

# Scapegoats and Aliens: Institutionalized Shame in Divorce Court and Mandatory Parenting Classes

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**Abstract:** *The article is a rhetorical analysis of a state-mandated parenting class for divorcing partners. The analysis is deployed through a gender and affect studies lens and preceded by a narrative account of a class in Ohio. The thesis of the article is that mandatory parenting classes are justified through rhetorical means rather than pragmatic ones; I suggest that the primary effect of the classes is to shame parents rather than to benefit children.*

**Keywords:** *Rhetoric, Parenting, Divorce, Shame, Public Policy, Discourse Analysis, Demagoguery, Scapegoating*

The typical response to news that a couple is divorcing is invariably one of sadness: “I’m so sorry.” And divorce is inarguably sad. There is one emotion that divorcing people experience more intensely than grief, however, and that is shame (Jenkins). In some ways, and in some communities more than others, divorced and divorcing people remain marginalized—a socially- and politically-accepted target for judgment and discrimination. Part of the reason for this is that many social/political attacks are leveraged “in the best interest of the children,” a specious claim because it tends to proffer impunity to those leveraging the attacks without accounting for whether there is any actual or demonstrable benefit to those whom it purports to protect. This dynamic is especially instantiated in legally mandated parenting classes, which courts in 41 states now have the option to require of divorcing parents. In this article, I discuss these classes and analyze the rhetoric employed to justify their existence. I suggest that the shaming effects of legally mandated parenting classes are not merely unfortunate collateral to some higher or more noble goal; rather, the shaming is intentional and part of a larger institutionalized system of shame that works (intentionally or not) to repeat and reinforce certain conservative ideals. The resulting discourse inflicts harm upon certain bodies as it claims to ameliorate it in others.

This article addresses issues germane to “collaborative divorce”—a cooperative and uncontested set of legal processes in which parents (sometimes but not necessarily with the assistance of attorneys or mediators) make all

decisions about children, finances, etc. prior to sitting before a judge. I use the term “marital dissolution” synonymously. I restrict my discussion to this type of divorce in order to consider various aspects relevant to the divorce itself (the physical and legal separation) without the obviously complicating elements of bitter conflict and/or violence, which are in themselves inherently destructive and therefore always skew the answers to questions about the effects of divorce.

I recently attended one of these mandated parenting classes as part of my own divorce, which took place in a county court in Ohio that governs surrounding rural and suburban communities. As a rhetorician, I found the experience both fascinating and troubling. It would be dishonest, of course, to claim academic impartiality; to be certain, I was as emotionally engaged in the process as it is possible to be. I knew, therefore, that in order to reflect upon my experiences in an academically valid way, I needed some method to mediate between my role as a rhetorician and discourse analyst and my personal experience as an emotional parent. Julie Nelson’s work in situating the relatively recent discipline of affect theory within the classical study of rhetoric is helpful. She explains that affect theory’s emergence in the early 2000’s offered hope of articulating a legitimate method of theorizing how feelings and emotions tie into discursive networks and relationship formation (Nelson). Unfortunately, Nelson contends, “despite great hopes for affect theory’s contributions to rhetoric . . . it was never fully absorbed.” She blames this on scholars’ tendency to define affect as “precognitive, impersonal, and unstructured,” a characterization attributed to Brian Massumi’s early affect theory scholarship and one that renders it almost useless in discussions of intentional rhetoric. Nelson claims, though, and I agree, that such a definition is incomplete and unnecessarily limiting; rather we should “consider additional renderings of affect that make its rhetorical work more visible, including its cyclical relationship with emotion” (Nelson). I have tried to do that in researching and writing this article—to use affect theory as a vehicle for bringing the lived emotional experiences of divorce to bear upon intellectual inquiry into the rhetorical and discursive structures that frame those experiences.

In my home state of Ohio, one of the initial experiences required of divorcing parents is attending a legally mandated parenting seminar. There are several options for session times, most of which are weeknight evenings or Saturday mornings. The seminar is a single two-hour session. A brochure sent through the mail notifies parents that no legal divorce or dissolution will be granted unless parents are able to provide proof of having attended the seminar. The actual wording of the law (Ohio Revised Code 3109.053) states that “in any divorce, legal separation, or annulment proceeding and in any proceeding pertaining to the allocation of parental rights and responsibilities

for the care of a child, the court *may* require, by rule or otherwise, that parents attend classes on parenting” (ORC 3109.053; italics mine). I was surprised to find this language when I began formal research (which was a few weeks *after* I attended the class). The information presented to parents does not indicate that there is any flexibility or space between the actual state law and the way that my county implements it. The text on the brochure I received reads as follows:

Divorce is a very stressful experience for parents and children. Although you may decide to end your marriage, you will continue to be mother and father.

This two-hour seminar will focus on what children need from both of you during and after your divorce. The group will provide practical information that you can apply to your divorce situation. It will teach skills for helping your children manage divorce successfully. This will include handling “tough situations and tough questions.”

During my initial paperwork-submission meeting with the magistrate (my partner and I handled all the legal transactions of our divorce ourselves, without attorneys), I questioned whether it was absolutely necessary for me to attend the parenting seminar. By that point in the process, I had consumed a virtual library of texts on children and divorce, including not only mass-market books, but academic scholarship that addresses large scale, peer-reviewed studies on children of divorce. I had done this research because I wanted to be certain that I was doing everything possible to help my son navigate this major change in his life. The magistrate, though polite, did not budge: “It’s not optional,” she said. “No parenting class, no divorce.”

