

## Chapter 8

### KIDS, SIDS AND ETS

*We will never know how many smokers' lives we prolong . . . when we force them to do the right thing for themselves.*

— Glenn Barr of Americans for Nonsmokers' Rights<sup>1</sup>

*The trouble with aggressive nonsmokers is that they feel they are doing you a favor by not allowing you to smoke. They seem to think that one day you'll look back and thank them for those precious fifteen seconds they just added to your life. What they don't understand is that those are just fifteen more seconds you can spend hating their guts and plotting revenge.*

— David Sedaris<sup>2</sup>

THE CRUSADE AGAINST **smoking** has contributed marvelously to the disintegration of social harmony among Americans. But as the second quotation above illustrates, not only does at least one smoker fiercely resent the self-righteous meddling of “aggressive nonsmokers” (which is another term for antismokers), implicit in his statement is the acknowledgment that the antis are right: smoking kills. The loss of lifespan can in fact be measured down to a matter of seconds.

Without the silent complicity of smokers who, having bought the antismoking line along with everyone else, are guilt-ridden and apologetic about their habit, the crusade could not have achieved the success that it has. Some smokers have even bought more than is being peddled. Prochoice writer Martha Perske told me she met a woman, a smoker, who was surprised to learn that the official, medically endorsed line was that one out of three smokers dies prematurely from some “smoking-

related” disease. The woman had thought it was three out of three and was quite relieved to hear otherwise. One out of three seemed like pretty good odds to her.

But ah, that was the old estimate (although it continues to be used to frighten teenagers who smoke). A newer figure is one out of two. Famed British epidemiologist Richard Peto told the 10th World Conference on Smoking OR Health held in Beijing, China, in August 1997, that based on “more recent data,” lifelong cigarette use, particularly if begun before age 20, kills at least half of all smokers. Moreover, at least 25 percent die in middle age (36-69), losing on the average over 20-25 years of life.

Based upon these new data, Peto now estimates that smoking will kill more than 100 million people over the next 20 years, even if no new smokers take up the habit. (But around 50 million people die every year, which means that over the next 20 years, 900 million nonsmokers will die. Over the next 100 years, nearly every one of the five billion-plus human beings alive today will die. Why doesn't anybody worry about that?) Yet it could be worse. Even if a smoker quits in middle age, before getting incurable cancer or other serious disease, he will avoid most of the later risk of premature death, Peto said.<sup>3</sup>

Mrs. Perske's friend might still consider one out of two reasonably good odds, depending upon how hopelessly “addicted” she is to cigarettes. But ah again, the antis aren't going to let her get away with even that faint hope.

According to more “more recent data,” a study conducted at the University of Pittsburgh “suggests” that long-term smoking triggers a biological change that increases the risk of lung cancer *permanently*, even for ex-smokers. Smoking the equivalent of a pack of cigarettes every day for 25 years “appears” to encourage both healthy and mutated lung cells to multiply, increasing the odds of developing cancer, no matter how long ago a person stopped smoking.

“Once this switch is turned on, it appears to be permanent, which may explain in part why long-term ex-smokers who have not had a cigarette in over 25 years are still at high risk for getting lung cancer,” said Jill Siegfried, director of the study, which was published in the August 1997 issue of the *Journal of Respiratory and Critical Care Medicine*.<sup>4</sup>

The researchers found an abnormal protein on the surface of lung cells from heavy smokers. The protein, a gastrin-releasing peptide re-

ceptor, attracts a type of hormone that stimulates cells to divide. “The more cell growth you have, the greater the chance that one of those mutated cells will be the one that grows,” Siegfried said.

The harmful protein was not present in light smokers, but Siegfried said a larger survey would be needed to determine when irreversible damage sets in. (Translation: more grant money.) Other researchers said Siegfried’s findings were “significant.”

Commenting on the study, Vincent Miller, a lung cancer researcher at Memorial Sloan-Kettering Cancer Institute in New York, said it is the first to explain why ex-smokers are twice as likely to develop lung cancer as those who have never smoked.

Also commenting, Frank Cuttitta of the National Cancer Institute said that many smokers mistakenly believe that when they stop, their lungs will eventually become healthy again. This study shows why that doesn’t happen, he said.

This Siegfried study confirms an earlier one that was presented before a meeting of the American Society of Clinical Oncology in Los Angeles in 1995. In an analysis of 685 lung cancer patients seen at Brigham and Women’s Hospital in Boston between 1988 and 1994, Dr. Gary Strauss reported that 41 percent of the victims were current smokers and 51 percent were former smokers. The former smokers diagnosed with lung cancer had stopped smoking an average of six years before, and a quarter of them had been off cigarettes for more than 20 years.<sup>5</sup>

(Which prompted a reader of *The Atlanta Journal-Constitution* to write: “A recent article titled ‘Half of lung cancers strike former smokers’ left me unable to decide whether I’m sorry I ever started smoking or sorry I quit. So instead, I decided to be sorry I let the statisticians suck me in again.”<sup>6</sup>)

So there we have it. It *couldn’t* be worse. Mrs. Perkse’s friend might as well just smoke and enjoy; she’s doomed whatever she does. (Does it never occur to antismokers that pushing their propaganda to the ultimate extreme might backfire?)

IN NO AREA HAS the crusade against smoking achieved greater success, among smokers and nonsmokers alike, than in the matter of ETS—so-called “environmental tobacco smoke,” also known by the emotion-laden terms “secondhand smoke,” “passive smoking,” “involuntary

smoking.” As early as 1992, a year before the Environmental Protection Agency officially released (as opposed to leaking) the infamous study that was the subject of Chapter 6, an Associated Press telephone poll of 1,000 adults found that fully two out of three of them were worried that exposure to secondhand cigarette smoke could cause serious health problems, especially cancer. A slight majority, 54 percent, also favored bans on smoking in public places.

“The public is clearly sensitized to the health effects of secondhand tobacco smoke,” commented Scott Balin, a spokesman for the Coalition on Smoking OR Health, made up of the American Heart Association, the American Cancer Society and the American Lung Association.<sup>7</sup>

“Sensitized to” is an understatement in light of developments since that poll was taken. “Hysterically panicked about” would be closer to the mark today.

When the ETS issue was discovered—make that invented—by the antismokers, I used to wonder why, if secondhand smoke was so bad for nonsmokers, it wasn’t even worse for smokers. After all, the latter not only breathe in firsthand smoke but their own secondhand smoke on top of it, and not just occasionally but more or less all day long. Thanks to medical science’s dedicated and indefatigable researchers I learned the answer. According to a study in the April 5, 1995 *Journal of the American Medical Association*:

Regular smokers are chronically and continually adversely affecting their cardiovascular systems which, in turn, adapt to compensate for all of the harmful effects. Nonsmokers do not have the benefit of this adaptation, which offers some protection. This means that nonsmokers exposed to secondhand smoke are actually more vulnerable to injury from secondhand smoke than regular smokers.<sup>8</sup>

But this only raises other questions in my mind. The fact is that *all* smokers were at one time nonsmokers, and at least 99.999 percent of them must have been exposed to secondhand cigarette smoke to some degree before they became smokers, which means during their childhood years when presumably they would be most susceptible to the adverse health effects. Even if they miraculously escaped such exposure, they were certainly exposed to their own secondhand smoke when they first started smoking, also usually at a young age. How did they

escape the injury to which even adult nonsmokers are allegedly more vulnerable than smokers? Were they injured by secondhand smoke but the injury was somehow repaired or mitigated when they became regular smokers? If regular smokers can “adapt” to firsthand smoke, which is infinitely more concentrated with suspected poisons than secondhand smoke, why can’t nonsmokers “adapt” to the latter? Might they possibly benefit from *more* rather than less exposure to secondhand smoke?

The real answer, of course, is that the antismokers will go to any lengths, however illogical, to promote fear of tobacco smoke among nonsmokers.

My wife and I travel a lot around the country, and everywhere we stop I like to get a copy of the local newspaper to catch up with the latest antismoking news. (News about smoking is always antismoking news.) Invariably, wherever we stop, small city or large, if there is not an article reporting “the latest study” about smoking there is an editorial or an op-ed column or a letter to the editor. In 1992, the year of the AP poll, we were in California, where I found the following letter from a reader of the *Conejo Valley Daily News*:

It is high time that smokers realize that our land of freedom includes the right of nonsmokers to our health. We don’t invade the private right of smokers to inhale carbon monoxide—thereby devastating their bodies in their homes—but we ask them not to deprive us of our pleasures.

Why should we be exposed to the smokers’ lifestyle and have to put up with secondary smoke inhalation and smelly clothes? It is well known by now that thousands of people die of lung cancer due to the smoking habits of others, plus the fire dangers in homes and forests. It is only fair that nonsmokers demand that public places be free of smokers’ intrusions on our rights.<sup>9</sup>

Conejo Valley is hard by Los Angeles, which is not renowned for the purity and health-enhancing quality of its air. One wonders if the writer was as concerned about the tons of carbon monoxide (not to mention the formaldehyde, sulfur dioxide, benzene, polycyclic hydrocarbons, butadiene and on and on) which, despite California’s strict emission requirements, are spewed into the environment around the clock by the “driving habits of others” (and probably by his as well), the proud owners of the millions of automobiles that populate the area.

More than likely, though, he would agree with a fellow who sent a letter to the Sarasota, Florida, *Herald-Tribune*:

I must take issue with the letter writer from Bradenton who questions the danger of secondhand smoke but feels pollution from smokestacks, cars, etc., is more of a problem. Nothing could be further from the truth.

Nothing compares to the deadliness of secondhand or passive tobacco smoke. Chemical analysis shows it to contain not only carbon monoxide and nicotine but also 43 known carcinogens, or cancer-causers. If tobacco were a new product today, it could never pass the safety tests required by either the Environmental Protection Agency or the Food and Drug Administration. Tobacco is the only “legal” product that not only kills the user but also the innocent bystander when used as directed.<sup>10</sup>

The famous Dr. Pavlov, who conditioned dogs to salivate at the ringing of a bell, had nothing on our modern antismokers. They’ve got people so frightened of secondhand smoke that the mere mention of it starts “innocent bystanders” foaming at the mouth.

