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Neustein, A., & Lesher, M. (2005). *From Madness to Mutiny: Why Mothers are Running From the Family Courts—And What Can Be Done About It*. Boston: Northeastern University Press.

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Amy Neustein and Michael Lesher have produced a searing and profoundly disturbing indictment of family courts in the United States in *From Madness to Mutiny.* They provide an unusually rich and detailed documentation of how the U.S. family court system fails to protect children who have been sexually abused by their fathers and punishes the mothers who bring good-faith accusations of this sexual abuse. The authors describe devastating case after devastating case of how protective mothers are stripped of their custodial rights and sometimes even forced into supervised visitation with their children, all because they have fought to protect those very children from sexual abuse by the other parent. The cases they describe are quite literally gut-wrenching. I actually felt ill reading this book, although I cannot say I was not forewarned by the first three sentences in the book:

> This has not been a pleasant book to research or to write. It will not be a pleasant book to read. It deals with a profoundly disturbing topic: a system of justice, designed to protect children from sexual abuse, that has gone so terribly wrong that it often abets the very evils it exists to correct. (p. xiii)

Neustein, a sociologist who herself lost custody of her 6-year-old daughter in 1986, and Lesher, a lawyer, analyzed more than 1,000 cases for this research study, which spans 20 years and multiple states throughout the United States. Because these cases were extensively documented, the authors were able to examine them in detail throughout the course of their litigation history. One defining feature of their research is, in fact, the analysis of a single case during its lifetime. It is this feature that allows the authors to tell such poignant and painful real-life stories. The authors also make a particular sociological inquiry, known as *ethnomethodology*, into "the practical reasoning of judges (and others) that at each and every instant serves to re-create a system that reflexively gives meaning to their situated actions" (p. 36).

The authors' objectives in writing this book are diverse. Most importantly, they seek to expose and explain the inner institutional culture of the U.S. family court system where civil and human rights violations are, in effect, considered normal and legitimate behavior. In addition, they strive to counter the prevailing myth that women make knowingly false claims of abuse in order to get their way in court (thus reaffirming a 1988 report of the American Bar Association, which found that deliberately false allegations are indeed rare, p. 11). Another of their primary goals is to provide concrete recommendations for improving the system. Perhaps to its detriment, what this book

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does not attempt to do, however, is answer the ultimate question of why the family courts consistently punish mothers who are only advocating for the protection of their children from sexual abuse. As the authors state,

> We have avoided speculation as to the underlying psychological or historical forces that may cause family court personnel to react so violently when mothers accuse fathers of child sexual abuse. . . . We have chosen . . . to concentrate on methods that dissect family court madness as an institutional phenomenon, describing what the system clearly *is*—we are less concerned with inevitably more debatable attempts to reveal the madness's ultimate source. (p. xx)

Although Part I of this book is useful for its broad overview of the problem and explanation of the family courts' "new legal landscape" of multiple "court auxiliaries" (p. 22) such as law guardians, child-protective service (CPS) caseworkers, and mental health experts, it is Part II that is the most powerful. This section covers the majority of the book and provides an in-depth look at each family court actor who contributes to the madness of the family court system and how they all function together.

In the chapter on family court judges, Neustein and Lesher describe a phenomenon that they name *robed rage*, which means that

> An abuse case is transformed, unofficially, into an inquisition into the complaining mother's character, with a judge apparently finding so many reasons to criticize the mother that he has no time to investigate whether her charges are justified. (p. 51)

In their research, the authors found a strong tendency among judges to deny the sexual abuse and then, consequently, to shift the blame to the accuser (i.e., the protective mother) and label her a bad parent because of her behavior as a litigant. In these cases, the judges actually "define parental fitness by a mother's litigation activities" (p. 45). Furthermore, as inconceivable as it may sound, in a significant number of cases, the authors found that judges award custody of the children to the father precisely because the mother accused him of sexually abusing them.

