no requirements of proof." Moreover, "the bill's definition of domestic violence . . . is so broad that it does not even require that the violence be physical" (1998, 1, 12).

The most serious effect of forcibly removing fathers after quasi-criminal accusations is the abuse of children it induces. Contrary to popular belief, it is not fathers, but mothers—especially single mothers—who are most likely to abuse children. An HHS study found

that women ages twenty to forty-nine are almost twice as likely as men to be perpetrators of child maltreatment: "It is estimated that . . . almost two-thirds [of child abusers] were females" (HHS 1998a, xi–xii). Given that male perpetrators are not necessarily fathers but more likely to be boyfriends and stepfathers, fathers emerge as the least likely child abusers. Researcher Robert Whelan found that children are as much as thirty-three times more likely to be abused when a live-in boyfriend or stepfather is present (1993, 29). And "[c]ontrary to public perception," write Patrick Fagan and Dorothy Hanks of the Heritage Foundation, "the most likely physical abuser of a young child will be that child's mother, not a male in the household" (1997, 16). Mothers accounted for 55 percent of child murders, according to a 1994 Justice Department report, whereas fathers were responsible for only a relatively tiny percentage (BJS 1994). From the father's perspective, it appears that the real abusers have removed him from the family so they can abuse his children with impunity. Fatherhood advocate Adrienne Burgess writes that "fathers have often played the protector role inside families" (Burgess 1997, 54). This claim is confirmed by academic research, however diffident scholars may be about saying so. "The presence of the father . . . placed the child at lesser risk for child sexual abuse," concludes a study of low-income families. "The protective effect from the father's presence in most households was sufficiently strong to offset the risk incurred by the few paternal perpetrators" (Rowland, Zabin, and Emerson 2000).

Not only has this protective role become ideologically incorrect, but it may also criminalize the father. Such violence by men as does occur may be more often the result than the cause of fathers' losing their children; common sense suggests that fathers with no previous proclivity to violence might well erupt when their children are taken from them. "A significant percentage of domestic violence occurs during litigated divorces in families who never had a history of it," according to Douglas Schoenberg, a New Jersey divorce attorney and mediator (qtd. in Braver 1998, 240). Anne McMurray of Australia's Griffith University found that domestic violence usually arose "during the process of marital separation and divorce, particularly in relation to disputes over child custody, support, and access." McMurray's subjects describe how violence "had not been a feature of the marriage but had been triggered by the separation" (1997, 543, 547).

Violent attacks against judges and lawyers are also usually connected with custody litigation. "Judges and lawyers nationwide agree . . . that family law is the most dangerous area in which to practice," reports the California Law Week (McKee 1999). The year 1992 was "one of the bloodiest in divorce court history—a time when angry and bitter divorce litigants declared an open season on judges, lawyers, and the spouses who brought them to court" (Cheever 1992, 29). Dakota County, Minnesota, district attorney James Backstrom says family court produces far more violence than criminal court does: "We're most concerned about the people in family court—the child support and divorce cases" (qtd. in Worden 2000). The Boston Globe reports that some judges now carry guns under their robes to protect themselves not from criminals but from fathers (McGrory 1994, 33). In December 1998, the ABC television magazine 20/20 also reported on this phenomenon. No father was quoted, but fathers generally were portrayed as little better than dangerous animals. One of the many lawyers interviewed comments, "You really don't know what monsters lurk behind regular people." It ought hardly to surprise anyone that interfering with their children is one way to find out.

### **Deadbeat Dads or Plundered Pops?**

As noted earlier, noncustodial parents can be arrested for unauthorized contact with their children, but the criminalization of most fathers takes place through the child support system. A parent who loses custody must pay child support to the parent who wins custody. This assignment has the tendency to turn children into cash prizes. In fact, it exerts a similar effect on the government, for the money passes through the state treasury, where it is used to earn federally funded bonuses for the state. According to the Deadbeat Parents Punishment Act, if for any reason the parent falls more than \$5,000 behind, he becomes a felon. Theoretically, he can become an instant felon as soon as he loses his children. If the ordered payments are high enough and backdated to exceed the \$5,000 threshold, he will be subject to immediate arrest, even before he has had an opportunity to pay.

A father charged with "civil contempt" connected with child support may be exempted from due process of law and legally presumed guilty until proven innocent. "The burden of proof may be shifted to the defendant," according to a legal analysis by the National Conference of State Legislatures (NCSL), an organization that encourages aggressive prosecutions. The father can also be charged with criminal contempt, for which in theory he must be duly tried, but in fact sometimes is not. "The lines between civil and criminal contempt are often blurred in failure to pay child support cases," the NCSL continues. "Not all child support contempt proceedings classified as criminal are entitled to a jury trial." Further, "even indigent obligors are not necessarily entitled to a lawyer." Thus, a father who has lost his children through literally no fault of his own can be arrested and required to prove his innocence without a formal charge, without counsel, and without a jury of his peers (Myers n.d.).

As noted earlier, fathers who allegedly fail to pay child support—"deadbeat dads"—are now the subjects of a national demonology, officially designated villains whose condign punishment is applauded by politicians, press, and public alike. Yet the reality is somewhat different. Scholars have already challenged the deadbeat dad stereotype, so it requires only brief treatment here. Braver found that government claims of nonpayment are produced not from any compiled data (which do not exist), but simply from surveys of custodial parents. Like others, he concluded that "the single most important factor relating to nonpayment" is unemployment (1998, 21–22 and chap. 2).

Revolving doors and other channels connect family courts with executive branch enforcement bureaucracies. David Ross, head of federal child-support enforcement in the Clinton administration, began his career as a family-court judge before moving on to higher courts and a stint in a state legislature. The 2001 web page of the federal Office of Child Support Enforcement (OCSE) said he was honored as "Judge of the Year of America" by the National Reciprocal Family Support Enforcement Association in 1983 and as "Family Court Judge of the Nation" by the National Child Support Enforcement Association [NCSEA] in 1989." The fact that enforcement agents are bestowing honors on supposedly impartial and apolitical judges indicates the agents' interest in family-court decisions, primarily the decisions to remove children from their fathers and then to award the punitive child support that necessitates their services. That a government Internet page would boast about awards given to its officials by pressure groups indicates how little ethical scrutiny these connections receive. The NCSEA web page describes its members as "state and local agencies, judges, court masters, hearing

officers, district attorneys, government and private attorneys, social workers, caseworkers, advocates, and other child support professionals,” as well as “corporations that partner with government to enforce child support” (NCSEA 2001). In other words, it includes officials from at least two branches of government and members of the private sector who have a financial interest in separating children from their fathers.

Setting child-support levels is a political process conducted by pressure groups involved in divorce but from which parents who pay the support are largely excluded. Approximately half the states use guidelines devised not by the legislature but by courts and enforcement agencies, and in all states these officials have a dominant role (Morgan 1998, table 1-2). Under the separation of powers, we normally do not permit police and courts to make the laws they enforce and interpret because doing so would create an obvious conflict of interest for those with a stake in having criminals to prosecute. At the same time, legislative enactment is no guarantee of impartiality because legislators can divert enforcement contracts to their own firms. An extreme example led to federal racketeering convictions of Arkansas state legislators in 2000.

Provisions for citizen input appear perfunctory for the most part. Virginia requires legislative enactment, but its review of its child-support guidelines in 1999 was conducted by a commission that included one part-time representative of parents paying child support and ten employed full-time by agencies and organizations that benefit directly from divorce (Koplen 1999, 4). “The commissions appointed to review the guidelines have been composed, in large part, of individuals who are unqualified to assess the economic validity of the guidelines, or who arguably have an interest in maintaining the status quo, or both,” writes Georgia district attorney William Akins. “In 1998 . . . of the 11 members of that Commission, two were members of the judiciary, two represented custodial parent advocacy groups, four were either present or former child support enforcement personnel and two were state legislators” (2000, 12). In a case involving a noncustodial mother, a Georgia superior court agreed with this assessment, declaring the state’s guidelines unconstitutional on “numerous” grounds. “The guidelines bear no relationship to the constitutional standards for child support of requiring each parent to have an equal duty in supporting the child” and create “a windfall to the obligee.” Characterizing the guidelines as “contrary both to public policy and common sense,” the court noted that they bear no connection to the cost of rearing children. “The custodial parent does not contribute to child costs at the same rate as the non-custodial parent and, often, not at all,” the court noted. “The presumptive award leaves the non-custodial parent in poverty while the custodial parent enjoys a notably higher standard of living” (Georgia DHR v. Sweat, Georgia Supreme Court, no. SO3A0179 [April 29, 2003]). A Tennessee court likewise struck down that state’s child-support guidelines as violating the equal protection clause of the Constitution. The Tennessee Department of Human Services, which regularly jails fathers for minor violations of court orders, announced it would ignore the court’s ruling (Gallaher v. Elam, Tennessee Appeals Court, no. E2000-02719-COA-R3-CV [January 29, 2002]).

The conflicts of interest appear even more clearly in the private sector. Childsupport enforcement is now a \$5 billion national industry in terms of the money expended; in terms of the money it aims to collect, it is a multi-billion-dollar enterprise. Privatization has created a class of government-subsidized bounty hunters with a financial interest in creating “delinquents.” In 1998, Florida taxpayers paid \$4.5 million to Lockheed Martin IMS and Maximus, Inc., to collect \$162,000 from fathers (Parker 1999). Supportkids of Austin, Texas, describes itself as “the private sector leader” in what it calls the “child support industry.” The company is confident of rich investment opportunities in coming years, optimistic that delinquencies will only increase. “The market served totals \$57 billion and is growing at an annual rate of \$6 billion to \$8 billion per year,” reports a company press release on March 13, 2000. “There is a huge market for the private sector to serve” (Supportkids 2000). The size of this “market” is determined not by demand from sovereign consumers but by how many parents can be forcibly separated from their children and criminalized by forced debts that are “contrary to common sense,” as the Georgia superior court judge put it.

The debts have been set indirectly by the very companies that collect them. From 1983 to 1990, Dr. Robert Williams, later president of Policy Studies Inc. (PSI), was a paid consultant with HHS, where he helped to establish uniform state guidelines in the federal Child Support Guidelines Project under a grant from the National Center for State Courts. He also consults directly with many states. During this time, “a federally-driven approach . . . significantly increased child support obligations,” according to James Johnston, a member of the Kansas Child Support Guidelines Advisory Committee. Congress also passed the Family Support Act of 1988, requiring states to implement presumptive guidelines and giving them only a few months of legislative time to do so (Rogers and Bieniewicz 2000, 2, 5). Virtually all states met the deadline, many by quickly adopting Williams’s model. “The guidelines were enacted in 1989 to insure [sic] Georgia’s receipt of an estimated \$25 million in federal funds,” writes Akins (2000).

One year after joining HHS and the same year the mandatory federal guidelines were implemented, Williams started PSI. “With his inside knowledge [Williams] has developed a consulting business and collection agency targeting privatization opportunities with those he has consulted,” Johnston explains. “In 1996, his company had the greatest number of child support enforcement contracts . . . of any of the private companies that held state contracts” (1999). The Denver Business Journal reports that PSI grew “by leaps and bounds because of the national crackdown on ‘deadbeat dads.’” From three employees in 1984, it expanded rapidly to more than five hundred in 1996, before welfare reform legislation took effect, by which the company “stands to profit even more” (Mook 1997).

Yet more serious than the profiteering is the level of obligation. A collection agency profits only if there are arrearages. Not only does Williams have an interest in making the child-support levels as high as possible to increase his share overall, but he also must make them high enough to create hardship, arrearages, and “delinquents.”

Williams’s model has been widely and severely criticized for its methodology (Rogers 1999). He himself has acknowledged that “there is no consensus among economists on the most valid theoretical model to use in deriving estimates of child-rearing expenditures” and that “use of alternative models yields widely divergent estimates.” Donald Bieniewicz, member of an advisory panel to the OCSE, comments, “This [statement] is a shocking vote of ‘no confidence’ in the . . . guideline by its author” (1999, 2). Yet on the basis of Williams’s guideline, parents are being jailed, usually without trial.

Governments, too, can reap substantial profits from child support. “Most states make a profit on their child support program,” according

to the House Ways and Means Committee, which notes that “states are free to spend this profit in any manner the state sees fit.” States profit largely through federal incentive payments, as well as by receiving two-thirds of operating costs and 90 percent of computer costs (U.S. House of Representatives 1998).

To collect these funds, states must channel payments through their criminal enforcement machinery, further criminalizing the fathers and allowing the government to claim that its enforcement measures are increasing collections despite the consistent operating loss in the federal program. In January 2000, Secretary Shalala announced that “the federal and state child support enforcement program broke new records in nationwide collections in fiscal year 1999, reaching \$15.5 billion, nearly doubling the amount collected in 1992” (HHS 2000). Yet the method of arriving at these figures is questionable.

When we hear of collections through enforcement agencies, we assume they involve arrearages or that they target those who do not otherwise pay and whose compliance must be “enforced.” In 1992, most child support was still being paid voluntarily and directly, without coercion or accounting by the state. Increasingly over the past decade, all payments (including current ones) have been routed through enforcement agencies by automatic wage garnishing and other coercive measures that presume criminality. Moreover, OCSE figures show that whereas the number of welfare-related cases (where collection is difficult) has remained steady since 1994, the number of nonwelfare cases (where compliance is high) has steadily increased (OCSE 1999, 4). The “increase” in collections was achieved not by collecting the alleged arrearages built up by poor fathers already in the criminal collection system, but rather by bringing in more employed middle-class fathers who pay faithfully. The payments and the accounting mechanism also provide additional incentives to squeeze as many dollars out of as many fathers as possible and have the added effect of further institutionalizing their status as semicriminals.

### **The Ends Justify the Means**

Advocates of unilateral divorce portray it as a “citizen’s right” and a “civil liberty,” yet in practice the regime of involuntary divorce has led to authoritarian measures against forcibly divorced parents and others. Some sixty thousand government agents, some of them armed, now enforce child support, approximately thirteen times the worldwide number of Drug Enforcement Administration agents.

These plainclothes police now command sweeping powers to seize property and persons involved involuntarily in divorce proceedings, including the power to issue arrest warrants. They also have powers to gather information on private citizens unknown to other officials. Hunting alleged deadbeats even rationalizes the monitoring of citizens who have no connection with child support. In addition to automatic wage garnishing of all obligors even before they become delinquent, the New Hires Directory now compels employers to furnish the names of all new employees to the federal government. “Never before have federal officials had the legal authority and technological ability to locate so many Americans found to be delinquent parents—or such potential to keep tabs on Americans accused of nothing,” reported the Washington Post (O’Harrow 1999, A1). “Just like in totalitarian societies, government bureaucrats will soon have the power to deny you a job, and the ability to monitor your income, assets, and debts,” said Libertarian Party chairman Steve Dasbach in a 1998 press release. “This law turns the presumption of innocence on its head and forces every American to prove their innocence to politicians, bureaucrats, and computers” (Dasbach 1998). At least one state government has dissented. “Under the guise of cracking down on so-called deadbeat dads, the Congress has required the states to carry out a massive and intrusive federal regulatory scheme by which personal data on all state citizens” is collected, the Kansas attorney general’s office charged in a federal suit challenging the mandate’s constitutionality (qtd. in Boczkiewicz 2000). Echoing a term used by fathers’ groups, one Kansas legislator called the federal directives extortion, and colleagues in Nebraska described them as “a form of blackmail” (Christensen 2001, 69).

The line between the guilty and the innocent becomes unclear because officials track not only parents with arrearages, but also those whose payments are current and those who are not under any order at all. (At one point, former attorney general Janet Reno referred to even noncustodial parents who do pay as “deadbeats” [DOJ 1994].) One agent expressed the presumption of guilt, boasting to the Washington Post, “We don’t give them an opportunity to become deadbeats” (O’Harrow 1999, A1). The NCSL points to the presumptions not only that all parents under child-support orders are already quasi-criminals, but also that all citizens are potential criminals against whom preemptive enforcement measures must be initiated now in anticipation of their future criminality. “Some people have argued that the state should only collect the names of child support obligors, not the general population,” they suggest. But “this argument ignores the primary reason” for collecting the names: “At one point or another, many people will either be obligated to pay or eligible to receive child support” (Top 5 Questions).

Between the incentive payments, the patronage, and the bureaucratic conflicts of interest, aggressive collection methods now seem to be the norm rather than the exception. Perhaps most disturbing is the case of Brian Armstrong of Milford, New Hampshire, who some claim received a summary “death sentence” for losing his job. Armstrong was jailed without trial in January 2000 for missing a hearing about which his family claims he was never notified. One week later he was dead, apparently from a beating by correctional officials.<sup>12</sup>

Fatal beatings of fathers are probably not widespread in North American jails, but other fatalities exemplify a more common form of “death penalty” routinely meted out to fathers who are neither charged with nor tried for any crime. In March 2000, Darrin White of Prince George, British Columbia, was denied all contact with his three children, evicted from his home, and ordered to pay more than twice his income as well as court costs in a divorce for which he gave neither grounds nor agreement. White hanged himself from a tree.<sup>13</sup>

In contrast to Armstrong’s fate, White’s seems to be common. “There is nothing unusual about this judgment,” said former British Columbia Supreme Court judge Lloyd McKenzie, who pointed out that the judge in White’s case applied standardized child-support guidelines (Lee 2000). The suicide rate of divorced fathers has skyrocketed, according to Augustine Kposowa of the University of California. Kposowa (2000) attributes his finding directly to judgments from family courts.

Throughout the United States and abroad, child-support machinery has been beset with allegations of mismanagement and corruption



(Baskerville 2003). In Colorado, "the results of a new audit showed that the state's child support enforcement system is in disarray" (Franke-Folstad 1999), according to those involved in the process. "It's not like it's gone from good news to bad news. It's just worse news," says Richard Hoffman of the organization Child Support Enforcement (qtd. in Franke-Folstad 1999). According to the Weekly Wire, "Tennessee, like many states around the country, has recently begun pursuing deadbeat parents with a new level of determined vengeance." Yet the state collection agency's own Child Support Fact Sheet indicates that Tennessee actually "collected less in child support per dollar of state expenditure in fiscal year 1997 than it has in any of the preceding four years during which this indicator has steadily trended negatively" (Granju 1998; see also Loggins 2001). The Aurora Beacon News in Illinois reported on October 16, 1999, that "a new state child support processing system . . . has delayed payments to thousands of parents," and mothers are refusing to let children see their fathers "under the belief that the parents responsible for child support haven't made their payments" (Olsen 1999).

In Britain, the London Times editorialized in 1999 that the nation's Child Support Agency had become "a monstrous bureaucracy, chasing responsible parents and wrecking the families it was meant to support." As elsewhere, the directors promise a "thorough overhaul," yet with uncertain logic place the blame not on the government but on the "responsible parents" whose families it is wrecking: "In future, absent fathers will have to prove they are not the father of a child," reported the Times, apparently oblivious to the contradiction (Father Figures 1999). In Australia, a 2000 parliamentary inquiry into the Child Support Agency (CSA) found "systemic corruption by public servants." Robert Kelso of Central Queensland University reports "evidence the CSA is . . . creating false debt by exaggerating incomes of fathers." Commission chairman Roger Price said no one should have any illusions that the CSA was set up to benefit children: "It is not about the best interests of children and never has been" (Kelso and Price qtd. in Stapleton 2000, 26).

Current enforcement practice overturns centuries of common law precedent that a father could not be forced to pay for the stealing of his own children. "The duty of a father (now spouse) to support his children is based largely upon his right to their custody and control," runs one court ruling typical of the age-old legal consensus. "A father has the right at Common Law to maintain his children in his own home, and he cannot be compelled against his will to do so elsewhere, unless he has refused or failed to provide for them where he lives" (Butler v. Commonwealth, 132.Va.609, 110 S.E. 868 [1922]). As recently as 1965, the Oregon Supreme Court held that "a husband whose wife left him without cause was not required to support his children living with her" and that "parents generally may decide, free from government supervision, at what level and by what means they will support their children" (qtd. in Harris, Waldrop, and Waldrop 1990, 711, 689).

Today, these precedents are ignored, so much so that a father becomes a "deadbeat" if he fails or refuses to surrender control of his children to the government hegemony. "Child support is 'paid' only when it's paid in a bureaucratically acceptable form," writes Bruce Walker of the District Attorney's Council in Oklahoma City, who claims to have jailed hundreds of fathers. "Men who provide nonmonetary support are deadbeat dads according to the child-support system," says Walker. "Even men who are raising in their homes the very children for whom child support is sought are deadbeat dads. If the mother gives the father the children because she cannot control them or has other problems, then he is still liable for child support" (1996, 18).

Fathers who lose their jobs are seldom able to hire lawyers to have their childsupport payment lowered, and judges rarely lower it anyway. Yet government lawyers will prosecute a father free of charge, regardless of his or the mothers' income. It is also now a federal crime for a father who is behind in child support, for whatever reason, to leave his state, even if doing so is his only way to find work. This law has even been used to prosecute a father whose former wife moved to another state with his children (Parke and Brott, 64–65).

Why so many divorced fathers seem to be unemployed or penurious may be accounted for by the strains that legal proceedings place on their emotions and work schedules. Many fathers are summoned to court so often that they lose their jobs, whereupon they can be jailed for being unemployed. Many divorced fathers are either ordered out of their homes or must move out for financial reasons, so they are immediately homeless. They may also lose their cars, which may be their only transportation to their jobs and children. Those who fall behind in child support, regardless of the reason, have their cars booted and their driver's licenses and professional licenses revoked, which in turn prevents them from getting and keeping employment. An odd myopia is demonstrated in a controversy over whether to give child support priority over other debts during bankruptcy, when no one seems willing to ask the obvious question of why large numbers of allegedly well-heeled deadbeats are going through bankruptcy in the first place (U.S. House of Representatives 1998). A Rutgers and University of Texas study found that "many of the absent fathers who[m] state leaders want to track down and force to pay child support are so destitute that their lives focus on finding the next job, next meal or next night's shelter" (Edin, Lein, and Nelson 1998). In what some have termed a policy of "starvation," a proposed federal regulation will render these impecunious playboys ineligible for food stamps (Federal Register, 64 FR 70919, December 17, 1999).

Though ostensibly limited by guidelines, a judge may order virtually any amount in child support. If a judge decides that a father could be earning more than he does, the judge can "impute" potential income to the father and assess child support and legal fees based on that imputed income. The result is that child-support payments can exceed what the father actually earns. If a father at any point works extra hours (perhaps to pay attorneys' fees) or receives other temporary income, he is then locked into that income and those hours and into the child-support level based on them. If a relative or benefactor pays the child support on his behalf, that payment is considered a "gift" and does not offset the obligation that the father still owes. If the payment is made to the father, it becomes "income," which is then used to increase his monthly obligation.

It is hardly surprising that some fathers who have been through this ordeal eventually do disappear. Anyone who has been plundered, vilified, and incarcerated—all on the claim of supporting children who have been taken away from him through no fault of his own—will eventually reach the limits of his endurance. Some may be tempted to conclude that this outcome is precisely what the enforcement system is designed to encourage, for certainly it does no harm to the enforcers' business.

### **Promoting Marriage or Divorce?**

The relentless (il)logic of the child-support system extends up to the level of federal policy, to the point where the tail seems to wag the dog.

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dog. Although new federal programs claim to “promote fatherhood” and “enhance relationships,” no explanation is forthcoming from HHS of how precisely the government can achieve these objectives. What requires no explanation is that the government can arrest and incarcerate people, which seems to be what it is doing to those whose marriages it is unable to save.

In May 2003, HHS announced grants to “faith-based groups.” In Idaho, Healthy Families Nampa (whose name seems tailored to the federal program) will use \$544,400 for “counseling and other supportive services to parents who are interested in marrying each other,” Assistant Secretary Wade Horn told the Associated Press. Horn said the grants are “targeted at preventing divorce among those who are married and at improving parenting skills of both married and non-married couples” (qtd. in Meckler 2003). HHS documents make clear, however, that in fact the grants are for collecting child support. Michigan’s enforcement agency will receive almost a million dollars above its regular federal subsidies. Horn claimed the aim is to “enhance the overall goals and effectiveness of the child support enforcement program by integrating the promotion of healthy marriage into existing child support services” (HHS 2003). He did not explain how law enforcement agents can enhance anyone’s marriage.

Evidence suggests that these agents are having precisely the opposite effect. Bryce Christensen of the Howard Center for Family, Religion, and Society points to “evidence of the linkage between aggressive child-support policies and the erosion of wedlock” because child-support enforcement subsidizes divorce. The latest moves by HHS seem to validate Christensen’s conclusion. “Politicians who have framed such [child-support] policies . . . have—however unintentionally—actually reduced the likelihood that a growing number of children will enjoy the tremendous economic, social, and psychological benefits which the realization of that ideal [of a two-parent family] can bring” (2001, 67, 63).

Here we have the ingredients of a government perpetual-growth machine, one that extends well beyond family policy. Identifying fathers rather than governments as the culprits behind family dissolution not only justifies harsh law enforcement measures, but also rationalizes policies that contribute further to the absence of fathers, which they ostensibly are meant to prevent. Further—given the undeniable correlation that the fatherhood advocates have established between fatherlessness and today’s larger social pathologies, such as poverty, crime, and substance abuse—it allows officials to ignore the simplest and safest solution to these ills, which is to stop eliminating fathers. Instead, governments devise elaborate schemes, invariably extending their reach and power, to deal with the problems that their removal of the fathers has created: not only fatherhood promotion and marriage therapy, but larger antipoverty programs beloved of the left and law enforcement measures dear to the right. By concocting a fatherhood crisis where none previously existed, government across the spectrum has neutered the principal rival to its power and created an unlimited supply of problems for itself to solve.

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## Notes

1. Standard legal authorities insist this distinction no longer exists. “With the procedural merger of law and equity in the federal and most state courts, equity courts have been abolished” (Black’s Law Dictionary, 6th ed., s.v. “Equity, courts of”).
2. West 2000, and accompanying accounts by and interviews with Armstrong’s family. The U.S. Attorney’s office in Concord, New Hampshire, has refused to discuss the case.
3. Account compiled from interviews with White’s daughter and with Todd Eckert of the Parent and Child Advocacy Coalition, who was assisting White before his death, and from reports by Donna Laframboise in the National Post, March 23, 25, and 27, 2000, in the Vancouver Sun, March 24, 2000, and in the Ottawa Citizen, March 24 and 27, 2000. Attacks on White in the Toronto Sun (April 9, 2000) and in other newspapers did not contest the essential facts.

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# Will Fathers Lead the New Conservative Revival?

NASCAR Dads, Soccer Moms, and Latchkey Kids  
<http://www.humaneventsonline.com/article.php?id=3190>

Stephen Baskerville, 03-02-04

The latest wisdom holds that the group to watch in this election is "NASCAR dads." Feminist pundit Ellen Goodman sensibly urges Democrats not to neglect men as a voting bloc. But her men are identified, strangely, by their private pastimes, not their public concerns. Feminists used to oppose stereotyping. "Soccer moms" seldom objected to the appellation; perhaps the attention was enough to soothe any ruffled dignity.

The Democrats' discovery of men is valid, but the spin is not only condescending; it is self-defeating. Howard Dean's pitch to the common man was not in itself misplaced. It was the terms he used to identify his desired supporters that were insulting. Whatever "guys with Confederate flags in their pickup trucks," "NASCAR dads," or "Joe six-pack" may have in common as political figures, few are likely to endorse a candidate who identifies them with their recreations. I may enjoy stock car racing or a beer now and then, or for that matter the opera and twelve-year-old whisky, but either way I am unlikely to allow these enjoyments to determine my voting decisions and will suspect any politician who suggests I should.

In fairness, Goodman and the Democrats do try to engage issues. Regrettably, their political stereotypes are almost as shallow as their cultural ones. "Democrats want the fathers of the kids without health insurance to desert the guy who gave tax cuts to the rich," Goodman observes.

This is an appealing theory. Possibly it is not happening because the NASCAR dads have their heads so befuddled with beer and racing that they cannot think and vote as the enlightened classes believe they should.

I suspect the more serious impediment is that the "kids without health insurance" are also likely to be kids without fathers. Given the choice, most fathers will prefer that their children have fathers, whereupon they will worry about the health insurance themselves. If the government provides the health insurance, there is less need for the fathers. They may also find it easier to provide that health insurance if the government was not taxing them (along with "the rich") to provide them (along with "the poor") with health insurance.

Goodman provides us here with only one instance of how our major political issues are becoming, as the feminists say, "gendered," why our elections are producing a widening "gender gap," and why the Democrats are rapidly becoming a party largely for unmarried women.

She also indicates why the salience of family issues (same-sex marriage, welfare reform, proposals to promote "healthy marriages") is likely to elevate into prominence not the swelling ranks of single women, as the conventional wisdom suggests, but fathers. Not NASCAR fathers; just fathers.

## Natural Conservatives

The fact is that for decades the Democratic Party--and left-wing parties throughout the welfare-state democracies--have been instituting policies that make fathers redundant. Not "feel" redundant: redundant.

Yes, we heard a lot about the importance of fathers during the Clinton years ("deadbeat dads," "batterers," "pedophiles"). But what we are hearing now is less about fathers and more from fathers.

What perspective do fathers bring to the current political agenda? Mostly a conservative one. As those on the receiving end of feminist and media vilification, extortionate judicial activism, avaricious lawyers, and the anti-family tendencies of the welfare and divorce machinery, fathers and their loved ones have become natural conservatives. They also provide a pool of millions of voters, many of whom are ethnic minorities who have not traditionally identified with conservatism and who could decisively tip the political balance.

But ideology may be less important than moral authority. In fact, fathers may challenge conservatives to recall their own principles and take the moral high ground in preference to stop-gap solutions and short-term political advantage.

Some conservatives do perceive a "whiney," mildly hedonistic quality to men's grievances. "The last thing we need in America is yet another victim group, this one made up of seriously aggrieved males," writes columnist John Leo (who nevertheless feels concerned enough to warn of the dangers of male-bashing). Complaints about unfair divorce settlements (while often justified) often do not sit well among social conservatives who dislike divorce in the first place.

But fathers are different than men generally, a difference stemming from the demands and the perspective of parenthood.

For example, some conservatives are tempted to alleviate the welfare conundrum by tapping fathers for more child support. While this may bring short-term gains (but in fact seldom does), it will result in long-term increases in fatherless children, since child support subsidizes single-parent homes. Welfare should not be a machine for creating fatherless children, even when their material needs are met.

Likewise, the administration's plan to address this problem with a \$1.5-billion program of marriage therapy has been criticized from the left (dishonestly) for encouraging "abusive" marriages.

The more telling case against it is that it creates a government-approved marriage curriculum allowing psychotherapists to define (and redefine) marriage with a government imprimatur. Rather than grasp the nettle--which is easy divorce laws that encourage and even reward single motherhood--welfare officials are trying to create the appearance of action by spending money on unproven and possibly



counterproductive programs. Thus far, the recipients of most marriage money have been child support agencies, again subsidizing divorce and fatherless children.

The return of masculinity has been a favorite theme of conservative writers of late. But masculinity is not enough. Fathers bring something more to the table than courage, audacity, and physical strength. They offer the hope of returning to a politics constructed, from the "grassroots," on civic responsibility rather than political ideology.

Unlike political professionals, fathers are not activists but citizens: political amateurs--literally, those who "love." Activists may profess a love of humanity, but this love is proven only by devotion to an abstract and all-encompassing "cause" which inevitably subordinates actual human affections to an ideological solidarity, to which only the zealous few may devote their lives.

Citizens are moved to public service by traditional allegiances whose strength is tested and renewed in the daily trials of life, endured by all of us: love for family, cooperation with neighbors, loyalty to country, and faith in God.

It is an ideal that, in a very short space of time, has been all but lost in modern politics. And it is very likely that no one can restore it, except possibly the fathers.

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## Conservative Spotlight: Dr. Stephen Baskerville

<http://www.humaneventsonline.com/article.php?id=3012>

Joseph A. D'Agostino, 02-11-04

"For we wrestle not against flesh and blood, but against principalities, against powers, against the rulers of the darkness of this world, against spiritual wickedness in high places" (Ephesians 6:12). Those who believe in Holy Scripture, and those who just believe that the family must be the basis of any good society, have reason to fear the onslaught of revolutionary forces that have torn apart American families through easy divorce, social acceptance of promiscuity and illegitimate birth, a feminist ideology that sows discord between man and woman, and a popular culture that instructs children to despise and disobey their elders. Dr. Stephen Baskerville, a political science professor at Howard University and the new president of the American Coalition for Fathers and Children (ACFC), believes that the usual targets of conservatives' ire--the '60s cultural revolution, the liberal media, the depraved marketers of corrupt entertainment to youth--are not inclusive enough.

Baskerville, whose articles have frequently appeared in HUMAN EVENTS, specializes in research on and activism in how public policy affects fathers and families. He believes that the government began the disintegration of the American family. "The family crisis is caused by a government assault on the family," he said. "The position of the father has been weakened. The two big things that have weakened fathers have come from the government. One is the welfare state, which replaces the father's income.... The other, which grew out of that, is the change in divorce laws--no-fault divorce since about 1970." He noted that divorce law is the province of state governments, not the federal government. "If you go back and look at it, it's amazing how much culture follows law," he said.

Other trends have developed out of these, said Baskerville: "Abortion. Day care, which becomes the way of further increasing institutional and government control over children. Perhaps also the massive growth of fast-food restaurants and even the obesity epidemic."

Social thinkers throughout history, including the most influential thinker of the 20th Century, Sigmund Freud, have affirmed that the patriarchal family, with the father at its head, is the basis for civilization. It is now the exception, not the rule, for children to spend all their growing years in an intact, two-parent family. "I don't think anti-male bias is the main problem," said Baskerville. "I see the growth of government power as the main problem. After they take away the fathers, they'll take away the mothers next." In George Orwell's 1984, the Fascist-Communist party in power wishes to abolish the family in order to increase its control over each individual person.

"I do think there are well-intentioned liberals out there, but I am also surprised at how many leftists are honest about their desire to destroy the family," said Baskerville.

Baskerville's group, ACFC, advocates granting equity to fathers in divorces. Currently, divorce courts favor mothers in granting child custody and often grant child support payments that cripple the divorced man's finances. Feminists use false statistics on domestic violence and child abuse to demonize fathers. A few examples of corrective statistics: "Single mothers are the most likely physical abusers of children," said Baskerville. "Of child murders, 55% are done by the children's own mother, only 6% by the children's father. Most child sexual abuse in the home is by boyfriends and stepfathers." Thus, he said, "divorce greatly increases the risk to children." And who wants all these divorces? The stereotype of the man leaving his faded middle-aged wife for a younger woman is false, at least when children are around. "At least two-thirds of divorces when the couple has minor children are desired by the woman and not the man, and things like violence, adultery, or abandonment are rarely the reason for these divorces," said Baskerville--who added that women have more incentive to divorce because they know social workers and courts will grant them custody and child support.

"Some of these professionals chide us because (they say) we are looking out for our own interests, our own families," said Baskerville in a statement when he became president of ACFC last month. "They seem to claim moral superiority because they concern themselves with other people's children. It is true that we have a personal interest in preserving families. Because we--and we alone--are defending *our* families."

In article for [www.lewrockwell.com](http://www.lewrockwell.com), Baskerville wrote: "G.K. Chesterton argued that the most enduring check on government tyranny is the family. Ideological correctness notwithstanding, little imagination is required to comprehend that the household member most likely to defend the family against the state is the father."

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*[Joseph D'Agostino](#) is Associate Editor of HUMAN EVENTS.*

## Reason: Perpetuating Assumptions?

<http://mensnewsdaily.com/archive/a-b/baskerville/2004/baskerville021204.htm>

Stephen Baskerville, Ph.D, 02-12-04

**Reason** magazine has published the letter below in its March issue. This letter is in response to Cathy Young's article in the [December issue](#). They also published, in the February issue, an article on paternity fraud, "[Injustice by Default: How the effort to catch 'deadbeat dads' ruins innocent men's lives](#)," by Matt Welch. This article does not question the claim that there is a serious problem of "real" deadbeat dads.

**Reason** seems to realize something is wrong, and they are willing to investigate its more egregious and obvious manifestations. But they are unwilling to question the fundamental assumptions and claims of the government or to engage in a deeper inquiry into what is really going on here or the long-term causes. This is unfortunate, because other libertarian publications, such as Liberty and Lew Rockwell.com, are leaving them behind.

Stephen Baskerville

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**Reason magazine, March 2004, p. 6.**

Letters

Divorcees and Social Engineers

Cathy Young bends over backward to be fair in "Divorcees and Social Engineers" (December), and as usual she mostly succeeds. But we may be missing an opportunity to probe deeper into a perversion of government power without precedent in our history.

Young characterizes some of my views as "extreme." But my argument that government's ever-expanding family machinery has developed a vested interest in removing children from their fathers was recently documented in *Political Science and Politics*, a peer-reviewed journal of the American Political Science Association not known for airing extremist opinions. The argument is in fact a commonplace of political science: Bureaucracies often perpetuate the problem they are created to address.

My charges are corroborated by a feminist insider. In the October issue of the same journal, St. Olaf College political science professor Jo Michelle Beld confirms that the livelihoods of child support officials depend on broken homes, that these same enforcement officials set the child support levels they collect, and that "high child support orders, in combination with other child support enforcement policies, have a negative effect on contact between non-custodial parents and their children."

Perhaps it is not my rhetoric but what the government is doing to its citizens that is extreme. We are talking here about the forced removal of millions of children from parents who have done nothing wrong; mass incarcerations of those parents without trial; forced confessions; government seizure of the private papers, property, and homes of citizens accused of nothing; children used as government informers against their parents; doctored court records; involuntary litigants shaken down on pain of incarceration for the fees of lawyers and psychotherapists they have not hired; and much more.

Oddly, nobody has written more eloquently on many of these abuses than Cathy Young. But now she asks blithely, "Is there any way to avoid that?" and expresses a truly astonishing pathos for "people forced to choose between losing their children and remaining in an emotionally intolerable marriage."

No one today is "forced" to contract a marriage agreement, which is designed to provide an emotionally tolerable environment for children. To avoid this intolerable choice for parents who lack grounds to break their contract, parents who remain faithful currently must lose their children without being given any "choice" in the matter. They may then be expropriated for not only everything they have but most of what they will ever earn, coerced into signing a confession, criminalized in ways they are powerless to avoid, and jailed indefinitely without trial.

By the way, I have never advocated that a parent should have no access to his or her children. What I advocate is bringing questions of justice, rather than therapy or social engineering, back into courtrooms. This certainly includes the joint custody (properly understood) that Young proposes. But any solution will effectively minimize divorce damage only by identifying the interests inflicting that damage and vigilantly monitoring them.

**Reason** and Cathy Young deserve credit for opening a dialogue, but they would be doing a greater service through a more extensive investigation into this hijacking of the justice system.

## The Father: A Family's Weakest Link

<http://mensnewsdaily.com/archive/a-b/baskerville/2004/baskerville020104.htm>

**Stephen Baskerville, Ph.D. 02-01-04**

Thanks to a recent court case in Massachusetts, issues of marriage and family now cover the front pages. But the family crisis is much larger than same-sex marriage or homosexuality.

The family today is under attack on many fronts: pornography, popular culture, public schooling, abortion. But to see these as serious threats to the family is like ascribing the defeat of an army to people shooting at it. If the family were sound it could withstand these pressures.

The most serious attack on the family today is the one that comes at its weakest point: the father. Anthropologists have long recognized that the father is the family's weakest link. By destroying fathers, the government can, and does, destroy families.

Until now, fathers have not been heard much on family issues. That is about to change. I have recently had the honor to be named President of the American Coalition for Fathers and Children. This is the largest group representing fathers and their families in America. Unlike organizations you probably know, it is not a group about fathers, or for fathers; it is a group of fathers—fathers who can speak for themselves and who intend to start doing so.

Until fathers are part of the dialogue on marriage and family, that dialogue will be empty chatter. And I don't mean fathers as prison inmates, as the Justice Department would have it. I don't mean fathers as subjects of government therapy, as the Department of Health and Human Services wants. I don't mean fathers as labeled by the government as "deadbeats," "batterers," and "pedophiles." I mean fathers as heads of their families, fathers speaking for their children rather than allowing government officials to do it for them, in some cases fathers defending their children from those same government officials.

No, this is not another victim group, not another whiny special interest. For unlike most political professionals, the fathers standing up and speaking out are not activists but citizens. The difference is that activists are moved by abstract ideologies. Citizens act out of love for family, cooperation with neighbors, loyalty to country, and faith in God.

It is an ideal that, in a very short space of time, has been all but lost in modern politics. And it is very likely no one can restore it, except possibly the fathers.

# Message from Stephen Baskerville,

President, American Coalition for Fathers and Children

<http://mensnewsdaily.com/archive/a-b/baskerville/2004/baskerville010704.htm>

**Stephen Baskerville, Ph.D., 01-07-04**

It is a tremendous honor to be asked to serve as President of the [American Coalition of Fathers and Children](http://www.acfc.org/). We stand at a critical point. Families today are under attack as never before. But this attack does not come primarily from pornography, television, rock music, drugs, or even homosexuality. The attack comes from government, and it targets the family's weakest and most vulnerable point: the father. The wholesale separation of children from their fathers, the mass incarceration of fathers without due process of law, the seizure of children from both mothers and fathers, the abuse of children by the very officials who claim to be protecting them -- this is hidden behind a media blackout, hidden behind the silence of the politicians, but it is the terrifying reality for millions of Americans.

The crisis is especially acute now. Sharp increases in already-crushing "child support" burdens, new penalties ostensibly to combat "domestic violence" -- these will produce more broken homes and fatherless children, more parents in jail, and further erosion of constitutional rights.

But it is also a hopeful time. As Americans wake up to the crimes being committed against families by their own government, they shake their heads in disbelief but cannot deny the reality they witness in their own lives. The media and politicians too can no longer look the other way, as fathers speak out and organize to protect their families.

Family and marriage issues are on the front pages around the world, and ACFC intends to make fathers and parents generally a leading voice in that conversation.

In the coming months and years, I look forward to working with ACFC Founder and Board Chairman David Roberts, Executive Director Mike McCormick, Communications Director John Maguire, Treasurer Ileana Basil, Membership Director Susan Antomarchi, and other prominent activists and all of you to stop the systematic destruction of families. ACFC is a rapidly growing organization, with new members and new affiliates added daily. In partnership with groups formed by many of you, ACFC will publicize and challenge the government's offensive.

Parents are now resisting the government's intrusions with new determination. I hear parents asking how they can become active, pledging to sacrifice whatever is required, vowing never to relent, dedicating the remainder of their lives to rescue their children from the clutches of this cruel machine. And yes, I hear some parents (increasing numbers, it seems) threatening to use measures which we dare not condone. But I also hear them vowing sacrifices which we can only admire.

Even now, we witness courageous deeds and heroic sacrifices. In Britain, fathers have placed their demands on the front pages of the most prestigious news organizations in the world. In Australia, Prime Minister John Howard has put divorce and custody issues before the national legislature. In Canada, debates on custody law are also national news.

## ***What Lies Ahead?***

As fathers and parents, we are uniquely situated to lead families out of this bondage, as others have done before. But we must have no illusions. Before we reach the promised land of freedom, we must fight our way through a wilderness of despair.

We will be called vicious names: "deadbeat," "batterer," "pedophile," and more. We must withstand scorn from the media and politicians that offers us no platform to defend ourselves. We must be prepared to endure fabricated accusations of the most hideous crimes against our own children, with few constitutional protections for our rights. We must face summary incarceration from government bullies motivated by a toxic mix of self-righteousness and self-dealing. Indeed, some of us will find ourselves called upon to make (as some have already) the supreme sacrifice that fathers have never hesitated to make for the children.

We must dispense with the illusion that others will win this struggle for us. We must discard the vain hope that if only we inform them of the terrible injustices perpetrated against parents and children, then journalists, politicians, family advocates, or civil libertarians will wake up, and do their jobs, and end this injustice.

The bitter truth is that no one can "save the children" but their parents. We alone are responsible for our children, and we alone must protect them. No one will cry for us if we succumb. No one will respect us if we complain. No one will listen to our excuses if we fail. *No one* -- including our children themselves. The entire burden rests upon us and no one else. But when we succeed -- and we *will* succeed -- we will create a legacy of moral authority and family strength that will be passed to our children, and to theirs, and beyond.

Even the most vicious among our opponents have paid us this high tribute: They have made us responsible. "Father absence," we are told (and told correctly), accounts for virtually all today's social problems. And so we are blamed for being "absent" -- even when we have no right to be present. We are held responsible when a marriage ends, even when we did not end it. We alone are made responsible for providing for our children, even when they are forcibly removed from our care. We alone are held responsible for violence in the family, even when we have not committed it (and even when it is committed against us). We are held responsible for the abuse of our children, even when they are abused by others. We are held responsible for the wayward behavior of our children, even when we are not permitted to offer them guidance and correction. Even when it is beyond our control, we alone are responsible.

We must not shirk this responsibility, for it is the essence of fatherhood. We must embrace it, for it is the salvation of our children and the restoration of our families. It is time we took the fair-weather friends of fatherhood at their word by standing up and taking action. The time for talk is past. It is now time to act.

## ***Who We Are***

**Jim Unterschine, GZS of LB, [gndzerosrv@pavenet.net](mailto:gndzerosrv@pavenet.net), [www.gndzerosrv.com](http://www.gndzerosrv.com)**

So let us take this opportunity to state clearly before the world who we are and what we stand for.

There are those who claim to advocate for an abstraction called "fatherhood." Others describe themselves as defenders of "the" family. Many are well-intentioned. But they tend to be political professionals, and they often claim to speak for "the children," not their own.

Some of these professionals chide us because (they say) we are looking out for our own interests, our own families. They seem to claim moral superiority because they concern themselves with other people's children.

It is true that we have a personal interest in preserving families. Because we (and we alone) are defending *our* families. For us, the family is not an abstraction or an object for our good deeds. We do not pretend to be motivated by concern for someone else's children. We concern ourselves only with our own. We are not crusaders or zealots. And we are not professionals. We are proud to be *amateurs* (literally, those "who love"). We are parents, and our aims are limited. But that is not our weakness; that is our strength.

It is our strength because we have the authority not of paid officials but of parents and citizens. Politicians always promise to return power to "the people." But we *are* the people. We have endured much from the politicians, but when they take our children, we draw a line.

The good intentions of fatherhood promoters, family defenders, and children's advocates cannot meet the test. They will not fight for our children. They will not sacrifice for our children. They will not risk their careers or livelihoods or lives for our children. They will not die for our children.

There is no such abstraction as "the" family. There are only families -- *our* families. We alone can and will defend them. If others wish to help -- journalists, politicians, defenders of the Constitution, critics of the judiciary, civil libertarians -- we welcome them, and they will have our gratitude. But we must make it clear to friend and foe alike that this is foremost *our* struggle. We -- and *we alone* -- can save families, because they are our families.

Likewise, we do not trumpet an abstraction called "fatherhood." We are concerned with *our* fatherhood, the fatherhood of each individual father. And we will establish it not with words that cost nothing but with deeds that may cost us dearly indeed.

If those who pose as the champions of fatherhood dislike our deeds, then it is time they examined what they mean by "fatherhood." For if it means anything less than defending one's children against those who would interfere with them or take them away, then theirs is a definition of fatherhood we find wanting. They are entitled to their opinion, of course, but we are entitled to our children. And our children are entitled to us.

Opinions are important (to a point), and "a decent respect to the opinions of mankind" is obligatory in a democracy. But few who have both would regard their opinions as being of equal importance as their children. While we respect the opinions of others about the best interest of children in the abstract, we expect others to respect our decisions about the best interest of our own children. And we expect them to understand something more: that no parent is answerable to government officials for how they raise their children or for exercising their right and duty to protect them. The best interest of children is a continued meaningful relationship with both parents. And the best way to achieve that is limit the discretion of judges with a rebuttable presumption of 50-50 shared parenting

### ***Where We Stand Now***

It is impossible to overestimate the burden that weighs upon our shoulders. We face a government that threatens our children, our lives, our Constitution, and quite possibly the very basis of civilization itself. Before our very eyes we see history's greatest experiment in human freedom being debased into a ruthless, depraved, diabolical tyranny.

It has fallen to us "to wage war against a monstrous tyranny, never surpassed in the dark, lamentable catalogue of human crime." But this tyranny does not come from abroad; it has arisen in our very midst. It is a tyranny of cowards, that hides in secret courtrooms and protected offices, that fears the citizens it ostensibly serves, while cynically using and abusing innocent children to increase the power of grown-ups.

Against this foe, we have no illusions that our struggle will be easy, that laws will be passed tomorrow to free our children. Even were this to happen, it would be to little avail. New laws are only as effective as the citizens who demand them. The means of freeing our children are already in our own hands. Our children will be free when their fathers stand up and speak out like men. Families will be safe and strong when parents everywhere know they must join us and build upon our work or face destruction, as we do now.