## **Narrative Synopsis of Parenting Seminar**

The “Still Parents” class was held in the facility the county uses for supervised visitation and safe exchange—this is the location in which non-custodial parents who have demonstrated the capacity for domestic violence or child abuse must take their visitation with their children, under the protective watch of Children’s Services professionals. It is also used as a neutral exchange location for parents who have shared custody and do not require supervised visitation services for the well being of their children, but who are believed prone to behaving in volatile or potentially violent ways when they are confronted with each other. This location is sort of the demilitarized zone of divorce, complete with alphabet decorations covering the drywall partitions of the squat, pole-barn style building.

A social worker named Barbara, who stood at the front of the room and addressed 32 of us sitting in folding chairs facing her, was in charge of the night's session. She opened her discussion by telling us that "It's not a punishment that you're taking this class." I will admit it felt like a punishment, but no one had suggested aloud that it was. Barbara also informed us that there would be a "no-texting" rule for the class.

Next, we watched a PBS video titled "Kids and Divorce, For Better or Worse." The program began with a video collage of children making statements while speaking to therapists. The clips are presented without context, so there is no way to know the exact circumstances that led to the children's words. For example, one little boy tells his therapist, "I cried every night for two and a half years," and the therapist replies, "It's like a nightmare, isn't it?" The film transitions to a slide show presentation of drawings done by children in therapy. One is a heart bisected with a zig-zagged line and the title "Mom" on one side, "Dad" on the other, and the word "Love" written in the center and sliced in two by the zig-zag. Another portrays a violent scene with a child's voice bubble that says, "Chelsea go and call the cops. Hurry Chelsea!" Barbara later referred to this drawing and remarked, "I would venture to say that at least one of you has been in a situation where the police have been called." I found this confusing, because this particular parenting class was for people in the midst of collaborative divorces, which necessitate cooperation and resolution between parents. Someone else wondered (aloud) why there weren't different requirements for parents going through cooperative dissolution versus those going through contested divorce, since they are legally two separate processes. Further discussion among the participants revealed that, contrary to Barbara's statement, none of us had been in a situation related to our separations in which the police had been called.

After the video, we were directed to split up into groups and pick a group recorder. Barbara directed us to reveal the problems we were having as a result of our impending divorces and the problems our children were having as a result of our impending divorces. The group recorder was told to make lists of these problems, which would then be reported to the whole class after roughly 15 minutes.

One group, for reasons they didn't explain, added up the number of children they had *collectively* and reported this to the class. They also took a variety of "issue tallies" related to divorce: "Three members of our group are struggling with separation anxiety; Six members are addressing children acting out," etc. My own group's interaction was less organized; we remained mostly silent and avoided looking at one another until the last few minutes of the allotted time, at which point a few people made generic remarks about feeling tired, worried, and stressed. The group adjacent to mine cracked jokes

about being broke and depressed and laughed loudly throughout their discussion. All of this seemed to evidence not so much individual inability to judge appropriateness, but rather the fact that we didn't really understand what we were *doing* there. There was no response to nor discussion of potential solutions that followed the reporting of the problems that we and our children were encountering; the totality of the activity was the recording and revelation of the problems themselves. I felt as though I were caught in some weird amalgamation of a group therapy session and a corporate retreat. After each group had reported their "adult problems" and "child problems," the two hours were up and Barbara explained that she would respect our individual schedules by releasing the class on time, and we went our separate ways.

I felt somewhat insulted walking out of the class. It seemed patronizing and condescending—the teacher-student relationship established between Barbara and us, the no-texting rule, the seemingly obvious lessons about excessive conflict and violence being harmful to children. I couldn't pinpoint any practical knowledge offered by the class. Barbara did at one point remark that most children whose parents are careful to protect them from the tension, conflict, and bitterness of divorce tend to do pretty well. This, presumably, was the point of the class—to prepare us to be these kind of parents so that our children would fare well in the aftermath. But the vast majority of the class was taken up with nightmare stories, reports and recollections that would horrify any passably reasonable human being, followed by the forced group interactions and "reports." I didn't really *learn* anything, other than that what I was about to do was potentially harmful to my child, as though I hadn't considered that. I left wondering, if the class didn't provide substantial constructive advice for divorcing parents, then why exactly were we taking it?

Tali Schaefer, in an article on legally mandated parenting classes published in *The Columbia Journal of Gender and Law*, restates my question and offers an answer: "What should family law do about divorcing parents? 'Teach them a lesson,' a legislative wave sweeping through the United States has answered" (Schaefer 491). I had felt this intuitively, but recognized that my impressions were unsubstantiated and potentially tainted by my emotional entrenchment. Schaefer's article analyzes the enactment discussions that resulted in legislation that mandated parenting classes for divorcing partners in the state of Colorado; she focuses specifically on the rhetoric employed by judges in promoting the mandate. Schaefer concludes that "despite its child-oriented goals, the legislation is preoccupied with casting a negative judgment on parents' decision to separate and with blaming parents for the negative effects of divorce" (Schaefer 492). My experience in the class I attended instantiates this focus on shaming parents rather than helping children. The majority of time and discussion in the class was dedicated to demonstrating how harmful

divorce is to children (a point that, even if true, was essentially moot at the time of the class; there was relatively little time and discussion dedicated to teaching parents how to help their children navigate separation and divorce).

## History of Mandatory Parenting Class in Ohio

In 1999, the State of Ohio convened a Task Force of 24 individuals that included judges, attorneys, state senators and representatives, academics, and social workers; the Task Force sought input from experts in various disciplines as well as from parents' groups and from a panel of teens who had experienced their parents' divorces. The goal of the Task Force was to make recommendations that would "minimize conflict between parents and protect children from the effects of their parents' conflicts, while providing opportunities and support to parents as they continue to be parents to their children, regardless of family structure" (Ohio Task Force 3).

