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Written by Rita Swan

## *Equal rights for children under the law*



*Mike Rumbaugh*  
*Deputy Attorney General of Nebraska*

## **Federal court upholds metabolic screening law**

On September 12, Judge Richard Kopf of the U.S. District Court for Nebraska upheld Nebraska's metabolic screening law against a challenge by followers of the Church of Scientology. *Spiering v. Heineman*, 448 F.Supp.2d 1129 (D. Neb. 2006), is the first federal court ruling that a state has the right to require a screening over the religious objections of parents. It follows upon the heels of *Douglas County v. Anaya*, 269 Neb. 552 (2004), which is the first state court ruling upholding that right.

Scientologists Louise and Ray Spiering of Wahoo, Nebraska, follow the teachings of L. Ron Hubbard in *Dianetics: the Modern Science of Mental Health*. Hubbard claims that his "silent birth method" is essential to a person's physical and spiritual well-being (see p. 204). The method requires that infants not be subjected to stress, pain,

loud sounds, or voices during the first week of life. Other sensory experiences should also be limited as much as possible. For example, lights must be dimmed in the delivery room.

Scientologists believe that when a person experiences pain or is influenced by drugs, the conscious mind shuts down, but the reptilian or reactive part of the brain records all sensory experience. Later when the person encounters the same sensory data or words, his reactive mind is triggered and relives the pain of earlier traumas.

Because the infant goes through so much pain during birth, any further discomfort, talking, and strong sensory data during the first week of life will be recorded in the infant's reactive part of the brain, Hubbard claims, and the individual will have strong fear and tension when he encounters those words or other triggers again throughout the rest of his life. Indeed, Hubbard claims total silence during birth is necessary to save the "sanity" of mother and baby.

To our knowledge, no mental health professionals consider these claims credible.

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Nebraska is one of four states that require metabolic screening of all infants without a religious exemption. Furthermore, Nebraska requires that the screening be done when the infant is between 24 and 48 hours old because some metabolic disorders, such as galactosemia, cause death within a few days if not treated.

The Spierings filed a federal suit against the Nebraska governor and other state officials charging that the law violated their right to free exercise of their religion. They also claimed that Nebraska's screening program was an unreasonable search and seizure of their children in violation of the Fourth Amendment to the Constitution. Lastly, they claimed that the state law violated their Fourteenth Amendment right to care, custody, and control of their children.

### **Rational basis standard upheld again**

Like the Nebraska Supreme Court, the federal court held that the state needs to have only a "rational basis" for a law that is neutral and generally applicable. If, however, a law singles out one religious practice for prohibition or favoritism by the state, then it must be justified by "strict scrutiny" of the state's motivation.

The court ruled that Nebraska's metabolic screening law applied to all infants equally and that the state had a rational basis for requiring the test for all newborns and within 24-48 hours after birth.

### **"Hybrid rights" claim rejected**

The Spierings argued that strict scrutiny of the law was required because they had not only a freedom of religion claim, but also a parental rights claim. They were trying to present a "hybrid rights claim" that the screening law violated two fundamental constitutional rights and therefore triggered the strict scrutiny standard of review.

The court, however, held that case law recognized "two competing values of equal worth: the right of parents to parent and the right of children to safety." A challenge yoking parents' rights to religious rights does not make the law more suspect, since those rights must be balanced against the child's right to protection.

The court also held that the screening law was not an unreasonable search and seizure, because the parents must first be advised that the test will be

done and given an opportunity to object in a court hearing.

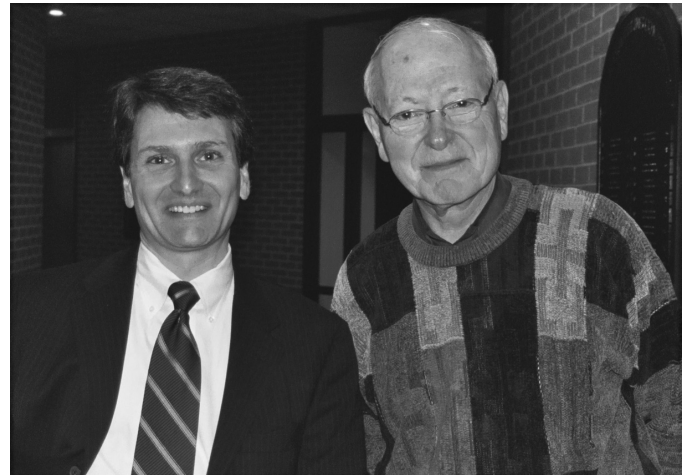
The Spierings did not appeal the district court's ruling.

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## **Nebraska, the shining star**

Nebraska has set an excellent example in giving children equal rights to health care. Nebraska is the only state in the nation that has never had a religious exemption to child neglect charges either in its civil or its criminal code. Nebraska is one of only four states that require metabolic testing of all newborns without exception for religious belief.

In CHILD's eyes, Nebraska officials deserve enormous credit for standing firm in the federal and state lawsuits challenging their metabolic testing law. *Spiering v. Heineman*, 448 F. Supp.2d 1129 (D. Neb. 2006) and *Douglas County v. Anaya*, 269 Neb. 552 (2004). It would have been easier for them to say, "It's only one or two babies; let's just give their parents an exemption."

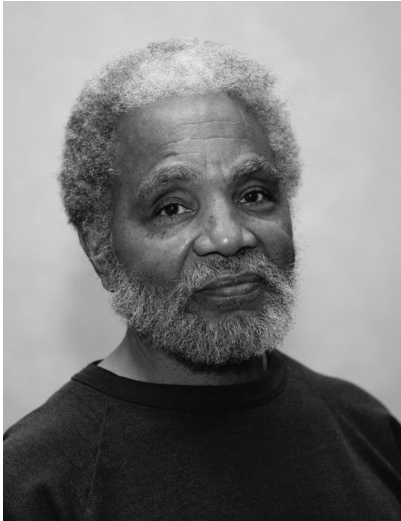


*Brent Bloom and Dr. Wiltsie*

Mike Rumbaugh, Deputy Attorney General; Brent Bloom, Douglas County Deputy Prosecutor; Julie Miller, Program Manager for Newborn Screening; and Dr. H. E. Wiltsie never hesitated. They wrote motions and gave depositions. When Spiering and Anaya told the courts that 46 states give religious exemptions, Nebraska officials

simply replied that they wanted to protect all babies from devastating diseases and had no obligation to follow other states' laws.

