GZS Gay Pages 00

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Of Swift Boat Veterans and Phony Wounds

http://mensnewsdaily.com/archive/g/gay/2004/gay050704.htm

Roger F. Gay, 05-07-04

We now have convincing evidence that John Fitzgerald Kerry, Democrat presumptive presidential candidate, is a two-bit con man and a danger to the nation. Some people may be convinced by the fact that he lied about a wound in order to get a purple heart that supported his request to leave Vietnam after only four months duty. Others might need the additional context provided by those he left behind; a group of fellow soldiers who have grown tired of John Kerry's efforts to make himself look like something he's not at their expense. The latest round raises serious doubts about his fitness for duty as Commander-in-Chief.

The wound in question has been described by Louis Letson, the doctor who treated Kerry at a medical facility in Cam Ranh Bay. It was about 3-4 mm. deep (around 0.15 inches). A metal fragment about 1 cm. long and 2-3 mm. in diameter penetrated the wound. (At these dimensions it was more like the tiny metal splinter sitting on a mosquito bite.) The splinter was pulled off without difficulty and the "wound" was covered with a band aid.

Kerry, who had recently arrived in Vietnam, said the wound resulted from a fire fight, in which their boat had received small arms fire from on shore. He said that his injury resulted from this enemy action. Some of his crew confided with the doctor that they had not received any fire from shore. Kerry's wound may have been accidental, but one way or another had been self-inflicted.

Dr. Letson's recollections cast doubt on the idea that Kerry was called into public service by things he felt passionate about. According to Dr. Letson, his political aspirations were already intact when he was faking injuries in order to avoid duty. Letson says he remembers Kerry because "some of his crewmen related that Lt. Kerry had told them that he would be the next JFK from Massachusetts."

The picture that has emerged is a John Kerry who used the anti-war mood of the day as a mechanism to get personal attention because he was passionate about getting himself into politics. He's a basically dishonest guy who bluffs his way into things. What we've seen during the campaign is day to day efforts to bluff his way into the right part of public opinion or bluff his way into critisism of or counter-point to his opponent. This has created a candidate on one side of a fence one day and the other the next, finally settling down to the idea that someone else should decide. An indecisive president would be bad enough, but in the end, Senator Kerry has been promising to leave states dangling in the face of destructive federal policies (family policy for example) and to hand over the reigns of U.S. foreign policy to the European Union and the United Nations.

Context is provided by latest round to hit Kerry politically. It involves a newly formed group called Swift Boat Veterans for Truth. These are Vietnam veterans, Democrats, Republicans, and independents, who served with Lt. Kerry, and includes the entire chain of command above Kerry.

As an activist in the anti-war movement, Kerry adopted its propaganda, alleging that many American soldiers had routinely engaged in atrocities such as raping and cutting off ears and heads of Vietnamese soldiers and citizens.

A newly publicized letter from the group to Senator Kerry states; "It is our collective judgment that, upon your return from Vietnam, you grossly and knowingly distorted the conduct of the American soldiers, marines, sailors and airmen of that war (including a betrayal of many of us, without regard for the danger your actions caused us). Further, we believe that you have withheld and/or distorted material facts as to your own conduct in this war." "Your conduct is such as to raise substantive concerns as to your honesty and your ability to serve, as you currently seek, as Commander-in-Chief of the military services."

The group is challenging Kerry to sign a release (Department of the Navy Standard Form 180) allowing his military record, "complete and unaltered," including his medical record, to be made public.

"Senator Kerry," the letter ends, "we were there. We know the truth. We have been silent long enough. The stakes are too great, not only for America in general but, most importantly, for those who have followed us into service in Iraq and Afghanistan. We call upon you to provide a full, accurate accounting of your conduct in Vietnam."

Primary Parent Ordered to Pay Child Support

http://mensnewsdaily.com/archive/g/gay/2004/gay050304.htm

Roger F. Gay, 05-03-04

On April 29th Madam Justice Newman of the Pennsylvania Supreme Court set a precedent that allows trial courts to order parents with primary custody to pay child support to parents with partial custody. (Colonna) The determining factor is disparity between the parents' incomes. (Justice Nigro concurred. Justices Cappy and Castille dissented. Justices Eakin and Lamb did not participate.)

The case involves four children in the primary care (primary custody) of their father during the school year and in the primary care (partial custody) of their mother during summers. The father's income on record is $193,560.00 per year and the mother's is $55,284.00. The mother claimed "reasonable needs" of $338,496.00 per year, $253,277.00 attributable to the children.

Madam Justice Newman recognized that "a parent incurs certain fixed costs related to providing the children with a home in which to exercise his or her period of partial custody. Costs such as a mortgage or rent payments, insurance, utilities, etc. remain the same whether the children are in a parent's custody or not."

Upon divorce, the couple agreed temporarily to share custody of the children while the father's petition for primary custody was under consideration. The father was ordered to pay $73,584.00 per year in child support, based on a higher income reported a year earlier. When primary custody was awarded to the father, he did not request child support from the mother. But the mother argued that she should continue the same lifestyle that she had before the change, affordable only if she received child support.

The woman who acted as law master in the case empathized with the mother. In the words of the court, "She was troubled by the disparities in the parties' income and the fact that Mother has certain fixed expenses incident to her alternating weekend and summer custody." Madam Justice Newman was also "troubled by the disparity in the parties' incomes" and "concerned that the refusal to consider this as a factor when fashioning a support order may be contrary to the best interests of the child. We must always be mindful of the fact that the support laws act in conjunction with our custody laws."

Madam Justice Newman agreed with the law master that a *Melzer* calculation should be applied. The Melzer calculation was presented by the Pennsylvania Supreme Court in 1984, prior to federal child support reform, in *Melzer v. Witsberger* (480 A.2d 991). The child support calculation is applied to each parent relative to the time children spend in each household. Applying the current Pennsylvania child support guideline both ways in this particular case results in a net obligation by the primary custody parent to the partial custody parent.

Father Wins in LaMusga Move-Away Case

http://mensnewsdaily.com/archive/g/gay/2004/gay050204.htm

Roger F. Gay, 05-02-04

On April 29th the California Supreme Court issued a decision allowing a change of custody to a father as the result of a mother's move to another state. Despite the over-reactions of some special interest groups in recent days, the decision merely upholds existing law. (See Closer scrutiny in custody case moves, *The Sacramento Bee*, April 30.)

In 1996, the Court decided that a parent seeking to relocate after dissolution of marriage is not required to establish that the move is "necessary" in order to be awarded physical custody of a minor child. (*In re Marriage of Burgess* 13 Cal.4th 25, 28-29) The decision was interpreted by some as guaranteeing a woman's right to move children against the objections of noncustodial fathers. A Contra Costa County judge saw the standard differently and ordered a change in custody of two children to their father, Gary LaMusga, if their mother, Susan Navarro, followed her new husband to Ohio, where he worked and she had other relatives.

The California Court of Appeal reversed the decision, requiring that a noncustodial parent prove that a change of custody is "essential" to prevent detriment to the children from the planned move. The supreme court overturned the appellate decision, affirming the change of custody, and provided page after page of documentation showing that the appellate decision was flawed. In fact, the Court of Appeal had on many occasions upheld judicial discretion to consider the facts of each case and weigh all the important factors necessary to deciding custody in move-away cases, and the *Burgess* standard in no way required such a high burden of proof that the Court of Appeal had set upon Mr. LaMusga.

What has attracted the attention of fathers' rights advocates is that this decision hinged on the harm that would be caused to the children as the result of reduced contact with their father. What is upsetting women's advocacy groups is that the evidence did not show that the move was in "bad faith." There was no evidence that the mother was moving merely to frustrate the father's efforts to maintain contact, which is one of the circumstances courts may consider when changing custody. Women have a basic right to move, and it has been a common belief that mothers cannot lose custody when the evidence suggests that a move is not merely a hostile act aimed at harming relations between children and their father.

There had been a history of conflict between the parents that led to difficulty in setting a reasonable visitation schedule. Mr. LaMusga had literally worked for years to obtain what many would regard as normal contact for a noncustodial parent, only to face the prospect that his children would be moved thousands of miles away. Mr. LaMusga had initially requested joint custody, while his former wife preferred sole custody and worked to minimize contact. A psychologist testified that the children were suffering from alienation and loyalty conflicts induced by the mother's attitude and behavior.

The Contra Costa County Superior Court correctly *considered* a change in custody merely because a move was contemplated, regardless of whether the move itself was in "good faith," but made its decision on careful consideration of the evidence. It determined appropriately that the children would benefit from greater contact with their father rather than less, and decided that a change in custody, if the mother moved, would be in the children's best interest. The effect of less contact with the father would be detrimental to the children's development.

Just as a move in "good faith" does not guarantee that custody will remain unchanged, the new decision clarifying existing law does not suggest a guarantee that custody will change merely because a custodial parent decides to move and a noncustodial parent objects. The California Supreme Court as well as the Court of Appeal (on many occasions) support trial court discretion in weighing evidence and determining what custody and visitation arrangements are best for children. The Supreme Court listed some of the factors that courts should ordinarily consider.

"Among the factors that the court ordinarily should consider when deciding whether to modify a custody order in light of the custodial parent's proposal to change the residence of the child are the following: the children's interest in stability and continuity in the custodial arrangement; the distance of the move; the age of the children; the children's relationship with both parents; the relationship between the parents including, but not limited to, their ability to communicate and cooperate effectively and their willingness to put the interests of the children above their individual interests; the wishes of the children if they are mature enough for such an inquiry to be appropriate; the reasons for the proposed move; and the extent to which the parents currently are sharing custody."

Business Leaders Among EU Skeptics

http://mensnewsdaily.com/archive/g/gay/2004/gay042904.htm

Roger F. Gay, 04-29-04

In the midst of a hot but superficial debate over the proposed EU constitution a variety of polls warn that citizens are against it, and only a hand-full in several countries are for it. Tony Blair once believed that the new constitution should be negotiated by government as "other treaties" have been. He recently changed positions, opening the way for a public referendum.

Proponents of the constitution have been pushing for an agreement within three months, without subjecting their proposal to public judgment. They believe that objections by Spain and Poland that blocked a deal last December have been mitigated by the election of a Socialist government in Spain.

Mr. Blair claimed at a recent summit that the heightened threat of terrorism had highlighted the need for Europe to show unity and called for an agreement "as soon as possible." But a survey by ICM for think-tank New Frontiers found that 64 percent think that the threat of international terrorism makes it more important to "keep control of our own affairs."

A New Frontiers poll surveyed 1,000 chief executive officers and found that 59 percent did not believe the proposed constitution would make the EU work better. Eight out of ten firms also thought Britain, not the EU, should handle trade negotiations. Some 73 percent said they would vote against Britain joining the euro if asked now.

In their analysis entitled "British Strategy in the Context of the Brussels Summit" the New Frontiers Foundation writes; "This Constitution utterly fails the basic test of a good constitution: is it simple, and does it explain how power is to be held accountable? Instead, it is a model of opacity and attempts to enshrine a combination of a particular left-wing view of economic policy and an anti-liberal view of national democracy in a Constitutional document that epitomises the decline of European democracy and political debate." From the same source; A CBI spokesman has said the Charter is, “Bureaucracy gone mad,” and that, “We don't need it and we won't want it.” The Institute of Directors warned of “clear and worrying threats for British business”.

An ICM poll conducted April 22-24 for News of the World asked; Do you believe Britain should sign up to the EU's constitution? More than half (55%) of people polled in the UK responded no, and around 20 percent did not know. The poll suggested that only about a quarter of the population favors the constitution. Slightly more than half (51%) would vote to remain in the EU, which is why proponents of the constitution, including Tony Blair, have lately tried to make an argument confusing constitutional acceptance with EU membership. But just over half of the population (51%) does not believe that Britain would have to withdraw from the EU if the constitution is defeated in a referendum (11% don't know).

Ninety percent said that Britain rather than Brussels should have the final say on British policy, 65 percent want human rights locally controlled, 83 percent want local control of economic policy, 80 percent local control of business regulations, health and safety, 89 percent local control of taxes, 82 percent local control of defense, and 72 percent want Britain rather than Brussels to decide foreign policy.

Should Kerry Drop Out?

http://mensnewsdaily.com/archive/g/gay/2004/gay042604.htm

Roger F. Gay, 04-26-04

Nowhere in the Constitution does it say that a member of the Democrat Party (or any other for that matter) must run for president. The mainstream media tells us every day that the decisive issues are Iraq and the economy. Since John Kerry can't find a solid footing on security and defense and doesn't understand the economy, it would be better for the country if he dropped out of the race. The partisan battle is distracting us all from serious discussion and debate about serious issues.

Although the two parties don't want family policy to be included in their debate, it's obvious that most Americans disagree. This is another area where Kerry wants credit without facing serious questions. His web site paints the picture that he has been one of the leaders in moving family policy from the states and our homes to place the most personal of issues under federal political control. Chaos has ensued. Marriage and family as we knew it are legally disintegrating. Parenthood can be assigned arbitrarily. But this is an issue that neither candidate is facing seriously, and Kerry is the least serious.

Even though the Federal Marriage Amendment, supported by President Bush, treats a symptom rather than the disease, will take years to process, and will probably not pass in the end, it is at least a superficial display of concern. The president's support was belated and seemed to lack energy or any real awareness of the serious nature of the problem, it's a place to start a debate. But against John Kerry's indifference, the debate hasn't gone anywhere. George Bush showed his concern for fathers and traditional families by attending a NASCAR race and then went home. Maybe there was something in the symbolism. Parents would probably like to go to a NASCAR race without worrying about whether some bureaucrat will reassign their kids to a homosexual couple while they're there.

It seems like John Kerry is Al Gore all over again, except without so much of the pure partisan hatred generated by Bill and Hillary Clinton. Ah yes, the Clintons. Just another typical left-wing political couple like the Ceausescus and Milosevics. When Hillary becomes president, maybe we can finally get some of those mass murders of political opposition groups to show how tolerant and accepting we are of other cultural norms. Just for fun, they could lob some bombs into the desert somewhere to piss off the Arabs; then run away and forget to tell the next administration much about the build-up of terrorist activities.

Kerry's recent expression of whole-hearted support for killing babies (abortion) is amateur stuff – nothing new – lacking real imagination. We've already done the *Gender War* and most of the rest of the west is over it. (International leftist movements have really fallen apart since the fall of the Soviet Union.) Since Kerry hasn't grasped the battle for supremacy by odd sexual orientation by the horns, he hasn't been effective at dividing the nation into warring factions. It may be time for a real American hero, and John Kerry could be the one. He could tell us honestly that the Democrat's participation in the competition between the two partisan powers has nothing to do with democracy and walk away.

The Child Support Scam

http://mensnewsdaily.com/archive/g/gay/2004/gay042404.htm

Roger F. Gay

Since the creation of the federal Office of Child Support Enforcement in 1975, government workers and lobbyists for private child support collection companies have been relentless in their efforts to misinform the public about child support payments and collections. A recent article published by WRAL.com in North Carolina provides a typical look at the propaganda effort.

The long title explains the impression that the article is intended to give: "Wake County Child-Support Workers Well-Intentioned But Overburdened; Child-Support Enforcement Needs Short-Changed By County Budget." Before going into detail, let me paraphrase the message; our accomplishments aren't impressive but we want more money anyway.

The background one needs to judge the message has never been presented to the public by the press (that I know of) outside of MensNewsDaily.com and FatherMag.com. Before the federal program was operational, about 70 percent of the amount of child support that was ordered was paid directly by noncustodial parents to custodial parents. An additional amount was paid to the government as reimbursement for welfare entitlements. According to research, divorced fathers (somewhat different for never-married fathers who are more often involved in welfare reimbursement and known to be different from noncustodial mothers) paid 90 percent of what was due, and fully-employed noncustodial fathers paid closer to 100 percent of what was due. Since the creation of the federal child support enforcement program which forces higher payments through expensive government payment systems, the figure previously at 70 percent has dropped to 67 percent. The primary reason for non-payment is that noncustodial parents are not able to pay as much as they have been ordered to pay. And some of the money that is currently paid gets lost in the new system.

The WRAL report begins with an overwhelming statement on the work load of case worker Lewis Jackson. "The Wake County Child Support employee is responsible for nearly 600 cases." What they don't say is that most payments are made voluntarily. No effort is required. When reminders and late notices are needed, they are automatically generated by computer and mailed without any effort being made by a case worker.

"Last year, Wake County collected more than $26 million in child support. Though that is a lot of cash, consider that more than 200,000 parents in the state owe more than $1 billion in payments." What they don't say is that the all payments made through the system, regardless of whether or not a parent has ever been late, are labeled "collections." $26 million in child support was paid in Wake County last year. What they also don't say is that it took more than a quarter century to accumulate the $1 billion arrearage figure. This is not, what might seem to be implied, the amount owed but not paid last year. Not subtracted from the figure are amounts paid off in subsequent years, in other states after parents have moved, settled through legal process, or that should be written off because noncustodial parents have long-since died, become disabled, or are otherwise unable to provide.

"According to Child Support managers, more staff is needed to deal with the problem. But that is not part of Wake County's budget proposal for the coming year." Given that there is no justification for the staff already on hand, and certainly none in an honest view of child support statistics, let's see how moved you are by the example.

"Beth Christo, whose ex-husband owes her nearly $20,000 for the support of their two children, said well-intentioned but overburdened case managers have given her the runaround for three years." "You go to Wake County, and they want to help you, but they just don't have the resources to do it," Christo said. "I have lost my car. I have moved my children twice. There are times when I don't know if I'm going to make it to pay day."

I don't know about you, but that makes me feel sad. What Beth apparently doesn't know is that most of the "collections" process simply involves waiting until a bloke can pay something. Sometimes payments are much more greatly delayed because threats connected to unreasonably high orders create psychological aversion to staying in contact with the system which in most cases is now the only legitimate point of payment. What to do? Let's look at the suggestion.

"Wake County Child Support Director Lillian Overton asked for 17 permanent positions in the next county budget. The request was denied by Wake County Human Services."

There is no word on why Beth's ex-husband is behind, but if he's typical, it's because he can't pay what has been ordered. Putting more workers on the government payroll won't help unless he's one of the people hired; perhaps providing the income he needs to make payments. I really have no personal knowledge regarding Beth's situation, but there are many noncustodial parents who can't make the payments they've been ordered to make. It is a fundamental consideration in setting child support amounts properly, that the amounts are based on what parents are able to provide. When circumstances change, such as loss of employment, timely adjustments need to be made to the amounts they are ordered to pay, so that uncollectable debts don't pile up – as they do now – giving the impression that more collection agents are needed. Custodial parents need to adjust their budgets and spending habits just like married couples and single adults would under similar circumstances. Just because a mother is divorced, doesn't guarantee a particular standard of living.

The lobbying effort is aimed at Wake County Manager David Cooke who presents budget requests to the county commission on May 17 subject to a final vote in mid-June. What should concern Wake County residents as well as people throughout the country, is the extent to which child support program employees misrepresent the status, benefit, and needs of their program. It is extremely unethical for government workers to mislead the public, and quite strange just that child support program employees are allowed to participate in lobbying activities as part of their official duties. Nothing lies within the ethical box except to accurately report as required. What really needs to be examined is whether program managers are violating ethical practice standards to such a degree that it is inappropriate to allow them to continue to hold positions of responsibility.

Child Support Propaganda in an Election Year

http://mensnewsdaily.com/archive/g/gay/2004/gay042204.htm

Roger F. Gay, 04-22-04

It's that season again! This is an election year, so every half-witted politician and bureaucrat is out to maintain or sweeten if possible their share of pork from the taxpayers' pocket. Nowhere is the special-interest machinery more worn than in delivery of child support propaganda. I don't suppose child support system promoters will tire of telling the same old lies until editors tire of publishing them.

In Iowa, the Department of Human Services says it's "turning up the heat on parents delinquent in child support payments, and the efforts are working." Nothing new. Vehicle registrations are being sanctioned and contempt of court charges are brought against parents who get behind.

According to the agency, "In fiscal 2003, the recovery unit collected $1.4 million in child support payments in Washington County." But what the record actually shows is that parents paid $1.4 million in child support payments in Washington County in 2003. The word "collected," which seems to justify the expensive, hard line enforcement regime, is nothing more than an inaccurate word choice. Nationwide, the percent of what has been ordered that is actually paid has decreased in recent years. Impounding vehicles and throwing parents in jail doesn't cure unemployment or child support orders that are too high to pay. It only exacerbates the problems real people face in real life.

The Milwaukee (Wisconsin) Journal Sentinel reports on the Department of Child Support Enforcement's efforts to collect by denying hunting and fishing licenses to parents behind in support payments. Again, not a new ploy, but who's paying attention? The response? "Our waiting room is jampacked every day with people coming in to set up payment plans," according to the department's director, John Hayes. "It's incredible." Yes, I would think so. "Incredible" (as in implausible, shaky, unconvincing, preposterous, unbelievable) is exactly the right word. Wake me for the next Elvis sighting.

TheIndyChannel.com (Indianapolis, Indiana) reported a bit of overzealous behavior by child support enforcement officials, but you wouldn't know it was overzealous by reading the account. A Boone County man who was behind in making support payments took out a $21,500 loan to buy a car and made the mistake of depositing the money in his bank account. Before he could turn the money over to the car dealership, it was confiscated by support enforcement. It is in fact, not legal to force a parent to borrow money for child support.

Rationalizing the theft, Boone County Prosecutor Todd J. Meyer argued; "This case is a good example of the hundreds of cases we see each year where noncustodial parents are making the wrong decisions and have their priorities way out of whack." The fact that the man has a $21,500 debt and no car to drive to work to make the money it takes to pay support apparently didn't cross the apparently foggy mind that resides in that little pin-head. In his wacky world, everyone should blindly support bureaucrats who feel compelled to make personal decisions for others.

Back in Milwaukee, a man who was ordered to pay $1,293.75 a month is facing a life sentence for not making the payments. No word yet on whether a court might consider reducing the sentence because there is no rational connection between the needs of his children and the monthly amount he was ordered to pay. Experience says - no - they probably won't take that into account. If awards were set at reasonable levels, the state would receive less federal funding.

Death of the EU Delayed

http://mensnewsdaily.com/archive/g/gay/2004/gay042104.htm

Roger F. Gay, 04-21-04

British Prime Minister Tony Blair announced this week that England's acceptance or rejection of the proposed European Union constitution will be put to a public referendum, reversing his earlier commitment to shape agreement through inter-governmental negotiations. England is the fourth EU state, following Denmark, Ireland, and Luxembourg, to declare its intent to subject this extremely important political question to democratic process.

An earlier attempt to adopt the proposed constitution through inter-governmental negotiations failed, and several other states are showing signs that its provisions are unacceptable. The public concern has been aimed primarily at the loss of states' rights and the lack of serious checks and balances in the European system. The proposed constitution hands control of the extensive set of laws that now exist within the treaties that form the European Union to a strangely constructed set of central institutions.

The European Council would set the political agenda for Europe. The European Commission would be tasked with managing Europe. A Council of Ministers and the European Parliament would play a role in influencing the implementation of the political agenda established by the Council. A Court of Justice, Central Bank, and Auditors, institutions that also already exist in the Union, would continue to function.

Promotion of the proposed constitution hinges on the idea that it is based on Europe as it is rather than radical change. But the power shift and authority of central institutions to reform every aspect of Europe's generally overly-politicized lifestyle is enough to put nerves on edge. A recent poll found 53 percent of respondents in England against the proposed constitution, and only 16 percent in favor. In January, a Swedish poll showed 42 percent of the voting population favored the formation of a new political party of European skeptics, with 27 percent undecided.

The particular character of Europe that the proposed constitution seems most to preserve is the bureaucratic shell game. The European Council would be composed of heads of government of each member state and the Council of Ministers would be composed of representatives from each member state. This sets up a system of policy by consensus of governors with no clear lines of responsibility. Fundamental rights incorporated in a European constitution are not binding for the member states, so there is no "last resort" protection of individual rights.

Experiences in the European Court of Justice have already exposed the problem for several divorced fathers that have contacted me. In the post-family reform era in the west, the problem is familiar to fathers in many countries outside of Europe as well. Policy, is generally decided by the super-state (same as the U.S. federal government regarding current family policy). But its laws are instructions to member states, not directly effecting individuals. Each member state carries out the policy dictated by the *super-state*, optimizing the benefits to government (mostly in the form of funding) without regard to individual rights and interests.

An individual attempting to demand rights under the constitution in the European courts finds it impossible. The European Court insists that the implementation of policy is a local matter even when the cause of the problem is in the laws and and funding incentives provided by the European Union. State politicians insist that they have taken necessary steps to implement policy that is regulated by the European Union, and call it irresponsible to consider reducing the funding they receive by giving way to individual rights and concerns.

The mechanism of control by funding has been made particularly strong in the European Union. In the United States, the method is effective because every citizen is required to pay federal taxes directly to the federal government. States wishing to free themselves from some level of federal political control, as greatly allowed under the U.S. Constitution, by raising state taxes would subject their residents to a form of double taxation. High taxes are not politically popular, and anyone attempting to do the right thing by that method would still have a difficult time remaining in office. In the European Union, states are required to keep their budgets under control within strict limits, including a limit on debt, or face penalties. So, it isn't merely that a state would lose funding, but that they risk heavy fines if they attempt to operate independently.

This structure of defining policy on one level and policy implementation on another is not the structure of a democratic system of government. It is the structure of bureaucratic administration found within large government agencies. No one within an agency takes responsibility for policy, which must be decided by law. The rules of policy implementation are aimed at implementing policy, not by the broader power to provide checks and balances and to assure human rights. Individuals seeking justice find that no part of the system is designed to accommodate them.

The United States is forcing its citizens into this bureaucratic way of life one step at a time. There are still many Americans who do not yet realize the massive loss of individual rights in family policy that has occurred during the past quarter century because they have not yet been personally effected. The proposed constitution of the European Union on the other hand, seeks to encompass virtually every aspect of life in such a system in one fell swoop.

The promotional idea is that the proposed constitution is based on Europe as it is rather than radical change. But aside from a bizarre ignorance to the fact that it would not, proponents are apparently not familiar with European history. Western Europe owes its success entirely to the compromise the socialist movement was forced to make with classic liberal ideology. The proposed approach would eliminate the compromise, creating a pure socialist form of governance within the context of social democracy (the second form of socialism). Without the legitimizing elements of classic liberalism, the European Union will, sooner or later, be faced with its own versions of the protests in Tienemen Square and the masses dragging down statues of former leaders in Moscow.

The political dynamics of the old Soviet Union are already apparent. Continuously playing one group against another, the masses were manipulated into being so concerned about preserving and promoting themselves in groups, that they had little energy left to consider how they were being treated as individuals. It was something like a continual state of war. The immediate emergency of battling against the advantages of neighbors took precedent over advancing the cause of individual justice.

France has been the new leader in creating and maintaining conflict between the old Western Europe and new member states from the former Eastern bloc. Throughout Europe debate is raging over the right of free movement within the Union, with proposals to create double-standards based on country of origin. Fear is being generated over the potential loss of jobs for established residents as citizens from poorer countries are allowed to migrate west. Anger is building within poorer member states over a continued tradition of using eastern Europeans as underpaid, temporary, migrant labor.

Victims Sought for Child Abduction Documentary

http://mensnewsdaily.com/archive/g/gay/2004/gay022604.htm

Roger F. Gay, 02-26-04

Child abduction is common enough to have provoked international treaties and can certainly have a powerful impact on both children who have been abducted and parents who are left behind. Despite its destructive force, little media attention has focused on the problem. Had it not been for the ordeal of the Cuban boy, Elián Gonzalez, and his father Juan, few people would understand how strongly politicized abduction decisions have become and consequently how difficult it is to get a child returned from a foreign country.

Later this year, a few parents and children will have the opportunity to tell their stories on 'Cutting Edge,' an Australian documentary series on SBS Television. Electric Pictures, an independent production house based in Perth has been commissioned to create the documentary. Producers are currently looking for adults and older teenagers in Australia who have been abducted and would like to reflect on their experience, as well as abducting parents who can talk about why they made the decision to abduct.

The most common abductions might not fit the profile people expect. According to the Hague Convention on the Civil Aspects of International Child Abduction, custodial parents who disappear with children are guilty of child abduction if it causes loss of contact with anyone who has a right to contact with the children.

The documentary will work from a definition provided by the Australian Attorney General that is consistent with the international convention. "Parental child abduction mainly involves the wrongful removal or retention of a child by one parent in breach of the rights of the child to have contact, on a regular basis, with both parents."

Director of the upcoming documentary Tosca Looby explains their progress. "Thus far we have followed a couple of different stories of abduction, including a father whose daughter has been abducted to a non-Hague Convention country, and a mother whose son has been abducted to the UK. She has lost her Hague Convention application to have him returned."

To bring a broad perspective to the program, they are also seeking to interview an adult or older teenager who can reflect on his or her memories of abduction and the impact it has had during the years since.

In addition to personal accounts, they are interviewing a representative of the Australian Attorney General's office, the Federal Police, and lawyers, counselors and private investigators who have experience with child abduction cases.
According to Looby; "Our programme will consciously return to the question of the 'interests of the child' as it investigates the state, federal, and international systems created to deal with child abduction cases. Via personal stories and expert

interviews we will seek to understand the solutions offered by the Hague Convention on the Civil Aspects of International Child Abduction, its pitfalls and the potential chaos relating to abductions from non-Convention countries. We will look at the extent of parental child abduction as a problem in our society, the impact on children involved and the reasons parents may choose to abduct, apply for a Convention hearing or even reabduct."

"We hope this Programme will act as a powerful portrait illustrating the trauma associated with parental child abduction. This seems to be the one obvious constant in the diversity of cases travelling through the world's family courts."
Tosca Looby can be contacted at tl@electricpictures.com.au or by phone in Australia; 08 9339 1133.

Is Kerry Self-Destructing?

http://mensnewsdaily.com/archive/g/gay/2004/gay022304a.htm

Roger F. Gay, 02-23-04

John Kerry is now taking himself seriously as the man who can beat George Bush in November. Polls have told him that many Democrats believe he (or John Edwards) can and he is in a dead heat overall. But there is a trial and error process taking place in search of the winning Kerry that's turned up some serious errors.

One major misjudgment was Kerry's promise to fight special interests. It was meant to be a standard refrain derived from the old socialist battle against capitalism, aimed at securing the support of his base in the far left. Republicans are for big corporate special interests, a very bad thing.

But let's face it; Kerry has been a Democrat in Congress for many years. The insincerity was palpable. We know who John Kerry is, and he's no Ralph Nader. Kerry's promise to throw the special interests out of the White House should have been preceded by an apology for his own special interest alliances and those of his party.
Kerry's status as a war hero and protester combined represented the nation's psychological split in the 1970s. It's been a regular feature of his stump speeches during his presidential bid. How does this dual persona, that brought him political success thirty years ago, play out in the new millennium?

Questions about George Bush's service in the National Guard had already played out during the 2000 campaign. Kerry operatives (and other Democrats) tried to play it again and got it thrown back in their faces. It's not a good political tactic to attack someone when it leaves the impression that you're being dishonest and unfair. But it seems downright stupid to use an old attack that failed before in front of the same audience. (It was in fact tried prior to the 2000 presidential race where it failed in Texas gubernatorial campaigns.)

This weekend, candidate Kerry overplayed his hand as a Vietnam veteran after a Republican opined that he had not been supportive enough on defense spending. Kerry railed against the argument asking what is it about Republicans who did not serve wanting to challenge him because he did. He would not "stand by while Republicans who constantly go to the low road challenge my commitment to the defense of our nation."

Chaos and damage control: Campaign operatives spent the weekend singing no, no, that's not what he meant; turn your attention elsewhere. George Bush served in the National Guard. Kerry did not mean that National Guard service is not national service. But even more important was Kerry's apparent inability to recognize a legitimate policy question; an extremely important one for a presidential candidate. The question was not about his record as a soldier, but his record as a Senator and position on defense. His high level of personal sensitivity and emotion-laden over-reaction made him look far less than presidential.

There is another potential miscalculation that has just begun to show up on the radar screen. John Kerry has a monotonous voice. But whoever has him training to sound more like John Kennedy may be setting him up for a major disaster. Every time he puts his voice intonation into overdrive, he sounds a lot like Mayor Quimby on The Simpsons.

Is Ralph Nader Crazy?

http://mensnewsdaily.com/archive/g/gay/2004/gay022304.htm

Roger F. Gay, 02-23-04

Ralph Nader officially announced his candidacy this weekend. He has said that he will run for president as an independent. He is credited with weakening Al Gore's bid in 2000. For the average guy on the street, his candidacy means we will have to endure endless refrains of "a vote for Nader is a vote for Bush," and "you're throwing your vote away." But hard-core Democrats are worried that he will change the equation, taking votes from their candidate.

At first glance (and I assume I'm speaking for many) Nader looks like a nut. He only got around 2.5 percent of the vote in 2000 and to the politically naïve his rhetoric seems too extreme. "There's a for sale sign on the door of every government agency. ... Big corporations own the government." On closer inspection, it's more than a little reminiscent of Kerry's promise to run big corporate special interests out of the White House.

Television analysts this weekend could not fathom Nader's view that there's little difference between Democrats and Republicans on selling out to big corporations. He gave Republicans a D- and Democrats a D+. In fact, soon after John Kerry attacked Republican "special interests" he was nailed for his own special interest support in Congress and for the widespread practices of his own party.

One television analyst predicted that the networks will ignore him; taking the side of Republicans and Democrats – we don't want no stinkin' third party candidates or independents interfering with the two-party election process. (Well, maybe one who's taking votes from the main opponent.) But that in fact is what created one of Nader's greatest hidden strengths. There's this thing called democracy that is not well served by extreme limitations on political choice. To many Americans, democracy – at least in theory – is a good thing.

There are people who believe that voting for either of the two-party candidates is throwing a vote away. It's voting for dysfunctional democracy. For them, the lesser-of-two evils argument has worn out its welcome. They are desperately tired of choosing between two brands of evil. The two-party system has created a very large constituency of disenfranchised eligible voters. The turn-out on election day has sometimes rivaled middle eastern countries during an election boycott. Whereas in Sweden for example, which has a healthy multi-party system, 85 percent would be perceived as low turn-out.

The thing that gets me about Nader is how easily (logically at least) he could switch from being a Democrat spoiler to an opponent of everything the Democrats stand for; if he just recognized the extent of corruption within agencies in a different way; fraudulent accounting practices, paying consultants to lie, strong-arming corporations to fit in or get forced out, misrepresenting the need for and success of their programs to Congress and the people in order to keep them going and bid for more funding.

But Nader's initial 15 minutes of fame came as a government insider; a consumer advocate demonstrating that government intervention is a positive force against uncaring corporate greed. Who leads the cancerous growth of corruption? To Ralph Nader, a more powerful government must be the solution rather than the cause of the problem.
In my opinion: Ralph Nader is not crazy. He's a man who has capitalized well on his 15 minutes of fame. What is needed is not to keep Ralph Nader out of the presidential election, but to focus attention on another third party or independent candidate who can balance the equation. A Ralph Nader opponent might be good for democracy. Perhaps then we can talk about what's really going on and inform young voters (future Democrats) rather than indoctrinating them with far left ideology.

Injustice By Default: Reason Almost Got It!

http://mensnewsdaily.com/archive/g/gay/2004/gay021804.htm

Roger F. Gay, 02-18-04

The February issue of *reasononline* carries an article by associate editor Matt Welch entitled *Injustice by Default, How the effort to catch "deadbeat dads" ruins innocent men's lives*. There is much about this article that is worthy of a link and an invitation for readers to click on it. Unfortunately, when the article is wrong; it is really, really wrong.

Mr. Welch does an excellent job of bringing attention to the injustice of wrongful paternity establishment and the bureaucracy that earns its existence by forcing as many men as possible to pay child support, whether or not they are fathers. The two cases he highlights (one of the men is a personal friend) are in California. Unlike many California newspaper articles that have focused on problems in the child support system (and have often done a pretty good job of it) Mr. Welch informs his readers that the problem is not local, but national, driven by federal laws and funding, and that a few states have taken steps to combat the problem.

The difficulties men face due to false paternity establishment are horrendous, and this is the primary focus of Mr. Welch's article. The article is well researched with respect to its primary focus and leaves no doubt that a large number of men have their lives crushed due to the systematic injustice of a government program. I will not try to summarize the entire content of the article here. There is a link above. The article is worth reading.

Had the subject of the article remained entirely within its primary focus, I would have been willing to recommend the highest rating from MensNewsDaily.com (if we had such a rating system – we don't). But Mr. Welch seemed to have felt a need to bring a superficial "balance" to the article, and tried to do so by including information that was not well researched. Despite the corrupt nature of what he found, he assumes an honest and worthwhile motive for the federal child support program. After exposing intentional injustice, motivated by federal funding, he still treats program lobbyists as credible sources and asserts that the program has been a resounding success.

The subtitle of the article, *How the effort to catch "deadbeat dads" ruins innocent men's lives*, already gives a hint about the trouble ahead. The "deadbeat dad" propaganda has already been reviewed. Conclusions of academics and other analysts, by independent analysis as well as review of the basis of the propaganda itself, leave no doubt that my use of the word "propaganda" three times in this paragraph is well justified.

"That's what they're trying to do, is get some reimbursement to the state," says Carolyn Kelly, public relations officer for the Contra Costa County DCSS. "As you can imagine, [that's] millions and millions and millions and millions of dollars."

It would take someone who has investigated the child support enforcement program to a much greater extent than Mr. Welch to challenge Carolyn Kelly's justification. I won't fault him for not slamming a counter explanation directly against hers. But she's just a warm up.

The bottom-line results have been impressive: Since 1993, according to Senate testimony last March by Marilyn Ray Smith, director of the Child Support Enforcement Division of the Massachusetts Department of Revenue, child support collection nationwide jumped from $8.9 billion in 1993 to $19 billion in 2001, while paternity establishments more than doubled, from 659,000 in 1994 to 1.6 million just five years later.

As I said, the article does an impressive job of dealing with the issue of false paternity establishment. Mr. Welch continues; "But you can read thousands of pages of laws, reports, and testimonies, and not see a single reference to the importance of naming the right guy, or to the gravity of making a mistake." The statistics he provides in California open the possibility that the nationwide increase in paternity establishments could be mostly due to the treatment of false paternity establishment as legitimate (although he hedges against making that allegation).

My word processor says that Mr. Welch's article is 4,667 words long. My complaint comes down to about 23 of them (17 of which are Marilyn Smith's). "The bottom-line results have been impressive: Since 1993, ... child support collection nationwide jumped from $8.9 billion in 1993 to $19 billion in 2001." By the numbers it might seem petty to write an entire article just to mention that the information is false. But claims such as these by program lobbyists provide the entire political justification for the dramatic federal invasion of family law and family life that has taken place over the past two decades, and created massive injustice and corruption well beyond that of false paternity; including the elimination of fundamental rights from application in family law.

I have written so much about the child support system that reference to my article archive makes more sense than trying to cover all that old ground again in this piece. Still, something has to be said for those who haven't been paying attention and won't go to the archive now.

Since the creation of the federal child support enforcement program in 1975, there has not been a significant increase in the percent of child support ordered that is paid each year (the compliance rate).
Most of the dollars that move through the program are payments (which honest people differentiate from "collections" but the child support enforcement program does not) made by well-employed middle and upper-middle income fathers to mothers who are not on welfare.

The compliance rate in welfare cases has dropped since the program began as has the compliance rate in non-welfare cases since the 1996 reforms. The primary cause of non-payment is still the same as it was before the program began; the person ordered to pay is not able to pay what has been ordered.

Much of the increase in payments reflect an arbitrary increase in amounts ordered (paid not "collected"). Arbitrary, politically controlled child support formulae have replaced rational child support judgments related to individual circumstances. An arbitrary increase in the amount ordered paid by those who pay, rather than collections efforts, have been primarily responsible for increasing the amount of federal funding states receive. The judicial branches of state governments are among the beneficiaries, and it is their maintenance of this system that has resulted in the greatest loss of recognition of fundamental rights in American history.

As I pointed out in Is Male Passivity on the Wane? (12/5/03) "It isn't grandpa's divorce anymore. Decades of political manipulation opened the door to social engineering and not unexpectedly, corruption. Today, fathers aren't expected to take it on the chin. They get rammed with bureaucratic bull dozers and flattened by the government's multi-billion dollar child support megalith. Family law is just generous enough to keep them alive so they can feel red-hot pokers jabbed into their eyes by politicians on the take." In fact, not all survive. Some have been driven to suicide. Others live desperate lives without the means to see their children.

There is no honest justification for the federal child support enforcement program. It is all about cheating taxpayers, parents, and children in a pork-barrel scheme, and there is a very influential private child support enforcement industry walking away with lots. The excuses given by program lobbyists have long since been played out. The only cover they have now is that so many people don't pay attention until they or one of their close friends gets run over by the system, and then apparently, their attention is limited to the specific problem at hand.

EU Skepticism Holding Firm

http://mensnewsdaily.com/archive/newswire/news2004/0204/newswire021304-eu.htm

Roger F. Gay for MND Newswire, 02-13-04

Swedish national economist Nils Lundgren has managed to attract a number of candidates to start a new political party of EU skeptics. The party will be known as the *Junilistan* ("The June List") in reference to the election of EU Parliament members in June. As promised, Junilistan candidates have been drawn from across the political spectrum. Candidates within other parties are also presenting their EU-skeptic credentials.

A primary objective for many EU skeptics is to require a public referendum to test any future proposal for an EU constitution. A proposal that would have granted nearly unlimited power to the European Commission was defeated last year.

A poll conducted for TV4 News and *Expressen* during the last week of January showed that forty-two percent of Swedes support the idea of a new party created specifically to preserve states' rights. One quarter of those surveyed expressed interest in voting for such a party. No measurement was taken of those who expect defense of states' rights within existing parties.

A referendum on the EMU failed last year. Surveys at the polls showed strong opposition to the wholesale transfer of power to Brussels. In a new poll by *Sifo* for the news agency TT, the number of Swedes who would vote against the EMU today has increased to 58 percent from 56 percent. Only 35 percent would vote yes, compared to 42 percent at the time the referendum was held. 6 percent are uncertain.

The new party will face competition from existing parties. EU critic Sören Wibe has built a network of EU skeptics within the Social Democratic Labour Party, the largest political party in Sweden. Social Democrat and EU critic Anna Hedh has called for replacement of party leader Göran Persson, currently the Prime Minister, before the national election in 2006. Prime Minister Persson supported the EMU along with the leaders of three right wing parties.

The two far left parties that share power with the Social Democrats in the current coalition government opposed the EMU and have acted as leaders in the drive to preserve local power.

Leaders of right-wing parties generally see themselves as less vulnerable than the Social Democrats, emphasizing their long-standing opposition to over-regulation by the EU and even within the state. They see membership in the EMU as a special case, essential to successful economic integration, that should be viewed as a positive step. But an education campaign shortly before last year's referendum failed to turn the tide.

The next hurdle faced by Junilistan is the accumulation of 1,500 signatures on a petition, required for registration in the June election. With such strong public support, success in this phase seems a foregone conclusion. Party organizers have begun by calling on a broad coalition of EU skeptics who opposed the EMU whose names they have on a contact list.

The Death of Marriage I

http://www.mensnewsdaily.com/archive/g/gay/2004/gay020504.htm

Roger F. Gay, 02-05-04

The decision by the Massachusetts Supreme Court to extend all "protections, benefits, and obligations conferred by civil marriage" on same-sex couples continues to be a subject of discussion and debate around the internet. Unfortunately, many liberals and conservatives alike have bought into the ideas suggested by partisan advocates. Much of the discussion is ill-informed and options are limited to those that will do the least good.

It can be quite difficult to move a debate from a state of superficial partisan bickering to clear and objective discussion, especially during an election year. Regardless of the fact that those who have focused attention on these issues for years know the answers, the average eligible voter will more likely grasp onto their preferred party's talking points and hold on for dear life.

One person who has focused a great deal on family issues for many years is ACFC president Stephen Baskerville. Regular readers of MensNewsDaily.com may be familiar with his recent article, The Father: A Family's Weakest Link. Dr. Baskerville writes "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."

In his first message as ACFC president (January 7, 2004), Dr. Baskerville writes "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."

Liberals and conservatives need to be convinced that families are under attack, and understand who the aggressor is. Moreover, they need to understand what the problem really is, and begin focusing on objective evidence, analysis, and the consequences of family politics. To be blunt, many people need to start by recognizing that family is more important than partisan politics. Only then, I believe, can they begin the process of deprogramming that is necessary in order to look these issues in the eye and deal with them objectively.

Republicans blame "activist judges" for the redefinition of marriage. Perhaps the most astounding position I have read in a conservative discussion forum relates to the defense of this position. I have been told that government has always been involved in marriage and family. We should not be concerned that government, by acts of Congress and state legislatures, has become more involved in recent years. Only the courts, "activist judges," must be stopped from extending government involvement on their own.

I am astounded by the expression of this view in a conservative discussion forum because on its face it is obviously not a conservative view. I find it odd (but not particularly unusual) when Republicans support the ever-growing cancer of government intrusion into private life. I also find the argument weak and rather offensive. We might like to imagine that judges themselves are non-partisan, thus it would follow that political parties are not to blame for judicial activism.
Although I believe that many judges do have strong party affiliations, and that in itself is a problem, that is not the worst of it. We apparently must also believe that judicial decisions are not effected by the laws written by Congress and state legislatures. Thus, enabling us to judge judicial activism as something entirely independent of legislative activism.
Therefore, we should ignore the role of state legislators, congressmen, governors, and presidents in the destruction of marriage and family during the period when we are considering how to cast our votes. Pity the poor fool who falls for that one; the ultimate political dodge.

The argument has been put forth that the sudden finding of a constitutional requirement to recognize same-sex unions (regardless of what they are called) as equivalent to "marriage" did not in fact appear suddenly out of nowhere. There is a history of denial of marriage and family as fundamental institutions linked to fundamental rights. The road to the decision was paved with relatively recent federal reforms and billions and billions of dollars in federal funding. The problem has not been judicial activism so much as judicial inactivism; the refusal of the courts to overturn laws that are too intrusive and that have trampled family rights.

It has not been particularly surprising to me that some conservatives and liberals still do not understand that marriage as we knew it was effectively abolished before the Massachusetts decision. Unless someone has gone to a great personal effort to research and understand family law reforms over the past two decades, or regularly reads MensNewsDaily.com or information from another competent source, how would they know? Despite the fact that the fundamental social institution has undergone a complete legal transformation, so-called "mainstream media" has remained silent.

The recent intrusion of government into family life is not merely a matter of degree. If it was, reducing the rights of heterosexuals for the sake of expanding government control would not have led to the birth of new rights for homosexuals. The complete destruction of marriage and family (legally, as we knew it) was necessary before a constitutional right for same-sex marriage could rise as a phenix from the ashes.

For more than two centuries, family and the institution of marriage were "recognized by law" in the United States. There is a fundamental difference today, in that marriage and family issues are entirely "politically controlled." To be recognized by law is accepting of marriage and family as something created outside of government, so important that laws are needed to recognize it, but so established in the private domain that it must be respected and protected as involving fundamental rights. By the time the Massachusetts decision was made; "Simply put, the government creates civil marriage. ... In a real sense, there are three partners to every civil marriage: two willing spouses and an approving State. ... Civil marriage is created and regulated through exercise of the police power."

I know that I will get arguments regarding the factual nature of such statements in reference to "civil marriage." In the eyes of the Massachusetts court, "civil marriage" must be seen as distinct from marriage perceived in relation to tradition and religious preference.