One of the recommendations was to implement mandatory parent education programs for divorcing parents. The report also contains curriculum standards and presenter training guidelines for the programs. The Task Force's recommendation became state law on October 5, 2000 (Ohio Revised Code 3109.053, "Parenting classes or counseling"). Having attended a mandatory parenting seminar prior to reading the Task Force's guidelines for their development, I was struck by how markedly different in tone my seminar was from the language that supposedly supported its institution. The juxtaposition paralleled the disconnect I'd felt during the class—the class whose brochure promised to "teach skills for helping your children manage divorce successfully" but whose reality seemed to deliver one clear message: divorce is harmful to children. A similar disconnect is evident between the language of the guidelines for the seminar curriculum—which is primarily productive and nonjudgmental—and much of the language contained elsewhere in the Task Force's report—which is emotional, discriminatory, and assumptive.

Rebecca Dingo's work on public policy development and "networking arguments" is helpful in understanding these juxtapositions and disconnections. Dingo claims that public policies are always "intrinsically rhetorical" (22) and that considering only the written policy "tells us little about the policy's rhetoricity" (23). Rather, we must understand that "policy is not written in one place—a final policy is merely a tangible outcome of a set of distributed logics that are boundless" (Dingo 25). This recognition helps to account for the split-personality effect of the rhetoric employed in the Ohio Task Force report; it is likely that some passages read as shaming and oppressive while others read as helpful and supportive—an effect Dingo calls "the shifting meanings and unevenness of rhetorics" (110)—because *all* of those intentions actually are reflected in the language of the final document. A close reading

of documents associated with public policy development and enactment can help us to “effectively disentangle the commonplaces of public policy from their taken-for-granted meanings and show how they are not a single totalizing discourse but many interwoven strands of arguments” (Dingo 26). In this case, those arguments originate not only with 24 members of the task force but with an unknowable number of voices beyond them. For example, the Task Force consulted with “a panel of teens” (Ohio Task Force ii) during their research, but there’s no indication of how many teens comprised the panel or what their experiences had been; clearly these factors would significantly affect the testimony the teens provided.

The lack of identification for specific voices facilitates a scenario in which arguments “appear monolithic,” when in reality they are “composed of elements derived from other things” (110) and “vulnerable to co-optation or appropriation” (22). Could this explain the discrepancies between the proactive messages contained in the Task Force’s stated mission (as well as in the brochure I received) and Barbara’s somewhat condescending and almost completely purposeless interpretation of the suggested curriculum? I know now, although I didn’t at the time of the class, that the qualifications to teach these seminars are fairly loose and vaguely defined. The Task Force report suggests (but does not require) that presenters have an advanced degree, and the total time commitment to become licensed to teach is one day (presenters must attend a one-day workshop) (Ohio Task Force D-4). The *only* defined requirement is “training or experience in family life education, family dynamics, domestic relations, marriage and family therapy, counseling, mediation, psychology, social services, child welfare, or a closely related field” (Ohio Task Force D-4). Clearly, this is subject to interpretation. The fact that it calls for training OR experience is even more problematic; moreover, it offers zero assurance that the presenters are actually qualified to be addressing the very important topics they are charged with teaching.

Did Barbara co-opt or appropriate the intended message of the parenting seminar to impose her own opinions of divorce? Perhaps, but if so, the potential for that appropriation was essentially “built in” to the policy from its inception, the resulting discourse of multiple “networked arguments” (Dingo). Dingo notes that in the case of U.S. legislation, “the text itself has been touched by testimonies” (23) and by a multiplicity of voices, some of which act as “vectors of power” (Dingo 25).

This is clearly instantiated in the report of the Ohio Task Force, and it helps to explain the “shifting and uneven” rhetoric contained in the text and reflected in the implementation of the parenting seminars. Of particular interest is a letter added to the report shortly after its approval. The appendix is labeled “Individual Statement of John Guidubaldi, D.Ed., L.P., L.P.C.C” (Ohio Task

Force, Appendix H). Dr. Guidubaldi is a Harvard-educated university professor, child psychologist, and distinguished researcher. He has also been the Director of the Father Involvement Research Project in Akron and Cleveland. Dr. Guidubaldi was appointed to the Task Force by Republican judge Thomas J. Moyer, Chief Justice of the Supreme Court of the State of Ohio.

Despite Dr. Guidubaldi's impressive credentials, his language reveals a strong conservative bent and contains many passages that suggest a bias against people who have decided to divorce. For example, he writes, "Some revisionists promote the notion that our current crisis of family instability is not cause for alarm, [but] no prior period in our history has experienced the level of deterioration of family life we are witnessing today" (H-1). Clearly, this writer equates "divorce" with "deterioration." In some cases that may be true; however, it is also true that families can implode (or deteriorate) in all kinds of ways while parents remain legally joined and locked in conflict. He goes on to recognize that "the term 'family values' has come to be identified with a conservative agenda, seen by some as an obstruction to freer forms of interpersonal intimacy" (H-1). This seemingly reduces the decision to divorce to a quest for "freer forms of interpersonal intimacy." While that may be true in some cases, it certainly does not account for the totality of reasons for which couples decide to divorce. For most couples, the decision is an extremely painful one that is intended to dissolve a toxic union that is actively causing harm; this is not the same as the superficial "grass is greener" scenario the writer seems to suggest. Dr. Guidubaldi offers this explanation for why people may see the conservative agenda as "an obstruction to freer forms of interpersonal intimacy":

