Grand Jury – Focus on Child Protective Services and Parental Government

By Richard Walbaum

Whoever owns the children has the right and power to determine the standards of child rearing and education. Since the state requires that the children attend public school (or have an approved curriculum for home schooling), and discipline the children according to state rules (no spanking, etc.), it is apparent that the state believes it owns your children. This paper shows how to apply natural law and principles of the Bible to restore parental government and take back control of our children.[1]

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1. Sovereignty vs. the Doctrine of Parens Patriae

A sovereign is a person who is self-governing, who exercises supreme authority. When King George signed the Treaty of Paris which ended the Revolutionary war, he relinquished all sovereignty over Americans which left the American people as sovereigns. The courts have said:

> The people of the state, as the successors of its former sovereign, are entitled to all the rights which formerly belonged to the king by his own prerogative. *Lansing v. Smith*, (1829) 4 Wendell 9, (NY).

> It will be admitted on all hands, that with the exception of the powers surrendered by the Constitution of the United States, the people of the several States are absolutely and unconditionally sovereign within their respective territories. *Ohio L. Ins. & T. Co. v. Debolt*, 16 How. 416, 428; 57 U.S. 416; 14 L.Ed. 997.

> Definition of Citizen: One of the sovereign people. A constituent member of the sovereignty, synonymous with the people. *Scott v. Sandford*, 19 How. (U.S.) 404, 15

1 This article is based on the book *The LAWFUL Remedy to Tyranny,* Richard Walbaum (2011); see a summary at www.NaturalLawRemedy.com.

L. Ed. 691. Bouvier's Law Dictionary, 1914 Ed. p. 490.

We will now see how the doctrine of *parens patriae* usurped that sovereignty.

Parens patriae is described by a court as follows:

> In the law dictionaries of Bouvier, Black and Ballentine, the term parens patriae is defined as the father or parent of his country; in England, the King; in America, the people; the government is thus spoken of in relation to its duty to protect and control minor children and guard their interests. . . . Minors are the wards of the nation, and even the control of them by parents is subject to the unlimited supervisory control of the state. *Helton v. Crawley*, 41 N.W. 2d 60, 70 (Supreme Court of Iowa, 1950).

I have no doubt that the doctrine applies to orphans, but it cannot supersede the sovereignty of the people, or the natural right of parents to raise their children as they see fit. We have no recourse to history to find a natural law remedy to this bogus doctrine because it occurred after this nation was founded. Furthermore, the *Helton* court by sleigh of hand changed "the people" as sovereign to "the state" as sovereign.

The court does not make any distinction between a citizen and a subject. The people of England are *subjects* of an omnipotent King or Queen, and that doctrine applied to them; the people of America are *citizens* who gave their government its power, and limited it. The court continues:

> * * * a Court of Chancery[2] stands as a guardian of all children, and may interfere at any time and in any way to protect and advance their welfare and interests. . . . Besides the jurisdiction conferred upon the Court of Chancery by statute, it has authority under its general equity powers to deal with the custody of infants, which authority is in no way dependent upon statute. Its authority is so broad that the permanent custody may be fixed even in disregard of the legal rights of parents, where the welfare of children requires it. *Helton*, supra, 71.

The court says its authority "is in no way dependent upon statute," yet we know that the common law can be abrogated by statute. And according to the court, the rights of the parent may be disregarded, presumably even if those rights were based on statute. This sounds like a King over his subjects, not a citizen under a constitution of granted powers, or sovereigns who delegated a portion of their power to government. The court tells us where its power comes from:

> The theory upon which the court proceeds in such cases is that the custody and control of the parent over his minor children is a trust committed to him by the state, and this trust is dominated by the supreme guardianship of the state as parens patriae of all infants within its border. *Helton*, supra, 74.

The court tells us the basis of its power is *parens patriae*, we don't have to guess;

2 Also known as Equity.

control of the parents over their children is a trust that is a *grant from the state.* We have already learned that the people are the sovereigns, and power of the state over the people is a *grant from the people.* The state cannot give us what is already ours. The people, in ratifying the U.S. Constitution granted certain state powers and restricted others; we couldn't do that if the people were not sovereign over the state. In order for the state to give something in "trust" (the *Helton* court's word) to the parents, the state must have it to begin with; the source of that power is lacking.

The U.S. Supreme Court said:

> The case brings for review another episode in the conflict between Jehovah's Witnesses and state authority. *Prince v. Massachusetts*, 321 U.S. 158, 159 (1944). ...
>
> Acting to guard the general interest in youth's well being, the state as *parens patriae* may restrict the parent's control by requiring school attendance, regulating or prohibiting the child's labor and in many other ways. *Prince* at 166.

According to Danaya Wright,[3] under the common law of England, a parent who wished to claim custody of his children had two options. First, anyone, principally the father, could request a writ of habeas corpus to be issued out of a superior court if the child was being improperly held by another. The second method was to petition a Court of Chancery which had wide jurisdiction over infants in its right as *parens patriae*. This power, which was a power of the *Crown*, did not extend to deprive fathers of custody if they had not forfeited their rights due to misbehavior. The court in 1883 summarized this well-established doctrine:

> "It is not the benefit to the infant as conceived by the court, but it must be to the benefit of the infant having regard to the natural law which points out that the father knows far better as a rule what is good for his children than a court of justice can." … The Court of Chancery could interfere with a father's rights on five basic grounds: (1) unfitness in character or conduct, (2) failure to provide support for his children, (3) lack of means to support his children, (4) by agreement (not between fathers and mothers but between fathers and third parties if the third parties had acted so that revocation would prejudice the child), and (5) if the father intended to leave the jurisdiction.

Under natural law, the parents have original jurisdiction over the children granted by God,[4] who are responsible to take care of them, and for a law to be just, it must be based on necessity to protect the rights of others, while not violating the preexisting rights of the parents or children. Furthermore, the doctrine of *parens patriae* raises its head again; that doctrine was not brought over from England since this was a power of the King, unless applied to children without parents. The parents have jurisdiction over the children; if the state claims that jurisdiction, who watches over the state?