It was also in the course of our travels, long before I dreamed of trying to write a book about smoking, that I first encountered what to me was a curious and silly thing—nonsmoking motel rooms. When or where this was I don’t remember, but my family and I had stayed at dozens of motels over the years, with ashtrays and matches as standard furnishings in every room. Now, all of a sudden, people were demanding “smoke-free” rooms? I half-suspected that it was really nothing more than catering to the propaganda-inspired prejudices of nonsmokers. Surely, I thought, if a room was properly cleaned and aired, no one could tell that it had been smoked in by a previous occupant.

Of course, this was before I became aware of the amazing ultrasensitivity to tobacco smoke that was manifesting itself in the nonsmoking population. Later, a former neighbor of ours, an ex-smoker who frequently traveled by automobile on business, assured me that he could indeed tell if a motel room had been smoked in. “I can smell it on the pillows,” he said. I didn’t ask him what kind of establishments he frequented that didn’t change the bed linens between customers. But then, such is the penetrating power of tobacco smoke that it evidently impregnates and contaminates the pillows themselves, not to mention the mattress, the carpet and the very walls. Funny, though, that nobody ever noticed this years ago, or if they did, said nothing about it.

I ask again: where *were* these sensitive people before a string of surgeons general told us that tobacco smoke kills, both the user of tobacco and the innocent bystander alike?

Could people *really* tell that a room has been smoked in the day before? I put this question to the clerk at an Econo Lodge in Bloomington, Minnesota, in 1996. A lady ahead of me had been upset that smoking rooms were the only ones currently available. She reluctantly agreed to stay in one only on the promise that she would be transferred to a nonsmoking room the next day. Yes, the clerk told me, they can tell. I could only shake my head in wonderment. I have detected a lot of strange smells in motel rooms and, although I am obviously desensitized to tobacco smoke, I think I would rather put up with that than a number of other odors I could name.

Today, as simple good business, just about every motel and hotel in the country offers nonsmoking and smoking rooms (the latter, I have observed, usually way down toward the rear of the building at motels or on an upper floor). And today, while I have learned to request a smoking room, I carry my own ashtray with me just in case. On one occasion, in Richmond, Virginia, I had reserved a smoking room at a Comfort Inn, only to discover after we had deposited all our belongings that it was nonsmoking. Rather than to have to go to the desk and try to get another room and move everything to it, I simply used my ashtray. Did the next occupant have a conniption and was the room thereafter rendered unfit for nonsmokers? I will never know.

A car that has been smoked in is also evidently forever tainted. (It's sort of like the "B.O. Entity" that infected Jerry Seinfeld's car in one episode of his TV show and was impossible to get rid of.) This is another phenomenon that began to come to my attention in the early '90s—smoke-free rental cars. "[T]he smoke-free rental car has roared into South Florida, one big parking lot for some of the world's largest rental car fleets," said an article in my trusty *Atlanta Journal-Constitution* (you can trust it to report anything unfavorable to smoking).<sup>11</sup> The article continued:

The latest: No. 1 Hertz, where 80 percent of the fleet has gone smokeless in recent months. Customers, the company concluded, had a burning desire to rent cars never befouled by the smothering stench of a stogie, cigarette or pipe.

"Yep, that was the whole motivation," said Susan Carney, a Hertz

spokeswoman. “Customers wanted it. And we like happy customers.”

In the beginning, Thrifty was the only smoke-free chain, offering smoke-free cars in the late '80s. The company even takes out the cigarette lighters.

What if someone smoked in a nonsmoking Hertz rental car? “We just take the car and put it in our smoking fleet,” Ms. Carney said.

(That mention of cigarette lighters relates to another development in our smoke-free world—the manufacture of cars without ashtrays. In 1993, Saab announced that it was going to charge buyers of its new 900 model \$45 if they wanted ashtrays.<sup>12</sup> The following year Chrysler announced that its Dodge Stratus and Chrysler Cirrus models would offer ashtrays only as an option.<sup>13</sup> Happily, however, there will always be cigarette lighters, or at least receptacles for them, because the outlets can be used for other purposes, such as the ubiquitous cell phone, which as a precipitator of accidents has already probably eliminated more cars from the nation’s active fleet than any amount of smoking in them.)

As Florida went, so, unfortunately, went the nation. After my brother retired and moved from Ohio to California in the mid-1980s, he and his wife operated an Avis agency for several years. They did the same thing; if they found evidence of smoking in a returned nonsmoking car, they simply reassigned it as a smoking car. The evidence, of course, was butts in the ashtray and/or burn marks on the upholstery. Because both he and his wife are smokers, they are physiologically incapable of detecting lingering tobacco smoke odor. (They’ve also told me stories of cars returned by smokers and nonsmokers alike showing far worse abuse than having been smoked in, but that is outside the scope of this book.)

This suggests something we smokers can do to FIGHT BACK! Let’s all rent a nonsmoking car and smoke up a storm in it. If enough of us do it, and do it often enough, there won’t be any nonsmoking cars left and the poor nonsmokers will be up the proverbial creek without a paddle—or without wheels anyway.

Here again, as throughout this book, my own experience runs counter to the commonly known “facts” about the consequences of smoking. In 1994, after I traded in my '88 Olds “88” for a new one, having smoked in it for six years and 60,000 miles, I got a call from the new owner, who had apparently obtained my telephone number from



the dealer. He had bought it as a second car for his wife and he just wanted to tell me how pleased she was with the good shape it was in. The interior looked like it had never been used, he said.

This told me that the new owners either were smokers themselves or olfactorily impaired nonsmokers. Or maybe it simply testified to my diligence in cleaning up the car for trade-in. (But if I could do it, why couldn't rental agencies?) Fortunately, I'd never dropped a cigarette on the carpet or seat to leave a telltale sign that the car had been smoked in. Unfortunately, however, shortly after taking possession of my '94 "88," I not only did drop a cigarette, leaving a burn mark on the floor mat on the driver's side but, while throwing a butt out the window, left a scar on the sun visor. Which means that when the time comes to trade this car in, the dealer will be stuck with it unless he can sell it to a smoker—assuming dealers will continue to accept trade-ins from smokers, assuming there will be any smokers left.

WHICH ALSO PROMPTS the first and only digression in this chapter. Cigarette butts. The careless disposal of them is something for which smokers are rightly criticized. Though I have never emptied an ashtray in a parking lot, as far too many smokers seem compelled to do, I would routinely and unthinkingly use the public roadway as a convenient receptacle for a burned-down cigarette, until one time a few years ago I was admonished about it by my wife. Since then I have faithfully used the ashtray, which I periodically empty into the garbage can in our garage.\*

The fact that we live on a corner lot at an intersection with four-way stop signs has also raised my consciousness on this subject. Along with causing drivers to slow their heady pace just a bit, the stop signs

\*It's not just a litter problem or a forest fire danger but, at least in California, has other untoward consequences. According to a posting I found on the World Wide Web, "Lit cigarette butts . . . fly through open windows into cars or land in the back of trucks. In a column in the *Los Angeles Times*, readers described how they or their cars were burned by these missiles. One driver had a butt fly into her car and burn her leg. Another had her truck destroyed when a butt landed in the back which was loaded with furniture."<sup>14</sup> The article included the author's e-mail address, so I wrote and asked him for the date of the newspaper column but never heard back from him. I can, again, only express wonderment that flying cigarette butts was never a reported hazard before we learned that smoking kills.

also seem to alert them that this is a good place to dispose of their cigarette butts, which the prevailing winds blow onto my property. (Most of them are Marlboros—another crime that can be laid to the door of Philip Morris.) Even so, I'd rather pick up cigarette butts off my lawn than deal with the frequent calling cards left by some of my fellow neighbors (by their dogs, that is) as they stroll by with their pets, many of whom (the owners, that is) are possibly nonsmokers and none of whom has apparently ever heard of a pooper scooper.

Coincidentally, at the very time I was writing this chapter, a Sunday edition of the comic strip “For Better or For Worse” revolved around both issues. It showed a couple walking their dog along a beach and conscientiously collecting its dropping in a bag and disposing of it in a trash container. Then they stroll past another couple who are sitting on a log smoking. Dozens of cigarette butts litter the sand at their feet. As the first couple passes, one of the smokers comments: “Man, if there’s one thing I can’t stand, it’s guys who take their dogs to the beach!!!”<sup>15</sup>

The message of course was that smokers are a messy, inconsiderate lot. But it also illustrated something else that the author probably did not intend: even where smokers are allowed to smoke outside—and the number of such places is dwindling—butt cans are seldom provided for them. (One would have been handy by that log because that one couple couldn’t have been responsible for all those butts.) Whether or not most smokers would use such receptacles is an open question. The fact remains that they are simply not provided. In any case, are cigarette butts worse than discarded beer bottles and soft drink cans?

This wasn’t as much of a problem when most cigarettes were unfiltered. When I was in the Army we were required to “field strip” our butts under penalty of having to police the drill area. First you’d knock the coal off, then tear open the cigarette and scatter the tobacco to the wind, then roll the paper into a tiny ball about the size of a BB and flip it away. I don’t know what the Army does now if you drop a filtered butt on the ground. Probably court-martial you.

Smokers have been making life difficult for nonsmokers in other ways as well, as indicated by a letter to *The Atlanta Journal-Constitution* from a citizen of Marietta, Georgia:

I, for one, am simply no longer willing to sit in a restaurant trying to eat dinner while someone blows smoke in my face; to

have my silk blouse burned by a careless smoker waiving [*sic*] their arm to gesture; to have match heads pop in my lap by a client at lunch; or to have to send everything I had on to the cleaners because I attended a business function after work.

Thank you to all of the places where I do business because you are smoke-free facilities.<sup>16</sup>

Popping matchheads. Now that's a hazard I never thought of. (And, incidentally, how come cleaners can remove the odor of tobacco smoke from clothing but motels and car-rental agencies can't remove it from rooms or cars?) Of course, most of the problems the writer encountered could be minimized, if not by the spirit of "accommodation" between smokers and nonsmokers that the hapless cigarette companies advocate (and for which they are sneeringly ridiculed simply as a matter of course), at least by providing separate smoking and non-smoking sections in restaurants.

This has been the solution in most parts of the country, where it is left to the proprietors of such establishments to decide, on the basis of their customers' preferences and what they consider is best for their own businesses, whether or not to have such sections. Two major exceptions are Maryland (the "Free State"), where smoking is almost universally banned in restaurants, and California, where on January 1, 1998 its restaurant ban was enlarged to include even bars.

