

# Know Your Rights

An Overview of Child Welfare & Dependency Law

*Dec. 03, 2022  
Presented at Alano Club*





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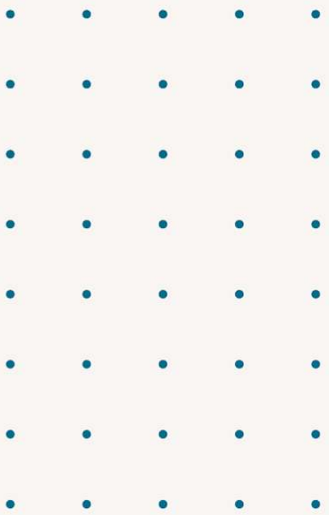
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# 01

## INTRODUCTION

Our Team

Introduction to "Child Welfare"





## Team Introduction First Call for Families

Ana Nevarez, Carisa Castillo, Gildardo Amador  
Mentor Parents

Cecilia Galvan, Claudia Marquez  
Social Worker

Katie Joh  
Managing Attorney



## *OVERVIEW*

*What is the system?*

*Why do we need to know our  
rights in the system?*



## *\*A Note on Terminology*

### Child Protective Services (CPS)

- More commonly-used name among members of the community and the public.
- Officially, the State-level agency (within California Department of Social Services)

### Department of Family and Children Services (DFCS or “the Department”)

- County-level (within Santa Clara County Social Service Agency)
- Department that administers the whole system of investigations, removals, foster care, reunification on a day-to-day basis.



02

## NAVIGATING A CPS INVESTIGATION



# Common Reasons for Calls to CPS

Substance Abuse

Mental Health Challenges

Domestic Violence

Multiple Absences from School

Sexual Abuse

Physical Abuse / Physical Discipline

Caretaker Absence

Neglect (Poverty Issues)

Failure to Protect





# The Referral & Investigation Process

1

## Initial Report

Call made to the Child Abuse & Neglect (CAN) Center.

Sources may include:  
Mandated reporters  
Community members  
Self-reports



2

## Investigation

CPS investigates to determine if the report is true. May visit the home, review past records, and/or interview relevant persons (incl. the child(ren)).



3

## Assessment

Structured Decision-Making Tool



4

## Investigation Concluded

Possible outcomes:  
Unfounded  
Inconclusive  
Substantiated





## What Does an Investigation Look Like?

- Social workers are required to thoroughly investigate the claims of abuse or neglect.
- This may include reviewing documents (e.g., police reports, medical records). They will also ask to interview you, your child, or other people who may have information about the allegations.

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## Possible Outcomes to a DFCS Investigation

- **Unfounded:** the allegation was false or unsupported by evidence
- **Inconclusive:** not enough information to determine if the alleged abuse/neglect occurred
  - But, stays in DFCS records and can be a red flag for a subsequent investigation
- **Substantiated:** good reason to believe there was abuse or neglect



## What Happens if an Allegation is Substantiated?

OPTION 1: Try to keep the child(ren) in the home

OPTION 2: A program of noncourt supervision, before a petition is filed  
(Informal Supervision or Voluntary Family Maintenance)

OPTION 3: Department removes the child(ren), and files a petition



## What Happens if an Allegation is Substantiated?

### Option 1: Try to keep the child(ren) at home

- Safety planning
  - Having parent seek help (e.g., go to residential treatment facility, domestic violence shelter, etc.)
  - Placing child(ren) with safe relatives (alternative caretaker arrangements)
- 

# What Happens if an Allegation is Substantiated?

## Option 2: "Voluntary" DFCS Services

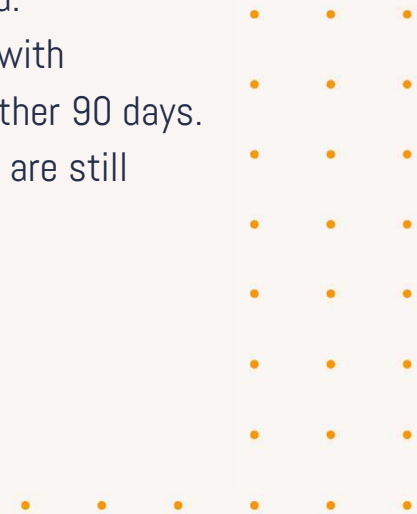
### Informal Supervision

- If the Department assesses that there are concerns in the home, but the family is willing to take "corrective action," they may refer the family to this voluntary pre-petition program.
- Time-limited: six months, with possibility of three month extension.
- This is a contract. Parents need to understand that if they do not participate in their informal supervision case plan, the Department can and likely will file a petition in court.