3 Danaya C. Wright, *The Crisis of Child Custody: A History of the Birth of Family Law in England*, p. 182, fn 28, 11 Colum. J. Gender & L. 175 (2002), *available at* http://scholarship.law.ufl.edu/facultypub/219

4 See the sub-*Section 4. The Natural Law Position.*

The Supreme Court noted that the maxims of law in England performed a different function in our system:

> It necessarily happened, therefore, that as these broad and general maxims of liberty and justice held in our system a different place and performed a different function from their position and office in English constitutional history and law, they would receive and justify a corresponding and more comprehensive interpretation. Applied in England only as guards against executive usurpation and tyranny, here they have become bulwarks also against arbitrary legislation; but, in that application, as it would be incongruous to measure and restrict them by the ancient customary English law, they must be held to guarantee not particular forms of procedure, but the very substance of individual rights to life, liberty, and property. *Hurtado v. California*, 110 U.S. 516, 532 (1884).

Furthermore, most of the states' constitutions state that the *people* ordained and/or established the constitution, and mentioned that political power is inherent in the people. For example, the Constitution for the State of Iowa states that the people are sovereign:

> **Political power.** Sec. 2.
>
> All political power is inherent in the people.
>
> Government is instituted for the protection, security, and benefit of the people, and they have the right, at all times, to alter or reform the same, whenever the public good may require it.

If the State of Iowa was really a sovereign, the people would not have the power to alter the form of government. And that is the job of the grand jury, to nullify any laws or government actions that conflict with parental government.

Can it be that as of 1950 (the date of the above case) the courts have forgotten their source of power? I think so. *Jeffrey Blustein,* in his article *On the Doctrine of Parens Patriae,* Criminal Justice Ethics, Summer/Fall 1983, p. 39 said:

> Since the theory of parens patriae regards parental authority over children as derived from the state, parents have no right, simply as parents, to define their own standards of child rearing and to demand that the state confine its requirements to minimal standards of care and education. The state might adopt minimal standards or maximal ones, but parental rights are merely creatures of the state, and individual parents have no independent source of authority on the basis of which to challenge the judgment of the state as regards the proper direction for parenting.

When we won the war of independence, the King of England via the Treaty of Paris gave up all claims to the colonists who then became sovereigns. Now imagine that you are one of those colonists who will be voting on ratifying the state or federal constitution, and one of the terms is that you will not own your children, and control of them will be in the form of a trust committed to you by the state, and this trust is dominated by the supreme guardianship of the state. Would you accept those terms? If I was to put words into your

mouth, I would expect you to say: "No fricken way." There is not a chance that our founding fathers would go for such a ridiculous notion, nor would we today.

There are certain principles that were not brought over from the old country. We brought much of the common law of England to America and made it part of our birthright; those laws inconsistent with our views of liberty and our way of life were not incorporated into our common law. We did not give this kind of power over us to the state, nor by extension, over our children; it is unreasonable. The state can protect children as it can protect anyone else for assault or battery, taking into consideration the legitimacy of parental law, government, and punishment. But the state has no particular jurisdiction over children who have parents, based on parens patriae, and this is confirmed by a District Court:

> ... [T]here is a certain zone of individual privacy which is protected by the Constitution. Unless the State has a compelling subordinating interest that outweighs the individual rights of human beings, it may not interfere with a person's marriage, home, children and day-to-day living habits. This is one of the most fundamental concepts that the Founding Fathers had in mind when they drafted the Constitution. *Roe v. Wade*, 314 F. Supp. 1217, 1222 (1970).

The *Roe* court placed the right of a mother to kill her unborn child, above the power of the state to regulate that choice. How can the mother have less control over raising her children?

> Freedom to choose in the matter of abortions has been accorded the status of a "fundamental" right in every case coming to the attention of this Court where the question has been raised. *Roe v. Wade*, 314 F. Supp. 1217, (1970); many citations deleted.

2. Parental Government

Parental government has its basis in the Bible and in natural law. Religious free exercise, and Statute 96-1211, can be used to apply biblical principles against any federal or state law contrary to biblical principles.

Religious Free Exercise

In a case on conscientious military exemption, the Supreme Court said:

> The validity of what he believes cannot be questioned. Some theologians, and indeed some examiners, might be tempted to question the existence of the registrant's "Supreme Being" or the truth of his concepts. But these are inquiries foreclosed to Government. As Mr. Justice Douglas stated in *United States v. Ballard*, 322 U. S. 78, 86 (1944): "Men may

> believe what they cannot prove. They may not be put to the proof of their religious doctrines or beliefs. Religious experiences which are as real as life to some may be incomprehensible to others." Local boards and courts in this sense are not free to reject beliefs because they consider them "incomprehensible." **Their task is to decide whether the beliefs professed by a registrant are sincerely held and whether they are, in his own scheme of things, religious. But we hasten to emphasize that while the "truth" of a belief is not open to question, there remains the significant question whether it is "truly held." This is the threshold question of sincerity which must be resolved in every case. It is, of course, a question of fact—a prime consideration to the validity of every claim for exemption as a conscientious objector.** *U.S. v. Seeger*, 380 U.S. 163, 184 (1965). [emphasis added]

Chief Justice Hughes said:

> "[P]utting aside dogmas with their particular conceptions of deity, freedom of conscience itself implies respect for an innate conviction of paramount duty. The battle for religious liberty has been fought and won with respect to religious beliefs and practices, which are not in conflict with good order, upon the very ground of the supremacy of conscience within its proper field." *Seeger*, 176.

The Chief Justice says that your practices have to tend to good order, and he argues about the supremacy of conscience within its proper field. In order to qualify for an exemption to the law based on religious free exercise, your exemption must be based upon religious training and belief in a relation to a supreme Being involving duties superior to those arising from any human relation, but not including essentially political, sociological, or philosophical views or a merely personal moral code. These considerations are reserved for government. *Seeger*, supra, 165. Be sure to read this case yourself.

Government defines religious free exercise in terms of duty to God, and does not want to jail people who refuse to violate their conscience or duty. The exercise of free will is not optional when the non-exercise of it causes you suffering; suffering indicates violation of natural law, nature's feedback mechanism telling you what you are doing is wrong. This makes it your duty to do it. The right to the pursuit of happiness, the right to follow natural law, the right to do the right thing, and the right to do the Will of God are the same right. And since individual suffering is a seed of social disharmony, it is in society's interest to keep individuals happy by allowing them to exercise these rights.

