

The Protective Parent Reform Act

Presented by Talia Carner

Author, PUPPET CHILD, (A family legal drama)

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Full text of the PPRA is available at:

<http://www.taliacarner.com/proposedact.html>

Introduction

- My research sources:
 - ◆ Interviews – judges, lawyers, social workers, court officials
 - ◆ Attended closed-door hearings
 - ◆ Read judges' personal notes
 - ◆ Set up 800 for parents' stories
 - ◆ Investigated research sources
- Gaining audience and a platform:
PUPPET CHILD -- The Top 10 Favorite First Novels 2002 (BookBrowse.com)

The shameful secret in our own backyard:

- All across the nation, judges betray molested children seeking protection from an abusive parent by putting them in the hands of their molesters.

This presentation will cover:

- How family court betrays children victims of sexual abuse
- Case histories
- The means and process used in family court
- Facts vs. myths about reporting of child sexual molestation
- Legislative actions to remedy the injustice

Definitions

- Why “men” and “fathers?”

--95% of sexual molestation of girls and 90% of sexual molestation of boys are by men. Unless he's the biological father, he can't sue for custody.

- Defining the segment:

Only 2% of “high-conflict” custody cases (9% of divorces) involve allegations of child sexual abuse by a parent (Tjaden 1990)

—in the USA 2% of 9% represents THOUSANDS of children

Finding # 1

- The problem in many cases is not the absence of evidence of sexual abuse—as it is **the judges' suppression of evidence.**

Finding # 2

- The American Judges Foundation reports: **70% of abusive fathers are the winners in custody fights.**

Finding # 2 B

Why?

- For an abusive man, the courtroom is an arena in which he can hand a woman a final blow by taking her children away.
- Judges mistake a man's fighting for love of his children
- Documented bias and discrimination against women in all level of the judicial process.

Finding # 3

- Provided with broad judicial discretion, judges are immune to scrutiny—or appeal.
- One person is judge, jury and executioner.

(Against democratic values)

Case histories

- *(Substitute with cases from your state)*
 - ◆ Toni Shcott, Idaho
 - ◆ Anne D'Angelo, Connecticut
 - ◆ Bonita Shain, Kentucky

Finding # 4

- Family court re-victimizes molested children.

How?

How?

- Tolerance of child sexual abuse.
- Feudal viewing of children as property.
- Refusal to stigmatize a man as a pedophile.
- Not following the law.
- Traditional stereotyping of mothers (i.e., holding mothers to higher standards than fathers.)

Finding # 5

- OTHER VICTIMIZERS:

Court-appointed fiduciaries often overstep their roles, while judges abdicate their function to them.

Finding # 6

- Courts favoring “Parental Alienation Syndrome” theory (PAS).
- The “theory” is used almost exclusively against women.

PAS and its originator:

- Dr. Richard Gardner
- “The theory” and “The syndrome” -- unsupported by any sound research and unrecognized by any medical, academic or psychological organization.
- Discredited by clinical studies (Faller 1998)

Statements by Dr. Richard Gardner

- “...pedophilia is an accepted practice by billions of people”
- “...our society’s response to it is ‘excessively moralistic and punitive.’ ”
- “...there is a certain amount of pedophilia in all of us.”
- “...a mother’s hysterics [to child molestation]...will contribute to the child’s feeling that a heinous crime has been committed.”

Recommendations by Dr. Richard Gardner

- The mother “should be helped to understand” that her child possibly “enjoyed immensely the sexual activities.”
- If she insists on keeping the child away from his [molesting] father, then “a change of custody to the father is in order.”

The “true” victims according to PAS:

- Fathers are “victims of mothers’ viciousness and vindictiveness.”
- Judges are “manipulated by mothers.”

False allegations of child sexual abuse?

- Academic studies consistently prove that claims of false allegations of child sexual abuse made either
 - ◆ By mothers and/or
 - ◆ By children

--to be extremely low

Let's review the studies:

Facts vs. PAS Myth # 1:

Victims of sexual abuse frequently:

- Experience feelings of shame, guilt and inadequacy
(Bagley, 1992; Courtois & Watts, 1982; Herman & Hirschman, 1977; Swanson & Biaggio, 1985).
- Believe that the abuse is their fault
(Johnson, 1987; Tsai & Wagner, 1978).
- Are embarrassed or reluctant to answer questions about the sexual activity
(Berliner & Barbieri, 1984).