Those who hold this view typically support alternative lifestyles, including sequential monogamy, unwed parenting, and homosexual marriage, forsaking the "until death do us part" bonds of matrimony when either party is dissatisfied. As with any viable social movement, this one needed a noble banner to wave, particularly since freer adult lifestyles frequently meant onerous consequences for children. Convenient justifications were found in such politically timely rubrics as the accusation of oppression, the quest for individual rights, and the celebration of diversity. Today, the overly zealous application of these marital escape valves exonerates divorcing parties who have no real history of physical abuse or even the more amorphous and opportunistic claims of "psychological" abuse. (H-1)

There is quite a bit to unpack here. First, the linking of liberal views to support of alternative lifestyles, which Dr. Guidubaldi seems to suggest are selfish, is not directly relevant to the issue the letter addresses and instead becomes a



red herring that serves to link divorce to irresponsibility and a lack of concern for one's children. The characterization of those with liberal views as people likely to easily forsake their marital vows when either is simply "dissatisfied" is both simplistic and unsubstantiated. He then seems to suggest that most divorcing people are willing to sacrifice their children's well being so that they can live a "freer lifestyle"; moreover, they are callous and manipulative enough to take advantage of "convenient justifications" while waving a "noble banner" that grants them access to participate in a new "social movement." Dr. Guidubaldi caricatures divorcing people as wanna-be-hippie teenagers skipping school to attend a protest under the guise of civil activism when they really just want to have some fun. He then calls into question whether psychological abuse is even real (or rather, as he terms it, "an opportunistic claim"). Making all divorcing people into strawmen who want to shirk responsibility and engage in sexual experimentation at the expense of their children certainly makes it easier to legislate corrective action against them, but it does so with a faulty and incomplete understanding of the actual complexity involved with making the decision to divorce.

He concludes this section of his letter by claiming, "Under no-fault laws, families can be disassembled by unilateral action without guilt, simply because a partner 'feels' oppressed or unfulfilled" (H1). I suppose this is technically true: there is no way to legislate "guilt," and therefore it is *possible* that people could divorce without it; he also discounts the role of feelings in a marriage. Personally, I cannot imagine a parent going through the divorce process without astronomical amounts of guilt; I feel confident in saying that any parent who *could* most likely has psychological problems that are far more severe than any the divorce itself will cause.

The latter paragraphs of Dr. Guidubaldi's letter seem to markedly depart from the assigned missions of the Task Force, but it appears that these are points he felt compelled to share nonetheless. In these paragraphs, he claims, "Issues of exorbitant or extended spousal support and unreasonably high child support payments are predicated on the assumption that a spouse (almost always the wife) or a child is entitled to be kept in the style to which they have become accustomed" (H-3), and follows with the conclusion that "this deep pockets orientation provides a windfall for the recipient with no obligation to provide anything in return" (H-3), seemingly suggesting that many people (but mostly women) choose to divorce because of its profitability. He refers, in fact, to child and spousal support as "inflated entitlements that often provides incentive to divorce" (H-2). He moves from that argument to one that suggests "when the right to choose parenting is unilaterally given to women with assurances of support, a great many unwed births may be expected to continue" (H-4), thus claiming that women get pregnant and have babies to

make money in the same way that we get divorced to make money. As troubling and offensive as some of Dr. Guidubaldi's statements are, it is important to remember that these are statements we can actually see and interrogate, because he put them in writing and that writing was made a part of the official government document.<sup>1</sup> The voices we cannot apprehend, let alone analyze, are certainly far more extensive—Dingo's "distributed logics that are boundless"—and the effects of their interlinking cannot even be hypothesized.

### **“In the Best Interest of the Child”**

This phrase is invoked repeatedly throughout the Task Force's report, even as the report itself recognizes that it is a "term of art" and an "elusive concept when it is used by the courts" (Ohio Task Force 9). This phenomenon—of referencing something with which no one can disagree (who *doesn't* want what's in the best interest of the children?)—serves the purpose of shutting down any

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1 Prior to his involvement discussed in this article, Dr. Guidubaldi served on The U. S. Commission on Child & Family Welfare, which issued a 1996 report to Congress and the President; Guidubaldi subsequently authored a minority report to the 1996 report. The minority report is similar in tone to the addendum discussed above, revealing a strong anti-feminist bias as well as the fact that Guidubaldi felt professionally slighted and under-respected by the majority membership of the Commission. In the 1996 minority report, he blames "the decline in socially responsible behavior of our nation's youth" on "the movement toward a matriarchal society" (Guidubaldi "Minority Report"). He also claims that receiving financial support from their ex-husbands could "promote attitudes of learned helplessness" in women, and that "the new 'liberated' woman's role" is "undermining paternal authority" (Guidubaldi "Minority Report"). As in his 2001 individual statement discussed above, the 1996 report features a critique of female control of reproductive rights, linking such autonomy to women's increased willingness to divorce and suggesting that the decision is at least partly financially motivated (Guidubaldi "Minority Report"). Dr. Guidubaldi's closing statement in the 1996 report is that, "The greatest of my personal adult challenges was my own divorce. When my long-term wife decided that she wanted her 'freedom,' I learned first-hand what so many of my male clients had grieved about in my private psychologist office — the absolute loss of power to control the two most important things in one's life: parenting privilege and the fruits of one's own labor" (Guidubaldi "Minority Report").