The First Amendment free exercise of religion is not just "duty to God" as it is framed by the courts, but it does need to be framed in terms of religion if you want to avail yourself of the First Amendment (otherwise, use the Ninth Amendment to assert a different right). A frame is an enclosure; enclose the desired action in terms of religion which has to do with spiritual matters, how you feel, and how your feelings relate to God and His natural law, and the feedback of natural law which is suffering (for wrong action) and happiness (for right action), and your right to pursue happiness.

Note that your beliefs must be truly held, and not including essentially political, sociological, or philosophical views or a merely personal moral code.

Be careful about the phrase "personal moral code". It implies that if you are the author of your behavior, instead of God, then it is not a duty to God. Natural law comes from God, and while the

major natural laws have been expressed in scripture or stated by a prophet, the one you want to follow may not have been. For example, the people living 2,000 years ago did not need to argue the right to drink raw milk, or to be free from unnatural and mandatory injection of viruses (vaccines); these weren't issues, so you may not find much scripture to support them. Your personal moral code represents your highest ideal of conduct that you can comprehend. It is your innate sense of right and wrong. Just because you wrote it and not someone else previously, doesn't mean it has no validity or no truth. You should recognize that God had a hand in developing your personal moral code, and your duty to exercise your rights would be expressed in that code. Now that you understand what a personal moral code is, it is better to call it a duty to God, and stay away from judicial Orwellian double meanings.

You will be challenged in court to prove your beliefs are truly and sincerely held, and that is the issue of fact to be determined in your case. You should know what you believe and why you believe it in case you are called upon to explain it. Your explanation only needs to be comprehensible to you, and that it occupies an essential place in your life. It should be based upon study and religious training. This hurdle may make it better to avoid religious free exercise if possible. In a federal action, you can rely on 96 Stat. 1211.

If you are willing to go to jail for your beliefs, this will prove your conviction and your conscience. You may not have to go to jail, but you better be willing, otherwise your conscience, duty to God, and rights from God, may not be strong enough to free you from statutory law. If you go to jail, your beliefs must be strong enough so that you do not suffer a “jailhouse conversion.” You must believe that what you are doing is the right thing, and be willing to stand up for it, or don't do it.

Statute 96-1211

Statute 96-1211 was passed by joint resolution of Congress and is federal law, and thus can be raised in court like any other statute.

CONGRESS DECLARES BIBLE "THE WORD OF GOD"
PUBLIC LAW 97-280--OCT.4, 1982, 96 STAT. 1211

Joint Resolution

Authorizing and requesting the President to proclaim 1983 as the "Year of the Bible".

Whereas the Bible, the Word of God, has made a unique contribution in shaping the United States as a distinctive and blessed nation and people;

Whereas deeply held religious convictions springing from the Holy Scriptures led to the early settlement of our Nation;

Whereas Biblical teachings inspired concepts of civil government that are contained in our Declaration of Independence and the Constitution of the United States;

Whereas many of our great national leaders--among them Presidents Washington, Jackson, Lincoln, and Wilson--paid tribute to the surpassing influence of the Bible in our country's development, as in the words of President Jackson that the Bible is "the rock on which our Republic rests";

Whereas the history of our Nation clearly illustrates the value of voluntarily applying the teachings of the scriptures in the lives of individuals, families, and societies;

Whereas this Nation now faces great challenges that will test this Nation as it has never been tested

before; and

Whereas that renewing our knowledge of and faith in God through Holy Scripture can strengthen us as a nation and a people:

Now, therefore, be it Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to designate 1983 as a national "Year of the Bible" in recognition of both the formative influence the Bible has been for our Nation, and our national need to study and apply the teachings of the Holy Scriptures.

Approved October 4, 1982

Parental government must be given due regard as a legitimate form of government. “Be home by 10 o'clock” is valid parental law, and traditional forms of punishment such as grounding and spanking cannot be outlawed by the state because it is outside the state's jurisdiction. If the state outlaws spanking which has been acceptable for the last several thousand years, the proper remedy is nullification.

If one denies the existence of parental government, the only alternative is that the regulation of children comes from the state.

If the state can through enforcement of the protection of children instead cause them harm, then the state would be hypocritical to argue that any parental punishment of children is equivalent to harm that would justify removing them from the parents. Why couldn't the grand jury remove children from Child Protective Services (CPS) for the same reason?

Just as we respect the laws of other countries that we may think are abusive, unless parental action shocks the conscience of the community, the parental laws of numerous households must be respected. Different children need to be handled differently. The state imposes a one-size-fits-all system of child discipline.

The state, via CPS (described below), is not set up to act as the community's conscience or judge of parental government because there is no trial by jury, and the proceedings are kept private. The CPS, being an administrative agency, is executive (enforcer), legislative (writes regulations), and judicial (judges your guilt) all rolled into one, and your rights as against the CPS are secured only by the ruling of a family court judge. This violates our right to trial by jury, assuming it is provided by your state Constitution.

The State As Your Marriage Partner

The state appears to act as if there is no such thing as parental government, and all parental power is a grant from the state. Parents are just baby sitters. We can take a deeper look at the source of this power beyond *parens patriae*.

Marriage has been defined by the Tennessee Supreme Court as follows:

"It (marriage) is something more than a contract. It is rather to be deemed an institute of society; founded upon the consent and contract of the parties; and in this view has some peculiarities in its nature, character, operation, and extent of obligation, different from what belong to ordinary contracts.' Unlike other contracts, it is indissoluble between the parties. When consummated according to law, it is of perpetual obligation, and cannot be renounced at the will of either or of both parties. It continues to exist until a dissolution is pronounced either by the death of one of the parties, or by a divorce. . . . The rights and duties growing out of it are not left to the option or agreement of the parties, but to some extent are matters of municipal regulation, over which the will of the parties can have no control. . . . It is an institution which lies at the very foundation of all social order and morality, and constitutes the chief cornerstone of the whole structure of civilized society." *McKinney v. Clarke*, 32 Tenn. 321, 324 (1852).