### Voluntary Family Maintenance

- A voluntary program like Informal Supervision, but offered where there is lower level of risk to the child(ren) and unlikely to be a petition filed.
- Also time-limited: 90 days, with possibility of extending another 90 days.
- Not a contract, but families are still under DFCS supervision.

### Voluntary Family Reunification






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## What Happens if an Allegation is Substantiated?

### Option 3: Department removes child(ren), and files a petition

- If the social worker determines that the children are not safe in their home, they can ask the court for a protective custody warrant and remove the children.
  - Within two court days after removing the child(ren), DFCS must file a petition. A “petition” is a legal document that states the reasons the Department believes the abuse and neglect meets the legal standard for removing a child.
  - One court day after the petition is filed (three days after the child is removed), the court will hold an initial hearing.
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## Deciding Whether to File a Petition

LEGAL STANDARD: “clear and convincing evidence that there are no reasonable means by which a child could safely be kept in the home.”

- If there are significant issues in the home, but there are also protective factors in place, or protective factors that can be put in place (such as a safety plan), the Department may choose not to file a petition.
- NOTE: Throughout the investigation process, the Department social worker may work with the family to provide additional supports and explore alternatives to removing the child(ren). However, they will also be recording information that may support a petition, should they determine it is necessary to file one.



## What Should I Know if I'm Facing a CPS Investigation?

- You have the right not to speak to the social worker  
...but as much as possible, do communicate with them
- Tell the truth!  
...but don't volunteer them information they did not ask for
- The social worker is there to try to help and you should try to cooperate with them  
...but they are also investigating you for abuse and neglect and are recording everything you say

## What Should I Know if I'm Facing a CPS Investigation?

- It is possible that the social worker will speak with your child(ren) without your permission, especially if it is considered an emergency or high-risk situation

- Everything you (or your child, or a relative) says to a social worker will be recorded! DFCS keeps records of all past referrals, investigations, and cases



## What Should I Know if I'm Facing a CPS Investigation?

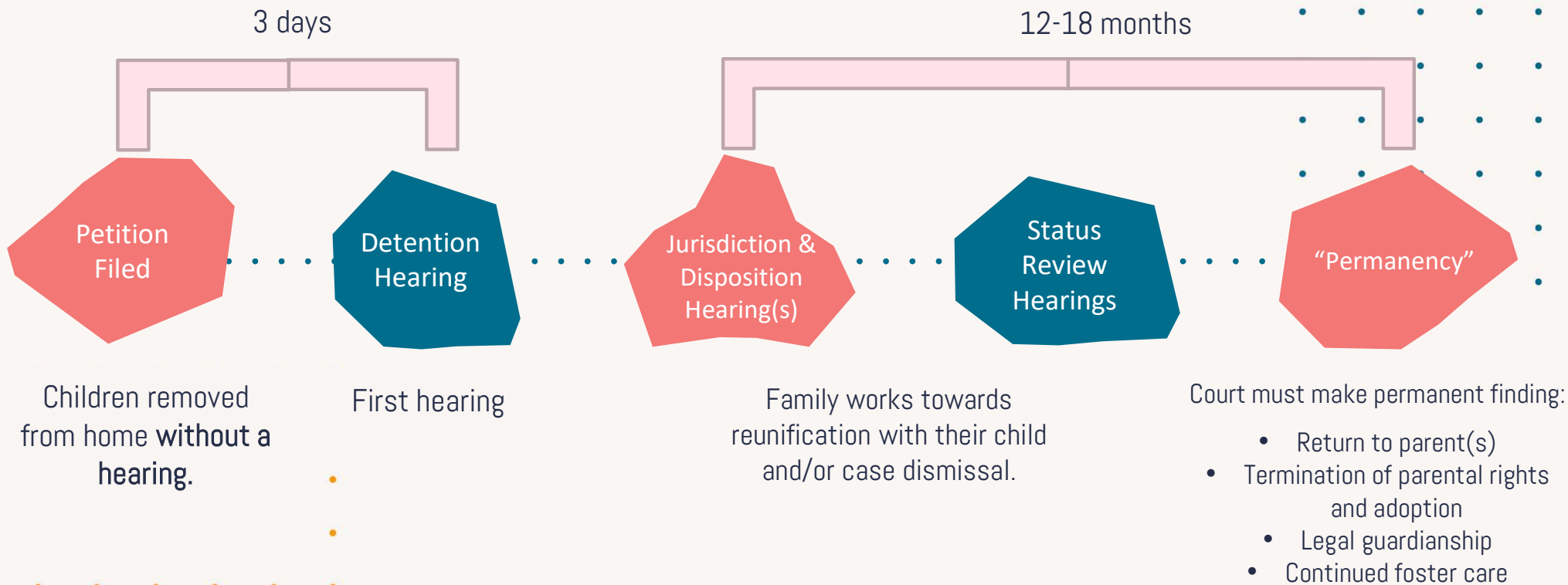
- Do not sign anything without reading it first! If you don't understand what they are asking you to sign, ask questions. You can also ask for time to review the document(s), and call the First Call for Families warm line for assistance..



