

# REPORT

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## Presentation Before Senate Committee on Human Rights S-207, An Act to amend the Criminal Code (protection of children)

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Madam Chair, Senators, on behalf of the Institute of Marriage and Family Canada I would like to thank you for the opportunity to present to you our considerations with regard to S-207, An Act to amend the Criminal Code (protection of children).

The Institute of Marriage and Family Canada is a research think tank based here in Ottawa. We are committed to bring together the latest research on social policy issues that face Canadian families and place it in the hands of decision makers, such as yourselves.

The Clerk has copies of my presentation, as well as several supporting documents and will distribute translated copies when they are available.

As you know, the spanking of children in Canada and indeed around the world has had its share of controversy in the past number of years. In 2004, this issue went all the way to the Supreme Court of Canada, which upheld that right. However, the issue continues to arise in the public square.

I think that it is imperative from the outset that we differentiate between child abuse and child discipline. According to Health

Canada, "Child abuse occurs when a parent, guardian or caregiver mistreats or neglects a child, resulting in:

- injury, or
- significant emotional or psychological harm, or
- serious risk of harm to the child.

Child abuse entails the betrayal of a caregiver's position of trust and authority over a child. It can take many different forms."[1]

Of interest is that while discipline is referred to in many different Government of Canada documents, I could not find a definition of child discipline on the website. Nor could I find a definition of spanking on either the Canadian Medical Association or the Canadian Paediatric Society websites.

According to the American Academy of Pediatrics (1996) spanking is defined as:

- Physically non-injurious;
- Intended to modify behaviour; and
- Administered with an opened hand to the extremities or buttocks

Please let me be clear, child abuse is abhorrent, wrong and not acceptable.

Definitions are important here, they are not

mere semantics. The words and definitions that we use greatly effect how the data sources are compared. What is included or excluded from the various data sets and analysis can greatly influence the outcome.

Sweden and New Zealand have been referred to as countries that have benefited from a no-spanking policy. However, the full data and latest research does not support this premise. Some data suggests that since 1979, when the Swedish spanking ban was put into place, that youth to youth violence is actually on the rise.

Dr. Robert Larzelere has analyzed some of the data that has previously been presented to you on the effects of Sweden's ban on corporal punishment and arrived at very different conclusions than that of Dr. Durrant. These details are included in the documents filed with the Clerk.

In a peer reviewed paper released last year in The New Zealand Medical Journal [2], Dr. Jane Millichamp, a psychologist with the University of Otago, has determined that "Punishing children by spanking does not make them more aggressive or anti-social as adults [3]." Her study followed and interviewed 1000 children over a 30 year period.

Dr. Larzelere, along with Dr. Brett R. Kuhn, have published a meta-analysis in the Clinical Child and Family Psychology Review that reviewed 26 relevant studies from the past 50 years, that resulted in much the same conclusion.

In a Canadian poll that was done in 2002 by Strategic Counsel, a most interesting result was determined. Remember that this was taken at a time that there had been a lot of public discussion around the issue of spanking. In spite of all the discussion, 72% of Canadians believed that spanking should

remain a legal option for Canadian parents. This includes the 57% of parents who say they never spank their children.[4]

Senators, the vast majority of these people are the people that we deal with everyday. They are law abiding, contributing to their community and society. They love their family. There are so many issues that are contributing negatively to our society; social influences, biological factors, poverty, substance abuse and so on. There is no empirical evidence that the removal of Section 43 will deal with any of these negative influences.

I believe that we can all agree that every child is unique and different. And because of this, every child will need to be disciplined in a way that is most effective to them. Typically this will be on a graduated basis and most often include distraction techniques for infants, verbal clarification, time-outs, loss of privileges, natural consequences, logical consequences and spanking.

I believe that it is important that we focus on the actual outcomes.

In considering this issue, we must ask ourselves, "Does the state have a role in the raising of our children?"

I believe that the state only has a role in limiting society's "rights and freedoms", if those "rights and freedoms" are deemed to be harmful to society and its members. There is no evidence that the state needs to interfere in this issue. Justice McCombs dealt with this in his ruling in 2000, which was upheld by the Supreme Court of Canada.

