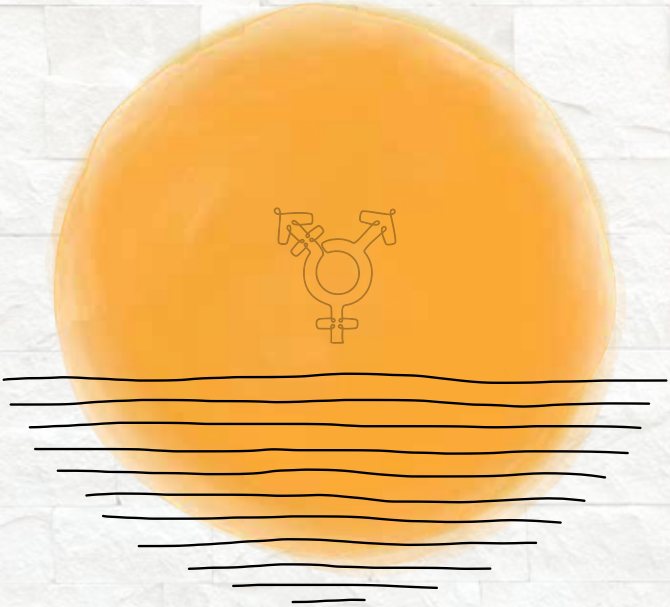
What Parents Need to Know
to Deal With
Child Protective Services

By Vernadette Broyles, Esq. and Joel Thornton, Esq.



Child & Parental Rights
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There is a trend that is weaponizing Child Protective Services against loving and fit parents who seek to uphold biological reality when their child experiences gender confusion.

Child Protective Services may be called by different names in different states, such as Department of Children and Family Services, Department of Child Safety, or something similar. Their mandate is essentially the same – the protection of children whose parents abuse them, are unable to care for them, or neglect their essential needs. We will refer to these government agencies, regardless of what they are called in a particular state, more generally as Child Protective Services ("CPS").

Where there are concerns that a parent has been abusive or neglectful, CPS may seek authority to remove a child from the parents' custody and require the parents to go to Juvenile Court to have the child released back into their custody. In many instances, CPS is able to help families get the services they need, such as assisting families with addiction issues or parenting classes to help parents better care for their children. In normal circumstances this is a good thing.

When it comes to issues of gender identity, however, CPS is being weaponized for use in the culture war. School officials, or others, might threaten to refer to CPS parents who do not believe that their child should be affirmed as something other than their biological sex, such as being called by the name or pronouns of the opposite sex or allowed to be treated as a member of the opposite sex. Activists are encouraging school officials to refer parents who wish to uphold biological reality to CPS by claiming that such parents are creating an "unsafe home."

It is important that parents be prepared to deal effectively with CPS. Parents are right to be alarmed if CPS becomes involved because of the power they wield. They often come to your home and can be very heavy handed. In response you should always be respectful to CPS officials and to any police officer that comes with them. But it is important you know your rights and know how to effectively assert them each step of the way.

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Understand the early warning signs that CPS is being involved.

The first indication you have that CPS may be getting involved might come from your child's school or a mental health provider. If school officials or one of your child's providers mentions that this might be a time to get CPS involved, then you should begin preparing for that eventuality.

It could be that your child is asked if they feel safe around you. Or school officials might ask if your child ever feels like harming themselves because you do not "affirm" their asserted identity. Any number of questions along those lines should cause you to suspect that school officials may be considering reporting you to CPS. School officials are mandatory reporters for child abuse and neglect. Remarkably, many activists consider refusing to "affirm" a child's imagined gender identity to be a form of child abuse or neglect. Do not be caught unaware.

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Stay one step ahead – the first goal is to not let it get into Juvenile Court

Parents must be proactive. First, parents need to get on the same page. It's important you agree on the proper response to school and CPS officials. If your child reports that he or she has been asked questions like the ones above, then it is better to be prepared than surprised. You should begin having discussions with school officials to let them know that you have done your research and are prepared to protect your child and your parental rights.

Make sure school officials know that gender issues are mental health issues, and you have the sole authority to make those decisions for your child. Give them information that supports your decision to uphold biological reality with your child. Let them know you are engaging a mental health professional to help your child and, if necessary, that you are in the process of retaining an attorney. Let school officials and CPS officials see that you are prepared to protect your family.

