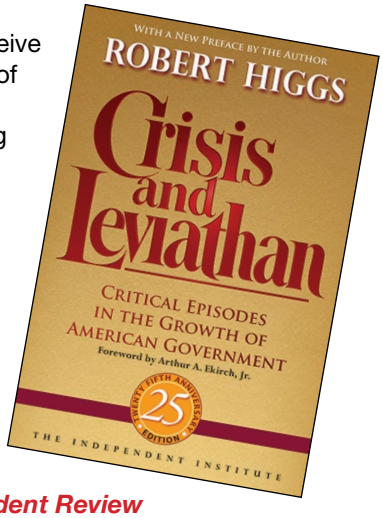
SUBSCRIBE NOW and Get *CRISIS AND LEVIATHAN* FREE!

Subscribe to ***The Independent Review*** and receive your FREE copy of the 25th Anniversary Edition of ***Crisis and Leviathan: Critical Episodes in the Growth of American Government***, by Founding Editor Robert Higgs. ***The Independent Review*** is the acclaimed, interdisciplinary journal by the Independent Institute, devoted to the study of political economy and the critical analysis of government policy.



Provocative, lucid, and engaging, ***The Independent Review***'s thoroughly researched and peer-reviewed articles cover timely issues in economics, law, history, political science, philosophy, sociology and related fields.

Undaunted and uncompromising, ***The Independent Review*** is the journal that is pioneering future debate!

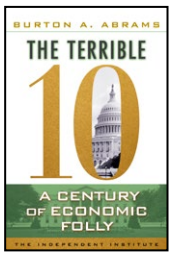
Student? Educator? Journalist? Business or civic leader? Engaged citizen? This journal is for YOU!

SEE MORE AT:
INDEPENDENT.ORG/TIROFFER

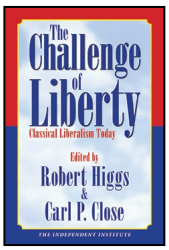
SUBSCRIBE

SUBSCRIBE to *The Independent Review* NOW and
❑ Receive a FREE copy of *Crisis and Leviathan*
***OR* choose one of the following books:**

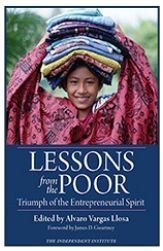
The Terrible 10
A Century of Economic Folly
By Burton A. Abrams

❑ 

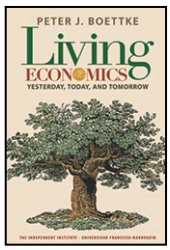
The Challenge of Liberty
Classical Liberalism Today
Edited by Robert Higgs and Carl Close

❑ 

Lessons from the Poor
Triumph of the Entrepreneurial Spirit
Edited by Alvaro Vargas Llosa

❑ 

Living Economics
Yesterday, Today and Tomorrow
By Peter J. Boettke

❑ 

❑ **YES! Please enroll me with a subscription to *The Independent Review* for:**
- ❑ **Individual Subscription:** **$28.95 / 1-year (4 issues)**
- ❑ **Institutional Subscription:** **$84.95 / 1-year (4 issues)**

❑ Check (via U.S. bank) enclosed, payable to The Independent Institute

❑ VISA ❑ American Express ❑ MasterCard ❑ Discover

Card No. Exp. Date CVC Code

Name Telephone No.

Organization Title

Street Address

City/State/Zip/Country

Signature Email

The Independent Institute, 100 Swan Way, Oakland, CA 94621 • 800-927-8733 • Fax: 510-568-6040 PROMO CODE IRA1402

From Welfare State to Police State

STEPHEN BASKERVILLE

In the fall of 2006, the National Center for Health Statistics (NCHS) reported that out-of-wedlock births had reached a record high (Hamilton, Martin, and Ventura 2006). At about the same time, new Census Bureau figures, as interpreted by the *New York Times,* indicated that married couples for the first time represent less than half the nation's households (Roberts 2006).

Following ten years of welfare reform that was supposed to discourage unmarried childbearing and encourage marriage and two-parent families, these reports are perplexing news, indeed. Whatever the budgetary savings, welfare reform has failed from the standpoint of the family. The figures "clearly show that the impact of welfare reform is now virtually zero," says Robert Rector of the Heritage Foundation, "and we are going back to the way things were before welfare reform" (qtd. in Wetzstein 2006).

It has been well known since at least the Moynihan report in 1965 that welfare serves as a disincentive to marriage and an incentive to divorce and unwed childbearing. Yet no explanation has been forthcoming for why cutting back on welfare has failed to reverse the trend. In fact, this failure raises far-reaching questions about our entire approach to what has become known as "family policy."

As implemented thus far, welfare reform is unlikely to make a large difference and remains a step behind the problem. The continued rise in out-of-wedlock births no longer proceeds only from low-income teenagers. Indeed, in terms of this target population, welfare reform does appear to have had some impact. The NCHS reports

Stephen Baskerville is assistant professor of government at Patrick Henry College.

The Independent Review, v. XII, n. 3, Winter 2008, ISSN 1086–1653, Copyright © 2008, pp. 401–422.

that the birth rate among girls ages ten to seventeen dropped in 2005 to the lowest level on record. Births to unwed women in their late twenties, thirties, and forties, however, have risen and account for the now-record numbers. Inspired perhaps by books such as Rosanna Hertz's *Single by Chance, Mothers by Choice: How Women Are Choosing Parenthood Without Marriage and Creating the New American Family* (2006) and Peggy Drexler's *Raising Boys Without Men* (2005), or at least the subject of these books, these women are joining their low-income counterparts in moving beyond divorce to dispense with marriage altogether. Yet the children of divorce still almost double the 1.5 million out-of-wedlock births annually in the continued growth of single-parent homes. Given 4.1 million total births annually, this problem now touches virtually every family in America.

Because of these trends, the perception has become widespread that this seemingly intractable problem proceeds primarily from "culture" and that policy remedies are therefore pointless until the culture changes. James Q. Wilson throws up his hands and expresses the frustration and paralysis: "If you believe, as I do, in the power of culture, you will realize that there is very little one can do" (2002). Given such a response, the initiative will likely pass to congressional liberals who hope to roll back welfare reform altogether.

The George W. Bush administration's approach seems to be predicated on this same cultural assumption. Programs to encourage "healthy marriage" by building "relationship skills" and inculcating methods of "conflict resolution" and "child behavior management" are largely continuations of programs conceived during the Clinton administration to "promote responsible fatherhood." So far there is little evidence that these programs have any measurable effect on marriage or out-of-wedlock birth rates, and some observers question the wisdom of the federal government's operating family therapy (but see Birch et al. 2004). Financed by a small portion of welfare funds, these programs arguably serve, like welfare itself, as a form of political patronage, increasing the client population on the public payroll.

Although the role of culture should certainly not be discounted, the problem is also driven by federal policies and funding that welfare reform did not remedy and may even have exacerbated. Once again we are faced with a question of incentives created by spending. Yet the problem has grown more complex than simply disincentives to work and family formation created by public assistance. Ignored thus far is how expanding welfare-originated entitlement programs have extended the subsidy on single-parent homes to the affluent. Moreover, the perverse incentives create perverse behaviors not only among the population, but also by governments.

