

Dealing with Child Protective Services

The California Department of Child and Family Services, under which local child protection agencies operate, came into existence years ago largely because of a growing awareness that an alarming number of children were being physically and sexually abused and abandoned by parents and caretakers. Law enforcement agencies were becoming overloaded with cases of child abuse and child neglect, both suspected and verified. The problem grew worse with horrible cases of abuse being discovered only after children showed up in hospital emergency rooms with broken bodies and irreparable brain injuries, or were discovered living in unspeakable conditions or worse, were found murdered at the hands of their parents.

The general public as well as churches were seldom willing to intervene or deal aggressively with the problem. In many cases church leaders and families covered up abuse and refused to report it or deal with it as criminal behavior. Many refused to testify in court against a church member, claiming immunity as a spiritual confidant. Churches of every stripe and color claimed their responsibility was to “forgive” and restore abusers, not to turn them over to police. This horrible misapplication of Scripture concerning forgiveness and restoration wove its way into many denominations, Christian books and literature, seminaries and pulpits across America. At the same time, the public was becoming more aware of the child abuse problem and more willing to prosecute offenders. Government agencies became increasingly more involved until legislators in the 60’s and 70’s were moved with a sense of urgency to introduce new laws intended to protect and prevent children from suffering unspeakable mental and physical torture.

The more government agencies took over what churches and families were failing to deal with, the more potential for corruption and false accusations grew. Child Protective Services were given a tremendous amount of power to intervene and “rescue” children from abuse. Because the state definition of abuse has been so loose and subjective, it is possible for abuse to be arbitrarily extended to include spanking a child or neglecting to prevent a common childhood accident. CPS originally had so much authority within the judicial system that they were able to secretly accuse a parent without support of the accusation, and were allowed to search a home without a warrant if they believed the child was in immediate danger. They could also choose to take children from parents without a legal reason if they so much as suspected abuse. The encouragement to anonymously report abuse quickly propelled CPS into a scandalous abuse of power because there was no system in place to hold them accountable for false accusations and careless assessments. Someone seeking revenge was able to set off a chain of reactions that could bring untold heartache into a family before the allegation was discovered to be false.

In 1995 a Christian legislator by the name of David Knowels authored a law that made it possible to hold social workers and CPS accountable for false accusations and negligence. This has resulted in much more careful assessment procedures within the agency and a great reduction in false accusations. Social workers are required to follow

more specific and limited procedures when seeking a search warrant, entering a home to assess a complaint, interviewing and examining children or removing a child from the home. Up until that time, social workers as well as child protection agencies were immune from prosecution and could bypass reasonable procedures, if they chose to do so, without fear of any repercussion.

Because there have been so many reported cases involving an abuse of power, the Department of Child and Family Services has done much to ensure that each individual report of alleged abuse is handled consistently within the agency and follows a specific procedure. While this certainly doesn't eliminate abusive or unreasonable treatment by some social workers, it does greatly reduce irresponsible behavior and do much to protect law-abiding citizens and innocent children from being subjected to harmful ordeals. The agency has also developed an informative web site that is available to the general public. Their Department Policy Handbook is included on the site, which gives detailed descriptions of their policies and procedures. I would highly recommend those who are involved with any kind of counseling within the church body to obtain a copy of this manual and become familiar with it.

Whether we like it or not, Child Protection Agencies are a reality that we must deal with. We cannot pretend they do not exist or behave as though we can justifiably circumvent their involvement. There are laws in place that require cooperation and result in criminal action being taken against those who attempt to defy them. As Christians who use the Bible as our guide in all that pertains to life and godliness, we must recognize that we have a moral and spiritual obligation to obey the law. Romans 13:1-7 makes it very clear that believers are to be subject to the higher governing powers, acknowledging that God Himself ordains law enforcement for the protection of society and the punishment of evildoers who commit crimes.

Many Christians wrongly assume that law enforcement should not be utilized when the church is involved with a believer who is also an offender. This is not only an unwise violation of judicial laws, but a blatant violation of God's law which God warns has severe spiritual consequences (Rom. 13:2) God can and does use the judicial system as a necessary corrective rod in the lives of believers who have refused other efforts to bring them to repentance. The only time a believer is justified in disobeying a law is when that law *specifically* violates God's law, which supersedes any sinful law of man. Even then, we are not to arrogantly defy the law, but are to make a humble, godly appeal in an effort to reverse the law.

