



Child Protection Services Pro Se Help Kit
Video Series

#4 – Cooperative or Uncooperative??

Family Preservation Foundation, Inc.

- Hello, I'm Dwight Mitchell the founder of Family Preservation Foundation. Welcome to our Child Protection Services Pro Se Help Kit video series.
- I hope you enjoy the content and it allows you to better understand your rights and options while involved with CPS.

- After a 22-month battle, I successfully defeated Dakota County Social Services in Minnesota State court and had my children returned. Although filled with anguish, it was an education to say the least, and I will be passing on the benefit of my knowledge, and “Lessons Learned”, while cross referencing Minnesota State Statutes, and case law which is readily available on Google Scholar.

- I would like to advise you that I am not an attorney, licensed to practice law, nor am I providing legal services. I recommend you obtain your own attorney if possible and review my video in this series titled “Working with your Attorney”. This is a very important unit in our series, and will assist you in not being misguide like I was, by my attorney’s legal strategy, incompetence and/or greed.

- This video series is for education purposes only. I will go over the beginning, middle and the end of the CPS process and what you can do in your defense and fight against CPS! This will be hard work for you, and a lot of reading, but nothing worthwhile in life is free. The Minnesota templates I provide are examples only and must not be used as is.

- You must create your own court filings while acting in a Pro Se capacity. I do not have examples of everything, but ask other group members, because they may be able to help you. **BUT REMEMBER**, you are not allowed to stand in court and say that someone helped you, or told you to do it a certain way. You are doing this for yourself. You must read, review and submit court filings for yourself.

Should A Parent Be Cooperative Or
Uncooperative?

That Is The Question.

Definition of Uncooperative by Merriam-Webster

- (a) Marked by an unwillingness or inability to work with others .
- (b) Not willing to do what someone wants or asks for.
- (c) Not showing a desire to act or work with others in a helpful way.

Minn. Stat. 260C.157 Investigation; Physical And Mental Examination, Subd, 1

- (a) Upon request of the court the responsible social services agency or probation officer shall investigate the personal and family history and environment of any minor coming within the jurisdiction of the court under section 260C.101 and shall report its findings to the court. The court may order any minor coming within its jurisdiction to be examined by a duly qualified physician, psychiatrist, or psychologist appointed by the court.

COOPERATIVE OR UNCOOPERATIVE??



- If CPS filed a petition in juvenile court, the parents have the right to a trial on the petition.
- Parent should enter a denial of the petition.
- The parent and older children have a right to a lawyer.
- The pretrial must be at least 10 days prior to trial
- Trial must commence within 60 days of denial
- Trial must be over consecutive days and completed within 30 days of commencement
- Judge will either grant CHIPS petition or dismiss petition

COOPERATIVE OR UNCOOPERATIVE??



I have been NOT been able to find any Minnesota State Statute that say a person under investigation by Child Protection Services (CPS) is required to cooperate and aid CPS in their investigation against that person.

Simple stated.... You have the right against self-incrimination, including the right to remain silent. You are **NOT** required by law to help CPS prove the allegations against you. CPS must do this on their own without your assistance. Never sign a release of information form or “consent to speak with” form.

It is your right to prove you innocence at trial in 60-Days!!

COOPERATIVE OR UNCOOPERATIVE??



- If you are uncooperative and this prevents the CPS caseworker from gathering enough information to substantiate the allegations against you, the caseworker will have to consult with the attorneys representing CPS as to the appropriate legal intervention, if any. If the allegations cannot be substantiated, the petition against you will have to be dismissed or dropped.
- **CPS has taken you child / children. You are trying to get them back, not provide CPS with any help or aid in keeping them longer.**

COOPERATIVE OR UNCOOPERATIVE??



Under the Fourth Amendment, you are protected from unreasonable searches and seizures. Not only does the Fourth Amendment apply to police officers, but it also applies to CPS officers and social workers as well. Although there are some exceptions, generally, in order for a CPS caseworker to search your home, he or she must have a search warrant signed by the judge that authorizes the caseworker to enter the home and search for specific evidence to support the allegations.