It is not called the welfare "state" for nothing. Unnoticed by reformers and even more striking than the economic effects have been subtle but far-reaching political developments. These developments involve the quiet metamorphosis of welfare from simply a system of public assistance into nothing less than a miniature penal apparatus, replete with its own tribunals, prosecutors, police, and punishments: juvenile and family courts, "matrimonial" lawyers, child protective services, domestic violence

units, child-support enforcement agents, and other elements. Originally created to treat ills endemic to low-income, single-parent homes, this machinery is increasingly intervening with police actions in middle-class families. Kafkaesque in its logic, this machinery lends plausibility to the warnings, most famously by F. A. Hayek in *The Road to Serfdom* (1944), that socialist and welfare-state principles would eventually threaten not only economic prosperity, but also civil freedom.

The Rise of Child Support

The welfare subsidy on single-mother homes was never really ended so much as it was shifted. Reformers essentially replaced welfare with child support, on the reasonable but largely irrelevant principle that fathers rather than taxpayers should be supporting their children (which is irrelevant for reasons we will see). Whether this principle was justified or not, the consequences were profound. To begin with, the reform shifted the role of welfare agencies from distributing money to collecting it—not from taxpayers but from fathers. The welfare machinery suddenly became a mechanism for raising revenue. Although this revenue ostensibly passes through government hands and is distributed to mothers and children, the process is far from straightforward. What began as an alternative to taxation for purposes of supporting government-dependent children has begun to function as an alternative to taxation for other purposes as well, and whether the system will continue to be contained in its previous limited role is unclear.

Child support thus transformed welfare from public assistance into law enforcement, creating a federal plainclothes police force with no clear constitutional authority. Because of the moral opprobrium that attaches to fathers who have allegedly abandoned their children, this machinery is marked by an often ill-defined punitive quality. At the same time, it commands enforcement methods and sanctions far more draconian than those normally permitted in collecting taxes, and it is limited by far fewer protections for those accused of nonpayment.

This machinery was already well developed by the time Congress passed the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) in 1996, so this measure might be seen as simply one stage in the politicization of a welfare system that could no longer be permitted to grow indefinitely. Because substituting criminal law enforcement for government handouts was politically more palatable than cutting welfare altogether, such a measure was probably inevitable.

Yet even at this point child support was no longer functioning simply as a substitute for welfare, as it was originally designed. During the 1980s and early 1990s, it had already begun to serve as a subsidy to middle-class divorce. It had also become a funding mechanism for state governments, allowing them to generate revenue through the generation of fatherless children. Through child support, governments throughout the United States found they could turn a profit from the growth of single-parent homes.

Child support became politicized by the early 1990s, when parents who allegedly fail to pay—"deadbeat dads"—became the subjects of a national demonology, and child support went from being a minor matter affecting a few people on the margins of society to a sacred political cow in the national vocabulary. "On the left and on the right, the new phrase to conjure with is 'child support,'" writes Bryce Christensen, who notes that politicians see it as "the best rhetoric in the world": "a rhetoric unifying political figures" from both parties (2001, 63). Although Ronald Reagan seems to have coined the term *deadbeat dads,* it was Bill Clinton who took it on the campaign trail. "We will find you!" he famously intoned at the 1992 Democratic National Convention. "We will make you pay!" During the debate leading up to welfare reform, George Gilder warned of the bipartisan bandwagon being marshaled to punish private citizens who had been pronounced guilty by general acclaim:

> The president wants to take away their driver's licenses and occupational accreditations. Texas Governor George W. Bush wants to lift their hunting licenses as well. Moving to create a generation of American boat people, Senator Bill Bradley is leading a group of senators seeking to seize their passports. Congressman Henry Hyde wants to expand the powers of the IRS to confiscate their assets. Running for president, Lamar Alexander wants to give them "jail time," presumably so they won't vote. Also running for president, Alan Keyes suggests caning, recommending "a trip to Singapore to learn how to administer a civil beating." Governor William Weld in Massachusetts wants to subpoena their DNA, put liens on their houses, and hound them through the bureaucracies of 50 states. (1995, 24)

(Presidential candidate Barack Obama recently revived this political line. "We have too many children in poverty in this country," he told a civil rights group in early 2007. "And don't tell me it doesn't have a little to do with the fact that we got too many daddies not acting like daddies.")

The campaign escalated dramatically during the Clinton years, especially following PRWORA. In 1998, Clinton signed the Deadbeat Parents Punishment Act, which enjoyed overwhelming bipartisan support. In that same year, U.S. Department of Health and Human Services (HHS) secretary Donna Shalala announced the Federal Case Registry, a massive system of government surveillance that aimed to include 16–19 million citizens, even those current in their payments. "Combined with the National Directory of New Hires," Shalala said, "HHS now has the strongest child support enforcement resource in the history of the program" (U.S. HHS 1998b). Clinton announced soon afterward yet another "new child support crackdown." "This effort will include new investigative teams in five regions of the country to identify, analyze, and investigate cases [that is, parents] for criminal prosecution, and an eightfold increase in legal support personnel to help prosecute these cases" (U.S. HHS 1998a).

The rhetoric abated under the Bush administration, but the measures continued. In July 2002, under a Clinton-initiated program called Project Save Our Children, HHS secretary Tommy Thompson announced a "nationwide sweep," led by agents from his department and the U.S. Marshals Service, of parents he said had disobeyed government orders (U.S. HHS 2002). The roundup was "reminiscent of the old West," in the words of the *Christian Science Monitor*. "Most Wanted lists go up, and posses of federal agents fan out across the nation in hot pursuit" (Gardner 2002). In Utica, New York, the raids included agents from the "Violent Felonies Warrants Unit" (Little 2002). "More notable than any one arrest," reported the *New York Times,* "is the message that the Bush administration is sending about its decision to pursue a more aggressive approach by using federal criminal prosecution" (Pear 2002). In Maryland, government billboards announced, "We're Looking for You, Child Support Violators." Officials do not warn bank robbers or drug dealers that they are being targeted. The principle that the criminal justice system exists less to bring individual lawbreakers to justice than to send a "message" to the population appears, so far, to be unique to this offense.

Perhaps the most striking aspect of this mobilization is that the initiative came entirely from government officials. No public outcry ever preceded these measures, nor did any public perception of such a problem even exist until officials began to say that it does. The public never demanded that government take action, nor was any public discussion of this alleged problem ever conducted in the national or local media. No government or academic study ever documented a nonpayment problem. A media blitz about alleged nonpayment did appear during the 1990s—including "a million stories at the networks on deadbeat dads" (Goldberg 2001, 136)—but it began after, not before, the government campaign, which few journalists questioned. Government officials and government-supported interest groups have taken the initiative at every point.

Although child support was presented as a noncontroversial alternative to taxation for raising public revenue, no public discussion has ever been held of such basic questions as what precisely child support is for, who can be forced to pay it, under what circumstances an order can be entered against a citizen, how much a citizen can be required to pay, who decides how much must be paid, who can receive the money, what the money can be used for, what accountability should be required of recipients, or what methods are legal and proper to collect it. Perhaps the most fundamental disconnect between public perceptions and present reality is that whereas child support is invariably presented as a method for requiring men to take responsibility for offspring they have sired and then abandoned, it now functions primarily as a means by which "a father is forced to finance the filching of his own children" (Abraham 1999, 151).