But according to comedian, musician, song writer, author, raconteur and all-around genius Steve Allen (that's a sincere compliment), to say that customer preferences should rule on this issue is to embrace "the marketplace fallacy"—the argument that the marketplace (that is, the people who patronize restaurants) should determine whether non-smoking sections are desired. There are some important problems with this argument, he says:

"The marketplace should not decide public health problems. We don't let the marketplace decide about outdoor air pollution, and shouldn't let it determine the quality of air indoors. The issue is health—not preferences. When it comes to health, governments are obligated to protect people."<sup>17</sup>

He cites the examples of child safety seats in automobiles, laws regulating the removal of asbestos from buildings and mandatory immunizations for children entering school.

A lot depends, however, on whether some perceived "public

health” problem really is a problem that can only be handled by laws and regulations, and on where you draw the line between the legitimate role of government and nanny-state health paternalism. In the case of secondhand smoke, the real and only problem with it is the corrupt science behind the official statistics, which Allen and others who hate smoking eagerly accept at face value.

(As for outdoor air pollution, even here there are certain market-place solutions, such as allowing industries that perform better than federal standards to sell their emissions permits to other companies, thus giving all of them financial incentive to clean up their acts.)

Allen further argues that banning smoking in restaurants, as well as in workplaces, actually does a favor for smokers. For one thing it helps them to quit. For another, “smokers don’t like being asked not to smoke when they light up; nonsmokers’ rights laws eliminate that problem.”<sup>18</sup>

So you see, smokers, at bottom the militant nonsmokers really have your convenience at heart. Isn’t that nice of them?

By making that statement Allen demonstrates that he embraces a rather arrogant fallacy of his own—the idea that all the restaurants in the country are community property and are and of right ought to be exclusively for the enjoyment of nonsmokers.

Inevitably, the adamant refusal of antismokers to countenance reasonable accommodation for smokers will inspire restaurants and bars to come up with ingenious solutions. One example is in California, exemplar for the nation with its all-encompassing public antismoking law.

“[A]t least one Bay Area brewpub is taking the lead in figuring out how to get around the stringent Schmoking Ist Verboten law that went into effect in California last week,” wrote Bill Citara, food and wine critic for the *San Francisco Examiner*.

Down in San Mateo, Barley & Hopps brewery-restaurant-night club has spent \$30,000 constructing a classy (and thoroughly legal) Cigar Bar & Smoking Lounge . . .

In order to comply with provisions of the law that prohibit indoor smoking in the presence of employees, the lounge is equipped with an intercom system that patrons can use to place orders at the bar. Their order is then delivered outside the lounge door, where customers can step out of the room to pick it up. Not exactly the epitome of service, but, hey, we’ve all gotten used to pumping our own gas, and we’ll eventually get used to this, too.<sup>19</sup>

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THE FOREGOING NONSENSE about rental rooms and cars and cigarette butts, and even restaurants, is of less than earthshaking importance. Not so the accelerating tide of smoking prohibitions in offices and other places of work. While the Associated Press poll cited above reported that two-thirds of those polled were concerned about the danger of secondhand smoke and 54 percent favored bans against smoking in public, it also reported that another slight majority (more than 500 out of the 1,000 polled anyway) believed that smoking bans in the workplace should be decided by employer and employees, not by law.

This shows how outdated that poll is. Today there is no such thing as accommodation in the workplace. (Well, possibly a few places where it is not prohibited—so far—by the law's majesty.) It is in this area of American life that the antismoking crusade, fueled by the hysteria over ETS, has attained to the uttermost reaches of insanity.

It is one thing for smokers to be continually and continuously chided, criticized, chastised, castigated and condemned for their nasty habit. They can live with that. It is quite a different thing to deprive them of one of the basic rights accorded every other American of whatever race, creed, political persuasion or mental or physical handicap. I don't mean the right to smoke anywhere or anytime they want. There never was such a right. I mean the simple right to earn a living.

A list of companies that refuse to hire smokers, or which make a pledge of not smoking, *even at home*, a condition or precondition of employment, would be as long as this chapter. In Atlanta, the entire Ted Turner empire—CNN News, Turner Television and its subdivisions—is one. Lockheed Aircraft in nearby Marietta is another. Elsewhere in the nation there was Motorola, which tried to forbid smokers from smoking in their own cars in the company parking lot, until employee complaints and adverse publicity forced them to reverse the ban.<sup>20</sup> The case is notable in being one of the few times the American Civil Liberties Union (ACLU) has taken a stand on behalf of smokers. Motorola employees still must go outside to smoke, however.

At Pratt & Whitney in East Hartford, Connecticut, employees cannot smoke inside any of the company's buildings and are restricted to where and when they can smoke outside on company property, and only on their lunch hours and before and after their shifts. They are not

allowed to smoke on other breaks. Smokers are also charged \$500 more a year for health insurance than nonsmokers.<sup>21</sup>

At the New Brunswick Scientific Company, a maker of biotech equipment in Edison, New Jersey, the company's chairman, David Freedman, says he allows any of his 350 employees to smoke outside the building on the company property, but he was thinking of banning that because "People who smoke spend a lot of their time outside smoking, so they have a great deal more time off than the nonsmokers." His company also charges smokers more for their health coverage.<sup>22</sup>

It has apparently never occurred to Mr. Freedman that a smoking lounge inside the building could help cut down some of that wasted time. But a properly ventilated smoking lounge that would meet federal standards would cost money; it's much easier simply to ban smoking entirely. After all, given a choice between smoking in poverty or not smoking and earning a living to support his family, even the most addicted smoker would rather work than smoke. As for allowing people to smoke on the job at their desks or work stations, even if the company would benefit from higher productivity—don't be ridiculous. Those days are long gone.

I can't explain how it ever happened (maybe the "all-powerful" tobacco industry is behind it), but according to Action on Smoking and Health (ASH), in reaction to this kind of unjustifiable discrimination some 28 states and the District of Columbia have passed laws that prohibit companies from refusing to hire smokers,<sup>23</sup> a development the American Cancer Society calls "unfortunate." In other states, however, such legislation has been defeated.

In Florida, Gov. Lawton Chiles vetoed a smokers' rights bill, saying he saw no reason to bring smokers under the same umbrella that protects people from discrimination in employment and housing. "We should not trivialize people's fundamental civil rights with an unnecessary new class of 'smokers,'" he declaimed.<sup>24</sup>

In Virginia, Gov. L. Douglas Wilder used similar language in vetoing a similar bill. "It is creating a special class of people that would be given protection that others were not entitled to," he said.<sup>25</sup>

Apparently these two governors felt it was all right that existing antidiscrimination law had created all kinds of special classes of people, just as long as they weren't smokers.

In Georgia, a bill that would have prohibited companies from hir-

ing or firing people on the basis of whether they smoked or not was passed by a committee on the House side of the legislature but didn't go any further. Introducing a similar bill in the Georgia Senate, its sponsor conceded that it would be defeated, but antismoking spokespeople testified against it for three hours anyway.<sup>26</sup>

More importantly, the courts, which usually have the final say, have ruled that requiring smokers to stop smoking as a precondition of employment is perfectly legal. Two examples cited by Action on Smoking and Health:

In *Grusendorf v. City of Oklahoma City*, 816 F.2d 539 (10th Cir. 1987), the U.S. Court of Appeals held that it was constitutional for a city agency to require employees to sign an agreement as a precondition of employment that they will not smoke a cigarette, either on or off duty, for a period of one year from the time they began work. (Does this mean they can start smoking again after the year is up?) It also held that the city was justified in firing a trainee firefighter for smoking a cigarette during his lunch break because its no-smoking regulation had a legitimate purpose in promoting health. (Had the guy been caught eating a bag of fat-and-cholesterol-rich potato chips, he'd still have his job.)<sup>27</sup>

In *City of North Miami v. Kurtz*, 653 So.2d 1025 (1995), the Supreme Court of Florida held that it was constitutional, under both the U.S. and the Florida constitutions, for the city to adopt a regulation requiring job applicants to sign affidavits, as precondition of having their applications considered, stating that they had not used tobacco in the preceding year.<sup>28</sup>

Surely such decisions would not stand up on appeal to the big guys in Washington, you might think. Think again. On January 3, 1996 the Supreme Court of the United States let stand the Florida Supreme Court's decision in the North Miami case. According to "The Daily Report of Tobacco News" on the Internet:

The case was brought before the [Florida Supreme] court on behalf of Arlene Kurtz, a smoker who in applying for a clerk-typist job with the city (population 50,000) refused to sign a newly required statement averring she had not smoked or used any tobacco products during the previous 12 months. Her interview was terminated, and she was not hired.

The 1990 policy, applicable to new hires only, was adopted to save money on medical coverage, due to smokers' costlier medical bills, ac-

ording to the city. Ms. Kurtz, 52, had been smoking for 30 years and challenged the policy as embodying constitutional violations of privacy and due process. She won her case in appellate court but lost when it was brought before the Florida Supreme Court in 1995.

The justices in that case ruled 5-2 that Kurtz had no expectation of privacy as a smoker—smokers are constantly asked to disclose their habit, as in hotels and restaurants. Furthermore, the court said, the city’s interest in reducing medical costs was a valid reason for the rule.<sup>29</sup>

Florida rivals California in antismoking idiocy (too much exposure to the sun?). When in July 1997, Brian Morrison, 23, applied to the police force in Boca Raton, which bans tobacco use by its employees, a polygraph test revealed that he had puffed on a cigar six months before, thus dooming his chances of becoming a police officer.<sup>30</sup>

“I figured the rule applied to smokers, and I’m not a smoker,” said Morrison. “I had a cigar at my [college] graduation and at a friend’s birthday party. I didn’t think it counted.”

Morrison’s tobacco use was the primary reason he was disqualified, said police spokesman Eric Lawrence, but added that even without that he would have been disqualified for other reasons. No doubt that made the young man feel a little better about his reckless behavior.

