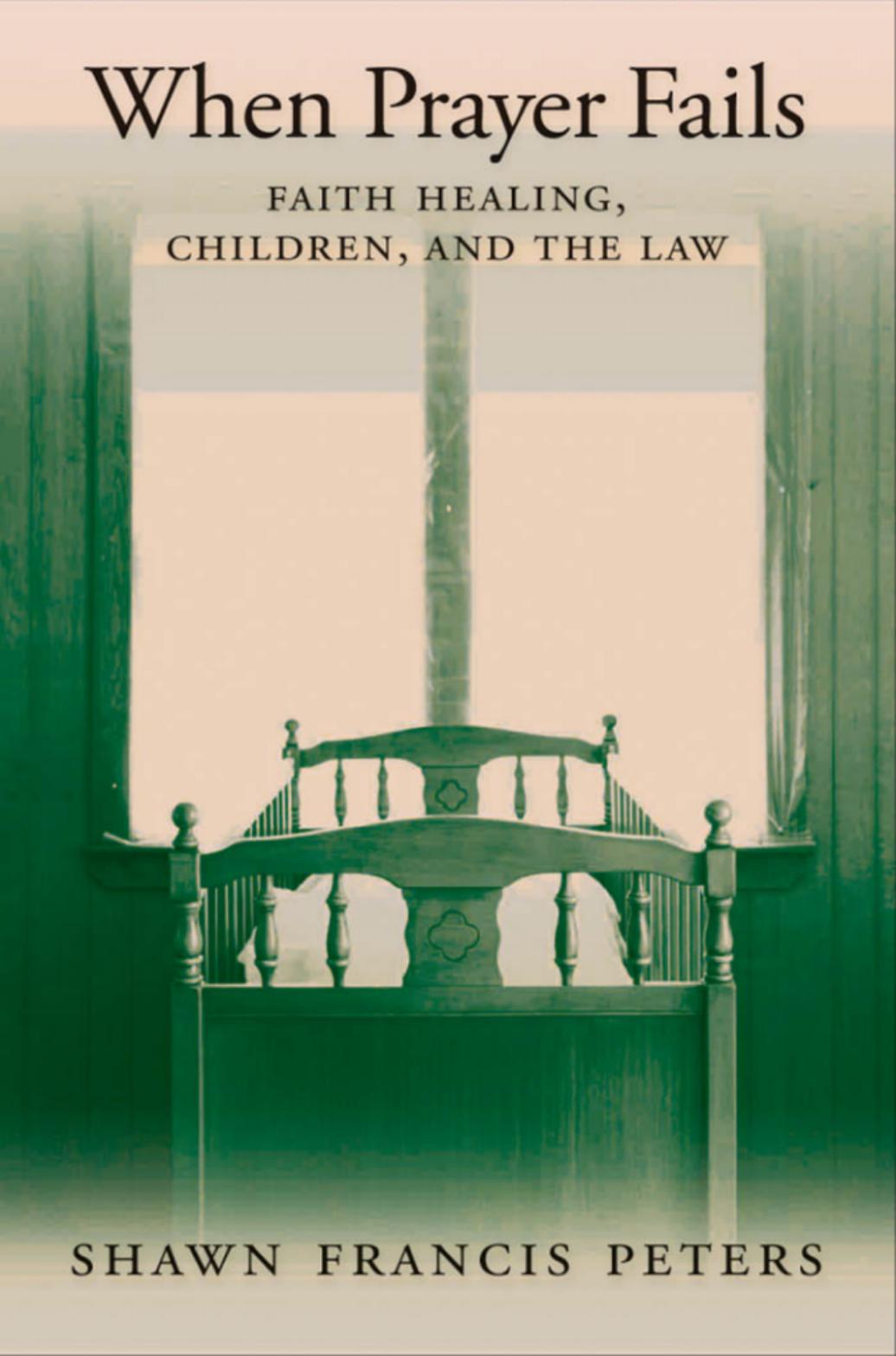


# When Prayer Fails

FAITH HEALING,  
CHILDREN, AND THE LAW



SHAWN FRANCIS PETERS

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*Faith Healing, Children, and the Law*

SHAWN FRANCIS PETERS

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*For Maisie and Fred*

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# When Prayer Fails

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# I

## “Pointless and Preventable”

### *An Overview of Religion-Based Medical Neglect of Children*

A happy, vibrant toddler, Dean Michael Heilman enjoyed playing outside his family’s home in Lawndale, a middle-class section of Philadelphia. When the weather turned mild, Michael (as he was known to family and friends) darted about the yard, awkwardly tossing footballs in the air or rolling toy trucks over the grass. The twenty-two-month-old and his older sister also escaped the city’s oppressive summertime heat by splashing about in a shallow plastic wading pool that their parents set up in the yard. The Heilmans were not a wealthy family—Dean, Michael’s father, labored as a tile setter and brought home a modest paycheck, and his mother did not work outside the home—but the children never suffered from want of such playthings. Dean and his wife, Susan, were “devoted parents,” according to one of their neighbors, and they always provided plenty of toys for the kids.<sup>1</sup>

