Government Trampling on Constitutional Rights of Parents

by Phyllis Schlafly November 5, 2010

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When the liberals and the feminists, including Hillary Clinton, began saying the "village" should raise the child, most people recognized village as a metaphor for government. We're now seeing how intrusive Big Government Nannyism really is.

State agencies operating under various names such as Child Protective Services (CPS) have been assigned the task of protecting kids from abuse or neglect by any adults, especially by their own parents. A new study casts doubt on the value of CPS.

Child Protective Services, which rushes into action based on anonymous tips, investigated more than three million cases of suspected child abuse in 2007. Researchers examined the records of 595 children nationwide alleged to be at similar high risk for abuse, and tracked them from ages 4 to 8.

The researchers concluded that CPS's intervention did little or nothing to improve the lives of the children, and there was no difference between children in the families CPS investigated or did not investigate. The social scientists looked at all the factors known to increase the risk for abuse or neglect: social support, family functioning, poverty, caregiver education and depressive symptoms, plus child anxiety, depression and aggressive behavior.

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The Child Abuse Prevention and Treatment Act was passed by Congress in 1974, and about 45 states passed complementary state laws. Taxpayers' money began to flow big time to the bureaucrats.

The research results were reported in the October issue of the Archives of Pediatrics & Adolescent Medicine. The report was accompanied by an editorial entitled "Child Protective Services Has Outlived its Usefulness."

It argued that CPS should not be engaged in law enforcement. If it's a crime, call the police; if it's neglect, call a public health nurse; if it's an unsuitable living situation, call the appropriate social services.

Unfortunately, the researchers did not look at the harm caused by CPS bureaucrats who arrive unannounced with the police, interfere with a functioning family, and often take the children away from their parents and turn them over to foster care. When taxpayer appropriations are voted next year by Congress and state legislatures, CPS bureaucrats should be required to demonstrate whether any good outweighs the harm.

Two cases involving Child Protective Services are now before the U.S. Supreme Court. The High Court has just agreed to take a case involving the interrogation of an elementary schoolchild at school by a CPS caseworker and a deputy sheriff about possible sexual abuse at home.

This is a Fourth Amendment case: Camreta and Alford v. Greene. Oregon investigators are appealing a lower court ruling that they violated a nine-year-old girl's constitutional right to be free from unreasonable search and seizure when they interviewed her for two hours at school without a warrant, court order, parental consent, or exigent circumstances.

This case could have a significant impact nationwide. Unfortunately, some government agencies are more solicitous in guaranteeing constitutional due process to vicious criminals than to parents.

The other CPS case now before the Supreme Court, Los Angeles County v. Humphries, has already been briefed and argued. This case involves the constitutionality of the child abuse index, or list, maintained by Child Protective Services in California.

More than 800,000 people are now listed on California's child abuse index. These listings are very hurtful to individuals since employers consult the list before hiring employees to work with children.

CPS puts people on this list from agency reports that are based on anonymous tips and suspicion, not proof. It's mighty easy for a malicious wife or ex-wife to allege child abuse as part of her game plan to get child custody or increased child support.

The issue in this case is the fact that there are no procedures, no standards, and no criteria for a wrongly accused person to get his name off the child abusers index. The Supreme Court is reviewing the Ninth Circuit ruling that Craig Humphries (whom a court pronounced innocent of all charges) had a "nightmarish encounter" with the California system, and "There is no effective procedure for Humphries to challenge this listing."

In 2006, Congress toyed with a plan to create a national child abuse registry. The plan was abandoned because of the unreliability of state lists and lack of due process. (blog.eagleforum.org)

The child abuse registry should not be confused with the sex offender registry, which lists only those who have been convicted of sex crimes. The child abuse registry puts men on the list who have never been proven guilty of anything or even charged with a crime, a punishment that is entirely contrary to our legal assumption of being innocent until proven guilty.

Humphries has been trying to clear his name for nine years. Congress should defund these abusive registries and we hope the Supreme Court declares them unconstitutional.