Defeat is not an option, because we fight for our very survival and for the survival of our children, and of their children. We will comport ourselves with dignified outrage. We will never cross the line into violence. But neither will we relent, withdraw, or surrender. And if we are struck down, others will rise up in our place.

### ***How Far Do We Go?***

How we speak out is a decision that each of us must make alone. We in the national offices of ACFC understand our task of providing leadership. But some initiative must come from you. Throughout the US and the world, parents are finding bold and creative ways of calling attention to this tyranny. Their courage is producing results.

ACFC is a broad political church. Each of us has our own views about the most fundamental questions before us: the goals we seek, the priorities we deem most urgent, the methods of achieving those aims. Inevitably, differences and disagreements must arise. As always, there will be the cautious and the impatient, the timid and the eager, the moderates and the militants. In our case, however, these difference represent more: Often, they reflect what the government has done (and can still do) to us in particular and to our children.



To the usual need for unity and forbearance of differences, therefore, we have a special need for charity toward one another. No man who sees his children has a right to brand as extreme one who does not. Likewise, no man has a right to label as timid one who, by acting rashly, could lose access to his children as a result. Were the circumstances reversed, the self-styled man of reason may be the one to find himself (as journalists say) "foaming at the mouth," and the coward may prove a hero.

However each decides to serve, each has a role, and all are needed. ACFC is here to offer support. The only line we draw is that ACFC does not condone violence in any form as a political method.

### ***What You Can Do***

The power of the divorce regime is formidable, but the power in our own hands is much greater. They are trading in lies, and as Dr. King said, "No lie can live forever."

Beyond the power of the truth, we have 15-20 million non-custodial parents, plus tens of millions more who love and support them. United in one voice and with our friends abroad, we have the power to check the global destruction of families.

But even short of that, your personal action now sends a message to your own children in particular, even children whom you may think have been irrevocably lost to you: Their father or mother loves them enough to sacrifice, to risk, and to act.

Many good parents' groups already operate across America and the world, and ACFC does not intend to duplicate or replace or preempt the work of any. Our aim is to unite and facilitate and support.

If you ask what you must do, this is my reply: I personally urge every parent in America -- single, married, or divorced -- to the following actions IMMEDIATELY:

First, if you have not done so already, join ACFC. (Call 800-978-DADS, or [www.acfc.org](http://www.acfc.org).)

Second, join your local group. If it is not yet an ACFC affiliate, begin the steps to make it one. The paperwork is very simple. DON'T BE PUT OFF. ("Yea, I went to a fathers' group, but it was just a gripe session, everyone complaining about their ex-wives and the judge. So I never went back...") A group is what its members make it. If you don't like it, join and change it. YOU CAN ACCOMPLISH NOTHING ALONE.

Third, contact your local media. Tell them your story. Tell them about your local group. Say they are affiliated to ACFC. Get others in the group to do the same. Then do it again. And again. Be respectful but persistent. Do not let them put you off. Investigating government wrongdoing is their job. Eventually they will respond.

Stand up in your church, your civic group, union, or place of employment, at candidates' campaign rallies, PTA or school board meetings, or wherever issues of the family or children or public policy are being discussed. Tell them what has happened to you, to your children, and to countless others. Don't be afraid to change the subject. (Getting our issues on the public agenda *by definition* means changing the subject.) Is what they are discussing more important than your children? Try to have others present to second you. Do not be afraid of what people will think of you. Is the opinion of the world more important than your children? Do not be afraid to be called angry. You should be angry. "There are some things...to which I am proud to be maladjusted," said Dr. King, "and to which I call upon you to be maladjusted." Be dignified but outraged. Show yourself to be a man of courage and a leader. You do not have to climb a scaffold 200 feet into their air, but is it too much to raise your hand or stand upright and relate the atrocious crimes the government has committed against your children? "Society everywhere is in conspiracy against the manhood of every one of its members," wrote Emerson. "Whoso would be a man, must be a nonconformist." Show the world and your children that you are not afraid to be different, that you are a man.

Finally, stay connected with ACFC through the email listserve or by the web site for information about developments, groups, and activities.

In times of crisis, people often ask, "Where are the heroes?" In this crisis, the heroes can come from only one place: the parents, and foremost fathers. You may not realize it yet, but eventually the eyes of the world and of history will be upon us. We will be weighed in the balance, and future generations will judge what we do.

# The Anti-Father Police State

<http://mensnewsdaily.com/archive/a-b/baskerville/03/baskerville122303.htm>

**Stephen Baskerville, Ph.D., 12-23-03**

Columnist Cathy Young is known for her even-handed attempts to cut through the pretensions of both the left and right. She has also shown considerable courage by delving into what for many journalists is a no-go zone: divorce and fathers' rights.

So it is a little awkward to find myself cast as one of her combatants, with my own views and others' whom I typify characterized as "extreme." [In the December issue of Reason magazine, Young sorts out](#), with her customary balance, a debate between proponents of Clinton-Bush family engineering schemes and those of us who take a more *laissez-faire* attitude toward government intervention in family life.

Actually, it is not my positions that are extreme but my "rhetoric" – specifically, the words I use to describe how government is systematically destroying families and fathers. "Political speech and writing are largely the defense of the indefensible," wrote George Orwell. "Thus political language has to consist largely of euphemism." If my language seems direct, it may be because euphemism currently obfuscates the most indefensible politics of our time.

That a writer as informed and astute as Young has difficulty grasping the larger trend at work here validates Orwell's observation about the power of language. Clichés about "divorce" and "custody" do not begin to convey the civil liberties disaster taking place. We are facing questions of who has primary authority over children, their parents or the state, and whether the state's penal apparatus can seize control over both the children and the private lives of citizens who have done nothing wrong. Rephrased, the question is, Is there any private sphere of life that remains off-limits to state intervention? Bryce Christensen of Southern Utah University (and not a fathers' rights activist, extreme or otherwise) has characterized fatherhood policies as creating a "police state."

Developments in only the last few days amount to government admissions of Christensen's charge. Under pressure from the American Civil Liberties Union (ACLU), a Montgomery County, Pennsylvania, judge has just freed some 100 prisoners who had been incarcerated without due process for allegedly failing to pay child support. The fathers were sentenced with no notice given of their hearings and no opportunity to obtain legal representation. Fathers relate that hearings typically last between 30 seconds and two minutes, during which they are sentenced to months in prison. ACLU lawyer Malia Brink says courts across Pennsylvania routinely jail such men for civil contempt without proper notice or in time for them to get lawyers. Lawrence County was apparently jailing fathers with no hearings at all. Nothing indicates that Pennsylvania is unusual. After a decade of hysteria over "deadbeat dads," one hundred such prisoners in each of the America's 3,500 counties is by no means unlikely.

Also last week, a federal appeals court finally ruled unconstitutional the Elizabeth Morgan Act, a textbook bill of attainder whereby Congress legislatively separated father and child and "branded" as "a criminal child abuser" a father against whom no evidence was ever presented. "Congress violated the constitutional prohibition against bills of attainder by singling out plaintiff for legislative punishment," the court said. The very fact that a bill of attainder was used at all indicates something truly extreme is taking place. Bills of attainder are rare, draconian measures used for one purpose: to convict politically those who cannot be convicted with evidence.

So do these decisions demonstrate that justice eventually prevails? Hardly. In both cases, the damage is done. Foretich's daughter has been irreparably robbed of her childhood and estranged from her father. Moreover, millions of fathers continue to be permanently separated from their children and presumed guilty, even when no evidence exists against them.

The Pennsylvania men will fare worse. For many, the incarceration has already cost them their jobs and thus their ability to pay future child support. As a result, they will be returned to the penal system, from which they are unlikely ever to escape. Permanently insolvent, they are farmed out to trash companies and similar concerns, where they work 14–16 hour days. Most of their earnings are confiscated for child support, the costs of their incarceration, and mandatory drug testing.

This gulag recalls the description of the Soviet forced-labor system, described by Carl Friedrich and Zbigniew Brzezinski in their classic study of totalitarianism: "Not infrequently the secret police hired out its prisoners to local agencies for the purpose of carrying out some local project.... Elaborate contracts were drawn up...specifying all the details and setting the rates at which the secret police is to be paid. At the conclusion of their task, the prisoners, or more correctly the slaves, were returned to the custody of the secret police."

New repressive measures against fathers are enacted almost daily. Last week, Staten Island joined a nationwide trend when it opened a new "integrated domestic violence court." The purpose of these courts, says Chief Judge Judith Kaye, is not to dispense justice as such but to "make batterers and abusers take responsibility for their actions." In other words, to declare men guilty.

Anyone who doubts this need only look to Canada, where domestic violence courts are already empowered to seize the property, including the homes, of men accused of domestic violence, even though they are not necessarily convicted or even formally charged. Moreover, they may do so *ex parte*, without the men being present to defend themselves. "This bill is classic police-state legislation," writes Robert Martin, of the University of Western Ontario. Walter Fox, a Toronto lawyer, describes these courts as "pre-fascist," and editor Dave Brown writes in the *Ottawa Citizen*, "Domestic violence courts...are designed to get around the protections of the Criminal Code. The burden of proof is reduced or removed, and there's no presumption of innocence."

Special courts to try special crimes that can only be committed by certain people are a familiar device totalitarian regimes adopted to replace established standards of justice with ideological justice. New courts created during the French Revolution led to the Reign of Terror and were consciously imitated in the Soviet Union. In Hitler's dreaded *Volksgerichte* or "people's courts," write Friedrich and Brzezinski, "only expediency in terms of National Socialist standards served as a basis for judgment."

Even more astounding, legislation announced in Britain will require the police to consider fathers guilty of domestic violence, *even after*

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*they have been acquitted in court.* Fathers found "not guilty" are to be kept away from their children and treated as if they are guilty. As Melanie Phillips writes in the *Daily Mail*, "This measure will destroy the very concept of innocence itself."

These are only the most recent developments. Young herself has written eloquently on the practice of extracting coerced confessions from fathers like Massachusetts minister Harry Stewart. In Warren County, Pennsylvania, fathers like Robert Pessia are told they will be jailed unless they sign confessions stating, "I have physically and emotionally battered my partner." The father must then describe the violence, even if he insists he committed none. The documents require him to state, "I am responsible for the violence I used. My behavior was not provoked." Again, the words of Friedrich and Brzezinski are apposite: "Confessions are the key to this psychic coercion. The inmate is subjected to a constant barrage of propaganda and ever-repeated demands that he 'confess his sins,' that he 'admit his shame.'"

G.K. Chesterton argued that the most enduring check on government tyranny is the family. Ideological correctness notwithstanding, little imagination is required to comprehend that the household member most likely to defend the family against the state is the father. Yet as Margaret Mead once pointed out, the father is also the family's weakest link. The easiest and surest way to destroy the family, therefore, is to remove the father. Is it extreme to wonder if government is quietly engaged in a search-and-destroy operation against the principal obstacle to the expansion of its power?

## Dismantling Justice

*How much authority do we have to create justice when we are dismantling it at home?*

<http://mensnewsdaily.com/archive/a-b/baskerville/03/baskerville121803.htm>

**Stephen Baskerville, Ph.D., 12-18-03**

A judge in Illinois wants to create special courts specifically for fathers. Judge Robert Spence claims these courts can somehow collect more child support from fathers whose children it has taken away.

In Staten Island this week, a new "integrated domestic violence" court will debut. The purpose of these courts, says Chief Judge Judith Kaye, is not to dispense justice but to "make batterers and abusers take responsibility for their actions." In other words, to find fathers guilty.

Special courts to try special crimes, that can only be committed by some people, are long familiar as a device to circumvent established standards of justice and implement ideological justice: revolutionary justice or socialist justice or gender justice. Special courts created during the French Revolution led to the Reign of Terror and were consciously imitated in the Soviet Union. Hitler created the dreaded *Volksgesichte* or "people's courts" described by Carl Friedrich and Zbigniew Brzezinski in their classic study of totalitarianism, as tribunals "in which only expediency in terms of National Socialist standards served as a basis for judgment."

Canada is already creating special domestic violence courts that can seize the property, including the homes, of men accused of domestic violence, even though the men are not convicted or even formally charged. Moreover, they may do so without the men being present to defend themselves. "This bill is classic police-state legislation and violates just about every constitutional principle," writes Robert Martin, of Western Ontario University.

Walter Fox, a Toronto lawyer, describes these courts as "pre-fascist."

As Dave Brown writes in the *Ottawa Citizen*, "Domestic violence courts . . . are designed to get around the protections of the Criminal Code. The burden of proof is reduced or removed, and there's no presumption of innocence."

Proposals have been mooted in the Justice Department to create similar tribunals in the United States.

But most astounding of all, new legislation in Britain will allow to the government to consider men guilty of domestic violence, *even after they have been acquitted in court*. I'm not making this up: Men found "not guilty" are to be issued with restraining orders and treated as if they are guilty. As Melanie Phillips writes in the *Daily Mail*, "This measure will destroy the very concept of innocence itself."

Countries that have upheld the Common Law traditions of freedom and justice are now rapidly dismantling them. How much authority do we have to create the institutions of freedom in Iraq and Afghanistan when we are destroying them at home?

# Government vs. Marriage

Stephen Baskerville Takes On Wade Horn

<http://mensnewsdaily.com/archive/a-e/baskerville/03/baskerville110703.htm>

**Stephen Baskerville, Ph.D, 11-07-03**

No reasonable person denies the value of marriage to adults, to children, and to society. But Wade Horn never answers the question promised in 'Closing the Marriage Gap' (June 2003): How specifically can the government save marriage?

Even granting the efficacy he claims for various marriage-saving schemes (a large concession), what precisely can government add that couples and counselors cannot do on their own? More importantly, what dangers accompany government involvement in the most private sphere of life? Government's role is to coerce, on pain of incarceration or death. Not surprisingly, this seems to be precisely what it is doing.

Helping troubled marriages is a valuable activity of churches. But federal funding is a formula for turning pastors into police—and at precisely the time when many churches have abdicated their role as the guarantors of the marriage contract. Initial measures indicate this is already happening.

In January, the Department of Health and Human Services (HHS) announced \$2.2 million in grants to faith-based groups to "promote fatherhood and healthy marriage." Horn said the grants "reach out to those who need help in acquiring the skills necessary to build relationships." Yet only 25 percent of the funds are earmarked for marriage; the rest will deputize private groups to collect child support, though the therapy and the policing are not strongly distinguished. The Marriage Coalition, a "faith-based organization" in Cleveland, is to receive \$200,000 to assist child-support enforcement.

In May, HHS was again conflating therapy and law enforcement, announcing more grants "to support healthy marriage and parental relationships with the goals of improving the well-being of children." Here again marriage promotion is a smokescreen to collect child support. Almost a million dollars is going to Michigan's child-support enforcement agency.

"The policy is designed to mobilize the entire community" including clerical, political, medical, business, and judicial leaders "to support children by strengthening marriage," according to the Michigan agency. These measures follow more forthright expansions of police power, wherein HHS revealed that its principal method for rebuilding marriages and "parental relationships" is by arresting spouses and parents. Under a Clinton administration initiative called "Project Save Our Children," HHS last year announced mass arrests "reminiscent of the old West," as the Christian Science Monitor described it. "Most Wanted lists go up, and posses of federal agents fan out across the nation in hot pursuit." Among "the worst of the worst" was James Circle, earning all of \$39,000 a year and ordered to pay \$350 a week for one child, about two-thirds of his likely take-home pay.

Dr. Horn has revealed that promoting marriage effectively means collecting child support: "These projects are a sensible government approach to testing and evaluating creative approaches that enhance the overall goals and effectiveness of the child-support enforcement program by integrating the promotion of healthy marriage into existing child support services."

How? How precisely can law enforcement agents improve anyone's marriage? It is likely to have the opposite effect, since any bureaucracy develops a stake in perpetuating the problems it ostensibly exists to solve.

Child-support enforcement is actually a mechanism for destroying marriages by subsidizing breakups and enticing mothers to divorce. Bryce Christensen points out a "linkage between aggressive child-support policies and the erosion of wedlock."

In her new book, *Stolen Vows: The Illusion of No-Fault Divorce and the Rise of the American Divorce Industry*, Judy Parejko exposes how government-funded marriage therapists in fact destroy marriages. Parejko was locked out of her office as a court-affiliated mediator for trying to reconcile couples. Now she is challenging no-fault divorce, the legal basis for the decline of marriage. Her group, *Defending Holy Matrimony*, is unlikely to receive federal funds.

Child-support enforcement is corrupting government throughout America (see "The Politics of Family Destruction," *Crisis*, November 2002). HHS now promises to spread this corruption to the churches and to the institution of marriage itself. Recently, the American Prospect castigated the administration for "promoting religion." But they are missing the point. By recruiting churches and citizen groups to collect child support, HHS is profaning religion. It is turning the clergy into informers and churches into extensions of the federal government.

Horn also invokes the bugbear of "domestic violence," implying that government agents are necessary to make marriage "safe" (from husbands, of course). In fact, marriage is already the safest environment for women and children, since most domestic violence takes place after separation and involves disputes over child custody.

In short, the government destroys marriage with one hand, and claims to rebuild it with the other. And when "inevitably" it cannot rebuild it, it takes the "batterers" or the "deadbeats" away to jail, thus fulfilling the true function of all government.

If Horn confronted the question honestly, he would find there is a great deal government could do to preserve marriage without destroying what it touches. It might begin by adopting the Hippocratic precept: First, do no harm.

As Allan Carlson recently said in a lecture at the U.S. Senate (with Horn as a respondent), if the government is serious about reviving marriage, it must roll back no-fault divorce. At the federal level, it could also rein in the federal divorce enforcement gestapo created in the name of child support and domestic violence. Putting more therapists and now churches on the government payroll will merely expand the gravy train of those that benefit from broken marriages.

## Wade Horn responds:

Throughout the ages, different theories have been advanced about the central purpose of government. St. Thomas Aquinas wrote that the role of government is "to promote the welfare of the territory." President Theodore Roosevelt said, "The object of government is the welfare of the people." Stephen Baskerville has a very different idea. He wrote: "Government's role is to coerce, on pain of incarceration or death." Put me on the side of Aquinas and Roosevelt.

As assistant secretary for children and families within the U.S. Department of Health and Human Services, it is my job to try to understand, as best I can, the problems facing children and families today and seek to solve them. Yes, some lawmakers, politicians, and judges have made some bad decisions when it comes to children and families. But rather than simply acquiesce to the decline in child well-being, we should seek to institute policies that help promote stronger families, healthy marriages, and the well-being of children.

On the subject of marriage education, Baskerville asks, "What precisely can government add that couples and counselors cannot do on their own?" The answer is: access. While it may be that affluent couples have ready access to marriage education services, that is frequently not the case when it comes to many lower-income couples. That's because such services often are not available in low-income communities, and even if they are, low-income couples have less resources available to them to access those services. Given the importance of healthy marriages to child well-being, the Bush administration simply seeks to provide low-income couples greater access to marriage education services that can help them form and sustain healthy marriages.

In this, Baskerville sees "a formula for turning pastors into police," yet, as Crisis readers know, the Catholic Church requires all who are to be married in the Church to receive Pre-Cana instruction before the sacrament is administered. Far from transforming local parish priests into agents of a police state, allowing low-income couples more opportunities to access marriage education will simply help improve the chances that they will form and sustain healthy marriages.

As for child-support enforcement, Baskerville believes it is "a mechanism for destroying marriages by subsidizing breakups and enticing mothers to divorce." I respectfully disagree. It is an unfortunate fact that too many children are growing up in broken homes, either because of divorce or out-of-wedlock childbearing. In such cases, are we to simply turn our backs on negligent non-custodial parents who refuse to support their children financially? Baskerville apparently believes we should. We don't.

But Baskerville is correct in one regard: Child-support enforcement alone is not sufficient to deal with the current crisis of fatherlessness. Rather, at the same time that we endeavor to ensure that children are not financially disadvantaged by negligent parents, we also should endeavor to prevent family breakup from happening in the first place. That's precisely the goal of integrating healthy marriage initiatives into the child-support system. By doing so, we are creating forward-thinking policies that will lessen the need for child-support enforcement in the future.

I assume even Baskerville would agree that a healthy marriage is the environment that will confer the most advantages to the most children. The question, then, is how do we improve the odds that children will grow up within the context of a healthy marriage? His solution is to abolish the child-support enforcement system, after which, apparently, everyone magically will settle down into lifelong, healthy marriages. As a child psychologist, I gave up on magic as the solution for improving the well-being of children long ago. I prefer commonsense and practical solutions. That describes precisely the president's healthy marriage initiative.

### Wade Horn

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# Domestic Violence Awareness Meets Marriage Protection

<http://mensnewsdaily.com/archive/a-e/baskerville/03/baskerville102803.htm>

**Stephen Baskerville, Ph.D, 10-28-03**

If it's October it must be "Domestic Violence Awareness Month." This federally driven observance has generated a steady stream of dishonest claims about how domestic violence is a gender crime perpetrated entirely by men against women. This non-existent crisis will be used to set aside more constitutional protections in order to railroad innocent men into jail.

Men's groups are beginning to fight back, pointing out decades of unchallenged research establishing that domestic violence is perpetrated as much by women as men.

But more needs to be said. Most of the domestic violence hysteria is generated for one purpose: to gain advantage in custody battles. In other words, trumped-up domestic violence accusations break up marriages and separate children from their fathers.

It is ironic but perhaps also fitting that just two weeks ago President Bush proclaimed Marriage Protection Week. Though this was a response to the flap over gay marriage, it might be even more constructively used to raise awareness of how the domestic violence industry is destroying marriage and creating fatherless children.

Now domestic violence hysteria is becoming so extreme that it is creating a quasi-totalitarian gulag, where fathers are evicted from their homes without any evidence of wrongdoing, interrogated, and forced to confess to crimes they never committed.

That's right. American citizens are routinely forced, on pain of incarceration, to sign confessions.

Forced confessions are familiar from the Stalinist regimes of Eastern Europe. Prisoners were required to denounce themselves for their "crimes" against socialism. Arthur Koestler described this vividly in his novel, *Darkness at Noon*.

In Warren County, Pa., fathers like Robert Pessia are told they will be jailed unless they sign documents confessing to acts of violence. The confessions require the father to admit, "I have physically and emotionally battered my partner. I have committed the following acts of violence against her." He must then describe the violence, even if he insists he committed none. The documents require him to state, "I am responsible for the violence I used. My behavior was not provoked."

As Pessia says, "This means I have lied and admit to something that I did not do." Other men testify, "It will be useless to try to defend myself because it will just make it worse."

The "violence" in question need not even be, in fact, violent. It may be anything the "victim" (who may only be "emotionally battered") says it is. "Depriving her of clothes" and "harassing her over bills" are among the definitions of "violence" promoted by some domestic violence authorities. Words like violence are debased into meaningless Newspeak, so that no defense is possible and no due process of law is applicable.

The line between law enforcement and psychotherapy becomes dangerously blurred, since the required confessions usually begin as involuntary therapy. Politicized psychotherapy echoes Soviet practice, where psychiatric prisons were used to confine and drug dissidents like V.I. Fainberg and V. E. Borisov, whose political views and ethical principles were taken as indications of mental illness.

These officials are not joking. In Massachusetts, minister Harry Stewart was jailed for six months for refusing to confess.

In Britain too the Labour government is employing Gestapo methods and destroying centuries-old Common Law protections for individual rights in the name of domestic violence. Home Secretary David Blunkett recently announced police raids to round-up and arrest men. The operation was carried out by something called the "Diversity Directorate" of the London police.

Blunkett's Conservative Party counterpart, Oliver Letwin, calls his methods authoritarian. Something extreme is taking place when a right-wing law-and-order spokesman can criticize the police methods of a left-wing government as heavy-handed.

It is clear that the purpose here is not to arrest individual lawbreakers but to instill fear in a target population. Gloria Steinem isn't joking when she says, "Feminism is a revolution." If so, the domestic violence machinery is executing its Reign of Terror.

Too many conservatives turn a blind eye to these abuses because they assume it is a matter of law-and-order. It is not. It is the perversion of criminal justice to serve an ideological agenda, bringing the law into contempt and leaving the weak at the mercy of truly dangerous criminals.

Perhaps this year we might celebrate Domestic Violence Awareness Month and Marriage Protection Week together, by becoming aware of how the domestic violence hoax is being used to destroy marriage and erect a police state.

# The Politics of Child Support

<http://www.apsanet.org/PS/oct03/baskerville.pdf>

PS: Political Science and Politics (10-03)

Stephen Baskerville, Ph.D, Howard University, 10-01-03

Professor Jo Michelle Beld's response contains some interesting material, but I cannot see that it detracts significantly from my argument. Indeed, she seems to establish some parts of my case better than I did. She confronts only a few aspects of child support enforcement and bases her argument entirely on personal experience in one state. Aside from the question of whether it is wise, from this vantage point, to charge another with using anecdotal evidence, her personal role in determining child support levels does not alter the political nature of the process.

As an active player in the policy process, Professor Beld's argument in fact comes close to being self-refuting: On the one hand, "the guidelines are not as high as possible." On the other hand, they are indeed being raised—and, she says, should be raised—higher. Professor Beld first acknowledges that child support and family law professionals have a vested interest in having large numbers of citizens pay child support, then points out what is an obvious conflict of interest: that they are also setting the child support levels. The very fact that Minnesota's enforcement agency is directing the guideline review and controlling the review panel indicates that the police are effectively writing the laws. She not only concedes, but even emphasizes, that precisely "what is notable" about the higher guidelines "is that they emerged directly from the child support and family law professionals" whose livelihood depends upon setting them higher. The assemblage of interested parties she enumerates as setting policy merely confirms that Minnesota is pervaded by the same conflicts of interest as the states I cite. She acknowledges the unsurprising fact that guidelines promoted by the enforcement agency will continue the process of ratcheting burdens upwards; in fact, they will make Minnesota's among the highest in the nation. Finally, she accepts the irrefutable: that "unrealistically high child support orders" and enforcement policies, "have a negative effect on contact between noncustodial parents and their children."

Professor Beld's defense of all this forces her into an extreme version of the classic institutional approach to politics, whereby everyone plays by the rules codified in laws, constitutions, and bureaucratic mission statements. Clear incentives of financial gain and political aggrandizement count for nothing, and government officials have no self-interests.

For example, she emphasizes repeatedly that, when formulating child support guidelines, states are required by federal (and often state) law to include economic research on the costs of raising children. This fact alone, however, is not proof that they actually do so.

If child-rearing costs are paramount, it is odd that most states do not require an economist on their review panel. Virginia's had none in 1999 or 2002, and the only economist on the Georgia panel dissented vehemently from its recommendations. In fact, Georgia's panels have ignored the advice of every economist to appear before them; each economist has urged the panel not to use Georgia's guidelines because they conflict with all studies on child costs. Professor Beld makes no mention of an economist, or indeed any disinterested members, on the Minnesota panel.

Virginia has been in open violation of the law on precisely this question. Section 20-108.2 of the state's domestic relations code specifically requires the state's Joint Legislative Audit and Review Commission (JLARC) to "include in its study of child support enforcement an examination of the costs of raising children." JLARC reported that such a study "would cost millions" and never undertook it, though it received federal money to do so (Leone 2000). In other words, officials simply refuse to obey the law, pleading that it would cost too much, when it is for precisely this reason that they are jailing parents without trial: failure to obey the law (in that case court orders) because they cannot afford it.

Professor Beld also seems to positively exult in the way the Minnesota child support machinery breaches the separation of powers. "Complex connections" connections" may indeed exist among officials in the legislative, executive, and judicial branches and render their powers "inextricably linked in family policies like child support," but this does not make such "collaboration" constitutional. What she terms "the interdependence of legislative, judicial, and administrative functions" means not only that burdens are set by the same police and courts that enforce and adjudicate them, but that child support enforcement agents can issue subpoenas and arrest warrants and can search private papers without court orders. They can "adjust" child support orders by administrative decree and cases are heard by executive appointed "marital masters," or "judge surrogates," who are not confirmed by the legislative branch and who are often patronage appointments. This is precisely the kind of "interdependence" the Constitution was designed to protect against, and why it provides for the *separation*, not the interdependence, of powers.

Nor is this only my assessment. In 1999, the Minnesota Supreme Court held that the administrative child support process created by Minnesota Statute §518.5511 was unconstitutional on precisely these grounds, declaring that it violated the separation of powers by usurping judicial power to an administrative agency and "by permitting child support officers to practice law" (*In Re Holmberg* 1999). Plainclothes police act as judges and juries.

Neither do such rulings necessarily vindicate Professor Beld's institutional approach. When a Tennessee court struck down a portion of the state's guidelines on equal protection grounds last year, the Tennessee Department of Human Services, which regularly jails fathers for violating court orders, simply announced they would not abide by the court's ruling (*Gallagher v. Elam* 2002; Downing 2002). When a Georgia court declared that state's guidelines unconstitutional, the ruling was overturned by a supreme court that included one justice who was instrumental in formulating the guidelines (*Georgia DHR v. Sweat* 2003). The fact that the justice recused herself was an admission that conflicts over the separation of powers were raised.

Space does not permit an analysis of the economics of Minnesota's guidelines, though it is worth noting that Professor Beld's suggestion that guidelines underestimate child-rearing costs is based on data such as that of the U.S. Department of Agriculture, which was created for *intact*, not separated, families and which cannot be considered realistic for the costs of two households rather than one

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(Rogers 2003).

Guidelines devised by Policy Studies Inc. (PSI) also ignore the mitigating factors listed by Professor Beld, such as non-custodial parents' expenses, other children, and a self-support reserve. She insists these considerations are included, but they are only recommendations of an advisory panel, not legal requirements. Even were they enacted into law, they are not built into the presumptive tables but exist outside as "deviations." Judges may simply ignore them and have bureaucratic incentives to do so.

To the extent that statutory guidelines do address these factors they do so with questionable logic. Professor Beld notes that current Minnesota guidelines have a self-support reserve. She neglects to mention that it is based on poverty thresholds from 1983. She asks how guidelines should be adjusted if children spend equal time with each parent. PSI addresses this by inserting a multiplier of between 1.25 and 1.5 into its costs. In other words, PSI makes certain theoretical assumptions of how to calculate fair and reasonable levels of support and then violates its own principles by taking the figures produced by those assumptions and arbitrarily increasing them by 25–50%. The guidelines already hold parents to spending the same proportion of their income on children in two households as they spend in one, a clearly unreasonable assumption; the multiplier requires them to spend 25–50% *more* than they would spend in an intact household.

More to the point politically, burdens exceed costs not only because of the conflicts of interest in setting them, but also because guidelines used in Minnesota, as elsewhere, were originally designed not to support middle-class children but to recoup welfare monies from low-income, unmarried fathers (Rogers 2003). They are, by nature and intent, punitive.

Like government spokespersons, Professor Beld emphasizes the number of cases involving unmarried rather than divorced parents. We do not have hard figures on this, but unmarried cases tend to be welfare cases, and it was welfare cases that originally justified federal involvement.

Yet, this justification is melting away. The most recent figures available show less than 19% of all child support cases involve welfare, and the proportion is shrinking. The remaining 81% are nonwelfare cases (OCSE 1999, fig. 2). Naturally, it is much easier to get the money out of middle-class fathers, for whom the system was never designed, than from poor inner-city teenage fathers, who provided the original justification for creating it.

Federal involvement adds further incentives to mine the pockets of these fathers. HHS pays incentive funds of 6–10% on each dollar collected by states, as well as 66% of operating costs and 90% of computer costs (HHS 1997). To collect these funds, states must channel support payments—including current ones—through their criminal enforcement machinery, further institutionalizing the criminalization of parents and allowing governments to claim their perennial crackdowns increase collections despite the federal program operating at a consistent loss.

The federal funds also supply an added incentive to make guidelines as onerous as possible and to squeeze every dollar from every individual available. Georgia assistant district attorney William Akins writes that the incentive payments create an "incentive to establish support obligations as high as possible without regard to appropriateness of amount" (Akins 2000, 9–10).

One could hardly design a more elegant system for creating criminals by administrative fiat, with potential for limitless bureaucratic expansion. The fact that no political scientist can even attempt to refute more than a small portion of these charges confirms the existence of a massive and growing sector of government power that has received virtually no scholarly scrutiny. A huge opportunity exists here for political scientists to bring their expertise to bear on one of the most vexing and destructive sectors of public policy.

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# Revisiting "The Politics of Fatherhood"

Administrative Agencies, Family Life, and Public Policy

<http://www.apsanet.org/PS/oct03/beld.pdf>

PS: Political Science and Politics (10-03)

Jo Michelle Beld, St. Olaf College, 10-01-03

I read with initial interest, and then growing dismay, Professor Stephen Baskerville's polemic against the "judicial-bureaucratic machinery" characterizing family law and policy in the United States (*PS*, December 2002, 695–99). In "The Politics of Fatherhood," Professor Baskerville argues that the "fatherhood crisis . . . proceed[s] at least in part from public policy" and "should be seen less as sociological or psychological and more as political" (695). Political scientists, he charges, have neglected systematic analysis of "the governmental institutions that regulate the relationships between parents and their children" (696)—family courts, administrative agencies, and private consulting firms.

Unfortunately, Professor Baskerville's contribution does not remedy this deficiency in the scholarly literature. His article provides little direct evidence in support of his claims; instead, it relies upon assumptions, assertions, innuendo, and the occasional lurid anecdote. A more careful analysis of the policy-making process and the resulting policies affecting separated families yields a much more complicated and intriguing picture than the one Professor Baskerville presents. Where Professor Baskerville sees public policy and policymakers as driving parental decision making, the evidence suggests a complex relationship of mutual influence. In this essay, I will argue that the complicated nature of family life has at least as much impact on policy development and administration as family policies and administrative agencies have on family life.

I speak from experience. For the past five years I have been walking in two worlds, teaching politics, public policy, and research methods in a four-year liberal arts institution while serving as a consultant to the Child Support Enforcement Division of the Minnesota Department of Human Services (MDHS). My principal responsibility has been to provide leadership and research support for the review and revision of Minnesota's child support guidelines. While Minnesota is among the majority of states whose child support guidelines are established by the state legislature (Venohr and Williams 1999), the Minnesota Department of Human Services is charged with the responsibility of conducting the federally-mandated quadrennial review of those guidelines (45 CFR 302.56 (e); Minn. Stat. 518.551, Subd. 5c). Furthermore, like any administrative agency, MDHS has historically been a principal source of policy innovation and advice to the legislature in the program areas for which it is responsible (Denhardt and Grubbs 2002). The agency had made legislative recommendations for significant alterations to the child support guidelines in conjunction with its two previous quadrennial reviews (Minnesota Department of Human Services 1990; 1994). Some of these recommendations were incorporated into state statute in 1993, but the effort to reconstruct the guidelines entirely on the basis of the 1994 review was unsuccessful. The third review, which commenced in 1998, provided the occasion for a renewed agency effort to assist the legislature in overhauling the state's child support guidelines. The Minnesota Child Support Act, a version of the child support guidelines model that emerged from this project, is presently under consideration at the Minnesota state legislature.<sup>1</sup>

I spent my 1998–1999 sabbatical year working full-time on the guidelines project in the MDHS child support division, and have continued to provide research support and policy advice to the agency ever since. I served as the principal researcher and policy analyst on the agency project team that conducted the review and developed a new guidelines model for legislative consideration. The project included an extensive review of the economic literature on the cost of raising children and an analysis of a representative sample of statewide child support orders, both of which are required by the federal regulation mandating the four-year cycle of guidelines reviews (45 CFR 302.56 (h)). It also required analysis of the child support guidelines and quadrennial reviews of other states; a review of relevant Minnesota case law; an examination of other program areas whose provisions were intertwined with child support policy (cash grant programs, child care subsidy programs, and medical assistance, to name a few); and a review of the research literature from a wide array of sources—law reviews, social science journals, research institutes, and private firms such as Policy Studies Inc. As a result of these project activities, I am familiar with most of the policy literature cited by Professor Baskerville, and a great deal more that he did not cite.

But the project engaged me with more than policy research and program provisions. It engaged me with the clients of the child support system and the professionals who serve them. At the request of the agency, I convened and facilitated an advisory task force which included representatives of the very "judicial-bureaucratic machinery" Professor Baskerville discusses—county child support workers, district court judges, child support magistrates, legal assistance attorneys, county attorneys, private attorneys, mediators, state legislators, and advocacy groups. Parents, child support professionals, and family law practitioners from around the state added their perspectives to those of the task force members in public hearings and regional meetings of professional associations. My field work has also included first-hand experience in the legislative process, including the drafting of statutory language, the provision of testimony in committee hearings, the preparation of policy memos and informational handouts to accompany legislative proposals, and the completion of several major reports for both legislative and public use. The Minnesota child support guidelines project has thus afforded me an opportunity to observe first-hand the ways in which "separated institutions sharing power" (Neustadt 1991) collaborate in the making of public policy.

In the spirit of "write what you know," I will focus this analysis on Professor Baskerville's remarks concerning the substance of child support policies and the dynamics of the state and local agencies which help to shape and administer them. Two of his claims are particularly problematic: (1) that child support enforcement agencies, like the family courts, have "a stake in separating children from their fathers" (697); and (2) that child support guidelines are deliberately set "as high as possible" to "create hardship" and "ensure demand for collection services" (698). I will argue that, not only is Professor Baskerville wrong with respect to each of these assertions, he is wrong in assuming a one-way direction of influence in the relationship between child support agencies and the families they serve.

***Do child support enforcement agencies have a stake in separating children from their fathers?***

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It is true that if all children lived with both of their biological parents in the same household, every civil servant who works in a child support enforcement agency would be out of a job, and the workloads of attorneys, magistrates, and judges would be considerably reduced. It is also true that professional associations like the National Child Support Enforcement Association (NCSEA) provide an important venue for education, training, and collaboration among practitioners in child support policy from both the administrative and judicial branches of government. But neither of these observations is sufficient to establish Professor Baskerville's claim that family courts and executive agencies collude in the removal of children from their parents.

Why is there such a close relationship between family law practitioners and administrative agency professionals? The answer is almost embarrassingly simple: they need each other to ensure compliance with federal and state statute and consistency with case law. Legislation, administration, and adjudication are inextricably linked in family policies like child support. This is just as apparent in state-level professional associations as it is at the national level. The child support guidelines project introduced me to the Minnesota Family Support and Recovery Council (MFSRC), "a collaboration of individuals and organizations established to study, develop and recommend common practices and policies for the efficient administration and enforcement of public family support programs" ([www.mfsrc.org](http://www.mfsrc.org)). Its membership is a testimony not to an anti-family conspiracy among judicial and administrative professionals at the state and local level, but rather to the vast array of participants and the complex connections between legislation, administration, and adjudication in child support policy.

MFSRC's membership includes:

- county child support and paternity establishment and enforcement staff,
- county attorneys and members of their offices,
- county commissioners,
- county welfare board members,
- county agency administrative and management staff,
- Minnesota Department of Human Services management and staff,
- staff from the Minnesota Attorney General's office,
- law enforcement officers,
- judges,
- child support magistrates,
- probation officers,
- Minnesota County Recovery Association and
- other employees of federal, state, and county government supportive of the purposes of the Council ([www.mfsrc.org](http://www.mfsrc.org)).
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Its annual conference also reflects the interdependence of legislative, judicial, and administrative functions, offering legislative updates, overviews of recent developments in case law, and training sessions in program administration. (So far as I know, they have never offered a session on why it is desirable to separate children from their parents or how that is accomplished.) The observation that professionals working in different branches of government collaborate to promote coherent policy, effective administration, and equitable and informed adjudication does not constitute evidence of a conspiracy to force families apart for the sake of continued employment or higher salaries.

The fact is that *families are already living apart* by the time they reach the child support system. In some cases this is due to marital separation or divorce. But in a surprising number of cases there is no marriage to dissolve. In the case data analysis I supervised as part of Minnesota's guidelines review, MDHS, with advice from the Child Support Guidelines Review Advisory Task Force, collected a representative statewide sample of child support orders from 221 cases disposed in 1997 (the most recent year for which completed orders could be obtained). Since there is no statewide sampling frame for child support orders (they are typically embedded in divorce decrees and paternity adjudications), we employed a stratified systematic sampling procedure, sampling from dissolutions with children and paternity adjudications in the counties selected for analysis. Of the entire population of dissolutions and paternity adjudications from which we sampled, less than half (47%) were dissolutions (Beld 2001a, 6). In the suburban and rural counties from which we sampled, the ratio of dissolutions to paternity cases was approximately 50/50; but in the two largest counties, 57% of the orders for support were embedded in orders for paternity rather than orders for dissolution (5).

This does not mean that there was no family life to disrupt in support cases that arose from paternity adjudications rather than dissolutions. Professor Baskerville is absolutely right to point out that the phrase "unmarried father" is far from synonymous with "absent father." Probably the best evidence concerning the role of unmarried fathers in the lives of their biological children is available from the Fragile Families and Child Wellbeing study, a five-year panel study of 3,600 unmarried families sponsored by Princeton University's Center for Research on Child Wellbeing and Columbia University's Social Indicators Survey Center (<http://crcw.princeton.edu/fragilefamilies.about.html>). One of the study's most significant early findings is that unmarried fathers are considerably more involved with their children than the casual observer of non-marital birthrates might expect: "Half of all mothers were living with the father of their child at the time the child was born; another 33 percent were romantically involved, though not cohabiting" (Garfinkel and McLanahan 2002, 94). Furthermore, the vast majority of these unmarried fathers (83% according to the mothers, and 91% according to the fathers) contributed financial, practical, and emotional support during their partners' pregnancies (Garfinkel and McLanahan, 2002), and more than half affirmed the importance of marriage and expressed an expectation that they would marry in the future ("Expectations about Marriage among Unmarried Parents" 2002, 14). These findings are consistent with the more limited studies Professor Baskerville cites.

But Professor Baskerville provides no evidence to link these findings with his conclusion that child support agencies or family courts interfere with the continued involvement of unmarried fathers with their children. In fact, a closer look at the literature on father involvement in fragile families suggests that such involvement over time appears to have more to do with the strength of the relationship

between the parents than with the relationship between parents and the child support/family law system. Although some cohabiting relationships develop into marriage and others continue as cohabitations, cohabiting unions are generally less durable than marital unions. Data from the National Survey of Families and Households and the National Survey of Family Growth suggest that 54% of cohabiting relationships end within five years (Bumpass and Lu 2000, 5–6). These quantitative data are consistent with qualitative data from the Fragile Families study. Follow-up surveys and interviews with a subset of the participating parents one year after the birth of their child showed rapid deterioration in many of the relationships: "The proportion of the sample without any romantic relationship rose from 15 to 40 percent, and the proportion not cohabiting but romantically involved shrank from 35 percent to 7 percent" ("Expectations" 2002, 13). And although this still left half the sample of parents sharing a household, only 7% of the sample had married, despite the high percentage of those who had expected to marry (13). Given the higher likelihood that unmarried cohabiting parents will separate, and given the decline over time in the strength of relationships between unmarried parents who do not live together, it is almost certain that by the time the Fragile Families study is completed, a substantial proportion of the sample of unmarried families will have entered the child support system for the first time. It is also likely that many families in the sample were already *in* the system, since it is not unusual for unmarried parents (or, for that matter, for married parents) to have financial obligations for children from prior relationships living in other households ("Expectations" 2002, 16; Pate 2002).<sup>2</sup> The point is this: the fact that unmarried fathers are more involved with their newborn children than the conventional wisdom would suggest, does not mean that "the governmental institutions that regulate the relationships between parents and their children" are responsible for either the eventual breakup of many cohabiting unions or the barriers to family formation that non-cohabiting unmarried parents face, any more than they are responsible for the marital dissolutions that also make families clients of child support agencies.

Though not responsible for the family circumstances that lead to (or in some cases, continue to maintain) separation between parents and children, family law and child support professionals are keenly aware of the complicated realities and variations in family life described above. Over the course of Minnesota's guidelines review project, these professionals' first-hand knowledge of their clients' lives had a major impact on the recommendations they made for improving the state's child support guidelines. In fact, I was surprised that Professor Baskerville did not connect his observations about father involvement with his critique of state child support guidelines. Among scholars and practitioners alike, there is a lively debate about the degree to which child support obligations prevent separated fathers from being meaningfully involved with the children for whom they are not the primary caregivers, whatever the family circumstances that preceded their entry into the child support system. Some research findings suggest that unrealistically high child support orders, in combination with other child support enforcement policies, have a negative effect on contact between noncustodial parents and their children (Sorensen and Turner 1996). Other findings suggest that the causal relationship runs in the other direction: the more involved a noncustodial parent is with his or her children, the more likely he or she is to pay support (Morgan 2000). Despite the ambiguity of the literature, there is growing consensus that policy makers and researchers need to pay attention to the complex relationship between parent involvement and child support obligations, and that child support guidelines should not create barriers to meaningful relationships between noncustodial parents and their children (Reichert 2000). Although Professor Baskerville did not raise this issue, the family law and child support professionals with whom I worked did. Both their attentiveness to this potential problem with child support guidelines, and their varied recommendations for resolving it, were inspired by their transactions with parents and their concern for the *emotional* wellbeing of children as well as their *economic* well-being (Beld 2001c, 4–5). Moreover, this is only one example of the ways in which both the guidelines review agenda and the recommendations for improvement reflect the impact of complicated family lives on public policy and administration. The next section provides a closer examination of state child support guidelines, particularly in relation to the characteristics of separated families.

### ***Are child support guidelines as high as possible?***

There are two components of child support guidelines that must be considered in answering this question. One component is the economic research concerning parental expenditures on children that informs state child support guidelines. The other is the adaptation of that economic research to the circumstances of separated families. An analysis of both components of the child support guidelines indicates three things: (1) the guidelines are not "as high as possible," but (2) they can be improved, and (3) it is the child support community which is leading the way in attempting to do just that.

Professor Baskerville cites the charges of consultant R. Mark Rogers that child support guidelines impose "excessive burdens" on parents who must pay support, as a result of the "flawed economic foundation" of the child support guidelines model upon which most states' guidelines are based. Professor Baskerville rightly attributes the original model and its influence on state child support guidelines to Dr. Robert Williams, president of Policy Studies Inc. (PSI), a Denver-based consulting firm that is, without question, a national leader in state child support policy development and enforcement. PSI has provided research and technical assistance to all but one of the 50 states, and is currently providing child support enforcement services in 16 states ([www.policy-studies.com](http://www.policy-studies.com)).

However, Professor Baskerville is quite wrong in his assessment of the economic foundations of Dr. Williams' contribution to state child support guidelines. The empirical question at the heart of state child support guidelines is, "What do parents spend on their children?" But the vast majority of household expenditures—upwards of 90%—are expended on behalf of the whole family, rather than on behalf of individual family members (Barnow 1994, 19). Consequently, the fundamental theoretical problem in estimating parental expenditures on children is how to separate out the children's share of these household-level expenditures.

Most economic models estimating parental expenditures on children rely on one of two approaches: a *marginal expenditure* estimation method, which infers spending on children from comparisons between couples with children and "equally well off" couples without children, and a *per capita expenditure* estimation method, which divides total observed household expenditures equally among the individual members of the family (Barnow 1994, 19). Neither the original guidelines model developed under Dr. Williams' leadership of the DHHS Child Support Guidelines Project (William 1987, II-19), nor the subsequent state guidelines developed with the assistance of PSI, has relied on methodologies that yield high estimates of parental spending on children.

Estimates based on marginal expenditure models can vary a great deal, depending on the particular measure of economic well-being



that a given model uses to estimate how much more a couple would have to spend to maintain its standard of living once they have children (Betson 1990). The marginal expenditure estimation method advocated by PSI produces estimates of parental spending on children that are consistently *lower* than both per capita expenditure estimates (such as those produced annually by the Center for Nutrition Policy and Promotion in the U.S. Department of Agriculture; Lino 2001), and estimates yielded by alternative marginal expenditure models (Venohr, Williams, and Price 1999, 11). The difference is especially significant for estimates of parental spending on two or three children. PSI's estimates suggest that, in an average household, expenditures on two children account for 35% of total household spending; the most reliable alternative estimates attribute 41, 42, or 49% of household expenditures to the children. In a threechild household, PSI's estimate is 39%; the alternative estimation methods yield 48, 51, or 59% (Venohr, Williams, and Price, 1999 8–10). In its evaluation of the merits of alternative approaches to estimating parental expenditures on children, the U.S. Department of Health and Human Services concluded that, in comparison to the available alternatives, the methodology advocated by PSI is likely to *underestimate* what parents spend (Lewin/ICF 1990), a fact that PSI acknowledges in its explanation of its preferred methodology (see, for example, Venohr, Williams, and Price 1999, 11). In short, Professor Baskerville's claim that PSI has helped craft child support guidelines that are "as high as possible" is, quite simply, factually inaccurate.

