

Child Protection Services Pro Se Defense

35-Key Tips & Lessons Learned

Online Video Content Available Also!

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PREFACE



Every year thousands of children are removed from their homes by social workers. While many of the removals are justified because the children are in danger, many are not justified. Guilty or innocent, everyone deserves their due process, and a fair trial.

If a teacher, doctor or neighbor suspects you of child abuse, and reports you to CPS, an investigative social worker will show up at your home or your child's school and may take your child. If this happens, you will go through untold misery, fear and expense to get your child back.

In short, the way the existing system currently works, you will be guilty until proven innocent. Your child is removed based upon **allegations** and not facts.

The primary purpose of this educational guide is to give you an introduction to the Minnesota Juvenile Dependency Court system, and to do if Child Protection Services shows up at your door, commences an investigation, or removes your child from the family home.

This guide is intended to be informational ONLY. It is not a substitute for an licensed attorney. Nor is it intended to give specific legal advise. For specific legal advise you must consult an attorney.

Cases generally start with a county social worker investigation, which may also include the law enforcement. If the child has been physically abused, it may also lead to a criminal investigation. This investigation is separate from the social workers civil investigation.

I WOULD ADVISE YOU NOT TO TALK TO A COUNTY SOCIAL WORKER, OR A POLICE OFFICER, WITHOUT FIRST CONSULTING WITH AN ATTORNEY.

It could lead to you losing your child forever, or possible going to jail, if convicted of the crime of malicious punishment of a child for example.

IN MINNESOTA, YOUR NUMBER ONE GOAL AFTER REMOVAL IS TO GET YOUR CHILD BACK AT THE INITIAL TRIAL IN 60-DAYS OR LESS.

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TIP #1



NEVER BELIEVE ANYONE WITH CHILD PROTECTION SERVICES (CPS) IS YOUR PAL, YOUR BUDDY, OR YOUR FRIEND!

YOU CAN NOT TALK YOUR WAY OUT OF THIS BY BEING NICE AND COOPERATIVE. The system doesn't work like this. CPS is not at your door to help you, no matter what they say. CPS will usually "believe" the anonymous allegations of abuse reported against an individual. This is why they are investigating. To find evidence to use against you. (After I received, and read my Discovery, I knew this to be a fact!) Although CPS interviewed everyone in my case, nanny, babysitter, teachers in 2 schools, Principals in 2 schools, doctors and dentist. CPS didn't include no positive interviews my the file, not even their **OWN** CPS psychologists parenting evaluation. Although everyone gave me positive recommendations, and proved the abuse allegations by my former wife were false, CPS intentionally left them all out of my case file. My entire file was filled with baseless allegations from my former wife, with no substantiated evidence of abuse. After reading other CPS victim files in our parental rights group, I saw the exact same pattern of disinformation. I later became aware that State Statutes do not require CPS to present substantiated evidence prior to the removal or retention of children. I was astonished. Especially as it relates to our constitutional rights and the removal our children from the family home.

Unlike in criminal cases, CPS is **NOT** legally bound to include this positive information in their files, or to provide this positive information to the court. In criminal cases, the prosecutor must provide exculpatory evidence to the defense, this same legal requirement does NOT apply in the civil court side of the proceedings as it relates to CPS and family court. You must collect and present all of your own positive information yourself. **YOU MUST OPPOSE ALL OF THE CPS ALLEGATIONS AGAINST YOU, IN WRITING, TO THE COURT, AND AGAIN VERBALLY ON THE RECORD FOR EVERYONE OF YOUR COURT APPEARANCES.**

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TIP #1 CONT'D



The entire system is government funded with your tax dollars. Everyone in the system gets paid from the same boss, and drinks coffee out of the same coffee pot. The State, in turn gets federal funding assistance from Title-IV E of the Social Security Act. This includes but is not limited to the evaluating psychiatrists, child psychologists, independent parenting consultants, and visitation supervision agencies.

Above all else, take them very seriously, be respectful, and do not get upset no matter what they say.

Also remember, it doesn't matter what allegations they say in their petition, but what they can prove with evidence at trial.

Allegations are not facts. CPS is required to tell the court what they are attempting to prove. STOP getting upset over allegations and focus on your FACTS to disprove their allegations. (Your Minister, Doctors, Counselors, Teachers, Family, Friends and Documents)

You are allowed to request all of the Discovery information from the County Attorney or Prosecutor including all CPS records, but unlike in the criminal side, they will not provide it unless you ask. Even when you get it, go through every document to see if they supplied you with everything. I learned my positive visitation assessments were not in my CPS file, and I had to go to the independent visitation company to obtain them. (DETAILED STEPS ON WHAT TO DO TO OBTAINED THIS DISCOVERY INFORMATION AND OTHER IMPORTANT TASKS / STEPS ARE IN OUR EDUCATONAL MATERIAL, SO READ EVERYTHING.)

TIP #2



DO NOT LET CPS OR THE POLICE INTO YOUR HOUSE WITHOUT A WARRANT OR COURT ORDER. THIS IS AMERICA!

In fact, do not open the door, and speak through the door if you must. If you crack the door, they will force their way inside. Especially the police. Even if CPS says, “we only want to ask you a few questions and help.” They are only there to gather evidence against you!

