Practicing in the Court of Public Opinion: Using Journalism Techniques to Win Over Journalists and the Public

Richard Wexler
National Coalition for Child Protection Reform
Alexandria, Virginia

Child welfare systems are more secret than the CIA. As a result, child welfare policy and practice can be profoundly influenced by media coverage. Usually the influence is bad.

Almost the only time the system’s actions are public is after a child “known to the system” dies. So it’s easy for reporters to assume that is the only error these systems make.

As a result, even when no laws or rules or policies are changed, actual practice can change enormously. The number of children taken from their homes can skyrocket when everyone from the frontline worker to the child welfare agency chief is terrified of being on the front page as a result of another tragedy.

These foster-care panics may go on for a year or two – or they may last far longer.

The equally tragic, and far more common, error of needlessly destroying children to “save” them, by consigning them to the chaos of foster care, remains hidden.

My organization was founded to change that. Our role is to change child welfare by changing media coverage of child welfare.

We’re good at it. According to the trade journal Youth Today, NCCPR may be “the most successful youth advocate[s] out there” when it comes to getting our point of view on the nation’s editorial pages. For a tiny, all-volunteer group on the unpopular side of the issue, that’s not bad.

And that has helped to change systems and curb foster-care panics. There’s more about NCCPR’s track record here: http://bit.ly/priusadv

The reason for our success: I was a reporter for 19 years. I know how journalists usually think and what they need to do their jobs.

Before Approaching Reporters or Writing Anything for Publication

Ask yourself: What is your goal? It may seem obvious: to get my client’s child back or to make sure that what happened to a client’s child doesn’t happen to anyone else, or to gain public support for a class-action suit. But be sure you know in your own mind. Make sure that any client you put forward for the media has the same goal and understands what is needed to achieve it. Because these goals may clash with other goals, such as the client’s need to express rage at what has happened to her or his family, or a desire to complain about repeated, unfair news coverage. These can be legitimate goals, but they can clash with achieving the goal of reforming the system.

So each contact with a reporter should be with a specific goal in mind. That will help determine the approach. Otherwise you risk falling into the same trap as reporters themselves: self-indulgence.

For example: About a decade ago, a newspaper I won’t name waged a self-proclaimed crusade against child abuse. They wrote one outraged editorial after another, convened forums and rallies, and attacked alleged
incompetence by frontline workers. Then the paper declared that this “community crusade” – led by the newspaper – “helped bring more attention and - we think - better child protective service.”

The part about better child protective service is demonstrably untrue. Not only did entries into care soar in this region, performance on key child safety indicators plummeted. The paper got high on its own righteous indignation the way some might get high on a drug. And they confused their self-indulgence with success.

They're not alone.

Every time I've screwed up in working with media, it's been for that same reason. I put a self-indulgent desire to vent ahead of the goal.

**If the Goal Is to Change the System, You’re Going to Have to Change Reporters’ Minds.**

If your client is a birth parent whose children have been taken away, then most reporters believe that your client is, at best, sick, and at worst evil. *Their* assumptions about the system are formed by news coverage, just like everybody else’s. So when they think of birth parents they think of the parents in the most recent horror story case in their community.

They are guided by what the well-known media scholar Stephen Colbert calls “truthiness.” Even if they know better in their heads, that’s how they feel in their guts.

Kara Finck used to be managing attorney for family defense for the Bronx Defenders. About 13 years ago, I interviewed her for a publication about an initiative providing intensive help to families in one Bronx neighborhood. I was struck by the fact that the word she used most often was neither a legal term nor a child welfare term. The word she used most often was “humanize.” She kept speaking of the need to “humanize” her clients in the eyes of judges and others in the system.

The same is true of reporters. They view birth parents as, almost literally, sub-human - so beyond the pale that there is no reason to so much as speak to them when doing stories about the child welfare system. No reporter would do a big project on the criminal justice system and talk to prosecutors, crime victims, and judges, but not to the accused or their lawyers. Yet in child welfare, that omission is common.

I used to be even harder on journalists about this, until about 13 years ago, when I was invited back to my alma mater, the Graduate School of Journalism at Columbia, to speak to a class. I thought back to my J-school project that first got me interested in child welfare 43 years ago, a radio documentary about foster care. And I remembered that I hadn’t spoken to any birth parents either. The documentary got the school’s equivalent of an “A,” and not one professor challenged me on this. (In that regard things have improved. There now is sometimes a specialized course on covering children’s issues, and the professor who teaches it definitely would challenge such an omission today.)

**Changing How the Debate Is Framed**

This problem – this view of birth parents as subhuman – is compounded by the success the child welfare establishment has had in framing the issue as a clash between parents rights and children’s needs.

For example: The Family Defense Center in Chicago brought a class-action suit challenging the way the state child welfare agency can run roughshod over families (*DuPuy v. McDonald*). The suit covers a wide variety of issues. But the lead plaintiff initially was, in fact, a child, who had been exiled from her own home and blacklisted in the state’s central register based on a patently-absurd allegation. *The Christian Science Monitor* did a good story on the case. But the headline undermined it. It said: “Child-abuse claims vs. parents’ rights.”
We had a similar problem in coverage of *Camreta v. Greene*, a case that went all the way to the U.S. Supreme Court, involving whether the Fourth Amendment applies to child abuse interrogations in schools. The *New York Law Journal* did a great profile of NCCPR's Vice President, Carolyn Kubitschek, who represented the child in that case, *pro-bono* before the Supreme Court. But the headline was “Lawyer brings passion for parents' rights to court debut.” Similarly, the *Washington Post* story about the case was headlined “Supreme Court confronts conflict between Constitutional rights and protecting children.”

