An Empirical Study of Parental Responsibility Laws: Sending Messages, but What Kind and to Whom?

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It is systematically expected that parents will acculturate and socialize their children. Indeed, the perception that parents in any given case are not willing or able to do so is the principal occasion for juvenile court intervention. On the one hand, these processes imply that children will learn and accept cultural goals in general and will conform their conduct to rules in particular. At the same time, the end point of these processes is adulthood, upon which the person becomes a full citizen whose behavior is autonomous except as limited by the rule of law. Proper child rearing must accordingly facilitate the development of a capacity for choice and autonomous action within existing norms. A child who does not learn social values and rules has not been properly raised; equally a person without capacity for autonomous behavior remains an infant. Thus, the complex of authority, rules, and autonomy is a fundamental aspect of parental responsibility for children.¹

In 1994 the small town of Silverton, Oregon, enacted an ordinance imposing quasi-criminal sanctions on parents whose children broke the law.²

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¹Dorothy Kliks Fones Professor, University of Oregon School of Law. Thanks to Kindra Shoemaker, University of Oregon class of 2003, for research assistance, and to Caroline Forell, Margie Paris, Merle Weiner, Hari Osofsky, Charlie Patton, and Bettie Harris for reading and commenting on this Article. Earlier versions of this work were presented at the North American Regional Conference of the International Society of Family Law in 2003 and at a University of Oregon faculty workshop; thanks are due to a number of people who attended those events and gave me suggestions. I also thank Dr. Steve Johnson, Northwest Data Services, for statistical analysis of the data discussed in this Article.


²Silverton’s ordinances read:

§ 9.24.010 Failing to Supervise a Minor

A person commits the offense of failing to supervise a minor if: the person is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child under 18 years of age and the child has been found on private property or premises open to the public in violation of any provision of Silverton Municipal code.


It shall be a defense to the offense of failure to supervise a minor if the child’s violation of the code occurred in the presence of the person. It shall be a further affirmative defense to the offense of failure to supervise a minor if the violation
City officials said that Silverton was the first community in the United States to enact such an ordinance, a claim that was repeated around the nation. Of course, Silverton was not the first community to enact such a law. This kind of law is more than one hundred years old, and lawmakers seem to “discover”

occurred on private property of the person. It shall be a further affirmative defense that the person:

A. Took reasonable steps to control the conduct of the child at the time the person is alleged to have failed to supervise; or
B. Reported the act to the appropriate authorities.

§ 9.24.030 Additions to fines and penalties.

In addition to any fine or penalty imposed pursuant to this chapter, the court may order the person to pay any restitution to a victim of the minor’s conduct. The amount of restitution ordered pursuant to this chapter shall not exceed $2,500.00.

§ 9.24.040 Under 11 years old.

If a child in violation of [section 1 of this Ordinance] is 11 years of age or younger, any citation issued shall be issued to the parent, legal guardian or person with legal responsibility for the safety and welfare of the child for violation of this chapter, rather than to the child for violation of any provision of the Silverton Municipal Code.

§9.24.050 First time offense.

The first time a person is convicted of an offense [described in section 1 of this ordinance], the person shall not be required to pay a fine exceeding $100.00 if the person successfully participates and completes a parent effectiveness program to the satisfaction of the court.

§9.24.060 Maximum fine for failure

The offense described in this ordinance of failure to supervise a minor is a Class A infraction punishable by a maximum fine of $1,000.


3See, e.g., SILVERTON TOGETHER, DRUG FREE COMMUNITY SUPPORT PROGRAM: FIVE-YEAR REPORT, OCTOBER 1, 1999–SEPTEMBER 30, 2004, at 5 (2005) [hereinafter SILVERTON TOGETHER] (“Silverton was also the first city in the nation to pass a parental responsibility ordinance that allows for parents to be held responsible for their child’s behavior.”), available at http://www.open.org/~silvtog/docs/ojdp05.pdf.


the idea of using parental responsibility laws to prevent teenage crime every couple of decades or so.6

Parental responsibility statutes impose some form of legal liability—civil, criminal, or quasi-criminal—on parents for their children’s misdeeds. The laws’ explicit premise is that much teenage lawbreaking and troublemaking is attributable to parents’ failure to exert appropriate control over their children.7

6A student piece from thirty years ago began: “As with plagues of locusts, juvenile delinquency appears to be cyclical; it manifests itself legislatively at periodic intervals rather than continuously. Its apparatus must be stalking the land again, for a rash of ordinances has recently been enacted in Michigan designed to curb juvenile lawlessness.” Penelope D. Clute, Comment, “Parental Responsibility” Ordinances—Is Criminalizing Parents When Children Commit Unlawful Acts a Solution to Juvenile Delinquency?, 19 WAYNE L. REV. 1551, 1551 (1973).

No less a luminary than J. Edgar Hoover supported these laws, saying: “‘Juvenile crime could be abated if parents were made to face legal and financial responsibility for the criminal acts of their children.’” Peter Wyden, Are Parents Responsible? If So Should They Be Punished for Teen Crime?, NEWSWEEK, Apr. 2, 1956, at 95 (quoting J. Edgar Hoover), cited in Comment, Criminal Liability of Parents for Failure to Control Their Children, 6 VAL. U. L. REV. 332, 333 n.6 (1972).

Family historian John Demos traced the antecedents of contemporary parental responsibility statutes at least to the seventeenth and eighteenth centuries, when poor parents would be summoned to court, admonished, and if they did not improve, have their children taken away. Lynn Smith, Can We Really Legislate Good Parenting?, L.A. TIMES, Jan. 18, 1995, at E1. He said: “‘In magazines of the 1880s and 1890s, you can read articles how parental authority is collapsing and that parents don’t seem to have any backbone any more. The language is remarkably similar to today. It’s a very old idea in this country. It seems to be repeated every generation for the last 100 or 150 years.’” Id. (quoting Demos).

7A recent student comment arguing in favor of parental responsibility laws captures these assumptions:

Many of the factors experts have found to contribute to juvenile crime can be traced to the parents, and are factors that are potentially under their control. Thus, it only makes sense that parents should be held responsible for behaviors they facilitated. As the leaders in the home, parents need to set good examples for their children, and if they cannot or will not fulfill this duty, parental responsibility laws should be implemented to help bring about the desired result. It is only when parents are made to act responsibly that children can also be expected to do so.

Courtney L. Zolman, Comment, Parental Responsibility Acts: Medicine for Ailing Families and Hope for the Future, 27 CAP. U. L. REV. 217, 218 (1998); see also Howard Davidson, No Consequences—Re-examining Parental Responsibility Laws, 7 STAN. L. & POL’Y REV. 23, 23 (1996) (arguing that “parents whose actions or indifference contribute to their children’s violent and destructive behavior must be held [legally responsible]”); Frederick J. Ludwig, Delinquent Parents and the Criminal Law, 5 VAND. L. REV. 719, 720 (1952) (stating that delinquent behavior is strongly predicted by whether family is “unintegrated,” mother is “indifferent or hostile,” mother’s supervision is “unsuitable,” father is “indifferent or hostile,” and father’s discipline is “overstrict or erratic” (citing GLUECK & GLUECK, UNRAVELING JUVENILE DELINQUENCY 261 (1950)); Michelle L. Casgrain, Note, Parental Responsibility Laws: Cure for Crime or Exercise in Futility?, 37 WAYNE L. REV. 161, 165 (1990) (discussing popular belief that “if a child [is] bad, the parent [is] necessarily bad”); Clute, supra note 6, at 1576 (citing contemporary television editorials and statements by politicians, and arguing justification is belief that parental inattention causes juvenile delinquency); Comment, Criminal Liability of Parents for Failure to Control Their Children, 6 VAL. U. L. REV. 332, 332 (1972) [hereinafter Criminal Liability] (noting purpose of laws is to prevent children from being delinquent,
The laws implicitly assume that an appropriate way to motivate parents is
direct state intervention that defines reasonable parenting and imposes
sanctions on parents who fail to meet this standard. For example, explaining
his support for a statewide parental responsibility law enacted in Oregon a few
months after the Silverton ordinance became effective, a legislator said that the
law is “for parents who obviously don’t take seriously their role in raising their
children. As a society, we have the right to tell parents, you have a
responsibility to properly supervise your child.”8 In the same vein, the police
chief said, “I don’t think we’re telling people how to parent. We’re just giving
them a tool to become better parents, trying to get at some of the parental
apathy and neglect.”9

8Shoop, supra note 4, at 95. The police chief of a small Oregon town, responding to the
questionnaire that he received in this study, said that his community passed an ordinance “to be
able to enforce parental responsibility—too many parents did not care where their kids were.”
See infra note 16 and accompanying text (discussing author’s survey of police chiefs and
prosecutors in Oregon). A citizen of Silverton explained his support for the ordinance, saying
that the ordinance came at a good time, before things got totally out of hand “like in Portland.”
Maya Blackmun, Taking Control, OREGONIAN, Jan. 12, 1995, at A1 (quoting Willy Howell,
Silverton citizen). A sponsor of the legislation told another reporter, “If we don’t find a way to
intervene early in these young people’s lives, we’re going to have a hell of a corps of hardened
criminals 10 years from now.” Maya Blackmun, Parental Responsibility Bill Advances,
OREGONIAN, Apr. 15, 1995, at A1 (quoting Rep. Byron Johnston). He also agreed that the bill
does not address the underlying social issues such as poverty and parents’ lack of time because
of work and other obligations, and said the bill “wasn’t the best way.” Id. (quoting Rep. Byron
Johnston). “But in the absence of carrots, we grasp what we can.” Id. (quoting Rep. Byron
Johnston).

