

When to Do Surgery on a Child With 'Both' Genitalia



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At 16 months-old, a foster child in South Carolina known as M.C. underwent genital cosmetic surgery. The goal was to refashion M.C.'s "ambiguous" genitals to look feminine, in order to match the child's female gender assignment. M.C., now eight years old, though, identifies as a boy.

His adoptive parents, Mark and Pam Crawford, believe the state was wrong to allow the surgery and that doctors were wrong not to inform those making the decision that the surgery was not medically necessary. A recently-filed lawsuit, brought on behalf of M.C., [alleges](#) that doctors "robbed M.C. not only of his healthy genital tissue but also of the opportunity to decide what should happen to his own body."

Doctors have believed for many years, based on little to no evidence, that children require male-typical or female-typical genitals in order to grow up psychologically healthy.

This case is as groundbreaking as claimed by the two groups representing the plaintiff, [Advocates for Informed Choice](#) (an intersex legal rights group) and the [Southern Poverty Law Center](#).

Never before in U.S. litigation has a child's right to genital integrity been asserted in this fashion, and so the case is likely to cause quite a stir among pediatric groups

treating these kinds of children. Unfortunately the case is also causing a host of misunderstandings.

First off, contrary to some news reports and commentaries, M.C. was not born "with both sets of genitals," male and female. As I've explained [elsewhere](#), the only way you could be born with "both sets of genitals" is if you had two bottoms. The clitoris and the penis are homologues -- they are the [same organ developmentally](#) -- so you get one or the other, or one [in-between](#) organ. Similarly, the labia majora and the scrotum are homologues -- so you get either a set of labia majora, a scrotum, or something in between. But you can't have all the female parts (clitoris, labia majora, etc.) and all the male parts (penis, scrotum, etc.) on one person; even if there were room enough, sexual physiology wouldn't allow it.

What people mean when they say a person "was born with both sets of genitals" is that a child may be born with a phallus that looks a lot like a penis plus a vagina (the tubular organ that goes from the outside of the body towards the uterus, if there is a uterus). This can happen because of hormones, in conditions like congenital adrenal hyperplasia and partial androgen insensitivity syndrome. But to say that gives you "both sets of genitals" is to pretend that somehow all that matters to males is their penises and all that matters to females is their vaginas. In fact, many of us women also care about our clitorises. (For that matter, many men care about their scrotums.)

This then leads to another misunderstanding with M.C.'s case: some folks seem to be commenting as if, had M.C. come to see himself as the female gender he was originally assigned, we would not care that surgeons had removed most of M.C.'s phallus. In other words, we are supposed only to care about the removal of phallic tissue in this case because M.C. is a boy. But in fact, we should very much care about phallic tissue even when it comes in (or off) a female. When Mr. Rogers sang, "Boys are fancy on the outside, girls are fancy on the inside," he was prepping his audience to need Dr. Ruth. All girls are entitled to be fancy --sometimes super fancy -- on the outside, too. Many intersex women who had their clitorises surgically shortened in infancy are legitimately [angry](#) about having had tissue (and thus sensation) taken from them.

Because M.C. has rejected the gender assignment given to him, this case is also causing some people to confuse intersex (sex anatomy that is read as being not typical to males or females) with transgender (rejection of the gender assignment given to a person at birth). M.C. is a relatively rare case in involving both intersex and transgen-

der. Far more often, the concerns of intersex and transgender people represent opposite sides of the same coin: intersex people get surgeries they don't want, and transgender people can't get the surgeries they do want. M.C. should certainly be supported in his self-identification as a boy, but one would hope that the courts might understand his rights to have been violated even if he had grown to be a girl.

In that sense, it will be interesting to see whether the courts agree with the plaintiff's lawyers that the 14th Amendment is at play here, and whether they will limit that Amendment's scope to cases where "a boy lost his penis." If, in fact, they understand the case as being an unfair situation in which "a child lost healthy genital tissue for no legitimate medical reason without fully informed consent," then the implications will be much broader, perhaps touching even on routine neonatal male circumcision.

Of course, whether there was a legitimate medical reason will be one issue with which the courts will wrestle. Doctors have [believed](#) for many years, based on little to no evidence (and in some cases, [faked evidence](#)), that children require male-typical or female-typical genitals, matched to their gender assignments, in order to grow up psychologically healthy. Although the Southern Poverty Law Center's involvement might lead some to believe this case represents a sort of surgical hate crime, in fact, surgeons have performed these types of surgery in the belief they do so in the patients' best interests. They really care about these children.

But recently -- since M.C. was born -- major medical [consensuses](#) have moved away from the assumption that genital-normalizing surgery is required in all cases of intersex. This case is likely to drive surgeons to be even more hesitant to remove healthy genital tissue and healthy gonads from children like M.C. Ideally, the case will also lead more parents like Mark and Pam Crawford to understand that parenting sometimes involves forms of unpredictability that cannot, and even should not, be made to disappear.