They will either act nice, intimidate, or attempt to con their way into your home, but don't allow it. Take advantage of your constitutional rights and tell them that nobody has the right to enter or search your home without a warrant. **IF YOU INVITE THEM INTO YOUR HOME, YOU HAVE GIVEN THEM PERMISSION.** If they somehow get into your home, turn on your video recorder and record everything. Tell them to get out of your house and you do not give them permission to be in your home. **SAY NO MORE THAN THIS.** Everything they see or you say is inadmissible in a court of law if you have given them your consent to enter your home.

If they say it's an emergency situation tell them to prove it and ask for them to tell the supervising sergeant to come immediately if the police are with them. In addition to this, call 911 and record your call. Only then should you let them in. **BUT SAY NOTHING.** Inform the CPS worker that you will not answer any questions without speaking to your attorney first. This statement goes **DOUBLE** for the police. Even if you don't have an attorney, there is always Legal Aid if you cannot afford an attorney. Make an appointment to go down to the CPS office to visit them. **Make sure you go to their office within 48-hours or 2-business days of the first visit.**

TIP #3



IF YOU CAN AFFORD TO, TAKE YOUR CHILDREN OUT OF THE STATE OR COUNTRY IMMEDIATELY!

If you have the means, send or take your children out of the State or Country until you have the matter with CPS resolved. Send them to a grand parent, relative or friends.

State CPS agencies have no powers outside of their own State borders, and cannot go to another State to get your children. The agencies and courts have no powers outside of their own States. That is, unless a court order has been issued for taking full custody of your children before you leave the state, in which case if you leave the state, you will be violating a court order and can be charged with kidnapping.

Once CPS has your children you will have to fight to get them back and it will not be easy. CPS agencies receive Federal funding for each child they have in their custody in foster care, or any children that they are providing any service to.

TIP #4



NEVER speak to CPS without an attorney. If you cannot afford one, call Legal Aid. (See the section below working with an attorney)

Know your MIRANDA RIGHTS. You Have the Right to Remain Silent (***Use It And Keep Your Mouth Shut!***)

NEVER call CPS hoping you can quickly straighten out the matter. Always let them contact you first in everything. NEVER volunteer information. Anything you say, can, and will be used against you in a court of law.

NEVER admit to anything, especially getting angry at you children, yelling, spanking, threatening to spank you child, even if you just used your hand on the child's behind, sending them to bed with no dinner, drug use, not vaccinating your child or drinking alcohol around your child. This will be the KISS OF DEATH for you! CPS can use any of this information to take away you children. Although the Supreme Court has stated that it is your constitutional right to use corporal punishment on your children, CPS still uses this allegation none the less. CPS considers abuse to be anything done to a child that leaves bruising or marks.

You will have to fight to get your children back, while CPS gets federal funding for each day you child is in custody or under CPS services. FURTHERMORE, CPS CONSIDERS BEING POOR OR HAVING A DIRTY HOUSE AS NEGLECT! 84% of all CPS cases are for neglect. Because you may be poor and do not have as much money as the social workers, they often tell the court that you are not able to properly take care of your children by their living standards.

TIP #5



Never allow CPS to speak to your children voluntarily. Respectfully decline to have any of your children interviewed.

If CPS goes to your child's school to question or inspect them without your permission, there is little you can do about it. Most States have laws that allow this.

All parents should talk to their children about speaking to strangers about their home life without the parent being present. This includes the children's teachers and administrators.

Give your children a 3" x 5" index cards that say if you want to ask me any questions whatsoever about my life away from school, or at home, my parents must be present. Put your contact information on the card.

TIP #6



If you receive a subpoena for an **Emergency Removal Hearing**, this is very important and you must attend. You are supposed to be notified in advance. Bring your attorney if you have one. You must find out what the allegations are. You are allowed to have witnesses, documents, and other facts to prove your innocence of abuse or neglect. You will need to be brave and speak of your opposition, but in a legal way. Get reports and recommendations from your doctors, teachers at school, baby sitters, day care, the minister / people from the church and the community. Anything that might show the Judge that you are a good parent. This must be done right from the start. You need to get all of this on the court records to fight against the CPS allegations. Create a Declaration of Facts with all of your positive evidence, (See Example 1; Declaration) and (See Example 2; Opposition) to the Petition. Go to the court clerk with two copies. Give her one to file for your case and have her stamp the second copied received and keep this for your records as proof you filed your papers with the court. When you go to court, bring at least four copies of everything. When it's your turn to speak, provide the Judge, County Attorney, Social Worker and Guardian ad Litem copies. The Judge must let you present your evidence. If the Judge tells you otherwise, tell him that this is what this court hearing is for, and that Due Process requires that he not make a hearing determination without hearing all of your evidence first, especially if he allowed CPS to present their side of the case. Your job is to break their Prima Facia and allegations with factual evidence, NOT verbally, but with witnesses, physical evidence, or proof to refute what they say in their petition. You must show the Judge you are a smart, fit parent from the start.

Prima Facie; based on the first impression; accepted as correct until proved otherwise.

Allegation; a claim or assertion that someone has done something illegal or wrong, typically one made without proof.

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RESPONSE TO PETITION

At the **Emergency Removal Hearing** the court will go over the petition by CPS at the beginning of your case. You must respond to this petition with a written opposition to all of the CPS allegations. Present your documents and other facts to prove you are innocent of abuse or neglect.

Get letters from your doctor, teachers, Minister, Psychologist / Psychiatrist, nanny, baby sitters, day care, people from the church and the community. Anything that will show the Judge that what the petition alleges is NOT factual and that you are a FIT parent.

