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Introduction to Families and the Courts

Alan J. Tomkins, J.D., Ph.D.,
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This special issue of *Behavioral Sciences & the Law* examines some of the many issues related to "Families and the courts." As Judge Ted Rubin (this issue) observes, "Not everything or everybody ends up in a family court—or any other court—when there is a family problem. But much does and many do." The issue deals with some of the family matters that do—or should—implicate the legal system (ranging from the attempts of gay men and lesbians to obtain legal recognition of their parental status vis-a-vis their children to the potential role of law in protecting children from emotional maltreatment by their parents). It also deals with issues regarding the nature, structure, definition, and jurisdiction of family courts; the practice of other courts that handle family matters (such as domestic violence), as well as some of the mental health professionals who aid the courts in their decision making. Scientific issues, practical issues, ethical issues, and political issues are covered. The six articles comprising the special issue span a vast territory.

Pamela Casey, who served as a guest co-editor for this issue, considers the appropriate roles of courts as they serve constituencies such as children and families. Casey adds to the traditional arsenal of court management tools; she suggests adapting Urie Bronfenbrenner's person-environment framework—an ecological construct originally advanced to understand human development—in order to better understand courts' roles and practices. Such novel ways of conceptualizing the court and its role can potentially aid this critical social institution as the courts confront the challenge of performing not simply as "umpire" of disputes but also serving as an integral part of the community's social service system.

Ted Rubin, who has served both within the system as a juvenile court judge and outside the system as a court management consultant and commentator, considers the trend of *unified* family courts, a kind of "one-stop shop" for child and family matters. In this thoughtful evaluation of both the advantages and limitations of a unified family court, Rubin provides a historical overview of the reform movement (it turns out that, as the song claims, "everything old is new again"), and presents the major rationales for the family court. Rubin's assessment concludes with a call for careful, empirical studies so that the debate can be informed by data as well as rhetoric.

Eve Buzawa, Gerald Hotaling, and Andrew Klein examine another "family" problem confronting the judicial system: the national tragedy of domestic violence. Buzawa and her colleagues report on their on-going evaluation of the Quincy (Massachusetts) District Court, a model court in that it has developed an integrated criminal

justice response (including police, prosecutors, and the judiciary) to domestic violence offenders. The foundation of this response is the "full enforcement" (i.e., arrest and prosecution) of all known offenders. The evaluation considers the impact of this response orientation by undertaking a comprehensive examination of every domestic violence case brought before the court from June, 1995, until February, 1996.

A different kind of evaluation is presented by Kathryn LaFortune and Bruce Carpenter. LaFortune and Carpenter surveyed mental health professionals from five states (Georgia, Nebraska, New York, Ohio, and Oklahoma). These are professionals who conduct custody evaluations. The respondents were asked about their practices and attitudes concerning their evaluations. Among their intriguing findings is the one that mental health professionals believe alternative forms of dispute resolution, such as mediation, would be superior to the adversary system for deciding custody issues.

Catherine Connolly reviews *every* reported court decision (there were only 10) concerning the successful petition of gays and lesbians to obtain legal recognition of their role as a parent to a child where there already was legal recognition of the petitioner's partner as parent (i.e., "second-parent" adoptions). Connolly's work has implications for family theorists who are interested in policy. It suggests that even when judges act in a non-traditional manner, they tend to use traditional constructs in considering family matters. Family scholars, concludes Connolly, "need to inform themselves of the debate on the use of the law to promote social change ... [S]tudies of gay and lesbian family relations can not overlook the courts ..."

Sociolegal issues (and social service reforms) also serve as the foundation of Roger Levesque's analysis of the emotional maltreatment of adolescents. Attention to emotional maltreatment is not new, but the fundamental role Levesque argues it should play in law and policy is original. According to Levesque, emotional issues should become the "centerpiece of efforts" to address adolescents' victimization and perpetration. The benefits, argues Levesque, are not only direct, they also reinforce other important interests such as an adolescents autonomy. If accepted, Levesque's proposal would have vast and profound implications for the courts, as it is judges who ultimately would have to determine which behaviours constitute emotional abuse and which do not.

The issue concludes with an adversarial forum. Gilbert Geis critiques a Special Perspective article by Dennis Fox, "The Law Says Corporations are Persons, but Psychology Knows Better," that was previously published in *BS&L.* Fox responds to Geis's critique in the last article.

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Special Issue Editors

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