Needless to say, the voices of pursued parents themselves were seldom heard amid the chorus of condemnation. Yet cracks have begun to appear in the monolith in recent years. Economist William Comanor writes, "Child support obligations," the

only form of "obligation" or "debt" that most of the debtors have done nothing to incur, "are now treated far more harshly than any other form of debt" (2004, 3). Attorney Ronald Henry more harshly characterizes government claims of widespread nonpayment as "an obvious sham," a "disaster," and "the most onerous form of debt collection practiced in the United States" (2004, 135). "The overwhelming majority of so-called 'deadbeat dads' are just judicially created," says another attorney. "Why all this talk about so-called 'deadbeat dads'? Because there is a lot of money to be made through that myth" (Green 2002).

Data and the research assembled by independent scholars indicate that the problem is not entirely what officials and the media claim it to be. In the largest federally funded study ever undertaken on the subject, Sanford Braver demonstrated that little scientific basis exists for claims that large numbers of fathers fail to pay child support. Braver found that government claims of nonpayment were derived not from any compiled database or other hard figures, but entirely from surveys of custodial parents (1998, 21–22 and chap. 2). The Census Bureau simply asked mothers what they were receiving. No corroborative data were produced because none exists. Moreover, officials rely only on these surveys of mothers, on nothing else, in setting enforcement policy against fathers, and no effort is made to balance them with surveys of noncustodial parents. According to the House Ways and Means Committee, "By interviewing a random sample of single-parent families, the Census Bureau is able to generate a host of numbers that can be used to assess the performance of non-custodial parents in paying child support" (U.S. House 1998, 604.) Yet Braver (1998) found that fathers overwhelmingly do pay court-ordered child support when they are employed, often at enormous personal sacrifice.

Scholars largely agree that unemployment is "the single most important factor relating to nonpayment" (Braver 1998, 33; see all of chap. 4). One study team (Bartfeld and Mayer 1994) found that 95 percent of fathers with no employment problems for the previous five years paid their ordered support regularly and that 81 percent paid in full and on time. A federal pilot study commissioned by the federal Office of Child Support Enforcement (OCSE) itself also found no serious problem of nonpayment. A full-scale government-sponsored study was planned to follow up the pilot, but OCSE cancelled it when the pilot study's findings threatened the justification for the agency's existence by demonstrating that nonpayment was not a serious problem. The Congressional Research Service also concluded at about the same time that no serious nonpayment problem existed among the middle class (Braver, Fitzpatrick, and Bay 1988; Solomon 1989, 1–3; Sonenstein and Calhoun 1990).

Government agencies and private collection companies devise astronomical figures on alleged (or "estimated") arrearages cited by officials, now up to $100 billion and constantly rising,[1] based not on compiled data, but on hypothetical formulas of

1. The U.S. General Accounting Office alleged $89 billion in 2002, giving its source as HHS (2002, 2), but because no data base supplies these figures, its source is not clear.

what would be owed in circumstances that do not exist. These data in themselves are simply numbers on paper; in other words, they are based on the assignment of debt to private citizens by government officials. These citizens have certainly not been proven to owe this money by convictions in jury trials. Besides lacking any basis in compiled data, these figures are issued without reference to a host of unanswered questions, as noted previously, and bear no necessary relation to whether the parent committed any infraction or other action to incur the imputed obligation, whether the amount "owed" is reasonable or even possible for him to pay, whether it bears any relation to the children's needs or costs, why the children were separated from the parent in the first place or whether the separation was ever justified, or simply whether the parent did in fact make the demanded payment.[2] Indeed, whether the payer is even the parent of the children in question is often not clear. Unlike taxation, child-support "obligations" are determined not by elected representatives who formulate statutory provisions that apply equally to all, but by judicial and administrative personnel who legislate a payment obligation for each individual that he alone is required to obey.

Despite the stereotype of the deadbeat dad as the wealthy playboy squiring around his new trophy wife in a bright red Porsche, federal officials have acknowledged that most of the claimed debt is largely uncollectable because almost all is attributed to fathers who are as poor as or poorer than the mothers and children (Edin, Lein, and Nelson 1998). "About two-thirds of the debt and about two-thirds of the people who owe it earned less than $10,000 last year," OCSE director Sherri Heller concluded. "In other words, it appears that most of the debt is owed by extremely poor debtors" (U.S. HHS 2003).

Contrary to highly sensationalized but now discredited statistics on the alleged financial hardships of divorce to women, economic researchers have concluded recently that "it is the non-custodial parent, usually the father, who suffers the most [following divorce]. In every case and for every income, according to our analyses, the payer of child support is never able to cover household expenditures if paying child support at guideline levels" (Folse and Varela-Alvarez 2002, 273). The study's authors add, "These simulations may actually under-represent the circumstances of non-custodial parents because they do not include expenditures for their children beyond child support" (285).[3]

The research by Braver and others has undermined virtually every justification for the multi-billion-dollar criminal-enforcement machinery and for programs to "promote responsible fatherhood." If these scholars are to be believed—and no official or researcher has challenged their conclusions, let alone refuted them—the government

2. For research questioning these points, see Baskerville 2004 and Comanor 2004.

3. The authors are refuting Weitzman's highly influential but wildly inaccurate book *The Divorce Resolution* (1987). Weitzman, who has acknowledged that her figures are incorrect, is also refuted by McNeely 1998 and others.

has created a problem where none existed previously and both a huge army of enforcement agents and a panoply of criminal punishments for which there is no justification. Yet almost a decade after Braver's study, no enforcement agency, public or private, has even acknowledged his accusation that they are fomenting public hysteria against a nonexistent problem, nor have existing policies been adjusted. As Braver himself observes, "The far-flung federal bureaucracy involved with the child support enforcement machinery would naturally feel threatened if the conviction became widespread that there might not really be a sizable problem with divorced fathers' child support compliance, after all" (1998, 34).

Welfare or Expropriation?

So where did the "deadbeat dad" come from? The growth of the collection machinery reveals that it was created not *following* claims of widespread nonpayment or in response to such claims; rather, the enforcement apparatus was created *first*, raising the likelihood that it served less as a response to the emergence of high numbers of "deadbeat dads" than as an engine for creating them. In fact, although the justification was ostensibly children in poverty, the enforcement machinery began to serve early on as a financing mechanism for middle-class divorce. The new regulations and criminal enforcement machinery were erected shortly after the liberalization of divorce laws in the early 1970s.

Under pressure from divorce lawyers and feminist groups, President Gerald Ford signed legislation creating the OCSE in 1975, but he expressed his view at the time that it constituted an unwarranted federal intrusion into families and the role of states. Again, the principal purpose was to recoup or avoid welfare costs. (In such cases, the father was required to pay not the custodial mother, but the government for the welfare payments disbursed for his children.) Originally devised exclusively for families on welfare, the federal OCSE program was to be limited to willfully absent parents who had abandoned their children, leaving them dependent on the public dole.

Like any bureaucracy, this one looked for and found justifications to expand, and it did so rapidly, increasing tenfold from 1978 to 1998 (U.S. House 1998, 549). During the 1980s and 1990s, with no explanation or public debate, federal enforcement machinery created to help a relatively small number of children in poverty was dramatically expanded to cover *all* child-support cases, including vastly greater numbers not receiving welfare. Unlike public assistance, child-support enforcement is not means tested, and today no eligibility requirements limit who receives "services."