To illustrate robed rage, Neustein and Lesher describe a New York case in which CPS workers had accused the father of sexually abusing his 6-year-old daughter based on an eyewitness account (p. 52). Rather than investigate the report of abuse, the judge ordered the mother to submit to a psychological evaluation and then placed the child in foster care because the mother had missed this appointment due to severe chest pain. He did this despite the fact that the mother was going to reschedule her appointment and despite the fact that there was no evidence of abuse or neglect by the mother nor any evidence that she was mentally ill. The mother was ultimately convicted of neglect "on the sole ground that she believed that her child had been abused—though the charge was supported by the child, several psychologists, and an eyewitness" (p. 53). This is a typical example of the judge focusing on the mother as litigant rather than on the claims of and evidence in the case.

Other examples of robed rage highlighted by the authors include placing protective mothers in illegitimate contempt of court; categorizing protective mothers as *vindic-*

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tive, *neurotic*, and *mentally ill* (p. 74); making ex parte custody transfers (i.e., when one parent is not given notice) without a hearing; and conducting intimidating and cruel private interrogations of children who have reported abuse, without the parents present. In seeking to understand the entire phenomenon of robed rage, Neustein and Lesher state their belief that "a judge is afraid of losing control of his or her courtroom to a protective mother" and perceives her as a "threat to the judge's authority" (p. 51).

The next chapter addresses the problems with guardians ad litem—the "lawless law guardians," (p. 86) as the authors call them—who are appointed by the family court judges to represent the best interests of the child when allegations of child abuse have been made. In the cases they analyzed, Neustein and Lesher found that law guardians consistently suppress or ignore evidence of sexual abuse, lie to the courts, advocate on behalf of and recommend that custody be switched to the fathers who have been accused of sexual abuse, and give false or incomplete information to prosecutors and CPS workers trying to investigate claims of sexual abuse. As an example, the authors relate an Idaho case in which the law guardian recommended that two boys be removed from their mother and placed in foster care after one of the boys and an older sister reported that their father had sexually abused them. Obviously unconcerned with the children's well-being and his use of them as pawns, the law guardian told the judge,

> I think if we do that [remove the young boys from their mother's home] that maybe we'll impress upon both parties that this isn't going to be tolerated by the Court, because if we don't get the lesson through, we are going to be back in this courtroom or some other courtroom the rest of our lives. (p. 97)

About one month after this removal, the law guardian informed the mother's lawyer that the foster parents were going on vacation and recommended that the boys be transferred into their father's custody, with which the judge complied. Two years later, the boys were still in their father's custody despite a clinical psychologist's report that the boys were indeed being sexually abused by their father—to which the law guardian's response was merely anger at the mother for bringing the children to a psychologist. Many law guardians, similar to family court judges, are more interested in punishing protective mothers than in investigating and addressing the sexual abuse allegations they make, even if it means placing the child at risk of grave harm.

In the following chapter, Neustein and Lesher describe how child protective services or "antisocial services" agencies and workers contribute to the injustices of the family court system and the destruction of bonds between protective mothers and their children. Although CPS is responsible for investigating child abuse and protecting abused children, it in fact plays a critical role in removing children from the custody of their protective mothers; placing them in foster care; denying that sexual abuse by the father ever occurred, even when there is substantial evidence to the contrary; and, in many cases, going on to urge that custody be switched to the father. The authors found that CPS workers are eager to refute a mother's claims of sexual abuse and to charge mothers with brainwashing their children. The authors also explain how CPS workers

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file "bogus petitions" (p. 112) against protective mothers, either making false claims that they are mentally ill, fabricating concerns that they will kidnap their child, or accusing them of making false allegations of child abuse, even in cases where the abuse was substantiated. These bogus petitions give CPS a reason to remove the child from the protective mother's custody.