You need to get all of your facts on the court record to disprove the allegations in the Petition from CPS, and to counter the Prima Facie argument. Create a Declaration of Facts with all of your positive evidence, (See example Declaration on website) and Opposition to Petition. (See example Opposition on website). Go to the court clerk with two copies before the Hearing date. Give her one to file for your case and have her stamp the second copied received and keep this for your records as proof you filed your papers with the court. Go to the County Attorney's office and the CPS office to repeat the process. You do not want the opposition to say you did not provide them with copies before the Hearing date.

When you go to court, bring at least four copies of everything. When it's your turn to speak, provide the Judge, County Attorney, Social Worker and Guardian ad Litem copies if they didn't bring the copies you provided to them before the Hearing.

TIP #7 CONT'D



RESPONSE TO PETITION

At the **Emergency Removal Hearing** in Minnesota, the Judge may attempt to NOT allow you to present direct evidence or a “case in chief”. This not valid per Minnesota Rules of Juvenile Protection Procedure (MRJPP) 42. The purpose of the hearing shall be to determine whether the child shall be returned home or placed in protective care. Please remind the Judge of the following Statues.

Rule 42.05 – Advisory

At the beginning of the emergency protective care hearing the court shall on the record advise all parties and participants present of:
Subd. (f) the right of the parties to present evidence and to cross-examine witnesses regarding whether the child should return home with or without conditions or whether the child should be placed in protective care;

Rule 42.06.Evidence

The court may admit any evidence, including reliable hearsay and opinion evidence, that is relevant to the decision of whether to continue protective care of the child or return the child home. Privileged communications may be admitted if authorized by Minnesota Statutes, section 626.556, subdivision 8.

If the Judge still refuses to allow you to present direct evidence, present the evidence during the cross examination of the investigative social worker who filed the petition for emergency removal.

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TIP #8



Approximately 1-week before any Hearing you should receive a copy of the **Reports & Recommendations** from the Social Worker and Guardian ad Litem. If you do not receive it from the social worker and Guardian ad Litem request it from them immediately.

“Statement of Objections” to Social Work or Guardian ad Litem Court Report - You should create and file a “Statement of Objections” to any Social Worker and Guardian ad Litem that you not agree with before any Hearing. It should be filed with the court, county attorney, social worker and Guardian ad Litem.

After your plea hearing they will schedule a “Fact Finding Hearing, jurisdictional hearing, or an Adjudication Hearing. This is where you can present more facts, evidence, witnesses, documents and other ways to prove your innocence of the allegations of abuse, neglect or your compliance of court orders. The “Statement of Objections and Corrections to the Report of the Social Worker” (or Child Welfare Caseworker, or Psychologist) should be typed, edited for spelling and grammar, and when perfect, filed with the court if you are Pro Se.

If you have an attorney, ask your them for a copy of the caseworkers’ report to the court. It is your right as a party to the case to have one. The second you get to see it, look for ANY mistakes that you can find or omissions of facts, and begin to write your own objections and corrections. Give this to your attorney and ensure they file it with the court, copy the other parties of the State and provide you with a copy that it has been filed. (See the example on the website.)

If you are Pro Se, you will need to be brave and speak before the court at every Hearing. Think before you answer any question.

TIP #8 CONT'D



I REPEAT.....Write a Declaration of Facts to Submit to the Court!

When parents appear in Juvenile Court they are handed a report written by a CPS social worker. It states the county's side of the court case. You or your attorney must write a similar report explaining the parents' side of the case to the judge. If your attorney has not already done so, tell them to create a Declaration of Facts.

YOU CANNOT PLEAD THE 5TH AMENDMENT IN CPS COURT HEARINGS. SILENCE MEANS CONSENT. IF YOU DO NOT WRITE AN OPPOSITION TO ALL FINDINGS INCLUDING THE JUDGES MISTAKES, IT MEANS YOUR AGREE WITH YOUR SOCIAL WORKER STATEMENTS, DOCTORS, VISITATION, DRUG TEST AND THE JUDGES FINDINGS! YOU CAN WRITE TO ASK THE JUDGE TO CORRECT HIS FINDINGS OF FACTS AND MISTAKES. YOU OR YOUR ATTORNEY MUST DO THIS.

TIP #9



NEVER provide your consent to allow CPS to do anything. CPS did not need your consent to take your child. The Judge can order anything they require regarding the support of your child. If you agree to do exactly what they ask, you are effectively giving up your constitutional rights and giving them permission. **REMEMBER THIS!!!**

The Judge may order you to sign all of the CPS forms. **DO NOT SIGN THE FORMS!** If the Judge tells you this in person, advise the Judge, “Your Honor, I do not agree with the forms and I will not enter into these legally binding agreements against my will. If you force me to sign the agreements against my will or under duress, they are in fact, null and void.” If the Judge still orders you to sign the forms, write on a diagonal across the form from corner to corner, “I do not give my permission or consent to anything on this form”. Sign your name and date the form on a diagonal under your statement across the writing so that your signature cannot be copied to another document.

The only document you should sign is related to visitation, but make sure the document is filed out completely with the visitation agency information before you sign it. Write N/A in any blank spaces. Sign your name and date the form on a diagonal so that your signature cannot be copied to another document.

Do not be submissive thinking this will help your case. It will not! CPS never reverses course. Once they take your child, they follow their course to trial or the termination of your parental rights! You are fighting for your loved one, and must do so to the bitter end. **DO NOT BE AFRAID THAT IT IS THE GOVERNMENT!** They are human beings just like you.

