



What to do when CPS comes knocking...

An interview with civil rights attorney, Diane L. Redleaf

Child protective services (CPS) plays a vital role in keeping kids safe. For this reason, CPS investigators often err on the side of caution to ensure children aren't exposed to harmful situations. Even when allegations are false, caregivers can face lengthy investigations. This unwarranted disruption and family upheaval is collateral damage, necessary to make sure children who really are abused get the justice and safety they deserve.

For many parents of children with complex developmental trauma disorder (typically diagnosed as reactive attachment disorder or RAD) these interactions with child protective services are an unfortunate and challenging reality.

To legally advance the false allegations of a child with DTD
is an unrecognized, innocent, and unintended form of
further harm to that child.

Children with RAD may make false allegations in their desperate attempt to control the people and situations around them. The resulting investigations disrupt the family, are tremendously stressful and in rare cases the outcome can be devastating.

Innocent parents and caregivers are often frightened and lack the resources and knowledge to defend themselves and protect the interest of their children. I recently had the opportunity to speak with Diane Redleaf, a leading civil rights lawyer for families in the child welfare system. She has extensive experience defending and advocating for parents who face false allegations of child abuse and neglect. She's the founder of the Family Defense Center where she served for many years as the Executive Director/Legal Director. With over 60 published court opinions, she's played a leading role in hundreds of important cases and policy change efforts on behalf of families. Today she's an advocate for families through her private legal practice Family Defense Consulting.

In our interview, I asked Diane how falsely accused parents and caregivers can successfully navigate the child protection system. While this cannot substitute for legal advice or address individual circumstances, I'm excited to share her invaluable guidance and tips.

The Interview

Keri: Kids like mine, who have RAD, sometimes make false allegations of abuse. As parents we're afraid CPS investigations will be unfair and that we'll lose our kids. Does that really happen? Are our fears justified?

Diane: It is a justified fear. You may assume the system will protect your rights and that justice will be done. That's not always the case. There is a tendency to reinterpret everything as the parent's fault. It may not happen the first time, but if the child makes allegations over and over, it's possible they will finally get to an investigator who believes them.



Keri: CPS once knocked on my door at 1 a.m. because my son made a false allegation of abuse. What do you recommend a parent do in this situation?

Diane: Certainly, be polite. In general, I never recommend you invite them in if you're the only person around. You need a third-party present. This will help ensure the investigator does not misrepresent what you say to them. You might suggest going into the office to discuss the situation at another time.



Keri: How can we protect ourselves during an investigative interview as parents? Is it a good idea to ask to record the interview?

Diane: In some states it's perfectly permissible to record the interview, but that can get the investigators' back up. Definitely have a third-party present and keep your own notes. Put everything in writing. You also need to be prepared for commonly asked questions. You can find a list in the Responding to Investigations manual found on the Family Defense Center website. For example, investigators will ask if you use drugs, have a domestic violence problem, or have a history of mental health treatment yourself. If your answers to these questions could be problematic, you need to have thought through your responses because the information you give likely will be used against you. You don't want to be provocative but you have the right to say, "Thank you very much, but I'm declining to answer any further questions."



Keri: What if CPS wants to talk to our kids? Can they interview them without permission at school or similar locations?

Diane: It's such a basic question but there isn't a clear answer as a matter of law. They shouldn't be able to speak to a child at school without the parent's permission, especially if it's not an emergency. They cannot speak to a child in the home without parental consent unless they have a court order or a dire (life-threatening) emergency. Children also have the right to not talk to investigators but of course they get intimidated easily. This is why it's important to try to set up the interview in a therapeutic setting, especially if the child has a mental health issue. This will help make sure false statements aren't repeated unchecked, that the situation doesn't escalate unnecessarily and that the child doesn't feel uncomfortable.



Keri: Many parents like myself keep daily documentation of our children's behaviors. Some parents also use security cameras. Are those good strategies?

Diane: In general, keeping as much documentation as possible in terms of a diary is a very good idea. It's really important for people to educate and work with their service providers. A lot of times they are your best allies. If there's a history of false allegations, you need the service providers to document it. Having that documentation readily available will disarm the investigators because they'll realize they may not have a strong case to go forward with.