Just this year, an otherwise outstanding story in *The New Republic* that focuses on the confusion of poverty with neglect undermines that message by framing the issue as follows:

> For more than 150 years, child welfare policies have swung back and forth between two polarized notions of how best to serve vulnerable children: Should they be removed from troubled homes, or should their families be helped? **Should “child protection” be the guiding principle, or “family preservation”?** [Emphasis added.]

If only she had stopped before the last sentence it would have been o.k. (although the whole idea of a swinging pendulum, so beloved by journalists, is also a problem). But who in the world wants to let child abuse continue just to defend some abstract concept of rights for adults? Shouldn't adults be expected to suffer if necessary for the sake of children? Why would we support family preservation if it undermines child protection?

### How Do You Change Reporters’ Minds?

The key to dealing with both these problems is the same - and this is the most important single point I can make: Keep the focus on the children.

Yes, this means that as lawyers, when practicing in the court of public opinion, you shouldn’t use arguments about the rights of your own clients. The notion that adults should sacrifice for their children is one with which almost everyone agrees. I certainly do. My views evolved to where they are now over many years not because of a concern about parents' rights, but out of concern for children's needs.

We must reclaim the mantles of “children’s rights” and child safety. We know that for most children most of the time family preservation is not only more humane than foster care and less expensive than foster care it’s also safer than foster care. Most of NCCPR's work is devoted to making that case in terms of overview and statistics (and we're available to provide such data for your own efforts).

We also reclaim the mantles of “children’s rights” and “child safety” in how we use language.

When I discuss a case like the one in Illinois, I argue that it is a *children's rights* case. That little girl had a right – a *children's* right - not to be exiled from her own home and, as also happened, driven to such despair that she attempted suicide.

Children have a right to be free from arbitrary stripsearches and traumatic medical exams. (The website NCCPR created concerning *Camreta v. Greene*, [www.camretavgreene.info](http://www.camretavgreene.info), has this subhead at the very top: “Because ‘Children's Rights’ should include the Fourth Amendment.” Throughout the site, we refer to the issue as “full Fourth Amendment rights for children.”)

Children have a right to live free of fear that, having been torn from everyone loving and familiar once, it will happen again. Children have a right to be free from the high risk of abuse in substitute care.

A few years ago I read a story about delays in initial hearings in Massachusetts, which was in the midst of a foster-care panic. Because of those delays, it took one lawyer 12 days to get a hearing in one of her cases, at which point the judge returned the child. She was furious, and she spoke well for her clients when she told a reporter: “Those parents were without their child for 12 days.”
But it would have been just as easy, just as accurate, and vastly more effective had she said: “That child was without her parents for 12 days.”

I refer to NCCPR as a child advocacy organization. If a reporter starts talking about the “balance” between child safety and family preservation or the “balance” between child protection and parents rights, the first thing I do is explain why I don’t accept the premise of the question. In fact, I try to avoid even using the word parents. Instead, I refer to families.

We have the safer options for most children most of the time. Yet we allow advocates for policies that demonstrably harm children to steal the concepts of child safety and children’s rights. It’s time to take those concepts back.

And here’s how it’s done. This is how Crystal Baker-Burr, a lawyer for The Bronx Defenders begins an essay for Vivek Sankaran’s Rethinking Foster Care blog:

“Can I have that quarter?” Anita asked me, pointing to the change she found in the chair in the courthouse interview room. I asked her what she needed it for. “I am saving all the change I find on the ground and keeping it with me,” she said. “If they ever kidnap me and my brothers again, I can take a cab back home to mommy.”

And here’s how the essay ends:

I frequently recall one child who was asked to draw himself as a superhero. I asked him what his power would be, “When I grow up, my superpower is going to be to keep families together,” he said. “So no kid has to go through what I am going through right now.”

In reality, that superpower can be, and should be, one we all share.

In between, the essay tells the story of the harm done to families entirely through the eyes of children. Ms. Baker-Burr has taken back the concepts of children’s rights and child protection and put them where they belong – with families.

There is one other way to take back the concept of children’s rights and put it where it belongs: Remind reporters of what happened at the Mexican border. That tragedy has suddenly brought home to Americans the harm of family separation like nothing else. That’s why the child welfare establishment hates it so much whenever we draw the obvious parallels.

In drawing those parallels it’s important to acknowledge that what the Trump Administration did at the Mexican border and what U.S. Child Protective Services agencies do every day are not identical. Reporters need that reassurance. But they are more similar than different. I’ve created a table outlining the many similarities and the very few differences: http://bit.ly/2xrgzMe

**Applying This at the Individual Level – Telling Your Story**

Before even approaching a reporter the decision must be made concerning whether to go public at all. This depends in part, of course, on whether going public might make things worse for your client because CPS agencies can be vengeful. But it also depends on the client and the nature of the case.

Even if you don’t want to go public about a particular case, if you want a reporter to do a story about a given issue, you have to have case examples to illustrate the point.

Journalists prefer stories with clear-cut heroes/victims and villains. They prefer their victims pure as the driven snow. Often cases in child welfare come in shades of gray. Your client may be partially at fault, but it doesn’t follow that her or his children should have suffered by being taken away and thrown into foster care.