And...

Facts vs. PAS Myth # 2:

- The victim may feel guilty for consequences to the perpetrator and may fear subsequent retaliatory actions from the perpetrator

(Berlinger & Barbieri, 1984; Groth, 1979; Swanson & Biaggio, 1985).

Facts vs. PAS Myth # 3:

- Children's Hospital Medical Center of Cincinnati, comparing the acts recorded by confessing pedophiles to the children's reports of the same acts, found **children's allegations to be reliable—and often under-reporting.**
(Daso & Shapiro, 2000)

Facts vs. PAS Myth # 4:

A 1989 extensive study by M. D. Everson and B. W. Boat found a false allegation rate of:

- 1.6% for children under 3
- 1.7% for children aged 3 to 6
- 4.3% for children aged 6 to 12
- and 8% for adolescents

(an age-averaged rate of 4.7%).

Facts vs. PAS Myth # 5:

- In 1987, David P. H. Jones and J. Melbourne McGraw studied child sexual allegations and found *false* allegations
 - by children represented **2%**
 - by adults represented **6%**

Facts vs. PAS Myth # 6

- More studies report a single digit false allegations by mothers or children:
 - ◆ Australia – 2.5% (Oates, 2000)
 - ◆ U.K. – 8.5%
(Anthony & Watkeys, 1991)
 - ◆ Ontario – 2.5%
(Trocmé, McPhee, Tam, 1994)

Facts vs. PAS Myth # 7:

U.S. Dept. of Health & Services,
2002:

- Only 0.02% of allegations were intentionally false

Sub-conclusion:

- 94-98.5% of sexual abuse allegations made by either children or their mothers are true

Facts vs. PAS Myth #8:

- American Psychological Association 1996 states:
“Women seldom make false reports of child abuse or battering”.
- A study by Sirles and Lofberg:
“Many mothers prefer to just divorce rather than stigmatize their children with the label of having been sexually molested.”

Facts vs. PAS Myth # 9:

1998 Canadian Study of Reported Child Abuse (CIS-98):

7,672 cases investigated

- Overall very low false allegations
 - **Mothers the least** likely to fabricate reports
 - **Children are very rarely** the source of intentionally false allegations of sexual abuse

Facts vs. PAS Myth #10

- In this largest national study to examine intentionally false allegations, CIS-98 found
- **Deliberate false allegations mostly by fathers**

The real victims:

- Sexually abused children, who are protected by mothers that are disbelieved, discredited and disenfranchised in our legal system.
- Protective parents that make the allegations (often the mothers).

Leading NGO bodies:

- **Prevent Child Abuse America**
 - ◆ Interested in prevention, not intervention.
- **National Center for Missing and Exploited Children**
 - ◆ Stands on the side of “the law” to **manhunt children** in hiding from a molesting parent.

Legislative options:

- On the **Federal** level
- On the **State** level
- On the **local/district** level

How the PPRA came to be, stage 1

- A U.S. Congressman read **Puppet Child** and asked author Talia Carner to brief him on the problems of molested children caught in family court.
- Carner consulted with activists and presented the Congressman with a list of problems--and suggested solutions.
- He introduced Carner to colleagues and the Judiciary Committee that showed interest in drafting a bill.

How the PPRA came to be #2

- Carner asked Pittsburgh-based Richard Ducote, Esq. to draft a Federal legislative proposal, which he did, naming it “**The Protective Parent Reform Act.**”
- Richard Ducote has tried “high-conflict” custody cases in over 40 states: “...**no woman despite evidence that her child has been sexually molested...can safely walk into any family court and not face a risk of losing custody to the abuser...**”

The tool for change

- The Protective Parent Reform Act is the first tool ever to be handed to activists with clear definitions of the necessary solutions to existing problems.
- It enables activists to present an actionable agenda to community leaders and politicians.

The Protective Parent Reform Act premise #1

- On the Federal level Ducote suggests to:
Attach to Child Abuse Protection and Treatment Act (CAPTA)-- in the form of funds withheld from states that will not comply with the Act.

The Protective Parent Reform Act premise # 2

- Meant to ensure that a parent who reasonably believes that his or her child is threatened by child abuse perpetrated or allowed by the other parent is not punished by the court, or penalized by loss of custody, or limitation of contact or visitation.