If you're planning on getting married, you may be interested to know that a marriage license is a three party contract between husband, wife, and the state:

The state is a party in interest to the marriage contract, together with the husband and wife, and the relationship is one in which the state is deeply concerned and over which it exercises a jealous dominion. *Dakin v. Dakin*, 197 Or. 69, 72; 251 P. 2d 462 (Oregon Supreme Court, 1952).[5]

The state will pronounce any marriage contract void if it tends to corrupt the marriage status:

The welfare of society is so deeply interested in the preservation of the marriage relation, and so fraught with evil is regarded whatever is calculated to impair its usefulness, or designed to terminate it, that it has long been the settled policy of the law to guard and maintain it with a watchful vigilance.

[A]ll contrivances or agreements, having for their object the termination of the marriage contract, or designed to facilitate or procure it, will be declared illegal and void as against public policy. *Giddings v. Giddings*, 114 P. 2d 1009, 1013; 167 Or. 504, 513; 119 P.2d 280 (1941).

The state gains its power to regulate marriage under the police powers to protect the morals and safety of society. The state can regulate matrimonial contracts, the qualifications of the parties, the forms, duties, and obligations, and the causes for divorce.[6]

The Federal government does not have the power to regulate in this area since such power is not enumerated in the Constitution. Check the codes or statutes of your state.

If your state does not provide for it by statute, the 1st Amendment free exercise clause allows you to practice alternate forms of marriage such as a common law and patriarchal marriage.

5 See 55 C.J.S. Marriage, Sec. 1
6 See 55 C.J.S. Marriage, Sec. 2.

There is a widespread idea that if you marry without a license, you are somehow living in sin, living together unmarried. Didn't the marriage relation created by God pre-exist the state (Matthew 19:6 "Wherefore they are no more twain, but one flesh. What therefore God hath joined together, let not man put asunder")? This is recognized as, and called a common law marriage; it doesn't require permission of the state, and if alternative forms of marriage are forbidden, this is void under natural law;[7] but reasonable regulation is permissible to conform to the laws of inheritance and community property.

If you want one of the several hundred denominations of churches to marry you, then you will probably need a license. These churches are corporations granted IRC 501d tax exemption. As corporations, they are creations and creatures of the state, and probably need to abide by the marriage statutes.

If I was having an issue with the CPS trying to take my kids (described below), I might want to bring an action against the state for breach of (marriage) contract. Since the state claims to be a party at interest to the marriage contract, and since the state instead of protecting the family is attempting to tear it apart by taking the children, it has breached the contract and I and my wife want damages, and an injunction for them to cease and desist. Maybe remove the state from the marriage and then enter into a common law or patriarchal marriage. I might be able to claim the children as *property* in a common law action (not equity in a family court jurisdiction), asking for damages under my Seventh Amendment right to trial by jury since their value is in excess of $20.

3. Kidnapping for fun and profit

Senator Nancy Schaefer of Georgia gave a scathing indictment of Child Protective Services (CPS):[8]

> The Department of Child Protective Services has become a protected empire built on taking children and separating families. This is not to say that there are not those children who do need to be removed from wretched situations and need protection. However, my report is concerned with the children and parents caught up in legal kidnapping. Having worked with probably 300 cases statewide and hundreds and hundreds across the country and in nearly every state, I am convinced there is no accountability in Child Protective Services. ... Case workers, and social workers, are very often guilty of fraud. They withhold and destroy evidence. They fabricate evidence. And they seek to terminate parental rights unnecessarily. ... Six times more children died in foster care than in the general public, and that once removed to official safety, these children are far more likely

7 This is not a defense of same-sex marriage. The U.S. Supreme Court's decision of *Obergefell Et Al. v. Hodges, Director, Ohio* 14-556_3204 (Slip Opinion, 2015) that same-sex marrige is a right guaranteed by the 14th Amendment is a farce; nothing therein mentions marriage (go read the 14th Amendment yourself). Those five justices should be indicted for bad behavior and kicked off the bench. In the mean time, the states should nullify said opinion; reread the cases cited in this section.

8 Senator Schaffer was suicided in 2010: http://www.infowars.com/oddities-in-the-nancy-schaefer-suicide-case/

to suffer abuse, including sexual molestation, than in the general population. ... The bureaucracy of workers benefit financially by a system that converts children into cash, while destroying their families and their lives.[9] No child that emerges from the system can ever be sound or whole. Many disappear, and never are ever heard from again. What is happening in America regarding Child Protective Services is a criminal political phenomena, and it must be brought to an end.[10]

Brenda Scott, in her 1994 book *Out of Control: Who's Watching Our Child Protection Agencies*, criticizes CPS, stating:

> Child Protective Services is out of control. The system, as it operates today, should be scrapped. If children are to be protected in their homes and in the system, radical new guidelines must be adopted. At the core of the problem is the antifamily mindset of CPS. Removal is the first resort, not the last. With insufficient checks and balances, the system that was designed to protect children has become the greatest perpetrator of harm.[11]

On a website titled *Protecting Our Children From Being Sold*, an article titled *How Child Protection Services Buys and Sells Our Children*[12] reported the use of psychotropic drugs on children:

> In 2003 a Florida Statewide Advocacy Council study found that 55 percent of Florida's foster children were being administered psychotropic medications. Forty percent of them had no record of a psychiatric evaluation. Another Florida report also indicated anti-psychotic medication use increased an astonishing 528 percent from 2000 to 2005.
>
> A Texas state study in 2004 revealed that 34.7 percent of Texas foster children were prescribed at least one anti-psychotic drug — and 174 children aged 6-12 in the care of the state were taking five or more psychotropic medications at once.

Also see the article on that site *Senate Set To Renew 1997 Law That Pays CPS to Kidnap Children*.[13] [14]

9 According to Alex Jones on his radio show (www.infowars.com), $200,000 is the going market price for a blond haired blue eyed boy. Some children are worth over a million.

10 See http://www.youtube.com/watch?v=_TcDTJlPWbE This 10-minute video tells the whole story in brief. You can see her published article at http://fightcps.com/2008/02/29/report-of-georgia-senator-nancy-schaefer-on-cps-corruption/. Do a YouTube search on "Nancy Schaefer" for other videos.

11 From a Wikipedia article that provides a good overview of CPS that you should read if you are involved in a CPS action. http://en.wikipedia.org/wiki/Child_Protective_Services.