Persuading a reporter of this depends on how much gray there is in the case. If the fault rests largely with the child welfare agency and/or your client diligently has corrected whatever failings s/he may have had, and if your client comes across well in an interview then you probably can proceed.

American Bar Association
But there is a related issue: If there are things about your client that you don’t want the judge to know, you may not want to go public, for a couple of reasons: First, you can never mislead a reporter or there will be hell to pay. You and your client must be prepared to be candid about the client’s own failings. Your client can decline to answer a question, but the reporter is free to try to seek out the information on his own, and the act of refusing to comment can make the client look culpable.

So if you can’t tell the whole story, or the overwhelming majority of it, without jeopardizing the case, then don’t go public while the case still is pending.

If you do go public, during the limited amount of time you have to talk to a reporter, or the few hundred words you may get for an op ed column, your own remarks and those of your client should focus on the harm to her children. The client should not talk about how hard the experience has been on her, but on what it has done to the children.

Clients tend to assume that reporters simply understand this – that it is obvious that a child would be harmed enormously. In fact, reporters go in believing the opposite. That’s why the client shouldn’t talk about how much she missed her children; she should tell a story that illustrates how much they missed her. She needs to illustrate how the foster care experience damaged the children. If the children have been returned, discuss the effect it still has on them. Violet Rittenhour, a former Parent Organizer for the Child Welfare Organizing Project in New York City, did this superbly in a statement written for a news conference in 2006; it’s included at the end of this presentation.

The Research Is on Our Side

Child welfare is a field filled with double-standards. So is the journalism of child welfare. A death of a child “known to the system” supposedly is proof that the entire system bends over backwards to keep children in dangerous homes. But an egregious case of needless removal, no matter how harmful to the children involved, is easily dismissed as an aberration.

That’s why it’s important to emphasize what we know about typical cases; what happens in the cases that are the rule, not the exception. That means going beyond noting the widely-quoted data on the rotten outcomes for foster children. Those data are important, but what I call the foster care apologists try to dismiss them as due to what those supposedly rotten, no good parents did to the children before the system “rescued” them and placed them in foster care.

That’s why the two massive studies done by Prof. Joseph Doyle at MIT are so valuable. They compared outcomes for comparably-maltreated children. They compared those outcomes for more than 15,000 children. And they looked at how the children actually fared as older youth and young adults – not at subjective impressions of “functioning.” The results of these massive studies: The children left in their own homes typically fared better. There are at least three other smaller studies, again, using this kind of direct comparison, that produced similar results. And one of them applies specifically to infants born with cocaine in their systems – something particularly important at the moment, since we are in the midst of the latest in a long line of Worst Drug Plagues Ever. This NCCPR blog post includes links to more information about the studies, and, in most cases, links to the studies themselves. http://bit.ly/2MnBObW

And, simply when it comes to physical safety, it’s urgent to emphasize the multiple studies concerning the high rate of abuse in foster care. There are citations and links here: http://bit.ly/2sq8w1Z

There is more information about research and data at www.nccpr.org

Richard Wexler
Where Should the Burden of Proof Lie?

In discussing what the research tells us it’s also important to emphasize another point: Even requiring us to cite all this research is putting the burden of proof in the wrong place. I would challenge reporters to challenge the foster care apologists by asking them: What research do you have that in typical cases foster care is the better option?

Both in individual cases and in assessing systemic change, the burden of proof should always rest with those who think children don’t belong with their own families.

Look for Allies

Because of the stereotypes about birth parents, you’ll have an easier time being heard if you can find an ally to approach reporters with you. The ally should be either:

- A former caseworker for the child welfare agency - someone who can say: I did it myself. I took away children who didn’t need to be taken, and I saw what it did to them.
- A foster parent who can say: I came to realize that most of the children placed with me could have remained in their own homes if their parents had just gotten the same help I was getting as a foster parent. Such a foster parent, Mary Callahan, made a huge difference in reforming the child welfare system in Maine. This link goes to the text of one of her presentations: http://bit.ly/2tXpV21
- A former foster child who says s/he did not need to be taken from her or his family, or who says that though there were serious problems in the family, foster care was not the solution. This essay, from Teen Vogue, is a case in point: http://bit.ly/2snzrsT

Ways to Tell Your Story

Op-ed columns and letters to the editor

This is the easiest way, and the way in which you and your clients retain the most control.

The basic rule here is, follow the news organization’s rules. Most newspapers have space for “op-ed” columns; the name comes from the fact that they usually are published on the page opposite the editorial page. Typically they will publish commentaries running anywhere from 500 to 700 words. Most newspaper websites have a page including guidelines for length and content of op-ed columns. Follow those guidelines. If they say no more than 500 words, you can submit 510, but much more and it may not even be read.

If there is no such guide, read the most recent op-ed columns, count the number of words and don’t go over that count. Even when you are writing for a site that is online only, stick to the length limit for their typical columns.

Include a cover letter explaining, briefly, who you are and why you have either the qualifications or personal experience to write about the topic.

Send it by email – cut and paste, not as an attached file – both to the generic email address for such submissions and to the relevant editor. When possible, embed links to any data you cite.

Follow up by email in three or four days. Literally send the piece again, but add RESENDING to the subject line, and a note at the top asking if the editor has had a chance to review it.

