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## “I’M GOING TO LET YOU WALK HOME”

Dave Lieber\*

### *Abstract*

*In response to David Pimentel’s article, Criminal Child Neglect and the “Free Range Kid”: Is Overprotective Parenting the New Standard of Care?, 2012 Utah Law Review 947.*

“Sit and wait until I’m done, please! I want to finish my coffee.”

My eleven-year-old son Austin and I are in a McDonalds in Watauga, Texas, less than a half mile from our home in Fort Worth.

“Let’s go, Dad! I want to go now!”

“I’m telling you: sit and wait until I’m done.”

“No, let’s go.” He says it louder. “I want to leave now!”

“Shut up! We’re in a restaurant. Go sit and wait for me at that table. If you don’t, I’m going to let you walk home. You can think about the way you behaved during your walk.”

Several men are sitting at nearby tables by themselves. All have their backs to us. But we are loud enough that they can hear. And my son will not stop his cackling.

Next thing I know, I am speed walking out the door. Austin is right behind me. I speed up. He speeds up. Outside in the parking lot, I unlock the car, jump in and then lock the doors before he can get in.

I turn on the engine and back the car out. He is still pulling on the handle. When he sees the car moving backward, he lets go but chases me for several steps. Then he stops.

He is standing in the parking lot, crying and bewildered.

I drive away.

I did not realize it at the time, but I was about to enter a new world, one that Professor David Pimentel describes in his article, *Criminal Neglect and the “Free Range Kid”: Is Overprotective Parenting the New Standard of Care?* In Texas, the laws for turning a child loose into the world are, as he describes, vague; they do not “provide sufficient guidance to prosecutors and jurors to know when a parental lapse rises to the level of criminal conduct.”<sup>1</sup>

In about ten minutes, I return to the restaurant to see if Austin had walked home. He is still there. A gaggle of people are there, too, eyeing me as if I were the

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\* © 2013 Dave Lieber. Dave Lieber is The Watchdog columnist for The Dallas Morning News and one of Texas’s most popular speakers. His columns can be found at [www.DallasNews.com/Watchdog](http://www.DallasNews.com/Watchdog). His personal website is [DaveLieber.org](http://DaveLieber.org).

<sup>1</sup> David Pimentel, *Criminal Child Neglect and the “Free Range Kid”: Is Overprotective Parenting the New Standard of Care?*, 2012 UTAH LAW REVIEW 947, 967.

Boston Strangler. Someone in the restaurant had called 911 and two police cars from the Watauga Police Department are parked nearby.

My son is not hurt. He has not moved from the lot. He did not even begin the seven-block, fifteen-minute walk across the street back into our subdivision and onward to home. I have come back to get him, but it does not seem to matter.

The police eventually arrest me and charge me with two felony counts: child abandonment and child endangerment.<sup>2</sup> The police recommended the charges and the Tarrant County prosecutors accepted them.

I posed for my mug shot, got my bail and walked out of the courthouse. And within hours, the story was shooting around the globe. Headline: *Texas Newspaper Columnist Arrested After Fight with Son*. TV stations, blogs, and radio shows all covered the story. Everyone had an opinion. Is Dave Lieber a bad dad?

Nobody, though, bothered to ask another question. Had I, as an investigative columnist for the *Fort Worth Star-Telegram*, ever written about the Watauga Police Department and the Tarrant County District Attorney's office? The answer to this question was a resounding yes, but nobody, not even reporters on my own newspaper, bothered to ask before reporting the facts.

As an opinion columnist, I had called for the district attorney's defeat in the previous election. I had exposed one Watauga police chief as having a false college education. He resigned before he could start the job. I also caught the town's fire chief lying under oath in a federal lawsuit, wrote stories that led to the recall of several council members, and caught the mayor taking cash in an envelope from a developer. I could go on, but you get the idea.

