

National Coalition for Sexual Freedom

Education Outreach Program (EOP)

Guidelines for Interactions with Child Protective Services



OVERVIEW

The concerns that result from contact with local and state child welfare authorities are occasionally troublesome for members of the SM/leather/fetish/poly communities. It is often difficult to accept the necessity of interacting with child/protective services and child/family services workers. Such persons are often empowered to make independent judgments that have a direct impact on family relations and personal freedom. This presentation provides a structure for acting in accordance with the best interests of your children and with due regard for your civil rights and the rights of others.

General thoughts on visits from social workers

- Most child welfare agencies have an investigatory phase. What will happen is that somebody will make a complaint. Sometimes it is coming from school, where little Jimmy has told an interesting tale to his teacher or little Jenny has an unexplained bruise/cut/rash/etc. Sometimes it is coming from an MD or counselor, who has noticed something odd. Sometimes, and more often than one might think, it comes from a nosy neighbor. Disgruntled ex-spouses/ex-lovers/ex-partners/ex-inlaws are fertile sources for complaints. These reports typically will go to some sort of central clearinghouse and be assigned to a local social worker for investigation. Less commonly, it will be assigned to a law enforcement officer.
- This initial investigation phase poses significant hazards to your civil rights and your personal privacy, because the social worker, with or without a law enforcement officer, will often interview your child in your absence. Quite often this interview will occur at school. If you are the parent, you will frequently be interviewed later, and you frequently will not know what your child has had to say. That social worker will take notes on all of his/her interviews; you probably won't. Give serious consideration to making a few notes either during or immediately after your interviews with any state agent.
- At this juncture, a difficult choice is required.
 - It may be to your advantage to volunteer as little information as possible. This approach is best employed with the active assistance and advice of an attorney. Polite and careful disclosure of necessary information may have the effect of restricting evidence that can be used against you. You are under very little obligation to talk to any state agent absent a court order. It is sometimes worthwhile not to impose upon yourself any new obligations to provide information.
 - The other alternative is to be fully and completely cooperative. If you've chosen to cooperate with the social workers, your job is simple; do what they tell you to do when they tell you to do it. This may require a certain amount of flexibility at your usual work and will consume a significant fraction of your spare time, but you have to attend all of the meetings, go to all of the classes, perform all of the tasks, and make and return all of the calls and correspondence. Your performance in these details will be evaluated by the child welfare authorities. That evaluation is likely to have a significant impact, for better or worse, on you and your children.
- Please bear in mind that your attitude toward your present and past behavior is entirely different than the judgment of the people reviewing your statements. These people are often friendly, but they are not your friends. In conclusion on this point, when in doubt PLEASE avoid talking to social workers until you've spoken to an attorney.

General thoughts on how to choose an attorney:

- This section and the next are also found in the NCSF Guidelines for Custody Disputes publication.
- In generally urban settings, look for specialists; in generally rural settings, look for experience and location. What you are primarily looking for is someone who can guide you through local rules and conventions. Never go into a remote jurisdiction without local counsel.
- When in doubt, ask another lawyer. They tend to know each other; if they don't, they can find out about each other pretty fast.
- Naturally, it would help if your chosen counsel was kink-friendly. That is one of the services provided by the Kink Aware Professionals (KAP) project. Additionally, ask at your local ACLU chapter or Lambda Legal's regional representatives. Those offices tend to have access to lawyers familiar with issues specific to the BDSM/poly/GLTB communities.
- The most desirable lawyer/client relationship is one of mutual respect and unconditional trust. Do what is necessary to foster that relationship.

Disclaimer: The material presented is not offered as legal advice. Many options are suggested for dealing with law enforcement and other authorities. The best course of action for you to take in a given situation is dependent on that situation and is entirely up to the parties involved. No single option is always going to work. Remember that situations, laws, and attitudes will vary from place to place and from time to time.

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What to say to a lawyer:

- The client shall make FULL disclosure to his/her attorney without reticence or omission.
- Most peoples' secrets aren't that remarkable. Fear of disclosure is usually the worst of all fears; once disclosure is made, the activities in which you engage in private are normally not all that embarrassing.
- Your lawyer is a professional secret-keeper; you may speak with confidence in his or her discretion.
- NCSF, with your permission, is able to speak to your attorney and provide educational and resource information if you request it.

Parts of the process:

- It is statistically likely that whatever involvement that you might have with child welfare authorities will come to an end at the investigative stage. Experience teaches that the most effective way to achieve this end is to comply with the reasonable expectations/demands/ commands of the child welfare representatives. Commonly these requirements are elementary and are actions that you will probably do anyway.
- A home visit is usually part of this investigation. When preparing for that visit, care should be taken to keep equipment/toys/erotic art/play behavior carefully under wraps. This is a measure that ought to be second nature whenever non-adults are present or resident in your household. A thorough housecleaning of any erotic or provocative literature/art/DVDs is part of this process. Specific attention ought to be paid to your electronic life. Your computer, if available to children, and your various public pages and pictures may be exposed to scrutiny, including blogs, personal ads on services like alt.com and other similar activities.
- You do not need to sensationalize your personal activities. Speaking in generalities-consensual kinky sex between adults, for example-is often more effective than saying you engage in hardcore or edge playing activities or relationship models.
- If matters progress past the investigative stage, contact with juvenile/family court may be the next step. It is a really bad idea to attempt to navigate these rocks and shoals without an attorney. This is yet another area where your attitudes toward public display of your lifestyle choices may conflict with the attitudes of a social worker, local prosecutor, or judge. Difficult decisions may be necessary and ought to be made in consultation with your attorney.

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