This massive growth of law-enforcement machinery and reach was federally driven. In 1984, the Child Support Enforcement amendment to the Social Security Act required states to adopt advisory child-support guidelines. The legislation was promoted by OCSE itself and by private collection companies—again, less to help children than to save the government money under the theory that the system would help to get single-mother families off welfare by making fathers pay more. No statis-

tical data were presented then (or have been since) to indicate that the legislation would have the desired effect (Seidenberg 1997, 107–8). Given that most low-income, single-mother families did not and still do not have valid child-support orders, that most unpaid child support is owing to unemployment, and that "most non-custodial parents of AFDC [Aid to Families with Dependent Children] children do not earn enough to pay as much child support as their children are already receiving in AFDC benefits," higher support guidelines could not and cannot help these children (Garfinkel and McLanahan 1986, 24–25).

With no explanation or clear constitutional authority, guidelines and criminal-enforcement machinery conceived and created to help the minority of children in poverty were then extended, under pressure from OCSE and other interests, to *all* child-support orders, even the majority not receiving welfare, by the Family Support Act of 1988. The law also made guidelines mandatory. By one estimate, the new guidelines more than doubled the size of awards (Comanor 2004, 5).

All this legal fanfare dramatically enlarged the program and continues to do so by bringing in millions of middle-class cases, most of which result from divorce, but for which the system was never designed. As a result, "the number of dollars passing through the government collection system exploded" (Comanor 2004, 8).

Nonwelfare cases now dwarf welfare cases. Welfare cases, consisting for the most part of unmarried parents, account for only 17 percent of all cases, and the proportion is shrinking. The remaining 83 percent of nonwelfare cases consist largely of previously married fathers who are usually divorced involuntarily. Nonwelfare cases currently account for 92 percent of the monies collected (U.S. HHS 2003, figs. 1 and 2).

Despite this growth in collections—and contrary to what was promised when the program was created—the cost to taxpayers increased sharply. Promoted as a program that would reduce government spending, federal child-support enforcement has in fact incurred a continuously increasing deficit. "The overall financial impact of the child support program on taxpayers is negative," the House Ways and Means Committee reports: federal taxpayers lost $2.7 billion in 2002 (U.S. House 2004, 8–69 and table 8-5).

This money does not vanish, of course. It provides a revenue stream for state governments that officials may spend however they wish (U.S. House 1998, 596). Though ostensibly revenue neutral, federal subsidies have made child-support collections a source of general funds. "If the state needs more highway funding," writes one commentator, "all they need to do is raise the state's level of child support and they can spend their resulting welfare incentive increases on highway projects and remain in perfect compliance with the relevant programs funding requirements" (Tersak 2007). Moreover, federal taxpayers subsidize not only state government operations through child support, but also family dissolution because every fatherless child is an additional source of revenue for states.

In addition to stiff penalties and high interest assessed on alleged arrearages, states profit through federal payments based on the amount collected as well as

through the receipt of 66 percent of operating costs and 90 percent of computer costs (U.S. HHS 1997). (When two states collaborate, both states qualify for the incentive payment as if each state had collected 100 percent of the money.) Federal outlays of $3.5 billion in 2002 allowed Ohio to collect $228 million and California to collect more than $640 million (U.S. House 2004, table 8-4). "There is a $200 million per year profit motive driving this system" in Michigan alone, attorney Michael Tindall points out. "It dances at the string of federal money" (Green 2002).

To qualify for these funds, states must channel all support payments—not only *delinquent* payments, but also *current* payments—through their criminal-enforcement machinery. This arrangement makes them eager to bring in as many affluent payers as possible. Unlike the welfare cases, in which it is almost impossible to collect from impecunious, young, inner-city fathers, the divorced fathers have deeper pockets and can generally be counted on to pay. Ironically, because low-income payers do not provide significant amounts to help states qualify for federal funds, these cases are now neglected even though they are the ones for which the system was ostensibly designed, and enforcement measures concentrate instead on the middle class.

Federal auditors have pointed out that the program was diverted from its original purpose of serving a welfare constituency to become a collection agency for the affluent, with "about 45% reported incomes exceeding 200% of the poverty level and 27% reported incomes exceeding 300%." "The rate at which child support services are being subsidized appear inappropriate for a population that Congress may not have originally envisioned serving" (Ross 1995, 5–6). Federal taxpayers now provide approximately one hundred public services—including wage withholding, caseworkers, help-desk workers, county attorneys, monthly invoicing, debit and credit tracking, asset seizure, court costs, and a plethora of collection and enforcement services—not for public-welfare cases, but for what are supposed to be private civil divorce cases, for which private remedies are available (Olson 2006).

Shortly after the enactment of PRWORA, one enforcement agency director acknowledged openly that the Clinton administration was altering what had originally been a welfare-designed system to make it an entitlement serving the affluent in order to encourage profiteering by state governments. Testifying before Congress, Leslie Frye, chief of California's Office of Child Support, charged that the administration moved "far beyond the congressional intent" in developing an incentive system that "in fact encourages states to recruit middle-class families, never dependent on public assistance and never likely to be so, into their programs in order to maximize federal child support incentives" (Frye 1997). Concerned that California would be disadvantaged under the new formula, Frye laid out the incentive structure with startling candor:

> [T]he proposal also changes the way collections are counted for incentive purposes in a manner that is contrary to the principles underlying the

> PRWORA and that will lead to financial pressures on states to expand their Child Support Enforcement Programs to encompass all cases in the state, including those families who have never had to interact with government in order to pay or receive child support. Indeed, those states which already have near-universal government programs for child support will receive huge windfalls of incentives under the proposal, while states which historically concentrated on poor and near-poor families will lose federal incentive revenue, compared to the current system.

The administration was stretching congressional intent (and already questionable constitutional authority) to allow and perhaps encourage profiteering by states. The changes pressured states to expand their programs: "By recruiting 'never welfare' families into the IV-D program, we too could benefit from earning incentives on collections for middle-class families, which generally are easier to make and higher than collections for poor families," Frye complained. "From a public policy point of view, however, we think this is wrong. We believe that Congress did not contemplate, in the PRWORA, creating a universal Child Support Enforcement Program." It is difficult not to conclude that the policy changes had little to do with improving the efficiency of collections because collection could not and did not improve; indeed, as Frye points out, states that worked to improve their welfare collections, no matter how effectively, could not possibly compete with states that simply increased their collections by bringing in more affluent payers: "Mixing the issue of removing the limit on 'never welfare' collections with the performance-based incentive system skews the results so that some states, notably those with near-universal child support programs, would receive more incentives for poorer performance, while states with greater proportions of welfare or former welfare families in their caseloads may not ever be able to earn incentives at the current rate, no matter how well they perform." The changes, as Frye suggests, simply expanded the size of the federal program.

This expansion also serves to justify questionable claims that periodic "crackdowns" on alleged "delinquents" succeed in increasing collections despite the federal program's operating at a consistent loss. In January 2000, HHS secretary Donna Shalala announced that the enforcement program "broke new records in nationwide collections in fiscal year 1999, reaching $15.5 billion, nearly doubling the amount collected in 1992" (U.S. HHS 2000). Yet the U.S. General Accounting Office, which accepts at face value all HHS assumptions and data for what is "legally owed but unpaid," found that as a percentage of what HHS claims is owed, collections actually decreased during this period: "In fiscal year 1996, collections represented 21% of the total amount due but dropped to 17% of the total due in fiscal year 2000. As a result, the amount owed at the end of the period is greater than the amount owed at the beginning of the period" (2002, 7). In Shalala's baseline year, child support was still for the most part being paid directly from one parent to the other, without passing

through government accounting; criminal-enforcement methods were limited mostly to the low-income welfare cases for which they were originally created. Since then, however, more child-support payments—including current ones—have been routed through the enforcement system by automatic wage withholding and other coercive measures that presume criminality. The source of the increased collections was not arrearages among welfare families, as Shalala implied, but rather expanded payments passing through government hands when more middle-class fathers were brought into the criminal-enforcement system and more middle-class children were made fatherless.[4] State agencies now place *all* divorced parents, including the overwhelming majority who pay consistently and on time, in the status of semicriminals because the more clients the program has, the more federal funding the state receives.