One night in July 1997, Susan Heilman heard a shriek from the backyard, where Michael and his sister were playing. She quickly left the house and discovered Michael wincing in pain. He had stepped on something sharp—a piece of glass or a jagged bucket handle, his mother surmised—and it had cut his right foot. The small wound bled freely, so Susan dashed a short distance down the street to find her husband, who had just begun walking toward the family’s nearby church. Dean immediately returned home, cleaned his son’s cut with some water, and wrapped it in a towel. When this failed to stanch the wound, the elder Heilman affixed some gauze to Michael’s foot with some tape and then enclosed it in a disposable plastic diaper. Still the wound bled: the boy left a bloody trail in his wake as he hobbled around the house.<sup>2</sup>

With his cut still bleeding, Michael went to bed at 8:30 that evening. He slept only fitfully and cried at regular intervals throughout the night; he also vomited several times. Early the following morning, after Susan Heilman checked her son's bandage and found it saturated in blood, her husband dressed the wound in fresh gauze and then wrapped Michael's foot in a piece of fabric. It was clear by this point that the boy was in serious distress. But the Heilmans neither dialed 911 to summon emergency medical personnel nor rushed their son to the nearest hospital. Instead, they called Charles A. Reinert, the pastor of their church, the Faith Tabernacle. In keeping with the doctrines of their faith, they determined that the best way to prevent their son from bleeding to death was to have Reinert lead them in offering prayers for his recovery.<sup>3</sup>

To justify their repudiation of medicine, members of the Faith Tabernacle—a relatively small church with branches located mainly in Pennsylvania and New Jersey—cited passages from the scriptures suggesting that prayer, not the work of doctors, healed sickness. “We believe,” the church's profession of faith stated, “that the Bible is opposed to all means of healing apart from God's way . . . and all medical and surgical practice whatever.” The Epistle of James, for instance, seemed to contain very clear directions regarding the appropriate treatment for illness or injury. There, Christians are advised:

Are any among you suffering? They should pray. Are any cheerful? They should sing songs of praise. Are any among you sick? They should call for the elders of the church and have them pray over them, anointing them with oil in the name of the Lord. The prayer of faith will save the sick, and the Lord will raise them up; and anyone who has committed sins will be forgiven. (5:13–15)<sup>4</sup>

As he lay bleeding from the cut on his foot, Michael Heilman's parents interpreted this passage literally, and quite narrowly. Following the text of James as closely as possible, they summoned their pastor, Reinert, who anointed the boy with oil and led a prayer session over the youngster's prostrate body. When police later asked Susan Heilman why she and her husband had chosen this form of treatment instead of calling 911, she seemed almost baffled by the question. “When you're sick, you pray and ask the Lord to help heal you,” she said. “That's divine healing. If you're sick, you ask the pastor to come out and anoint you, and pray with you.”<sup>5</sup>

In retrospect, it might seem surprising that the Heilmans trusted that prayer would heal Michael's cut, for it had not proven to be a particularly effective means of treating the many ailments and injuries that seemed to have dogged him throughout his childhood. Michael had “bruised easily his whole life,” as his father put it. According to one later account, “obvious contusions of the forehead, abdomen, back, flank, thigh, [and] shin” dotted the boy's body. And then there were Michael's knees, which had long suffered from extensive swelling. One physician later said that, in her sixteen years of medical practice,

she never had seen a child with knees in such poor condition. (She surmised that they were so damaged that Michael must have had difficulty walking.) Michael also had suffered from an earlier bout of excessive bleeding: his aunt later told law enforcement authorities that the boy once had bled profusely after cutting his lip.<sup>6</sup>

Although prayer apparently had failed to heal these earlier injuries, the Heilmans did not hesitate to rely on it when Michael cut his foot. They beckoned their minister, but Reinert’s efforts failed to restore Michael’s health. More than twelve hours after it had been cut, his foot continued to bleed, and the boy’s overall condition spiraled downward. As his parents took turns cradling him in their arms, the child occasionally cried out in agony. Weakened from an enormous loss of blood, Michael had difficulty keeping his eyes open. Then he simply stopped breathing. Michael’s aunt participated in the prayer vigil, and she futilely checked his neck for a pulse. Finally, after bleeding for roughly nineteen hours, the boy died in his mother’s arms.<sup>7</sup>

An autopsy later revealed that Michael Heilman had bled so copiously—he lost nearly half of his blood—because he had been a hemophiliac. Altered by genetic abnormalities, his blood had lacked the clotting factors necessary to stop the bleeding caused by the cut on his foot. About seventeen thousand Americans (an overwhelming majority of them men) currently suffer from the disorder, and when they experience uncontrolled bleeding, doctors typically treat them with an infusion of the clotting factors that their bodies have failed to produce naturally. The effectiveness of such treatments is beyond question: a hemophilia specialist at The Children’s Hospital of Philadelphia, who had seen the infusions work on numerous occasions, said that she never previously had seen a hemophilic child die from a cut. This expert, along with several other physicians who reviewed the circumstances of Michael Heilman’s death, suggested that the boy’s life could have been saved relatively easily if his parents had taken him to a hospital for treatment. A straightforward and reliable procedure, they claimed, would have stopped the bleeding. “If proper medical attention had been given,” said Dr. Catherine Manno, “this child would have survived.”<sup>8</sup>