9Another area of the law in which it is often supposed that parents can control specific
behavior of their preteen and adolescent children is visitation between children and
nonresidential parents. When a child objects to visiting the parent with whom the child does not
live, “many, perhaps most, courts take the position that [custodial] parents can and should
control the behavior of their minor children” and force them to visit. Judith G. McMullen, “You
Can’t Make Me!”: How Expectations of Parental Control Over Adolescents Influence the Law,
35 LOY. U. CHI. L.J. 603, 607 (2004). Courts that take this approach may hold parents in
contempt, requiring them to pay fines or serve time in jail. Id. at 607–08.

blaming parents whether they have encouraged child or failed to provide “that ‘something’
which would have produced a law-abiding child”); Kenneth Alvin Kalvig, Comment, Oregon’s
New Parental Responsibility Acts: Should Other States Follow Oregon’s Trail?, 75 OR. L. REV.
829, 830 (1996) (arguing that “logic behind such laws is that if parents are held liable for their
children’s actions, parents will teach their children to obey the law”).
Legislators and local law enforcement officials who support parental responsibility laws often make sweeping claims about their efficacy. The Silverton police chief and mayor reported that their parental responsibility ordinance had immediate and dramatic effects. The mayor told a reporter that crimes by juveniles declined by 44.5% nine months after the law took effect, truancy levels declined, and schools reported “a significant increase in the level of involvement of the parents with their kids.”\(^9\) A few months later the Oregon governor signed comparable state legislation and issued a statement saying, “I firmly believe this law will help us bring juvenile crime under control and get to kids and their parents early enough so that the children do not become mired in a life of crime.”\(^10\)

On the other hand, criminologists and legal professionals tend to be skeptical about parental responsibility laws, at best. Commenting on the spate of these laws enacted during the 1990s, Peter Greenwood, the director of criminal justice research at RAND, a nonprofit research organization, said, “I’ve never seen any studies to show that [parental responsibility laws] work,” while he commented favorably about teaching parenting skills early.\(^11\) During the same time period, Barry Krisberg, the president of the National Council on Crime and Delinquency sharply criticized the laws:

Most of these laws are a complete waste of time. . . . It’s country club criminology. It sounds good in the suburbs but in reality it’s an empty threat because if you carry it out you just further endanger and pull apart families. . . . We have a serious juvenile-crime problem no one wants to confront, so we end up in an endless search for the delinquency solution of the month. . . . One month it’s tough love. Then it’s boot camp. Now it’s parental responsibility.\(^12\)

\(^9\)Hope Viner Samborn, Kids’ Crimes Can Send Parents to Jail, A.B.A. J. Mar. 1996 at 28, 28.; see also Maya Blackmun, The Parent Trap, OREGONIAN, Aug. 13, 1995, at C1 (reporting claim that in first six months after law went into effect juvenile crime arrests dropped 25% and, compared with same period of previous year, fewer children were running away, burglarizing homes, vandalizing property, drinking alcohol, trespassing, and breaking curfew, but thefts, underage smoking, and drug offenses increased compared to previous year).


\(^11\)Smith, supra note 6.

\(^12\)Peter Applebome, Parents Face Consequences as Children’s Misdeeds Rise, N.Y. TIMES, Apr. 10, 1996, at A1; see also Smith, supra note 6 (quoting Krisberg as saying that parental responsibility laws are popular because they are cheap and easy: “They don’t appear to cost much because they don’t do anything.” “Worse, because they appear to disregard wider social forces, they are also ‘dangerously naive.’” “Does anyone believe a 16-year-old mother who’s never had much parenting herself and doesn’t know anything about parenting is going to become an ideal mother because of laws on the books that she’s going to get arrested? Maybe it’s an IQ test: Anybody who’d believe that would fail.”); Samborn, supra note 10, at 30 (quoting Bernardine Dohrn, Director of Children and Family Justice Center of Northwestern University as saying: “Parents are stretched very thin. Instead of punishing them, government
Other critics express concern that laws will be enforced mostly against poor, single parents, especially African-American women.  

Though laws imposing liability on parents when their children break the law have been around for more than a century, we actually know relatively little about how such laws are used and whether they work. This Article helps to fill that gap by reporting on empirical research about enactment and enforcement of parental responsibility laws in Oregon.

In 2001 I surveyed the police chiefs and prosecutors of every community in Oregon. The first part of the questionnaire asked whether the community had a parental responsibility law, whether the community enforced its local law, if it had one, and if it did not, whether it enforced the state law. The questionnaire then asked similar questions about juvenile curfew laws, another tool that is supposed to prevent teenage crime.

As I expected, the responses to the questionnaires showed overwhelmingly that parental responsibility laws are rarely, if ever, enforced in most places and that, often, people do not expect that they will be enforced even as they support their enactment. To my surprise, the responses also showed a significant positive relationship between the existence of a local parental responsibility ordinance and the vigor with which authorities in that community enforce juvenile curfew laws.

should help them by keeping schools open late.” “Anyone who thinks that parents have total control over their teenage children is not parenting a teenage child.”).


15See, e.g., Davidson, supra note 7, at 27 (only anecdotal evidence suggests that parental responsibility policies or ordinances have positive deterrent effect of encouraging parents to exercise more responsible control over their children before they begin to engage in delinquent conduct, and systematic evaluation is needed); see also infra note 17 and accompanying text (noting general purposes of juvenile curfew laws).

16Leslie Joan Harris, Oregon Police Chiefs’ Survey (Nov. 8, 2005) (unpublished questionnaire) (on file with author) [hereinafter Police Chief Survey]; Leslie Joan Harris, Oregon District Attorneys’ Survey (Nov. 8, 2005) (unpublished questionnaire) (on file with author) [hereinafter DA Survey].

17The articulated purposes of curfew laws are to reduce adolescent lawbreaking, to protect young people from the perils of nighttime streets, and to support parents’ efforts to control their children. See Nunez v. City of San Diego, 114 F.3d 935, 946 (9th Cir. 1997) (finding curfew ordinance to be unconstitutional); see also State v. Morris, 641 P.2d 77, 81 (Or. Ct. App. 1982) (holding that society’s interest in well-being of youth justifies curfew ordinance). As the Oregon Court of Appeals has recognized, the legislature, by enacting a curfew law, intentionally authorized police to stop people during curfew hours purely for the reason that they appear to be younger than eighteen. See Morris, 641 P.2d at 81. Curfews, then, are one of the tools that law enforcement officers use to maintain order and “nip crime in the bud.”

18See infra pp. 18–19 (reporting findings of survey).

19See infra p. 20 (reporting findings of survey).

20See infra p. 23–24 (reporting findings of survey).
The findings from this study, along with the political rhetoric that typically accompanies enactment of parental responsibility laws,\(^{21}\) raises questions about the functions that these laws serve. This Article argues that these laws shape and reflect community values about the role of government in defining parental roles and in controlling adolescents, but in ways that may be harmful and unintended.

The first section of this Article briefly outlines the history of efforts to use parental responsibility laws and their kin to affect the behavior of parents and, through them, that of their children. The second part describes the study and its results. The final section analyzes the symbolic function of parental responsibility laws, especially the messages that these laws send about proper parenting and how the laws help constitute a community’s relationship to its teenagers. The Article argues these laws could encourage some parents to restrict their teenagers excessively, stunting the children’s development, and that there is a clear risk that the laws will be enforced disproportionately against poor, single parents. The data also indicate that the laws may reinforce negative images of teens and encourage very aggressive policing of teens. Because these negative effects may well outweigh positive effects of the laws, the Article argues against enactment of parental responsibility laws.

I. THE HISTORY OF PARENTAL RESPONSIBILITY STATUTES

One of the first statutes that established a juvenile court in the United States, a Colorado statute enacted in 1903, made contributing to the delinquency of a minor a crime.\(^{22}\) These statutes, which still exist in some

\(^{21}\)See *supra* text accompanying notes 4–5, and *infra* pp. 21–23 (discussing typical political reasoning underlying parental responsibility laws).

\(^{22}\)Gibson v. People, 99 P. 333, 333–35 (Colo. 1909) (“1) Any person who induces, aids, or encourages a child to violate any federal or state law, municipal or county ordinance, or court order commits contributing to the delinquency of a minor. For the purposes of this section, the term child means any person under the age of eighteen years.” (quoting An Act to Provide for Punishment of Persons Responsible for or Contributing to Delinquency of Children, ch. 94, 1903 Colo. Sess. Laws 198 (codified as amended at COLO. REV. STAT. § 18-6-701 (2005))).

In 1906 Ben Lindsey, the first judge of the Colorado juvenile court, called contributing statutes “the most important feature of the juvenile [court] laws.” Irving A. Gladstone, *The Legal Responsibility of Parents for Juvenile Delinquency in New York State: A Developmental History*, 21 BROOK. L. REV. 172, 173 (1954) (quoting Ben B. Lindsey, *The Juvenile Laws of Colorado*, 18 GREEN BAG 126, 129, (1906)). Another early juvenile court figure, Grace Abbott, the second head of the U.S. Children’s Bureau, said, “‘[o]f all the laws calculated to prevent delinquency among children, those that punish by fine or imprisonment the parents or other persons who contribute to such delinquency are the most significant.’” *Id.* at 176 (citation omitted). For a brief biographical sketch of Abbott see *Encyclopaedia Britannica* Online, Grace Abbott, http://www.britannica.com/eb/article-9003254 (last visited Jan. 22, 2006).