The federal funding created or exacerbated a number of perverse incentives and perhaps unintended consequences: to turn as many parents as possible into payers; to separate as many children as possible from their parents and otherwise encourage the creation of single-parent homes; to make payment levels as onerous as possible; to extract every dollar from every payer available; and even to impose payment obligations on citizens who are not parents. Jo Michelle Beld, a consultant to the Minnesota child-support enforcement agency, has described how the livelihoods of enforcement officials depend on broken homes, how these same officials set the child-support levels they collect and tend to ratchet them ever higher, and how "high child support orders, in combination with other child support enforcement policies, have a negative effect on contact between non-custodial parents and their children" (2003, 715).

In addition to placing payers into the category of quasi-criminals, the federal funding further criminalizes fathers by encouraging payment levels that are as high as possible. "The federal government provide[s] welfare and collection incentive funds to the states based on the gross amount of the total child support payments recovered from non-custodial parents," Georgia assistant district attorney William Akins writes, "thus creating a corresponding incentive to establish support obligations as high as possible without regard to appropriateness of amount" (2000, 9–10). Economists have widely and severely criticized guidelines currently in use throughout the United States for their methods and assumptions. Economist R. Mark Rogers has charged that they result in "excessive burdens" based on a "flawed economic foundation" (1999). "The child support guidelines currently in use typically generate awards that are much higher than would be the case if based on economically sound cost concepts and with an equal duty of support for both parents" (Rogers and Bieniewicz

4. As the Clinton administration was announcing its success, the House Ways and Means Committee was arriving at a very different conclusion. "In 1978, less than one-fourth of child support payments were collected through the IV-D [welfare] program. This percentage, however, has increased every year since 1978. By 1993, more than two-thirds (67%) of all child support payments were made through the IV-D program. The implication of this trend is that the IV-D program may be recruiting more and more cases from the private sector, bringing them into the public sector, providing them with subsidized services (or substituting Federal spending for State spending), but not greatly improving child support collections" (U.S. House 1998, 610).

2004, 87; see also Gay 2004). The Urban Institute, a left-leaning think tank not known for its sympathy to fathers, reports that the main reason for arrearages is that "orders are set too high relative to ability to pay" (Sorensen et al. 2003). "An obligor in Georgia (and in many other states) earning modestly above the poverty level is pushed below the poverty level by presumptive child support obligations and is forced to make a choice between eating to survive and not making full payment on child support," says Rogers (2000), who has served on the Georgia Commission on Child Support. OCSE itself has acknowledged that the more than $90 billion in arrearages it was claiming as of 2004 is based on awards that are beyond the parents' ability to pay: "The best way to reduce the total national child support debt is to avoid accumulating arrears in the first place. The best ways to avoid the accumulation of arrears are to set appropriate orders initially. . . . Designing a system that establishes appropriate orders will encourage payment of child support" (U.S. HHS 2004). Yet failure to pay amounts that even OCSE admits are not "appropriate" results in incarceration, usually without trial.

The increased guidelines in turn have led to "windfalls to the custodial parents" (Christensen 2001, 66), most of whom are middle-class and upper-middle-class divorcing women. This situation generates an incentive to create more fatherless children, through either divorce or unwed childbearing. Robert Willis (2004) calculates that only between one-fifth and one-third of child-support payments are actually spent on the children; the rest is profit for the custodial parent. Moreover, support levels that greatly exceed the cost of rearing children create "an incentive for divorce by the custodial mother" (42). "This recent entitlement," write economist Robert McNeely and legal scholar Cynthia McNeely, "has led to the destruction of families by creating financial incentives to divorce [and] the prevention of families by creating financial incentives not to marry upon conceiving of a child" (2004, 170). Another economic study also concludes that child support serves as "an unintended economic incentive for middle-class women to seek divorce." "As long as the middle-income father works at a level comparable to that before [during?] the marriage," write Kimberly Folse and Hugo Varela-Alvarez, who base their study on child support at an atypically low percentage of fathers' income (17 percent), "divorce can be attractive, or at least economically rewarding for her" (2002, 283). This conclusion simply extends well-established findings that increased welfare payments result in increased divorce (Gallaway and Vedder 1986; Hoffman and Duncan 1995). In this case, however, a law-enforcement component is added, which becomes effectively a system of federal divorce enforcement. "Enforcement . . . is the critical variable in the choice dilemma because it represents a greater surety in the assessment of the probability of attaining rewards," write Folse and Varela-Alvarez. "Strong enforcement, while it is an agreed upon societal goal to protect children, may, in fact, lead to class-based micro-level decisions that lead to the unintended consequence of increasing the likelihood of divorce" (2002, 274, 284). In other words, a mother can simply escape the uncertainties, vicissitudes, and compromises inherent to life shared with a working

husband by divorcing, whereupon the police function as a private collection agency who will force him, at gunpoint if necessary, to pay her the family income that she alone then controls.

Thus, the effect of unilateral divorce laws of the 1970s combined with the new child-support measures has been to underwrite involuntary divorce, rendering it a lucrative enterprise for both custodial parents and state governments, along with other interests that benefit from the creation of fatherless children. "By allowing a faithless wife to keep her children *and* a sizable portion of her former spouse's income," writes Christensen, "current child-support laws have combined with no-fault jurisprudence to convert wedlock into a snare for many guiltless men" (2001, 65, emphasis in original).

In addition to providing incentives for women to divorce and to bear children out of wedlock, the federal payments also encourage governments to use means of their own to create fatherless children. Contrary to government claims, most fathers subject to child-support orders have not abandoned their children (Braver 1998, chap. 7). Most were actively involved in rearing them, and following what is usually involuntary divorce, many clamor for more time with them. (The vast majority of divorces involving children are filed by women, who can expect to gain sole custody of children regardless of fault and despite being the moving party in the family's dissolution [Brinig and Allen 2000].) Yet for states to collect their funding, fathers who are fit and willing to care for their children must be designated as "absent," with the implication that they have "abandoned" their children, when they have clearly done no such thing. In self-fulfilling fashion, these incentives put added pressure on divorce courts to shift their role from impartial tribunals dispensing justice into revenue-generating engines for state government by ruling that a child's "best interest" is to have limited contact with one parent in order to conform to the welfare model of one custodial parent and one noncustodial parent. Divorce-court judges who might otherwise be inclined to allow both parents a shared role in parenting their children are pressured to evict the father—thus, the nasty "custody battles" that are now daily fare on the front pages and the bread and butter of divorce lawyers.

Judges are also empowered to set child-support awards well above guideline levels, and the federal funding supplies them with added incentives to do so. In addition to regular child support, fathers may be required to pay "add-ons" for expenses such as medical-dental premiums, out-of-pocket medical and dental costs, daycare, and extracurricular activities. Yet there is no precise legal definition of what constitutes a legitimate add-on. By most formulas, these costs are already figured in the basic child support, so the payer in fact pays twice. Even more peculiar, judges who decide on nothing more than their own opinion that a father can or should earn more than he does may (and frequently do) "impute" potential income to him and set child support based on that hypothetical income. The judge is not required to possess any expertise in economic analysis or to cite any evidence in support of such a ruling. The result is that child-support payments may exceed what the father earns.