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TIP #10



CPS will tell you that you are being uncooperative by NOT signing the documents they presented to you. Especially any regarding you having to pay or reimburse the government for any costs relating to foster care or expenses the government incurred. There is no law that says you must cooperate with CPS.

CPS attempted to get me to sign a document saying that I would be responsible for paying for services and foster care. I REFUSED! The government cannot make you sign and enter into a legally binding contract and neither can the Judge. It is against the law. DO NOT LET THEM INTIMIDATE YOU INTO SIGNING! Do not sign any document that CPS gives you, not matter what.

CPS may tell you that they need you to sign documents to start visitation. This is not true and this cannot be found in any state statute. If you sign the documents you are effectively giving CPS permission to investigate everything in your life and specifically do the following; 1) meet with the other children and go through there backgrounds, 2) know where you are living and assess the home environment, 3) have a thorough meeting with you to assess your parenting strengths and needs, including information on your childhood, chemical dependency, mental health, and domestic violence issues, and 4) have a conversation about your support system and be able to verify that by communicating with those support persons. CPS WILL ATTEMPT TO USE ALL OF THIS INFORMATION TO BUILD A CASE TO PROVE THE ALLEGATIONS AGAINST YOU.

REMEMBER- CPS must build their case and present their facts to support their allegations at trial without your help or support!

TIP #11



VISITATION with your children, with no strings attached is mandatory in most States. DO NOT LET THEM TELL YOU OTHERWISE! They must provide you with visitation unless the allegation is sexual abuse or severe physical abuse like head injuries, broken bones or starvation.

If CPS refuses to give you visitation, immediately file an emergency Motion for visitation with the court and copy CPS and the County Attorney. Go to CPS every day until they give you visitation. Video record your visitation efforts and document your efforts with emails and letters sent certified mail return receipt. Especially **NEVER CONSENT to or AGREE** to any statements that say your child is in need of CPS protection or services. **THIS IS MOST PARENTS BIGGEST MISTAKE!** Once you do, you have voluntarily given CPS complete control over you and your children. Most parents think that if they cooperate CPS will give them back their children immediately, but the exact opposite is true. **I LEARNED THIS THE HARD WAY!** CPS receives federal money for each child they provide services to. I conducted detailed research of CPS funding and posted this on our website and the group forum. I have official Minnesota states documents, with instructions that tell their social workers to bill for all services once the Judge makes a judicial finding of determination for services or the parents' voluntarily give this permission by agreeing, and signing the required forms. The document I have is from the Assistant Commissioner of Minnesota DHS. I'm sure you can find it in your State also since it deals with all federal funding of CPS and how the States are to bill the federal government for CPS services. It is the same way for all the States.

CPS INVOLVEMENT IN YOUR FAMILY WITH A CASE PLAN

If you agreed to a Case Plan instead of a trial, you are now in a race against time to get your child back and must do everything you agreed to do in your Case Plan. The federal government says that if child has not been returned to the parents after 15-months of reunifications efforts, permanent placement must commence which means putting the child up for adoption or family / relative placement. The family placement option rarely happens because CPS thinks the relative is going to allow the parents to see the child.

Based upon my review, court appointed Public Defenders in Juvenile Court simply guide the parents through the hearings and advise them to sign a plea agreement, which implicates the parent as being GUILTY or admitting or agreeing to something that is false, and the agreeing to services. Most parents agree to the Case Plan because their court-appointed Public Defenders are advising them it is the right thing to do, when it is **NOT**. After this admission / agreement, there will be no trial – no opportunity for parents to protest their innocence or defend themselves. Without a trial there's never going to be a time when the CPS social worker has to prove the county's allegations with evidence or facts. When writing your declaration of facts, keep two things in mind: 1) NEVER write any self-incriminating statements into your declaration as this can be used against you. You're trying to prove your innocence. Use documentation evidence. 2) Keep it as brief as possible. The judge is far more likely to read it happily and thoroughly if your sentences are short and to the point, and if no unnecessary information is included. Brevity is golden when writing court documents. You want the judge to like you, not hate you because your statement was too long. Focus on the most important issues and leave out everything else. IT'S NOT WHAT YOU KNOW, BUT WHAT YOU CAN PROVE TO THE COURT WITH DOCUMENTED EVIDENCE, VIDEO OR VOICE RECORDINGS.

TIP #12 CONT'D



- Make sure your case plan states specifically in detail what you must do in detail to get your child back, and the time frame. The case plan must not be open ended or unreasonable. You have to work and you must tell the judge this. Do not allow the social worker to give you a case plan that you cannot follow because of your job. Another example is weekly drug tests if your first test was negative. Think of this as a group contract that must be approved by the court. The social worker, guardian ad litem, foster parents, child if over 10-years old, and parent must all have an understanding and agreement. Everyone must sign the case plan. If your are not in agreement tell the judge the reason why and the change requested.
- Tell your social worker that you will only do everything in writing.
- If you have a social worker meeting in person, video or voice record the session. Write a follow up email of your understanding of the meeting and ask her to confirm the email.
- If you have a guardian ad litem meeting in person, video or voice record the session. Write a follow up email of your understanding of the meeting and ask her to confirm the email.
- If you have a guardian ad litem meeting in person, video or voice record the session. Write a follow up email of your understanding of the meeting and ask her to confirm the email.

