



HOW DO I DEAL WITH CHILD PROTECTIVE SERVICES (CPS) & THE POLICE?

When CPS or the police want to come into my home, want to see or talk to my child, want to interview me or have me come to their offices, here is what I tell them, how I follow up and how I hold them accountable if they get out of line, or try to interfere with my rights or meddle where they shouldn't.

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Introduction

I grew up with a goody-two-shoes outlook on the police. I never had any problems with them. The times that I was pulled over throughout my teens and 20s, I deserved it and the police, for the most part, were respectful and cordial and even cut me a break once or twice. The only people who seemed to hate the police were people who were trouble makers.

This outlook has changed since I have been involved in the family court system since I was 31. People in power and authority always have the opportunity to abuse their power or overstep their bounds. This often happens with police in domestic violence situations, even when there are false allegations and no actual proof of domestic violence.

But, when the police or CPS gets involved in a custody dispute, Constitutional rights are thrown out the window. It seems this is more prevalent with CPS workers than the police. Many police get tired of domestic disputes over children. Sometimes they won't answer a call and go to a home. Say, for example, a mother wants her child back when the father had the child for a day and there is no court order or parenting plan. The police cannot do anything, technically. There is no court order to enforce (and even if there was, they still cannot do anything, as you will see below). But, a police officer, maybe who is even well-meaning might tell the dad, "You need to give the child back." But, the officer will cite no reason. Or the officer may tell a dad, "You'll look bad when you go to court if you keep the child." What's hypocritical about an instance like this is that the officer will almost never say that to a mother.

On the other hand, CPS will try and come in and run roughshod whether the mom or dad has physical custody—or even if both are in the home. For some reason, CPS workers think they have a right to invade your home, tell you what to do and end up violating your rights, once a complaint has come in. If any of you have dealt with CPS, you may have found that sometimes some workers are nice and respectful, but often they come into your lives like a dictator with a haughty, scornful attitude, ready to tell you what to do with your life and to exert control over you.

I cannot tell you how many parents (mostly fathers) have called me AFTER they handed their children over to the police or CPS and now they rarely get to see their children. They usually call me after-the-fact when it's too late.

What's ironic is that when I question a father, or even a mother, about why they did what they did, when confronted by the police or CPS, they pretty much ended up saying, "I don't know why", even though they KNOW what their rights are most often. Their instincts told them that they did not have to give up their children, but they did anyway.

Now, I am not talking about after a court action like a dependency case has been under way. I am talking about how to deal with the police or CPS when they don't have any authority to step into your lives (unless you let them). Let's clarify our rights.

SECTION 1: THE CONSTITUTION AND MY BASIC RIGHTS

1.1 The Fourth Amendment

Most people already know this Amendment. If they cannot quote it word-for-word, they usually know the gist of it. The Fourth Amendment to the U.S. Constitution reads as follows:

“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.”

1.2 The Fifth Amendment

The Fifth Amendment to the U.S. Constitution reads as follows:

“No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.”

1.3 Miranda Rights and the right to remain silent

Mostly everyone can recite the first part of a suspect’s rights when they are arrested. We watch “Law & Order” or see enough movies, or have been arrested enough to know that a police officer will read a suspect’s Miranda Rights, which are similar to the following (but not always exactly word-for-word):

“You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have a right to an attorney. If you cannot afford an attorney, one will be appointed for you.”

1.4 My general question

Given the rights above and the fact that most people have a general idea about these rights, I often wonder why people volunteer to talk so much, incriminate themselves and give up their rights so often. I explore this in the next section.

SECTION 2: WHEN THE POLICE OR C.P.S. COME KNOCKING

2.1 You have the right to remain silent

There is a wonderful video on YouTube, called "Don't Talk to Police". It lays out multiple reasons why you should not talk to the cops. The law professor conducting the video used to be a criminal defense attorney. The video is found at the following link:

<https://www.youtube.com/watch?v=6wXkl4t7nuc>

He goes into the Fifth Amendment above and shares how you do not have to talk to anyone about anything. You've seen criminal cases when a defendant will not take the stand and leaves it up to the State (or the prosecutor) to prove their case beyond a reasonable doubt. The O.J. Simpson case is a famous one. O.J. and his attorneys did not have O.J. take the stand. They basically told the prosecutor, "We don't think you've proven anything. We're not going to let you trick our client on the stand. Go for it." And their strategy worked.

In the video above the professor even quotes U.S. Supreme Court Justice Robert Jackson who used to be a prosecutor when he was an attorney (he tried to put "the bad guys" away and get them to admit their guilt or get them found guilty in court). Justice Jackson once said:

"Any lawyer worth his salt will tell the suspect in no uncertain terms to make no statement to the police under any circumstances."