The question of "would we spank grandma" is moot to this debate. Canadian law already recognizes that we treat our youth differently – for many years we had what was called the Young Offenders Act and more recently this has been updated to the Youth Criminal

Justice Act. We accommodate for the special circumstances that minors require, as they learn, mature and fully become adult members of society.

In our opinion, Section 43 follows a similar vein. Children need to learn morals and ethics, right from wrong, acceptable and unacceptable behaviour. Abuse is not acceptable. I am certain that we would all agree on this. Normative spanking, is not abuse and is one of many teaching and disciplinary tools that many parents need to have at their disposal. Justice McCombs wrote in his ruling that spanking is not child abuse. Just as every child is a unique individual, not every parent will use this tool. Many parents will use it infrequently.

In a Supreme Court of Canada decision [5], Justice LaForest stated:

"Although (the parent's) liberty is not a parental right tantamount to a right of property in children, our society is far from having repudiated the privileged role parents exercise in the upbringing of their children. This role translated into a protected sphere of parental decision-making which is rooted in the presumption that parents should make important decisions affecting their children because parents are more likely to appreciate the best interests of their children and because the state is ill-equipped to make such decisions itself."

Family is the cornerstone of our society. As intrusions and unwarranted restrictions are placed on the family, society itself becomes a victim of these actions.

Senators, what is the intention of this bill? If the rationale is to eliminate child abuse and other forms of extreme behaviour, social science does not show that eliminating Section 43 will achieve this goal.

If the intention is to simply eliminate the

option of this form of normative discipline, then again, social science does not bear out the change.

If the goal is to better protect children from extreme and excessive behaviour, and provide the best care possible for them, then rather than looking at the elimination of Section 43 of the Criminal Code, I would draw your attention to other areas and offer these suggestions for your consideration:

Bring forward or endorse parental support legislation. This can come in many different forms:

1. Lower the tax burden on families through programs such as income splitting;
2. Support parenting programs on a national scale;
3. Expand maternity / paternity programs for new and adoptive parents;
4. Support childcare programs that meet the needs of all parents, not a narrowly defined group.
5. Support and bring forward programs that keep moms and in particular dads involved in their children's lives. In keeping with the theme of Father's day, let me pass on these statistics:
  - a) Fathers' engagement in their children's activities is linked to higher academic performance.
  - b) Among adolescent boys, those who receive more parenting from their fathers are less likely to exhibit anti-social and delinquent behaviours.
  - c) Among adolescent girls, those who have a strong relationship with their fathers are less likely to report experiencing depression.
  - d) Close father-adolescent bonds protect against the negative influence of peer drug use.
  - e) Adolescent girls who have a close relationship with their fathers are more likely to delay sexual activity.
  - f) Adolescent girls whose fathers were

present during their childhood are less likely to become pregnant.

- g) Adolescent males who report a close relationship with their fathers are more likely to anticipate having a stable marriage in the future.[6]

If you are interested in the statistical data and program options behind any one of these, or other family related matters, I would be pleased to discuss them further either with this Committee or individually.

In closing, I am pleased that you are willing to analyze, discuss and debate the key social issues of our day. It is the social issues that have the long-term consequences on our families and by extension on our society. The IMFC cannot support S-207. We can support the need to find ways to assist and build a strong family within Canadian society.

I look forward to your questions and discussion. Thank you.

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(Endnotes)

- [1] [http://www.phac-aspc.gc.ca/ncfv-cnivf/familyviolence/html/nfntsnegl\\_e.html](http://www.phac-aspc.gc.ca/ncfv-cnivf/familyviolence/html/nfntsnegl_e.html)  
[2] [www.nzma.org.nz/journal/119-1228/1818/](http://www.nzma.org.nz/journal/119-1228/1818/)  
[3] Edmonton Journal, October 10, 2006, A17  
[4] Strategic Counsel (2002) Canadian Attitudes on the Family.  
[5] (Richard B and Beens B. v. Children's Aid Society et al.) from January 1995  
[6] <http://familyfacts.org/topten.cfm>