critical inquiry of the rhetoric, because to do so is perceived as automatically getting in the way of what is “in the best interest of the children.” The language addressing mandatory parenting classes explicitly instantiates this phenomenon, stating that “in addition to all of the factors in the best interest statute, the court should take into consideration the failure of either parent to attend a parent education seminar” (Ohio Task Force 9). So, the parenting seminars must be accepted without question as serving “the best interest of the child,” and resisting them automatically brands a parent as “*not* acting in the best interest” of their child. The logic is both circular and unprovable. Dingo addresses tactics such as “the best interest of the child” in a discussion of neoliberal public policy development in which terms of “empowerment” that “appear benign” (or actively beneficial, in this case) are employed to advance arguments that appear above reproach (Dingo 111). Patricia Roberts-Miller’s writing on demagoguery, an ordered and identifiable form of discourse/propaganda that often employs shaming tactics, sheds further light on this manipulation of rhetoric:

If people will hold their positions regardless of whether their evidence and reasoning turn out to be false, then it is not a topic for argumentation. It is, instead, a logically closed system. This, too, is important for considering demagoguery, as demagogues almost always present exactly such a system, and it’s likely that that is one of the attractions: they promise their followers certainty. This certainty is not the same as accuracy, however; it results from their offering an ideology that is impervious to argumentation (not because it is true, but because it is formulated in such a way that it cannot be disproven). (Roberts-Miller, “Democracy, Demagoguery” 471)

Despite the attitude of certainty with which the Task Force made its recommendations and with which many courts now enforce attendance, no study to date has been able to demonstrate that short-term mandatory parenting classes have any positive impact upon the well being of children (Schaefer 501-2). Offering compelling but unsubstantiated claims is typical of demagogic argument, in that it “often reasons from what ‘must’ be true, even in cases when there is adequate empirical evidence. . . . Premises are thereby protected from falsification—the very things that might throw them into question (conditions in which they are shown to be falsified) is rejected precisely on the grounds that it would falsify the premises” (Roberts-Miller, “Characteristics of Demagoguery”).

## Assumptions and Emotional Language

The cover page of the Task Force's report contains this quote, which is centered on a mostly blank page (save for the name of the task force and the title of the report) and printed in bold text:

**People who are willing to create a life should be willing to take care of it and support it. It's like when I was in ceramics class, there were steps to getting a piece of pottery complete. First, you have to make sure that there are no bubbles in the clay or else it's gonna blow up in the kiln and then you have to make sure that there are no bubbles in the glaze, wait for the glaze to dry and set it in the kiln just right. I think that parents should be willing to put it in for the long run and take time with their pottery and they should be willing to go through every step to assist that pottery so that it comes out as the best possible piece of art. — Joseph, age 17**

First, we could question the appropriateness of opening a report that should have been unbiased and research-based with an emotionally charged quote from a 17-year-old about whom the reader has no information. However, we must recognize that introducing pathos into the legislative process has historically been productive and not just manipulative (in the case of, for example, conversations that led to enacting Amber Alert legislation and the like). Even if we let that go, though, this passage certainly contains confusing messages.<sup>2</sup> The Task Force's report was intended to address the complexities of families who were *already* divided or in the process of dividing. To include language that suggests the family should not divide (or even language that is ambiguous enough that it could be interpreted that way: "I think that parents should be willing to put it in for the long run"), then, would seem futile. So if the language cannot actually affect the reality of the situation, then what purpose does it serve other than to cast judgment upon parents?

Roberts-Miller offers an explanation: "Demagogues polarize a complicated (and often frightening) situation by presenting only two options: their policy, and some obviously stupid, impractical, or shameful one. They almost always insist that 'those who are not with us are against us' so that the polarized policy situation also becomes a polarized identity situation" (Roberts-Miller, "Democracy, Demagoguery" 462). In this case, "their policy" is the enforcement of parenting classes and other requirements for divorcing people,

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2 This is not a critique of the 17-year-old's statement, nor does it question the validity of his words; my critique is of the statement's inclusion in the official report, especially given that it's presented without context.

and the parents who care so little about their children that they are willing to let their “pottery blow up in the kiln” are the “obviously stupid, impractical, or shameful one[s].” Furthermore, establishing this dichotomy (early, in this case) “enables members of the ingroup to take the moral high ground . . . Our views of people like us (the ingroup) are nuanced and complicated, whereas we define the outgroup by one or two salient and generally negative features that we insist epitomize the entire group” (Roberts-Miller, “Democracy, Demagoguery” 463).

Clearly, divorce is the salient feature here, but it is opportunistic and simplistic to use it this way. The reduction of divorcing parents to one aspect of their lives—the divorce—is a theme in the Task Force’s report. It is used as a context-less, metaphorical tattoo that is emblematic of “bad behavior on the part of outgroup members [that] signifies their true identity” and then juxtaposed against “good behavior on the part of ingroup members [that] signifies their true identity” (Roberts-Miller, “Characteristics of Demagoguery”); divorced or divorcing parents are “bad” and those who clean up their messes (the Task Force, in this case) are “good.” The mission statement written specifically to justify the implementation of the parenting seminars claims that, “in order to prevent divorcing and never-married parents from doing unnecessary harm to their children, all never-married, divorcing and post-decree parents need specific education about helping their children through this change in their families” (Ohio Task Force D2). The assumption here, presumably, is that married parents are not in danger of “doing unnecessary harm to their children”—or at least not enough danger that the government needs to intervene. This dichotomy seems difficult to support universally; certainly children experience all kinds “unnecessary harm” at the hands of their still-married parents. Creating a structure in which married parents do not require intervention but unmarried parents do—as a result of their marital status and nothing else—implies that, at least as far as children are concerned, “marriage is preferable to divorce.” This belief facilitates a dangerously enthymematic sort of reasoning, in which potentially faulty conclusions are taken to be self-evident, and which justifies all sorts of actions that may not be appropriate. Traced backward, an analytical syllogism to explain the reasoning behind mandating parenting classes might sound something like this:

*The government mandates remediation when poor parental judgment has been evidenced (abuse, neglect, addiction).*

*The government mandates remediation for divorcing parents, even those who have handled the process with cooperation and without need of legal intervention.*

*The government sees divorce as evidence of poor judgment.*

The assumption, then, is that parents who divorce are parents who have poor judgment, and are therefore deserving of mandated remediation. The assumption also implies that it can never be good judgment for parents to divorce, despite psychological evidence that parental conflict is actually more damaging to children than divorce (Goldstein et. al). It is crucial to note here that it is the divorce itself which provides the justification for the mandated class, not the conflict that children experience; if they experience conflict within an intact family and the *conflict* doesn't rise to the level of physical abuse, then the court system stays out of it entirely. The discrepancy is an example of what Chaim Perelman calls "symbolic liaisons." He explains that it is "only when a symbolic liaison has become institutionalized that . . . argumentation can play a role" (102). In this case, the "symbol" is the divorce itself—the "thing" to which we can attach the mandate. But the conflict is the actual problem (as far as children are affected). If our true intent in mandating parenting classes is to guide parents toward helping their children through a difficult time, then we certainly do not apply the guidance universally. The death or chronic illness of a parent or the loss of a parent's job can also thrust a family into economic turmoil and interpersonal conflict, but we do not mandate parenting classes for parents faced with these hardships. Because cause (parents deciding to get divorced) rather than circumstances (families in crisis due to reasons that are "not their fault") is used as the justification for legally requiring parenting classes, it becomes difficult to ignore the judgment factor driving the enactment of such legislation.

Roberts-Miller explains that this, too, is typical of demagoguery, in that it "imagines public deliberation as a place in which people with accurate perception point out the Real Truth to others who, if they are also capable of unmediated perception, will instantly see it" (Roberts-Miller, "Characteristics of Demagoguery"); she describes demagoguery in public discourse as the mechanism through which the ingroup "demonstrates the clarity of one's vision, one's ingroup membership, one's loyalty to that group, and one's willingness to engage in punitive action on behalf of the ingroup/against the outgroup(s)" (Roberts-Miller, "Characteristics of Demagoguery").

The punitive action is partly justified through a discourse of shame that is inserted into a speciously-ethical pragmatic endeavor (to care for the children of divorced parents). For example, one lines advises that "Children of divorce are begging parents to walk a mile in their shoes and to consider their child's needs to be at least as important as their own" (3). The assumption is that parents don't consider this, that parents think only of themselves. In tone, the passage is emotional and sandwiched between two sentences that straightforwardly address the practicalities of children transferring between homes.

This creates a rhetorical clash in which one line is reasoned and pragmatic and the next resembles a tongue-lashing. The overall effect is a somewhat schizophrenic text—Dingo’s “networked arguments” made manifest—an outcome that is perhaps unavoidable in some ways; however, it is also revealing of the confusion and competing perspectives that are still a part of conversations surrounding divorce in contemporary America.

## Shame and Identity

Shaming rhetoric in the Task Force’s report and even more so in Dr. Guidubaldi’s letter (which became part of the final report) beg an interrogation of how shame operates beneath and beyond the level of text in the discourses surrounding divorce. A transactional relationship between shame and normativity plays out in affective ways; the price of bucking the norm is suffering the shame. Sara Ahmed states it explicitly: “Shame can also be experienced *as the affective cost of not following the scripts of normative existence*” (*Cultural Politics* 107). “Affective cost,” painful as it may be, doesn’t end at the feeling level; it has life-altering consequences that do violence to the individual and compromise the collective health of society. The parenting class I attended (which definitely had a transactional feature: “Go to the parenting class, and you may get the divorce; don’t go to the parenting class, and you may not get the divorce”) was certainly emotionally taxing—perhaps intentionally so. But there are other—less overt yet perhaps more insidious—structures in place for the processes surrounding divorce. The penal system procedures and carceral environments in which divorces are carried out exact a particular sort of affective toll. The excessive waiting to talk to an actual human being in the domestic relations court compounds the frustration of an already-frustrating and confusing experience. The fact that divorcing parties have no say in terms of when or where their mediation appointments or hearings are scheduled prevents emotional or practical planning ahead and results in lost wages at work, challenges related to child care, and a general loss of control over the entire process. The extremely complicated process for filing paperwork often drives people to hire attorneys even when attorneys are not necessary or appropriate, which in turn creates additional economic hardship for families already financially overburdened. All of this is followed by the horror-story mandatory parenting classes and, ultimately, another lengthy wait for the actual divorce hearing, in which dozens of divorcing couples sit in the waiting area of the county courthouse, watching couples walk into the judge’s office as legally joined partners and walk out crying and untethered for the first time in years or decades. I couldn’t have been the only one wondering why it was taking so long; after all, wasn’t it the court who scheduled these appointments? Did they not realize they scheduled all of us at the same time? Surely if there

were a better way to handle the whole thing, a more dignified way, they'd do it. Right? In my experience, at least, the entire process felt cloaked in shame.