Even as they grieved over his passing, Michael Heilman’s parents dismissed such pronouncements about the efficacy of medical science. When Philadelphia police opened an investigation into the circumstances of the boy’s death, the Heilmans clung to the doctrines of their church and brushed aside accusations that their religious faith had played a role in his demise. Susan Heilman stated that she had not attempted to seek medical help for her son because “it’s against my religious beliefs.” These beliefs were so strong, she informed police, that she would have tried to restrain anyone who attempted to resuscitate Michael through medical treatment. She had few doubts that she and her husband had been justified in relying on prayer. “Your children are a gift from God,” Susan Heilman told police. “They are angels on loan from

heaven. If He decided to take my angel back, then I can't question Him why. I asked for Michael to be healed, and God took Michael."<sup>9</sup>

Both Philadelphia newspapers featured extensive coverage of Michael Heilman's death and his parents' apparent lack of remorse for their roles in it. One typical story about both Michael Heilman and Patrick Foster, another local Faith Tabernacle child who had fallen victim to religion-based medical neglect, carried a sensational headline calling them "tiny victims of blind faith." The newspapers' interest in the grim circumstances of Michael's death only intensified when legal observers began to weigh in on the possibility that his parents might be prosecuted for neglect or even manslaughter. For some, it was clear that the Heilmans had shirked their fundamental legal duties as parents by failing to obtain adequate medical treatment for their son. One former prosecutor stated that, whatever their religious beliefs, "Parents have a duty and obligation to care for their children. Parents don't let a 22-month-old child bleed to death . . . It's their duty to get him medical help." But others wondered if a jury would convict the couple on criminal charges. A Temple University law professor pointed out that it was unclear if Dean and Susan Heilman actually had known that Michael was a hemophiliac. If they had been unaware that their son's blood disorder put him at risk of bleeding to death, the professor argued, prosecutors might have a difficult time proving that they had engaged in "outrageous and unreasonable" conduct.<sup>10</sup>

On August 15, 1997, the office of the Philadelphia county district attorney formally charged the Heilmans with involuntary manslaughter and endangering the welfare of a child. (A count of criminal conspiracy initially was filed against them as well, but prosecutors later dropped it.) The complaint filed against Dean Heilman mentioned not only the circumstances of his son's death but also earlier instances when the boy had been harmed by religion-based medical neglect:

The defendant unlawfully endangered the welfare and caused the death of the decedent, Dean [Michael] Heilman, a hemophiliac, defendant's 22 month old son, by failing to obtain medical treatment when the child sustained a puncture wound to the foot, causing death by exsanguination [total blood loss], and defendant failed to obtain medical treatment for the child previously when he cut his lip or otherwise sustained bruising/injury.

The district attorney underscored the seriousness of the charges when he asked that the couple post ten thousand dollars in bail each. (Local authorities required them to post 10 percent of that amount, or one thousand dollars each, in cash.)<sup>11</sup>

The Heilmans' lawyers vehemently disputed the notion that, by choosing prayer over medicine, they knowingly had put their son's health at risk. Susan

Heilman’s lawyer insisted that she had not known of Michael’s hemophilia and asserted that both she and her husband “took extraordinary care of this child.” Echoing these arguments, Dean Heilman’s attorney characterized the couple as “good parents” who had violated no law. “You don’t have criminality here,” public defender Karl Schwartz said, because the Heilmans had made an earnest—if perhaps ultimately misguided—attempt to treat their son’s injury through prayer.<sup>12</sup>

Not surprisingly, assistant district attorney Edward Cameron, whose office filed the criminal charges against the Heilmans, had a radically different view of the case. For Cameron, it mattered little that the couple had been following the doctrines of their church by treating Michael solely with prayer; their conduct amounted to child abuse. “Any reasonable person,” he said at a preliminary hearing held before Municipal Judge Eric Lilian, would have rushed Michael to an emergency room for medical treatment after it had become apparent that prayer was not stanching the flow of blood from the cut on his foot. “What kind of parent looks at one of these diapers that are blood-soaked and [doesn’t know] something is wrong?” Cameron added. By failing to take the obvious steps that would have saved their son’s life, the couple had engaged in criminal wrongdoing, he argued.<sup>13</sup>

Lilian saw enough merit in this argument to order the couple to stand trial on the manslaughter and child endangerment charges. The judge respected the Heilmans’ right to practice their religion freely, which both the commonwealth and federal constitutions protected. Yet there were clear limits to such rights, he held, when their exercise appeared to threaten the best interests of a child. “The parents’ right to practice their religion ends where the child’s welfare begins,” Lilian said from the bench. “Young Dean Michael’s life may have hung in the balance, but he had no voice because he was too young to speak on his own behalf.” If convicted on all charges, the couple faced prison sentences ranging from eight and one half to seventeen years.<sup>14</sup>

In October 1998, both Dean and Susan Heilman pled “no contest” to the involuntary manslaughter and child endangerment charges. When it came time to sentence the couple, Court of Common Pleas Judge Carolyn Temin heard impassioned arguments from both sides of the case. Customarily blunt, prosecutor Edward Cameron asked that the members of the Faith Tabernacle receive a stiff penalty for having denied medical treatment to their dying son. Although Dean and Susan Heilman were devoutly religious and had acted on the basis of their sincere beliefs, they were, he said, “no different from anyone who kills a child anywhere in Pennsylvania” and thus deserved an appropriately severe punishment. Pulling no rhetorical punches, Cameron stated that jail sentences were warranted for the Heilmans because “they are murderers.”<sup>15</sup>