03

## DEPENDENCY COURT

# Process & Timelines



*\*adapted from a flowchart created by Judge Shawna Schwarz – full version available on request*

# Process & Timelines

Emergency preliminary hearing to determine whether child(ren) may be removed from home.

Family works towards reunification and/or case dismissal. Held every 6 mos. At most, can go to 24 mos.



DFCS alleges legal grounds for opening a court case and/or removing child(ren) from home (this is the petition).

**Jurisdiction:** court decides if petition is true

**Disposition:** court decides case goal and where child(ren) will be placed; orders a case plan and visitation (if child(ren) not in the home)

Court must make permanent finding within 12-18 mos:

- Return to parent(s)
- Termination of parental rights and adoption
- Legal guardianship
- Continued foster care

*\*adapted from a flowchart created by Judge Shawna Schwarz – full version available on request*

## Frequent Challenges

- Difficulty overcoming addiction and/or mental health challenges within the legal timelines
- Family and/or partner relationships
- Emotional challenges of limited, supervised visitation with your child
- Limited transportation
- Balancing work and case plan obligations
- Challenging relationships between DFCS and community
- Parents getting discouraged by having a court case and children being in foster care!

## Important Tips for Navigating the Court Process

- You must show up at your hearing!
  - Lawyer not appointed until you show up at court for detention (initial) hearing
  - Gives you important information about your case and your rights
  - Makes good impression on judge & puts you on track to succeed
- Participate in all recommended resources – even before they are required by the court!
- Fathers with unknown paternity status: paternity will need to be established through the court process – ESTABLISH EARLY!!
- For families whose first language is not English, request an interpreter





04

# COMMON FAMILY COURT ISSUES

# What Is Family Court?

- Family Court hears issues between private individuals, including:
  - Divorce
  - Custody & visitation
  - Restraining orders
  - Child support
  - And others
- Legal guardianships (where children are placed in the full-time care of a non-parent caregiver) are heard in probate court, which is a separate court system.

# Family Court vs Dependency Court

## FAMILY COURT

- **Parties:** Two (or more) private individuals
- **Who gets an attorney:** all parties may have an attorney, but do not have a right to one. Sometimes children are appointed attorneys.
- **Outcomes:** court orders between private individuals. No power to order termination of parental rights and/or adoption.

## DEPENDENCY COURT

- **Parties:** The government (DFCS), the parent(s), and the child(ren).
- **Who gets an attorney:** parents and the children are entitled to an attorney
- **Outcomes:** Goal for children is permanency. If parents are not able to reunify, preferred option is adoption, and termination of parental rights (which is permanent).

## CROSSOVERS:

- Family court (and probate guardianships) can lead to dependency cases.
- If parents reunify at the end of a dependency case but are not together, the court may make custody & visitation orders that will become family court orders.

## Resources for Parents in Family Court

- Private attorneys – bar referral service  
<https://sccba.community.lawyer/>  
(408) 971-6822
- Self-Help Center  
[https://www.scscourt.org/self\\_help.shtml](https://www.scscourt.org/self_help.shtml) (website also has many helpful guides)  
*\*in-person services currently limited to emergency issues (e.g., restraining orders)*
- Pro Bono Project  
<https://www.probonoproject.org/>  
(408) 998-5298

# Resources for Parents in Family Court

*When domestic violence / intimate partner violence is involved*

- **Bay Area Legal Aid**

Legal Advice Line: 800-551-5554

Domestic Violence Hotline: (888) 330-1940

*\*specific eligibility requirements apply*

- **Next Door Solutions**

<https://www.nextdoorsolutions.org/services/crisis-support/>

Hotline: (408) 279-2962

## Making Alternative Arrangements For Your Child

- Power of Attorney (temporary guardianships)
- Caretaker Affidavit
- Legal Guardianship (probate court)
- Family court/ child custody



# 05

## Pre-Petition Advocacy: DAC's Preventative Services

How to prevent removals  
First Call for Families  
Corridor



## Why Prevention?

Involvement in the child welfare system is often a traumatic event for a child, parents, the whole family, and even whole communities.

