



Custody and Visitation Challenges Involving Transgender Children

Parents and other family members aiming to affirm the gender identities and expressions of transgender, gender-nonconforming, and gender expansive children can sometimes face difficulties in family court pertaining to issues of custody and visitation^{2, 4}.

Two parents may disagree about how to approach a child's transgender identity and gender-nonconformity¹ – and such disagreement can lead to or contribute to child custody disputes². When two parents have legal decision-making rights, a court may need to intervene⁴ – and trial courts have “broad discretion” in determining a child's “best interest” and in making legal and physical custody decisions^{3, 4}. **Due to lack of knowledge about transgender identities and gender nonconformity in childhood, some parents have been accused of “pushing” their children toward a transgender identity and have subsequently lost partial or full parenting rights⁴.**

On the other hand, in a case where (a) a family court judge was less concerned with traditional gender roles, prioritized the child's wishes and statements of identity, and relied upon traditional “best interests of the child” factors, and (b) the affirming mother sought a therapist's advice early and asked the court to approve a phased plan for the child to explore gender identity and expression, the court did not strip the mother of her parenting rights and instead decided upon shared custody⁴.

The Trans*Kids Research Team (<http://transkids.info/>), led by Katherine A. Kuvalanka, Ph.D., in the Department of Family Science and Social Work at Miami University, got involved in examining these issues in early 2014, when the mother of transgender child sent the following email:

“I am the mother of a 7-year-old transgender child, assigned female at birth but identifies as a boy. . . . I am currently in a custody battle with my child's father based solely on the fact that I support my child's gender identity. . . . I would like to . . . connect with researchers who would be interested in working with mothers like me who are fighting for custody of their transgender children.”

After receiving an Innovation Grant from the National Council on Family Relations (www.ncfr.org) in 2015, the Trans*Kids team embarked on a pilot study to explore family members' experiences related to custody and visitation challenges. Our broad research questions were:

- What are the experiences of parents/caregivers who are affirming of their children's gender identities and expressions and who face custody or visitation-related challenges related to their children's trans identities/gender nonconformity?
- What is important for us to know about these parents'/caregivers' experiences so that we can better support them?

For the pilot study in 2015, we interviewed five primary caregivers (mothers and grandmothers) of transgender and gender-nonconforming children/youth (children/youth were between the ages 8 to 16 years old; three were assigned female at birth, two were assigned male; three were white/non-Hispanic, one was white/Hispanic, and one was white and Native American).

Here's what we found (NOTE: These findings have not yet been published but were presented at the 2015 Annual Meeting of the National Council on Family Relations):



1. Our participants described an evolution of **understanding** of their children's gender (i.e., awareness and acceptance over time), while the un-affirming parents/caregivers were persistent in their **denial** of the child's transgender status (i.e., angry reactions and a refusal to accept the child's identity or to use the child's name and pronoun).

*"He's told [his father], 'I'm a boy,' but [his father] just simply **invalidates his identity** and says no you're not. You're a tomboy."*
– Mother of 8-year-old trans boy

*"I wanted to talk to the school psychologist about getting recommendations for a gender test, and J(ex-husband) was furious that I had asked anything and actually **threatened the school** if they did anything to C(child)'s gender identity."*
– Mother of 10-year-old trans boy

2. Our participants were often **blamed** by others (e.g., other caregiver; other caregivers' extended family) for the child's gender identity and expression:

*[My ex-husband said to S(child),] '**You're mom is forcing you to be transgender, isn't she?**'"*
– Mother of 8-year-old trans boy

*"[J(child)'s mother] said that we were **trying to raise a little faggot.**"*
– Grandmother of 10-year-old trans girl

*"**His parents kept calling child protective services.** . . .His sisters would call saying that whenever they saw P(child), P(child) was forced to wear girl things and that **I was forcing her.**"*
-- Mother of 16-year-old trans girl

3. Most (4 out of 5) participants had **abusive ex-partners**

*"I found a list of criteria that you're being abused, and there were 35 items, and he met 33 of them. The only thing he didn't do was yell at me or hit me, but it was **constant belittling** and constant silence and all these other things."*
– Mother of 10-year-old trans boy

*"We were high conflict even before S[child] came out. He was **controlling and psychologically abusive, manipulative, coercive.** . . .There's no other way to control and abuse me [now], so he does it through the child. They use the child as a pawn to abuse the mother."*– Mother of 8-year-old trans boy

4. Most (4 out of 5) participants described **controlling behaviors** on the part of ex-partners, including:

Ex-partners threatening or denying custody/visitation:

*"He said, '**You're never going to get the kids**...I'm going to have you determined to be an **unfit mother.**'"*
– Mother of 16-year-old trans girl