Spiering and Anaya argued that the state should have no right to interfere with their religious freedom until the child was seriously ill, but Rumbaugh and Bloom argued successfully that the screening is necessary to know whether the child has a metabolic disease.



*Senator Ernie Chambers*  
Photo by Brent Nicastro

Another of CHILD's heroes is Nebraska State Senator Ernie Chambers, D-Omaha. He has long defended equal rights to health care for children. From 1975 to 1983 the federal government required states receiving federal funds for child protection to pass religious exemptions to child neglect. The Christian Science church and others urged the legislature to pass an exemption. Chambers, however, forcefully argued that no parent should have a religious right to deprive a child of necessary health care and kept the exemption from being enacted.

### **Senator gets screening exemption repealed**

In 1979 a religious exemption was added to Nebraska's metabolic screening law, but Senator Chambers sought an Attorney General's opinion on its constitutionality. The Attorney General stated that it appeared to be a violation of Establishment Clause prohibitions against favoring one religion over another. With that ammunition, Chambers

returned to the legislature and persuaded lawmakers to repeal the exemption in 1983.

Religious objectors have lobbied for its reinstatement, but in both cases their bills died in committee.

CHILD will be presenting Senator Chambers with its Imogene Temple Johnson child advocacy service award. Also, Dr. Wiltsie has become an honorary member of CHILD (see [www.childrenshealthcare.org](http://www.childrenshealthcare.org)).

## **Massachusetts requires employers to offer medical insurance; church proposal rejected**

Massachusetts has become the first state to require residents to buy health insurance. It has an exemption for a person who files a sworn affidavit with his income tax return that his sincere religious beliefs are the basis of his refusal to obtain coverage. If he later obtains medical care, he must pay the full cost of it himself.

Massachusetts also requires employers to offer insurance, and this summer its Division of Health Care Finance and Policy released proposed regulations requiring all employers with more than ten employees to offer insurance "for medical services."

### **Requiring medical insurance called dictatorial**

The Christian Science church testified against the regulation, charging that the Commonwealth was "dictat[ing] the methods under which health and well being [*sic*] are achieved."

The church asked for "medical services" to be changed to "health care" in order to "clarify" that an insurance plan covering only "spiritual treatment and care" would meet the state's requirement for employers.

CHILD contacted a division official and voiced our opposition to the church proposal. At first, she expressed the feeling that the church was so powerful in Massachusetts that the government had to grant its requests.

CHILD and several of its Massachusetts members wrote the division. Below are excerpts from CHILD's letter:

### **No standards for this health care**

Changing your regulations to allow employers to qualify by offering insurance that covers only unscientific methods will entail many exemptions. The Massachusetts law providing access to affordable, quality, accountable health care sets up a council "to develop performance management benchmarks" for its goals and publish such benchmarks annually. The performance benchmarks "shall be clinically important and include both process and outcome data." The state cannot set "performance management benchmarks" for prayer or the Christian Science church's unlicensed nurses, who can't even take a pulse or use a fever thermometer.

The church has lobbied in all states for recognition of their prayers and unlicensed nurses as "health care." It has persuaded many states to pass laws allowing Christian Science prayer treatments as a legal substitute for medical care of sick children.

### **Mass. kids have died of treatable illness**

In 1967 five-year-old Lisa Sheridan died of pneumonia in Harwich Port. She had a quart of pus in one tiny lung, but her mother never got medical care because of her reliance on Christian Science practitioners. The mother was prosecuted. The church argued that Massachusetts law required parents to provide only "physical care" and that could include Christian Science prayer treatment. The mother was convicted.

A few years later the church got the Massachusetts legislature to enact a religious exemption to criminal non-support designating (albeit ambiguously) their prayers as "remedial care."

In 1986 two-year-old Robyn Twitchell died of a bowel obstruction near Boston. The toddler was in excruciating pain for five days and was vomiting his own feces on the last day of his life. A Christian Science nurse force-fed him and directed his mother to feed him also.

The parents were charged and convicted of manslaughter. Their attorneys and the church argued strenuously that the religious exemption to non-support was also an exemption to manslaughter and that their members had the legal right to withhold medical care from their children.

CHILD joined with many Massachusetts organizations to push for repeal of the religious exemption to non-support so that parents in faith-healing sects would not be confused about their legal duty to get medical care for a sick child. We finally succeeded in 1993 after five years of lobbying.

Since 1993 at least two Christian Science children have died in Massachusetts. Nathan Eberlein died of diphtheria in 1994; Eben Tryon died of diabetes in 2004.

Any regulatory recognition that Christian Science prayer-treatment or unlicensed nursing is "health care" will blur the line on a parent's duty to get medical care for children. We have seen the church argue in state after state that third-party reimbursements for its methods mean they should be a legal substitute for medical care of children.

### **State should not recognize prayer as health care**

The state has no scientific evidence that Christian Science heals disease and no authority to regulate its "providers." The state should therefore not be calling prayer or unlicensed nursing "health care."

The church's argument that the Commonwealth is depriving anyone "access to the type of care they choose" is specious. Nobody is trying to stop people from praying for the sick, but the state should not recognize anybody's prayers as health care.

### **Final regs require medical insurance benefit**

On September 8, the division released its final regulations, which held the line that employers with more than ten employees had to offer insurance covering medical services and to pay at least 33% of the cost of the premiums.

What concerned us the most about the church's request was the implication that "treatment" exclusively by prayer and "care" by the church's unlicensed nurses are "health care." It seemed like a backdoor way of getting another religious exemption from a duty to get medical care for children.

### **Many church employees get medical insurance**

Ironically, the church already meets the state requirement because it offers medical insurance to its employees in addition to an insurance plan covering only spiritual treatment and care. Only 23% of the church's 550 employees have taken the church's plan for coverage of spiritual methods. About half have medical insurance paid for by the Christian Science church.

### **Coverage not required for children**

We of course wondered about the status of children in the insurance law. We asked a division attorney whether the law required that children be covered and whether parents could refuse to get them health insurance because of their religious beliefs. Since the exemption was given only to those who filed a sworn affidavit with their income tax return, the attorney thought that the law might require health insurance for all children.