Some social conservatives in fact argue on religious grounds, with that being their only objection. Marriage and family have been recognized and respected by tradition and by religions throughout the world – because of what they are.. It is an false and entirely ridiculous argument that because marriage and family are widely recognized and respected, outside of civil law and process, that similar recognition and respect within civil law is unconstitutional.

The real basis of the new constitutional right for same-sex marriage is that marriage and family now exist only as civil institutions, created and controlled by political processes, defined by arbitrary government services and arbitrary politically determined privileges and restrictions. Anything that may be connected to tradition or religious practice and belief has been abolished regardless of its fundamental meaning, importance to society, and the effect abolishment will have on parents and children. Marriage and family now means whatever politicians define them to mean and only what they define them to mean. The nature of marriage and family has been abolished. But it was not a sudden death. The Massachusetts decision was only a pronouncement that was finally so obvious that it could not be avoided in "mainstream" public discussion.

As bad as the situation is for marriage and family, the overall situation is worse. The transformation of marriage and family from established, legally recognized institutions to politically controlled services, privileges, and restrictions marks a fundamental change in the relationship between government and the people. It is not so much through judicial activism, but judicial inactivism that has allowed this to occur.

Courts have been more engaged in partisan politics (i.e. on the side of parties rather than in opposition) than in performing their duty to defend fundamental rights. As a result, marriage and family are no longer fundamentally protected, but have been reduced to mere creations of civil law controlled entirely and arbitrarily by political decisions. As such, (phenix from the fire) the equal protection clause has a broader and much more arbitrary reach. That is why the Massachusetts decision came now, when no such decision was given by any court for more than two centuries. Homosexuals have the same access to arbitrary, politically defined statutory rights and obligations as everyone else. It was congressional and legislative activism that led to the decision.

Strong Momentum for EU Skeptics

http://mensnewsdaily.com/archive/newswire/news2004/0104/newswire012604.htm

Roger F. Gay for MND NewsWire, 01-26-04

STOCKHOLM – Forty-two percent of Swedish voters polled by Gallup over the weekend believe that a new party is needed to oppose the wholesale transfer of political power from individual states to the European Union. Twenty-seven percent were undecided.

The poll shows strong interest in the plan to build a new EU skeptics party, the brain-child of Swedish economist Nils Lundgren. Support for a new party is somewhat stronger among men and the poll also shows increasing skepticism of the EU among older voters.

One quarter of voters currently say they would consider voting for a party of EU skeptics in the European parliamentary election in June, according to the poll that was conducted for TV4 News and *Expressen*. Thirty-two percent were undecided

Forty-five percent say that their view of the EU has worsened since rejecting membership in the European Monetary Union; the EMU in a referendum last year. Thirty percent were undecided and eleven percent gave no answer to this last question.

Since announcing plans to build a new party, Mr. Lundgren has had difficulty recruiting seasoned politicians from amongst those who led opposition to membership in the EMU. Joining the new party would mean leaving parties that are well established.

Established politicians have announced plans to effect their own parties' platforms. A key question is whether future proposals for an EU constitution will be submitted to the people in a referendum rather than leaving such a momentous decision to politicians.

Fathers Can Decide The Election

http://mensnewsdaily.com/archive/g/gay/2004/gay012504.htm

Roger F. Gay, 01-25-04

A Gallop poll published in *Newsweek* shows John Kerry leading the president by 3-points – 49 to 46, signaling an end to the sense that George W. Bush is guaranteed a second term. It's beginning to look more like the race in 2000 in which every vote counted.

Both sides will have views on medical coverage, the time table for leaving Iraq, marriage, and the economy. But generally speaking – they're all for that. In a close race, those extra personally important issues that drive people to voting booths or cause them to ignore the election in frustration can force the final result one way or the other.

A classic general issue like taxes and spending will not decide the election. Positions are fixed. Democrats will spend more and tax more. Republicans will spend more and borrow more. Democrats will get more votes from people who pay little or no taxes. Republicans will do better among those who pay the bills. The strongest reactions to these big issues and whether we should have gone to war without U.N. approval are already built into current polls reflecting a relatively stable core for both parties. Elections are decided by those who swing.

Feminists have already asserted their historic claim that women will decide the election but nobody believes them. Hard-core, lesbian, man-hating feminists do not represent the majority of women. What they represent is a small but stable group of Democrat Party lobbyists who want Hillary to be president – not the swing voters who can change the outcome. They don't matter.

There are tens of millions of divorced and never-married fathers in the United States and just about as many stories of injustice. There are additional stories from men who are not fathers but are forced to pay child support for children that are not theirs. These fathers are not the only people who are aware that marriage and family issues are important. The crack in the institution of marriage has finally become so large that general public ignorance is no longer a political shield.

For decades, Democrats (along with at least one Republican president) led an assault against fatherhood, family, and American justice. They destroyed marriage and family legally, and eliminated family rights; basic human rights that all Americans should share. But recently Republicans have had control of both houses of Congress and the presidency. Given the opportunity to address the problem, the Republican experience has been a great disappointment.

Republicans have failed to take a viable position. President Bush blames activist judges for the redefinition of marriage and wants to avoid family issues by leaving them to states. Sounds fair enough. But what states do (including the courts) is controlled to a very great extent by federal regulators, the great mass of federal family statutes that have been created over the past quarter century, and billions of dollars in federal funding. Leaving the problem to states is not a credible option unless accompanied by the repeal of federal laws. Since the beginning of his term, the president has been on the opposite side of his own position – with a desire to "build on what we already have."

Fathers are not asking for special entitlements and are not competing against women's rights. No fathers' group is lobbying for lower pay for women or trying to block women's access to constitutional process. To a large extent, they are not even opposing special entitlements for women. I know of no fathers' rights group for example, that has rallied against the extra $50 that was thrown into the welfare entitlement for no apparent reason during the last election season.

What they want, by and large, is reinstatement of the Constitution for themselves, and everyone else is welcome to the same rights. They want to put an end to corruption in government handling of family policy. This is an area that is entirely open to both parties. There has been a sudden growth of awareness of the vital importance of family issues. There is a huge potential benefit available to candidates who address family issues honestly. Those who fail to do so are running the highest risk of presenting themselves as dishonest and incompetent.

The number of eligible voters who really care will very likely be much greater than the number it will take to swing the election. There are so many that they could matter more than the largest cash donations. They could in the end decide the election.

Europeans for States' Rights

http://mensnewsdaily.com/archive/g/gay/2004/gay012304.htm

Roger F. Gay, 01-23-04

French leaders have historically been leery of characterizing England as a true and steadfast part of Europe. British leaders tend to hold stronger to the ideas of state sovereignty and provide an anchor to *the West*. But events in Sweden seem to indicate that old continental wisdom may be out of touch with other Europeans.

National economist Nils Lundgren has announced plans to establish a new political party to defend states' rights, and statistical surveys suggest it is a sound idea. He expects the new party to participate in elections to the European Parliament in June and predicts they could end up with as many as twenty percent of the available seats.

Swedes rejected the Euro in a referendum last September. Independent polling showed that the vote was tied to rejection of a massive power-shift to Brussels. Since then, polls have shown an increase in EU skepticism.

The anti-Euro campaign was supported by far left parties in Sweden. Leaders of the major right-wing parties supported the Euro along with Sweden's largest political party, the Social Democrats. But it was clear early on that politicians and the party faithful were abandoning their leadership to operate independent anti-Euro campaigns.

Strong EU skepticism cuts across the whole political spectrum, but the leaders of major parties have been pushing to accomplish every integration step that comes up for a vote; too blindly it seems for a majority of the population. Mr. Lundgren would like to provide an alternative made up of a select group drawn from several parties that will be right in heart of the popular middle ground but with a primary mission of establishing limits to the EU power shift.

Brussels failed to get agreement on a new constitution in 2003 (after its supporters expressed the same impatience to get the job done as with establishing a fully independent Iraq). The proposed constitution would have set the stage for an unlimited power shift without shielding states or providing guarantees of basic human rights.

The most well-publicized complaint was the extent to which power would have rested in the hands of the French-German axis. During UN Security Council debates on the War in Iraq, France and Germany played the anti-American card in a bid to establish a perceived need for a rapid power shift and increased military independence.

One reason for the impatience was that future proposals will face an even larger constituency from the *New Europe*. Jacque Chirac had openly advertised his desire to establish the EU's foundation before its newest members from the east were eligible to vote. But rejection of the proposed constitution seems to indicate that even current voting members are not interested in repeating the Soviet experience of a highly centralized socialist government.

Swedish polls reflect an increased resistence to a major restructuring of European political power. Supporters of the power shift promoted what in effect would be a single European super-state they say would maintain European identity by reflecting the ideals of its member states. That would be done by seizing control of policy decisions encompassed in the extensive body of treaties that currently define the European Union. But more Europeans are expressing the belief that preservation of states' rights and established democratic systems are the only way to maintain the real thing.

The next hurdle faced by Mr. Lundgren is the effort to convince politicians to break ties with established political parties to join his new invention. Swedish state television reports that at least four possible candidates from three political parties have already turned down the invitation. The extent to which experienced politicians will be involved remains to be seen. In any case, Mr. Lundgren expects to announce leading candidates within two weeks.

Is Kerry Up To Fighting Special Interests?

http://mensnewsdaily.com/archive/g/gay/2004/gay012104.htm

Roger F. Gay, 01-21-04

Front-runner Howard Dean lost ground quickly after sneaking into churches in Iowa for photos and a chance to be seen standing next to Jimmy Carter. Most professional pundits haven't figured out exactly why Dean finished a distant third, but a few quick interviews with some real people suggest an entirely unexpected development in U.S. politics. Voters might care about honesty and integrity. Dean left no doubt that he has neither.

The way the election process works, the primary choices are between those who are running, and John Kerry received the benefits; a candidate who had not previously received much attention and was badly in need of cash to "get his message out." Before the analysis of his success gets too far out of control, it might be worthwhile to consider the fact that he'd lost his voice before the Iowa caucus and failed to show up at some events altogether. Perhaps it's worth considering that during the exact period he was "gaining momentum" he was keeping his mouth shut and enjoying Howard Dean's self-destructive exuberance.

In his victory speech however, Kerry may have succeeded in sticking his Achilles heal directly into his gaping mouth. "We came from behind here, and we came for a fight here, and my message is now to the special interest who call the White House home: We're coming to you." ... "you stood with me," Kerry told supporters, "so that we can take on George Bush and the special interests and literally give America back its future and its soul."

The question that now must be asked is which special interests he wants to remove from political power and which special interests he'd like to see gain power in their place. Who, in John Kerry's mind, represents the soul of America and who gets condemned to hell if he's elected? Democrats are not exactly credible representatives of truth, justice, and the American way.

Over the past two decades they've conspired to destroy the Constitution (a "living document" open to whatever interpretation seems profitable at the moment), the family (marriage as we knew it no longer exists and human rights have been completely eliminated from divorce proceedings), and capitalism (the workplace is now mired in domestic quarrels, government regulation, and expensive new governmentally imposed functions brought on by overzealous feminist legislation).

He mentioned big business scandals. Perhaps he shouldn't have. A key player in the largest, most destructive and painful scandals was Arthur Andersen, an international accounting firm that also set up large government systems that are still driven by fraudulent accounting. (See Corporate Fraud: It's Clinton's Fault! *(7/11/02)*) Is Kerry suggesting he'd be willing to go after government fraud that's historically been supported by his party, or does he just mean to continue the war against capitalism as the friend of fat-cat Republicans and the enemy of the working masses?

John Kerry was an original cosponsor of the Violence Against Women Act (VAWA), a waste basket of feminist legislation that has drawn criticism from all quarters. Before going to www.JohnKerry.com to get his version of it, it is well to remember that rape, assault, and battery were all crimes before VAWA was enacted. Those who were paying attention remember this as legislation primarily designed to jack-up intimidation against men in divorce court. *All men are evil. All women are victims.* In any domestic proceeding it must be assumed that every man is an irresponsible, wife-beating lout who shouldn't be allowed near his own children unless he pays a whole lot of money. Could John Kerry ever become interested in fighting special interests even when he's a proud sponsor of their legislation?

Despite the fact that questions have been raised, the Iowa Caucus might have been right. Perhaps John Kerry is the best the Democrats have to offer. But if some candidate leaves a few befuddled, sushi-eating, statistically-dependent, professional political consultants behind for a few days to think for himself and ask real people about family, the Constitution, freedom, capitalism, honesty, and integrity, he might find out that Americans actually care about such things. And Democrats might discover why they lost both Houses of Congress and the White House.

Sheesh! How unlikely is that? My guess is that the liars and cheats on the other side of the aisle are safe for another four years.

Closing Arguments in Swedish Foreign Minister Murder Case

http://mensnewsdaily.com/archive/newswire/news2004/0104/newswire011904.htm

Roger F. Gay for MND Newswire, 01-19-04

After two and a half days of testimony and arguments from both sides, five days after the trial began, closing arguments were given this morning in the case against Mijailo Mijailovic, the man being tried for the murder of Swedish foreign minister Anna Lindh.

The court announced its decision, made last Friday, that Mijailovic will undergo psychiatric evaluation. Deliberations have been suspended pending completion of the evaluation, which is estimated to take four to five weeks. After release of results, it is possible for the trial to continue with related evidence and arguments, which could for example focus on the probable effects of the combination of medication Mijailovic was taking.

That Mijailo Mijailovic attacked Anna Lindh with a knife in Stockholm department store NK on September 10, 2003, and that Anna Lindh died the next morning from the multiple stab wounds he inflicted is not in doubt. Strong physical evidence, eye witness accounts, and an eventual confession left a focus on Mijailovic's psychi atric condition; whether he was in effect responsible for his own actions and whether he intended to kill Anna Lindh.

The evidence showed that Mijailovic has suffered psychiatric problems for several years. He was regularly heavily medicated with prescrip tion drugs that had not been sufficiently monitored. Mijailovic had scheduled an appointment with his doctor the day before the crime but the doctor was unavailable. He sought additional treatment and complained of hearing voices in his head and morbid tho ughts related to well known political figures, but was not admitted for additional treatment. Instead, he was given additional medication that may have contributed to his aggressive behavior.

Prosecutors contend that circumstances did not warrant a reduce d charge or sentence. He brought a knife with him from home when he came to Stockholm that day and was prepared to use it. His attack was designed so that the victim had virtually no opportunity to defend herself. After the attack, he took rational steps d esigned to hide his guilt; disposing of clothing, trying to get a hair cut immediately in order to change his appearance. They speculate that Anna Lindh was a symbol for a society that Mijailovic was dissatisfied with.

In defense, Peter Althin said that A nna Lindh was the victim of the state of society, in which increased violence was related to lack of treatment for people suffering from serious psychiatric problems. He cited two other well -known cases in which lack of treatment was related to violence an d death, including a case in which a mentally ill man drove wildly through Stockholm's Old Town mowing down pedestrians. He also pointed out that there is no way that any outsider could have predicted that Anna Lindh would go to NK that day. The circumstan ces surrounding the crime were entirely coincidental.

A motion by defense attorney Peter Althin to release his client was denied. There is convincing evidence that Mijailovic committed the crime and the minimum penalty, for assault, is two years in prison . Those facts sufficiently support holding him. Chief jurist Göran Nilsson stated that if he was released there would be a high risk that he would flee or continue his criminal activities.

Prosecutors did not contest the psychiatric evaluation, admitting that it could help clarify Mijailovic's condition. Pending results that indicate otherwise however, they are asking for conviction on the murder charge which carries a penalty of ten years to life in prison. Defense attorney Peter Althin said that the crim e lacked a motive and that the prosecution had not proven intent. The prosecution contends that there is no legal requirement to prove that the attack was pre -planned for it to be classed as murder.

Related Article (January 14, 2004): Trial for Murder of Swedish Foreign Minister Under Way

Trial for Murder of Swedish Foreign Minister Under Way

http://mensnewsdaily.com/archive/newswire/news2004/0104/newswire011404.htm

ROGER F. GAY, MND NEWSWIRE, 01-14-04

The trial for murder of Swedish foreign minister Anna Lindh began at 9:15 in Stockholm this morning. (3:15 am ET) Twenty-five year-old Mijailo Mijailovic has admitted attacking Anna Lindh in the NK department store in downtown Stockholm on September 10, 2003, but denies he planned the crime or intended to kill her. She died from stab wounds in the early morning of September 11th.

Due to the strength of the evidence and his confession, the trial is ultimately expected to focus on Mr. Mijailovic's mental health and the question of intent, which will play a role in defining the crime and determining the sentence. Relatives have stated they hope he receives psychiatric treatment. The penalty for manslaughter is 6-10 years. The penalty for murder is 10 years to life.

Eye witness accounts led to recognition of a man whose image had been captured by NK security cameras; thereafter referred to as "The NK Man." After the arrest of a suspect who matched the description, police initially ignored a tip identifying Mijailovic, contending it impossible because the assailant was already under arrest. The initial suspect was eventually released and Mijailovic taken into custody.

The murder weapon and items of clothing worn by the assailant were recovered soon after the crime. Analysis of hair, fiber, blood, and finger prints provided a positive match to both Anna Lindh and Mijailo Mijailovic. Once the physical evidence established Mijailovic as The NK Man, he decided to confess, saying he wanted to end speculation that the attack might have been politically motivated.

Details of his confession and public statements by his lawyer Peter Althin present a man with serious psychiatric problems on strong prescription drugs who had sought further care but was denied; once going so far as to explain a morbid obsession with well known politicians. He carried the knife out of fear. After recognizing Anna Lindh as she entered NK, he wandered through the store as voices in his head told him to attack.

Prosecutor Agneta Blidberg described the crime in court this morning, supported by physical evidence and eye witness accounts, including the response of close friend Eva Franchell who confronted and punched the assailant before he ran away. Prosecutors contend that the 14 minutes that passed between the time Mijailovic recognized Anna Lindh and the attack provided sufficient time for planning and proves intent.

Speculation that the crime may have been politically motivated has been built on Mijailovic's Serbian national background. Film has surfaced showing him "following the movements" of Liberal Party leader Lars Leijonborg during a public appearance. Both Leijonborg and Lindh had publicly expressed support for the bombing of Serbia.

Child Support Propaganda Haunts Michigan Papers

http://mensnewsdaily.com/archive/g/gay/2004/gay010204.htm

Roger F. Gay, 01-02-04

Michigan Attorney General Mike Cox has been in office for one year. He promised to make child support collection his top priority. Just as knowledgeable observers would expect, the promise was followed by a year of lying and corruption. Three recent articles in Michigan newspapers illustrate why he, and others like him, get away with it.

On December 18, 2003 the *Detroit Free Press* carried an article by staff writer Dawson Bell entitled ATTORNEY GENERAL MIKE COX: ONE YEAR IN OFFICE: Honing political skill, hunting deadbeats. "Deadbeats" is a familiar reference to people who have not paid all the child support that has been ordered.

Anyone looking for an unbiased analysis would be in the wrong place. You only need look at the last paragraph, which reads: "But one thing we do know. He's easily the best Republican attorney general Michigan's had since Frank Millard."

Mr. Bell gives readers false hope with a section entitled; "Varied reviews," which then begins by saying "Virtually all observers agree there's not much downside for Cox on child support." That may be true, unless of course you happen to pay attention to the swollen throngs who see nothing but a downside to Cox on child support.

Mike Cox runs a private organization called PayKids that takes corporate donations from companies interested in child support collections. He has simultaneously been using his influence as Attorney General to lobby the state legislature to set up a system that would provide private child support collection agencies with lucrative state contracts.

On December 29th, *The Macomb Daily* published an article by Gitte Laasby, *Capital News Service* entitled; Cox zeros in on $7 billion in unpaid child support. The title copies misleading promotional information from the Cox website.

"Deadbeat dad" propaganda has been the subject of scientific investigation and the source of plenty of work by fathers' rights advocates. Although never supported by an ounce of honest evidence, proved and reproved false again and again, such bizarre claims are still common political fodder for dishonest politicians and their supporters.

One paragraph typifies the old-fashioned approach applied to Macomb County. "Deadbeat parents in Macomb County," the article claims, leaning heavily on the name-calling ethic, "owe about $17.3 million in estimated arrears at any given time, and Michigan is third-worst of all states for uncollected child support. Statewide, parents owe about $7 billion in back child support to 650,000 Michigan children and to the state."

By population, Michigan is the 8th largest state in the country; but adjusting for that, and reasonably for its claimed status as especially bad, one might expect at least $200 billion in past due child support owed nationwide. That's more than five times the total annual child support owed in the United States, including the amount "owed" (so to speak) by the 80-90 percent of fathers who pay regularly. The GAO has reported Office of Child Support Enforcement estimates that the total accumulated unpaid child support since the federal government first became involved in 1975 is less than $100 billion, and several analysts who have focused on child support (including me) believe that number is too high.

Claiming 650,000 children are owed child support in Michigan would imply around 25 million in the United States. With currently around 7 million (male and famale) custodial parents due child support nationwide (including those who receive regular payments), that would be around 3.5 per custodial parent; but if considering only those not receiving child support, the number might be somewhere closer to 25-30 children per custodial parent.

Obviously something is wrong with the statistics and something wrong with writers who repeat such dribble and newspapers that print it.

The article goes on to build up Mike Cox's image with an attack on noncustodial parents. Cox's press officer Mike Doyle complains that the public's misperception of the problem is partially to blame. "People kind of see deadbeat parents not as criminals, but people who are doing something unethical in not paying for their kids' support," he said.

'Another problem is that collecting support "wasn't a terribly high priority" to county prosecutors and the former attorney general,' parrots the article before a quote from the press officer drops entirely off the reality truck.

"For too long, these deadbeats have been able to avoid paying child support without too much fear of any kind of pursuit by law enforcement. The attorney general is trying to establish a credible threat that they will be prosecuted for a felony if they don't pay," according to Mr. Doyle.

It's one thing to claim such programs are "for the children" but entirely another to shape the promotional campaign for an audience under 5 years old. You can't expect people much older than that to be unaware of the huge and extremely expensive government program aimed at the so-called "deadbeat dads" that started more than a quarter century ago; the continuous threats, and overzealous enforcement efforts.

It might seem possible that too few people understand, because so few "news" outlets let on, that the program has not had any effect on compliance. That's because fathers (85 percent of the statistically understood noncustodial parent population are fathers) were paying well before the program began. The primary cause of non-payment is that a significant portion of parents who owe child support cannot pay as much as they have been ordered to pay for various reasons. One of them is that some of the so-called "deadbeats" are actually dead.

People get behind in every sort of payment, house payments, car payments; whatever payments there are, people get behind even when they don't want to. It's only when it's child support that corrupt public officials get away with treating it as a crime. What's worse is that the enforcement program shut down the legal mechanisms for obtaining proper adjustments to the amount owed when appropriate. The amounts owed as child support are extremely random, typically unrelated to children's needs and the parents' ability to provide. But that's just the circumstance that results in the appearance of need for enforcement, as the past-due amounts continue to rise.

Some payers encounter problems and later make up for it, or at least start paying again. Cox attributes every payment of a past-due amount to his personal efforts, a claim that could never stand up to scrutiny. Writer Gitte Laasby regurgitates without question: "With $1.4 million in overdue support payments collected so far, the attorney general has surpassed the $1 million mark he was shooting for by the end of this year."

It's not particularly interesting to know that some people are behind, but paying. That's happened every year for as long as there have been child support agreements and orders. All people like Cox need to know in order to meet or beat their own projections is what the statistical average is. It's likely that more than $1 million in past-due support would have been paid without Mike Cox or any special child support enforcement program at all for that matter. That's just part of the way things work out in real life.

On the same day that the *Capital News Service* article ran, *The Macomb Daily* also published an article entitled Macomb officials skeptical of child support crackdown by Chad Selweski, one of its own staff writers. At first the article seems to finally present a challenge to Cox's propaganda machine; but it stops short of the serious truth.

The article isn't so much about criticisms of Mr. Cox's involvement in child support as it is about his defense, repeating the same bizarre statistical misinformation as the *Capital News Service* article.

'Sheriff Mark Hackel sees the situation differently,' Mr. Selweski tells readers. 'He calls Cox's program a "duplication of effort" with no clear strategy. The state would reap more benefits, he said, if it helped fund enforcement programs in Macomb and other major counties.'

That's right. It turns out that local officials want the state's Attorney General to turn over more of the funding to them. Not a word from any real skeptics, who according to Michigan's newspapers don't exist.

An Alternative to the Federal Marriage Amendment

http://mensnewsdaily.com/archive/g/gay/03/gay122903.htm

Roger F. Gay, 12-29-03

From a legal perspective, marriage and family were redefined years before the current controversy over same-sex marriage began. The "original sin" (so to speak) was the transformation of marriage and family law into "social policy." Social policy is purely a political product, defined and controlled by government. The only viable response to the current treatment of marriage and family law is to return marriage and family to its protected status as an essential human institution, disallowing arbitrary political manipulation.

An essential step in the reclamation process has already been described in Fathers Rights? In defense of family and other fundamental rights. The article points to a critical case from Georgia that received far less press coverage than the more recent decisions on same-sex marriage. Yet the contrast between the lower court decision in favor of applying individual rights in family law and the Georgia Supreme Court decision to ignore the constitution in favor of purely political treatment defines the entire problem.

The Georgia Supreme Court supported the notion that family issues are not related to sacred or essential human activity. Family issues are not even private issues subject to individual rights. They went even farther than that. In relation to family issues, government control is absolute. There is no area of life that requires any sort of check or balance against arbitrary government intrusion; not in redistributing income or property, or creating and assigning debt. There is in addition, no need to respect the separation of powers between branches of government, or to exclude conflicting third party special interests from unduly influencing or even controlling decisions by courts.

The tendency of so-called "conservative" groups to ignore the redefinition of marriage and family over the past decade has been overwhelming. I recall Gary Bauer (ca. 1991) facing off against Rep. Tom Downey (D-NY) on the issue of child support enforcement legislation. At the time, Gary Bauer was head of the Family Research Council, an organization that has done no family research that I know of. Democrats controlled the House and Downey was making it emotionally clear that anyone who did not support his child support enforcement initiatives was his enemy. Despite the fact that a rather obvious political war against marriage and family was being spearheaded against fathers, and child support was the primary weapon (Downey one of the generals), Bauer explained that child support was just not his issue.

In 1992, Gary Bauer appeared in another hearing headed by Tom Downey, this time on Downey's government assured child support benefit. Bauer took a position in favor of stronger child support enforcement; in effect, supporting the political war against marriage and family. His price for that support was apparently an increased tax break for married couples. Despite the name of the organization he worked for (Family Research Council), this seemed to be the single issue of interest other than helping Republicans get elected. Bauer is now head of an organization called "American Values," a political interest group which similarly appears to have no interest in core American political values.

The "Institute for American Values" is the counterpart of "American Values." While espousing what appear to be socially conservative positions, it supports Democrats and is even more openly hostile to individual rights. "Affiliate scholar" for the organization, Tom Sylvester recently took part in a roundtable discussion at MensNewsDaily.com entitled Fathers' Rights and the Marriage Movement in which he presented fundamental rights as just an alternative policy choice. When confronted about the absence of distinction he confessed that he did not understand the argument. One wonders how a man can become an affiliate scholar for an organization called the "Institute for American Values" without having a clue about what the core American values are.

Anyone who still doesn't get it should consider the 1996 federal Defense of Marriage Act, which says that states don't have to recognize same-sex "marriages" granted in other states. After more than a quarter century of federal intrusion that led to the transformation of marriage and family issues from sacred and essential human institutions to mere social policy, the act leaves further redefinition, essential to sorting out the chaos, to the states. All state courts will find it quite difficult to deny equal treatment under laws that have no connection to anything more than an invention of government. (The Massachusetts decision on same-sex marriage made it clear that the court regards marriage as nothing more; its definition purely an artificial political choice. This is a general result of the federal intrusion into marriage and family policy over the past quarter century.) Besides that, everyone agrees that the federal Defense of Marriage Act is unconstitutional, and was therefore never a serious attempt to solve the problem. The two parties and their support groups worked toward the demise of marriage as we knew it and even now are doing nothing to preserve marriage and family.

The suggestion to amend the constitution to preserve marriage by defining it as a union between a man and a women is yet another way to avoid the core problem; the fact that marriage and family has already been ripped from its natural and cultural roots by Congress. After years of waiting to see what courts decide, and then years to carry out the difficult process required for such an amendment, it is unlikely that it will pass. Groups favoring same-sex marriage will carry out a professional campaign against it, while most conservatives who get public attention tend to be so burdened with historical support for anti-family policy that they will be unable to put together two coherent sentences in support.

There is really only one set of people that is emotionally and intellectually equipped to lead a defense of family movement; fathers. (On this point; see also Divorced Dads: Family Champions) After decades of feminist myth, family researchers and political pundits have finally gotten around to admitting that fathers are important. But even now they often grope for specifics, suggesting studies and experiments to define the role of fathers in families. Meanwhile, fathers have been acting like fathers in spite of people who don't know what it means. Even when surrounded by the strange events and ideas that we have encountered over the past quarter century of anti-family politics, we still find a way to defend the family. My suggestion to "conservative" (or other) groups that are serious about the defense of marriage is to either support us or get out of the way.

Is Australia Leading Fathers' Rights Advance?

http://mensnewsdaily.com/archive/g/gay/03/gay121903.htm

Roger F. Gay, 12-19-03

DadsOnTheAir.com is about to bring an amazing story to the internet in the form of a book on recent political developments in Australia.

In mid-June 2003, Australian Prime Minister John Howard announced his intent to re-examine the issue of joint-custody through a special committee, making it clear that he did not want delay or typical bureaucratic and partisan politics.

"We are asking the committee to report to the parliament by 31 December. There is no point giving it two or three years. I think that six months, given the intensity and amount of public interest in this matter, is an appropriate period of time."

"I encourage the committee not to see its remit as a license to recommend large increases in the expenditure of taxpayers' money but rather to look at the structure of these arrangements. I cannot think of anything that is more important to millions of Australians than current custody arrangements. This issue is properly the concern of the national parliament, and I hope it brings forth the genuine bipartisan involvement of the opposition."

The story of that inquiry is, perhaps surprisingly, quite a page turner. Professional journalist and DadsOnTheAir.com radio host John Stapleton teamed up with Geoffrey Greene from the *Shared Parenting Council of Australia* to cover everything from the initial announcement, press reactions, and political maneuvers to the flood of discontent with current custody and child support policy expressed by parents throughout the country.

To allow readers an early preview the book, a draft of a chapter entitled "The Weight of Evidence: Individuals Before the Inquiry" is available (PDF format) at the DadsOnTheAir.com website. Additional chapters will be available in the future.

"The Weight of the Evidence" provides a direct look into the public meetings held by the committee, as parent after parent, fathers, mothers, and grandmothers take to the microphone to tell their stories and call for justice. For one who has spent years studying, analyzing, and writing about the problems of the new system, it felt like the cavalry had arrived.

Republicans Cut "legitimate interest" Anchor

Both Parties Spurn Male Voters

http://mensnewsdaily.com/archive/g/gay/03/gay121703.htm

Roger F. Gay, 12-17-03

It's no secret that the old media has strong ties to the Democrat Party. The huge contrast between "analysis" of events during Democrat and Republican administrations has proven that over and over again. From about the 1970s through to the last presidential election, Democrats and their media outlets made sure the public knew how proud they were to have fewer male ... ah ... more female votes than Republicans – the so-called "gender gap."

It didn't matter that the extra share of the pro-Democrat females were being persuaded by feminist extremists and that the *feminist agenda* was actually put together by a coalition of organized crime, anti-West leftist extremists, and homosexuals interested in destroying the American family. It had become an agenda that benefited the Democrat Party, and that was good enough for the old media. Let loose the dogs of chaos.

It's a funny thing about voter statistics. There's a lesson here that will also benefit anyone looking at any statistics related to policy arguments. Responses to statistics (whether true or not) are not always what you expect. Courting the women's vote might seem to mean increasing the number of women who vote for the party. But there are actually two ways to achieve parity. The other is to rid yourself of a significant share of that annoying support the party gets from men. Better still, if you can quickly gather some female votes before too many men realize what happened.

After some trial and error, it was discovered that "child support" was the best spearhead issue. The left provided propaganda that simultaneously attacked a wide range of targets (it takes some analytical effort to make solid some of the connections I suggest – but surely you must have suspected); men (individual rights), patriarchy (heterosexual relationships and family), and a vast male conspiracy against women (separation of powers, states and individual rights, the Constitution generally). By introducing the words "responsible" and "welfare reform" the propaganda was made ideologically acceptable to conservatives and moderates.

How many of you actually paid close attention to welfare reform rhetoric and welfare reform? Both parties support the idea that welfare reform should incorporate what they refer to as "traditional American values." (Get your dictionary out and look up "values" if you need to, but all I'm telling you is this is what they said.) "Traditional American values include work, family, and responsibility." The way they've pursued the agenda has been to expand welfare to encompass all people regardless of income, and transform everything from the private sphere into public welfare issues; work, family, and responsibility. Nothing is left in the private sphere. The only remaining purpose for "individual rights" is to assure that everyone lives equally under the yoke of public policy. We have become a socialist country. Freedom is off the agenda for both parties.

People who were paying attention watched the rapid erosion take place. Marriage was redefined and family law transported from the private sphere to that of government functions; no longer protected from intrusion and arbitrary manipulation.

The old media spent years pushing the propaganda. During the early 1990s it was clear they were selling the idea that child support reform was one of the most important issues in the world. There was a long period when "deadbeat dad" hysteria filled the airways nightly, and if you missed it there you could get it through almost every newspaper and weekly magazine in the country.

The propaganda died down when it was proven, beyond any doubt whatsoever that it was all untrue; fathers did not typically abandon their families and they were good at providing financial support even after divorce so long as they were able. Poverty has several causes, but wealthy fathers who refused to support their children was not among them except in rare cases (and those were often questionable). After years of pushing it as one of the most important policy issues of all time, suddenly it wasn't important at all. No headlines blared; "Deadbeat Dad Propaganda False," or "Massive Multi-Billion Dollar Family Policy Fraud Exposed." Politics has nothing to do with reality. In America, it has only to do with what's good for the party. It was already true that neither party would benefit from the truth.

But the news has slowly leaked out and had some effect on political rhetoric and policy. The federal child support enforcement program has not reduced poverty or welfare dependency, never had any chance, but has expanded welfare policy to encompass all families regardless of income and transformed marriage and families into government functions.

Unfortunately, commitment to the multi-billion dollar spending on child support enforcement and the corruption that goes with it has been too strong for leaks to turn the tide. According to partisan sources, it's all working as advertised. Instead of backing off, the agenda is still set to intrude further and further into family life. There is no political party or organization that opposes this momentum that the old media will pay much attention to.

Politicians have continued to steer family policy according to the same agenda, but many have tried to be careful to imply rather than repeat the lies upon which the agenda was formulated. When problems are exposed, they are quick to avoid responsibility, mostly by blaming fathers and the courts. (Blaming the courts most recently for same-sex marriage, which is hard to avoid now that marriage and family are government functions.) The rhetoric has become fragmented, inconsistent, and a bit schizophrenic at times; "helping fathers" by threatening them, throwing them in jail, and taking so much of their income that they are no longer able to support themselves; and inviting religious institutions into the program to create an illusion of moral justification.

Marriage and family policy is not, according to the Constitution, a federal issue. (Although the Constitution is painfully aware of its own intent to protect marriage and family as a private issue.) The federal government can only become involved in issues not assigned to it when there is a nexus between an issue and existing legitimate federal interests. You surely remember what that connection was. The

federal government set out to save money on welfare by tracking down "deadbeat dads" and making them pay (even though redistribution of individual wealth is not a Constitutionally defined legitimate federal interest). Non-welfare related child support, which was what was actually effected by the federal reforms, was in fact a purely private issue (subject to court order through civil action between the parties involved).

Republicans are set to cut the "legitimate interest" anchor altogether, at least bringing reality a bit closer to politics. The RNC web site presents President Bush's position on welfare. Here's an item to think about:

> Strengthening Child Support Enforcement and Encouraging States to Give Child Support Payments To Mothers And Children: Under current law, government keeps a substantial portion of the money collected to pay past-due child support in cases of families that have received welfare. The President’s proposal provides financial incentives for the states to give as much of this money as possible to mothers and children, especially mothers who have left welfare.

So the idea that the federal government is involved in child support for the purpose of recovering welfare payments isn't all that important. Now that the federal government is involved, it no longer matters why they are involved. The point of the policy agenda is to take more from men and give more to women; and it doesn't matter whether the policy is legitimate.

Republicans are still obviously quite worried about that "gender gap." It's obvious that they still feel the need to pick up more female votes and shed themselves of more of those irritating male votes – else the old media might pick on them again. All I can suggest to loyal Republican males is to help them by not voting for them.

Saddam Hussein Captured

http://mensnewsdaily.com/archive/g/gay/03/gay121403.htm

Roger F. Gay, MND NewsWire, 12-14-03

> "Ladies and gentlemen, we got him!"
> *-- Coalition Provisional Authority administrator Paul Bremer*
>
> "The time for national reconciliation has begun."
> *-- Adnam Pachachi and Ahmed Chalabi, Iraqi Governing Council*

Saddam Hussein was captured last night by coalition forces. He was found buried in a "spider hole" near a mud hut and a lean-to structure near a remote farm house near Adwar, Iraq, about 8 miles south of Tikrit; looking very tired and disheveled. Soldiers of the 1st Brigade Combat Team, 4th Infantry Division literally dug him out with shovels. He is being held by coalition forces at an undisclosed location. At an official Coalition Provisional Authority news conference in Baghdad, Saddam was described as "talkative and cooperative."

Since the first public announcement, around noon today in Iraq, celebratory gun fire has been heard throughout Baghdad. There is dancing in the streets. Candy is being passed out by many people in a traditional show of celebration. "A defining moment in the history of Iraq." Adnam Pachachi of the Iraqi Governing Council called upon the Council to declare a permanent national holiday.

Intelligence led to suspicion that the former dictator has been hiding near his home town. A spike of activity dealing with high level members of the former regime during the past 24 hours led to a very high degree of certainty and narrowed the search. An initial assault involving about 600 special troops failed to find him. The area was cordoned off and a systematic search was conducted which led to the location of "suspicious structures." At approximately 8:30 p.m. yesterday (Iraq) the arrest was made without incident.

He had a black and gray beard and has obviously lost weight, having been in hiding for some time with minimal conveniences. He had about 750,000 dollars in U.S. cash with him, a casche of weapons, and a taxi in one of the structures. Positive identification was not taken for granted due to his appearance and use of body doubles in the past. He was originally identified by appearance and scars on his body. Leading member of the Iraqi Governing Council Ahmed Chalabi announced that DNA tests were performed to confirm his identity.

The Iraqi Governing Council recently passed a resolution stating that Saddam Hussein would be tried for war crimes and crimes against the people during his reign, even in absentia if necessary. Given the capture, it is possible for him to stand trial in person. The U.S. has also signaled an intent to put him on trial, and that he may face the death penalty.

Iraqi Foreign Minister Hoshyar Zebari made a public statement expressing his belief that the capture would help the people of Iraq understand that the long era of dictatorship has definitely ended, which will in turn assist in the process of transforming the country into a democracy, and help Iraq toward a stronger and more stable participation in the international community.

It is proposed that Iraq shall have established an independent democratic government before the end of June.

Why I Oppose The Federal Marriage Amendment

http://mensnewsdaily.com/archive/g/gay/03/gay121103.htm

Roger F. Gay, 12-11-03

> *Marriage in the United States shall consist only of the union of a man and a woman. Neither this Constitution or the constitution of any State, nor state or federal law, shall be construed to require that marital status or the legal incidents thereof be conferred upon unmarried couples or groups.*

It's a political case; one that looks, feels, and smells political from top to bottom. It's a proposed solution that looks responsive in a minimalist superficial kind of way; created entirely without delving into the details of the problem it is supposed to address. It does not address the problems that led to the proposal, and it is a course of action that is likely to fail.

Why do we need a constitutional amendment to validate one of the most well established elements of human and natural law? The answer is quite simple. The federal government intruded. The redefinition of marriage seems at this point to be a product of state courts with opposition from political parties. But, the new decisions by state courts creating same-sex "marriage" have not redefined marriage. From a legal perspective, marriage had already been redefined. The courts merely applied the new definition in view of constitutional principles, recognizing the universality of certain rights with respect to protection against government intrusion.

The problem would not exist if constitutional rights that defend the population against government intrusion had been consistently applied throughout the past quarter century, but they were not. The arbitrary political treatment of family policy began with so-called "no-fault" divorce. This article does not intent to present the pros and cons of that particular radical change in family policy. But, once states had decided to stop basing divorce decisions on reality and circumstance and a spouses commitment to their own solemn promise, a wall was broken. Many commentators at the time said that marriage had been abolished. Individuals, needs, and facts, as viewed through individual case review in courts no longer had much to do with it. It was then up to legislators to begin making arbitrary *en masse* decisions.

It was only a matter of time before special interest groups recognized the power shift from courts to legislatures; from individual rights to arbitrary political treatment. Given that special interest groups such as NOW which got the most attention from the press were national organizations, it is doubtful that anyone broke a sweat moving family law issues from state legislatures to the U.S. Congress.

Marriage as we knew it may have been abolished when "no-fault divorce" was introduced, but something had to emerge in its place. Marriage licenses were still being issued. People were still going through the ceremonies and building families. Nature mixed with human cultural evolution -- changes in law would not put an end to the behavior.

Congress overplayed the hand. The federal government wasn't supposed to be involved in family law to begin with. It involves authority that is reserved to the states and to the people. For the federal government to get deeply involved to begin with, there was no option but to begin weaving a tangled web. Congress did it with a vengeance.

Today, from a legal perspective, marriage is no longer a sacred institution that is defended against government intrusion under privacy rights. Marriage is a function of government, indistinguishable from the granting and distribution of welfare benefits.
In the Massachusetts decision establishing same-sex "marriage" the court wrote: "In a real sense, there are three partners to every civil marriage: two willing spouses and an approving State." Even in dissent, justices reinforced the new nature of marriage. Marriage is "deeply rooted in social policy" that must "be the subject of legislative not judicial action."

The idea that marriage and family are defined as "social policy" is quite new in the United States. Marriage was a sacrament involving a solemn oath and bound to the most fundamental elements of human nature. Now it is merely a statutory construction swinging freely in the breezes of public mood and political manipulation.

I oppose a constitutional amendment to address this problem because it does not address the problem. It preserves the new meaning of marriage and family as a government function, even extending it to a definition given in our fundamental political document, the constitution.

And I oppose a constitutional amendment to address this problem because it avoids critically needed discussion on family policy during this election year. "Let's just calm down and wait," say the politicians. First we'll wait and see what the U.S. Supreme Court says. Then, perhaps try a constitutional amendment – even though that is unlikely to succeed.
Let's not wait, I say. The problem is clear. It is a critical, basic, definitive political problem. It is an election year. Let's discuss it now.

What have Republicans done for us lately?

http://mensnewsdaily.com/archive/g/gay/03/gay120903.htm

Roger F. Gay, 12-09-03

The pages of *MensNewsDaily.com* have recently displayed the most common characteristic of American election year politics - partisan bickering at the expense of focus on issues.

MND has never hidden its conservative tendencies; a much needed balance to the increasingly irrational and often extreme leftist bias of the old media. MND writers and readers alike express strong support for adherence to constitutional principles and a strong aversion to arbitrary government control through policies based on group prejudice.

For at least a fleeting moment in our history, the lines of ideology and partisanship seemed to come together.

The Democrat Party had a Soviet (or Nazi, take your pick, they both worked the same way) approach to government, playing one group against another and promising money and power over others to groups they chose to be on their side. (They were racists when the KKK was powerful and began playing more sides in the 1960s when other movements threatened the old order.) They have systematically eroded individual rights until tens of millions of Americans now feel the crescendo; many thousands of emotionally loaded, psychologically motivated bureaucrats with the power to arbitrarily control our lives by force and intimidation, with police entering our homes without just cause dragging us away at gun point.

The rational choice, at least for a short while, was the Republican Party; the party of Lincoln, the party of limited government, the Grand Old Party. The last Republican president of that description was Gerald Ford. But even he - while noting that creation of a U.S. Office of Child Support Enforcement - took the federal government too far into domestic relations, signed the bill that created it. At least he publicly acknowledged that it was wrong and in fact promised to suggest legislation to correct it.

The creation of the office was introduced as an amendment to more popular social services legislation by Democrat Senator Russell Long, whose family was strongly associated with racist neo-nazi organizations and organized crime. There were no compelling facts or scientific logic to his suggestions, just rants about "deadbeats" costing taxpayers money. If much of the anti-father rhetoric he threw around had been true, his core supporters would have opposed him; since most of them would have been part of group he attacked. At that time however, especially given the Long family's reputation, the association he made between "deadbeats" and welfare suggested an attack on racial minorities. Long's proposals also hung on the coat tails of an international leftist movement, expressed through a Hague Convention manifesto.

The bill was signed during an election year, just as most bills of this sort are; as they are aimed at spending and political favors with the hope of getting votes in return. Ford lost the election and no corrective legislation was suggested. Not much happened on this front during the Carter years. He didn't expand the program. He didn't fix the problem. The program was not in the public interest, but also not in the political interests of Jimmy Carter or Democrats to oppose. Its billion dollar a year budget would be missed by the states.

A revolution was about to occur and not many people would see just how important it was. Ronald Reagan, who had introduced so-called "no-fault" divorce to the United States as governor of California, first appeared before Congress in support of a federal child support enforcement program in 1974; along with representatives of what is now widely acknowledged as a leftist political extremist group, NOW. When the Reagan administration began suggesting dramatic increases in spending on child support enforcement in the 1980s, the Republican Party lost interest in limited government and buried its understanding of constitutional principles.

The new philosophical divide is an ACLU / NOW variety anti-religious left-wing cultism verses the Republican's pompous pseudo-religious right-wing cultism. The difference in the details of their rhetoric depends not on their real politics, but on the core groups each party intends to capture to win elections. In the end, both parties support the same domestic policy agenda apart from minor differences here and there and some exaggerated drama during election campaigns. The two party system is not really alive and well. Judged on the basis of how politics effects the huddled masses, we have a one party system with competing factions. Neither party remembers what a "free country" is supposed to be like. Corruption is rampant. The closest they ever come to an expression of ideological difference is a Marxist battle between "big business" capitalism and the "working class" in which both parties actually make promises to both sides.

For the years since 1975, Russell Long's agenda has held a prominent place in the official Democrat Party Platform and did not find its way into the official Republican Platform until the so-called "Contract With America." The radical changes that have taken place in America enjoyed bipartisan support since the time of Ronald Reagan's presidency.

Rather than moving in the direction promised by Gerald Ford, president Bush promised to "build on what we already have." His HHS Secretary Tommy Thompson enacted plagiarized Soviet family policy as governor of Wisconsin, and helped promote it as the national model for welfare reform. The assistant secretary for children and families Wade Horn is a published anti-father bigot who has spent years trying to recruit churches and charities into the current web of corruption. Republicans have enjoyed a majority in both houses of Congress as well as holding the presidency without any suggestion that problems in family policy will be fixed. The two parties are pursuing the same agenda, working to incorporate different segments of society.

This is not the appropriate time for honest people who are sincerely interested in family policy to join the partisan game. To do so leaves us with nothing but an illusion that we have supported the lesser of two evils. It is time to ask, what have the parties done for me lately? Evil is not what we want and we should not give our support without concrete change.

Is Male Passivity on the Wane?

http://mensnewsdaily.com/archive/g/gay/03/gay120503a.htm

Roger F. Gay, 12-05-03

For decades, the feminist vision of the new man dominated the tabloid social revolution in America. The demure male was thought to be a progressive response to modern women who could no longer tolerate enslavement by automatic washing machines, streamlined mega-stores, and frumpy year-old family cars. Fashions change and stable child nurturing wives an old idea.