Simply because God ordains the use of law enforcement does not mean it is a flawless system immune from human error or human corruption. Because we live in a fallen world amongst human beings who are prone to sin and are subject to human weakness, we are routinely faced with problems and trials as a result. While God does not remove the curse of sin or results of the fall, He *does* promise to work all things for good to those who believe and love Him. God turns around for good what Satan means for evil in the lives of believers. When we experience injustice or are sinfully oppressed by others, we are instructed to deal with injustice within the means God has provided to the fullest

extent possible, and then appeal to God who judges righteously. We who are His children may rest our case in God's hands, knowing He *does* intervene without sin or error. God does not leave us without recourse! Unlike those who have not fled to Jesus for salvation and forgiveness, we have the greatest and most powerful resource possible. God says, "Woe unto the world because of offences! For it must needs be that offences come; but woe to that man by whom the offence cometh!" (Mat. 18:7)

Are Christians obligated to report criminal child abuse? Yes! Are those who fall under the mandatory reporting laws obligated to obey them? Yes! Should believing offenders be subject to the same judicial consequences for criminal acts as unbelievers and be held accountable in the same way? Yes, yes, yes! Should we become involved in these cases as a church? By all means, yes! And should we forgive and work to restore fellowship to repentant offenders and minister to victims as well? Yes, of course!

Remember that the punishment inflicted by the judicial system is not primarily for the benefit of the offender, but for the protection of the innocent. It is not to make atonement for one's sin. Only God can forgive sin and justify a believer. Sin's punishment was inflicted on Jesus Christ at the cross, and in Heaven's court of law, is imputed to a sinner when he repents, acknowledges his sin, and seeks God's forgiveness. But this does not exonerate a believer from his obligation to be subject to the laws of man nor from his responsibility to willingly submit to judicial consequences imposed by a court of law. Forgiveness of an offender does not mean the offender can always be reinstated to a former ministry or family position nor does forgiveness demand trust.

Remember that social workers exist because child abuse IS a very real problem within our society. The intention of the agency is to protect helpless children who are suffering damaging abuse, neglect or exploitation. This is something genuine believers also care about, and something we find as repulsive and horrifying as they do. These agencies seek to intervene in the lives of offenders so they are compelled to change their behavior. We too recognize the necessity of intervention in the life of offenders and we too recognize our obligation to extend mercy and help in order to effect real change in their lives. Child Protection Services believe it is necessary to make offenders accountable long enough to ensure the safety of children. We too recognize the necessity of long-term accountability and demonstrable evidence of change. Child Protective Services seek to connect victims to those who are able to effectively comfort, instruct and restore them to wholeness. We also have a mandate to compassionately minister to victims and effectively comfort, instruct and restore them to wholeness.

The agency's assessment and allegation guidelines are not in themselves unreasonable, nor are their motives and intentions. We differ, not in our goals and concerns, but primarily in the way we believe the human heart is healed and the way sinful human behavior is changed. Our goals and expectations are actually higher, in that we believe the victim can become a victor and God can heal a wounded heart completely. We believe sinful behavior can be changed from the inside out, not merely managed by external methods or fear of punishment. We believe repentance toward God cannot be relegated as a side issue or ignored as having no real bearing on behavior. Indeed, we

believe there is no real internal change apart from repentance and faith in God. We say to our sincere friends within the child protective agencies, “Ye do err, not knowing the scriptures, nor the power of God.” (Mat. 22:29)

Would that all within the court system recognized the great peril of dealing with man’s behavior apart from God’s law. Would that they had respect for those who do believe and obey the Scriptures even if they do not. Sadly, this is not the case with many. Within every corner of society there exists unbelieving people who are blinded with contempt for Christians and hold misguided assumptions about both them and the Scriptures. The fact is, some have drawn many of their conclusions by observing people who claim to be believers and are not, or sadly, by genuine believers who say they believe the Scriptures but do not obey them. To a great extent, much of what we are getting as a Christian community, we deserve. Nevertheless, many misconceptions and misunderstandings exist as to what Christians really believe and how they are to conduct themselves. As a result, sincere and obedient Christians may suffer unjust accusations and persecution just as many other misunderstood minority groups have suffered over the centuries. When someone is different, people have a tendency to peck at them in much the same way baby chicks peck an oddly colored sibling.