But this is not the only reason that child support guidelines are not "as high as possible." The second reason has to do with how the economic research is adjusted for purposes of calculating a child support order. No state bases its guidelines solely on estimates of parental spending on children, because these estimates are derived from data on expenditures by married-couple families in the Consumer Expenditure Surveys (Lino 2001; Betson 1990). The estimates are therefore adjusted to reflect the life circumstances of separated families. In Minnesota's 1998 guidelines review, the economic basis of the guidelines was only one of 24 different issues addressed by the agency project team and its advisory task force in preparing its legislative recommendations (Beld 2001c). Here is just a sampling of those other guidelines issues, all of them raised by the characteristics and experiences of separated families:

- As discussed above, how should the guidelines account for the expenses a noncustodial parent incurs during the time the children spend in his or her care, especially in the absence of any systematic data on non-custodial parental spending (Lino 2001)?
- How should the guidelines account for prior child support obligations? Should these other obligations be considered only if the parent is actually complying with the order?
- How should the guidelines be adjusted to ensure that low-income parents ordered to pay support still have enough income to meet their own basic needs?
- What if one of the parents prior to separation was staying home to care for the children? Should that parent have the income he/she could have been earning attributed to him/her in calculating his/her expected economic contribution to the children after separation?
- How should the guidelines be adjusted if the children spend roughly equal time with each parent?
- What if either parent has other legally dependent children from a different relationship living with him or her? Should the economic needs of those other children affect the amount of support ordered?
- What if either parent is unemployed or underemployed? How should the circumstances of that unemployment or underemployment affect the order for support?
- Should the guidelines reduce the expected contribution of poor non-custodial parents to child care and medical expenses, since they typically do not qualify for child care or medical subsidies that they would otherwise receive if they had custody of the children?
- What about wealthy parents? Should there be a limit on the amount of support they are ordered to pay, to ensure that all the support dollars are spent for the benefit of the child rather than the other parent?

Many of the provisions of Minnesota's current guidelines that address these family circumstances are designed to reduce the support that would otherwise be ordered (for example, the deduction of prior orders being paid from a parent's income, and the incorporation of a self-support reserve (Minn. Stat. 518.551, Subd. 5(b))). The substantial revisions to those guidelines proposed by MDHS retained most of these provisions and added new ones which would further lower orders in relation to the economic literature on what parents spend on children. Among these features were:

- A systematic downward adjustment of the estimates of married-couple spending on children to accommodate the parentingtime expenses of non-custodial parents;
- Enhanced provisions to ensure that parents have enough income to meet their own basic needs after paying child support;
- An income deduction for the basic needs of other legally-dependent children living with a parent;
- An alternative method of calculating support obligations for child care and medical expenses for low-income parents, paralleling the co-payment schedule of state-subsidized child care and medical assistance.

Provisions like these are explicitly intended to ensure that child support orders are not "too high" in relation to the characteristics of the family for whom support is being ordered.

It would be inaccurate to say that the total effect of the MDHS proposal to revise Minnesota's guidelines would be to lower support orders for all families in relation to Minnesota's current guidelines. Outcome projections with a variety of data sets suggested that orders for some kinds of families under the new guidelines would be *higher* than they would be if the current guidelines were applied. Increased orders would be especially likely for families with two or more children or for non-poor families with high child care or medical costs (Beld 2001d).

But even this does not mean that these new orders would be "too high." As tempting as it is to evaluate new support outcomes against current support outcomes, the appropriate benchmark is *not* current orders. Rather, the appropriate benchmark is the one specified in the federal regulation mandating guideline reviews: economic literature on the cost of raising children, adapted to the characteristics of separated families to ensure that orders are "appropriate" (45 CFR 302.56 (e)). The review of Minnesota's guidelines revealed that current orders for non-poor families with two or more children do not reflect what other parents at similar income levels spend on their

children. For other families, particularly those in which the parent ordered to pay support is low-income, the current guidelines do not adequately reflect that parent's limited ability to pay (Beld 2001c). The agency project team, in collaboration with its advisory task force, sought to remedy both deficiencies. The overall goal of the proposed guidelines revision was to establish orders that fit the family.

What is notable about these features of the Minnesota proposal is that they emerged directly from the child support and family law professionals who participated in the guidelines review, seeking to solve problems for the families they were serving. In developing some provisions, we borrowed and adapted ideas from other states; in developing others, we were inspired by features of related state programs, such as welfare, child care assistance, and medical assistance (Beld 2001c). But it was the family law and child support professionals who kept the review agenda focused on the characteristics of the families in the child support system, and who evaluated the alternatives we considered with a view to the impact of each alternative on these same families.

Minnesota is not alone in its efforts to improve its guidelines, particularly with respect to guidelines for low-income parents ordered to pay support. The U.S. Department of Health and Human Services (July 2000), professional associations such as the National Conference of State Legislatures (Reichert 2000), and consulting firms such as Policy Studies Inc. (Legler 2003) have all weighed in on the need for states to revisit child support policies affecting low-income parents, and have offered specific policy and administrative strategies for doing so. Their recommendations are consistent with those of research institutes such as the Center for Law and Social Policy (Turetsky 2000) and the Center on Budget and Policy Priorities (Primus and Castro 1999). Obviously, these recommendations would not be necessary if child support guidelines were already producing orders that were consistently affordable for low-income parents. What is interesting is that the policy recommendations are coming from the very professionals Professor Baskerville castigates in his article. In short, even though most states' guidelines are already based on an economic model that arguably underestimates parental spending on children, the child support community is actively seeking ways to ensure that guidelines do not exceed what separated parents, particularly poor separated parents, can afford to pay.

There is no question that child support looms large in the lives of millions of children and parents. But there is also no question that the lives of these children and parents shape the content of child support policy and the relationships between the public institutions that administer it. Would that Professor Baskerville had recognized this.

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## Notes

1. See House File 778 and Senate File 758, retrievable from "Minnesota Legislation and Bill Status" on the web site for the Minnesota state legislature, available at: <http://www.leg.state.mn.us/leg/legis.asp>.
2. Unfortunately, there is not much reliable information concerning the incidence of parents with multiple families. The summary reports of the Fragile Families data cited in this article made reference to the general phenomenon of multiple families but did not indicate the percentage of families in the sample in which one or both of the parents had any children from other relationships, much less whether any of those other children lived with the parents in the study or with their other parents. And although MDHS had hoped to learn a great deal about the nature and extent of multiple families in the child support case data analysis, many court orders were not sufficiently specific about whether either parent was paying child support for other children or whether either parent had children from another relationship living with them in the home (Beld 2001, 16–17). It is highly likely that any data we would have gathered would have significantly underrepresented the percentage of families in which either or both parents had financial responsibility for other children.

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# Absurdistan in America

<http://mensnewsdaily.com/archive/a-e/baskerville/03/baskerville092503.htm>

**Stephen Baskerville, Ph.D, 09-25-03**

In Iowa, the government has confiscated the savings of 11-year-old Rylan Nitzschke. Rylan saved \$220 from chores and shoveling snow, but that now belongs to Iowa. Why? Rylan's father allegedly owes child support (to Rylan), and his father's name was on the boy's bank account.

OK, so this is a mistake, and Iowa will return the boy's savings, right? Wrong. State officials have no intention of returning the money. After all, they receive federal funds for each dollar they collect (and for each father they incarcerate). Rylan's piggy bank helps balance the budget.

As Congress prepares to pass the Welfare Reform bill, the Washington Times reports that child support enforcement officials are ecstatic over provisions that will allow them to plunder and criminalize more citizens, using children as the justification. Yet no evidence indicates that there is, or ever has been, a problem of unpaid child support other than that created by the government. The child support "crisis" consists of little more than the government seizing people's children, imposing patently impossible debts on parents (and others) who have done nothing to incur those debts, and then arresting those who, quite predictably, cannot pay.

Now this dishonest and discredited hoax is creating a Western version of "Absurdistan" the name given by East European dissidents to the Soviet dictatorships that were not only repressive but, at times, simply buffoonish.

West Virginia officials cleaned out the bank account of an 85-year-old grandmother whose son allegedly owed child support. The son paid in none of the \$6,450 taken from the account, which comprised her life savings. She was also charged a \$75 processing fee.

Canada has a name for such grandmothers: "deadbeat accomplices." These are grandparents, second wives, or other relatives, who can be forced to disclose and part with their savings to government officials.

In California, minor boys raped by adult women must pay child support to the criminals who raped them. "State law entitles the child to support from both parents, even though the boy is considered the victim of statutory rape," the district attorney's office says. One boy was drugged before the sex. Kansas courts have likewise held that "the issue of consent to sexual activity under the criminal statutes is irrelevant in a civil action to determine paternity and for support of a minor child born of such activity." So much for not letting criminals profit from their crimes.

The elderly can also become targets of rape-for-profit. A disabled 85-year-old man, sexually assaulted by his housekeeper and awarded damages for the assault, was ordered to pay her child support, and his pension was garnished. The court denied him access to the child.

According to the Keystone Cops who enforce child support, a "child" is not a dependent minor but any recipient of their chivalry. "We've got some 40- to 45-year-old "kids" running around who are owed child support," says Nick Young, enforcement director in Virginia. In Ohio, a 77-year-old great grandfather who had always paid on time was told he owed \$45,000 in back child support and had his wages garnished, even though his youngest child was 46 years old.

In Canada, runaway children sue their parents for child support. In California, a 50-year-old divorce lawyer successfully sued his own parents for child support because, he said, depression rendered him unable to work. Startlingly, such suits were probably intended by a legislature dominated by trial lawyers. Judge Melinda Johnson observed that the statute is "unambiguous," and an attorney notes, "The statute didn't come about by accident."

In Canada and Australia, stepfathers are now ordered to pay the custodians of their stepchildren. Stuart Miller of the American Fathers Coalition comments wryly that such rulings open the door to multiple marriages to obtain multiple child support proceeds from multiple men without the inconvenience of multiple children. In fact, this is already happening, as judges allow "double-dipping," whereby both the biological father and stepfather are ordered to pay full child support to the same custodian for the same children.

Child support has little to do with providing for children. Its purpose is to redistribute money " and power " among grown-ups. Iowa officials say the only way Rylan's father can prevent the looting of Rylan's savings in the future is to give the boy's money to the adult with custody.

But the miracle is that Rylan bothers with chores at all. Rylan's father "owes" his son money, according to the government, not because Rylan earns it through hard work but because his mother divorced the old man. Rylan can simply demand the money of his father, and the state will make him cough it up. Why teach youngsters to work when you can teach them to sue.

Indeed, some states now force fathers to pay college tuition. So kids, don't work to save for college or study hard for a scholarship. If you can convince your mother to divorce your father, the government will force Dad to pay at the barrel of a gun. Once fathers can be forced to pay law school tuition the machine will be completely self-financing.

States create instant deadbeats simply by increasing burdens. In Virginia, the author of sharply increased guidelines, William Rodgers of William and Mary College, tells officials that if they do not like his formula, he would "create a schedule to suit." Presumably Dr. Rodgers proposes the guidelines he considers fair and reasonable. But if Virginia officials prefer guidelines that are not fair and reasonable, he can provide those too. This is Groucho Marx government: "Those are my principles. If you don't like them, I have others."

Thus does child support simultaneously corrupt both public ethics and private morals, turning children into cash prizes and even "cash

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crops." One girl tells a Toronto newspaper of her savvy career plans: "I'm going to marry a really rich guy, then divorce him," she says. "But first I'm going to have his kids, so I get child support."

# Judge Moore: Moses or Taskmaster?

How Divorce Makes Men Outlaws

<http://mensnewsdaily.com/archive/a-e/baskerville/03/baskerville090803.htm>

**Stephen Baskerville, Ph.D, 09-08-03**

In politics, as in religion, symbols are important. But when empty gestures start hiding real chicanery, it is time for a Reformation.

Alabama Justice Roy Moore displays the Ten Commandments, and he is revered by some as Moses. Yet it may be he erected a golden calf, enthralling and blinding us to the wrongdoing in his courts.

Like every other court system in America, Alabama's judiciary is thoroughly corrupt. While this may not be Judge Moore's doing, one does not rise to the Supreme Court without playing some unseemly games.

In this case, Judge Moore seems to be siding with the taskmasters.

Gregory Lemieux is one victim of the state's rapacious judges. Like many other citizens, Lemieux was minding his own business in his own home, a faithful husband and dutiful father, when Judge James Smith seized his children and everything else he had, cost him his job and his home, and is now threatening to jail him indefinitely unless he pays protection money to Judge Smith's gang of cronies and thieves.

Lemieux was not accused of any wrongdoing, either criminal or civil, when the state proceeded to turn him into an outlaw.

How is it that an innocent citizen, minding his own business, can face indefinite jail without trial? Simple: The state calls it "divorce." But it's closer to kidnapping and extortion.

A devout Catholic, Lemieux does not believe in divorce, and no grounds have been alleged against him. Yet once his wife decides to renege on her marital vows, her husband cannot avoid jail.

Once his wife filed for divorce, contact with his children became a crime. By divorcing she also gained an astounding \$2,300 monthly, which he must pay on pain of incarceration. Even more appalling, he must pay thousands to lawyers he never even hired for a divorce he never agreed to and doesn't believe in. All this despite the fact that he lost his job in direct result of this government intrusion into his private life. Clinical documentation to this effect was ignored by Judge Smith. Greg Lemieux is a slave, and he must make bricks without straw.

LeMieux appealed to Judge Moore, who is required by oath to protect and defend the Constitution against precisely this kind of arbitrary government. LeMieux received silence. He expects to be arrested when he next visits his children.

Judge Moore is presiding over a judiciary of gangsters. If he wants to turn his court into a temple, he might begin by throwing out the moneychangers.



## Canadian Gov't Calls Fathers Advocacy Organizations "Hate" Groups

<http://mensnewsdaily.com/archive/a-e/baskerville/03/baskerville071203.htm>

**Stephen Baskerville, Ph.D, 07-12-03**

A paper funded by the Canadian government publishes the names of American citizens whom it suggests are guilty of hate crimes. A Canadian federal agency called Status of Women urges that groups who advocate for fathers be investigated for criminal prosecution.

In fact, many of the so-called "hate groups" are not groups but individuals, who are simply criticizing the government. They advocate equal rights for parents in divorce cases. Under Canadian law, these citizens may be subject to arrest. And the government is urging that they be arrested: "We recommend that consideration be given to whether legal action can be taken under Section 319 of the Criminal Code," the report says. That statute subjects to imprisonment anyone "who, by communicating statements in a public place, incites hatred against any identifiable group where such incitement is likely to lead to a breach."

If anything, though, it would appear to be the Canadian government that is inciting hatred against private Canadian and American citizens.

Betty Hinton, a member of the Canadian House of Commons, calls the report "a poorly disguised attack on men and families" and says it is filled with hate and inflammatory language which does nothing to raise the status of women but everything to denigrate men, families, and parent organizations.

The Canadian government has already resurrected archaic laws prohibiting criticism of government officials in order to arrest fathers, and fathers have been arrested for protesting outside government buildings. Special domestic violence courts in Canada can now remove fathers from their homes and seize their houses on unproven allegations.

So far as I know, none of the Americans on this list have been informed by the Canadian government that they are being targeted for possible criminal prosecution by the federal government.

Americans planning business or vacations in Canada should consider that their names may have been placed on government lists of "hate groups" without their knowledge and may therefore be arrested if they cross the border.

# The Federal Bureau of Marriage?

Following its resounding successes in stopping drug use and eliminating poverty, the government now sets out to save marriage.

<http://mensnewsdaily.com/archive/a-e/baskerville/03/liberty.pdf>

Liberty Magazine (2003)

Stephen Baskerville, Ph.D, 07-01-03

All sorts of social pathologies, from violence, to substance abuse, to teen pregnancy, to suicide, can be traced to fatherless families. To deal with this, Congress is now preparing to enact Bush administration proposals to promote healthy marriages. This gives the impression that politicians are addressing a problem that has become too conspicuous to ignore. In fact, they are avoiding it. The very agencies asked to promote healthy marriages have for decades been entrenched in the divorce and child-support system, which depends on the breakup of marriages.

Thirty years ago, with no public discussion of consequences, no-fault divorce laws effectively ended marriage as a legal contract and precluded couples from entering binding agreements to raise children. Deception was involved from the start. Laws advertised as allowing divorce by mutual consent actually created unilateral divorce, permitting one spouse to dissolve a marriage without accepting any liability for the consequences.

It would have been different if the new laws had removed government from marriage altogether and rendered it a wholly private contract, as libertarian Wendy McElroy has proposed. Instead, government developed new instruments to intervene in families.

Three decades of unrestricted divorce have created a public-private complex of judges, lawyers, psychotherapists, mediators, counselors, social workers, child support agents, and others with a vested interest in perpetuating divorce. Whatever pieties these practitioners voice about the plight of fatherless, poor, abused, and violent children, the fact remains that their livelihood depends on a steady supply of such children. The children of divorce fill government coffers, fuel political patronage, expand police powers, justify

surveillance of citizens, and create a host of problems for officials to solve — to which is now added the problem of creating more healthy marriages.

## It All Began With Welfare

The marriage initiative ostensibly targets the poor, a group which has a higher concentration of fatherlessness. It is easier to justify government intervention into the lives of the poor because poor single mothers make a claim on government welfare. But remedies that begin with the poor have a way of spreading.

Once we turn attention to the middle class and mention divorce, we enter a political realm that has been obscured. Bringing up middle-class divorce reveals the difficulty, and perhaps dishonesty, in the question of whether government can restore marriage, because government itself has already abolished it.

In many ways, divorce has become the middle-class extension of welfare, creating single-parent homes among the affluent. In fact, all the major institutions of the divorce regime — juvenile and family courts, child support enforcement, domestic violence units, child protective services, and recent programs to promote fatherhood — were created as ancillary to welfare. No-fault divorce extended these services to the middle class because that was where the money and political power were.

As with welfare, the main clients of the divorce regime are mothers. Academic studies consistently document that two-thirds to three-fourths of divorces are filed by women, usually without legal grounds. The proportion may be higher when children are involved. Attorney David Chambers writes in *Making Fathers Pay* that "the wife is the moving party in divorce actions seven times out of eight."

Shere Hite, the popular researcher on female sexuality, found that "ninety-one percent of women who have divorced say they made the decision to divorce, not their husbands."

This is not surprising given the emotional and financial incentives the industry offers mothers to divorce, including automatic custody plus windfall child support. A Canadian-American study found that "who gets the children is by far the most important component in deciding who files for divorce."

The official view that fatherless children are products of paternal abandonment does not bear scrutiny. No scientific evidence indicates that large numbers of fathers are deserting their children, and, when pressed, no responsible authority asserts it. Governments are removing the children. It is difficult to overestimate the importance of this. Identifying fathers as the culprits has not only justified draconian enforcement measures against them, it has also allowed for policies that contribute further to fathers' absences. Virtually every problem handled by the divorce apparatus, including child custody, child-support enforcement, child abuse, and even juvenile crime, is premised on the absence of the father. The first principle of the divorce regime is, therefore, to remove the father.

## The Ministry Of Love

All the clichés about custody battles obfuscate serious questions about the use of divorce to extend state power into private life.

The moment a divorce petition is filed, every family member surrenders his or her personal life to the scrutiny and control of public officials. Without children, the consequences are usually minimal. Divorce becomes socially destructive only when it involves children, and the same is true of its politics: once government takes control of children it can subject parents to an inquisition into their personal lives.

When divorce required a showing of fault, such intrusions came only after convincing a court of law that one party broke the rules. No-fault divorce dispenses with this. One parent, almost always the father, immediately loses custody. From that point, unauthorized contact with his children renders that parent subject to arrest. Few stop to think about what is happening here. A court has summoned a citizen who was minding his own business and taken away his children.

Not only is unauthorized contact with his children now a crime, but other aspects of his private life, such as his movements and finances, also become subject to criminal penalties. What amounts to a customized criminal code is wrapped around the father by the court, subjecting him to arrest for behavior that is legal for any other citizen, such as attending a soccer game where his children are present. This is all without being accused, let alone convicted, of a crime.

A father summoned to divorce court typically has a few hours notice of a hearing that may last a few minutes, and at which he may be permitted to speak a few seconds. Yet during this hearing he will lose all rights over his children, receive a schedule of a few days a month when he may see them, and be ordered to pay child support. By law, his name is immediately entered on a federal register, his wages are garnished, and the government has access to his financial information, private papers, and home.

That parent no longer has any say in where his children reside, worship, or attend school or day care. He has no necessary access to their school or medical records, nor any control over what medications or drugs are administered to them. He can be enjoined from taking them to a doctor or dentist and told what religious services he may (or must) attend with them, and what subjects he may discuss with them in private.

He is also subject to questioning about his personal life that attorney Jed Abraham, in *From Courtship to Courtroom*, has termed an "interrogation." Fathers are asked how they feel about their children, what they do with them, where they take them, how they kiss them, how they feed and bathe them, what they buy for them, and what they say to them. A father's habits, conversations, writings, and purchases are all subject to examination and control. His visits with his children can be monitored and restricted to a "supervised visitation center." Anything he says to his spouse or children can be used against him in court. Family counselors and personal therapists can be subpoenaed to testify. His children can be compelled to inform on him.

Child support is under the purview of the Administration for Children and Families, the same division of Health and Human Services that is promoting healthy marriages. As heavy-handed methods become conspicuous, the ACF has devised public relations campaigns that emphasize its gentler, therapeutic side. This allows the state machinery to penetrate deeper into private lives. David Ross,

head of the Office of Child Support Enforcement in the Clinton administration, proudly changed the mission statement of his office to include enforcing emotional support. "Child support is more than money," says the National Child Support Enforcement Association. "Child support is also love, emotional support, and responsibility." Love and emotional support thus become enforceable mandates.

Ronald Mincy and Hillard Pouncy of the Brookings Institution describe a program in which fathers are required to deal with their feelings about their children. At one point, says director Gerry Hamilton, "clients must write their own obituaries as they would be written by their children. This exercise is very moving. This helps non-custodial fathers understand why contact with their children is so important."

Even as the government drives fathers away from their children, it portrays itself as bringing them back. With the slogan "They're Your Kids. Be Their Dad!" ACF sponsors media advertisements with actors depicting fathers abandoning their children for no apparent reason: "When Vanessa's daddy walks out the door today, he's never coming back." The truth is that most fathers are absent because the government makes sure they stay absent. "It's hard to stay close to your kids when you don't live with them," the ad continues, "but you can do it."

An Administration for Children and Families campaign makes clear that the relationship it most wishes to foster is between fathers and federal agents. Activities funded by ACF include helping low-income fathers learn to interact more effectively with the child support enforcement system. Programs to promote responsible fatherhood likewise disperse grants to local governments and groups to reunite fathers with their children. Yet to reunite them, one must first separate them, whereupon they can be reunited on the government's terms.

### **The Feds And Families**

Looking at the marriage initiative, left-liberals ask why a conservative administration is involving the federal government in something as private as the family. There is irony in these liberals defending the family against the government. Yet many Democrats are certain to go along, because all politicians tend to go along with programs that bring money. Domestic violence programs, for example, enjoy strong bipartisan support, because they distribute federal money to states and localities. Attorney General John Ashcroft and Health and Human Services Secretary Tommy Thompson are strong advocates of federal measures on domestic violence. It is not only public officials. We can look forward to nonprofit groups, churches, counseling programs, and marriage-saving schemes coalescing into a marriage-program lobby.

Joe Laconte describes in *First Things* how governments have established offices to broker agreements between social service agencies and congregations. One project creates one of the nation's most ambitious mentoring programs for at-risk children. Churches receiving federal payments to serve as father substitutes will not eagerly surrender that job to real fathers who are likely to do a better job of it. Health and Human Services and the United Methodist Church are seeking to link the 2,200 YMCAs in the United States with the child support offices in their communities. At the very time churches are relinquishing their role as guardians of what is supposedly a sacred covenant, they are being recruited as government informers.

Secretary Thompson recently announced \$2.2 million in grants to faith-based groups to improve the financial and emotional well being of children. Deputy Health Secretary Wade Horn, head of the Administration for Children and Families, says the grants reach out to those who need help in acquiring the skills necessary to build relationships.

Yet only 25 percent of the funds will promote marriage; the remaining three-fourths is for enforcing child support. Child-support programs would seem to be at cross-purposes to the promotion of marriage, because child support subsidizes divorce. Yet the Marriage Coalition in Cleveland, an ostensibly faith-based organization which claims to be saving marriages, will receive \$200,000 to help collect child support.

A major extension of government power over private life is taking place here. One federal ruling holds that parenting is a right "far more precious than property rights" which "undeniably warrants deference and . . . protection." Yet such apparently unequivocal principles are ignored by courts administering no-fault divorce. The common law has also long recognized, in the words of former Supreme Court

Justice Byron White, a "realm of family life which the state cannot enter." Yet current divorce law gives officials the power to intervene in homes at the mere request of one parent, not because the other parent is suspected of a legally recognized offense, but because of ordinary family differences.

Prior to the divorce revolution, legal authority over children had been recognized to reside with their parents until the parents had done something to forfeit it. "For centuries it has been a canon of law that parents speak for their minor children," observed former Supreme Court Justice Potter Stewart. "So deeply embedded in our traditions is this principle of the law the Constitution itself may compel a state to respect it." Yet the state has now institutionalized precisely the opposite principle: that "the child's best interest is perceived as being independent of the parents," in the words of a major child support enforcement contractor, "and a court review is held to be necessary to protect the child's interests."

This phrase, the child's best interest, sounds deceptively benign. Yet it gives the government the power to define this interest over the objections of parents who have done nothing to forfeit their rights. "Such a criterion is dangerous because it renders the claims of all parents to their natural children tenuous," writes Robyn Blumner of the American Civil Liberties Union.

Many accept this practice on the assumption that a judge must decide what is best for children when the parents cannot agree. But empowering one parent to turn control of children over to state officials because of routine family disagreements eliminates private life and invites collusion between officials and that parent.

### **Follow The Money**

The "best interest" standard also transforms judges into dispensers of patronage who can appoint evaluators of both parents and children. Here we begin to glimpse the political dynamic that will be fueled by the funding proposed by the Bush administration.

Family courts are controlled by bar associations. To satisfy their members, judges can hire them at public expense or at litigants' expense. "Lucrative patronage positions," writes legal scholar Herbert Jacob, "are generally passed out to the judge's political cronies or to persons who can help his private practice."

A judge can even order litigants to hire his friends, on pain of incarceration. Legally unimpeachable citizens who give neither grounds nor consent for a divorce are ordered to pay attorneys and psychotherapists they have not hired for services they do not want, and may be jailed for not complying. A father can be ordered to sell his house and turn the proceeds over to attorneys he has not hired for a divorce he did nothing, legally speaking, to bring on.

Judges also appoint "attorneys ad litem" to ostensibly represent the children's interests. These officials are notorious for cronyism and for advocating the removal of fathers. In 2001, a two-year investigation into court appointments in New York state by a special inspector general found "cronyism, politics, and nepotism" in appointments of attorneys ad litem and other officials. In March 2000, four Arkansas senators were convicted on federal racketeering charges connected with contracts for attorneys ad litem and child support enforcement.

The patronage clients most likely to benefit from the Bush proposals are psychotherapists, who likewise serve mostly to provide a rationale for removing fathers. "The marriage of law and psychology has reached the heights of disproportionate power for the psychologists . . . in the family courts," writes Margaret Hagan in *Whores of the Court: The Fraud of Psychiatric Testimony and the Rape of American Justice*. Psychologist Sanford Braver calls such expert advice little more than guesswork. He writes, "There is absolutely no credible evidence that these [methods] are valid predictors of which spouse will make the best primary parent. In fact, there is no evidence that there is a scientifically valid way for a custody evaluator to choose the best primary parent."

Braver attributes their obvious father-hostility to gender bias, but pecuniary interest may be a sounder explanation. He quotes one evaluator to the effect that almost all his business would be lost were not fathers routinely removed.

Already ubiquitous in custody proceedings, psychotherapy has been developing a new market as an alternative to litigation. This has also made it appealing to the federal marriage promoters. Many states now require divorcing couples to undergo counseling, mediation, and marriage education of the kind being mandated by the Bush administration. Not only is there is no proof that such programs reduce divorce, it is fairly obvious that they thrive on it. According to the Administration for Children and Families, "Marriage education is a research-based approach that teaches couples how to build and maintain healthy, stable marriages and handle marital distress and breakdown." The last word slips in the government wedge, since all the counseling in the world is superfluous so long as one parent can simply take the children and leave.

"Mediation was pitched to the public as a service that would reduce the costs of litigation," writes Judy Parejko, herself a mediator, in *Stolen Vows*. "It sounded really good. But such well-intentioned messages served to cover up that no-fault was inherently forced divorce."

Parejko describes how her colleagues actually encouraged divorce. She claims her court-affiliated work was terminated by a judge and

she was locked out of her office for trying to repair marriages. "They were in the business of mediation, charging a hefty fee for their settlement work," she writes, "and without a steady flow of customers, their business would dry up."

Half the jurisdictions in America now mandate marriage education during divorce. "The programs offer instruction in how to behave during a divorce and afterward, for the benefit of the children," explains the New York Daily News. Such provisions convey the appearance that officials are trying to minimize divorce; in fact, they shift blame onto the parent who fails to cooperate with it. "The fact that one parent didn't want the divorce " or that one of them had broken the promises they'd made when they were married " these were issues I was supposed to ignore," writes Parejko.

The administration claims its marriage measures are "voluntary" " that is, unless you want to keep your children. Conducted by professionals with a financial stake in divorce, these programs add clients to the gravy train and further transfer control of children to the state. Revealingly, the Canadian Bar Association pushes for coerced parent education, so parents who are involuntarily divorced must also be involuntarily educated into acquiescing in the loss of their children: "The CBA urges the federal government to require parents to take mandatory parental education before they are permitted to pursue court proceedings involving their children."

At first glance, it appears the government is requiring parents to attend the classes before it will permit the divorce; a closer look at the careful wording reveals precisely the opposite. The court can still summarily remove the children, and parents who want them back must first accept government instruction in how to behave toward those who have taken them away. "We want to pull away from the idea that parents have rights in relation to their children," says Jennifer Cooper of the CBA's family law section, which represents 2,200 divorce lawyers.

Noting that mobs of unhappy dads who haven't seen their children for months or years now picket the homes of judges, the Guardian newspaper recommends that the pro- testers be silenced with instruction: "The system first needs to educate parents and provide a range of services, such as mediation and parenting classes."

The Washington Post describes a measure in Virginia that makes parent education "mandatory for anyone, married or not, who goes to court over custody, visitation, or child support." Again, the fine print reveals how the measure, far from checking divorce, will insert additional layers of officialdom between parents and their children, and intimidate parents who object to having their children removed.

### **Innocence Is No Excuse**

The potential for family therapy to become coerced psychotherapy is realized in the divorce regime's domestic violence arm. There is evidence that custody, rather than violence, is the main thrust behind the exponential growth of this authoritarian power.

A judge quoted in the New Jersey Law Journal calls that state's domestic violence law "probably the most abused piece of legislation that comes to my mind." Massachusetts attorney Gregory Hession agrees: "The restraining order law is one of the most unconstitutional acts ever passed. A court can issue an order that boots you out of your house, never lets you see your children again, and takes your

money, all without you even knowing that a hearing took place." So routine are knowingly false accusations that mothers now report being pressured into making them. Heidi Howard and Nev Moore were ordered by the Massachusetts Department of Social Services to take out restraining orders against their husbands, whom they insisted had not been violent, and attend battered women's classes, though they were not battered women. When they refused, DSS seized their children.

Government therapy that claims to be strengthening marriages can thus be used to destroy them and to institutionalize family members who resist. Fathers accused of no violence are ordered into anger management and batterers' education programs, replete with forced confessions reminiscent of Stalinism. Under a Massachusetts program called "It's time you learned, son " in-laws and outlaws aren't necessarily opposites." Common Purpose, a judge ordered a minister to attend batterers' therapy, which required a confession. When the minister refused, he was jailed for six months.

A Pennsylvania father against whom no evidence of violence was introduced had his daughter seized by sheriff's deputies and was ordered to attend a class called "Men Who Abuse." He said, "I was told that I had to admit to being an abuser. When I refused, I was told that I would be kicked out of the class and charged with contempt and probably put in jail. So this means I have to lie and admit to something that I did not do. I have been told by other men who have been through this in this county that it will be useless to try to defend myself because it will just make it worse."

Child protection is a federally funded apparatus in which therapy and law enforcement eclipse due process. "Although spoken of in terms of social services," writes sociologist Susan Orr, "the child-protection function of child welfare is essentially a police action." Orr calls child protection "the most intrusive arm of social services," because it can confiscate children. Yet because the parents are seldom charged criminally, they cannot defend themselves in proceedings that are often secret and without record.

"The child protection system is built upon the notion that child maltreatment is remediable with the right therapeutic treatment," Orr writes. "By forsaking the courts of criminal law, in which determinations of justice and injustice are made and punishments meted out, child welfare agencies took on the much larger task of attempting to heal family members."

### **Deadbeat Dads**

To judge from initial measures, the healthy marriages project appears to be largely a vehicle for expanding the already formidable child-support enforcement apparatus.

The dishonesty of the government's claimed child support crisis has now been exposed in so many works there is no need to belabor it here. (See "The Myth of Deadbeat Dads," June 2002.) Significantly, our awareness of the alleged problem has come entirely from

government officials. No public outcry ever preceded the creation of government machinery; the public never demanded that government take action; nor has any discussion of this alleged problem ever been held in the media. In fact, no public perception of such a problem even existed until public officials began saying it did. No government or academic study ever documented the existence of a child-support problem. The initiative has been taken throughout by government officials and quasi-governmental interest groups, whose power has greatly expanded as a result.

Prior to the creation of the federal Office of Child Support Enforcement and throughout its 28-year history, no study has ever been conducted on the reason for its existence. Several unchallenged studies have established that no problem in fact does exist.

In the realm of child support, too, machinery created for the poor expanded to the middle class. The criminal enforcement machinery was initially promoted as a means to recoup welfare costs and help single mothers off welfare. Though it never had this effect, the program expanded exponentially following its creation in 1975. HHS figures show that welfare cases now account for less than one-fifth of all child-support cases, and the proportion is shrinking. The remaining four-fifths are non-welfare cases consisting largely of previously married fathers who are usually divorced involuntarily and who generally can be counted on to pay.

Designed to reduce government spending, the federal program has incurred a continuously increasing deficit. Promoted to help poor children whose unemployed fathers had allegedly abandoned them, the new machinery became a means to loot working fathers who had done no such thing and whose children were taken from them through no fault or agreement of their own. Child support enforcement is now a multi-billion dollar industry, with interlocking agencies on the federal, state, and local level, plus private contractors. Support levels are set by the same officials and contractors who collect child support. By forcibly separating fathers from their children and imposing impossible child support burdens, these officials can create the very delinquents on which their business depends.

The Office of Child Support Enforcement oversees a force of plainclothes agents who can issue arrest warrants and carry guns. They also have powers to gather financial and other information on private citizens, including surveillance of citizens who have no involvement in child support. Child-support defendants can be jailed without a formal charge or jury trial or attorney, and may be presumed guilty until proven innocent.

Horror stories are legion. Darrin White of Prince George, British Columbia, was denied all contact with his three children, evicted from his home, and ordered to pay more than twice his income as child and spousal support, plus court costs for a divorce to which he never agreed. White hanged himself. There is nothing unusual about this judgment, says former British Columbia Supreme Court Judge Lloyd McKenzie, who pointed out that the judge applied standard guidelines.

There is also nothing unusual about the result. Scholars and journalists treat court-related suicide as a problem not of justice but, again, of therapy. Pierre Baume of Monash University found that in Australia more than 1,000 men aged 25 to 44 take their own lives yearly. He found that most involve child access problems. Yet in language typical of his trade, Baume attributes this finding to relationship break-ups. Fathers therefore need, not due process of law, but, once again, counseling and education on how to express their feelings.

When Augustine Kposowa of the University of California attributed a similar suicide rate in the United States directly to family-court action, three news outlets ignored this conclusion, reporting instead that fathers lack support networks.

### **The Fraud Of Healthy Marriages**

If we truly wish to restore marriage, we must change not males but laws. Yet we are refusing to face this politically unpleasant truth and filling the public payroll with therapists and police.

In encouraging marriage, the administration is promoting a fraud. It is luring young people into a contract which the government can tear up at any time. Men in particular who accept the government's invitation to marry can lose their children, their homes, their savings and future earnings, their freedom, and even their lives. Not only will the government extend them no protection for their commitment, it will criminalize them without even the due-process safeguards afforded to criminals.

Some evidence suggests men are becoming wise. The National Marriage Project at Rutgers University reports that men are increasingly unwilling to marry. Project director David Popenoe spins a therapeutically correct explanation, blaming a puerile fear of commitment. Glenn Sacks and Dianna Thompson in the Philadelphia Inquirer read the data instead as indicating an impromptu marriage strike: a refusal to start families by men who are aware it can mean a one-way ticket to jail.

What we are glimpsing here is part of a larger process by which the state has used family destruction to expand its reach. When fathers are eliminated, state officials assume their role as protector and provider. By removing fathers, the government creates a host of problems for itself to solve. If fatherlessness is behind most of today's social ills, the realization that the engine generating fatherless children is not the fathers, but the state, takes on implications few have dared to confront.

Much of the expansion in the size and scope of government over many decades has been justified by the problems now recognized as proceeding from fatherless homes. Both the welfare state of the Left and the expansion of incarceration pushed by the Right are furthered by the government's displacement of fathers. With hardly a word of opposition from left or right, the welfare-divorce machinery has become a self-perpetuating mechanism by which government engineers the expansion of its own power. The increase in this machinery is the silent revolution of the last century.



# Divorce as Revolution

<http://mensnewsdaily.com/archive/a-e/baskerville/03/baskerville062103.htm>

**Stephen Baskerville, Ph.D, 06-21-03**

For some thirty years now a quiet revolution has been waged throughout the Western world. Most people are now familiar with the social consequences of the divorce explosion: the growth of single-parent homes and massive increase in fatherless children. The Pandora's box of social problems this has released has also reached general awareness. Virtually every major personal and social pathology can be traced to fatherlessness more than to any other single factor: violent crime, substance abuse, unwed pregnancy, truancy, suicide, and more. Fatherlessness far surpasses both poverty and race as a predictor of social deviance.

These problems are alarming enough in themselves. What is seldom appreciated is that they are also responsible for a vast expansion in the power and reach of the state. In fact, so is divorce itself. In contrast to its social fallout, the political consequences of divorce are hardly understood at all, yet they may ultimately be the most destructive.

The result of three decades of unrestrained divorce is that huge numbers of people – many of them government officials – now have a vested professional and financial interest in encouraging it. Divorce today is not simply a phenomenon; it is a regime – a vast bureaucratic empire that permeates national and local governments, with hangers-on in the private sector. In the United States divorce and custody comprise over half of civil litigation, constituting the cash cow of the judiciary and bringing employment and earnings to a host of public and private officials, including judges, lawyers, psychotherapists, mediators, counsellors, social workers, child support enforcement agents, and others.

This growth industry derives from the impact of divorce on children. The divorce revolution has spawned a public-private industrial complex of legal, social service, and psychotherapeutic professionals devoted to the problems of children, and especially children in single-parent homes. Many are women with feminist leanings. Whatever pieties they may voice about the plight of fatherless, poor, and violent children, the fact remains that these practitioners have a vested interest in creating as many such children as possible. The way to do it is to remove the fathers.

It is commonplace today that fathers are disadvantaged in divorce courts everywhere when it comes to child custody. In today's political jargon we attribute this to 'discrimination' and 'gender bias'. But this does not convey the half of it. Divorce courts and their huge entourage of personnel depend for their existence on broken, single-parent homes. The first principle of family court is therefore: remove the father. So long as fathers remain with their families, the divorce practitioners earn nothing. This is why the first thing a family court does when it summons a father on a divorce petition – even if he has done nothing wrong and not agreed to the divorce – is to strip him of custody of his children. While mothers also fall afoul of divorce courts, fathers are their principal rivals.

Once the father is eliminated, the state functionally replaces him as protector and provider. By removing the father, the state also creates a host of problems for itself to solve: child poverty, child abuse, juvenile crime, and other problems associated with single-parent homes. In this way, the divorce machinery is self-perpetuating and self-expanding. Involuntary divorce is a marvelous tool that allows for the infinite expansion of government power.

No-fault divorce is the middle-class equivalent of public assistance, creating single-parent homes among the affluent as welfare did among the poor. In the United States, where the trend began, all the major institutions of the divorce industry were originally created as ancillary to welfare: juvenile/family courts, child support enforcement, child protection services. No-fault divorce extended these 'services' to the middle class because that was where the money was, and with it political power.

Like welfare, divorce involving children is almost wholly female-driven. Though governments invariably claim that fathers 'abandon' their children, there is no evidence this is true, nor even that fathers agree to most divorces. Cautious scholars like Sanford Braver of Arizona State University consistently find that at least two-thirds of divorces are filed by women, usually with no legal grounds. Yet lawyers and feminists report much higher proportions. Shere Hite, the popular researcher on female sexuality, found 'ninety-one percent of women who have divorced say they made the decision to divorce, not their husbands.'

This is hardly surprising, given the almost irresistible emotional and financial incentives the industry offers mothers to divorce, including automatic custody plus windfall child support and other financial rewards, regardless of any fault on their part. A Canadian/American research team found that 'who gets the children is by far the most important component in deciding who files for divorce.' What we call 'divorce' has in effect become a kind of legalised parental kidnapping.

Once the father loses custody, he becomes in many ways an outlaw and subject to plunder by a variety of officials. His contact with his own children becomes criminalised in that he can be arrested if he tries to see them outside of authorised times and places. Unlike anyone else, he can be arrested for running into his children in a public place such as the zoo or church. In the United States fathers are arrested for telephoning their children when they are not authorised or for sending them birthday cards. Fathers are routinely summoned to court and subjected to questioning about their private lives. Their personal papers, bank accounts, and homes must be opened and surrendered to government officials. Anything a father has said to his spouse or children can be used against him in court. His personal habits, movements, conversations, purchases, and his relationship with his own children are all subject to inquiry and control by the court.

Despite prohibitions on incarceration for debt, a father can be jailed without trial for failure to pay not only child support but the fees of lawyers and psychotherapists he has not hired. A judge can summon a legally unimpeachable citizen who is minding his own business and order him to turn over his earnings or go to jail.

As the logic of involuntary divorce plays itself out, divorce is forced on not only one parent but both. Mothers are not only enticed into divorce with financial incentives, in other words; they are being pressured into it by threats against their children. Last year, Heidi

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Howard was ordered by the Massachusetts Department of Social Services to divorce her husband or lose her children, although authorities acknowledged neither parent had been violent. When she refused, the social workers seized her children and attempted to terminate the couple's parental rights. Massachusetts News reporter Nev Moore says such cases are common in Massachusetts.

Family law is now criminalising rights as basic as free speech and freedom of the press. In many jurisdictions it is a crime to criticise family court judges or otherwise discuss family law cases publicly. Under the pretext of 'family privacy', parents are gagged from publicly disclosing how government officials have seized control of their children. In Australia it is a crime for a litigant to speak publicly concerning family courts, even without mentioning specific cases.

In Australia, the US, and Britain, family courts have closed web sites operated by fathers' groups. Britain, Australia, and Canada have all resurrected archaic laws prohibiting the criticism of judges in order to prosecute fathers' groups. In the United States judges cannot be sued, but they can sue citizens who criticise them. The confiscation of property can also be used to criminalise political opinions. Following his testimony to the US Congress critical of the family courts, Jim Wagner of the Georgia Council for Children's Rights was stripped of custody of his two children and ordered to pay \$6,000 in the fees of attorneys he had not hired. When he could not pay, he was arrested.

The swelling hysteria over 'domestic violence' appears fomented largely for similar ends. 'All of this domestic violence industry is about trying to take children away from their fathers,' writes Irish Times columnist John Waters. 'When they've taken away the fathers, they'll take away the mothers.' Donna Laframboise of Canada's National Post investigated battered women's shelters and concluded they constituted 'one stop divorce shops', whose purpose was not to protect women but to promote divorce. These shelters, often federally funded, issue affidavits against fathers sight-unseen that are accepted without corroborating evidence by judges to justify removing their children. Special domestic violence courts in Canada can now remove fathers from their homes and seize their houses on a mere allegation of domestic violence.

Divorce, not violence, is also behind the explosion of restraining orders, which are routinely issued without evidence of wrongdoing, separating fathers from their children and homes. Almost 90% of judicial magistrates in New South Wales acknowledged that protective orders were used in divorce – often on the advice of a solicitor – to deprive fathers of access to their children. Elaine Epstein, former president of the Massachusetts Women's Bar Association, writes that restraining orders are doled out 'like candy.' 'Everyone knows that restraining orders and orders to vacate are granted to virtually all who apply,' and 'the facts have become irrelevant,' she reports.

Fathers are further criminalised through child-support burdens, which constitute the financial fuel of the divorce machinery, underwriting unilateral divorce and giving everyone involved further incentives to remove children from their fathers. Government claims of unpaid child support constitute one of the most dishonest and destructive hoaxes ever foisted on the public. In a US government-funded study, Sanford Braver discovered that most fathers pay fully and on time and that 'estimated' arrearages are derived not from official records but from surveys of mothers. Braver's findings have never been refuted by any official or scholar. Yet ever-more draconian 'crackdowns' and arrests continue.

Last summer Liberty magazine published documentary evidence that 'deadbeat dads' are largely the creation of civil servants and law-enforcement agents with an interest in giving themselves criminals to prosecute. In most jurisdictions, child support guidelines are set by enforcement personnel, the equivalent of the police making the laws. These officials can separate children from their fathers, impose impossible child support obligations, and then jail fathers who inevitably fail to pay.

Child support trials operate on a presumption of guilt, where 'the burden of proof may be shifted to the defendant,' according to the US National Conference of State Legislatures, which favours aggressive prosecutions. Contrary to Common Law and the US Constitution, courts have ruled that 'not all child-support contempt proceedings classified as criminal are entitled to a jury trial,' and 'even indigent obligors are not necessarily entitled to a lawyer.' Thus impoverished parents who lose their children through literally 'no fault' of their own are the only defendants who must prove their innocence without counsel and without a jury of their peers.

Cases like Darrin White of British Columbia are the result. With no evidence of wrongdoing, White was denied all contact with his children, evicted from his home, and ordered to pay more than twice his income as child and spousal support, plus court costs for a divorce he never agreed to. White hanged himself from a tree. 'There is nothing unusual about this judgement,' said a British Columbia Supreme Court Judge, who pointed out that the judge applied standard support guidelines.

Fathers driven to suicide by family courts are acknowledged by officials in Canada, Australia, and Britain. A suicide epidemic has been documented by Augustine Kposowa of the University of California in the Journal of Epidemiology and Community Health. Kposowa attributes his finding directly to family court judgements, though media reports of his study emphasised fathers' lack of 'support networks'.

Why is so little opposition heard? Though the conservative media are waking up, the silence of conservative politicians is deafening, given that every prophecy about the dangers of judicial activism, bureaucratic aggrandizement, and ideological extremism is vindicated in the war on fathers. What is perhaps most diabolical about the divorce industry is its ability to co-opt so many people, including its critics. By creating problems to be solved – and then dispensing government money to solve them – the machine gives everyone an interest in fatherless children. Even critics develop a stake in having something to criticise.

In Canada and the US, domestic violence legislation dispenses a gravy train of federal money to the states/provinces and localities. This is often earmarked with appeals to 'law enforcement', though the effect is to divert it from the prosecution of criminals to the prosecution of fathers. Likewise, child support enforcement is propelled by federal payments rewarding local governments for each dollar collected, filling local coffers and giving officials an incentive to squeeze revenue from (after they have forced divorce on) as many fathers as they can find.

Especially questionable are government enterprises to 'promote fatherhood', which disperse grants to local governments and

organizations ostensibly to 'reunite fathers with their children'. Yet they are premised on first separating them from one another. What is advertised as a program to facilitate 'access and visitation' means supervised contact centers, where fathers must pay to see their children in institutions. 'Encouraging good fathering' means state-sponsored television advertisements with actors depicting fathers abandoning their children. One American state receives federal money to implement 'Five Principles of Fatherhood', including: 'give affection to my children' and 'demonstrate respect at all times to the mother of my children'. One cannot help but wonder what penalties the state will bring to bear on fathers who fail to show sufficient 'affection' and 'respect'.