Papers have more room for letters to the editor, so that increases the odds of publication – but letters are significantly shorter. Few papers allow letters over 200 words. If the paper says no more than 100 words, don’t go over 105.
There also is another option, though it is one that, at first blush, will seem unappealing: posting on the comment sections on newspaper websites. Because newspaper publishers, desperate for readers in any form, often allow people to post anonymously, those sites often are a haven for the worst among us, especially if the story is about poor people or people of color. The comment boards often turn into what I’ve come to call a “virtual lynch mob.”

Indeed, some news organizations have come to realize this. They have dropped comment sections entirely, made them harder to find or required commenters to register through Facebook, where it’s harder to be anonymous. So why go anywhere near them? Not to persuade the extremists who do a lot of the posting. But for the simple reason that reporters often read what is being said about their stories.

In the years since I began doing this regularly, four reporters have gotten in touch with me for follow-up stories as a result of seeing those comments. These are reporters who probably would not have noticed an e-mail I sent them – indeed in some cases they didn’t notice such emails. In one case, a reporter following up on a comment I’d posted set off a chain of events that led to an entire NCCPR report on a state child welfare system.

Start posting regularly, civilly, and with your real name and you’ll immediately stand out from the crowd – and may well attract the attention of any reporter who covers child welfare in your community.

**Op-ed columns for trade journals**

I have not had much experience with legal journals, so I won’t presume to give advice concerning those, but I’ve had a lot of experience with two online publications that focus on child welfare.

- *Youth Today*, which I cited at the very beginning of this presentation, is an objective news organization. Unfortunately, they don’t do much on child welfare, but they are receptive to op-ed submissions.

- The so-called *Chronicle of Social Change* is another story. That publication does focus intensively on child welfare. But until recently, writing for them was like being the token liberal at Fox News. Their publisher co-authored articles with Elizabeth Bartholet, analogized the spread of family preservation to cancer and called concern over racial bias in child welfare a panic. But in part as a result of intense pressure from NCCPR, the behavior of the publication as a whole has changed, at least for now. They regularly publish Vivek Sankaran’s columns, and their news stories are more “fair and balanced.” As long as that continues, I will refrain from referring to them as “the Fox News of child welfare.”

I strongly recommend writing for both *Youth Today* and the *Chronicle*, because people today are less likely to go to a publication and browse it than they are to find a story via Twitter, their news feed on Facebook, or a Google search. Stories from *Youth Today* and the *Chronicle* are included in Google news search results. They also are included in a daily email sent to many in the child welfare field.

**News stories: approaching journalists**

In addition, or instead of, writing an op-ed column, you may want to try to get a news organization to do a story about one of your cases. Or you may want to try to persuade a news organization to write about systemic failings.

I used to say look for bylines. Who writes regularly about child welfare or social services? Are there any columnists who write about these issues? With all the cutbacks at newspapers, there may be no such person. So you need to see who comes closest. Is it the city hall reporter? The county government reporter? You may need to contact the editor in charge of local or regional news, usually the metro editor or the city editor. Who is the editorial page editor? You may want to approach her or him for a meeting with the editorial board – which, again due to all the cutbacks may consist of one person.
Contact the journalists first by e-mail; that way you’re not interrupting them when they’re on deadline. If you don’t hear anything, call in a few days – in the morning.

Also: Tweet at them. Follow them on Twitter and tweet something like: Saw your story on [topic]. Would like to talk to you about failures in #fostercare and #childabuseprevention.

A tweet may get a response where email and phone calls won’t.

Keep this initial request short. Do not go into the details of your story or your position on an issue in this initial contact. Just introduce yourself and ask for the meeting.

Assuming that you are approaching a reporter about a case that is not already in the news:

In that initial contact, tell the reporter you and your client want to talk to her or him about the child welfare system and about your experience and/or the experiences of others like your client. Do not ask the reporter to write about your case – in fact do not ask the reporter to write any particular story. Similarly, never ask an editorial board to write an editorial about your topic. Journalists find such specific requests offensive. Rather, you seek the chance to talk to the journalists.

When you write and call and at any meeting with a reporter always remember: Everything is “on the record” unless you and the reporter specifically agree in advance that it won’t be. Journalists even have been tripped up by other journalists when they’ve misunderstood these rules.

You avoid gray areas by operating – always – by following one rule: If you don’t want it on the front page or the home page, don’t say it, don’t write it, don’t tweet it.

But, as long as you reach a clear agreement in advance, journalists will respect that agreement. For example, if you and your client agree with a reporter in advance that the client will tell her story but the reporter won’t use your client’s name, 99.9 percent of the time, the reporter will honor the agreement. (Remember, however, that if your client is willing to use his or her name that increases the chance that the news organization will use the story.)

Pull together all the documents you have about the case you want to publicize, make copies of any you can legally make public and organize them, ideally with a binder and your own brief explanation of what each document means. (Hypothetical example: This is the supervisor’s summary of the case. Notice how it doesn’t match what the caseworker actually said in her notes.)

In choosing cases to publicize, give a lot of weight to which cases have the strongest documentation. It will help to overcome the “veto of silence.”

Typically, reporters want to believe what child welfare agencies say about your client; they don’t want to believe your side of the story. They want a reason not to talk to birth parents in these situations and not to tell their stories. In most states child welfare agencies can supply that reason simply by saying “Oh, there’s really so much more to this story and we wish we could tell you, but we just can’t. The law doesn’t allow us to comment.”

