



CWARE
Collaborative

KNOW YOUR RIGHTS

Toolkit



*Understanding the Legal Framework:
Know Your Rights for You and Your Family!*

In Partnership with



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Know Your Rights Toolkit

A Community Legal Toolkit by
CWARE Collaborative

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Introduction

CWARE Collaborative is a group of organizational policy experts and advocates with lived expertise, united to promote a radical anti-racist transformation of the child welfare system. Together, we envision children, parents, and families free to thrive in their homes and communities.

The CWARE Collaborative was created to address the urgent need for a radical transformation of the child welfare system into one that prioritizes family integrity and racial equity. It emerged from conversations among child welfare advocates inspired by the nationwide calls to divest from harmful systems and reimagine community safety.

From its inception, the Collaborative recognized the critical need to center the voices and leadership of individuals with lived experience in the child welfare system. Through deliberate efforts, it has built a diverse and inclusive team to steer its mission of advancing anti-racist policies and practices for children and families.

Why we wrote this toolkit

CWARE (Center for the Welfare of At-Risk and Exploited individuals) developed the Know Your Rights Toolkit to address a critical gap in the resources available to families interacting with Child Protective Services (CPS). Far too often, families find themselves unprepared and overwhelmed during CPS investigations, which can lead to devastating outcomes such as wrongful removals, strained family relationships, and long-term consequences like being placed on child abuse registries. CWARE recognized the need for an accessible guide that empowers parents and caregivers with the knowledge to advocate for their rights and protect their families.

One of the main reasons for creating this toolkit is the disproportionate impact of CPS investigations on economically marginalized families. Data shows that allegations of neglect—often tied to poverty—account for the majority of CPS cases. However, many families are unaware of their legal protections or the difference between poverty and neglect under the law. By providing this resource, CWARE aims to equip families with the tools to challenge unfounded allegations and ensure they are not penalized simply for lacking financial resources.

CWARE also acknowledges the emotional toll CPS investigations take on families. Children may face invasive questioning, while parents experience the fear of losing custody. These traumatic experiences often leave families feeling powerless and isolated. The Know Your Rights Toolkit was created to provide clear, actionable steps to help families navigate these investigations with confidence and clarity, reducing the fear and uncertainty associated with CPS involvement.

A significant driving force behind the toolkit's creation is the lack of awareness about constitutional rights in child welfare cases. Families often do not realize that their 4th and 14th Amendment rights protect them against unreasonable searches and governmental interference in family life. The toolkit sheds light on these protections, emphasizing how families can assert their rights and demand due process. This empowers parents and caregivers to make informed decisions that prioritize their well-being and that of their children.

Ultimately, CWARE designed this toolkit to advocate for systemic change while empowering individual families. Beyond educating families about their rights, the resource highlights the broader need for reform in how CPS addresses issues of poverty, neglect, and family preservation. By arming families with knowledge and resources, CWARE hopes to drive a cultural shift in child welfare systems—one that prioritizes family integrity, supports vulnerable communities, and reduces unnecessary interventions.

Who is this toolkit for?

The Know Your Rights Toolkit is designed for parents and caregivers who may encounter Child Protective Services (CPS) due to allegations of neglect or abuse. It serves as a critical resource for families, particularly those facing challenges rooted in systemic inequities such as poverty. By providing clear, actionable information about constitutional rights and legal protections, the toolkit empowers individuals to navigate CPS investigations with confidence, ensuring they can advocate for their families and prevent unnecessary governmental intrusion.

This toolkit is also invaluable for community advocates, legal professionals, and organizations working to support families involved in the child welfare system. It equips them with a comprehensive understanding of the rights afforded to families and the strategies to enforce those rights effectively. Whether you are a parent seeking to protect your children, an attorney advocating for due process, or an advocate working toward systemic reform, this toolkit provides the tools and knowledge necessary to drive meaningful change and safeguard family integrity.

Questions you may have while reading

As readers navigate the Know Your Rights Toolkit, they may have several questions, including:

1. Understanding CPS Involvement:

- What are my rights if a CPS worker shows up at my door?
- Do I have to let CPS into my home without a warrant or court order?
- How do I find out what allegations have been made against me?