The federal funding also creates incentives to implicate men who are not even fathers and pull them into the criminal-enforcement machinery. One requirement for collecting federal payments is that states must institute paternity-establishment procedures, and nothing in the federal law prohibits or penalizes designating the wrong man as the father.

"Eligibility . . . depends only upon tagging the largest possible number of men, and there is no review or requirement that it be the right men," writes Ronald Henry (2006, 54). The result is "paternity fraud," the practice of forcing men to pay support for children who are acknowledged not to be their offspring. Most victims are low-income minority males, and many are young and even underage, with few of the skills or means to defend themselves in what Henry describes as a mass judicial "assembly line" that bears little relation to a hearing. "The paternity fraud victim is hustled through the formality, often in less than five minutes, and may not even realize what has happened until the first garnishment of his paycheck." Henry estimates that the number of such victims may exceed one million. "Every child support agency in America knows that it . . . has worked injustice upon appalling numbers of innocent men." In 2002, California governor Gray Davis vetoed a bill that would have rectified paternity fraud. After registering concern "for the children," Davis revealed his fear that the state would lose $40 million in federal funding. Thus, an elected official openly rationalized imposing criminal penalties on citizens known to be innocent simply in order to avoid losing money. "California has long been notorious for its high rate of 'sewer service,' high rate of default judgments, and high rate of false paternity establishments," notes Henry (2006, 54, 58, 63, 60–62, 66, 76, 55).

Presaging what some have proposed in the United States, Great Britain's Labour government has responded to this development not by exonerating the innocent, but by further criminalizing them for trying to prove their innocence. Labour proposes that home paternity-testing kits available from private companies be outlawed, so men can now also be arrested for trying to prove they are not the biological fathers of children they are ordered to support (Woolf 2000).

Bureaucracy versus Democracy

During the most recent election, an illustration of how the system works that raises still more overt political implications surfaced when federal officials intervened in a state vote by taking sides on a ballot initiative. On May 25, 2006, Thomas Sullivan, regional administrator for the Administration for Children and Families (ACF), sent a letter to North Dakota state senator Tom Fischer urging him to help defeat a North Dakota referendum that would have provided for shared parenting of children of divorce and separation. Sullivan told Fischer to take "whatever steps are necessary to ensure that initiated measures are not enacted," and he indicated that if the initiative

passed, there would be an "immediate" suspension of "all" federal money for child-support enforcement and possibly for welfare as well (copy of letter in my possession).

Advisory interpretations of regulations in response to legislative requests are standard procedure, but Sullivan's letter reads more like a threat. Because he was interpreting the possible impact of a future measure under federal regulations—a speculative matter subject to final interpretation through administrative processes or courts—one would expect qualified language: words such as *could* or *may*. Instead, Sullivan issued what amounted to an ultimatum to North Dakota: voting the initiative into law "will result in immediate suspension of all Federal payments for the State's child support enforcement program. . . . [Temporary Assistance for Needy Families] funding would also be jeopardized." Sullivan insisted that by eliminating the absent-parent designation in favor of two equal parents, shared parenting would fall afoul of the federal guidelines that require one parent to be "absent."

This claim was almost certainly not accurate. Leaving aside that advisory opinions are normally issued by an agency's legal counsel, not by an administrator, what is missing in Sullivan's assertion is the routine give-and-take when civil servants implement legislative actions. No allowance was made for the possibility that regulations might be interpreted in ways that avoided triggering penalties, let alone for the option of a waiver, which is common.

In fact, many states have been out of compliance with child-support regulations for years (on matters such as computerizing their collection systems, for example), yet they routinely receive extensions. By some more serious measures, all states are continuously out of compliance. No state today bases its guidelines on the cost of rearing children in that state, as federal law requires, yet no state has lost any federal funding, let alone "all" of it and "immediately."

When conflicts occur between state laws and federal regulations, time is invariably made available for the state to make corrections and not lose any funding.[5] Under 45 CFR 305.61, no penalty can be imposed for noncompliance without a notice. At a minimum, the state would have a year for corrective action before losing any federal funds. Thereafter, if a state is found to be in noncompliance, the penalties are only 1–2 percent for the first finding, 2–3 percent for the second finding, and 3–5 percent for subsequent findings.

In fact, guidelines based on shared-parenting principles that are arguably consistent with federal regulations already operate in some states (Rogers and Bieniewicz 2002). In any case, Sullivan's blanket assertion that funds would be stopped immediately was contradicted by his superior, assistant HHS secretary Wade Horn. "It is not possible for ACF to make a determination at this time whether the proposed measure would, in fact, result in Federal penalties or reductions in Federal support, because such a determination is dependent on how the measure will be implemented,

5. I am indebted to R. Mark Rogers for what follows. See his comments on the North Dakota referendum at http://ndspi.org/index.php/site/blog/P15.

if passed," Horn wrote in a letter to Carol Olson, executive director of the North Dakota Department of Human Services, on September 27, 2006. "Rather, there is a lengthy, multi-step process for determining whether a State IV-D Plan is consistent with specific Federal statutory and regulatory requirements."

The conclusion seems inescapable that not only was Sullivan employing his federal office to lobby a state legislature, but he was using if not misinformation, then federal financial leverage to influence the outcome of a vote by intimidating both the legislature and the voters of North Dakota. The impending loss of $71 million in federal payments was publicized extensively by bar associations, government employee unions, and feminist groups during the campaign and figured prominently in their successful effort to defeat the referendum. Strikingly, none of these groups apparently felt the need to justify the intervention of an ostensibly apolitical federal agency on their side.

For federal officials to take sides in a state ballot appears to be highly irregular, if not unprecedented. Under 18 USC 1913, it is a crime for federal career officials and employees to lobby legislatures. A ballot initiative allows citizens to act when they believe their legislators have failed to do so. The lobbying of a legislator by a federal agency in order to influence the outcome of a vote carries major implications not only for government ethics and federalism, but also for the democratic process itself.

Implications for the Welfare State

Child support has come under increasing criticism in recent years for its heavy-handed enforcement methods that violate constitutional protections. "The advocates of ever-more-aggressive measures for collecting child support," writes Bryce Christensen, "have moved us a dangerous step closer to a police state and have violated the rights of innocent and often impoverished fathers" (2001, 63–64). Attorney Jed Abraham describes the apparatus as "a veritable gulag, complete with sophisticated surveillance and compliance capabilities such as computer-based tracing, license revocation, asset confiscation, and incarceration. The face of this regime is decidedly Orwellian" (1999, 154–55).

What is at work here is more than simply excessive zeal and may be fully comprehensible only in light of financial pressures that are also manifesting themselves elsewhere in debates over welfare and entitlements.