Using security cameras depends on personal judgement and may sometimes be helpful. But I worry that cameras can be a double-edged sword—they may not show the full incident for example, or they may be used to show the parent was unreasonable even if all the parent is doing is defending herself. Video footage is more open to interpretation than parents may realize. And at the same time, video can capture the real out-of-control behavior of the child in a way that is otherwise hard to describe in words.



Keri: These investigations can be extremely frustrating and sometimes we get angry about how we're being treated. Is it safe to vent on social media?

Diane: It's a bad idea. I understand why parents do it but Facebook creates a written record. You worry that those communications will go straight to the state's attorney or the judge who is going to interpret the child's behavior as the result of the parent having a temper. It may not happen very often, but if a prosecutor wanted to access those communications, they absolutely could. And if they wanted to use them against the parent in court they almost certainly could. Remember only communications with your lawyer, and in some cases a therapist, are truly confidential.



Keri: So, what can we do if we feel the investigator or agency is targeting us or treating us unprofessionally?

Diane: You begin by going up the chain of command to register your concerns about how the matter is being treated. Start with the supervisor and go all the way up the line to the director. Unfortunately, in some states you won't get anywhere with that. At some point going to a legislator might be a good idea. If your concerns are legitimate, legislators can intervene and get a bad situation addressed. If there is an ombudsperson or inspector general in the agency then a call to them can be a good idea too.



Keri: When do we need a lawyer?

Diane: If you get the sense there is the possibility of legal action or you need advice on how to answer potentially problematic questions then getting legal counsel is a good idea. There are cases that get closed as unfounded right away. In those cases, getting a lawyer isn't necessarily a good use of your funds and may make things worse. Unfortunately, you may be viewed as having something to hide if you get a lawyer. The investigators are often not sophisticated enough to understand that you can be innocent and still need or want a lawyer.



Keri: What type of lawyer handles these types of cases?

Diane: One of the reasons I founded the Family Defense Center in 2005 is that so many families truly didn't know where to go or how to find help. The situation is better now than in 2005 — there is a much more organized family defense bar nationally and there are even well-coordinated networks of family defense attorneys in some states (Colorado, Illinois, Michigan, North Carolina and Washington state are the ones I know

the most about). However, in many places, it is still extremely hard to find a knowledgeable and affordable lawyer. Lawyers who aren't well versed in this area will oftentimes advise families to go along with what child protective services is asking. I don't necessarily give that advice because I'm trying to protect people. Even unaffordable lawyers may not be knowledgeable so it is especially important to ask questions about the lawyer's child protection defense experience. Lawyers who have represented families with mental health issues often have the experience needed for these cases so that can be a good place to start.



Keri: One of our big fears is that we'll lose our children during an investigation. In my case, I've pre-arranged for my sister to take them. What can parents do proactively to ensure their children won't go into foster care?

Diane: Exactly what you are suggesting is a good idea. Also, short term guardianships are a legal protection that can be developed as a plan. If it happens that the kids get taken, it's really important for support people and family to go to court. Judges often see families who show up to court alone with no support or people willing to be a resource for the family. A big group of supporters showing up to court creates a whole different dynamic.



Keri: I understand you have a very limited practice these days and are focusing your efforts on advocacy. Are there other resources you can recommend to families?

Diane: When I was with the Family Defense Center I wrote the manual, "Responding to Investigations" which is posted on their website. It is used by both parents and lawyers who want to understand the questions and concerns that arise during a child protection investigation.

The information in this article is intended to provide general guidance for "wrongly accused" parents who are involved in child protective investigations. It does not constitute specific legal advice.



Nationally-known leaders have called Diane L. Redleaf the "conscience of the child welfare system," the driving force behind creating a "better, fairer child welfare system" and "the people's lawyer." Diane has played a leading role in hundreds of important cases on behalf of families, with over 60 published court opinions. She has also led legislative efforts that have benefited millions of children and families. Her litigation and legislative advocacy has created due process remedies for wrongly accused family members and created social service and housing support models for families throughout the United States.