CPS also succeeds in removing children from the custody of their protective mothers by charging them with neglect for reasons such as

> (1) spending too much time litigating; (2) failing to "insulate" children from the legal proceedings (even when the children are too young to understand the process, let alone to be brainwashed); (3) making an abuse report that is "not totally true"; (4) changing therapists for her child without first obtaining permission from a family court. (p. 127)

In addition, Neustein and Lesher highlight the problem of CPS workers creating an impenetrable wedge between protective mothers and their children during supervised visitation. Although supervised visitation is designed to protect children from their supposedly dangerous parents, protective mothers who have lost custody are often forced by judges into this kind of arrangement that theoretically is intended for alleged offenders. In many cases, visitation supervised by CPS "gives the agency unfettered discretion to make visits torture for parents and children" (p. 114). Restrictions imposed by CPS during visitation include not allowing parents to whisper or speak softly to the children and not allowing them to hold their children in their laps or touch them at all. The authors have little sympathy for CPS's claims that it is an agency too overburdened and understaffed to protect children from real abuse in their homes and suggests that it spend more time saving children from dying at the hands of their parents than removing children from protective mothers whose only crime is to want to protect them from sexual abuse.

Last, Neustein and Lesher include a chapter on the role of mental health professionals in the family court system, the final piece in this puzzle of an institution that has failed children so abysmally. These so-called experts are brought in to conduct evaluations of abuse charges, supervise visitation between parents and children, act as court-appointed family counselors, and serve as consultants to CPS. One of the most serious problems is that many of these mental health professionals use pseudoscience to discredit and denigrate protective mothers who make sexual abuse allegations:

> Hostile epithets posing as scientific "syndromes" have played a central role in the backlash of the family courts against protective parents. Branded as "vindictive," "calculating," "manipulative" and/or "hysterical," "narcissistic," or "paranoid" on the basis of one questionable theory or other, women lose custody of their children—and in many cases all visitation rights as well. (p. 146)

The best known, most extensively used, and most widely criticized of such questionable theories is parental alienation syndrome (PAS), created by Dr. Richard Gardner, which has resulted in the removal of children from protective mothers who allege that the noncustodial parent is abusing the child. In 1996, the American Psycho-

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logical Association specifically rejected this theory, as have criminal courts; however, the family courts continue to rely heavily on PAS to assist them in making custody determinations, perhaps because it helps judges justify their denial of the child abuse. Other quack theories relied on in the family courts include Dr. Arthur Green's model focusing on "delusional and vindictive mothers" (p. 150) who brainwash their children into believing they have been abused and "Munchausen Syndrome by Proxy" (p. 157) in which a parent supposedly uses her child to attract the attention of health care professionals. Neustein and Lesher discuss in detail this tendency of the family courts to pathologize protective mothers and label them as mentally ill despite the lack of any prior history of mental illness. As the authors point out, "They became 'mentally ill' only when they accused their children's fathers with acts of abuse" (p. 161). Tragically, the treatment for these problems is

> isolation of the child from anyone who believes in the abuse the child is reporting; supervision of the child's contact with the protective parent, so that the child is discouraged from describing abuse; forcing the child into the custody of the very parent he or she fears. (p. 161)

Having exposed the reader so effectively to the madness of the family courts, Neustein and Lesher go on to describe the profound impact it has on protective mothers who find themselves in this nightmare. They explain how mothers feel constantly hunted, how mothers who have lost custody of their children feel a tremendous emptiness as if they have lost a limb, how mothers feel a deep sense of helplessness from having been unable to protect their children, and how some mothers even commit suicide out of desperation. The authors also describe acts of rebellion by some protective mothers, such as going to the media, lobbying, and—in more extreme cases—fleeing with their children into hiding and become fugitives:

> In the end, the persecution was more than she could bear; between the continuing evidence of abuse (which the court utterly ignored) and CPS's persecution, she came to believe that defeat was inevitable and took her children into hiding. Naturally, this gave the family court judge the needed rationale to transfer custody of both children to the father. However, the mother and her daughters eluded capture—their whereabouts remain a mystery. (p. 185)