Agencies even will say that in states where it is not true. In New York and Arizona, for example, state laws give child protective services agencies wide leeway to discuss individual cases.

In addition, in some states court hearings in these cases are open. Though this is true only in a minority of states, they include some of the largest, such as New York, Texas and Florida. I estimate that at least 40 percent of foster children live in states where court hearings are open. In these states, it’s well worth inviting a reporter to the next hearing.
During the Interview

- **Be prepared for very personal questions.** Your client does not have to answer them, but the more you are willing to share, the greater your credibility. (Though, again, anything you share with a reporter could be on the front page tomorrow unless you’ve agreed otherwise in advance.)

  As noted earlier, your client can say she is not comfortable answering a particular question or delving into a part of her life, and you can instruct her not to answer. But never, ever mislead the reporter. If the reporter finds out, she or he is likely to be furious and likely to take it out on your client in the story. And, again, the reporter is free to try to get the information on his own, and free to use it.

- **The reporter is (usually) not your enemy...** Even though s/he probably holds all sorts of stereotypes about your client, the reporter probably is not ill-motivated or out to get you. Of the hundreds of reporters I have dealt with I have encountered only four whom I consider to be untrustworthy and ill-motivated; using the issue to advance their own careers. A fifth was an ideologue. But overwhelmingly, people who write about child welfare do it because they believe the system is broken and they want to see it fixed. That doesn’t make what they write any less damaging, or any less wrong, it just means that once you manage to get them to listen to your client’s story they still may ignore it, but they probably won’t distort it – at least not on purpose.

- **...but s/he’s (usually) not your friend either.** Reporters will often feign sympathy for what has happened to an interview subject and give the strong impression of being on the subject’s side in order to win the subject’s confidence and get the interview subject to say more than she or he intended. So don’t be disappointed if the final story, even when fair, is not as sympathetic as you may have expected.

After the Interview

- **Never ask to see the story in advance or hear your quotes before publication.** Reporters find such requests insulting. What you are saying is: I don’t trust you to get this right so I need to check up on you. That may be how you feel, but making the request will only offend the reporter – and s/he’ll say no anyway.

  Occasionally reporters actually offer what’s called a “readback,” in which they will read you a quote from your interview before publication and ask you to verify or correct it. That doesn’t change anything I said in the previous paragraph. First of all, such offers are very rare. Secondly, it is vastly different for a reporter to offer this on her or his own than for you to request it.

- **The reporter almost certainly will get some things wrong.** I have been interviewed hundreds of times. Only two or three times do I believe I was taken out of context deliberately. (The far bigger problem is not having our perspective included at all.) But it is common for the quote not to be exactly right, for some nuance to be lost or for there to be some factual error, usually relatively small.

  In such situations, the best bet is to let it go. The phrase “they can dish it out, but they can’t take it” was invented for journalists. Or, as one of the finest journalists of the 20th Century, Edward R. Murrow, once said: “The press doesn’t have a thin skin – it has no skin.” So the best rule in these situations is: praise what you can, and let the small errors go by.

  And the better the story, the more I’m willing to let go by in terms of errors of fact or interpretation. The *New Republic* story cited earlier, for example, is so good, that I did not want to follow my praise for it with a “but...” So I did not raise with the reporter my concern about the issue being framed as “child protection” vs. family preservation. I limited myself to thanking her for the story and circulating it widely. If and when she reaches out to me in connection with another story, then I will bring it up.

Richard Wexler
But What if the Whole Story Is Awful?

Up to now this presentation has discussed approaching reporters to tell your client’s story on the assumption that the reporters have not done much child welfare writing, or at least haven’t done anything damaging. But often, of course, that is not the case.

As I said at the start of this presentation, often a reporter’s introduction to the whole topic is when there has been a horrifying death of a child “known to the system.” Where the reporter comes in often determines how a story comes out. If the only thing a reporter knows is that a child died a horrible death in a case where the case file had more “red flags” than a Soviet May Day parade, then he is likely to assume that the only mistake agencies make is leaving children in dangerous homes. And the first you’ll know about any of this is when the story or series is published.

So you have to approach the reporter after he’s done a dreadful story for which he is, in fact, probably winning lots of praise in the newsroom. And he’s probably on that righteous-indignation high I mentioned earlier.

So Now What?

The same basic advice applies. Try to find something to praise – even if it’s the quality of the newsprint the story was printed on or the design of the website where it appeared. Or at least give the reporter credit for being well-motivated. Then go immediately, but briefly, into what you want to talk about – because of how much harm is being done to children. Emphasize that you have documentation, but don’t provide it until you’re asked for it.

Do it by email and tweet. You can tweet something like: “Want to know the REAL reason tragedies like X happen? It’s not what you think. Let’s talk.”

Follow up with a call. But keep in mind that under these circumstances you have a lot of competition. Every parent caught up in a messy custody fight is probably writing to the same reporter. So are people who are prone to conspiracy theories, use what I call “Third Reich rhetoric” (see the final item in this presentation) and have never heard of the “new paragraph” key on their computer. All of this reinforces the reporter’s own self-righteous refusal to pay attention to what an NPR editor once dismissed as “these people.” (NPR, to its great credit, eventually changed its collective mind and did some brilliant reporting.) You need to break through all of that resistance.

Your status as a lawyer will help you and your client be heard above the din; but even then it will be difficult.