She sought an opinion from the state Health and Human Services Executive Office, which determined that the law does not require health insurance for children. The office said it will ask the legislature to correct this oversight next year.

The federal government says Massachusetts has 78,000 children without health insurance; the state says it has 40,000.

While some anti-poverty activists say the loophole should be closed immediately, Health Care for All, a Boston advocacy group that pushed for passage of the law, said it does not favor expanding the mandate to children now. "Just getting the adults covered is going to be hard enough," said a staff member.

Sources include *Religion News Service*, Aug. 28, and *Boston Globe*, Aug. 28 and Oct. 2, 2006.

## **Christian missionary charged with homicide in son's death by abuse and medical neglect**

In August, nearly four years after her son's death, Kimberly Forder was indicted in Kitsap County, Washington, for manslaughter and homicide by abuse.



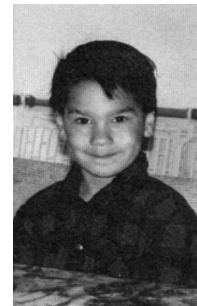
Forder's abuse of her son Christopher allegedly began soon after she and her husband Robert adopted him. According to court filings, siblings told detectives Christopher had to spend days outside or in the basement as punishment, without food, water or blankets.

They also said that he was often beaten with sticks and belts, forced to wear dirty diapers on his head, forced to clean his soiled clothing in a bucket, and, if he didn't do it correctly, his head was dunked into the bucket. Sometimes he was ordered to eat dog food.

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### **No "Western-style medicine"**

All the Forder children were home-schooled, so outsiders knew little about their welfare, but one neighbor became aware of an occasion when Christopher was severely injured. "My husband went over to help," said neighbor Danita Hughes, but the parents "did not believe in Western-style medicine," she said. "It was only home-remedy-type stuff."



Christopher died at age 8 in November, 2002. His body was covered with bruises. He had pneumonia, but received no medical care. The Kitsap County coroner listed the cause of death as "undetermined."

At the time, Forder reportedly told investigators that the boy had regularly hurt himself because of a "reactive attachment disorder," and that he had been abused before the family adopted him. The attachment disorder was not diagnosed by a mental health professional.

Some officials were immediately suspicious, and a court-appointed advocate for Christopher's

four surviving adopted siblings petitioned for a hearing to consider their removal from the home.

A Kitsap County court commissioner agreed with the advocate, and the state Department of Social and Health Services (SHS) testified at a 2003 court hearing that the parents “admitted to Child Protective Services that they abused and neglected” Christopher and that his height and weight deteriorated from the 75-95th percentile at his adoption to the 5th percentile when he died four years later.

### **Children left in home on technicality**

SHS, however, did not believe there was “imminent risk” to the remaining children if they were left in the home and argued that the advocate had no legal grounds to request a removal hearing. Kitsap County Superior Court Judge Karlynn Haberly ruled in favor of the state and the Forders on this legal technicality.

The children remained in the Forders’ home. SHS did four months of extensive home monitoring.

Haberly’s ruling was ultimately overturned by the state Court of Appeals, but long after the local court had relinquished jurisdiction over the children.

The Forders were a licensed foster home from 1997 until some time before Christopher’s death, officials said, and there were no allegations of abuse during that period.

In 2004 the Forders adopted triplets from Liberia, making a total of eight adopted children in addition to their three older biological children.

It was the older children who made it possible to reopen the case of Christopher’s death. Detectives revisited the family in early July, 2006, after an adult family member accused the Forders’ biological son Michael of rape. Soon after, the detectives received a report on the Forders from Oregon Child Protective Services with allegations of abuse, and adult siblings began disclosing the abuse and neglect of Christopher.

That same month the Forders moved to Liberia, saying they wanted to do Christian missionary work for orphans there.

A month later, however, Mrs. Forder returned to the United States for medical treatment for herself and was arrested.

Reportedly, the Forders were for some time part of the Quiverfull religious movement, which will be discussed in the article below.

Taken in part from KIRO 7 and KING 5 TV News Aug. 28 and the *Kitsap Sun*, Aug. 30, 2006. Photos of Kimberly and Chris Forder appear on the *Kitsap Sun* webpage and are used with permission.

## **Quiverfull breeds children for holy war**

A growing movement among conservative Christians teaches that having large families is a religious duty. Called Quiverfull, it traces its beginnings to Rick and Jan Hess’s 1989 book, *A Full Quiver: Family Planning and the Lordship of Christ*.

Its name is based on Psalm 127: “Like arrows in the hands of a warrior are sons born in one’s youth. Blessed is the man whose quiver is full of them. They will not be put to shame when they contend with their enemies in the gate.”

### **Winning the culture war by numbers**

The movement opposes all forms of contraception and human family planning. It teaches that God owns people’s bodies and will give them the right number of children.

It is a different tack in the culture war. Instead of picketing abortion clinics, the movement aims to conquer sinful, selfish society with sheer numbers. It uses military imagery to describe the submissive woman with no control over her own body as, paradoxically, a soldier in battle.

Undeniably, though, she is a low-ranking soldier compared to her husband, whose “lordship” she must accept.

Racism sometimes plays into the mentality with anxiety over falling birthrates of white people. For example, one Quiverfull writer warns that low birthrates in Europe have left a vacuum that was filled by Muslim extremists.

Quiverfull writers claim that America’s low birthrate, high divorce rate, abortions, and the AIDS pandemic are evidence of sin. They believe that

their followers can raise enough right-wing Christian children to have major power in government and business that will redeem society.

### **Non-medical remedies preferred**

Other features common among Quiverfull adherents are home schooling, home births, corporal punishment as biblically mandated, preference for herbal medicine and homeopathy, organic foods, raising and processing the family's food, vegetarian diet, and avoidance of debt.

A woman who used to do public speaking and writing for the movement reports that Kimberly Forder (see previous article) subscribed to her Quiverfull magazine for two years and, she believes, attended some of her workshops.

The movement exhorts women who are exhausted and anxious from caring for large families to quit feeling sorry for themselves, trust that God never gives them more than they can handle, and be more grateful for their blessings. But the internet also has testimonials about women who have cracked under the pressures of the Quiverfull demands, and Kimberly Forder may have been another one.