This leads us to Part III of *From Madness to Mutiny*, which provides detailed, specific, and concrete recommendations for reforming the family court system. I will highlight some of them here. In the first section of Part III, Neustein and Lesher state that a "rebirth of the entire system" (p. 197) is necessary, including fundamental and radical shifts in the attitudes of judges, law guardians, mental health experts, CPS, and others in the system, and give examples for doing this. First, the authors challenge the doctrine of *parens patriae*, which gives the state the authority to assume parental responsibility for any child in need of protection:

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> It is one thing to protect children who demonstrably need protection. It is quite another . . . to usurp the authority of a mother against whom no valid charges can be made and to impose their views, preferences, theories, and politics on her and her children . . . (p. 198)

Second, Neustein and Lesher state that all family court participants must dispel the myth that women make knowingly false allegations of sexual abuse in order to seek revenge against their ex-husbands. Third, the authors urge family court personnel and others involved with the family courts to give family court judges the same respect as other judges and to cease viewing family courts as inferior. Fourth, the authors ask that the family courts stop mislabeling protective mothers with mental illness and personality disorders. Finally, they urge lawyers in the family courts "to demand—and expect—the same standards in legal procedure, ethics, and civil rights to which lawyers have grown accustomed in other courts" (p. 203), such as due process.

In the second section of Part III, the authors propose their specific reforms for the family courts. Their overarching recommendation is to amend the federal Child Abuse Prevention and Treatment Act, 42 U.S.C. §§5101 *et seq*., such that states would be required to adopt certain reforms if they wish to continue receiving this funding for their CPS agencies. These reforms include (a) doing away with confidentiality rules in child abuse cases so that family court proceedings and records are no longer sealed in secrecy, away from public scrutiny; (b) prohibiting custody changes from one parent to the other based on an ex parte hearing; (c) banning the use of custody and visitation rulings as punishment for mothers who accuse fathers of sexually abusing their children; (d) ensuring that judges do not use their contempt of court powers to award custody to the other parent as a means of punishing the parent charged with contempt; (e) creating an independent team of mental health professionals to conduct a periodic review of the performance of judges as well as a special commission to review the decisions of sitting judges in these child sexual abuse and custody cases; (f) ensuring meaningful higher court review and allowing parents to seek relief from the federal courts in cases in which their civil rights (e.g., due process rights) have been violated; (g) requiring judges to attend trainings dispelling the myth that women make false claims of sexual abuse in order to get custody; and (h) disqualifying judges who refuse to hear evidence of abuse or threaten or punish a mother with loss of custody, visitation, or child support for making a claim of sexual abuse.

Neustein and Lesher conclude *From Madness to Mutiny* by proposing reforms aimed at the family court auxiliaries. With regard to law guardians, the authors recommend that they (a) be subject to liability for negligent representation so that they no longer enjoy quasi judicial immunity, (b) be required to follow a national set of ethical guidelines (to be created), (c) be required to keep within the limits of the precise purpose of their appointment (and that this purpose be put in writing by judges), and (d) receive mandatory training about child sexual abuse and the penalization of protective parents.

As for mental health professionals, Neustein and Lesher recommend that they (a) be prohibited from recommending a change of custody as punishment for mothers who suspect abuse; (b) be limited to relying on legitimate psychological theories

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rather than on junk science, such as PAS; and (c) accurately represent parents' and children's test scores from psychological evaluations, and not reach conclusions "based on intuition or personal biases" (p. 228). Finally, with regard to CPS workers, the authors recommend that they (a) receive mandatory training on family court abuses and legal standards, (b) be required to turn over agency records to parents unless their parental rights have been terminated by court order, and (c) receive internal discipline if they sign improper or baseless neglect or abuse petitions.

Meaningful reform of the U.S. family courts is probably a long way off, given the secrecy, unchecked power, legal immunity, and lack of oversight and accountability that run rampant within the family court system. But efforts to improve the family courts are now widespread throughout the United States. Numerous organizations, institutions, and individuals have documented the problems and are attempting to address them. For the sake of our children and future generations, we have no choice but to continue the fight. I commend Neustein and Lesher for their major contribution to this struggle.

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