Eve Sedgwick claims that "asking good questions about shame and shame/performativity could get us somewhere with a lot of the recalcitrant knots that tie themselves into the guts of identity politics" (64). I suggest that we apply similar "good questions about shame" to the issue of divorce in contemporary America. It appears needless to argue that we have elevated the traditional, American nuclear family to the level of "sacred." Pramod Nayar, in his discussion of "moral panics," notes that "[r]isk culture . . . appeals to the *cultural rhetorics of the family*, where the family is projected as something of unimaginable value" (101). Risk culture, he claims, persuades people to behave irrationally by over-blowing the potential for danger inherent in the common actions and experiences of everyday life. He describes the ways in which our anxieties can be capitalized upon, especially where we sense a risk or threat to traditional structures, such as the nuclear family. These risks or threats are portrayed as moral crises that require a response from "so-called guardians of morality" (Nayar 114). The Task Force members assumed this role, and they were effective in it. Nayar suggests that risk itself is an "affective phenomenon. Risk's discourse's effectiveness depends upon how much *affect* it can generate" (12). The discourses surrounding divorce, and especially those employed to legislate mandatory parenting classes, have been especially successful in generating affect.

In the case of enacting and requiring parenting classes for divorcing people, shame is used as the impetus for the punishment and becomes the scar left upon the punished. Ahmed articulates this effect: "To be witnessed in one's failure is to be ashamed: to have one's shame witnessed is even more shaming. The bind of shame is that it is intensified by being seen by others as shame" (*Cultural Politics* 103). This is an instantiation of Baruch Spinoza's concept of the *affectus* (the shaming force, in this case) and the *affectio* (the inscription left on the shamed). Ahmed describes how "shame secures the form of the family by assigning to those who have failed its form the origin of bad feeling" (Ahmed, *Cultural Politics* 107). She also discusses the ways in which anything within the arena of love is particularly vulnerable to becoming an object of shame: "Through love, an ideal self is produced as a self that belongs to a community; the ideal is a proximate 'we' . . . If we feel shame, we feel shame because we have failed to approximate 'an ideal' that has been given to us through the practices of love. What is exposed in shame is the failure of love" (Ahmed, *Cultural Politics* 106).

Ahmed also examines the ways in which the nuclear family is defined as a "happy object" in part by identifying those who disrupt or do not conform to its traditional structure as the cause of unhappiness ("Happy Objects" 30). She



refers to these Others as “affect aliens,” whose ranks include “feminist kill-joys, unhappy queers, and melancholic migrants” (“Happy Objects” 30). I would suggest that divorced people could also be labeled “affect aliens,” in that we have disrupted the structure of the traditional nuclear family. The creation of these dichotomies—those who successfully maintain the family unit as opposed to “those who have failed its form” (Ahmed, *Cultural Politics* 107); “happy objects” versus “affect aliens”—serves the rhetorical purpose of justifying “fixes” for those located on the “bad” side of the dichotomy. Anyone who does land on that side is “seen as trouble, as causing discomfort for others” (Ahmed, *Cultural Politics* 39). I certainly left my mandatory parenting class with a clear message of how much discomfort I was causing for others. Regardless of whether the message was delivered with rhetorical intent, it doesn’t do anything to help children; the danger of it is that it risks encouraging parents to reverse course in a way that could potentially do *more* harm to children and land the children in a worse (and even more unstable) position than they were in before their parents attended the class.

Sedgwick discusses the relationship between shame and identity, describing it as “at once deconstituting and foundational, because shame is both peculiarly contagious and peculiarly individuating . . . That’s the double movement shame makes: toward painful individuation, toward uncontrollable relationality” (36-7). This seems particularly germane to issues related to divorce. The double movement toward private and public experience—and especially the ways in which the doubling touches and re-shapes identity—is instantiated in the processes and procedures of taking apart a marriage: there are personal elements (the untethering of a sexual union, the state of the couple’s children, the reactions of their families and friends); and there are elements quite public (dealings with the municipal justice system and domestic relations courts, choices about children’s schooling, alterations to property holdings, finances, etc.). At the intersection lie points of tension in which we can observe a rhetorical clash that often manifests in shame.

And when we talk about the intersection of identity and shame, we ought to be very concerned about what emerges from that union. If it’s true that shame is the most powerful affect that shapes one’s sense of self (Sedgwick 37), then wouldn’t responsible adults ask what exactly our manner of dealing with divorce is doing to those most actively developing their identities? We still use the phrase “child of divorce.” My child is now “one of them,” and I find myself wondering, *If I died, would he be called a “child of death”?* Barbara Ehrenreich expresses concern about “the effect all this antidivorce rhetoric is bound to have on the children of people already divorced—and we’re not talking about some offbeat minority . . . [T]hese children already face enough tricky interpersonal situations without having to cope with the

public perception that they're damaged goods" (Ehrenreich). The notion of self-fulfilling prophecies is relevant here, and we would be wise to interrogate the ways in which shame-inducing cultural responses to divorce impact the children affected.

And if the current discourse constructs children as hopelessly crippled by divorce, it casts their parents as the criminals who inflict the injuries. These constructions of identity are revealed in subtle and minute ways, but statements such as Guidubaldi's that charges parents with finding "marital escape valves" (H-1) to "exonerate" (H-1) them of their actions don't require much rhetorical expertise to apprehend the criminalistic language employed.