What if a smoker is healthy and able-bodied, as Ms. Kurtz evidently was, even after 30 years of smoking? It doesn’t matter, for incontrovertible (yeah, right) studies have proved (sure) that smokers as a class cost employers money because of absenteeism due to “smoking-related” illnesses, as well as accidents. Thus smokers are the only people in America, other, perhaps, than homosexuals, against whom it is legally permissible to discriminate as individuals on the basis of the popular stereotype of the group to which they belong.

The U.S. Supreme Court’s refusal to hear the Kurtz appeal does not necessarily set a precedent (individual states can still pass smokers’ rights laws), though it certainly does not bode well for any smoker who dares to challenge a firing or a nonhiring. Yet it could be worse. That is, we have not yet reached the point where a potential employee is required to swear, à la suspected Communist sympathizers in the McCarthy era, under penalty of fine and/or imprisonment or at least loss of career, reputation and livelihood: “I am not now using nor have I *ever* in my life used a tobacco product.” But be patient.

In fact, it’s already worse in other ways. Not only do smokers have



no right to work. Not only do smokers have no expectation of privacy. But even though every medical authority in the known universe agrees that smokers are addicted to their habit, smokers have no right to claim such addiction as a “handicap”—even though nonsmokers have been allowed to claim that their *aversion* to tobacco smoke is a “handicap” and have been accorded “accommodation” (that is, the right to stick it to their employer or the taxpayers) for such claims. Again I am indebted to ASH for the following information:

The Americans With Disabilities Act (ADA) of 1990 (42 USC §§ 12101 et seq.) is one of two federal employment laws which protect the disabled, says ASH. The other is the Rehabilitation Act (RA) of 1973 (29 USC § 794), which specifically applies to handicapped persons. “The terms ‘disabled’ used in the ADA and ‘handicapped’ used in the RA were described by the Congressional (House) Committee concerned as ‘comparable.’

“The following are examples of cases where a federal court or federal agency decreed that a sensitive nonsmoker was a disabled (then termed ‘handicapped’) person who was eligible to ask for reasonable accommodation under the Rehabilitation Act. Such cases are precedents for similar requests under the Americans with Disabilities Act.”

*Parodi v. Merit Systems Protection Board*, 690 F2d 731 (9th Cir. 1982). “The U.S. Court of Appeals for the 9th Judicial Circuit held that a sensitive federal government employee who suffered from exposure to tobacco smoke in the workplace was entitled to disability benefits unless the government could show that an appropriate substitute position was available. As no appropriate position was available, the case was settled on the basis of the employee receiving a disability retirement pension plus a \$50,000 lump sum payment.”

*Vickers v. Veterans Administration*, 548 F. Supp. 85 (1982). “A federal District Court held that a federal employee whose hypersensitivity to tobacco smoke limited his capacity to work in any environment which was not completely smoke-free was a ‘handicapped person’ for the purpose of the Rehabilitation Act, but that his employer had, in fact, made reasonable accommodation.”

*Flaniken v. Office of Personnel Management*, U.S. Merit Systems Protection Board, Dallas Field Office. No. DA831L1001 (1980). “The MSPB found that a sensitive federal government employee was entitled to a

disability retirement annuity where [*sic*] she had contracted chronic laryngitis caused by cigarette smoke and environmental pollution.”

*Pletten v. Department of the Army*, U.S. Merit Systems Protection Board Nos. CH07528010099, CH01520 2901 (1981). “The MSPB found that a tobacco-smoke sensitive civilian Army employee was a ‘handicapped person’ for the purpose of the Rehabilitation Act and that he was accordingly entitled to reasonable accommodation to [*sic*] his handicap.”<sup>31</sup>

Antismoking case law is accumulating in the private sector as well. For example, in Des Moines, Iowa, a furniture salesman named David Chico was awarded unemployment benefits after he quit his job because of his coworkers’ smoking which, ruled an administrative law judge, created “unsafe, intolerable and detrimental working conditions attributable to the employer.”<sup>32</sup>

So it would seem that the rights of the tobacco-smoke-sensitive nonsmoker are pretty well established. As for the rights of the “addicted” smoker, again from ASH:

A New York [State] appellate court has ruled unanimously that smokers are not entitled to protection against discrimination as “addicts” or as “disabled persons,” even if they only smoke in their own homes and not on the job.

The ruling reversed an order requiring the Fortunoff department store chain to pay \$10,000 to a job applicant who smoked at home.

The court said that the defendant’s status “as a smoker outside the workplace,” standing alone, is not enough to establish a disability under state anti-discrimination law. The court’s decision was also based upon:

- an opinion issued by the U.S. Office of Contract Compliance, the agency responsible for enforcing the federal Rehabilitation Act, that a smoker is not a “handicapped” person;
- the New York State Attorney General’s position in another suit that, under the anti-discrimination statute, smokers are not disabled;
- a separate statute designed to cover this specific situation.

Action on Smoking and Health (ASH), a national nonsmokers’ rights organization, hailed the ruling, saying that it may help put an end to claims that there is some kind of right to smoke—whether the smoking occurs in public, in a private office, *or even in the home* [emphasis added]—or that there is some requirement that smokers be protected or accommodated . . .<sup>33</sup>

“We have a right to make a decision to protect the health and well-being of our customers and associates,” said Louis Fortunoff, explaining the smoking prohibition at his family’s chain of New Jersey housewares stores.<sup>34</sup>

Mr. Fortunoff certainly has that right. But just how a potential employee’s smoking at home would threaten the health and well-being of his company’s customers and associates is not clear. It’s not as if smokers were modern Typhoid Marys bearing communicable diseases.

What *is* clear is that the antismokers can neatly have it both ways. They can claim that smokers are hopelessly addicted to their habit when it suits one purpose—charging the cigarette companies with inducing, manipulating and maintaining that addiction. They can claim that smokers are *not* addicted when it suits another purpose—denying them the right to participate in the same game nonsmokers enjoy: picking somebody else’s pocket.

Am I alone in this, or is it not passing strange that the courts have ruled in some cases that an employer may not refuse to hire someone with a criminal record, or have required an employer to rehire a worker who was fired because he had a “disability” that prevented him from showing up for work on time, yet the terrible, terrible addiction to nicotine is not allowed as a “disability”?

The ASH press release also doesn’t give the date of the New York court’s decision, but it was in December 1995 that the U.S. Labor Department set a precedent in the field of workers’ compensation law. That month the department ordered the Veterans Administration to pay the widower of a deceased VA nurse \$21,500 year—half her salary—until his own death.

According to the Associated Press report, “For 18 years, Mildred Wiley was a nurse in the psychiatric ward at a Veterans Affairs hospital, caring for patients who smoked so much that she often worked in a blue haze.”

Mrs. Wiley was a nonsmoker. The Labor Department ruled that secondhand smoke was partly to blame for her death from lung cancer in 1991. It was the first workers’ compensation case in the nation linking secondhand smoke to a cancer death.<sup>35</sup>

What proof did the department have that secondhand smoke contributed to Mrs. Wiley’s death? Another silly question. No proof was needed, for we *know* that secondhand smoke kills nonsmokers. The EPA has told us so and the EPA never lies, it just promulgates untruths.

Unfortunately, now that smokers have been nearly universally banished from the workplace and from public life, it is going to become more and more difficult for other nonsmokers, or their survivors, to get in on this lucrative game. But that's one of the prices that will have to be paid for a "smoke-free society."

AS THE PRATT & WHITNEY and other examples above suggest, one of the excuses for discrimination against smokers in the workplace is their alleged higher health costs. This is a subject I address in Chapter 12. The real rationale (and I apologize for using that word to describe acts of pure unreason) behind it, the fundamental motivating factor, is purely and simply the fear of ETS. And nowhere has that fear been taken to the uttermost extreme than by a company in the little town (population less than 2,000) of Wilton, New Hampshire (one of the states with an apparently meaningless "smokers' rights" law). Rather than paraphrase, I'll repeat the whole story as it was posted on the World Wide Web by San Francisco-based FORCES<sup>36</sup> (parentheses in original):

New Hampshire, August 6, 1996—It has recently come to light that a private company, Kimball Physics, a manufacturer of high-tech components such as electronoptics and ultra-high vacuum equipment, has had not only a no-smoking ban in place in the workplace, but something far worse.

According to the Rules (listed in full below), they forbid any employee or visitor to enter the plant that has smoked within two hours of entering the facility because they have been "tobacco contaminated" and may have tobacco residue on their persons.

According to Dr. Chuck Crawford of Kimball Physics, the policy has been in place for nearly three years (since 1993). Prior to that, they had an indoor smoking ban only. However, some of their employees "claimed" that they were getting headaches and asthma attacks from the residual smell of smoke on smokers. In response to this, the management and employees opted to go to their current policy of not allowing anyone into the plant that has been tobacco contaminated within two hours of entering the plant.

Crawford said that the policy was put in place to protect employees' health. He said "new data" show the residuals from tobacco are more dangerous than anyone believed (more dangerous than the smoke itself). He stated that he has this from the best scientific source—papers published by Dr. James Repace of the EPA.

When Dr. James Repace at the EPA was contacted, he told our source that he had never published a paper nor written a report on

the topic . . . “But it’s true,” he said. “Nicotine itself is not a carcinogen . . . it’s toxic. Everyone knows that.” He also stated that he never sent Dr. Crawford anything written but maybe told him this information over the phone.

The problem with Kimball’s company policy is that it is not based on “scientific” fact. They are using anti-smoking bias to control the lives of their employees by extending the ban outside the company. They do this by using the “tobacco residue” excuse to further limit smoking of their employees outside company time.

What is even more distressing is that Dr. Repace (an avid anti-smoker) is using his position at the EPA and his “expertise” to promote anti-smoking bias and unscientific facts. Dr. Repace should be held accountable for expounding [*sic*] such personal opinions as facts to use against smokers and the civil liberty to smoke.

Through our information network, there is no study ever researched or report ever written about the toxicity of tobacco residue. Dr. Crawford at Kimball Physics and Dr. James Repace should produce evidence of such a misleading and dangerous statement. They should be held accountable for any untrue scientific statement that may have deep ramifications of [*sic*] innocent people because of this.

How far will the anti-smoking agenda go to eliminate smoking—as far as it takes to achieve that. Even if it means lying and propaganda to achieve this goal.