The financial costs of the current child-support system are likely to be much more extensive than is immediately apparent. Deficits from administrative expenses and subsidies paid to states are relatively minor. Diverting the criminal justice system from protecting society against violent criminals to criminalizing nonviolent and otherwise law-abiding parents and keeping them separated from their children has uncounted costs. Even greater costs proceed from operation of the myriad programs created to deal with the social consequences generated by swarms of fatherless children. "My agency spends $46 billion per year operating 65 different social programs,"

HHS assistant secretary Horn points out. "If one goes down the list of these programs . . . the need for each is either created or exacerbated by the breakup of families and marriages" (2005). He does not mention that some of those programs—child-support enforcement is only one of them—may themselves be contributing to the breakup of families and marriages in the first place (he is arguing for the Bush administration's marriage therapy programs). But this consideration only strengthens his point, which can be extended to a large portion of the half-trillion-dollar HHS budget. Horn himself, along with other advocates for fatherhood and marriage, has assembled impressive and unrefuted documentation that connects fatherlessness with virtually every major social pathology today, including violent crime, truancy and scholastic failure, substance abuse, unwed pregnancy, and teen suicide (Horn and Sylvester 2002). If these advocates are correct, then it is reasonable to view a huge proportion of domestic spending—including law enforcement, education, and health budgets—as among the costs of the current child-support system.

Even these consequences, massive as they are, may be only part of the picture. As head of the ACF, Horn highlights programs that minister to the family crisis in terms of its manifestations among the young, but family dissolution is also connected to other critical costs of an exploding welfare state now showing themselves in public-policy debates.

Aside from the passing of the family as an institution for care of the aged and the transfer of that function to institutions, including the state, the breakup of families and the growth of single-parent homes may also be eroding our ability to finance programs such as Social Security and Medicare. The falling birth rate throughout the Western world has been attributed to family dissolution and to women's entrance into the workforce, among other factors (Carlson 2003), but it may also indicate an increasing unwillingness among men to marry and start families (Whitehead and Popenoe 2001), a reluctance born of their increasing fear that they can lose their children, be driven into poverty, and then face criminal penalties for failure to pay child support that is beyond their means (Sacks and Thompson 2002). Abraham warns that the only effective way that men can avoid losing their children, earnings, and freedom is not to start families in the first place (1999, i). Even as the federal government embarks on programs to encourage "healthy marriage," it is simultaneously turning marriage, for men especially, into "a one-way ticket to jail" (Baskerville 2003, 28).

Although the pressures spring from more than child support alone, child support as a financing mechanism is on the cutting edge of the welfare state. As entitlements rise to crisis levels, making their financing impossible through orthodox methods, and as political pressures strain elected leaders' resolve to contain the costs, child support may offer a case study for a situation in which the system must "give." The resort to coercive methods of financing welfare may offer a preview of where our entire welfare-state system is headed: expropriating citizens to finance programs that create demand for more spending and more revenue. It may not be far-fetched, for example, to

imagine agencies such as the Internal Revenue Service adopting the principle, now established in child support, of "imputing" income to taxpayers and basing taxation on potential or past earnings. Involuntarily divorced fathers may turn out to be only the first payers to find themselves inducted into a system of forced labor to satisfy government's growing demand for revenue.

At the same time, recognizing this tendency may offer the beginning of a solution to the larger problem. In the long run, controlling entitlements will necessitate replacing them with something other than different entitlements, however politically expedient that temptation may be. Until someone devises an alternative, the most viable replacement for welfare—and perhaps for other entitlements as well—is likely to remain the traditional two-parent family. Entitlements that undermine families and marriages therefore create an especially vicious cycle, but they also present an identifiable point at which we may begin to gain control over the problem. Confronting the destruction of families and the criminalization of parents by the child-support system therefore represents a critical juncture in attempts to rein in the welfare state.

References

Abraham, Jed. 1999. *From Courtship to Courtroom: What Divorce Law Is Doing to Marriage*. New York: Bloch.

Akins, William. 2000. Why Georgia's Child Support Guidelines Are Unconstitutional. *Georgia Bar Journal* 6, no. 2: 8–14, 54–57.

Bartfeld, Judi, and Daniel Meyer. 1994. Are There Really Deadbeat Dads? *Social Service Review* 68: 219–35.

Baskerville, Stephen. 2003. The Federal Bureau of Marriage? *Liberty* 17, no. 7: 23–28.

———. 2004. Is There Really a Fatherhood Crisis? *The Independent Review* 8, no. 4 (spring): 485–508.

Beld, Jo Michelle. 2003. Revisiting the "Politics of Fatherhood": Administrative Agencies, Family Life, and Public Policy. *PS: Political Science and Politics* 36, no. 4: 713–18.

Birch, Paul James, Stan E. Weed, and Joseph A. Olsen. 2004. Assessing the Impact of Community Marriage Policies on County Divorce Rates. *Family Relations* 53, no. 5: 495–503.

Braver, Sanford L., with Diane O'Connell. 1998. *Divorced Dads: Shattering the Myths*. New York: Tarcher/Putnam.

Braver, Sanford L., P. T. Fitzpatrick, and R. Bay. 1988. Adaption of the Non-custodial Parents: Patterns over Time. Paper presented at the conference of the American Psychological Association, Atlanta, Georgia.

Brinig, Margaret F., and Douglas W. Allen. 2000. These Boots Are Made for Walking: Why Most Divorce Filers Are Women. *American Economics and Law Review* 2, no. 1: 126–69.

Carlson, Allan. 2003. Rethinking American Population for a Depopulating World. Lecture for the Office of Population Affairs, U.S. Department of Health and Human Services, Washington, D.C., June 10. Available at: http://www.profam.org/docs/acc/thc_acc_030610.htm.

Christensen, Bryce. 2001. The Strange Politics of Child Support. *Society* 39, no. 1: 63–70.

Comanor, William S. 2004. Child Support Payments: A Review of Current Policies. In *The Law and Economics of Child Support Payments,* edited by William S. Comanor, 1–30. Cheltenham, U.K.: Edward Elgar.

Drexler, Peggy. 2005. *Raising Boys Without Men*. Emmaus, Pa.: Rodale.

Edin, Kathryn, Laura Lein, and Timothy Nelson. 1998. *Low-Income, Non-residential Fathers: Off-Balance in a Competitive Economy*. Available at the U.S. Department of Health and Human Services Web site: http://fatherhood.hhs.gov/ELN/eln98.htm.

Folse, Kimberly, and Hugo Varela-Alvarez. 2002. Long-Run Economic Consequences of Child Support Enforcement for the Middle Class. *Journal of Socio-economics* 31, no. 3: 273–86.

Frye, Leslie. 1997. *Statement of Leslie L. Frye, Chief, Office of Child Support, California Department of Social Services, Testimony before the Subcommittee on Human Resources of the House Committee on Ways and Means*. Available at: http://waysandmeans.house.gov/legacy/humres/105cong/3-20-97/3-20frye.htm.

Gallaway, Lowell, and Richard Vedder. 1986. *Poverty, Income Distribution, the Family, and Public Policy*. Washington, D.C.: U.S. Government Printing Office.

Gardner, Marilyn. 2002. Making "Deadbeat" Parents a Thing of the Past. *Christian Science Monitor,* August 27.

Garfinkel, Irwin, and Sarah McLanahan. 1986. *Single Mothers and Their Children: A New American Dilemma*. Washington, D.C.: Urban Institute Press.

Gay, Roger. 2004. A Further Look at Child Support Guidelines. *PS: Political Science and Politics* 37, no. 4: 729–30.

Gilder, George. 1995. End Welfare Reform as We Know It. *American Spectator* (June): 24–27.

Goldberg, Bernard. 2001. *Bias: A CBS Insider Exposes How the Media Distort the News*. Washington, D.C.: Regnery.

Green, C. Jesse. 2002. Interview with Michael E. Tindall. *Michigan Lawyers Weekly* (n.d.). Available at: http://www.michiganlawyersweekly.com/loty2000/tindall.htm. Retrieved May 1, 2002.