TIP #12 CONT'D



- If you have a meeting with anyone in person, video or voice record the session. Write a follow up email of your understand of the meeting and ask her to confirm the email.
- If you have visitation, and use an independent visitation company, video or voice record the session. Write a follow up email of your understand of the visit and ask her to confirm the email with a copy of the visitation report.
- Do not use the counties doctor for your first drug test. Go to a hospital that is not associated with CPS and submit your results to the court and CPS at the same time. Never use CPS drug testers. They will show a false positive result so that you have to keep coming to them for tests. In this way their company can make money.
- Do not use the counties doctor for your psychological evaluation. Go to a doctor of your choice that is not associated with CPS and submit your results to the court and CPS at the same time. Never use CPS doctors. They will show negative evaluations or say you need therapy so that you have to continuing coming to them for counseling so that they can continue to make money.
- If you ever fail a Urine Analysis drug test and you know it is incorrect, go to another hospital immediately on the same day and get another UA drug test. It is better if you get two drug tests to cancel out the one false positive result.

TIP #12 CONT'D



- You must complete the case plan agreement perfectly and show the court with documented evidence that you complied with your agreement. Remember, the case plan agreement is between you and the court, not you and CPS. You can ask the court to change the case plan if it is unreasonable or interferes with work or caring for your other children. You must visit your child at least once a week at a minimum unless something comes up. If you miss a visit, document the reason why in writing with the social worker, and have her acknowledge this in writing. For example; your car broke down. Bring your Social Worker the Towing Receipt and Mechanics bill and have the social worker sign and date both documents.
- If you document or record everything this will give CPS no opportunity to misrepresent anything to the judge. If CPS misrepresents anything, correct the court record by presenting your video or documented evidence immediately.

TIP #13



Everyone must ask for their CPS Discovery or records from the County Attorney / Prosecutor. (See my example document on the website) Do this in writing and file a copy with the court. Send it certified mail with return receipt requested. Keep this for your records.

If you do not receive your Discovery documents in two weeks, file a send request for Discovery and file a copy with the court.

If you do not receive your Discovery within 30-days of your first request, you must file a motion to compel Discovery request with the court.

I asked for my CPS Discovery from the county attorney / prosecutor 2-months into my CPS case because I felt the entire process was illegal and unconstitutional, I asked again at 12-months into my CPS case, and at the end of my case when it was finally dismissed.

I received over 600 pages. **READ EVERYTHING** and make note of all of the things that are **NOT** true that you can prove are false with documented facts. REMEMBER go through every page of your discovery and pull out the evidence in your favor. CPS may misrepresent the allegations, and there may be direct contradicting evidence in the Case Files.

TIP #14



READ YOUR STATE STATUES ON CPS MANDATORY REQUIREMENTS AND CPS TIMELINES.

NEVER be afraid to Motion the court if CPS is not in compliance with your State Statues!!!

SHOW THE JUDGE THEY ARE UNTRUTHFUL WITH THEIR OWN DOCUMENTS. THIS IS HOW I GOT MY CHILDREN BACK! I RECEIVED MY DISCOVERY, I FILED 3 MOTIONS PRO SE WITH THE COURT FOR THE FAILINGS OF CPS AND HAD MY CHILDREN BACK IN LESS THAN 30-DAYS.

Before filing my 3 motions. I was being dragged around the court room by CPS like a rag doll because of their misrepresentations, fabricated evidence and my lack of knowledge.

DO EVERYTHING IN WRITING AND KEEP COPIES.

KEEP EVERYTHING ORGANIZED IN A NOTEBOOK OR COMPUTER FOR QUICK REFERENCE.

TIP #15



IN MINNESOTA, THERE ARE TWO MAJOR, HIGH STANDARDS THAT MUST BE MET FOR A TERMINATION OF PARENTAL RIGHTS (TPR).

I'm not sure about other States because I haven't had a chance to research this. I believe the reason so many parents lose their TPR trial in Minnesota is that they don't understand the standard, so they use the incorrect arguments in fighting for the reunification of their children against CPS. One is the standard is for "Reasonable Efforts" of reunification and the other is the "Parent is Palpably Unfit".

The Minnesota Supreme Court Caselaw, *In re Children of TR, 750 NW 2d 656 - Minn: Supreme Court 2008* determines what constitutes "reasonable efforts at reunification". READ THIS AND UNDERSTAND WHAT IS REQUIRED OF CPS. The county must prove a consistent pattern of specific conduct or specific conditions existing at the time of the hearing that appears will continue for a prolonged, indefinite period and that are permanently detrimental to the welfare of the child.

The caselaw is clear that the presence of a parent's mental illness or intellectual disability does not alone support termination of parental rights, but termination has been found to be appropriate when the mental illness or intellectual disability "was likely to be detrimental to the child" or "directly affect the ability to parent.

Simply testing for substance abuse, without more, is not realistic under the circumstances to rehabilitate a parent who, that testing shows, suffers from chemical dependency issues.

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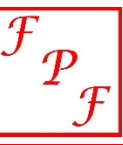
TIP #15 (CONT'D)



The Minnesota Court of Appeals Caselaw, *In re Welfare of JW, 807 NW 2d 441 - Minn: Court of Appeals 2011* tells you what you need to show as evidence that would justify a finding that you are NOT palpably unfit or NO longer palpably unfit. Thus, you will be able to rebutted the statutory presumption of palpable unfitness in section 260C.301, subdivision 1(b)(4), of the Minnesota Statutes. Therefore, you should be able to stop the TPR or Appeal your TPR to get your children back if you can show CPS did not provide you with “Reasonable Efforts” at reunification or you can show that you complied with all of the requirements of your case plan.