FORCES then posted the rules adopted by Kimball Physics and its frightened employees:

(1) No tobacco use is permitted inside any Kimball Physics building, structure, or motor vehicle. Further, no tobacco product, by-product, or product accessory shall be brought into any Kimball Physics building, structure, or motor vehicle. No tobacco use will be permitted at any Kimball Physics function, party, trade booth, off-site meeting, or other sanctioned gathering under company control.

(2) No tobacco use is permitted outside of Kimball Physics buildings or structures on Kimball Physics owned, co-owned, or leased property. Proscribed areas include entry areas, parking lots, grassed areas, fields, woods, and all other areas where Kimball Physics exercises legal control. No tobacco use is to be permitted inside any motor vehicle while on Kimball Physics property, irrespective of whether such vehicle is in motion or parked, and irrespective of who the owner of such vehicle may be.

(3) Except as provided below, no tobacco contaminated person or object shall be permitted inside any Kimball Physics build-

ing, structure, or motor vehicle. A person or object emitting the characteristic residual particulates or vapors associated with tobacco combustion shall be considered a-priori [hyphen in original] contaminated. A person who is a tobacco user, and who has used a tobacco product within the previous two hours, shall also be considered a-priori contaminated. This rule shall not apply if: (A) An emergency of any sort is in progress; (B) It can be shown that protective measures have been implemented, such that others are not exposed to the tobacco residues (and management, in its sole discretion, agrees as to the efficacy of those measures); or (C) Some suitable corrective action is in progress (such as a person changing clothing, or using company showers to wash contaminated hair).

(4) The tobacco exclusion rules shall apply equally to co-workers, managers, customers, vendors, and visitors, while in the buildings or on the property as defined. All persons entering the property shall as far as practical, be politely informed of the existence of the rules. It is the responsibility of each manager and co-worker to inform visitors under their control as to the substance of the rules. Persons unwilling or unable to abide by the rules will be requested to temporarily transact their business elsewhere. Persons who repeatedly violate the tobacco exclusion rules, or who willfully expose others to tobacco, tobacco combustion products, or to low level tobacco residues, will be permanently expelled from the property.

*“No tobacco product, by-product, or product accessory”*? Not even a fresh, unopened pack of cigarettes, or does even unburned tobacco give off toxic emanations? Not even a cigarette lighter?

*“No tobacco contaminated person or object shall be permitted inside any Kimball Physics building”*? What happens if a cigarette-smoking deliveryman has a package for the company? Both he and the package would be “contaminated,” wouldn’t they? Evidently he’d have to leave the package outside until it “decontaminated” itself. As for the exception allowing for emergencies, presumably if Kimball Physics caught on fire one can assume that management would not first sniff out responding firefighters for tobacco residues on their persons before allowing them to enter the building. Or would they?

This is another example of how antismokers never know when to stop. First they force people to go outside to smoke. Then they won’t let them back inside if they smoke outside. Finally, they can’t smoke outside even if they don’t come inside.

How does Kimball Physics “know” that the molecular residue of tobacco or tobacco smoke (it’s not quite clear which) is so dangerous? Thanks again to dear old ASH, here is the company’s “rationale” behind its rules:

Tobacco combustion products are now classified as Group A carcinogens by the Environmental Protection Agency. In terms of number of lives lost, pain and suffering, economic loss, and consequential damages, tobacco is an extraordinarily serious problem.

According to the U.S. Surgeon General, smoking is the largest single avoidable cause of death; with many millions of lives already having been lost. Environmental tobacco smoke (second hand smoke) has become a serious ancillary problem, causing illness and distress to millions and death to thousands.

Even trace quantities make many people sick. As with most carcinogens, there is no low-level threshold below which exposure becomes safe. [Presumably they mean carcinogens in tobacco smoke or “tobacco residues,” not nicotine. Repace said nicotine isn’t carcinogenic. So why did he bring up nicotine when queried by FORCES? Just what did he tell Mr. Crawford?—D.O.]

Tobacco use is a legal activity (although a most unwise and unhealthy one); and what legal activities individuals choose, on their own time and in their own space, is (and should be) largely their own choice. Organizations under most circumstances, have neither the right nor the need to intrude on the private legal activities of individuals. [I say again, be patient.—D.O.]

On the other hand, no individual (or group of individuals) has the right to knowingly cause random deaths, or to cause serious illnesses, or even to thoughtlessly make others mildly sick.

The OSHA Cancer Policy (OSHA 29 CFR Ch.XVII) states that exposures to all Category I (Group A) carcinogens (the most dangerous types) are to be reduced to the minimum levels consistent with continued operation of a facility. At Kimball Physics, the minimum tobacco carcinogen levels consistent with continued operation are zero.

Accordingly, tobacco and tobacco combustion products, including the lower level residuals, are to be excluded down to a minimum practical trace level throughout the entire Kimball Physics work environment. The goal is to protect co-workers and all others from some particularly dangerous substances.<sup>37</sup>

As a manufacturer of “electronoptics” and other high-tech equipment, Kimball Physics must use a lot of plastics and other synthetic materials in its business. Does it worry about the effect of all the chemical

residues and emanations and whatnot from these materials on the health of its employees? Wanna bet?

It would stretch the satirical talents of a Mark Twain or an H. L. Mencken to deal properly with this kind of idiocy. Unfortunately, both gentlemen are no longer with us. I can only stand aghast. The entire Kimball Physics policy, and that of other companies (though not as extravagantly ridiculous as Kimball's), are based entirely on suspect if not outright fraudulent "science." Yet people can't be blamed if they take the antitobacco, antismoking ball they have been handed by such august agencies of the U.S. government as the Environmental Protection Agency and Occupational Safety and Health Administration and Centers for Disease Control and run with it completely off the field of reason. They have never been told the other side of the story, or even that there is another side. (And, alas, so ingrained in the popular mind has the belief in the dangers of tobacco become that they wouldn't believe it anyway, which means that this book is an exercise in futility). The shame is that of the EPA, of OSHA, of the CDC and of the entire medical establishment and those scientists who let the antismokers get away with just about anything because, after all, it forwards the desired goal of a "smoke-free society."

SAD AS ALL THIS discrimination against them is, smokers, as I said, can live with it (which is not very long, according to the accepted medical wisdom). It is when they are made to believe they are hurting not just themselves and other adults by their habit but the most innocent and most helpless ones of all—little children, *babies*—that the true meanness, if not total lack of conscience, of the antismoking crusaders shines through in all its ugliness.

Here, in chronological order, are the headlines from just some of the articles I clipped from my local newspaper, *The Atlanta Journal-Constitution*:

— "Cancer risk double for kids of smokers" (Banner headline on page one, September 6, 1990.)

— "Smoking affects infant's breathing" (May 21, 1992.)

— "Kids' behavioral problems linked to moms' smoking" (September 4, 1992.)

— "Passive smoking raises kids' risk of heart disease" (November 15, 1994.)



— “Secondhand smoke is linked to SIDS” (March 8, 1995.)

First lines from other articles from the same source:

— “Smoking during pregnancy may increase the risk of cleft palate, a birth defect, as much as six-fold in some children, according to a study.”\* (April 3, 1995.)

— “Mothers who smoke cause the deaths of nearly 6,000 babies and 115,000 fetuses in the United States each year, according to researchers.” (April 12, 1995.)

— “Cancer-causing chemicals in cigarette smoke pass from mother to unborn baby, whether the mother smokes or not, a study<sup>†</sup> suggests.” (April, 23, 1996.)

From the World Wide Web:

— “Mothers who smoke at least ten cigarettes per day cause their children under five to have nicotine and other cancer-causing chemicals in their bloodstream.” (University of Pennsylvania OncoLink, September 21, 1994, at [http://oncolink.upenn.edu/news/smoke\\_child.html](http://oncolink.upenn.edu/news/smoke_child.html).)

(Never mind that nicotine, whatever can be said about it, is not a carcinogen. Even James Repace says so.)

— “Children of parents who smoke have more respiratory symptoms and acute lower respiratory tract infections, as well as evidence of reduced lung function, than do children of nonsmoking parents.” (National Cancer Institute’s CancerNet, April 1995, at [www.oncolink.upenn.edu/pdg/600039.html](http://www.oncolink.upenn.edu/pdg/600039.html).)

— “Millions of American children fall ill each year from exposure to second-hand tobacco smoke, but there are currently no regulations to protect them, according to a study<sup>‡</sup> released on Tuesday.” (University of Arizona NicNet, April 9, 1996, at <http://hinet.medlib.arizona.edu/~pubhlth/04109602.htm>.) This one deserves fuller quoting:

“‘Four million children are sent to a doctor each year because they are affected by second-hand smoke,’ Dr. Joseph DiFranza [whom the reader may remember from Chapter 3—D.O.] told Reuters. ‘If a soft drink or breakfast cereal caused four million children to get sick it

\*See Chapter 2 for one statistician’s caution about “a study” or “one study.”

<sup>†</sup>Ditto.

<sup>‡</sup>Double ditto.

would be taken off the market within minutes,' said DiFranza of the University of Massachusetts in Worcester. He co-authored the study, which appeared in the April issue of the journal *Pediatrics*, with researcher Robert Lew of Brigham and Women's Hospital in Boston.

"Although many studies have linked second-hand smoke with bronchitis, asthma, pneumonia, coughs, ear infection and even death in children, DiFranza said the results have not been combined or tallied . . .

"A lot of smokers are in denial. And many grew up in households where they were exposed to smoke. But until now the magnitude of the problem has not been understood."

Just what kind of "regulations" he had in mind, the good doctor didn't say. But since there is little smoking today around children in schools or day care centers or anywhere in public, the only place left to "regulate" is the home—and the antis are getting around to that by attempting to characterize parental smoking as a form of child abuse.

It is also curious that the doctor didn't wonder how so many parents could have been exposed to smoking in the home when they were children, yet grew up to become functioning adults. As for their being "in denial," that of course means only that they disagree with him.

Two more examples. One from the popular literature:

— "As a result of studies associating smoking with miscarriage and sudden infant death syndrome (SIDS), pregnant women are usually advised by their doctors to kick the habit." ("Nicotine plays deadly role in infant death," *Science News*, July 15, 1995, p. 39.)

One from the medical literature:

— "A number of epidemiological studies have reported a relationship between maternal cigarette smoking and SIDS. The relation between maternal smoking during pregnancy and SIDS has been confirmed in numerous studies." ("The Effect of Passive Smoking and Tobacco Exposure Through Breast Milk on Sudden Infant Death Syndrome," *Journal of the American Medical Association* (JAMA), March 8, 1995, pp.795-798.)