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Remove your child from the toxic environment

Do not hesitate to remove your child from the toxic environment contributing to their gender confusion. Since so much of what is influencing young people to deny their sex is coming from the internet, you should check to see what your child has been viewing on the internet and then cut off internet access (or at minimum, place significant restrictions on internet access). You should also replace smart phones with call and text only phones. And you should assert your parental authority to cut off unhealthy friend and peer influences.

If the school where your child attends has personnel who are promoting transgender identities and ideology to your child then you should very seriously consider finding a new learning environment for your child. In many states, parents have the ability to move a child to a school other than the one assigned by their district or to use a portion of their tax dollars to pay for alternatives. You should immediately begin to investigate these options and don't wait to remove your child if the gender confusion continues to be facilitated at school.

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If the environment in all the public schools available to your child are the same, then you should seriously consider private school, homeschooling your child, online, or a hybrid school, or some of the other educational options that developed during Covid, at minimum until your child has matured and come to once again fully embrace their sex. While private school or homeschool options may be a financial challenge, the funds you will expend to fight CPS, restore your child's health, and mend your shattered family will far outweigh it.

Find the right mental health counselor to assist you and your child

At the first sign that your child may have an issue with his or her sex you should find a good mental health counselor who will support your parental approach and who will treat the whole child and not affirm the sexual confusion. This may not be easy in some states, but it is absolutely critical.

You must first talk to any counselor you are considering and ask how they feel about affirming a child in an imagined identity rather than as their biological sex. Find out what

approach will they take to get at the root causes of your child's distress. Vet them well. You need a counselor who will honor your role as parents and will help your child explore and focus on treating underlying causes and co-occurring conditions to help restore your child to wholeness.

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Find the right lawyer before CPS gets involved

You should also immediately begin looking for a good lawyer who will support your family's value system. It is better to have a lawyer ready to defend you and not need that lawyer, than it is to need that lawyer and not have one ready. CPS handles families with lawyers differently than they handle families without lawyers. It will force CPS to take their time and make sure they are not violating your rights from the start.

Your first interactions with CPS should include your lawyer. Your lawyer should be capable of defending your right to make all health-related decisions for your child. Your lawyer should have a working understanding of the care that you are providing, the reasons for your decision making, and the need to treat all the mental health issues your child might have and not just the gender issues.

What to do when CPS gets involved.

The first time you hear from CPS is often when they show up at your door. Just because they are there does not mean there is going to be an investigation. Cases are often screened out at the very beginning, which helps to keep their caseloads down. So, it would be wise of you to give them a good reason not to open a case against you.

CPS caseworkers can at times be aggressive and insist that they have the right to enter your home. They are often willing to intimidate you, using your fear against you. Do not panic and try not to be afraid. CPS is a government agency and that means they can only enter your house with a warrant, an invitation, or if they reasonably believe someone in the house is in imminent danger.

Meet them at your door. Step out of the house and close the door behind you. Do not worry about your neighbors being able to see you – worry more about protecting your family. Be polite and let them know you understand their work is important – however, you are taking care of your child's needs. Make it plain from the start that they do not get access to your child or your home merely by showing up at your house.

If they have a document signed by a judge, tell them that you will cooperate with them after you speak with your lawyer. Set an appointment for them to come back when your lawyer can be present and insist that this is the only way they are going to talk to you or your child. They may become upset, and if you need to calm them down let them speak to your lawyer on your phone.

It is also important that CPS understands you are doing everything you can to take care of your child's health needs. Let them know that you have found (or are actively seeking) a mental health counselor to provide care for your child. This helps you document, on the front end, that you are doing everything you can to meet your child's needs and that takes away one of their strongest weapons against you—the accusation that you are not willing or able to meet your child's needs.

It is also important that CPS understands you are doing everything you can to take care of your child's health needs.

Is there a police officer with them?

At times CPS will have a police officer with them. This increases the intimidation and causes most parents to think they have no choice but to let them in your house. The law does not change because a police officer is at your door. They still have to have a warrant specifically allowing them to enter your house.

You do everything the same if there is a police officer present. You step out and close the door. Make sure your child is inside the house. You are happy to set up an appointment when your lawyer can be present.

Understanding your Fourth Amendment rights.