Too often, children are removed due to issues that could have been addressed with the proper removal and/or intervention.



## Preventative Measures

- Having honest conversations about things that might be happening at home – ask for help!
- Leaning on family strengths and community supports
- Creating safety plans
- Calling First Call for Families!



# Our Prevention Programs Model



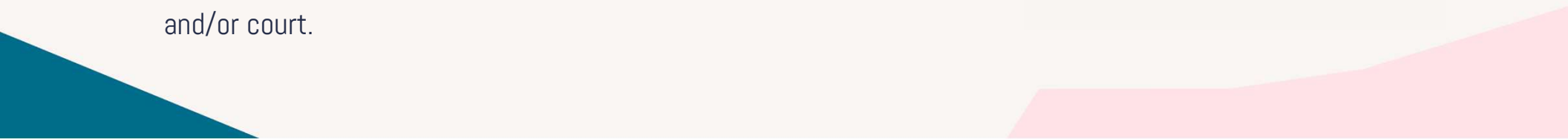
## ATTORNEY

- Assists with legal issues that may contribute to an investigation.
- Creates legal documents that can keep children with extended family.
- Advocates with DFCS to prevent removals.
- Advises families on how to navigate an investigation and/or court.

## SOCIAL WORKER

- Creates safety plans.
- Refers parents to community resources.
- Provides clinical assessments.
- Advocates with DFCS social workers, drawing on shared social work background & understanding of the system.

## MENTOR PARENT

- Provides lived experience of the system.
  - Supports parents in meetings with Department social workers.
  - Assists parents in accessing resources.
  - Encourages and empowers families.
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## First Call for Families – How We Can Help



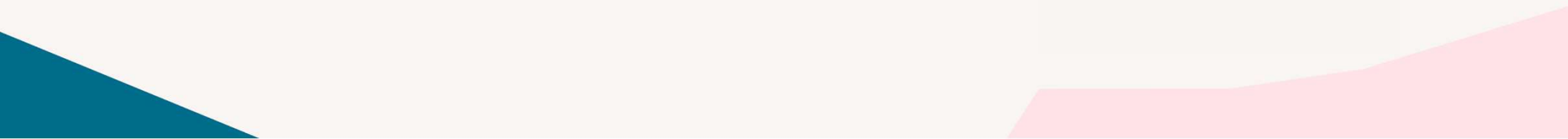
### WARM LINE

- Toll-free, easily accessible number for families to call for assistance and support.
- Give basic, limited advice.
- Conduct intake for individualized support, if appropriate.

### KNOW YOUR RIGHTS PRESENTATIONS

- Provide information and education to families about the child welfare system, ways to prevent system involvement, and rights and responsibilities during an investigation.

### INDIVIDUALIZED SUPPORT

- More intensive, interdisciplinary support for a family.
  - Case management, clinical assessments
  - Peer mentoring support
  - Limited legal assistance
- 



## First Call for Families

### Eligibility:

- Anyone in Santa Clara County may call the Warm Line or attend a Know Your Rights presentation.
- For Individualized Support, priority is given to families living in the following zip codes: 95122, 95112, 95111, 95116, 95127, 95020.

### Referral Process:

- Call or have clients call the Warm Line: (408) 856-2992
- For high needs clients who may require a warm hand-off, please send their name and contact information to [firstcall@sccdac.org](mailto:firstcall@sccdac.org)



# Corridor



## Eligibility:

- Parent on formal adult probation in Santa Clara County

## Services provided:

- **Prevention:** services include community resource referrals, safety planning, recovery support and relapse prevention, peer support, limited scope legal representation and legal consultation.
  - **Open case services:** legal representation, with interdisciplinary team support, in open juvenile dependency court case.
- 

# Corridor

## Referral Process:

- Community referrals: complete referral form and send to [corridor@sccdac.org](mailto:corridor@sccdac.org)
- Corridor will confirm probation status and complete a conflicts check, and let the referral source know if able to provide services.
- Clients may also self-refer, using the contact information provided on the Corridor flyers.



***Please  
complete our  
survey!***

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## First Call for Families Warm Line

Phone Number: 408-856-2992

Email: [firstcall@sccdac.org](mailto:firstcall@sccdac.org)

### Hours of Operation

Mon-Thurs: 9am-4pm

Extended Hours: 5-8pm