If your grandfather was divorced, he could probably tell you about the forerunner to the feminist model. Divorced men lost their families, homes, and much of the fruit of their life's work and were expected to keep quiet about it. Before the female male, was the macho man who took it on the chin with silent resignation to the honorable course no matter how much it hurt. It's doubtful anyone knows exactly when it became honorable for men to step aside and continue paying the bills, but it probably had something to do with the age in which our male ancestors worked for money while the women-folk took care of hearth and home.

Despite the fact that a well-adjusted heterosexual male can't catch a break with the old media, the new man is emerging as something other than what was planned. It isn't grandpa's divorce anymore. Decades of political manipulation opened the door to social engineering and not unexpectedly, corruption. Today, fathers aren't expected to take it on the chin. They get rammed with bureaucratic bull dozers and flattened by the government's multi-billion dollar child support megalith. Family law is just generous enough to keep them alive so they can feel red-hot pokers jabbed into their eyes by politicians on the take.

Not surprisingly, the new man is for the most part, extremely angry. Not the least bit surprisingly, political spin-doctors who cultivated this new era, list that as the primary reason this real new man should be ignored. In my opinion, there is no magic in the dynamics of the situation; ignoring his complaints and protests is making the new man angrier still. Consider, logically if you can, the consequences of ignoring all but his most dramatic protests. When the protests are necessary, the drama will rise to the occasion.

It's not that we actually had a period of male passivity. In the early 1990s, when some of the most dramatic family reforms went into effect in the USA, news reports were regularly cluttered with murders of lawyers and judges, followed by a rash of armed police sieges surrounding the homes of fathers who didn't return their children from their visitation period on time. Amidst regular armed police raids all across the country on the homes of fathers who are behind in child support payments, we occasionally read a story about a man who resists.

But early news reports were too cluttered with the truth about family law reforms. The image of fathers was not yet evil enough and some of these men, especially the ones who didn't hurt anyone, were too easily seen as victims and their protests as reactions to intolerable circumstances. Feminists objected to reporting of the reasons men were being driven to desperate behavior, calling it "negotiating with terrorists." The men of the old media, who have fashioned themselves on the feminist's demure male model, quickly obeyed with a moratorium.

Objective reporting out of the way, the intense propaganda campaign that followed deserves a permanent place in history books. Journalists, political scientists, sociologists, anthropologists, and probably every high school graduate should know what political manipulation looks like when all the stops are out. By the mid-1990s, the image of fathers (along with all men generally) was so evil that young school boys couldn't tease girls without getting arrested. Men considered formulating contracts to protect themselves against date-rape allegations. Movement of jobs to liberal countries came under consideration because employers feared the outbreak of frivolous sexual harassment lawsuits in which defense was quite intentionally difficult and expensive. Any reasonable social expectation of honorable male behavior that once existed has been replaced by systematic institutional abuse. Shut up and pay up or else!

Against a backdrop of outrageous anti-father propaganda and state sponsored opposition, fathers are cut-off from normal means of addressing grievances. Courts have become so corrupt that they no longer serve their function. The old media either spins every story against them or refuses to cover it.

Humans adapt. In England, Fathers 4 Justice has staged a number of protests that found the best balance between making a point and behaving within social norms. They have scaled court buildings and construction cranes in super-hero costumes, causing just enough disruption to get attention. Their protests are perhaps more effective given the reaction of the London mayor, who likened a recent protest on a crane near the Tower of London, which slowed traffic in the area for a few days, to a terrorist action. A couple of weeks later, the same mayor welcomed as many anti-Bush demonstraters to London as cared to come, calling it an exercise in democracy – no matter the major disruption to London traffic and the millions of pounds spent to maintain peace and order.

A group of angry fathers "took over an office of the Dutch child protection agency" in Zutphen on November 20th, the U.N. designated International Day of the Child. (expatia.com) The men seized control of the building and effectively "imprisoned" five staff members. They demanded a meeting with the Justice Minister, the mayor of Zutphen, and the child protection agency director. An agency spokeswoman reported at the time that the staff members who were being held did not appear to be in any danger and that remaining staff were continuing with their work. Police were not called to the scene.

I have a sense that it isn't just that men are more willing to take action today. They have been willing and have taken action in the past. But today, there are more people who are interested in their message, more people who understand that there are serious problems that need to be exposed and dealt with. We are also reaching a stage in which the thought behind the style of protest is much more sophisticated than ever before.

Still, it does seem naïve to think that men have not adjusted their behavior in other ways, and not to wonder what the future of mankind might look like, at least in the near term. I was not surprised by a response I got from a recent article entitled, "Fathers Not Guilty of

Child Abuse." The article was triggered by the recent discovery that many fathers have been convicted of child abuse when there was no evidence that abuse had occurred.

One man responded with a story about his treatment by medical personnel when he took his young daughter for treatment for a fractured shoulder. They were not satisfied with his explanation and in effect held him for questioning. Once they talked with the girl's mother, who placed no blame on the father, they laughed the situation off and let him and his daughter go. In a way, it's everyman's story, although it's played out in many different ways each and every day. I can't imagine that our grandfathers would have put up with such disrespectful behavior.

The Associated Press: A Case Study in Dishonesty

http://mensnewsdaily.com/archive/g/gay/03/gay120503.htm

Roger F. Gay, 12-05-03

During the early 1990s, it was difficult to identify a specific culprit. A large portion of the old media, newspapers, magazines, and television networks regularly sported "deadbeat dad" stories much like you'd expect the regular appearance of cartoon strips.

But in the later half of the 1990s, the proof that the alleged facts in all those stories were false had become so overpowering that much of the propaganda vanished. Slowly but surely however, it became apparent that there was one news agency that wouldn't let it go: the Associated Press was less interested in the facts than in pushing the propaganda. They're still at it.

The latest is an article by Genaro C. Armas and it really has a nostalgic feel to it. Very loosely based on a recent Census Bureau Report, Armas claims a dramatic decrease in custodial mother poverty since 1993 due to 1996 welfare reform and in large part to the government crack down on "deadbeat dads."

Her source for this particular conclusion is "experts." But the only source she mentions is ACES president Geraldine Jensen. Jensen is not an objective expert, but a woman who turned harassing her ex-husband and his family into a cottage industry. ("The fury of a woman scored.") The article is particularly nostalgic because Jensen was so often part of the spread of false information in the 1990s.

The Census Bureau report does not provide evidence that the government's child support enforcement program has provided any poverty relief. Child support compliance was quite high before the federal government got involved. Since 1975, there have been small ups and downs, but compliance has been relatively steady. The report actually shows compliance dropping from 1998 to 2002.

There has been a slight increase in paternity establishment, likely due to stricter welfare rules, and therefore a slightly higher percent of single parents are subject to child support orders. But the most significant change is an increase in employment of single mothers that almost exactly matches their decrease in poverty.

One additional set of statistics found in the report will be of interest to fathers rights advocates, after years of arguing about custody rates between fathers and mothers. "About 5 of every 6 custodial parents were mothers (84.4 percent) and 1 in 6 were fathers (15.6 percent), proportions statistically unchanged since 1994."

Fathers Not Guilty of Child Abuse

http://mensnewsdaily.com/archive/g/gay/03/gay120303.htm

Roger F. Gay, 12-03-03

We've known about it for many years. Even before the old media began debating racial profiling, fathers were under attack. No matter what ailment families and society suffered, from divorce and out-of-wedlock births, to government over-spending and poverty, it was fathers and "patriarchy" that were to blame. Not only that, but with seemingly super-human skill, clever men could commit crimes against women, psychologically manipulate their victims, and avoid prosecution through reliance on a vast male conspiracy. "All men are evil and all women are victims." Through much of the last quarter century, such bizarre social politics gave way to the surrealism of legal reforms aimed at dealing with "the problem."

Probably the most degrading accusation that can be made against a father is the abuse of his own children. It's an odd experience going through the statistics and comparing them with much of the late 20th century propaganda. The relatively high percentages of child abuse by fathers often reported could only be true if a very loose definition of "father" is used; one in which any man in any kind of relationship with the mother is labeled the father. Biological fathers (i.e. real, actual fathers) accounted for an insignificant percent; smaller it turns out than the rate of error in convictions.

Prejudice creates self-fulfilling prophecy. This fact about anti-father propaganda was discovered in a relatively small Norwegian town recently when more than 20 fathers had child abuse convictions overturned, many of them years after their sentences had been completed.

Many of the fathers had been convicted primarily on the testimony of doctors who determined from medical examinations that their children had been sexually assaulted. Review of the cases in light of modern medical knowledge revealed that the conclusions were wrong. Not only were the fathers not guilty, they were convicted in the absence of any real evidence that abuse had occurred.

Attorney and retired judge Trygve Lange-Nielsen called the cases the greatest fraud against the justice system since the witch trials of the 1600s. But this is only the tip of a great ice-burg in an international culture that sports "repressed memory" syndrome, makes arbitrary paternity assignments, and jails fathers because they are unable to meet arbitrarily high "child support" payments. When wives and mothers are murdered, husbands are often the only suspects, because police have no suspects based on real evidence.

Same-Sex Marriage and the Marriage Movement

http://mensnewsdaily.com/archive/g/gay/03/gay112103.htm

Roger F. Gay, 11-21-03

On November 18th the Massachusetts supreme court declared homosexual unions equal in nature to heterosexual unions and established same-sex marriage as an individual right. As is usual for arguments supporting extremist social reform, the more than thirty-four thousand words of opinion from the court have a way of creating too much work for someone who doesn't have a research grant, and since the decision really rests on just a few dishonest claims and twisted logic would be regarded by most potential funding sources as too political to fund.

I was not the least bit surprised that the decision confirms what I have said about the general direction of family policy. State legislatures and the United States Congress have made enormous investments in transforming family law to the state it is in today. Despite decades of controversy, both parties (in all branches of government) have steadfastly worked toward the legal abolition of marriage (as we knew it) and the elimination of naturally derived family rights. While meaningless threats from activist social conservatives fill the air, it is unlikely that any effective action will be taken to address the root causes of this radical change.

Three justices dissented, saying the issue is "deeply rooted in social policy" that must "be the subject of legislative not judicial action." Perhaps it is not immediately apparent why the characterization of family law as "social policy" strikes a disharmonic chord. This is a distinction of great importance that I brought up in my third article in our recent roundtable discussion, Fathers' Rights and the Marriage Movement. Marriage and family were once regarded as related to "fundamental" individual rights. By contrast, "social policy" is treated constitutionally as relating to collective concerns that are largely immune from individual rights claims. Stephen Baskerville, who also participated in the roundtable, is among the many who have argued that so-called "no-fault" divorce abolished marriage by eliminating recognition of the marriage contract. This set the stage for the transformation of family law issues to social (or economic) policy, since no-fault divorce legally disassociated marriage from personal commitment. Child support reform dissassociated family law from reality.

The current political movement to ignore family relationships for the sake of the sanctity of marriage licenses fouls the issue even for dissenting judges. In current law, the male member of a marriage is assigned paternity, and nothing, not even DNA evidence establishing that another man is the father will change that assignment. The decision holds even when the mother divorces her husband and marries the father. "The institution of marriage fills this void [men don't get pregnant, women do] by formally binding the husband-father to his wife and child, and imposing on him the responsibilities of fatherhood." Thus, how can such an artificial relationship, defined exclusively by a government license and completely disassociated from actual parenthood, in which the concept of "father" is a meaningless and arbitrary political assignment, be denied on the basis of sexual preference?

(Current policy in many states holds that presumptive paternity even when falsely assigned outside of marriage cannot be changed. It is not in fact the sanctity of marriage or ancient common law that drives such policies, but the desire of states to maximize federal funding from the child support enforcement program, with minimum bureaucratic effort, at the expense of individual rights. The successful movement to eradicate family rights was designed for this purpose, and for increasing profits in the newly formed private child support collection industry.)

Ironically, the individual rights so obvious to the court in establishing same-sex marriage, due process for example, are among those the nation has blinded itself to while redefining family law in general. Same-sex marriage has arisen from the ruins and ashes of family law, and has replaced marriage and family as we knew it as the fundamentally protected legal institution from which family and family rights are defined. It cannot exist without reasoning that features strikingly obvious departures from reality, and politicians will not admit to the flaws in policies that have recently provided government with virtually unlimited powers related to marriage and family.

The art of obfuscation is such an established part of our existence today, that I expect that debate over same-sex marriage to quickly degenerate into a war between religion and civil liberties because it's easier to say. The lengthy legal argument is an artful collection of false statements and strange associations. Marriage never existed before liberal western governments invented it, for example (and therefore has no nature apart from a government license and its associated civil regulations). The "right" of same-sex partners to get married is comparable to the right of blacks to equal access to education. Denying marriage to same-sex couples places an unacceptable burden on "their children."

While teasing readers with libertarian notions, the court solidly proclaims the death of personal life so far as family is concerned. In one section it writes: "The Massachusetts Constitution is, if anything, more protective of individual liberty and equality than the Federal Constitution; it may demand broader protection for fundamental rights; and it is less tolerant of government intrusion into the protected spheres of private life." In another, necessary to the outcome, just the opposite view is taken as firmly established. "In a real sense, there are three partners to every civil marriage: two willing spouses and an approving State."

A generation has been born in America that cannot distinguish between personal life and activities requiring state approval. They do not recognize that the issuance of a marriage license and defining rights and obligations in divorce were once considered intrusive, any more than future generations will probably understand debate on gun registration and firearms restrictions. The state is involved obviously, as proven by the issuance of a license. Therefore, it is just as obvious that the state is the most powerful partner in marriage and family and that no meaning in life exists beyond its edicts.

MND Roundtable Discussion on Fathers' Rights and the Marriage Movement

http://www.mensnewsdaily.com/secondaries/roundtable/roundtable.htm

A four round discussion between experts and advocates;
September 29, October 2, October 6, and October 9.

Round One | Round Two | Round Three | Round Four | Public Discussion

A roundtable is a special form of discussion in which all participants are equal. There is no discussion leader, and no predetermined questions; just the purest thoughts of leading experts and advocates on chosen subjects. Whether you are looking for an orientation to the most important issues of the day, or an advanced look at relationships between issues, you'll find it worthwhile to follow the MND Roundtable Discussions. Watch the upper left corner of the Men's News Daily front page for future editions of the roundtable.

Introduction to the MND Roundtable on Fathers' Rights and the Marriage Movement

For its first roundtable, MND invited four well-qualified people to discuss Fathers' Rights and the Marriage Movement. In round 1, participants introduced their own positions in various ways. In round 2, they had the opportunity to challenge others in the discussion. Round 3 offered the opportunity to defend their positions against those challenges. Round 4 is the final round.

Roger F. Gay is well known for his research on and critisism of child support guidelines and child support policy as well as his reporting, analysis, and commentary at Men's News Daily. He contributed expert testimony in a federal case on child support guidelines, has submitted testimony to Congress on child support numerous times over the past decade, and has advised child support guideline review committee members in several states.

Rebecca O'Neill, family policy researcher with the independent think-tank Civitas: The Institute for the Study of Civil Society in London has analyzed 30 years of data on changing trends in family life, concluding that the traditional family is best. [1][2][3] Civitas' suggestion that the UK government should do more to encourage people to live in traditional family units drew national attention.

Stephen Baskerville is a professor in the Political Science Department at Howard University and a well known fathers' rights advocate. He organized the first national conferences on fatherhood held in the United States. His articles related to fatherhood have appeared in newspapers, magazines, and journals in several countries. He gives a weekly radio address in Washington D.C. and has appeared on such programs as The O'Reilly Factor.

Tom Sylvester is an affiliate scholar at the Institute for American Values and co-editor of Father Facts, 4th Edition, published by the National Fatherhood Initiative, a government sponsored activity that is not connected to the grass-roots fathers' rights movement. He is also a regular commenter at MarriageMovement.org.

Sweden Rejects Euro

http://mensnewsdaily.com/archive/newswire/nw03/mnd/newswire091503-sweden.htm

Roger F. Gay, MND NEWSWIRE, 09-15-03

Stockholm - The Swedish people soundly rejected joining the European Monetary Union in a referendum Sunday; 56.1 to 41.8 percent. Sweden, Denmark, and England are the three countries that are members of the European Union that have not taken this key step in the completion of economic integration. Topping the reasons given for rejection are the negative effects Swedes perceive in the Union on democracy and independence. The longer list shows little belief that the Union is good for anything. Whether the concern is political, economic, or social, the country should not be run from Brussels.

Shortly after 8 p.m. (Stockholm), an exit poll showed voters rejecting the euro by 51.8 percent to 46.2 percent, with 2 percent voting "blank." The first few rural districts reported voters against the euro by around 70 percent to less than 30 percent. The difference closed very slowly over the next two hours. Stockholm county was part of the small minority of urban areas that favored the euro. Shortly before 10 p.m. the Prime Minister, who had led the campaign in favor of the euro, announced that the people had spoken.

Slightly over 7 million people were registered to vote on the referendum. Nearly 81 percent of registered voters took part. Just over 100 thousand were Swedish citizens living outside of Sweden and more than 327 thousand were foreigners living in Sweden. A record of approximately 1 million mail-in votes were recorded compared to around 600 thousand for the last general election.

Based on a break-down of counties, it appears that wealthier voters with more education were more in favor of the euro than less educated poorer voters. The slow economy and high unemployment in Europe in recent years played a role in increasing Euro-skepticism. Ironically, businesses that provide mass employment have publicly discussed the possibility that rejection of the euro might cause them to abandon Sweden.

Earlier polls had shown the "No Campaign" with a sizable lead, around 50 percent compared to support for the euro in the low to mid 30s, with 12-14 percent undecided. Shortly after the murder of Sweden's Foreign Minister Anna Lindh, a key euro supporter, polls became somewhat chaotic with more than one showing the gap between the two sides had closed.

Anna Lindh was scheduled to take part in a key last minute debates including one on Wednesday, the day she was stabbed in a Stockholm department store. After she died on Thursday, all political parties agreed to cancel further campaigning. On Saturday evening, representatives from both sides appeared in a televised session to answer phone-in questions, which naturally evolved into something of a debate anyway.

Some analysts commented that the role played by the political parties in the debate may have caused confusion, accounting for a rather high level of undecided voters and making it possible for a large shift to occur at the last minute. Voters really needed accurate information more than partisan debate.

An oversimplified view is that the No Campaign was run primarily by the far left parties. The Yes Campaign was lead by leaders of other parties. Polls and public campaigning against the euro by members of all parties however showed that abandonment of traditional loyalties favored the no side. The No Campaign also got off to an early start, taking the lead while playing on vague fears about foreign control of Swedish society left over from their anti-European Union campaign.

In an early televised debate, euro proponents objectively defeated euro skeptics; provoking laughter at the opposition. As a purely economic proposal, completed integration by European countries is somewhat of a practical necessity. The left faltered so badly with tired, old, anti-western rhetoric, that one proponent remarked that as a practical matter, they had abandoned their traditional support for international cooperation and solidarity once the Warsaw Pact was disbanded.

At that point, the clearly frustrated and embarrassed leader of the formerly formally communist Left Party pulled off the gloves. She stated that she would take the position that the euro is bad for women; one of the vague claims politicians fear most. This seemed to knock proponents into a state of near unconscious dizziness. The reorganization in the weeks that followed included featuring women favoring the euro on campaign posters. Polls showed women leaning heavily toward voting no. Anna Lindh's murder drew strong sympathies, and may have caused the shift that brought the final tally closer than polls taken before her death.

The two far left parties that led the anti-euro campaign included the formerly formally communist Left Party and the relatively new far left Environmental Party. The Left Party has not allowed men in leadership positions for many years, prompting protests from a few courageous male members at party conferences. The Environment Party currently allows a man to represent them as a co-speaker along with a woman. The Center Party was the third party against the euro. Although historically a centrist party representing rural voters, under its current feminine leadership it has shown the ability to go both ways; perhaps more to the left than previously.

Potentially the most potent argument against the euro is the European Union itself. The Union has fashioned a proposed constitution that would establish the EU as a centralized bureaucratic dictatorship. The Union in Brussels has been run by the left, making direct honest discussion about the dangers of shifting control impossible for local leftist parties. Instead, leaders of the No Campaign said they did not want Europe to become like the United States, accompanied by facial expressions and body language implying that would be wrong. The left, confused as ever, opposes a well-defined federation granting limited powers to Brussels. Instead they've chosen to re-run the Soviet experiment.

Sweden Morns Murder of Foreign Minister

http://mensnewsdaily.com/archive/newswire/nw03/mnd/newswire090703-sweden.htm

Roger F. Gay, MND NEWSWIRE, 09-11-03

Stockholm - Two years to the day after the terrorist attacks in the United States, the Swedish people are preoccupied with a new tragedy.

About quarter past four Wednesday afternoon Sweden's minister of foreign affairs Anna Lindh was stabbed repeatedly in a department store in Stockholm. The assailant struck quickly and immediately left the store and escaped. Witnesses have provided a description but the man's identity and motive are still unknown.

Doctors at Karolinska Hospital worked through the night against life threatening injuries. Early this morning her condition improved and then took a dramatic turn for the worse. At 5:29 a.m. (Stockholm), she was pronounced dead.

Anna Lindh was a well-known public figure in the Social Democratic Labour Party and no stranger to the international stage. Since the election of Republican president George Bush, she represented some of the most formidable political challenges from the international left, including promotion of the environmental pact known as the "Kyoto agreement" and criticism of war in Iraq. She was scheduled to appear Wednesday evening in a key televised debate in favor of replacing the Swedish Krona with the European Union's Euro.

The feeling in the country is one of shock and loss. In the broader perspective, it is hoped that the attacker is a mad man, that the murder is not an organized political assassination. Although overshadowed by the sense of grief, there is deep concern for Sweden's traditional open democracy, a part of which is the ease politicians have behaving as and interacting with other Swedish citizens. In 1986, Sweden's Prime Minister Olof Palme was murdered in Stockholm as he and his wife returned from a movie. That murder is still unsolved. Neither Prime Minister Palme nor Anna Lindh were being protected by body guards at the time of the attacks.

Despite the many possible political ramifications, it is difficult to cast Anna Lindh as a symbol. She spent most of her adult life strongly committed to work in government and politics. You did not need to look for the human being behind a political figure. She was Anna Lindh.

Anna Lindh was 46 years old and married with children.

Michigan AG Linked to Organized Crime

Roger F. Gay, PICSLT, 10-25-03

The child support collection system in the United States has been scrutinized for years. There have been no positive benefits, only a rather obvious system of syphoning money from the federal trough as well as from private child support payments to private companies. Constitutional violations connected with the scheme are also obvious.

Michigan is one of the states that artificially increased child support award amounts and forced huge numbers of good paying fathers to pay through their system, then falsely claimed the payments are "collections" in order to increase the amount of federal funds they receive. Private collection agencies, which typically keep around one third of the payments receive also benefit as more fathers have been driven into debt.

Even in the midst of well-founded allegations of corruption and organized criminal activity, some politicians are taking a risk to support the system. There are billions of dollars in child support funds lining the pockets of "business men" involved in the scheme, and even more from public funds. For some, the size of the temptation apparently seems to justify continuing the activity as though the public is completely unaware.

Michigan's Attorney General Mike Cox, a Republican, is just that kind of person. Cox has put together a promotional campaign that he says will cost about $180,000 this year and could cost an annual $500,000 down the road, that fathers' rights activists are certain to complain about.

Aside from a new website called PayKids, the promotion will attempt to degrade and intimidate fathers with billboards showing pictures of handcuffs and men behind bars, and bid for public sympathy with stories of children suffering while their fathers live in luxury.

We've been through it all before. The "deadbeat dad" campaign raged during the early 1990s, with claims that a crackdown would save money for taxpayers. Instead, it's cost billions, and the truth is that fathers who can pay generally do. "Collections" consist primarily of payments that would be made more efficiently if not processed through the government system, but by check sent directly from one parent to the other.

All of the general allegations aimed at fathers as a group during the 1990s have since been researched and are false. The child support system was built on lies and normal human curiosity forced looking into the motive. There are people stealing a lot of money from fathers, mothers, and children and from the government. It wouldn't be possible without a dirty AG.

Fathers Rights?

In defense of family and other fundamental rights

http://mensnewsdaily.com/archive/g/gay/03/gay072203-fathers-rights.htm

Roger F. Gay, PICSLT, 07-22-03

In "Hounding Baskerville," Tom Sylvester demonstrates the deepest divisions between activist social conservatism and core American political values. Activist social conservatives ignore boundaries between private and public issues as easily as they ignore the boundary between state and federal power. Like their far left counterparts, they abandon individual rights when embracing social causes. Nowhere are the divisions sharper or more critical than on issues that involve the basic social unit; family.

Mr. Sylvester's article is a response to "Government as Family Therapist," by Stephen Baskerville. Dr. Baskerville is a political science professor and well-known fathers' rights advocate who called into question the efforts of activist social conservatives to strengthen fatherhood and preserve the family. Mr. Sylvester answered by relegating Dr. Baskerville to an unworthy social class and calling upon the spirits of bureaucrats, special interest confidants, and New York Times reporters to defend his own.

The importance of the debate should not be underestimated. Both major political parties, bolstered by extreme elements, have moved well outside traditional American political boundaries in pursuit of a much more intrusive relationship between government and the people. Voices of discontent like Stephen Baskerville's represent tens of millions of people who have experienced the effects.

A real-world effect of political intrusion into fatherhood and family is the subject of a case that is heading toward the United States Supreme Court. This case will determine whether the battle for family rights has been won or lost. Under question is whether family rights are constitutionally protected or merely political constructions to be modified at the whim of legislators. Moreover, the case deals with whether legislatures have the authority to rescind established constitutional rights simply by reclassifying private interest disputes as social or economic policy.

In late 1989, states were pushed by a new federal funding scheme into dramatically changing the way all child support award amounts are set. Through the use of presumptively correct formulae, states arbitrarily increased award amounts in order to increase the amount of federal funds they receive. One of the specific objectives of fathers' rights advocacy is recognition of constitutional limits to state power that would constrain courts to ordering reasonable and appropriate child support amounts. The argument would be easily won on the basis of facts and logic. The battle however, must be fought against approximately $4 billion a year in federal funding that holds child support in a realm of public policy where individual rights do not exist.

A noncustodial mother in Georgia objected to an award set by that state's child support formula on constitutional grounds. She won the case in the trial court based on findings of fact that demonstrated violations of due process, equal protection, the right of privacy, and an unconstitutional taking of property under the Georgia constitution. The Georgia Department of Human Resources won a reversal on appeal. Daryl LeCroy, lawyer for the mother, has stated that this decision will be appealed to the United States Supreme Court.

There are two broad questions that stand out in the decisions. The first is whether family rights are fundamental. That is, are family rights protected under the Constitution? The trial court said that they are, and was particularly explicit on that point when recognizing the plaintiff's right to privacy.

While the source of the right to privacy has been held to originate in varying constitutional provisions, it has been long recognized to apply to “family” concerns whether the family exists within the confines of marriage or not. Eisenstadt v. Baird, 405 U.S. 438, 92 S. Ct. 1029 (8) (1972), Roe v. Wade, 410 U.S. 113, 93 S. Ct. 705 at 726-28 (1973).

It is particularly important for social conservatives to note that as supported by established precedents cited by the trial court, no distinction is drawn for family concerns within marriage. The distinction between "them" (divorced and never-married parents) and "us" (married parents) may serve vanity when applied in a social context, but not the cause of political conservatism. Different choices on the boundaries between public and private issues will cause us all to sink or swim together.

The state supreme applied the lowest standard of constitutional review, which is typically reserved for public policy issues. It did not recognize family rights at all, nor did it regard the taking of income and property as worthy of constitutional concern. It reasoned in perfectly circular fashion that child support is not a "purely private" issue because statutes authorize courts to make child support determinations. Courts are even authorized, by statute, to reject and alter private agreements. Therefore, constitutional rights intended to protect individuals do not apply. Scissors cut paper. Paper covers rock. Statute nullifies Constitution. Is that the way it goes? Do individual rights disappear whenever a legislature chooses to pass laws that intrude in private life?

While both major political parties are pressing for a more intrusive role, our formally established relationship between government and the people is crumbling. Laws are passed in such quantity that many that deserve to be struck down will not reach the Supreme Court. State courts are far too sensitive to political pressure to be counted upon to withstand a legislative tsunami; a great rush of radical reforms supported by both major political parties; particularly when accompanied by large amounts of federal funds. The argument given by the Georgia supreme court, sympathetic to a bipartisan agenda, is that wherever government intrusion advances, constitutional rights retreat. If this is the accepted norm, then constitutional rights are an illusion manipulated by political whim.

Since Republicans have embraced the spending scheme, activist social conservatives praise what they call "bipartisan support for promoting healthy marriages and responsible fatherhood" and downplay the significance of bipartisan support for further government intrusion. Tom Sylvester rejects Stephen Baskerville's arguments as "conspiracy-theory nonsense." But anyone can create real conspiracies, even elaborate ones, if they have enough money to pay for them. Intrusive Big Government programs are always accompanied by massive funding schemes. The budget for the child support program, around $4 billion a year, buys a pretty big conspiracy.

If Tom Sylvester does not know that federal family law reform has created "a very dangerous and destructive machine," then he has not been paying attention. Aside from manipulating the amount of child support awarded, federal reforms created a mammoth and expensive enforcement system. Analysts at the Cato Institute, known for its objective analysis, characterize the federal child support enforcement program as "big brother" government intrusion that threatens privacy rights. [articles - 1 - 2 - 3 - 4 -] The program funded the creation of a multi-billion dollar computer system that accumulates personal information on every resident of the United States. The problem is not just the existence of a computer system, but policy reforms that allow mass arbitrary and unmitigated government snooping in

The point of eliminating rights is to gain control. The motive is money. Out in the real world, the effects are apparent. States engage in accounting fraud to keep more money flowing. Fathers are cheated out of money they need to support their children. Collection agencies take inappropriate amounts and illegally keep payments. [articles - 1 - 2 -] Men are forced to pay child support for children that are not theirs. Police literally break down doors and arrest fathers at gun point for minor disruptions in payment. When the judiciary abandons its function to set things right,

People who claim to be "strengthening fatherhood" have been waging war against fathers. Their class war escalated from low class mud-slinging to violence, corruption, and chaos. Instead of acknowledging the problems they have created, and working to correct them, they are all too anxious to expand their territory. I vote no, and believe I can count the people who passed the Bill of Rights into law on my side.

Roger F. Gay

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Man Dying of Child Support Enforcement

http://mensnewsdaily.com/archive/g/gay/03/gay053003.htm

Roger F. Gay, 05-30-03

The child support enforcement program is a disease that has probably caused more suffering and death than any other government program. It was introduced by Congress in 1975 and has been engineered into a weapon of mass destruction in the years since. Despite sound evidence of destructive economic, social, and political effects and repeated cases of suicide linked to insufferable conditions created by current practices, politicians and administrative representatives continue to satisfy themselves with less than convincing denials, a few false and misleading statistics, and the claim that "it's for the children."

Various protests have generally been ignored, even when they are so serious as to cause harm to protesters. Potential danger lies in a particular form of protest: the hunger strike. The problems with child support enforcement, which were internationalized during the 1990s, have been met with occasional hunger strikes in several countries. Daniel Chang, a Chinese immigrant, has been the most recent to stage a hunger strike in the United States. His strike began on May 15th in Piscataway, New Jersey. Dr. Chang holds a Ph.D. in computer science and has a professional job. Despite federal involvement based on a pre-existing federal involvement in welfare, this case has nothing to do with the public welfare system.

The federal child support enforcement program is not for the children of course. The money spent on children is just as green whether paid under state rules or through a federal program. The incentive is the billions of dollars that Congress spends each year to keep people interested. States receive "incentive funds" in proportion to the amount of child support collected. In order to maximize the amount of funds they receive, states enrolled as many men as they could and arbitrarily increased the amount they were ordered to pay. All payments are counted as "collections." Everybody in government understands the scheme. It's pork. It's a brand of corruption older than government itself. A prospective enemy was demonized ("dads"), and people were called to arms against them; pledging their money and loyalty to the cause.

My early introduction to the child support enforcement system included a case in which a chiropractor had been involved in a serious auto-accident that resulted in brain damage. He was unable to continue his practice, and his savings was eaten up by medical bills. The state enforcement agency echoed the prevailing political sentiment "There is no excuse for not paying child support," and began confiscating social security benefits in an effort to satisfy the very high payments that had been set in light of his previously high income. The crippled man was left without sufficient income to pay for rent and food, and certainly without sufficient funds to pay a lawyer to attempt to straighten things out.

The reason for such harsh measures is the federal funding system. States receive money in proportion to the amount of child support "collected." Taking away social security benefits may have been worth $10 a month to the state; a little bit toward paying the salary of the collection agent who was robbing him of his sustenance.

This is the system that Dr. Chang is fighting. It isn't about reducing welfare expenditure. The money he owed is for support of his daughter from his first marriage. She is now 20 years old (an adult) and studying pharmacy at Rutgers University. He also has a 12 year old daughter from his second marriage. A well-paid professional, the austerity of his home and lifestyle is testimony to payment levels that are out of proportion to caring for children. Someone in his economic position would normally be able to raise two children in reasonably good style.

That judges have become beneficiaries in the enforcement scheme, pay linked to outcome, is a direct attack on judicial independence and therefore our Constitution in effect, an attack against the United States. American colonists raised this same issue in the Declaration of Independence; complaining about the King of Great Britain and his manipulations of democracy and the rule of law. "He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries."

Dr. Chang has only protested once before. In June, 1989 he marched with others in New York City to protest the killing of peaceful protesting students and others by the Chinese government. The only pattern seems to be a loathing of government oppression. And this time it's personal. He has been jailed three times (once for 108 days) and has no drivers license due to child support debt. This represents two of the practices fathers so often complain about. Atop arbitrary, unjustifiably high child support orders, often the reason for debt to begin with, spending time in jail and being unable to drive make earning an income to pay child support (and support oneself) ever so much harder. The alleged success of such practices is really a few instances in which friends and family, who do not owe child support, have pitched in to pay debts. That led at least one judge to claim that the practices worked for him. By and large, the expanded practice has left tens of thousands of fathers without licenses and an untold number with unlimited jail time; often until debt is paid, with no way to pay the debt while in jail.

Dr. Chang's experience is one that has been repeated many times across the country over the past fifteen years. Sheriff's deputies literally kicked in the door to his apartment and arrested him at gunpoint - weeks after he had made necessary payments. Employees at the Middlesex County Child Support Department had refused to help weeks earlier after his employer had missed a child support payment and miscalculated another. His employer is charged with making payments after deducting them from his pay, a common practice since the early 1990s. Dr. Chang points out that his employer is generally cooperative with the agency, but had made errors after an end-of-year payroll conversion. He contacted the child support agency and sent the money himself, but that didn't stop the violent enforcement action weeks later.

Give me liberty, or give me death! Or as Dr. Chang puts it: "It is better to die once than live a thousand humiliations." Isn't this just the sort of thing that led to the American Revolution? Is it the kind of government behavior that led to student protests in Tienanmen Square? It's probably deeper than that.

The assault on a man's life typically begins with a mother who decides to "liberate" herself from marriage, simply dealing a father out of his own personal and family life. The process is exceptionally easy. The government has been dedicated to helping women "liberate" themselves from marriage for decades. Once extricated, women often move on to new relationships, taking his children, a portion of his property and future income with them. The engineering of a new life quite often involves keeping the old one (the ex-husband) at an extreme distance, totally disengaged from his own children.

The process and its effects involve the deepest emotions there are. But to that we have now added a government operation designed by people who are using the situation to steal. They're stealing money from these very same fathers, often making mere existence difficult. They are doing it in order to steal money from taxpayers who are paying for the system in proportion to the amount of money taken from fathers. Finally, as if that isn't enough, they're stealing freedom and even life.

Dr. Chang hopes to force a conclusion to his ordeal within one month of the start of his protest. If he can, he will eat again and return to work. He has two weeks vacation and has arranged for a two week extension. This defines his goal of in effect winning an argument within a month. His water and salt diet is dangerous, especially if it continues for long. Several people have met with him, and have encouraged him to stay alive. When he began his strike on May 15th, he weighed 166 pounds. When I last received an email message from him, May 28th, his weight was 16 pounds less - 150 pounds.

Dr. Chang has vowed to continue until his demands are met. They are as follows (in his own words).

1. I do not owe any money to ex-wife Yee-Sang Yen.
2. If I have a job, fair monthly support money will be sent to the child, Olivia Chang, directly without going through any child support department.
3. The Middlesex Child Support Department repairs the damage it caused to my credit, and informs the Motor Vehicle Services to erase all my driving suspensions and restore my driving privilege immediately.
4. The Middlesex Child Support Department reimburses me the following: $282 for restoring my driving licenses, the cost of repairing the door damaged by the sheriffs, $280 taken from my wallet, $20 for getting from the Middlesex County Court to home.

The New Jersey Council for Children's Rights is maintaining a daily watch web site [http://www.njccr.org/articles/Hunger%20Strike.htm].

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Government Investigation Reveals Fundamental Flaws

Sweden Backs Off U.S.-Style Child Support Reforms

http://mensnewsdaily.com/archive/g/gay/03/gay051103.htm

Roger F. Gay, 05-11-03

1975-2000 was an era of radical international child support reform, beginning in the United States. Swedish investigation into the effects of U.S.-style child support reform revealed the creation of massive debt and a high percent of fathers forced into poverty. A new government report suggests corrective action. The article below explains why we should not be surprised that Sweden was among the last to fall to radical child support reform arguments and the first to begin the process of restoration; while the U.S. record of reform is an ongoing embarrassment.

In 1975, a federal office of child support enforcement was created within the Department of Health and Human Services. This was a rather dramatic development in the United States. Child support is a state issue (just as it is in the European Union). The new office was brought into being by an amendment to more popular social services legislation. When signing the bill into law, President Ford stated that the amendment took the federal government too far into domestic relations and promised to suggest corrective legislation. Gerald Ford was not re-elected in 1976. (He pardoned Nixon.) As with many bureaucratic organizations, the Office of Child Support Enforcement became its own best lobbyist, and began the process of empire building; accumulating higher levels of funding and greater powers.

In the late 1970s and 1980s, the man who became known as the grandfather of child support reform, Irwin Garfinkel, suggested adopting sweeping systemic reforms based on the Swedish socialist and Russian communist models. Up until approximately 1990, child support reform advocates argued that the United States had fallen behind in the international race to provide women and children with *progressive* welfare entitlements. At the same time, feminist groups were arguing for an increased share of their ex-husbands' wealth. Feminist PACs were strategically pumping millions of dollars into political campaigns and had developed their own system of manipulating the press.

By 1990, the U.S. had implemented a brutal and manipulative child support regime that was more Russian than Swedish, and had nothing whatsoever to do with the U.S. Constitutional framework for interaction between the individual and the state. Amounts ordered as child support are arbitrarily controlled by state committees. Collection tactics include everything from workplace harassment and car booting to armed police crashing through doors and massive midnight raids to cart off truck-loads of fathers from poor neighborhoods.

Meanwhile, billions of federal tax dollars began flowing into the pockets of divorce industry insiders. Everyone involved got a piece of the action. State child support bureaucracies grew, judicial retirement accounts expanded, and newly created private child support collection agencies profited from both federal tax dollars and the ability to skim approximately one-third of the child support debt – much newly created by the reforms – from child support payments. The picture presented to the American public however, was tailored to political taste.

Despite the fact that fathers subject to child support orders in the United States had a better record of payment and paid more on average than in any other country, they were demonized as "deadbeats" who abandoned their children financially and emotionally leaving taxpayers with responsibilities that they should bear. It was claimed that taxpayers would save money by "forcing fathers to pay." This laid the foundation for presenting extreme leftist reforms that would intrude into family life and trample individual rights as "conservative" within the American political spectrum; one of many ironies. Similar arguments were given at the end of the Bolshevik Revolution as Communist Party members explained the need for heavy state involvement and control over individual wealth and behavior.

The bureaucratic rules of the welfare system were extended to cover all cases in which private child support is involved. Individual rights were abandoned, giving way to arbitrary *en masse* manipulation by central committees. Private and government special interests recognized opportunities for profit and power and quickly took control. Unmitigated self-interest provided the engine to sustain the regime against opposition and reason. Ironically – given earlier arguments that the United States was behind the *progressive* political curve – it became an exporter of radical extreme leftist social, economic, and political reform. The domino effect, feared throughout the Cold War era, had found a new protagonist. Great Britain, Australia, and Canada were among the nations that fell quickly to "deadbeat dad" propaganda and the argument that reforms would reduce welfare costs. They lied. One of the most dramatic changes the reforms brought was the inclusion of non-welfare cases in the new system; which increased the cost of administration without any possibility of lowering welfare costs.

It took longer for the new child support reform movement to effect Sweden, a country that had been mentioned as a model for reform in the United States. In 1996, Sweden's child support formula was adjusted so that low-income parents (usually fathers) would be required to repay more of the state's basic support entitlement. The change was projected to create savings in the welfare system. Within two years, it was widely recognized that the reforms had created serious problems and the government promised an investigation. Low income parents really had low income. Instead of paying more, they were forced into debt in large numbers and could not get out. The traditional distinction between fathers and mothers was apparent. Entitlements were providing a secure economic situation for mothers and children, and the entitlement system was forcing fathers out of mainstream economic activity and into long-term poverty.

The investigation ordered by the government was publicly released on April 28th. (1) It recommends what is in effect a reversal of the previous reforms. Amounts that many noncustodial parents are ordered to pay will be reduced and much of the accumulated debt will be forgiven. In addition, the report recommends that mothers and fathers should share in some of the entitlements previously offered to only one parent. Working parents should be allowed to keep enough of their income to support themselves. Fundamentally, both parents have an equal responsibility to support their children. And regular contact between children and both their parents should be encouraged, not sabotaged by removing economic support from one household.

The additional recommendations are aimed at joint custodial parents rather than all divorced and never-married parents. But an unusually high percent of divorced and never-married parents in Sweden have joint custody, and reforms over the past few years have been aimed at increasing that number. Ideally, Sweden is aiming at joint custody as a norm; with sole custody being granted only in cases in which both parents agree to it or if contact with a parent poses a serious danger to the children.

Historically, Sweden has had one of the most well-thought out and comprehensive child support systems in the world. It is integrated with their general and comprehensive welfare entitlement system, as well as the general and comprehensive mechanisms of social and economic enforcement that go with it. Despite the unconstitutionality of the socialist approach in some respects, Sweden and the United States along with many other countries had shared a common fundamental understanding of the state's authority to impose upon individuals to support their children. On the basis of Delaware law, the Swedish child support formula was nearly reproduced by family court Judge Melson (ca. 1987). Appropriately adjusted for a narrower band of welfare entitlements, it became one of the first legislated state-wide child support guidelines in the United States.

This changed dramatically in 1990 when in response to federal reforms, states arbitrarily increased the amount of child support noncustodial parents were ordered to pay. The savings for taxpayers promised by reformists did not follow. Initially applied in low-income and welfare cases, it was quickly discovered that arbitrarily high payments were sometimes more than the total net income of low-income fathers. Although still handled in a way that is tragically irrational, payments required in welfare cases were reduced. States were instead promised a larger share of federal funding for ordering arbitrarily high payments in non-welfare cases. The reforms cost taxpayers billions of dollars a year. Media reports however continued to claim the reforms would save money by "forcing fathers to take responsibility for their children."

1991-1994, the Swedish Social Democratic Labour Party experienced one of the few periods since 1932 in which it was not in power. Keen to win the election in 1994, consultants were called in from far and wide. Among them were some of Bill Clinton's political advisors from the United States. Right-wing opposition complained that Social Democrats taxed so much that families could not live on what remained of their pay, creating the need for higher government pay-outs and reducing personal freedom. The argument helped a right-wing coalition into power in 1991, and it was at least reasonable to believe that it might work again on the still heavily taxed population.

A page was borrowed from the American political play-book. Social Democrats promised that the government would no longer shoulder the burden that divorced and never-married fathers should bear. An immediate reduction in taxes could not be promised, but savings would be on the way as soon as they were in charge again. Votes for the socialist bloc were barely sufficient to form a three-party coalition government. The Social Democratic Labour Party was by far the largest of the three. By 1996, they made good on their promise and increased the share of child support entitlements that noncustodial parents are required to repay; announcing a projected savings. But Sweden is a different place. The ultimate reaction to the reform has not been what U.S. political advisors would have expected.

A system of checks and balances in the U.S. was strategically written into its constitution. In theory, an error in law that sufficiently infuses government too far into private issues in a way that undermines individual rights must be corrected. If a law is found to be unconstitutional in only one single case, the courts must declare it unconstitutional for all. Thus, the benefit extends to everyone, rich or poor. Replacing the constitutional system of checks and balances in practice with an unchecked socialist bureaucracy in the United States effectively eliminates normal non-violent cultural responses to injustice. The other response – through the ballot box – became impotent when both the Republican and Democratic parties pledged full support for the reforms, which were made enormously popular through a sustained media propaganda campaign.

Fathers in the United States, as a politically defined group, were slow to respond to changes in child support law because the need to define themselves as a political group had not previously existed. Until approximately 1990, legislators were forced to remain within the bounds that the Constitution set for them. Fathers could demand basic rights individually. Because of a 200+ year history of legal precedents, it was by then rarely necessary to put domestic relations law through constitutional tests. The necessity emerged in response to the federal decision to intrude in family life much more vehemently than ever before, and to impose arbitrary "obligations" on parents. But for reasons beyond the scope of this article, courts have been more than hesitant to meet their constitutional obligation to check the assault; opening the door to what could be the largest "social policy" scam in U.S. history.

Sweden does not have such a strong liberal foundation and has little in the way of guaranteed individual rights. As a result, they are better at being socialists than Americans. Their system of checks and balances was developed and tuned by decades of relatively humane democratic socialism. Many Swedes are quite proud of this accomplishment. They have advised other countries to adopt their bureaucratic controls, and made it a serious issue in reforming the European Union. To understand the important distinctions specified in the following paragraphs, it is vital to keep the first three sentences in this paragraph in mind. Sweden has never had a strong political foundation in individual rights. They are more dependent on other mechanisms of "democratic life," some of which are available in the United States, but do not form the primary cultural response to injustice in the minds of most Americans. The differences are not theoretical. There are pronounced cultural differences that developed through Sweden's unique history that have significant practical effects.

Open government: Democracy in the Swedish sense fully expects citizen participation. Registered fathers rights organizations (among others) are invited to review and comment on legislative proposals of interest before they are submitted to the parliament for consideration to become law. It was difficult to demonize fathers who had the opportunity to look them straight in the eye and respond to negative propaganda.

Awareness of the powerful effects of government policy on individuals. No sooner did the new rules appear on the table, than did existing fathers rights groups, backed by sociologists, economists, and political scientists begin public criticism. Articles appeared in newspapers, fathers and children's advocates were interviewed on radio programs, and all sides were represented in regular public televised debates.

Checks and balances exist within the bureaucracy. By the time the next election season began, state accountants had already discovered that a much higher percentage of Swedish men were paying child support through the state collection system. Rather than receiving a financial benefit, the state had merely driven more fathers into poverty. A large portion of the expected benefit simply appeared as a mountain of child support debt that would eventually be forgiven under specialized bankruptcy laws. The state was paying an extra cost of secondary management of the child support debt. More fathers were driven out of mainstream economic activity. Nothing about the reform was good. The same Social Democrats who had promised reform during the previous election found themselves promising an investigation and likely reform of the reform.