So if the call is not returned, and it probably won’t be, send additional e-mails now and then. Approach other reporters as their bylines turn up. And see about getting an op ed column published.

What If Nothing Works?

When you’ve repeatedly tried to persuade reporters at a given news organization and gotten only one hostile story after another, then go to the competition. The problem with that, of course, is in most cities there is only one daily newspaper – if that. Broadcast newsrooms almost never have anyone covering the issue regularly, and on an issue like this, notwithstanding all the talk about newspapers dying, print, including newspaper websites, still has the most influence.

So the competition may be your community’s alternative weekly. That’s how a very good group of grassroots activists in Philadelphia were able to be heard. That group, DHS – Give Us Back Our Children!, built on that to make inroads at one of the city’s major dailies.

But that alternative weekly has since gone out of business.

American Bar Association
Another option: Small online-only local news organizations, often founded by laid off newspaper reporters. NCCPR placed an in-depth commentary in one of the best of them WitnessLA, in Southern California, to counter an appalling series of stories in the Orange County Register.

As for the offending newspaper, if you’re sure your back is against the wall, it may be time to take the gloves off. It’s still not likely to do much good, but when there’s nothing to lose, venting one’s anger becomes a more valid goal. And, occasionally, it works. The changes at the Chronicle of Social Change are a case in point—though that has a lot to do with the size and nature of that particular publication.

Even in these situations, it’s usually better to confine the venting to the reporter. Going to the reporter’s boss is the nuclear option. Odds are at least nine in ten that the editor will back the reporter—and the reporter will hate you forever. And, especially in the current climate at newspapers, there is more turnover among reporters than among editors. The reporter who’s writing those terrible stories may be gone in a year or two, and that’s a chance to start fresh. That chance is diminished if you’ve also complained to her or his boss.

**Social Media**

There is now another option for fighting back, one which barely existed when I first started doing presentations such as Social media, by which I mean Facebook, Twitter, those newspaper comment sections I mentioned earlier, and Blogs.

These options won’t level the playing field. We’re still arguing with people who “buy ink by the barrel” even if they buy many fewer barrels. But it can make that field a bit less uneven. Over the past decade or so, I have found ways to reduce the harm done by newspapers in some cities by using new media to counter old media.

The main obstacle to doing this is not technical. Using blogs, Twitter, Facebook and so on is very easy. However, if you want to use these options for a media campaign you will have to commit a fair amount of time to it.

**Four Final Points**

- *Every reporter you deal with feels under siege.* The number of layoffs in the news business is staggering. Everyone is doing someone else’s work as well as her or his own—and wondering how long he or she will have a job. So they are likelier to be grumpier and more curt with you than before. So more than ever you need to keep your “pitch” to them as short, and as clear as possible.

  You can still tell them a lot, but only as long as there is a short summary, and the material is broken into “bite size” pieces.

- *Even the language is loaded against us.* But that won’t change if we keep going along with it. Earlier I mentioned equating child removal with “child protection.” Occasionally, I’ve seen family defenders lapse into that shorthand—not because they believe the two are equivalent, but it’s because that’s how everyone else frames the debate. But we need to reframe it, so we should never use their language, not even as shorthand.

  Another prime example is the term “biological parent.” Think about that term and the image it conjures up; certainly not love or affection. On the contrary, it suggests someone who is no more important to a child than a test tube.

  And that was precisely the intent of the three scholars who coined the term more than 45 years ago. It was intended to be pejorative, and it is. But we can’t expect reporters to stop using it and substitute something value-neutral—like “birth parent,” or, as some suggest, just “parent”—if we keep using it ourselves.

Richard Wexler
So I hope all of us will resolve to correct anyone at this conference who uses the term “biological parent” – and even more important, to correct anyone who uses it at the conference that follows this one.

- **Ask your clients to please leave Hitler out of it.** Workers for child welfare agencies are a lot of things. But they are not stormtroopers. They are not Nazis. They are not the Gestapo. When CPS workers start not only taking away children but piling them into cattle cars, shipping them off to gas chambers and exterminating them – *then* they can be called Nazis – and not until then.

Furthermore, the typical newspaper reporter is about the same age, the same race, has roughly the same education level and sometimes the same income level as the typical child protective services agency caseworker. That means that, even if they weren’t constantly meeting and empathizing with these workers as part of their jobs, they probably know a CPS caseworker, or at least a social worker or two, or know someone who does. It’s not a good idea to call a reporter’s friend a Nazi.

So unless you want to give reporters a license to dismiss everything your client says – and offend everyone who lost a family member in the Holocaust, it is wise to urge your clients to avoid what has been aptly termed “gestapolemics.”

But don’t take my word for it. This was the topic of an excellent essay by America’s foremost broadcast journalist, political commentator and media critic – Jon Stewart of *The Daily Show*. This is the direct link to the video: [http://on.cc.com/2cTr6qh](http://on.cc.com/2cTr6qh)

Comparing the rhetoric of people supporting a take-the-child-and-run approach and their broad brush condemnations of families to the rhetoric of Donald Trump, however, is fine.

**And One More Word About Rights.**

If you still don’t believe that there are better ways to frame this debate than focusing on rights – in particular, the rights of your clients, consider the history of the marriage equality movement.

They started out framing the issue is a rights argument. They didn’t get very far. So they made a deliberate decision to stop talking about rights and start talking about love and family. That made all the difference.