2. Legal Protections and Representation:

- Do I have the right to an attorney during a CPS investigation?
- What are the 4th and 14th Amendments, and how do they protect my family?
- How can I access free or affordable legal representation in my state?

3. Navigating Investigations and Allegations:

- How do I respond to questions from CPS workers without incriminating myself?
- What happens if CPS tries to remove my child?
- Can I refuse a drug test requested by CPS?

4. Available Resources and Support:

- What community resources or programs can help me address issues like housing, mental health, or substance use?
- How can I find state-specific information about CPS policies and procedures?
- Are there organizations that provide advocacy or guidance during CPS investigations?

5. Long-Term Impact and Prevention:

- What are the potential consequences of being placed on a child abuse and neglect registry?
- How can I prevent future CPS involvement with my family?
- What steps can I take to ensure my child is placed with relatives or trusted individuals if removal occurs?

In the following sections, we provide a clear and comprehensive explanation of constitutional rights, including protections under the **4th and 14th Amendments**, along with actionable steps to assert those rights during Child Protective Services (CPS) investigations. From understanding the circumstances under which CPS workers can legally enter your home to knowing your options if they attempt to remove your child, this toolkit breaks down critical legal protections into practical, accessible guidance, empowering families to advocate for themselves with confidence.

By spotlighting federal programs like the **Family First Prevention Services Act** and offering state-specific information on legal counsel and advocacy networks, the toolkit ensures families can access tailored resources to meet their unique needs.

Additionally, the toolkit includes **step-by-step strategies** to help families navigate high-stress situations, such as unannounced CPS visits or emergency removal attempts. These practical examples equip families with the tools to respond calmly and effectively, even in the most challenging circumstances.

Whether it's outlining how to communicate effectively with CPS workers or clarifying the role of preventive legal advocacy, **this toolkit serves as an essential roadmap for families seeking to safeguard their rights while prioritizing the well-being of their children.**



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Navigating the CPS System

Understanding Child Protective Services (CPS)

Child Protective Services (CPS) is a government agency tasked with investigating reports of child abuse or neglect and ensuring the safety and well-being of children. CPS operates under different names depending on the state, such as **DCFS, ACF, or CFSA**, but their mission is the same: respond and investigate allegations of child abuse and neglect and remove children if there is urgent threat to their safety. While CPS is tasked with protecting vulnerable children, their involvement can be confusing and traumatizing for children and their parents.

What Does CPS Do?

CPS workers investigate allegations of abuse or neglect to determine if children are at risk of harm. Their responsibilities include:

- Conducting interviews with children, parents, and others involved in the child’s life.
- Assessing the home environment for safety concerns.
- Deciding whether further intervention, such as services or removal, is needed to protect the child.

While these actions may be necessary in some cases, they can often feel intrusive and intimidating for families. It’s important to remember that you have rights throughout the investigation process.

Why CPS Might Contact You

CPS can become involved in a family’s life for various reasons, including:

- A report of suspected abuse or neglect filed by a teacher, neighbor, doctor, or another individual.
- Allegations tied to circumstances of poverty, such as inadequate housing or lack of basic necessities, which are often mistakenly categorized as neglect.

Understanding why CPS is involved and what their goals are can help you respond appropriately and advocate for your family’s best interests.

Notes:

Understanding Child Protective Services (CPS)

Your Role and Rights During CPS Investigations

As a parent or caregiver, it is critical to know that CPS's authority has limits. For example:

- CPS cannot enter your home without your permission, a warrant, or clear evidence of immediate danger.
- You are not required to answer all their questions or allow them to interview your children without a court order.
- You have the right to request an attorney to guide you through the process.

The more you understand about CPS's role, the better equipped you'll be to ensure their involvement is fair, respectful, and focused on your child's safety without compromising your family's rights.