12 http://protectingourchildrenfrombeingsold.wordpress.com/category/abuse-by-mental-health-and-cps-using-drugs-to-keep-children-under-control/ This site is a good general resource.
See http://www.youtube.com/watch?v=wkphmRFogmc,
http://www.prisonplanet.com/articles/january2006/010106sexslavescandal.htm.
Do a search on dyncorps child kidnapping.

13 http://protectingourchildrenfrombeingsold.wordpress.com/about/senate-set-to-renew-1997-law-that-pays-cps-to-kidnap-children/

14 For a history of CPS, see: http://www.ipt-forensics.com/journal/volume3/j3_2_5.htm. Do a search on "groups fighting cps" for more sources.

In short, the *principle of necessity* to protect children does not fly when the experts and the evidence shows the CPS causes harm, making such laws void as being unreasonable and harmful.[15]

Because the CPS system is so profitable as explained by Senator Nancy Schaefer, she was unable to put a stop to the child kidnapping, so we cannot look to the states for a remedy. This makes nullification the proper remedy.

The Seventh Amendment to the constitution states that "In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, ..." The founding fathers were interested in protecting $20, but you have no right to your kids or a jury trial; that's just nonsense.

Because a family law court is either a court of equity or an administrative law court, no right to a jury is preserved, and your kids can be taken by a judge, without review by the people at any point in the process. Such hearings are closed to the public with the purpose of protecting the privacy of minors, but the wrong people are being protected by the privacy.

The grand jury should monitor all family law court proceedings.

The Sixth Amendment to the U.S. Constitution states:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of Counsel for his defence.

A criminal action is one that imposes a fine or imprisonment. The taking of one's children is in effect a fine, just not paid in dollars. It is equivalent to punishment for a heinous crime which requires an indictment and trial by jury, not a ruling from a family court or court of equity. Would we not rather pay a $100,000 fine than lose our children?[16]

A child custody case (in which the parents are already broken apart), or the care of orphans, should be kept separate from the issue of child ownership in general.

If appropriate, I would plead that my children are property because I have a property right to them. When someone asks you "Are those your children?", do you answer "Yes"? Or "No; they belong to the state." Confiscation of ones children is a loss that would be financially and emotionally devastating, in violation of the right to the pursuit of safety

15 See the following for the harm done to children, and violation of law:
http://articles.mercola.com/sites/articles/archive/2011/02/05/legal-child-abduction.aspx
http://naturalnews.tv/v.asp?v=8B81912F9B1AD317AE3DBBD4896C61AA :
"Our children are being snatched and kidnapped, they're being shipped from out of state from state to state, and ... illegally their parental rights are being taken away from them."

16 I would not accept a family law court, and also ask the sheriff for protection. If possible, I would move the kids out of state and outside of harm's way from the state. Any arbitrary and unreasonable law is no law at all, and civil disobedience may be the proper remedy.

and happiness. When property is taken by eminent domain,[17] the state is required to make good the loss of those who lose their property. This ought to apply when they take children. This argument should fly because the state is using your kids as a profit center, and just compensation is required. Just compensation is a natural law argument as well as a legal one, not considering the issue of child stealing.

A grand jury can issue a presentment, charging the CPS with (attempted) kidnapping; here, a criminal action will require a jury trial which will provide a review by the people. Your burden would be to prove that children are being taken by CPS for fun and profit, and cause harm to children, contrary to their mandate to protect children. And they lack jurisdiction since, as explained below, the parents are the custodians of the childern.

> We have said time and again and modern authorities agree that in a matter of this kind the welfare of the child is superior to the claim of either parent and the wishes of the parent are entitled to little if any consideration. . . . The state, thus **acting upon the assumption** that its parentage supersedes all authority conferred by birth on the natural parents, **takes upon itself the power and right to dispose of the custody of children**, as it shall judge best for their welfare. [*Helton*, supra, 69; emphasis added]

Note that they are *acting upon an assumption*, they take upon themselves the power, and dispose of the custody of the children. Again, the grand jury should monitor these proceedings.

I would argue that the state does not own your children under the doctrine of *parens patriae*; this doctrine was not brought over from England. It conflicts with the principles of liberty of this country, and conflicts with rights secured under the state and federal constitutions. Under this doctrine, you have more right to chattel property, than you do to your bodies. And most importantly, it is in conflict with natural law precepts described below.

Furthermore, the courts do not have the power by simply asserting a doctrine, that it is the law of the land. Courts are not a legislative body and cannot make law, only interpret it. And the legislature can pass laws under the police powers, but such laws must be based upon necessity, and since the state can do much more harm to children than an individual parent can, the question of necessity would need to be answered. And who protects the children from state abuse, who watches the watchers? When children are taken as a first resort and not a last resort, by the time the parents get their children back after litigation, tremendous harm can already be done to the children and family.

Nor does disaster give the state a legal basis for taking ones children. If you lose your job and home and end up living on the street or a shed (especially possible in today's economic climate), the government cannot “protect” your children from abuse by taking them and placing them into foster care. Bad luck or disaster is not abuse, and beyond the

17 Eminent domain is an action of the state to seize a citizen's private property, expropriate property, or seize a citizen's rights in property with due monetary compensation, but without the owner's consent. See http://en.wikipedia.org/wiki/Eminent_domain.

police power. To a kid, it may even be more like camping out.[18] Poverty is not a quality of abuse; or if it is abuse, it is by Congress who allowed or created the economic conditions for it to thrive, destroying millions of jobs.[19] Even poor children can be happy and well taken care of. Any inquiry beyond the question of abuse is irrelevant and immaterial, and goes beyond the scope of what constitutes abuse.

Whatever life throws at you is a lesson, and the state cannot intervene and take away the lesson; it violates God's intent and man's purpose to learn. If we allow this behavior to stand, the states will take our children as the parents are forced out onto the streets due to a monetary downturn.

That which you fund, you promote. The government needs to create a system in which neither government nor government workers profit from abducting children or destroying families. At the very least, if government makes a profit from removing children from their parents, that makes the law subject to nullification, and one has the right and duty under natural law to disobey. It does not fulfill the necessity requirement under the police power because profit and not the protection of children is the driving force.