How might Christians be misunderstood by social workers? A common area of misunderstanding revolves around the belief that most Christians hold concerning spanking a small child in a responsible manner to correct willfully disobedient behavior. When Christians carry out corporal discipline, they are to do so for the right motive (the benefit of the child), in the right way (without excess and without physical injury), at the right time (after guideline has been explained and offence has occurred), with the right attitude (with patience and love, without anger), on the right place (fatty area of the buttocks), and without unreasonable expectations (age appropriate rules that are not overwhelming or discouraging to a child). Spanking a child appropriately is not against the law. Spanking a child in anger and inflicting harm is.

It is important for Christians as well as social workers to note that God’s definition of abuse is actually much more demanding than any court’s. The Scriptures condemn any behavior toward another that is demeaning, unkind, oppressive, hateful, vindictive, or self-serving (to mention just a few). God vehemently warns against abusing one’s authority and power over another, and does not give anyone in any situation the right to impose unlimited authority over others who are subordinate. The Scriptures clearly forbid any kind of cruelty, sexual exploitation, neglect or failure to provide for one’s children. Christians are to regard children as God’s lambs who need protection, loving guidance, and tender care. Furthermore, God holds parents responsible for the way they deal with their children and the way they protect their children from harm. Those who willfully inflict harm on a child, neglect a child, or in any way oppress a child are worthy of death according to the Bible (Matt. 18:6). Bringing harm to a child in any form is a serious matter from a Biblical point of view.

The problem with all this is that there are some Christians, or professing Christians, who do abuse their authority and disregard God’s instruction manual. In fact, there are

probably proportionately as many of these as there are social workers that abuse their authority and disregard their agencies' own policy manual. When Christians violate the state's present definition of abuse, they have essentially violated God's definition of abuse. Cruel and excessive discipline *ought* to be punished. Christians who commit criminal acts toward their children are a reproach to other Christians who carry out discipline responsibly and willingly sacrifice their own comfort for the benefit and well-being of their children. Sadly, misunderstanding abounds when social workers with a bias against Christians encounter a family that does choose to spank their child and may even impose restrictions on their children that the social worker does not personally view as reasonable.

There are situations that social workers consider "red flags" and often misinterpret. If the family lives in an isolated area, home schools their children, attends church functions regularly, or follows a different code of ethics than the majority in society, they are especially in suspect. (Heaven forbid if they don't own a T.V.!) If the family expresses distrust toward a social worker that is investigating an allegation or in any way appears to be unwilling to cooperate, the social worker may very well interpret such resistance as a red flag. If the house happens to be untidy or the family appears to be poor, it adds even more suspicion to the situation. At this point, there may be no valid reason to suspect a child is in danger, other than a report filed by a neighbor (who believes all spanking is abuse and any other mode of educating a child other than the public school system is cruel and neglectful).

Responsible and loving parents who find themselves in a situation like this one will most likely interpret the social worker's visit as an intrusion. Typically, the family is distrustful because they have heard so many horror stories of Christians or innocent parents who have experienced painful and damaging ordeals when the system goes awry in their zeal to protect children. False accusations toward Christians by an anonymous caller are not uncommon. Like the social worker who has heard horror stories about abusive Christians tends to develop a bias against all Christians, so the responsible Christian parent who has heard horror stories about social workers tends to develop a bias against all social workers. The difference is, the Christian parent does not have equal power and authority with the social worker who may be abusing his or her responsibility to conduct a careful and considerate investigation. So what is a believer to do in such a situation?

First and foremost, Christians need to conduct themselves in a calm and gentle spirit, remembering that "a soft answer turneth away wrath, but grievous words stir up anger." (Pro. 15:1) It is important to cooperate with the social worker to the extent he or she does not violate one's rights as a parent or one's child's right to privacy and protection from harm. When parents become defensive and refuse to cooperate, it only increases the suspicion of the investigator. The social worker has no doubt learned from experience that people who have something to hide tend to act defensive and uncooperative. So cooperate and keep a sweet spirit even in the midst of a very frightening and uncomfortable situation. Remember that your child will mimic your attitude and response. If you are matter of fact and cooperative, your child will accept the

investigation much more calmly himself. This is to the child's benefit as well as yours, and is the best way to defuse suspicion.

