

## Book Review

Krason, S. M. (2013). *Child abuse, family rights, and the child protective system: A critical analysis from law, ethics, and Catholic social teaching*. The Scarecrow Press, Inc.: Lanham, UK.

Reviewed by Wayne C. Evens, Ph.D.  
Bradley University

*Journal of Social Work Values and Ethics*, Volume 11, Number 1 (2014)  
Copyright 2014, Association of Social Work Boards (ASWB)

This text may be freely shared among individuals, but it may not be republished in any medium without express written consent from the authors and advance notification of ASWB

Dr. Stephen M. Krason (editor) is a professor of political science and legal studies and chair of the department of humanities and Catholic social thought and legal studies at Franciscan University in Steubenville, Ohio. He earned a J.D. and an M.A. and Ph.D. in political science from the State University of New York at Buffalo. He also holds an M.A. in theology-religious education from Gannon University. He has published several articles and books related to Catholic social thought and the Constitution and law. He co-founded the Society of Catholic Social Scientists. He has been an active attorney on behalf of home schooling parents who have been accused of child abuse and neglect.

The book is a critique of current child welfare law and practice. Much of the argument is an assertion that the child welfare system violates parents' constitutional rights and harms children by violating the sanctity of the home.

“The Mondale Act and its aftermath: An overview of forty years of American law, public policy, and governmental response to child abuse and neglect” (Stephen M. Krason) reviews the history of the development of the child protective system (CPS). It argues that CPS and the related laws and policies are “deeply troublesome.” The author points out that mandatory reporting laws led to a massive increase in reports, which does not necessarily indicate a massive increase in actual abuse and neglect. Several cases where clearly the system damaged innocent people are cited.

The major critiques are that a) definitions of abuse and neglect are too vague, giving CPS workers wide latitude in what they choose indicate as abuse and/or neglect; b) it is too easy to report, as anyone can provide a report with little evidence; c) mandatory reporters are in a position where it is better to report on little evidence rather than risk not reporting, and d) workers are required to investigate even when it is clear no abuse or neglect has happened. Further, workers can be held liable if they do not remove a child who is subsequently harmed, but have very limited liability if they remove a child with little evidence. The author argues that accused parents are denied constitutional rights.

The chapter discusses several cases where rights have been clearly violated in the absence of evidence. It focuses on cases handled by the Home School Legal Defense Association in which parents were accused simply because they chose to home school their children. The author proposes that constitutional rights should apply in child welfare.

“The family and parental rights in light of Catholic social teaching and international human rights law: A convergence” (William L. Saunders). This chapter cites the Universal Declaration of Human Rights and various Catholic documents, especially *Rerum Novarum*, to establish, “This brief review of *Rerum Novarum* establishes the following principles, relevant to our evaluation of the CPS: 1) the family predates the State and society, and is

founded upon marriage; 2) society and the State are obligated to support, and not to undermine, the family; 3) parental authority is fundamental and the State may not displace it; and 4) there are limited situations-defending basic human rights-in which State intervention is appropriate” (p.92). The conclusion is that the State should exercise limited and controlled intervention and should not undermine parental authority.

“Child protective services and police interference with family relations: A constitutional perspective” (Michael E. Rosman). This chapter deals primarily with cases where police or CPS workers remove children without court involvement. It argues for stronger constitutional protection and better court supervision in these cases.

“Fourth amendment litigation in CPS cases” (James R. Mason III). This chapter addresses primarily homeschooling cases and the right of parents to refuse workers or police access to their home. It notes that the Supreme Court has not ruled on fourth amendment rights in child protective cases. It argues that these rights should be extended to parents.

“The effects of family structure on child abuse” (Patrick F. Fagan, Anna Dorminey, and Emily Hering). Several studies of the correlates of child abuse and neglect from around the world are reviewed to conclude, “In his article in this collection, Stephen M. Krason states that a strongly-held view of those in the child protective system is that all parents are potential abusers. The data that we have recounted in this article shows, to the contrary (emphasis in original), that the incidence of child abuse strongly correlates with disrupted and disturbed families and that intact marriage is protective against it (p.197).”