Finally, if you sign anything the CPS asks you to sign, you are probably waiving your rights. They are asking you to sign because they do not have the power under the law to force you. If you sign, you have created private law and have to accept the consequences.

4. The Natural Law Position

The natural law position is based on the concept that children are a gift from God, and parents are thereby given original jurisdiction over them. This position is in accord with the *Roe* decision stated above. Religious free exercise can be used to bar state infringement of parental rights, and because the Adoption and Safe Families Act[20] of 1997 is a federal act which provides federal funding for compliance, 96 Stat. 1211 can be used instead (presuming that your state is accepting funds from the federal government to protect children under any act, including Social Security[21]).

For a law to be just under the police power, it must be *necessary* to protect the rights of others, and it cannot invade your preexisting rights beyond what will remedy the perceived harm. The state considers your children to be in the category of "others" that it is protecting, but they are not in that category because it is in the nature of things that your children are under your guidance and protection, not the state's. They are under the jurisdiction of parental government, and unless you do something to your children that

18 In July, 2011, six children in Houston, Texas were taken by CPS from their parents because they were living in a storage shed. The parents said the children were well taken care of and happy there. They were taken because they were *poor*. http://www.khou.com/news/Storage-Shed-CPS-Fight-125041524.html

19 Our monetary system, mathematically speaking, is a fraud in which bankruptcy and forclosure are necessary features. See http://www.youtube.com/watch?v=eLrdFISGek8 for an excellent explanation of how it works, and the proper solution.

20 http://en.wikipedia.org/wiki/Adoption_and_Safe_Families_Act

21 "In 1958, amendments to the Social Security Act mandated that states fund child protection efforts." http://en.wikipedia.org/wiki/Child_Protective_Services.

shocks the conscience, a state law infringing upon parental government needs to be challenged as to necessity, and the violation of your preexisting rights, and the child's preexisting right to be under parental government. Why should it be presumed that a child has the right to the protection of the state, instead of a right to the protection of the parents?

What would be considered a tort if you did it to someone on the street, is and has been considered a normal part of child rearing. Children are not adults and cannot be treated like adults; they don't necessarily listen or behave, and we have a right to follow traditional methods of child rearing. Corporal punishment of miscreant children which has been the recommended approach the last several thousand years, may be necessary or they will end up running the family. The following are Bible citations to be used as the basis of First Amendment religious free exercise, or 96 Stat. 1211:

Children are to be regarded as a gift from God, not a gift from the state

Gen. 33:5 And he lifted up his eyes, and saw the women and the children, and said, "Who are those with thee?" And he said, "The children which God hath graciously given thy servant."

Gen. 48:9 And Joseph said unto his father, "They are my sons, whom God hath given me in this place."

Psalm 127:3 Lo, children are a heritage of the LORD, and the fruit of the womb is His reward.

Isaiah 8:18 Behold, I and the children whom the LORD hath given me are for signs and for wonders in Israel from the LORD of hosts, who dwelleth in Mount Zion.

The father, not the state, is to have authority over the children

Deut. 8:5 Thou shalt also consider in thine heart that as a man chasteneth his son, so the LORD thy God chasteneth thee.

Prov. 3:11-12 My son, despise not the chastening of the LORD, neither be weary of His correction; for whom the LORD loveth, He correcteth, even as a father the son in whom he delighteth.

Prov. 13:24 He that spareth his rod hateth his son, but he that loveth him chasteneth him in good season.

Prov. 17:6 Children's children are a crown to the aged, and parents are the pride of their children.

Prov. 19:18 Discipline your children, for in that there is hope; do not be a willing party to their death.

Prov. 22:6 Start children off on the way they should go, and even when they are old they will not turn from it.

Prov. 23:13-14 Do not withhold discipline from a child; if you punish them with the rod, they will not die. Punish them with the rod and save them from death.

Prov. 29:15-17 A rod and a reprimand impart wisdom, but a child left undisciplined disgraces its mother. When the wicked thrive, so does sin, but the righteous will see their downfall. Discipline your children, and they will give you peace; they will bring you the delights you desire.

Parents are to educate the children

Gen. 18:19 "... For I have chosen him, so that he will direct his children and his household after him to keep the way of the LORD by doing what is right and just, so that the LORD will bring about for Abraham what he has promised him."

Deut. 4:9-10 Only be careful, and watch yourselves closely so that you do not forget the things your eyes have seen or let them fade from your heart as long as you live. Teach them to your children and to their children after them. Remember the day you stood before the LORD your God at Horeb, when he said to me, "Assemble the people before me to hear my words so that they may learn to revere me as long as they live in the land and may teach them to their children."

Deut. 6:6-7 These commandments that I give you today are to be on your hearts. Impress them on your children. Talk about them when you sit at home and when you walk along the road, when you lie down and when you get up.

Deut. 11:18-19 Fix these words of mine in your hearts and minds; tie them as symbols on your hands and bind them on your foreheads. Teach them to your children, talking about them when you sit at home and when you walk along the road, when you lie down and when you get up.

Prov. 1:8-9 Listen, my son, to your father's instruction and do not forsake your mother's teaching. They are a garland to grace your head and a chain to adorn your neck.

Prov. 22:6 Start children off on the way they should go, and even when they are old they will not turn from it.

Parents are to provide for the children

1 Tim. 5:8 Anyone who does not provide for their relatives, and especially for their own household, has denied the faith and is worse than an unbeliever.

5. Spanking and Child Abuse Laws

This section concerns the appropriateness of government involvement in family matters regarding whether or not anti-spanking laws are appropriate.[22] If they are evolutionary and thereby in accord with natural law, they will not cause other problems but will work in perfect harmony. I can identify several problems with anti-spanking laws:

1) If "legal" punishment is not sufficient to control the child's behavior, he can run the family since he knows he won't be punished.[23] This divides the family by pitting children against parents. Parents are liable for the property damages their kids cause, but are not allowed the means to control or adequately discipline them. And children are given the power to abuse the parents; there are already reported cases of children who have bruised themselves and turned their parents in for child abuse.