Taken in part from Kathryn Joyce, "Christian mothers breed 'arrows for the war,'" *Nation*, Nov. 27, 2006; Eileen Finan, *Newsweek*, "How full is your quiver?," Nov. 13, 2006; post by "Heart" on [www.womensspace.wordpress.com/2006](http://www.womensspace.wordpress.com/2006), and [www.quiverfull.com](http://www.quiverfull.com).

## **Illinois pastor charged in beating of sex abuse victim**

In May an Illinois pastor was charged with misdemeanor battery for repeatedly spanking a 12-year-old girl who he thought was lying about sexual abuse.

Matthew Resh, the girl's relative, was charged with predatory criminal sexual assault for allegedly abusing her between September, 2003, and November, 2005.

The home-schooled girl disclosed the sexual abuse to her mother, but her mother did not believe her. So she and Resh brought the girl to Reverend

Daryl Bujak, pastor at First Missionary Baptist Church in Elgin.

### **Pastor and alleged abuser beat girl for disclosing abuse**

Bujak told them he was a former police officer and had worked with "tons of molested teens." He held a private counseling session with the girl. Afterwards he told them that the girl had recanted, but also had "a rebellious streak." He asked the mother for permission to hit her, and the mother gave it. He also recommended that Resh spank her.

For about a month the mother brought the girl to the church an hour before the Wednesday evening services to meet with the pastor. The sessions usually consisted of 45 minutes of "counseling" and 15 minutes of the pastor spanking her with a 3-foot by 2-inch piece of wood molding 30 or 40 times or more. She suffered welts and bruises to her legs and buttocks.

The mother saw the molding and knew it would be used, but never watched the corporal punishment. She could tell that her daughter had been crying during it.

Resh spanked her more than once a week and often 100 times in one session.

In May, 2005, the pastor discontinued the sessions, saying they weren't working because the girl was too rebellious.

### **Mom finally believes daughter**

In October the girl again told her mother about Resh sexually abusing her. This time her mother believed her and contacted the police.

The mother expressed remorse for not believing her daughter initially and allowing the corporal punishment. "She always lied a lot," the mother said by way of explanation.

Bujak told them not to tell others about the sessions, the mother said. "That was always a little weird to me," she added. "I kind of wanted people to know because I wanted them to pray for us."

The girl gave two interviews to the press before the judge ordered her to clear all statements with her attorney. She said she sometimes wondered whether anyone would ever believe her.

## Love, pain, and parental authority mixed

“I was frustrated,” she said. “I was like ‘Why are they doing this to me?’”

The fact that her mother agreed to the corporal punishment left her confused about whether the pastor’s actions were wrong, she said.

She hated and dreaded his disciplinary sessions, but also told herself they were “OK” because her mother agreed to them.

She said the pastor repeatedly told her how bad it was to make false allegations and asked her why she did it. “Then he would spank me. He would say, ‘Stand still,’ and he often asked me, ‘You know I still love you, right?’”

The girl said the experience had taught her to “keep telling people even if nobody is believing me. I need to speak up for what I know is right.”

Illinois Department of Children and Family Services is supervising the mother and her four children. The family has quit attending the Missionary Baptist Church.

Taken from the *Chicago Tribune*, May 12; *Crystal Lake Northwest Herald*, May 11, 19, and 20; and *Chicago Sun-Times*, May 17.

## Christian Family Institute orders spankings for child disclosing abuse

A letter from Edyta, November 18, 2006

I am a female adult. My family was very dysfunctional: a physically violent and mentally ill older brother, heavy-drinking and physically violent father, and a manipulative mother who enabled them. As the smallest and youngest, I was very much at the low end of the violent pecking order. The family violence was at levels that resulted several times in emergency room treatment and intervention by the police and state authorities including the family courts.

When I was ten and my brother thirteen, my entire family began attending sessions at Christian Family Institute in Tulsa, Oklahoma. The set-up there was quite creepy. We sat in a room with three or four young therapists; I believe they were graduate students from Oral Roberts University nearby,

which is where Dr. Dale R. Doty, their supervisor, had also attended. Doty and two or three other young therapists would sit in the next room behind some one-way glass for the entire session, which was also videotaped and recorded. Toward the end of the session, the therapists who’d been in the room with us would go and meet with the supervisor behind the glass for about five minutes. They’d come back and tell us what Doty observed about the session. It reminded me of Oz, where we didn’t often see that much of the Wizard yet his wisdom was sought. Despite the sessions apparently being a training ground for new counselors, the therapy was quite expensive.

## Therapists urge more spankings

The therapists very much believed in “spare the rod, spoil the child,” and on their instruction, my parents’ spankings of me increased. This probably wasn’t a good idea in a family with documented legal problems with alcoholic rages and violence. I’ll also note that at age ten, in my view, that’s too old to be increasing physical punishment. They also taught that physical discipline should be immediate, which meant it should happen in public if that’s where the offense occurred. For example, if a dirty word was said, according to them, your parent takes you to the nearest public bathroom to wash your mouth out with soap, regardless of whether other people are in there. To my recollection, they never addressed my father’s drinking, constant foul mouth or angry demeanor.

## Child not allowed to talk about her family

I wasn’t allowed to discuss my brother’s or father’s abuse or behavior in general in sessions. They didn’t deny I was telling the truth, they just wouldn’t let me talk about it! It was really odd and frustrating. The counselors said, “These sessions are for you to talk about your own feelings, not other people.” This still perplexes me, because it was family counseling. Weren’t we supposed to talk about how the family was getting along? Wouldn’t restricting talk about one’s own personal feelings be for individual counseling, and even then, aren’t personal challenges often in relation to one’s family? The counselors most certainly didn’t stop



my parents from talking about their kids, so apparently the rule applied to me only.

### **Videotaped spankings for disclosing abuse**

When the counselors would ask me how the previous week went, and I said anything about my father's or brother's physical abuse, my father was instructed to pull me over his lap and spank me in front of everyone. The first time it happened, my father began to pull my arms toward him on the sofa, and I thought he was about to hug me. When he then pulled me over his lap and spanked me, I was mortified. Two of the therapists in the room smiled and giggled the first time, and one clapped afterward. Between the family and counselors, there were around ten adults total watching this and, as mentioned, the sessions were videotaped. I have no idea how Doty used these tapes.