Many of the discourses and processes surrounding divorce, in fact, are infused with shaming and punitive elements that seem more germane to criminal justice than to civil proceedings. The first step in the divorce process is to file the required legal documents that initiate the separation and eventual decree of divorce. In most cases, this must be done in a county courthouse. When I went to file mine, I was stopped at the door and my purse was taken and put through an x-ray machine while I was scanned with a metal detector by a police officer. There were more police officers in the rooms of domestic relations court. I was instructed to give my name to one of them upon entering. I had some questions about the paperwork (46 original pages, which after being completed must be copied and collated in various combinations into multiple "packets" for filing), and I assumed there would be someone there with whom I could speak. It turns out there are people to whom questions may be asked (magistrates), but you can't just walk in and do that. I asked a clerk how I could arrange to speak with someone. She told me that there was a form I could fill out and that I would receive something in the mail giving me an appointment to come back to ask questions sometime in the next two weeks. I explained that I have a full time job and would need to plan around my teaching schedule and inquired as to what times were available. She told me that there would be no choices; there would be a time selected by the court on the document I received in the mail and that would be my time to ask questions.

It is understandable, certainly, that there need to be policemen in courts; and it is understandable that magistrates don't have unlimited free time during the day to answer questions about paperwork. I don't dispute either of these realities. What I question is whether peaceful marital dissolution procedures must even be carried out in courthouses that feature metal detector scanning and heavy police presence. Was I doing something criminal? I hadn't thought so, but it sure felt that way. I have completed other legal processes before: I get a driver's license every time mine expires; I renew my plates; I've changed my name at the Social Security office; I've applied for a marriage license and

gotten married. All of these activities took place in spaces without police officers or metal detectors, and all had reasonable selections of hours posted.

## **Scapegoats and Free Radicals**

After my divorce hearing, I received in the mail an itemized breakdown of the costs associated with my divorce. The total cost of filing for a divorce in my county is \$282.21. Approximately half of that is allocated for “Clerk’s Fees” (\$137.71). The remaining half is allocated to a number of different funds. These are the funds: Child Abuse Fund, Shelter Victims Fund, Family Violence Prevention Fund, and the Mandatory Parenting Program. With the exception of the parenting class, the programs that were funded by my divorce exist as responses to various crimes. I realize that these programs should be funded, and that those funding dollars must come from somewhere. I find it curious that when the decisions were being made about who should pay for crimes like child abuse and family violence, someone apparently decided that the obvious answer was divorcing individuals. This is representative of what Kenneth Burke calls the “scapegoat mechanism,” in which people tend to “ritualistically cleanse themselves by loading the burden of their own iniquities upon [the scapegoat]” (Burke 406). The fact that we even have the Child Abuse Fund, Shelter Victims Fund, and Family Violence Prevention Fund reveals societal iniquities for whose existence we tend to seek scapegoats. Our scapegoat hunts are too simplistic, though—too opportunistic. The Ohio Task Force’s report constructs “people getting divorced” as its scapegoat, but in doing so it fails to account for the less tangible factors that contribute to divorce: lack of education, economic hardship, gender inequality, conservative agendas that limit access to birth control, and the list goes on. The Task Force report neither addresses nor even acknowledges any of these factors, but instead sets up divorcing peoples as “Criminals [who] serve as scapegoats in a society that ‘purifies itself’ by ‘moral indignation’ in condemning them” (Burke 407). The Criminal is a troubling metaphor of divorced and divorcing people, but it is not the only one.

Sedgwick describes shame as “a kind of free radical that . . . attaches to and permanently intensifies or alters the meaning of—of almost anything: a zone of the body, a sensory system, a prohibited or indeed a permitted behavior [and becomes] a script for interpreting other people’s behavior toward oneself” (62). The problem with permitting (or encouraging) shame-inducing rhetorics in divorce processes is that they actually do function similarly to free radicals: although the span of time that either rhetorics or free radicals can actively wreak havoc is brief, the damage is quickly done; by the time the parenting class is over or the free radical has de-stabilized itself, degeneration and combustion have already been set into motion.

## Conclusion

Ahmed writes, “If anything, the experience of being alienated from the affective promise of happy objects gets us somewhere. Affect aliens can do things, for sure, by refusing to put bad feelings to one side in the hope that we can ‘just get along.’ A concern with histories that hurt is not then a backward orientation: to move on, you must make this return” (50). As a newly divorced person, and therefore perhaps something of an affect alien (and perhaps a scapegoat), I’ve tried to attune myself to the ways in which the “bad feelings”—which I argue are at least partially rhetorically constructed by the legal process rather than wholly caused by the division of the marriage—become permanently inscribed upon the separating bodies. We need to recognize that such inscriptions, especially when their instrument of application is shame, negatively affect both the separating bodies and their children. One could argue that they affect everyone, since the percentage of the population touched by divorce is so significant. It is tempting to grit one’s teeth and charge through the divorce process until it’s over and then try to forget the whole experience. But I’ve tried, as Ahmed suggests, to “make the return,” to travel back through the journey in order to examine and question its affective elements.

It’s become a refrain to say *Divorce is too easy these days*. But people who have gone through it know that there’s nothing easy about divorce, and there never will be. And my argument is not that we should make it any easier. It is that we must “develop a critical rhetoric that articulates standards for good public discourse” (Roberts-Miller, “Democracy, Demagoguery” 460). “Good public discourse,” in the example of the Ohio Task Force’s report and the current processes surrounding divorce, might nudge those engaged in dialogue toward more nuanced and realistic conceptions of the totality of divorcing people rather than default to vilification and the creation of one-dimensional caricatures of those people as careless and neglectful troublemakers. It might move beyond personal bone-picking and stone-throwing like the rhetoric of Dr. Guidubaldi’s statement to instead focus on what sort of programs could truly help parents and children. Identifying and calling out the futility and affective cost of shaming rhetoric could make space for discourse generative of familial and societal growth.

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