*"The primary reason I'm **not allowed to see my grandchild** is, quite frankly, because my ex is an abusive bully who wants to punish me no matter what the impact on the kids."*
– Step-grandmother (former primary caregiver) of 9-year-old trans boy



Ex-partners forbidding children from expressing their gender:

*“At my place, she was able to be a girl, but when she went over to him to go visit, she was **forced to be a boy**. . . . [There was one incident] where he chased her down the stairs. . . because she had a barrette in her hair. Her dad was really very uncomfortable and very angry, and he **forbid her to do anything that had anything to do with girls**. She wasn't allowed to talk to girls at school. She wasn't allowed to do any sort of feminized play at all.”*
--Mother of 16-year-old trans girl

*Her maternal grandmother...would frequently try to **force her into girls' clothes**, would loudly correct anyone who presumed she was a boy, would **cut her off** from anyone who supported C[child]'s gender identity, and is currently not allowing her to keep her hair cut short.”*
-- Step-grandmother (former primary caregiver) of 9-year-old trans boy

5. Most (4 out of 5) described a **negative impact on children's well-being** resulting from these problems with parents' disagreement regarding how to approach the child's gender identity and expression and/or custody and visitation disputes.

Difficulties going to and from rejecting household (n = 4)

*“We basically have a **meltdown**, that's what we call it, when he freaks out and has crying fits. . . . For two years he's had to pretend to be a girl. . . . He said **it's exhausting to go from one house to another and pretend**.”*
– Mother of 8-year-old trans boy

*“[He] always lashes out before a visit . . . **he's angry**.”* – Mother of 10-year-old trans boy

Suicidal ideation (n = 2)

*“He's getting to the point where he can't deal with it anymore. Last year he had said [to his psychologist] that he didn't want to live. . . . He [makes what] we call **death statements**. . . . He said, ‘I have so much going through my mind, **I don't want to live**’.. . . He said something like, ‘I wonder if a parent would regret not supporting their kid if their kid killed themselves.’”*
– Mother of 8-year-old trans boy

*“You know how schools will ask you draw a picture of yourself? Her **self-portraits** were always her in a dress with long hair and her **long hair strangling herself**.”*
-- Mother of 16-year-old trans girl

6. These custody and visitation challenges took a toll (financially and/or psychologically) on most (4 out of 5) participants.

*“I asked for a divorce, and he said, ‘No, you're crazy. I'm going to keep the kids and you'll never see a dime and blah-blah-blah,’ and I believed it, so I stayed for four years and finally signed an agreement just to get away from him... **I just gave up a lot of money**...that was the separation agreement.”*
– Mother of 10-year-old trans boy



*“It was really difficult in the beginning. I think I’ve gotten to the point through tons and tons of counseling that **there’s [only] so much I can do while he’s over there with his dad**...it was really bad. There would be entire weekends that...were completely hijacked, because I would get a phone call and S(child) would be so upset...**it was really hard.**”*

– Mother of 8-year-old trans boy

7. Most (4 out of 5) participants spoke about the **importance of adequate resources** when engaging in court-related challenges.

Thankful for knowledgeable/supportive professionals (n = 3)

“The best find we ever had was that lawyer... She’s still a big ally of J(child).”

– Grandmother (and primary caregiver) of 10-year-old trans girl

Money and education level (n = 3)

*“In many ways **it wasn’t a fair fight**, because we are professional[s] who earn reasonable money, who owned our own home, who had a good reputation in our community, against a young, unmarried woman who...had no money for a lawyer... In the court of law, it wasn’t very equal.”*

– Grandmother (and primary caregiver) of 10-year-old trans girl

8. Some participants (3 out of 5) referred to the **need for more and better resources and professionals, such as lawyers and family court judges.**

*“If we were to have to go into court, **I don’t have the money** to fight my ex-husband. He does very well, so that scares me. **Finding the right lawyer scares me.**”*

– Mother of 10-year-old trans boy

*“[My ex-husband] and his parents told the cops that I was trying to change my child, I was trying to turn him into a girl...and that I wanted to remove his penis, and that I was encouraging him to be a transvestite. And from that moment on I lost any help that I would have received... **I really wish more than anything that the police, the DA, and the judges were better informed about gender issues.**”*

-- Mother of 16-year-old trans girl

Conclusion: These families need better support as they aim to support their children while experiencing custody challenges. More research is needed to better understand their experiences. Family courts need to be educated about trans identities in children^{2, 3} – as well as police, district attorneys, etc.

REFERENCES

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For more information, go to <http://transkids.info/> or contact Dr. Kate Kuvalanka at kuvalanka@MiamiOH.edu.