Involuntary divorce is the instrument not simply of tyrannical judges, unscrupulous lawyers, and doctrinaire feminists, but of a new political class whose interest is to subject the private corners of life to state control. Two conservative scholars recently argued in the *Journal of Political Economy* that the vast expansion of governmental machinery during the twentieth century proceeded largely from women acquiring the vote. Women, far more than men, voted to create the welfare state. But: 'Why would men and women have differing political interests?' ask John Lott and Larry Kenny. 'If there were no divorces . . . the interests of men and women would appear to be closely linked together.' The premise of their question invites the answer: 'As divorce or desertion rates rise, more women will be saddled with the costs of raising the children.' Conservatives have accepted the feminist argument that the arm of the state is a necessary defensive shield to protect women from the costs of divorce, attributed to male desertion. But male desertion is not a major cause of divorce. The welfare state and expansive government therefore are not defenses against divorce but preconditions for it. Divorce is a political weapon and an offensive one at that, promoted by the same bureaucratic and ideological interests that are undermining and politicising fatherhood and expanding the power and reach of the state to deal with the consequences.

#### **What then can check the march of the unilateral divorce machine?**

One theme of intellectuals who dissented from the ideological-bureaucratic dictatorships of eastern Europe was 'nonpolitical politics': to oppose ideology not with contrary ideology but with non-ideology, to resist politicisation by re-creating the ordinary business of 'civil society' and private life. If any group should adopt this philosophy today, it is fathers. For all the effort to 'restore fatherhood' through programs like Fathers Direct, ultimately the only ones who can restore fatherhood are, of course, fathers themselves. Almost by definition, fathers alone can truly 'save the children' by re-creating the family with themselves in it.

In so doing, fathers may also hold the potential to start redeeming a political culture that for thirty years has been sinking into the mire of permanent rebellion. Their current plight indicates how far the divorce 'revolution' has brought us all into a brave new quasi-Freudian world where not only traditional institutions are attacked and brought low, but so now are private individuals, simply because they hold the most basic position of human authority, the head of a family. Whether they are up to the challenge remains to be seen.

## Re-Founding Fathers

<http://mensnewsdaily.com/archive/a-e/baskerville/03/baskerville061303a.htm>

**Stephen Baskerville, Ph.D, 06-13-03**

This Sunday is Fathers' Day, but this year it will be more than celebrations involving barbecues and power tools. Fathers from throughout America will converge on Washington to protest the government-driven war against fathers. Demonstrations will also take place in the capitals of Britain, Canada, Australia, New Zealand, and other countries.

With the increased awareness of the importance of fathers, politicians are will wax eloquent with sentimental encomiums -- and condemnations. Fathers have become a public policy issue.

Yet the politicians have not yet gone far enough. We must also recognize that the government itself is engaged in a systematic assault on fatherhood.

It is not too much to say that there is an inverse connection between the authority of fathers and the power of government. The roles once assigned fathers -- protecting and providing -- are increasingly taken over by the state. When fathers are strong, government tends to be under control. When fathers are weak, government takes over.

"If we want less government, we must have stronger families," said President Jimmy Carter, "for government steps in by necessity when families have failed." But Carter did not tell us the half of it. It follows that government has a stake in having those families fail. Government therefore has a stake in weakened fathers.

Contrary to popular belief, the fathers who will march this Sunday are not just another special interest with petty grievances. Some may give the impression of what Allan Carlson has criticized as a politics of "abstract or imaginary 'rights' that are divorced from a sense of duty and from the authentic human affections toward kin."

Yet Carlson's wording describes precisely what fathers' voices are not. In fact, they may be the only political group today whose aims are not "divorced from authentic affections toward kin." As such, they may hold the key to redeeming not only families but a political culture that for thirty years has been sinking into the mire of permanent rebellion. Their current plight indicates how the divorce "revolution" has brought us all to a brave new quasi-Freudian world where not only traditional authorities and institutions are attacked and destroyed, but so now are private individuals, simply because they hold the most basic position of human authority, the head of a family. Through fathers, we can restore a civic culture that originates from the family upwards. And so they may be the ones to lead us in restoring constitutional government as well. Today, all fathers could become founding fathers.

## Allan Carlson Calls for Rolling Back No-Fault Divorce at US Senate

<http://mensnewsdaily.com/archive/a-e/baskerville/03/baskerville061303.htm>

**Stephen Baskerville, Ph.D, 06-13-03**

No-fault divorce should be ended and fault grounds restored to divorce proceedings, according to Dr. Allan Carlson, President of the Howard Center for Family, Religion, and Society (<http://www.profam.org>). In a lecture delivered in the Dirksen Senate Office Building in Washington, DC, entitled "Marriage on Trial: Why We Must Privilege and Burden the Traditional Marriage Bond," Dr. Carlson outlined trends in the deterioration of marriage and offered several policies recommendations. Repealing no-fault was his first recommendation. Dr. Carlson said it was imperative that parties in divorce proceedings be required to take legal responsibility for their actions.

In response to Dr. Carlson's lecture, Dr. Wade Horn, Assistant Secretary of Health and Human Services, described the Bush administration's proposal for the federal government to encourage "Healthy Marriages". Dr. Horn heads the Administration for Children and Families (ACF), which will oversee the Healthy Marriages program under the auspices of the child support enforcement system, which it also administers. Dr. Horn said it is appropriate for the government to be involved in marriage counseling in part because the government already regulates the private lives of noncustodial parents in matters of visitation and child support. In his remarks, Dr. Horn made no reference to Dr. Carlson's call to reinstate fault grounds in divorce.

The lecture was sponsored by the Family Research Council (FRC). High-profile conservative political groups like FRC have been reluctant to take on issues of divorce, custody, child support, and parental rights. But this may be changing. By sponsoring Dr. Carlson, FRC (where Dr. Carlson currently holds a fellowship) may be indicating a broadening of its approach to protecting the family to include the threat from unregulated divorce.

Dr. Carlson is not a conventional conservative. He is a highly respected scholar known for avoiding doctrinaire positions. Like the English controversialist G.K. Chesterton, whom he quoted in today's lecture, Dr. Carlson attributes much of the deterioration of the family to the effects of industrial capitalism. His recent prominence in Washington could be influential in shifting the terms of debate on family policy toward areas that have previously been avoided by both major political parties.

Those wishing to comment on Dr. Carlson's lecture can go to: <http://www.frc.org/contactfrc.cfm> or call 1-202-393-2100.

## HHS Wants Your Pastor to Become an Informer

<http://mensnewsdaily.com/archive/a-e/baskerville/03/baskerville060403.htm>

**Stephen Baskerville, Ph.D, 06-04-03**

On May 9, the Department of Health and Human Services announced grants "to support healthy marriage and parental relationships."

By its own description, HHS is the largest source of pork and patronage in the federal government, "awarding more than \$200 billion every year, more than all other federal agencies combined."

In this case, what is being billed as marriage promotion is in fact law enforcement. Federal agents who claim to be helping your marriage in reality have the power to haul you off to jail -- without trial. And now these federal agents may include the pastor who married you or the marriage counselor to whom you entrust intimate details about your private life. Marriage is being used as a smokescreen to obfuscate the process by which HHS deputizes churches and citizen groups to collect child support.

Assistant Sec. Wade Horn says, "These projects are a sensible government approach to testing and evaluating creative approaches that enhance the overall goals and effectiveness of the child support enforcement program by integrating the promotion of healthy marriage into existing child support services." How? How precisely can law enforcement agents, whose main function is locking people up, improve anyone's marriage?

This month, the liberal American Prospect magazine criticizes the administration for "promoting religion." But they are missing the point. By deputizing churches and citizen groups to collect child support, HHS is profaning religion. It is turning the clergy into informers and churches into administrative arms of the federal government.

If child support collection is a worthy and legitimate role of the federal government -- and there is no evidence that it is -- why not just say so. Why is HHS trying to disguise its law enforcement programs as family therapy?

Perhaps because the child support problem itself is a fraud. Worse, it is a process for destroying marriages, since coerced child support subsidizes divorce. So the government destroys your marriage with one hand, and claims to rebuild it with the other. And when -- inevitably -- they cannot rebuild it, they haul you off to jail.

## Film Stereotypes Males as Spousal Brutes

PBS Documentary Promotes The Myths of 'Domestic Violence'

<http://mensnewsdaily.com/archive/a-e/baskerville/03/baskerville060103.htm>

**Stephen Baskerville, Ph.D, 06-01-03**

PBS recently aired a seven-hour documentary depicting the mindset of Nazi hatemongers. Extraordinary footage of actual dialogue among operatives reveal social science and psychotherapy being twisted into political weapons against targeted groups. The film depicts mass processing centers railroading thousands into incarceration with no semblance of due process of law.

Contrary to the film's title, Domestic Violence, there is little in the film actually on "domestic violence." The film is entirely on how government officials and government-funded operatives discuss domestic violence. It is rather as if one did make a film about Nazis at work and called it "Jews in Germany."

The film depicts how people paid by the government to disseminate misinformation about men do, not surprisingly, disseminate misinformation about men. We then see how government officials who are paid to separate children from their fathers and jail the fathers without trial do in fact separate children from their fathers and jail the fathers without trial.

Filmmaker Frederick Wiseman never questions or challenges what his subjects say. More important, he never allows the objects of this media-disseminated gossip and hearsay a word in their own defense.

He does offer a glimpse of the semi-totalitarian processing centers for those accused of domestic violence, with mass arrests, mass arraignments via television, and mass incarcerations without trial. Yet even this is obviously whitewashed.

"It's very hard to get into a shelter," Wiseman admits. So obviously he is an approved propagandist, seeing what the shelter directors want him to see. This is reminiscent of glowing reports by credulous westerners who were given carefully controlled tours of the Soviet Union.

In reviewing the film, the Washington Post reports that "one-fifth to one-third" of dating teenagers are "being abused verbally, mentally, emotionally, and-or physically by their partners." So all this domestic "violence," it turns out, is not violent at all. It is verbal, mental, and emotional ("or" physical). In other words, it is a violation of no law and not criminal but whatever the "victim" says it is.

"Whatever the woman says is what we believe," says one police officer as a man is led away in handcuffs.

"I didn't wish to ... make a cliché" out of domestic violence, says Wiseman. In fact, this self-indulgent spectacle is seven hours of government clichés.

Some troublesome facts viewers are never told by Wiseman or the Post:

The Post says "one out of every three women" experiences domestic violence. In fact, no evidence indicates that women are the only or even the primary victims of domestic violence, and a quarter century of academic research attests they are not.

Most domestic violence arises during divorce and child custody. An intact family is the safest place for women and children.

The Post says, "Child abuse occurs in 70 percent of families that experience domestic violence." Child abuse takes place overwhelmingly in the homes of single mothers. In other words, a father is the natural protector of his children.

Post reviewer Judith Gillies says "More than 503,400 women in the United States are stalked by an intimate partner each year." But the US Justice Department defines stalking as any "nonconsensual communication." Legally, a father trying to phone his children is "stalking."

Domestic violence hysteria and fear-mongering is now corrupting and discrediting once-reputable news organizations like the New York Times and the Washington Post.

The BBC, once respected for its impartial documentaries, recently broadcast an astounding ten-day blitz on domestic violence that Melanie Phillips of the Daily Mail calls "a propaganda onslaught ... the kind of concerted propaganda exercise one might expect to see in time of war, with men targeted for attack here by what might be described as gender fascism."

Throughout the U.S. and other democracies, knowingly innocent men are accused of "violence" that everyone in the courtroom knows did not take place. These men lose their children, homes, and savings. They are subject to coerced psychotherapy and coerced confessions and jailed without trial and with no semblance of due process.

No one even denies this is taking place. Defenders only insist that, as always, the end justifies the means. Yet neither PBS nor any other media outlets expose this in seven-hour documentaries.



# Government as Family Therapist

A dangerous cycle.

<http://www.nationalreview.com/comment/comment-baskerville050603.asp>

**Stephen Baskerville, Ph.D, 05-06-03**

Something's gone wrong when liberals can criticize a conservative administration for imposing big government on the family. Something's especially gone wrong when the administration is then defended — by other liberals.

Bush administration proposals to promote "healthy marriages" have generally met with derision from the left, but a PBS documentary has already lent a sympathetic ear, and many Democrats are certain to go along.

Government as family therapy was an idea that in fact originated with the Clintons, who saw it as an opportunity for politicizing children and extending government into the deepest recesses of private life. "Children have been an obsession for this administration," wrote sympathetic columnist Richard Cohen. The marriage initiative extends Clinton-era programs for promoting fatherhood, such as one led by Al Gore on "Nurturing Fatherhood."

Politicians often spend money to avoid confronting problems. Yet marshaling the government to strengthen families seems especially pointless when it is government that weakened the family in the first place.

The government's new interest in protecting marriage is ostensibly targeted at poor families, which have been ravaged by decades of welfare policies that drove fathers out of homes and made them redundant by taking over most paternal functions.

The Department of Health and Human Services (HHS) is now aiming to rebuild the families it has destroyed by introducing "marriage education." Workshops will impart "relationship skills" and introduce methods of "conflict resolution." "Anger management" and "child behavior management" are among the tools of family engineering already in use (and in dispute) in the private sector which have received the HHS imprimatur.

These schemes mushroomed during the 1990s along with middle-class divorce, which their promoters have no interest in bringing under control.

That the efficacy of these programs in actually preserving families is unproven may be less significant than the implications of having them mandated by the government. Putting more psychotherapists, social workers, attorneys, and (most recently) churches on the federal payroll will simply expand the patronage machine that governs family law.

From a public-policy standpoint, there is one reason why marriage has deteriorated: Thirty years ago, with no public discussion, "no-fault" divorce laws effectively abolished marriage as a legal contract. Anyone can now rip up a marriage agreement for any reason without accepting any liability for the consequences. Today, many divorces are enacted over the objection of one spouse. Almost all divorces involving children are initiated by the mother, who can expect to get not only the children but the cash that comes with them. The fathers then become criminally liable for financing, at extortionate levels, children they seldom or never see — even if they did nothing to bring about the divorce.

If the government is serious about reviving marriage, it must bite the bullet and roll back no-fault divorce. "Educating" people to put their trust in what has become a fraudulent contract will merely expand the gravy train of educators and other divorce practitioners who benefit from the deception.

Despite protests to the contrary, no government really wants to reverse the rise in single-parent homes. Governments throughout America are filling their coffers with federal money for everything from child-support enforcement to child protection to domestic violence programs — all of which proceed from broken homes. Hypocritical programs to preach the importance of marriage and fatherhood will merely result in new rosters of clients.

More ominously, Clinton-initiated fatherhood programs have already created a blend of psychotherapy with law enforcement, in one of the most dishonest and destructive policies ever foisted on the public: child-support enforcement. Welfare created this "gulag," as attorney Jed Abraham calls it in *From Courtship to Courtroom: What Divorce Law is Doing to Marriage*; no-fault divorce extended it to the middle class, where the money and political power are concentrated.

Recently, the Washington Times reported on a therapeutic child-support program in which penal officers inculcate "life skills and relationship" therapy, and fathers are forced to denounce themselves to government officials. Forced confessions and self-criticism are also a feature of federally funded domestic-violence programs.

Government claims of a child-support problem are almost entirely manufactured. No evidence indicates that large numbers of fathers are abandoning their children; the government has no compiled data to back its claims that they are not paying support; and no study has ever justified the expanding federalization of enforcement since 1975. Two federally funded studies have concluded that nonpayment has never been a serious problem. No public outcry ever demanded that government take action, nor has any public discussion of this alleged problem ever been held. The initiative has been taken throughout by government officials, who in doing so have vastly expanded their power.

Bryce Christensen of the Howard Center for Family, Religion, and Society charges that "the advocates of ever-more-aggressive measures for collecting child support have trampled on the prerogatives of local government, have moved us a dangerous step closer to a police state, and have violated the rights of innocent and often impoverished fathers."

To soften its image, the child-support bureaucracy now markets itself as therapy. David Ross, Clinton's child-support director,

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appended the office mission statement to include "emotional support." "Child support is more than money," says the National Child Support Enforcement Association. "Child support is also love, emotional support, and responsibility." Love and emotional support are thus made bureaucratic mandates, to be enforced by government agents.

HHS Secretary Tommy Thompson has inherited the nastier features of the Clintons' policies. Under a program started by Donna Shalala called "Project Save Our Children," Thompson recently announced mass arrests of the "most wanted deadbeat parents." Among "the worst of the worst" is James Circle, earning all of \$39,000 and ordered to pay \$350 a week for one child — about two-thirds of his likely take-home pay.

"More notable than any one arrest," says HHS, is the "message" that federal agents are being mobilized. In other words, the aim is not to prosecute individual lawbreakers but to spread fear among a target population. No government warns bank robbers or drug dealers that they are being watched. HHS knows it is pursuing law-abiding citizens.

In January, HHS announced \$2.2 million in grants to faith-based groups to "improve the financial and emotional well being of children." Assistant Secretary Wade Horn says the grants "reach out to those who need help in acquiring the skills necessary to build relationships." Yet only 25 percent of the funds will promote marriage; the rest will deputize private groups to collect child support, though the therapy and the policing are often indistinguishable. The Marriage Coalition, a "faith-based organization" in Cleveland, will receive \$200,000 to aid the feds with child support.

The two facets of the program are at cross purposes; each creates a problem for the other to solve. Christensen points out a "linkage between aggressive child-support policies and the erosion of wedlock." By subsidizing divorce, "child-support laws have combined with no-fault jurisprudence to convert wedlock into a snare for many guiltless men."

Here we see the culmination of a government perpetual-growth machine that has been building for decades: Destroy the family through welfare and no-fault divorce; then evict and criminalize the fathers; then institutionalize the children as state wards through various "services" to relieve single mothers. This is precisely the loss of freedom through the erosion of the family that conservatives have long been warning against. Now their own leaders are implementing it.

# Child Abuse Industry Obscures True Causes of Child Abuse

<http://mensnewsdaily.com/archive/a-e/baskerville/03/baskerville050503.htm>

**Stephen Baskerville, Ph.D, 04-09-03**

If it's April, it must be Child Abuse Awareness Month. This means the dishonest child abuse industry is gearing up for another barrage of misleading statistics designed to obscure the causes of child abuse. After twenty years of presidential proclamations, the child abuse industry continues to disseminate its misinformation under the guise of "awareness."

Make no mistake: child abuse is a serious problem. So what does the industry propose? Create needless fear and suspicion in children against their loved ones. Report your neighbors to the police if you disapprove their methods of child rearing. Send government agents into more homes. Seize more children from innocent parents. Arrest parents who discipline their children. And above all, get in touch with your feelings.

These are the measures advocated by the child abuse industry – the vast complex of professionals, bureaucrats, and interest groups whose livelihoods depend upon a steady supply of abused children.

We get the usual vapid psychobabble about the importance of "caring" and "nurturing" and how "precious" children are. I propose we re-name the observance "Child Abuse Avoidance Month."

"You are required by state law to report your suspicions immediately to . . . the Texas Department of Protective and Regulatory Services," Texas Attorney General John Cornyn warns citizens. Or "you could face . . . up to 180 days in jail." Not evidence, just "suspicion."

There is one incontrovertible fact about the vast bulk of child abuse: The main cause is single-parent homes. The main abusers of children are single mothers. When fathers are present child abuse is not a serious problem.

So what can we do when fathers abandon their homes? There is no evidence that fathers are abandoning their homes. There is incontrovertible evidence that fathers are evicted from their homes by family courts judges under the euphemism of "divorce."

The main cause of child abuse, therefore, is family courts. No child abuse epidemic existed before the divorce revolution. No child abuse epidemic existed before the creation of family courts. No child abuse epidemic existed before the government began its campaign of systematically removing fathers from their families.

Appalling as it sounds, the fact is we have created a government machine with a vested interest in child abuse.

The sanctimony surrounding child abuse is not only suffocating; it is harmful. The only way to bring child abuse under control is to rescue our children, first of all, from the child abuse industry and return them to the protection of their fathers.

# Soldiers Risking Their Lives in Iraq Might Face Prison Over Child Support Upon Return

<http://mensnewsdaily.com/archive/a-e/baskerville/03/baskerville040903.htm>

**Stephen Baskerville, Ph.D, 04-04-03**

As America's servicemen risk their lives to protect their families and ours, the federal government is preparing to put them in jail.

That's right; you heard correctly. Most societies honor their returning heroes. In America we punish them.

Soldiers who ship off to Iraq risk not only their lives but arrest and jail when they return. Those who accept a pay cut to defend their country can be incarcerated when they are unable to pay the impossible child support burdens imposed on them by the federal government's divorce machinery.

It is mind-boggling that servicemen who risk their lives to protect us will face arrest as they step off the plane. Yet this is precisely what happened after Desert Storm, and it will happen again this time.

The federal government has issued the usual PR smokescreen, urging soldiers to contact their local child support agents to request a modification. But such requests are almost never granted. Child support fills government coffers with federal taxpayers' money. Governments have no incentive to give these soldiers a break and plenty of incentive not to.

The Christian Science Monitor reports that a soldier whose domestic job pays \$31,000 must pay \$900 a month in child support. His reserve pay will reduce his income to \$27,000. The Monitor neglects to point out that even at the higher pay, this is about half the man's take-home pay, and that he is likely to be living on less than \$1,000 a month. Another father's child support comprises 73% of his income, leaving him \$200 a month to live on.

Do we really believe that these heroes are "deadbeat dads" who went to Iraq to avoid paying child support? If not, perhaps it is time we began to examine whether the entire child support system is anything other than a fraud. If these men are not "deadbeats," then who is? If these arrests are an abuse of government power, why are not all the others?

Attempts to protect our civilization from external threats will be pointless if we allow it to be undermined from within. How long do we expect men to sacrifice their lives and livelihoods for their country when their government steals their children and uses those children to extort huge sums of money from their fathers?

What kind of morale can we expect in our armed forces when the same brave men who risk their lives to protect their families from invasion by terrorists are powerless to protect their families from invasion by their own government.

## What God Has Joined Together

The worldwide crisis of the family is now inspiring urgent attempts to strengthen marriage and promote responsible fatherhood. The divorce rate is upwards of 50 percent, and some 40 percent of children now live in homes without their fathers.

[http://www.catholicexchange.com/vm/index.asp?vm\\_id=2&art\\_id=17827](http://www.catholicexchange.com/vm/index.asp?vm_id=2&art_id=17827)

Stephen Baskerville, Ph.D, 03-10-03

### Divorced Against His Will

With a growing realization of the destructive social and personal pathologies this trend engenders, groups like Marriage Savers and the National Fatherhood Initiative have arisen in the United States to restore these institutions through public awareness and education.

While such efforts are laudable, their effectiveness is likely to be limited until we come to grips with the realities underlying the family crisis. If we face some bitter truths about why families are breaking up, the study will take us beyond the safe confines of vague moral exhortation into realms of law and politics that many of us would rather avoid.

To begin, we must realize the image many people have —of marriages simply and mutually "breaking down"—is not accurate. As permitted under "no-fault" divorce laws, some 80 percent of American divorces are unilateral, according to Frank Furstenberg and Andrew Cherlin, authors of *Divided Families*. In other words, most divorces take place over the objection of one spouse, who is generally committed to keeping the family together.

Contrary to another persistent myth, when minor children are involved, the divorcing parent is overwhelmingly likely to be the mother. In *Divorced Dads: Shattering the Myths*, Arizona State University psychologist Sanford Braver has shown that at least two-thirds of American divorces are initiated by women. Moreover, few of these divorces involve grounds such as desertion, adultery, or violence. The reasons most often given are "growing apart" or "not feeling loved or appreciated."

Other studies have reached similar conclusions. The proportion of divorces initiated by women climbed to more than 70 percent when no-fault divorce was introduced, according to Margaret Brinig of the University of Iowa and Douglas Allen of Simon Fraser University. Mothers "are more likely to instigate separation, despite a deep attachment to their children and the evidence that many divorces harm children." And the "bottom line" is indeed the children. After analyzing 21 different variables, Brinig and Allen concluded that "who gets the children is by far the most important component in deciding who files for divorce." Author Robert Seidenberg goes further, reporting that "all the domestic relations lawyers I spoke with concurred that in disputes involving child custody, women initiate divorce almost all the time." [original emphasis]

It is difficult to overestimate the importance of this finding. A very different picture of the situation is clearly assumed by political leaders who call for repeated crackdowns on supposedly dissolute fathers. "I believe children should not have to suffer twice for the decisions of their parents to divorce," Senator Mike DeWine said on the Senate floor in June 1998; "once when they decide to divorce, and again when one of the parents evades the financial responsibility to care for them." But most fathers (and some mothers) have made no such decisions. They are expelled by a divorce to which they have not consented.

Family law today allows mothers to walk away from marriages whenever they feel like it and take the children with them. Not only is this behavior permitted; it is encouraged and rewarded with financial incentives. Even more disturbing, in some cases it appears that mothers are actually being pressured into filing for a divorce they do not necessarily want by social-service agencies.

The problem runs much deeper than the bias against fathers in court custody decisions. Such bias certainly exists, but it goes well beyond the supposition that "all else being equal," children should stay with their mothers. "Washing their hands of judgments about conduct... the courts assume that all children should normally live with their mothers, regardless of how the women have behaved," observes Sunday Times columnist Melanie Phillips. "Yet if a mother has gone off to live with another man, does that not indicate a measure of irresponsibility or instability, not least because by breaking up the family... she is acting against their best interests?"

Mothers who take and keep children from their fathers are routinely given immediate "temporary" custody. In fact this custody is seldom temporary. Once a mother has custody, the situation cannot be changed without a lengthy (and costly— or, for the lawyers, lucrative) court battle. The sooner and the longer the mother can establish herself as the children's sole caretaker, the more difficult and costly it is to dislodge her. Further, the more she cuts the children off from the father, poisons them against him, levels false charges, delays the proceedings, and obstructs his efforts to see his children, the more likely she is to retain sole custody.

As for the father, any restraint he shows is likely to cost him dearly, as most fathers discover too late. On the other hand, reciprocal belligerence and aggressive litigation on his part may carry enough hope of reward to keep him interested. It is significant and revealing that the latest tactical wisdom suggests to nervous fathers that the game is so rigged that their best chance may be not to wait for their day in court but to snatch the children right away, before the litigation begins. Then the fathers—who are now the ones with custody—are advised to conceal, obstruct, delay, and so forth. "If you do not take action," writes Robert Seidenberg in *The Father's Emergency Guide to Divorce-Custody Battle*, "your wife will." Thus we seem to have a nightmare scenario, reminiscent of the strategies for nuclear warfare, complete with the threat of a pre-emptive strike. There is a race to pull the trigger; whoever strikes first, survives.

### Follow the Money

Far from merely exploiting family breakdown after the fact, then, American domestic-relations law has turned family problems into games of "prisoners' dilemma," in which only the most trusting marriage can survive, and the emergence of marital discord renders the decision not to abscond with the children as perilous and even irrational. Willingly or not, all parents are now prisoners in this game.

How did all this come about? The advent of "no-fault" divorce, often blamed for leaving wives vulnerable to abandonment, has left fathers with no protection against the confiscation of their children. "No-fault" is a misnomer, for the new laws did not stop at removing grounds for divorce, so as to allow divorce by mutual consent (as their sponsors promised that they would); they also created what Maggie Gallagher, in *The Abolition of Marriage*, calls "unilateral" divorce, allowing either spouse to end the marriage at any time without any agreement or fault by the other.

What is striking about these new divorce laws is that they were passed "while no one was looking," largely at the prompting of lawyers and judges. There had been no popular clamor to dispense with restrictions on divorce prior to their passage; no public debate was ever held in the national media. "The divorce laws . . . were reformed by unrepresentative groups with very particular agendas of their own and which were not in step with public opinion," writes Phillips in *The Sex-Change Society*. "All the evidence suggests that public attitudes were gradually dragged along behind laws that were generally understood at the time to mean something very different from what they subsequently came to represent."

Attorney Ed Truncellito agrees. In August 2000 he filed suit with the Texas Supreme Court against the state bar. Truncellito contends the legislative history of no-fault divorce law in Texas makes it clear that the law was meant to be applied only in uncontested cases. He insists that "the state bar knew all along that the no-fault law was being misapplied, but they covered it up for financial gain." Truncellito claims that for practical purposes, under Texas law today, "no one is married," because the laws created "unilateral divorce on demand." Although feminist groups were involved in the drive for no-fault divorce, they were not usually the most important proponents; the changes were passed largely by and for the legal industry.

Dickens' observation "the one great principle of the . . . law is to make business for itself" could hardly be more starkly validated. Nothing in the law requires a judge to grant the divorcing parent's initial request to strip the other parent of his children. A judge could simply rule that, *prima facie*, neither the father nor the children had committed any infraction that would justify their being forcibly separated, and that neither the mother nor the court had any grounds on which to separate them. Yet such rulings are virtually unheard of. One need not be overly cynical to notice that judges who made such judgments would be rendering themselves largely redundant—and denying earnings to a massive entourage of lawyers, custody evaluators, psychologists and psychiatrists, guardians ad litem, mediators, counselors, child-support enforcement agents, social workers, and other hangers-on of the court, all of whom profit from the custody battle and have a strong say in the appointment and promotion of judges.

For all the concern that has been voiced in recent years about both family destruction and judicial power, it is surprising that so little attention has been focused on family courts. Without doubt they are the arm of the state that routinely reaches furthest into the private lives of individuals and families. Though lowest in the ranking of the judicial hierarchy, the family courts have the greatest discretionary power. "The family court is the most powerful branch of the judiciary," according to Robert W. Page, Presiding Judge of the Family Part of the Superior Court of New Jersey. By their own assessment, according to Judge Page, "the power of family court judges is almost unlimited." Others have commented on their vast power rather less respectfully. Former US Supreme Court Justice Abe Fortas once used the term "kangaroo court" in reference to the family courts. Contrary to basic principles of open government, these courts generally operate behind closed doors, excluding even family members, and most leave no record of their proceedings.

These courts emerged in the 1960s and 1970s alongside the revolution in divorce laws. Their existence, and virtually every problem they address—divorce, custody, child abuse, child-support enforcement, even juvenile crime—revolve around one overriding principle: removing the father from the family. If fathers remained with their families, family courts would have little reason to exist, since the problems that they handle seldom appear in intact families. While mothers also fall afoul of family court judges, it is fathers against whom their enmity is largely directed, because fathers are their principal rivals.

The judges' contempt for both fathers and constitutional rights was openly expressed by New Jersey municipal court judge Richard Russell. Speaking to his colleagues during a training seminar in 1994, he said:

Your job is not to become concerned about the constitutional rights of the man that you're violating. Throw him out on the street, give him the clothes on his back and tell him, "See ya around." . . . We don't have to worry about their rights.

Family court judges are generally appointed and promoted by commissions that are dominated by bar associations and other professional groups which have an interest in maximizing the volume of litigation. The politics of court appointments operate according to principles of patronage that Richard A. Watson and Rondal G. Downing, authors of *The Politics of the Bench and the Bar*, have described as "cronyistic." Political scientist Herbert Jacob describes how "the judge occupies a vital position not only because of his role in the judicial process but also because of his control over lucrative patronage positions." Jacob cites probate courts, where positions as estate appraisers "are generally passed out to the judge's political cronies or to persons who can help his private practice." The principles are similar in family courts (with which probate courts are sometimes united), only there what is passed out is control over children.

Like all courts, family courts complain of being overburdened. Yet it is clearly in their interest to be overburdened, since judicial powers and salaries are determined by the level of demand for their services. "Judges and staff . . . should be given every consideration for salary and the other 'perks' or other emoluments of their high office," suggests Judge Page, adding that divorce court judges aim, and should aim, to increase their volume of business. "As the court does a better job, more persons will be attracted to it," he observes. "The better the family court system functions the higher . . . the volume of the persons served." A court "does a better job" by attracting more divorcing mothers with more windfall settlements.

### **How to Turn Dad Into a Criminal**

Once the father "loses custody," in the jargon of the court, he becomes in many ways a virtual outlaw and subject to plunder by a variety of officials. His contact with his own children becomes criminalized, in that he can be arrested if he tries to see them outside of

court-approved times and places. Unlike anyone else, he can be (and fathers have been) arrested for running into his children in a public place such as the zoo, a sporting event, or a parish church. He can also be arrested for telephoning his children when he has not been authorized to do so, or for sending them birthday cards.

Fathers are routinely summoned to court and subjected to questioning about their private lives and how they raise their children. Whether or not they have been accused of any wrongdoing, they are subject to questioning that attorney Jed Abraham has characterized as "interrogation." Their personal papers, bank accounts, and homes must be opened and surrendered on request to government officials, who are not required to produce warrants. Their children are taught to suspect them, with the backing of government officials, and given directions to inform on them.

Anything a father has said to his spouse or children can be used against him in court. His personal habits, movements, conversations, purchases, and even his relationship with his own children are all subject to inquiry and control by the court. A Virginia father had his visitation time reduced when a judge decided that soccer was a more important Sunday-morning activity than attending church services. Another father in Tennessee may face a jail term for giving his son an unauthorized haircut. Jed Abraham describes how fathers against whom no evidence of wrongdoing is presented are ordered to submit to "plethysmographs," in which an electronic sheath is placed over the penis while the father is forced to watch pornographic films involving children.

Despite the constitutional prohibition on incarceration for debt, a father can be jailed without trial for failure to pay not only child support but also the fees of lawyers and psychotherapists he has not hired. A father forcibly separated from his son for three years now faces jail in Virginia if he cannot pay the equivalent of two years' salary to a lawyer he never hired, for a divorce he never requested. The judge has summoned a legally unimpeachable citizen and ordered him to write a check or go to jail. And the weapon he is using is a child.

Litigants have long claimed that family courts tamper with transcripts and other evidence, but were unable to document their claims until Zed McLarnon, a forensic audio-visual expert, showed photographic evidence that hearing records in his case were being doctored. For his complaint, later aired in the Massachusetts News, McLarnon was assessed \$20,000 in fees for attorneys he had not hired, and jailed without trial by the same judges who were responsible for the doctored tapes. The court is currently moving to seize his house and car. His attorney claims the court also "removed documents from his case file, falsified the case docket, refused to enter motions and hearings in the public record, and withheld the public case file for nine months."

The criminalization of fathers is further consolidated through child-support burdens, which constitute the principal financial fuel of the divorce machinery, underwriting divorce and giving both mothers and the state further incentive to remove children from their fathers.

We often hear the imprecations of politicians and enforcement officials against fathers who fail to pay child support. What we do not hear is that child-support obligations are determined not by the needs of children but by the politics of interest groups involved in collection. Guidelines are generally set by the same agencies and courts that enforce and adjudicate them. Such de facto legislation by courts and enforcement agents raises serious questions about the separation of powers and the constitutionality of the process. Where government officials develop an interest in hunting "delinquents," it is predictable that they will find delinquents to hunt. The more onerous the child-support levels, and the more defaults and arrearages that accumulate, the more demand there will be for coercive enforcement and for the personnel and powers required.

A presumption of guilt pervades courts and prosecutions, where "the burden of proof may be shifted to the defendant," according to a legal analysis by the National Council of State Legislatures. In clear violation of the US Constitution, courts have held that "not all child-support contempt proceedings classified as criminal are entitled to a jury trial," and "even indigent obligors are not necessarily entitled to a lawyer." Thus impoverished parents who lose their children through literally "no fault" of their own are the only citizens who—when they are fortunate enough to be formally charged and tried at all before being incarcerated—must prove their innocence without the help of an attorney and without the opportunity to present their case before a jury of their peers.

Federal policies (which provide incentive payments attached to each dollar of child support collected by state governments) give another reason for the states to channel all child-support questions through the machinery of the criminal justice system, so that they will show up on the relevant federal ledgers. This policy aggravates the criminalization of fathers, and encourages agencies to squeeze every possible dollar out of every available parent. The result is systematic bullying by courts and enforcement agents: a pattern of activity that is now too common to ignore.

### **Real Men: Real Horror Stories**

In Milwaukee a father is hauled into court and threatened with jail when a 40-cent arrearage is compounded by penalties and late fees until it reaches to hundreds of dollars. Another father is arrested for not paying child support while he was a hostage for five months in Iraq. In Texas a father is exonerated of a serious crime after ten years on death row, to be presented with a bill for child support not paid during his imprisonment. A decorated hero of the Oklahoma City bombing is driven to suicide by hounding from child support agencies.

In Nebraska and elsewhere men must pay support for the children who are produced by their former wives' adulterous affairs. In Los Angeles, 350 child-support orders are established each month based on mistaken paternity claims, but the district attorney insists that men must pay—even if the children are not their own. (Also in Los Angeles, two assistant district attorneys resign because of ethical scruples connected with child-support enforcement policies.)

In Virginia child support is sought for 45-year-old "children," while in Kansas and California teenage boys are ordered to pay child support to grown women convicted of criminally raping them. In Indiana a father must pay to be shackled with an electric ankle bracelet and turn over three-fourths of his salary, ostensibly for a 21-year-old "child," while his 12-year-old goes without medical treatment. The list of such abuses is virtually endless. Are these merely anecdotes or occasional excesses of the system? That is possible, but if the



abandonment of children by their fathers is really such a widespread problem, why are government agencies concentrating scarce resources on these absurd cases, rather than devoting themselves assiduously to the most flagrant abuses?

In March 2000 a Canadian man named Darrin White was denied all contact with his three children, evicted from his home, and ordered to pay more than twice his annual income as child and spousal support, plus court costs for a divorce to which he had never agreed. Shortly after that judgment, White hanged himself from a tree. No evidence of any wrongdoing had ever been presented against him.

The fate of Darrin White is increasingly common. "There is nothing unusual about this judgment," former British Columbia Supreme Court Judge Lloyd McKenzie told the Vancouver Sun when he was questioned about White's case. McKenzie pointed out that the judge in White's case applied standard guidelines for spousal and child support—the same sort of guidelines that are regularly used in the US and other western countries.

In fact there are those who would argue that the phenomenon of fathers who are driven to suicide by family courts now threatens to become an epidemic. In Britain the National Association for Child Support Action has published a "Book of the Dead," chronicling 55 cases in which they report that the official Court Coroner concluded fathers were driven to suicide because of judgments from divorce courts and/or harassment by child-support agencies. The suicide rate among divorced fathers has increased dramatically, according to Augustine Kposowa of the University of California, who reported his findings in the *Journal of Epidemiology and Community Health*. Kposowa attributes his finding directly to family court judgments. Yet reports on his study by several major media outlets studiously avoided that conclusion of his study, instead accentuating therapeutic explanations that emphasized the fathers' lack of "support networks." One reporter bluntly told Kposowa that his findings were not "politically correct."

Family law is now denying rights as basic as freedom of speech, freedom of the press, and even the right to hold private conversations. An Arizona father has been ordered not to criticize judges in his conversations with members of his own family. British and Australian family courts have closed Internet sites and prosecuted fathers for criticizing judges. In many American jurisdictions it is a crime to criticize family court judges. On Fathers' Day 1998, a California father who had been planning to protest the fact that he had not seen his son in more than two years was taken into custody for a "psychiatric evaluation." The former husband of singer Wynonna Judd was recently arrested for talking to reporters about his divorce. Following his Congressional testimony critical of the family courts, Jim Wagner of the Georgia Council for Children's Rights was stripped of custody of his two children and jailed. "We believe . . . the court is attempting to punish Wagner for exposing the court's misconduct to a congressional committee," said Sonny Burmeister, president of the Georgia Council.

As the logic of involuntary divorce plays itself out, we now find instances in which divorce is forced on not only one parent but both. Mothers are not only being enticed into filing for divorce by financial and emotional incentives; they are being pressured toward divorce by threats against their children. These pressures arise when government agencies, for reasons of their own, determine that a married couple is not providing a suitable environment for their children; the agencies then tell the mother that she will lose her children unless she ends the marriage.

On February 20, 2001, the Massachusetts News reported that Heidi Howard was ordered by the state's Department of Social Services to divorce her husband Neil or lose her children, although the Department acknowledged he had not been violent. When she refused to accept their advice, the social workers seized her children, including a newborn, and attempted to terminate the Howards' parental rights. Massachusetts News reporter Nev Moore says she has seen hundreds of similar cases. In short, the state can now tear apart families by imposing divorce on married parents.

### **What Good is an Unenforceable Contract?**

The divorce industry has rendered marriage, in effect, a fraudulent contract. Until marriage is made an enforceable contract, there is little point in exhorting young people to put their trust in the legal institution. Young men in particular who are lured into marriage and family today can lose their children, their homes, their freedom, and even their lives. It is not surprising that ever fewer men are ready to make the marital commitment.

More than anyone else, the ones who must stand up and demand that marriage be made an enforceable contract are fathers. This does not necessarily require "turning back the clock" to fault-based divorce—a move that many observers now believe is not politically feasible. What it does require is the recognition that marriage confers legal rights on parents and their children, including the right not to be separated without compelling legal grounds. Except in extreme circumstances, that right should prevail over what government officials deem to be in the children's "best interest."

The others who must speak out in defense of marriage are the clergy. The destruction of marriage and families by the state directly concerns the churches, not simply because all matters of morality and justice concern the churches, but also because this particular controversy touches upon the integrity of their pastoral ministry. As long as marital and parental bonds can simply be legally dissolved by the state at the request of one spouse—with no grounds, wrongdoing, legal action, or agreement by the other—our pastors must consider how far they may be, however inadvertently, deceiving their flock and dishonoring their calling by encouraging young people to enter into a legal contract that has been stripped of its practical meaning.

The words "divorce" and "custody" now sound deceptively innocuous. We should remind ourselves that they involve bringing the law-enforcement and penal system into the home, for use against family members who have not necessarily done anything legally wrong. Fathers are not without sin, of course, and marital difficulties are seldom the fault of one party alone. But our justice system is supposed to be based on a distinction between legal wrongdoing (criminal or civil) and human imperfection or sin. Ironically, that distinction has been obliterated—not by churches or ecclesiastical courts, but by secular ones.

## Boy victim of statutory rape forced to pay child support to adult woman rapist

<http://mensnewsdaily.com/archive/a-e/baskerville/03/baskerville031103.htm>

**Stephen Baskerville, Ph.D, 03-07-03**

In Iowa, the government has confiscated the savings of an 11-year-old boy. Rylan Nitzschke saved \$200 from chores and shoveling snow, but now his savings belongs to the state. Why? Rylan's father allegedly owes child support - for Rylan! - and the father's name was on the boy's bank account.

OK, so this is a fluke, and the state will return the boy's savings, right? Wrong. State officials have no intention of returning the money. And why should they? They receive federal funds for each dollar they collect. Returning Rylan's piggy bank is bad fiscal management.

Such expropriations are far from unusual. In West Virginia, child support officials cleaned out the bank account of an 85-year-old grandmother whose son allegedly owed child support. The son never paid into the account, which comprised her life savings. She was also charged \$75 processing fee.

Children often pay child support to grown-ups. In California and Kansas, minor boys statutorily raped by adult women must pay child support to the criminals who raped him. In one case, the boy was drugged before sex.

The elderly can also become targets of rape-for-profit. A disabled 85-year-old man, sexually assaulted by his housekeeper and awarded damages for the assault, was ordered to pay her child support, and his pension was garnished. He was denied access to the child.

"We've got some 45-year-old 'kids' running around who are owed child support," says Nick Young, enforcement director in Virginia.

In Canada, runaway children now sue their parents for child support. In California, a 50-year-old divorce lawyer successfully sued his own parents for child support because depression rendered him unable to work.

Child support has little to do with providing for children. Its purpose is to redistribute money - and political power - among grown-ups. Iowa officials say the only way Rylan's father can prevent the looting of Rylan's savings in the future is to give the money to the adult with custody.

Thus has child support turned children into cash prizes and even "cash crops." One girl tells a Toronto newspaper of her career plans: "I'm going to marry a really rich guy, then divorce him," she says. "But first I'm going to have his kids, so I get child support."

## Deadbeat government in Virginia

<http://mensnewsdaily.com/archive/a-e/baskerville/03/baskerville021403.htm>

**Stephen Baskerville, Ph.D, 02-12-03**

In 2001, an opinion piece in this newspaper resulted in my dismissal from a government panel in Virginia to which I had been duly appointed. Officials made no attempt to disguise the fact that I was removed because of the political views I expressed. "Upon reviewing your opinions published in the June 17, 2001, [edition of The] Washington Times, we question whether you would be able to work effectively with other panel members," Secretary of Health and Human Resources Louis Rossiter wrote. "I find it difficult to see how you could effectively participate along with representatives of other groups that very likely have different perspectives than yours."

The panel reviewed child-support guidelines. It was required by law to include members with different perspectives. But Mr. Rossiter said disagreement with other panel members was grounds for dismissal. Since the other panel members all had a vested interest in making child-support burdens as high as possible, a willingness to increase child-support burdens effectively became a requirement for being on the panel.

Predictably, the panel recently voted to increase child support by an astounding 15 percent to 25 percent, and the legislature is now considering legislation to implement that increase. When officials rig the democratic process, they generally have the decency to disguise it. Not when it involves child support. After all, nothing is excessive when it is "for the children."

In this case though, it appears to be for the grown-ups. This action will not mean more money for children, as the government would have us believe. It will mean more money for the government. Like every other state, Virginia receives federal payments based on the amount of child support that passes through government hands. Increased burdens mean increased income from federal taxpayers to fill state coffers and subsidize divorce.

The added result of making divorce more lucrative will be more divorce, more fatherless children, and more fathers jailed without trial because they cannot pay impossible child support burdens. It also means more money and power for courts, bureaucrats, prosecutors, and attorneys.

This is why California Gov. Gray Davis recently vetoed a bill to relieve wrongly-accused men who are ordered to pay the state's crushing child-support levels for children whom DNA testing shows they did not father. He too acted for the children, though he later admitted that not vetoing the bill would be "putting California at risk of losing up to \$40 million in federal funds."

As always, one lie necessitates another. In defending my dismissal in the Fredericksburg Free Lance-Star, Dr. Rossiter promised that the panel would investigate questions like, "How much does it cost to raise a child? Who has the right to determine how the money is spent on the child?" Yet these are the very questions it avoided.

In fact, Virginia is in open violation of the law on precisely these questions. Section 20-108.2 of the domestic relations code and Senate Joint Resolution 192 specifically require the Joint Legislative Audit and Review Commission (JLARC) to "include in its study of child support enforcement an examination of the costs of raising children in Virginia." JLARC came back with a report saying such a study "would cost millions" and never undertook it, though JLARC received federal money to make this determination.

So government officials can refuse to obey the law with the plea that it would cost too much, when it is for precisely this that they are jailing parents without trial: failure to obey the law – in that case capricious court orders – because they cannot afford it.

Like most states, Virginia requires no economist on its panel, an odd omission if the purpose is to determine child-rearing costs. Other than my replacement, Murray Steinberg, the panel consisted of operatives from the divorce industry, all of whom profit from divorce and impossible child support burdens. In Virginia the divorce industry reviews itself.

Last June, Liberty magazine documented how the government manufactures "deadbeat dads" by seizing their children and forcing them to pay impossible sums. In November, Crisis magazine exposed systematic corruption endemic in the child support industry nationwide. Now the citizens of Virginia and America can see firsthand how the cynical power of the divorce regime feigns pity for children while exploiting them to increase its already dangerous power.

Like Barry Koplen before him (whose minority report formed the basis of my item in The Times), Mr. Steinberg found the panel's results had been rigged from the start. "The numbers are arbitrary and capricious," he reports. The author of the new guidelines, Dr. William Rodgers of William and Mary College, told the panel, "If we did not like these numbers he would create a schedule to suit." Rules that ostensibly reflect broad principles of public policy are in fact custom-tailored to appease favored constituencies. It might be called Groucho Marx government: "Those are my principles. If you don't like them, I have others."

A government spokesman told the press I was dismissed because I "did not display an open mind." Yet I was not the one excluding other viewpoints in order to ensure desired results. "He should have expressed his concerns in the context of the panel and not the press." This is the argument of censors and tyrants throughout history: Government will determine what is fit for the public to hear. As the Free Lance-Star editorialized, "Baskerville's key point – that when it comes to state-dictated child-support issues the fix is in – is only strengthened when he's sacked for making it."

Now we will see if Virginia's elected representatives are willing to protect children or the judicial machine that is exploiting them, and making a mockery of ethical government in the process.

# Family Courts Are Corrupt

**Stephen Baskerville, Ph.D, 02-07-03**

What should we conclude about courts where knowingly false accusations are treated as proven? Where hearing records are doctored? Where perjury is encouraged? Where knowingly innocent citizens are jailed without trial? Where those who criticize the government are ordered into psychiatric examinations?

And what should we conclude about journalists, prosecutors, and political leaders who know of these practices and refuse to investigate and even cover them up?

These are the routine practices of family courts – the most intrusive and corrupt arm of government today. Even some long familiar with family court corruption are shocked by the newest revelations.

Consider the Ohio couple who found over 10,000 alterations in an official transcript from what was recorded in their child custody hearing. Words that were never spoken appeared in the record, and words that had been spoken were missing.