The Oregon Legislature enacted a statute in 1905 as part of the state’s first juvenile code that made contributing to the delinquency of a minor a crime. *See* Act of Feb. 21, 1905, ch. 171, 1905 Or. Laws 298, *amended by* Act of Feb. 23, 1907, ch. 69, § 1, 1907 Or. Laws 121 (originally codified as O.C.L.A. § 23-1034 (1939), and later, as OR. REV. STAT. § 167.210
states today, are the predecessors of today’s parental responsibility statutes. The older statutes typically provide that anyone who “contributes to the delinquency of a minor,”23 not just a parent, violates the law.24 However,

(1967), repealed by Or. Crim. Code of 1971, ch. 743, § 432, 1971 Or. Laws 2002). After minor revisions enacted in 1907, the contributing statute provided:

In all cases where a child shall be a delinquent child as defined by any statute of this State, any person responsible for, or by any act encouraging, causing, or contributing to the delinquency of such child, or any person who shall by threats, command, or persuasion, endeavor to induce any child to do or perform any act or follow any course of conduct which would cause such child to become a delinquent child, or any person who shall do any act which manifestly tends to cause any child to become a delinquent child . . . shall be punished by a fine of not more than one thousand ($1,000) dollars or by imprisonment in the county jail for a period not exceeding one year, or by both such fine and imprisonment.


23 Contributing to the delinquency of a minor statutes and their successors, parental responsibility statutes, have been challenged repeatedly as being unconstitutionally vague, usually without success. The most common reason for concluding that these statutes are constitutional is some variation on the claim that the statutes refer to community standards, which are readily ascertainable and widely known. A variation on this theme is that the statutes incorporate the meanings of delinquency or dependency in other juvenile court statutes, which have often been upheld on a similar theory.

More recent cases have used similar reasoning to support the conclusion that the laws do not violate substantive due process. The most notable of these opinions is the California Supreme Court’s decision in Williams v. Garretti, 853 P.2d 507 (Cal. 1993), in which the court upheld parental responsibility amendments to the state’s contributing to the delinquency of minor statute. Id. at 509–15.

For a thorough analysis of the constitutional claims, see Derrycr H. Dittman, Contributing to Delinquency Statutes—An Ounce of Prevention?, 5 WILLAMETTE L. REV. 104, 116–19 (1968); Kathryn J. Parsley, Constitutional Limitations on State Power to Hold Parents Criminally LIABLE for the Delinquent Acts of Their Children, 44 VAND. L. REV. 441, 451–71 (1991); Clute, supra note 6, at 1551; Criminal Liability, supra note 7, at 337; and Weinstein, supra note 9, at 859.

24 In some jurisdictions, most contributing prosecutions were not against parents. See, e.g., Dittman, supra note 23, at 112–13 (noting largest group of cases brought under statutes involves sexual misconduct, and next largest group involves liquor (citing MODEL PENAL CODE § 207.13 cmts. at 186 (Tentative Draft No. 9, 1959))). Several, scholars have survey appellee cases involving convictions of parents to see how the laws were used against them. See, e.g., Ludwig, supra note 7, at 726–31 (noting study of seventy-five appellee cases involving parental behavior with cases broken into three categories: intentional contribution to delinquency, which included cases in which parent committed sexual crime against child, as well as cases in which parent and child committed crimes together; negligent contribution to delinquency, which included cases where parents left their child unattended; and liability in absence of fault, strict liability cases including woman convicted of contributing because she bore her children out of marriage). Among the cases that Dittman discusses involving parents’ misdeeds are: State v. Davis, 120 P.2d 808 (Ariz. 1942); Walker v. State, 122 S.E.2d 486 (Ga. Ct. App. 1961); People v. Hall, 204 N.E.2d 40 (Ill. App. Ct. 1965); State v. Gans, 151 N.E.2d 709 (Ohio 1958); Lovvorn v. State, 389 S.W.2d 252 (Tenn. 1965); and Hubbard v. Commonwealth, 152 S.E.2d 250 (Va. 1967). See Dittman supra note 23, at 115–16; see also Paul W. Alexander, What’s This About Punishing
political arguments in favor of contributing statutes typically focused on parental shortcomings.\textsuperscript{25} Contributing statutes have not commonly been enforced against parents, however, and the same is true of the newer parental responsibility laws.\textsuperscript{26} For example, from the time that the first such statute was enacted in New York in 1905 through the first several decades of the twentieth century, the law was almost never enforced.\textsuperscript{27}

The situation changed after World War II when “advocates of preventing delinquency through punishing parents appeared everywhere.”\textsuperscript{28} At this time, the New York City Police Department began a campaign to enforce the law by initiating a show prosecution of Mrs. Genevieve Rivera, the single mother of a fourteen-year-old boy who had been sleeping in hallways and on buses, and who shot three people with a stolen gun.\textsuperscript{29} The judge who presided over the trial declared in a radio broadcast that there was “entirely too much parental neglect, and that it was high time for a showdown.”\textsuperscript{30} The president of the Welfare Council of New York City took a different view, saying, “If this overemphasis should coincide with a popular belief that punishment of parents is a new way of solving the problem of juvenile delinquency, then we have taken an important step backwards,” and the executive director of the Society for the Prevention of Crime said that the mother was as much a victim of society as the son.\textsuperscript{31} Mrs. Rivera, who was unrepresented at trial, was found guilty and sentenced to a year in the penitentiary.\textsuperscript{32} A respected attorney volunteered to represent Mrs. Rivera on appeal.\textsuperscript{33} In 1947 the Appellate Division reversed her conviction because of the improper admission of

\textit{Parents?}, \textit{Fed. Probation}, Mar. 1948, at 23, 23–24. (the author, a juvenile court judge, reported that half of contributing cases that had come before him between 1936 and 1946 involved parents. He sorted these parents into one of five categories: (1) parents who left their children with inadequate or no supervision, including working mothers; (2) parents who exposed their children to vice; (3) parents who encouraged their children to break law; (4) parents involved in extramarital affairs to detriment of their children; and (5) largest group, parents who have failed to give their children adequate education and supervision).

\textsuperscript{25}See \textit{Gladstone}, supra note 22, at 173, 176 (discussing importance of punishment of parents).

\textsuperscript{26}In addition to the sources discussed in this part, see Davidson, \textit{supra} note 7, at 25 (noting that there is little appellate case law on contributing statutes and that author’s experiences support claim that statutes are not much used).

\textsuperscript{27}\textit{Gladstone}, \textit{supra} note 22, at 173–79.

\textsuperscript{28}\textit{Id.} at 179. Judge Alexander made a similar observation in 1948. See \textit{Alexander}, \textit{supra} note 24, at 23 (“The world is now full of people who have just discovered that juvenile delinquency is largely traceable to delinquent parents and who would curb the former by punishing the latter.”).

\textsuperscript{29}\textit{Ludwig}, \textit{supra} note 7, at 719.

\textsuperscript{30}\textit{Gladstone}, \textit{supra} note 22, at 180.

\textsuperscript{31}\textit{Id.} The mother had been brought up by relatives who tried to marry her off to a man twice her age at age sixteen and succeeded when she was nineteen; her husband abandoned her with two children when she was twenty. \textit{Ludwig}, \textit{supra} note 7, at 719.


\textsuperscript{33}\textit{Gladstone}, \textit{supra} note 22, at 180.
hearsay, and the New York City Police Department ended its enforcement campaign, although public interest in the issue continued. A year after the appellate decision in *Rivera*, a juvenile court judge in Toledo, Ohio, published one of the earliest assessments of contributing to the delinquency of a minor statutes. He concluded that punishing parents accomplished very little; it did not decrease the juvenile delinquency rate or deter other parents from the conduct that prompted the delinquency charges. In 1952 a proposal to enact a law in New York City that would have fined parents for their children’s acts of vandalism was defeated in the face of opposition from the family court judges.

Nevertheless, by 1961 all but two states had criminal or quasi-criminal contributing laws. Many states also enacted statutes holding parents civilly liable for their children’s delinquent acts during the 1950s and 1960s. A study conducted by the Children’s Bureau found that, between 1957 and 1962, delinquency rates in sixteen states with such laws were slightly higher than the national average, suggesting that the statutes were ineffective at reducing teen crime.