Pluralism. At present, seven political parties hold seats in parliament and command public attention. Any of them can criticize the positions and policies of the others, making it less likely that dishonest or malformed policy will continue without scrutiny. Many of the members of these parties are also fathers.

Limits to free speech in the absence of strong protection of individual rights. Swedes are more limited in granting the right to express an opinion than allowed under the U.S. Constitution. People can feel hate toward groups of people in the privacy of their own homes, but they are not legally entitled to threaten groups through public display. Socialism is obviously oriented more toward groups than individuals. But in Sweden, a politician would not last long once the impression was set that they were demonizing a group for political gain. Simply put, it is too difficult to drive policy by treating all men with disdain. In response to increased political discussion and debate, the majority of domestic relations reforms passed in Sweden over the past five years have increased the legal rights of divorced and never-married fathers.

The same problems with child support policy exist in the United States, but have become the subject of political spin rather than honest analysis. The Office of Child Support Enforcement uses rising debt and collection activity to justify its existence; the more the better. Incumbent politicians claim increases in "collections" from people forced into debt during their time in office as an accomplishment, while challengers claim the rising debt is proof that government has not gone far enough. Each side consecutively pushes the other peddle to keep the bicycle moving in the same direction.

The recently released Swedish investigation falls short of promising individual justice. Socialism is satisfied by improved statistics. But it does make an honest first attempt to reduce the number of parents who are financially destroyed by the reformed child support system. Parents should be allowed to keep enough of their own income to support themselves, a comparatively difficult task due to relatively low Swedish paychecks and high taxes. The investigators do suggest that some opportunity for corrective action should be offered to those who still find themselves entrapped by government manipulation.

Low income noncustodial parents whose cases may be dealt with fully by bureaucratic agencies may have it easier than higher income parents who seek adjustments and corrections to court orders. Sweden has a relatively underdeveloped judiciary. It can take years to conclude relatively simple child support cases in the courts; sometimes forcing irrational agreements just to create closure. By signing agreements, parents give up a large measure of their legal right to pursue adjustment later should circumstances change; even if the system makes exercising their rights excruciatingly difficult.

The problem is exacerbated by lack of serious oversight for the country's generous state sponsored legal services entitlements. Ironically, Sweden's laws are designed to be as concrete and formulaic as possible. But lawyers can stretch minor cases in which pursuing agreement is irrational into years of senseless theoretical discussion and psychological play until the full amount of the entitlement is used up, even while litigants on both sides are begging for completion. Unethical behavior by lawyers can be reported, but the statistical record on disciplinary action shows that lawyers operate with impunity. Once an action starts, parents are often stuck with lawyers that are working against them. Administrators typically deny continuation of legal services entitlements when a lawyer is dismissed; making the entitlement one for lawyers instead of litigants. Many parents cannot afford to unravel the tangled legal webs their lawyers create and also pay for the service that they should have received to begin with.

The lack of comprehensive fundamental rights in Sweden also weakens the purpose of appeal to the extent that some people speculate that higher court judges do not always read cases before rubber-stamping lower court decisions. This underscores a basic difference between the culture of unlimited government rooted in socialism and the liberal ideal that the state must take care to limit their actions against individuals to those that are clearly and specifically justified. "Due process of law" also incorporates a basic understanding regarding the efficiency of the process: *Justice delayed is justice denied*. Parents awaiting adjustments to child support orders years after relevant circumstances have changed experience the injustice of delay first-hand.

The new Swedish investigation starts out ahead of the United States by admitting there is room to pursue a more just and rational treatment of the child support issue. Suggested reforms are a path to a better statistical result than the United States has now.

Recognition of the problem by the Swedes marks the first open contradiction to the forced movement of almost three decades of international child support reform. The system developed within the context of local political institutions and culture is better than what the international child support reform movement has to offer. When and how will other countries, including the United States, respond?

Early last year, a judge in Georgia declared the Georgia child support guidelines unconstitutional. He specified three fundamental constitutional requirements for child support decisions. Roughly; child support is child support (not alimony or a way of increasing federal funding), both parents have an equal duty to support their children, and relevant circumstances must be properly accounted for in the formulation of child support decisions. In short, the amount of child support awarded cannot be arbitrary. The decision was recently overturned by the Georgia supreme court, effectively canceling individual rights protection against arbitrary state control as required by the state and federal constitutions. (See related article http://mensnewsdaily.com/archive/g/gay/03/gay050603.htm)

If the courts do not work, there are two alternatives. Either the people of the United States accept the loss of the fundamental rights and the transition to socialism at a fundamental level; perhaps replacing Congress with a Swedish-style representative parliament, or dramatic steps are taken to remove the Republican and Democratic party politicians from power; replacing them with people who will take their oaths to protect and defend the Constitution seriously.

By the way; the child support reforms didn't work in Russia either. When the population there demolished the power structure, they angrily toppled the statues of divisive group-oriented reformers.

1. *Ett reformerat underhållsstöd, Betankande av Underhållsstödsutredningen*, Statens Offentliga Utredningar, SOU 2003-42, Stockholm 2003; ISBN 91-38-21998-0, ISSN 0375-250X

Roger F. Gay

Georgia Supreme Court Abolished Human Rights

http://mensnewsdaily.com/archive/g/gay/03/gay050603.htm

Roger F. Gay, 05-06-03

On April 29th, the Georgia state supreme court issued a decision that dramatically reformulates the relationship between individuals and the state. The state was granted unlimited power to act arbitrarily against individuals. The foremost line of defense, individual rights that are regarded as "unalienable" by the United States Constitution, has in effect been abolished.

In Georgia Department of Human Resources v. Sweat et al., the high court overturned a lower court decision that found the state's child support laws unconstitutional. (related article) Current law prescribes the amount of child support to be awarded by a simple, arbitrary formula that state court judges must presume is correct. The lower court pointed out that the formula had been formulated and adopted without serious technical review, is not based on economic studies, is not rationally related to the purpose of determining child support amounts reasonably related to family circumstances, and has not been subjected to serious technical review since its adoption. It further identified the motive for the use of the formula, which arbitrarily increased the amount of child support awarded, as the pursuit by the state of increased federal funds. Based on case precedent, it also identified three basic principles upon which constitutionally acceptable court-ordered child support decisions must be based.

The high court applied a theory of constitutional interpretation in which individual rights diminish across a spectrum of political issues. In relation to laws regarded as being part of a body of "social policy," individual rights are at their weakest; offering states the greatest authority to practice en masse "social engineering." It was this lowest standard that the high court applied; effectively eliminating individual protection against arbitrary state intrusion and manipulation. The improper application of the standard sets a precedent that leaves Georgians defenseless against arbitrary treatment, regardless of the policy issue involved, so long as the state government has the will to intrude.

There are reasonable applications of the theory, such as in the administration of welfare benefits. States control the range and value of entitlements based on general considerations; including the total amount they are willing to spend. Constitutional rights do not extend to forcing states to fix their entitlements at levels that satisfy individual recipients. Recipients are only entitled to what states decide to provide, even if entitlements may be quite arbitrary or irrational when judged from an individual's perspective. Neither state constitutions nor the federal constitution guarantee individual financial support from the government.

That is not to say that individual rights and limits to state powers have not shaped entitlement systems. The fact that we refer to welfare system benefits as "entitlements" is itself the result of guaranteed individual rights and a restriction on states against acting in an arbitrary manner. When a state offers a benefit based on circumstance, then all people similarly situated are "entitled" to the benefit. Constitutionally, states are not allowed to discriminate on the basis of sex, race, or other arbitrary factors that do not mitigate the factual circumstantial criteria that qualify individuals for entitlements.

You also, apparently, have no individual constitutional right to force a change in the rate of taxation. Taxation is regarded as "economic policy" and is subject to the same diminished level of individual rights as "social policy." Although it is difficult to find a straight-forward logic to justify, people with higher income have been required to pay a higher percent of their income in taxes, rather than simply more in taxes in proportion to their income (so-called "flat tax"). The latter might more easily be explained by the logic suggested in entitlement theory. On the other hand, the government cannot properly impose tax rates on individuals that differ from those in the tax tables that everyone else is subjected to.

In the 1980s and 1990s, radical reformists pushed to shift private domestic relations cases into the sphere of "social policy" with some arguments leaning into the realm of "economic policy." (Taxpayers support children on welfare.) Dramatic reforms such as the Child Support Enforcement Amendments of 1984 and the Family Support Act of 1988 offered billions of dollars to states to reformulate the content of their family laws and the legal process used in their application. New federal laws designed to reformulate the relationship between states and individuals have been passed in every election year since. (The practice of forcing men to support children after they have proven through DNA tests that they are not their fathers is the result of reforms.)

Reformists claimed a nexus between private child support orders and welfare. If a relatively poor mother does not receive child support, she might qualify for welfare benefits, which in some cases would leave the state to support children that could be supported by their fathers. This was an important argument for the sake of justifying federal involvement in domestic relations law â?" an area in which generally the federal government is not constitutionally allowed to regulate. The solution to the synthetic conundrum is blazingly obvious. Those who do receive welfare benefits are subject to welfare system rules. There is a connection between poor mothers receiving welfare and poor fathers who are able to provide some portion or perhaps all of the child support need.

There is however, no nexus that justifies the treatment of all domestic relations cases under the sometimes arbitrary rules of the welfare system. Whether or not a father who has an income of $100,000 per year is paying sufficient child support to a mother who makes $75,000 and has remarried to a man who makes $250,000 has no impact whatsoever on the welfare system. States have no legal basis for the reclassification of such cases from the realm of private issues, handled by private agreements or civil court actions, to that of a state-sponsored "social policy" issue that state governments may manipulate relative to political mood. States have no legal interest with which to constitutionally justify forced, arbitrary, en masse, formulaic treatment of individuals involved in non-welfare family law cases.

What we have here is a situation that started with the federal government passing laws on a specific subject that lies beyond its constitutional authority. Billions of federal dollars were used in effect to bribe states into accepting a new federal-state relationship that required states to abandon laws that developed through 200 years of history within the context of state and federal constitutions. In order to keep the funding, the Georgia supreme court has now arbitrarily reclassified a private issue as a social policy issue that is not

subject to constitutional restraint; i.e. neither individual rights nor restrictions on arbitrary treatment by the state apply. By doing so, the Georgia court redefined the basic relationship between individuals and the state.

The decision has sweeping consequences. It sets a precedent that constitutional rights can be eliminated merely as the result of political will. You have no right to claim that your house (specifically) belongs to you if the government considers housing (generally) to be within the scope of social or economic policy. Your property may be redistributed as the government sees fit. Your children are not in a legal sense yours, so long as the government considers food, housing, education, safety, or the health of children within its scope. As a practical matter, individual rights no longer exist. Individuals are only entitled to what legislators and bureaucrats allow.

Another article may delve more deeply into the specific details of the new decision. To understand the unconstitutionality of the child support laws in Georgia, the first source is the lower court's decision. But there is a detail in the high court decision that should be dealt with along with the improper application of the diminished rights standard. The high court claimed that the child support formula's "means of determining the amount of support to be paid are not arbitrary in any sense of the word." Not only did the supreme court judges tell a bold-faced lie in making that statement, their bizarre logical construction in support of the lie yet again reformulates basic constitutional relationships.

Numerous articles have been written about the arbitrary nature of the guidelines. I will not provide a complete analysis in this article. (See the lower court's decision for a summary.) One way to point out the absurdity of the child support formula is through example; the amounts ordered to be paid by parents who are "similarly situated." The difference in treatment simply because one parent is designated as the child support payer and the other a recipient is astonishing. Parents can have nearly equal income and differ in the amount of time they spend caring for their children by only one day a week; but the child support payment dictated by the formula can force a difference in financial obligation that can amount to hundreds of dollars per meal for the extra night children spend with one of the parents.

In denying the arbitrary construction of the formula, the high court cited precedent; "The trial court is obligated to consider whether such support is sufficient based on the childrenâ?Ts needs and the parentâ?Ts ability to pay.â?□ In fact, under current law, the trial court is required to presume that the results given by the formula are correct. There are numerous examples in case law delivering us from the grip of statutory presumptions that are inappropriate in even a single case â?" regardless of the discretionary powers that trial judges generally have. For example, neither statute nor government employment practices may presume that work late in pregnancy threatens the health of a mother or unborn child or diminishes the capacity of a woman to work, regardless of the fact that it may in some cases, or even if the presumption is most often true. The presumption was declared unconstitutional based on a single case in which the law was applied to a woman whose doctor ha! d declared her fit to work. The argument by the high court was a sly but obvious avoidance of established constitutional protection.

Providing more evidence in support of incredulity, the question before the court was not whether amounts dictated by the formula are "sufficient." Just the opposite; are amounts dictated arbitrarily high? Of course arbitrarily high amounts will pass a sufficiency test; but not one designed to test the rational relationship between actual circumstances and the mount ordered. In addition, the parents had a written agreement that specified child support. The agreement had been overturned by an administrative agency involved in child support collections. (Administrative agencies exercising such powers, and in contradiction to a private contract, raises yet another set of constitutional issues.)

The high court not only eliminated due process, but the essence of common law practice upon which our sense of due process is based. The law is unconstitutional, but the high court claims that it is not because individual judges may, at their discretion (and with a lot of extra work to reformulate child support rules and justify contradictions to the statute in writing), do the right thing instead of accepting the dictates of the law. Under the constitution, a statute that "manifestly infringes upon a constitutional right or violates the rights of the people" is unconstitutional once and for all. If it violates the constitution in a single case, it is unconstitutional.

A law that imposes an arbitrary child support formula that must be presumed correct, violates the federal constitution's guarantee of due process (I believe first and foremost) by creating an intolerable barrier to consideration and proper treatment of actual family circumstances and their rational relationship to child support decisions. The high court reformulated common law to a state in which millions of future litigants will be at the mercy of individual judges, begging for decisions that contradict statute for the sake of individual justice. Few will succeed.

Roger F. Gay

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Additional Scientific Proof that Child Support Awards are Too High

Roger F. Gay 12-11-02

Arizona State University researcher Sanford Braver performed the largest federally funded study of divorced fathers in history. His revealing book, Divorced Dads: Shattering the Myths opened a portal into the character of divorce and post divorce life that crushed more than a decade of anti-father propaganda. Among the myths shattered by his research was the claim that men are economically far better off than women following divorce. Braver is one of the few researchers to include child support, alimony, and other divorce related income in his comparison. He showed that women, as a group, are at least as well off if not better off on a wide range of economic, social, and psychological scales.

In a new book chapter, Sanford Braver takes on the formulae used to calculate child support. The conclusion: these poorly designed formulae produce awards that are so high that they over-shoot any conceivable mark for determining appropriate awards. The chapter is entitled *Child Support Guidelines and the Equalization of Living Standards* and appears in The Law and Economics of Child Support Payments from Edward Elgar Publishing. (W.S. Comanor, editor)

The unique contribution in this particular chapter are the equations that provide specific information about where guidelines produce child support orders that exceed the goal of equalizing living standards. A detailed example involves the State of Arizona, with a noncustodial parent's gross income set at $3,000 monthly, and two children spending 30% of their time with the noncustodial parent. If the custodial parent brings in more than $1,578, she will have a higher living standard than the noncustodial parent.

It has been previously shown that child support awards contain hidden alimony**.** This same work presents calculations for spousal support that properly compliment a child support award to achieve a target standard of living in the custodial household. But it is not always appropriate to award spousal support (or alimony). For a variety of legal and straightforward logical reasons, spousal support should not be provided as part of a child support award.

Some advocates have suggested that equalizing the standard of living between two households is a better approach to child support. Judith Cassetty poineered a standard of living equalization method nearly twenty years ago. This method was rejected in all states because equalization of living standards, or equalization of income would provide a margin of alimony or spousal support in many cases. "It is illegal to include spousal support in a child support award," wrote a Washington State guideline review committee, "because spousal support can be awarded separately when appropriate." (This is not so in low income situations. If properly designed, sol equalization may indeed be a good simple preferred approach in welfare cases.)

Comparison of Cassetty's approach with guideline designs currently used in the states shows that current guidelines often produce awards that are much higher than those that would be produced by income or standard of living equalization. [1] Braver takes the analysis farther, producing a set of equations and tables demonstrating that current guidelines often increase custodial parent income by far too much, and correspondingly decrease the standard of living of the paying parent by an unjustifiable amount. He points out that there has been a presumption that custodial parents are typically much poorer than noncustodial parents to begin with, an idea that helped to drive child support reform politically. He asserts that there is no reason today to assume that the situation is not reversed in a majority of cases.

Spousal support is not child support. Including a margin of spousal support in presumptively correct child support formulae results in orders to pay spousal support in many cases where it is inappropriate. There are also tax consequences. Child support payments are made from payers' after-tax income and received tax free by custodial parents. The tax obligations on alimony are the opposite. Thus, courts engage in a tax fraud conspiracy every time they order alimony or spousal support hidden in a child support award.

Braver performs specific calculations showing the consequences of ignoring the tax burden. An example is a couple in Oklahoma with three children and each parent with gross monthly earnings of $2000. The child support payment is $400 per month. But the payer must also pay $222 more per month in taxes (-622), while the child support recipient receives an additional $250 per month (+650) from the Earned Income Credit and the Child Tax Credit. After this transfer, she will have more than twice his spendable (i.e., after tax, after child support) income. From this reduced income, the "noncustodial" parent must set up a household for his children and support them directly 25-30 percent of the year while the "custodial" parent receives the financial benefits but is not caring for the children.

Braver's new analysis adds to other evidence to produce a scientific certainty that the use of presumptively correct child support guidelines has resulted in unjustifiably high child support awards.

Citations

1.Robert G. Williams, *Development of Guidelines for Child Support Orders: Final Report*, U.S. Department of Health and Human Services, Office of Child Support Enforcement, March 1987.

There's Something Funny About CSE in Illinois

Roger F. Gay, 09-26-02

The child support enforcement scam must be at a turning point when the corruption turns into situation comedy. That happened this week in the Illinois race for governor.

One of the contestants, Jim Ryan promised to crack down on "deadbeat dads" in a previous successful campaign for Attorney General. Many of you know the routine by now. Hundreds of thousands of people in arrears. Billions of dollars in child support owed. Bring out the crying mothers in tattered clothing with hungry children dressed in barrels and flour sacks. It's a politicians dream come true. Who can resist?

Now, his opponent Democrat Rod Blagojevich is doing the same thing to him. "When it comes to taking responsibility to fix the child-support collection system, Jim Ryan is all words and no action," Blagojevich said.

Temporarily the joke is on Jim Ryan. Divorced mothers, as a group, live at a higher standard of living than divorced fathers. Fathers have a very good record paying child support. As far back as the records go, they always have. A quarter century of wild federal and state spending has not improved compliance with court orders at all. Parents who owe child support are sometimes unemployed, incarcerated, and incapacitated. It happens. That's life. Some of the "deadbeats" in frequently quoted statistics are actually dead. Not much opportunity for improvement, but since the federal government is doling out more than $4 billion of the taxpayer's hard-earned money a year to pay for the program it doesn't need substance.

Lies, damned lies, and statistics. Now there are two directly competing versions, one for incumbents defending their records and one for those trying to displace them.

The way sensational statistics on non-payment of child support are produced these days, there is a built in guarantee that any politician promising to "fix it" will fail. Government sources accumulate statistics rather than reporting yearly results. The current non-payment statistics are for the accumulation of arrearages over the last twenty-six years. Every year, most child support gets paid but some of it does not. Get elected this year and by the next election you will be held accountable for the total accumulation of debt over thirty years instead of twenty-six. It's a no-brainer. The numbers will be worse than when you started.

But if you are defending, quote what has been paid instead. All payments are classified in government accounting as "collections." So the trick is to take credit for all the money that non-custodial parents have paid, and would have paid even if the child support enforcement program did not exist. As you enroll more parents in the system, especially higher income fathers who pay the best because the can, more money is paid through the system - "collected" so to speak.

Blagojevich (the attacker): *Illinois collects only 16 percent of money owed to children. There are 324,000 cases in arrears in Illinois and that translates to $2.4 billion in back child support.*

Ryan (defender): *While Attorney General, "collections" rose from $60 million to $125 million in those counties where the Attorney General's Office was in charge of "collections."*

Two competing lies is nothing new in politics and just isn't that funny. With experience as Attorney General with responsibility for the child support collection program, Jim Ryan must know he's lying. But let's just imagine for the moment, as we consider the new guy's proposal, that Rod Blagojevich doesn't yet have a clue.

Blagojevich proposes to create a cabinet-level Child Support Enforcement Bureau. He would add 100 new caseworkers and investigators to track down deadbeats, give them a computerized system to support the tracking system and switch cases from court hearings to administrative hearings to end case backlogs.

If elected, he promises to create a cabinet post to oversee a 100% fake pork-barrel program. He is going to add another 100 useless caseworkers to the 60,000 or so that taxpayers are already supporting nationwide. He will "give them" a computerized tracking system that the federal government paid $4 billion to build, is already in use, and is controversial because its only actual function seems to be the invasion of everyone's privacy. And obviously computerized tracking would not only negate the need for new workers, but make existing workers redundant. Finally, he would make a move to deny basic constitutional rights to tens of thousands of citizens.
OK, I have to admit that it really isn't that funny.

CSE Advocates: The Liar's Club

http://www.mensnewsdaily.com/stories/gay091802.htm

Roger F. Gay, **PICSLT**, 09-18-02

The legal definition of insanity is (roughly) the inability to distinguish right from wrong. It occurs to me that child support enforcement advocates are building their defense, anticipating the day when this crude con-game will all come crashing down around their pointy little heads.

The provocation for this article includes the cases of John Ruff in Oakland County, Michigan and Dr. Damon Adams, a dentist in Traverse City.

John's girlfriend told him that he was the father of her daughter and John decided to "stand up and be a man and take responsibility." Legal paternity was established and a judge ordered the payment of child support. Years and $26,000 in child support payments later, long after the relationship ended, he heard rumors that the child was not his. He decided to get a DNA test and it turned out that the rumors were true.

John did the obvious thing. He scheduled a hearing in Oakland County Court and explained the situation to Judge John McDonald, providing the DNA result as proof. Now at this point, a person who fails the test proving legal insanity would think it was over. One might even wonder if John can get his $26,000 back some day.

No, said Crazy Judge McDonald. John must continue to pay child support.

Dr. Damon Adams, a dentist from Traverse City who is pushing for legal reform understands the problem from firsthand experience. Shortly after his marriage of 25 years ended, he discovered he did not beget his fourth child, who was 8 at the time. Adams also presented DNA evidence but was told that he had to continue paying more than $18,000 a year in child support.

As if that isn't enough, get a-load of the booby hatch escapees who've rushed to the press to excuse or in fact support forcing not-the-father's to pay child support.

The explanation of the cause of the problem deserves serious consideration for a Liar's Club prize. Not only has it found its way into the newspaper story linked above, but its an explanation that reached millions of homes throughout the world through the vehicle of a well-known talk-news television personality.

According to Christi Goodman, program manager for the National Conference of State Legislatures; "The current legal system is based on 500 years of common law that gave children born within a marriage the right to claim the man in the marriage as their father."

Nice try Ms. Goodman, but the United States hasn't used 500 year old common law for a long time. I'm sure. Not only was John's not-daughter not born within a marriage, but child support in the United States has traditionally been a matter between parents, not a man in the mother's marriage and her children.

Remember when politicians all over the country were saying, "There's no excuse for not paying child support." You heard it on TV. The first working television was invented in 1884 and patented by Paul Nipkow. The key technical development leading to modern televisions was patented in 1927 by Philo Farnsworth. In 1934, the British company Gaumont bought a license from Farnsworth to make systems based on his designs. In 1939, the American company RCA did the same. So, when you heard it on TV it had to be less than 500 years ago.

Let me give you a hint. After 200 years of child support law in the United States, formulated and applied in the shadow of the Constitution, the federal government got involved in child support collections in a big way in 1975. They eventually passed laws offering states more federal funding based on the amount of child support they collect. Apparently, either not able to pass competency tests or passing the test to establish legal insanity, states began forcing millions and millions of regular payers to pay through their system and called everything paid "collections." That increased the amount of federal funding they received through fraudulent accounting.

Here's a sampling of federal laws on child support including the years they have been passed since 1502.

1975 Social Security Amendments (PL 93-647). Comprehensive child support legislation that enacted Title IV-D of the Social Security Act. Officially established the federal child support enforcement program.
1984 Child Support Enforcement Amendments (PL 98-378). Extended welfare system child support enforcement practices to include all non-welfare related child support cases. Made a range of practices mandatory (such as mandatory income withholding for past-due support payments). Created the federal incentives system, paying states, and everyone involved with child support a little something extra for more child support.

1986 Bradley Amendment; rule provides that child support arrearages may not be modified retroactively, except when paternity is disestablished.

1988 Family Support Act (PL 100-485). Required the use of politically defined formulae for determining the amount of child support ordered. Increased emphasis on simplified automated enforcement practices and for establishing paternity. Mandated wage withholding for all support orders, current and past-due.

1992 Child Support Recovery Act (PL 102-521). Made it a federal crime to fail to pay past-due child support obligation for a child living in another state. Uniform Interstate Family Support Act (UIFSA) Model Act. Streamlined the processing of interstate cases. UIFSA was revised in 1996.

1993 Omnibus Budget Reconciliation Act (OBRA) (PL 103-66). Simplified the paternity establishment process even further and established medical support provisions for all children.

1996 Personal Responsibility and Work Opportunities Reconciliation Act (PRWORA) (PL 104-193). Part of a comprehensive revamping of the welfare system, including new guidelines for paternity establishment, distribution, collections, and federal and state automation. Mandated implementation of UIFSA, federal and state case registries, and the $4.5 billion national New Hire Directory for tracking financial information of all US residents and their families.

1998 Child Support Performance and Incentive Act. Made several changes to the child support enforcement program. It altered the federal government's method for awarding incentive payments to states, but not by much. Deadbeat Parents Punishment Act. Provided for federal felony penalties for egregious failure to pay child support.

2002 H.R. 4737, the "Personal Responsibility, Work, and Family Promotion Act of 2002" Expands passport denial program, increases federal administrative offset funding, requires periodic update of child support orders, increases tax interceptions, funds additional technical projects, and charges fees for the pleasure of being victimized the the child support system.

I'm calling now for a show of hands. How many of you believe that 500 year old common law is the basis of the child support decisions discussed above? Just as I thought. I don't see any hands raised.

Not had enough yet? I have. But there is no end to child support advocacy. There is more. Legislators in Michigan and other states introduced laws to give men like John Ruff and Damon Adams a break. But there are people who defend the status quo.

Last year, the Michigan House passed a package of bills that would permit people to get out of paying child support when a child is not biologically theirs. The bills also permit the cancellation of child support arrearages in such cases and penalize mothers who fraudulently say a man fathered their baby.

The bills sat in the state Senate Committee on Families, Mental Health and Human Services until they died a natural death. Chairwoman Senator Beverly Hammerstrom's staff explains that it's mostly because of legal concerns. Funny how passing laws can be like that.

Amy Zaagman, chief of staff for Senator Hammerstrom, says Hammerstrom is not really against the idea, it's just that when paternity is established, men give up their rights. And the bill, which is on discontinuing child support. One major "legal problem" she found is that the bills do not stop men from seeing children they have established a bond with. Obviously men should pay to see children.

"Where is the best interest of the children in all this?" said Zaagman. "Here's someone who had a relationship with the child, established some responsibility for the child . . . yet now he doesn't want to be responsible anymore but wants parenting time? How does that benefit the child?"

Well, there's one more person who passes the test.

Meri Anne Stowe, Chairwoman of the the Family Law Section of the State Bar of Michigan is opposed to changing the law. She says she can sympathize with men who are married and later discover a child is not biologically theirs. Isn't that nice? But Stowe said she is even more concerned about the children in these cases. "We don't want to illegitimize a whole class of children, and we don't want to impoverish a whole class of children," Stowe said. "We have to look at the greater good."

I have an idea. Back when I was in early manhood, the military draft system was sending men off to Vietnam. Not everyone was called. A lottery was held and you got called if your number was low enough. If you are unable to get away with pleading legal insanity, you are likely intelligent enough to understand the suggestion. I don't want to explain it clearly for fear that the others might make it into law.

Roger F. Gay is a professional analyst and director of Project for the Improvement of Child Support Litigation Technology.
Other articles by Roger F. Gay can be found in the Men's News Daily archive.

Virginia Panel Votes to Leave 'Child Support' Undefined

Roger F. Gay 09-16-02

The Virginia Child Support Review Panel is tasked with assuring that the use of the state's child support guideline results in appropriate awards. One might think this job impossible if the term "child support" is not defined. That is exactly what panel member Murray Steinberg thought. Mr. Steinberg has been trying since early June to have the panel agree on a definition of "child support."

The child support guideline is a fixed formula used for determining the amount of child support that one parent must pay to the other. Judges are required by law to presume that the guideline result is correct. Parents have a right to challenge the amount if it is unjust or inappropriate. But without sufficient definition and principles, there is no statutory basis for understanding what "just" or "appropriate" means. This leaves Virginia parents without a practical way to exercise the right.

Federal law requires, as a condition for funding child support enforcement programs, that states review their guidelines at least once every four years. In 1999, during the state's last review, then panel member Barry Koplen raised the same issue. A recommendation was submitted defining child support and providing necessary and sufficient principles for determining appropriate child support awards. The recommendation suggested specific changes to Virginia law.

That panel ignored the recommendation and the legislature never considered making changes to the law. Without defining the term "child support," the state obviously has no basis for certifying that their guidelines have anything at all to do with supporting children. On July 1st, without discussion, the panel voted 8-1 to "keep the current definition" — meaning that the panel continue its review without defining the all important term. The motion to hold the vote was given by state Senator Frederick Quayle (R-District 13). Senator Quayle's two offices were contacted twice by email over a two week period asking for comment. A staff member responded that he was not available.

The design of the Virginia guideline rests heavily on the work of Robert Williams, a child support collection entrepreneur who provides consulting through Policy Studies, Inc. His collection company, which operates in Virginia, keeps approximately one third of the child support money paid through contracts it has with states and individuals, making the size of child support awards a direct factor in the company's profits.

States receive additional federal funding in proportion to the amount of child support collected. Like other states, Virginia counts all child support payments made through their system as "collections" even when they are made on time. Arbitrarily increasing the amount awarded increases the amount of federal funding they receive.

Williams contends publicly and in his consulting with states that his work is based on "economic studies." But in a deposition taken in P.O.P.S. v Gardner, he admitted that he made it up and said that acceptance of his design depends on states accepting his policy choices. The explicit goal of his "Income-Shares" guideline, introduced in 1987, was to increase the average amount of child support awards to 250 percent of what it would be under traditionally established child support law.

When questioned by the review panel in 1995, Williams admitted that he could not identify any of the components in his cost estimates, including food, clothing, housing, education, routine medical expenditure, and transportation. He was unable to identify how much of the estimated cost is fixed and how much of it varies according to visitation arrangements and other factors.

According to Mr. Murray, the panel has not presented any current research and data on the cost of and expenditures necessary for rearing children. "We have no data related to the actual cost of raising a child in a separated or divorced, two-home situation." Income-Shares guidelines have never been shown to correspond to any set of policy choices that are rationally related to "child support," and states have implemented the model by eliminating definitions and principles from their statutes. Williams has responded to critics by claiming that the arbitrarily high orders provide a higher standard of living in custodial parent households.

But the question of increasing standard of living through child support payments has already been addressed scientifically. There is a limit to the standard of living increase that can be obtained through a child support payment. Increasing child support amounts beyond the limit introduces what has become known as hidden alimony**.** Many experts agree that it is illegal (incl. unconstitutional) to include alimony in a child support award.

Virginia's approach uses extremely dubious estimates of what two parent families spend on children, which include arbitrarily high percentages of such families' expenditures on housing and transportation. What an intact family might spend is unrelated to post-divorce spending. This leads to child support awards that are quite random in their relation to actual family circumstances and the needs of children regardless of the credibility of the estimates.

Another contentious aspect of the guideline is its intentional denial of credit for support provided by noncustodial parents during visitation periods, and inadequate credit for near or greater direct support provided by parents with joint custody.

Murray Steinberg has been through it all before. He previously served twice on the state panels, in 1993 and 1995. He refused reappointment in 1999 acknowledging that the majority of political appointees on each panel are predisposed to maintaining the status quo. He accepted reappointment for this review after receiving assurance that things would be different this time. Indications are however, that this review will be like the rest.

California: A Kinder Child Support System?

Roger F. Gay 09-12-02

I read the Sunday article in The Mercury News with interest. There's a "new deal," it says, "for about 15,000 Santa Clara County dads who have lost their driving privileges because they failed to pay child support." If they make one month's payment they can get their licenses back.

Let me go one better. Give them their licenses back. Forgive the arbitrary debt the government created and set their child support orders to reasonable levels. If the government of California is extremely lucky they won't sue for reparations. As for the people who took their licenses to begin with - no deals. They belong in jail.

"What should be remembered is that we never needed a massive nation-wide child support "system," complete with an overbearing bureaucracy, abuses of power, conspiracies to deny human rights, misuses of government funds, and middle-men skimming child support payments."

California is transferring responsibility for child support collections from district attorneys to the state Department of Child Support Services. Although district attorneys in California might not have been the most vicious and corrupt in the nation, they occasionally got honest press coverage unparalleled in other states.

For example, former Los Angeles County District Attorney Gil Garcetti received national attention for obtaining default judgments of paternity after failing to notify "fathers" of court hearings. Once the court established paternity, Garcetti refused to rescind judgments against men who later proved through DNA evidence that they were not the fathers of their alleged children.

Last month, the dishonest D.A. was appointed to a five-year term on the Los Angeles City Ethics Commission by City Council President Alex Padilla. If the selection is approved by the City Council, Garcetti will be one of five commissioners who recommend changes in city campaign finance and lobbying laws and who sit in judgment on city officials accused of violating those laws.

The Metro News article explains that the child support enforcement staff intends to help estranged fathers become more loving and supportive of their children. Dads struggling to keep low-wage jobs can hold on to more of their pay if they attend parenting classes and agree to commit to their families.

The intent of the reform according to Debra Bernard, attorney with the James P. Reape law firm in Valencia is not to be kind to dads. It is to increase collections. "Lack of coordination and integration between these agencies was seen as the major impediment in getting support." It is easier to catch flies with honey.

What should be remembered is that we never needed a massive nation-wide child support "system," complete with an overbearing bureaucracy, abuses of power, conspiracies to deny human rights, misuses of government funds, and middle-men skimming child support payments. The "system" was the invention of corrupt politicians, criminals, and political extremists. Not one single argument in favor of the creation of the child support enforcement system was true.

The reforms taking place acknowledge a portion of the truth, but only for the purpose of attempting to maintain public credibility. The new agency is changing the public image of child support enforcement from hounding "deadbeat dads" to working with "dead-broke" ones. But that was simply part of the truth all along. The economics of fatherhood hasn't changed, only the rhetoric of child support enforcement.

We know that unscrupulous con-men (and women) targeted a large section of the population - non-custodial parents - and ran a lengthy propaganda campaign against them. We know that they lied, and lied, and lied. We know that their motive was profit, and today there are a mass of people stealing from parents, children, and the public coffers in the name of child support.

And they want to continue by telling people that they are teaching fathers to love their children. Couldn't you just beat the crap out of them? Well that's not nice, and far be it from me to suggest violence as a response to more than a decade of torture and a grand conspiracy to defeat the Constitution - by the very people we pay to uphold it.

But still, I have to say that I don't think returning a few drivers licenses to people who submit to the next round of forced abuses and mass public humiliation goes far enough. Citizens of the United States should never negotiate for basic rights. There are no strings attached. We must never forget that there is no legitimate compromise. The "system" must end and those responsible must be held accountable.

Another Man Down in the War Against Fathers

Roger F. Gay 08-22-02

America's Most Wanted put it like this:

Catalino Morales is wanted for the attempted homicide of five deputy sheriff's in Allentown, Pennsylvania and for failure to pay back child support.

On Saturday, morning, December 9, 2000, eight deputies in Lehigh county Pennsylvania broke into Catalino Morales' home to serve an arrest warrant charging him with failure to make child support payments. According to the deputies, Morales barricaded himself in a second-floor bedroom and fired two shots through a closed door. He then shot out a back window, jumped onto a flat roof, and onto the ground where it is alleged that he shot at a deputy. The deputy returned fire but no one was injured. Morales escaped the immediate area.

Police say Morales then entered a house in the neighborhood and held a family of four hostage for several hours. The standoff ended when one of the residents managed to wrestle the gun out of Morales' hands and Morales fled the scene. A massive hunt ensued — including search dogs, helicopters, and Allentown police— to no avail.

On the night of June 20, 2001 a SWAT team in Hartford, Connecticut surrounded Morales in a housing complex and shots were fired. No policepersons were injured in the encounters. Morales was hit by three of 25 police bullets, permanently damaging his hand and his leg and endangering the lives of the nearby residents.

He is a father. He is a man. He is allegedly behind in making "child support" payments.

It is unlikely that the child support system will be put on trial in defense of Catalino Morales, but it should be. Under heavy influence from a profit-driven collection industry the process of determining the amount of child support ordered and enforcement practices have changed dramatically within the past fifteen years. Political corruption is rampant and obvious not only to those who have studied the system closely but to many fathers who have been forced into subjugation by it.

Millions of men are treated arbitrarily and unfairly to a degree that compromises or destroys their chance to maintain themselves, let alone get on with a normal life. Many cannot do what the system requires them to do. Add to that years of harassment and threats from a long list of strangers, including half-witted pimple-faced high school drop-outs trying to make a commission, and female bureaucrats, possibly former welfare mothers, who revel in the opportunity to emasculate men. There is no escape, no reason. Every politician says so. Men and women with more power than moral character constantly remind them that this is what fatherhood is all about.

Then other strangers arrive with guns and invade their homes with the intent of taking them prisoner. They are experiencing the horror of a dictatorial police state.

Catalino Morales is one of many canaries in the child support coal mines. Year after year we watch the canaries die yet the workers are not allowed to leave. Those among us who have the opportunity to communicate are morally obligated to pass the word. This system must be abandoned as quickly as possible whether the masters wish it or not.

In the early 1990s, millions of fathers first experienced the suspension of constitutional law in domestic relations courts and the transition to enforcement of arbitrary *en masse* central political decisions. The new system seems designed to ruin men's lives. Decisions are arbitrarily based on statistical projections that have no basis in reality. State governments are encouraged to take as much from fathers as possible in order to increase the amount of federal funds they receive. Private collection agencies benefit from higher child support awards and greater debt. Industry representatives control much of the policy making process, including the design of most formulae used in setting child support amounts.

With so many people involved, there has been a predictable variation in reaction to the change. The early 1990s saw the rise of the Fathers Rights Movement, class-action lawsuits, a surge in the number of appeals filed against child support orders, and new national conferences on fathers issues. State and federal politicians were lobbied constantly to fix or abandon the new laws. Members of the Washington State Legislature received thousands of pairs of baby shoes from fathers trying to make a point.

There were also reports of increases in suicide and violence. The early 1990s saw news reports of the first of the early morning raids on communities to round-up hundreds of dads to cart them off to jail. It saw shootings in courtrooms, lawyers and judges taken bloody to ambulances, and fathers barricaded in their homes surrounded by police.

In Dallas, a lawyer representing himself in a divorce case pulled a semi-automatic weapon from his briefcase and opened fire. While one father was barricaded in his home threatening suicide if police came too close, he was telephoned by a reporter who wanted to turn the conversation over to a police negotiator. Feminist groups protested, saying the government must not negotiate with terrorists. News coverage on such incidents ended. Billions of dollars were spent increasing security in courthouses.

Despite the best efforts of ordinary citizens, the system got worse. Fathers rights advocates were largely cut off from making their appeals through traditional media that continued an enormous propaganda effort against the so-called "deadbeat dads." By the mid-1990s politicians were confident that the public couldn't get enough. Child support was on the political agenda in every election year. Politicians in both parties continually promised to make life tougher for fathers and passed law after law to do so.

By the late 1990s life had become so desperate for a few divorced men (in more than one country) suffering psychologically from the loss of their children and constant harassment that they took guns into day-care centers and held children hostage. Do you now understand how it feels, they asked before being gunned down by police snipers.

Due to the enormous weight of one-sided reporting on the child support issue, many people are still quite unfamiliar with the problem. It is easy to find people who believe that errors can be corrected and orders adjusted to circumstances by a quick visit with a family court judge or through some simple administrative process. They have been brainwashed into believing that men generally avoid what are presumed to be fair and reasonable obligations to their children. It is difficult for them to understand that millions of ordinary citizens are fighting for their survival in the midst of a constitutional crisis.

The Constitution of the United States and the constitutions of the states define a system of checks and balances. Unreasonable orders are to be corrected on appeal. Unconstitutional laws are to be overturned by the judiciary. These are necessary safeguards against harmful, intrusive, and corrupt government behavior. But during the past twelve years the system has not functioned as designed. Everyone in government connected with child support —including judges— receive financial rewards for maintaining the centrally planned system, and courts and prosecutors have cooperated to an amazing degree. This has created a situation in which no legal remedy for arbitrary and oppressive orders and overly zealous enforcement measures exists.

Some orders are so high as to be life threatening. They do not leave the person who is ordered to pay with sufficient income to support himself. Lives have been lost. But to create the order is not enough. Once bound, the system constantly threatens and harasses fathers who are unable to meet their arbitrarily assigned "obligations." Just give the situation more than two seconds thought. If you do not think that the system caused Catalino Morales to fire a gun and run for his life, you do not pass elementary applied probability. You do not understand humans.

Unless the corruption in the system is dealt with and those abusing power and influence arrested and jailed, there will be more gunfights and more men brought down in the war against fathers.

Two Strikes for Child Support Collection Company

Roger F. Gay 08-16-02

In March, the head of Maryland's Department of Human Resources asked lawmakers to order an audit of Maximus, Inc., the private company that administers child support enforcement in Baltimore. Teresa L. Kaiser, executive director of the Child Support Enforcement Administration, said she believed that the company had manipulated data on cases "in a manner that suggests wrongdoing."

A report from the Maryland General Assembly's Office of Legislative Audits has confirmed errors, at unbelievably high rates related to some of the allegations. The Auditor's tests were limited to five specific objectives (one of them reported in two parts) related to the complaint. They did not investigate every case file, but took samples and made statistical projections from their findings.

The investigation found that Maximus collected improper payments from "absent parents" in between 4.5% and 16.3% of all cases. They improperly closed between 10.2% and 25.5% of the cases they handled. Maximus did not disperse escrowed payments and refunds in between 89.2% and 98.7% of cases in a timely manner.

Three other allegations were not confirmed. But the Auditor's report cautioned this does not mean that there are no such errors. The size of the statistical sample made a conclusion based on no errors detected unreliable. The three allegations that are as yet unconfirmed are:

- Multiple cases created from single court order
- Cases reopened without justification
- Collections diverted from other local offices
-

The Auditor acknowledged that multiple cases for the same individuals were found, but noted that the majority of those cases had not been initiated by the contractor. Instead they had been created prior to the contractor being hired in 1999, or had been initiated by automated referrals from the Temporary Cash Assistance Program or from the Foster Care Program.

Section 10-131 of the Maryland Family Law Code requires that wage withholdings that cannot be distributed within two months of receipt because of an unreported change in the custodial parent's address, be refunded to the absent parent. The law also requires that the child support agency not make any further wage withholding collections. The review discovered that Maximus failed to follow this law to a significant degree.

"... the contractor often did not take timely action to resolve undistributed funds from various sources (wage withholdings and tax intercepts, for example)." The review found that in 63 of 67 cases "undistributed funds were not researched and resolved for periods ranging from 3 to 49 months. Of these 63 cases, 17 remained unresolved for periods exceeding 2 years."

This is not the first time problems with the private contractor have been reported.

Connecticut awarded a $12.8 million contract to Maximus to run its child support collection program. In March 1998, *Time Magazine* reported that "within months Maximus found its operations in the kind of disarray it usually takes government years to achieve."

In Florida that same year Maximus was paid $2.25 million and "got 12 deadbeats to cough up $5,867."

In a letter responding to the Auditor's report, Maximus' Senior Vice President Robert L. Sarno said that he does not believe that their performance record for Baltimore is the worst in the state and that nationwide there are similar problems at higher rates than found in the Baltimore review. The response was apparently intended to suggest that Maximus has a record that is competitive if not relatively good compared to overall industry performance.

Corruption in Connecticut

Roger F. Gay 08-13-02

Connecticut legislators have taken yet another step in denouncing the Constitution and basic human rights. The opportunity to attend college is a good thing, right? So a law was passed allowing judges to order divorced and never-married fathers to pay if they can. This extends the period in which fathers are divested of not only parental rights but constitutional rights as well, through the early adulthood of their children.

Married parents are of course never ordered to pay for college. For those who face difficult financial circumstances, there are a variety of loans, grants, and work-study programs. In the past, many young men and women have attended college with the help of military benefits and part-time jobs.

Many a parent, including divorced and never-married parents, including divorced and never-married noncustodial fathers, have worked and sacrificed to put their children through college. For that (among other things) they deserve the eternal respect of their children. But proponents of the Connecticut law will once again strip fathers of respect if they can. Fathers will be paying because they have been ordered to pay.

Opponents of the bill point out that married parents are never ordered to pay for college. It is — how can I say this with enough clarity — *too bloody obvious* that the law is an unconstitutional intrusion and violates equal protection. The law deprives divorced parents of the discretion that married parents have over decisions on college.

"I don't think the courts are the answer to [the difficulty of paying for college]," said state Sen. Robert L. Genuario, R-Norwalk, who voted against the legislation.

But such roadblocks never stop those intent on ruling over the lives of divorced men and their money.

Linnea Lindstrom, a divorced mother of two college-age daughters is an apparent poster-mother for the campaign. According to the The Hartford Courant, she tried unsuccessfully to get a provision for college support written into her divorce decree six years ago. Now let's see the spin.

"The state can't legislate good parents," she said, "but they can make parents responsible."

No, as a matter of fact, by the fundamental laws that define our nation it cannot, especially when "responsible" means nothing more than doing what someone else wants. Giving each child $100,000 cash and good investment advise might be better in many cases than a college education (although I personally strongly favor education). I would not be surprised if a divorced mother somewhere in the country has done just that; and would be nuts to think such things have not been done by married parents and divorced fathers. It is an extreme illogical jump to label every parent who does not do that irresponsible.

Supporters of this legislation in Connecticut, and all the legislators who voted for it know that they have done wrong. Any judge applying the law will know the same thing. It's *too bloody obvious*. When the state can order people to do whatever they would like them to do, the United States is formally non-existent. It might as well be renamed the Soviet Socialist States of America.

One of the sponsors of the legislation, representative Art Feltman, D-Hartford, said it is unfair to put children at a disadvantage simply because their parents are divorced. "I want to equalize the life chances of kids whose parents stay together and kids whose parents split apart," he said.

Fine. Give generously to a special college fund.

For an official bureaucratic spin, perhaps nothing can top Dallas Martin, president of the National Association of Student Financial Aid Administrators. "I'm old-fashioned," he said, "but I still believe if you bring a child into this world, you have a responsibility to support the child the best you can."

By court order? "Old-fashioned" in what country?

Now in Tennessee: No Legitimate Purpose Found in Child Support Law

Roger F. Gay 08-12-02

In a decision filed Friday, a Tennessee court of appeals declared unconstitutional a prohibition against considering the support of children of a current marriage when setting the amount of child support ordered for children of other relationships. A three-judge panel decided unanimously that the law violated equal protection.