The Heilmans’ attorneys protested this withering characterization of their clients. In asking that the couple receive relatively lenient sentences—probation rather than imprisonment—both lawyers did their best to portray

the couple as loving, concerned parents who never had intended to harm their child. Karl Schwartz called the Heilmans “ideal parents” and suggested that they already had been punished enough by the “devastating” loss of their beloved child. He also blasted the prosecutor’s call for prison terms as a “reckless suggestion.” Given the unique circumstances of the case and the unimpeachable character of the defendants, Schwartz maintained, probation represented a more appropriate punishment.<sup>16</sup>

The judge agreed. Temin sentenced the Heilmans to seventeen years of probation each and fined them two thousand dollars each. She also ordered them to attend parenting classes at a nearby hospital and to provide medical treatment to their two surviving children. As she imposed these penalties, Temin acknowledged the complexity of the sociolegal issues presented by the case. The judge said that she was “appalled” by the circumstances of this “hideous, tragic death,” which “could have been totally prevented” by a trip to the hospital and appropriate medical treatment. She understood that the couple had been following the dictates of their faith, and she acknowledged that the courts had to “respect everyone’s religion” and thereby safeguard individual rights. Nonetheless, it was clear to Temin that “the state requires certain standards” for the care of children and that the Heilmans, by denying medical treatment to their son, clearly had failed to meet them. Punishment thus was, in her assessment, warranted.<sup>17</sup>

Temin tempered her criticism for the Heilmans’ conduct by praising their obvious devotion to Michael. The judge noted that the couple had loved their son deeply and that they never had intended to harm him. Their choice of prayer over medicine had proven to be a fatal mistake, but there had been “no malice in the treatment of [him] by his parents,” she believed. Temin also acknowledged that the Heilmans themselves had suffered a great deal as a result of Michael’s untimely death, suggesting that “the perpetrators are also the victims here.” Taking into consideration all of these mitigating factors, she concluded that the couple deserved to be spared imprisonment.<sup>18</sup>

Harrowing incidents of religion-based medical neglect—in which devout parents, adhering to the doctrines of their faiths, refuse to furnish medical care to their ailing children—are not unique to a single church or a particular geographical area. Since the late nineteenth century, this phenomenon has imperiled the youngest and most vulnerable members of a variety of religious faiths in every region of the United States. From Massachusetts to California, hundreds of children have died as Michael Heilman did—in agony, and aided by little more than the ardent bedside prayers of their parents and fellow church members.

Many such deaths, as well as numerous nonfatal cases of neglect resulting from parents’ exclusive reliance on spiritual-healing practices, have generated tangled criminal litigation. Indeed, cases similar to the prosecution of Dean

and Susan Heilman have abounded in American courts for more than a century. The defendants in these cases typically have been intensely religious parents whose lives revolve around the doctrines and practices of small, close-knit Christian churches that ground their doctrines in narrowly literal interpretations of the Bible. As they have attempted to refute charges of manslaughter or neglect, these parents adamantly have claimed that the First Amendment safeguards their decision to adhere to their faiths’ religious traditions and treat their ailing children solely by spiritual means, as they believe the scriptures mandate. They often have complemented these arguments with claims that they possess a fundamental right as parents to direct the upbringing of their children without interference from the state.

The prosecutors who have filed criminal charges against spiritual healers have taken a dramatically different view of the legal issues presented by cases of religion-based medical neglect of children. While respecting the right of individuals to freely practice their religious faiths, law enforcement authorities in these cases have balked at the notion that constitutional protections for religious liberty provide an absolute bar to state regulation of religious conduct, particularly when that behavior puts the safety of children at risk. They also have disputed the claim that the state has no right to limit the authority of parents to direct the upbringing of their children. Children have rights as well, prosecutors argue, and, in extraordinary circumstances, the state has a clear duty to intervene and safeguard them, even if it means abrogating the rights of their parents.

Instances of religion-based medical neglect of children frequently generated intense public interest in both the United States and Great Britain in the late nineteenth and early twentieth centuries. In England, for instance, members of a sect known as the Peculiar People became embroiled in a controversial series of neglect cases that began in the mid-1800s and lasted until the 1930s. Like many spiritual healers, members of this church took their cue from the Epistle of James and treated their children’s illnesses exclusively with prayer and anointing. The results of this approach often were deadly: a host of ailments, including scarlet fever, diphtheria, and pneumonia, ravaged children in the church. In response, English authorities, in an effort that prefigured the later work of their American counterparts, mounted a succession of manslaughter and neglect prosecutions against church parents who had relied solely on spiritual-healing practices to treat their sick children. Not everyone approved of these legal endeavors; playwright George Bernard Shaw (hardly a religious zealot himself) wondered why the Peculiar People were targeted for prosecution more often than the physicians whose medical treatments routinely failed to heal patients. Nonetheless, the Peculiar People cases had widespread significance, establishing judicial precedent in England and influencing American courts’ nascent approaches to the difficult legal and ethical issues raised by religion-based medical neglect.<sup>19</sup>