In the early 1970s, using criminal or quasi-criminal sanctions against parents who failed to exercise “reasonable control” over their teens again became popular. A number of communities enacted local ordinances imposing

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35 *Gladstone*, supra note 22, at 183.
36 See Alexander, supra note 24, at 23 (compiling and analyzing results of 1027 “contributing” cases from 1939 to 1946).
37 *Id.* at 28.
38 *Gladstone*, supra note 22, at 185.


such penalties on parents whose children were arrested for law violations.\textsuperscript{42} Writing about the effects of the Madison Heights, Michigan, ordinance, one author reported,

The threat of prosecution forced some parents and their children to recognize their mutual responsibilities in the family and community. Other parents overreacted and imposed severe restrictions which further alienated their children. Despite varied responses and some criticism, city officials credited the ordinance with a significant reduction in youth crime.\textsuperscript{43}

The cycle continued during the 1970s, 1980s, and 1990s. After the 1970s, the interest in parental responsibility laws again abated and then resurfaced around 1990.\textsuperscript{44} For example, in 1990 police in Grand Rapids, Michigan, began to enforce a twenty-year-old city parental responsibility law that had not been used in seventeen years.\textsuperscript{45} St. Clair Shores, Michigan, enacted a similar ordinance in 1994,\textsuperscript{46} and Salt Lake City, Utah, enacted one a year later.\textsuperscript{47}

\textsuperscript{42}See Clute, supra note 6, at 1556 (during early 1970s, at least nine Michigan communities enacted parental responsibility ordinances); Criminal Liability, supra note 7, at 331, 336 (Madison Heights, Michigan, ordinance that makes it unlawful “for the parent of any minor to fail to exercise reasonable parental control” if child commits criminal acts as result of that failure, with authorized penalty being $500 fine, ninety days in jail, or both (citing MADISON HEIGHTS, MICH. CODE § 8-221 (1970) (renumbered to § 16-41 (1976 & Supp. 2005))).

While commentary often distinguished these ordinances from the older contributing to the delinquency of a minor statutes on the basis that the older laws required proof of an affirmative act rather than basing liability on parents’ omissions, some articles discussed contributing statutes that imposed liability on parents who failed to control their children. See Criminal Liability, supra note 7, at 335 (discussing New York statute that allowed prosecution of parent who “fail[ed] or refuse[d] to exercise reasonable diligence in the control” of child to prevent child from becoming abused, neglected, delinquent, truant, incorrigible, unguardable, or habitually disobedient (citing N.Y. PENAL LAW § 260.10(2) (McKinney Supp. 1971)); Ohio statute that provided for punishment of parent who “failed or neglected to subject [the child] to reasonable parental control and authority” (citing OHIO REV. CODE ANN. § 2151.411 (LexisNexis 1971)); and California contributing statute that applied to “every person who commit[ed] any act or omit[ted] the performance of any duty, which act or omission cause[d] or tend[ed] to cause or encourage” child to become delinquent or neglected (citing CAL. PENAL CODE § 272 (West 1970))).

\textsuperscript{43}Criminal Liability, supra note 7, at 333 (citing Mary Augusta Rodgers, When Children Break the Law, GOOD HOUSEKEEPING, July 1971, at 67, 144–43).

\textsuperscript{44}Parsley, supra note 23, at 442–43, 443 n.10 (collecting news periodical accounts of communities enacting parental responsibility ordinances in 1989 and 1990).

\textsuperscript{45}Id. at 443 n.14 (citing Parents Are Charged After Crime by Kids, CHI. TRIB., Feb. 6, 1990, at 3); see also S. Randall Humm, Comment, Criminalizing Poor Parenting Skills as Means to Contain Violence by and Against Children, 139 U. PA. L. REV. 1123, 1130 n.30 (1991) (referencing use in Grand Rapids, Michigan, of parental liability ordinance to address juvenile crime).

\textsuperscript{46}See Barry Siegel, Town Tries to Police the Parents, L.A. TIMES, Apr. 21, 1996, at A1 (noting first enforcement of St. Clair Shores, Michigan, parental responsibility ordinance,
Perhaps the most well-known statute from this era that imposes liability on parents when their children commit crimes is a section of the California Street Terrorism Enforcement and Prevention Act of 1988, which provides that “a parent or legal guardian to any person under the age of 18 years shall have the duty to exercise reasonable care, supervision, protection, and control over their minor child.” The first widely publicized prosecution under the act involved a single mother whose son was charged in a gang rape and whose home resembled, according to police, a “gang museum.” However, the prosecution was dropped after officials learned that the mother had completed a parenting course. The law has not been widely enforced since then. Low rates of enforcement were reported in other communities at this time as well.

The Oregon community of Silverton enacted its ordinance in 1995 in the midst of this nationwide resurgence of interest in parental responsibility laws, and the state of Oregon followed suit later that year. At least nine other states enacted parental responsibility laws in 1995 as well. The school shooting incidents of the 1990s helped maintain interest in the statutes throughout much of that decade.

During the 1990s newspapers occasionally reported about parents being jailed for violating the ordinances. For the most part, though, anecdotal reports enacted by city council in 1994, that punished parents who “have failed to act responsibly and reasonably in the supervision of their minor children”).


481988 Cal. Stat. 4179, 4182 (codified as amended at CAL. PENAL CODE §§ 186.20–28, 272 (West 1999)).

5Id. at 4182 (codified as amended at CAL. PENAL CODE § 272).

50Geis & Binder, supra note 5, at 315.

51Id. at 314–15; Weinstein, supra note 9, at 859–60.

52Glamser, supra note 4; see also Barbara Kantrowitz et al., Now, Parents on Trial, NEWSWEEK, Oct. 2, 1989, at 54, 54 (noting that “[i]n 1994 the Los Angeles City Attorney’s Gang Unit . . . sent 1,000 parents to counseling or classes” under statute and only two parents who refused to cooperate were prosecuted).

53See Casgrain, supra note 7, at 171 nn.50, 51 (observing that Detroit ordinance is rarely used except when emergency curfews are in force around Halloween, and ordinance in Farmington Hills, Michigan, is used to cite parents mostly during graduation season).

54 See Applebome, supra note 13, at A1 (citing statistics from National Conference of State Legislatures, that ten states passed parental liability laws in 1995); see also John Leo, Punished for the Sins of the Children, U.S. NEWS & WORLD REP., June 12, 1995, at 18, 18 (citing fast-growing national trend to hold parents responsible for curfew violations, graffiti damages, and crimes by their children); Smith, supra note 6 (citing National Center for Juvenile Justice for proposition that new laws in twenty-five states hold parents financially or criminally liable for children’s behavior).

55See generally Andrews, supra note 40, at 380–86 (discussing parental tort liability after school shootings); Gratz, supra note 40, at 170–72 (same); Lisa Donovan & Howard Wilkinson, City Parent Liability Law Slays, CINCINNATI ENQUIRER, Apr. 29, 1999, at 1B (discussing vote to keep Cincinnati ordinance that imposes parenting classes or fines and community service on parents whose children commit crimes); Jillian Lloyd, Holding Parents Accountable for Children, CHRISTIAN SCI. MONITOR, Apr. 29, 1999, at 3, 3 (discussing how Littleton, Colorado, school shooting may create new legal standard regarding expected level of parental control).
indicated that the statutes were not enforced very often and that they were mostly used to push parents into parenting classes.\textsuperscript{56} In a departure from this pattern, police in Salt Lake City sought to enforce the local parental responsibility ordinance by tracking juvenile convictions, sending letters to families, and referring parents who did not respond to prosecutors.\textsuperscript{57} More than 4500 letters were sent, and 211 families entered counseling.\textsuperscript{58} Seven parents were charged with violating the law; three went to counseling and, at the time of the report in 1998, four had outstanding arrest warrants.\textsuperscript{59} The program cost $250,000 over two years.\textsuperscript{60} The chief of police called the program expensive and ineffective and asked the city council to repeal the ordinance.\textsuperscript{61} As of 2005, the law remains on the books.\textsuperscript{62}

This historical review shows that for more than a century, reformers, observing the obvious connection between childrearing and teenagers’ conduct, have periodically attempted to improve parenting by enacting laws that impose sanctions on parents when their children get into trouble. Anecdotal evidence shows these laws are almost never enforced and soon fall out of favor, only to be rediscovered in a few years. The next section of this Article reports on an empirical study of the enforcement of parental responsibility laws in Oregon that supports the anecdotal evidence and also reveals a strong connection between such laws and enforcement of laws aimed more directly at controlling teens.

II. SURVEYING OREGON POLICE CHIEFS AND PROSECUTORS ABOUT PARENTAL RESPONSIBILITY AND CURFEW LAWS

Before 1995 Oregon did not have a contributing to the delinquency of a minor statute.\textsuperscript{63} After Silverton enacted its parental responsibility ordinance in 1994,\textsuperscript{64} many Oregon communities soon followed suit,\textsuperscript{65} and the legislature enacted a statute of statewide applicability in 1995.\textsuperscript{66}

\textsuperscript{56}Applebome, supra note 13. Part of the reason that Silverton, Oregon, gained such notoriety for enacting an ordinance is that its officials actually enforced the ordinance with some regularity. During the first five years after enactment of the ordinance, the city issued 30 citations and 180 warnings. SILVERTON TOGETHER, supra note 3, at 5.

\textsuperscript{57}Rebecca Walsh, No More Punishing Parents, SALT LAKE TRIB., Mar. 21, 1998, at D1.

\textsuperscript{58}Id.

\textsuperscript{59}Id.

\textsuperscript{60}Id.

\textsuperscript{61}Id.


\textsuperscript{63}The contributing statute enacted as part of the state’s first juvenile code in 1905 was held unconstitutional in 1969. See note 22, supra. See also supra text accompanying note 8 (discussing legislator’s support for enacting new statewide parental liability statute in Oregon).