In these situations, the Fourth Amendment is an important part of your civil rights that is worth restating here:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Even police officers do not have an automatic right to search you, your house, or your child without probable cause. This means that they cannot demand to be let into your house or interview your child without a warrant or without showing that someone in the house is in immediate danger. The police and CPS can wait for your lawyer to arrive. Or they can schedule a time to return so that you are properly represented.

Politely insist that you are not surrendering your Fourth Amendment Rights and that they are not allowed in your house. Once you have waived this right it is difficult to get it back. That is why it is best that you do not let CPS workers, even with police officers with them, into your house without a warrant. Anything they discover while inside, if you have granted them permission, can be used against you in the investigation. While it may be difficult to say, a polite and insistent "I am not comfortable with you entering my home without a warrant," should be enough.

If they still are convinced your child is in immediate danger, there is the potential that they may seek a warrant signed off on by a judge. If this happens, politely insist that you want to speak with your lawyer before they execute the warrant. They may insist that they have the right to enter. Again, politely insist that you merely want to consult with your lawyer by telephone before you agree to allow them to execute the warrant.

If they have a warrant signed by a judge, then you have no choice but to ultimately let them do whatever the warrant permits. Read the warrant carefully to make sure they are not doing more than the judge has given them permission to do.

The Fourth Amendment is an important part of your civil rights.



What to do when CPS comes to the medical or mental health facility where your child is

If your child is admitted to a medical or mental health facility due to a crisis, know that many facilities will be pushing affirmation. Immediately ask to speak with the psychiatrist and social workers involved at the facility. It is critical that they understand you are caring, involved parents. Develop a positive relationship with the health care workers caring for your child, knowing that you have authority over the treatment of your child.

If you do not already have one, you need to quickly locate and retain a mental health professional who will work with you and help you remove your child from the facility to outpatient care as quickly as possible. The goal is to remove your child from the facility without CPS involvement and to regain physical control of your child.

This may take some time. If you attempt to remove your child too quickly – while your child is still psychiatrically unstable or actively threatening suicide – your attempts may trigger a call to CPS. So do not panic, but rather attempt to work directly with the medical personnel and enlist the direct involvement of your family's mental health professional to advocate for you.

Your child may have been coached by a counselor or teacher or by the internet to claim that they will kill themselves if they are not affirmed as their imagined gender. This is a tenuous situation that requires great care. This claim empowers mental health professionals, many of whom have been trained to believe that affirmation is what is needed. So, use wisdom. Avoid getting into an argument about affirmation. Rather, seek to demonstrate that you understand the gravity and dynamics of the situation and that you have engaged competent mental health professional(s) (perhaps both a psychiatrist and a therapist) to assist you to do what is best for your child on an outpatient basis.

If CPS comes to the facility where your child has been admitted, you must immediately engage your lawyer. It is critical that you show CPS your engagement and willingness to work reasonably with them. Again, use great wisdom and, without compromising your family's belief system, work to avoid getting into a fight over affirmation. Focus, instead, on showing you are willing and able to provide the medical and mental health care needed to address the various issues that lead to this crisis in your family in a holistic way on an outpatient basis.

Develop a positive relationship with the health care workers caring for your child, knowing that you have authority over the treatment of your child.

What to do when CPS starts an investigation.

If an investigation is opened it is important for you to cooperate. If you do not cooperate CPS will be more convinced that you are hiding something. Cooperating does not mean that you give them everything they ask for. It means that you answer their questions, with your lawyer present, and you provide them with proof for the statements you are making to them and of the care you are providing your child.

Cooperate, but do not concede.

This is a fine line. CPS has a lot of power, so you do not want to offend the worker with whom you are dealing. You need to cooperate with reasonable requests. You do not, however, need to concede your parental authority to them. If they ask you to do something that you believe is not in your child's best interest, then tell them you are uncomfortable with their request.

Many investigations end early on. Some of that depends on you getting along with the case worker, making them feel comfortable with you as a parent and the proactive steps you are taking to address your child's needs. Do not be afraid to show them your parenting skills. Address their concerns. Outright hostility will only backfire on you. Insist on your right to be making these decisions, and that these decisions are in the best interests of your child, showing a clear understanding of what your rights are.

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Insist on your First Amendment free speech and religion exercise rights

If you have a sincerely-held faith that guides your decisions concerning your children, do not be afraid to let CPS know. Don't give in to the temptation to compromise your faith and secularize your interaction with CPS. There are constitutional rights that protect your sincerely-held beliefs. The state does not have the authority to deny the exercise of your religious beliefs concerning your children unless they can prove that you are harming your child.