### **Spanked for not talking**

I became sad and withdrawn, and my performance at school decreased. I often vomited at home before we left for sessions. I decided to limit my speaking in the sessions, as I hated being spanked in front of everyone—what person would like that? But then I was also spanked in front of everyone for being “sullen.”

In the front room, there were several self-help paperback books for sale. One day while waiting for our session in the waiting room, I noticed a small paperback titled *An Answer to Depression*. I asked my mother what depression was and she told me. I realized that I was depressed! The following week, I brought money and bought the paperback. I had high hopes, taking the title of the book at face value, my depression would be answered!

### **Nine months of therapy with spanking**

Unfortunately, the book did not help much since much of the advice, such as joining a health club or taking a hobby class, didn't apply to a ten-year-old living in the rural sticks without transportation. However, one would have thought that a child buying a depression self-help book would have set off alarm bells with both parents and counselors. It didn't. The humiliating spankings stayed on course. We went to CFI for about nine months, stopping

only because my father was out of work and we couldn't afford it anymore.

Today, Doty has become somewhat of a mini-celebrity in both Christian and secular counseling circles, including giving keynote addresses at conventions. I'm currently in a treatment program for post-traumatic stress disorder, and one of my issues being addressed is the treatment at CFI. It's ironic that I'm in counseling to address what happened to me in counseling!

*Note: Edyta is the writer's first name. Her letter first appeared on [www.nospank.net](http://www.nospank.net).*

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## **Man gets life term for assaulting boys despite religious defense**

On October 16, Phillip Distasio of Rocky River, Ohio, was sentenced to life in prison for sexually assaulting nine disabled boys. He was accused of molesting two disabled boys he tutored at his home and raping seven autistic boys at a Cleveland school for special-needs students where he was a teacher's aide. Eight of the boys were under 13 years old.

### **Religious and civil rights protection for pedophiles claimed**

Comparing himself to St. Francis and St. Ignatius, Distasio said he was the friar of a church called Arcadian Fields Ministries and his apartment was its sanctuary. He claimed that smoking marijuana and pedophilia were sacred rituals of his ministry and were therefore protected civil rights.

“The only reason I'm charged with rape is that no one believes a child can consent to sex,” he testified. “The role of my ministry is to get these cases out of the courtrooms.”

Judge Kathleen Sutula warned Distasio to confine his arguments to secular laws. “If you want to challenge the law, that's your right to do so,” Sutula said. “But we're going to follow the laws of Ohio in this courtroom.”

At sentencing, Distasio asked the judge to let him do public speaking about pedophilia, rather than sending him to prison. The judge interrupted him, saying the court's only interest was whether he felt any remorse.

“He’s just here telling you he’s some messiah for pedophiles, but really he’s a monster,” said Assistant Cuyahoga County Prosecutor Brendan Sheehan.

### **Comment**

Distasio’s religious defense was properly regarded as bizarre. But Ohio has a religious defense to manslaughter for fatal medical neglect (Ohio Revised Code 2919.22a). Two county courts ruled the defense unconstitutional as a violation of a child’s right to equal protection. Even those rulings did not persuade the legislature to repeal the law. To this day Ohio has 86 counties where parents may withhold lifesaving medical care on religious grounds and two counties where they may not.

Taken in part from the *Cleveland Plain Dealer*, Aug. 3, and *Columbus Dispatch*, Oct. 17, 2006.

## **Ozark clerics charged with child sex abuse rituals**

Four leaders of affiliated churches in southwestern Missouri are charged with sodomy and child molestation as part of a “ritual or ceremony.”

Pastor Raymond Lambert’s Grand Valley Independent Baptist Church near Pineville once had about 100 members living on a 100-acre farm. Families lived in several homes on the farm, but did not own the property. Its offshoot, Pastor George Johnston’s smaller Grandview Valley Baptist Church North near Granby is on a ten-acre farm where families lived in trailers.

Many church members worked on the farms or church-owned businesses in kennel supply and puppy breeding. All pooled their paychecks. The children were home-schooled.

### **Girl learns about cults**

Lambert encouraged one girl to go to college and study music, which she did. One day she was surfing the internet and saw a cult-awareness webpage. She read about Bible-based cults that sounded like the church she had grown up in. She contacted a California rabbi linked to the webpage and corresponded with him for months.

In April, 2006, she and nine others secretly left the farm. Owning nothing, they fled with only the clothes on their backs and walked several miles down a gravel road for help.

### **Fondling gives spiritual liberation**

They have told law enforcement that girls as young as four were molested by the pastors. Allegedly the pastors claimed to be ordained by God and told the girls that giving their bodies to the pastors was the girls’ way to heaven.

Several girls tell of the pastors having them take their clothes off and fondling them. One said the pastor called the fondling “angel kisses” and did it before and after church services.

Amey Burkett told National Public Radio that Pastor Lambert said women needed to be put in their place to make them humble. He claimed that if you’re “spiritually hindered,” it’s because of either “your mind or your flesh,” and he would make girls strip naked to liberate them spiritually, she said.

### **Virginity promised**

One woman reported that Johnston began molesting her when she was 11 and he was ostensibly tutoring her. She said Johnston told her that because he was God in the flesh, what he did to her would make her holy and she would remain a virgin even after she married.

Charges against church leaders for abuses in the 1970s have been dropped because at that time Missouri had a three-year statute of limitations. The defendants deny all charges.

### **Enhanced penalty for ritual crimes**

Missouri has enhanced penalties for crimes against children that are “part of a ritual or ceremony.” Child molestation in the first degree is a class B felony, but “if the offense is committed as part of a ritual or ceremony. . . , the crime is a class A felony and such person shall serve his or her term of imprisonment without eligibility for probation or parole.” Mo. Rev. Stat. 566.067.2(2)(b).

“Ritual or ceremony” is defined by statute as “an act or series of acts performed by two or more persons as part of an established or prescribed pattern of activity.” Mo. Rev. Stat. 566.061(26).

## Exemptions and penalties for religion

Missouri has a plethora of exemptions for religion-based medical neglect of children. It has the worst laws in the country on residential care, allowing institutions run by religious denominations to operate with no state oversight. But it also has the opposite of a religious exemption—extra punishment for crimes prescribed by religious belief.

Marci Hamilton, a law professor and author of *God vs. the Gavel*, believes it is unconstitutional to enhance penalties for crimes because the defendant's actions are based on religious belief.