\textsuperscript{64}See supra note 2 and accompanying text (providing text of Silverton’s parental liability ordinance).
Because Oregonians were swept up in a wave of enthusiasm about parental responsibility laws and enacted state and local laws over a very short time span, Oregon is a good place to study the incidence and use of parental responsibility laws in recent times. This study, conducted a few years after the flurry of legislative action, provides information about what kind of communities enacted the laws, the extent to which different kinds of communities enforced the laws, and the relationship between enforcement of

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66See OR. REV. STAT. § 163.577(1)(a)–(c) (2003) (originally enacted as 1995 Or. Laws 1544, ch. 593, § 1). The statute, which is very similar to the older contributing to the delinquency of a minor statutes, provides:

(1) A person commits the offense of failing to supervise a child if the person is the parent, lawful guardian or other person lawfully charged with the care or custody of a child under 15 years of age and the child:

(a) Commits an act that brings the child within the [delinquency] jurisdiction of the juvenile court . . . ;

(b) Violates a curfew law of a county or any other political subdivision; or

(c) Fails to attend school as required under [the state compulsory attendance law].

*Id.*

The statutory affirmative defenses are that the defendant was the victim of the child’s unlawful behavior, the defendant reported the child’s unlawful act to the authorities, or the person “took reasonable steps to control the conduct of the child at the time that person is alleged to have failed to supervise the child.” *Id.* § 163.577(3)–(4). For the first offense the parent or guardian receives a suspended sentence and a warning; for the second offense the parent receives a suspended sentence and an order to complete a parenting effectiveness program. *Id.* § 163.577(6)(a)–7(a). If the parent fails to complete the program, the court imposes the suspended sentence. *Id.* § 163.577(7)(a). Subsequent offenses are class A violations, for which the authorized penalty is a fine of $720. *Id.* §§ 153.018(2), 163.577(9).

Parents and guardians may be held accountable for their children’s actions by requiring them to be involved in the supervision and implementation of their children’s probation. *Id.* § 419C.570(1)(a)(c) (2003). Additionally, a parents may be ordered to attend parent effectiveness or counseling programs. *Id.* § 419C.573.

The California parental responsibility law was styled as an amendment to an older statute that forbade any act or omission of any duty causing, encouraging, or contributing to the dependency or delinquency of a minor. CAL PENAL CODE § 272 (West 1979) (amended 2001). The 1988 amendment added that, for the purposes of section 272, parents or guardians “shall have the duty to exercise reasonable care, supervision, protection, and control” over their children. Williams v. Garcetti, 853 P.2d 507, 508 (Cal. 1993) (quoting CAL PENAL CODE § 272 (West 1988)). The constitutionality of these provisions were analyzed and upheld in *Williams*. See *id.* at 509–17.
these laws and juvenile curfew laws, another tool aimed at preventing youth crime.\textsuperscript{67}

Like parental responsibility laws, curfew laws typically carry low penalties,\textsuperscript{68} and their popularity waxes and wanes with the perceived need for social control. Interest increased during the 1990s,\textsuperscript{69} along with interest in parental responsibility laws.


\textsuperscript{68}Curfew laws are controversial for the same reasons that parental responsibility laws are, with some arguing that they are an effective means of crime prevention, and others saying they are ineffective and a waste of money. Like parental responsibility laws, they are also challenged on vagueness, privacy, freedom of association, and other constitutional grounds, with mixed results. See generally Katherine Hunt Federle, Children, Curfews, and the Constitution, 73 WASH. L. Q. 1315, 1328–40, 1344–67 (1995) (reviewing constitutional challenges to curfew laws and analyzing outcomes of such challenges). For major cases upholding curfew ordinances against constitutional challenges, see Schleifer v. City of Charlottesville, 159 F.3d 843, 855 (4th Cir.1998); Qub v. Strauss, 11 F.3d 488, 496 (5th Cir. 1993); and Bykofsky v. Borough of Middletown, 401 F. Supp. 1242, 1266 (M.D. Pa. 1975). For important recent cases finding that curfew ordinances are unconstitutional, see Ramos v. Town of Vernon, 353 F.3d 171, 187 (2d Cir. 2003); Nunez v. City of San Diego, 114 F.3d 935, 952 (9th Cir. 1997); Johnson v. City of Opelousas, 658 F.2d 1065, 1074 (5th Cir. Unit A Oct. 1981); Hutchins v. District of Columbia, 942 F. Supp. 665, 680 (D.D.C. 1996), rev’d en banc, 188 F.3d 531, 548 (D.C. Cir. 1999); and State v. J.P., 907 So.2d 1101, 1119 (Fla. 2004).

\textsuperscript{69}Between 1990 and 1995, 60 percent of the 200 largest American cities enacted a new curfew statute or revised an existing one. By 1995, more than three-quarters of these cities had a curfew ordinance in effect.” David McDowall et al., The Impact of Youth Curfew Laws on Juvenile Crime Rates, 46 CRIME & DELINQ. 76, 76 (2000) (citing William Ruelle & Kenneth Mike Reynolds, Curfews and Delinquency in Major American Cities, 41 CRIME & DELINQ. 347, 360–61 (1995)).

Oregon’s juvenile curfew law prohibits anyone younger than eighteen from being “in or upon any street, highway, park, alley or other public place between the hours of 12 midnight and 4 a.m.” unless one of three exceptions applies. OR. REV. STAT. § 419C.680(1) (2003). These are: (1) minors accompanied by a parent or guardian or another person eighteen whom the parent has authorized “to have care and custody of the minor,” (2) minors engaged in a lawful pursuit or activity that requires that the minor be in the public space at the time, and (3) minors who have been emancipated pursuant to Oregon’s statutes. Id.; see also OR. REV. STAT. §§ 419B.550–.558 (governing emancipation of minors). Cities and counties may enact their own curfew ordinances, provided that they are at least as restrictive as the state law. OR. REV. STAT. § 419C.680(3)–(4).

The state curfew statute has been challenged unsuccessfully in the Oregon Court of Appeals on the ground that it violates the prohibitions against unreasonable search and seizure of the Fourth Amendment and article 1, section 9 of the Oregon Constitution. State v. Morris, 641 P.2d 77, 81 (Or. Ct. App. 1982). In Morris, the court held that the State’s interest in protecting minors, served by the statute, justified the minimal intrusion of being stopped and questioned by an officer with reasonable suspicion that a person was violating the statute. Id. No Oregon appellate court has addressed other possible constitutional challenges.
I included questions about curfew laws in this study to provide a context for interpreting responses about the parental responsibility laws. I expected that, even though curfew and parental responsibility laws both carry minor penalties, police would regularly enforce curfew, but not parental responsibility laws. This would suggest that police viewed the laws as having different functions and serving different purposes, supporting the idea that parental responsibility laws are enacted mostly for symbolic reasons. On the other hand, evidence that police did not enforce either kind of law consistently would indicate that parental responsibility laws do not necessarily carry more symbolic weight than other statutes prohibiting petty behavior offenses.

During the fall of 2001 I mailed questionnaires to all 137 police chiefs in the State of Oregon.70 Of these, 101 responded—a 74% return rate.71 I mailed similar surveys to the thirty-five district attorneys in the state,72 of whom twenty-six responded—a 74% response rate.73 The police chiefs and the district attorneys were asked questions about both parental responsibility and curfew laws.

The police chief questionnaires asked: (1) the approximate size of the community,74 (2) the general part of the state in which the community was located,75 (3) whether the community had its own parental responsibility law, (4) how often officers from the department issued citations under the local or state parental responsibility law,76 (5) whether the community had its own

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70 I originally obtained the “State of Oregon Public Safety Agencies” list from the Oregon State Department of Public Safety website. This site is no longer available.
71 Dr. Steve Johnson, who conducted the statistical analysis of the data, reported that the results of this survey of 101 out of a possible 137 police chiefs has an error rate of ±5% for issues in which the respondents were evenly split, and a smaller error rate for such things as the likelihood that a police department will issue citations for curfew of ±2.7%. Letter from Dr. Steve Johnson, Norwest Data Services, to author (Nov. 13, 2002) [hereinafter Johnson Letter] (on file with author). For the results with the regional or community size subsets of the population, it is not possible to clearly estimate the error rate unless the demographics of the missing thirty-six respondents are known—in other words, we would need to know their region and community size. Id.
72 I obtained this list from the website of the Oregon District Attorneys Association. See Or. Dist. Attorneys Ass’n, http://www.odaa.state.or.us (last visited Jan. 22, 2006).
73 Dr. Johnson wrote: “The results of this survey of 26 out of a possible 35 District Attorneys has an error of ±9.8% for issues in which the respondents were evenly split, such as the likelihood that a District Attorney will prosecute curfew laws. For the results with subsets of the population it is not possible to clearly estimate the error unless the demographics of the missing 9 respondents are known—in other words, we would need to know such things as their region or community size.” Johnson Letter, supra note 71.
74 Respondents were asked to circle one of these choices: less than 5000; 5000–15,000; 15,000–30,000; 30,000–50,000; 50,000–75,000; 75,000–125,000; or more than 125,000. Police Chief Survey, supra note 16.
75 Respondents were asked to circle one of these answers: northeast, southeast, north central, south central, Willamette Valley, north coast, south coast, or southwest. Id.
76 Respondents were asked to circle one of these answers: never, 1–3 times/year, 4–11 times/year, 12–20 times/year, or more than 20 times/year. Id.
curfew law, and (6) how often officers issued citations under the state or local curfew law.\textsuperscript{77}

Some of the questions asked of the district attorneys were the same as those asked of the police chiefs: the approximate population of the community, the general part of the state in which the community was located, and whether the community had its own parental responsibility law.\textsuperscript{78} The district attorneys were also asked how often their offices prosecuted cases under a parental responsibility law and how often the office declined to prosecute parental responsibility cases after police had made an arrest or issued a citation under the law.\textsuperscript{79} They were then asked the same kinds of questions regarding curfew enforcement.\textsuperscript{80}

\textit{A. Parental Responsibility Laws—Relatively Common, Rarely Enforced}

Based on anecdotal evidence and the historical experience with parental responsibility laws discussed in Part II above, I expected that parental responsibility laws would rarely be enforced. Because I hypothesized that these laws serve the symbolic function of making a statement about community attitudes, I also thought that the existence of a local law would increase the probability and frequency of enforcement.