2) The law outlaws spanking, an act that is not by itself abusive; psychology, intent, and the situation must be considered. For example, a child may think a spanking game is great fun. Is breaking someone's bone abusive? I saw a show where firefighters wanted to break a person's leg (they didn't) in order to extract him from being pinned in his car to save his life. I have seen boys take turns hitting each other in fun, and bruises are a part of football. When the intent is not abuse, the act is not abusive. The same applies when it is done in love for disciplinary purposes; absent love, it could easily be abuse. Since abuse is more than just the act, prohibition of an act cannot affect abuse. Natural law is purposeful; if a law has no function, it should not exist. Spanking can, of course, be made to cause great harm; anything can be abused. If it turns into a crime, doesn't the current law handle it? If not, the law is not aligned to natural law and needs to be changed. If it can't be changed because of undesired side effects (e.g., replacing our form of government with a totalitarian form), then do nothing and let natural law take care of it; natural justice is a fundamental aspect of natural law and retribution will naturally be made.

3) Since spanking is not abusive per se, the government may be prohibiting right action. Natural law does not outlaw right action; there is no penalty for it, it is rewarded. Government does not have the power to prohibit right action because free will is a gift of the Creator, and we have a right to perform all possible actions (subject to certain conditions) for the purpose of learning life's lessons; any infringement violates the intent of the Creator. Nor can government compel wrong action; every situation is complex, and to not spank when it is necessary might be a sin of omission. If you argue that spanking is never necessary, well, if a boy pulls a knife on his sister (this happened in Europe), I wouldn't spank him; I'd cane him (just what his step father did). If government passes

22 If you are having a problem with your children abusing you, check out this link: http://www.safe4all.org/forums/message-view?message_id=68424. It discusses the neurological effects of mercury contained in the injections for the usual childhood illnesses such as measles, mumps, and chicken pox, etc. which will cause your children to act crazy. It also tells how you can detox.

23 A UK writer wrote: "Since children have been made more aware of their rights as a child, it has prevented parents from administering chastisement and punishments traditionally used to control rowdy and unacceptable behaviour." … If your child hits you, "Try not to retaliate by hitting back unless in absolute self defence, and disarm them if they come at you with a weapon. Many many abusers will ring social services to claim you have hit them, and the Law comes down on their side every time. You will be prosecuted for hitting your child and your child will be placed on an "at risk" register as will any other children in your household." http://loupurplefairy.hubpages.com/hub/The-Silent-Suffering-of-Parent-Abuse-When-Children-Abuse-Parents.

child discipline laws (spanking laws being the first step), spontaneous right action applied to the situation at hand will no longer be possible. A law to constrain abusers must not also constrain the virtuous; it must be discriminative enough to be able to tell the difference.

4) Jurisdiction vested in the parents by virtue of birth and consent of all parties, is transferred to the state in violation of that consent. The parents gave the children birth using the natural laws instituted by God. They are a gift of the Creator. That the parents are a jurisdictional unit seems to be lost from sight; they are being relegated to the status of baby sitters. Parents can and do make and enforce laws upon their children. "Be home by 10 PM or you will be grounded for a week" is parental law outside the jurisdiction of the state. Unfortunately, parental jurisdiction is being terminated by bringing family questions (in this particular case spanking) before the state. Just as we may disagree with the harshness or leniency of the laws of other countries, other states, or other parents, we have to respect their sovereignty because of the agreements they have made between themselves, and the lessons they are learning. As long as there is going to be abuse from a jurisdictional authority, I would rather have it be the parents with whom there is natural love and affinity, rather than an uncaring state. Government can dispense much more destruction on far more people, both virtuous and sinner alike, and is hard to keep under control. Any abuse by parents is at least localized, and at its worst if you could see the mechanics from cosmic perspective, is really a lesson to be learned by parent and child.

5) Violations of natural law by the state may be worse than the potential harm of spanking. If you bring in government to solve a problem, it is possible that it will tear apart or destroy the family. Regarding marriage, "What therefore God hath joined together, let not man put asunder." Matt. 19:6. The state never imposes divorce, but always tries to protect the marriage. How much more are children placed into a family by God, but how casually government will remove them. And consider the damage upon the children — imagine being stolen away from your parents. The possibility of losing your kids also provides a disincentive to get professional help if needed. Public policy should not be in conflict with itself; if parents need help, there should be no law to act as a disincentive.

6) Anti-spanking laws violate Christian precepts, and since this is a Christian nation, they will give rise to discord. Natural law brings harmony to the entire diversity of creation; it doesn't create discord. We have seen that the Bible promotes family, that children are to be regarded as a gift from God, not a gift from the state, and the father, not the state, is to have authority over the children. Those who believe in the Bible are entitled to follow it as a way of life, and Congress even passed a law asking us to voluntarily apply the teachings of the Bible and the Holy Scriptures (96 Stat. 1211).

7) If the police power can be invoked against religious beliefs regarding parental jurisdiction over children, then it won't stop there. The Jewish practice of circumcision, even though based upon covenant with God, will not be able to resist the police power protecting children against what an objective person (i.e., the state) would view as

mutilation or sexual abuse. If spanking cannot stand, then by what theory of law can circumcision? What is the difference?

8) It gives rise to confusion about right and wrong. When a person does what he believes to be right (even to the point of telling the state to butt out), and you charge him with criminal conduct, you create confusion and resentment which may give rise to more problems than you solve. When one's own internal reference, one's conscience, one's link to natural law is in conflict with man's law, that law is inappropriate. Even if the law if right, if mankind is not ready for it, the law is inappropriate. Anti-spankers argue that it is common for abusers to tell the state to "butt out." I disagree; it is the righteous that will tell the state to "butt out." Thieves, murderers, rapists, arsonists, burglars, etc., do not tell the state to butt out; they know what they are doing is wrong.

9) If the theory of law is upheld that the state has the power to prevent spanking based upon the potential for harm, it won't stop there. Pregnant mothers could be placed on strict diets because of the potential harm that unsuitable food may have on the unborn. I heard on the news recently of a woman who wanted a regular birth, but the county prosecutor filed suit insisting that she get a C-section because a regular birth might endanger the unborn's life (she got the C-section and avoided a court case). Experts might specify the proper diet and living habits for each member of society, with fines shared with those who turn them in for violations. This would be based upon the cost of health care that society must pay due to bad living habits. Etc. etc. etc., all based upon a misunderstanding of the nature of state power, and what makes this a free country.