Remember that the child protection agency's concern is for the safety of children. They are trying to prevent a child from being harmed or subjected to danger. They have no authority to arrest anyone. They are subordinate to police officers and judges. A police investigation is completely separate. The law enforcement agency's purpose is to determine if a crime has been committed. If so, they will file a report with the district attorney who will decide if charges are to be made and a warrant for arrest issued. The social worker's assessment and suggestions are taken seriously and often determine what the judge will order in any particular situation. However, the judge will also listen to the parent's complaints as well as any input presented by a pastor, counselor, school personnel or medical doctor that bears on a case. In the event a false accusation is made and the agency reacts negligently or inappropriately, one has the right to file a lawsuit against the social worker as well as the agency. One also has a right to enlist the help of an attorney and request his presence before submitting to an investigation.

A social worker is not permitted to enter a home without showing proper identification or without consent. One has the right to ask for a business card with the social worker's name on it. If one chooses not to allow entry, his actions will likely be interpreted as uncooperative. The social worker does have authority to examine and interview a child at school or daycare without parental consent. A minor at home at the time the social worker visits may also give consent to enter the home. If, during the interview, one becomes uncomfortable with the actions of the social worker, one has the right to withdraw consent and ask the worker to leave. The social worker has been instructed to leave the home immediately if this should occur. If one chooses to do this, however, his actions could be misconstrued. It would be wise to immediately call the local child protection services agency in one's area and request to speak to the worker's supervisor about the conduct of the social worker. In addition it would be wise to call your local police department and make a report about the visit. One may wish to continue the investigation with another worker and may do so. One may also request the presence of a police officer, although doing so may be interpreted as unreasonable and uncooperative.

If one refuses to allow a social worker into his home, it is important he know that pursuant to the Federal Court of Appeals decision *Calabretta v. Floyd, et al* the child protective agency cannot force one to allow them into the home to check the child's safety unless they can demonstrate to a judge that there is exigent circumstances. Exigent circumstances are defined as "An emergency that threatens life, limb, or serious injury, or evidence may be destroyed, or parties may flee with the child. Exigency is demonstrated by the nature of the allegations, the risk to the child, the age of the child and the lack of time delay between the report of the allegations and the CSW's response time." However, such action might be interpreted as suspicious and may provoke the social worker to pursue obtaining a search warrant that will allow her to enter the home escorted by a police officer. In order to obtain a search warrant, the agency must have first exhausted all its alternatives to make contact with a child, including contacting neighbors and relatives. Once they have done this, they will prepare a report and appeal the case to

a local judge who will decide if a caregiver or parent will be cited in court or if a warrant will be issued. Most likely, it will. This action may also result in all children being removed from the home in order to interview and examine them.

In the event the social worker is allowed into a home to conduct an interview and the social worker asks to examine a child's body, there are definite guidelines he or she must follow. First, the examination cannot be conducted without another adult present that is not the accused perpetrator. If the social worker attempts to examine a child without an adult present, a parent may ask her to leave, or may enlist the help of another adult of one's choosing. If the social worker is allowed to proceed with an examination, he or she may not examine a child if the child does not wish to be examined. The worker may not touch a child's genitalia, buttocks or breasts. He may not require a child older than 36 months to be totally unclothed but must undress one area at a time. The child cannot be examined in the presence of anyone other than an adult witness. If the social worker is a male and the child is a female, a parent has the right to require the examiner to be the same sex as his child. Be aware that DCFS policy requires all children living in the home to be examined.

There are several scenarios that might result in an investigation even though there is no threat of danger or harm to a child. Here are some common examples. If a child injures himself in any way and is seen by an emergency room doctor, the doctor, being a mandatory reporter, might file a report that indicates the cause of the injury is undetermined. Or, the doctor may mistakenly diagnose the injury incorrectly and assume neglect or intent to harm the child was involved. This likely will result in the DCSF conducting an investigation. If it is discovered that another child in the home molested one's child, DCSF will likely want to investigate, particularly if one failed to report the incident. If one is homeless or one's child is not enrolled in a public or private school, or a school that supervises home schooled children, one is likely to be investigated. If one's child becomes angry with a parent and exaggerates or lies about "an abusive parent" to any school personnel, it will be reported and taken seriously, as school personnel are all mandatory reporters. If a child complains in the same way to a friend and the friend tells their parent and the parent makes a complaint, the home in suspect may be investigated.