I expected that small communities would be more likely than larger ones to enact parental responsibility laws because smaller communities seemed more likely to have a consensus on what constitutes proper parenting. It also seemed more realistic to envision community pressure being brought to bear on parents in small communities than in larger cities. I thought that parental responsibility laws might be more common in the Willamette Valley because Silverton is in the middle of the valley, and neighboring communities might be especially likely to catch its enthusiasm for this kind of law.

\textit{1. The Characteristics of Communities with Parental Responsibility Laws}

Local parental responsibility laws are relatively common in Oregon; about a third of the police chiefs who responded said that their communities had enacted a local law. In absolute terms, most of the local laws were enacted by small (population of 5000 to 15,000) and very small (population of less than 5000) communities. However, most of the communities in the state are this size. Contrary to my expectations, the size of a community was not related to

\textsuperscript{77}Respondents were asked to circle one of these answers: never, 1–3 times/year, 4–11 times/year, 12–20 times/year, or more than 20 times/year. \textit{Id.}

\textsuperscript{78}DA Survey, \textit{supra} note 16.

\textsuperscript{79}\textit{Id.}

\textsuperscript{80}The choices for both the latter two questions were: never, 1–3 times/year, 4–11 times/year, 12–20 times/year, or more frequently. \textit{Id.}
the likelihood that it would have a local law; about a third of the towns in each size range had a local law.

In contrast, geography did play a significant role in the decision to enact local statutes, but not in the way that I expected. More than half (55%) of the communities identified as being in the northeast part of the state have local laws, compared to the statewide average of 32%. The section of the state that I expected to have the highest rate, the Willamette Valley, was very near the average: 37% of the communities there had local laws. The areas of the state with the lowest concentration of laws were the southeast (20%), the north central area (20%), and the south coast (13%). Both the area with the highest concentration of the laws and the areas with the lowest concentration are rural and do not have any large communities.

The results of the district attorney survey were quite consistent with the information from the survey of police chiefs. Thirty-five percent of the district attorneys reported that their communities had a parental responsibility law. There was no relationship between the size of a community and the likelihood that it would have a local parental responsibility law. Local parental responsibility laws were much more common in the northeast region of the state; 60% of the district attorneys in the northeast were from communities with a local law.

The data do not suggest an explanation for why parental responsibility laws are more popular in some parts of the state than others. Because I did not ask the respondents to name their communities, I could not correlate the results of this study with other demographic data that might suggest reasons.

2. Enforcement of Parental Responsibility Laws—Arrest and Prosecution

Parental responsibility laws, both state and local, are rarely or never enforced by citation in most parts of the state. Thirty-seven percent of the police chiefs reported that they never issue citations, and another 35% said that they cite one to three times per year. As a practical matter, this probably means that, in 72% of the communities, the law is essentially not enforced by citation. The chiefs who were so bold as to say that they “never” enforce the law were likely saying that, as a policy matter, they do not enforce the law, while those who chose “1–3 times/year” were probably saying that they rarely, if ever, enforce the law, but retain the option to do so.

Of the remaining communities, chiefs in about 20% reported that their departments cite for violation of the law occasionally (four to eleven times per year), 3% said that they cite twelve to twenty times per year, and 2% (two towns) said that they cite more than twenty times per year. Of the last group, one was Silverton and the other was a small community whose chief may have misunderstood the question because his written comments indicate that he probably included parents cited in juvenile court for child abuse and neglect.
Thus, regular enforcement (citations issued twelve or more times per year) occurred in only five communities.

Police in communities with local parental responsibility laws were more likely to issue citations for violation of the laws. Ninety percent of departments in communities with a local law issued citations at least occasionally, while 42% of departments in communities without a local law never cited. Consistent with this finding, communities in the northeast part of the state, which was the area most likely to have the laws, were also most likely to enforce them. Of the communities in the northeast part of the state, the police in 81% of them issued citations one to three times per year. The size of the community was not related to whether the police cited for violations of the law.

Formal prosecution for violation of parental responsibility laws was very uncommon; fourteen of the twenty-six district attorneys said that they never prosecute, and another six said that they prosecute only one to three times per year. The remaining six said that they prosecute four to eleven times per year. On the rare occasions when police did cite parents for violating the law, prosecutors, for the most part, pursued the matter in court. I asked the prosecutors how frequently they dropped cases that police referred to them. Fifty percent of district attorneys claimed that they never declined to prosecute such cases, and another 31% declined one to three times a year. Only one district attorney declined twelve or more cases a year.

The presence of a local law made it much more likely that a district attorney would prosecute. Seventy-eight percent of district attorneys with a local law prosecuted, compared to only 29% in communities that did not have a local law; put another way, having a local parental responsibility law made it 2.7 times more likely that a district attorney would prosecute. There was no relationship between community size and district attorneys’ decisions to prosecute. This would be expected, given two other findings from the surveys: (1) there was no relationship between the size of a community and whether it even had a law, and (2) whether district attorneys prosecuted was strongly related to whether they had a local law. The district attorneys in the northeast part of the state, where the laws are more common, were much more likely to prosecute; 44% of all the district attorneys who prosecuted for parental responsibility law violation were in the northeast.

3. Parental Responsibility Laws—Preliminary Analysis

The survey results amply support my first supposition, that parental responsibility laws are rarely enforced. Police regularly issued citations for violation of the law in only 5% of the towns. Formal prosecutions for violation of the laws were uncommon as well; almost 80% of the district attorneys who responded to the survey never or rarely prosecuted parental responsibility cases.
The surveys invited the police chiefs and district attorneys to make comments in addition to answering specific questions, and the prosecutors’ responses suggest reasons for the low levels of enforcement. Repeatedly, the prosecutors said that the penalties authorized by the statutes are too low to make it worthwhile to invest resources in enforcement. In addition, several wrote comments similar to this one: “Parents who have this problem have so many other problems that this is insignificant.”

The police chiefs whose departments did not issue citations for violation of the parental responsibility law did not discuss this apparent policy.81 Ironically, several chiefs whose departments never cite for violation of the law expressed their beliefs that parents are less responsible than they used to be, and that informal social supports and pressures for parental responsibility have declined, leading to the need for formal parental responsibility laws. However, only one of the chiefs who made such comments headed a department that ever issues citations for violation of the law.

When chiefs whose departments enforce the law at some level wrote comments, they explained how they decide whether to issue a formal citation. Most of them said that, ordinarily, they give verbal warnings initially and cite only after multiple contacts. None of the chiefs who described this approach had a formal policy for implementing it, and several specifically said that individual officers had discretion about when to cite.

The study also shows, as expected, that local support for a parental responsibility law, as demonstrated by the existence of a municipal ordinance, makes enforcement more likely. Even in communities with local laws, however, enforcement is uncommon for the most part, and the surveys and comments of the police chiefs do not indicate how officials decide to pursue formal enforcement of the laws on the relatively rare occasions when they do so.

The responses of the police chiefs and district attorneys, as well as their comments, support the conclusion that parental responsibility laws are not enacted with the expectation that they will be used a great deal. Lawmakers at local and state levels are surely well aware that law enforcement officials are not likely to invest resources in enforcing laws that provide for very low levels of punishment. Instead, lawmakers are mostly making symbolic statements when they enact these laws. The results of the second part of the survey, dealing with curfew laws, suggest what these statements may mean.

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81 Shortly after the statewide law was enacted, police officers told a newspaper reporter that enforcement would vary around the state, depending on their resources and community values. Maya Blackmun, Parents Face Call on Carpet for Kids, OREGONIAN, July 17, 1995, at B1. One noted that, in Silverton, police have cited parents whose children were caught smoking, while in Portland, police deal with children killing each other in drive by shootings. Id. The Portland police officer wondered whether it would do any good to cite a parent in such a case. Id.
B. Curfew Laws—Common and Commonly Used

I expected that police would regularly enforce curfew laws as a means of controlling young people, but that violation of the laws would not be formally prosecuted very often. I also thought that police and prosecutors in communities with local curfew laws would be more likely to enforce curfews than officials without local laws.

1. Local Curfew Laws Are Widespread

Local curfew laws are much more common in Oregon than local parental responsibility laws; 72% of the police chiefs who responded to the survey are from communities with a local curfew law. Sixty-nine percent of the district attorneys in Oregon who responded to the survey are in jurisdictions that have a local curfew ordinance. The likelihood of a local curfew law did not vary significantly with community size or geographical location.

2. Arrest for and Formal Prosecution of Curfew Violations

Most police throughout the state enforced teen curfews laws by issuing formal citations and, even more commonly, by informal actions. A number of the chiefs wrote comments indicating that their policy was to round up teens who were out late at night and take them home, reserving citations for repeat offenders.