You may say, "I'm an innocent person. I have nothing to be afraid of." But, the quote above does not say "the guilty person". It says "the suspect". If police come questioning you at your home, you are a suspect. If police want to talk to you at the station, you are a suspect. If police are just walking around a neighborhood in which a crime was committed, anyone can be a potential suspect. If you want to blab about everything you know about the crime in that neighborhood, you might get handcuffed because of all the details you know and NOW you are a suspect.

You do NOT win points with the police by talking, running your mouth or blabbing too much. Often you can only incriminate yourself.

So, when police come to my home, especially if it is to take my child during the mother's alleged visitation or ask me about my child, I am the one who does all of the questioning. And you see exactly what I say in Section 3.2 below.

A father I worked with took his daughter to Chuck-E-Cheese for his visitation one day. The child fell there and cut her lip a little bit. Next thing he knew, CPS was investigating him for child abuse (for an accident that is not unusual for a 3-year-old). So, CPS wanted to interview him over the phone. Then the police asked him to come down to

the station and to make a statement, by himself, without a lawyer. They never read him his Miranda Rights. But, after I talked to him and asked him why he went down there, he regretting doing so. He knew better. At first he said that he thought he had to go down there. I asked him, "Says who?" He had no answer. He admitted that he voluntarily went down there of his own volition.

Guess what? He got charged with child abuse after that interview. Why do you think folks get a lawyer before talking to the police? Because anyone can be interrogated in a way that incriminates him or her.

In fact, people are interrogated into falsely confessing to crimes that they did not commit on a regular basis. In a famous case, nicknamed "The Central Park 5", five young men admitted to raping a female jogger in Central Park. The confession was done during interrogations in a classroom setting. They all were interrogated separately and they all confessed to the rape, just to get out of the interrogations, thinking they were innocent and that the police had nothing on them. Well, those confessions were used against them in a court of law (just like the Miranda warning says).

They went to prison for several years before the one, individual rapist came forth and was convicted for the rape, which was backed up by DNA evidence.

These young men went to prison for several years for something they did not do, solely because they talked too much. And the public, media, prosecutors and other "experts" were convinced that they all were guilty as sin. Yet, they were innocent. If that can happen with a crime (when there has to be evidence beyond a reasonable doubt), then a cop or CPS worker can surely get suspicious of me if I run my mouth and blab about details of an allegation about my child and try to defend myself to them. I have no obligation to defend myself to a cop or a CPS worker.

Check out "Saul Kassin: False Confessions" on YouTube for a scholar's assessment of false confessions. You will find plenty of other related stories. You can also Google "central park 5" or "central park jogger" to learn of the case I mentioned above.

In short, I have the right to keep my mouth shut.

2.2 I don't have to do anything anyone tells me without a court order

The Fourth Amendment states that police cannot search and seize my home without a warrant, and they pretty much cannot disturb me and my personal effects.

In short, to me, this means that I don't have to do anything that anyone tells me to do in life at any time or anyplace, except if there is a court order from a judge. That's what a warrant is, a court order that police can search my home. So, if police or a CPS worker, or Girl Scout or politician or vacuum salesman comes to MY DOOR, I can slam the door on their face without saying a word, if none of them have a court order. Now, I usually

won't do that because I want to be civil, nice and polite. But, I have a right to remain silent and to not have to do anything.

The exception to this "court order" situation, of course, is if a police officer sees me committing a crime, they can arrest me without a court order. In that case, there is "probable cause" or the officer has a reasonable suspicion that I am committing a crime, because he sees it, or maybe I run and flee when he wants to question me. Under the Fourth Amendment, there actually has to be probable cause to even obtain a warrant to search and see if there actually is criminal activity in my home.

All of that said, I know that when a cop comes knocking at my door that he/she cannot come in unless I invite him or her. In actuality, most people know this. But, when it comes to their children, they often get a prevalent disease that I call "Amendment Amnesia".

When I talk to someone (dads in particular) who wanted to spend time with his/her child and the other parent called the cops, harassing them to give up the child, and the parent does hand the child over because police are at their door, I ask them:

"Why did you obey the police?"

Or if they let the police in their home to check on the child because of a "welfare check", I ask them why they let them in. The answer usually is one of the following:

"I don't know."

or

"I thought I had to."

Then my next question is:

"If the police had come to your door and said, 'We think that the TV in your living room is stolen, so we need to come in your home and check the serial number.' If the cops told you that, what would they need to come into your home?"