The PPRA suggested provision # 1

- Prohibition against *ex parte* contacts.

The PPRA suggested provision # 2

Guardians *ad litem* and children's attorneys

- Be limited to advocating for the wishes of the child.
- Be prohibited from substituting their own opinions and judgments for the wishes of the child.
- Shall not be deemed a quasi-judicial officer or be granted any fact-finding role.

The PPRA suggested provision # 3

- Parents shall be provided full and timely access to all custody and mental health evaluations.
- Parents shall be afforded the opportunity to depose prior to the trial and to cross examine at trial any and all mental health or custody evaluators.

The PPRA suggested provision # 4

- No expert opinion be allowed in a custody or visitation case unless it is based on concepts and theories accepted by the scientific community--and supported by credible and admissible evidence established independently of that expert's opinion.

The PPRA suggested provision # 5

- Due process shall be afforded all parents in custody and visitation cases.
- Removing custody, visitation or contact with parent shall not be made on the basis of written declarations or affidavits, or without adequate written advance notice and a hearing as defined by state and federal constitutional law.

And...

The PPRA suggested provision # 5 B

- No parent shall lose custody, visitation, or contact with a child based solely on the opinion of a professional that the parent might flee with the child without credible and admissible evidence (independent of the professional's opinion that parent plans or intends to flee).

The PPRA suggested provision # 6

- Court-sponsored mediation and conciliation programs shall not make recommendations or fact-finding reports to the judge regarding child custody, visitation, or contact unless all parties freely agree in advance, and any parent shall have the right to contest the report.

The PPRA suggested provision # 7

- No findings by any child protection agency shall be considered *res judicata* or collateral estoppel-- unless all parents are afforded the opportunity to challenge any such determination.

The PPRA suggested provision # 8

- Whenever child abuse is an issue in a custody or visitation case only persons with training relevant to the specific allegations shall be appointed by the court to conduct evaluation.

The PPRA suggested provision # 9

- Admissible evidence of child abuse must be considered in any custody or visitation case.

The PPRA suggested provision # 10

- No parent shall be deprived of custody, visitation, or contact with child, nor shall such a child be placed in foster care simply because the parent reasonably believes that his or her child is the victim of child abuse and acts lawfully to protect the child or to obtain treatment for the child.

The PPRA suggested provision # 11

- Family court order shall not override orders by other court (i.e, a parent protected from an abuser by an order of protection should not be forced to hand over the children for visitation).

The process of introducing a Federal Act:

- Sponsor in U.S. Congress
- Co-Sponsor(s)
- Judiciary Committee approval
- A Congressional hearing
- Vote

On the state level

States that have passed PPRA

- Tennessee (HB 2848 & SB 2966)

Similar to PPRA (but independent of it) passed in:

- Alaska (HB 385)
- Wisconsin (AB 279)

Political activism for PPRA in Delaware

- In September 2004, Karen Hartley-Nagle announced her running for **Delaware State Senate District 17 on the PPRA platform.**
- While she did not win the November 2004 election, her opponents were forced to adopt some of her concerns.

Political activism for PPRA in Maryland

- For the 2006 election, Paul Griffin ran for the **Maryland House of Delegates on the PPRA platform.**
- While he did not win, he raised awareness in the public and media for the need to fix the grave legal injustices toward abused & molested children in courts

The future on the Federal level

Stage 1:

- Encourage more states to pass their versions of the PPRA.
- With a number of states behind PPRA, to return to campaigning Congress—with the co-sponsorship of these states' representatives.

The future on the Federal level

Stage 2:

- Introduce a parallel legislation in the U.S. Senate.

The immediate future

- Introduce to legislatures in every state—and push to pass it
- Grass-root campaigning on the city, county and district levels.
- Achieve support of key child protection organizations.
- Dialoguing with fathers' groups to purge themselves of convicted pedophiles.

The focus:

- Keep the focus on the **abused children** betrayed by the legal system meant to protect them.
- “Puppet Children” no more!

For a full text of Richard Ducote's PPRA

- Please check author Talia Carner's website at www.TaliaCarner.com
- or the direct link at:
<http://www.TaliaCarner.com/proposedact.html>

Since Puppet Child makes a good read favored by judges and laypeople alike, many protective mothers have mailed it to people in their lives who "don't get it."