Or the Massachusetts forensic audio-visual expert, who obtained photographic evidence that court records had been doctored. He was assessed \$20,000 in fees for attorneys he had not hired, and jailed by the same judges whose tapes were doctored.

Or consider the prominent psychologist and author who advised another court-appointed psychologist to fabricate charges of "violence" against an innocent man. "Try to get the label 'domestic violence' on the dad's behavior towards the mom," the psychologist writes. In other words, falsely accuse a citizen of "violence" who you know has committed no violence.

These are not isolated indiscretions. Divorce practitioners get away with this conduct because judges reward it.

The willingness of officials to bend the meaning of words – and with it the truth – is a matter of public record. The US Justice Department includes "name-calling," and "criticizing" in its official definitions of domestic "violence." The highest law enforcement agency in the land can redefine criminal "violence" to include things that are not violent. It is not difficult to imagine how secret courts can use such nihilism to convict the innocent.

So we have entered the world predicted by George Orwell, where white is black, war is peace, and violence is not violent.

"This is criminal misconduct," attorney Eugene Wrona says of similar practices in Pennsylvania, "and these people belong in jail." Instead the fathers against whom they are fabricating evidence in public courtrooms are the ones filling up our jails. In family court we have literally reached the point where the criminals are putting the law-abiding citizens in jail.

# The Silence of the Good People

<http://www.fathermag.com/news/3782-fatherhood.shtml>

**Stephen Baskerville, Ph.D, 01-08-03**

Wade F. Horn, David Blankenhorn, and Mitchell B. Pearlstein, eds. *The Fatherhood Movement: A Call to Action*. Lanham, Maryland: Lexington Books, 1999. ISBN 0-7391-0022-X.

The last five years has seen an explosion of campaigns dedicated to the crisis of fathers who are cut off from their children. Some are large, well-funded national organizations, generally dedicated to promoting "responsible fatherhood" in cultural rather than political terms. Others are small, scattered, and ragtag groups concerned with the political and constitutional rights (or lack thereof) of fathers and their children.

The relationship between these two wings of the "fatherhood movement" has thus far been largely complementary and amicable. They share the aim of promoting awareness of the importance of fathers and families, and rights and responsibilities are, cliché that it is, undeniably two sides of the same coin. But as the movement grows (which it is doing by leaps and bounds), friction is bound to increase.

This collection of essays by some major figures in the more established wing of the movement makes clear that that they wish to include and accommodate fathers' rights advocates among their ranks, at least to a point. Too much discussion of "rights" does make some conservatives (and nowadays some liberals) uncomfortable in a society where every group under the sun seems to be staking a claim. For their part, fathers' rights advocates are ill at ease with the implication that fathers should be presumed to be irresponsible. All this may appear as another division – familiar in any political movement – between moderates and radicals, but the political dynamics are complicated. While "radicals" are unlikely to be entirely satisfied with this book by "moderates," they should not dismiss it and may even gain a few useful insights.

Wade Horn, president of the National Fatherhood Initiative, the most well known fatherhood organization, repeatedly writes in his keynote essay about the new attention to fatherhood as a social movement (my emphasis). The word he avoids, quite intentionally, is political. Horn's reluctance to discuss fatherhood politically may proceed from justifiable concern that some could use this to dismiss the movement as a stalking horse for some "hidden agenda" to restore "patriarchy." What remains of politics therefore is largely "public policy." But the parallels Horn himself invokes with movements that initially had little connection with government (abolitionism, temperance, civil rights) betray the fact that, admit it or not, what we have here is a political phenomenon from which the demand for civil rights is inseparable.

The volume's main concession to the rights of fathers is the essay by Ronald Henry on divorced dads, which is indeed one of the most forthright in the book. Henry sets off to elucidate brilliantly the dangerously intrusive nature of family courts:

A custody decree is an order that restricts parents' access and custodial rights with respect to the child and...enjoins the parents from the exercise of their former, unrestricted rights. ... In all other situations, the guiding principle is that injunctive relief should be carefully crafted to impose only such minimum restrictions upon the parties' prior freedom as is required to resolve the present dispute. In contrast...the most common custody decrees issued by the courts today impose maximum rather than minimum change upon the parent-child relationship

Unfortunately Henry then capitulates to what Maggie Gallagher belittles as "good divorce" in setting forth joint custody as the least intrusive alternative to automatic sole mother custody. Joint custody has much to be said for it in some circumstances – those where the divorce is truly mutual, for example (a mere 20% according to Gallagher) – and it mitigates some of the trauma of divorce for some children. But Gallagher is right to debunk joint custody as a panacea for the traumas of divorce. For connected reasons, I also do not think it is very effective or inspiring as a political focus for fathers. Here is one place where we might emphasize common ground with some in "responsible fatherhood." (Though Gallagher's position on marriage is far from universally accepted even among them, as the essay by Ronald Mincy and Hillard Pouncy indicates.)

For one thing, joint custody appears to fulfill the stereotype of the divorced dad, a stereotype which is too visible a presence in this book as it is. Far too many times it is simply assumed that divorced and "absent" fathers are willingly divorced and absent rather than, as is much more likely, divorced over their objections and absent because of a court order. But we lend support to the stereotype – or we are at least acquiescing in it – when we make joint custody, rather than judicial kidnapping, our only battle cry.

Moreover, joint custody is not the least intrusive custody standard. The least intrusive standard is also the only morally and constitutionally defensible one, the only one that provides for minimal state intrusion into the family, that will bring down the out-of-control divorce epidemic, that will end the use of children as weapons and tools for the power and profit of adults, that avoids the abominations of "primary caretaker" or "highest earner" and the extremes of sole mother or sole father custody: Custody goes to the parent that (barring legitimate grounds) wants to hold the family together. A parent that leaves a marriage without grounds, knowing she is walking away from her children, is putting her own desires before the needs of her children. She is, by that fact alone, a less fit parent than one who holds the family together.

Moralistic? Judgmental? Perhaps it is time we grasped this nettle. We are moral beings. More importantly, our children require a moral upbringing. Children are not pets who only need feeding and exercise. And many writers in this book emphasize fathers as specifically moral leaders. Horn highlights fathers as "disciplinarians" and "moral instructors." Ken Canfield stresses "promoting moral and spiritual development." Don Eberly writes that fathers engender "trust, cooperation, and a social generosity among citizens are preconditions of a vigorous civil society." To remove moral judgment from the family (and justice from family law) is, inherently, to undermine fatherhood.

This brings us to what, for our purposes, may be the most suggestive essay in the book, the one that establishes fatherhood as serious

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political topic. In "No Democracy Without Dads," Eberly says that "Fathers can be a powerful influence in making better citizens." This argument might be taken much further, but Eberly makes it concisely. "A democracy requires of its citizens ...that they possess enough faith, energy, imagination and self-control to work actively together to solve common problems, to help one another, and if necessary to sacrifice for their own future well-being and the nation's," he writes, "Fathers play a key role in developing and sustaining the kind of personal character on which democracy depends."

Eberly writes in a long tradition of what was once known as republican "virtue." This in turn was a secularized version of Puritan "godliness," a testimony to the connection of religion not only to fatherhood but also to the politics of fatherhood. The Puritan belief in the family as "a little commonwealth" anticipated our conviction that families are the building blocks of "civil society." It was a radical and revolutionary idea, responsible for the toppling of monarchies and the expulsion of colonial powers. (And lest feminists point to this as evidence of a resurgent "patriarchy," it might be added that it did so by destroying the patriarchal theory of divine right monarchy and that women were drawn to Puritanism and Republicanism in disproportionately large numbers.)

For Eberly trust within the family is the precondition for social cohesion. "When sad experience has taught you that you can't trust your own father," he asks "who are you likely to trust?" Overlooking (yet again) the slur on fathers who may have no choice, the point is central. In fact what Eberly seems to see only obliquely is that it can be extended to every other authority, for example mothers and government institutions. He is exactly right to point to "the erosion of trust produced by a growing number of parents who fail to preserve the bonds of trust with their own children," adding: "Since most absent parents are men, we are referring primarily to fathers."

No we are not. Most "absent" parents are indeed fathers, but it is not necessarily they who are causing the absence, and depending on their age, children (unlike policymakers) are quite capable of perceiving this. A mother who has put her own desires before the needs of her children by removing them from their father also has no moral authority to correct or discipline a child. Likewise, a court or social service agency that has engineered the destruction of a child's home for its own political or bureaucratic purposes is also morally bankrupt in the child's eyes. When the father's expulsion is condoned by relatives, clergy, the media, and virtually every other social and cultural institution (as Barbara Dafoe Whitehead describes in her essay), it is not difficult to see why children grow up with no moral authority in which they can put their trust. It is this destruction and moral bankruptcy of all authority that accounts for the alienation of fatherless children not only from their own fathers and families but from the institutions of our entire society and government as well.

For our purposes, the implication is that political action on behalf of children and fathers is, in and of itself, an antidote to the destruction of fatherhood. The remedy – arguably the only remedy – for this destruction of authority is the father who is politically active for his rights and those of his children. It also means that restoring our fatherhood is simultaneously a work of restoring our democracy. Social and religious activism is part of this and may be sufficient for some fathers. But the stigma of the Bad Dad (as described in the excellent essay by Armin Brott) is far too advanced for many to be overcome without vocal and public agitation.

Moreover, the political attack on fatherhood is far too advanced. The child custody/support machine is a power that is, in the true and strict sense of the term, not far short of totalitarian. This overused word is appropriate to describe this machine for at least two reasons: It ruthlessly invades and destroys the private sphere of life, and it involves the bureaucratic pursuit of officially designated villains.

This last, unfortunately but not surprisingly, has even infected "the fatherhood movement" itself. Horn admits that "Some are tempted to designate absent fathers as the 'enemy'." Horn himself flatly rejects this, but even broaching a "fatherhood movement" in which fathers are the "enemy" provides as clear an admission as we could ask for that we are engaged in a witch hunt. Senator Dan Coats, for one, has no hesitation in using his contribution to the volume to vilify private citizens who have no opportunity to reply in their own defense: "The most serious problem is absent, irresponsible fathers," he says flatly. Mitchell Pearlstein's essay is a paragon of political correctness, qualification, and evasion, with the "masculinization of irresponsibility," "abandoned kids," and "missing men." By his own admission, Pearlstein's words are carefully chosen. But his reluctance to offend is more apparent toward groups that are politically influential, and he is more than willing to bash those who are not. Like the good senator, who lauds "millions of single mothers who raise their children in hard circumstances...examples of sacrifice and commitment" against "the suffering of children caused by absent and irresponsible fathers," Pearlstein is confident that "millions" of single mothers are rising their children "heroically and successfully with little help from men," whereas "some" men are "honorable and responsible" (128).

With this bashing of the politically mute within the "fatherhood movement," we may justly ask what is going on outside it. Were Mr. Pearlstein to walk a mile in the shoes of these "absent" fathers he might discover they are some of the most heroic fathers there are. They certainly do not deserve his cheap exorcism.

This leads to the most troubling thing about this book. What is missing from these pages is any voice from the fathers concerned. Many of the writers are fathers, as indicated in the biographical sketches. But they are not the so-called "absent" fathers. The voices of the absent fathers are absent from this book, and the obvious question becomes whether it is for the same reason they are "absent" from their homes: because they are not welcome and have been removed by people who wield political power.

If this fatherhood "movement" is a movement of fathers, there is little indication of it here; it is more of a movement about and perhaps for fathers. But this violates a basic tenet of any social movement: that people must accept responsibility for their own liberation. Yes, responsibility: This is a perfectly valid and important word, and fathers' rights advocates should not forget it. But there is also a rather glaring omission in a movement promoting this term in every sense but a political one. A "social movement" comprised solely of government officials, "policy wonks," and foundations can hardly help but be (if you will pardon the term) a little paternalistic.

On this score it is no criticism to point out the likelihood that, like many moderate reformers in the past, Horn and his colleagues may eventually find they have started something they have difficulty controlling.

This is especially likely when we see (as we must) the mobilization of one constituency about whom (but again, perhaps, not to whom) this book is addressed: young, unmarried, urban black fathers. David Blankenhorn's suggestive remarks on the potential for "racial

reconciliation" in the fatherhood movement might have been worth developing into a full-length essay:

"Even ten years ago fatherlessness was largely seen as a black problem, with specific causes and dimensions that were distinct from trends affecting the larger society. Moreover, from the mid-1960s until quite recently, many opinion leaders, both white and black, have insisted – a few still insist today – that calling attention to father absence amounts to little more than racism, an attempt to blame the victim. ... No longer."

Or at least the victims now come in all races. Since Blankenhorn doesn't develop the argument, I will suggest it might run something like this: There is an important sense in which we – I mean white males – are now paying for what we, or at least our forefathers, did to black males. I say this not to cheaply expunge white guilt but to achieve a perspective and perhaps some sense of humility in our legitimate outrage. We destroyed the black family and in particular the black male in slavery and segregation, and the image of his superfluity and worthlessness has now been extended to us. Those who blame feminism might also consider that the women's movement has, in both the last century and this one, followed in the aftermath and mimicked the techniques and the rhetoric of the anti-slavery and civil rights movements. The Bible says that the "sins of the fathers" will be visited upon the children, and we who would understand the politics of fatherhood should be mindful of this. By the same measure fatherhood will explode politically when (and perhaps only when) these fathers are mobilized and allied with their more affluent, better-educated, and politically experienced brothers. The common denominator linking the two groups is the thus-far largely apolitical black middle class.

Currently, however, policymakers have a different agenda for this constituency: to spend more money. I don't want to dismiss some of the worthy things on which money might be spent, but our willingness to spend money as a way of avoiding difficult choices is a metaphor for the crisis of fatherhood and parenthood generally. (Judith Wallerstein urges more parenting classes.) We have all seen the weak parent who will spend any amount of money on his children to avoid dealing with a problem. Likewise, the surrogate father in the form of government is willing to dole out money to "reunite" fathers with their children on its own limited terms rather than taking the politically more costly step of restoring their rights to be true, full-time parents. Here the essay by Mincy and Pouncy provides a salutary reminder of the realities facing low-income unmarried fathers that middle-class divorced dads ignore at their peril, but one might have hoped they could have moved beyond the image of these fathers as passive recipients of generosity from the state.

It is tempting for ditched dads to be contemptuous of "responsible fatherhood" promoters, to deplore their timidity and sneer at their hobnobbing with the rich and powerful. This is a mistake.

The cultural and educational work promoted by the responsible fatherhood movement is important, and ditched dads should not sneer at it. But it is not mutually exclusive with political action, and it should not become an excuse for inaction. This too was the experience of the civil rights movement. "There are always those individuals who argue that legislation, court orders, and executive decrees from the federal government are ineffective because they cannot change the heart," observed Martin Luther King. "It may be true that the law can't make a man love me, but it can keep him from lynching me." The law cannot make us value fathers, but it can prevent us from ripping away their children.

We must also recognize that it is not up to Horn to speak out against the political machine; it is up to us. But above all, there is in political thought an old and functionally necessary sense in which oppressed people are by definition "irresponsible": they are irresponsible to the extent that they fail to stand up, speak out, and shake off their oppression. We are irresponsible to the extent we tolerate the judicial kidnapping and institutionalized abuse of our own children. This is more than a cliché. As Frederick Douglass once commented:

It is a doctrine held by many good men...that every oppressed people will gain their rights just as soon as they prove themselves worthy of them; and although we may justly object to the extent to which this doctrine is carried...it must still be evident to all that there is a great truth in it.

This proof comes through the very process of struggle. What might be called the Booker T. Washington side of the fatherhood movement may not wish to appear political, but its political significance is profound. Historically, movements for social responsibility – apparently apolitical and often religious – have invariably preceded or accompanied political mobilizations in ways that even their early advocates may not have anticipated. The Puritans began by rooting out "wickedness" in the alehouse and the brothel and ended up executing a king in the first of the so-called "great revolutions." The Great Awakening created a style of popular agitation that culminated in the American Revolution. Methodism left a similar legacy in English working-class organization. The advent of Promise Keepers, the Million Man March, and other quasi-religious mass movements (recounted here in an essay by Glenn T. Stanton) – along with "responsible fatherhood" itself – however fundamental our differences may now seem, are all unmistakable signs that our day is now arriving.

And yet as we sit by and watch the unopposed spread of one of the most shameful episodes in our history, it may be another truism of the struggle for civil rights that eventually comes back to haunt us: "Lukewarm acceptance is much more bewildering than outright rejection," King wrote in the same essay. "We will have to repent in this generation not merely for the vitriolic words and actions of the bad people, but for the appalling silence of the good people."



# The Politics of Fatherhood

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Fatherhood is rapidly becoming the number one social policy issue in America. President Bill Clinton stated in 1995 that the single biggest social problem in our society may be the growing absence of fathers from their children's homes, because it contributes to so many other social problems." In 1997, Congress created task forces to promote fatherhood, and in 1998 the governors' and mayors' conferences followed. President George W. Bush recently unveiled a \$315 million dollar package for "responsible fatherhood." Nonprofit organizations such as the National Fatherhood Initiative were formed in the mid-1990s. Fatherhood was seen as the most serious social problem by almost 80% of respondents to a 1996 Gallup poll (NFI 1996, 1).

Fatherhood advocates insist that the crisis of fatherless children is "the most destructive trend of our generation" (Blankenhorn 1995, 1).

Virtually every major social pathology has been linked to fatherlessness: violent crime, drug and alcohol abuse, truancy, teen pregnancy, suicide-all correlate more strongly to fatherlessness than to any other single factor. The majority of prisoners, juvenile detention inmates, high school dropouts, pregnant teenagers, adolescent murderers, and rapists all come from fatherless homes (Daniels 1998; NFI 1996). The connection is so strong that controlling for fatherlessness erases the relationships between race and crime and between low income and crime (Kamarck and Galston 1990).

Yet despite its salience in public policy debates and within psychology, sociology, and law, fatherhood has received little attention from political scientists.

This neglect is not a minor omission. Arguably it is what has left the phenomenon unexplained. For despite a decade of attention, little attempt has been made to account for where the fatherhood crisis comes from in the first place. While it doubtless has a number of contributing social and economic causes that stretch back decades, there is evidence that the critical dimensions it has assumed in the last decade proceed at least in part from public policy, and that the problem should be seen less as sociological or psychological and more as political.

What is neglected is the large governmental machinery that has arisen at the federal, state, and local levels-and abroad-to address family issues. Extensive executive-branch agencies administer not only welfare but child protection, child-support enforcement, and other quasi-police functions. Yet the linchpin of this machinery is the judiciary: the little-understood system of family courts, which have arisen during the last 40 years. Like the fatherhood problem itself, this apparatus is most highly developed in the Anglophone countries, with the marked political role the common law tradition bestows upon the judiciary and with their more extensive history of divorce (Riley 1991). The organization varies, but virtually every state and democratic country now has special courts and civil service agencies for family issues (DiFonzo 1997). Fatherlessness and the judicial-bureaucratic machinery connected with it have grown up together as increasingly worldwide phenomena.

The conventional wisdom-enunciated by political leaders, media commentators, and scholars on both left and right-assumes the problem stems from paternal abandonment. Clinton said the fathers pursued by his administration "have chosen to abandon their children" (Clinton 1992). David Blankenhorn writes that "the principal cause of fatherlessness is paternal choice . . . the rising rate of paternal abandonment" (Blankenhorn 1995, 22-23).

The little work by political scientists perpetuates this assumption. "Husbands abandon wives and children with no looking back," writes Cynthia Daniels (1998, 2). "Millions of men walk out on their children," says Robert Griswold (1998, 19).

Conservatives, who have done most to call attention to fatherlessness, also accept this explanation. Lionel Tiger writes that men "are abandoning women. . . . It supplies much of the 50 percent divorce rate. . . . Perhaps this helps explain the single-mother rate of over 30% of births across the industrial world" (Tiger 1999, 57-58). Leon Kass blames feminism for "male liberation-from domestication, from civility, from responsible self-command."

All this may seem intuitively correct, but is it true? In fact, no government or academic study has ever shown that large numbers of fathers are voluntarily abandoning their children.

Moreover, those studies that have addressed the question have arrived at a rather different conclusion. In the largest federally funded study ever undertaken on the subject, psychologist Sanford Braver found that the "deadbeat dad" who walks out on his family and evades child support "does not exist in significant numbers." Braver found at least two-thirds of divorces are initiated by women. Moreover, few of these divorces involve legal grounds, such as desertion, adultery, or violence (Braver 1998). Other studies have found much higher proportions, with one concluding that "who gets the children is by far the most important component in deciding who files for divorce" (Brinig and Allen 2000, 126-27, 129, 158).

The importance of this finding cannot be overestimated. Policymakers clearly assume the contrary, imposing punitive measures on allegedly dissolute fathers. "Children should not have to suffer twice for the decisions of their parents to divorce," Republican Senator Mike DeWine stated in June 1998, "once when they decide to divorce, and again when one of the parents evades the financial responsibility to care for them."

Cases of unmarried fathers, usually younger and poorer, are more difficult to document. Yet here too the evidence contrasts with the stereotype. One study of low-income fathers ages 16-25 found that 63% had only one child; 82% had children by only one mother; 50% had been in a serious relationship with the mother at the time of pregnancy; only 3% knew the mother of their child "only a little"; 75% visited their child in the hospital; 70% saw their children at least once a week; 50% took their child to the doctor and large percentages reported bathing, feeding, dressing, and playing with their children; and 85% provided informal child support in the form of cash or

purchased goods such as diapers, clothing, and toys (Wilson 1997). A study of low-income fathers in England found that "the most common reason given by the fathers for not having more contact with their children was the mothers' reluctance to let them. . . . Most of the men were proud to be seen as competent carers and displayed a knowledge of child-care issues" (Speak et al. 1999).

Also challenging the deadbeat stereotype, a Rutgers-Texas study found that many fathers state governments want to track down for child support are so destitute that their lives focus on finding the next job, the next meal, or next night's shelter. "They struggle with irregular, low-wage employment," the authors write. "But economically and emotionally marginal as many of these fathers were, they . . . continue to make contributions to their children's households and to maintain at least a relationship with those children" (Edin and Lein 1998).

So if fathers are not abandoning their children in record numbers, why are so many children without fathers? Some 40% of the nation's children and 60% of African-American children live in homes where their fathers are not present (Popenoe 1993).

Part of the answer may be found by examining the governmental institutions that regulate the relationships between parents and their children. The first point of contact between most parents and the state is again the family court and the bureaucratic machinery that surrounds it.

Family courts are a little-studied institution, yet they possess powers unlike any other governmental body. Unlike other courts, they are usually closed to the public, generally leave no record of their proceedings, and keep few statistics on their decisions, so information is difficult to obtain. In some ways they are closer to administrative agencies than courts; one prominent judge describes them as a "social service delivery system." Uniquely, their mandate is not even to administer justice as such but to determine "the best interest of the child." Because this may involve no transgression by litigants, family courts would appear to be the only courts that can summon and impose their orders on citizens accused of no legal infraction.

Thus while family courts sit lowest in the judicial hierarchy, paradoxically they are regarded as the most powerful. "The family court is the most powerful branch of the judiciary," according to Robert Page, presiding judge of the family part of the Superior Court of New Jersey. By their own assessment, "The power of family court judges is almost unlimited" (Page 1993, 11).

Perhaps most startling is that by some accounts they claim to be exempt from the U.S. Constitution. Family courts describe themselves as courts of "equity" or "chancery" rather than "law," implying they are not necessarily bound by due process, and the rules of evidence are not as stringent as in criminal courts. As one father reports being told by the chief investigator for the administrator of the courts in New Jersey, investigating a complaint in 1998: "The provisions of the U.S. Constitution do not apply in domestic relations cases since they are determined in a court of equity rather than court of law." A connected rule, known as the "domestic relations exception," prevents federal courts exercising constitutional review over family law cases.

Family courts handle matters such as divorce, custody, child support, child protection, domestic violence, and juvenile crime. Their workload is determined by the existence of these problems, all of which are directly connected with fatherless homes. Recalling Dickens' observation that "the one great principle of the law is to make business for itself," it may not be overly cynical to suggest that family courts and their entourage have developed a vested interest in separating children from their parents. Though mothers and parents in intact families can also find their children confiscated (a trend that seems to be increasing), the process most often begins with the removal of the father, the weakest link in the family chain (Mead 1969, 198). The children then become effectively wards of the state, where they can be seized from their mothers as well, often on accusations of child abuse (Hewlett and West 1998; Wexler 1990).

Like other state court judges, family court judges are elected or appointed and promoted by commissions dominated by lawyers and other professionals (Jacob 1964; Tarr 1999, 61-70). They are political positions, in other words, answerable to the bar associations who effectively appoint them or finance their election campaigns and who naturally have an interest in maximizing the volume of litigation (Corsi 1984, 107-14; Watson and Downing 1969, 98, 336). While family courts, like all courts, complain of being overburdened, it is clearly in their interest to be overburdened, since judicial powers and salaries, like any other, are determined by demand. "Judges and staff work on matters that are emotionally and physically draining due to the quantity and quality of the disputes presented," Judge Page explains. "They should be given every consideration for salary and the other 'perks' or other emoluments of their high office." If the judiciary is viewed in part as a business, then the more satisfied the customers-in this case, the bar associations and divorcing parents who expect custody-the more customers will be attracted. "With improved services more persons will come before the court seeking their availability," writes Judge Page. "As the court does a better job more persons will be attracted to it as a method of dispute resolution" (Page 1993, 19-20). The more attractive the courts make divorce settlements, the more their business and the more children will be removed from, in most cases, their fathers.

One tool at their disposal is restraining orders, which exclude fathers (or mothers) from their children for months, years, and even life.

These orders are routinely issued during divorce proceedings, usually without any evidence of wrongdoing. Elaine Epstein, former president of the Massachusetts Women's Bar Association, has written that restraining orders are doled out "like candy." "Restraining orders and orders to vacate are granted to virtually all who apply," and "the facts have become irrelevant," she found. "In virtually all cases, no notice, meaningful hearing, or impartial weighing of evidence is to be had" (Epstein 1993, 1). The rationale was revealed during a judges' training seminar, when municipal court judge Richard Russell told his colleagues:

Your job is not to become concerned about the constitutional rights of the man that you're violating as you grant a restraining order. Throw him out on the street, give him the clothes on his back, and tell him, see ya around. . . . We don't have to worry about the rights. (Bleemer 1995, 1)

Professional associations and "revolving doors" connect family courts to executive branch agencies that handle child protection and child support enforcement. These agencies likewise can be said to have a interest in removing children from their fathers. Judges also wield substantial powers of patronage, whereby lucrative positions "are generally passed out to the judge's political cronies or to

persons who can help his private practice" (Jacob 1984, 112).

The links connecting these professionals and agencies with the courts can be glimpsed from those documented cases that cross the line into illegality. One investigation uncovered a "slush fund" operated by Los Angeles family court judges into which attorneys and other "court-appointed professionals" contributed. The professionals included court monitors, who received up to \$240 a day to watch fathers accused of spousal or child abuse while they are with their children, raising the question of whether the payments resulted not simply in certain individuals receiving appointments in preference to others but in the function itself being created in the first place (O'Meara 1999). What appears to be involved is not simply individual bribery to favor particular individuals or cases but a kind of systemic, institutional bribery leading to innocent fathers being monitored. This fund may be exceptional, in that it was exposed. But it may be exceptional only in degree, given that court officials have more subtle methods of rewarding judges who send business their way.

Such connections extend to the legislative branch, where the available documentation relates mostly to criminal cases, which may nevertheless constitute the tip of a larger, quasi-legal iceberg. In March 2000 four Arkansas legislators, including the most powerful member of the Arkansas Senate, were convicted on federal charges of racketeering for taking kickbacks and arranging government contracts for personal benefit, mostly connected with child custody and child support. One scheme ostensibly provided legal counsel to children, a practice that extends the patronage of judges by bringing in additional attorneys, often at litigants' expense though in this case with state funds voted for by lawmakers. Columnist John Brummett of the Arkansas Democrat-Gazette wrote on April 29, 1999, that "no child was served by that \$3 million scam to set up a program ostensibly providing legal representation to children in custody cases, but actually providing a gravy train to selected legislators and pals who were rushing around to set up corporations and send big checks to each other." The program "not only sailed through the legislature without extended comment or eligibility restriction," as is often the case with legislation promoted for children, "but got its insider contracts expeditiously approved at the Arkansas Supreme Court." The offense for which the senators were indicted was not the diverting of contracts to their own firms—which is apparently considered legal—but receiving personal kickbacks and the cover-up. The underlying point here is that such opportunities only become available once children are removed from their parents.

The largest component of government fatherhood policies is child-support enforcement. Here too the courts, civil services agencies, and private firms have a stake in separating children from their fathers.

Nearly 60,000 agents now enforce child support throughout the United States, about 13 times the number in the Drug Enforcement Administration worldwide. This does not include the rapidly growing number of private enforcement companies. Though theoretically part of the executive branch, public agencies maintain close relationships with family courts. David Gray Ross, head of the federal Office of Child Support Enforcement (OCSE) in the Clinton administration, began his career as a family court judge before moving on to higher courts and a stint in a state legislature. "He was honored as 'Judge of the Year of America' by the National Reciprocal Family Support Enforcement Association in 1983 and as 'Family Court Judge of the Nation' by the National Child Support Enforcement Association [NCSEA] in 1989".

That these groups bestow honors upon judges (and a federal government web site would boast about it) indicates their financial interest in family court decisions, primarily the one removing children from their fathers that sets the process in motion and then the punitive child-support award that necessitates their services. NCSEA's Internet site lists its members as "state and local agencies, judges, court masters, hearing officers, district attorneys, government and private attorneys, social workers, caseworkers, advocates, and other child support professionals," as well as "corporations that partner with government to enforce child support". In other words, it includes officials from at least two branches of government plus the private sector, who all have a financial interest in having children separated from their fathers.

Setting child support levels is likewise a political process dominated largely by collection personnel. About half the states use guidelines devised by courts and executive-branch enforcement agencies that interpret and enforce them (Morgan 1998, table 1-2). Such legislating by courts and enforcement agencies raises questions about the separation of powers and thus the constitutionality of the process. The method of formulating child support guidelines, according to a Georgia district attorney, "violates both substantive due process and equal protection guarantees of the Constitutions of the United States and the State of Georgia" (Akins 2000).

The review process is likewise controlled largely by enforcement personnel. Virginia completed its review in 1999 with a commission consisting of one part-time member representing fathers and 11 full-time lawyers, judges, child-support enforcement agents, and representatives of other organizations who have a vested interest in both removing children from their fathers and making the fathers' support obligations as burdensome as possible (Koplen 1999). Georgia commissions have comprised "individuals who are unqualified to assess the economic validity of the guidelines, or who arguably have an interest in maintaining the status quo, or both," Williams Akins writes. Of the 11 members in 1998, "Two were members of the judiciary, two represented custodial parent advocacy groups, four were either present or former child support enforcement personnel and two were state legislators" (Akins 2000).

These ethical conflicts extend to the private sector, where an obvious financial interest exists in creating fatherless children. Child-support enforcement is now a multi-billion dollar enterprise, with claimed arrearages of up to \$68 billion and growing (HHS 2001). Privatization has created a large industry of firms with a stake in pursuing parents, such as Policy Studies Incorporated (PSI), SupportKids, and Lockheed Martin IMS.

These firms are also involved in setting the levels of what they collect and so can create the very delinquents on which their business depends. From 1983 to 1990, Robert Williams, now president of PSI, was a paid consultant with the Department of Health and Human Services (HHS), where he helped establish uniform guidelines for the states with a grant from the National Center for State Courts. During this time, a federally driven approach led to significantly increased obligations.

When the Family Support Act of 1988 required states to implement child-support guidelines (and gave them only a few months of

legislative time to do so or lose millions in federal funds), most opted for Williams' guidelines, the model being devised by the agency overlooking the program (Akins 2000; Rogers and Bieniewicz 2000).

One year after joining HHS, and the same year the federal guidelines were created, Williams started PSI, which targeted privatization opportunities with those he had consulted. In 1996, his company had the greatest number of child-support-enforcement contracts of any of the private companies that held state contracts (Johnston 1999). Company promotional literature reports that PSI operates 31 privatized service locations in 15 states. The Denver Business Journal reported on 27 June 1997, that PSI had grown "by leaps and bounds because of the national crackdown on 'deadbeat dads,'" even before welfare reform legislation took effect, by which the company "stands to profit even more."

More significant than the profiteering is the level of obligation. PSI has a vested interest not only in making the child-support levels as high as possible to increase its absolute collection, but also in making them so high that they create arrearages and "delinquents." Only by creating a level of obligation high enough to create hardship, can the guidelines create a large enough pool of defaulters to ensure demand for collection services. Like his public sector counterparts, Williams's business depends on creating as many deadbeat dads as possible.

Williams's model sharply raised obligations and has been widely criticized. Economist Mark Rogers has charged that it resulted in "excessive burdens" based on a "flawed economic foundation." Williams himself has stated, "There is no consensus among economists on the most valid theoretical model to use in deriving estimates of child-rearing expenditures," and, "Use of alternative models yields widely divergent estimates of the percentages of parental income or consumption allocated to the children." Donald Bieniewicz, member of an advisory panel to OCSE, comments: "This is a shocking vote of 'no confidence' in the . . . guideline by its author" (Bieniewicz 1999, 2; Rogers 1999; Williams 1994, 104-105). Yet on the basis of this guideline, parents are being arrested and jailed, usually without trial.

The politics of fatherhood is difficult to classify according to existing political vocabularies. It possesses similarities to a patronage machine, wherein judgeships themselves are distributed (Glick 1978, 510). The judge in turn sits at the center of a distribution system where he or she is in a position to reward friends and punish enemies. Yet the patronage wielded in family court appears to be less partisan and more pecuniary (cp. Ashman 1973, 242; Jacob 1984, 112; Stumpf and Culver 1992, 49). The judge who sits at the center of the machine is not necessarily in command of it, and a judge who fails to see to the interests of the attorneys and other professionals can be punished when the time comes for reappointment and promotion.

What is unprecedented is the commodity in contention. Children serve as the tool or even weapon in disputes among contending parties, not only parents but government officials. Control of children brings control over adults and confers power and financial rewards on those who can successfully claim to be acting in the children's interest (Brinig and Allen 2000, 133, 156). The politics of fatherhood may thus be seen as part of a larger politics of children which is only beginning to receive scrutiny (Hewlett and West 1998; Mack 1997; MacLeod 1997).

An extensive literature already examines family politics and lays the groundwork for political scientists to go further in understanding the developing role of the state in family relationships (Binion 1991; Dewar 2000; Elshtain 1989; Houlgate 1998; Okin 1991). What must now be explored is what happens when specific state institutions step in to assume control over children and, in the name of their well-being or that of the larger society, regulate their relationships with their parents.

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## Notes

1. Government fatherhood programs exist in Canada, Britain, Australia, and New Zealand. In June 1997 the German magazine *Der Spiegel* ran a cover story on "The Fatherless Society." The problem is increasing in countries with such traditional family morality as Japan and India (e.g., Bhadra Sinha, "No Time For Each Other," *The Times of India*, 3 December 2000).

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## **Another Nut with a Gun**

CNSNews.com Commentary, [Free Congress Foundation](#)

**Stephen Baskerville, Ph.D, 11-15-02**

A sniper terrorizes Washington, killing eleven people. A Texas lawyer opens fire in a courtroom, killing two. A Denver doctor dies in a gun battle with police. An Arkansas boy shoots his classmates and teachers. A man blows his brains out at a San Diego courthouse.

What do these seemingly senseless acts of violence have in common? Access to guns or disadvantaged backgrounds? No, the perpetrators all had either their children or their fathers taken away in divorce court.

In the case of the Beltway sniper we seem to have both: a fatherless boy and a childless father, each filling the other's void in a morose symbiosis of violence. The two called each other father and son, according to a neighbor.

The experts feign perplexity about motive. But as Bob Keefe of the Cox News Service discovered, there is a plain explanation. John Muhammad's apparent descent into criminality was rapid after the courts took his children. His lawyer, John Mills, says, "If you look through his divorce files, 'there's a fairly clear explanation.'"

Muhammad seems to have had no reason to be in the Washington area except to see his children. Despite media efforts to suggest otherwise, he apparently had no record of violence prior to the removal of his children.

We are told his ex-wife "won a restraining order," the implication being that he was already violent. Yet there is no evidence that he was.

Orders to vacate are doled out with no evidence or history of violence. They are a favorite tool for removing fathers and winning custody. Nor does Muhammad's subsequent behavior vindicate the restraining order.

Far from preventing violence, restraining orders almost certainly cause it, as one seems to have done here, since forcing parents to stay away from their children can provoke precisely the violence it claims to prevent. As one judge writes in the Western Massachusetts Law Tribune, "Few lives, if any, have been saved, but much harm, and possibly loss of lives, has come from the issuance of restraining orders."

After the divorce, "Muhammad would try to visit his kids regularly," writes Keefe. "John was a fun person," said an aunt. "He was the type who was good with the kids."

It is difficult to explain such atrocities without seeming to excuse them. It goes without saying that if convicted, Muhammad must pay for his crimes. Plenty of men have lived his ordeal without preying on the innocent. But John Muhammad is far from alone, and he won't be the last.

Divorce-related violence is now an epidemic. Sometimes fathers take vengeance on lawyers and judges, far more often on themselves.

Metal detectors were installed in American courthouses not because of criminals and terrorists but because of fathers. Prosecutors testify that family court produces far more violence than criminal court. One says, "People in family court . . . pose a greater risk than the criminal defendants."

At one time it would have been considered common sense that taking away people's children is a pretty obvious prescription for creating killers.

But political correctness now prevents us from saying even that.

If the sniper is executed, I for one will raise no objection. But let us be sure our government is eliminating criminals and not creating them.

# The Politics of Family Destruction

<http://mensnewsdaily.com/archive/a-e/baskerville/02/baskerville111202.htm>

**Stephen Baskerville, Ph.D, 11-12-02**

The debate on the family is becoming increasingly politicized. President George W. Bush proposes federal programs to promote marriage and fatherhood and to enlist churches. Liberals respond that government does not belong in the family but then advocate federal programs of their own.

Yet the more polarized the issues become the less willing we are to look at the hard politics of the family crisis. Family policy is still discussed in terms set by therapists and social scientists: the rate of divorce and unwed motherhood, the level of poverty, the impact on children, the social costs. As if we don't know.

As a social scientist, I do not deny the value of data (I intend to marshal some myself). But therapeutic practitioners have established such a hold over family policy that they have paralyzed our capacity to act. Writing on single motherhood in Commentary magazine, the eminent political scientist James Q. Wilson grimly concludes, "If you believe, as I do, in the power of culture, you will realize that there is very little one can do." Like many others (including the Bush administration), Wilson is reduced to advocating counseling and "education."

What seems missing here is old-fashioned politics, the kind that did not hesitate to make moral judgments and even express outrage. The politics of the prophets, for example.

The facts are well-established among social scientists, but a kind of ideological correctness on both left and right seems to keep us from confronting the full implications of what we know. We are afraid to challenge the accepted clichés about marriage breakdown, even when it becomes clear that they don't correspond to the evidence.

We should begin, therefore, with the uncontested but seldom-mentioned facts. First, marriages do not simply "break down" by themselves. Legally, someone and it is usually one consciously ends it by filing official documents and calling in the government against his or her spouse. According to Frank Furstenberg and Andrew Cherlin, the authors of *Divided Families*, some 80 percent of divorces are unilateral. One spouse usually wishes to keep the family together.

When children are involved, the divorcing parent is overwhelmingly likely to be the mother. Scholarly studies by Sanford Braver, Margaret Brinig and Douglas Allen, and others estimate that between 67 and 75 percent of such divorces are instigated by the mother. Feminists and divorce attorneys report that the number is closer to 90 percent. Few of these divorces involve grounds like desertion, adultery, or violence. "Growing apart" or "not feeling loved or appreciated" are the usual explanations.

The divorcing parent is likely to get custody of the children and coerced financial payments from the divorced parent. Brinig and Allen even concluded that of 21 variables, "who gets the children is by far the most important component in deciding who files for divorce."

Clearly more is at work here than husbands and wives deciding to go their separate ways. Under no-fault laws, divorce has become a means not only of ending a marriage but of seizing monopoly control of the children, who become weapons conferring leverage backed by penal sanctions. The devastating effects of divorce and fatherlessness on both children and society are now so well-known that there is no need to belabor them here. What is seldom appreciated is the broader threat the divorce regime poses to ethical and constitutional government. In fact, there is today no better example of the link between personal morality and public ethics between the fidelity of private individuals and the faithfulness of public servants or the connection of both with the civilized order.

Significantly, as secular political sophisticates focus narrowly on the sociological, it is Pope John Paul II who has come closest to the root of the problem. In January, he issued what many saw as a surprisingly strong statement against divorce that specifically singled out lawyers and judges for criticism. For his pains he was attacked by lawyers, journalists, and politicians from both the left and right. Yet his characterization of divorce as a "festering wound" with "devastating consequences that spread in society like the plague" is as accurate politically as it is socially.

Since the advent of no-fault divorce, a multibillion-dollar industry has grown up around the divorce courts: judges, lawyers, psychotherapists, mediators, counselors, social workers, and bureaucratic police. All these people have a professional and financial stake in divorce. In fact, despite pieties to the contrary, public officials at all levels of government including elected leaders in both parties now have a vested interest in increasing the number of single-parent homes.

The politics of divorce begins in family court, a relatively new and little-examined institution. Family courts are usually closed to the public and their proceedings are usually unrecorded. Yet they reach further into private lives than any other arm of government. Though lowest in the hierarchy, they are "the most powerful branch of the judiciary," according to Judge Robert Page of the New Jersey family court. "The power of family court judges is almost unlimited," Page writes.

Secret courts have long been recognized as an invitation to chicanery. "Where there is no publicity, there is no justice," wrote British philosopher and jurist Jeremy Bentham. "It keeps the judge himself while trying under trial." Judges claim the secrecy protects family privacy, though in fact it seems to provide a cloak to violate family privacy and other protections with impunity.

Family court judges are appointed and promoted by commissions dominated by bar associations. That means they are answerable to those with an interest in maximizing the volume of divorce litigation. Though family courts complain of being "overburdened," it is clearly in their interest to be overburdened, since judicial powers and salaries are determined by demand. The aim of the courts, therefore, is to increase their workload by attracting customers, and the divorce industry has erected a series of financial and emotional incentives that encourage people to divorce. "With improved services, more persons will come before the court seeking their availability," Page

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explains. "As the court does a better job more persons will be attracted to it as a method of dispute resolution." Doing a "better job" really means attracting more divorcing parents with generous settlements.

A substantial body of federal and state case law recognizes parenthood as an "essential" constitutional right "far more precious than property rights" (May v. Anderson). In Doe v. Irwin, a federal court held that parenthood "cannot be denied without violating those fundamental principles of liberty and justice which lie at the base of all our civil and political institutions." Yet such apparently unequivocal principles are never applied in divorce cases, where judges routinely remove children from forcibly divorced parents without providing any reason.

Once a parent loses custody, he or she no longer has any say in where the children reside, attend school or day care, or worship. Worse, the parents who have been stripped of custody are in many ways treated as outlaws. A personalized criminal code is legislated around them by the judge, controlling their association with their children, their movements, and their finances. Unauthorized contact with their children can be punished with arrest. Involuntarily divorced parents have been arrested for running into their children in public places such as sporting events and church, for making unauthorized telephone calls, and for sending unauthorized birthday cards.

Parents whose spouses want a divorce are ordered to surrender personal diaries, correspondence, financial records, and other documents normally protected by the Fourth Amendment. Their personal habits, movements, conversations, writings, and purchases are all subject to inquiry by the court. Their home can be entered and their visits with their children monitored in a "supervised visitation center." Anything they say to their spouses, family, friends, counselors, and others can be used against them in court. Their children, too, can be used as informers.

Forcibly divorced parents are also ordered, on pain of incarceration, to hire cronies of the judge. In what some see as little less than a shakedown, family courts routinely order forcibly divorced and legally unimpeachable parents to pay attorneys, psychotherapists, and other professionals with the threat of jail for not complying.

Family law is now criminalizing constitutionally protected activities as basic as free speech, freedom of the press, and even private conversations. In many jurisdictions it is now a crime to criticize judges, and parents have been arrested for doing so. Following his congressional testimony critical of the family courts in 1992, Jim Wagner of the Georgia Council for Children's Rights was stripped of custody of his two children, ordered to pay \$6,000 to lawyers he did not hire, and jailed when he could not pay.

The principal tool for enforcing divorce and keeping ejected parents away from their children is a restraining order. Orders separating parents from their children for months, years, and even life are routinely issued without the presentation of any evidence of wrongdoing. They are often issued at a hearing where the parent is not present; they are sometimes issued with no hearing at all. "The restraining order law is one of the most unconstitutional acts ever passed," says Massachusetts attorney Gregory Hession, who has filed a federal suit on civil rights grounds. "A court can issue an order that boots you out of your house, never lets you see your children again, and takes your money, all without you even knowing that a hearing took place."

Hession's description is confirmed by judges themselves. "Your job is not to become concerned about the constitutional rights of the man that you're violating as you grant a restraining order," New Jersey Judge Richard Russell told his colleagues at a training seminar in 1994. "Throw him out on the street, give him the clothes on his back and tell him, see ya around.... We don't have to worry about the rights."

Elaine Epstein, former president of the Massachusetts Women's Bar Association, wrote in a column in the association's newsletter that divorce-connected restraining orders are doled out "like candy." "Everyone knows that restraining orders and orders to vacate are granted to virtually all who apply," and "the facts have become irrelevant," she reports. "In virtually all cases, no notice, meaningful hearing, or impartial weighing of evidence is to be had." Yet a government analysis found that fewer than half of all orders involved even an allegation of physical violence.

It doesn't take much to violate such restraining orders. "Stories of violations for minor infractions are legion," the Boston Globe reported on May 19, 1998. One father was arrested "when he put a note in his son's suitcase telling the mother the boy had been sick over a weekend visit." Another was arrested "for sending his son a birthday card." Parents are arrested for attending their children's worship services, music recitals, and sports activities/events any stranger may attend. National Public Radio broadcast a story in 1997 about a father arrested in church for attending his daughter's first communion. During the segment, an eight-year-old girl wails and begs to know when her father will be able to see her or call her. The answer, because of a "lifetime" restraining order, is never. Even accidental contact in public places is punished with arrest.

Restraining orders are in fact more likely to cause than to prevent violence, since laws separating parents from their children can provoke precisely the violence they are designed to prevent. "Few lives, if any, have been saved, but much harm, and possibly loss of lives, has come from the issuance of restraining orders," retired Dudley district court justice Milton Raphaelson wrote last year in the Western Massachusetts Law Tribune. "It is the opinion of many who remain quiet due to the political climate. Innocent men and their children are deprived of each other."

Domestic violence has now been federalized in a legislative agenda whose conscious aim is to promote easy divorce. Donna Laframboise of Canada's National Post wrote that federally funded battered women's shelters in the United States and Canada constituted "one-stop divorce shops" whose purpose was not to shelter women but to secure custody for divorcing mothers. The Violence Against Women Act, renewed by Congress in 2000, "offers abundant rewards" for making false accusations, writes Professor Susan Sarnoff of Ohio State University, "including the 'rights' to refuse custody and even visitation to accused fathers, with virtually no requirements of proof." The law's definition of domestic violence is so broad that "it does not even require that the violence be physical."

Authorities bully some women into taking out restraining orders by threatening to take away their children. The February 20, 2001, edition of the Massachusetts News described how Heidi Howard was ordered by the Massachusetts Department of Social Services to

take out a restraining order against her husband and divorce him, though neither parent was charged with any wrongdoing. When she refused, the social workers seized her children. Reporter Nev Moore claims to have seen hundreds of similar cases. Government officials can now impose divorce not only on one unwilling parent but on both.

While the domestic violence industry is driven by federal funding, the main financial fuel of the divorce machinery is "child support," which subsidizes and encourages unilateral divorce. Bryce Christensen of the Howard Center for Family, Religion, and Society argues for a "linkage between aggressive child-support policies and the erosion of wedlock."

Those accused of failing to pay child support—"deadbeat dads"—are now the subject of a national demonology. Yet a federally funded study by Sanford Braver, published as *Divorced Dads: Shattering the Myths*, found government "estimates" of nonpayment are produced not from any official statistics but entirely from surveys of custodial parents. Braver concluded that "the single most important factor relating to nonpayment" is unemployment.

Braver is not alone. Columnist Kathleen Parker has concluded that "the 'deadbeat dad' is an egregious exaggeration, a caricature of a few desperate men who for various reasons—sometimes pretty good ones—fail to hand over their paycheck, assuming they have one." Deborah Simmons of the Washington Times likewise found "scant evidence that crackdowns...serve any purpose other than to increase the bank accounts of those special-interest groups pushing enforcement."