Not just in America, but in much of the world. This link goes to a commercial supporting a successful marriage equality referendum in Ireland [http://bit.ly/1aw9xrR](http://bit.ly/1aw9xrR) I challenge anyone to come up with a “rights” argument that’s more effective.
The statements on the following pages originally were written for a news conference held in the weeks following the death of Nixzmary Brown, a child "known to the system" who died in New York City in January, 2006. They are outstanding examples of effective advocacy through media.

Statement Of Violet Rittenhour
Former Parent Organizer, Child Welfare Organizing Project
January 23, 2006

I am scared to death that ACS will take my kids from me again. I am scared that ACS will "err on the side of safety." “It’s better safe than sorry," so they’ll think it is more likely than not I might be abusing my kids.

I don’t want to pay for what happened to the little children in recent deaths. I don’t feel safe in my own home. I am scared they will come and tell me they are taking my kids. I am scared to check the mailbox because there might be a letter in there that says “case indicated.”

Let me explain why I am scared so you'll truly understand.

My children were taken away for about a year in 2001. Even an ACS caseworker later told me she couldn't understand why. My daughter was physically and sexually abused in foster care. And in addition to everything else, the time in foster care led to mix-ups involving my children’s school records that have haunted us ever since.

The first time I was reported to the hotline after my children were returned, the school system thought my children were still in foster care – so they couldn’t understand why they weren’t in their old school. They were back home, being home schooled because they’d fallen so far behind while in foster care.  I’d filed all the paperwork and gotten all the approvals.

But it wasn’t on someone’s computer, so I was investigated. Eventually, the case was ruled unfounded.

Then my son was punched by another family member – also a minor. The police were called and they phoned the hotline.

As soon as they heard the loud knock on the door my children knew it was ACS. And they were scared. It’s amazing how a hard knock on the door can only mean one of two things - -or maybe both – in certain neighborhoods.

The ACS workers asked about the case that got us involved in the system years before – but nothing about how my son was hurt. Although I was not accused of hitting my son, I was the one under investigation. And they made it as hard as possible for the Center for Family Representation to help me.

I was required to attend an “elevated risk conference.” ACS rules and regulations say you can have who you want present with you. I wanted my boss, who is an MSW and two other social workers and my brother. All can identify my family strengths, because this was what the conference is supposed to be about. I was told I could not have anyone else present but my husband because of confidentiality. I now had to prove to ACS why they should believe my kids are safe at home with me.

This case also was unfounded.

Then we moved to Chelsea. But there still was confusion over my children's school records. And a school principal was suspicious because I’d home schooled my children – even though I had permission.

Then they put my son in third grade when he should be in fourth. He's dyslexic, but the school didn't want to help him with that. Instead, they demanded I put him on meds. When I objected, the principal called ACS.

My daughter tells me I can’t protect her. She says ACS will keep coming until they take them and put them in foster care. She tells me I can’t stop them -- I couldn’t stop them the first time. My daughter asks why do I go

Richard Wexler
to work, why do I sit on all these different boards? She says all the pictures I have with different commissioners mean nothing -- if ACS wants to take them they can.

With all this being said, my daughter goes with this lady take a test for placement in her new school. Now the test consists of oral questions. The lady comes back after a few minutes and asks me to come with her. She asks me if something is going on at home. I ask “why do you ask?” She said my daughter failed every question.

Walking home my daughter asked me, was I disappointed in her? She told me she failed the test on purpose. She said she was sorry but she did not want to go to school, she wants to be home schooled. I asked her why she said it would be easier for ACS to get her and put her in a foster home if she went to school. I said: “If you feel I can’t stop them why would you feel safe at home?” She said: “I know you would fight like hell, Ma, before you let them take me and hurt me again.”

My daughter pleaded with me to help her because she was scared.

I’ve been told this case also is unfounded. But I don’t have the letter yet. And we’re all scared.

Not everyone at ACS is bad. The caseworker on the first unfounded complaint was wonderful; I still keep in touch with her.

But as I watch the news I get a fear that is indescribable. I cry in the privacy of my bathroom. I wait for ACS to send a founded letter and tell me they are removing my kids. I worry to hear a knock at my door. I’m scared when my son goes to school maybe ACS will remove him from school. ACS is under fire and every parent that comes in contact with them, and their children, will have to pay. I am not one of those parents on the news. Why do I have to be treated like them?

I worry to see how the child welfare system will unfold in the weeks to come. I hope and pray the city will not unleash hell on all families that come in contact with them.
"I am scared of ACS"

This essay was written by Violet Rittenhour’s 14-year-old daughter

[To protect her privacy, her name was not used and she did not attend the news conference]

I am scared of ACS. All the news reports of the deaths of kids scares me.

My Mom is being investigated by ACS now because the Board of Ed can't keep track of our home school records.

I'm scared because no one cares that Mom and Dad are not abusing me and my brother. Nobody cares the only abuse I got was in the foster homes they put me in. ACS took me

from my family and put me with people who told me and my brother my family didn't want us. I knew they were lying. I knew my Mom would get us back. That's what I

held onto during night after night of sexual abuse.

The foster parents didn't feed me and my brother all the time. One time my brother took a cookie out of the fridge because he was hungry. The foster mother beat him with a shoe. I yelled at her I was going to tell my Mom because we were going to have a visit with her the same day. The foster mother grabbed the broom and as I tried to run she hit me on top of my head. Blood ran down my face and covered my shirt. She put me in the bed and put a towel on my head. It kept bleeding.