Maybe the legislators were hoping to keep Satanists out of Missouri, but the law is being used against Independent Baptists.

Taken in part from the AP, Sept. 6 and Dec. 6; *Neosho Daily News*, Sept. 18; and National Public Radio *All Things Considered*, Dec. 14-15.

## South African AIDS policy called quackery; new policy promised

In September South African President Thabo Mbeki finally sidelined his controversial Health Minister, Dr. Manto Tshabalala-Msimang, by giving Deputy President Phumzile Mlambo-Ngcuka management of government AIDS policy. Mbeki's decision is widely viewed as damage control after the ridicule and condemnation of South Africa at the International AIDS Conference in Toronto in August.

Health Minister Msimang has called antiretroviral drugs "poisons" and made little effort to provide them. She promotes what she calls "African medicine," which includes nutrition and religious rituals, as effective AIDS treatment.

At the Toronto conference, many were shocked to see South Africa's national exhibit include baskets of garlic and beetroot as AIDS remedies.

### Health minister bans U.N. AIDS envoy

Msimang has banned Stephen Lewis, the U.N. Envoy on AIDS, from implementing AIDS programs or speaking on AIDS in her country. At the conference, however, he blasted South Africa's

AIDS policy as "wrong, immoral, [and] indefensible." It is "more worthy of a lunatic fringe than of a concerned and compassionate state," Lewis said to the 20,000 delegates.

At the same time, 81 scientists sent South African President Thabo Mbeki a petition urging him to dismiss his health minister.

### Over a million AIDS orphans in South Africa

More than 5.4 million people are HIV-infected in South Africa. In 2006, 950 South Africans a day died from AIDS while the country had an estimated 1400 new infections a day.

AIDS is the leading cause of death for South African children under five years old and has lowered life expectancy in the country from 63 in 1990 to 51 today. The United Nations estimated that 1.2 million South African children are orphans because their parents have died of AIDS.



*Credit: (c) 2003 Dianne Lang, Courtesy of Photo-share. Abandoned or orphaned children gather together for warmth and scraps of food at a rubbish dump in Middelburg, Eastern Cape, South Africa*

The Treatment Action Campaign reports that only 200,000 of the more than 1 million South Africans with full-blown AIDS receive antiretroviral drugs, and only 130,000 of them receive treatment from public health services.

President Thabo Mbeki has denied that the HIV virus causes AIDS. He claims that a virus cannot cause a syndrome. Hundreds of delegates walked out of his speech at an AIDS conference in 2000.

Since then he has refused to say whether the virus causes AIDS or not. His government's

policies, however, have contributed to deadly delays in getting effective treatment to South Africans.



*Credit: (c) 2003 Dianne Lang, Courtesy of Photo-share. Sam, an orphan, places a withered flower on the grave of his friend Luke, a fellow orphan who died of AIDS. Luke was the first black person buried in a “white cemetery.” Sam is now one of 32 HIV orphans living with caretaker Dianne Lang in Middelburg, a small town in the Eastern Cape of South Africa. Lang and her orphans dug and filled Luke’s grave. Ms. Lang seeks funding to assist her efforts in caring for AIDS orphans and vulnerable children. See [www.diannelang.com](http://www.diannelang.com).*

### **Drug to prevent mother-to-child transmission not provided until 2004**

Until 2001 the government prohibited doctors from prescribing the drug nevirapine to HIV-positive pregnant women.

Even though the drug is very effective in preventing mother-to-child transmission of HIV and pharmaceutical companies offered to provide the drugs free or cheaply, Mbeki resisted.

In 2002 the South Africa High Court ordered the government to make the drug available to pregnant women.

In 2003 another court ruling allowed South Africa to produce its own AIDS drugs.

Not until March, 2004, with an HIV-prevalence rate of 28% among South African pregnant women, did Mbeki make the first antiretroviral drugs (ARVs) available through public health.

### **AIDS denialists allowed to make policy**

Health Minister Msimang continues to denigrate the value of anti-retroviral drugs. She says that other treatments must be offered because the drugs do not cure AIDS.

Especially controversial is her promotion of vitamins, olive oil, beetroot, lemon, garlic, and African potatoes as a means of boosting the immune system and thereby, she claims, preventing AIDS. Beetroot already had symbolic spiritual meaning in the black South African townships where it is often served at weddings and funerals.

She and Mbeki have placed several “AIDS denialists” on advisory boards. They are a small cadre of scientists, mostly Americans, who deny that HIV causes AIDS. One interviewed by ABC’s *Nightline* is Dr. Robert Galardo, who claims to have an “easy and cheap” cure for AIDS and denies the disease is caused by HIV or sexually transmitted.

The Rath Health Foundation promotes vitamin supplements as a substitute for ARV drugs. It published advertisements in South Africa claiming that antiretroviral drugs are toxic and cause AIDS.

In 2005 the Advertising Standards Authority ruled that such statements were a threat to public health and prohibited the foundation from making such claims in future advertisements.

It continues to promote its ineffective vitamin treatment in South Africa despite widespread international condemnation. The foundation has been banned from almost all other countries in which it has tried to operate. But Msimang continues to support Rath publicly.

### **More authority given to traditional healers**

In 2004 she got a bill passed to register traditional healers, give the state authority to set professional and ethical standards for their practice “of medicine,” give healers the right to sign sick leave forms that employers must honor, and allow their services to be paid for by insurance. They are allowed to call themselves “doctors” if their teacher vouches for them. Four types of traditional healers are recognized: diviners, herbalists, traditional birth attendants, and traditional surgeons, who circumcise adolescent boys in a rite of passage.

### **Immune boosters promoted as AIDS remedy**

The Presidential Task Team on Traditional Medicine, which will develop the standards, is chaired by Herbert Vilakaze, who sells expensive vitamins as a cure for AIDS. Another member sells Ubhejane immune booster, concocted of 89 herbs, and a third of the team members are diviners.

There are about 200,000 diviners in South Africa, and 70% to 80% of the people go to them for help. Many live and practice in isolated communities that are not close to hospitals and medical doctors. Many diviners urge people to seek modern medicine in addition to their rituals.