Just about 99% of the time when I ask a parent this question, they adamantly say:

"They need a warrant !"

Well, then why do you let them in when it comes to your children? Why do you exercise your rights to protect a TV even more than you do with your children? What if that was a pedophile in a police uniform? Or if that was a CPS worker, how do you even know for a fact that that was CPS? They dress in plainclothes. How did you KNOW???

Speaking about fathers, in particular, sometimes we do stuff solely because we are afraid of our child's mother. And there is no rhyme, reason or logic behind it other than we are afraid of her, even when she has no power or authority to do anything.

When I ask a parent why he/she would you give your children over when you know about the warrant issue, especially with fathers, usually the reply is, "Well, the mother has full custody of the children. I didn't want to get arrested for kidnapping." This is said even when there is **no court order** giving the mother full custody. The father has just **allowed** the mother to have physical custody of the children. He just placated to her or obeyed her or followed suit with what **she** wanted. When fathers are paranoid about this "kidnapping" myth, most of the time, the officers **don't even say** that they are going to press charges for kidnapping. A parent is simply afraid and paranoid that this will happen. When they say this, then I ask:

"How can you kidnap **your own** child?"

No answer. This is especially puzzling when a father is married, but living separately from the mother. He thinks that he has no parental rights. If he is the father of the children, then why does he NOT act like he is their father? Why does he feel he needs to get the mother's permission, or obey her, as if she owns the children outright 100%? Paranoia.

Then I say, "If you and the mother have a vehicle in both of your names and a cop pulls you over because the mother said you stole it, what do you tell the cop?" The answer is always the same: "This is my car also." So, why are we brainwashed into being more protective of our possessions than our own children? The main answer is on my website on the page "5 Things That Push Dads Away".

Then I say, "If the mother can call the cops for YOU kidnapping YOUR child when you are merely spending time with the child, then WHY did YOU NOT EVER call the cops on HER for 'kidnapping' when she withheld the child from you?"

Typical father response: "I never thought about it like that." That's because fathers assume that if they act like they are the father of a child that that is criminal. Yet, a mother can completely withhold a child for days, weeks, months, even years and a father doesn't have the slightest inclination that she may be doing something wrong. There's actually a problem with our society that makes us think like that which is discussed in my "5 Things That Push Dads Away" page.

Now, in Washington State, there is a law called Custodial Interference under RCW 9A.40 next to the kidnapping laws. You can Google it and read it for yourself, if you like. But, I **almost never ever see anyone** prosecuted for it. That's probably because it says that it's Custodial Interference when a child is withheld for a "protracted period of time" which is a very, very long period of time. The only case I know of in which charges were pressed under this law was the case of Mark Supanich. In that case, the mother was granted custody by a court order. Since she was a methamphetamine cooker, which caused health problems to the daughter, Mark took off with the daughter to Montana and hid for several months, in order to protect his child. He was tried for

Custodial Interference in King County and **was acquitted**. The jury saw that he was only protecting his daughter. (Yet, after that acquittal, Pierce County Judge Kathryn Nelson permanently punished him and the daughter and ordered no contact with the child forever).

So, the paranoia about kidnapping and Custodial Interference is a myth that I'm not afraid of.

That said, I know many fathers in particular who never see their children because one day they obeyed CPS or a police officer and handed over the child and never got a parenting plan and the mother took off with the child to another state.

When I first dealt with my case, before I got a parenting plan, the mother let me have limited contact with our newborn. Knowing what I know now, I should have just kept our child as long as I wanted to, through a full weekend so that I could have her overnight. IF the police came to my door, I would QUESTION THEM until they went away (as I demonstrate in Section 3.2).

Again, I don't have to do anything that anyone tells me to do IN LIFE apart from a court order. We don't listen to strangers. Sometimes, we don't even take the advice of our friends. If a total stranger asked us to hand over our children, we'd slam the door on their face or call the cops if they did not go away. So, what's the difference between a stranger or a cop/CPS? Nothing except a badge and title.

So, I demand that CPS or a police officer go through the proper procedures if they want anything from me. Even though I respect a police officer's authority, I do NOT need to obey them when they ask something of me, if they do not have a warrant or what's called a Writ of Habeas Corpus ("bring the body here"), which is a warrant for a person.

What's mine is mine (even if it's a child shared with someone else). And the State has no right to interfere with what is mine until the State or an agent of the State (police, CPS worker, etc.) get a court order telling me I need to surrender what is mine.

So, if I hand over my child voluntarily, that is ON ME. If I let CPS in my house to snoop around and look for anything incriminating that they can use against me (an electric socket without a child safety plug-in for example), then that is my own fault and not-so-smart mistake.