There are several other situations that might be considered abuse that many people do not realize can be prosecuted. If one's child is often truant from school, it is likely to be investigated. If one has a habit of yelling at one's child and is reported by a concerned neighbor one could not only be investigated, but also charged with child abuse. If one leaves one's child unattended or in the care of a minor too young for the responsibility, he is putting himself in danger of being charged with abuse. If a caregiver spansks a child in a public place, he could be charged with abuse. If a parent neglects to provide adequate and timely medical treatment for one's child, he could be held responsible for negligent child abuse. If medications are left in a place where children can open them and a child swallows them, a parent could be charged with negligent child abuse. Failing to put a child in a proper child restraint seat, which results in injury to your child, could result in a parent being criminally charged with neglect. There are dozens of other possibilities, but this should alert you enough to not only help you understand what is

considered abuse, but to emphasize the fact that we *do* have both a moral and civil responsibility to care for our children properly! As believers, we must strive to keep ourselves above reproach and go the extra mile to make sure we don't put our children in danger, even accidentally.

Following is a list of other informative tidbits concerning child protection issues that may prove helpful in a crisis situation:

- “For the harm/injury to a child to be classified as abuse, neglect or exploitation, the action or lack of action must meet CDSS' definitions of abuse, neglect, or exploitation and be directly attributable to the child's parent or legal guardian. In order to be found abusive, neglectful or exploitative, the parent or legal guardian has to: personally commit the harmful act; condone or permit a harmful act by other persons in circumstances in which it would be reasonably possible to prevent the harm; or, force, allow or coerce a child to commit harmful acts.”
DCSF policy manual
- The law defines child abuse as: physical abuse; physical neglect; sexual abuse; emotional maltreatment. “Child abuse means a physical injury which is inflicted by other than accidental means on a child by another person.” (*Pen. Code 11165.6*)
- Most physical abuse is the result of severe corporal punishment by an angry parent or guardian.
- Most reports do not result in children being taken from the home.
- California has a strong policy of wanting to reunite families as quickly as possible. This can be dangerous as well as good.
- A child may be removed from a home as an emergency precaution without a warrant. However, a child may not be removed longer than 48 hours without permission from a Superior Court or without a hearing.
- If a child must be removed from the home, grandparents or other relatives are eligible to take them, provided they have no prior criminal record. A parent may also choose a licensed foster care home or facility rather than allowing the agency to choose a home. Many Christians do not realize there are Christian foster care agencies that have licensed Christian homes in which to place children. Sadly, they are very often over crowded and unable to take children. Having at least one person in a church who is a licensed foster care provider and who is willing to take children in an emergency is a great safeguard. In cases where a child (anyone under 18) is accused of molestation, however, there must not be any other children in the home in order for a child to be placed there.
- Procedures may vary from city to city, county to county or case by case. Sometimes no two cases are dealt with exactly the same. Much of the decision-making is subjective and depends on many factors, including who the

investigating social worker is, how much experience he or she has, the response of those being investigated. What one may perceive as a high risk, another will view as a low risk.

- In the event a husband or boyfriend is suspected of abusing or molesting a child and the mother does not protect her child by asking the father or boyfriend to leave the home, both mother and father can be considered abusers. If a parent suspects another of abuse, they must separate them from the child until an investigation is made. Either the child or the possible offender must leave the home.
- Mandated reporters (any child custodian or health care professional who works with or around children which includes all school personnel public and private, health care professionals, pastors, church counselors, Sunday school teachers, camp counselors, etc.) are required by law to report child abuse to a child protective agency within 36 hours of discovery by phone, followed by a written report. The written report is to be filed on Department of Justice Form SS8572, which can be obtained through county welfare departments, and police department. Failure to report is a misdemeanor punishable by confinement and/or fine and will result in losing a professional license or credential. A mandated reporter who fails to report is liable for damages and may be sued in civil court. Mandated reporters who report are provided immunity from civil or criminal liability.
- The identity of any person who reports child abuse is kept confidential
- Web Site of the California Department of Child and Family Services:
<http://dcfs.co.la.ca.us/Default.htm>