Most police departments (92%) issued citations for curfew violations, although 13% of those that issued citations issued only a very few (one to three a year), and only 36% issued more than twenty citations a year. The departments that never issued citations were largely (88%) located in communities of less than 5000 people. However, police in some small communities issued large numbers of curfew citations. In 33% of communities of 5000 people or smaller, police issued twelve or more citations a year. While this rate is only half that of large communities, where 68% of communities larger than 5000 issued twelve or more citations a year, it is still remarkably high on a per capita basis, although the information from this study does not allow the direct computation of exact per capita rates.

Given the very high percentage of departments that enforced curfew laws by citation, it is not surprising that the presence or absence of local curfew laws was not correlated with whether a department enforces them. Ninety percent of communities without a local law still issued citations under the state law.

Most district attorneys (56%) prosecuted violations of the state or local curfew laws. However, of those who prosecuted, 50% filed one to three cases a year, and only one district attorney prosecuted more than twenty cases a year. District attorneys said that they rarely declined to prosecute a curfew violation
if police referred a case to them, though this claim appears to be inconsistent with the finding from the police chief survey that curfew violators are cited, at least occasionally, in more than 90% of the communities whose chiefs responded to the survey. Based on the comments of the police and district attorneys, it seems that some of this apparent discrepancy is explained by local policies of diverting most minor juvenile offenses, including curfew violations, to peer courts and other informal processes.

Whether curfew violations were formally prosecuted was significantly related to community size.\(^2\) Eighty percent of the district attorneys from communities under 30,000 prosecuted for curfew; 86% of all the district attorneys in the state who prosecute for curfew were from communities of this size. In contrast, only 18% of district attorneys from communities over 30,000 prosecuted for curfew violations. Further, the district attorneys from communities over 30,000 who did prosecute for curfew did so rarely—only one to three cases a year for each district attorney. Because of this strong relationship between community size and prosecutions for curfew, the local effects of these prosecutions varied widely from community to community, with some communities having more than one case for every 250 people and some having only one case for every 40,000 or more people.

The relationship between district attorneys’ decisions to prosecute for curfew violations and local law was complex. Fifty percent of district attorneys in communities without a local curfew law prosecuted, compared to 61% in communities with a curfew law. This suggests that having a local curfew law was associated with a higher rate of formal prosecution. However, in communities that had only a local curfew law and not a parental responsibility law as well, prosecutors were actually less likely to prosecute for curfew violations. In only 40% of those communities did the district attorney prosecute for curfew violations, a lower rate than in communities that did not have a local curfew law. The higher rate of prosecution was associated with local parental responsibility laws, and this finding is consistent with the results of other parts of the surveys.

3. Curfew Laws—Preliminary Analysis

Together, the survey data and written comments show that curfew enforcement by police is widespread throughout the state, often informal, and used to exert control over teenagers who are perceived as threats to community

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\(^2\)District attorneys’ decisions to prosecute for curfew violations also appeared to vary by region. No respondent from either the north or south coast prosecuted any case, while all district attorneys from the north central and south central regions prosecuted cases. Unfortunately, the number of respondents is too small for this result to be highly reliable. Even one additional district attorney who changed his or her behavior, or whose behavior is not known because he or she did not respond to the survey, could change this conclusion.
order because they are out at night for no obviously good reason.\textsuperscript{83} Several chiefs expressed the beliefs that teen crime went down when curfews were enforced;\textsuperscript{84} more expressly described curfew laws as a tool for policing teens.

The questionnaires raise questions about whether officials exercise their discretion to enforce curfew laws evenhandedly, though nothing in the data or the comments suggests that any official acted on improper motives. Five police chiefs provided copies of their enforcement policies that said curfew violators should be taken home for the first offense, that officers should avoid taking violators into custody and should put them into diversion programs instead, and so on. These policies always gave individual officers discretion to deviate from them, and eight chiefs explicitly said that they have no written policies and enforcement is in each officer’s discretion.

C. The Surprising Relationship Between Local Parental Responsibility Laws and Curfew Enforcement

The surveys of the police chiefs and the district attorneys showed that officials were more likely to enforce curfew laws in communities that had local parental responsibility laws. This relationship contrasts sharply with the lack of a connection between police enforcement and the existence of local curfew laws, and the negative relationship between formal prosecution by district attorneys and the existence of local curfew laws.

While having a local parental responsibility law was not related to whether police cited for curfew violations at all, it was significantly related to whether police issued a large number of curfew citations. Fifty percent of departments in communities with a local parental responsibility law issued twenty or more citations a year, twice the rate of departments without a parental responsibility law. On the other hand, very low rates of police enforcement of curfew laws were also more common in communities with local parental responsibility laws than in other communities. Twenty-five percent of departments with a parental responsibility law issued no citations or only one to three a year, compared to only 18% of departments without a local law that issued few or no citations.

Having both a local curfew law and a local parental responsibility law also greatly increased the likelihood that the district attorney would prosecute for curfew violations and the frequency of prosecutions. Seventy-five percent

\textsuperscript{83} However, one police chief wrote: “The purpose of the laws is not to prevent teen crime but to establish and maintain a public policy that recognizes the need for young people to be ‘home,’ not out on the streets or at work etc. [sic] late at night so they can get the rest, care and treatment they need to be able to successfully attend ‘compulsory’ school during the day.”

\textsuperscript{84} Among the comments were these: “There is a significant decrease in crime when curfew is enforced.” “The more aggressive the enforcement of curfew, the lower the number of thefts, burglaries, car clouts and criminal mischief. It is easy to see the difference when more aggressive officers work late than less aggressive.” “Without active curfew enforcement theft goes up.”
of prosecutors in communities with both kinds of local laws prosecuted for curfew violations. In addition, 13% of district attorneys from communities with both kinds of laws prosecuted for curfew violations twenty or more times a year, and twenty-five more prosecuted twelve to twenty times a year. No district attorney from a community without a parental responsibility law prosecuted curfew violations more than twenty times a year, and only 18% prosecuted twelve to twenty times a year.

The high level of police enforcement and relatively common formal prosecution of curfew violations, especially in smaller towns, sheds light on the earlier data regarding enforcement of parental responsibility laws. First, these data show that police and prosecutors are not making enforcement decisions purely on the basis of the severity of the penalties authorized for offenses. The penalties authorized for curfew violations are typically not greater than those for parental responsibility law violations, but the enforcement practices are markedly different, depending on the size of the community.

Second, the data suggest that communities that enact parental responsibility ordinances either experience more anxiety about teenagers or have a greater expectation that police will intervene more extensively to control teenagers, including watching them and limiting their freedom of movement. The final section of this Article explores this issue more closely.

III. THE SYMBOLISM OF PARENTAL RESPONSIBILITY LAWS

Parental responsibility laws are not important at all if importance depends on enforcement. This study supports the often-made claim that parental responsibility laws and, before them, contributing to the delinquency of a minor laws, have never been enforced against parents on a consistent or frequent basis. The function of these laws on their face is to shape behavior by conveying messages about the boundary between acceptable and unacceptable parenting. Those who support parental responsibility laws may assume that they will cause parents to exercise more control over their children because the parents will fear prosecution if their children get into trouble; that is, they may assume that these laws will have a straightforward deterrent effect on parents. However, it appears that the main purpose of the laws is to send a message that helps to shape community norms about parenting. The occasional show trials of parents whose older teens have committed serious offenses supports this view of the laws as well. In these cases, it seems implausible that the parents could have controlled the children at the point the parents were charged with violating the law, but prosecution of them sends a strongly symbolic

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85 However, the one community in this sample that had only a local parental law and no curfew law did not prosecute for curfew.
message. When communities consider whether to enact or enforce these laws, officials commonly make statements that support this interpretation of the purpose of the laws.

The relationship between parental responsibility laws and curfew enforcement indicates that the laws may also be conveying messages about a community’s attitudes toward its teenagers and its willingness to accept aggressive police control of teens. While the messages about parental and teen behavior are, on their face harmless or even good, the laws may have unintended consequences that are not so benign.

A. Parental Responsibility Laws and Parenting Practices

The express messages of parental responsibility laws are that parents can and should exert significant control over teenagers and that it is appropriate and suitable for the community as a whole to define good parenting and to enforce this standard, by coercion if necessary (since the possibility that the parental responsibility laws will be enforced is always present). This message seems fairly positive; as social norms theorists Tracey Meares and Dan Kahan have written, “[r]esearch has shown that neighborhoods in which parents collectively share the responsibility for supervising children and teens are less likely to experience high crime rates than neighborhoods in which parents do

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The defendants in the first prosecution under the St. Clair Shores, Michigan, parental responsibility ordinance were the parents of a sixteen-year-old boy who burglarized a church three times. Barry Siegel, Town Tries to Police the Parents, L.A. TIMES, Apr. 21, 1996, at A1. After police warned the father about the ordinance, the father tried to go up to his son’s room, but his son blocked the staircase, grabbed the father and threw him toward the dining room, punched his father with closed fists, went to his room and got a golf club, and went after his father. Id. The father called the police, who took the son into custody and put him in a youth home. Id. The next day, the father came to pick him up. Id. Several months later, the son pled no contest to burglarizing several houses. Id. The police were quoted as saying:

The Provenzanos (sic) were a good, hard-working family, but they had no control over their son. Your kid suddenly brings home a $500 radio, your kid compels you to lock your bedroom door in fear, you should know things have gone too far. That Provenzano (sic) boy, he was ruling the house; his parents weren’t doing anything about it. Enough was enough.