If a police officer pulls me over and asks to look through my trunk and I let him, then that is on me. I let it happen. And it's always possible that a corrupt officer could plant something in that trunk. Practically everyone knows that a trunk cannot be searched without a warrant. It's time for us fathers, in particular, to act like our children are more valuable than our TV's and trunks and not be afraid of mothers, badges or titles and only have respect for the Constitution and court orders.

SECTION 3: SO WHAT DO I SAY WHEN COPS OR CPS KNOCK?

3.1 Actual example of me disregarding a police officer

In 2007, my daughter's mother had her for Spring Break. During that time, I called my daughter once a day. One time, in the middle of a call, the maternal aunt, Barb, told my daughter to hang up the phone because they had to go. So, my daughter did.

Now since I have been the only steady, consistent thing in my daughter's life and since her mom is rarely around and since they were in Los Angeles, I was ticked off that the aunt had the audacity to tell my daughter that she had to end a phone call with me after about three minutes. First of all, even if she was the mother, she cannot do that. Our Parenting Plan allows me to call her. Second of all, I only called her for about 10 – 15 minutes each day. After that call, I called back and there was no answer.

So, I did a contempt motion for that issue. The mother had another visitation in the summer. Her attorney tricked a judge into delaying my contempt motion for a couple of weeks to time it during the visit.

So, I decided not to allow the visit until we decided that the mother was going to start following the phone contact of the Parenting Plan. The visitation exchange site was at my mother's home (the paternal grandmother). When it was time for the exchange, I was not there. The grandmother answered and the mother had a police officer with her. My mother called, worried and I told her to put the cop on the phone.

He told me to bring the child and I said, "No." He told me that if I did not do so, then I could lose some visitation time. I said, "She's free to do a contempt motion and follow the proper recourse. Plus, I'm actually the custodial parent, not a visitor." That was the end of the call. Notice that he gave me legal advice like a lawyer would, telling me how the courts would react and rule. Well, I never got my "visitation reduced". And we went to court later and hashed out the phone call problem and the visitation missed. The mother declined to even exercise the make-up visitation I offered and has not exercised visit since then (through 2012).

That conversation with the police officer was short and sweet. If he was at my door, then I would have used the following questions in the next section to deal with him and make him go away.

3.2 What exactly do I say?

A scenario like the one above would go like this if I was the one answering the door (and I will always deal with the police or a CPS agent like this if they ever come to my home, or seek me again):

Question and Answer #1 – the beginning

Officer/CPS worker: “Hi, you need to hand over the child. She is in your home and the mother has visitation/custody.”

Me, if there is a court order in place: “Sorry, this is a domestic/civil matter. We have a court order. She can take it up with the courts, and use the proper recourse there. Goodbye.”

Me, if there is NO court order in place: “Sorry, this is my time and I have custody. If she wants to get a court order and resolve this in court, she’s is welcome to. This is a domestic matter. Goodbye.”

Me, if I just filed and there is a pending court case with no order: “Sorry, we are in court...see this Petition for Parenting Plan? (show to CPS or officer). We will be dealing with this in court. It’s a domestic/civil matter. This is not criminal. Goodbye.”

Question and Answer #2 – if they persist

Officer/CPS: “Well, I’d like to come in and make sure the child is okay.”

Me: “No. The child is fine.”

Officer/CPS: “It’s in your best interest to let me in and make a good report.”

Me: “Do you have a warrant or a Writ of Habeas Corpus to come in here? If not, then thank you and goodbye.”

Question and Answer #3 – if they still persist

Officer/CPS: “Well, if you don’t hand over the child or let us in, you could look bad in court, or get a bad parenting plan, or get in trouble with the courts.”

Me: “Are you a lawyer? If not, you sure sound like you are giving me legal advice and that is a gross misdemeanor under RCW 2.48.170 and .180. May I get your name and badge number please.”

(scenario #3 should really make them go away, but if they don’t...)

Question and Answer #4 – If they threaten a criminal complaint (like Custodial Interference in Washington)

Officer/CPS: “Well, I’m going to file a complaint for Custodial Interference, then.”

Me: “Since I have only had the child for one day so far, I’d like to press charges against the mother because she withheld the child from me completely for two weeks in a row and that’s 14 times worse than what you are complaining of me doing now.

On top of that, Custodial Interference is withholding a child for a protracted period of time, which is a long period of time, WITH THE INTENT of permanently withholding the child. I do not qualify for that under the law. Moreover, the mother is closer to that. You should deal with her. And I know your report will likely fall on deaf ears with the Prosecutor because there is nothing there and they are too busy prosecuting robbers and killers and actual criminals.”