“Dilemma by design: Child welfare policy and ethical problems at the frontline” (Ruth A. White). This chapter, using the concept of “street level bureaucrat” (Lipsky, 1980), examines some of

the ethical dilemmas faced by CPS workers.

The argument is that workers lack the resources required to meet the needs of families and, therefore, will always be engaging in a system filled with dilemmas.

Overall, the book seems to be an argument for more stable, nuclear families. It supports limited State interference in families and in parenting practices. Many authors have critiqued CPS (Downs, Costin, et al., 1996; Drake, 1996; Feld, 1999; Jamieson, 1999; Lieberman, Hornby & Russell, 1988; MacEachron, Gustavsson, & Cross, 1996; Nybell & Gray, 2004; Usher, Wildfire, & Gibbs, 1999; Wells & Tracy, 1996). Each author has a proposed a solution or set of solutions. Some authors propose a return or redevelopment of the nuclear family. However, there has never been a time when the majority of families were, in fact, nuclear (Coontz, 1997; Coontz, 2000). The juvenile court, which spawned the CPS was built on contradictory logics (Feld, 1999). It is supposed to enforce law and keep the community safe; it is also supposed to provide social services to improve disrupted and/or disruptive families. As Stryker (1994) has argued, systems built on contradictory logics tend to de-legitimize themselves. Almost from its beginning, there have been critiques and proposals to improve the court and the CPS. As Dziech and Schudson (1989) state, no one is satisfied with the current system, but no one has come up with a better proposal. In this reviewer’s opinion, a better approach would be to accept that marriage and family practices have changed; that in some cases child abuse and neglect are criminal and should be treated as criminal. In other cases, child abuse and neglect are clinical issues and should be treated as therapeutic concerns. In all cases, what is needed is a deeper, more open analysis of the issues and the exploration of novel and potentially effective approaches.

## References

- Coontz, S. (1997). *The way we really are: Coming to terms with America's changing families*. New York: Basic Books.
- Coontz, S. (2000). *The way we never were: American families and the nostalgia trap*. New York: Basic Books.
- Downs, S. W., Costin, L. B., et al. (1996). *Child welfare and family services: Policies and practice*. White Plains, NY: Longman.
- Drake, B. (1996). Consumer and worker perceptions of key child welfare competencies. *Children and Youth Services Review, 18*(3): 261-279.
- Dziech, B. W. & Schudson, C. B. (1989). *On trial: America's courts and their treatment of sexually abused children*. Boston, MA, Beacon Press.
- Family foster care in the next century*. (1999). K. W. Barbell, L. Wright. (Eds.) Washington, DC: Child Welfare League of America.
- Feld, B. C. (1999). *Bad Kids: Race and the transformation of the juvenile court*. New York: Oxford.
- Jamieson, M. B., & Bodonyi, J. M. (1999). Data-driven child welfare policy and practice in the next century. *Child welfare, 78*(1):15-30.
- Lieberman, A. A., Hornby, H., & Russell, M. (1988). Analyzing the educational backgrounds and work experiences of child welfare personnel: A national study. *Social Work, 33*(6), 485-489.
- Lipsky, D. (1980). *Street-level bureaucracy: Dilemmas of the individual in public services*. New York, NY: Russell-Sage Foundation.
- MacEachron, A. E., Gustavsson, N. S., & Cross, S. (1996). The effectiveness of the Indian child welfare act of 1978. *Social Service Review, 70*(3), 451-463.
- Nybell, L. M. & Gray, S. S. (2004). Race, place, space: Meanings of cultural competence in three child welfare agencies. *Social Work, 49*(1), 17-26.
- Stryker, R. (1994). Rules, resources, and legitimacy processes: Some implications for social conflict. *American Journal of Sociology, 99*(4), 847-909.
- Usher, C. L., Wildfire, J. B.; & Gibbs, D. A. (1999). Measuring performance in child welfare: Secondary effects of success. *Child Welfare, 78*(1), 31-61.
- Wells, K., & Tracy, E. (1996). Reorienting intensive family preservation services in relation to public child welfare practice. *Child Welfare, 75*(6), 667-692.