Child support enforcement is now a massive industry, where revolving doors, financial transfers, and other channels connect family courts with legislators, interlocking executive agencies on the federal, state, and local level, with private contractors.

To encourage divorce, child support must be set high enough to make divorce attractive for mothers, and setting it is a political process conducted by officials and groups that thrive on divorce. About half the states use guidelines devised not by the legislature but by courts and enforcement agencies. Yet even legislative enactment is no guarantee of impartiality, since legislators may divert enforcement contracts to their own firms.

The ethical conflicts extend to the private sector, where collection firms also help to decide the levels of what they are to collect. Not only does an obvious conflict of interest impel them to make the burdens as high as possible to increase their take in absolute terms (and to encourage divorce), but the firms can set the levels high enough to ensure the arrearages on which their business depends.

While working as a paid consultant with the Department of Health and Human Services (HHS) during the 1980s, Robert Williams helped to establish uniform state guidelines in the federal Child Support Guidelines Project. Predictably, Williams's guidelines sharply increased support obligations in many states. Economist Mark Rogers charges in *Family Law Quarterly* that they resulted in "excessive burdens" based on a "flawed economic foundation." Williams himself acknowledges that "there is no consensus among economists on the most valid theoretical model to use in deriving estimates of child-rearing expenditures." Donald Bieniewicz, author of an alternative guideline published by HHS, writes, "This is a shocking vote of 'no confidence' in the...guideline by its author"—a guideline used to incarcerate parents without trial.

Governments also profit from child support. "Most states make a profit on their child support program," according to the House Ways and Means Committee, which notes that "states are free to spend this profit in any manner the state sees fit." With substantial sums at stake, officials have no incentive to discourage divorce, regardless of their party affiliation. Notwithstanding rhetoric about strengthening the family, neither Democratic nor Republican lawmakers are likely to question any policy that fills the public coffers.

The trampling of due process in child support prosecutions parallels that in domestic violence cases, since a parent may legally be presumed guilty until proven innocent, and the parent will not necessarily have a lawyer or a jury of his or her peers. "The burden of proof may be shifted to the defendant," according to the National Conference of State Legislatures (NCSL), which approves these methods. "Not all child support contempt proceedings classified as criminal are entitled to a jury trial," adds NCSL, and "even indigent obligors are not necessarily entitled to a lawyer."

In the decades since the inception of no-fault divorce, family law has gradually become an ethical cesspool. Attorneys such as Hession charge that tapes and transcripts of hearings are routinely altered in family court. Hession's forensic evidence was published last year in the *Massachusetts News*. When his client, Zed McLarnon, complained about the tampering and other irregularities, he was assessed \$3,500 for attorneys he had not hired and jailed without trial by the same judges whose tapes were allegedly doctored. "This is criminal misconduct," attorney Eugene Wrona says of similar practices in Pennsylvania, "and these people belong in jail." In May 1999, *Insight* magazine exposed a "slush fund" for Los Angeles family court judges into which attorneys and court-appointed "monitors" paid. These monitors are hired by the court to watch parents accused of spousal or child abuse while they are with their children.

The corrupting power of forced divorce now extends beyond the judiciary, validating the pope's observation that its consequences spread "like the plague." In 2000, four leading Arkansas senators were convicted on federal racketeering charges connected with divorce. One scheme involved hiring attorneys to represent children during divorce, a practice generally regarded as a pretext to appoint cronies of the judge. In the April 29, 1999, edition of the *Arkansas Democrat-Gazette*, John Brummett wrote that "no child was served by that \$3 million scam to set up a program ostensibly providing legal representatives to children in custody cases, but actually providing a gravy train to selected legislators and pals who were rushing around to set up corporations and send big checks to each other."

The affair illustrates one reason legislators protect judges and their associates in the courts. Divorce attorneys are prominent in state legislatures. Tony Perkins, who sponsored Louisiana's celebrated "covenant marriage" law, reports that similar measures have failed in some "seemingly sympathetic legislatures" because of "opposition from key committee chairmen who were divorce lawyers."

The potential of child support to become what one Arkansas player termed a "cash cow," providing officials with "steady income for little work," has been exploited elsewhere. The Washington Post reported in July 2000 that a top adviser to Prince George's County,

Maryland, executive Wayne Curry received contracts without competitive bidding for child support enforcement within days of leaving the county payroll. In March 2002, Maryland announced a criminal investigation of Maximus, which runs Baltimore's program. The alleged misconduct included collecting money from parents even after their children had reached adulthood and then refusing to refund it. The whistle-blower expressed fear for her personal safety, according to the Baltimore Sun.

Throughout the United States and abroad, child support enforcement has been plagued with corruption. Kansas awarded a contract to Glenn and Jan Jewett, who were involved in bingo operations in Las Vegas and spent time in federal prison for drug trafficking, forgery, concealing stolen property, and writing bad checks. The DuPage County, Illinois, child support system has been under investigation for fraud. "A string of foul-ups plaguing Ohio's child support system," included "millions of dollars worth of improperly intercepted income tax refunds and child support payments," according to the Cleveland Plain-Dealer and WHIO television in Dayton. In Wisconsin, "Parents who owe nothing have been billed thousands of dollars," according to the Milwaukee Journal Sentinel, including a man billed for children in their 40s, who "was compelled to prove his innocence."

In October 1998 the Los Angeles Times investigated fraud and due process violations in the L.A. child support enforcement system. Deputy District Attorney Jackie Myers had left office in 1996 because, he said, "I felt we were being told to do unethical, very unethical things." In December 1999, Insight reported on the case of a father left by the district attorney's office with \$200 a month to care for a family of four. One month, the district attorney "took all but \$1 of his \$1,200 paycheck."

Following the Times series, HHS was moved to investigate criminal fraud in the city's system, but the General Accounting Office found the investigation "consisted of just two phone calls" one to "one of the DA office employees who had engaged in misconduct." HHS apparently "did not interview any of more than a dozen people who a confidential informant claimed had firsthand knowledge of wrongdoing within the child support program."

The divorce industry depends on the widespread violation of what most people still hold to be the most solemn promise one makes in life. It is no coincidence that public officials whose livelihoods depend on encouraging citizens to betray their private trust will not hesitate to betray the trust conferred on them by the public. Likewise, a society where private citizens are encouraged not to honor their commitments is a society that will not hold public leaders to their promises. Maggie Gallagher's observation that marriage has become "the only contract where the law now sides with the party who wants to violate it" raises the question of whether we are willing to allow our government to be an active party to deceit and faithless dealing.

Our present divorce system is not only unjust but fundamentally dishonest. For all the talk of a "divorce culture," it is not clear that most people today enter the marriage contract with the intention of breaking it. "If the marital vows were changed to '...until I grow tired of you,' or '...for a period of five years unless I decide otherwise,' and the state were willing to sanction such an agreement, then divorce would not be such a significant event from a moral point of view," attorney Steven L. Varnis writes in *Society*. "But there is no evidence that the content of marital vows or marital expectations at the time of marriage has changed." Varnis may be only half right, but even so, the point is that the marriage contract has become unenforceable and therefore fraudulent. Until this changes, it seems pointless and even irresponsible to encourage young people to place their trust and their lives in it.

Other articles by Stephen Baskerville can be found in the Men's News Daily archive.

One may argue that government should not enforce the marriage contract, or any contracts for that matter (though the Constitution holds otherwise). But I am not aware of anyone who suggests the government should be forcibly abrogating contracts, let alone luring citizens into contracts that it then tears up. If we truly believe our present divorce policy is appropriate, we should at least have the honesty to tell young people up front that marriage provides them with no protection. Let us inform them at the time of their marriage that even if they remain faithful to their vows, they can lose their children, their home, their savings and future earnings, and their freedom. Not only will the government afford them no protection; it will prosecute them as criminals, though without the due process of law afforded to formally accused criminals. And let us then see how many young people are willing to start families.

It is one thing to tolerate divorce, as perhaps we must do in a free society. It is another to use the power of the state to impose it on unwilling parents and children. When courts stop dispensing justice, they must start dispensing injustice. There is no middle ground.

# Gov. Davis & the Exploitation of Children

For The Children?

<http://mensnewsdaily.com/archive/a-e/baskerville/02/baskerville102202.htm>

CNSNews.com Commentary, [Free Congress Foundation](#)

**Stephen Baskerville, Ph.D, 11-05-02**

California Governor Gray Davis recently vetoed a bill that would have restored due process of law to thousands of wrongly-accused men. These men must pay the state's crushing child support for children whom DNA testing shows they did not father. He did it, naturally, "for the children."

Or so he says. More likely he did it for the federal money. In fact, Governor Davis confesses the bill would put California "at risk of losing up to \$40 million in federal funds."

Given California's zeal in jailing men who cannot pay impossible child support burdens, it is inescapable that innocent men will go to jail to fill the state's coffers. (The state will then get more federal funding for the prisoners.)

Most child support orders are entered by default. The men never have a chance to prove their innocence and never know they are accused of fatherhood until they are ordered to pay. By then it is too late.

The injustice of forcing men to pay for children they did not father has kindled public indignation. But it is only the tip of the iceberg.

Child support was created for men who abandon the offspring they have sired, a relatively small number. But it has been hijacked by special interests and turned into a subsidy on divorce, forcing millions of men to pay for the stealing of their own children. In the case of false paternities, child support often subsidizes adultery.

States also receive federal payments based on how much child support passes through their hands. Officials therefore have an incentive to squeeze child support out of any parent (or non-parent) they can find. Like most states, California makes a tidy profit. Through federal taxes, we are all paying to subsidize divorce, unwed motherhood, and adultery. Our taxes make family

breakdown profitable for state governments.

Those who defend the government enforcement of paternity fraud, wax eloquent about how fatherhood is more than just a sperm donation. A father is the man who has acted the part in the lives of the children, they say. But this too is dishonest.

Coerced child support is only required once the government has separated the children from their fathers, not while they are together. Nothing prevents the government from permitting the victims of a deception to continue living together as father and children. Many men are willing to do precisely this and to provide for the children as they see fit, like any other father. The

issue is when can the government impute and enforce a financial obligation to any father, biological or not, who has done nothing to incur that obligation.

As often happens, one lie and one violation of rights necessitate even more. In their efforts to suppress the truth, governments in Britain and Australia are attempting to criminalize DNA testing in the privacy of one's home. This is merely one more step in the criminalization of fathers' relationships with their children.

No policy based upon lies, deceptions, and false accusations can benefit anyone: it cannot be good for the children, and it cannot be good for government ethics.

None of this is really "for the children"; it is for the grown-ups. Governor Davis does not love other people's children. But his government can make money off them. Once the government can exploit children for profit, the government will get children wherever it can find them. And no child is safe.

## Another Violent Mother

<http://mensnewsdaily.com/archive/a-e/baskerville/02/baskerville100802.htm>

CNSNews.com Commentary, [Free Congress Foundation](#)

**Stephen Baskerville, Ph.D, 10-11-02**

The media has discovered another dangerous mother. Madelyne Toogood was filmed beating her 4-year-old daughter. Social workers have seized the child, and everyone waxes indignant.

Why do the media focus on a few sensational cases of maternal child abuse? By exaggerating these cases, the media imply that they are exceptional. In fact, violent mothers are a dime-a-dozen.

The sensational cases tend to fit an acceptable profile. The media focused on Andrea Yates for the killing of her five children not because the act was unusual but because she represented what the media dislike. She was a married, stay-at-home mom, an evangelical Christian, and a home-schooler. The implication was that the stresses of this life led to murder.

But Yates and Toogood are not typical. Yes, children are beaten and killed by their mothers all the time. Sidney Johnson, president of Prevent Child Abuse America, says, "The unfortunate truth is that this is an all-too-familiar scene that happens every day."

What Mr. Johnson does not tell us is that most abusers are single mothers who have removed their children from the protection of their fathers. Fathers are the natural protectors of children. "Contrary to public perception," writes Patrick Fagan of the Heritage Foundation, "...the most likely abuser of a young child will be that child's mother."

Mr. Johnson says we need to "provide all parents with the appropriate tools, resources, and support so they never resort to this kind of behavior."

Likewise, University of California psychologist Daphne Bugental says we need to equip abusive mothers with "problem-solving skills" through government programs.

In truth, what we need to do is to stop taking children from their fathers. We know from years of research that the one thing that can bring child abuse under control is the presence of a father. Since this would require political courage, it is much easier to spend money.

Spending money is a good way of avoiding problems. Spending money makes us feel good about ourselves and allows some of us to make a living by perpetuating the problem.

Another politically inexpensive way of pretending we are doing something is to put people behind bars. If Madelyne Toogood receives a draconian sentence, it will also be unusual, because most mothers are not punished for harming their children. But with all the publicity, Madelyne Toogood is a good candidate to be made a scapegoat. For the beating of her child is a standing reproach to our cowardice in refusing to face the real causes of child abuse.

## No Restraint On Restraining Orders

<http://mensnewsdaily.com/archive/a-e/baskerville/02/baskerville080602.htm>

CNSNews.com Commentary, [Free Congress Foundation](#)

**Stephen Baskerville, Ph.D, 09-23-02**

States across America are advocating restraining orders in domestic violence cases. A Maryland proposal would allow court commissioners, rather than judges, to issue protective orders.

The Washington Post claims the potential for abuse is "minimal." Yet a New Jersey judge calls the restraining order law "probably the most abused piece of legislation that comes to my mind."

The real purpose of restraining orders is not to prevent violence but to eliminate fathers during divorce proceedings.

Elaine Epstein, of the Massachusetts Women's Bar Association, writes that restraining orders "are now used for tactical advantage" in divorce courts. "Everyone knows that restraining orders...are granted to virtually all who apply," she writes, and "the facts have become irrelevant."

Parents issued with restraining orders based on uncorroborated allegations must vacate their homes and may be arrested for contacting their children. "In one case, a father was arrested . . . when he put a note in his son's suitcase telling the mother the boy had been sick," according to the Boston Globe. "In another, a father was arrested for sending his son a birthday card."

A New Jersey judge actually urged his colleagues "not to become concerned about the constitutional rights of the man that you're violating as you grant a restraining order."

Restraining orders are a tool of the divorce regime, because they prevent forcibly divorced parents from running into their children in public places. Anyone can attend a child's first communion or soccer game, after all - anyone but their forcibly divorced father, who will be arrested if he shows up.

Restraining orders cannot prevent violence, because violent assault is already illegal. No true criminal is going to be stopped by a court order. The purpose is not to protect anyone from violent fathers but to protect the divorce industry from peaceful ones.

Forcing fathers to stay away from their children can provoke precisely the violence it ostensibly intends to prevent. A Massachusetts judge writes, "Few lives, if any, have been saved, but much harm, and possibly loss of lives, has come from . . . restraining orders."

A new Heritage Foundation report confirms, "Marriage dramatically reduces the risk that mothers will suffer from domestic abuse." By providing a tool to tear families apart, restraining orders are creating the very problem their promoters claim to be solving.

## Tommy Thompson's Reign Of Terror

<http://mensnewsdaily.com/archive/a-e/baskerville/02/baskerville090702.htm>

CNSNews.com Comentary, [Free Congress Foundation](#)

**Stephen Baskerville, Ph.D, 09-13-02**

The government has identified a crisis of unpaid child support. Leading scholars have declared these claims to be everything from a "myth" to a "hoax." Yet some in the Bush administration seem determined to continue the failed policies of the Clinton years.

Health & Human Services Secretary Tommy Thompson recently announced mass arrests of parents he says have disobeyed government orders.

The Clinton administration's "Project Save Our Children" illustrates that more political chicanery is perpetrated in the name of children than any other cause. The secretary has begun a "nationwide sweep" to arrest what he calls the "most-wanted deadbeat parents."

By the government's own figures, however, the "worst of the worst" amount to only 69 fathers worthy of prosecution.

Even assuming these few men may be scoundrels, why don't authorities simply arrest them and be done with it? Why all the fanfare from the federal government? Perhaps because these prosecutions are political.

"We will find you," President Clinton would intone against fathers. "We will make you pay." In Maryland, government billboards announce, "We're Looking for You, Child Support Violators."

No government warns bank robbers or drug dealers that the government is watching them. This is not law enforcement: It is terror.

"More notable than any one arrest," we are told, is the "message that the administration is sending" that it will use federal agents to enforce divorce. In other words, the aim is not to prosecute lawbreakers but to spread fear.

Terrorizing citizens into obeying its orders is not an appropriate role of government in a free society, even when the orders are legitimate.

In this case, the orders are not legitimate. They are creations of a divorce industry eager to encourage divorce by making it more lucrative. A child support "obligation" is simply what judges and bureaucrats decide a father must pay to have his children taken away.

Most divorces are filed by women, usually with no legal grounds. Most obligors have therefore done nothing to incur the imputed obligation, which is set by the same enforcement personnel who collect it.

These officials have an interest in separating children from their fathers, imposing impossible child support burdens, and then arresting parents who inevitably fail to pay.

By the government's own account, what is billed as "child support." is little short of plunder. Among those arrested was a man earning all of \$39,000 a year and ordered to pay \$350 a week for one child, almost two-thirds of his likely take-home pay.

These men have no hope for a fair trial; they have already been pronounced guilty in the media by the Secretary of Health and Human Services, with no platform to reply in their own defense.

The divorce industry has corrupted local government throughout America. Now its poison is reaching up to the highest levels of our government. The administration is soiling its hands in some of the worst sludge left by the Clintons.



## A Father Acts

<http://mensnewsdaily.com/archive/a-e/baskerville/02/baskerville081502.htm>

CNSNews.com Commentary, [Free Congress Foundation](#)

**Stephen Baskerville, Ph.D, 08-15-02**

A Pennsylvania father recently obtained a court order preventing his girlfriend from having an abortion. John Stachokus said he would raise the child alone.

His victory was short-lived. This week Judge Michael Conahan lifted the order and allowed the abortion to go forward.

Yet his brief success sent shock waves through abortion rights groups, who uniformly expressed astonishment that such a thing could happen, even for a few days. That it could raises troubling questions about today's politics of the family.

Conservatives often excoriate liberals for their obsession with group rights and the strident political activism in pursuit of them. Allan Carlson has criticized what he calls a politics of "abstract or imaginary 'rights' that are divorced from a sense of duty and from the authentic human affections toward kin and neighbors."

Yet conservatives in recent years have, perhaps by necessity, imitated this style of politics. They invoke "the rights of the unborn" against the feminist "rights of women" and form nonprofit organizations that consciously adopt the methods of liberal "public interest" groups. To a point, this is natural and inevitable; as de Tocqueville pointed out, organizing political associations is as American as torchlight parades.

In recent decades however we have gone further, largely abandoning the politics of citizenship and civic duty in favor of a politics of activism and ideology.

An indication of how ideologically infused our politics (and our families) have become is indicated by a poll conducted by World Net Daily, asking readers, "Should a man be able to prevent his ex-girlfriend from aborting their unborn child?" The possible answers on both sides seemed to proceed from abstract ideological absolutes rather than simple principles of parenthood: "Yes, abortion in most or all cases is wrong." "Yes, otherwise it's discrimination against men." "No, it's completely up to the woman what to do." "Yes, as men are often forced to pay for kids they'd rather abort." The one option not available was simply, "Yes, because he is the child's fathers, and it is his child too." Yet John Stachokus departed from today's norm. He did not organize a political action committee or call on his comrades among the oppressed to man the barricades. He simply acted, in Carlson's formulation, from "a sense of duty and from the authentic human affections toward kin." In doing so, he almost accomplished what numerous organized groups could not: He almost prevented an abortion.

His suit inspired the Family Research Council to speak out for fathers' "reproductive rights." One of the puzzling ironies of today's family politics is the strange silence of "pro-family" groups on the separation of born children from their fathers by family courts - what amounts to government forcibly ripping families apart. "The current abortion regime ignores completely the rights of the father and the rights of the child," said FRC president Ken Connor. The same may be said of government policy across the board.

But the most appropriately succinct comment may have come from Erik Whittington of the American Life League: "As fathers, I think we have the right to protect our children."

It is now a cliché that the family is the building block of "civil society," and conservatives argue that it is the basis for civil freedom as well. Yet some conservatives seem to have acquiesced in the civic displacement of families by interest groups.

Political organizations can do much good. But however sound their principles, ultimately they cannot be the ones to save the family.

In the end, the only people who can save children are their parents - citizens acting out of responsibility for their own children. Today cadres of political activists claim to know what is best for other people's children. Some are sincere. Many are charlatans, exploiting children for an ideological agenda. But right or wrong, what is more important is that none of them is responsible for the children they claim to be defending. If what they advocate is wrong, they can walk away from the consequences with impunity. Parents cannot do that. Imperfect as they may be, parents alone are by definition responsible for their children. This in turn suggests that parents may carry untapped potential in confronting a larger problem of our politics by helping to restore something this country badly needs: a civic culture based on personal responsibility rather than ideology.

We who earn our living by politics tend to politicize everything, and this may happen whether our politics are left or right. The politicization of the family is the most frightening manifestation of the brave new world we have created. In this respect, our political methods may be more significant than our professed ends. We feel threatened when a private citizen makes an end run around the clash of interest groups and ideologies.

John Stachokus may not be an ideal role model; he did father a child out of wedlock, and his moral authority (though not his legal rights) would have been greater had he been married to the mother. But his lone gesture, and how we receive it, may say more about the health of our political culture than the most eloquent of our pols, pundits, and spokespersons.

## **NOW: Family Courts Not Corrupt Enough**

<http://mensnewsdaily.com/archive/a-e/baskerville/02/baskerville070202.htm>

CNSNews.com Commentary from the [Free Congress Foundation](#)

**Stephen Baskerville, Ph.D, 07-01-02**

The National Organization for Women reports that America's family courts are "incompetent and corrupt." Family law is rife with conflicts-of-interest and routinely denies due process of law, says NOW.

No one familiar with family court would argue that they are not corrupt. Yet NOW's objection seems to be that family court is not corrupt enough. NOW claims family courts are biased against mothers, but their only evidence is that the courts do not throw enough fathers out of their families.

NOW's assessment is based not on facts but on surveys of its supporters: angry women who have learned they can use the courts to separate child from their fathers. NOW says "women report" that "batters or abusers are easily able to obtain custody of their children." But NOW provides not a single documented instance of a violent or incestuous father getting custody.

Family courts grew up in conjunction with no-fault divorce. Both were largely the creations of organized feminism. The first principle of family court is to remove the father from the home. Mothers too are sometimes forced away from their children, but NOW seems to regard that as a small price to pay for the power to eliminate fathers.

Though purporting to be a critique of the very real corruption in family Courts, NOW's report is an attack on fathers and a manifesto for removing more fathers from their homes and their children.

In fact family courts are far more destructive and dangerous than NOW alleges.

Family courts routinely confiscate children from parents who have done nothing wrong. Family courts incarcerate massive numbers of parents without trial, without charge, and without an attorney. And family courts routinely ignore and themselves violate the most basic constitutional rights, including freedom of religion and freedom of speech. But because the targets are overwhelmingly fathers, NOW has nothing to say about it.

Perhaps we should take NOW at its word: If NOW is not happy with its misbegotten child, perhaps it is time to abolish family court. After all, we already have courts to deal with those who break the law and legal agreements. We do not need courts whose bread-and-butter derives from dissolving families. But don't look for real divorce reform from the National Organization for Women.

# Father's Rights And Political Action

<http://mensnewsdaily.com/archive/a-e/baskerville/02/baskerville051802.htm>

**Stephen Baskerville, Ph.D, 05-18-02**

Separation and divorce destroy children's lives. It helps to remember this because of the vast industry now devoted to what has been called "good divorce." This is the trend that seems intent on making divorce palatable and letting parents feel good about destroying their children's home. At best this is damage control. It is impossible to insulate children from the damage caused by the destruction of their families. Those who pretend we can are lying to themselves and to us. Moreover, the traumas of divorce are almost all exacerbated by litigation. Worse, they are all exacerbated when one parent - usually the father - is marginalized from the children, as is now almost invariably the case.

The reasons why separation and divorce damage children are too numerous to mention. But from the standpoint of fatherhood politics, the most important reasons involve authority.

The very act of separation and divorce, aside from any accompanying behavior or words, itself sends a myriad of terrible messages to children. It says that parents can put their own wishes above the welfare of their children. This is obviously a bad example, which the children can then carry on to their own families. But a perhaps worse effect is to destroy parental authority. No parent who has put himself or herself before their child in such a basic way has any moral authority to instruct, correct, or discipline a child. How can parents instill lessons of selflessness in children when their own actions demonstrate precisely the opposite?

More specifically, it destroys notions of trust, obligation, and fidelity in the child, qualities basic to any family. In effect it says that it is okay to break promises and obligations such as marriage vows when they no longer suit our convenience, it is okay to make up the rules as we go along and, in effect, live by no principles except those that suit our momentary convenience. Again, how can parents instill an ethic of fidelity, obligation, and trust when their own actions manifest the contrary?

Even more fundamentally, it destroys the integrity of the family itself. The act of separation and divorce says that a family is not something from which the child can derive a sense of unconditional love and security. On the contrary, a family can be disbanded at any time at the whim of one member. Even more, it says that a family member can be disgraced and expelled. Especially when it is unilateral (as it increasingly is) and when one parent is marginalized from the children's lives, the effect is the expulsion of a family member. This is the destruction of the child's entire world and the source of unimaginable terror to a child. If Daddy can be pushed out of the family, after all, what about me? What security is there in my family if members can be expelled because they do something Mommy or someone else doesn't like? What if I do something Mommy doesn't like? What is the meaning of Mommy's or Daddy's love if it can be terminated when it is no longer convenient?

Finally, litigation against family members exacerbates and in effect politicizes these messages. It says that the state is a legitimate instrument to punish the child's loved one who has fallen out of favor. It says that rather than solving problems as a family, we declare a member to be a public enemy and bring the power of the state to bear on him. In an almost literal sense, we declare civil war on our loved ones. Again, if the police can be used to keep Daddy away or throw him in jail because Mommy no longer likes him, what will they do to me?

Perhaps from the political standpoint, the most significant lesson for the child is the firsthand experience of tyranny and oppression, both in society and within his own family. The custodial parent becomes a kind of satrap of the court, and the dictatorship of the court over the family is extended and writ small within the family. The custodial parent tyrannizes over the non-custodial parent, undermining his authority, dictating the terms of his access to the children, talking to him contemptuously and condescendingly as if he were himself a naughty child, perhaps engaging in a full scale campaign of vilification (which similarly mirrors the larger campaign against fathers waged by the state and media). After witnessing this against the non-custodial parent, the children then experience it themselves. With no checks on the power of the custodial parent, the tyranny is naturally exercised over them as well. In extreme (but not uncommon) cases of course this leads to child abuse.

All these messages concern authority - parental authority, paternal authority, political authority -- and therefore they are of primary interest to fathers.

When a father participates in separation and divorce, when he engages in litigation, when he even acquiesces in them, he too is sending these messages to his children. When a father takes part in these actions he is participating in the destruction of his own authority. He is taking part in the destruction of his own fatherhood.

Certainly there are times when we must resort to the courts just to be permitted to see our children. But in the long run when we rely on these means, when we allow them to dictate the terms and place of the struggle, we lose and so do our children. Even when these actions are undertaken by our spouses unilaterally, the child is receiving the same message. Then it is up to us alone to provide a positive counter-message.

The literature on "good divorce" offers no rebuttals to these messages. There is a more effective and more constructive alternative.

## **The Political Alternative**

The alternative is to become active politically for the defense of our children and families.

I know this idea immediately raises red flags among many. Images come to mind of strident "activists" (like the dreaded feminists perhaps) screeching about their "rights." Many men are uncomfortable in this role, in which they have never before seen themselves. Our political world has become such a plethora of competing interest groups all trying to grab their share of the pie that we have

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forgotten what political action has done to relieve the truly oppressed.

More serious is the common assumption among men that working politically for the rights of fathers and children will divert time and energy from their own individual legal cases and reduce time with their own children while resulting in few tangible benefits in terms of winning custody or increasing visitation. This is a natural assumption, but it is not true.

In fact the opposite is true. Political involvement may be the best thing you can do for your own case and for your own children. Moreover it will be beneficial to you and your children immediately, even if you never achieve the stated goals. It is more effective than all the touchy-feely advice you will get from therapists. And it is more constructive than all the legal help from the scavengers of the divorce industry. This is less because of what it gives than what it demands: It requires qualities that are directly necessary to fathers who have been through desertion, separation, divorce, false accusations, and the rest. Most importantly, it carries messages that can help heal the traumas of children who are suffering from separation and divorce.

**Here are some of the direct and immediate benefits of political action:**

Political action establishes authority. If you have gone through a desertion, separation, or divorce -- especially if your child was abducted from your home or you have been accused of some kind of abuse - your authority as a father has been largely destroyed. Even fathers in intact families have felt their authority take quite a drubbing these days, largely owing to the anti-male climate. If your wife has placed her desires before her children's welfare by destroying their home, she too no longer has any moral authority to correct a child. Political action gives you the authority of one who has taken the moral high ground and acts out of principle along with others through constructive means for the welfare and establishment of his family and his society.

Political action confers dignity. When you lost your children you lost your dignity and received the stigma of the "evil male." You unexpectedly joined the ranks of "abusers," "batterers," and "deadbeat dads." Suddenly all those things you assumed about others are being assumed about you. You "must have" done something to deserve losing your children. This is a very difficult stigma to remove, and you won't eliminate it by cowering behind a lawyer. Men do not hire someone else to fight their battles. Standing up for your rights and those of your children is a way of proclaiming to the world that you have nothing to be ashamed of and that you have done nothing wrong.

Properly understood, political action is not shrill or strident. It is the dignified but uncompromising demand for civil rights: the right to be fathers to your children. No political movement ever has lasting success without dignity, and fathers will get nowhere unless they show dignity both in their families and before the world. No doubt you have already discovered that in the home it is up to you to act maturely and not to quarrel with your spouse, because of the bias in the courts and because your spouse probably has no incentive to be restrained. Why not take this one step further into the public realm and forego the quarrel of a court battle? The same principle applies. We don't have to hide our actions from our children or anyone else because they are ugly, undignified, shameful, or vicious - as, for example, is beating up on our spouse in a courtroom with a hired goon. We are acting openly in the public realm. We are asking for justice in the court of public opinion. Nothing could be more dignified.

Political action will make you a better father. The qualities necessary for being an effective political activist are the same as those necessary for a good father: sobriety, commitment, fidelity, sacrifice. Demanding your just rights is not a license for belligerence; quite the opposite. All great revolutionary leaders were moral puritans who saw the need for self-discipline. Lenin used to inveigh against libertine communists who would substitute talk for action and initiate a dozen tasks and never complete any. If you don't like this comparison, consider Oliver Cromwell, who "conquered himself" before he conquered his enemies. Frederick Douglass gave up drinking because he saw it was the most effective method of slaveholders to keep his people in bondage. Martin Luther King used to speak of the need for "self-purification" prior to action. The principle is simple: self-government requires self-control. Alcohol, gambling, womanizing, frivolous pastimes are incompatible with republican virtue. If you can't give up your sports page or your evenings in front of the TV, your girlie magazines or your nights out with the lads, you're no use as a fathers' rights activist. You're also probably not the world's greatest father.

Political action is an effective alternative to violence. Without lending credence to the hysteria over "male violence," let us grant for the sake of argument that fathers may be tempted to become violent when their children are taken away (who wouldn't?). If you find disturbing thoughts suddenly appearing in your head when they take your children, channel it into peaceful and constructive but determined activity for your children. Martin Luther King used to observe that violence in the black ghettos decreased significantly following political demonstrations. Involvement in fathers' rights is an effective way of channeling rage that might otherwise fuel domestic violence.

Political action shows your child you care. You may be caught in the vicious circle of being ordered to stay away from your children by a judge and as a result having them think you don't love them because you're not there. This is their natural conclusion and could be exacerbated by Mom's poison. You can't tell them it's because of Mommy or the Evil Judge that you aren't there, and you shouldn't; even if you could it wouldn't matter. Children judge by actions, not words. On the other hand, once your children witness you exercising your civic duty and your constitutional rights on their behalf and on behalf of other fathers and children, they will eventually understand why. They will realize that political action requires sacrifice, and they will admire you all the more and profit from your example. You are also telling the world that your children are so special that their father is willing to sacrifice everything for them.

Political action is an excellent education for your children. Some fathers feel they must not involve their children in their quarrel and fear they may be punished for it. But this is true only because the conflict is personal and litigious; in other words, because it is shameful. Children should always be spared the trauma of quarreling parents and animosity between spouses, whether at home or in court. But exercising your civic rights - indeed, fulfilling your duty as a citizen -- is a different matter entirely. This is something your children should see. We make enormous efforts in schools, churches, and civic organizations, teaching children about civic involvement, about constitutional rights and the importance of cultivating a public spirit and of sacrificing private desires for the larger public good. We

introduce them to the teachings of Socrates, Thoreau, Gandhi, and Martin Luther King. Yet when it comes to putting their ideas into practice by following their example, we are told this is somehow "inappropriate." In contrast to litigation, when we undertake political action we are not fighting our children's mothers; we are fighting injustice. What could be more inspiring than to emulate these men on behalf of your children? Children know that actions speak louder than words. The lesson that civic action requires sacrifice, and must be undertaken with dignity, is both edifying for them and something that will make them proud of their father.

Finally, political action will provide your children with the spiritual tools they need to cope with family breakdown. This may not be obvious, yet it is true. But only if it is based on dignity, sacrifice, and love. A politics of hate, vengeance, and demonization is not a fit lesson for children. But a politics of love and non-violence has its origins in the same spiritual values we try to instill in our children in school and in church. No child is too young to learn this lesson. If you take your children to Sunday school (and many people feel this is an important duty of a father, even if he himself has previously not been religious), you will be exposing them to the courageous acts of the Hebrew women, of Shedrach, Meshach, and Abednego, of Jesus himself. These figures demonstrated precisely the qualities children of divorce more than others need to see. Teach them about sacrifice for others, about commitment to a cause, about obligation as citizens, about the power of moral authority, about love to those who hate us, about fidelity to principles larger than themselves.

Martin Luther King, the leading American practitioner of non-violence, used to talk about the latent violence in the system of state-enforced segregation and of the need for a "creative tension" to bring this violence out into the open. We have a similar task. A latent violence already pervades our families which are in effect occupied by the instruments of the state forcibly separating us from our children. We must extract the violence from the system, and we must be prepared to suffer violence ourselves, but we must use none. At some point we may have to adopt Ghandi's principle: "Fill up the jails."

No doubt you will be accused of dragging your children into the quarrel. But non-violent political action shifts the quarrel away from the person to the injustice. Our children are already at the center of the quarrel. They have already been dragged in as the chief victims by the belligerent parent and by the state that has invaded their family and set up a kind of domestic apartheid between the custodial parent and the child, on the one hand, and the non-custodial parent. Martin Luther King writes boldly and eloquently of how, despite the false pathos of those who "deplored our 'using' our children in this fashion...the introduction of Birmingham's children into the [non-violent civil rights] campaign was one of the wisest moves we made."

It is an illusion to pretend that we can shelter our children from a quarrel of which they are at the center and which by its very nature is constantly damaging them. What is important is not that they be sheltered from it but that they be provided with the tools to deal with it and with any crisis constructively. On their own what they will adopt are the tools of withdrawal, guilt, aggression, alienation, or any number of other symptoms of divorce that have become all too familiar. No matter how careful you are they will also absorb your hostility as well as that of your spouse.

The touchy-feely proponents of "good divorce" are right as far as they go when they tell us to how to mitigate these and suggest we "talk" to our children to mitigate these emotions. They suggest you tell your children, "No matter what we do to one another, your Mommy and I still love you." But consciously or not, the child knows, "but not enough to keep my home together." You are supposed to tell your child, "What's happening between Mommy and me is not your fault." But the child knows that she is the center and "cause" of the quarrel. Talk is cheap, and children know it. No amount of talk, contact group jargon, or therapy sessions is going to save children from the traumas of what their parents do. What we can do is give them the tools to overcome them and to act. These are partly spiritual, but they are also political.

The Bible teaches that we are all guilty of sin. Creative non-violence teaches that we are all responsible for society's injustices. Choose the value system you prefer. The point is that these religious and political values teach us how we and our children can channel our inadequacies, real and imagined, into constructive action.

We should tell our children that we all do bad things. We are all sinners, or we are all responsible for society's injustices, or however you prefer to phrase it. We cannot avoid guilt. What we can do is be sorry for the bad things we do and ask forgiveness. What we can do is forgive those who do bad things to us. What we can do is to love the person while hating the evil they do - the message of Christianity, Islam, civil disobedience, creative non-violence, and every other humane doctrine. We can teach them what the Bible, Gandhi, and Martin Luther King all taught: that "unmerited suffering is redemptive." We can teach them the one central principle of both religion and political action: that salvation requires sacrifice. If we strive toward this, we will not only have happy, well-adjusted children in spite of the belligerence they witness in others; we may just be permitted to be fathers to them again. Or perhaps I should say that from that moment we again will be fathers.

# Deadbeat Dads

**Special interest groups demonized divorced fathers into "deadbeat dads," and then criminalized them.  
The result: system that traces all newly hired employees, shifts the burden of proof to the accused,  
and throws fathers in jail for losing their jobs**

**Stephen Baskerville, Ph.D, 05-14-02**

TV host Bill O'Reilly recently declared that "There is an epidemic of child abandonment in America, mainly by fathers." Sen. Evan Bayh has attacked "irresponsible" fathers in several speeches. Campaigning for president, Al Gore promised harsher measures against "deadbeat dads," including sending more to jail. The Clinton administration implemented numerous child-support "crackdowns," including the ominously named Deadbeat Parents Punishment Act; the Directory of New Hires, which contains the name of every newly hired individual in the country so that any deadbeat among them can be tracked down; and the Federal Case Registry, a massive system of government surveillance that aims to monitor 16–19 million citizens. [1](#)

In an ironic role reversal, Republicans have responded to the Democrats' law-and-order campaign with social programs. President Bush recently announced a \$320 million program to "promote responsible fatherhood," and Congress is considering a bill to "reconnect fathers with their families." Yet the underlying message is similar. The administration promises to increase collections with a "five-year plan." "We want to send the strongest possible message that parents cannot walk away from their children." [2](#)

In fact, no evidence exists that large numbers of fathers voluntarily abandon their children. No government or academic study has ever demonstrated such an epidemic, and those studies that have addressed the question directly have concluded otherwise.

In the largest federally funded study ever conducted on the subject, psychologist Sanford Braver demonstrated that very few married fathers abandon their children. Overwhelmingly it is mothers, not fathers, who are walking away from marriages and thus separating children from their fathers. Other studies have reached similar or more dramatic conclusions. [3](#)

Braver also found that when they are employed, virtually all divorced fathers pay the child support they owe and that the number of arrearages "estimated" by the government is derived not from any actual statistics but from surveys. The Census Bureau simply asked mothers whether they were receiving payments. No data exists to corroborate the mothers' claims. As Braver found, "there is no actively maintained national database of child support payments." [4](#)

Braver's research undermines most justifications for the multi-billion-dollar criminal enforcement machinery, as well as the proliferation of government programs to "promote responsible fatherhood." [5](#) If Braver is to be believed — and no official or scholar has challenged his research — the government is engaged in a massive witch hunt against innocent citizens.

The system of collecting child support is no longer one of requiring men to take responsibility for their offspring, as most people believe. The combination of "no fault" divorce and the new enforcement law has created a system that pays mothers to divorce their husbands and remove children from their fathers. "By allowing a faithless wife to keep her children and a sizable portion of her former spouse's income," writes Bryce Christensen, "current child-support laws have combined with no-fault jurisprudence to convert wedlock into snare for many guiltless men." [6](#)

Centuries of common-law precedent protected fathers from this possibility. "The duty of a father (now spouse) to support his children is based largely upon his right to their custody and control," ran a ruling typical of the age-old consensus. "A father has the right at Common Law to maintain his children in his own home, and he cannot be compelled against his will to do so elsewhere, unless he has refused or failed to provide for them where he lives." [7](#)

While few were paying attention, new laws have completely overturned this principle and created a system, as attorney Jed Abraham writes, whereby "a father is forced to finance the filching of his own children." [8](#)

In 1975, President Ford succumbed to pressure from bar associations and feminist groups and created the Office of Child Support Enforcement (OCSE), warning that it constituted an unwarranted federal intrusion into the lives of families and the responsibilities of states. The size of the program increased tenfold from 1978 to 1998. [9](#)

This massive growth of law enforcement machinery was federally driven. Welfare legislation promoted by the OCSE and passed by Congress in 1984 required states to adopt child-support guidelines under the claim that it would get single-mother families off welfare by making fathers pay more. "No statistical data available then (or since) indicated that such legislation would have the desired effect," writes Robert Seidenberg. Because most nonpayment of child support results from unemployment, and most noncustodial parents of welfare children are not earning enough to pay as much child support as their children already receive in welfare, higher child-support guidelines cannot help these children. [10](#)

Then, in 1988, with no explanation or justification, the guidelines and enforcement machinery that had been created to help children on welfare were extended to include the 80% of child-support orders to children not on welfare. [11](#)

Yet both Braver and a pilot study by OCSE itself had already made clear that nonpayment was not a serious problem among this class. A full-scale federal study that was planned to follow up the pilot study was quashed by OCSE when the findings of the pilot threatened the justification for its existence. [12](#)

Though child-support enforcement formally falls within the executive branch, the linchpin of the system is the family court, a secretive and little-understood institution. Unlike other courts, family courts usually operate behind closed doors, generally do not record their proceedings, and keep no statistics on their decisions. Yet they reach further into the private lives of individuals and families than any other governmental arm. "The family court is the most powerful branch of the judiciary," writes Robert W. Page of the Family Court of



New Jersey, "the power of family court judges is almost unlimited." [13](#)

Like other state court judgeships, family court judgeships are political positions, elected or appointed by commissions dominated by lawyers who have an interest in maximizing litigation. [14](#) Family court judges wield extensive powers of patronage, thanks to their power to appoint attorneys and expert witnesses. [15](#) Like most courts, family courts complain of being overburdened. But it is clearly in their interest to be overburdened, since their power and earnings are determined by the demand for their services.

As Judge Page recommends:

***Judges and staff work on matters that are emotionally and physically draining due to the quantity and quality of the disputes presented; they should be given every consideration for salary and the other "perks" or other emoluments of their high office.***

If the judiciary is viewed in part as a business, as Charles Dickens suggested, the family courts' customers are divorcing mothers who hope to win custody and windfall settlements. The more satisfied customers an enterprise has, the more it prospers. So it is not surprising that family courts are interested in attracting and satisfying customers.

As Page writes:

***With improved services more persons will come before the court seeking their availability. . . . As the court does a better job more persons will be attracted to it as a method of dispute resolution. . . . The better the family court system functions the higher . . . the volume of the persons served.*** [16](#)

The judges who remove children from their fathers and the bureaucrats who seize the fathers' property and persons are often closely connected. David Ross, head of OCSE during the Clinton administration, began his career as a family court judge before moving to higher courts and a stint in a state legislature. The OCSE Web page says he was honored as "Judge of the Year of America" by the National Reciprocal Family Support Enforcement Association in 1983 and as "Family Court Judge of the Nation" by the National Child Support Enforcement Association (NCSEA) in 1989. That enforcement groups are bestowing honors upon judges indicates their interest in family court decisions, especially those that remove children from their fathers and award child support to their mothers: Without those decisions, the groups' services wouldn't be needed. And that a government Internet page boasts about awards given to its supposedly impartial judges by these interest groups indicates how little ethical scrutiny family court judges receive. The NCSEA Web page lists its members as "state and local agencies, judges, court masters, hearing officers, district attorneys, government and private attorneys, social workers, caseworkers, advocates, and other child support professionals," as well as "corporations that partner with government to enforce child support." [17](#) In other words, it is made up entirely of people who have a financial interest in having children separated from their fathers.

Setting child support levels is a political process conducted largely by groups that benefit from divorce. Parents are largely excluded. In about half the states, the guidelines used to set child-support levels are devised not by the legislature but by courts and enforcement agencies, and in all states the courts and enforcement agencies play a dominant role in setting the guidelines. [18](#) Under the separation of powers we do not normally permit police and courts to make the laws they enforce and interpret, since this would create an obvious conflict of interest.

Provisions for citizen input are mostly perfunctory. In Virginia, of twelve members serving on the review commission in 1999, one member represented fathers. The rest were full-time lawyers, judges, enforcement agents, and feminists. When the fathers' representative in 2001 pointed out this fact in a Washington Times Op-Ed column, he was dismissed from the panel for his "opinions." [19](#) "The commissions appointed to review the guidelines have been composed . . . of individuals who are unqualified to assess the economic validity of the guidelines, or who arguably have an interest in maintaining the status quo, or both," writes a Georgia district attorney. "In 1998, for example, of the 11 members of that Commission, two were members of the judiciary, two represented custodial parent advocacy groups, four were either present or former child support enforcement personnel, and two were state legislators." [20](#)

The conflicts of interest extend to the private sector, where privatization has created a class of government subsidized bounty hunters with an interest in creating "delinquents." In 1998, Florida taxpayers paid \$4.5 million to Lockheed Martin IMS and Maximus, Inc. to collect \$162,000 in back child support. [21](#) Supportkids of Austin, Tex. describes itself as "the private-sector leader" in what it calls the "child support industry." The company is confident of rich investment opportunities, optimistic that delinquencies will only increase. "The market served totals \$57 billion and is growing at an annual rate of \$6 billion to \$8 billion," reports its founder and CEO.

Some firms, like Policy Studies Inc. (PSI), also set the levels of what they collect. From 1983 to 1990, PSI president Robert Williams was a paid consultant with the Department of Health and Human Services (HHS), where he helped establish uniform state guidelines in the Child Support Guidelines Project under a grant from the National Center for State Courts. The guidelines he helped create significantly increased child-support obligations and Congress required states to implement the presumptive guidelines, giving them only a few months of legislative time to do so. [22](#)

Virtually all states met the deadline, many by quickly adopting Williams' model. "The guidelines were enacted in 1989 to insure Georgia's receipt of an estimated \$25 million in federal funds," writes William Akins. "They were hastily adopted . . . to beat the federal deadline." [23](#)

One year after joining HHS, and the same year the federal guidelines were implemented, Williams started PSI. "With his inside knowledge [Williams] has developed a consulting business and collection agency targeting privatization opportunities with those he has consulted," explains James Johnston of the Kansas Child Support Guidelines Advisory Committee. "In 1996, his company had the greatest number of child support enforcement contracts . . . of any of the private companies that held state contracts." [24](#) PSI grew "by leaps and bounds because of the national crackdown on 'deadbeat dads.'" From three employees in 1984, PSI grew to over 500 in



1996, before welfare reform legislation took effect, from which the company "stands to profit even more." [25](#)

The profitability of these enterprises is a function of the size of obligations put on fathers. A collection agency only operates if there are arrearages and "delinquents." Williams therefore not only has a vested interest in making the child support levels as high as possible, but to make them so high that they create arrearages.

Williams' model has been widely and severely criticized for its methodology. He himself has admitted that "there is no consensus among economists on the most valid theoretical model to use in deriving estimates of child-rearing expenditures" and that "use of alternative models yields widely divergent estimates." [26](#)

State governments also profit from child support, according to the House Ways and Means Committee, which notes that "States are free to spend this profit in any manner the State sees fit." States profit through federal incentive payments of 6–10% on each dollar collected, as well as receiving two-thirds of operating costs and 90% of computer costs. Federal outlays of over \$2 billion in 1996 allowed California to collect \$144 million and New York to receive \$49.1 million. [27](#)

Most people assume that collections made through enforcement agencies involve arrearages or target those people who would not otherwise pay. But this is not the case. To collect these federal funds states must channel all child-support payments, including those not in arrears, through their criminal enforcement machinery. This both further criminalizes the fathers and enables the government to inflate the amount of collections it makes, which helps divert attention from fact that the program operates at a consistent loss.

In January 2000, HHS Secretary Donna E. Shalala announced that "the federal and state child support enforcement program broke new records in nationwide collections in fiscal year 1999, reaching \$15.5 billion, nearly twice the amount collected in 1992." [28](#) Yet the method of arriving at these figures is questionable. Figures from the OCSE show that collections in welfare-related cases (in which collection is problematic) have remained steady since 1994, while collections in non-welfare cases (in which compliance has always been high) continue a steady increase. [29](#) Thus the "increase" in collections was achieved not by collecting the arrearages built up by poor fathers but by bringing more employed, middle-class fathers, into the collection system.