The case involved a child born as the result of an affair with a married woman. Paternity of the child was not established at the time of birth in 1993. The father later married and had two children in his marriage. Paternity for the first child was legally established in 1996 at which time the father agreed to pay $375 per month in child support. A request to have the amount of child support recalculated according to the guidelines was filed in 2000 and the father was ordered to pay an additional $300 per month.

Except in cases of extreme financial hardship, Tennessee law forbade courts from considering support of children that were not the subject of the order. In this case, the court was not allowed to consider the support of the two children of the marriage. The father argued that the law violated the constitutional rights of the two children because they were not treated equally. The appellate court found in favor of the father.

There are three possible levels of review used in constitutional cases. In this case the weakest level of review was applied. Use of the weakest level of review gives the plaintiff wishing to see a law declared unconstitutional the lowest probability of winning. The restrictive provision was still found unconstitutional because it does not serve a legitimate government purpose.

The father did not argue that a fundamental right had been violated nor that he belongs to a "suspect class." When a fundamental right is involved the highest level of review is required. In a case involving a suspect class the intermediate level of review may be applied. The court found that the father "suffered a concrete injury" because his support of his other children was not considered. The issue was then considered "on its merits."

Earlier this year, a Georgia court determined their guideline unconstitutional. The intermediate level of review was applied when the court determined "that men are adversely impacted by the Guidelines *as applied* to a grossly disproportionate degree, which constitutes an impermissibly discriminatory effect on a group based upon their gender." Upon consideration of the details, the court added that the guidelines would have been found unconstitutional even if the lowest level of review had been used. They bore no rational relationship to a legitimate government purpose.

Is this too early to call it a trend? Once outside the bubble of blind acceptance, two state courts have determined that arbitrary child support laws cause damage to fathers and children and have declared them unconstitutional. Forcing flawed and illogical rulings on parents does not serve a legitimate government purpose. ©

Virginia Child Support Panel to Suggest Increase;

Special Interest Influence Apparent

Roger F. Gay 08-09-02

The Virginia State Child Support Guideline Review Panel held its last meeting on Tuesday night. The final act of the panel was to vote in favor of arbitrary increases in the state's child support guideline. The "guideline" is a rigid formula used for calculating awards in all child support cases. State court judges are required by law to presume that the formula provides the correct amount of child support to be awarded. To a large extent, the role of judicial decision-making in each case has been replaced by the *en masse* political decision on what the guideline amounts will be.

States are required by federal law to review their child support guidelines at least once every four years, and to assure that their use results in an appropriate award in every case. According to federal statute, states can lose funds for failure to meet the requirement. But throughout the thirteen year history of the law, the federal government has never actually required any state to perform a technically valid review. No technical standard of validation exists, leaving the review process to politics and special interests. Recommendations by the panel go to Virginia lawmakers who then consider whether to change the guidelines.

Less than a month ago, it was reported that the panel voted to leave the term "child support" undefined. The panel voted to continue using the existing definition. But the state child support statute does not define the term, nor does it provide any set of principles for deciding what an "appropriate" amount of child support is.

Panel member Murray Steinberg raised the question of a definition one last time and was told that the issue had already been discussed and voted on. Pressing further, he received the boldest admission yet that the panel has been steered by special interests. Pointing out that no definition exists in statute, he asked specifically for the existing definition of the term.

He was handed a lobbying paper from private collection agency representative Robert Williams. Williams provides collection services in the state, and his company keeps around one third of the money that flows through his operation. Increases in the amount of child support ordered increase the amount of profit received by his company. Williams was extremely influential in getting the state's formula set to the arbitrarily high level it is today. It was this collection industry view that the panel is treating as law.

The response came from panel chairman Joseph S. Crane. Crane is Assistant Director of Division of Child Support Enforcement and a representative of the state's executive branch on the panel. The child support enforcement program receives additional funding in proportion to the amount of child support paid. Therefore, an increase in the amount ordered will increase the amount taxpayers provide to the Division of Child Support Enforcement through the federal government.

The response was immediately supported by Bill Brownfield, representing the state bar association, and custodial parent representative Cathy Burch. Unjustifiably high presumptive amounts are an inducement to payers to fight over child support, and generally aggravate existing tensions between parents. The number of appeals filed increased shortly after presumptive formula came into use. The financial advantage to custodial parents is obvious. The scene dramatically illustrated how review panels are stacked with people representing special interests. Serious consideratoin of the needs of children and fairness to those who are ordered to pay never made it to the panel's agenda.

The panel invited Dr. William M. Rodgers III, an assistant professor of economics at The College of William and Mary, to provide an "economic analysis" to aid the panel in its decisions. (No relation to child support economics consultant Mark Rogers**,** Economic-Indicators.Com). Dr. Rodgers altered the way numeric table values have been calculated. The table is used by combining the separated parents income to look up an amount in the table. That amount is regarded as the basic support obligation, even though it is unrelated to what parents involved in the child support decision spend caring for children.

The table values are said to be based on estimates of the cost of raising children in two parent families. By combining the parents' income and using the lookup table, its designers claim that courts have an estimate of what the parents should be spending on their children if they were living together in an intact household. But the "estimates" also include arbitrarily high amounts of adult spending, especially on housing and transportation. Dr. Rodgers' suggestion was based on an arbitrary increase in the already arbitrarily high portion of intact family housing expenditure included in the estimate; simply by designating a higher percent of intact family spending on housing as "for the children."

In his written report to the panel, Dr. Rodgers asserted that the table values needed to be updated in response to inflation. He then modified the calculation used to determine table values in a way that arbitrarily increased the values. The table is designed to increase child support in relation to parental income, especially that of the paying parent. Child support amounts increase as the payer's income increases. There is no relationship between what it costs the custodial parent to care for the child and the amount determined by the formula.

Robert Williams has made similar suggestions to increase the table due to inflation in several states, including Virginia. That suggestion was rejected by the previous Virginia panel. If table values are regularly increased in relation to inflation, as a rule, they would eventually be higher than the parents' income. And then they would continue to rise.

At the high end of the table, Dr. Rodgers suggested an annual expenditure on one child of $17,136 per year, well exceeding 150 percent of the poverty line that he suggests as the allowed self-support reserve for parents. Keeping in mind that this is tax-free income, he suggested that a child should be provided with an income that is in between the actual mean incomes of single adult men and women in the United States. The level of income would be sufficient for the child to care for his own family independently of his parents.

This would be an extra high increase at the top end of the table. His reason for the suggestion may be difficult for people to digest. His report says that he does not have sufficient data for an analysis of high income families. Therefore, lacking any basis, he decided to suggest a dramatic increase in the existing guideline.

"Adding insult to injury," said Mr. Steinberg, is what the panel decided to do on the question of visitation credit. The basic amount of child support calculated by use of the table does not include any consideration for the possibility that the parent paying child support cares of the children part of the year, during designated visitation periods.

The state's formula for providing credit for visitation is designed to deny credit for visitation. (See Child Support's Wacky Math.) Payers can challenge the rigid enforcement of the formula by claiming hardship when paying support twice; to the custodial parent as well as directly while the children are in his care. (Factor No. 2 in the state's rebuttal criteria list.)

According to Mr. Steinberg, the panel will state that the basic formula assumes 60-90 days visitation per year. There is in fact, no reduction in the basic presumptive calculated amount reflecting any visitation.

"This means that factor No. 2 of the rebuttable factors which allow you to ask for a reduction for money spent on the child during court ordered visitation is effectively eliminated. Secondly, if a noncustodial does not have and exercise from 60 to 90 days of visitation a year, the custodial parent can ask the judge to increase the presumptive amount."

Introduction to the Income-Shares Child Support Guideline

Income Shares Model Violates Due Process

Roger F. Gay 08-07-02

©Calculating the amount that parents are ordered to pay as child support involves the use of a rigid formula known as a "child support guideline." The amount determined by use of a state's guideline is legally presumed correct in all child support cases. This practice began in late 1989, in response to a newly established condition for eligibility for federal funding of the child support enforcement program. Although parents have a legal right to challenge the presumptive amount, design of the mathematical formulae and state statutes in which they are applied have not developed sufficiently in support of reasonable challenges. The result has been a dramatic arbitrary increase in the amounts courts order in child support cases.

"Promoters claimed that the Income-Shares model was derived from guidelines that were already in use and that it corresponds to traditional child support law. Neither of these claims is true."

In order to remain eligible for federal funding, states are required to review their guidelines at least once every four years. The statutory purpose of the review is to assure that use of a guideline results in an appropriate award in every case. Indiana and Virginia are among the states currently reviewing their guidelines. They are among the 37 states that base their guideline design on what is known as the "Income-Shares model." Although this is the most popular guideline design in the country, few people understand its origin, history, and character. No state has ever shown that use of an Income-Shares guideline results in appropriate child support awards. Although states go through the motions of reviews on schedule, the requirement to assure appropriate results has never been met. So far, not one single state has invented or applied a technically valid review procedure.

Promoters claimed that the Income-Shares model was derived from guidelines that were already in use and that it corresponds to traditional child support law. Neither of these claims is true. They claim that the model is supported by economic data and economic studies. These claims are also false. Contradicting their claim that the Income-Shares model corresponded to established law was their claim that orders made under established law were "inadequate" and needed to be increased by a presumptively correct formula similar to the Income-Shares model. The claim of inappropriate orders under traditional law, explained below, is also false.

Surrounding these specific claims were the more general claims incorporated into "deadbeat dad" political propaganda. These general claims were also false and illogical. Supporters claimed that men often abandoned wives and children leaving them dependent on public support. Even if true, increasing one man's child support order does not increase the regularity of another man's payments. (For more information related to the general claims, see Divorced Dads: Shattering the Myths.)

Presumptively correct child support guidelines generally have their origin in Senate hearings on welfare reform held by Daniel Patrick Moynihan. Reformers wanted to use rigid formulae, just as socialist countries do, in place of principled case-by-case decision making as required by constitutional law. Senator Moynihan grilled witnesses for evidence of a valid technical basis for such formulae, but witnesses were unable to produce it. No research had been performed to define the idea in detail and test it.

Supporters of the idea began spreading the rumor that the traditional process of awarding child support was non-uniform and unpredictable. An oft repeated complaint;

Two fathers living in the same neighborhood who go to the same job with the same income can pay different amounts of child support.

"Presumptively correct child support guidelines generally have their origin in Senate hearings on welfare reform held by Daniel Patrick Moynihan. Reformers wanted to use rigid formulae, just as socialist countries do, in place of principled case-by-case decision making as required by constitutional law."

The criticism was supported by a simple magic trick. An equation would be used that did not account for important mitigating factors such as visitation arrangements and the mother's income. One might for example calculate a fixed percent of the payer's income. The equation would produce results that differed from actual orders that did take such facts into account. Pretending the simple equation gave the correct answer created the illusion that actual amounts in orders were determined at random.

The first Income-Shares guideline, similar to those in use today, was created by William Hewitt for the National Center for State Courts (NCSC) in 1982 as a trial investigation for the Washington State Association of Superior Court Judges. [1] NCSC was a powerful driving force behind development and implementation of child support guidelines as we know them today. The primary function of this Congressional organization is to bring states into compliance with central federal administration.

Hewitt concluded that the formula was inappropriate for use as a child support guideline. He was particularly critical of the central component of its design; the so-called "estimate of the cost of raising children" derived from national family spending data. In his report he suggested that; *. . . a simple methodology which explicitly relies on "user opinion" will be more effective in moving practices more uniformly toward a fair standard than does reliance on opaque and highly derivative expert interpretations of existing but fundamentally off-target primary economic data.*

Knowing what whole families spend does not tell us what the cost of raising children is and certainly does not tell us what a just and appropriate child support order is. "Experts" were making up answers that were not useful in making appropriate child support decisions. (On this point, see also Child Support's Wacky Math.)

The chain of deception in support of the Income-Shares model began with a politically involved assistant professor of psychology at the University of North Carolina. Ronald Haskins, who later became a lead analyst on welfare reform for the Republican congressional

staff, wrote a report funded by the U.S. Office of Child Support Enforcement (OCSE). [2] Haskins suggested that requiring the use of either of two formulae in all child support cases would result in a 350 percent increase in the amount ordered nationwide.

Rather than reaching the obvious conclusion that the equations produced inappropriate results, Haskins claimed that existing child support awards were too low. By doing so he implied a vast conspiracy by primarily male judges against women and children. He dubbed the difference between the results of the equations and existing orders the "adequacy gap" in child support awards. News of Haskins' "adequacy gap" quickly spread through similarly politically inclined academics, special interest groups, and as sensational news on radio and in newspapers. An astonished nation was told that the system for determining child support orders established in the shadow of the Constitution had to change.

"Haskins claimed that existing child support awards were too low. By doing so he implied a vast conspiracy by primarily male judges against women and children. He dubbed the difference between the results of the equations and existing orders the "adequacy gap" in child support awards."

The adequacy gap in Haskins' research method was so wide that there is little reason to believe in the honesty of any competent analyst who relied on it. People routinely complain about its faults, which are still with us today. A Georgia court recently cited some of the same faults as part of the grounds for declaring their guideline unconstitutional, (even though Georgia uses a different guideline model). Haskins did not include consideration of visitation, tax consequences and other mitigating factors. He did not in fact, apply established child support law. He merely showed that if an equation is used that produces arbitrarily high results, then results will be arbitrarily high. He had no basis whatsoever for concluding that existing child support orders were incorrect.

As part of the Child Support Enforcement Amendments of 1984, Congress funded assistance to the states in development of child support guidelines and charged OCSE with responsibility for the project. Robert Williams, the most well-known Income-Shares promoter, had no previous history of research in development of child support guidelines and founded Policy Studies, Inc. as a new consulting business. OCSE gave the contract to Robert Williams of Policy Studies, Inc**.** Williams is a child support collection entrepreneur whose company keeps around one third of the child support it collects. Driving orders higher produces more cases of debt and higher average debt directly increasing his profit.

Without justification, Williams treated Haskins' "adequacy gap" as a scientifically valid phenomenon. In the first few pages of his final report [3] Williams cites Haskins' conclusion as fact and establishes the *de facto* goal of his design, to manipulate the amount of child support ordered nationwide to an amended 250 percent of what it would be if decided by established child support law.

Williams also used a report by Thomas Espenshade [4] as the primary economic study upon which his version of the Income-Shares model was based. Espenshade is an expert on immigration who became interested in family planning issues. His summer exploratory research on the cost of raising children failed to produce proper scientific results. His estimate of the cost of raising children was born of *fudge factors* used in his calculations.

I rarely mention Espenshade in my critiques because I find little reason to criticize an academic for exploratory research. To my knowledge, Espenshade never claimed to have performed any research on design of child support guidelines nor did he ever approve of the use of his estimate in Williams' Income-Shares model. Because his work became important to child support guideline activities it must be critically reviewed nonetheless.

"OCSE gave the contract to Robert Williams of Policy Studies, Inc. Williams is a child support collection entrepreneur *whose company keeps around one third of the child support it collects. Driving orders higher produces more cases of debt and higher average debt directly increasing his profit."*

Espenshade failed to find a valid method for accurately estimating the cost of raising children from national family spending data. The major criticism I have for his report is that he did not report the failure. He says again and again what he wants to accomplish and presents his estimate, leaving readers to assume they are looking at a scientifically valid, accurate, general purpose estimate of the cost of raising children. It is left to highly competent analysts to study his results, equations, and footnotes to equations very carefully to discover the truth. This is also a weakness in the research process of the Urban Institute that published, promoted, and sold his report. Espenshade's study was apparently not adequately reviewed before publication.

University of Chicago researchers Edward Lazear and Robert Michael reviewed existing methods of estimating the cost of raising children when trying to develop a theory for dividing expenses between individuals within households. [5] They concluded that;
. . . the presumption that underlies the focus of much of the empirical research and policy debate on income distribution seems born of ignorance and is supported by neither theory nor fact.

I agree. The cost of raising children estimates used in child support guidelines today were born of ignorance and are supported by neither theory nor fact. They would be inappropriate for use in child support guidelines even if that were not true. Espenshade's estimate was for two parent families rather than single parent households. The relationship between average spending in two parent families and spending on children in "broken homes" is mathematically random. The standard of living that might exist if the parents remained together was one of many mitigating factors in established child support law. More important however were the actual circumstances of the parents and children. Promoters of the Income-Shares model were claiming an "economic basis" for their model.

But the economics of the intact family are unrelated to the real life circumstances of the people involved with court ordered child support.

Despite the importance of the claim of scientific validity or valid opinion based on "economic studies," nothing related to the chain of "studies" involved in the development of the Income-Shares model was ever established by scientific process. No part of it was tested. Nothing was validated. Nothing was tried and true.

Superficially, acceptance of Williams' work was aided by the inclusion of a highly qualified advisory panel that made recommendations upon which the technical work should have been based. But the Income-Shares model departed so far from the advisory panel's recommendations that it earned an angry critique by panel member and law professor Harry Krause, published in the *University of Illinois Law Review*. [6] The Income-Shares model does not correspond to the thinking of the advisory panel.

More deeply however, political acceptance of Williams' model in the states was driven by the federal funding mechanism, which was tied to the amount of child support "collected." The new child support enforcement system began enrolling the best payers and counted all payments as "collections." By inflating the amount "collected" in this way, the program received more funding. Arbitrarily increasing the amount awarded increased the amount paid, and therefore increased the amount of federal funds received.

Complaints about the "economic estimates" were so common that there was a political reaction. As part of the Family Support Act of 1988, Congress again created a line-item specific to the technical development of guidelines. This time, they charged the OCSE with the task of updating the estimates of the cost of raising children. The job went to University of Notre Dame macro-economist David Betson.

"The cost of raising children estimates used in child support guidelines today were born of ignorance and are supported by neither theory nor fact."

Betson, who holds an M.A. and Ph.D. in economics from the University of Wisconsin-Madison, was a research associate at the Wisconsin Institute for Research on Poverty when it was headed by Irwin Garfinkel. Garfinkel is the academic who imported the second most-used child support guideline, known as the Percent-of-Income formula, along with a suite of policies from socialist countries. The policies were bundled into what became known as the "Wisconsin Model" for welfare reform. The Wisconsin Model became the model for national reform and led to the appointment of Wisconsin's governor Tommy Thompson to his current position as Secretary of Health and Human Services. Betson was a research fellow at the institute from 1982-1995 and is currently a research affiliate.

Betson began his quest with the apparent *naïveté* of a macro-economist delving for the first time into micro-micro-economic issues. Everyone else had done poorly but he would do better, he thought. In the end, he produced several dramatically different estimates and could not provide a single rational reason to prefer one over any other. [7] He did however express a personal preference for the estimate coming closest to Espenshade's, thus providing political support for Williams' model and indirectly lending credence to the arbitrarily high results of the Percent-of-Income formula introduced by Irwin Garfinkel.

A second report was created by consulting firm Lewin/ICF. [8] The Lewin report magically produced a clear favorite claiming Betson's study as the source, but actually contradicting the absolute inconclusiveness of Betson's scientific result. The estimate selected was the one that came closest to Espenshade's. This I suppose, to someone not the least bit serious about honesty, might be regarded as the expert consensus some Income-Shares promoters contend exists.

The Lewin report was created to fulfill a requirement for a report to Congress and Lewin was required to take public comment into consideration. Competent professional analysts and economists criticized the estimates but Lewin dismissed all criticism with a short comment. Fathers were complaining because they wanted to pay less child support.

It was at this point that fathers' rights advocates may have made their biggest mistake, although it was difficult to recognize at the time. Williams pretended to have valid "economic studies" supporting his design. In fact, he claimed that the Income-Shares model was based directly on "economic data." Neither claim was true and it seemed natural and logical to attack these alleged facts. Attempts were made to do just that by producing alternative economic studies using the same data and comparable methodology. But that led to a trap.

Not only was the Income-Shares guideline never subjected to serious technical review, it would not face judicial scrutiny either. Legal challenges were filed in more than one state but courts placed a very heavy burden on challengers to prove the guidelines were wrong. A valid estimate of the cost of raising children based on national family spending data became the holy grail of guideline debate. There were plenty of rumors, speculation, and attempts to find it but no one was ever able to hold it in their hand and say "Here it is."

National family spending data shows that whole families differ, often dramatically, in their spending behavior. The data on spending by and for individual family members, including children, is grossly inadequate. Even if it was possible to derive the average cost of raising children from that data (it is not), the average would not describe what a typical family spends. There is no way to derive an accurate one-size-fits-all estimate of "the cost of raising children" from national family spending data. Challengers could prove nothing. Of course, Income-Shares advocates could not prove their case either but they did not need to. Where an Income-Shares guideline had already become law they won by default.

Courts are very much to blame for having created the trap that challengers found themselves in. Using presumptively correct child support guidelines in the absence of definitions and principles that can be used to challenge them is a direct and obvious threat to due process. Due process is a fundamental right. Therefore the highest level of scrutiny is required when reviewing child support guidelines. Instead, courts consistently applied the very lowest form of review, accepting the guidelines regardless of even the most obvious flaws merely because they approved generally of the authority of states to order payment of child support.

"Courts are very much to blame for having created the trap that challengers found themselves in. Using presumptively correct child support guidelines in the absence of definitions and principles that can be used to challenge them is a direct and obvious threat to

due process."

Economic studies, using fundamentally off-target data, could not provide compelling scientific proof of anything. They were therefore not useful in meeting the standard of proof that the courts required. Economic studies could not show whether the government was pursuing a legitimate objective or acting in a completely "arbitrary and irrational" way. Courts responded that ordering the payment of child support is a legitimate objective and not arbitrary and irrational. The economic analysis of the day by Espenshade, Williams, Betson, and guideline challengers did not sufficiently address the essential legal issues.

The fact that challengers were unable to produce a scientific result by using the same technical approach as defenders only served to produce the false impression that it is impossible to reach an objective child support decision. In P.O.P.S. v Gardner, the U.S. 9th Circuit Court of Appeals said;

The table does not purport to provide merely for the child's subsistence, rather it is designed to sustain the child at a standard of living concomitant with her divorcing parents' income. The measure of that standard is subjective. [emphasis added]
Had those challenging the guidelines taken one step back from the numeric data, they would have found Williams' analysis and logic on the whole entirely baseless, filled with technical error, and in a word – goofy. The Income-Shares model did not correspond to established child support law and mishandled every aspect of child support decision making. Even if the numeric information used in the Income-Shares model had been credible, Williams' interpretation of the data, analysis, and recommendations were not.

Had they stepped back a little farther, they would have noticed the dramatic change in child support statutes. The definition of the term "child support" was suddenly missing along with the fundamental principles upon which child support awards were based. Not only did the Income-Shares model not correspond to established child support law, it does not correspond to any set of rational decision principles nor any reasonable definition of child support. It could only be implemented in the absence of such definitions and principles in the statutes.

When the Georgia guidelines were declared unconstitutional earlier this year, the critical difference was the level of review used by the court. Although I am convinced that the highest standard of review ("strict scrutiny") is required when deciding the constitutionality of guidelines, the Georgia court used an intermediate level of review. This was sufficient. Any review more probing than blind acceptance will reveal the absurdity of both Percent-of-Income and the Income-Shares type guidelines.

Once beyond blind acceptance, once courts actually take a competent look, it becomes apparent that current guidelines fail even the lowest level of review. The Georgia decision says this:

Further, if this Court were only to apply the lowest standard of scrutiny, i.e., whether the Guidelines bore a rational relationship to a legitimate government purpose, the Guidelines would still fail.

Once Income-Shares guidelines were politically adopted in many states the new argument for their continued use was established; that states use the Income-Shares guideline. States that adopted lower guidelines were faced with the argument that they were too low because they were lower than other states. Just as in Haskins initial "study," higher was treated as being correct. States were also reminded that increasing the amount ordered would entitle them to higher levels of federal funding. This would be true so long as regulators continued to ignore review requirements and courts ignored due process.

The absence of any rational basis for the Income-Shares guideline became increasingly difficult to ignore even given the excuse that other states did it. Eventually a new explanation was adopted. The Income-Shares model seeks to maintain the standard of living in the custodial parent home that might exist if the parents lived together. Although the standard of living that the parents together can provide was a traditional consideration, the explanation given by Income-Shares promoters is a perversion of traditional child support law and an idea that state courts had explicitly rejected prior to federal reforms. In post-divorce circumstances their idea is impractical and contradictory to the concept of child support, which is limited to supporting children.

It is an established scientific fact that in post-divorce circumstances, adherence to such a goal leads to the inclusion of alimony in child support awards. An alternative method for calculating child support, known as the *standard of living equalization method*, was rejected by all states specifically because it is illegal to include alimony or spousal support in a child support award. When the Percent-of-Income formula was declared unconstitutional in Georgia the inclusion of "hidden alimony" was given as one of the reasons.

What many people can see even without detailed analytical charts and graphs is that results given by Income-Shares guidelines are often irrational and inappropriate. In their initial form, based directly on Williams' raw theory, presumptive child support orders were often more than the payer's net income. This problem was only partially corrected by arbitrarily lowering the guidelines' numeric table at the low end and later setting hard limits. The numbers and logic were not valid at the high end either but the fact that higher income payers were able to pay did not force change.

"When the Percent-of-Income formula was declared unconstitutional in Georgia the inclusion of "hidden alimony" was given as one of the reasons."

Other obvious indications are found in dealing with parenting time. When two parents with equal income spend nearly equal time and money caring for their children, one parent can still be ordered to pay a large amount to the other. People have also noticed that Income-Shares guidelines do not reasonably account for individual categories of spending such as housing, transportation, and entertainment and that they do not properly account for such factors as dependent tax benefits and medical expenses, among other things.

Federal law includes another requirement for eligibility to receive federal funds; the inclusion of "deviation criteria" in state statutes. These criteria typically do not provide the basic definitions and principles necessary to determine whether the presumptive amount is

just and appropriate. Instead, they typically provide very restrictive additions to the guideline without specific supporting mathematical procedures. Most often they support only upward deviations from the basic calculation. Such additions do not provide the missing ingredient that leads to "just and appropriate" child support awards.

The law presumes that the amount calculated by use of a guideline is the correct amount to be awarded. This presumption creates a direct and obvious threat to due process of law. If the presumption is incorrect in even one case, then the law is unconstitutional. Income-Shares and Percent-of-Income guidelines produce results that are random in relation to children's needs and parents' relative ability to provide. They are known to give wildly inappropriate results in many cases. After thirteen years in the face of compelling evidence that the guidelines are unconstitutional, it seems we are waiting for more than the decision to abandon them. We are waiting for a return to western civilization and the rule of law.

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Governor Gray Davis: The California Weenie

Roger F. Gay 08-03-02

It's the most obvious fault in the huge pork-barrel child support enforcement system; men who are not fathers of the children they have been ordered to support. The California legislature passed a bill that would have allowed men to dispute paternity with a DNA test, but Governor Gray Davis vetoed it.

The news was reported first at Men's News Daily last weekend, but I cannot get over the feeling that not enough has been said about it. What forces can possibly be sufficient to maintain such an overwhelming level of corruption after it has been so obviously exposed? It's only money.

The point of forcing these men to pay through the government system is to increase the amount of money flowing through the government system. States are paid a bonus based on the amount of child support paid through their system. The more money that flows through, the more money states receive in federal funding. Davis claims that $40 million is at stake**.** At the federal bonus payment level of 6 percent, he is apparently claiming that hundreds of thousands of men have been subjected to paternity fraud in California who are now being forced to pay $667 million per year to support children that are not theirs. If it must be about money lost, then the men win. They are losing more.

I cannot confirm those figures but there does seem to be some reason to believe that the problem is quite large. Dianna Thompson, Executive Director of the American Coalition For Fathers and Children has reported that almost 80% of the paternity judgments in Los Angeles County in 2000 were assigned by default. Statewide that would amount to a lot of default judgments. And the practice is not new. The designated father rule has been in effect for years.

"I recognize that paternity fraud is a serious issue and has the potential of damaging an individual's livelihood," Davis wrote in a veto message. Has the potential of damaging an individual's livelihood? You can send email to me, dear readers, if you think I'm wrong; but isn't that statement more than conniving and less than clever?

We're talking about the state forcing men to pay enormous sums to support children that are not theirs. We are not talking about taxes paid by everyone according to their means to provide public support. Individual men are wrongly named fathers and forced to support individual children that are not theirs, against their will and in the face of their protests. That does cause damage to them. It isn't vague or probabilistic. It's an improper use of government force to do something that is wrong and that does cause enormous harm to individuals.

It causes enormous damage to the United States and its citizens overall. If government can get away with such flagrant abuses of power, then no citizen is safe. Our lives and our fortunes, whatever they may be, are subject to the whims of those who have decided to become despots.

According to Davis, the corrective legislation was "flawed in its attempt to address the issue." Let's examine the particulars as expressed by some of the special interests Davis accommodated

The National Organization for Women and the Oakland-based National Center for Youth Law complained that men who had already been ordered to pay child support through a default judgment would have been able to challenge paternity with a DNA test. In other words, it would cheat women out of the right to steal money from men they had defrauded.

Lupe Alonzo-Diaz, senior policy advocate for the San Diego-based "Children's Advocacy Institute" complained that the bill did not provide money for the child's food, school supplies and other needs while proof of paternity was pending. That is pretty far off target. The problem starts when a woman has a child out-of-wedlock and has difficulty establishing who the father is. If she cannot pay for food and school supplies, she goes to the welfare office. Forcing a particular guy to pay without knowing whether he is the father, having no proof that he is the father, is way beyond the scope of reasonable behavior. Taxpayers - your desire not to support children that are not yours is not as great as the man the state is forcing to carry the burden alone.

She adds, a man could claim he is not a biological parent, and then a test could conclude he is the father. Yes it could. Then you get the money from him.

And the kicker: "parenthood is more than just DNA," she said. Yes it is. And parenthood has nothing to do with the state forcing men at random to pay money to women who have children outside of stable relationships who then have difficulty establishing who the father is. Being forced to pay does not establish parenthood.

Somebody had to say that it's for the children. "We agree there are paternity fraud issues and that the system is not working 100 percent," Lupe Alonzo-Diaz said, "but we're glad that the governor put children first."

No he didn't. He put $40 million in federal funding first, before fundamental human rights that once defined the United States of America.

But I have an even greater and more important corruption to complain about. In the fifteen years that the designated father rule has been in effect**,** the courts have not put a stop to it. The judicial branch is most directly responsible for upholding the constitution and assuring that our fundamental individual rights are upheld. If you really want to feel a shiver run up your spine, consider the fact that they have refused to fulfill their obligation.

Tax Laws and Child Benefits:

Unequal Treatment is International

Roger F. Gay 07-27-02

©Two lawsuits against the Secretary of State for Work and Pensions in England are demonstrating that fathers and mothers have unequal legal and political status. Divorced fathers Kevin Barber and Eugen Hockenjos both filed petitions for equal treatment in the distribution of the child benefit.

The "child benefit" is similar in effect in higher income cases to a dependent tax credit and in lower income cases to receiving a higher welfare entitlement based on family size. But in Europe and Canada it takes the form of a weekly cash payment made to heads of households regardless of income. The weekly benefit in England is currently £15.50 for the first child and £10.35 for any other children. (Roughly $24/16 USD.)

Even though the concept of "custody" was eliminated by the *1989 UK Children Act* government policy still applies a winner-take-all approach to the distribution of the child benefit.

Kevin Barber challenged the government's refusal to split the child benefit between him and his ex-wife even though they have an equal time shared care arrangement. He claimed unlawful discrimination or breach of his rights under the European Convention on Human Rights. On July 17, the *Daily Mail* reported that a lower court rejected his claim for equal treatment. Mr. Barber accused the Government of "unfairness" in response.

Richard Drabble QC appearing for Mr Barber, described the government's approach as 'all or nothing.' One partner receives child benefit - which is a 'gateway' to many extra benefits, such as income support, family credit and housing benefit - while the other receives nothing. It is usually the mother who is regarded as the 'parent with care' and the knock-on effect is that she receives all the benefits.

Mr Barber's solicitor Conrad Haley, of the human rights pressure group Public Law Project, said: "The judgment was disappointing as the judge failed to grapple with some of the issues which were raised, but these things can be difficult at this level." He said, "It might be that the Court of Appeal will take a different view."

Eugen Hockenjos filed a related claim in 1997, based on a 1978 Trans-European Council Directive "on the progressive implementation of the principle of equal treatment for men and women in matters of social security." Mr. Hockenjos was unemployed and had shared custody. Even though his court order stated that he would care for his children, his application to be paid an additional unemployment benefit for support of his children was rejected.

The problems fathers encounter with the child benefit is reflected in the problems fathers in the United States encounter with tax benefits. In the past, the person whose income provided support was entitled to tax benefits. As part of the wave of federal domestic relations reforms, tax law was changed in 1983 making tax benefits one of the many winnings related to custody.

Unequal tax treatment was cited in a Georgia decision this year in which a superior court declared their guidelines unconstitutional. The Guidelines do not take into account the large tax-related child cost offsets the custodial parent receives. Custodial parents typically receive $200 to $350 per month in extra after-tax income just for having custody. These child-related tax benefits are head of household status, child exemptions, child tax credits, child care credits, and earned income credits. Both parents have an equal duty of support for the costs attributable to the children. Both parents are equally entitled to the cost offsets attributable to the same children but in proportion to their obligation. Not sharing the child-related tax benefits violates equal protection. Not sharing the tax benefits with both parents is an extraordinary benefit for the custodial parent and an extraordinary burden for the non-custodial parent.

In his decision, Judge C. Dane Perkins noted that in a study conducted in 14 South Georgia counties between 1995 and 1997, it was found that 82.2% of contested custody cases resulted in custody being awarded to the mother and that guideline support had an impermissibly discriminatory affect upon men based upon their gender.

An appeal is expected to be heard by the Georgia Supreme Court later this year.

Child Support's Wacky Math

Author: Robert W. Ingalls
Writers Club Press, 2002
Paperback, 112 pages, $10.95 U.S.
ISBN: 0-595-22138-6
An indictment of Virginia's child support parenting adjustment

Roger F. Gay 07-24-02

Child Support's Wacky Math is a book about the way that Virginia and other states modify child support orders in consideration of visitation and shared parenting. It promises two things; to prove that the formula is grossly in error, and to show how reality gets lost and logic muddled in the overly political process that now dominates the child support system. It delivers on both promises with room to spare.

The author is a divorced father of "four wonderful children" and a retired Air Force Lt. Colonel. He is also a child of divorce. Robert W. Ingalls wrote the book because he feels obligated to his children who he admits are the joy of his life. He recognizes the pain that divorce causes children and the pattern of interference that millions of fathers encounter in their efforts to remain good parents.

In response, he applied career skills in math and logic to analyze the parenting adjustment formula. He found influential recommendations from the Virginia Bar Association to be logically and mathematically flawed and shows that their errors were intentional. Their recommendations amount to special interest politics rather than honest analysis.

Virginia, like most states, uses the "Income-Shares formula" for calculating child support amounts. The Income-Shares model has an explicit goal of increasing child support orders to two and a half times what they had been under established child support law. The name "Income-Shares" suggests redistributing parental income rather than providing support for children.

The idea of a shared parenting adjustment is to reduce the amount that paying parents are ordered to pay in recognition of the time they spend caring (and paying) for their children directly. The Income-Shares adjustment begins with a calculation that increases a paying parent's financial obligation to the other parent.

To some, the calculation may seem strange and invalid from the start. To others, the author points out, it can seem logical on the surface. If two households are involved doesn't that mean more expenses? But the underlying logic of this particular formula, he explains, is to get the result that the designer wants rather than an honest balancing of the books. It is illogical to reason that a payer's financial obligation to the other parent increases in recognition of his own expenses. The result is inadequate adjustment to child support orders. In most cases there is no reduction at all.

As obvious as the problem may seem to some, the debate has raged for more than a decade and this logical error and many like it are still policy. In an effort to reach the broadest possible audience, two prehistoric gentlemen are called upon early in the book to illustrate a basic point. Caveman Vinney invented the wheel and manufactures them. His cousin Grog sells them. Should Grog account honestly for his inventory or falsify his numbers to create the business picture that he wants? Lying about the numbers or applying flawed logic leads to problems. From there the book moves to a steadily paced demonstration of the wackiness of the Virginia parenting adjustment. If similar evidence was presented against Grog's wheel business it would undoubtedly be investigated by the Bedrock Securities and Exchange Commission, leading to Grog's indictment.

How should the child support problem be addressed? I place particular importance on an overlying theme of this book. "Mathematics is about logic and relationships," he writes. "Just because you can 'do the math' does not necessarily mean that the solution or formula or algorithm or whatever you call it is correct, even if every time you work the numbers the value arrives at the same answer. It has to have meaning."

Virginia statues have previously been criticized for leaving the term "child support" undefined; the ultimate absence of meaning. Avoiding meaning; meaningful definition, meaningful logic, meaningful data, was an essential part of the process of developing the Income-Shares guideline. Yet, too often I have seen well-intentioned experts repeat the process as though it will unlock a hidden secret and lead to improvement. At the end of *Child Support's Wacky Math* is a fitting quote from Albert Einstein. "No problem can be solved from the same consciousness that created it." Good problem solving starts at the beginning and proceeds logically.

I suspect that *Child Support's Wacky Math* is the kind of book that many paying parents would like to write. An average father is no stranger to bill-paying and might even show stereotypical irritation when his dilapidated old wallet is beaten too hard. That irritation can only get stronger when it threatens the precious time divorced parents share with their children.

Putting together an integrated view of the child support issue that includes basic wisdom, logic, mathematics, and politics is not an easy task. Robert Ingalls was motivated to focus on one part of the child support formula, the shared parenting adjustment, because of the enormous personal importance of time with his children. That sentiment is echoed by millions of parents across the country. Narrowing the focus to one piece of the problem also allows a more complete presentation of the problems that the author promised to expose. His criticism of Virginia's wacky adjustment equation is probably the most extensive in existence.

Given the absence of an independent judiciary (my own observation); policy oversight must be provided by concerned and responsible citizens. (An important activity in any case.) The book Robert Ingalls has written certainly places him solidly in that group. Will it speak to the masses? The answer may lie in the promotional quotes on the back cover. After reviewing material that was used in the book, two members of the Virginia House of Delegates promised support to "address the error" and "correct the situation." If Robert W. Ingalls' analysis can induce corrective action, then this book should be in the hands of every legislator, governor, review panel member, judge, lawyer, reform advocate, and child support paying parent in the country.

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Related articles by this author
Child Support Visitation Credit Gets International Attention
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Other articles related to Virginia child support
Appetite for family destruction*, Stephen Baskerville, Washington Times, June 17, 2001*
Why is Daddy in Jail?*, Stephen Baskerville, The Women's Quarterly, Winter 1999*

Divorced Dads: Shattering the Myths

Authors: Sanford L. Braver, Diane O'Connell (Contributor)
J. P. Tarcher, 1998, Hardcover, 288 pages Special Price: $17.47 U.S., ISBN: 0-874-77862-X

Roger F. Gay

Divorced Dads: Shattering the Myths is a book that should never have been written that everyone should read. Myth has guided domestic relations and welfare reform in the United States and elsewhere. That should never have happened. This book, which shatters some of the most prominent myths is an absolute "must read" for anyone with an interest in family law and welfare research and policy - which I conclude is just about everyone.

Divorced Dads: Shattering the Myths, first published in 1998, presents a compilation of research on divorced fathers by Arizona State University psychology professor Sanford Braver. Braver's was the largest federally supported study of divorced fathers in history. Since then many reviews have been written but I have observed that the myths are not yet completely dead. It must be that not everyone who should read Sanford Braver's book has done so.

Take for example, recent testimony before a child support guideline review panel in Indiana. (If you would like to see the entire internet broadcast of the hearing through RealOne media player, click here.**)**

A school teacher testified that she is going through divorce and "not receiving child support." She has a presentation in lesson form for the judicial panel, just like she would in class she says. It was complete with play money as a prop. "Some of you have received three dollars ... and some of you have only received two. The persons who have received three dollars represent the non-custodial parent ... Now the two dollars that the mother would have represents not only her income but also what is given to you for child support. That's all the money that you have. ... Your main expenses are food, clothing, and shelter and that does not include child care costs and those can be very great."

No wonder some people say that we need standardized school materials. The school teacher is teaching a myth. Some studies claim that women as a group make only two thirds as much as men. But that does not include child support (child care costs are typically added to basic child support), alimony, property division, tax benefits nor any other financial arrangements specifically related to divorce. Following divorce, women as a group are financially better off than men. Some women, especially those who remarry are far better off than the husbands and fathers they left behind.

One more time. Six major myths fell to actual research.

Deadbeat dads: Divorced fathers pay 90 percent of the child support they have been ordered to pay. Fully employed divorced fathers pay all that is due. In addition, they pay visitation expenses. [Depending on the extent of the research providing the result, fathers (all fathers including never married) pay 70-80 percent of what they have been ordered to pay. The low end _ 70 percent _ relies on recipient surveys that do not account for money that is paid but withheld as repayment for welfare, and possible bias. In all cases, the primary cause of non-payment is that the person ordered to pay is unable to pay.]

The No-Show Dad: The rate of contact between fathers and their children following divorce shows "paternal devotion and tenacity [that] is entirely at odds with the more popular image of the runaways, absentee, or disappearing dad."

Standards of Living: Women with children are, as a group, better off financially following divorce than men. That's right, it's not the other way around.

Terms of Divorce: Far from being docile, easily manipulated victims of a male dominated divorce system, women have always fared well in negotiations and settlements. Men are far more likely to be the biggest losers in the process.

Emotional Issues of Divorce: Women are happier after divorce than men. Given the results related to the other myths, this is likely to cause the least surprise. They have the children, they are better off financially, they drive better cars, their situation is less likely to interfere with new relationships and remarriage ....

Who leaves the marriage ... and why it matters: " ... women initiate the preponderance (63 - 75%) of modern divorces ..." It matters because it vindicates the finding that men do less well then women after divorce, because the blame heaped on men for divorce should be addressed, and because the myth serves to further unlevel the playing field of domestic relations law and politics on which fathers are already disadvantaged.

Other reviews of *Divorced Dads: Shattering the Myths* were written by;
Stephen Baskerville**,** Ph.D. Political Science
Donna Laframboise**,** *National Post*
Gerald L. Rowles**,** Ph.D. Psychology
Cathy Young**,** *The Detroit News*

The Child Support Agenda

Roger F. Gay 07-17-02

Yep. This must be an election year. In a July 15 press release Chairman of the House Policy Committee Chairman Christopher Cox (R-CA) and Barbara Boxer (D-CA) announced yet another bill to encourage divorce and out-of-wedlock births. The California chapter of NOW recently claimed that women get a bad deal in divorce**.** Elected "representatives" from California are quick to get on the list of those wishing to buy feminist votes and campaign contributions with other people's money.

One might call the new bill outrageous. The tax laws are to be changed in order to pretend that incomes of many middle and upper income single mothers are lower so that they will pay less in taxes than everyone else. In effect, it will give many single mothers a lowered tax table. Many fathers will get a higher one. Those who have watched child support reform over the decades know that this type of legislation during an election year is par for the course.

The bill is being promoted as "relief to over two million families owed child support." But studies show that fathers pay court ordered child support at a very high rate and contribute their time and money directly when not encountering heavy interference from mom. The primary cause of non-payment by fathers is that the they cannot pay. The new child support laws however, react very poorly to actual circumstances. Fathers live with orders to pay even though they do not have the means.

Among the myriad of false and misleading factoids, which I have become too weary of to repeat, comes the new element of faulty logic in support of the legislation. "This would make the tax treatment of unpaid child support consistent with the treatment of other bad debts in the tax code." I wonder what married parents are going to get when their income is not as high as they would like it to be? Where is the consistency there?

But there is more to the story than little bits of blatant lunacy. There is a well established long-term agenda.

Since 1975, Congress has remained steadily on the same course with respect to child support and welfare reform. For all the coverage the child support issue has received since, it is amazing that few people seem to understand any of it. One has to feel some awe that the most extreme leftist agenda that has ever taken hold in the United States has so consistently been treated as mainstream and even as conservative policy. Those of us who have observed more closely know that "personal responsibility" has become a political code phrase for complete capitulation to arbitrary government control.

Lest someone will think I am cooking up a conspiracy "theory" let me repeat some established facts. Irwin Garfinkel, a lead researcher and former head of the Wisconsin Institute for Research on Poverty, had his fifteen minutes of fame during the 1990s. Professor Garfinkel had imported a suite of social/economic policies from socialist/communist countries and packaged them in academic sounding conservative policy rhetoric. His package became "The Wisconsin Model," which became the national model for welfare reform.

In his landmark book, Divorced Dads: Shattering the Myths, Sanford Braver points to Garfinkel as one of the researchers whose ideas, although extremely influential in shaping new policy, were not supported by actual research. The percent-of-income child support guideline used in Wisconsin is a copy of Russian law from the Soviet era; a simple device for maintaining wealth distribution by central authoritarian command.

Even though credible research does not support the exaggerated claims about "deadbeat dads" in the United States, it is rumored that fathers in the Soviet Union were uncooperative. But that has to be said about a lot of things under communism. A great mass of people did whatever necessary to avoid interaction with the overbearing regime. Russia and the Soviet satellite states had a very large share of their economy in the black market.

Simple wealth redistribution under strict central authoritarian control has been the agenda, not a sidebar, not an unfortunate side-effect of misguided policy reform. As millions of non-custodial parents can attest, the price is at least as much in loss of individual rights as in cash.

In the United States, moving child support from ordinary civil law to the IRS is something reformers have worked for since at least the late 1970s. Given that it is unconstitutional to treat child support like a tax [1], they have faced great difficulty doing it. The critical difference is that taxes are primarily a legislative function. That is, a legislative body decides what your tax rate is – period. If you do not like their decision your only recourse is purely political – throw the bums out of office if you can. Individual rulings in child support cases on the other hand are subject to Constitutional rules of substantive fairness – exactly the thing that reforms have struggled to eliminate. For those of you who have tuned in late, let me repeat something that long-time observers know well. The initial attack in the "deadbeat dad" wars had an explicit goal of relieving courts of the burden of trying individual cases. Presumptively correct child support guidelines were created as partial fulfillment of that purpose. It was and is that blatant.

Let me add another fact. Great Britain, Australia, New Zealand, Canada, Norway, Sweden, France, Germany, Switzerland, Austria, among others have all seen major reforms linked to "deadbeat dad" politics. Fathers in those countries will repeat the same complaints as fathers in the US. You might wonder what countries like Sweden are doing on the list. They were not socialist enough for Clinton advisors who helped the Social Democratic Labor Party back into power in 1998. (But the government in Sweden is currently rethinking the new policies since they have received heavy criticism from too many places.)

We are in fact not really dealing with a local phenomenon. Welfare and child support reforms have been coordinated with international conventions such as the Hague Conference on Private International Law. There have been United Nations conferences on child support and family law with US participation**.** The American Bar Association hosts special interest groups in international law including private / family law. Some of the most influential policy reformers in the United States belong to groups like The International Society of Family Law.

No matter what I say, I am sure that there will be a few people who think this all looks too much like a conspiracy to be true. But let me finish with an important question – a question that occupied my thoughts for many years.

From the start, a great many people knew that the child support reforms were wrong. I don't mean this as an exaggerated way of describing a difference of opinion – I mean wrong; and they were wrong in many ways. The fundamental factoids that seemed to justify child support reforms have all been proven wrong. The great carrot for the voting public – that reforms would save money for taxpayers was wrong, and now that the experiment has been run it has been proven wrong. Injustice and violations of the Constitution have become so obvious that even the general public is catching on. The criticisms of the policies have expanded in all quarters.

Why does it continue?