The First Amendment also grants you and your family free speech rights to not be coerced into saying things that conflict with your faith or your sincerely held beliefs. So long as you are caring for your children's needs, do not be intimidated to surrender any of your First Amendment rights to adopt the dictates of gender identity ideology for your family. Instead, stick to your First Amendment rights as an additional defense.

The state does not have the authority to deny the exercise of your religious beliefs concerning your children unless they can prove that you are harming your child.

Do not let your child be questioned without you and/or your attorney being present.

Often CPS will want to question your child without you in the room. You should politely insist that because they are a minor you are not waiving your right to be present during their questioning. You should insist that you or your family's attorney must be present for any communication with your child. CPS may insist that they have a right and a need to question the child without you present, but you should not give in, especially in the investigation stage in the absence of a warrant when no documents have been filed with the Juvenile Court.

What to do when CPS takes you to court

In order for CPS to take custody or control of your child, they must have a court order. This means that you will need to defend your parental rights in Juvenile (or Family) Court. Should CPS take emergency custody of your child or if they seek to force you to take certain actions in order to retain custody of your child, the court is required to hold a hearing within the first few days. This initial hearing is difficult to win, but it helps set the stage for the rest of the interactions in Juvenile Court. It is important that you have an attorney for this first hearing, even though one is generally not required.

CPS is required to show that your child is suffering a "dependency," meaning that you are causing, or allowing, your child to suffer abuse or that you are unable or unwilling to provide for your child's needs. To do that CPS must present witnesses and evidence that prove their case in court.

The court will appoint a Guardian Ad Litem (GAL) for your child. This is a person, most often a lawyer, who is tasked with representing your child's "best interests" during the court process. You should work hard to establish a positive relationship with the GAL, and even seek to educate them with accurate literature on gender dysphoria, as the judges will listen carefully to their recommendations.

You should have an attorney for all of these hearings. Your attorney should be prepared to present witnesses, and very likely even an expert witness (such as a medical or mental health professional or a parenting expert), and other evidence that shows you are a fit parent that is making appropriate decisions and providing appropriate care in the best interest of your child according to your state's juvenile code.

You should work hard to establish a positive relationship with the Guardian Ad Litem (GAL), and even seek to educate them with accurate literature on gender dysphoria.

Defending your parental rights in court.

Hearings in Juvenile Court tend to be less formal than most court hearings. Do not be taken off guard by that. Your child's well-being and your ability to raise him or her in accordance with your beliefs and what you know is in their best interests are at stake.

Many of these hearings will not have formal witnesses but will involve updates from CPS officials and their attorneys. Your lawyer should raise all of your objections at each hearing. Constitutional claims are not generally brought in this court, so your attorney should be prepared to lay a solid foundation for why these rights matter at this stage in case you wish to raise these issues on an appeal or in a subsequent civil rights lawsuit.

Do not sit back and assume the system will protect you. You must aggressively defend your parental rights in court. The Juvenile Court judge may be inclined to defer to CPS because the judge deals with them and their lawyers on a daily basis. They are also used to seeing dysfunctional families. However, just because you believe in biological reality or hold a faith-informed position contrary to CPS concerning your child's gender confusion does not make you an unfit parent. If you and your attorney can show you are loving parents willing and able to make decisions that are in the best interests of your child then you stand a strong chance of prevailing.

Just because you believe in biological reality or hold a faith-informed position contrary to CPS concerning your child's gender confusion does not make you an unfit parent.

Defending your relationship with your child in court.

It will be the responsibility of you and your lawyer to defend your relationship with your child in court. Be sure to paint a picture that shows you are invested in what you believe is best for your child. Your lawyer should be armed with cases and research that explain the rights you are claiming and rationale for your decision to seek therapeutic care that upholds both biological reality and your family's sincerely-held beliefs so that the court is not confused.

It will also be important throughout the process that you remain in frequent and affectionate contact with your child. Do your best to minimize conflict on the gender issue without compromising what you know to be true. Often that may mean agreeing to disagree on certain things. Never lose sight of the fact that you love and know your child better than any CPS worker. Make it your goal, and that of your attorney, to show to the judge that this is the case.



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