Hamilton, Brady E., Joyce A. Martin, and Stephanie J. Ventura. 2006. *Births: Preliminary Data for 2005*. Hyattsville, Md.: National Center for Health Statistics.

Hayek, F. A. 1944. *The Road to Serfdom*. Chicago: University of Chicago Press.

Henry, Ronald. 2004. Child Support Policy and the Unintended Consequences of Good Intentions. In *The Law and Economics of Child Support Payments,* edited by William S. Comanor, 128–59. Cheltenham, U.K.: Edward Elgar.

———. 2006. The Innocent Third Party: Victims of Paternity Fraud. *Family Law Quarterly* 40, no. 1: 51–79.

Hertz, Rosanna. 2006. *Single by Chance, Mothers by Choice: How Women Are Choosing Parenthood Without Marriage and Creating the New American Family*. New York: Oxford University Press.

Hoffman, Saul, and Greg Duncan. 1995. The Effects of Incomes, Wages, and AFDC Benefits on Marital Disruption. *Journal of Human Resources* 30: 19–41.

Horn, Wade. 2005. Wedded to Marriage. *National Review Online,* August 9. Available at: http://www.nationalreview.com/comment/horn200508090806.asp.

Horn, Wade, and Tom Sylvester. 2002. *Fathers Facts.* Gaithersburg, Md.: National Fatherhood Initiative.

Little, Ken. 2002. 10 Charged with Non-Support. *Observer-Dispatch,* n.d. Available at: http://www.uticaod.com/news/daily/local2.htm. Retrieved July 31, 2002.

McNeely, Cynthia A. 1998. Lagging behind the Times: Parenthood, Custody, and Gender Bias in the Family Court. *Florida State University Law Review* 25, no. 4: 891–956.

McNeely, Robert A., and Cynthia A. McNeely. 2004. Hopelessly Defective: An Examination of the Assumptions Underlying Current Child Support Guidelines. In *The Law and Economics of Child Support Payments,* edited by William S. Comanor, 166–77. Cheltenham, U.K.: Edward Elgar.

Olson, Molly. 2007. *Title IV-D: Child Support Collection and Enforcement, Welfare Service Program.* Roseville, Minn.: Center for Parental Responsibility.

Pear, Robert. 2002. U.S. Agents Arrest Dozens of Fathers in Support Cases. *New York Times,* August 19.

Roberts, Sam. 2006. To Be Married Means to Be Outnumbered. *New York Times,* October 15.

Rogers, R. Mark. 1999. Wisconsin-Style and Income Shares Child Support Guidelines: Excessive Burdens and Flawed Economic Foundation. *Family Law Quarterly* 33, no. 1: 135–56.

———. 2000. *Testimony on Hyde-Woolsey Child Support Bill, HR 1488, Presented to the Human Resources Subcommittee of the House Ways and Means Committee.* Available at: http://www.guidelineeconomics.com/files/HydeWoolsey_written.doc.

Rogers, R. Mark, and Donald J. Bieniewicz. 2002. Child Cost Economics and Litigation Issues: An Introduction to Applying Cost Shares Child Support Guidelines. In *Assessing Damages in Injuries and Deaths of Minor Children,* edited by Thomas R. Ireland and John O. Ward, 333–80. Tucson, Ariz.: Lawyers and Judges.

———. 2004. Child Support Guidelines: Underlying Methodologies, Assumptions, and the Impact on Standards of Living. In *The Law and Economics of Child Support Payments,* edited by William S. Comanor, 60–90. Cheltenham, U.K.: Edward Elgar.

Ross, Jane. 1995. *Child Support Enforcement: Opportunity to Reduce Federal and State Costs.* GAO/T-HEHS-95-181. Washington, D.C.: U.S. General Accounting Office.

Sacks, Glenn, and Dianna Thompson. 2002. Have Anti-father Family Court Policies Led to a Men's Marriage Strike? *Philadelphia Inquirer,* July 5.

Seidenberg, Robert. 1997. *The Father's Emergency Guide to Divorce-Custody Battle.* Tacoma Park, Md.: JES.

Solomon, Carmen. 1989. *The Child Support Enforcement Program: Policy and Practice.* Washington, D.C.: Congressional Research Service.

Sonenstein, F. L., and C. A. Calhoun. 1990. Determinants of Child Support: A Pilot Survey of Absent Parents. *Contemporary Policy Issues* 8: 75–94.

Sorensen, Elaine, Heather Koball, Kate Pomper, and Chava Zibman. 2003. *Examining Child Support Arrears in California.* Charlotte, N.C.: Urban Institute.

Tersak, Terri Lynn. 2007. How the Failure of Welfare Reform Created Our Lawless Courts. *Op-EdNews.com,* March 1. Available at: http://www.opednews.com/articles/opedne_terri_ly_070228_how_the_failure_of_w.htm.

U.S. Department of Health and Human Services (HHS). 1997. *Report to the House of Representatives Committee on Ways and Means and the Senate Committee on Finance: Child Support Enforcement Incentive Funding.* Washington, D.C.: HHS.

———. 1998a. Child Support Collections Reach New Records. HHS press release, December 31.

———. 1998b. HHS Announces New Registry to Track Parents Who Owe Child Support. HHS press release, September 28.

———. 2000. Child Support Enforcement Breaks New Records. HHS press release, January 27.

———. 2002. Chronic Child Support Defaulters Arrested in Nationwide Sweep. Office of the Inspector General press release, July 31.

———. 2003. *Child Support Enforcement (CSE) FY 2002 Preliminary Data Report.* Washington, D.C.: HHS. Available at: http://www.acf.hhs.gov/programs/cse/pubs/2003/reports/prelim_datareport/, April 29.

———. 2004. *The Story Behind the Numbers: Who Owes the Child Support Debt?* Washington, D.C.: HHS. Available at: http://www.acf.hhs.gov/programs/cse/pol/IM/2004/im-04-04a.doc, July.

U.S. General Accounting Office. 2002. *Child Support Enforcement: Clear Guidance Would Help Ensure Proper Access to Information and Use of Wage Withholding by Private Firms.* GAO-02-349. Washington, D.C.: U.S. General Accounting Office.

U.S. House of Representatives. 1998. *1998 Green Book.* Washington, D.C.: U.S. Government Printing Office, Ways and Means Committee Print 105-7.

———. 2004. *2003 Green Book.* Washington, D.C.: U.S. Government Printing Office. Ways and Means Committee Print 108-6.

Weitzman, Lenore. 1987. *The Divorce Revolution.* New York: Free Press.

Wetzstein, Cheryl. 2006. Teen Moms Down; Unwed Mothers Up. *Washington Times,* November 22.

Whitehead, Barbara Dafoe, and David Popenoe. 2001. *The State of Our Unions: The Social Health of Marriage in America.* Piscataway, N.J.: National Marriage Project.

Willis, Robert J. 2004. Child Support and the Problem of Economic Incentives. In *The Law and Economics of Child Support Payments,* edited by William S. Comanor, 31–59. Cheltenham, U.K.: Edward Elgar.

Wilson, James Q. 2002. Why We Don't Marry. *City Journal* (winter). Available at: http://www.city-journal.org/html/12_1_why_we.html.

Woolf, Marie. 2000. Government Will Clamp Down on the DIY Paternity Test "Cowboys." *The Independent,* December 29.

Acknowledgments: The author thanks Don Bieniewicz, Lary Holland, Jim Loose, Molly Olson, David Roberts, and the late Robert Seidenberg.