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The bill was introduced by Mr. COX, for himself, Mr. FOLEY, Ms. HART, Ms. LOFGREN, Mr. FILNER, Mr. DREIER, Mr. SHADEGG, Mr. SCHAFFER, Mr. TOWNS, Mr. MCKEON, Mr. SENSENBRENNER, Mr. OWENS, Mr. WILSON of South Carolina, Mr. GRAHAM, Mr. CUNNINGHAM, Mr. BALDACCI, Mr. OSE, Mr. SANDERS, Mr. BARR of Georgia, Ms. BROWN of Florida, Mr. BURTON of Indiana, Mr. CALVERT, Mr. ROTHMAN, Mr. HORN, Mr. ISSA, Mr. GARY G. MILLER of California, Mr. KUCINICH, Mr. PENCE, Mr. PITTS, Mr. PASCRELL, Mr. POMBO, Mr. ROHRABACHER, Mr. ROYCE, Mr. TANCREDO, Mr. TIBERI, Mr. WALDEN of Oregon, Mr. GILLMOR, and Mr. DUNCAN.

Corporate Fraud: It's Clinton's Fault!

Roger F. Gay 07-03-02

The connection between the Clinton administration and the collapse of a substantial portion of corporate America is concrete and reaches well beyond the dangers that are currently perceived.

I looked for the inevitable counterpunch. Democrats have been overreaching to create that magical feeling that fraud within American corporations can be blamed on President Bush and Vice President Cheney. The mere suggestion might help them win congressional seats this year. Paul Beckner, president of Citizens for a Sound Economy responded in an article entitled A Tragic Failure of Leadership. It is Bill Clinton's fault after all. That was what I was looking for.

I take Paul Beckner's points seriously as a matter of fact. He shames politicians (Democrats) for behaving unethically. "It turns out," he writes, "the conduct, behavior, and moral tone of our leaders really does matter." Of course it does. He goes on to castigate Democrats for remaining "silent on a massive government accounting sham – the future of Social Security."

Beckner is a defender of free enterprise and limited government who has no difficulty admitting that the current problem, "the largest corporate accounting scandal and tragedy in our nation's history," is serious. Pointing out the similarity in character between an opposing party and "some greedy, overly ambitious, unscrupulous, and slick corporate CEOs [who] followed Clinton's lead and deliberately and brazenly committed fraud" might also be regarded as quick-witted politics.

As much as I agree with Paul Beckner's points, the subtle noise of classic political stereotype is pounding in my brain. I read most political debate as a by-product of our *de facto* two party system. It causes me to imagine a great wall between two sides of America. On the right, corporate individualists who must take personal responsibility for their actions defend against an ever-encroaching Big Brother government. The left speaks in terms of groups rather than individuals. That George W. Bush and Dick Cheney have been on the corporate side makes them guilty by association.

But the fact is that there is no great wall between corporate America and government. The relationship between big government accounting fraud and corporate accounting fraud is not merely a matter of copy-cat behavior. A concrete tie might not so easily be found in the traditional Social Security "Trust Fund" but it can be found – rather easily by anyone who really looks – in the new Social Security "trust fund" created before Bill Clinton took office. Arthur Andersen Consulting was a key player. Who taught who?

Remember welfare reform? Back in 1975 when the current vision of reform was born, divorced and never-married men were paying around $10 billion annually to mothers in child support. Available evidence showed a high rate of payment but Congress decided to create the US Office of Child Support Enforcement (OCSE) anyway.

In the mid 1980s OCSE promoted itself as an essential element in the economy fighting a foe so sinister and destructive that it threatened the nation. For the left, it was big government centralized intervention and NOW was for it. Somebody said "personal responsibility" and the right was hooked as well. The child support enforcement budget climbed to approximately $4 billion annually. By the early 1990s politicians were claiming that the battle against "deadbeat dads" would remove women and children from welfare rolls, lower taxes, cure baldness, and lead to discovery of an effortless diet that really works.

Force (presumably wealthy) fathers to pay child support so that mothers and children can leave welfare, relieving taxpayers. It sounded like a plan. Here is how it worked.

Initially there were no collections on the books in non-welfare cases. The reforms expanded the scope of federal involvement in child support enforcement to include all child support cases. Instead of allowing normal payment by check, cash, or money order the government began "forcing fathers to pay" *through their system*. All payments are entered into OCSE's books as "collections" which now include regular non-problematic payments in non-welfare cases. As more parents received orders to pay through the system year after year, OCSE reported increases in "collections" (which were mostly non-problematic non-welfare related payments that would have been paid anyway). States (the CSE program) received more federal funding as a result of reporting higher "collections."

But wait; that's not all! The deal was too good for "collection" agents to sit on the sidelines. What if they, individually, could keep a portion of the take? The interests of bureacratic growth and "entrepreneurship" were aligned. The *public-private partnership* in child support collection was born.

Representatives from the new private child support collection industry became extremely influential in defining policy. If you can't collect much from people who don't pay (because there is no order or they're broke), then arbitrarily increase the amount that normally good payers are ordered to pay. Debt will increase, especially if proper adjustments are refused for visitation, unemployment and other causes of reduced income. Do not forgive child support debt even when DNA tests prove the man is not the father. So that's what they did and soon politicians were parroting the phrase, "There is no excuse for not paying child support."

There is still more to the story. Billions of dollars "collected" have not been dispersed because recipients cannot be found. Who keeps the interest? Why is the money not returned to payers? For that matter, who gets the interest on money passing through the system that is dispersed? During the Clinton years approximately $4 billion dollars – a huge sum - was spent on a big brother computer system, allegedly for tracking "deadbeat dads." I would have happily created a child support tracking system for one million dollars and laughed all the way to the bank. Who got all that money and why? Why is the system keeping information on everyone (I mean everyone) rather than just tracking child support payments?

For eight full Clinton years government accounting fraud held hands with corporate profit. Corporate partners include some of America's largest companies as well as some newcomers; some greedy, overly ambitious, unscrupulous, and slick entrepreneurs as well as some

less than enthusiastic large government contractors who were forced to participate under government pressure. (Some in this latter group have pulled out since George Bush took office.)

Fraudulent accounting practices leached out in every direction as government regulation piled up to create corporate profits and pork. Due process and separation of powers essential to our Constitutional system no longer exist in the experience of tens of millions of Americans. Child support agencies perform judicial tasks, hold hearings, write regulations (laws), and determine every state's eligibility for funding; including funding for the state judiciary. The system of checks and balances protecting basic individual rights is gone. The problem goes far beyond the enormous losses experienced by individuals in the stock market. A public-private conspiracy defines the daily life of a great portion of the population. Any party not working feverishly to eliminate unscrupulous federal manipulation of domestic relations law is not entitled to the high ground on accounting and public ethics.

The Special Interest Issue in 2002

Roger F. Gay 07-03-02

This is only a "mid-term" election year when there is no presidential race. There are US and state representatives and senators, governors, mayors, and dog-catchers whose terms are at an end but not as much big-money campaigning. For every American however, it is still a season for deciding the balance of power between one group of lawyers and the other.

2000 was a presidential election year. The term "special interest" seemed more popular then. In January, participants in PBS NewsHour discussed the way special interest advertising might interfere with political party message management. In the February issue of National Review Yeshiva University professor John McGinnis commended Senator John McCain for recognizing that the government serves special interests instead of the public good while criticizing the Senator because he "consistently takes stands that would strengthen rather than dissolve the special-interest state." In July, Mike Allen at the Washington Post reported that spending on special interest advertising with messages similar to those of candidates "might match or exceed that of the candidates in hotly contested House and Senate races."

In 1992, Washington voters passed a spending-limits law that barred a political party's unregulated campaign funds from being spent to promote individual candidates. In August of 2000 the editors of the Seattle Post-Intelligencer were lamenting its downfall to the state Supreme Court's defense of free speech. "Voters across the nation have made clear their profound disgust with money's influence in politics," they wrote. "The court's decision comports with the Constitution, but runs counter to that public sentiment." How many of you could see that coming? The Constitution has been around for a while. So has pandering to special interests.

The "special interest" issue is a mainstay of political rhetoric almost always tied to money. But with the problems of Arthur Anderson, Enron, Global Crossing, WorldCom, Xerox, Kmart, ImClone, Tyco, Adelphia Communications, Merrill Lynch, ... to name a few; politicians may find it difficult to cope. It isn't just election year rhapsody anymore. Democrats tried to blame Republicans. Republicans hinted at the involvement of Democrats. If this keeps up someone might begin to suspect that politicians pander. That may make this just the right year for people who are not running for office, shilling for a political party, or selling advertising to discuss the "special interest" problem.

Maybe first we need to rethink the phrase "pandering to special interests." It seems the kind of phrase-turning that leads to describing a sociopath as someone who skirmishes to satisfy difficult to meet needs. What we are really concerned about is lying, cheating, stealing, pork-barreling, patronage, bribery, corruption, extortion, and deception, right? But if this is done under the color of laws written by people who are doing it we call it "pandering." Some debate on pandering seems to suggest the fault of victims for offering a weakness to exploit. At other times it seems to mean *to perform a special service* – perhaps for people with difficult to meet needs.

Our well developed political stereotypes are of one group that favors pandering to wealthy corporations and another to "social groups." Fighting for the middle these days seems to involve damning the other party's stereotypical pandering and calling for alternative pandering as a necessary step toward moderation. Should we assume that no one in the real world needs help? Of course not. Corporations are apparently so complicated that the largest and most successful accounting corporations have difficulty meeting the needs of their clients. It goes without question that "social groups" almost always have needs that are difficult to meet.

From *Women's Enews*: Both Parties Say Women's Wallets Ripe for Tapping. "Party operations have for too long been viewed as mostly a man's arena," said Illinois Democrat Jan Schakowsky. "We want women to be actually investing in candidates and in the party. When you make any kind of investment, you definitely feel more connected. I think there's a whole untapped constituency out there that is ready and waiting to be engaged."

Women used to get engaged to men, marry and settle down to wrestle with the concept of mutual support. Today's progressive politicians apparently see it differently. Women's issues roared into the middle-class through welfare reform during the past quarter century. Now family support is withheld from the old man's paycheck and sent to the government for reallocation. Exactly who gets what is decided by politicians. This is exactly the moment for women to "feel more connected" to politics and to "invest." NOW brags that their PACs collect money through 550 local chapters. It is the largest feminist campaign contribution machine in the country. The aim is to gain influence in every level of government; from presidents to state court judges.

This in turn is creating a "whole untapped constituency" of men who are beginning to "feel more connected" too. The more pandering women get, the more difficult it is for men to meet their needs; like food, clothing, and shelter. Men should learn to "invest" in candidates and political parties. If it pays off someone in the government's *Fatherhood Initiative* might suggest forgiving a small portion of their politically created debt. This all leaves me wondering if we might be displaying too much tolerance for phrasing diversity. Pandering doesn't sound nearly as illegal as bribery for example.

Two years from now during the next presidential election campaigns you will have the opportunity to hear from hundreds of political investment counselors spilling out lists of issue titles in a tone pretending to be substantive. It may take quite a few dollars just to get your issue on a list. The good news for the downtrodden masses is that the United States is an equal opportunity nation. The money is just as green no matter who it comes from. Politics today is about investing in a way that continually increases the difficulties we face in meeting our needs stubbornly hoping that it might make things better. It is faith in achieving balance in the abuse of political power. And if nothing else it's more money for the lawyers, right?

About California NOW's Family Court Report

Roger F. Gay 06-27-02

The California chapter of the National Organization for Women released a new report alleging that the California family court system is biased against women.

It is difficult to know how to follow that statement. Most readers have probably already reacted to it. You are laughing, pulling your hair out by the roots, or throwing your hands in the air and shaking your heads. It's something like a school of sharks complaining about the ocean because they might have to swim a mile to satisfy their feeding frenzy. Even with that effort, not every shark gets fat.

It should not come as a surprise that NOW's "research" fails to prove their central thesis: that the family courts are systematically biased against women. Nowhere in the report, in which they complain that women do not always get custody and children are allowed to spend time with their fathers, do they ever provide any research results. According to a Los Angeles Daily News article, over a three year period the CA chapter of NOW was able to get 300 women to their web site to complain.

"In response to this *crisis* the CA NOW Family Law Taskforce has proposed a Legislative, Judicial, Executive and Grassroots strategies to reform the Family Law Courts." Perhaps we should declare a national emergency and shut down the government because it rained somewhere.

"After significant research," the report begins, "CA NOW finds the present family court system in California to be crippled, incompetent, and corrupt." The media chose to deliver this message from an organization that has no credibility. We should not however falsely conclude that family courts across the country are not crippled and have not been acting in a way that indicates incompetence and corruption.

CA NOW complains:

The bias in the system results in pathologizing, punishing, and discriminating against women. The system leaves decisions which should be made on facts in a courtroom to extrajudicial public and private personnel. The system precludes the parties, particularly the mother, from her rights to due process, ... Mothers are coerced into stipulations through the rubber stamping of definitive evaluations and reports which become the court's ruling. The present family law system in California exists to enrich attorneys and allied mental health and mental health professionals.

Substitute "non-custodial parents" (usually the father) in place of "women" and "mothers" and substitute "custodial parents" (usually the mother) in place of "mental health professionals." Do not bother localizing the problem to California. The revised result is well supported by objective research, thousands of pages of credible reports, testimony, and commentary; and will agree with the observations of millions of non-custodial parents throughout the country – men and women - over the past decade. In an illustrative case**,** Michigan lawyer Michael Tindall spent $750,000 and three years of his life getting preprepared court orders declared unconstitutional. He was stimulated to action after being tossed in jail for failing to pay an increased amount of child support even though he was never notified that the amount had been changed.

The system NOW is complaining about is one they helped to build. Statistically, women profit and men suffer in the new system because women most often get custody. That was the point. Following the no-fault divorce revolution that started in California when Ronald Reagan was governor, feminists started rumors that their economic suffering was much worse than men's following divorce. Never mind that it wasn't always true and overall not nearly so bad as they said. Men got hurt in divorce back then too. Their initial goal was to obtain guaranteed alimony for women regardless of the length of a marriage or any other mitigating factor. Those in economically sufficient relationships would then be able to live in the manner to which they would like to grow accustomed without having to bother with a husband. Failing to get public support they turned to the question of making child support profitable. You know: "It's for the children."

In 1975, Congress passed a new law creating the federal Office of Child Support Enforcement. Representatives from NOW and future presidential candidate Ronald Reagan were the only people who testified in favor of the legislation. Supporting arguments, that mothers were typically awarded amounts of child support that were too low, that non-payment of child support is a principle cause poverty, that men typically abandon their children to welfare, and that forcing fathers to pay would lead to billions in savings for taxpayers, all turned out to be untrue.

Nonetheless, with the help of NOW nearly an exact copy of Soviet Russian law ("The Wisconsin Welfare Model") became a center-piece for the national child support and welfare reform movement. The government system grew to a $4 billion a year bureaucratic Goliath with more than 60,000 employees. The reforms certainly did suggest an end to welfare as we knew it, replacing it with a grand scheme for intense and arbitrary *en masse* management of the details of personal economics and family life of mostly middle-class Americans. Accompanying this radical transition was a breakdown in the separation of power between branches of government, the elimination of the right of due process, and implementation of a system of financial rewards that encouraged state legislatures, local prosecutors, and judges among others to accept arbitrary and unconstitutional central authority.

Although the exact phrasing of NOW's complaints are biased beyond credibility, they do complain about the lack of due process in the system today. They also provide interesting insight into the corrupt financial arrangements that have affected federal and state laws and reduced the role of the judiciary to commune-style administration, unquestioningly subordinate to central political control. It is a bit disappointing however that the Pictorial Systems Map of Family Court Funding in their report excludes the feedback loop with NOW's multi-million dollar campaign contributions and their regular political work in support of the Democratic Party. It must be just that experience that provided the insight needed to explain how it works.

One wishes that the women of NOW could learn an important lesson about equality from their "research." Instead they complain that the system is not yet biased enough in favor of divorced and never married mothers, undermining the important case that needs to be made. A just society requires due process and equal treatment under law. Not all women get custody and those who don't tend to support the fathers' rights organizations that NOW spends five pages of their report complaining about. Since some men remarry there's another group of women who stand against NOW. It's beginning to look a lot like NOW does not represent *all women everywhere* and we are pretty sure that they do not represent most men.

Even if the women of NOW cannot learn the old lessons, the rest of us should mark the occasion. NOW gave birth to a vast experiment of hatred and selfishness intent on causing harm to the other gender. It has been enshrined in a thousand laws written by state and federal legislators, caused a collapse of our Constitutional system, and given rise to a state of corruption rarely paralleled in our nation's history. They are finally discovering that the adverse effects are also detrimental to women, an entirely predictable outcome. We are destined to see this cycle repeated endlessly unless we do just one thing. We must reinstate the Constitution as the fundamental basis of our rule of law. It is time for us to return to western civilization.

GAO Involved in "Public-Private Partnership" Scandal

Roger F. Gay 06-11-02

On March 29th the United States General Accounting Office (GAO) released another in a series of sensational reports on the child support enforcement program. They report that collections as a percentage of the amount due has dropped to an all time low of 17 percent and that $89 billion is "owed but unpaid." They recommend further guidance from the Office of Child Support Enforcement (OCSE) on allowing private collection companies access to huge databases of personal information. To see a copy of the report, click here**.**

Their new report, as with past reports was prepared from "data" conclusions, interpretations, and recommendations provided to it by the subject, the Office of Child Support Enforcement. Corroborative interviews were conducted with a handful of select state child support enforcement bureaucrats. To this writer's knowledge, the OCSE has never been subjected to a reality check by any serious auditor. As Arthur Andersen did with Enron, the GAO is playing the dual role of auditor and policy consultant and supporting an untenable position.

Congress created the OCSE in 1975 with the goal of "forcing fathers to pay" as a measure to reduce welfare spending. States and counties were already collecting child support in welfare cases and enforcing orders through state courts. No credible analysis indicated a sufficient potential gain in payments to offset the cost of an additional enforcement program. Huge increases in federal "investment" in child support enforcement have since been authorized based on information from the OCSE, private collection agencies, and other special interest groups. As much as $4 billion per year in annual federal funding created a groundswell of support from state politicians.

In the 1980s, Congress expanded the welfare system far beyond the concept of assistance to needy families to include the child support cases of all divorced and never married parents and their children. This led to a dramatic increase in "collections" by including higher income fathers with no payment problems. The amounts that fathers were ordered to pay were increased arbitrarily, further increasing the total "collected" and also increasing debt. (See The Beginning of the End of Child Support Reform.) More and higher payments automatically increased federal funding. Increased debt led to windfall profits for private collection agencies.

The federal government began replacing state and local automated child support tracking systems with its own in the early 1990s at a cost totaling around $4 billion. (See Too Late to Stop National ID.) The first experiments with the automated system confirmed what Congress already knew. Fathers had a good record of paying court ordered child support. (Solomon, Carmen D., 1989, *The Child Support Enforcement Program: Policy and Practice*, Congressional Research Service Report for Congress, Dec 8, 1989, 1-3.) The most prevalent cause of non-payment of court ordered child support is unemployment. (See Bibliography.)

The difference between the special interest version of a need for a huge and expensive child support enforcement system and reality was not subtle. A representative of the New Jersey child support enforcement unit explained the results of using the new automated system in a national conference held in Dallas in 1992. ("Child Support Technology" session, *Third National Court Technology Conference*, organized by the National Center for State Courts. Ray Rainville presenting.)

They started with the most egregious cases in the database, those showing a debt in excess of $50,000. They expected little response to form letters sent to "deadbeat dads" who would likely scurry underground to avoid punishment. Instead, the response was more than their office could handle. They responded in droves. They called, sent letters, telegrams and post cards, and came into the office if they lived nearby.

A typical respondent had a son previously supported under court order who was by that time 35 years old, had a masters degree largely at his father's expense, was married and had two children of his own. Few individuals would be stupid enough to try to enforce an outdated order. The new child support enforcement system had presumed that every order on file was still "open," and with no payment records had merely imagined accumulating arrearages.

In response to a question about the apparent unfairness of arbitrarily high award levels he responded that no one involved with the child support system understood what *fairness* meant and they had no interest in trying to find out.

Yet another study showed that fully employed divorced fathers had a perfect record of paying the child support they owed. Overall, historically fathers paid about 80 percent and divorced fathers 90 percent of what is due under court order. (**Read** Divorced Dads: Shattering the Myths for a detailed look at results of a large study of divorced fathers.)

The $89 billion debt figure provided in the GAO report is the OCSE's estimate of accumulated debt over a 26 year period, averaging $3.4 billion annually according to that estimate. Real payment problems, as opposed to those merely imagined by enforcement program advocates are typically related to ability to pay. The appropriate solution is to adjust court orders to actual economic circumstances and children's needs. Increasing government surveillance and providing private companies with access to masses of personal information lies nowhere on the list of legitimate government functions.

By 1990, the OCSE was 15 years old. Its irresponsible promotion built child support enforcement into a national political obsession. Despite the finding in New Jersey and elsewhere, there was no "Oops, sorry!" In response to grim confirmation that the program was a huge multi-billion dollar mistake the propaganda campaign intensified to a level probably unequaled by any non-military campaign. By 1995, the child support enforcement system was a bureaucratic Goliath with an annual budget of around $4 billion and approximately 60,000 employees nationwide. Private agencies were using the same propaganda to entice investors.

The GAO report got a few things right. There has not been a corresponding improvement in the percent of what is ordered that is paid. They also report correctly that fathers have had income inappropriately withheld from their paychecks. People outside of government already know that this is a result of inappropriate practices by government and private collection agencies coupled with unconstitutional child support laws. (See The Beginning of the End of Child Support Reform.)

The GAO also reports a key motivation behind the propaganda and intentional human rights violations; "private firms charged all of their client's fees that averaged 29 percent of the child support collected, and half of the private firms charged additional fees." In the cases that they handle, somewhere around one third of the money fathers pay in court ordered child support never reaches the custodial parent household.

If there is any way to extract an additional $89 billion from parents, it could mean as much as $26 billion more in income for the industry. There are people in our country who would commit mass murder for that much money, let alone violate constitutional rights and steal from people. Whether that potential actually exists or not is incidental. The mere mention of that kind of money will attract the worst element, inside and outside of government, and lead to horrendous acts.

Ten months of report preparation by the GAO on top of years of previous experience has produced a series of sensational phrases that express the incredible while ignoring transgression. This will likely give rise to even more dubious aggrandizement in this year's election speeches and congressional hearings. It will also feed the propaganda machines of special interest groups. For a preview, see The General Accounting Office Report on Child Support Enforcement 2002**,** by the chair of the American Bar Association's child support committee Laura Morgan. Unlike Andersen, the GAO will likely have very few papers to shred. No publicly available report indicates that they have ever obtained credible information about OCSE operations or their expansionist agenda.

The GAO report on child support enforcement was requested by Representative Lloyd Doggett (D-TX).

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A Champion of Fatherhood

Roger F. Gay 06-28-02

You can tell this is an election year because politicians, bureaucrats, and TV "talking heads" are bashing fathers. In the mid 1970s Congress decided to get the federal government involved in domestic relations law. Ever since, the war against dads has driven gender politics, expansion of the welfare system, and increased spending. By the early 1990s it seemed commonly accepted that battering women and abandoning wives and children to welfare was a character flaw genetically fixed by every Y-chromosome.

Enter Stephen Baskerville -- a knight defending fatherhood. Baskerville might not be what many people imagine as "one of those fathers' rights guys." A political scientist at Howard University, Dr. Baskerville's files are filled with scholarly articles with lots of citations to other scholarly articles, a growing number of which he has written. In his appearances on television and radio however, as well as in the articles he has written for the general public, one might occasionally sense a certain irritation with mis-educated public remarks about fathers.

In an article in this month's Liberty Magazine entitled "The Myth of Deadbeat Dads," Baskerville offers to educate the rich and famous. He reports that 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." In response, Republicans "want to send the strongest possible message that parents cannot walk away from their children."

"Special interest groups demonized fathers," says Baskerville. "They called them 'deadbeat dads' and criminalized them. The result is a system that traces newly hired employees, shifts the burden of proof to the accused, and throws fathers in jail for losing their jobs." He is not alone in that opinion. His article sports 46 citations from a mixture of sources, including books and academic journals, the popular press, and even relevant Web sites.

"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 fathers."

Baskerville presents a convincing argument, well supported by research and other commentary. Quoting an article entitled "The Strange Politics of Child Support"; "By allowing a faithless wife to keep her children *and* a sizable portion of her former spouse's income, current child-support laws have combined with no fault jurisprudence to convert wedlock into a snare for many guiltless men." (Bryce Christensen, *Society*, Vol. 39, No. 1 (Nov.-Dec. 2001, p. 65)).

Baskerville adds, "This 'snare' can easily amount to a prison sentence without trial."

Although there are many wrongs yet to be righted, the fathers rights movement does not face the extreme prejudice that it once did. Hundreds of organizations and conferences, loads of scholarship, and countless Web sites have sprung up over the past few years focused on issues of concern to fathers. Dr. Baskerville organized one of the first fatherhood conferences three years ago at Howard University. Conferences on fathers issues and fatherhood have been organized and supported by the Ford Foundation, the U.S. Department of Labor, the state of California, and other well established institutions.

Ironically, the Democratic Party -- the party that started the war against fathers in the mid 1970s is out to capture the male vote**.** Before they finalize their strategy someone should conduct a poll to see how many males age 25-50 want to be their own worst political enemies. With fatherhood knights like Stephen Baskerville around, father-bashing will not be as easy to get away with as it used to be.

The Constitutionality of Child Support Guidelines Debate, Part II

Roger F. Gay 06-22-02

On February 25, 2002, superior court judge C. Dane Perkins declared the Georgia State child support guidelines null and void because they "violate numerous provisions of the Constitution of both the United States and the State of Georgia". In a spontaneous retort, the chair of the ABA's child support committee, Laura Morgan, promised two articles in rebuttal. This is a response to her second article; The Constitutionality of Child Support Guidelines, Part II. References to previous articles are given below.

In part, Laura Morgan continues to avoid the constitutional issues dealt with in the Georgia decision. When she does strike a glancing blow against a critical issue, she doesn't tell the truth. Federal law required that states begin using presumptively correct child support guidelines in late 1989. When child support reforms were being considered in the period 1975-1995, little to no research had been done in relation to the underlying issues. It was an age of special interest heaven in which fathers, as part of the genetically flawed group -- men, were depicted as monsters who thoughtlessly abandoned wives and children in epidemic proportions. It was claimed that strict enforcement of child support orders would significantly reduce, if not eliminate poverty. The federal government called itself to action, with extreme prejudice, and responded with new laws. Fathers have money taken from their paychecks, lose drivers and professional licenses, and are sent to jail for non-payment of child support. At the same time, whether it had anything to do with "enforcement" or not, presumptively correct child support guidelines were introduced producing a large arbitrary increase in the size of awards. Laws were also passed to disallow reductions based on changes in income.

Standard of Scrutiny on Constitutional Issues

Laura Morgan claims that application of the guideline has not had an adverse impact on fathers. The guidelines she claims are inadequate, forcing "custodial parents to spend a greater percentage of income on the cost of raising a child than the noncustodial parent is forced to spend." She further argues that there is a "rational reason for treating" [fathers] "differently." Therefore, an adverse impact on fathers is constitutionally acceptable. In this part of the argument, Laura Morgan is claiming that the level of scrutiny given to the constitutional issues is wrong. There are three commonly acknowledged levels of scrutiny that are applied to constitutional questions. The judge chose to apply the middle standard of review; whether the means chosen by the government are "*substantially related*" to an "*important*" government objective, and found the guideline unconstitutional. "Further, if this Court were only to apply the lowest standard of scrutiny, i.e., whether the Guidelines bore a rational relationship to a legitimate government purpose, the Guidelines would still fail."

The war against fathers (men generally and western civilization along with it) was intense and is still too fresh in our minds for Laura Morgan to ignore the intent to cause harm. (Is it over yet?) The public discussions and political speeches were more characteristic of lynch mobs with pitchforks and torches than policy debate. It was a period in which the heroines of poverty, poor single mothers would be offered support for education to help in their emergence from poverty, but not poor men. Single fathers would be forced to work and to pay even if unemployed. Women were to be helped. Men were to be punished. It was a time of such blatant and sinister political extremism that when Congress was debating the closing of military bases as part of the post-Cold War reforms, an alternative proposal by Senator Christopher Dodd (D - CT) was to transform the bases into forced labor camps for fathers who fell one or two months behind in child support payments.

The period included difficult economic times. History shows that during difficult times, evil men call for basic reform. For an alternative historical perspective, see Trudy W. Schuett's article; The Myth of the Deadbeat Dad.

It was during this period that Irwin Garfinkel, head of the Wisconsin Institute for Research on Poverty, imported a suite of Soviet Russian policy that has become known to us as "The Wisconsin Model". (The Child Support Guideline Problem (1998)) The Wisconsin Model became a center-piece for the national child support and welfare reform movement. A slightly reformed version of the Wisconsin and Georgia child support guideline still survives as Article 81 of The Russian Family Code. The reforms certainly did suggest an end to welfare as we knew it, replacing it with a grand scheme for intense and arbitrary government management of the details of personal economics and family life; not just of families dependent on welfare. The reforms forced family law generally, affecting all families with divorced and never married parents and their children into federal jurisdiction. Accompanying this radical transition was a complete breakdown in the separation of power between branches of government as well; for the sake of conforming to laws and bureaucratic procedures designed to fit the political structure of a foreign country.

Reformers promised to go farther. They wanted to have (and presumably still do) the same transforming effect in every basic functional aspect of American life. Their stated targets included not only family life, but the basic relationship between the individual and the state, and yes, of course capitalism. In order to sell their package, it was necessary to present the appearance that it contained something that it did not; "traditional American values." These were stated as "work, family, and responsibility." What was consistently untraditional and un-American was the intent to involve government deeply in the micro-management of all three. Although I have not found the best historical review articles on the web, it is easy to demonstrate that the idea is persistent and has had a broad effect on the policy debate**:** President Clinton's first National Urban Policy Report**,** Quenching Poor's Thirst Unlikely Once You Turn Off Federal Spigot**,** Talents and Stewardship, The White House at Work; President Clinton ...**,** Radio address by President Clinton, Dec. 1994**,** Bush welfare plan promotes marriage, work)

It has been no secret that child support guidelines produce unjust and inappropriate results, nor that the reformed procedures for dealing with child support are unconstitutional. Adding to confusion over politically ideology however, Congress privatized a portion of the child support enforcement system. This would seem to have the aim of reducing government involvement by turning some functions over to private industry. There is precedent on how to proceed with an analysis when such confusion exists. Bob Woodward's famous

Watergate source once counseled that we tend to take the wrong path when trying to uncover the facts and logic of a political scandal. "Follow the money trail," was his advice.

The government establishment dealing with child support is larger and certainly reforms have made government more involved. There was no federal Office of Child Support Enforcement prior to 1975. Billions of dollars have been spent each year since on maintaining the government child support bureaucracy. That is what bought acceptance by the states. The money also created an army within government to sustain the war against fathers. The reforms have created millionaires outside of government as well. Many of the top executives in private collection agencies were recruited from government agencies. The "private-public" partnership is extremely lucrative for some while it forces many of its victims into poverty, debt, and jail. The child support industry is not guided by the "invisible hand" of capitalism examined by Adam Smith. It is an artifact of government policies that went too far. It is one of the cruelest examples of greed and corruption that the United States has seen in generations.

Georgia uses a percent formula not unlike those used in Wisconsin and Russia. This means that a primary part of the calculation of "child support" is to multiply the payer's income by a fixed percent. It should be obvious to anyone capable of mathematical thought, even in the slightest way, that there is no rational relationship between the formula and the needs of children and the relative ability of parents to provide. It is an artifact of Soviet social (economic) planning carried out in the political context of the government's forced redistribution of wealth. The Soviets of course went much farther in controlling and manipulating wealth than the United States. In the Soviet Union, the effect was to push an enormous portion of their economic activity into the black market and create an empire of poor people hungry for human rights and freedom, as well as food. "Entrepreneurs" not unlike those who sell drugs on street corners in the United States became the center of economic power. Those at the center of political power were worse.

The Right of Privacy

Normal humans hide from intrusion or shoot the intruder (i.e. *fight or flight*). Labeled as a move to track "deadbeat dads" the federal government spent approximately four billion dollars developing a huge and complex national computer system for keeping track of personal details and economic transactions of everyone living in the United States. It has been manned by as many as 60,000 state and federal employees collecting, recording, and using personal data. Some functions are automated, plucking vast amounts of information directly from electronic records of financial transactions. It is too easy to predict that if current policies are not rescinded, there will be a large movement of economic activity outside the boundaries contained by the database as this is the only civilized alternative for protecting privacy rights. The size of the black market will increase and the industry that will benefit most will be organized crime. This prediction is based on knowledge so familiar to so many, that it is only reasonable to conclude that this is the intended effect. However, the Constitution does not permit unreasonable invasions on personal privacy; certainly not in the guise of family policy.

While the source of the right to privacy has been held to originate in varying constitutional provisions, it has been long recognized to apply to “family” concerns *whether the family exists within the confines of marriage or not. Eisenstadt v. Baird*, 405 U.S. 438, 92 S. Ct. 1029 (8) (1972), *Roe v. Wade*, 410 U.S. 113, 93 S. Ct. 705 at 726-28 (1973).

This Court finds that, by requiring the non-custodial parent to pay an amount in excess of those required to meet the child’s basic needs, as the economic analysis has shown, the Guidelines impermissibly interfere with parental decisions regarding financial expenditures on children. *Troxel v. Granville*, 530 U.S. 57, 120 S. Ct. 2054 (2000) and 147 L. Ed. 2d 49 (U. S. 2000); *Moylan v. Moylan*, 384 NW 2d 859 at 866 (Minn., 1986).

Ironically, Laura Morgan argues in favor of states' rights, applying a rule that the federal government has no business intruding in family issues, including economic ones. Her view is that federal intrusion "would impede the traditional authority of both the state legislature and the state courts to regulate the determination and enforcement of child support orders beyond basic necessities." How that intends to defend overwhelming federal control of family policy, the application of irrational and extremely non-traditional methods, and individual cases decided by legislative or administrative dictate is not explained in her article. Her point seems to be merely, that it is not unconstitutional for a child support award to exceed "that which a parent wants to provide." Subtle father-bashing perhaps, but not a valid defense of policies that interfere with privacy rights. She might be reminded that the Constitution does demand that government officials and bureaucrats play less a role in our private lives than they sometimes want. (*Roe v. Wade*, 410 U.S. 113 (1973))

Economic Studies and Guideline Design

Laura Morgan challenges the Court's determination, as a matter of fact that the guideline used in Georgia was originally intended for use in welfare cases, and that the obligor has a rising after-tax percentage of income paid to the custodial parent for child support.

The method of awarding a percent of a noncustodial parent's income as child support was used in the State of Georgia, and in other states for ordering the recovery of welfare payments made to poor custodial parents prior to 1989. In fact, the use of presumptively correct formulae generally was exclusively for this purpose of recovering welfare payments prior to federal expansion of the practice to all child support cases. (For example, see *Smith* v. *Smith*, 626 P.2d 342 Or. (1980).) Expanding the use of presumptively correct child support formulae beyond their original use marks a significant change in the underlying facts related to their use. One of the primary arguments in favor of the use of child support guidelines is that they are administratively simple, making the processing of welfare cases more efficient and reducing the potential cost of litigation that may be too much for poor (welfare dependent) single mothers to bare. The use of presumptively correct formulae generally for determining child support awards in non-welfare cases is constitutionally questionable.

A statute based on a legislative declaration of facts is subject to constitutional attack on the ground that the facts no longer exist; in ruling upon such a challenge a court must, of course, be free to re-examine the factual situation. See *Block* v. *Hirsh*, 256 U.S. 135, 154-155 (1921); *Communist Party* v. *SACB*, 367, U.S. 1, 110-114 (1961).

The percent formula was one of two child support models recommended by Robert Williams, the child support collection entrepreneur who was hired by the Office of Child Support Enforcement to "provide technical assistance in development of child support guidelines." (*Development of Guidelines for Child Support Orders: Advisory Panel Recommendations and Final Report*, Washington, DC: U.S. Department of Health and Human Services, Office of Child Support Enforcement (1987)). Williams recommended a new child support formula, known as "Income Shares" that did not correspond to legally established principles for determining a child support award. The explicit goal was to increase the average amount of an award two and a half times. He also suggested that the percent formula could be used in welfare cases because it was already in use for that purpose in several states. In order to implement Williams' recommendations in non-welfare cases, the established principles upon which child support orders were based were removed from statutes, leaving no statutory basis for parents to challenge the arbitrary formulae.

A statute creating a presumption that is arbitrary or that operates to deny a fair opportunity to repel it violates the due process clause of the Fourteenth Amendment. *Bailey* v. *Alabama*, 219 U.S. 219, 233 *et seq.* ...

The so-called "rebuttal criteria" that states added in response to federal regulation do not offer a basis for challenging the formulae. They are typically designed to increase the amount of an award in consideration of costs that are not presented explicitly in a state's formula while the formula itself remains untouchable.

The "underlying economics" of the guidelines currently used by most states were originally used by socialists in the late 19th and early 20th centuries as a crude method for analyzing the effects of disparities in wealth. Wealthier people spend a smaller portion of their wealth on necessity than poorer people. A comparison of the portion of income spent on food for example, was taken as a measure of a family's standard of living. The lower the percent of income spent on food, the higher the standard of living. This is a statistical artifact however, providing only a crude numeric indicator that typically holds true to a group that is large enough to be statistically significant.

No corresponding theory exists that supports detailed analysis relating to the needs of individual family members. There is no correspondence between "economic studies" that apply this method and any rational basis for making a child support award decision. These "economic studies" moreover, rely on data that is inadequate for the purpose of determining the cost of raising children. Specifically in regard to the Income Shares model recommended by Williams, it is stated in the original design document of that model that:

… it is possible that achieving confidence in the data base through use of a simple methodology which explicitly relies on "user opinion" will be more effective in moving practices more uniformly toward a fair standard than does reliance on opaque and highly derivative expert interpretations of existing but fundamentally off-target primary economic data. (Hewitt, William E. 1982. "Report on the Washington State Association of Superior Court Judges", Uniform Child Support Guidelines, Institute for Court Management, Court Executive Development Program.)

Referring to the "economic studies" employing the method, University of Chicago researchers put it this way: *. . . the presumption that underlies the focus of much of the empirical research and policy debate on income distribution [within households] seems born of ignorance and is supported by neither theory nor fact.* (Lazear, Edward P. and Robert T. Michael, "Allocation of Income Within the Household", University of Chicago Press, 1988)

Despite the importance of wealth distribution and its meaning in the socialist political economy, development of a valid economic theory did not progress beyond initial crude insights. Countries steered by *social democracy* operate somewhat better than purely socialist regimes, owing to greater freedom of information and debate. One must realize however that social democracy is a recent historical development with roots in socialism. Fundamental problems still exist in implementation of preferred economic policies. High taxation on necessities for example (food, clothing, shelter, etc.) contradict the basic insight that higher expenditure on necessity means lower standard of living. Insistence on government ownership and control of supply chains has meant monopoly practices that erode the buying power of what income is left after taxes are paid.

We should not lose sight of the fact that the socialist methodology is primarily an implementation of political ideology rather than valid economic theory. The overall effect is lower standard of living and greater government dependence -- exactly the opposite of the stated goals of the legal reforms that were implemented. The evidence that this effect exists in the United States (it is an unavoidable result of the method) is already apparent. Despite an economic boom in the late 1990s, compliance with child support orders declined after 1996. To be completely honest about the child support reforms, we would need to go farther than Judge Perkins in describing the faults of the system. Calling this intrusion into family life "unnecessary" is a gross understatement even if it is all that needs to be said in consideration of the constitution.

Once the cycle of increased government and decreased rights begins it creates its own reasons for continuing. Each election season politicians from both parties unveil their latest ideas for increasing government involvement in *work, family, and responsibility* and always at increased cost. We must, among other things, assure that freedom and opportunity of information and debate exists in dealing with child support and related issues in the United States. This means eliminating the common practice of effectively leaving fathers out of the child support debate and other discussions related to family issues. The history of this issue would have been much different if fathers had not been systematically excluded from the policy debate and from having a meaningful influence in child support and family policy committees.

In support of her second challenge; against the Court's finding that the percent of obligor's after-tax income ordered as child support rises with income; Laura Morgan merely claims that the finding is wrong. She claims that a "number of respectable studies" show that "the percentage remains flat." Georgia's guideline requires an increasing percent of after-tax income as income rises because the percentages used in the formula are taken on gross income (Georgia Statute 19-6-15 G, b; (5)) Once income is high enough to enter the progressive tax system, as it is in the majority of non-welfare cases, the payer receives a lower percent of gross income after-taxes as income rises. A percent of after-tax (net) income rather than gross income would be "flat" with respect to after-tax (net) income.

Laura Morgan is obviously wrong as a matter of fact. Either she has misapplied the conclusions of those "respectable studies" cited or the studies themselves are wrong. (See also, Economic Exhibits offered by Mark Rogers)

Note:

Judge C. Dane Perkins declared the Georgia child support guidelines unconstitutional because their application violates due process, equal protection, the right of privacy, and a Georgia Constitutional provision against the illegal confiscation of property. He also defined three requirements for a constitutionally acceptable child support standard. Laura Morgan's rebuttal to the Georgia decision does not challenge the decision with regard to due process or illegal confiscation of property, nor does she challenge the three constitutionally required principles. I am unfamiliar with the Georgia Constitution and therefore have little to say regarding the illegal confiscation of property, except that it seems logical.

On the question of due process however; the presumptively correct guideline is a direct and obvious challenge to due process. Due process is a fundamental right. Therefore the highest level of scrutiny is required in judging the constitutionality of the presumptive use of the guideline. It should be no surprise to anyone familiar with my work on guideline design that I agree with the three principles. Those traditional child support principles have been validated by mathematical analysis and are both necessary and sufficient for determining "just and appropriate" child support awards according to the legal principle of an *implied contract* for financial support of children. For additional understanding of the principles in traditional child support law, see Recommendations for Modification of Child Support Guidelines and Reform of their Use Corresponding to the Views of the Pennsylvania Supreme Court.

The Science of Child Support Mathematics

It is possible to develop child support guidelines on more solid grounds. In its rejection of the welfare formula for child support decisions in non-welfare cases, the Oregon Supreme Court did not rule for the use of any alternative mathematical formula in non-welfare cases (See *Smith*, above). They did however cite work on child support mathematics presented by Maurice R. Franks as coming close to established non-welfare child support law (*How to Calculate Child Support*, Case & Comment, January-February, 1981). Franks' child support models and those like it have often been called Cost Sharing models because legal experts often referred to parental spending on children using the term "cost." Those who read Franks' paper will be impressed with the fullness of his legal citations in support of his model. This is not to say however, that child support decision modeling had made sufficient progress to substantially replace judicial discretion in the application of child support law.

More than one child support guideline designer has chosen to extend Franks' mathematics to address fundamental problems found in his formula. Judge Melson (Delaware-Melson formula) and University of Texas social scientist Judith Cassetty applied the concept of "ability to pay" in their models as a significant improvement over the use of income in determining parental obligations. The use of ability to pay corresponded to both statute and case law in too many states to be ignored.

"Ability to pay" is calculated as each parent's net income minus an amount required for sustenance of one adult. Later models have followed the example of socialist countries, increasing this "self-support reserve" from poverty level to -- for example; one and a third times poverty level for one adult. The use of "ability to pay" in place of income of both parents produces the specific improvement called for in the child support debates that accompanied the federal reforms. Lower income mothers have a lower obligation relative to higher income fathers. The situation for parents with equal income remains unchanged. Use of ability to pay in place of income also protects against ordering so much that the payer is unable to care for himself.

The use of ability to pay partially eliminates the perceived need for arbitrarily high "cost" tables by adjusting the distribution of the child support obligation between the parents. But it does not deal with the question of increasing standard of living in the custodial parent household.

Judith Cassetty developed her model prior to the application of presumptive guidelines to non-welfare cases. She employed the idea of equalizing standard of living in each household. This model can be adjusted for visitation time as long as the adjustment is made on costs that move from household to household with the children, or some adjustment is made in welfare entitlements allowing maintenance of two homes. Her model works specifically for welfare cases, apparently without violating the three established required principles. It cannot however be extended to non-welfare cases as it easily violates the principles in such cases. Many high income custodial parents would complain that it leads to awards that are too low. Some analysts would argue however, that the need for a standard of living adjustment decreases as custodial income increases. In the past, many custodial fathers have done without an order for their ex-wives and girlfriends to pay. Given that more women have custody than men, this is something that current policies do not "let fathers get away with" regardless of the mother's wealth.

Judge Melson intended to develop a formula suitable for general application. Just as everyone else, he developed the model without the benefit of a valid theory to adjust standard of living with a child support payment. Based on many years of experience, Judge Melson decided that adding five percent of the payer's remaining income (after deducting the self-support reserve and basic child support) as a "reasonable" standard of living adjustment.

The good news is that the mathematics of child support has been extended beyond where Cassetty and Melson left it. Given the three established fundamental legal principles**,** corresponding to the requirements for constitutionality in the Georgia decision a valid mathematics for standard of living adjustment in child support awards has been derived. For a simple introduction to the issue, **see** The Alimony Hidden in Child support**.** The mathematics of child support has also been extended to include two households when calculating visitation and joint custody credit**.**

The problem of crediting for visitation should have been an obvious nail in the coffin for the analytical approach taken by Williams in his recommendations to the states. After more than 15 years, no one using the approach has developed a credible method for crediting non-custodial parent expenditure.

In Closing

Child support reforms were passed and implemented with a range of ulterior motives, most (at least) of which are now known. "*Single mothers' rights groups*" such as NOW and ACES played an important promotional role in the early days of reform. Certainly they had something to do with the reforms themselves. Child support reforms came on the heels of a failed political effort to increase alimony and many of the ideas of that movement carried over into the child support debate. More important however, was the involvement of political extremists within government and academia who were ready to dramatically expand government power to play with the lives of tens of millions of American citizens -- and their money. Merely labeling them as "political extremists" does not go far enough in describing the full set of ulterior motives within that collection, nor does it explain the strong support given to the reforms by politicians who may generally be regarded as more moderate. It pays to "follow the money trail" to understand the history of child support reform.

Tens of billions of dollars of taxpayers' money has been used as bribery to implement and maintain policies that are blatantly unconstitutional and private businesses have been granted the privilege of siphoning off a significant share of noncustodial parent income. It cannot be emphasized enough that we know, and therefore cannot allow it to continue.

Related Articles and Information

Introductory article: A Return to Welfare As We Knew It? The beginning of the end of child support reform A good representation of child support law prior to the federal reforms, including analysis and presentation of the three legally established principles (given in the Georgia decisions as three constitutionally required principles) is presented in Recommendations for Modification of Child Support Guidelines and Reform of their Use Corresponding to the Views of the Pennsylvania Supreme Court.

Laura Morgan's THE CONSTITUTIONALITY OF CHILD SUPPORT GUIDELINES, Part I

Response to Part I: Laura Morgan at the Bottom of the Slippery Slope

Laura Morgan's THE CONSTITUTIONALITY OF CHILD SUPPORT GUIDELINES, Part II

Key Economic Exhibits by Mark Rogers

Laura Morgan at the Bottom of the Slippery Slope

http://ancpr.org/in_the_superior_courtof_atkinson.htm

Roger F. Gay, 04-24-02

Laura Morgan chairs the Child Support Committee of the Family Law Section of the American Bar Association. She is also one of the world's most devoted advocates of the current child support system. Through a variety of activities she has turned this passion into an integral part of her career.

Among her ongoing activities, is the maintenance of a sophisticated website that promotes acceptance of the new system**,** through information and advice on how the laws should be perceived.