In the face of all this, which is but a tiny sampling of articles on the subject of smoking and children that could be cited, is it any wonder that everyone believes that cigarettes are nasty, deadly things? Even as intelligent a person as Dr. Joyce Brothers swallows the allegations

without gagging and regurgitates them on demand. Witness her reply to a husband who wrote to her and said he was worried about his wife's smoking, especially now that they had a baby:

Dear O.N.: She might be interested to know of a report in the July issue of the Archives of Pediatrics and Adolescent Medicine that states that more young children are killed by parental smoking than by all unintentional injuries combined.

The report also said that 2,800 infant deaths were linked to low birth weights, which were thought to be the result of pregnant women smoking.

According to this research, 2,000 deaths were attributed to sudden infant death syndrome caused by secondhand tobacco smoke, and more than 1,000 deaths were related to respiratory infection. This research from the University of Wisconsin Medical School should frighten your wife enough to seriously join millions of others, like yourself, who have kicked the habit.<sup>38</sup>

More children are killed by parental smoking than by *all unintentional injuries combined*? No physician whose diagnostic skills have not been compromised by antismoking propaganda can possibly know whether or not tobacco smoke was a factor in a child's death. Sadly, thousands of children are victims of accidents each year, but at least in virtually every case the cause is there for all to see.

As for "linking" low birth weights to 2,800 infant deaths, Dr. Brothers obviously is unaware that this is a matter of *fractions* of an ounce and that low-birth-weight babies quickly catch up with normal infants. As for Sudden Infant Death Syndrome (SIDS), I discuss that subject in the last part of this chapter.

No survey of the "literature" dealing with parental smoking and the effect on children would be complete without turning once again to Action on Smoking and Health, if only because this organization is so frequently quoted by the media.

Following is an article posted by ASH on its Website July 30, 1996:<sup>39</sup>

PARENTS ARE DELIBERATELY MAKING THEIR KIDS SICK;  
AT WHAT POINT DOES IT BECOME CHILD ABUSE OR  
ENDANGERMENT?

Still another study shows that many parents are deliberately making their children sick by needlessly exposing them to tobacco smoke.

As a result, they suffer excessive and unnecessary colds, flues [*sic*], bronchitis, and pneumonia, and miss 7 million more school days than classmates who are able to breathe smokefree air at home.

Other results of this new study from the federal Centers for Disease Control:

- more than 10 million children (31.2%) are still being exposed to cigarette smoke in their homes, despite study after study showing how dangerous it is to their health.

- an additional 2 million (5.8%) are exposed less often.

- kids exposed to smoke miss more than 28 million days of school, one third more than kids from smokefree homes.

- these children also have 1.7 million more colds and acute respiratory infections, 10% more than kids who are not exposed.

- kids exposed to tobacco smoke also suffer over 10 million days of restricted activities, such as missing sports practice, 21% more than unexposed kids.

Not surprisingly, children in homes with low income and educational levels are far more likely (48%) to be exposed than kids in homes with high income and educational levels (28%).

Exposure also differs by region. Almost half of the kids living in the Midwest (40%) are exposed to tobacco smoke, as compared with 24% in California, where the dangers of secondhand smoke are driven home by statewide bans on smoking in the workplace.

In case some readers were hard of seeing, ASH concluded its article with this capitalized advice:

PLEASE SHARE THIS INFORMATION WITH ANY FRIENDS OR NEIGHBORS WHO SMOKE AND HAVE CHILDREN LIVING AT HOME.

IF THEY CAN'T QUIT, AT LEAST ASK THEM TO STEP OUTSIDE TO SMOKE, OR TO CONFINE THEIR SMOKING TO A SEPARATE ROOM (SUCH AS A BEDROOM) WHICH THE CHILDREN DO NOT FREQUENT.

YOU MAY ALSO WISH TO TELL THEM THAT SOME PARENTS HAVE LOST CUSTODY FOR EXPOSING THEIR CHILDREN TO TOBACCO SMOKE, AND A GROWING NUMBER OF STATES CONSIDER SMOKING BY A PARENT IN DECIDING WHICH PARENT SHOULD BE AWARDED CUSTODY.

Martha Perske has effectively rebutted the ASH release by reporting just what the CDC study “found.” Actually, there were two “findings” (make that “nonfindings”). She writes:

The first finding: The study found no statistically significant association between kids' exposure to tobacco smoke in the home and acute or chronic respiratory illnesses. ASH made no mention of this finding.

ASH also ignored the following statement from the study pertaining to exacerbations of chronic respiratory conditions: "We did not detect an increase in reported exacerbations of asthma and chronic respiratory diseases among children exposed to ETS (environmental tobacco smoke)." To misrepresent and omit important scientific data should be called what it is: misleading the public (the very thing groups like ASH accuse the tobacco industry of doing.)

The second finding: The CDC study reported that children exposed to tobacco smoke in the home had, on average, 1.87 more days of restricted activity, 1.06 more days of bed confinement, and 1.45 more days of school absence per year than children who were not exposed.

CDC extrapolated those numbers (1.87, 1.06, 1.45 more days) to the entire U.S. population of children aged 1 to 10. This, of course, resulted in huge numbers, and it is those huge numbers that ASH uses (e.g., "kids exposed to tobacco smoke suffer over 10 million days of restricted activities . . . 21% more than unexposed kids.").

ASH would no doubt say that these findings are due to kids' exposure to tobacco smoke, but to make such a claim would be going beyond what the data are capable of showing. All we know is that these children lived with a smoker(s). We don't know how (or if) those smokers might have differed in other ways from non-smokers, or what effect those differences might have had on their children's reported school attendance, bed confinement, or restricted activities . . .

Not mentioned by ASH is the fact that all results from the study were based on telephone interviews back in 1991, and there was no attempt to validate answers given by parents. It also seems important to point out that this CDC study was accepted for publication in an anti-smoking journal, *Tobacco Control* [published by the British Medical Association—D.O.]. Since it was solely about kids, why was it not published in a pediatric journal?

Not only should we be up in arms over ASH's attempt to portray smokers as child abusers (thus trivializing true child abuse), we should also be outraged at the attempt to make it appear that the CDC study gave credence to such a heinous accusation . . .

It is reprehensible enough to threaten smokers with possible loss of custody of their kids, but to misrepresent a federal study in

order to heighten the intimidation certainly seems to border on fraud.<sup>40</sup>

Well, you may say, isn't this just Mrs. Perske's personal slant on the CDC study? On what basis does she charge Action on Smoking and Health with fraudulent misrepresentation of the study's findings? After all, she's a smoker and . . . and . . .

The best answer to that is to quote the CDC itself, as Perske does at the end of her article:

“Children who are exposed to environmental tobacco smoke had a higher incidence of acute respiratory illnesses (relative risk [RR]=1.10, 95% confidence interval [CI] 0.95 to 1.26), and all chronic respiratory diseases (RR=1.28, 95% CI 0.99 to 1.65) than children who were not exposed, although both CIs included unity, and chance cannot be ruled out as being responsible for these findings.” [Underlining added by Ms. Perske]

She points out that when confidence intervals (CI) “include unity,” it means the findings (relative risks) were not statistically significant and, as the CDC itself concedes, may have been due simply to chance.

“Even if they had been statistically significant,” she continues, “relative risks of 1.10 and 1.28 are extremely weak, and are generally not grounds for excitement (let alone charges of child abuse). For example, an American Cancer Society study found that drinking one glass of whole milk each day resulted in a statistically significant relative risk of 1.62 for lung cancer, yet it would be absurd to accuse parents of child abuse for giving their kids whole milk. (‘Milk Drinking, Other Beverage Habits, and Lung Cancer Risk,’ by Curtiss Mettlin, published in the *International Journal of Cancer*, 43:608-612, 1989).”

“Unity,” as I first explained in Chapter 1, is a relative risk of 1.0, meaning that there is neither any risk of contracting some disease from ingesting or being exposed to some agent, nor any protection against contracting some disease from such ingestion or exposure. In other words, a wash. The fact that the CDC's confidence intervals straddled unity would tell any statistician that its “findings” are essentially meaningless.

Unfortunately, statisticians too often remain silent about such misuses of statistics in the cause of a smoke-free society, and anyway it wasn't them the CDC was trying to influence but rather the scientifi-

cally unsophisticated and trusting general population. Thus, as Perske points out in a footnote, “The CDC presents its findings in terms of relative risks and confidence intervals. In other words, the CDC chose not to state in plain English that it found no statistically significant association between kids’ exposure to tobacco smoke in the home and acute or chronic respiratory illnesses.”

The ordinary person has probably never heard about the Mettlin study, in which the relative risk of children’s developing lung cancer from drinking whole milk—RR 1.62—was *higher* than the lung cancer risk alleged by the EPA in regard to exposure to tobacco smoke—RR 1.19—as well as being *much* higher than the respiratory disease risks announced by the CDC—RR 1.10 for the acute and RR 1.28 for the chronic versions. Even if some health columnist did write about the Mettlin study, he almost certainly did not mention that drinking milk is (statistically) riskier than breathing secondhand smoke.

Something else I have never seen anywhere is a study that looked into the effects of marital discord on children’s health, although in 1991 two researchers did survey 92 divorce studies and concluded that “Parental divorce (or the factors associated with it) lowers the well-being of children.” A “National Survey of Children,” which conducted interviews with the same parents and children in 1976 and 1981, “suggested” that children from high-stress, intact families are more likely to be depressed, impulsive, hyperactive and misbehaved than children from divorced families.<sup>41</sup>

Is it not possible that the lowered well-being of children of troubled families, whether broken or intact families, might also account for some of the respiratory problems and missed school days that are attributed to parental smoking? Kids have also been known to “get sick” and stay home from school for a lot of reasons, like avoiding a test or maybe a bully who is tormenting them.

But things like that would not only be difficult to ascertain from a telephone questionnaire but could be treading onto “sensitive” ground.