The health minister says, "South Africa is encouraging research and development of African traditional medicines that are effective in alleviating symptoms of HIV and AIDS by boosting the immune system." She also says, however, that the law does not allow registered traditional healers "to diagnose or treat terminal diseases such as AIDS or cancer." How they will know when their patients have such diseases was not explained.

### **Is offering choices her only obligation?**

The minister's webpage elevates her work to "greatness." She proudly proclaims, "For the first time people with HIV and AIDS have a right to choose from a number of services including nutritional support, food supplements, treatment of opportunistic infections, traditional medicine, and ARV treatment."

*Nightline's* Cynthia McFadden told the health minister that many held her personally responsible for AIDS deaths.

Tshabalala-Msimang replied, "I'm not responsible when all I'm doing is telling nothing but the truth. Given how complex the disease is, all we need to do is to put options to people and let them choose."

The Treatment Action Campaign disagrees. It says the health minister should also have an obligation to provide factual information about the effectiveness of different remedies and to make the best ones available and affordable.

For many South Africans, the choices are excruciatingly painful. McFadden interviewed a woman whose only income for her family is a government subsidy of \$120 a month.

### **Mom will give up her life for \$4/day**

If her t-cell count improves with antiretroviral drugs, the government will stop giving her the subsidy, so she is discontinuing the treatment.

McFadden asked her, "For the equivalent of \$4/day, are you willing to give up your life?"

Close to tears and after a long pause, the woman softly said, "Yes."

Deputy President Ngcuka has revived the South African National AIDS Council and has met with the AIDS activist organizations who have staunchly opposed Mbeki and Msimang's policies and were previously ignored by the government.

### **Will Mbeki implement new policies?**

On December 1, International AIDS Day, Ngcuka announced a strategic plan to cut the rate of new HIV infections in half by 2011, get treatment to 650,000 AIDS patients by 2011, and persuade teenagers to delay sexual activity. She hopes to bring out another plan in March for how those goals can be achieved. Activists point out that 650,000 will be only 20% of the projected number of South Africans with AIDS by 2011. The most hopeful aspect of Ngcuka's statements so far is her commitment to involve all government departments and civil society sectors in decision-making.

As for Health Minister Tshabalala-Msimang, she has been in a hospital this fall getting modern medical treatment for a lung infection. She had nothing to say about her country's new direction until mid-November when she delivered a scathing attack on her critics. "The incident of my illness was portrayed as an opportunity to turn others into champions of a campaign to rid our government of the so-called 'HIV and Aids denial at the highest level,'" she wrote.

President Mbeki has been silent on whose policies he supports.

Mbeki and his health minister are old comrades in the long struggle against apartheid. Both were exiled from their homeland for decades. If she continues her defiance, if Mbeki does not dismiss his longtime ally, and if he does not support the implementation of new AIDS policy, the future of South Africa is bleak.

Taken in part from ABC *Nightline*, Aug. 17, 2006; *New York Times*, Nov. 3, 2006; South African *news24*, Nov. 29, 2005; Msimang's speech at the 16<sup>th</sup> Intl. AIDS Conference, [www.doh.gov.za](http://www.doh.gov.za), [www.avert.org](http://www.avert.org), and [www.tac.org.za](http://www.tac.org.za).

## South African child gets surgery over diviner's objections

In November a six-year-old South African girl had a shunt surgically implanted to drain a cyst in her brain. The cyst was the size of an orange. Her grandmother said the girl often fell down and had "fits." Doctors said she would die unless fluid was drained from the cyst that was pressing on her brain.

South African law requires that surgical procedures for children be approved by both parents. Initially, both parents refused on the advice of a traditional healer called a diviner or sangoma, who said the girl would die if she had the operation. Later, the mother left the marriage and consented to the operation, but the father still refused.

The Centre for Child Law at the University of Pretoria intervened to get the surgery ordered for the child by the provincial government.

Taken from *Pretoria News*, October 26.

## Diviners can't resist orders and giving orders

Around 70% of South Africans consult traditional healers called diviners or sangomas for diagnosis and treatment of disease. Established sangomas look for signs that a person is fated to be a sangoma. "Persistent dreams, excessive amounts of bad luck, and physical or mental illness are usually the symptoms presented by a potential healer," writes Catherine Eden in *ClubCard* magazine (Sept.-Oct. 2004). Recognizing those signs, the older sangoma then takes him under his tutelage for training that may last five years.

According to Eden, an individual cannot decide for himself to become a diviner and it is "almost impossible" to avoid becoming a diviner if an

authentic sangoma teacher chooses you.

Training includes astrology, herbs, tarot, sweat baths, rituals of ancestor worship, locating live cows and goats from ones seen in dreams, and ritual slaughter of them.

## Diviners convey psychic messages

To diagnose an illness, the diviner enters a trance and purports to communicate with ancestral spirits. He commonly "throws the bones," his collection of bones, shells, and other significant objects, to open psychic communication.

The diviner relays a message from the ancestors to the patient. The message orders the patient to follow a certain course of action and threatens bad consequences if he does not. The message often proclaims a supernatural or moral cause for the illness, and therefore ritual and moral redirection are seen as part of the cure. Other treatments include herbs, wearing of amulets, applying potions to the skin, or moving in with the sangoma to participate in dances and rituals.

Eden indicates that the sangomas can be belligerent and threatening. "Being on the receiving end," she writes, "can be upsetting if you're accustomed to euphemisms and a reassuring bedside manner, but the sangoma considers it a disservice to be too gentle."

## Diviners must study bible to get AIDS education

According to the *Washington Post*, Living Hope, a Baptist-affiliated treatment center in South Africa, has an AIDS education program for the sangomas. The program, however, is contingent on the sangomas' agreeing to study the Gospel of John twice a week before receiving lessons in human anatomy, symptoms of HIV infection, antiretrovirals, and other modern medicines. The program emphasizes abstinence and marital fidelity, but does not teach about condoms.

Living Hope is funded heavily by South African and US taxpayers; nearly half its money comes from President Bush's Emergency Fund for AIDS Relief.

Living Hope has no substantive data on the program's success, but cites as successes increased attendance at AIDS awareness courses, its teaching



that sex with a virgin is not a cure or preventive for AIDS, and the conversion of a prominent sangoma to Christianity.

Living Hope also provides practical services to AIDS patients.

Taken in part from the *Washington Post*, July 1, 2006, and *Club Card*, September-October, 2004.