Navigating a CPS Visit

A CPS visit can feel intimidating, but being prepared can make a significant difference. Keep these tips in mind:

- Stay calm and ask for clarification about the purpose of their visit.
- Request to see identification from the CPS worker.
- Take notes during the interaction, including the worker's name, the date and time, and any specific allegations mentioned.
- Be polite but firm in asserting your rights.

By understanding the role of CPS and the scope of their authority, you can navigate these interactions with greater confidence and protect your family from unnecessary disruption.

Notes:

The Impact of CPS Investigations

Child Protective Services (CPS) investigations have far-reaching consequences for families, even when no abuse or neglect is found. Millions of children are swept into the system each year, with numbers growing steadily since. In 2011, child protection hotlines received 3.4 million referrals involving 6.2 million children; by 2019, those figures had risen to 4.4 million referrals involving 7.9 million children. Research suggests that 37.4% of children in the U.S. will experience a CPS investigation by the age of 18. While the intent of CPS is to protect children, the overwhelming volume of cases, systemic biases, and focus on impoverished or minority families highlight significant challenges within the system.

Disproportionate Impact on Marginalized Communities

CPS investigations disproportionately target families living in poverty, racial minorities, and parents with disabilities. Families in poverty are 22 times more likely to be involved with CPS, often due to circumstances like inadequate housing or food, which are symptoms of poverty rather than neglect.¹

Black children face a 53% likelihood of a CPS investigation during their childhood, and Hispanic families frequently encounter reports of emotional abuse that reflect cultural misunderstandings rather than genuine harm.¹ Parents with disabilities face additional barriers, such as heightened scrutiny of their parenting abilities or having their rights terminated unfairly.

These disparities point to systemic inequities that exacerbate the challenges faced by already vulnerable families.

Emotional and Psychological Toll

The investigative process can inflict lasting emotional and psychological harm on families.

Parents often feel fear, helplessness, and anxiety as they navigate a system that is structured adversarially. For children, the trauma of being interviewed by strangers, subjected to invasive examinations, or temporarily removed from their homes can result in toxic stress.

Research indicates that even short-term separations disrupt a child's brain development, leading to long-term health and emotional consequences.

Such investigations, even when no wrongdoing is found, can leave deep scars that affect the family dynamic and individual well-being.



The Impact of CPS Investigations

Systemic Challenges and Harmful Outcomes

The majority of CPS investigations do not substantiate allegations of abuse or neglect. In 2019, 83% of reports were either “screened out” or deemed “unsubstantiated,” yet the harm caused during the investigative process remains significant.¹

Children removed from their homes are at greater risk of future involvement with the criminal justice system, highlighting the long-term consequences of unnecessary interventions.

Alarming, 35% of children placed in foster care are eventually returned to their families without any substantiated findings, indicating that many removals were unwarranted.¹

These systemic issues underscore the need for reform to reduce unnecessary family disruptions.

These experiences highlight the tension between the government’s duty to protect children and the need to respect family dignity and constitutional rights.



Intrusion and Surveillance

CPS investigations often involve invasive scrutiny, such as home inspections, detailed questioning, and, in some cases, strip-searching children.

These measures, while intended to ensure safety, can destabilize families emotionally and financially. Parents may feel humiliated and powerless under this level of intrusion, while children may develop mistrust and fear of authority figures.

By understanding these impacts, families can better prepare to navigate CPS interactions, assert their rights, and seek necessary support.

The Know Your Rights Toolkit equips readers with the information and resources they need to protect their families and advocate for systemic reforms to minimize harm and promote equity.

¹ Peter Kamakawiwoole, Esq., *Why We Stand Firm: The Harmful Effects of CPS Investigations*, Home School Legal Defense Association (HSLDA), September 1, 2024. Available online.

Navigating Allegations of Neglect vs. Poverty

One of the most significant challenges families face during Child Protective Services (CPS) investigations is the conflation of neglect with poverty. While CPS is tasked with addressing cases of abuse and neglect to protect children, the majority of reports they investigate are rooted in conditions directly tied to poverty, such as inadequate housing, lack of access to basic necessities, or limited childcare options. Understanding the distinction between neglect and poverty is critical for families to advocate for themselves effectively and challenge unfair allegations.