When a Georgia court declared their child support guidelines unconstitutional**,** Laura Morgan responded immediately and with characteristic intensity. She criticized the ruling and promised a series of articles in rebuttal. This article is a response to the first of those articles, which is entitled The Constitutionality of Child Support Guidelines, Part I**.**

As legal support for her position, Laura Morgan focuses on relatively recent unsuccessful or partially unsuccessful challenges to child support law while ignoring the previous two hundred years of constitutional case precedent.

Perhaps the key element of her argument is an implicit claim allowing unlimited expansion of federal powers "in pursuit of the general welfare" even when they compete directly with fundamental individual rights. (Through an explicit claim: "The child support regulations enacted by the Department of Health and Human Services passed constitutional muster on all points, because the adequate support of children was clearly in pursuit of the general welfare.")

Federal government power is limited by the Constitution, with states maintaining governmental powers outside of explicitly defined federal interests. A broad respect for protection of fundamental, derivative, and unspecified individual rights is mandatory, by explicit language in the Bill of Rights and later amendments.

Current child support laws were developed with a claim that enforcement of child support orders is related to "welfare" spending. It is prudent to point out that there is a *general welfare clause* in the United States Constitution. But it does not refer to the kind of "welfare" supported by the welfare system. The welfare system was a later invention constructed on states' rights and powers. To relate the two instances of the word "welfare" directly is either an expression of ignorance, an intentional lie, or extremely dry humor.

The child support laws in Georgia were declared unconstitutional for violating due process, equal protection, the right of privacy, and the prohibition stated in the Georgia Constitution against taking property. The decision does not involve the popular political rhetoric that gave rise to the new child support system. It is not a decision, for example, on whether it is right for "fathers to abandon mothers and children." The decision does not interfere with one parent's ability to obtain child support from another or the state's legitimate power to order child support payments. It says directly and explicitly that "child support" awards must be for child support and the amount must be rationally related to circumstances. Both parents have a duty to support their children. This is a reiteration of the established rational basis for child support. The ruling aims to effectively return the rule of law to child support decisions in Georgia.

Child support guidelines, as we know them today are presumptively correct. The presumption is a direct and extremely obvious challenge to due process. Due process is a fundamental right. When a fundamental right is at stake, the most careful standard of review, known as "strict scrutiny" is required. Presumptively correct child support guidelines however, have never faced strict scrutiny in the courts.

The Georgia court took just one step beyond totally ignoring the resoundingly obvious flaws in child support guidelines and the detrimental impact of the presumption. (The court applied the intermediate test rather than the lowest standard of review.) Quite predictably and appropriately, the presumptive use of the Georgia state child support guideline was found to be unconstitutional. “Further, if this Court were only to apply the lowest standard of scrutiny, i.e., whether the Guidelines bore a rational relationship to a legitimate government purpose, the Guidelines would still fail."

Federal funding for the child support enforcement system has been like a cash-stuffed envelope taped to a Christmas present. The Honorable Dane Perkins of the Superior Court of Atkinson County, the judge who declared the Georgia guideline unconstitutional, was not hindered from his responsibilities by the money in the envelope. He did not pause to admire the brightly colored wrapping paper. He pulled open the lid of the box and looked inside. What he found was a tangled web of arbitrary rules and capricious use of government power. The case was decided on constitutional grounds and it is easy to illustrate the basic issues through a hypothetical example.

Because of the weighty emotional issues and common myths involved in that child support debate it may be wise to create an example outside the debate. The illustration below hypothesizes a new law and provides a parallel to the legal defense of the current child support system. I am confident that many payers who are subject to current child support laws will easily understand the comparison.

They are in a position that is analogous to that of Laura Morgan in the illustration below. They understand, as a matter of direct experience, that current child support laws are arbitrary and that both the federal government and the states have overstepped their boundaries. A great many payers understand as a matter of direct experience the overwhelming damage that this behavior can and has caused. I should forewarn readers who might be unfamiliar with the issue that once removed from the context of "deadbeat dad" propaganda the absurdity of the logic of the current child support system in amazingly obvious.

Life without basic constitutional protections and without limits to government power is absurd in a nightmarish sort of way, as many immigrants can testify from personal experience. "Children," it may be reasoned, "are the nation's most valuable resource" and therefore should be subject to federal regulation "in pursuit of the general welfare."

Therefore, let us imagine that reformists decide that billions of dollars may be offered to states from the federal budget on condition that they charge parents one million dollars each for permission to see their children. Politicians promise to "end child abuse as we know it" and a new bureaucracy is created to manage a child welfare program for collecting a million dollars from every parent. Let us imagine, hypothetically, what Laura Morgan's position might be if she is ordered to pay one million dollars to see her children.

The state, supported and encouraged by the new agency (which depends on the new laws for its survival), presumes that Laura Morgan, like all other parents, is not fit to parent for failure to pay and enforces the new law against her. Her children are taken into state care. Not incidentally, the state has also been told that it will lose millions of dollars in federal funding if it does not enforce the law in every case.

State courts are hesitant to overturn the law because this funding is at stake. Laura Morgan objects, saying that her inability or unwillingness to pay one million dollars to the state does not prove that she is an unfit mother. She further contends that even if the state does have a legitimate purpose for charging parents, the specific amount demanded - one million dollars - lacks any rational basis. The amount is arbitrary.

Both the state and federal courts respond that states have the authority, generally speaking, to create and enforce laws that benefit children. Since the intent of the law is to protect children from unfit parents, the state has not overstepped its authority.

What exactly is in the best interest of children is often a "subjective judgment." (P.O.P.S v. Gardner declared child support judgments "subjective" after failing to find any objective explanation for the amounts determined by the Washington State guidelines and followed this reasoning.) Therefore, the state may decide how to determine whether parents are fit. The court fails to note in this judgment that the state merely implemented a law in pursuit of federal funds. The court dismisses Laura Morgan's claim that the state has not actually shown that she is unfit, finding a basis for that decision in the state law that says that she is unfit if she does not pay one million dollars. The court does state as fact, that the figure of one million dollars was not arbitrarily determined. It was recommended by the owner of one of the private businesses that profits from collecting the money. He said somewhere that he got the figure from someone else who he regards as highly qualified in some field. It doesn't matter what field; it sounded impressive. The guy has a Ph.D. and everything. In addition, the state convened a special review committee, composed of politically appointed members who mostly work for the bureaucracy that depends on the federal funding for its survival. The committee approved the recommendation. Because of this concurrence of outside opinion the court dismisses Laura Morgan's claim that one million dollars is an arbitrary amount. In doing so they note that every parent must pay the same amount to maintain the right to see their children. Requiring exactly the same amount in every case encourages uniformity in the application of law. This makes the claim that it is arbitrary to require the same of Laura Morgan seem counter-intuitive.

The case, reported widely in the media for weeks thereafter, is filled with contempt for people who like Laura Morgan, "avoid responsibility and abandon their children to state care." "What's worse," one TV commentator opines, "is a nation that lets them get away with it." (Quoting an ABC commentator's remarks on child support in the mid-1990s.)

Officials within the new agency consider the mounting number of children in state care. They argue that all parents should be forced to fulfill their responsibilities. Six months later, another law is passed and Laura Morgan is ordered to pay one million dollars anyway, even though she has "forfeited the right to see her children." The case is immediately turned over to a collection agency with an order to garnish her wages. The collection agency keeps fifteen percent of the amount they collect. In addition, the law provides that Laura Morgan must pay interest on the unpaid debt as well as processing fees and penalties.

With nearly all of her income taken, she finds that only part of it goes to pay the "debt" while the debt continually increases. If she avoids compliance, she goes to jail. Unable to afford power lunches, Laura Morgan loses her position as Chair the Child Support Committee of the Family Law Section of the American Bar Association. She realizes that her children could not spend much time with her even if the law allowed it. She isn't allowed to keep enough of her income to properly feed herself. It has also become obvious that she cannot afford to hire a lawyer to battle the injustice. She reduces her workload to spend more time fighting for herself. (This is before another law is passed requiring revocation of her drivers and professional licenses.)

The collection agency notices that her income has been voluntarily reduced; a court sentences her to six months in prison for evading her parental responsibility to pay the debt. While in jail Laura Morgan realizes that this problem, created by an arbitrary rule and capricious use of government power, is not a temporary one. A few months later, she takes her own life, leaving a lengthy note describing her ordeal and her conclusion that she had nothing left to live for but continual agony.

A politician who pulled in two million dollars in campaign contributions from people who profit from the law, is quoted by a newspaper the following day. "Suicide, like all of human psychology is complicated. There is no way to determine the cause of a suicide." (Actual response to child support related suicides.)

The constitutional case against current child support law is not about the overly politicized issue of child support. It is about basic constitutional rights. The promotion of arbitrary benefits and unwarranted profits for the divorce industry need to give way to awareness of constitutional rights. What Laura Morgan and other political advocates fail to consider is that if government power is unlimited and we have no individual rights to protect against arbitrary intrusions, the imaginary scenario described above is as easily possible as the child support system as we know it today. The defense of constitutional rights, regardless of the particular issue or political context in which they are threatened, is vital to us all.

High Child Support Awards Deny Contact between Fathers and Their Children

http://ancpr.org/in_the_superior_courtof_atkinson.htm

Roger F. Gay 04-22-02

Visitation credits reduce the amount of child support awarded in recognition of the fact that non-custodial parents support their children directly during visitation periods. It is inappropriate to send money for the same expenses to the custodial parent.

PICSLT first looked at the question of visitation credits ten years ago. [2] The federal mandate for use of state-wide formulae to determine child support awards was just about to go into effect. Review of federal government funded technical advice on design of child support guidelines showed that more research was needed.

Before PICSLT became a focused project, we needed to know whether we had a way of making major technical contributions. Specifically, we wanted to establish that the design of child support guidelines would benefit from the application of real professional scientific and engineering methodology.

After delving into child support statutes and case law, systematically extracting its rules and logic, and translating some of it into mathematical equations, the search began for previous work that was verifiably correct. It was quickly found that the formula for crediting visitation had been previously invented.

Nearly a decade earlier, Maurice Franks had written a paper on the calculation of child support award amounts. [3] He included an equation for providing credit for expenses paid during visitation. The equation took into consideration the amount of time children spent in each household, as well as both parents' continuing obligation to support their children. This is known as cross-crediting.

Was it correct? In the same year that Franks' paper was published, it was referred to by the Oregon Supreme Court. [4] A former welfare recipient asked that the welfare system's formula for determining a child support award be applied in her case. The Court determined that the welfare system's formula did not correspond to the state statute on the award of child support in non-welfare cases. Without mandating the use of any formula in non-welfare cases, the Court commented that Maurice Franks' formula came closest to the meaning of the Oregon child support statute.

Three years later, the Pennsylvania Supreme Court had reason to perform a similar review, commenting on established child support principles and the use of formula to determine child support awards. [5] The Pennsylvania Court also used Franks' formula as the prototype with best correspondence to established law.

The cross-crediting formula treats the payment of child support as a reimbursement for expenses borne by the parent who is caring for the children. Most of the time it is the custodial (or primary) parent who is to be reimbursed, since most visitation arrangements allow children to spend less time with the non-custodial parent. This is not to say that the custodial parent is the only parent who spends money on children and should therefore be reimbursed.

During visitation, the roles are reversed. The non-custodial parent pays the bills. The custodial parent still has a financial obligation to support their children even during periods of visitation. One can imagine then, that the non-custodial parent pays the custodial parent most of the time. But the custodial parent pays the non-custodial parent during visitation.

In practice, child support awards were typically reduced to account for visitation time. Since the total amount paid to the custodial parent is typically much higher than the amount the non-custodial parent should receive, the child support payment by the non-custodial parent was just made to be the difference between the two.

The reimbursement approach to cross-crediting used economic data from the custodial parent household. It would not matter if the non-custodial parent's daily expenses were actually higher than the custodial parent's or if the non-custodial parent paid for fixed assets such as an extra bedroom year-round. Care during visitation was thought of as a replacement for care by the custodial parent. Most common credits were given by pro-rating the custodial parent's "cost." This reflected the idea that temporary care by a non-custodial parent relieved the custodial parent of the direct obligation during that period. It therefore fit the general idea that child support is a payment made to reimburse the custodial parent.

Note however that credit could also be given to offset special visitation expenses such as high transportation costs for picking up and returning children; for example, when parents lived more than 25 miles apart. This was possible because established legal principle allowed consideration of all costs related to the care of children.

PICSLT had made a good start. Since key elements (more than just the visitation credit) had previously been established, the approach taken by the project to reinvent them was valid. Not only that, but given acceptance of Franks' model by the courts, it seemed likely that future improvements would stand a good chance of being accepted as well.

As for visitation credits in particular, it appeared as though the world had already figured that out. Cross-crediting was not an obscure procedure being discussed by a few specialists and philosophers. Later questioning of practitioners confirmed that cross-crediting was widely understood within the profession.

So that explains the nearly decade long gap in PICSLT work on visitation credits. The project carried on developing prototype guidelines and delving into the remaining mysteries and problems in creating a complete and accurate mathematical decision model. And of course we did the obligatory work of reviewing and criticizing existing guidelines.

It was somewhat surprising that cross-crediting had not been included in federally funded technical work on developing child support guidelines, but then established child support principles and practice were not related to federally funded work. [6] Even more surprising was that a decade then passed during which the states themselves did not reform their guidelines to provide appropriate visitation

credits. [7] Where have all the people gone who had understood how to calculate visitation credits before the federal reforms had taken effect?

One explanation is that states systematically eliminated the basic principles that had been established for making child support awards. After careful and lengthy review, PICSLT would like to summarize the previously established rational basis for child support awards with three fundamental principles.

1. Child support is for the care and maintenance of children.
2. Both parents have an equal duty to support their children.
3. All relevant circumstantial information may effect the amount of the award.

State courts no longer have a rational basis upon which to determine what is required in the formulation of a just and proper child support award amount. More often than not, state statutes merely point to their guidelines. [8] When principles are expressed in statute, they are usually insufficient and often incongruous with the idea of supporting children. [9]

That only partially explains why child support guideline review committees have not developed better visitation credit calculations. Another explanation is made apparent in the book Divorced Dads: Shattering the Myths. Author Sanford Braver conducted the largest federally funded study of divorced fathers. He also serves on committees that review domestic relations policies in the State of Arizona. Braver documents assumptions made by people working on family related issues that have been translated into law without being put to the test. In recent years there have been many myths that have been used to demonize non-custodial parents. For example, since the majority of poor single custodial parents are mothers, the majority of fathers must be unwilling to support their own children, and therefore stronger enforcement measures are needed.

Braver raises a question that, unanswered, can stand in the way of greater support for appropriate visitation and shared parenting credits. One of the stated goals in domestic relations policy is that of reducing conflict between the two parents. Some child support policy reviewers think only about the reduction in the amount paid to the custodial parent. This leads to questions; whether such credits will cause custodial parents to object to visitation. And will non-custodial parents attempt to increase their scheduled visitation merely to obtain reductions in child support awards?

PICSLT investigated. [10] The answer should not be a great surprise. When credits are given against awards that fairly and accurately deal with the actual and necessary expenses of raising children, custodial parents never lose as a result of properly calculated visitation credits. In fact, they continue to benefit from higher standards of living. The non-custodial parent's expenditure during visitation periods is an alternative to paying support to the custodial parent.

Non-custodial parents never win. Even when we account for the custodial parent's continuing obligation to provide financial support during visitation periods, it is the rare case when the non-custodial parent brakes even. In most cases, non-custodial parents would continue to pay more in proportion to visitation.

No rational economic reason was found for custodial parents to object to visitation based on accurate and reasonable methods for awarding child support and crediting visitation time. And it was found that non-custodial parents would receive no financial gain from increasing visitation time for the sake of lower awards.

The greater danger is that the non-custodial parent will have insufficient funds to increase visitation, or may have too little to exercise normal visitation. This problem is aggravated by arbitrarily high awards generally, including inadequate credit for visitation.
Having explained the reimbursement approach to cross-crediting in some detail, a challenge was presented by Kansas child support commissioner James Johnston. He noted that the reimbursement approach does not consider the actual expenses borne by the "second parent." Perhaps when the parents have joint custody or when their parenting time is nearly equal, it makes little sense to base the child support calculation on the expenses of only one of the households.

Those readers interested enough to look at the mathematics are welcome to the PICSLT web site. The article found at reference 1 below contains the detailed explanation of the reimbursement method of cross-crediting. It has been extended to include a more general formula in which the actual expenses of both households are taken into consideration.

1. Project for the Improvement of Child Support Litigation Technology (PICSLT) is an R&D project that focuses on the science, engineering, and application of child support guidelines. The first of two recent articles on calculation of credits for visitation and shared parenting, How to calculate … can be found here**.** The second is cited below.
2. *Pilot Study on the Development and Evaluation of State Guidelines for Calculation of Child Support Payments*, Intelligent Systems Research Corporation Report; Special Report No. ISR-032590.01, Child Support Series Report No. 1, April 16, 1990.
3. Franks, Maurice, *How to Calculate Child Support*, Case & Comment, January-February, 1981.
4. *In the Marriage of Smith*, Or 626 P2d 342 (1981).
5. *Melzer v. Witsberger* (505 Pa. 462; 480 A.2d 991, 1984)
6. Federally funded work was driven by the National Center for State Courts and the Office of Child Support Enforcement, both of which had shown some determination in pushing for increased child support award amounts; inconsistent with established child support law in the states.
7. With the exception of California, no other state uses cross-crediting.
8. The child support statute in the State of Indiana is one example. For a more detailed dissection with recommendations, see *Recommendations for Improvement of Child Support Law in the State of Virginia*, June 1999; available here.
9. During the implementation of federal mandates, child support shifted from a mechanism for supporting children to emphasis on increasing the standard of living of custodial parent households.
10. The full study report is available here**.**

Too Late To Stop National ID

http://ancpr.org/in_the_superior_courtof_atkinson.htm

Roger F. Gay, 04-01-02

"Imagine a state in which you must register your name and address with the authorities, just so they can find you in case you break the law. In an age when bills vaunting protections for privacy abound, and when surveys of consumers rank privacy as a top concern, could that happen here? It is already happening. When we rely on the federal government to solve our problems, we invite it to intrude upon our privacy. We are asking Big Brother to come in and make himself at home."

— How Big Brother Began, Solveig Singleton, Cato Institute

Changes in technology have left a nation confused about how the modern national ID system is implemented. Visions of passports with stamped pages need to be replaced with the modern reality of the computer age. Centrally located file cabinets filled with hand written cards have been replaced by interconnected databases in a huge distributed system.

It has long since been understood that safeguarding our freedom requires limiting the government's access to personal information. Where a legitimate purpose is served, government agencies have been allowed to accumulate limited information for specific purposes. Over the past decade a dramatic shift has taken place. The government has developed the ability to accumulate the maximum amount of information and provided central access to an army of low level bureaucrats. All signs indicate that this is just a beginning.

During the eight years of the Clinton administration, the federal government spent approximately four billion dollars developing a national database system for keeping track of intimate details of the lives of all Americans. Funding, and in fact the project itself was never held up for close public scrutiny. Most of the people reading this article have never heard of the project. Of those who have, many probably believe it was either shut down for lack of public support, or limited in purpose.

In order to understand the potential of such a system it is worthwhile to consider its cost. Four billion dollars is a huge amount of money to spend on development of a computer system. It could buy more than sixty million hours (thirty thousand years) of engineering consulting time. It is enough to pay 130,000 people an average income for one year. It is more than enough to buy a million modern desktop computers; each one powerful enough to manage a database containing information about every man, woman, and child in the United States, and then some.

Four billion dollars is a lot of money. It would buy almost ninety B-2 stealth bombers. It is enough to pay for about forty thousand average homes. It is enough to send about one hundred thousand students to college for one year or buy hot lunches for every elementary school child in the United States for five hundred years.

As awesome as the price tag is, the excuses for its existence have been poor. The premier reason it was built, according to most official reports, is to track child support payments and people who are supposed to make them. But state and county governments, already armed with their own computers resisted. Propaganda campaigns exaggerated claims of non-payment to the level of a national emergency, but were countered with real data from the national census and other research showing that fully employed fathers pay well. Fathers of children supported by welfare are often poor, unskilled, too sick to work, in jail, unknown, or dead. Another database system does nothing to reduce poverty.

The database would be used to catch illegal aliens. This was a short-lived excuse. One only needed to point out that illegal aliens would probably be the only people not registered.

As weak as the justification is, the child support excuse still had the necessary characteristics. The government wanted to look into every important detail of a person's life. Laws were passed to require financial institutions to provide detailed information on transactions. Systems were integrated so that information obtained from all government sources would be available in one search, and so that businesses and other private organizations could contribute and access information. "Deadbeat dad" propaganda was intense. As long as people could believe that fathers do not deserve fundamental human rights, they could accept the logic of unconstitutional privacy infringements.

States were initially asked to pay half the cost. The problem that states were not interested was overcome by a creative funding strategy. The federal government paid the cost of developing the system and added incentive payments of more than one billion dollars per year to encourage states to use it. With the inclusion of this funding, every politician, bureaucrat, judge, and prosecutor instantly became a "deadbeat dad" hunter. The combined state / federal system now employs more than fifty thousand people nationwide. Those in Congress who promoted the system promised repeatedly that it would only be used to track child support payments and people who are supposed to pay. But as soon as the system could function, that cover was blown. The database became known as the "National Directory of New Hires." The name reflected the first strategy for registering people. Rather than registering child support debtors, everyone taking a new job would be registered. This strategy eventually shifted to registration of everyone with a job, a social security number, a driver's license, a bank account, a telephone; anyone for which there is a source of information. You can be located whatever you do, and the government will know what you do.

The Bush administration does not appear to be set to improve the record. Amidst a flurry of anti-terrorism legislation, administration officials have issued several denials that a national ID system is even contemplated. We already have a modern computerized system in place that is far more effective than any identification and tracking system the Nazis or the Soviet Communists ever had. Common sense suggests that possession of such an Orwellian tool has not escaped their notice.

The primary contractor for the database system was Andersen Consulting. The company broke from international financial services consulting firm Arthur Andersen, Andersen Worldwide this year and was renamed Accenture Ltd. Accenture is based in Bermuda, a well-known offshore tax and privacy haven.

Why Do Current Child Support Guidelines Need Improvement?

Roger F. Gay, 03-28-02

http://ancpr.org/in_the_superior_courtof_atkinson.htm

When asked for a formal, public explanation for why we need presumptive child support guidelines, supporters give few reasons. Typically, they say that presumptively correct guidelines lead to uniformity, simplify the decision process, and provide greater certainty as to the outcome. They also speculate that certainty will lead to less litigation because there is less reason for it.

(This last bit of speculation never came true and higher courts remain under pressure from an unusually high number of appeals year after year.)

In less public situations, the discussion is much different. A judge sitting on a state panel on gender bias in Virginia put a word in a male activist's ear; that presumptive guidelines produce unreasonably high "child support" awards in order to equal out the difference in income between men and women. Many "women's rights" activists view child support as inseparable from spousal support or alimony and therefore argue that there is no reasonable limit to the amount of a child support award.

Even academic studies provide a different view of what the new reformed vision of child support is about. One study that became part of the foundation of the political reform movement was written up by Elaine Sorensen at The Urban Institute. Her federally funded study twisted through a series of statistical speculations to conclude that after paying the current level of child support, some fathers still had some money left over. This news sent advocates off to pressure the federal government to get more of it.

The political discussion that led to sweeping federal reform never really had a responsible flavor. The phrase deadbeat dads was used to justify anything. In the beginning, proponents claimed that reforms would bring down welfare spending. It was clear to reasonable analysts from the beginning that they wouldn't. When tied down to reasonable questions from opponents, advocates within government could only say that reason didn't matter. They were going to do it anyway. You know -- deadbeat dads. After more than a decade in practice, the failure of the reforms to reduce welfare costs keep all but the least well informed in check.

Perhaps the least likely reason to be discussed in legislative debate and by child support commissions is given in federal statute. Federal law requires the use of child support guidelines in all child support decisions. It also requires that the use of a guideline results in an appropriate award in each and every case. The least likely issue to be discussed is whether the use of a state's guideline actually results in appropriate awards in each case. Somewhere in the process of implementation, this central federal requirement has been forgotten.

Most states use the *Income Shares* model for child support guidelines designed by child support collection entrepreneur Robert G. Williams of *Policy Studies, Inc.*(PSI) Williams' collections company receives a percent of collections, presenting a conflict of interest. Advocacy groups representing payers have been concerned as well about the conflict of interest of the states themselves. Additional federal funding to states is provided in proportion to the amount of child support paid in a state. The majority of those who are involved in developing states' child support guidelines today have direct financial incentives for arbitrarily increasing award amounts.

The PSI model gained popularity in the states when it was published by the Department of Health and Human Services, Office of Child Support Enforcement as "technical assistance" to the states in developing their federally mandated guidelines. No competition was held by the legal community to determine the best model. The PSI model was adopted even though it did not correspond to established legal principles, was not developed by experts in making awards, and has never, in any way, been validated.

(Some proponents claim that there is no limit to the amount that can be awarded as child support, thus validation is not an issue to them.)

The *Income Shares* model, in basic form, includes a numeric table that presumptively represents the correct monetary obligation of parents to their children. The name Income Shares comes from the fact that the obligation is divided between the parents in proportion to their income. The PSI *Income Shares* model uses arbitrarily derived numeric table values that are said to represent the amount parents in intact families (at a similar income level) spend on their children. Thus, the resulting award is said to obligate the paying parent - but not the recipient - to pay the same amount to support his children, as he would have if the parents had remained married. Post divorce circumstances are not the same as those of the marriage. Even if the numbers were correct, this would obligate one parent to pay the other an amount that is unrelated to what is spent on his children. The two parents are therefore "obligated" under entirely different standards. So much for uniformity!

A smaller but significant number of states use the percent-of-income formula. The percent-of-income formula takes a fixed percent of the payer's income, which can depend on the number of children involved, as the basic obligation. This formula was first used in socialist or communist countries with strong income controls and with individual economic life heavily integrated with the state. The simple uniform method of calculating the child support transfer payment corresponded to the simple uniformity of economic life of people in those societies, at least as imagined by state planners.

The United States does not of course have such a planned economy. Individual economic circumstances vary widely. The percent-of-income formula does not correspond to the political and economic environment of the United States. The results it gives are entirely random in relation to children's needs and the relative ability of their two parents to meet those needs.

(For more information related to these child support models, see The Child Support Guideline Problem, a PICSLT paper.)
An even smaller number of states use other models. The most popular in that group is the Delaware model. The Delaware model was originally developed to correspond to the rational principles for making a child support award established in Delaware (and similarly in

other states). But the Delaware guideline today is different than originally conceived. It too has been effected by the PSI model. Awards are much higher now because Delaware increased the portion of awards referred to as the standard of living adjustment, in order to bring them closer to those calculated by the PSI model.

Traditionally, and as many people think of as constitutionally required, child support awards were fashioned in relation to the relevant details of the circumstances of parents and children. A typical child support statute, prior to the federal reforms, provided the rational basis for a child support award, not a simple formula giving the presumptively correct amount of an award. One aspect of the constitutional question relates to the use of evidence in showing what the family circumstances are.

In effect, child support guidelines replace actual evidence of family circumstances with the fake evidence provided by the guidelines. For example, the arbitrary values in numeric tables replace actual evidence on how much is spent on children. The numeric values are not the whole story on suppression and distortion of relevant evidence. The simple formulae themselves act to reduce the scope of evidence regarded as relevant to only those factors included in the simple formulae. The logic of overly simple formulae forces an irrational interpretation on the judicial process.

To solve the problem completely, the PICSLT proposal is not simply to adopt equations and tables recommended by another group of modelers. There is a fundamental right to question whether any model gives the correct result in each and every case. For the sake of making final judgments in individual cases, child support statutes need to state explicitly what the rational basis of a child support award is. In each case it must be possible to compare the presumptive outcome with the rational basis for an award in view of all evidence presented.

Federal law also requires that states review their guidelines at least once every four years to assure that their use results in a just and appropriate award in every case. So far as PICSLT has been able to determine, no state has ever successfully carried out such a review. Most states simply repeat the same sort of political process that led to the use of the PSI derivative guidelines in the first place. In some "reviews," states have invited PSI president Robert Williams to say that he still thinks his model is ok.

That's a far cry from carrying out a valid technical review to assure that use of a guideline will result in a just and appropriate award in every case. One of the primary elements lacking in the process is the same element that is lacking in the individual case decision process. States typically have eliminated the rational basis for the award of child support from their statutes. Review commissions are then called upon to determine whether awards calculated by use of their guidelines are just and appropriate without having any basis for determining what "just" or "appropriate" means.

After many mathematical studies it became apparent that traditional wisdom has great validity. Rather than reviewing the PICSLT proposal in detail in this article, interested readers are welcome to discuss the question in the Fathering Magazine discussion forum and the PICSLT discussion forum. The assertion is that the following three principles provide a necessary and sufficient basis for just and appropriate awards. Moreover, the rational basis for child support award decisions must be stated in statute in order to meet federal statutory and constitutional requirements.

> Child support is for the care and maintenance of children.
> Both parents have an equal duty to support their children.
> All relevant circumstantial information may affect the amount of the award.

A Return to Welfare As We Knew It?

The beginning of the end of child support reform

Roger F. Gay, 03-20-02

A Georgia court has declared the state's child support guidelines unconstitutional. See:
http://ancpr.org/in_the_superior_courtof_atkinson.htm

The decision bans the use of a presumptively correct formula that produces arbitrarily high awards, a universal practice in the United States since 1990. The consequences of a nationwide ban could extend well beyond allowing courts to set child support awards at reasonable levels.

The judgment states three requirements for constitutionally acceptable child support decisions. Both parents have an equal obligation to support their children in accordance with their relative means to do so; regardless of their gender and custodial status. The amount awarded as "child support" must be limited to address only the need for financial support of dependent children. Child support awards must be rationally related to the relevant facts and circumstances of each case.

Child support law existed in the thirteen colonies and has existed in the states since the beginning of the nation's history. Not surprisingly, the requirements presented in the Georgia judgment are reminiscent of traditional law that developed through more than two hundred years of case precedent. Federal reforms effectively blocked the application of established legal principles by extending the use of politically controlled formulae, known as child support guidelines, to non-welfare cases. State courts have been required to apply their state's formula in every child support case and presume that results are correct.

Despite a federal requirement for states to review their guidelines to assure that their use results in a just and appropriate award in every case, no state has ever validated the logic of their guidelines. According to child support collection entrepreneur Robert Williams who is the primary designer of most state guidelines, the objective was to increase the average amount of an award by two and a half times. It is this practice in particular, arbitrarily increasing awards by using a presumptively correct formula that the Georgia court found unconstitutional.

Since the federal reforms took effect, mathematical studies performed by the Project for the Improvement of Child Support Litigation Technology (PICSLT) have confirmed the necessity of the three principles in defining the logic for properly determining child support awards. The overpayment resulting from the use of guidelines has become known as hidden alimony.

On the other side of the issue is a strange coalition of special interest groups that profit from the current system. These include state enforcement agencies, private collection businesses, and women's groups that have sought higher financial benefits for divorce. Billions of dollars in federal funding have driven the system, creating a vast network of political friends.

It was the reforms themselves that were largely responsible for bringing the child support collection industry into existence. Private collection agencies, such as the one owned by Robert Williams, keep approximately 15 percent of all the money they collect. The government enforcement system is also rewarded by an increase in federal funding in proportion to the amount collected. During the 1990s, these financial benefits led to a unique form of mutual support and power sharing between government and private agencies under the rubric of privatization.

The coalition exerted enormous influence on government policy and managed a persuasive propaganda campaign against a group they labelled "deadbeat dads." Promoters projected substantial drops in welfare rolls by "forcing fathers to pay." Taxpayers were promised significant savings. But the promise was not substantiated by credible feasibility studies and the savings did not materialize. Significant reductions in welfare dependency were only experienced along with a general drop in unemployment.

The reforms drove many fathers into debt and poverty, at times resulting in jail sentences for non-payment. The new system decreased their ability to spend time with their children, increased demands on temporarily unemployed fathers who sought reductions, forced low income fathers to work in the cash economy to survive, and even forced payments from some men who had never met the mother. Billions of dollars have been collected that cannot be dispersed. The Georgia court, rightly so, determined that the child support system subjects parents, especially fathers, to unnecessary government interference.

Certain administrative procedures for setting and enforcing child support awards have also been declared unconstitutional in Michigan and Minnesota. Child support enforcement agencies exercise powers reserved for the judiciary. States have done little to reform their systems and it may take further action to compel states to operate constitutionally.

The fate of the child support system is largely in the hands of attorneys, who need to make greater efforts to exercise the constitutional role of the judicial branch. At least twenty billion dollars has been paid in court costs and attorneys' fees in the process of arbitrarily increasing award amounts over ten years. That is approximately the total amount of child support legally due each year. Lawyers are now set to experience another windfall if guidelines are determined unconstitutional throughout the country as millions of non-custodial parents return to the courts to have their orders reduced to reasonable levels.

The projected reduction in debt would take much of the wind from the sails of the child support collection industry, possibly eliminating financial influences that have distorted welfare reform efforts for more than two decades. This in turn could significantly reduce federal interest in operating a child support enforcement system that manages non-welfare cases.

If courts are to continue to use child support guidelines, greater emphasis needs to be placed on credible engineering research and development. Designs need to be validated to the extent possible before they are put into use and bad ideas need to be rejected before they harm the public. The application of a presumptively correct formula for determining child support awards is a profound deviation from established constitutional process that demands careful and constant scrutiny.

Roger F. Gay
leader of the Project for the Improvement of Child Support Litigation Technology.
http://www.geocities.com/CapitolHill/5910/

Confusing the Enemy: W's Latest Buzz-Phrase is "Social Entrepreneur"

Roger F. Gay, 03-01-02

Exhaustively, I debated every left wing kook on the internet. President Bush did not refer to the Axis Powers of World War II in his state of the union address. "Axis of evil" is not the same as "Axis Powers." A simple comparison shows that one phrase has three words and the other has only two. They can't be the same phrase. And I must insist that the word *axis* was defined before World War II. Look it up, you schmuck! And while we're at it, Al Gore did not invent the internet, the votes were counted, and George W. Bush was not appointed to the presidency by the United States Supreme Court.

Just when I thought it was safe to go to lunch, the president's speech writer threw yet another controversial buzz-phrase into the fray. In Tuesday night's speech on welfare reform, W thanked a whole list of *social entrepreneurs*. I can just hear it now. "It's social engineers!" they'll say. "This latest terminological *faux pas* is final proof of an uneducated, possibly brain-damaged president." But once again, they'll be wrong, and this time I want to situate the particulars on the desk-top before the fracas begins.

Welfare reform has become one of the most confusing issues in the history of politics. I pity the good-doers who stomp into the subject with sincere intentions and less than two years of laborious research. I expect that my opinion must seem paradoxical to some. The politicians make it sound so easy; a little personal responsibility here, some marriage there, and a job. If those people don't do what they are supposed to do, the government will force them to do it and they will be better off for it. The idea is so simple that one must wonder why it took so long for us to think of it. Now that it's out, it's an extremely popular idea.

Except for nearly insignificant differences in the degree of outward reckless impatience to increase spending, the welfare reform agenda has enjoyed full bipartisan support for almost twenty years. The major difference in the rhetoric between the most conservative sounding Republican in Wisconsin and the most extreme Marxist politician in some foreign state is the use of religion in developing a moral tone. One might wonder why we bothered with decades of conflict against nations with dramatically different views about the nature of the welfare state. Why has it taken so long for everyone to agree on what is simply obvious?

With global agreement on the general direction of change, the major political issue that remains is President Bush's word choice. Does the phrase *social entrepreneur* describe the special character of New World Order social planners, or is this a brazen attempt by the right to steal credit for the old leftist idea of social engineering, or was the president's speech writer unaware of the established term, or did the president himself simply screw it up? Even more questions could be raised. There are so many speculations and spins to be considered that if the president fails to introduce another semantic shock soon, this just might be the major issue of the 2002 mid-term elections. It might decide the balance of power between Republicans and Democrats for the next two years.

The term, I contend is correct. It helps bring perfect clarity to the character of the no-nonsense New Age iron-fisted compassionate progressive conservative agenda. I know what you're thinking now. This was no mistake. It must have taken months of slick political surveys and dozens of focus groups to find just the right combination of words. The masses will be thrilled with this new description of old ideas. They will gladly abandon those boring concerns over balancing the budget. What difference does it make if the policy of overspending on social programs combined with government coercion failed in so many other countries and already has a poor history in the United States? It sounded good when President Bush announced reductions in the welfare rolls, just as it did when Bill Clinton did it in 1996. No candidate for any office is expected to associate the reduction in welfare roles with the drop in general unemployment from over ten percent in Clinton's first term. The masses will never notice.

You will likely be surprised to learn that the field of social entrepreneuring has a great deal of history and substance and that it has been part of a growth industry in the United States for at least a quarter century. The welfare reform agenda, as we know it today, was born as part of welfare legislation in 1975. One of its champions was a Democrat, Senator Russell Long, the son of infamous political figure Huey "Kingfish" Long of Louisiana. The original idea was complicated but not beyond experience that had developed through generations of political chicanery.

The social engineers of the day did not like the idea. In fact, very few people liked it. Russell Long's reform passed only as an amendment to more popular social legislation. When signing the bill, President Ford said that it intruded too far into the personal lives of individuals and promised to propose corrective legislation later. But the event left an enduring legacy. A former Hollywood union organizer and promising liberal took the federal stage in the role that would be his most enduring — that of a conservative Republican with a talent for uniting traditional domestic foes. Fresh from instituting no-fault divorce in California, Ronald Reagan appeared before Congress with representatives from the National Organization for Women as the only people to speak in favor of Russell Long's get-tough-on-deadbeats agenda. Easy divorce and the promise of a pot of gold for every divorced woman would later help the presidential candidate gain important votes from "Reagan Democrats."

In the early 1980s, leftist propagandists were busy convincing the masses that welfare reform was being built on the solid foundation of *traditional American values*; work, family, and responsibility. Progressive welfare reform was transformed into a conservative issue. Who could possibly imagine that Communists had ever experienced intimate government involvement in family life or were ever forced to work in jobs assigned by government or that they ever had such an enlightened government that it could define and enforce personal responsibility? Those are ideas built on moral values that could only have been invented in America!

By the time Ronald Reagan took office as president, enough pork had been promised in welfare reform that supporters within politics and government abounded. Through the Reagan miracle the most enthusiastic champions were not social engineers, but true social entrepreneurs. The Reagan era saw the old-new development of government-private partnerships, which dramatically increased the role of profiteers in the welfare system. The billions of dollars in new spending did more than supplement increasing state budgets. The system was creating overnight millionaires who could easily match organizations like NOW in campaign contributions, and who were entirely dependent on the welfare system for their wealth.

The idea of allowing businessmen to run government operations became so successful that the entrepreneurs themselves began driving welfare reform. Who better to control government policy than people who profit from it? They wondered why non-welfare families could not be included so that billions more dollars could be pumped through the system leading to even more profits. So the welfare system was quickly expanded to include all families in which the parents are either divorced or were never-married. They even built a monstrous national database system for keeping track of the personal financial transactions of all Americans. You might not be divorced yet, but you could be some day.

The profit making idea was so compelling that it attracted one of the largest and most successful accounting firms as a lead manager of welfare reform and implementation; Arthur Andersen also became a household name due to its major role in such high profile business success stories as Enron.

So once again I must insist; President Bush chose the right word.

On Estimates of the Cost of Raising Children used in Child Support Tables

http://www.geocities.com/CapitolHill/5910/current-estimates.html

Roger F. Gay, PICSLT, 11-02-01

While surfing the web today, I ran across a rather disconcerting commentary at the Alabama Office of the Courts site. The page is entitled; CHILD SUPPORT INFORMATION**.** (Link updated on July 20, 2001 -- old link did not exist -- page moved.) Before revealing the details, I should note that Alabama is presenting the same misinformation as do many other states. The quote you find below is quite similar to a statement made in, for example, the Indiana statutes.

One would think that the Alabama Office of Courts (AOC) would do its best to provide the public with accurate information. Yet, I immediately found obvious misinformation and wrote to AOC to tell them about it.

The State of Alabama uses a child support guideline derived from a proposal developed by child support collection entrepreneur Robert G. Williams, of Policy Studies, Inc., known as the *Income Shares model*. The model has received continuous criticism since its adoption as one that is arbitrarily contrived, not based on any valid economic evidence, and because it does not correspond to any set of rational principles for making a child support award.

The *Schedule of Basic Child Support Obligations*, as it is referred to, is a table of numbers. In making a child support decision, the court is instructed to use the parents' combined income to look up a number in the table. The corresponding number is presumed to be the dollar amount that the parents should spend on their children. (It can then be adjusted for various reasons.) The "basic obligation" for the payer is part of that amount in proportion to the payer's income. AOC says the following to describe the table.

The Schedule of Basic Child Support Obligations was developed through research sponsored by the National Center for State Courts and is based on extensive economic research on the cost of supporting children at various income levels.

The National Center for State Courts has never sponsored development of a *Schedule of Basic Child Support Obligations* based on extensive economic research on the cost of supporting children at various income levels. As a matter of fact, they have never sponsored extensive research on any aspect of child support guideline design, with the exception perhaps of state by state reviews of political decisions. Certainly nothing however, of a technical or scientific nature.

The information being referred to is a proposal for design of guidelines by child support collection entrepreneur, Robert Williams. Williams did incorporate results from a "cost of raising children" study in his proposal. A far cry from "extensive economic research," Williams relied on a single study that was unrelated to the child support award question. The study was conducted over a summer by a sociology professor, Thomas Espenshade, who had no previous experience in making such estimates, and his work has not since received any positive recognition from the scientific community.

Espenshade has not himself received much criticism for the work. Other than its use by Williams in recommending values for child support tables, his work on estimating the cost of raising children has not received much attention at all. A far, far cry from "extensive economic research," Espenshade seemed to have had it in mind to get his feet wet in something new over a summer break. In point of fact, Espenshade isn't even an economist. His specialty isn't families or children either. It's immigration.

Espenshade's study was not about making child support awards. He did not have the data or methods necessary to calculate what parents at different income levels spend on children. He presented results that in quantitative detail have no validity, but his final purpose and point were quite simple. The fact that his study was not about child support awards, and that he did not push his numbers for such political use is probably the reason that more criticism has not been focused on him personally by advocacy groups.

Espenshade wanted to help train parents, and particularly those parents who had little to no experience dealing with their own financial issues. This would of course include immigrants from poor countries and even young parents in the United States. His study, although providing speculative inaccurate numbers, made a simple but important point. If you have children, it will cost you. He didn't really know how much.

Let's say for example that you get married and the two of you have enough to buy a sports car. You want the sports car but you are also considering having a child right away. Espenshade's results say that if you have the child, it may be impractical to buy the sports car. In concept, the difference between being able to afford the sports car if you don't have the child, and not if you do, is what Espenshade defines as the "cost of raising children."

In fact, Espenshade compared expenditure on food in proportion to the number of family members between couples with and without children. What he chose to view as the standard of living difference between couples with and without children represented his cost of raising children. This aspect of the method itself receives criticism even from those who believe any such comparisons can produce worthwhile results.

The data available for his study did not contain the information needed to determine what parents spend on children. In the end, Espenshade put a fudge factor into his equation to produce his result. The numeric result is not a statistical result based on the data. The result is not how much parents spend on children. The result is not accurately described as the cost of raising children. The result is primarily a result of his method and his fudge factor, not the data, and is not a reflection of anything special.

Again however, Espenshade's results have not received much criticism. His study has not really received much attention at all, except in the political context created by Robert Williams. Espenshade never claimed to have produced a set of numbers appropriate for use in child support guidelines.

The AOC also claims that the "extensive economic research" on which their table is based, is *on the cost of supporting children at various income levels.* Espenshade was not able to refine his results to differences in spending at different income levels. He did not select a different fudge factor for various income levels. He produced a table of percentages of the amount of total spending by families, which he attributed to the "cost of raising children."

The effect of the data on his results was so small that the difference in the percentage between low-income families and high-income families was insignificant. In other words, his detailed numeric results were saying that a wealthy family will suffer the same percentage standard of living loss to raise two children as a poor family. This in no way reflects reality, but only the fact that the same method and fudge factor were applied regardless of the income level. The result illustrates that the family spending data used had very little effect on the result.

The use of Espenshade's results in child support guidelines is apparently more the fault of Robert Williams than of Espenshade himself. However, both Espenshade and his publisher do deserve some measure of blame.

In his book on the study, *Investing in Children*, Dr. Espenshade goes to great lengths explaining what he would like to achieve in his study. It is clear that he wants to provide accurate information on what children cost parents. He discusses his methodology in somewhat philosophical ways, expressing the logic of what he is trying to do.

He does not however, explain that he has failed to do it. He does not mention the inclusion of a fudge factor in obtaining his final results. As unsatisfactory as his attempt was, he does not tell the reader. He does in fact mention the possibility of applying results of studies such as his to the problem of making appropriate child support awards.

We should also wonder why his publisher, *The Urban Institute Press*, published his study in the form of a book with a snappy title, and why it was promoted as though he had succeeded in obtaining the results he was looking for. A publisher caused similar confusion in the past by promoting a book called *The Divorce Revolution* with false information. *The Urban Institute* however, is a research organization. That being the impression they project to the public, shouldn't we expect a serious in-depth peer review of their publications?

As I have said though, the choice to recommend child support tables related to Espenshade's results was made by Robert Williams. It is clear that the results were not realistic enough for use in anything but casual conversation; to make more of a non-quantitative point. Or as University of Chicago economist Edward Lazear put it (less delicately); *. . . the presumption that underlies the focus of much of the empirical research and policy debate on income distribution* [spending within families] *seems born of ignorance and is supported by neither theory nor fact.*(Source: Edward P. Lazear and Robert T. Michael, Allocation of Income Within the Household, University of Chicago Press, 1988, page 25)

But let's pretend that Espenshade's results were exactly what Espenshade was looking for. Would they then be appropriate to use them as the basis for child support awards?

Let's continue with the conceptual explanation given above. The "cost of raising children" is that a particular family cannot afford to buy the sports car they wanted because they are providing for a child's needs instead. The result of having a child in that situation is that the parents, living together in an intact family, cannot afford the sports car.

But in application in child support guidelines, what Williams is saying is that the mother only needs to divorce. Her ex-husband will then owe her enough to take care of the child and his share of the cost of buying the sports car to boot -- to bring them to the standard of living they would have had together if they had not had children. That, in the application of Espenshade's conceptual theory is what it would take for one parent to reimburse the other for "the cost of raising children."

The Alabama Office of Courts as well as other government sources in other states misrepresent the numbers used in their child support tables. They are not *is based on extensive economic research on the cost of supporting children at various income levels*. Even if the statement were true, the goal it represents does not correspond to any rational view on calculating an appropriate child support award.

Roger Gay, Project for the Improvement of Child Support Litigation Technology

The Child Support Guideline Problem

http://adrr.com/law1/csp11.htm

Roger F. Gay, MSc * and Gregory J. Palumbo, Ph.D. ** , 05-06-98

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ABSTRACT:

This paper discusses current child support formulae and policy in the context of the history of their development. Major flaws in current formulae and their use are apparent. Moreover, the flaws are so serious that existing child support guidelines do not meet federal requirements upon which eligibility for funding of state programs is based. An approach for developing child support guidelines is provided that will meet all federal requirements and should lead to dramatic improvement in the design and use of child support formulae.