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## Deaths and amputations from African circumcisions

To several South African tribes, circumcision is an essential ritual for initiating boys into manhood. Before South Africa became an inclusive democracy, black culture was suppressed and denigrated. Now that blacks govern the country, they have the dilemma of according tribal customs respect and simultaneously protecting children.

Features of the initiation common across tribes include ritual sacrifice, seclusion in the bush, building primitive lodges, receiving cultural knowledge, circumcision, painting the skin with white clay, and finally burning of the lodge and belongings to symbolize that the boys have left childhood behind.

Family and friends welcome them back with feasts, dancing, and stick-fighting. They are given numerous privileges with their new status as men.

### Violence may be taught at schools

Writers give contradictory accounts of the cultural knowledge imparted in the initiation schools. Some say the young men receive instruction in courtship, marriage practices, and social responsibilities. Some say they are taught to respect women. Others say they are physically abused and are taught to be violent. Some boys rape their mothers and sisters after initiation.

Contemporary initiation schools are named after war-ravaged cities and countries. There are schools named Afghanistan, Bosnia, Beirut, and Rwanda. Boys say the names were selected to suggest the pain and suffering they will experience. They are pictured as brave soldiers on the warpath conquering the trials of manhood.

## Many deaths and amputations

More than 200 boys have died from these initiations since 2001. Nineteen died in Eastern Cape Province in July, 2006, alone. Since 1995, 78 boys have had their penises amputated because of botched circumcisions, and many thousands have been hospitalized.

Many of the traditional surgeons and nurses do not have the training to perform the operation on a teenager. Many use unsanitary instruments. The tight thong bandage they put around the wound frequently starves blood supply to the penis and promotes infection.

Many boys suffer dehydration after circumcision. They are not allowed to drink adequate water because the nurses hope to keep them from urinating. Also, this hardship is seen as another test of their endurance.

With the boys becoming sexually active at an increasingly younger age, there is a higher prevalence of sexually transmitted diseases among them. These diseases are spread by unsterilized knives and spears. Also, if the boy comes to the initiation school infected with HIV, he is likely to die from the circumcision, one doctor said.

Boys also die because of the harsh primitive conditions and isolation. Many are city dwellers and not used to living in a wilderness.

Some die from the beatings that are part of this rite of passage. Some will not admit how sick they are because of the social pressures to be tough.

### Injuries seen as test of manhood

Professor Sheila Meintjes of the University of the Witwatersrand found that many community members were not upset by the deaths and injuries. Rather, she reported, "Deaths and injury were seen as a way of separating out those boys who were not fit to play the role of men in society."

Another popular belief is that medical complications are caused by the initiate's wrongdoing. A mother who has lost two sons in initiation rituals said her neighbors spread rumors that witchcraft was at work.

The boys who accept hospital care face the risk of ostracism because they haven't finished the program and established their manhood.

Three provinces have passed laws to protect the boys, and the federal health minister has the authority to regulate the initiation schools although it is not evident that she has done so.

In 2001 Eastern Cape Province enacted a law requiring certification of traditional surgeons and initiation schools. However, they allow the community to choose the circumcisers they trust and do not restrain them. The government pays the circumcisers so it can keep impostors from charging exorbitant prices. Boys must be 18 years old and examined by a physician before they participate.

The provincial government has closed several initiation schools operating illegally, yet some boys continue to die from circumcision rituals in the province.

### **Tradition more important than health and safety**

Even these modest measures have met staunch resistance. Kgoshi Thobejane, a provincial chairman of the Congress of Traditional Leaders, says when people die in hospitals, Western medicine is not condemned, “but when ten people die at an initiation school, we are pestered and put on trial. . . . When I grew up, about 50 of the 70 people who went to a circumcision school in our area died. But nobody made a noise. Now that you [black journalists] go to white schools, you want to appease your white bosses at the expense of our tradition.”

A project to build permanent huts with showers and toilets for an initiation school in Cape Town was stopped by outraged men who said it would violate the meaning of the rituals. Traditionalists want the huts to be primitive and to be burned when the boys have completed their ordeals.

### **Information age weighs against ritual**

While traditionalists won that battle, forces of modernization will probably diminish the power of this ritual over time. It survives by claiming to impart secret knowledge and excluding women. Many mothers would like the initiation schools closed; hopefully, women will gain more power in government. “Secret” knowledge and tight tribal structure are harder to maintain when people have access to so many sources of information. And even defenders of the old tradition admit that it is losing its religious and cultural significance because of the many

circumcisers who charge high fees and keep the circumcised youths as prisoners until parents pay their grossly inflated bills.

Taken in part from *Weekend Argus*, July 22, 2006; *Eastern Cape News*, July 9, 2005; *South African news24*, July 16, 2005; *Johannesburg City Press*, Nov. 23, 2002; *The Sowetan*, July 18, 2001; and Kathryn Stinson’s anthropology research paper, “Male Circumcision in South Africa,” posted at [www.africanvoices.co.za](http://www.africanvoices.co.za).

## **Recent Scholarship**

In June CHILD’s medical consultant, Dr. Seth Asser, a Rhode Island pediatrician, lectured on “Children of Religious Refusers of Medical Care: Abandoned by the Law” at the national conference of the American Professional Society on the Abuse of Children in Nashville, Tennessee.

Also in June, Leanne Heaton, a doctoral candidate at Virginia Commonwealth University, lectured on “Religious-Based Child Maltreatment: Legally Sanctioned?” at VCU’s School of Social Work Policy Conference in Washington, D.C.

An article by lawyer Kei Robert Hirasawa entitled “Are Parents Acting in the Best Interest of Their Children When They Make Medical Decisions Based on Their Religious Beliefs?” appears in *Family Court Review* 44(April 2006):316-29.

CHILD president Rita Swan spoke on religion-based medical neglect to the Iowa Society for Consumer Healthcare Advocacy in October.

## **About CHILD, Inc.**

CHILD is a national membership organization dedicated to the welfare of children, particularly when religious beliefs, cultural traditions, or quackery lead to child abuse or neglect. CHILD is a member of the National Child Abuse Coalition.

For more information on CHILD and a membership application form, visit our web page at [www.childrenshealthcare.org](http://www.childrenshealthcare.org). To reach CHILD by mail, phone, fax, or e-mail, see the contact information on page 1.