What is Neglect?

Neglect is often defined as the failure to provide for a child’s basic physical, emotional, or educational needs. However, the specific definition varies from state to state, and the line between neglect and poverty is not always clear.

For instance, a family may be reported for not providing sufficient food or for living in unsafe housing conditions, but these situations are frequently the result of economic hardship rather than willful neglect. Without distinguishing between the two, families are unjustly penalized for circumstances beyond their control.

How Poverty is Misinterpreted as Neglect

Poverty creates challenges that can be misinterpreted as neglect by mandated reporters and CPS workers. For example:

- A parent struggling to afford nutritious meals may be accused of failing to feed their child adequately.
- Families living in overcrowded or unsafe housing may be labeled as neglectful despite the lack of affordable housing options.
- Parents working multiple jobs without access to affordable childcare may be deemed neglectful for leaving children unsupervised.

These examples reflect systemic inequities rather than parental failures, yet families often face invasive investigations, stigma, and, in some cases, separation from their children due to these misunderstandings.

Notes :

Navigating Allegations of Neglect vs. Poverty

Your Rights and Advocacy Strategies

Families can take proactive steps to address allegations of neglect rooted in poverty by understanding and asserting their rights. Here's how:

- **Demand Specificity:** CPS is required to provide clear and specific information about the allegations against you. Ask for detailed explanations to distinguish between concerns about safety and conditions tied to economic hardship.
- **Highlight Resources:** Share efforts you are making to access community resources, such as food banks, housing assistance programs, or parenting support services. Document these efforts to demonstrate your commitment to addressing challenges.
- **Request Legal Representation:** Many states provide parents the right to an attorney during CPS investigations. A skilled attorney can help clarify the distinction between neglect and poverty in your case.

Community and Policy-Level Support

Systemic change is essential to ensure that poverty is not treated as neglect. Federal programs, such as the Family First Prevention Services Act, aim to provide states with funding for preventive services like mental health support, parenting programs, and substance use treatment. Additionally, housing initiatives like the Family Unification Program can help families access safe and stable living conditions.

Advocates and families must push for the expansion and proper implementation of these resources to address root causes rather than penalizing families for their circumstances. By understanding the difference between neglect and poverty, families can advocate for themselves more effectively and push for systemic reforms that support rather than punish vulnerable communities.

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Your Constitutional Rights

4th Amendment Protections: Search and Seizure

The 4th Amendment of the United States Constitution protects individuals from unreasonable searches and seizures by government entities, including Child Protective Services (CPS). This protection is particularly critical during CPS investigations, as it limits the extent to which CPS can intrude into your home and family life without proper justification. Knowing your rights under the 4th Amendment can help you navigate these situations with confidence and ensure your family is treated fairly.

Your Right to Refuse Entry

CPS workers cannot enter your home without your permission unless they have one of the following:

- A court order or warrant signed by a judge.
- Evidence of an immediate emergency, such as a child being in imminent danger.

If a CPS worker arrives at your door, you have the right to ask for their identification and the reason for their visit. You are not obligated to let them in unless they present a warrant or can demonstrate an emergency.

Politely but firmly request to see any court orders or documents they claim to have, and document the interaction by taking notes or recording if your state laws allow it.

The Right to an Attorney

Although there is no federal constitutional right to an attorney during a CPS investigation, many states have created statutory rights to legal representation for parents or caregivers, particularly in cases where parental rights may be terminated. The timing and availability of this right vary by state:

- **When Does the Right Activate?** In some states, you may be entitled to an attorney as soon as a CPS investigation begins, while in others, this right may only apply if a court case is initiated.
- **Free Legal Representation:** States that recognize this right may provide free legal services for parents who cannot afford an attorney.

If you are unsure of your rights in your state, consult resources like the [Right to Counsel Map](#) or contact your local public defender's office. Having an attorney present can help you respond appropriately to CPS inquiries, prevent self-incrimination, and ensure your rights are respected throughout the process.