Between the incentive payments, the court patronage, and the bureaucratic conflicts of interest, the systematic bullying by courts and enforcement agencies is becoming difficult to ignore. Several recent cases have attracted wide attention. In Milwaukee, a father was hauled into court and threatened with jail when penalties turned a 4-cent arrearage into hundreds of dollars. Another father was arrested for failing to pay child support during the five months he was held hostage in Iraq. In Texas, a janitor was exonerated after ten years on death row, only to be presented with a bill for \$50,000 in child support not paid while in prison. In Virginia, child support is being sought for 45-year-old "children." In Kansas and California, teenage boys have been ordered to pay child support to grown women criminally convicted of statutorily and forcibly raping them, and an 85-year-old invalid sexually assaulted by his housekeeper has had his pension garnished for child support while being denied access to the child on the grounds it was not in the "best interest of the child." In Indiana, a father has been shackled with an electronic ankle bracelet and forced to turn over three-fourths of his salary for the college expenses of a 21-year-old "child" while his 12-year-old goes without medical treatment. [30](#) The list is endless.

Perhaps most disturbing is the case of Brian Armstrong of Milford, N.H., whom many believe to have received a summary "death sentence" for losing his job. Armstrong was jailed without trial on Jan. 11, 2000 for failing to appear at a hearing of which his family claims he was not notified, and was apparently beaten to death by correctional officials. Another inmate saw Armstrong being led into a room from which he then heard screaming before he was dragged away. [31](#)

Fatal beatings of fathers are probably not widespread in American jails, but the Massachusetts News has reported on many suicides. Charles London stabbed himself with a kitchen knife in August 1999 after being cut off from all contact with his two children and ordered to pay more than 75% of his salary in child support, leaving him with \$78 a week. The National Association for Child Support Action has published a "Book of the Dead" chronicling 55 cases which they claim the official court coroner concluded fathers were driven to suicide because of judgments from divorce courts. [32](#)

The suicide rate of divorced fathers has skyrocketed, according to Augustine Kposowa, who attributes his finding directly to judgments from family courts. Reports by CBS, CNN, and Reuters ignored this conclusion in favor of therapeutic explanations emphasizing fathers' lack of friends and "support networks." One reporter told Kposowa his finding was not "politically correct." [33](#)

Advocates of "unilateral" divorce have portrayed it as a "citizen's right" and even a "civil liberty." [34](#) Yet in practice, "unilateral" divorce entails highly authoritarian measures. "To preserve these perks, especially child support," writes attorney Abraham, "the government commands an extensive enforcement apparatus, a veritable gulag, complete with sophisticated surveillance and compliance capabilities such as computer-based tracing, license revocation, asset confiscation, and incarceration. The face of this regime is decidedly Orwellian." [35](#) OCSE now maintains an army of almost 60,000 plainclothes agents, with sweeping powers to seize property and persons involved in divorce proceedings, including the power to issue arrest warrants.

Hunting alleged deadbeats also rationalizes highly intrusive monitoring of all private citizens. In addition to automatic wage garnishing from all obligors, even before they become "delinquent," the New Hires Directory now compels employers to furnish the name of every new employee to the federal government. "Never before have federal officials had the legal authority and technological ability . . . to keep tabs on Americans accused of nothing," wrote the Washington Post on June 27, 1999. "Just like in totalitarian societies, government bureaucrats will soon have the power to deny you a job, and the ability to monitor your income, assets, and debts," says Libertarian Party Chairman Steve Dasbach. "This law turns the presumption of innocence on its head and forces every American to prove their innocence to politicians, bureaucrats, and computers." [36](#) Several state governments have even voiced dissent, including skepticism over the reality of "deadbeats." "Under the guise of cracking down on so-called deadbeat dads, the Congress has required the states to carry out a massive and intrusive federal regulatory scheme by which personal data on all state citizens" is collected, the Kansas Attorney General's office charged in a federal suit challenging the constitutionality of the mandate. [37](#)

The distinction between the guilty and the innocent becomes almost meaningless, since officials are monitoring citizens who owe, those whose obligations are paid up, and those who are not under any order at all. The presumption of guilt against those who are obeying the law was revealed by one official who boasted to the Post that "we don't give them an opportunity to become deadbeats." The presumption that not only are all parents under child support orders already quasi-criminals but that all citizens are potential criminals against whom pre-emptive enforcement measures must be initiated is revealed by Teresa Myers of the National Conference of State Legislatures (NCSL). "Some people have argued that the state should only collect the names of child support obligors, not the general population," she suggests. But "this argument ignores the primary reason" for collecting the names: "At one point or another, many people will either be obligated to pay or eligible to receive child support." [38](#)

The presumption of guilt extends into the courtroom, where a father charged with "civil contempt" need not receive due process and may legally be presumed guilty until proven innocent. "The burden of proof may be shifted to the defendant in some circumstances," according to a legal analysis by NCSL, which promotes aggressive prosecutions. The father can also be charged with criminal contempt. "The lines between civil and criminal contempt are often blurred in failure to pay child support cases," NCSL continues. "Not all child support contempt proceedings classified as criminal are entitled to a jury trial." Moreover, "even indigent obligors are not necessarily entitled to a lawyer." [39](#)

The bottom line is that a father who has lost his children through literally "no fault" of his own faces a daunting burden: He must prove his innocence without a formal charge, without counsel, and without facing a jury of his peers.

Within the world of child-support enforcement a father becomes a "deadbeat" if he fails or refuses to surrender control of his family to the hegemony of the state. "Child support is 'paid' only when it's paid in a bureaucratically acceptable form," says Bruce Walker, of the District Attorney's Council in Oklahoma City, who claims to have jailed hundreds of fathers. A father is "supporting" his family if he pays by government-approved procedures to government-approved people and has "abandoned" it if he pays in any other way. "Men who provide non-monetary support are deadbeat dads according to the child-support system," says Walker. "Even men who are raising in their homes the very children for whom child support is sought are deadbeat dads." [40](#)

Though ostensibly limited by guidelines, a judge is free to order virtually any amount in child support. A judge who decides that a father could be earning more than he does can "impute" potential income to the father and assess child support and extract attorneys' fees based on that imputed income. The result, as Darrin White found, is that child support can exceed earnings. If a father works extra hours (perhaps to pay legal fees) or receives any other temporary income, he is then locked into that income and those hours, and the child-support level based on them, until his children are grown. [41](#) If a relative or benefactor pays the child support on his behalf, that payment is considered a "gift" and does not offset the obligation, which the father himself still owes.

A Rutgers/University of Texas study found that "many of the absent fathers who state leaders want to track down and force to pay child support are so destitute that their lives focus on finding the next job, next meal or next night's shelter." [42](#) Why so many divorced fathers seem to be unemployed or penurious may be accounted for in part by the strains legal proceedings put on work schedules. Fathers are summoned to court so often they lose their jobs. The Ohio Psychological Association found that employers report losing more productive time to divorce and custody proceedings than to alcohol and drug use combined. [43](#) Many divorced fathers are either ordered out of their homes or must move out for financial reasons. They may also lose their cars, often their only means of transportation to their jobs and children. Those who fall behind in child support, regardless of the reason, now have their cars booted and their driver's licenses and professional licenses revoked, which in turn prevents them from getting and keeping employment. An odd myopia is demonstrated in the controversy over whether to give child support priority over other debts in bankruptcy proceedings. Curiously, no one stops to ask the obvious question of why so many allegedly well-heeled deadbeats are going through bankruptcy in the first place. [44](#) In what some have termed a policy of "starvation," a proposed federal regulation will render these rich playboys ineligible for food stamps. [45](#)

It is hardly surprising that some fathers who have been worked over eventually do disappear. Anyone who has been plundered, harassed, vilified, and incarcerated — all on the pretext of supporting children taken from him by force and whom he is not permitted even to see — will eventually reach the limits of his endurance.

There is nothing mutually exclusive about protecting the rights of parents and their children not to be separated without cause and enforcing child-support collection on those men who truly abandon the offspring they have sired. Requiring men to accept financial responsibility for their progeny has been a matter of public policy for centuries. But taking away people's children and forcing them to pay for it, as one scholar warns, is moving us "a dangerous step closer to a police state." [46](#) The "deadbeat dad," whom Braver and others diplomatically call a myth, is really more like a hoax, the creation of groups with an interest in separating children from their fathers and criminalizing the fathers.

## Notes

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# The Truth About Child Abuse

<http://mensnewsdaily.com/archive/a-e/baskerville/02/baskerville051002.htm>

Human Events, vol. 58, no. 16, 29 April 2002, p. 14

**Stephen Baskerville, Ph.D, 04-29-02**

April is "Child Abuse Prevention Month," according to the Department of Health and Human Services. Kinaya Sokoya, director of the D.C. Children's Trust Fund, suggests we use the occasion to "raise the public's awareness" about child abuse through "public education" and "funding parent-support programs." In plain English, what this means is more government programs of questionable efficacy.

It is not likely we are going to reduce child abuse by "educating" anyone, especially given the message Ms. Sokoya sends to child abusers: "In order to take good care of your child, you must take good care of yourself."

The public is already aware that we are in an epidemic of child abuse. Less widely known but still well understood among researchers is what causes it. What we lack is the resolve to face the politically incorrect truth.

The massive growth of child abuse coincides directly with the divorce revolution and fatherless homes. As Sokoya tacitly acknowledges, child abuse takes place overwhelmingly in the homes and at the hands of single parents.

A study just released by the Heritage Foundation confirms that children are up to 33 times more likely to be abused in a single-parent home than in an intact family. "Contrary to public perception," write Patrick Fagan and Dorothy Hanks, "research shows that the most likely physical abuser of a young child will be that child's mother, not a male in the household." A 1996 HHS study found that "almost two-thirds [of child abusers] were females," and mothers accounted for 55% of child murders according to a 1994 Justice Department report.

As Maggie Gallagher writes in her 1996 book, *The Abolition of Marriage*: "The person most likely to abuse a child physically is a single mother. The person most likely to abuse a child sexually is the mother's boyfriend or second husband. . . . Divorce, though usually portrayed as a protection against domestic violence, is far more frequently a contributing cause."

The only thing unusual in the sensational case of Andrea Yates is that the couple remained married. Most child abusers first eliminate the father through unilateral divorce or separation, whereupon they can abuse his children with impunity.

As the Heritage report confirms, the safest place for a child is an intact, two-parent home – that is, a home with a father in it. Children's natural protectors are their fathers. Even feminist Adrienne Burgess observes that "fathers have often played the protector role inside families." Removing the father is what exposes the children to danger.

Yet removing fathers is precisely what family court judges routinely do at the mere request of mothers, who file two-thirds to nine-tenths of divorces. Ironically, this is often effected with trumped-up charges of child abuse, though statistically biological fathers seldom abuse their children (6.5% of child murders, according to the DOJ study). Judges claim they remove the father, even when no evidence of abuse has occurred, to "err on the side of caution." In fact they are erring on the side of danger, and it is difficult to believe they do not realize it.

Dickens observed "the one great principle of the . . . law is to make business for itself." In this instance, family courts and child protective bureaucracies make business for themselves by eliminating the father from the home, thus creating the environment conducive to abused children. Appalling as it sounds, the conclusion seems inescapable that we have created a massive governmental machine staffed by officials with a vested professional interest in abused children.

This is a shocking statement, but it proceeds predictably from the logic inherent to all bureaucracies: to perpetuate the problem they ostensibly exist to address.

The logic is marvelously self-justifying and self-perpetuating, since by eliminating the father, government officials can then present themselves as the solution to the problem they themselves create. The more child abuse – whether by parents or even by the social work bureaucracies themselves – the more the proffered solution is to further expand the child abuse bureaucracy. Waxing indignant about a string of child deaths at the hands of social workers in the District of Columbia, federal judges and the Washington Post find solace in the D.C. government's solution: hire more social workers (and lawyers too for some unspecified reason). "Olivia Golden, the Child and Family Services' latest director . . . will use her increased budget to recruit more social workers and double the number of lawyers." Lawyers, not fathers, now protect children.

If we do not have the courage to tell the truth about who is abusing children and the role of government in permitting and even encouraging them to do it, then all our professed concern for children is mere posturing. We do no service to children or to public awareness by funding groups and programs with an interest in obscuring the truth and exacerbating the problem.



# The Real Responsibility of Men

<http://mensnewsdaily.com/archive/a-e/baskerville/02/baskerville041102.htm>

Human Events (vol. 58, no. 13, p. 14)

**Stephen Baskerville, Ph.D, 04-08-02**

In addressing a recent conservative conference, Oliver North argued that "the biggest problem I see in this country today isn't winning the war against terrorism - the biggest problem . . . is men not being responsible for the children they create."

This is an astonishing statement from a man who speaks with enormous authority on military matters. If Col. North feels this strongly about the importance of fatherhood, then we should try to understand why. And he is undoubtedly correct, though perhaps not precisely in the sense he may intend.

## **Societal Consequences**

The problem of fatherless children is indeed serious. Some 25-million American children - about 40% - live in households without their fathers. Moreover, every major social pathology is strongly linked to father absence, including violent crime, drug abuse, truancy, unwed pregnancy, and suicide.

In attributing this to irresponsible men, however, we must be careful. President Clinton used to claim that fathers hounded by his administration, "have chosen to abandon their children." Yet in research described by FrontPageMagazine as "the most important work of conservative social science in a decade," Arizona State University psychologist Sanford Braver demonstrated that very few fathers voluntarily abandon their children. Braver found that mothers, usually without legal grounds, file two-thirds of divorces. Other studies put the proportions at 85-90%. Mothers, not fathers, are leaving marriages in droves.

Moreover, what some see as irresponsible fathers is in reality an abuse of government power. The moment a mother files for divorce, the government seizes effective control of the children. With no evidence of wrongdoing, the father's contact with them is from that point criminalized. The forcibly divorced father can then be evicted and plundered by a powerful machine of judges, lawyers, psychotherapists, and enforcement agencies, who all have a vested interest in encouraging divorce and separating children from their fathers. Windfall child-support awards subsidize divorce and fatherless homes and encourage more mothers to divorce.

Some now predict two-thirds of marriages will end in divorce. About 80% of the 1.5-million divorces yearly are unilateral, and about three-fifths involve children, more than a million annually. It would seem then that at least 700,000 parents are involuntarily divorced every year, whereupon control of their children, finances, and private lives is taken over by the government.

Conservative silence on the depredations of the divorce industry is ironic, for they vindicate every prophecy concerning judicial activism, bureaucratic tyranny, and family destruction.

Bureaucratic regulators raise business costs. But many more fathers are reduced to servitude by bureaucratic courts and bureaucratic police who set the very child-support guidelines they adjudicate and enforce and which they have an interest in making as onerous as possible. Crushing burdens that may consume a man's entire salary create instant "deadbeats" and generate demand for an ever-larger bureaucracy with ever-more intrusive powers.

## **Criminalizing Fathers**

Private behavior is criminalized through sexual-harassment laws. But many more fathers are criminalized and many children lose their fathers through protective orders issued without any evidence of wrongdoing. These orders cannot protect anyone, because they criminalize not violence (which is already criminal) but a father's contact with his own children. Ironically, the children are then subject to the physical and sexual violence that is much more common in single-parent homes than intact families.

Were policymakers sincere in their sympathy for children, they would curtail the power of the divorce industry to rip apart their homes in the first place. Even the Democratic Leadership Council (DLC) has recognized that the most effective antipoverty plan is an intact family. That this would benefit vastly more children than futile crackdowns on allegedly irresponsible fathers is precisely why the iron triangle of family courts, enforcement bureaucracies, and organized feminism won't permit it to happen. Rather than standing up to these dangerous interests, it is easier for some conservatives to attack fathers.

## **Family Cohesion**

In a larger sense, therefore, Col. North is profoundly correct and his comparison with terrorism especially apt. It is highly irresponsible of men to leave our nation's children unprotected against abuse and exploitation by government officials.

A popular joke holds that within the family Mom makes the minor decisions, such as how to raise the children, while Dad concerns himself with important questions, like how to achieve world peace. This joke is now grimly writ large in public policy. Male policymakers allow their attention to be monopolized by a terrorist attack, while consigning family issues to what they perceive as the sphere of women, where special interests hijack the agenda and perpetrate a reign of government terror against parents and children.

President Bush tells Americans that in the war on terrorism, "We defend . . . the freedom of people everywhere to live and raise their children free from fear." Yet that is precisely the freedom that is under attack at home.

## **Q: Are family courts prejudiced against fathers?**

**A: Yes: Family-court judges routinely violate the legal rights of fathers and their children**  
**Washington Times ([Insightmag.com](http://insightmag.com))**

**Stephen Baskerville, Ph.D, 03-11-02**

In England a father is sentenced to 10 months in prison for waving to his children on a street. In Massachusetts a mother is told to divorce her husband or officers of the state will take away her children, and they do. Also in Massachusetts a father who opposes judicial wrongdoing is dragged from his car, assaulted by what appear to be plainclothes police and told to stop making trouble if he wants to see his son again. In New Hampshire a father is incarcerated without trial and beaten to death by jail guards. In Ontario a legally guiltless father is cut off from his children and assessed 96 percent of his salary in child and spousal support for a divorce to which he did not agree, being left with \$300 a month.

These are not isolated incidents. They proceed logically when we allow government to take children from their parents. Children today have become the state's most potent weapon for creating tyranny over their parents and the rest of us.

Family courts are the arm of government that reaches deepest into private lives, yet they are accountable to virtually no one. "The family court is the most powerful branch of the judiciary," according to Robert Page, presiding judge of the New Jersey Family Court. "The power of family-court judges is almost unlimited." Often they operate behind closed doors, excluding even family members, and most leave no record of their proceedings.

Secret courts are contrary to basic principles of free government. "In the darkness of secrecy sinister interest and evil in every shape have full swing," warned political philosopher Jeremy Bentham. He also added, "Where there is no publicity there is no justice. Publicity ... keeps the judge himself while trying under trial." Judges often claim that secrecy protects family privacy. In fact it provides a cloak for the court to invade family privacy with impunity.

Immune from scrutiny by press and public, it is hardly surprising that family courts and ancillary bureaucracies violate constitutional rights and begin to resemble organized crime - crime so ruthless and cynical that it uses children to plunder and terrorize their parents.

What is happening in family court is indeed little less than a reign of terror. Throughout the United States and other democracies fathers are losing their children in huge numbers, and many mothers are as well. Guiltless parents are subjected to questioning about their private lives - Jed Abraham has characterized this as an "interrogation" - and how they raise their children.

They sometimes are arrested for telephoning their children or sending them birthday cards. They are pursued by government goons and private bounty hunters for impossible debts they never incurred. Their personal papers, bank accounts and homes must be opened and surrendered on request to government officials. Their children, with the backing of government officials, are taught to hate them and are used as informers against them. They are incarcerated without trial, charge or counsel.

Anything a father has said to his spouse or children can be used against him. His personal habits, movements, conversations, purchases and relationship with his children are all subject to inquiry and control by the court. Abraham describes how fathers against whom no evidence of wrongdoing is presented are ordered to submit to "plethysmographs," where an electronic sheath is placed over the penis while the father is forced to watch pornographic films involving children.

Family law is now criminalizing rights as basic as free speech, freedom of the press, and even private conversations. An Arizona father is ordered not to criticize judges to family members. British and Australian family courts have closed Internet sites and prosecuted fathers for criticizing judges. In many American jurisdictions it is likewise a crime to criticize family court judges. On Fathers Day 1998, a California father planning to protest the fact that he had not seen his son in more than two years was taken into custody for a psychiatric evaluation. The former husband of singer Wynonna Judd was recently arrested for talking to reporters about his divorce. Following his congressional testimony critical of the family courts, Jim Wagner of the Georgia Council for Children's Rights was stripped of custody of his two children and jailed. "We believe the court is attempting to punish Wagner for exposing the court's misconduct to a congressional committee," said Sonny Burmeister, president of the council.

Fathers who speak out against family courts report that their children are used as weapons to silence their dissent, and attorneys regularly advise their clients not to join fathers' rights groups, speak to the press or otherwise express public criticism of judges. The fear is well founded. In a paper funded by the U.S. Justice Department the National Council of Juvenile and Family Court Judges, an association of ostensibly impartial judges who sit on actual cases, attacks fathers' groups for "patriarchal values" and advocating "the rights of fathers instead of their responsibilities," which it claims are "at odds with the safety needs of the rest of the family." The supposedly apolitical judges also object to the fathers' "message that divorce is always harmful to children" and ask, "How can we learn to counter the sound bites of fathers' rights groups?" Family-court judges generally are appointed and promoted by commissions dominated by bar associations and other professional groups who have an interest in maximizing the volume of litigation. The politics of family-court appointments operates according to principles of patronage that Richard A. Watson and Rondal G. Downing, authors of *The Politics of the Bench and the Bar*, have described as "cronyistic." Political scientist Herbert Jacob describes how "the judge occupies a vital position not only because of his role in the judicial process but also because of his control over lucrative patronage positions." Jacob cites probate courts, where positions as estate appraisers "are generally passed out to the judge's political cronies or to persons who can help his private practice." The principles are similar in family courts with which probate courts are sometimes united wherein what is passed out is control over children.

"The one great principle of the law," wrote Dickens, "is to make business for itself." Like all courts, family courts complain of being overburdened. Yet it is clearly in their interest to be overburdened, since judicial powers and salaries, like any other, are determined by demand for their services. "Judges and staff ... should be given every consideration for salary and the other perks or other emoluments

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of their high office," Judge Page suggests, adding that divorce-court judges should aim to increase their volume of business. "As the court does a better job more persons will be attracted to it," he observes. He also writes, "The better the family-court system functions, the higher ... the volume of the persons served." A court "does a better job" by attracting more mothers (who file the overwhelming majority of divorces) with windfall divorce settlements.

Yet the divorce industry no longer is content with enticing mothers to divorce; it now can force them to do so. The Massachusetts News recently reported how Heidi Howard, a happily married mother, was ordered to get a restraining order against her husband and divorce him, even though she insisted that he had never been violent. When she refused, social workers seized her children. Reporter Nev Moore claims hundreds of such cases exist. In short, the government is now actively tearing apart intact families.

Family courts order parents to pay the fees of attorneys and other court officials they have not hired, with the threat of jail for not complying. A Virginia father, forcibly separated from his son for three years, faces jail if he cannot pay two years of his salary to a lawyer he never hired, for a divorce he never requested. The judge is using his position of public trust to operate a protection racket for the enrichment of his cronies. He has summoned a legally unimpeachable citizen and ordered him to write a check or go to jail. And the weapon he is using to do it is a child.

Litigants long have claimed that family courts tamper with transcripts and other evidence. Recently Zed McLarnon, a forensic audio-visual expert, proved that hearing records were altered, and the Massachusetts News obtained photographic evidence confirming his claim. For his complaint McLarnon was assessed \$19,500 in fees for attorneys he had not hired and jailed without trial by the same judges whose tapes were doctored. The court currently is moving to seize his house and car. His attorney claims that the court also "removed documents from his case file, falsified the case docket, refused to docket motions and hearings in the public record and withheld the public case file for nine months."

These bureaucratic courts emerged in the early 1960s along with the divorce revolution. Their existence and virtually every problem they address - divorce, custody, child abuse, child-support enforcement, even juvenile crime - depend upon one overriding principle: removing the father from the family. Without this power, family courts could not survive, since these problems seldom appear with intact families. While mothers also fall afoul of family-court bullying, it is fathers against whom their enmity largely is directed, because fathers are their rivals.

The judges' contempt for both fathers and constitutional rights was openly expressed by New Jersey Municipal Court judge Richard Russell who, according to Cathy Young in her recent book *Ceasefire: Why Women and Men Must Join Forces to Achieve True Equality*, said at a judges' training seminar in 1994: "Your job is not to become concerned about the constitutional rights of the man that you're violating." "Throw him out on the street, give him the clothes on his back and tell him, see ya around. i We don't have to worry about the rights," he reportedly told his colleagues.

The words "prejudice" and "corruption" do not really convey what family courts are about. They are the linchpin of a massive political machine that thrives and grows by systematically destroying families. Within this machine individual judges are "no more than blind executors of the system's own internal laws," as Vaclav Havel has written of another kind of apparat, laws which are "far more powerful than the will of any individual." What we have, in other words, is a system of bureaucratic terror, the kind of terror that has never before been seen in the United States.

# **The Politics of Family Breakdown**

**How No-fault Divorce Turns Fathers into 'Deadbeat Dads'**

<http://mensnewsdaily.com/archive/a-e/baskerville/02/baskerville022602.htm>

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**Stephen Baskerville, Ph.D, 02-27-02**

Most attempts to address America's family crisis have emphasized the cultural dimension, though increasingly the importance of economic factors has also been recognized.

Less attention has been devoted to the politics of family breakdown. Yet the effectiveness of our other efforts is likely to be limited until we come to terms with the political realities underlying marriage dissolution.

First, the media image many people have of marriages simply and mutually "breaking down" is inaccurate. Under "no-fault" divorce laws, some 80% of divorces are unilateral and over the objection of one spouse.

Contrary to another persistent myth, when minor children are involved, the divorcing parent is overwhelmingly likely to be the mother. Arizona State University psychologist Sanford Braver has shown that at least two-thirds of divorces are initiated by women. Few of these divorces involve grounds, such as desertion, adultery, or violence. The reasons usually given are "growing apart" or "not feeling loved or appreciated." More disturbing, researchers Margaret Brinig and Douglas Allen found that "Who gets the children is by far the most important component in deciding who files for divorce."

No-fault divorce, often blamed for leaving wives vulnerable to abandonment, has left fathers with no protection against the confiscation of their children. No-fault laws were passed not as the result of any popular clamor or following any public debate but largely for the benefit of divorce practitioners. "The divorce laws . . . were reformed by unrepresentative groups with very particular agendas of their own and which were not in step with public opinion," writes Melanie Phillips in *The Sex-Change Society*. "Public attitudes were gradually dragged along behind laws that were generally understood at the time to mean something very different from what they subsequently came to represent."

It is usually assumed that these groups profit from divorce but do not actually create it. Yet any bureaucracy develops an interest in perpetuating and exacerbating the problem it ostensibly exists to solve. By offering incentives to divorce and rewarding the parent who initiates it, divorce courts encourage divorce, which is their bread and butter. In some cases it appears mothers are actually being forced to divorce with threats.

## **Family Court Equals Big Business**

It is striking how little attention is focused on family courts. They are certainly the arm of the state that routinely reaches farthest into the private lives of individuals and families. "The family court is the most powerful branch of the judiciary," according to Robert Page, Presiding Judge of the Family Part of the Superior Court of New Jersey. "The power of family court judges is almost unlimited." Contrary to basic principles of open government, family courts generally operate behind closed doors and seldom record their proceedings.

Dickens' observation "the one great principle of the law is to make business for itself" could hardly be more starkly validated. Nothing requires judges to grant the divorcing parent's request to strip the other parent of his children. Yet they invariably do. One need not be cynical to recognize that judges who failed to reward the divorcing parent would be rendering themselves redundant and denying earnings to a large entourage of lawyers, psychologists and psychiatrists, mediators, counselors, child-support enforcement agents, social workers, and others - all of whom benefit from the ensuing custody battle and also have a strong influence on the careers of judges.

Family court judges are generally appointed and promoted by commissions dominated by bar associations and other groups with an interest in maximizing the volume of litigation. The politics of court appointments operates according to patronage principles that Richard Watson and Rondal Downing, in *The Politics of the Bench and the Bar*, describe as "cronyistic." Political scientist Herbert Jacob has demonstrated how "lucrative patronage positions . . . are generally passed out to the judge's political cronies or to persons who can help his private practice."

Like all courts, family courts complain of being overburdened. Yet it is clearly in their interest to be overburdened, since judicial powers and salaries, like any other, are determined by demand. "Judges and staff . . . should be given every consideration for salary and the other 'perks' or other emoluments of their high office," suggests Judge Page, who urges divorce court judges to increase their business. "As the court does a better job more persons will be attracted to it." A court "does a better job" by attracting more divorcing parents with advantageous settlements.

## **Putting Dad Out on the Street**

The existence and virtually every problem addressed by family court - divorce, custody, child abuse, child support enforcement, even juvenile crime - depend upon one overriding principle: removing the father from the family. "Your job is not to become concerned about the constitutional rights of the man that you're violating," New Jersey municipal court judge Richard Russell told his colleagues at a training seminar in 1994. "Throw him out on the street, give him the clothes on his back and tell him, see ya around. . . . We don't have to worry about the rights."

Once a parent loses custody he becomes a virtual outlaw. His contact with his own children outside authorized times and places

becomes criminalized. He can be arrested for running into his children in public places such as the zoo or church, or for telephoning his

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children when he is not authorized, or sending them birthday cards.

Parents summoned to court are subject to questioning about their private lives and how they raise their children that attorney Jed Abraham has characterized as an "interrogation." Their personal papers, financial records, and homes must be opened and surrendered on demand. Their children may be used as informers.

Anything a parent has said to his spouse or children can be used against him in court. His personal habits, movements, conversations, purchases, and relationship with his children are all subject to inquiry and control by the court. A Virginia father had his visitation reduced when a judge decided soccer was a more important Sunday activity than church. Another in Tennessee faces jail for giving his son an unauthorized haircut. In *From Courtship to Courtroom*, Jed H. Abraham describes how fathers charged with no wrongdoing must submit to "plethysmographs," where an electronic sheath is placed over the penis while the father is forced to watch pornographic films involving children.

The criminalization of fathers is further consolidated through child support burdens, which constitute the financial fuel of the divorce machinery, underwriting divorce and giving everyone involved further incentives to remove children from their fathers.

In the current issue of the journal *Society*, Bryce Christensen of the Howard Center for Family, Religion, and Society describes "the linkage between aggressive child-support policies and the erosion of wedlock." Christensen argues that the advocates of ever-more-aggressive measures for collecting child support have trampled on the prerogatives of local government, have moved us a dangerous step closer to a police state, and have violated the rights of innocent and often impoverished fathers.

Research by Braver and others has undermined most justifications for the multi-billion dollar criminal enforcement machinery. Described by *Front Page Magazine* as "the most important work of conservative social science in a decade," Braver's study showed that no serious problem of nonpayment exists, since "estimated" arrearages have no basis in hard figures but are compiled entirely from surveys.

Child support obligations are determined less by the needs of children than by the politics of interest groups. Guidelines are set not by economists but by the agencies and courts (and even private firms) who enforce and adjudicate them, raising questions about the separation of powers and the constitutionality of the process. The more onerous the child support levels, and the more arrearages, the more demand for enforcement powers and personnel. These groups can create precisely the "deadbeats" on which their livelihood depends.

Federal incentive payments of 6-10% on each dollar collected impel states to channel all child support payments (including current ones) through the criminal enforcement machinery, further criminalizing parents and leading agencies to pursue every dollar they can. The federal government also pays two-thirds of states' collection costs and 90% of computer costs. Federal taxpayers are effectively subsidizing divorce, and laws created to deal with the relatively few men who truly abandon their offspring have been hijacked to build a self-financing divorce machine.

As the logic of involuntary divorce plays itself out, we now find divorce being forced on not only one parent but both. Mothers are not simply being enticed into divorcing with financial incentives; they are being forced into it with threats against their children. Last February, the *Massachusetts News* broke the story of Heidi Howard, who was ordered by the state's Department of Social Services to divorce her husband or lose her children, though the department acknowledged neither parent had been violent. When she refused, social workers seized her children and attempted to terminate the Howards' parental rights. *Massachusetts News* reporter Nev Moore reports hundreds of such cases.

G.K. Chesterton wrote that "the ideal for which the family stands is liberty." It is hardly accidental that a governmental regime founded upon betrayal and broken promises must ultimately depend for its survival on the betrayal of public trust by office-holders. When we not only condone broken promises but marshal the state apparatus to protect ourselves from their consequences we have poisoned the waters of justice and created something very dangerous indeed.

# Letter to Rossiter

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September 6, 2001

Hon. Louis F. Rossiter, PhD  
Secretary of Health and Human Resources  
Office of the Governor  
PO Box 1475  
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Dear Secretary Rossiter,

Your letter of August 28 has left me still more perplexed as to how you claim to justify removing me from a government panel based on the opinions I expressed in The Washington Times.

Am I to conclude that my column has created for you and your fellow officials a "hostile work environment"? Are citizens who criticize government officials or express opinions in respected newspapers now guilty of sexual harassment?

Where can this possibly end, Mr. Secretary? Are citizens who disagree with government policy now liable to legal action from public officials because of the impact their criticism has on government workplaces? Should Virginians interpret your words as a threat of such action if they persist in exercising their right of free speech? Are civil servants now immune from criticism or accountability to the citizens they serve by virtue of their "work environment" or because of how criticism makes them (in your words) "feel"?

Once again I am astounded, this time that you invoke ideologically charged terms to exclude citizens from policymaking and policymakers where the law requires that they be included.

You say you have no intention of suppressing ideas or rigging the panel's recommendations. Yet you make it clear that citizens who make "negative public comments" about government officials are, by that fact alone, unwelcome in the halls of government because of the "environment" their dissent creates. If "people who sometimes behave rudely" are simply expressing their views, as I was, then your definition of rude behavior is wide indeed. Have these citizens violated the law or committed some legal infraction for which they forfeit their right to petition the government? Or are they (like thousands of Virginia parents) simply being declared beyond the boundaries of constitutional protection by the fiat of officials who are trying to insulate themselves from criticism? Since when do we ostracize citizens from public affairs because of subjective evaluations by civil servants that they have been "rude"?

You express concern that I write on subjects you believe to be beyond the scope of the panel's mandate (though ironically you yourself invoke experiences in other panels as a justification for excluding me from this one). This is hardly surprising, since I do frequently publish writings on other subjects. From my c.v. you can see that I have written on politics in seventeenth-century England and religious controversy in fifteenth-century Bohemia, both of which I presume are beyond the scope of the panel's mandate, but you have expressed no concern that these writings disqualify me from serving on the panel to which I was duly appointed.

Despite all efforts at obfuscation, it is clear, as you yourself have expressly stated, that I was removed from the panel for one reason: because I criticized the government. "The decision to rescind was based on your very negative public comments about the panel . . . before the first meeting was even scheduled."

In fact, my column describes the work of the previous panel, conducted in 1999, based on the Minority Report of Barry Koplen, published by that panel itself. Contrary to your assertion therefore, I was commenting not upon a panel that had not yet convened but on one whose work was concluded some two years ago.

It would appear then that you are doing precisely that of which you accuse me: prejudging my performance before I have even taken up my duties. The difference is that you derive your assessment of my future actions from nothing other than my published views, whereas my concerns were based on the past actions of a panel whose duties had already concluded.

Your spokesman reportedly told the press I was dismissed because I "did not display an open mind": "He should have expressed his concerns in the context of the panel and not the press." Yet I am not the one excluding other viewpoints from the panel. This is the argument of tyrants and dictators throughout history: We within the government will determine what is true and fit for the public to hear. Such attitudes are precisely the reason we have and need a free press.

As with most infringements of the First Amendment, it appears that something else is being covered up here. As the Fredericksburg Free Lance-Star recently editorialized, "Baskerville's key point - that when it comes to state-dictated child-support issues the fix is in - is only strengthened when he's sacked for making it."

Your action against me does bear a striking similarity to the punitive treatment of forcibly divorced parents within the child support system administered by your office. Like parents whose private lives are subject to control by the penal apparatus before they have

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done anything wrong - parents placed under custody orders, restraining orders, wage garnishment orders, and more in anticipation of future criminality - I have been removed from the panel before it even meets because of what my published views lead you to fear I might do or say. "The effective application of Soviet police power," wrote George Kennan, "involves the punishment of people primarily for the crimes they have not committed, rather than for those they have - the punishment of those who might rebel, rather than those who do." In an observation that may also be relevant here, Kennan goes on to point out, "It even involves, precisely for this reason, a species of intimacy and collaboration with the real criminal element in society."

What is most disturbing in your correspondence, therefore, may be what you do not say. Throughout this affair you have not indicated the slightest concern over the allegations made by Mr. Koplen and myself, along with numerous other Virginia parents. At least two citizen representatives appointed to government panels by your office have, with the concurrence of parents throughout the Commonwealth, alleged civil rights violations of the most serious order - including widespread incarcerations without trial, charge, or counsel, the wholesale removal of children from legally unimpeachable parents by government officials, and the denial of due process of law to thousands of citizens. All this is in addition to allegations of serious conflicts of interest and ethical improprieties within the government. With one questionable exception, you have not refuted or even addressed any of these allegations. Yet neither have you expressed even the most perfunctory concern over whether there may be truth to these charges, nor have you offered to conduct even a cursory inquiry of the facts to see if they are even partially true.

This silence - along with your move to silence me and intimidate any representative who serves on this panel - is deafening. Not only does it convey contempt for the concerns and freedoms of Virginians. By your silence, reinforced by your action, citizens of the Commonwealth are left with little choice but to conclude that our allegations are valid and that innocent people are indeed being subject to an unprecedented onslaught of bureaucratic terror. They may conclude that you see your responsibility as protecting not the rights and integrity of Virginia's families, but the political chastity of government goons from the "hostile work environment" that predictably arises when they set themselves to the business of taking away people's children.

I realize your administration has inherited rather than created this problem and that similar abuses are rife in virtually every government. It is apparent you have been driven to this action by the logic of a corrupt and immoral system you did not create. This is one more illustration of how the divorce industry is poisoning government at every level. Nevertheless I urge you to act now before the government of the Commonwealth is further compromised. While many have called upon you to resign over this incident, I would urge a more constructive course. Before you and your administration become more deeply embroiled in the destruction of Virginia's families, the exploitation of its children, and the betrayal of its constitutional tradition, I urge you to initiate an immediate investigation into the violations of the constitutional freedoms of Virginia's citizens now being carried out under color of law.

Yours sincerely,

Stephen Baskerville

cc:

Hon. James S. Gilmore, III, Governor  
Hon. Randolph A. Beales, Attorney General  
Wesley Pruden, The Washington Times

## Letter to Editor

Howard University  
Department of Political Science  
Washington, DC 20059

August 4, 2001

Wesley Pruden  
Editor in Chief  
The Washington Times  
3600 New York Avenue, NE  
Washington, DC 20002

Dear Mr. Pruden,

A column I wrote for the Washington Times in June has led to my removal from a government panel in Virginia to which I had been duly appointed. Enclosed is a letter from Louis F. Rossiter, Virginia Secretary of Health and Human Resources, in which he explicitly states that the reason for my dismissal from the Child Support Guideline Review Panel was views expressed in your newspaper. "Upon reviewing your opinions published in the June 17, 2001, Washington Times, we question whether you would be able to work effectively with other Panel members," Secretary Rossiter writes. "I find it difficult to see how you could effectively participate along with representatives of other groups that very likely have different perspectives than yours."

This is obviously a serious breach of governmental ethics. It threatens the integrity of the review process in which I was selected to participate. It also carries implications for the Bill of Rights when citizens can be dismissed from public service solely because of their views published in respected newspapers. (The column has been reprinted in the Fredericksburg Free Lance-Star and is also under consideration at other Virginia newspapers.) I need hardly tell you too that it is an open insult to your readers and your newspaper when views that have been deemed worthy of airing by your editors are then suppressed by government officials in what is ostensibly a forum for reviewing government policy based on a diversity of public viewpoints.

Enclosed is my reply to Sec. Rossiter, along with letters to Governor James Gilmore and Attorney General Mark Earley, setting forth my concerns more fully. It is my conviction that this action is part of a much larger system of government lawlessness that includes not only conflicts of interest, but mass incarcerations without trial, unlawful searches and seizures, the illegal removal of children from their parents, and other serious violations of constitutional rights.

The Times has already published at least two letters to the editor on this matter (also enclosed), and I have seen the article in today's Metropolitan section. Yet I hope you will also consider issuing your own response, in the name of the Washington Times. This is nothing less than a challenge to the role of the Washington Times as a legitimate and leading voice of the community. If the views it publishes are considered beyond the pale of acceptable opinion and dismissed as unworthy of even being considered by Virginia state officials, then those officials are dangerously insulated from the concerns of the citizens they claim to serve.

The Washington Times has already shown great courage and national leadership in publishing on this troubled and secretive underworld of unaccountable government power. I also urge you, as I have similarly urged Governor Gilmore and Attorney General Earley, to conduct a more extensive investigation into ethical improprieties and violations of civil rights within the machinery governing involuntary divorce, child custody, and child support not only in Virginia but nationwide.

Yours sincerely,

Stephen Baskerville

## Professor ousted from child-support panel

**Daniel F. Drummond, Washington Times, 08-04-01**

Virginia Gov. James S. Gilmore III's health secretary has dismissed from a child-support advisory panel a Howard University professor who has criticized the group in an op-ed article in The Washington Times.

Health and Human Resources Secretary Louis F. Rossiter last week dismissed political science professor Stephen Baskerville from the 2001 Virginia Triennial Child Support Guideline Review Panel. He cited a June 17 op-ed article in The Times in which Mr. Baskerville accused the panel of cronyism and of criminalizing fathers.

"I find it difficult to see how you could effectively participate along with representatives of other groups that very likely have different perspectives than yours," Mr. Rossiter wrote in a July 23 letter to Mr. Baskerville.

The Times has obtained a copy of the letter.

Mr. Baskerville, a divorced father of two who lives in Northern Virginia, said he was removed from the panel because of his politically incorrect views about child support and its enforcement.

He also said the law forming the panel calls for disparate points of view among its members.

"It bothers me that the Gilmore administration claims they are being more diverse, and here they are excluding opinions that are not approved of by the government," said Mr. Baskerville, who was appointed to the panel April 27 by Secretary Claude A. Allen. Mr. Allen is now a deputy secretary in the U.S. Department of Health and Human Services.

Richard Parker, a spokesman for Mr. Rossiter, said Mr. Baskerville was not dismissed for his views but because Mr. Baskerville, in assailing the panel, did not display an open mind.

During an appearance Thursday in Springfield, Mr. Gilmore said he was unaware of the situation but doubted that Mr. Rossiter would dismiss Mr. Baskerville solely because of his views.

Gilmore spokeswoman Lila White said the governor, who is also chairman of the Republican National Committee, "is fully confident in his secretary for health and human resources."

Virginia's Division of Child Support Enforcement estimates the state has 200,000 delinquent parents who collectively owe more than \$1.7 billion in support for more than 541,000 children. Last year, the state collected more than \$391 million in support payments.

The 12-member child support advisory panel was formed in 1988 and is required by federal law to meet at least every four years. The next panel will convene this summer.

In a June 17 op-ed article in The Times, Mr. Baskerville said the actions of the 1999 panel amounted to "the foxes guarding the hen house" and that "at least 10 of the 12 members derived income from the divorce system: two judges, four lawyers, a feminist, an enforcement official, two custodial parents, and a legislator."

"All of these people have a stake in encouraging divorce and criminalizing fathers and therefore in making child support as onerous as possible," Mr. Baskerville wrote, adding that the state had an inherent conflict-of-interest in choosing the panel's members.

According to documents provided by Mr. Rossiter's office, five of the 12 members of the 1999 panel are also on the 2001 board.

As a member of the panel, Mr. Baskerville would have represented parents who pay child support. His criticisms of the child support system have appeared in 13 other opinion pieces in The Times and Insight magazine since 1999.

Mr. Parker said Mr. Baskerville should have made his concerns known first to the panel, adding that the 14-year university professor is free to express his views at any of the panel's public hearings.

"Before it even started, he was criticizing it," Mr. Parker said. "He should have expressed his concerns in the context of the panel and not the press."

Mr. Baskerville said his criticisms in his op-ed article reflect a minority viewpoint and should not be construed as an "official comment" on the panel, adding that he hopes to be reappointed. But Mr. Parker said Mr. Rossiter's decision is final.



## Parents Protest Censorship in Virginia

*Virginia Secretary of Health and Human Resources targeted*

**Lowell Jaks, ANCPR, 08- 03-01**

Alliance for Non-Custodial Parents Rights (ANCPR) is urging its nationwide membership to mount a letter writing campaign to protest the removal of parents rights advocate Dr. Stephen Baskerville from the 2001 Virginia Triennial Child Support Guideline Review Panel.

Dr. Louis Rossiter, Secretary of Health and Human Resources in Virginia has informed Dr. Stephen Baskerville that he was rescinding his appointment to the panel because of views expressed by Dr. Baskerville in a recent opinion piece that was published in the Washington Times that was critical of the review process. This situation could have far-reaching national consequences. Dr. Rossiter took over his position when the former Secretary, Claude Allen, left the post to join the Bush Administration. It is also rumored that Nick Young, Virginia Director of Child Support Enforcement may become Federal Director of Child Support Enforcement for the Bush Administration.

The federal and state statutes specifically require that such panels represent a variety of different interests and perspectives. Prof. Baskerville comments, "That is precisely the purpose of the panel, to represent different points of view (but apparently not too different). If the Secretary doubts that my 'opinions' are representative of non-custodial parents, an official of his department told me that I was recommended for the position by more custodial parents than any other

candidate."

John Smith, of ANCPR adds that the Secretary seems "to be speculating that by having a well-educated and articulate man representing the interests of noncustodial parents, that Prof. Baskerville will not be able to confine himself to the issues at hand. At best, this gives the appearance that free speech and free thought will not be tolerated by the commission - something at odds with the American people and the Constitution. At worst, it appears that the commission has already made up its mind, even before it has been established. How can the citizens of Virginia expect any fairness from this commission?"

The position of ANCPR is that publicly instituted child support orders negatively impact children in the long run because theses laws are based on a false and dangerous proposition that you can replace a parent with money. Children don't need more money, they need more time with both of their parents. At no time is this more true than after divorce. Excessively high child support orders provide a financial incentive to divorce, which then results in far too many children losing all contact with their non-custodial parent, predominantly their fathers. Lowell Jaks, Director of ANCPR, adds, "After 26 years of the public policy failure known as child support, perhaps Prof. Baskerville's 'different perspectives' are exactly what is needed. Noncustodial parents' lives are negatively affected by child support guidelines much more than custodial parents. A myriad of social safety nets are available, if needed, for custodial parents. Jail and homelessness are the options provided to noncustodial parents. Custodial parents are provided with an unlimited amount of legal, investigative, administrative and prosecutorial services and are encouraged to use them often. Noncustodial parents are offered no such services."

Ironically, the article for which Prof. Baskerville has been dismissed was less on child support as such than on government ethics in Virginia. The article charged that free government and constitutional rights have been corrupted by the child support system. Secretary Rossiter has proven Prof. Baskerville's charges by his action, which shows that the corrupting influence of child support enforcement now reaches to the highest level of Virginia government.

# Secretary of Virginia

Commonwealth of Virginia  
Office of the Governor  
James S Gilmore III, Governor

Claude A. Allen  
Secretary of Health and Human Services

July 23, 2001

Stephen Baskerville, Ph.D.  
2901 Pine Spring Road  
Falls Church, Virginia 22042

Dear Dr. Baskerville:

In accordance with state and federal statutory mandates, Virginia must conduct a review of its Child Support Guideline, currently required triennially. Certain government and special interest groups must be represented on the panel convened for this purpose. To accomplish this for the upcoming guideline review, we invited nominations of persons believed by advocates of such groups to be able to represent their particular interests. Your name was suggested, along with a number of others, as a potential noncustodial parent (NCP) representative, and was submitted to this office for review and final selection.

After looking over the credentials that you sent demonstrating your qualifications to serve on this panel, we offered you appointment as a NCP representative on April 27, 2001, which you accepted. However, upon reviewing your opinions published in the June 17, 2001, Washington Times, we question whether you would be able to work effectively with other panel members.

The sole purpose of the panel is to review the existing Virginia Guideline as set forth in Code of Virginia 20-108.1 and 20-108.2 I understand that some interest groups take major issue with some of the premises of the child support enforcement laws and regulations, as well as implementation practices. That certainly is their right. However, the panel is not the appropriate forum for addressing these issues, but rather the U.S. Congress.

I have read your statement in the June 17, 2001, Washington Times, and the criticism of the motivations of those who either sit on the panel or administer the program. Your statement that "The review panel was selected by the director of the state's Division of Child Support Enforcement (DCSE)..." is erroneous. Factually, the Director submitted only a nominee to represent the Executive branch. He was unaware of all other nominees for the panel.

From this, I find it difficult to see how you could effectively participate along with representatives of other groups that very likely have different perspectives than yours, in a cooperative effort to improve Virginia's existing Guideline within its existing legal and regulatory parameters.

Accordingly, I believe it to be in the best interest of all concerned to rescind your appointment to the 2001 Virginia Triennial Child Support Guideline Review Panel. Thank you for your willingness to participate, even if in a context counter to the panel's purpose.

Very truly yours,

Louis F. Rossiter, Ph.D.  
Secretary of Health and Human Resources

LFR/jsc

c: Bill Brownfield  
Panel Liaison

# Are Mothers Getting A Bad Deal?

<http://www.pbs.org/thinktank/transcript964.html>

## Think Tank with Ben Wattenberg, 07-04-01

MR. WATTENBERG: Hello, I'm Ben Wattenberg. Great children, a great career. A great family. Today's modern woman can have it all, can't they? A new book by Ann Crittenden says not really. Crittenden argues that despite recent economic gains, motherhood is still a pricey and dicey proposition. In order to have children, a great joy and fulfillment says Crittenden, women take a big cut in pay, hurt their future job prospects and are often ignored. It's not right. It's not fair. Do mothers give up too much? If so, what can be done about it?