Not to delve into that can of worms (no-fault divorce, feminism, working mothers, abortion rights, etc.), but when “one study” found that “women who . . . had an abortion had a 20 percent higher rate of breast cancer than women who had no abortion” and that “women who had never had a child and had a first-trimester abortion had a 100 percent higher rate of breast cancer,” even the study’s own authors minimized it in these words:

“Although a positive association [between breast cancer and abortion] has been seen in a number of studies that have focused on young women, the overall magnitude is not so great that the possibility of bias . . . can be excluded.”<sup>42</sup>

“Funny,” commented that eagle-eyed deflator of medical nonsense, “the Junkman” Steven Milloy, “I remember how a reported 30 percent increase in lung cancer associated with second-hand smoke was SO definite and meaningful to the public health research crowd. But a 100 percent increase in breast cancer from abortion ‘is not so great?’”<sup>43</sup>

’Tis the same with investigations into what makes kids sick. It’s so much more politically correct, not to mention much more convenient, to blame it on parental smoking.

It’s also all too easy to trash ASH. So let me give it the benefit of the doubt by saying that when it accused parents of “deliberately” making their kids sick, it didn’t mean that parents *want* to make their kids sick. At least I hope not.

ALL THE FOREGOING is just for starters for this, my final chapter dealing with environmental tobacco smoke. Now we come to the truly tragic and heartrending consequences of secondhand smoke mania.

It’s distressing enough for a woman who has suffered a miscarriage to be led to believe she may have caused the death of her baby in the womb because she smokes, or once smoked, or allowed herself to be subjected to secondhand smoke. It’s distressing enough for parents to be harried by the guilty knowledge that they may be responsible for their child’s cleft palate or ear infection or chronic colds and other respiratory ailments because they smoke. But to foist on the disconsolate parents of a SIDS baby the terrible burden of thinking that they may have killed their baby outright while still in the cradle—as effectively as if they had purposely smothered it—because they smoke? That is pretty unconscionable in my opinion. It is in this matter of SIDS that the want of ordinary compassion, let alone devotion to the truth, on the part of the militant antismokers is revealed at its tawdry best.

What is SIDS (sometimes called “crib death” or, in Britain, “cot death”)? The initials stand for “Sudden Infant Death Syndrome.” According to the same issue of JAMA cited on page 388, SIDS is defined as “the sudden, unexpected death of an apparently healthy infant that remains unexplained after a death scene investigation, case report, and



an autopsy. In the Western world, SIDS is the most common cause of death of infants between 1 month and 1 year of age and accounts for approximately 50% of deaths of infants between 2 and 4 months of age.”<sup>44</sup>

The key word is: *unexplained*. Although numerous studies have found “statistically significant” associations between a mother’s smoking before, during or after pregnancy, as well as smoking by the father or other people in proximity to a baby, studies have also “suggested” a host of other possible factors and SIDS remains *unexplained*.

To date, the most that the health establishment has been able to accomplish in the fight against SIDS has been with a public education campaign called “Back to Sleep,” launched in 1994 by the U.S. Public Health Service, the American Academy of Pediatrics, the SIDS Alliance and the Association of SIDS Program Professionals, which urged parents of healthy babies to put their infants on their backs or sides to sleep. Similar campaigns in several countries had reduced the rate of SIDS by 50 percent or more.

Yet the continued absence of any really fundamental explanation for SIDS doesn’t slow the antismokers down. For the last time in this chapter, I turn to an ASH press release, posted on the Internet in July 30, 1996.<sup>45</sup> (At least this time there was no “deliberately” in the headline):

#### SMOKING PARENTS ARE KILLING THEIR INFANTS

British researchers Thursday blamed parents who smoke for more than half of crib deaths and said babies should not be exposed to tobacco smoke at all.

More than 60 percent of crib deaths, also known as sudden death syndrome (SIDS) could be prevented if people stopped smoking around their babies and pregnant women, the report in the *British Medical Journal* said.

“The recent research makes it clear that fathers who smoke are also a problem,” Joyce Epstein of the Foundation for the Study of Infant Deaths told a news conference.

“If we could remove all smoking from a baby’s environment, we estimate that cot deaths would fall by 61 percent,” she said, adding the findings were in line with studies underway in the United States, New Zealand and Scandinavia.

If a mother smoked before as well as after the birth, the risk rose, and the more a baby was exposed to smoke after birth, the higher the risk.

For example, Fleming said babies whose parents smoked, but who were never put into a room where anybody smoked, were still twice as likely to die of SIDS than babies of nonsmokers. Children of smokers who spent eight hours a day in a room where someone sometimes smoked were eight times more likely to die.

“The risk increases crudely by 100 percent for every hour a day a baby spends in a smoky atmosphere. This is startling,” Fleming said. “Please don’t allow anybody to smoke in a room where the baby sometimes goes.”

Fleming said the team had successfully disproved arguments that it was the behavior of smokers that was to blame, not the smoke itself.

In an accompanying article, ASH belatedly identifies “Fleming” (whom I mentioned briefly in Chapter 7) as Prof. Peter Fleming, a professor of infant health at Bristol University and the author of the study.

“Fleming,” said ASH, “believes adoption agencies should question would-be parents more closely about their smoking habits because of the cot death risk to babies by asking them whether they or anyone else in the home smoked.

“A spokesman for British Agencies for Adoption and Fostering said adoptive parents were already asked about their smoking habits and Professor Fleming’s recommendations would be considered by its medical committee when their suitability was being considered.”<sup>46</sup>

Presumably, “their suitability” refers to the adoptive parents, not to Fleming’s recommendations. But if adoptive parents in Britain were already being asked about their smoking habits, what “recommendations” by Fleming was the medical committee of the BAAF going to consider? Make them promise to stop smoking or don’t let them adopt a child?

Thanks to another female writer who doesn’t let the antismokers get away with anything if she can help it, Sara Mahler-Vossler, we can safely say that the Fleming/*British Medical Journal* (BMJ) study is sheer baloney. Her dissection of it was posted on both the FORCES USA and FORCES Canada Websites, accompanied by graphs from the U.S. Department of Health and Human Services. I’m going to quote from it at length as another illustration of how a nonscientist can easily find the holes in an antismoking study if she is familiar with epidemiological methods (and antismoker tactics) and is not blinded by antismoking prejudice. Mahler-Vossler writes (all emphases in original):

- The BMJ research is an example of a study where the researcher starts with an observation of the outcome (infants who died from SIDS). They compare this group of babies who died to a group of babies who are alive, and try to figure out what caused the different outcomes. But the factors that caused the deaths have already occurred, so the researcher does not have *control* of them. He can only go back among the possible causes, and try to disentangle them. The danger in this is the fallacy of believing as a cause something that merely happened earlier in time—like believing that the rooster’s crowing causes the sun to rise.
- Another problem is that the sample was not chosen at random. This always leaves a hole for other related factors to crawl through unnoticed, and these—unknown to the researcher—may be the “real” cause of any relationship found.
- The authors say they collected information that included medical histories, and social and demographic data. This would show if the two groups—the babies who died from SIDS and the babies who were alive—are similar in these things. But none of this information was reported, and without it, we really can’t be expected to accept their conclusions.
- The authors state they adjusted for socio-economic status. But, they only mentioned in passing the fact that the families of the babies who died from SIDS were relatively “socially deprived” with respect to the comparison group. So, it seems that [the] authors acknowledged the importance of socio-economic status as a correlate of SIDS, but didn’t give us any specifics.
- The racial makeup of the sample was not reported. There was no mention of whether the sample was racially homogeneous or not. But the attached graph shows that the SIDS death rate for blacks is over twice than that for whites. It is similar in the U.K.?
- Boys have a higher rate of SIDS than girls but there is no information in BMJ about the sexual makeup of the sample, or whether they adjusted for sex.

Given the omissions described above, how can we be confident that the results on smoking aren’t spurious (false) and, in fact, primarily the result of differences in race and/or sex—or other unreported factors? . . . The researchers took only a snapshot at one point in time, and only seemed to match on age. No follow-up was reported to determine if the comparison babies, who were alive at this one point in time, all survived their first year.

On top of this, the age distribution of the babies in the sample was not reported. This could be important, because, if you look at the attached graph, you see that the rate of SIDS begins to rise sharply at around three weeks of age, and peaks at about 3 months. It then drops sharply, reaching a relatively low level around six months, then continues to decline gradually for the rest of the year

. . . The results from a statistical analysis—like that used in the BMJ study—can be changed by varying the instructions given to the computer. For example, you might tell the computer to alter the sequence in which it enters the factors on different runs of the same data. You can also vary the decision rules for evaluating and handling the data . . . So, you can “fiddle” with the data until you get the “best” result . . .

The authors operated from assumptions that ignored the sum of knowledge about SIDS. The study design, though widely used, has weaknesses—but these weren’t acknowledged. Important information about the sample was missing—which could account for much, if not all, of the relationships . . . A bunch of numbers, that would have shown important things, weren’t there, and we don’t know what the authors actually did when they ran their statistics.

And yet, a “prestigious” medical journal published this, and pretends it’s valid science. Only in the irrational throes of “political correctness” could something like this happen!<sup>47</sup>

The amazing thing is that the *British Medical Journal* published the study despite its own reservations about it. As Mahler-Vossler notes:

“[E]ven an editorial about this study, in the same issue of this journal, cautions that ‘lingering doubts remain that the association [between parental smoking and SIDS] may be due, in part, to the association of parental smoking with other infant care practices, which might vary by socio-economic status.’

“The editorial goes on to state that the authors ‘have not helped to resolve this issue,’ and criticize the study for not having performed a sufficiently rigorous analysis on the postnatal smoking data, nor reported enough details on how they did their statistical analysis.”

Yet it published it anyway, in keeping with the “LaLonde Doctrine” that smoking is such a threat to humanity that even scientifically untenable studies should be reported.

The same kind of criticism could be made about a multitude of other smoking studies “proving” this or that about smoking. Unfortu-

nately, there are far too many studies and far too few people like Sara Mahler-Vosser or Martha Perske or Lauren Colby or Steve Milloy who try to keep the researchers honest, and only the smokers' organizations publish them anyway. Whatever questions other scientists voice are usually confined to letters or editorials in the journals, like the editorial in the *BMJ* partially quoted above, and the public never hears about them either.