Yes, I left my child at the restaurant to teach him the traditional lesson—"You walk home and learn how to behave." But when I came back to get him, I had stepped into the zone that Professor Pimentel describes as one where prosecutors have such a broad range of powers that they can prosecute for a crime where the child was never harmed.<sup>3</sup> My son was abandoned for a few minutes in a crowded place he was familiar with. He routinely traveled the neighborhood by himself. He was never in danger. Professor Pimentel describes this kind of involvement by law enforcement as a "response to a virtually nonexistent risk of stranger abduction."<sup>4</sup> Tell that to the folks from Child Protective Services who showed up at my door.

The media focus on my escapade included the *Austin American-Statesman* newspaper headlining me as the "drive off dad."<sup>5</sup> ABC News and Inside Edition

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<sup>2</sup> Alex Branch, *Star-Telegram Columnist Arrested*, STAR-TELEGRAM (Aug. 26, 2008), <http://www.star-telegram.com/2008/08/26/v-print/862522/star-telegram-columnist-arrested.html>.

<sup>3</sup> Pimentel, *supra* note 1, at 981.

<sup>4</sup> *Id.* at 959.

<sup>5</sup> Tara A. Trower, *Update: Charges Dropped Against Drive Off Dad*, STATESMAN.COM (Aug. 29, 2008, 3:18 PM), [http://www.statesman.com/blogs/content/shared-gen/blogs/austin/mamadrama/entries/2008/08/29/update\\_charges\\_dropped\\_against.html/](http://www.statesman.com/blogs/content/shared-gen/blogs/austin/mamadrama/entries/2008/08/29/update_charges_dropped_against.html/).

called for my story. Even a TV court hearing in “Kelly’s Court” hosted by anchor Megyn Kelly on her FOX News show was broadcast for a national audience.<sup>6</sup>

I was suspended from my newspaper job. “We can’t have The Watchdog under arrest,” the editor told me. I understood completely. Eventually, all was restored. I returned to work. Charges were dropped. I have now learned other ways to discipline my child, who is now, five years later, much taller than me. I am afraid he will put me out of the car.

My experience is not entirely unique. Not long ago, in a neighboring town, Roanoke, Texas, a father of four picked up pizza on a Sunday night and accidentally left behind his youngest child, a six-month-old girl, in the parking lot.<sup>7</sup> She was strapped in her car seat.<sup>8</sup> When the parents realized, they returned.<sup>9</sup> Police never filed charges, however.<sup>10</sup>

Similarly, British Prime Minister David Cameron and his wife left their eight-year-old daughter in a countryside pub by mistake after lunch.<sup>11</sup> Cameron rushed back to pick her up.<sup>12</sup> The child had been in the bathroom when the motorcade pulled away.<sup>13</sup> Of course, no charges were filed.

I am not the British prime minister. I was charged. Perhaps my case proves Professor Pimentel’s point that the laws are subject to onerous and highly subjective parenting standards based on geographic settings and discretion. The potential for retaliatory prosecution is all too clear. This is a particular problem when it enables prosecutors or police to silence critical voices in the community. Professor Pimentel’s worry is that society is raising the bar so high when it comes to protection of children that many parents will feel chilled when it comes to disciplining their young ones. I know I showed a temper that day. If it happens again, I have learned a dozen ways to calm the situation. Professor Pimentel praises those trying to “bring[] some balance and useful perspective to the debate over what constitutes good parenting.”<sup>14</sup> He is right. I know it. I lived his legal argument in real time.

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<sup>6</sup> *America’s Newsroom* (Fox News television broadcast September 15, 2008) (on file with author).

<sup>7</sup> Frank Heinz, *Infant Left Behind at Pizza Shop Parking Lot*, 5 NBCDFW.COM (Nov. 15, 2011), <http://www.nbcdfw.com/news/local/Six-Month-Old-Left-in-Roanoke-Parking-Lot-133788533.html>.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> Gregory Katz & Meera Silva, *David Cameron Leaves 8-Year-Old Daughter Nancy in Pub*, THE HUFFINGTON POST (June 11, 2012, 4:10 PM), [http://www.huffingtonpost.com/2012/06/11/david-cameron-daughter-pub\\_n\\_1585908.html](http://www.huffingtonpost.com/2012/06/11/david-cameron-daughter-pub_n_1585908.html).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> Pimentel, *supra* note 1, at 998.