F P F

TIP #16



- Know Your CONSTITUTIONAL Rights and how the Bill of Rights protects you. But, your focus should be on getting your children back first! Afterwards you can file a lawsuit regarding constitutional violations of your civil rights in federal court.
- Contact your Congressman or Senator for help.
- Write your local newspaper.
- Seek out information on the internet.
- YOU ARE RESPONSIBLE FOR WINNING YOUR CASE.
- READ, READ, READ CPS case law on Scholar Google for your State.

WORKING WITH YOUR ATTORNEY

Very often I receive emails and voice messages from members telling me that their attorneys will not fight back or their attorney is not representing their desires or acting on their requests. I TOO WAS A VICTIM OF THIS! After 14-months of representation, I fired my top self, high priced attorney for ineffective counsel and got my children back Pro Se on my own within two hearings or 30-days by filing a Motion to Dismiss my case and showing the judge all of the misrepresentations by CPS, the fabrication of evidence, and due process violations from CPS case workers and supervisors. I was **only** able to do this after I requested my Discovery or case files from the county attorney. You can also request your Discovery or case files directly from CPS but this route takes much longer. When you get your files, read every page looking for misrepresentations or fabricated evidence. Not everyone is able to do this. In fact, most people cannot or they are too afraid to fight against the government. When I decided to go Pro Se, I had to do a lot of reading, very fast, and try to understand the process and court opinions. It helped that with the Internet, I was able to look at real legal documents that had been filed with other court cases to obtain examples and help me understand court rulings.

TIP #18



THIS IS VERY IMPORTANT.....

Your attorneys are playing within the confines of the legal system construct, and the deck is stacked against you, the Defendant to lose to the government. Attorneys have to be in front of the same Judges, and working with the same people year after year. So, lawyers play nice with everyone within the legal system, although they are adversaries.

Most if not all Public Defenders are paid by the State or County. The longer your case stays open, the more money they make. They have no incentive to close your case quickly. Public Defenders are paid by the State government, with federal fund assistance.

CPS will always tell you to cooperate, and go along with what they say in order for you to get your children back as soon as possible. They will tell you to sign papers, and do a case plan and that you must do whatever the social worker says to get you children back. Now.... The minute you do this, you have agreed to do whatever CPS says for as long as they want.

If CPS is asking you to confess, it's because they do not have the evidence to convict you of child abuse at trial. If they did, they would not be asking you to confess to something they could prove.

Also, your attorney makes money from your case for the next 15+ months. This is the maximum time allotted per Federal Title IV-E funding. In my case they took it out to the maximum time allotted, then CPS filed for the Termination of my Parental Rights.

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TIP #19



THE ONLY THING YOU SHOULD SIGN OUTSIDE OF A VISITATION PLAN, IS A SAFETY PLAN TO PREVENT THE CHILDREN FROM BEING REMOVED FROM THE HOME. I have never heard of anyone being offered a Safety Plan in Minnesota and we have 9,100 parental members, but this should be done with your attorney, and with a very limited scope of requirement on the part of CPS.

YOU SHOULD NEVER ADMIT TO BEING A DANGER TO YOUR CHILD. NO MATTER WHAT.

If CPS does not offer you a safety plan, YOU or your attorney should file a written opposition to the court immediately. If it is not an emergency situation, they must give you a safety plan for the child to remain at home, if you receive a safety plan, CPS can only take your children from the family home if you fail the safety plan.

CPS must prove to the judge why you do not qualify for a safety plan or failed a safety plan. Look up Minnesota Statute 260.012 DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY REUNIFICATION; REASONABLE EFFORTS. CPS SHOULD HAVE A SAFETY PLAN ASSESSMENT WORKSHEET. **THEY JUST CAN'T TELL THE JUDGE THAT A SAFETY PLAN WILL NOT WORK.**

CPS must tell the court on the record specifically why a safety plan will not work for your family, and specifically what steps CPS took to prevent the removal of the child from the family home.

TIP #20



CPS writes a Report & Recommendation to the court 10-days before each hearing. They are required to provide you a copy at least 7-days before. For every hearing YOU or your attorney must write an opposition report to the court stating your case along with a declaration of facts.

IF YOU DO NOT, YOU ARE ESSENTUALLY AGREEING WITH WHAT CPS IS SAYING. SILENCE FROM YOU MEANS CONSENT OR AGREEMENT. THIS IS THE NUMBER ONE WAY CPS IS WINNING.

Parents do not fight back because they think they will get their children back faster, but the exact opposite is true. You must show the court in writing that you have done everything that CPS has asked that is LEGAL! (Look in the file section of this group page for an example objection to the court report & Declaration of Facts.)

MAIL EVERYTHING FROM THE POST OFFICE - RETURN RECEIPT REQUESTED. Keep the receipt and staple it to your copy to prove you mailed it to everyone and they received it.

DO NOT GIVE CPS THE OPPORTUNITY TO MISREPRESENT ANYTHING TO THE COURT.

DOCUMENT EVERYTHING.

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TIP #21



IF YOUR ATTORNEY DOES NOT DO WHAT I HAVE STATED ABOVE, THEY ARE NOT WORKING FOR YOU. AND YOU SHOULD FIRE THEM.