In the United States, cases such as the prosecution of a New York railroad clerk named J. Luther Pierson precipitated debates over the efficacy of medical science, the role of prayer in healing, and the obligations of both parents and the state to safeguard the physical well-being of children. Two of Pierson's children died in 1901 after he chose to treat their illnesses solely with prayer. "We believe that if we called a physician it might tend to the destruction of the child," Pierson said of the tenets of his faith, the Christian Catholic Church (which had been founded by the controversial healer John Alexander Dowie), "and that instead of the child being saved it would surely die. To avoid its death we adopted the mode and prayer of our creed and our belief and exerted ourselves for the child's protection and safety." Authorities charged Pierson with unlawfully withholding medical care from his infant daughter, who had succumbed to catarrhal pneumonia. A judge found him guilty, and the state's highest appellate court upheld the verdict, holding that parents could not shirk "the duty of caring for their young in sickness and in health, and of doing whatever may be necessary for their care, maintenance and preservation, including medical attendance if necessary." This benchmark ruling helped to bolster the emerging legal doctrine that parents, whatever their religious beliefs, had a legal duty to provide adequate medical treatment to their children.<sup>20</sup>

Locally, the *Pierson* precedent took an added significance when authorities mounted several other prosecutions of "faith-curists" (as the press dubbed them) who had failed to provide medical care to their sick children. Featuring innocent child victims and defendants who espoused apparently extreme beliefs about the curative power of prayer, cases such as the prosecution of Mr. and Mrs. John Quimby made compelling copy for journalists, and dozens of stories about them appeared in New York newspapers in the first decade of the twentieth century. The Quimbys—Christian Scientists from White Plains—were charged with manslaughter in 1902 after their seven-year-old daughter, Esther, died from a bout with diphtheria. The headline of a typical *New York Times* story on the Quimby case read, "Child Died without Medical Attendance; 'Diphtheria and Christian Science Neglect' the Causes."<sup>21</sup>

Ninety years later, cases similar to the prosecutions of Pierson and the Quimbys still were surprisingly common. In 1991, a measles outbreak in Philadelphia claimed the lives of five young members of the Heilman family's church, the Faith Tabernacle, after their parents spurned conventional medical treatment (including vaccinations) and attempted to cure their ailments by spiritual means alone. At the height of the measles outbreak, desperate public health authorities assembled a team of doctors to conduct hundreds of at-home visits to determine if young members of the church were at risk. The physicians were shocked by what they discovered in some Faith Tabernacle homes: one later said that he felt as if he had entered into a "time warp," while another bemoaned the "19th century conditions" he had observed. Their canvass prompted the city's district attorney to obtain court orders mandating medical

treatment for several afflicted children and vaccinations for others who were at risk of contracting the virus.<sup>22</sup>

A number of factors make it difficult to determine precisely how many children have lost their lives in such tragic circumstances. Members of some faith-healing churches isolate themselves, living in insular communities and minimizing their contacts with law enforcement authorities and other representatives of the modern society that they consider to be spiritually bankrupt. (As a Faith Tabernacle minister put it, “We don’t mix with the world.”) The deaths of many children in these churches simply have not been divulged to law enforcement officials because their parents fear that such reporting would result in increased scrutiny—and perhaps suppression—of their religious practices. As a result, numerous young victims of religion-based medical neglect have been buried without anyone outside their close-knit church communities knowing the precise circumstances of their deaths.<sup>23</sup>

Even the limited evidence that has been compiled on religion-based medical neglect of children is unsettling. A wide-ranging study funded by the National Center on Child Abuse and Neglect investigated whether forms of religion-related child abuse, such as the faith-based medical neglect that proved so deadly in the case of Michael Heilman, posed a greater risk to children than other, more widely publicized threats, such as ritual satanic abuse. By surveying thousands of psychologists, psychiatrists, and social workers, the study’s authors identified dozens of instances in which parents had withheld medical care from their children for religious reasons. (In a typical account of religion-based medical neglect, one physician reported, “Child’s tumor was untreated. Needed amputation was not allowed. Father believed child was being punished for sins and could be cured only through prayer.”) The prevalence of such cases led the authors of the study to conclude that “there are more children actually being abused in the name of God than in the name of Satan.”<sup>24</sup>

In 1998, pediatrician Seth Asser and Rita Swan, director of the advocacy group Children’s Healthcare Is a Legal Duty (CHILD), coauthored a path-breaking study that likewise attempted to assess the pervasiveness of religion-based medical neglect of children. (Swan had painful first-hand experience with the phenomenon: a former Christian Scientist, she founded CHILD after losing her son to bacterial meningitis.) Published in the journal *Pediatrics*, the article documented a total of 172 child fatalities—the great majority of them attributable to religion-based neglect—in faith-healing churches over a twenty-year span. But even as they reported this substantial tally, the authors of the study realized that they probably only had skimmed the surface of a surprisingly deep problem. “We suspect that many more fatalities have occurred during the study period than the cases reported here,” Asser and Swan wrote. As Asser later put it, “We felt that this study was the tip of the iceberg. I’m sure that there are other deaths out there and other churches that we don’t know about.”<sup>25</sup>

Events in Oregon bore out Asser's point. The *Pediatrics* article appeared in April 1998, just as myriad child deaths linked to the Followers of Christ Church were making headlines in the Pacific Northwest. Asser and Swan learned of the Followers' deaths in Oregon, as well as those linked to the church in Idaho and Oklahoma, too late to incorporate them into their landmark study. (In fact, they apparently did not even learn of the small church's existence until after they had completed their exhaustive research.) Had they been able to add the deaths of Followers children, their count of religion-based medical-neglect deaths would have increased by about one-third.

