

## Child Protective Services Supervisors Are Targets in Child Removal Lawsuits

The CPS supervisor is the senior partner in the decision to have a child remain or be removed from its home. Because of this status, the supervisor is often a named defendant in these kinds of lawsuits.



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A child died and Child Protective Services (CPS) was involved. At some point a lawsuit is filed. The allegations can be encyclopedic: wrongful death, negligence, failure to properly investigate, inadequate supervision and training, etc. The plaintiff's attorney sees red flags everywhere. Defense attorneys see waves of discretionary decisions that had to be made. Wading through thousands of

documents, each side seeks to identify the key players and moments in the removal decision-making process.

Many decisions to remove a child from its caretaker are easily made. The abuse is horrific and the person who caused it has already been arrested. Or, it's an obvious case of a disgruntled former spouse making a false allegation. In these kinds of cases, a phone call from the front-line CPS investigator to her supervisor is brief and their joint decision is clear. Many other removal decisions are not so simple. Because child protective services law, policy, and practice are complex, supervisors play key roles regarding the way in which the department responds.

The number of children removed from their homes is staggering. In her [article](#), "When the Child Protective Services System Gets Child Removal Wrong," Diane Redleaf writes: "CPS caseworkers continuously separate children from their parents at a monthly rate 300 times greater than the number of the separations at the Mexican border that took place in May 2018. These separations occur day in and day out. They commonly happen in secret and without fanfare. CPS caseworkers take children from their homes, their schools, and from hospitals if the children have been taken for medical care following an injury or medical condition. Children are also separated from parents, and sometimes from their siblings too, at CPS offices and in juvenile/child protection/dependency courthouses."

More crucial than providing leadership, gathering information, making sure proper documentation takes place, ensuring that clinical referral strategies are properly implemented, and overseeing whether timelines are met, the CPS supervisor is the senior partner in the decision to have a child remain or be removed from its home.

Because of this status, the supervisor is often a named defendant in these kinds of lawsuits.

Across all work environments, while supervisors may be liable for employment-related decisions in their official and/or individual capacities, it is often difficult to ascertain just who made a CPS removal/remain-in-place decision. Moreover, the remain-in-place decision may be made scores of times, while the removal decision be made only once. In any event, it certainly seems, at least anecdotally, that CPS supervisors are increasingly more susceptible to being sued and therefore are at higher risk generally.

The charge of every state child welfare department is to promote child safety. Toward that end, when an investigation is necessary to determine if a child is in a dangerous living environment, there will be times a CPS supervisor and the investigator/caseworker decide that a child should be removed. The Children's Bureau/ACYF/ACF/HHS, in a 2016 report, "Caseload and Workload Management," found: "Reducing and managing caseloads and workloads are not simple tasks for child welfare administrators. Agencies face a number of challenges, including negotiating budget crises and hiring freezes, addressing worker turnover, finding qualified applicants for open positions, implementing time-intensive best practices, and managing multiple reforms simultaneously (Munson, McCarthy, & Dickinson, 2014). It can even be difficult to just determine what the caseload and workload levels currently are and what they should be."

How can nuanced removal decisions be deliberately made when there is an almost universal acknowledgement that child welfare caseloads are excessive? Whatever the answers, when a removal/remain-in-place goes wrong and a child dies or is

horribly abused, plaintiffs' attorneys know to focus on the CPS supervisor responsible for the case. Maybe that's one reason why there is an estimated national turnover rate for child welfare workers of 20-40% annually. As one [report](#) described it, that's a "Texas-Sized Turnover." And that means that there are a lot of CPS supervisors with Texas-sized targets for attorneys to aim at.

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