If you have a public defender and he refuses, write down your opposition to the court report and declaration of facts and give it to the court clerk and prosecutor. Tell them that your attorney refused to follow your instructions, you are submitting the request yourself, and ask the court to replace the Public Defender for ineffective counsel and for failing to follow your instructions. You can also remove your private attorney from the case for the same reasons.

TERMINATION OF PARENTAL RIGHTS

If you are in this section, it means that the County Attorney has filed a petition to take away your parental rights forever. Technically, the only reason you should be here is if you failed to correct the reason for out of home placement as specified in the Case Plan, like drug use, or you were railroaded unjustly with fabricated evidence like I was.

FPF

TERMINATION OF PARENTAL RIGHTS

For this area, you really need an attorney if you can afford one, or an legal aid attorney if cannot. The most important thing to keep in mind is that the county must prove that the child would be HARMED FOREVER if they remained in your care and that the child would be better off in another person's care. This is a hard standard to prove and most Defendants don't know how to go about defending themselves.

So, your focus and evidence must be on how you have changed and how your child will be better off in your care.

TIP #24



TERMINATION OF PARENTAL RIGHTS

YOU MUST KNOW YOUR TERMINATIONS OF PARENTAL RIGHTS (TPR) CASE LAW.

YOU MUST READ A LOT OF JUDGES OPINIONS ON TERMINATIONS OF PARENTAL RIGHTS FOR YOUR STATE.

YOU MUST UNDERSTAND THE APPLICATION OF THE CASE LAW IN THE JUDGES OPINION.

TIP #25



TERMINATION OF PARENTAL RIGHTS

Once again go through the petition for the termination of your parental rights. Mark down all of your oppositions and gather all of your supporting documentation and evidence to present to the court. Request Discovery once again from the county attorney. Go through everything once again looking for incorrect information. If you have all of your discovery, look for inconsistencies in the documents. The social workers may have made mistakes, look carefully for all of them.

TERMINATION OF PARENTAL RIGHTS

KNOW THIS, in Minnesota In 2011 – The county' delay in preparing an out-of-home placement plan is not unduly prejudicial when the delay is partly caused by the parent's lack of cooperation and prior court orders adequately inform the parent of what needs to be done before the child may return home.

In re Welfare of J.J.L.B., 394 N.W.2d 858 863 (Minn. App. 1986) (upholding termination of parental right despite two-year delay in providing parents with placement plan) rev. denied (Minn. Dec. 17, 1986) In Re Welfare of Copus, 356 N.W.2d 363, 366-67 (Minn. Ct. App. 1984)

TERMINATION OF PARENTAL RIGHTS

THERE ARE TWO MAJOR HIGH STANDARDS THAT MUST BE MET FOR A TPR IN MINNESOTA.

I'm not sure about other States because I haven't had a chance to research this yet. I believe the reason so many parents lose the TPR in Minnesota is that they don't understand the standard, so they use the wrong arguments for fighting CPS.

One is the standard for "Reasonable Efforts" of reunification and the other is the "Parent is Palpably Unfit". The Minnesota Supreme Court Caselaw, *In re Children of TR*, 750 NW 2d 656 - Minn: Supreme Court 2008 determines what constitutes "reasonable efforts at reunification". READ THIS AND UNDERSTAND WHAT IS REQUIRED OF CPS. The county must prove a consistent pattern of specific conduct or specific conditions existing at the time of the hearing that appears will that appears will continue for a prolonged, indefinite period and that are permanently detrimental to the welfare of the child.

The caselaw is clear that the presence of a parent's mental illness or intellectual disability does not alone support termination of parental rights, but termination has been found to be appropriate when the mental illness or intellectual disability "was likely to be detrimental to the child" or "directly affect the ability to parent. Simply testing for substance abuse, without more, is not realistic under the circumstances to rehabilitate a parent who, that testing shows, suffers from chemical dependency issues.

TIP #27 CONT'D



The Minnesota Court of Appeals Caselaw, *In re Welfare of JW*, 807 NW 2d 441 - Minn: Court of Appeals 2011 tells you what you need to show as evidence that would justify a finding that you are NOT palpably unfit or NO longer palpably unfit. Thus, you will be able to rebutted the statutory presumption of palpable unfitness in section 260C.301, subdivision 1(b)(4), of the Minnesota Statutes. Therefore, you should be able to stop the TPR or Appeal your TPR to get your children back if you can show CPS did not provide you with “Reasonable Efforts” at reunification or you can show that you complied with all of the requirements of your case plan.

REMEMBER, the parent then has the burden to rebut this presumption by introducing evidence that would justify a finding of fact that he is not palpably unfit. The statutory presumption imposes on a parent the burden of going forward with evidence to rebut the CPS petition. The presumption does not shift... the burden of proof in the sense of the risk of non-persuasion, which remains throughout the trial upon the party petitioning to terminate parental rights.

If the district court concludes that the parent has rebutted the presumption, the presumption disappears and the county must prove by clear and convincing evidence that the parent is palpably unfit to parent.

THIS IS WHY IT IS IMPORTANT TO DOCUMENT AND VIDEO OR VOICE RECORD EVERYTHING!

Specifically, the parent must affirmatively and actively demonstrate her or his ability to successfully parent a child.