The findings of the *Pediatrics* study underscored Asser's later assertion that most faith-based medical-neglect deaths are "pointless and preventable." Of the 172 deaths reviewed, 140 "were from conditions for which survival rates with medical care would have exceeded 90 percent," and another 18 were from conditions for which typical survival rates surpassed 50 percent. The former group included ailments such as Rocky Mountain spotted fever, diabetes, and meningitis; the latter, Ewing's sarcoma, Wilms' tumor, and non-Hodgkins lymphoma. All told, all but three of the children whose deaths were reviewed "would likely have had some benefit from clinical help," according to Asser and Swan.<sup>26</sup>

In one of the many tragic examples of preventable fatalities cited in the *Pediatrics* study, a two-year-old slowly choked to death on a bite of banana while her parents, instead of endeavoring to dislodge it themselves or summoning an ambulance for help, attempted to organize a prayer session for her. Another case involved a father who had received extensive medical training before joining a church whose teachings proscribed medical care. When the child suffered through a prolonged and intense fever caused by bacterial meningitis, the father—who had completed a year of a medical residency—attempted to rebuke "the spirit of death," as he later put it, through prayer. The child expired after this effort failed.<sup>27</sup>

One typically agonizing portion of the study published by Asser and Swan involved prenatal and perinatal fatalities. Their research uncovered fifty-nine such deaths associated with religion-based medical neglect. Because of their faiths' proscription of medical treatment, the mothers in the bulk of these cases chose to forego prenatal care and then attempted to give birth at home without the assistance of a physician or a licensed midwife. The errors made in some of these home deliveries were extraordinary. In one instance, a mother who suffered through three days of painful labor was stricken by convulsions and discharged meconium, the tar-like substance that accumulates in the bowels of a fetus. The greenish discharge is a telltale sign of fetal distress, but a church elder present at the birth told the mother that it was a "good thing" that indicated prayers were in fact working. They were not, and the baby died. As they surveyed such incidents, Asser and Swan concluded that "all but one of the newborns would have had a good to excellent outcome with medical care."

The *Pediatrics* study also noted that mothers themselves sometimes suffered from religion-based medical neglect: the authors discovered numerous maternal deaths resulting from complications related to delivery.<sup>28</sup>

Asser and Swan reported that in the Faith Assembly, a small Midwestern church that encourages its members to forsake medical treatment in favor of prayer, nearly thirty children died because of botched deliveries or inadequate postnatal care. One case involved a stillbirth in Indianapolis, Indiana. When police investigators examined the child’s corpse, they found a sizable disfigurement on its left temple. An obstetrician who later reviewed the case surmised that “the baby’s skull was most likely crushed by an inexperienced person performing the delivery,” according to a newspaper account. Many of the Faith Assembly stillbirths resulted from failed breech deliveries. One father who lost a child in such circumstances reportedly told police that the death was “a chastisement from God” rather than a product of his own negligence.<sup>29</sup>

Asser and Swan documented fatalities among twenty-three religious denominations in thirty-four states. Many of the churches were small, and some of their names were unfamiliar to most mainstream Christians. The obscure Faith Assembly had the dubious honor of recording the greatest number of neglect-related fatalities among members of any church—sixty-four. The more widely known Church of Christ, Scientist (commonly known as the Christian Science Church) came in second place in this bleak race with a total of twenty-eight deaths. Of these fatalities, the death of Ashley King was among the most “bizarre and horrifying,” as one observer put it. When the twelve-year-old became ill in 1987, her parents chose to treat her at home in accordance with Christian Science practice. After Ashley’s parents withdrew her from school, a succession of local authorities appeared at the Kings’ home in Phoenix, Arizona, in order to determine if the girl had fallen victim to neglect. A police detective eventually gained entry to the house and discovered a ghostly looking Ashley confined to bed by a tumor on her right leg. The tumor was, according to a local deputy county attorney who later reviewed Ashley’s case, “absolutely humungous, the size of a watermelon.” (This was not hyperbole: the tumor had ballooned to a circumference of 41 inches.) Acting under a court order, the state’s child welfare agency obtained temporary custody of the girl and had her admitted to Phoenix General Hospital, where she was diagnosed with bone cancer. There, in the words of another observer of the case, “the stench from [Ashley’s] decaying flesh was so bad, it permeated the entire floor of the hospital.” She lost her battle with the cancer in the summer of 1988.<sup>30</sup>