In case anyone would dismiss Mahler-Vosser's analysis as the biased nitpicking of another "prosmoker," I'll end this chapter by quoting from a December 4, 1996 letter to ASH from an organization that is certainly no defender of smoking but which certainly ought to know something about SIDS—The Sudden Infant Death Syndrome Alliance, headquartered in Baltimore, Maryland:

John F. Banzhaf III, Esquire  
Executive Director  
Action on Smoking and Health (ASH)  
2013 H Street NW  
Washington, DC 20006-4207

Dear Mr. Banzhaf,

We at the SIDS Alliance applaud your efforts to bring to the attention of the American public the hazards associated with smoking and smoke exposure; we must, however, object to your organization's use of misleading data and terminology when linking Sudden Infant Death Syndrome to your cause.

Statistically, passive smoke exposure is a recognized, significant factor for SIDS. To date, no direct causal relationship has been established. In fact, the vast majority of infants born to smoking parents do not die of SIDS. And, since many SIDS deaths occur in a smoke-free environment, we must refrain from making smoke exposure appear to be linked to all SIDS deaths.

The sensational heading for one of your recent Internet reports, "Smoking Parents Are Killing Their Infants," has gone too far. Avoiding known risk factors for SIDS may reduce its incidence for some babies, but offers no guarantee for every baby. Risk factors alone do not cause SIDS.

It is likely that SIDS may be caused by a subtle developmental delay, an anatomical defect, or a functional failure. The first year of life is fraught with periods of rapid growth and development, during which a baby's system may become unstable; during such periods any baby may be vulnerable.

It is also important to realize that SIDS can claim any baby, in spite of parents doing “everything right.” Insensitive generalizations about SIDS broadcast through print or the electronic media serve only to perpetuate the public’s misconceptions. The last thing we need to do to parents who suffer this tragedy is stigmatize or marginalize them. The simple truth is that many SIDS victims have no known risk factors; and, most babies with one or more risk factors will survive.

Your literature states that smoking “kills more than 2,000 infants each year from SIDS.” Any published figures are sheer speculation, or guesses, not grounded in actual experimentation. The best we can do at this juncture is talk in terms of attributable risk—and there is no consensus on what that might be . . .

[W]e respectfully request that you adjust your message as far as SIDS is concerned. While we support your cause, we cannot do so at the expense of the tens of thousands of families we represent . . .

Sincerely,  
Phipps Y. Cohe  
National Public Affairs Director<sup>48</sup>

ASH did not “adjust” its message about SIDS (antismokers never admit to errors or excessive zeal) but it did it reply to Ms. Cohe—after a fashion (see below).

In the meantime, one Barry S. Brokaw, a member of the SIDS Alliance in Sacramento, California, also attacked the ASH release in a letter to *The Los Angeles Times* on August 2, 1996 in response to a July 26 article in that newspaper titled “Smoke Makes SIDS Risk Soar”:

Recent reports of research on sudden infant death syndrome conducted in the United States and Britain hailing the success of “Back to Sleep” campaigns in reducing the SIDS rates (placing the infant on it back rather than on its stomach) and linking smoking and other environmental factors to an increased “risk” for SIDS seem to underplay or leave out entirely the most fundamental point about the status of SIDS research efforts.

Researchers don’t know what causes this leading killer of babies between the ages of 2 weeks and 1 year. Because the underlying causes of SIDS remain unknown, all newborn infants are potentially at risk for SIDS. Babies placed on their backs to sleep still die of SIDS. Babies not exposed to cigarette smoke still die of SIDS. Babies who are breast fed, who have had wonderful prenatal care, who were full term and of normal birth weight, who have

parents who have not abused drugs, in short, who have no known risk factors, still die of SIDS.

As a result of the way these research studies are presented, the public may come to view SIDS as somehow “preventable” if we simply alter the child’s environment. Of even greater concern to me is the effect of those reports on families who have lost a child to SIDS, and they still number around 500 a year in California, and between 4,500 and 5,000 nationally.

The last thing we need to do to parents who suffer this tragedy is to stigmatize or marginalize them. The simple truth is that SIDS can, and does, claim any baby, in spite of parents doing “everything right.”<sup>49</sup>

The fact that Mr. Brokaw’s and Ms. Cohe’s letters use similar phraseology indicates that the SIDS Alliance was pretty upset with ASH.

*The Washington Times* also published an article that ruffled ASH’s feathers titled “Infant death link to smoking hit as ‘misleading’ data,” which quoted a SIDS spokesperson, and to this ASH did respond. The response, posted on its Website,<sup>50</sup> did not give the date of the *Times* article or the name of the spokesperson or tell readers that she represented the SIDS Alliance, saying only that she was with “a Baltimore-based SIDS organization.”

In a preface to its posting, ASH immediately adopted an *ad hominem* posture, characterizing *The Washington Times* as “a newspaper which frequently takes a pro-tobacco stand” and suggesting that “the spokesperson seems to be a lay person rather than a physician or scientist, and neither the article nor the letter written to ASH about the matter cites any scientific or medical authority for the critic’s views.”

Then followed ASH’s brief letter to the editor of the *Times*, repeating that “neither the critic nor the reporter cited any medical support for questioning the smoking-SIDS death link.” ASH then said that its “Smoking Parents Are Killing Their Infants” posting was based on a report by the Reuters news agency (Reuters was not mentioned in the posting), then cited an article in *The Journal of Family Practice* blaming parental smoking for 1,900 to 4,800 deaths from perinatal disorders and 1,200 to 2,200 deaths from SIDS, then a headline from *The San Diego Union*—“2nd-Hand Smoke Can Kill Babies,” based upon a report published in the *Journal of the American Medical Association*—as if a newspaper article reporting a study was proof of its validity.

The ASH release concluded with: “As one of the leading researchers

in the area recently put it, at least three times as many infants die of SIDS caused by maternal smoking as are killed as a result of homicide or child abuse.”

The “leading researcher” was not identified—not that it matters. When it comes to antismoking propaganda, one lies (well, grossly exaggerates) and the other swears to it.

Killing two birds with one stone, the same Web posting reproduced “ASH’s Letter to the Complainant” who was also not named but was Ms. Cohe since it refers to “your letter of December 4, 1996.”

Again ASH stated that its report was based on a story by “the impartial and highly respected Reuters news organization.

“Thus while your organization may well disagree with this conclusion, it is hard to claim that ASH’s report on the news item was not accurate, or that ASH should be held to a higher standard than a major news organization employing specially-trained medical writers and proofreaders.”

Ms. Cohe of course made no such claim nor demanded any such standard on ASH’s part. As for the “specially trained” medical writers and proofreaders at Reuters, I am not able to comment (although I would remind the reader of the journalistic maxim: “Bad news sells.”). And again, the fact that a news organization reports about a study hardly qualifies as substantiation of the truth of the study.

Then, after repeating much of the report Cohe criticized and again attributing it to Reuters, ASH went on: “Thus persons who read ASH’s report are more than adequately advised of the conclusions of the British researchers, regardless of the particular terms used in the very brief heading ASH used . . .

“Indeed, one of the persons ASH quoted is, like you, a representative from an organization devoted primarily to the problem of Sudden Infant Death Syndrome. Thus it is unlikely [*sic!*] that such a person would be biased or uninformed regarding this issue, and it is entirely appropriate for ASH to quote such a person in its news report.”

ASH was here evidently referring to Joyce Epstein of the Foundation for the Study of Infant Deaths. But Ms. Cohe did not question anybody’s bias or qualifications. (Also, ASH didn’t quote Ms. Epstein; it quoted Reuters quoting Ms. Epstein, although it didn’t say so.)

ASH then drove the rapier home by turning Ms. Cohe’s words against her:



“Although ‘the vast majority of infants born to smoking parents do not die of SIDS’ and ‘many SIDS deaths occur in a smoke-free environment,’ this does not prove that smoking is not a cause of SIDS. [Cohé never said it wasn’t.—D.O.] One could as well argue that, since the vast majority of people who smoke in bed don’t start fires which kill their children, and many children are killed by fires in homes where parents don’t smoke in bed, smoking in bed doesn’t cause fires that kill children. That conclusion is, of course, absurd.”

Talk about non sequiturs. The causes of fires are fairly easily identified in most cases; the cause or causes of SIDS remain *unexplained*. One could as well argue that because the majority of traffic accidents do not involve drunken drivers, and many drinking drivers never cause an accident, drinking and driving doesn’t cause traffic accidents. ASH’s analogy is what is absurd.

“Your organization,” ASH continued, “is, of course, free to dispute or to characterize the findings of the British study in a different manner, or to question the statistical conclusions which they support. [ASH inadvertently got that right: the conclusions of the BMJ study support the findings, not the other way around!—D.O.] But your dispute seems to be with those researchers and the other foundation, and not with ASH for simply reporting those conclusions fairly and in an unbiased [*sic!*] manner.”

Finally, ASH cited no less than 40 journal articles or studies linking smoking with SIDS—as if Ms. Cohe was not already probably aware of them, as if they had any bearing on the damning headline of ASH’s article and her objection to the whole tenor of it as unnecessarily stigmatizing or marginalizing the parents of SIDS babies.

Nowhere did ASH identify to visitors to its Website the names and titles of Ms. Cohe or the Baltimore spokesperson or their organizations (“protobacco” FORCES USA did). That would have credentialed them in readers’ eyes (as well as being ordinary courtesy).

Talk about “smoke screens.” ASH then erected a straw man by insinuating that its (unnamed) critic disputed the link between smoking and SIDS—and then knocked it down because she offered no medical evidence to back up her disputing what she had not disputed at all. Of course, Ms. Cohe could not have offered evidence that parental smoking does not cause SIDS because none exists, just as no evidence exists that parental smoking does cause SIDS.

It erected a second straw man by insinuating that its (unnamed) critic accused ASH of inaccuracy when all it did was innocently repeat a story it got from Reuters and of holding ASH to a higher standard than its source—all of which again Cohe did not do.

Finally, ASH erected a third straw man by insinuating that its (unnamed) critic unfairly impugned ASH's integrity when all it did was quote a respected SIDS authority (Ms. Epstein or Prof. Fleming)—and insinuating to boot that its (unnamed) critic also questioned the impartiality of this spokesperson—when again Cohe did no such thing.

In short, ASH evaded Ms. Cohe's central point entirely and thus, like Pontius Pilate, considered its hands washed clean. Where did I ever get the impression that this organization is hopelessly biased and untrustworthy?

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