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TIP #27 CONT'D



In this recent 2017 case, by the way, which is a perfect example of what to do because the parent WON, IN THE MATTER OF WELFARE OF CHILD OF AMJ, Minn: Court of Appeals 2017, the court stated the following, “She demonstrated "significant progress" in parenting skills through therapy and parenting classes; she was actively engaged in supervised visits with her children; she created a more stable living environment; she married a man with a full-time job; she had a car, and she created a greater support network.”

Now having said all of this, whether the evidence satisfies the burden of production is determined on a case-by-case basis, and the burden often is a difficult one because the parents either do not change, or they have failed to document their cases in detail to present the required evidence to the court to show they are FIT PARENTS.

TIP #28



FEDERAL CIVIL RIGHTS CASES

If you are filing Pro Se, make sure you attach all of your Discovery evidence to your original federal civil complaint.

I MADE THE BIG MISTAKE OF NOT DOING THIS ALTHOUGH I HAD ALL OF MY EVIDENCE SEPRATED FOR LATER SUBMISSION TO THE COURT IN THE CASE.

FPF

FEDERAL CIVIL RIGHTS CASES

In your federal complaint, in the summary section after you state all your facts, make sure you state why the defendants are NOT entitled to Immunity based upon the facts alleged and evidence presented. It is hard to win Pro Se without direct evidence you can submit to the court. You cannot just say CPS did something to you. You have to be able to show it to the court in writing. This is where most people fail. Right at the beginning, when they file their original federal civil rights complaint.

TIP #30



FEDERAL CIVIL RIGHTS CASES

Read a book on Section 1983 civil rights claims and understand each “cause of action” and know the elements required to prove the civil rights complaint.

THIS IS EVERYONES SECOND BIGGEST MISTAKE WHEN FILING PRO SE.

They do not list the elements of their cause of action 1,2,3 and provide their evidence 1,2,3 showing the court that they were harmed by CPS.

TIP #31



FEDERAL CIVIL RIGHTS CASES

Hire an attorney if you can afford one!!!! After reading hundreds of CPS cases, no Pro Se Plaintiff has ever won a case that I could find. But, I'm sure it can be done. It's just an uphill battle, because you have to work full-time and study at night. Based upon my circumstances, reference material, and experience, I now know the reason why so many Pro Se lose.

After reading hundreds of judges' opinion along with the case law presented in the opinions I became very enlightened on WHAT NOT TO DO. Conspiracy must be proven with facts, witness statements, (not the plaintiff statements alone), and documents. Everything must be worded correctly and each sentence must be correctly structured.

THIS IS VERY IMPORTANT! Law Suits is a game of words. Even with evidence you can lose if the lawsuit is not worded correctly.

SEEK LEGAL AID IF YOU CANNOT AFFORD AN ATTORNEY.

FEDERAL CIVIL RIGHTS CASES

Guide your attorney through every aspect of your case along with the Discovery evidence to prove your case. Do not just give your attorney the case and say “go win for me”. It doesn’t work that way. It is a partnership. He knows the law, and you know the facts of your case in detail.

FPF

TIP #33



FEDERAL CIVIL RIGHTS CASES

You are in control, you must read and understand the relevant case law, and you must work with your attorney to win together as a team. You know the facts, and your attorney has the legal experience. Never be afraid to question your attorneys reason for doing anything in your case. Ask him to show you the case law behind all of his decisions.

FPF

TIP #34



FEDERAL CIVIL RIGHTS CASES

Read all of the documents in my civil rights case, to understand what to do and not to do when filing Pro Se.

Learn from my mistakes.

See first hand what the Defense attorney will try to prove, anticipate this and get it on paper first. I read every CPS civil rights case to see why they were losing and what they did wrong and still it was hard.

I am still reading and learning daily.

TIP #35



FEDERAL CIVIL RIGHTS CASES

IF YOU FEEL LIKE THINGS OR THE CASE ARE NOT GOING YOUR WAY, especially after the Magistrates Judges Report and Recommendations, do like I did and Notice the court that you want to voluntarily dismiss you case without prejudice. This will allow you to correct all of your mistakes and re-file your civil rights case again from the beginning and it will be treated like a new case. You will get a new case number.

YOU MUST DO THIS BEFORE THE CIRCUIT JUDGE ENTERS A FINAL ORDER / RULING ON THE CASE. THIS IS VERY IMPORTANT!!!

If the Judge enters a final order on your complaint then you will have to go the Appeal Judgement route and this is harder to win because you have to show the Judge made an error in your case as a matter of law.

CHECK YOUR STATE LAW ON VOLUNTARY DISMISSALS, STATUE OF LIMITATIONS AND READ THE CASE LAW!

ACCOUNTABILITY



- CPS, the Judge and Guardian Ad Litem need to be held accountable. This can only happen if parents are trained in the rules of the court. KNOWLEDGE IS POWER!
- We will not rest until we make this happen. You should not rest until your children are home.
- Take action by getting the education you need. Start taking the FPF online video training series today.
- Read the complete civil rights complaint with injunctions. CPS will not win our associational case!
- All files have been uploaded to the file section of the Facebook group page.
- You must be on a computer to access the files section.
- The menu is on the top left side of the page.

ONLINE CONTENT AVAILABLE NOW



- Go to our web page at www.familypreservationfoundation.org.
- Go to our page at FACEBOOK.COM/FPFORG and join our group.
- Be sure to like our page to receive Facebook notification of new content that is posted to our page.
- Follow Us on YouTube;
<https://www.youtube.com/c/FamilyPreservationFoundationInc>
- Do Not Stay Silent Any Longer!

Dwight Mitchell