10) Those who are concerned about families and child abuse want to put that concern in the hands of the state — an entity that deals in law, punishment, guns, jails, money, regulation, child kidnapping, slavery, and sales of children, but not concern. There are no bonds of affinity or affection between government and those it regulates. The general level of corruption in our society, reflected in our government, will be brought to bear against the virtuous, though the law is presumably targeted against the abusers. The virtuous will be caught in the same trap set to catch the abusers; it can't tell the difference. The tool (the state) needs to be more refined than the equipment (the family) it is being used on.

11) It conflicts with the right to privacy and creates a police state. In order to make determinations of day to day discipline (spanking being the first step), the state must become intimately involved with each family, requiring massive monitoring and intrusion into family life, and citizen police ("see something, say something"), contrary to the principles of a free society and the original design of this government.

12) You may argue that even though anti-spanking laws cause harmful side effects, this is a small price to pay to protect innocent children from injustice. First of all, price is a subjective value judgment, plus you are asking others to pay it. Freedom includes the ability to abuse that freedom; our founding fathers paid the price for both. If you want a free country, you have to put up with the potential for abuse. Second, justice is a law of nature; if you see injustice when you see an "innocent" child being spanked, your understanding about how life works is incomplete. But that's another story for another

time. Third, natural law does not solve one problem by creating another. Any law in accord with natural law will not have this kind of price to pay.

Either rewrite the anti-spanking laws without these side effects, or leave it alone and let natural law and justice take care of it as it has done for several thousand years. Your desire to protect children, while laudable, is too shortsighted if it runs the risk of destroying the family and our way of life.

6. Home Schooling

When we look at the federal constitution, it is clear that the federal government cannot require mandatory public education; it is not an enumerated power, and the federal government cannot regulate under the general welfare clause. However, the federal government can tax and spend for the general welfare, and set the conditions for receiving the money; this is tantamount to regulation, but then the courts do speak with forked tongues when it suits them.[24] Now we consider where the state gets its powers to require that students attend public schools.

The Supreme Court recognized a substantive due process right "to control the education of one's children," and voided state laws mandating that all students attend public school:

> No question is raised concerning the power of the State reasonably to regulate all schools, to inspect, supervise and examine them, their teachers and pupils; to require that all children of proper age attend some school, that teachers shall be of good moral character and patriotic disposition, that certain studies plainly essential to good citizenship must be taught, and that nothing be taught which is manifestly inimical to the public welfare. ...
>
> [W]e think it entirely plain that the Act of 1922 unreasonably interferes with the liberty of parents and guardians to direct the upbringing and education of children under their control. As often heretofore pointed out, rights guaranteed by the Constitution may not be abridged by legislation which has no reasonable relation to some purpose within the competency of the State. The fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the State to standardize its children by forcing them to accept instruction from public teachers only. The child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations. *Pierce v. Society of Sisters*, 268 U.S. 510, 534-535 (1925).[25]

Parents have the right and duty to educate their children, and most states enforce

24 The *No Child Left Behind Act of 2001* is regulation of public schools based upon the power to tax and spend for the general welfare. If the schools want the money, they accept the regulation. See http://en.wikipedia.org/wiki/No_Child_Left_Behind_Act.

25 See http://en.wikipedia.org/wiki/Pierce_v._Society_of_Sisters

this obligation through compulsory laws:

> The American people have always regarded education and acquisition of knowledge as matters of supreme importance which should be diligently promoted. The Ordinance of 1787 declares, "Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged." Corresponding to the right of control, it is the natural duty of the parent to give his children education suitable to their station in life; and nearly all the States, including Nebraska, enforce this obligation by compulsory laws. … [A] desirable end cannot be promoted by prohibited means. *Meyer v. Nebraska*, 262 U.S. 390, 400-401 (1923).

We have seen that the state has the police power to pass any law necessary to secure the general welfare, but that power can only be exercised if there is a threat of harm to society or a third person, and then the regulation can only be to the extent necessary to remedy that harm. Since private education does not harm society and has been shown to produce superior results, the power to require a child to attend *public* school is not a legitimate exercise of the police powers.

In light of the fact that about 20% of high school graduates in the U.S. cannot read their own diploma,[26] demonstrates that the true agenda is to indoctrinate and dumb students down (know what it is by its fruits), not educate them, making any supposed jurisdiction to compel public education void. The real threat to society is in attending public school, not in staying away from it.[27]

The law cannot go beyond requiring that the children be educated; the means are up to the parents, and the determination of what constitutes "educated" is also up to the parents, utilizing the natural desire of parents to have the best for their children, and choose the curriculum.[28] This will produce a much greater variety of skills and innovation in society than the current cookie cutter approach.

And, I would suggest that if the state is going to provide funds for the education of children, those funds cannot go just to public schools, but must fund alternatives. It is unjust to demand the citizens get an education, and then only fund those who agree to receive the worst quality public school education or indoctrination.

The Iowa Constitution gives the state power in the school area. According to Article IX Section 12 of the Iowa Constitution:

26 www.stateline.org/live/details/speech?contentId=16052 Governor Dirk Kempthorne's State of the State Address of January 8, 2001 said: "Did you know that in the United States today, 1 in 5 high school graduates cannot read their diploma?"

27 There are signs that public schools are more like prisons than schools. See http://www.infowars.com/18-signs-life-in-u-s-public-schools-now-equivalent-to-life-in-u-s-prisons.

John Taylor Gatto, former New York teacher of the year, gave up teaching in public school because he could no longer do harm to children. He has a number of works on the web that can be accessed from http://www.preservenet.com/theory/Gatto.html; the short summaries therein are interesting. If you need a factual basis to home school your kids, start there.

28 The traditional requirements were reading, writing, and arithmetic.

> The Board of Education shall provide for the education of all the youths of the State, through a system of Common Schools and such school shall be organized and kept in each school district at least three months in each year. ...

This does not give the state any power to compel attendance, but merely provides for the education, and this system also promotes home schooling.[29]

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29 See also http://www.infowars.com/homeschoolers-arrested-in-new-york-slavery-returns-to-amerika/