Id. After deliberating for less than fifteen minutes, a jury convicted the parents of violating the ordinance. Barry Siegel, 2 Held Accountable for Son’s Burglaries, L.A. TIMES, May 10, 1996, at A1. Each parent was fined one hundred dollars, the maximum allowed, and assessed court costs of one thousand dollars. Id.

87 See supra text accompanying notes 21–22 (discussing how many parental responsibility laws are designed to communicate acceptable boundaries of parenting practices).
not attempt collective supervision. Common sense suggests that this proposition is correct.

Nevertheless, we should be cautious about enacting parental responsibility laws with the expectation that they will reduce teen crime for at least three reasons. First, as others have noted, the causes of teen crime are complex, and addressing the problem effectively requires much more than jawboning parents to be tougher. After all, even the most determined parent can only do so much to control a teenager, and many commentators have argued that government programs to support parents are far more likely to be effective (and expensive). Politicians may seek to avoid these issues of policy and their financial implications by enacting a parental responsibility law that defines the problem of youth crime as a personal, private failing of families, and one that can be significantly reduced if parents will simply pull themselves together and attend to their responsibilities.

Second, some parents could respond to the laws by clamping down too hard on their teenage children. Writing about status offender laws almost thirty years ago, Lee Teitelbaum and Al Katz observed:

Coercive authority in modern society must be embodied in rules, which implies that, for reasons of socialization and of development, the personal authority of parents must gradually be replaced by the impersonal authority of rules. A child who fails to learn that the exercise of personal domination is unjustified and that the experience of personal domination is oppressive has not been properly socialized. In addition, the absence of a capacity for autonomous action constitutes infantalization. The significance of this necessary process of introducing rules in the relations between parents and children should not be underestimated. It undermines the personal domination of parental authority without replacing it, and facilitates the development of autonomy without literally requiring it. The period in the child’s life when the mediation of rules is most consciously present is generally a difficult one, and it is at just his time that PINS jurisdiction tends to be invoked. The court under that

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89See, e.g., Cahn, supra note 14, at 416–44 (providing detailed background discussion of origins, theories, and realities of juvenile delinquency); Geis & Binder, supra note 5, at 316–21 (explaining how approaching juvenile delinquency problems solely from parental responsibility law point of view fails to address problem).
90In addition to the articles cited supra note 7, numerous others have discussed this issue. See, e.g., McMullen, supra note 7, at 603–56 (examining notion of parental control over children affecting some types of legal decisions, and analyzing whether expectation of parental control is just basis for making law).
91See, e.g., sources cited supra note 10 (discussing several parental responsibility statutes and their effects).
jurisdiction intervenes in a family dispute by virtue of a rule which specifies the limits of parental authority, the level of obedience required of the child, or both. The fact of intervention by rule, however, is as significant as the substance of the particular rule, and such intervention—occurring at that point in the history of the family when the distribution of emphasis within the complex of parental authority, rules and child autonomy is most unstable—underscores the salience of rules at the expense of parental authority. It does so, moreover, in a way that denies youthful autonomy as well.\textsuperscript{92}

These observations apply to parental responsibility laws as well. We expect that good parents will loosen the reins of authority, and that, inevitably, children will make mistakes, sometimes landing them in serious trouble. However, parental responsibility laws, on their face, appear to expose all parents, including good parents, to liability when their children get into trouble. A parent can escape conviction under these laws only if a judge finds that he or she exercised “reasonable” control over the child.\textsuperscript{93}

The parent who seeks to insure that he or she will not be found in violation of the laws may believe that he or she must have very strict rules that a child must obey absolutely. This kind of highly authoritarian parenting does not help a child learn to be autonomous (besides being likely to generate a high level of conflict between parent and child). Of course, most parents will not go to such an extreme, but under the statutes, parents cannot know the boundaries of their obligation to monitor their children unless a judge reviews what they did after-the-fact. Thus, parental responsibility laws, like status offender laws, also undermine parental authority.

Most people understand that literal and rigorous enforcement of parental responsibility laws would be undesirable because of its impact on the parent-child relationship and on the healthy development of teenagers, which probably explains why the laws typically carry such low penalties and are so rarely enforced. Nevertheless, the message that they send to parents might cause some parents to overreact, to the detriment of their children’s development.

\textsuperscript{92}Katz & Teitelbaum, supra note 1, at 18 (citations omitted). PINS stands for “person in need of supervision.” In some places, the traditional juvenile court jurisdiction over children who refuse to obey their parents is called PINS jurisdiction. In other places, statutes label these children unruly, ungovernable, or the beyond control of their parents. See id. at 1 n.1 (defining PINS jurisdiction generally with references to several different states’ approaches).

\textsuperscript{93}See, e.g., supra text accompanying note 66 (discussing OR. REV. STAT. § 163.577 (2003)). The Silverton ordinance quoted supra note 2, is even worse, holding parents strictly liable. See SILVERTON, OR., ORDINANCES ch. 9, sec. 24, §§ 010–060 (Code Pub’g 2005), available at http://www.codepublishing.com/OR/silverton.html.
Finally, this kind of law, like other tools of order-maintenance policing,\textsuperscript{94} inherently carries some danger that it will be used unfairly, particularly against poor, single parents of color. As this study and anecdotal reports show, parental responsibility laws are enforced occasionally—against “bad” parents—when other measures have failed.\textsuperscript{95} The very fact that these parents have not prevented their children from getting into trouble will be the basis for labeling them as bad parents who should be prosecuted. The difficulty is that this criterion does not distinguish the few parents who are prosecuted from the many others who are not.

\textbf{B. Parental Responsibility Laws and Community Attitudes Toward Teens}

This study also suggests that parental responsibility laws help constitute a community’s attitudes toward its teenagers and its willingness to accept aggressive police control of teens. Having a local parental responsibility law is a strong indicator that the community approves of police enforcing juvenile curfews vigorously. This relationship between the existence of a parental responsibility law and curfew enforcement makes sense. Parental responsibility laws are enacted because of anxiety about teenagers being out of control, and rigorous curfew enforcement expresses the same concern.

The extent to which police vigorously supervise teenagers, as by high levels of curfew enforcement, varies significantly from community to community and reflects community values. These values may include how much community members generally trust police to exercise discretion fairly, how much they tolerate variations in parenting styles, and whether they regard teenagers as a threat or more positively. But the relationship between these attitudes and curfew and other laws is not a one-way street. The rhetoric that accompanies the enactment of laws and campaigns to enforce them also shapes the community’s attitudes.

A community that enacts parental responsibility laws is more likely to support a more authoritarian police stance toward teenagers. This finding is consistent with the argument of Meares and Kahan, that curfews support and increase the authority of adults generally and parents specifically.\textsuperscript{96} These authors support curfew enforcement because, they argue, it helps reduce teen


\textsuperscript{95}See supra pp. 9–10, 12–13, 18–19 (detailing results of research into practical enforcement of parental responsibility statutes).

\textsuperscript{96}See Meares & Kahan, \textit{supra} note 88, at 821.
crime by reinforcing social norms of order. However, we should be aware of the potential costs of vigorous juvenile curfew enforcement, just as we should be concerned about the messages that parental responsibility ordinances send.

The empirical data are, at best, mixed on the question of whether curfew enforcement really does reduce crime. What vigorous enforcement can reliably be expected to do, though, is to let a community’s teenagers know that they are under the surveillance of, and thus controlled by, the authorities and, by extension, adults in general. Many teens resent this kind of supervision, interpreting it as an indication that adults do not trust teens and believe that the community needs to be protected from them. Further, discretionary enforcement of curfew laws carries the risk that legal authority will be brought to bear disproportionately on poor and minority youth. This risk is of greater concern than the corresponding risk associated with parental responsibility laws because of the much higher level of enforcement of curfew laws.

IV. CONCLUSION

The empirical study reported here supports the widespread assumption that criminal and quasi-criminal parental responsibility laws are rarely enforced and are generally not intended to be enforced. Instead, they are enacted to articulate community values about proper parenting and to induce “bad” parents to reform. Parental responsibility laws are also associated with high levels of enforcement of curfew laws that are intended to control teenagers.

Parental responsibility laws are difficult to resist or challenge; after all, who can be in favor of irresponsible parents? Nevertheless, these laws should be questioned and should not be dismissed as innocuous statements about uncontroversial values.

A parental responsibility law can contribute to tensions between parents and teens, and to the broader community perceiving teenagers as generally suspect. These attitudes, in turn, may contribute to the alienation of some young people from adult society.

If the laws are justified as being aimed only at “bad” parents, the ones that “everyone knows about,” they help to define a category of parents (and their children) as categorically different and less worthy of respect, even though no objective criteria may distinguish these parents and children from others.

97 Id. They also argue that curfews extract teens from the street, protecting them from pressures to participate in criminal activity and removing them indoors, where adults can supervise them more easily. Id.
98 See Adams, supra note 67, at 141–50 (analyzing ten studies of effect of juvenile curfews on crime, where three out of four researchers reported no significant change in crime rates, but when significant changes were observed, half showed increases in crime rate, and half showed decreases).
Finally, parental responsibility laws define youth crime as a private problem born of familial failure rather than behavior that, at low levels, is a usual part of the maturation process and, at higher levels, may call for collective efforts to engage teenagers in positive ways, including helping parents in difficult situations. The laws provide politicians with a cheap and easy way of avoiding meaningful efforts to address significant social issues.