Investigating deaths like Ashley King’s transformed pediatrician Seth Asser into a passionate campaigner against religion-based medical neglect of children. As he battled the phenomenon, Asser expressed frustration over the relative lack of public attention that faith-based medical neglect received—a function, he suspected, of the deaths happening sequentially rather than en masse. “Kids die from accidental deployment of air bags, and you get hearings

in Congress,” he said. “But this goes on, and dozens die, and people think there’s no problem because the deaths happen one at a time. Yet the kids who die suffer horribly.” Referring to the site of the People’s Temple tragedy (where hundreds of followers of Jim Jones, including scores of children, died after ingesting poisoned Kool Aid in 1978), Asser lamented that the ongoing abuse of children from religion-based medical neglect was “like Jonestown in slow motion.”<sup>31</sup>

Both Rita Swan and Seth Asser concluded that there are relatively simple ways to protect children from religion-based medical neglect. Like many close observers of the phenomenon, they insisted that dozens of lives would be saved every year if local authorities zealously and consistently enforced criminal neglect, manslaughter, and criminally negligent homicide statutes against spiritual healers. The prospect of severe criminal sanctions, they reasoned, would force many intensely religious parents to break with the spiritual healing practices of their churches and seek medical treatment for their sick or injured children.

But this seemingly straightforward approach may not provide a sufficient deterrent. First, such cases can be difficult to prosecute. Out of deference to grieving parents—or because they are wary of being perceived as insensitive of those parents’ constitutional rights—law enforcement authorities often perform only cursory investigations of religion-based medical neglect. Even when police carefully scrutinize the circumstances of spiritual-healing-related deaths, some prosecutors are reluctant to vigorously pursue criminal charges. They conclude that such charges are unlikely to result in convictions, given how sympathetic the potential defendants—misguided but sincere parents who were genuinely trying to heal their children—would appear to jurors. “You bring in these parents, sobbing and upset that their child died, and they say that is what God told them to do,” one Oregon prosecutor noted. “If they truly believe that and a jury believes they are sincere, you are not going to convict them of any crime.” In still other cases, prosecutors decline to file charges because they sense that a conviction would do little to deter zealously religious parents from continuing to endanger their surviving children by treating them through spiritual means.<sup>32</sup>

And then there are the murky manslaughter and child-neglect statutes on which the prosecutors’ charges might be based. Many such laws contain exemptions that provide a ready defense for practitioners of religious healing. Currently, the criminal codes in a clear majority of states (thirty-nine) provide religious exemptions to child-abuse or neglect charges, and nineteen states permit religion-based defenses to felony crimes against children. Wisconsin’s laws governing child abuse are typical: a subsection entitled “Treatment Through Prayer” states that a person cannot be found guilty of a crime “solely because he or she provides a child with treatment by spiritual means alone for healing in accordance with [a bona fide] religious method of healing . . . in lieu

of medical or surgical treatment.” The presence of these caveats in state criminal codes has scuttled some prosecutions of parents who have failed to provide adequate medical treatment for their children. Many times, the law simply has been neither strong nor clear enough for prosecutors to obtain a conviction at trial or sustain a guilty verdict on appeal.<sup>33</sup>

Groups ranging from the United Methodist Church to the National District Attorneys Association have called for the repeal of religious exemptions to child-abuse and neglect laws. Several prominent medical organizations—among them the American Medical Association (AMA) and the Bioethics Committee of the American Academy of Pediatrics—have echoed those calls. In 1988, the latter body issued a statement declaring that “all child abuse, neglect, and medical neglect statutes should be applied without potential or actual exemption for [the] religious beliefs” of parents. Deeply committed to “the basic moral principles of justice and of protection of children as vulnerable citizens,” the members of the bioethics committee called upon state legislatures to remove religious exemption clauses and thereby ensure “equal treatment for all abusive parents.” Smaller but equally zealous groups such as Massachusetts Citizens for Children (MCC) issued similar calls for action. MCC maintained that religious exemptions should be repealed because they “lead to the cruel and unnecessary deaths of helpless children.”<sup>34</sup>

No organization has been more vocal in lobbying for the repeal of religious exemptions than CHILD. Rita Swan has argued that these stipulations, while safeguarding the religious liberty of parents, endanger the health of children and violate several different interrelated constitutional standards. “Such exemptions discriminate against a class of children,” she has written, “depriving them of their Fourteenth Amendment right to equal protection under the laws, and give a preference and an endorsement to a religious practice, violating the establishment clause of the First Amendment.”<sup>35</sup>

Legal scholars studying the phenomenon of religion-based medical neglect have been no more kind to what one has lamented as the “haphazard array of faith healing exemptions [that fail] to protect children who are provided faith healing instead of medical care.” Scholarly analyses have criticized the faith-healing provisions as being legally untenable on a variety of constitutional grounds. James Dwyer, an expert on children’s rights at the William and Mary School of Law, has been especially forceful in making such claims. Maintaining that the provisions effectively deny a class of children equal protection under the law, Dwyer has asserted that “the invidious discrimination among groups of children that these exemptions represent is clear on the face of the statutes. . . . These exemptions cause harm to children who have neither the state nor any set of caretakers advocating for their temporal interests.”<sup>36</sup>