She took the other two kids for their visit with their Mom. Later that night the agency caseworker came and took me to the hospital. We never went back to that foster home, thank God. I still have a big mark on my head were my hair won't grow because of that. Later I found out the other foster child told the caseworker what happened to me. The foster mother had called and said she couldn't make the visit.

My Mom never beat us, she just made us turn the TV off and read. I got beat in the foster homes they put me in but no one cared. The foster parents told me I was ugly and stupid. My Mom always told me I could be anything I wanted to be in life, all I had to do was try.

I never wanted to talk about what happened to me in the four foster homes I was in because I was ashamed. I didn't want people to know what happened to me. I wanted to write a story so everyone could understand there are kids who are scared of ACS. ACS was not a savior to me. I hate them so much but my Mom tells me not to hate.

Why do they do this to kids? I had a Mom who loved me and took care of me. Even if my Mom couldn't take care of us, we have a big family that would. Instead, ACS put us in hellholes and for what?

ACS sees all parents the same once the call is made. My Mom and dad then have to prove why they should be allowed to keep us. I think ACS should have to prove why they should be allowed to take kids.

We just moved downtown to a nice area. I thought I could put all of the bad ACS memories behind me. ACS called my new school and I don't want to go back there. I don't want everyone looking at me like I'm an abused child. I don't want them asking: Is everything ok at home?

We just moved into the building so everyone knows when ACS comes a knocking.

People always know. I feel ashamed. I want to leave New York City. I want to leave so ACS can never take me and my brother again. My Mom said we can't leave just like that while the case is open.
I'm scared when I hear a hard knock at the door. I think they are coming. I was scared to go to school because they will come to the school and remove me and put me in a foster home. All because if my Mom and Dad don't do what they want, never mind they are not abusing us.

I feel safer at home. I feel like my Mom and Dad could keep them from taking me. I failed a test I had to take for my new school on purpose because I'm scared ACS will come to the school and take me. My head started to hurt every time it came time to leave the house. Every morning I was sick throwing up and diarrhea.

I will be so glad when I am 18 and my brother is 18. Then I know ACS will never be able to put us in a foster home again.

When I started to write this story, my Mom asked me: If I had a chance what would I say to ACS and people who read this? I wanted to say please leave me and my brother alone and other kids who don't need to be put in foster care. ACS don't take us and put us back in those bad homes. I want to be with my Mom and Dad. I want to be a normal kid. I don't want to be scared to go to school. I don't want to jump every time there is a knock at the door. I want to feel safe in my own home without worrying that ACS is coming.

*The Lord is my rock, and my fortress, and my deliverer...* Psalm 18:2
Statement of Sharwline Nicholson
Chair, Board of Directors, Child Welfare Organizing Project

January 23, 2006

Good Morning. My name is Sharwline Nicholson. I am the president of the Child Welfare Organizing Project (CWOP).

I am a single mother. In 1999, I suffered the loss of both my children to the foster care system. My children were snatched away from me because I was a victim of domestic violence. They were taken from my home without any investigation. They were taken from my home without a court order. In the end, I was cleared of all charges of child abuse. I won a lawsuit against the city that said that my children were wrongfully removed.

But that is not the end of the story for my children or for other children who are wrongfully removed. Do you stop for a minute to consider the traumatic effect of unnecessary removal and the scars it leaves on our children? My children were wrongfully removed and their scars are there forever. To this day, my son is fearful that he will be taken from me again. To this day, my son protects his sister. My son can never recover those weeks when he was not sent to school. He will always remember those weeks with a foster mother who hit him. How was he protected? How does the system rebuild the life of a child who goes through an unnecessary removal?

My children were removed in the days when the ACS philosophy was that the best course of action was to remove children. We have come a long way since those days, thanks in large part to Commissioner Mattingly. In the aftermath of the horrible death of Nixzmary Brown, we cannot turn back. We cannot forget that unnecessary removals hurt children and families, permanently and seriously. We cannot demand that ACS turn back its clock to days when its motto was “When in doubt, take them out.”

Make no mistake, what happened to Nixzmary Brown is a terrible thing. We are only beginning to learn what went wrong in that case. The question that we are left with is: how do we protect our children? I am here to tell you that we cannot do it by removing them from their families every time an allegation is made. The hundreds of children unnecessarily removed – like my children -- will pay too high a price.

Thank you.
Great Messaging by Family Defenders and Other Advocates

Richard Wexler
National Coalition for Child Protection Reform
Alexandria, Virginia

If I could send only one commentary to any journalist covering foster care it would be this column from Crystal Baker-Burr of The Bronx Defenders, on Vivek Sankaran’s Rethinking Foster Care blog. It is the single best example I’ve ever seen of messaging on behalf of families caught up in the child welfare system:


Other Good Work From Family Defenders

From Emma Ketteringham of The Bronx Defenders in The New York Times:

From Chris Gottlieb of the New York University School of Law Family Defense Clinic, on the New York Times Motherlode blog:

And From Other Advocates

From a parent, Shakira Kennedy in the New York Daily News:

From a former foster child, Nico’Lee Biddle, in Teen Vogue:

From a former foster parent, Mary Callahan, in the Los Angeles Times:

And from the former director of a child protective services agency, Molly McGrath Tierney, in this short video:
https://youtu.be/c15hy8dXSpS