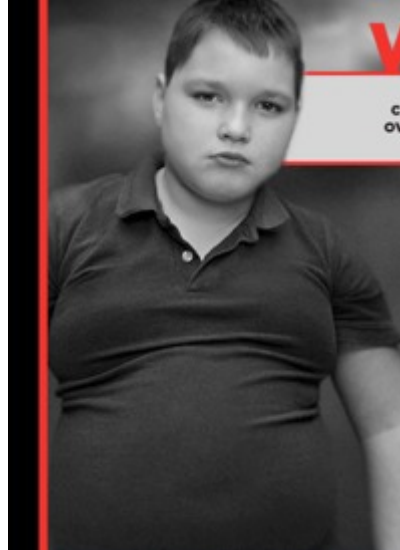




Written by [Thomas R. Eddlem](#) on July 14, 2011

Should Government Take Two Million Children Away From Their Parents?

A [morbidly obese](#) person is someone who's body mass index (BMI) is 40 or higher, generally someone who is 100 pounds or more overweight. According to the July 13 [USA Today](#), and the *JAMA* article, "Roughly 2 million U.S. children are extremely obese. Most are not in imminent danger, Ludwig said. But some have obesity-related conditions such as Type 2 diabetes, breathing difficulties and liver problems that could kill them by age 30."



USA Today [added](#), "Ludwig said he starting thinking about the issue after a 90-pound 3-year-old girl came to his obesity clinic several years ago. Her parents had physical disabilities, little money and difficulty controlling her weight. Last year, at age 12, she weighed 400 pounds and had developed diabetes, cholesterol problems, high blood pressure and sleep apnea." But Ludwig has apparently never heard of the legal adage that "[hard cases make bad law.](#)"

David Ludwig of Boston Children's Hospital, one of the two authors of the *JAMA* article, is quick to say that society itself should be restructured — in addition to the family — in order to combat childhood obesity. "The point isn't to blame the parents, but rather to act in the child's best interest and get them help that for whatever reason their parents can't provide," Ludwig [told](#) the Children's Hospital blog. "It's ironic that we would blame parents for their child's obesity when we tolerate as a society policies that directly promote obesity, like food ads aimed at young people, atrocious-quality school lunches, cutbacks in school budgets to support regular physical education. There's plenty of blame to spread around."

Ludwig and his co-author Lindsey Murtagh of the Harvard School of Public Health acknowledge their proposals are going to be controversial. "State intervention would clearly not be desirable or practical, and probably not be legally justifiable, for most of the approximately 2 million children in the United States with a BMI at or beyond the 99th percentile," the two [wrote](#).

Indeed, the legal hurdles are daunting. The traditional standard for removing a child from his or her parents has been only to prevent permanent "[imminent and irreparable harm to the child.](#)" Despite the extreme example that inspired Ludwig, most obese children have little damage that is irreparable to them and little damage that is imminent. Moreover, even imminent harm to a child alone is not enough to necessitate taking a child away from his parents. In a 2004 New York state custody case, the state's



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highest court [unanimously ruled](#) that "the court must specifically consider whether imminent risk to the child might be eliminated by other means" before parental custody can be removed.

This standard of presumption on behalf of parents is under assault, however. "It's a controversial stance, but not one without precedent," the Boston Children's Hospital blog [noted](#). "To date seven states have seen legal cases where the over-nourishment of a minor ended in state intervention."

And while nobody wants children to grow up obese and with health problems, the alternative is almost certainly worse. ABC-TV [covered](#) the Ludwig story and found that in one case placement in foster care did not cure the weight issue, but parental separation had traumatized the child.

Such is more likely to be the case with government, as "government competency" seems to be a bit of an oxymoron. Consider just two recent examples:

Government health inspectors twice gave a City of Fall River, Massachusetts, pool a clean bill of health, even as the body of 36-year-old Marie Joseph lay [unnoticed by lifeguards and other safety staff for more than two days](#). The hand-wringing and [blame-game among government inspectors continues](#), with the consensus being that the pool water was too cloudy to see Joseph's body. Yet while Joseph — a mother of five — lay undetected by staff (despite lifeguards being [warned by a nine-year-old child](#) that someone had not come up out of the water) during two full days of operation. Joseph's body was eventually discovered by some teenage boys pool-hopping the municipal pool after hours.

In essence, an entire host of government employees — whose jobs were to check the pool — could not find a body in the pool during daylight for two days, even though some kids were able to spot the body at night without even looking for it.

Another example of government employees acting much like [Mr. Magoo](#) is the case of Jaycee Lee Dugard, who's book [A Stolen Life](#) is now a bestseller. Eleven-year-old Jaycee Lee Dugard was kidnapped and spent 18 years in captivity at the hands of a convicted sex offender, even though there were some [60 home inspections](#) by police and parole officers of her captor, Phillip Garrido, during the term of Dugard's captivity. Moreover, her captivity was punctuated by [9-1-1 calls from neighbors](#) warning that the childless Garrido had children living at his home.

Throughout Dugard's ordeal, the only person who [never stopped looking](#) for Jaycee was her mother, who founded a search foundation; distributed buttons, T-shirts, and awareness paraphernalia; and arranged to get her daughter on television's *America's Most Wanted*. Dugard's mother is testimony to the truth that no one loves a child more than his or her parents.

Faced with such unfathomable and universal government incompetency, the real question in the debate over childhood obesity is: How can an indifferent and incompetent government be trusted to take care of kids better than their parents?

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