As their critics often argue, these broad and sometimes contradictory religious-immunity provisions can derail even the most determined efforts by states to bring perpetrators of religion-based medical neglect to justice. Confusion

over the scope of religious exemptions apparently reigned in Indiana until newspaper reports highlighted the problem. In 1983, the *Fort Wayne News-Sentinel* documented nearly three dozen apparently preventable deaths among infants and children whose parents belonged to the Faith Assembly. The circumstances of some of these deaths—which dated back to 1973, according to the paper—were nothing short of gruesome. A one-year-old girl named Eva Swanson died of blood poisoning and pneumonia in 1981 after she accidentally dumped a small pot of scalding tea on herself. The *News-Sentinel* reported that a fifteen-month-old named Dustin Gilmore “was deafened, blinded and killed” by a virulent form of meningitis. Because of their parents’ religious beliefs, none of the Faith Assembly children received medical care. Said one Faith Assembly mother who lost an infant to pneumonia, “Jesus was his doctor.”<sup>37</sup>

The case of Natali Joy Mudd, a four-year-old Faith Assembly child who died in 1980, was especially horrific. A fast-growing, highly malignant tumor called rhabdomyosarcoma sprouted from near the girl’s right eye and, left untreated by medical science, “eventually grew to the size of her head,” according to one press account. When Natali’s parents called police to report the girl’s death, investigators discovered trails of blood along the walls of their home. They surmised that the crimson stains had been left where the nearly blind Natali, groping her way through the house, had dragged her grotesquely disfigured head. “It’s hard to comprehend a little toddler going through all that because of religion, with all the treatments available,” one of the investigators later said. (For rhabdomyosarcoma, these treatments include surgery, chemotherapy, and radiation.) Natali’s death was perhaps doubly tragic because her sister, who also initially was denied medical treatment, later died of the same kind of tumor.<sup>38</sup>

Although prosecutions had been mounted in other states, the *News-Sentinel’s* review of deaths of Faith Assembly children revealed that none of the parents in the church in Indiana—not even the parents of Natali Joy Mudd—had been charged with manslaughter or neglect. “Today,” one state legislator lamented, “we’re allowing the Faith Assembly to withhold medical treatment [from children] without being prosecuted.” Explaining why he had failed to file criminal charges against parents implicated in more than a dozen religion-based neglect cases in his county, one prosecutor asserted that state law “specifically excludes [from prosecution] people who provide spiritual treatment” to their children in lieu of medical care. But Indiana’s chief law enforcement officer, Attorney General Linley Pearson, suggested that this was perhaps too broad a reading of the statute and that prosecutors could move forward with charges and let juries determine if the measure applied in cases involving Faith Assembly parents. The state of the law in Indiana was so muddled that the two state legislators who had introduced the spiritual-healing measure disagreed as to whether it provided an absolute defense to parents implicated in cases of religion-based medical neglect.<sup>39</sup>

Their backbones stiffened by public outrage over their inaction in cases involving the Faith Assembly’s healing practices, authorities in Indiana eventually took a harder line against members of the church, acting under existing statutes to mount several successful criminal prosecutions of parents and ministers who had been implicated in cases of religion-based medical neglect of children. One of their targets was church leader Hobart Freeman. Shortly before his death in 1984, a grand jury indicted Freeman for aiding and inducing reckless homicide for his role in the death of a fifteen-year-old girl. But religious exemptions continued to hamstring the efforts of law enforcement authorities in other states. Rita Swan has pointed to the prosecution of Jon Lybarger as a textbook example of how such provisions complicated prosecutions of parents who were apparently responsible for their children’s deaths. Late in the winter of 1982, Lybarger’s five-week-old daughter, Jessica, contracted a severe case of pneumonia. As the girl’s condition worsened, several of Lybarger’s friends and fellow church members urged him to seek medical treatment for her, but he chose to treat her condition solely with prayer and anointment. “I want the best help for my baby,” he explained, “and God is the best help for [her].” Even an inquiry from two sheriff’s deputies—they appeared at his home after learning from an anonymous caller of Jessica’s dire condition—could not convince Lybarger to take his daughter to a hospital. She failed to respond to his spiritual treatment and died on March 15, 1982. Soon thereafter, Lybarger faced charges of criminal child abuse.<sup>40</sup>

The tortuous course of Lybarger’s case—it wound its way through the courts in Colorado for nearly a decade—demonstrated how defendants in cases of religion-based medical neglect could exploit religious exemptions to state child-neglect laws. His first trial resulted in a guilty verdict and a sentence of six months’ probation. Lybarger appealed, claiming that the trial court had erred in barring him from raising a defense based on language in the Colorado code stating that a child “who in good faith is under treatment solely by spiritual means through prayer” could not be deemed neglected. (The trial court had ruled that the First Amendment’s establishment clause would be violated if Lybarger were permitted to raise a defense based on that spiritual-healing exemption.) The Colorado Supreme Court granted Lybarger a new trial in 1985, holding that the trial court had exceeded its authority in limiting his defense. Lybarger’s second trial for felony child abuse also resulted in a guilty verdict, and he appealed once more, arguing this time that the trial court had blundered in its instructions to the jury regarding the panel’s discretion in interpreting the meaning of the phrase “treatment by spiritual means.” In 1991, the state’s highest court sided with Lybarger, reversing his conviction a second time. After ten years, two trials, and numerous appeals, prosecutors found themselves back at square one. (When their third effort to prosecute Lybarger ended in a mistrial, they apparently gave up and dropped the case.)<sup>41</sup>