4th Amendment Protections: Search and Seizure

What CPS Can and Cannot Do

Understanding what CPS is legally permitted to do during an investigation is essential. While CPS has the authority to investigate allegations, their actions must comply with the 4th Amendment. For example:

- **What They Can Do:** CPS can request permission to enter your home, interview your child, or examine your living conditions if you consent or if they have a court order or emergency justification.
- **What They Cannot Do:** CPS cannot force their way into your home without a warrant or emergency circumstances, and they cannot interview your child without your permission or a court order unless there is imminent danger.

Protecting Your Rights

To protect your family and assert your rights during a CPS investigation:

- **Remain Calm:** Politely request information about the allegations and the purpose of the visit.
- **Document Everything:** Keep detailed notes of your interactions with CPS workers, including dates, names, and what was discussed.
- **Seek Legal Counsel:** Contact an attorney as soon as possible, especially if CPS indicates they may take further action.
- **Exercise Your Rights:** If CPS workers do not have a warrant or evidence of an emergency, you have the right to deny entry.

By understanding your 4th Amendment protections and the right to legal representation, you can safeguard your family's integrity and navigate CPS investigations more effectively. This knowledge is an essential tool for ensuring that governmental actions remain lawful, respectful, and in your child's best interests.

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14th Amendment Protections: Family Integrity

The 14th Amendment of the United States Constitution safeguards your fundamental right to family integrity and protects against unjust governmental interference. This protection is especially relevant during Child Protective Services (CPS) investigations, ensuring that families are not separated without due process or a legitimate safety concern. Understanding these rights is vital for parents and caregivers to advocate for their family's unity and well-being.

The Right to Family Integrity

Under the 14th Amendment, parents have a constitutional right to the care, custody, and control of their children. This includes the right to make decisions about their child's upbringing, education, and welfare without unwarranted interference from the government. CPS cannot remove your child from your custody, decide who they can speak to, or dictate where they live without following the proper legal process.

Due Process Requirements

The 14th Amendment ensures that families are entitled to substantive and procedural due process before any governmental action disrupts family life. This means:

- **Substantive Due Process:** CPS must demonstrate that there is a valid and compelling reason—such as a credible safety risk—to justify interfering with your parental rights.
- **Procedural Due Process:** Before taking actions like removing a child or terminating parental rights, CPS must follow legal procedures, including providing notice, explaining the allegations, and allowing you the opportunity to defend yourself in court.

Emergency Situations

While the 14th Amendment generally protects families from arbitrary interference, there are exceptions for emergency situations where a child is believed to be in immediate danger. In such cases, CPS may temporarily remove a child without prior court approval, but they must still provide a court hearing shortly after to justify their actions.

Challenges Parents May Face

Unfortunately, the 14th Amendment protections are not always fully upheld in child welfare cases. Families have reported instances where children were removed without sufficient evidence of harm, or where parents were denied the opportunity to contest CPS actions in a timely manner. These violations emphasize the importance of knowing your rights and seeking legal support.

14th Amendment Protections: Family Integrity

How to Protect Your Family Integrity

To assert your 14th Amendment rights during a CPS investigation, consider the following:

- **Demand a Court Order:** If CPS attempts to remove your child, ask to see the court order authorizing the removal. Without one, they must provide evidence of an emergency situation.
- **Request Written Allegations:** CPS must explain the allegations against you. Ask for a written copy to better understand and address their concerns.
- **Consult Legal Counsel:** A qualified attorney can ensure that CPS follows due process and respects your family's constitutional rights.
- **Document Everything:** Keep detailed records of all interactions with CPS, including dates, names, and actions taken. This documentation can be critical in defending your family's integrity.

The 14th Amendment serves as a cornerstone of your right to raise and protect your family without unnecessary or unjustified interference. By understanding and asserting these protections, you can advocate for your child's well-being and ensure that CPS actions remain lawful and appropriate. This toolkit provides the knowledge and resources you need to uphold your family's rights and navigate the child welfare system with confidence.