To find out, Think Tank is joined by Ann Crittenden, author of *The Price of Motherhood: Why the Most Important Job In The World Is Still The Least Valued*. Christina Hoff Somers, senior fellow at the American Enterprise Institute and author of *The War Against Boys: How Misguided Feminism Is Harming Our Young Men* and Stephen Baskerville, professor of Political Science at Howard University. The topic before the house: Are Mothers Getting a Bad Deal? This week on Think Tank.

The data about American women reflect remarkable change. Since 1960, the percentage of women active in the labor force has climbed from 38 percent to 60 percent. Women are earning more too and often have career prospects nearly equal to those of men, unless says author Ann Crittenden, they want to be mothers. In that case, she argues women face a mommy tax as a result; more women are foregoing having children altogether. The proportion of women who remain childless into their forties has almost doubled since 1980, rising from 10 percent to 19 percent. Crittenden writes favorably of a variety of potential fixes, including a generous paid family leave allowance, a shortened work week, universal pre-school, and most important, a government funded salary for mothers. She points to France and Sweden as models of mother-friendly governments. Her critics applaud motherhood, but also salute fathers and are skeptical of more government.

Ladies, gentleman, thank you for joining us. Anne Crittenden, suppose you drive the bus for a while. This is your book, I spent all weekend and up to late last night reading it, it's very interesting. It's going to be very controversial. I have some things to controverse about it, but let's hear it from you. What's it about? What's the thesis?

MS. ANN CRITTENDEN: Okay, I'm really trying to make two major points in this book and the first is that raising children is without any question, the most important job in the economy. It's creating what economists call human capital, who are the workers, the taxpayers, the future of the country. So it's serious economic, highly skilled work. Number two point I want to make is: That this very heart of the economy is given no economic recognition at all. So I go through in the book, showing how no major institution really puts economic value on what is very material work. It's basically valued as zero. So that's-those are my-that's my thesis. And that this has, you know, serious ramifications for mothers, for children and for the economy itself.

MR. WATTENBERG: Okay. Does anyone on this panel disagree with the idea that raising a child is the most important job in the world?

MS. CHRISTINA HOFF SOMMERS: Well, it's a very important job. There are many jobs, it's a cooperative effort in creating a dynamic economy and I've always thought that, for example, a traditional family where one person, usually the mother, stays home and takes care of the children and the father goes out and work, or you can have reverse sometimes, men stay home. That seems to work very well, because it is very, very demanding.

MR. WATTENBERG: But then-let me rephrase it. No one here disagrees with the idea that motherhood is very important.

DR. STEPHEN BASKERVILLE: No, absolutely not.

MR. WATTENBERG: Okay.

DR. BASKERVILLE: I would argue that fatherhood is in some ways just as important-

MR. WATTENBERG: About that-

MS. CRITTENDEN: Raising kids is the way I would put it. Whoever does it.

MR. WATTENBERG: We're going to come to that. Now, the idea that mothers get no recognition that is in some large measure a data phenomenon, you say we construct this artificial number called the Gross Domestic Product and we don't count the value of women's labor, because it is an account system of what's bought and what's sold.

MS. CRITTENDEN: Right. It's a money transaction too.

MR. WATTENBERG: So that's what it is. It's not-what's not bought and not sold, why does that trouble you so much?

MS. CRITTENDEN: I, myself, started out thinking it's not a really particularly big deal. I came to think it really is, because other countries, other than the US really do have begun to measure it, and they are finding out that the amount of work in the unpaid economy is about one-third to forty, even fifty percent in some countries, the amount of work in the paid economy. When you see the aggregate picture, all this unpaid labor, which mostly women are doing and then you take the aggregate income women are earning, you see that they work longer hours than men in every country in the world and they make less money than men in every country in the world. So that's kind of important if you're looking at social questions.

MS. HOFF SOMMERS: I'm just a little confused because there's a lot of unpaid labor. For example, the value of friendship-what friends do for one another is not part of the-

MS. CRITTENDEN: Usually the definition of labor does not include friendship-

MS. HOFF SOMMERS: No, a friend-

MS. CRITTENDEN: It's something-

MS. CRITTENDEN: A friend can give advice, you sometimes provide the services of a psychologist or a chauffeur or a parent. Usually if it's work, it's something you can pay someone else to do for you. It's usually agreed that about 80 percent of the unpaid work going on is associated with children, with raising kids.

DR. BASKERVILLE: This may be true. I think there's a danger here and a too narrow definition of what constitutes raising children. I mean, there are many things any parent can tell you that raising children requires enormous sacrifice and enormous costs to both parents. These costs are not limited to mothers. Mothers may take a cut in salary. Fathers may very well have to take-work at a job that's boring or dull, has long hours in order to provide for his children.

MS. CRITTENDEN: Mothers don't have any long or boring jobs-

DR. BASKERVILLE: Fathers-

MS. CRITTENDEN: Never have long and boring jobs. I mean-

MR. WATTENBERG: The point you make in the book is that it is in fact the most interesting and fulfilling job in the world.

MS. CRITTENDEN: It's also hard work.

MR. WATTENBERG: Of course it's hard work, but-

MS. CRITTENDEN: But fulfilling-if we had a system in marriage where the income coming in to the adults legally belonged to both adults and to the children, each one had a claim on it, I think it'd be a fairer system in what we have now.

DR. BASKERVILLE: But this seems to be contrary to what the gist of the rest of your book?

MS. CRITTENDEN: Not really.

DR. BASKERVILLE: You seem to be arguing that mothers should have an independent; you used the word independent quite frequently-

MS. CRITTENDEN: Well-

DR. BASKERVILLE: Independent of men, independent of fathers-

MS. CRITTENDEN: Well, in the context-

DR. BASKERVILLE: Independent of fathers-

MS. CRITTENDEN: Look-

DR. BASKERVILLE: And what you seem to be doing is separating the work that a woman-typically mothers do from which fathers do and insisting that the mother's work should be considered to receive legal recognition, should be regulated by the state-

MS. CRITTENDEN: No. Come on, back off. I think mothers should be equal in the family. I'm not talking about the state at all. My point is this: We have a system, a very individualistic system where an income belongs to he who earns it. He who earns it owns it is the shorthand and that means that the partner, male or female, I'm not talking gender here. The partner, who decides to cut back on their income in order to the work it takes to raise a family, becomes economically vulnerable. I would argue with you, I'm sure, that an intact marriage, this is no problem. If it's a good marriage, what's the problem?

DR. BASKERVILLE: Now, you're getting it-MS. CRITTENDEN: You know, we're sharing it. Most people share their income. Most men beat their brains out, share their income with their wives and children, but we just so happen to live in an individualist society where half of the marriages end in divorce.

DR. BASKERVILLE: Precisely.

MS. HOFF SOMMERS: One question I have the book is why and with some orthodox feminists in general, is that why wouldn't the women's movement be more concerned with stabilizing families with a discouraging divorce. We've had a divorce revolution-

MS. CRITTENDEN: Oh, I really am. I don't speak for anybody but myself, and I really think one of the ways to stabilize it and I've been told this by a lot of people in the family law system, is to have something that would require more economic equality after divorce, while children are minors and that would be a huge disincentive to divorce, particularly to the primary bread winner.

DR. BASKERVILLE: But this-

MS. CRITTENDEN: Because it's going to cost them a lot more-

DR. BASKERVILLE: This is precisely opposite to what you're saying in the book.

MS. CRITTENDEN: No, it isn't.

DR. BASKERVILLE: It's predicated-

MS. CRITTENDEN: Say that-

DR. BASKERVILLE: The whole point is predicated on the existence of divorce. I mean-the economic vulnerability which you claim that mothers have is only becomes an issue as you just said a moment ago when there's divorce. I mean, divorce is the subtext that runs through this entire book. It's all predicated on what is position of the mothers when they get divorced and most divorces are filed by mothers.

MS. CRITTENDEN: I really shy away from making judgments on who's to blame in divorce. I didn't get into child custody issues. I think we don't know it. It's not my business.

MR. WATTENBERG: Excuse me-

MS. CRITTENDEN: But I'm talking about the economic vulnerability of the caregiver because we have now-we had a phrase called maternalism-feminization of poverty. I think now we can just call it maternalization of poverty.

DR. BASKERVILLE: But how does poverty come become an issue unless you're talking about single parent households? I mean, you're talking about an entire family, then it's not a gender issue, if you're talking about intact families. In fact, we know that the greatest anti-poverty program is in intact family.

MS. CRITTENDEN: I think the greatest poverty-

DR. BASKERVILLE: Child poverty is not a serious problem involving-when you're talking about entire families.

MS. HOFF SOMMERS: I would agree the divorce system is poverty-

MS. CRITTENDEN: It creates poverty-

DR. BASKERVILLE: It does create poverty and what we are creating here is added incentives for divorce. Financial incentives for divorce-

MS. CRITTENDEN: I had a guy call me from the Brooklyn Court. He's worked in the Brooklyn system for 30 years. He said these guys-he's typically working with minorities. The guy is a transit worker, whatever. There incomes about \$40,000. There are two kids. The wife makes maybe 10 or 15. Somebody is after him because he's a good, solid breadwinner. He's tempted, he leaves his marriage.

DR. BASKERVILLE: This is not what is causing most divorces-

MS. CRITTENDEN: She goes into poverty-

DR. BASKERVILLE: I want to go-

MS. CRITTENDEN: If these guys tell me, if these men had to pay equal standard of living for their children after divorce, they would think far more carefully.

MR. WATTENBERG: But Stephen is saying that that most divorces are engendered by women. You know that is fact-MS.

CRITTENDEN: I think we know that-

MR. WATTENBERG: I read about 90 percent of this book. I didn't read every page. Maybe you mentioned it somewhere, but you do not mention that fact and the clear implication-

MS. CRITTENDEN: I don't think we know that fact-

MR. WATTENBERG: The clear implication is that divorce is some almost cavalier act by a guy-

MS. CRITTENDEN: I said that? I don't say that-

MR. WATTENBERG: I'm telling you my sense of what you wrote, that it's almost cavalier act by a middle-age guy whose found another honey and says, see ya. And that is-

MS. CRITTENDEN: Well, in my age, that's unfortunately common.

DR. BASKERVILLE: It is not common, excuse me. There have been numerous studies. Sanford Braver, Brenick and Allen-

MS. CRITTENDEN: I've read all-

DR. BASKERVILLE: This is not disputed-

MS. CRITTENDEN: I agree with-

DR. BASKERVILLE: This Australian study; there's no dispute that when young children are involved, the divorces are filed overwhelmingly by mothers and this whether-it's not just the filing of the divorce, but the initiation of the divorce itself.

MS. CRITTENDEN: I don't think this is to the subject-

DR. BASKERVILLE: This is found by the surveys of couples-

MS. CRITTENDEN: The subject is what happens when the divorce occurs-

DR. BASKERVILLE: No, it's precisely the subject-

MS. CRITTENDEN: That's the subject of my book. I'm not analyzing divorce in this book.

MR. WATTENBERG: I want to ask a question. You said in this discussion that if a marriage remains whole that's not really the problem, yet there are long, extended passages in your book where you talk about intact marriages and you say the fact that women are not getting money, this changes the balance of power between men and women and that women again within a whole marriage, get the short end of the stick.

MS. CRITTENDEN: I say that what commonly happens in this country when people have children is the woman will cut back on her paid labor. They're working. They have kids.

MR. WATTENBERG: Right.

MS. CRITTENDEN: The majority either stop work-paid work altogether, or they work part time. That amounts to more than half of all mothers, although the full term working is increasing all the time. But when that happens, the women's income falls, obviously. They become dependent on the bread winner for their standard of living and I do feel that that has a psychological effect, as well as a loss effect for professional women, not necessarily if you're not crazy about your job to begin with, which is maybe most people. And I think the feeling would be ameliorated a great deal if we had fairer protections in divorce for the care giving and the bread winning partner. If they were really pairs financially, I think we'd have a lot better situation-for fairer situation.

DR. BASKERVILLE: This is very disturbing. There's one phrase that runs through the book which is very troubling and this runs through the whole family law issue and that is, this term primary caregiver versus bread winner, I don't believe that it's role of government officials, and I think we're getting into something very dangerous here when we talk about government officials going into peoples' homes and deciding who is the primary caregiver. Who does this job? Who changes the diapers? Who earns the living? Who fixes the faucets? This sort of thing.

MS. CRITTENDEN: Nobody's talking about that.

DR. BASKERVILLE: This is. We are conducting-MS. HOFF SOMMERS: Where I would agree a little bit is that some of the policies that you're asking for are in place in the European countries, but they have very high tax rates and they do not have-I heard recently on National Public Radio some economists talking about the United States having entered a golden age of female entrepreneurship. That the economic opportunities for women are unprecedented. Young women in Europe, in Germany, in France, don't have those economic opportunities. Now, I know they have some protections. They have a nanny state. They're protected in much more elaborate ways than we are, but yet we have the most dynamic economy the world has ever seen. The young women in-I teach at a university and the young women in my classes are more ambitious and more-have more possibilities than young women there and there's so much to celebrate. Yes, they're going to have to do some juggling and if they want to have children, they're going to draw back, but there's so many benefits from that.

MR. WATTENBERG: Anne's book viewed in a different way is a pro-natal book, that is it is trying to make it easier for this society to go about allowing people who want to have children to be able to have children and I think everybody, liberal and conservative, agrees. It is difficult now. The childcare deduction has eroded the tax credits and fully phased in. Do you think that her proposals make some headway in that direction?

DR. BASKERVILLE: I think some of the proposals in there are yes, I would say would be desirable. I would like to see a shorter workweek. I would like to see some parental leave for mothers and fathers.

MR. WATTENBERG: Paid.

DR. BASKERVILLE: Paid, some. I think these things have costs though and we need to debate fully what the costs of these things are. There's nothing free in this. We've got to accept the fact that people have accepted since the beginning of civilization that children do have costs. There are opportunity costs. There are sacrifices that parents have to make. The sacrifices typically that mothers make are different from the sacrifices that fathers make and that's probably going to continue as Ms. Crittenden points out for a while, but there's no way that we can simply say that one parent makes a disproportional amount of sacrifices in favor of the children. And that we need to invite the state in to regulate the family further to even out these supposed inequalities. This is a prescription-

MS. CRITTENDEN: I don't understand why you say these things-

DR. BASKERVILLE: This is a prescription for enormous state intervention-

MS. CRITTENDEN: I don't ask the state to regulate the family-

MS. HOFF SOMMERS: Everybody's got rules and regulations-

MR. WATTENBERG: Excuse me, but you have in here a vast panoply of suggestions-

MS. CRITTENDEN: Look, Ben-

MR. WATTENBERG: Let me just finish then, just hold on a minute. Each of which involved greater state regulation and change.

MS. CRITTENDEN: Okay, let's take this-

MR. WATTENBERG: I mean it's not Uncle Sam, it's Aunt Samantha and Auntie Sam is going to take care of these things-it's going to provide greater daycare services. It's going to provide children's-

MS. CRITTENDEN: No, it's going to-

MR. WATTENBERG: I think is what you're saying-

MS. CRITTENDEN: It's going to help pay the bills. Let me just put it this way: I haven't heard you complain about the kind of services we provide the members of our military. Traditionally, men serve the state by protecting us against external enemies. Great. Traditionally, women have served the state while protecting us against internal enemies. Raising the kids. My fundamental bottom line is those two services are national services and they are equal and it's-

MS. HOFF SOMMERS: A very odd analogy-

MS. CRITTENDEN: Vastly different-

MS. HOFF SOMMERS: A very odd analogy to compare soldiers and mothers-

MS. CRITTENDEN: I don't think so. I think it's a good one and I would also compare with farmers. Don't you think raising kids is as important to raising soybeans? And how many tens of billions of dollars do we throw at farmers, just so they don't lose their income? We don't do that for children and we are shooting ourselves in the foot when we do that.

MR. WATTENBERG: Well, of course we do it for children-

MS. CRITTENDEN: Because kids are our most important crop-

MR. WATTENBERG: We do it through a hundred tax policies, including, for example, the home mortgage deduction. I mean-in order that people can own their homes with three or four bedrooms so their children can have a bedroom and you get a tax deduction. There are hundreds if not thousands-

MS. CRITTENDEN: Which is a middle class-

MR. WATTENBERG: Excuse me there are hundreds if not a thousand pieces of this-I mean, look, between women and children, you're talking about two-thirds to 70 percent of the people in America. This is-of course they're being benefited and armed. I don't see how you can isolate this thing.

MS. HOFF SOMMERS: And I also want to say soldiers live often in very threatening and dangerous environment. It's a massive sacrifice. Whereas having a child and raising a child is constitutive of the good life. It's part of-

MS. CRITTENDEN: No, I really differ with you. We don't value what women have historically done as much as we value what men have historically done. That's where I really-

MS. HOFF SOMMERS: Well, you know where I do agree in the sentiment of the book is what for me it was very heartening to find, finally, a feminist saying something good about having children and raising children.

MR. WATTENBERG: I agree with that.

MS. HOFF SOMMERS: We've had a couple of decades of women's movement that told us a lot about how to get rid of it, how to have an abortion, how to be sterilized, how to have 24 hour a day daycare, so you don't have to-the women's movement has been very good about telling us how to distant ourselves from children and it's wonderful to find finally someone saying-

MS. CRITTENDEN: Let's have another debate. Let's talk about it differently, because we all can kind of agree, kids are really important and raising them is important and we have to look at just exactly how we do deal with this, fathers as well as mothers.

MS. HOFF SOMMERS: The problem is even deeper. Let me just say one thing: Is there's an anti-motherhood sentiment that it's so powerful in this society-

MS. CRITTENDEN: Well that was-

MS. HOFF SOMMERS: For example, Paul Vitz is a psychologist at NYU, did a content analysis of textbooks and readers that children use. You cannot find a picture of a mother with a child. You're more likely to see a woman with a jackhammer in an American textbook. It has simply been-and partly because the feminists said well this stereotypes women. We don't want to have celebrate a woman with a child. I think we have to move away from that and recognize that having a family and having children is part of a good life for most people, not everyone, but for most people-

MS. CRITTENDEN: But you know, it's not at all the feminists who are opposed to that now, it's the anti-child-this child-free group. That's the only group I run into that is very vociferous-

MR. WATTENBERG: Would you call-

DR. BASKERVILLE: I think there's a larger issue here that needs to be taken into consideration and that is I'm all in favor of extolling motherhood and fatherhood as anybody else here. But what we're talking about is a general trend here, which is denigrating parenthood and turning parenthood, especially fatherhood over to the state for control. We are substituting the state first for the father and increasingly, it seems like we are substituting the state for the mother. And parents generally are losing not only rights but their



responsibilities in some ways to the power of the state.

MS. CRITTENDEN: Could you give one specific example?

DR. BASKERVILLE: One specific example? The whole issue that you go into one chapter on the whole family law-

MS. CRITTENDEN: Give me an example of the state dictating families, what they do?

DR. BASKERVILLE: Well, the whole issue of the whole family law system involves the takeover of the parental role, the removal of the father-

MS. CRITTENDEN: No, let's be very specific-

DR. BASKERVILLE: The removal of the father from the family. I mean this is what we're basically talking about here-

MS. CRITTENDEN: Nobody is removing the father from the family-

DR. BASKERVILLE: The entire divorce system is predicated on removing the father from the family.

MR. WATTENBERG: There is a whole vast body of literature, just as there is on your side in these various divorce proceedings. You have community property. You have marital property. You have child support. You have alimony. You have paternity. It is not as if these women are left defenseless.

MS. CRITTENDEN: They are left poor though, and I think you can finally cut through all the organs by just looking at the numbers at the end of the day, and that is divorced women, single and divorced women are after a divorce, 40 percent of women become poverty level. We're seeing the impoverishment of women and children under radically reduced circumstances.

MR. WATTENBERG: There are costs-

MS. CRITTENDEN: So and that's not the case of men and I'm sorry, I don't want that to happen to men. I don't want that to happen to anybody-

MR. WATTENBERG: Excuse me. Hold it. There are parts of your book and you sort of indicated it just now, that I must say and I say I salute a lot of what you write and say that are anti-male. Where you-well, excuse me, where you simply say that the biological facts are these men don't care as much about their children as women do. If you give men the money they spend it on things like other babes and drinking. If anyone ever said those things about if a man wrote that about a woman, we'd have the NOW pickets out there. You'd have big S for sexist, you know, branded in scarlet on your forehead. Now, are those sexist attitudes on your part?

MS. CRITTENDEN: No, they are absolutely not. I'm happily married for more than 20 years and my husband supports everything I have to say-

MR. WATTENBERG: You can be happily married-

MS. CRITTENDEN: And I would never write such a thing. But what I'm reading, you're talking about something Larry Somers has given lecture after lecture to the Third World governments about. There is 30, 40, 50, 60 years of research as high as this ceiling, showing that resources in the hands of mothers is more likely to be spent on children's health and education, then resources in the hands of fathers. I would never, ever have the nerve to say such things if there weren't that kind of data. I have read too many studies. It's there. That's the data-

MR. WATTENBERG: And therefore-

MS. CRITTENDEN: I'm sorry about that but it's the truth.

MR. WATTENBERG: Women are better than men?

MS. CRITTENDEN: No, I absolutely do not think so whatsoever and, you know, I go-women are not higher moral creatures, but I think for various reasons, whatever we don't know the reasons, cultural, acculturation, maybe some kind of fundamental maternal hormonal instinct at early age, I don't know. This is the fact.

MR. WATTENBERG: Let's just go around the room real quickly and I need brief answers. What should happen? What will happen?

MS. CRITTENDEN: Well, I think what will happen is what should happen. I think as women achieve more power and more stature in society, they're going to write the rules to make it easier to combine being part of the wider world and raising children and having time and resources for children.

MS. HOFF SOMMERS: I think the rules will change and I think more and more young women are going to decide that having a family and taking care of a home is not a bad choice, but how do we subsidize it-not necessarily European-style socialism. It'll have to be a new more creative, dynamic and local solution.

DR. BASKERVILLE: We should do everything we can to encourage mothers and fathers and parents generally, but if we're going to subsidize the family, if we're going to involve the state in the family, we need guarantees that mothers cannot take the children and run whenever they feel like it.

MR. WATTENBERG: Okay. Thank you Stephen Baskerville, Anne Crittenden, Christina Hoff Sommers. Thank you. Please remember to send us your comments via e-mail. For Think Tank, I'm Ben Wattenberg.

# Appetite for Family Destruction

## Washington Times

Stephen Baskerville, Ph.D, 06-17-01

A little-noticed commission is beginning work in Virginia that has major implications nationwide for both families and governmental ethics. Every four years, each state is required to review its guidelines for child support. In Virginia the outcome may be less remarkable than the process.

The last review in 1999 was a classic case of the foxes guarding the hen house. The review panel was selected by the director of the state's Division of Child Support Enforcement (DCSE), and at least 10 of the 12 members derived income from the divorce system: two judges, four lawyers, a feminist, an enforcement official, two custodial parents, and a legislator. All these people have a stake in encouraging divorce and criminalizing fathers and therefore in making child support as onerous as possible. "By virtue of the Director of DCSE deciding its make-up, conflict-of-interest concerns are both evident and also reflective of much larger improprieties."

The words are from the minority report of Barry Koplen, the lone representative of parents paying court-ordered child support. A full-time clothier, Mr. Koplen was appointed only after fundamental decisions had already been taken and by his own account had neither the time nor the expertise to attend to his duties. Yet he was told he would serve or no one would.

Mr. Koplen set about to educate himself on the intricacies of the child-support industry. The result was a scathing indictment of how powerful interests can hijack the machinery of government not simply to line their pockets but to seize children and used them as weapons against law-abiding parents. Mr. Koplen accused the commission of nothing less than "criminal wrongdoing" in jailing parents "without due process of law." He discovered a political underworld where government officials are feathering their nests and violating citizens' rights while cynically proclaiming their concern for children. "This is frightening in its disregard for due process," Mr. Koplen wrote. "The violation of constitutional rights [is] perpetrated by both our courts and the DCSE."

The review process was hardly better than the system itself: "conducted in a manner so questionable as to cast doubt on its credibility," said Mr. Koplen. "We had been asked to blind ourselves to the illegal incarceration of thousands of citizens in our state, to the harassment and pursuit of parents by attorneys on loan to DCSE." By controlling this panel, judges, lawyers, and plainclothes police are making the same laws they adjudicate and enforce.

Perhaps most questionable is that the system used in the Old Dominion (and some 30 other states) is largely the creation of one man, who also happens to preside over the nation's largest private child support contractor. Robert Williams created Policy Studies Inc., to compound the ethical conflict, while working as a paid consultant to the Department of Health and Human Services, which in turn imposed his system on the states. "His company's participation in child support guideline determination and the profit it derives from its child support collection division points to an obvious conflict of interest," Mr. Koplen noted. "His proposal's higher numbers meant more collections" for his company.

So why should we care about punitive burdens on divorced fathers? If they don't want to pay child support perhaps they shouldn't have gotten divorced.

That is precisely the point: Most noncustodial parents are divorced involuntarily and without legal grounds. The same interests represented on the review panels can force divorce on the parents whose property they then confiscate – for the children, of course. This makes unilateral divorce very lucrative for all concerned. High guidelines, Mr. Koplen points out, "create an irresistible incentive to divorce for the party most likely to be rewarded with child custody and child support." Coerced child support, along with forced attorneys' fees, is the financial fuel of the divorce machinery.

Academic studies by Sanford Braver, Margaret Brinig and Douglas Allen, and others confirm that the parent expecting custody usually files for divorce. Divorcing parents can then plunder their spouses by an assortment of charges that are "punitive and inappropriate," as Koplen puts it, and which render them subject to "incarceration and criminalization." This "civil rights nightmare" is perpetrated under the guise of providing for children by the very people who are forcibly destroying their homes. The divorce industry, in short, has turned children into cash cows.

Similar chicanery operates in other states. "The commissions appointed to review the guidelines have been composed . . . of individuals who are unqualified to assess the economic validity of the guidelines, or who have an interest in maintaining the status quo, or both," writes William Akins, a Georgia district attorney writing in the Georgia Law Journal.

This time around the eyes of the nation will be on Virginia to see if it will continue to enrich the divorce industry by engineering the destruction of its children's homes.

A single, seemingly powerless person who dares to cry out the word of truth and to stand behind it with all his person and all his life, ready to pay a high price, has, surprisingly, greater power, though formally disfranchised, than do thousands of anonymous voters."

-- Vaclav Havel

## Dad 'feels like dirt'

*Father has no right to give own sons his surname: Court Andy Ivens*The Province (Canada)

**Stephen Baskerville, Ph.D, 05-24-01**

Arlen Redekop, The Province / Darrell Trociuk has lost a court battle to name his triplet sons.

A Delta man who lost a fight to have his three sons bear his last name says a three-year court battle has left him feeling "like dirt."

In a 2-1 decision issued yesterday, the B.C. Court of Appeal upheld a portion of the Vital Statistics Act that gives a mother sole power to name her children.

"I think all Canadians should feel outraged," Darrell Trociuk said yesterday.

Although he won joint guardianship, a judge ruled two years ago his former girlfriend, R.E., should have sole custody. Trociuk gets six hours a week with his five-year-old triplets at their mother's home on Vancouver Island.

"I know a sperm donor who gets more access [to his offspring]," said Trociuk.

He was by R.E.'s side through a difficult pregnancy compounded by her debilitating illness. The boys were born prematurely, weighing less than three pounds.

Trociuk, now 36, and R.E., 42, had a relationship for more than year. But as soon as Andrew, Ryan and Daniel were healthy enough to leave hospital, Trociuk says everything changed.

For three months, he thought she would agree to give the boys a hyphenated last name.

Then he learned she had registered the boys under her own last name five days after they born.

R.E. left the Lower Mainland without telling him where she was taking the boys.

When he found her living on Vancouver Island, he said, she told him "to go to hell."

"She said if I didn't like it, she'd say I was being violent and stalking her."

Still, Trociuk has made regular child-support payments of \$209 a month, proportionate to his small income as a landscaper.

"They are the most valued thing in my life," Trociuk said of his boys.

Two years ago a B.C. Supreme Court judge appointed lawyer Glen Bell to represent the boys.

"The father has always treated the mother with respect, if not affection, indicating that he is conscious of the importance to the children of a respectful relationship between their parents," Bell's report said.

He suggested that "joint last names are consistent with that relationship and will symbolize it in the minds of the children."

Trociuk is angry the majority took one side in what appears to be a battle of the sexes.

"If a dad took the kids and told the mother to go to hell, the public would go crazy. But they do this to a dad, and nobody barks?" he observed.

"I'm not saying every dad should have the right [to give his children his last name]. I'm saying the mom should have a reason" to stop him.

R.E. swore an affidavit accusing Trociuk of being violent while he was at her bedside in B.C. Women's Hospital. He used Freedom of Information legislation to obtain log books of nurses and security guards at the hospital to prove his innocence.

"She was proven to be a liar many times in court, but she still got sole custody and this is what I got."

Trociuk's parents are in failing health. One of his three sisters has never seen her nephews, another has seen them once and the third sister has seen them twice.

"This has happened not just to me, but to a whole side of the family," he said.

In her dissenting opinion, Justice Jo-Ann Prowse said it is unfair to place Trociuk in the same category as fathers who have "raped, assaulted [or] otherwise abused or abandoned the mother."

Justice Prowse said the law unfairly allows R.E. to deny Trociuk "rights commonly associated with parenthood. "This is a denial of rights which would likely not be tolerated by society if the roles were reversed and it was the mother who was unilaterally excluded from the registration and naming process."

### HOW THE JUDGES ARRIVED AT THEIR DECISION

Excerpts from the judges' reasons for judgment:

Madam Justice Mary Southin, for the majority:

"The legislature no longer considers that marriage ... is a social institution of paramount or, ... any importance. ... The appellant is in no worse legal position than any other father."

"... The legislature has left no 'gap' in this question of a child's name and surname. It has decreed that fathers have no rights."

Madam Justice Mary Newbury, concurring:

"I acknowledge that the comprehensive plan adopted by the legislature ... will not work perfectly in every case. ... But there is good reason to believe [giving fathers an absolute right to be included in the registration] would cause far more harm than good and would be unreasonable in most cases where the problem arises."

Madam Justice Jo-Ann Prowse, in dissent:

"The implications of this decision extend to all fathers and their children."

"Thus, for example, fathers who are willing to participate in their children's lives by providing financial and emotional support are excluded from the registration and naming process to the same extent as fathers who were little more than 'sperm donors,' or who impregnated the mother as a result of a sexual assault or incest or in the course of an abusive relationship."

"In many cases, the birth and naming of a child are the occasion of great ceremony involving the gathering together of family and friends. ... In many other cases, the naming of a child is a matter of family pride and honour associated with passing on, not only the family name or names, but also the family heritage from one generation to the next."

The law "withholds a benefit from fathers in a manner which has the effect of signalling to them and to society as a whole that fathers are less capable or less worthy of recognition or value than mothers, and that they are regarded as being equally deserving of concern, respect and consideration."

# The Nightmare of Family Court

## Sunday Independent (Britain)

Stephen Baskerville, Ph.D, 04-22-01

The ordeal of Mark Harris, the father sent to Pentonville prison for ten months for waving to his children, is not an aberration. It is part of a growing international trend whereby fathers (and sometimes mothers) have been arrested for sending their children birthday cards, calling them on the telephone, or seeing them in church.

Last year a father in New Hampshire was beaten to death by jail guards after being incarcerated without trial for allegedly missing a child support hearing of which his family claims he was never notified. A father in British Columbia was evicted from his home, cut off from his children, and ordered to pay more than twice his income in child and spousal support plus court costs for a divorce to which his never consented. He hanged himself from a tree. A mother in Massachusetts was recently told by social workers to divorce her husband or they would take away her children, and they did. In the same state a fathers' rights activist claims he was dragged from his car and beaten by what appeared to be plainclothes police and told to stop making trouble for the courts or he would never see his son again.

These cases are the tip of a huge iceberg. In the United States, Canada, Australia, and beyond both fathers and mothers are losing their children in large numbers and turned into outlaws. They are subjected to questioning about their private lives that attorney Jed Abraham has termed an "interrogation" and incarcerated without trial. They are jailed for failing to pay lawyers and psychotherapists they never hired for services they never sought. Their children are taught to hate them with the backing of government officials and used as informers against them.

Why is this happening?

Contrary to basic principles of free government, family courts operate largely behind closed doors and without record of their proceedings. The secrecy ostensibly protects family privacy, though more often it provides a cloak to invade family privacy with impunity. "The family court is the most powerful branch of the judiciary," writes a prominent American judge. "The power of family court judges is almost unlimited." American Supreme Court Justice Abe Fortas once characterized them with the term "kangaroo court."

Family courts sit at the nexus of a powerful network of lawyers, psychotherapists, social workers, bureaucratic police, and others. Recalling Dickens's observation that "the one great principle of the law is to make business for itself," it may not be overly cynical to suggest that judges and their entourage have a vested interest in separating children from their parents.

Family courts routinely ignore basic civil liberties and international human rights conventions. "Your job is not to become concerned about the constitutional rights of the man that you're violating as you grant a restraining order," American municipal court judge Richard Russell told a judges' training seminar in 1994. "Throw him out on the street, give him the clothes on his back and tell him, see ya around. . . . We don't have to worry about the rights."

Family law is now criminalizing activity as basic as free speech. In Australia it is a crime for litigants to speak publicly about family law. A Sydney group protesting peacefully in 1998 was told "if any people who had any involvement with family court were identified the media and that person would be prosecuted to the fullest extent" of the law. As in Britain, Australian family courts have closed Internet sites operated by parents' groups.

In some American jurisdictions it is likewise a crime to criticize judges. The former husband of singer Wynonna Judd was recently arrested for speaking to reporters about his divorce. A father protesting outside his Los Angeles home on Fathers' Day 1998 that he had not seen his son in more than two years was apprehended by police for a "psychiatric evaluation". Following his congressional testimony critical of family courts, a Georgia father was stripped of custody of his two children, ordered to pay lawyers he had not hired, and jailed. "We believe the court is attempting to punish [him] for exposing the court's misconduct to a congressional committee," said the president of a local fathers' group.

Family courts are now politicized by ideological agendas and attack citizens' groups for exercising their political rights. The Australia Family Court publishes a book attacking fathers' groups as "a concerted lobby of disaffected individuals". In 1998 the court's Chief Justice publicly declared them a "sinister element". In a paper funded by the US Justice Department, the National Council of Juvenile and Family Court Judges, an association of ostensibly impartial judges who sit on actual cases, attacks "dangerous" fathers' groups for their political opinions and "values" and their belief "that divorce is always harmful to children".

The words "divorce" and "custody" sound deceptively innocuous. We should remind ourselves that they involve bringing the penal system into the home for use against family members. Once we thus marshal the state apparatus there is no reason to assume it will stop where we want it to. "When they've taken away the fathers," warns Irish Times columnist John Waters, "they'll take away the mothers."

# Book Calls For Judicial Reform

**Sunday Independent (Britain), 04-22-01**

Sunday Independent stories about Britain's family courts are to be included in a new book.

American writer Nicholas Kourakos has requested copies of articles on Mark Harris and last weeks story on Alex Newman and father Pat Punch, who she had not seen for 32 years until two weeks ago, for inclusion in the publication he is currently writing.

Nicholas explained: I'm writing a book about how the English speaking countries need judicial reform.

"This is because throughout the English World - every country that was an English colony - there is a law that says that judges can't be investigated in their decisions. So, this gives them the privilege to abuse the laws.

"We should be a government by the people and for the people, not a government by the judges and for the judges."

He continued: "fathers here in the states receive the same abuse as the men in England. "There has to be judicial reform across the English speaking world".

## **Featured**

Nicholas was just one of the people across the globe who contacted us in response to stories about the family courts which have featured in the Sunday Independent throughout April.

Just this week we received letters and emails from as far afield as Western Australia, America and Canada, supporting Mark Harris and calling for reforms in Britains legal system.

Bill Flores, President of The Children's Voice group in Oakville, Canada, said: "As an organisation advocating to children's rights, specially their right to have an equal.meaningful and permanent relationship with both of their parents after separation or divorce, in most cases, we would like to express our complete shock about the justice system in Britain.

"Jailing a father for waving hello to his children is nothing else but political persecution".

While Lynn Bentz, of Kamloops in Canada, said: "We are having the same difficulties here in Canada regarding children losing access to one parent, usually fathers, after separation and divorce.

"This is a terrible, terrible thing for a child and often they never heal from it. "Please, please continue to bring this problem to the attention of the reading public. It is vitally important."

People in Britain have also been quick to come forward with their comments.

The Wright family, of Lancashire, said: "You are to be congratulated.

## **Disrepute**

"Small wonder the judiciary are falling into disrepute when on the day Mark Harris was jailed for ten months a child sex offender here in the Northwest was sentenced to only eight months.

"Society needs to realise that not only do parents lose their children - don't think it won't happen to you - but grandparents, and other relatives in the extended family, lose contact as well.

"It is probably the most common form of child abuse in Britain today to deny the child half of his or her history".

# More than 200 write to man fined and put in prison for saying "hello" to his own children

**Kirsty Turner, Sunday Independent (Britain), 04-22-01**

More than 200 Sunday Independent readers have helped raise the spirits of jailed dad Mark Harris.

Letters have flooded in to London's Pentonville Prison after we revealed how mark was jailed for ten months and fined £500 for saying "hello" to his children and breaking injunctions restricting his contact with them.

The 36-year-old driving instructor from Plymouth said: "It's great. It lifts your spirits and makes you realise how unjust it is when normal people see the unfairness of it all.

"Nearly all of the letters started off with, "I read about your story in the Sunday Independent," and I would just like to thank all your readers for their support."

## **Phoned**

Mark's supporters have even telephoned the prison governor and the judge who sentenced him to express their concerns.

But one particular letter touched mark more than any other.

The father of three explained: "I got one letter from an older lady who just called herself Vi. She sent me a postal order for £2 out of her pension and told me to get something for myself to keep my spirits up. I would like to say a special thank you to her."

Mark is now trying to respond to all the people who included in their addresses in the letters.

The Sunday Independent first highlighted Mark's plight earlier this month when we revealed how he was refusing to eat or drink in protest at his sentence.

Mark broke his protest for the sake of his children after a week and is now almost fully recovered from the affects of his hunger strike.

## **Trouble**

At the height of his demonstration Mark's blood pressure became dangerously high and he had trouble seeing and walking.

He also threatened to commit suicide at the earliest opportunity and was placed in a constant observation unit. But Mark is now feeling more positive about his situation and is awaiting a decision on his call for bail pending his planned appeal.

Speaking exclusively to the Sunday Independent from Pentonville this week; he said: "I'm doing OK. All the letters and support are really keeping me going."

[kirsty.turner@sundayindependent.co](mailto:kirsty.turner@sundayindependent.co).



## **Around 60 stage protest outside home of judge**

**Sunday Independent (Britain), 04-22-01**

Outraged parents yesterday protested outside the home of the judge who sentenced Mark Harris to ten months'imprisonment.

Around 60 mothers and fathers, protesting for equal treatment of parents by family courts, turned up outside the London home of High Court Judge James Munby - who found Mark in breach of an order restricting contact with his children.

The father-of-three, who was also fined £500 for the offence, went on hunger strike when he was jailed last month but called it off days later "for the sake of his children".

Mark has attended court on 114 previous occasions in relation to contact orders.

President of the Equal Parenting Council Tony Coe, speaking from the outside of the judge's Kennington address, said: "We demand the resignation of Munby, the Head Judge of Family Courts Dame Elizabeth Butler-Sloss and the Lord Chancellor for wilful neglect of parenthood.

"They have defied Parliament and its intention to share parenting after separation. The courts are alienating one parent without cause and constantly trying to cover up their incompetence, lying to the public and trying to obstruct media scrutiny of the system.

"Because family courts are secret it is often difficult to know if anyone has problems like your own.

"Only by people coming together can experiences be shared and parents then find out about other parents who have had their children taken away from them by the courts."

The protesters gathered outside a nearby tube station before setting off to the judge's home.

Mr Coe added: "We are absolutely delighted with the way that the protest turned out. A procession of around 60 people walked from the tube station to judge Munby's home - including three or four with balls and chain around their ankles and one dressed up as a judge.

The police were very supportive, allowing us to assemble peacefully."

Judge Munby was unavailable for comment.

# Restoring Marriage

## Washington Times Commentary

**Stephen Baskerville, Ph.D, 04-01-01**

Maggie Gallagher is right that a dialogue on marriage and child poverty is long overdue [Commentary, March 7]. Yet she offers no more concrete method for restoring the married family than those she criticizes. If we believe that eliminating the marriage penalty and promoting marriage "education" will exert more than a marginal impact on the rates of divorce and out of wedlock birth, we are burying our head in the sand.

Gallagher's own book, *The Abolition of Marriage*, cites figures showing that 80% of divorces are unilateral and describes divorce as a "shift in power . . . in favor of the unfaithful" spouse. It also involves a shift in power in favor of the state, which encourages divorce because it allows the state to insert its power into the private family, foremost by seizing control over the children. "No-fault divorce gave judges, at the request of one-half of the couple, the right to decide when a marriage had irretrievably broken down," she points out. Judges are not only availing themselves of this right; they are offering lucrative financial and emotional incentives to parents, usually mothers, to request the divorce.

These incentives include virtually automatic child custody and the power to expel, plunder, and criminalize the father. By rewarding the spouse that files for divorce judges can increase the business of their courts, as Dickens predicted, and the scope of their power. They can also return enormous earnings to the attorneys, psychotherapists, and others who fall within their patronage and have a professional interest in increasing the volume of divorce litigation and fatherless children.

The rates of divorce and out-of-wedlock birth have little to do with tax laws or lack of education about the harm it does to children and everything to do with government officials who have a vested interest in forced divorce and father eviction.

The divorce industry has rendered marriage, in effect, a fraudulent contract. It is hardly surprising that those profiting from the fraud are perverting the instruments of justice and creating an authoritarian machine, centered on secret courts, to enforce their regime. G.K. Chesterton pointed out that the destruction of the family means the destruction of freedom, and we now see the same courts that are ripping apart families are increasingly ripping up the Bill of Rights, as any parent who has ever been in family court can testify. Until marriage is made an enforceable contract, there is little point in preaching to young people to put their trust in it. Young men in particular who are lured into this scam can lose their children, their homes, their freedom, and (in view of the skyrocketing suicide rate among divorce fathers) even their lives. It is hardly surprising that fewer and fewer are being taken in.

More than anyone else, the people who must stand up and demand that marriage be made an enforceable contract are fathers. This does not necessarily require "turning back the clock" to fault-based divorce. It does require the recognition that legal marriage confers constitutional rights on fathers (and mothers) not to have their children taken away and turned into wards of the state, in the absence of legal wrongdoing by their parents.

When the state becomes involved in its citizens' private lives by promoting matters as personal as marriage and fatherhood, it is because we are not confronting the real problem. It is not necessary for government to promote marriage. It is only necessary for government to stop ripping it apart.

# The Criminalization of Fatherhood

Family Court Most Powerful Branch of the Judiciary  
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**Stephen Baskerville, Ph.D, 08-01-00**

Fatherhood is now the rage: presidential initiatives, federal staff conferences, congressional task forces and resolutions, federal grants, new nonprofit organizations, and media reports now "promote" fatherhood

Yet the nation's discovery of fatherhood also has a darker side: law enforcement initiatives targeting "deadbeat dads," federal registers monitoring millions of parents, databases and information gathering on American citizens accused of nothing, new cadres of armed, plainclothes police, and endless "crackdowns" on allegedly dissolute parents.

Campaigning for president, Al Gore calls for incarcerating more fathers.

What we are seeing today in fact is nothing less than the criminalization of fatherhood: criminal penalties imposed on citizens who have committed no act but are made outlaws through the actions of others. This phenomenon proceeds largely from involuntary divorce and is affected by family courts.

Family courts are the arm of the state that routinely reaches farthest into the private lives of individuals and families. "The family court is the most powerful branch of the judiciary," writes Robert W. Page, Presiding Judge of the New Jersey Family Court. By their own assessment, "the power of family court judges is almost unlimited." One father was told by a New Jersey judicial investigator: "The provisions of the US Constitution do not apply in domestic relations cases."

A father brought before these courts - in the absence of any civil or criminal wrongdoing - will immediately have his movements, finances, personal habits, conversations, purchases, and contact with his children all subject to inquiry and control by the court. He must submit to questioning about his private life that author Jed Abraham has termed an "interrogation." He must surrender personal papers, diaries, correspondence, and financial records. His home can be entered at any time. His visits with his children can be monitored by court officials and restricted to a "supervised visitation center," for which he must pay an hourly fee and where he and his children will be observed and overheard throughout their time together. Anything he says to his spouse or children, as well as family counselors and personal therapists, can be used against him in court, and his children can be used to inform on him.

Fathers are questioned about how they "feel" about their children, what they do with them, where they take them, how they kiss them, how they feed and bathe them, what they buy for them and what they discuss with them. He will be forced, on pain of incarceration, to pay for lawyers and psychotherapists he has not hired. His name will be entered on a federal registry, his wages will be garnished, and the federal government will have access to all his financial records. If he refuses to cooperate he can be summarily incarcerated or ordered into a psychiatric examination.

Henceforth, that parent has no say in where the children reside, attend school or daycare, worship, or visit the doctor and dentist. He has no right to see their school or medical records nor any control over what medications or drugs are administered to them. He can be enjoined from taking his children to a physician when ill. He can be told what religious services he may (or must) attend, what he may do with them, and what subjects he may discuss with them in private. And he can be forced to pay two-thirds or more of his income as "child support."

If for any reason the father falls more than \$5,000 behind in owed child support, he becomes a felon. If he moves to another state while he is in arrears, perhaps to find work, he becomes a felon. It is possible he can even become an instant felon from the time his children are taken. If his ordered child support is high enough, and if it is backdated far enough, he will be an instant felon and subject to immediate arrest.

A presumption of guilt pervades child support enforcement where "the burden of proof may be shifted to the defendant" according to one ruling. In clear violation of the Constitution it has been held that "not all child support contempt proceedings classified as criminal are entitled to a jury trial," and "even indigent obligors are not necessarily entitled to a lawyer."

Setting child support is a political process conducted by interest groups involved in collection but from which parents who pay the support are excluded. Such legislating by courts and enforcement agencies raises serious questions about the separation of powers and the constitutionality of the process. Where officials in all branches and at all levels of government develop a financial interest in hunting "delinquents," it is predictable that they will create delinquents to hunt. Obviously the more onerous the child support levels, and the more defaults and arrearages created, the more demand for coercive enforcement and for the personnel and powers required.

Private collection firms also set the levels of what they collect. Not only does an obvious conflict-of-interest arise in terms of the amount to be collected, but the firms can create precisely the "delinquents" and "deadbeats" they are hired to pursue and on which their business depends.

In Los Angeles former Deputy District Attorney Jackie Myers told the Los Angeles Times she left office in 1996 because "we were being told to do unethical, very unethical things."

Myers is not alone. "I got a call from a homeless shelter and was told that I had put a man and . . . his four children out on the street because I had put an enforcement order . . . for 50% of his income," ex-Deputy District Attorney Elisa Baker recalled. "That was the first time I was in touch with the ramifications of what I was doing."

Men are now forced to support children who are acknowledged not to be theirs biologically. Stepfathers are ordered to pay support for stepchildren. Grandparents and second wives are pursued by child support prosecutors. Minor boys statutorily and forcibly raped by

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adult women must pay child support to the criminals who raped them.

A presumption of guilt also pervades allegations of domestic violence made during custody proceedings, where a father's contact with his children is criminalized through restraining orders that are routinely issued with no evidence of wrongdoing whatever - orders that cannot protect anyone because they criminalize not violence (which of course is already criminal) but a father's contact with his own children.

Family law is now criminalizing rights as basic as free speech. In many jurisdictions it is now a crime to publicly criticize family court judges, and fathers have been jailed for doing so. In a paper funded by the Justice Department, the National Council of Juvenile and Family Court Judges, an association of ostensibly impartial judges who sit on actual cases, attacks fathers' groups for their political opinions and activities.

No figures are available on how many fathers are incarcerated for "family crimes." Informal estimates put as much as one-third of the nation's jail population consisting of fathers on contempt-of-court charges. Some jurisdictions now propose creating forced labor camps specifically for fathers to relieve overcrowded jails. Not since the fall of the Weimar Republic has a democracy treated millions of its own citizens in this fashion.