History of Child Support Law & Mathematics

Efforts to produce mathematical formulae to assist in child support decisions have gone on for decades in the United States. Historically, mathematics as an integrated part of child support law has been more prevalent in other countries. This is especially true for child support law in socialist countries where award decisions are made in relation to an array of welfare state benefits. In the United States, their formal statutory use as a presumptive calculator of awards prior to 1990 was limited primarily to welfare cases. As in other countries, states and the federal government wanted a highly consistent formalized way of calculating an appropriate amount to be recouped from non-custodial parents for assistance provided to custodial parents and children by government programs.

In a 1981 case that sparked national interest, the Oregon Supreme Court went to lengths to explain established child support doctrine (1) (*Smith*, see footnote). At issue was whether the child support formula used in Oregon welfare cases should be used in non-welfare cases. The Oregon Supreme Court found that the welfare formula did not correspond to child support law written for non-welfare cases and it was therefore inappropriate to apply it outside the limits of the welfare system.

Formulae used in the welfare program are designed to maximize reimbursement of public money given as entitlements. Simply maximizing the amount of child support awarded is not an appropriate goal for all situations. In non-welfare cases, when the parents are able to support themselves and their children on their own, the situation was not as simple as getting as much as you can. Awards were based on the "actual and necessary needs of children" and the ability of each parent to pay were considered among other things. The Court went to some effort in *Smith* to explain what was meant by children's "needs".

Although the Oregon Supreme Court did not require the use of an alternative mathematical formula in non-welfare cases, they cited work on a child support model presented by Maurice R. Franks as coming closer to established non-welfare child support law (2). Franks' child support model, and those like it, have often been called Cost Sharing models because legal experts often referred to parental spending on children using the term "cost" (3). Those who read Franks' paper will be impressed with the fullness of his legal citations in support of his model. This is not to say however, that child support decision modeling had made sufficient progress to substantially replace judicial discretion in the application of child support law.

Franks' accepted the traditional approach of determining costs for raising children from family spending history, and cross credited expenses in both households to account for shared custody and visitation / parenting time. Franks' model is significantly different from the Income-Shares model developed by Robert Williams that is so widely used today. In contrast to Franks' model, the Incomes Share model is not based on real household expenses on children, and arbitrarily under-accounts for shared parenting time.

One similarity shared by both approaches is the notion that the parent's share of the "child support obligation" is taken to be in proportion to their share of the parents' combined income. This produces a major failing in both models. Neither considers either parent's actual "ability to pay", which is addressed below. Neither provides a solution to the problem of adjusting the standard of living in the custodial parent household. Franks' doesn't include it and Williams simply raises the numeric tables arbitrarily producing results so high that they often overshoot "child support" to include alimony (4).

Prior to the federal requirement for development of state-wide child support guidelines in the Child Support Enforcement Amendments of 1984, "guidelines" had already come into use in state courts. Many child support guidelines had been developed by judges and local bar associations. Some were simply used informally by judges and attorneys while others were used as county-wide guidelines. Robert Williams' 1987 report provides a small sample of such guidelines without probing into the details of their correspondence with established law or the subtleties of their use (5).

It is important to note that judicious use of a simple formula and / or numeric table as a "guideline" does not contradict the decision of the Oregon Supreme Court cited above. There is a fundamental and significant difference between using such tools as a guideline to assist in decision making and the presumptive use of a child support formula.

One argument given by advocates of presumptive child support formulae was that award levels appeared to be non-uniform. Two divorced fathers could be living on the same street and going to the same job with the same pay each day, and pay different amounts of child support. The problem with this complaint is that it suggests that the two fathers should be paying the same amount regardless of other mitigating factors. In other words, it presumes a simple percent-of-income formula rather than applying established child support law. But such an approach does not relate the child support award amount to the needs of children and the relative ability to pay. Its relationship to family circumstances is random, and therefore it cannot meet the federal requirement that the application of a guideline result in a "just and appropriate award in each case". It's also reasonably obvious that without a rational relationship between an award and family circumstances the method would fail any honest constitutional test for "due process" and "equal protection".

After the federal reforms took effect, approximately one third of the states are actually using a simple Percentage-of-Income formula. The method is so obviously over-simplified and unrelated to sincere policy modeling efforts however that it is often left out of general discussion. It has its origin in old Soviet Russian law and there is no reasonable argument for using it in the United States. A slightly reformed version still exists as Article 81 of The Russian Family Code, adopted in 1995. Its use was promoted in the United States by Irwin Garfinkel as part of a suite of Soviet Russian policy that has become known to us as "The Wisconsin Model". The Wisconsin Model then became a center-piece for the national child support and welfare reform movement.

Another item lobbied for by women's groups in the 1980's that ultimately affected child support guideline development was a push by women's groups to increase alimony. Failing sufficient political support for increased alimony, attention turned to increasing the amount paid under the rubric of "child support". According to Williams' 1987 report, the intent of his recommendations was to increase "child support" awards dramatically above what they had been according to established state child support laws. The detailed discussion and recommendations by women's advocates on increasing alimony is the only logical forerunner to Williams' child support recommendations that has to date been found.

In discussion on child support reforms, advocates of increasing support have typically pointed to differences in income between men and women as the basis for the need to increase child support. This argument is direct in its appeal to include alimony or spousal support in child support awards.

The common claim of inadequacy of child support awards (referred to as the "adequacy gap" in child support awards) typically centered on the fact that the average of child support awards was not sufficient to support both the custodial parent and child(ren), or at the very least that it wasn't sufficient to cover 100% of child(ren)'s needs - the latter ignoring the obligations of custodial parents to contribute and substantial direct contributions by fathers during visitation for example.

The general belief among legal experts is that child support should never be used to equalize income between the two households. Such a policy is understood to result intentionally in the inclusion of spousal support in child support awards. Spousal support should not be awarded as part of a child support award because spousal support can be awarded separately when appropriate and more fundamentally, spousal support is not child support.

Faults in Child Support Approaches / Improvements

One of the problems with Percent-of-Income, Income-Shares, and early Cost Sharing models is their simple use of income for assigning, or dividing the support obligation into a proportionate share for each parent. None of these approaches addresses the parents' ability to pay support for their children or the consequences to the children or either parent when meeting the obligation of support.

Consider a custodial mother who makes $8,000 per year take home pay and a non-custodial father who takes home $16,000 per year. For the purpose of this illustration, please assume that exactly $8,000 per year is required for basic support for one adult living alone. An Income-Shares type formula would distribute the obligation in proportion to each parent's income. The custodial mother in this example, who earns just enough to care for herself, would have an obligation to provide one third of the additional money needed for support of their children. If that amount is say, $3,000 per year, then she is left with only $7,000 per year for her own support, which is not adequate. This would likely lead to inadequate support of their children.

A simple but much more rational formula for "ability to pay" was proposed by Melson (Judge who developed the late-80s Delaware model), Cassetty (well known contributor to discussions on child support calculations) and others. Their basic model of "ability to pay" is net income minus an adult "self-support reserve". The self-support reserve is deducted immediately and becomes untouchable for both parents. The result in the case above, is that the mother's total income would be hers - the amount she needs to support herself - plus the additional amount needed in her household for care of the children. That is exactly the result that is needed.

The effect of income disparity, when one parent is able to pay significantly more than the other, is most obvious when one of the incomes is near or below subsistence level. A better specification of "ability to pay" would pass all reasonable logical tests when applied to all cases. It has the effect of shifting income as needed in a non-arbitrary way. It would thus allow replacement of the arbitrarily high numeric tables currently in use with tables that are realistically related to the circumstances of children and parents. The best vision is that of allowing consideration of a wider range of mitigating factors in determining ability to pay. Doing so would provide one part of the fine-tuning needed to meet the federal requirement for a "just and appropriate award in each case".

Franks' model is more advanced than Williams' in dealing with shared parenting and visitation. Franks presented a method known as "cross crediting". There has since been discussion on whether the cross crediting formula should be applied strictly according to the amount of time children spend in each household when one or both parents' income is low. This question is resolvable and the cross crediting concept provides a very solid theoretical basis for dealing with the sharing of direct expenditures by parents.

Williams' simply filters out all credits for visitation and shared parenting arrangements, and assume zero time-share. The tenacity with which he has fought to eliminate visitation credits is one of the reasons that he, rather than just his work, has often been characterized as extremely biased against non-custodial parents. Even when state representatives and state courts protest, opting for at least some token reduction in support as visitation credit, Mr. Williams has fought to minimize it. With the elimination of proper visitation credits, the income of many non-custodial parents can be reduced beyond the point where they are able to afford normal visitation. The objective evidence is telling us that much of the reason for lack of regular visitation is because the non-custodial parent cannot afford to support the children during visitation. This problem increases dramatically without proper credit for visitation in the formulation of child support awards.

Under the present child support award system, those who can still afford visitation are usually not convinced that they should be forced to pay many expenses twice; once directly during visits and again in the form of a child support payment calculated as if the children never visit. After the introduction of Williams' recommendations no state is cross-crediting.

As an example of the effect of improper cost crediting and sharing (that occurs in Oklahoma and elsewhere because of existing policy and law); if expenditure on a child is $3000 per year and the parents have equal net income and a 50/50 joint parenting arrangement (we assume in this example equal direct financial obligations), the non-primary custodial parent would pay $1500 in child support to the primary primary parent. The paying parent would still have $1500 in costs for the child in their home for a total expenditure of $3000 for the child. In contrast the primary custodial parent would spend $1500 but that full amount would be reimbursed by $1500 in child support leaving a total financial contribution by the primary parent of nothing.

A long-standing problem with all models has been the lack of a theoretical solution to the question of adjusting the standard of living in the custodial parent household. This issue arises because traditional child support law intended to provide some reasonable protection for children against the decrease in living standard that often accompanies divorce when the mother does not remarry1. Franks doesn't deal with the question. Cassety made a very direct and pointed issue of the problem but did not solve it. In developing the late-80s version of the Delaware formula, Judge Melson went to a great deal of effort to create a basis for a reasonable judgment. He decided to add 5% of remaining income after deducting the self-support reserve and a basic amount of child support. The adjustment was later changed by the state of Delaware to more closely match the arbitrary increases in awards recommended by Williams. A theoretical solution to the standard of living adjustment problem was not presented until 1994 (6).

Major Fault in Williams' Model

Child support guidelines in use in the U.S. are based primarily on the opinions and assumptions made by two people, Robert Williams and Irwin Garfinkel. Approximately two-thirds of all states use the Income Shares approach that has been questioned continuously since the publication of Robert Williams' report in 1987.

According to the Child Support Enforcement Amendments of 1984, Robert Williams technical report7 was supposed to "provide technical assistance to the states" in developing their child support guidelines. It was not under that legislation, and still is not today, an acceptable role for the federal government to decide each state's policy for making a child support award. Yet, each of us who have carefully studied Robert Williams' report recognizes that something is amiss. Robert Williams' recommendations are not based on the established state laws of the time. His methods are not flexible enough to adapt to policy choices states are entitled to make. Underlying his technical recommendations are Robert Williams' policy choices. (Something he admitted in a deposition in a federal case.) And those choices are not clearly specified so as to facilitate open discussion and debate.

The explicit argument given in favor of Williams' model rests on rather crude statistical methods which Robert Williams typically refers to as "economic studies". There is no appropriate economic data at the heart of these "studies". The data that Williams, Betson, and a few others have related to their "studies" is so off target that there is very little reason to refer to their studies as being "statistical".

The data used in these "estimates" is the national data on family expenditure that comes from the Consumer Expenditure Survey. Nearly all of the data is on what families spend as opposed to what is spent on individual family members. In other words, it does not provide a statistical view of what is spent on children and adults in households but what is spent in total on different items of expenditure. One can get a reasonable view of what households spend on housing and transportation for example. But no amount of witchcraft can transform that cost into how much is attributable to children, or differences due to cost of living variation amongst states.

The data used has very little effect on the numbers produced in the so-called "economic studies". The numbers are primarily the result of the arbitrary choices the modelers make in selecting an estimating method. The modelers choose the portion of family income "distributed" to adults and to children. That information does not exist in national data on family spending and there is no way to divine it from that source. Here is what two competent researchers said about such "studies". *. . . the presumption that underlies the focus of much of the empirical research and policy debate on income distribution [within households] seems born of ignorance and is supported by neither theory nor fact.* (7)

In all fairness, some of those studies were carried out with some degree of competence and good intent. Although failing to provide much solid useful information, the most honest directly pointed out the weaknesses of the methods and uncertainty of results and provided the most open exposé of the arbitrary choices made. Even so, not a single of the so-called "cost of raising children studies" was done for the purpose of assisting in the development of child support law. One researcher, working directly on the problem of developing child support guidelines said the following about such studies.
… it is possible that achieving confidence in the data base through use of a simple methodology which explicitly relies on "user opinion" will be more effective in moving practices more uniformly toward a fair standard than does reliance on opaque and highly derivative expert interpretations of existing but fundamentally off-target primary economic data. (8)

It should be especially noted here that David Betson's study (9), although done to fulfill requirements in the Family Support Act, is no exception. No new techniques were developed for divining information more relevant to a child support award decision. Betson's task

was simply to update old information using information from a newer Consumer Expenditure Survey collected between 1980-1986. His report contains a wide range of "cost of raising children estimates" and no solid scientific basis for preferring one over another. Betson's display of such a wide range of possible estimates from the same data should have been seen as yet another of the several very loud and obvious signals indicating that something is amiss.

This point is so important that it's worth a simple example to be sure non-technical readers understand what is meant by all this. Here's a simple example. Let's say that on average families with two adults and one child and an after tax disposable income of $35,000 per year actually spend $30,000 on "family spending" that's used in a "cost of raising children estimate". From that information you are asked to estimate how much of that $30,000 is spent on the child. One estimate starts by making the arbitrary choice that one third of all family spending is for that child. Dividing $30,000 by 3 gives $10,000.

Following the logic of Betson / Williams we would say that the estimate of $10,000 in spending on children came from the data - $30,000. But the data had little to do with the outcome. If we had wanted $7,500 as the result instead of $10,000, we simply would have selected the estimating method "divide by 4" instead of dividing by 3. The answer is manipulated by the method that is used for estimating what is spent on children. If we apply the same "divide by 3 method" to total family expenditure of $60,000 per year we get $20,000 per year. It's as simple as that. By manipulating the method the analyst can get any answers they choose to get.

Nothing in the data indicates which is the right or even the best choice. There is, as a matter of scientific fact, no method sophisticated enough to derive information from data that doesn't contain the information you're looking for. Whether in obscure or obvious form the information sought must exist in order for it to be found. The holy grail, so to speak, how much families spend on children is not information that is found in the data from the Consumer Expenditure Survey and it cannot be derived from that source. It definitely can't and even if it could be derived from some source, that still wouldn't answer the question that needs to be answered - how much should each child support award be?

Williams has defended his use of child cost estimates primarily by pointing out that someone else did them. From the beginning, he's based his model on the work of Thomas Espenshade. ("Updated" by Betson in reference to a more recent Consumer Expenditure Survey.) Espenshade's work did not emerge within the context of mainstream scientific process and was only a recent addition to commentary in the form of a book published by the Urban Institute Press (10).

Espenshade's estimates of the cost of raising children had not and still have not been through any validation process or even substantial argumentation in the normal course of formal scientific discussions.

Moreover, Espenshade's "cost" estimates were in no way related to the question of making child support awards. Political use has been made of the fact that Espenshade's estimates are not related to the question. For several years, many analysts have been pointing out that intact family spending has no relationship to post-divorce circumstances. Use of such data can only lead to awards which are randomly related to post-divorce family circumstances and children's needs.

Espenshade had not made estimates of single parent spending because his study did not concern the question of making a child support award.

Ultimately, Hewitt's suggestion is a very reasonable one. Adjustments to the numeric data are best provided by "user opinion" from those who can directly observe the results of the use of the guidelines and judge them according to their appropriateness in dealing with individual situations in the light of the principles of child support law. This is exactly the way many child support guidelines were evolving before the federal government stepped in and began manipulating the process. Williams' model, on the other hand, is estimated to produce awards on average 250-300% higher than those that were being awarded according to established state laws. That's obviously a case of someone being very generous with other people's money.

One report by the OCSE actually does point to a problem in review of Williams' based guidelines. The following specific comments can be found in the executive summary of volume II of the report (11).

Surprisingly, few States reviewed their core guideline model or methodology. Rather, guideline reviews focused on issues relating to income, adjustments to income, adjustments to the guideline amount, and deviations from the guideline amount.

It is surprising that the OCSE reporters find this result surprising. Let's take a step by step approach. The policy discussion has been focused on junk "economic studies" which in themselves mean nothing. Even if proper data existed so that a worthwhile statistical study could be carried out, there would still be issues to confront on the structure and purpose of those studies.

Even if we did have an appropriate data set there would still be a fundamental problem. Economic studies, even good ones, can at the very best provide only one element in putting together a final guideline and using it properly. Even if we had the perfect data set, there is no statistical formula for extracting child support policy from spending data. That is, the state must first decide what its child support policy will be. Yet, the distraction caused by the focus on so-called "economic studies" has prevented reasonable and much needed discussion about child support policy.

Robert Williams' involvement in child support issues coincides with the formation of his company, Policy Studies Inc. in 1984. We find no record of his involvement in family questions, no history of academic achievement in the field or even evidence that he's qualified to deal with complicated policy / design issues. He came from nowhere in the mid-1980s as the Office of Child Support Enforcement's choice to provide technical assistance to the states in developing child support guidelines and was able to provide nothing except extreme policy views. Without having any legal authority, or a logical or scientific basis for his recommendations, he has to a very great extent dictated child support policy in all states ever since. Most disturbing of all is that his business operations include a collection company that takes a percentage of the amount of child support paid. Mr. Williams therefore has a direct financial interest in increasing award amounts.

Rather than forcing compliance with a poorly designed formula by mandating acceptance of its flaws, the honest course is to expose the mechanics constantly to every legal test and by that approach force improvement of a formula and its use.
There is no example of a state statute that defines child support independently of the calculations used to determine a standard award. (Confirmed by OCSE in 1994.) This is a very serious situation. There is absolutely no way that states can be in compliance with the requirements of federal law without having a clear statutory definition of child support (12).

The law requires that awards determined by the application of child support guidelines be rebuttable. The federal law specifies: "A written finding or specific finding on the record that the application of the guidelines would be unjust or inappropriate in a particular case as determined under criteria established by the State, shall be sufficient to rebut the presumption in that case." It further specifies that guidelines "shall be reviewed at least once every 4 years to ensure that their application results in the determination of appropriate child support award amounts".

It is impossible to meet either of these requirements without having a legally established definition. A specific, meaningful, statutory definition is the only mechanism that can provide litigants in every case with criteria to determine whether the presumptive award is just and appropriate. It is also impossible to determine whether the application of guidelines generally result in appropriate award amounts without having a definition as a basis for the determination.

The arbitrary nature of current child support policy has its roots in the tendency of federally designated analysts to look for answers in ways in which answers cannot be found. Above, Williams' approach rests on data that does not contain the information he seeks. We've noticed a similar problem in the more general discussion on what a "just and appropriate" child support award might be. We've seen this issue shift to the general question of "fairness" and then "fairness" defined as an unresolvable conflict. Specifically, we've repeatedly heard "fairness" discussed as the condition that everyone gets everything they want. Given that the fundamental purpose of the court in many child support cases is to settle disagreement, it's quite clear that this view will not yield a general solution.

We have not heard of any credible argument, nor do we ever expect to, that fairness does not first require defining what is being done. No judgment can be made about what is fair unless there is a specific understanding of what a child support award is supposed to be. We can see in state laws that existed prior to the federal government's encouragement to use presumptive formulae that this principle of legal construction was well understood. It is also apparent that the law must also make a relational statement about the obligations of the parents and provide the courts with the proper authority to consider all relevant factors before making a final judgment.

In a 1993 conference paper, a step-by-step list was provided for development of a well integrated child support policy. "Well integrated" policy begins with a child support policy put in place by a state legislature. Child support guidelines are then developed to correspond to the state's legally established policy. The overall process is one in which guideline engineering is integrated with the well established traditional process of *legal construction* (13).

A reasonably broad survey of state child support statutes was made. Of necessity, the laws surveyed where those which were in place prior to the date the federal mandate for use of child support formulae took effect. What was needed was the essentials of well established definitions, relevant doctrine, and an understanding of the legally established considerations in child support award decision making. The survey included review of some important case law.

The model child support statute given below is based directly on the Oregon child support statutes and contains much of the original language. It is typical of many state child support statutes that were in place prior to 1990. The work was facilitated by the *Smith* case1. This brought a great deal of detailed understanding and clarity to the established law that would not have existed simply from reading the statute and reviewing a few less comprehensive decisions. The question in *Smith* was in fact the appropriate use of child support formulae, making it the perfect case study, especially since the judges chose the occasion to provide their most extensive discussion on child support law. The inclusion of the presumptive use of a child support guideline (rebuttable) explicitly brings the statute into perfect compliance with federal requirements.

In order to make the transformation from traditional legal principles to the process of formulating a mathematical model, a set of concrete statements was extracted and organized in a way that is convenient for a logistician / mathematician. Writing as logistician, the basic elements of any valid child support law / formula are described below as the "fundamental laws of child support".

A. Fundamental laws of child support

1. Child support is for the care and maintenance of children.
2. Both parents have an equal duty to support their children.
3 All relevant circumstantial information may affect the amount of the award.

These "fundamental laws" are typically found in traditional child support statutes. The "first law" seems almost trivial, but it is essential to build upon a basic statement of purpose. Without such a basic defining statement, all else is arbitrary. The "second law" was originally found in a separate statute (14). Logically, once one decides what child support is, one must also decide who is responsible for paying it. We've not found any reason to doubt the wisdom of those commentators who insist that "equal duty" is Constitutionally mandated (15).

The necessity of the "third law" can easily be explained from consideration of the second. Although both parents have an "equal duty" to support their children, it has never been held that each parent must pay an equal amount toward support. How much each parent should contribute is determined by the careful consideration of the circumstances of each parent. This third law determines each parent's ability to pay, what the children have already or need to be supplied in both households for their physical support, amongst other things. There is no way to produce results conforming to the "second law" without application of the "third law". In the end, the best decision can only come from reasonable consideration of the circumstances of each parent and the needs of their children (16).

It is not the purpose of this article to document a full detailed expansion of the modern mathematics of child support. In the traditional process, interpretation and detailed expansion of the rule of law was, of practical necessity, left to the courts. By providing a statute that resembles traditional state law, the legislature offers the state courts the benefit of the decades of legal development that preceded the Family Support Act of 1988. As shown by the model statute below, it is a rather simple matter to modify the statute to comply with current federal requirements.

But the discussion above does carry with it the intent to argue that this is the only proper way to construct child support law. The three "fundamental laws" are essential to any valid child support statute and to any valid child support formula as well. It is our opinion that Constitutionally acceptable child support law cannot be constructed without the central inclusion of the three "fundamental laws" given above. State child support policy must consist of these three "fundamental laws".

Proper implementation of federal law, requiring procedures that result in a "just and appropriate award in each case" as well as requiring periodic review to assure that the use of child support guidelines results in a "just and appropriate award in each case", should lead states to improve their guidelines. Each case provides an opportunity to learn about the weaknesses in the design of a child support guideline. At the very least, each required periodic review offers another opportunity to improve the design of the guidelines in light of what has been learned from experience.

If this procedure is followed, it is reasonable to expect that the need for deviation from guidelines will be reduced over time so long as the need for deviation is reviewed and that information is used to improve guideline design. Currently the incidence of deviations is reduced simply by ignoring flaws in the guidelines and inappropriate results. Instead, it is recommended that case experience be used to direct pressure toward improving the quality of child support guidelines and thus reduce the need for deviation by improving the quality of the results they produce.

The Numeric Component

Above, it has been pointed out that there is at present no national data base which provides sufficient information on parental expenditures on children. Yet, we know that expected expenditure on children is one of the key questions in making an award. Traditionally, the courts would attempt to determine what had historically spent and in effect attempt to predict spending on children in the future. This process of course, led courts and bar association groups to develop tables from which one could quickly and consistently determine a "reasonable amount" in order to achieve better results more efficiently in dealing with this specific part of the child support award question.

In the section above which explains one of the major faults of the popular Williams' approach, William Hewitt, a researcher in Washington State, is quoted as pointing out that "user opinion" is likely to provide the best improvements to the numeric table. It seems apparent that those who are experienced in the direct application of guidelines can best contribute to their improvement. Nonetheless, there are important conclusions that basic research can provide.

Spending on children in split households has a random relationship to the combined income of the parents. The income of both parents can be appropriately considered in the award decision only if that consideration is consistent with the fact that the parents do not live together and therefore do not use their income jointly. The only approach that provides an appropriate outcome begins with consideration of the financial circumstances in the custodial parent home. The full effect of non-custodial income can properly be included in the detailed mathematical model, but not by a numeric table with values related to combined parental income.

Regardless of what a freshman economics textbook might say, "ability to pay" is not equal to income. Traditional statutes and case law provided that one of the important determining factors in the award of child support is the parents' relative ability to pay. Courts also concluded, on basic legal grounds, that so much could not be taken from the person ordered to pay support that they are unable to support themselves. Mathematical study has shown that there is no consistency of logic unless this rule is also applied to the income of the custodial parent. It is also apparent from this study that children are best protected against inadequate award levels when parental income is reduced by adult needs and the remainder is taken as "ability to pay". This view of "ability to pay" has been investigated by others as well, and was applied in the Melson formula used in several States.

Unusual case circumstances (those which deviate from the circumstances presumed in developing the guideline) cannot be adequately considered unless the numeric table is categorically divided (food, clothing, shelter, transportation, entertainment, etc.) The State of Vermont tried categorical division with a presumptive child support formula. The experiment was tried early this decade when support for forcing an overly simple statistical consistency in awards was particularly high. The State quickly abandoned this feature when it produced a much higher number of deviations. This experience illustrated the poor quality of the design of their formula, which happened to have been a version of Williams' Income-Shares model. As stated above, the acceptable approach is to allow such problems to force improvement in the design of the guidelines.

Required Review

It is apparent from the OCSE report mentioned above and from our own discussions with people around the country that most states have not carried out any meaningful structured review process. Most states are simply repeating the political process they began with. Supplementary to that, Robert Willliams has been making appearances to reassert his personal support for his own policy preferences.

One thing that would improve the review process tremendously would be to actually have a child support policy. In *Fitzgerald*, cited above, the Court characterizes the litigants view in trying to exercise the right of rebuttal to the presumption that the guideline amount is correct. Without an explicit and clear conceptual basis for the award a litigant attempting to rebut the presumptive amount on the basis that it is unjust or inappropriate must do so without knowing what just and appropriate means. (Obviously impossible, and thus unconstitutional.)

The same situation obviously exists in regard to state review of child support guidelines. Federal law requires reviews be conducted to assure that application of a guideline results in a just and appropriate award in each case. Without a credible child support statute, reviewers are in the same position as litigants (and judges). They have no basis for judgment. With a proper statute, including proper authorization for the courts to apply it (see model statute) the courts themselves will review the guidelines in the best and most comprehensive way - the way the Constitution intends.

Child support committee members and others interested in child support need to clear themselves of the distraction of fundamentally invalid "economic studies" and discuss the definitions and logic involved in making an award. State legislatures need to do their job of deciding what the state's policy will be.

Model Child Support Statute

Model Child Support Statute
Based on OREGON REVISED STATUTE, ORS 107.105, 1989

Whenever the court grants a decree of marital annulment, dissolution or separation, it has power further to decree as follows;

For the recovery from the party not allowed the care and custody of such children, or from either party or both parties if joint custody is decreed, such amount of money, in gross or in installments, or both, as constitutes just and proper contribution toward the support and welfare of such children. The court may at any time require an accounting from the custodial parent with reference to the use of the money received as child support. The court is not required to order support for any minor child who has become self-supporting, emancipated or married, or who has ceased to attend school after becoming 18 years of age. In determining the amount of the child support, the court shall consider the economic needs of the children and determine payment by the parents in proportion to their respective ability to pay on the basis that each parent has an equal duty to provide financial support for their children.

There shall be in any proceeding for determination of the child support award, a presumption that the [child support schedule] provides the proper award. Each presumptive award is subject to review at the request of either party. The court shall determine whether the presumptive award is just and appropriate under the terms of this statute and others in force. In all cases, the court shall provide a written statement listing the relevant considerations and pertinent facts related to its' decision. In making its' determination, the court shall consider, but not limit itself to, the following factors:

(A) The financial resources of both parents;
(B) The ability of each parent to support themselves;
(C) The cost of day-care if the custodial parent works outside the home;
(D) The expenses attributable to the physical, emotional and educational needs of the child;
(E) The tax consequences to both parties resulting from spousal support awarded, if any, and the child support award, and determination of which parent will claim the child as a dependent;
(F) Expenses in the exercise of visitation;
(G) The existence of children of other relationships; and
(H) Expenses arising from other factors as the court may determine relevant in a particular case.

Impact, International Influence and U.S. Welfare Reforms

Federal reform of the child support system has been the most significant part of welfare reform in the US over the past 15 years. The purpose of the reforms was to 1.) federalize the child support system, 2.) extend the welfare system's formulae and enforcement methods to non-welfare cases, and 3.) adapt to defined and as yet undefined international standards. The acceptance of reforms has been aided considerably by support from groups representing segments of the population which have profited directly from the initial increases in child support awards, primarily divorced, middle class mothers.

In 1973, The Hague Convention on Recognition and Enforcement established an international view of cooperation in the enforcement of child support orders. In 1974, apparently lacking any sense of coincidence, Senator Russell Long "perceived a connection" between "fathers who abandon their children" and a growth in AFDC spending. This led to the original federal child support and paternity legislation enacted in January 1975 (17). Among other things, child support enforcement services were required for families receiving assistance under AFDC, FC, and Medicaid programs. (18)

The welfare community did not favor the legislation and only a few Senators spoke in favor of it. When it passed, it did so at least in part because it was tied to more popular social service amendments (19). When passing the legislation, President Ford contended that the provisions went "too far by injecting the Federal Government into domestic relations." He complained of "serious privacy and administrative issues," and promised to propose legislation to correct defects (20).

During the Reagan years, our new addition to the federal bureaucracy, the Office of Child Support Enforcement, embarked on a national propaganda campaign. By the time the Child Support Enforcement Amendments were proposed in 1984, which began a dramatic expansion in the office's size, budget, and powers, most politicians were talking as if "deadbeat dads" were the nation's most serious problem (21).

At the Hague Conference on Private International Law in 1995 (22), a U.S. delegate promised the international community that federal legislation would "provide for services at the federal level through a Central Authority to ensure an efficient, workable and uniformly implemented system in cooperation with the states and with the foreign countries which are willing to take part. In addition, the federal government is considering the possibility of the United States becoming a party to one or more of the existing conventions."

The delegate obviously went too far. The federal government has taken new steps to modify cooperative agreements among the states and between the states and foreign countries. (23) In general however, the situation is the same as it was before. The Constitution

prevents the United States government from moving directly into territory reserved to the states and to the people by the ninth and tenth Amendments. The overall effect of federal tampering has been to make the system more bureaucratic, frustrating and even angering tens of millions of parents. In the end, it wasn't even important. There's simply not a significant difference between the law of a foreign country saying "all states within the United States" (24) instead of "the United States". Those feeling that it's too burdensome for foreign countries to have fifty addresses instead of one can think about a central office of communication rather than a "Central Authority". Additional government power was simply not needed to make cooperative efforts workable and efficient.

Reform efforts within the US have been driven by the same bias found in international forums, more so than just in the preference for bureaucratic, centrally controlled governmental systems. At a Hague conference on international enforcement of family / child support, one foreign delegate reported that the need for enforcement was clear due to the efforts of debtors to "do anything to avoid their responsibilities". (25) Promotion of reforms in the United States took that idea as its central theme, even though the United States has historically had one of if not the highest compliance with child support orders in the world. (26)

The Bureau of the Census in the US reported on child support payments in the spring of 1995. (27) According to that report, the so-called "deadbeat dads" are few and far between in the population with valid child support orders. (28) Comments on child support compliance often focus on the estimate that only about 66% of the child support that has been awarded is paid. This does not consider the fact that more than 14% of the amount under study had been recently awarded and was not yet due. Considering custodial parent reporting bias and adjusting for awards not yet due brings us closer in line with the information provided by Braver et al. (29) as well as information collected by commissioners in the states. Approximately 80% of the total amount of child support awarded in the U.S. has historically been paid each year. The compliance rate was not significantly effected by reforms.

While labor force participation by women has increased from 30 to 57% since 1950, participation by men has decreased from 82 to 74%. (30) Participation is still 23% higher for men than for women. Traditionally, child support has not often been awarded when the father is given custody. Increased participation by women in the work force as well as new child support laws are leading to change. The fact that custodial fathers received only about 44% of the amount awarded according to the Bureau of the Census study (compared to nearly 66% received by mothers) is largely, but not completely explained by the fact that a larger percentage of custodial fathers had very new awards and payments were not yet due.

This leaves us with about 20% of the amount fathers have been ordered to pay to custodial mothers unpaid each year. From that figure, we must deduct for fathers who have died, those who are unable to work due to incapacity and incarceration, and for orders that no longer require payment because the child has died or has become emancipated, the very serious problem of missing custodial parents and children, (31) and even for changes in custodial arrangements. As Braver et al. point out, (32) the remainder, as well as some lateness in payments (classified as partial payment) is primarily explained by un- and under- employment. These figures give us an understanding that the failure of the new child support system to reduce dependency on welfare was predictable.

Failure of federal child support reforms of the 1980s and 90s to reduce welfare dependency is easily explained. At the beginning of this paper, we mention the Oregon Supreme Court decision in *Smith v. Smith* (1981). The issue in this case was whether it was appropriate to apply child support formulae that were already being used in the welfare system to non-welfare cases. It should not be difficult to understand that extending use of these formulae to non-welfare cases would have no effect on welfare dependency.

Indiana State child support commissioner, Dr. David Garrod made a comparison between awards made prior to 1990 according to established child support law and application of a Williams type Income-Shares guideline used in his state. (33)

He showed clearly that increases in award amounts went to custodial mothers with higher income. In fact, the higher the income of the custodial mother, the larger the increase. Mothers who then re-married and shared the income of a new spouse as well, tend to be much better off economically than they would have been if they had remained married to the father of their children.

One might expect that greater potential lies in the 46% of all custodial parents who have no support order. One can account for a significant number of welfare dependents as not receiving child support because paternity has not been established. Here again however, the reality is not as great as the expectation.

All the reasons for adjusting the expectation given above would also apply to this population. Some at least to a greater extent. Although we know of no study to date clearly focusing on the economic characteristics of this population, there is clear reason to believe that their average income is much lower and that they have a much greater problem with un- and under- employment. In addition, there are a large number of people who do not have child support orders simply because they are not interested in becoming involved in government programs and not in need of a court order for child support.

There should be some economic potential in establishing paternity and support orders in welfare cases. This is not a new revelation either. All states had paternity establishment programs prior to the reforms of the 80s and 90s. It may seem ironic that the federal government had to be coaxed during this period to re-focus its efforts from arbitrarily increasing child support awards in non-welfare cases to paternity establishment. But states were already experimenting with the idea of denying welfare benefits to women who did not cooperate in paternity establishment and had been reasonably successful in a program of locating so-called "absent fathers" in hospitals at mother's side when children were born. In addition, a more reliable DNA test was replacing a simple blood test, increasing accuracy of identification in contested cases.

We can go back to the Smith case to point out that a serious problem did exist. Why did Mrs. Smith feel there was reason to complain? There was a discontinuity in the treatment of child support cases at the boundary between welfare and non-welfare cases. The inequality of treatment on either side of the boundary was so significant that Mrs. Smith, apparently not a wealthy woman, proceeded through the judicial system to the State Supreme Court. Although we are confident that the court was correct in its determination that the welfare formula did not fit established non-welfare child support law, it doesn't alleviate the practical problems that arise from such starkly unequal treatment in similar circumstances.

Mrs. Smith was caught between the moment the federal government adopted foreign methods for dealing with welfare cases and the moment the federal government manipulated states into extending those methods to non-welfare cases. In a political sense, she had been living in one country while on welfare and suddenly moved to the United States when her income became high enough to leave the welfare system. The two systems didn't match. What has happened since is that 10s of millions of Americans whose children are not dependent upon the welfare system have been transferred, sometimes kicking and screaming, into the non-American system. To date, there has been no government funded effort to adapt the new child support system to Constitutional requirements or those of the federal law mandating the change.

Conclusions

What should be regarded as the greatest mistake in the reform movement, as well as the greatest embarrassment to the United States is that the domestic political discussion has consisted almost exclusively of propaganda demonizing non-custodial parents.

In the background, the American public has been aware of "The New World Order" in relation to the fall of the Soviet Union, and generally understand that new global trade agreements have been and are being forged. But not a hint of information has been fed to the general public on integration of or "cooperation" in an array of social programs or the impact of global integration on our domestic judicial system. Had the government made a greater effort at full disclosure, the American public would surely have responded with pressure to adapt newly proposed systems to Constitutional requirements.

The Milwaukee Journal Sentinel recently reported that an error of forty cents was made in withholding one man's final child support payments. The man believed he was finished with the child support enforcement agency and went on with his life. He wasn't told that he owed back support until one day he was informed that he faced contempt of court charges that could result in a 180 day jail sentence. By that time the agency said he owed $173.53 including interest and fees. (34)

The problems of the new system go well beyond inappropriate child support awards. The Los Angeles Times recently reported that in the process "designed to snag deadbeat dads and force them to pay up on their child support", one county had assigned paternity incorrectly to hundreds of men by default. (35) The bureaucratic idea of "due process" is that if the proper paperwork isn't submitted on time, the individual citizen they deem responsible for it faces the consequences. Those consequences included trouble with relationships and marriages and assignment of a child support obligation. The agency then refused to correct the problem and it has been necessary for innocent victims to go through the process of battling the bureaucracy in court.

It is time to talk about Americanizing our new child support decision system. Several states are actually using the Soviet Communist system promoted by Irwin Garfinkel, while all other states have been pushed in that direction by promotion of Williams' odd variation of the Income Shares model. Beyond the formulae for calculation of child support awards, there is the array of unrelated punishments such as the loss of drivers and professional licenses and the return of the United States to the ante-bellum standards of involuntary servitude and debtors prisons that had not been abandoned in the Soviet Union.

The fact is that the bureaucratic "efficiency" promoted by international integration isn't compatible with fundamental rights in the United States. "Efficiency" in this sense has nothing to do with doing the job correctly. It has had to do with a broadside attack on a large group of citizens, an over-controlling government, a federal government becoming too involved in the daily lives of individuals, and spending more money doing it. In the broad view, Americans who have become familiar with the system look at the billions of additional dollars spent on a system that provides no net benefit, a federally developed $3 billion dollar computer tracking system that doesn't improve payments but causes harm to innocent people, and they cannot equate the reforms with efficiency.

In 1995, the cost of operating the child support enforcement program was nearly 3 times the amount paid in reimbursement of welfare benefits. (36) The promotion of reform presented to the American people consisted of telling them that poverty in the US was largely the fault of "deadbeat dads" who had successfully transferred financial responsibility for their children to the American taxpayer. The expensive new child support enforcement system was called an "investment" aimed at forcing these fathers to live up to their responsibilities to the relief of the American taxpayer. Instead, it's added around $3 billion each year to their burden. The failure of the program to produce promised results was so predictable that one congressman said; "We're going to reform welfare in order to save money. As far as I can tell, it's going to be very expensive."

The most efficient thing to do is to eliminate the new system and focus on doing what's right the first time around. What this requires is exactly what Americans have always understood. Basic rights, including strong respect for due process of law, careful scrutiny to see that people are not treated unjustly, enforcing the necessary discipline against waste and error. The basic rules which most Americans believe to be fundamental to our Constitutional system should even protect groups of citizens who happen to find themselves at the cross-roads of bureaucratic interests against the ill feelings and biases created by intense propaganda campaigns.

The approach proposed in the sections above (based on Legal Construction) was taken in the Project for the Improvement of Child Support Litigation Technology (PICSLT) starting in 1989. A great deal was learned about tuning child support formulae to the American system. Generally, child support committee members have seen the application of mathematics to the child support question as something magical and transforming, as though once a report is produced alleging statistical support for one view, there is no longer any need for traditional legal processes.

But there most certainly is a need. The only way to properly apply mathematical decision models within the context of Constitutional justice is to fully disclose the nature of the mathematics, the underlying reasoning, and the assumptions in such a way as to make their review practical in comparison with the circumstances of each case. The only acceptable way to reduce the number of deviations from guideline amounts is to continue to improve the decision models so that they do a better job. In addition, making it easier to identify situations in which deviations are appropriate and developing simple ways to calculate deviations would improve the overall efficiency of the process.

As it turns out, developing a model within the discipline the United States Constitution provides an excellent body of theory useful to other countries in the world. Whereas other countries have developed models specifically fitting their economic / political structure and tuned to their current set of welfare state benefits, the Constitution simply tells us that we are required to "do the right thing" in each case. We are therefore under pressure to dig deeply into the question to determine what the right thing is in the greatest possible array of circumstances. This means developing the most general and complete theory.

In recent study within PICSLT, it has been found that models fitting a wide range of political / economic systems can be explained by the theory developed within the project. Beginning with the most complete model, we simply eliminate variables that do not apply in more controlled economies, and account for any array of welfare state benefits by methods which are already an integral part of the theory. This confirms the view given in the previous paragraph.

The scientific approach to developing child support science and technology should be understood as a parallel to the established judicial process, what we call "due process". Mathematical models are a precise, formal way of expressing concepts and relationships. "Precise" is not synonymous with "just" or "appropriate". To produce valid results ("just and appropriate" in the words of the Family Support Act) successful testing is required. In order to test, some set of independent criteria for deciding what "just and appropriate" is must be developed (i.e. a child support policy to which a presumptively correct "guideline" must conform).

It was disconcerting to see how quickly very simple child support formulae were accepted in the states. Even more so because their simplicity was given as one of their major selling points. Federal law (and the Constitution) require a just and appropriate award in each and every case. The goal is to construct guidelines that are sufficient to produce just and appropriate awards in every circumstance to which they are applied. It is required that judges can identify inappropriate and unjust results and that attorneys and parents can argue for deviation when a formula fails.

No one should underestimate the task of adapting properly to the new requirements. The initial thrust, following OCSE / Williams recommendations for development of guidelines was a false start. In order to do the job properly, and in the quickest and most efficient manner, it will be necessary for legislatures and the courts to give the highest priority to the basic requirements of the Family Support Act ("just and appropriate award in each case") and the highest respect for Constitutional rights.

Endnotes

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12. Section 467(b) of the *Social Security Act* as specified in the *Family Support Act of 1988.*
13. Gay, Roger F., *Rational Basis is the Key Focus in Emerging 'Third Generation' Child Support Technology*, in Proceedings of the Seventh Annual Conference of the Children's Rights Council, Holiday Inn, Bethesda, MD, April 28 - May 2, 1993. (This paper was provided to the Oklahoma House and Senate Judiciary Review Committee for child support guidelines prepared by Dr. Palumbo and provided last November to each member.)
14. ORS 109.010; 109.030, 1988
15. See for example; Doris Freed and Timothy Walker, "Family Law in the Fifty States: An Overview", Family Law Quarterly, Vol. XIX, No. 4 (Winter 1986), pp. 331-442, 411
16. For commentary on this point, see; *Fitzgerald v. Fitzgerald*, 566 A 2d 719 (D.C. App. 1990).
17. Title IV, Part D of the Social Security Act
18. Solomon, Carmen D., 1989, *The Child Support Enforcement Program: Policy and Practice*, Congressional Research Service Report for Congress, December 8, 1989, 1-3.
19. Solomon, p 12.
20. Malone, Margaret, The Child Support Enforcement Amendments of 1984, Congressional Research Service, Report No. 84-796 EPW, Washington, 1984, p 1-2.
21. During 1992 presidential debates, president George Bush said that he thought maybe the "deadbeat dad thing" was the problem Americans were most concerned about. To that, candidate Bill Clinton made the famous remark, "It's the economy, stupid." Politicians can apparently have short memories. President Bill Clinton continued to rely heavily on "deadbeat dad thing" through his 1996 re-election campaign.

22. "Parallel Unilateral Policy Declarations - Bilateral Arrangements as an Alternative to Conventions on the Enforcement of Support (Maintenance) Obligations", Hague Conference on Private International Law (13-17 November 1995), Working Document No. 2 submitted by the Delegation of the United States, Special Commission on maintenance obligations, 13 November 1995.
23. The Uniform Reciprocal Enforcement of Support Act (URESA) was first developed in 1950 by the National Conference of Commissioners on Uniform State Laws (NCCUSL), and was revised significantly in 1968 (RURESA). In August, 1992, an almost wholly new Act was completed to replace URESA/RURESA and was renamed the Uniform Interstate Family Support Act (UIFSA). UIFSA: "a foreign jurisdiction that has established procedures for the issuance and enforcement of support orders which are substantially similar to the procedures under this act." By this simple addition to the definition, the reach of the enforcement process of the states was greatly expanded.
24. Example; In 1994, a paragraph was added to Swedish law stating that recognition would be given to orders written in Australia, America's United States including Guam, The Virgin Islands, Puerto Rico and Samoa, with the exception of Alabama, District of Columbia, Mississippi and Nevada. (1976:108 with changes 1977:743 and 1994:1327)
25. Report made by the U.S. Delegation via the U.S. Embassy at the Hague to the Department of State in December 1995, Subject: International Enforcement of Family / Child Support: Meeting of Hague Conference Special Commission [November 13-17, 1995] to Examine the Functioning of Various International Conventions Concerned with Enforcement and Recognition. (Within the context of the Hague Conference on Private International Law.)
26. As discussed below, the compliance rate in the US is approx. 80% of what is ordered is paid. Generally, investigations by PICSLT indicate that overall compliance with child support orders is well correlated to the economy. It seems apparent that this relatively high compliance rate in the US is a result of the generally high level of wealth enjoyed by its citizens. Non-compliance is well correlated with inability to pay.
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28. Although according to the data used in that report, child support had been awarded for only 56% of all separated custodial parents. Part of the lack of support orders however, can be explained by the death of an ex-spouse, agreement not requiring a court order, and other reasons. A significant part however is simply because paternity has not been established.
29. Braver, Sanford, Pamela J. Fitzpatrick, and R. Curtis Bay, 1988, *Non-Custodial Parent's Report of Child Support Payments*, presented at the Symposium "Adaptation of the Non-Custodial Parent: Patterns Over Time" at the American Psychological Association Convention, Atlanta, GA, August, 1988. Compared Bureau of Census custodial parents reports (approx. 70% received) with father survey (approx. 90% paid). Part of the payments goes directly to the welfare system as reimbursement rather than directly to the custodial parent.
30. "Women in the United States: A Profile", U.S. Department of Census [1995]. (Although these figures may have improved significantly due to improvements in the economy as a whole.)
31. It is estimated that approximately 300,000 have lost regular contact with their fathers due to visitation interference. It is unfortunately too often the case that custodial mothers who move out of state do so without making adequate arrangements for visitation, often do not notify the non-custodial parent of the move even if required by law, and may leave intermediate forwarding addresses and have unlisted phone numbers. National parent finder centers typically deny services to non-custodial parents as a matter of federal policy.
32. Ibid. Braver et al.
33. Garrod, David, Comparison of Child Support awards, http://www.vix.com/pub/men
34. Milton man says debt had grown to $173.53 by the time he learned of it, Kathleen Ostrander, Special to the Milwaukee Journal Sentinel, April 10, 1998
35. LOS ANGELES, April 12 (UPI)
36. 1996 "Green Book"

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