**Now, if a police officer ever abuses his/her authority and decides at that point to pull out the handcuffs and is about to arrest me, then AT THAT POINT, I would surrender the child and deal with the matter in the courts later. But, by the time it gets to Q & A #4, the police and CPS would be long gone.

3.3 Even when someone violates a court order

Notice in my personal example in 3.1 that it was actually the mother’s residential time under my Parenting Plan. But, I still refused to turn the child over. I felt that I had a good excuse, since the mother was violating the Parenting Plan and interrupting my telephone contact. The officer still could not do anything.

Police enforce crimes. They arrest folks for committing crimes, not for violating civil/domestic orders. The recourse to deal with that is a contempt motion. Many folks have had a scenario in which they’ve tried this already and a cop said that there is nothing they can do because it is a contempt or domestic matter. THOSE police know what they are talking about and that is the proper response.

So, the same Q & A can apply even if there is a court order in place and even when someone is in contempt. If I sue a doctor for \$100,000 for malpractice and I win the lawsuit, I cannot ask a cop to enforce my CIVIL lawsuit and break down the doctor’s doors and take his money. It is a civil matter and I have to enforce the judgment (or collection or his violation of not paying me) with the civil courts. Same thing with parenting. It is a civil matter.

Now, if someone withholds a child in violation of a restraining order, that’s another story. That’s a crime.

SECTION 4: FOLLOWING UP WITH A COMPLAINT

If a police officer or CPS worker gets out of line, I follow up with a complaint letter to the proper authorities. The reason why these folks continue to get out of line is because no one holds them accountable.

When I volunteered with a couple of non-custodial parents organizations, we would write letters after incidents like this. One time a police officer actually threatened to have Custodial Interference charged against a mother. He called the mom at 9:00 p.m. on a Wednesday night that was HER NIGHT under the Parenting Plan. The parents had deviated from the Parenting Plan and done their own schedule, but the mother was getting tired of problems with the father so she said they would be following the Parenting Plan once again. He got mad and called the police. We think it was a friend of his who worked for the local police department.

There were many problems with the officer's call. First, he did not have a copy of the Parenting Plan, so he had no proof that the father had visitation that Wednesday night. The mother told the cop that it was her time, but he didn't want to listen. He threatened to help the dad retrieve the child at school the next day. But, it was STILL the mother's time. He said that there would be charges and a hearing for Custodial Interference. But, it is not up to him. It is up to the prosecutor to press charges and even then, you don't know if the prosecutor will drop it or not.

So, she called the office of an organization I volunteered with. I called the officer and asked him if he had the Parenting Plan. He said, "No." I asked him if he told her that there would be charges. He said, "Yes." I told him that he had no right to do that since it was up to the prosecutor and he had no evidence of any violation and even if he did, it was a domestic matter. I asked him if I had his permission to record the phone call and he said "no" and hung up.

The organization followed up with a letter to the Chief of Police and all the assistant chiefs, the Internal Affairs department, and any other officers with a lead role in the department, as well as the city's mayor, all the of the Councilmembers and the prosecutor's office. An investigation was conducted with the officer. I don't know of the results, but I can guarantee that officer will watch it next time he attempts to intimidate a citizen like that.

Likewise, I wish every parent would write letters to everyone involved and cite the rules and law that apply and cite the misconduct of the officer or CPS worker. Since CPS hides behind a shroud of darkness, I just look on the internet and find all local agencies and write letters, emails and send faxes complaining about the conduct and someone is bound to respond.

And if they respond, and incriminate themselves, I expose it. In the case with the mother above, the prosecutor responded and said that the prosecutor's department was going to wait for any investigation to conclude. We wrote the following:

“Your non-answer is very disturbing. The fact that you have nothing to say about an officer who rattles a mother in the middle of the night and speaks for your office, guaranteeing that there will be charges and a criminal hearing is very disturbing. Either you approve of the officer’s conduct, or you work hand in hand with the officer to terrorize citizens, or you simply don’t care. In any case, you are putting citizens at risk and approving of people in government abusing their power against the citizens. We will be sharing your “non-answer” the next time there is a City Council meeting open to the public.”

The freedom of the pen, or of the typewriter, is a powerful freedom that citizens have. We rarely exercise it; therefore, this kind of stuff goes on regularly. If everyone followed up with written complaints, citizens could push back the abuses of CPC, the police, prosecutors, lawyers and more.

Hopefully, you have learned something from my experiences and the internet sources mentioned herein and you will not stand for government agents trampling over your rights.