NEVER LET CPS INTO YOUR HOME WITHOUT A SEARCH WARRANT!

CPS NEEDS YOUR CONSENT TO TEST YOU FOR DRUGS!

- They cannot force you to take a drug test since they do not have the legal authority to do so.
- They will not notify you that they are going to drug test and they will arrange for the test in a short period of time.
- There are certain states that will drug test every person in every case. But again, they must have your consent.
- Your children can also be drug tested.
- There are a million rules that govern this and all kinds of different rules for each situation. You should know what those rules are and know what your rights are.

What Happens if You Refuse the Drug Test?

- If you refuse a drug test, the investigator will assume that you are using and act accordingly.
- The investigator may try to get a court ordered for a drug test, but they have to a valid reason. You have rights.
- The investigator may say; “People who are clean never refuse to take a drug test”. You can refuse to take one on principle alone.
- If you don’t take a drug test they cannot prove you use drugs.
- If there are allegations of drug use, ensure that you obtain a nail scrape or hair follicle test and submit this to the court just before your 60-day trial date.

What May Happen if You Cooperate

- So you have been accused of not supervising your child, and now workers are asking you questions about drugs, alcohol, pornography, and whether you've ever had an abortion. They asked your child if anyone had ever attempted to touch them inappropriately and if they have food to eat every day. You feel like CPS is investigating your life from the inside out.
- Social Workers screen children for all types of abuse or neglect, regardless of the actual allegation. Investigators will ask questions about the allegation, but they will also ask broad, general questions about all types of abuse and neglect. If the allegation itself is false, CPS is looking to see if the child is still at risk for anything else.

COOPERATIVE OR UNCOOPERATIVE??



- Parents are going to be asked some general screening questions, as well. They'll be asked about their own childhoods and habits, whether they have financial problems or had domestic violence in old relationships. These questions help a CPS worker determine several things. For example, is the family in a position of high stress? Does the mother or father show a pattern of behavior? Is there a long history of violence, sexual abuse, or incest in a family? CPS wants a complete picture so that they can identify other allegations to put on the petition of child removal.

COOPERATIVE OR UNCOOPERATIVE??



- There are many times when the original allegation is not substantiated by the investigator, but your cooperation may allow the investigator find something else to be of concern in the family.
 - For example, a physical abuse allegation may lead investigators to discover that no physical abuse is occurring, but that there some other form of neglect. Neglect is a broad category and 84% of all CPS cases are for neglect.

What Happens If I Don't Let CPS into My Home or Take a Drug Test?

- CPS doesn't always have to come into your home. If you refuse when they've asked to come inside, they may assume you are hiding something. This happens to social workers fairly often, so it is not as severe as not allowing a child to be seen or not allowing a drug test. Make an appointment to take your child down to the CPS office when possible.
- However, if the allegation is that your house is a hazard to the child and you do not allow entry into the home, CPS will assume you are hiding something. If the allegation involves people who may be living at the home or any concern for the home environment, CPS will assume you are hiding something if you do not let them in.

What if You Don't Cooperate At All?

- It is possible for you to be completely uncooperative. If CPS never see's your child, your home, you, or anyone you know, then there is very little they can do. This, however, can be a very large red flag to CPS that something is really wrong, but this is not your concern. Your concern is keeping your children or getting them back. I suggest that if you do not wish to cooperate in any way, you contact an attorney and have that attorney talk with CPS.
- CPS may just go away for now, but when families have problems, CPS tends to get involved more than once. If you're not hiding anything, it's better NOT to give CPS a reason to come back.

Legal Responsibilities and Recourse

- Contact your Doctor and/or Counselor regarding your refusal to sign a consent form allowing communication between CPS and your providers.
- Ask your Doctor and/or Counselor to speak with your attorney if you have one.
- Ask your Doctor and/or Counselor to speak with their own attorney if they have any concerns.
- Advise your doctor that if a lawyer other than your own calls, they are not to release any information.
- Advise your Doctor and/or Counselor that if they receive a subpoena deposition or trial to call you first.
- Advise Doctor and/or Counselor that all interviews will be through a formal deposition.