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Key Federal Laws and Policies

Child Abuse Prevention and Treatment Act (CAPTA)

The Child Abuse Prevention and Treatment Act (CAPTA) is a federal law enacted in 1974 that provides funding to states to support child abuse prevention, investigation, and treatment efforts. CAPTA establishes an administrative framework for the operations of State Child Protective Services (CPS) agencies. Understanding how CAPTA works can help families navigate the system, hold agencies accountable, and access critical support.

Key Objectives of CAPTA

CAPTA aims to:

- **Prevent Child Abuse and Neglect:** Provide funding and guidelines to help states create and implement prevention programs.
- **Improve Investigations:** Ensure that child abuse and neglect allegations are properly assessed and addressed.
- **Support Families and Children:** Offer services to mitigate harm and improve outcomes for children and families involved in the child welfare system.

Rights Under CAPTA

CAPTA establishes several rights and responsibilities that can directly impact families:

- **Transparency in Allegations:** CPS is required to inform parents or caregivers of the specific allegations of abuse or neglect during their initial contact. Families have the right to understand the nature of the claims against them.
- **Access to Services:** CAPTA provides funding for programs that offer parenting support, mental health services, and substance use treatment, which can help families address underlying issues and avoid system involvement.
- **Emphasis on Preservation:** CAPTA encourages agencies to focus on keeping children with their families whenever possible by providing services and supports to prevent removal.

Holding CPS Accountable

CAPTA establishes standards for CPS practices, but states must comply with these requirements to receive federal funding. Families can use CAPTA's provisions to ensure agencies follow appropriate procedures:

- **Reasonable Efforts:** CAPTA mandates that CPS make reasonable efforts to avoid removing children from their families unless there is an immediate safety risk.
- **Timely Information:** Agencies must provide clear, timely explanations of allegations and decisions related to a child's removal or placement.
- **Access to Legal Recourse:** CAPTA supports families' rights to legal representation and the ability to challenge agency decisions in court.

Child Abuse Prevention and Treatment Act (CAPTA)

Limitations of CAPTA

While CAPTA sets important guidelines, its implementation varies by state and county, leading to inconsistent experiences for families. Additionally, the law does not clearly define terms like "neglect," which allows significant discretion at the state and local levels. This can result in inequitable outcomes, particularly for marginalized communities disproportionately affected by the child welfare system.

How CAPTA Impacts Families

Families involved with CPS may encounter CAPTA in several ways:

- **During Investigations:** Parents should be informed of their rights and the specific allegations against them as required by CAPTA.
- **Accessing Services:** Families can request CAPTA-funded resources, such as parenting classes, counseling, or housing assistance, to address issues highlighted by CPS.
- **Preventing Removal:** Families can advocate for CAPTA-mandated reasonable efforts to keep children at home while ensuring their safety.

Advocating for Reform

CAPTA has been amended several times to address gaps in its protections, but advocates continue to push for stronger measures to reduce racial and economic disparities, improve transparency, and expand services for families.

These efforts are crucial for ensuring that the child welfare system supports, rather than penalizes, vulnerable families. By understanding CAPTA's goals and provisions, families can better navigate CPS involvement, advocate for their rights, and access the resources needed to maintain family stability.

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Family First Prevention Services Act (FFPSA)

The Family First Prevention Services Act (FFPSA), passed in 2018, represents a significant shift in federal child welfare policy, prioritizing family preservation over foster care placement. FFPSA provides funding to states to implement preventive services aimed at keeping children safely with their families while addressing the underlying challenges that may lead to Child Protective Services (CPS) involvement. This law helps reduce unnecessary family separations by focusing on proactive support instead of reactive interventions.

Goals of the Family First Prevention Services Act

FFPSA seeks to:

- **Prevent Foster Care Placement:** Provide states with federal funds to offer services that address issues such as substance use, mental health, and parenting challenges before they escalate to removal.
- **Support Family-Based Care:** Prioritize placing children with relatives or in family-like settings rather than group homes or institutional care.
- **Promote Quality Services:** Fund evidence-based programs to ensure that the services offered are effective and meet the specific needs of families and children.

What Services Are Covered?

FFPSA allows states to use federal funding for services that are trauma-informed and evidence-based, including:

- **Mental Health Services:** Counseling or therapy to support parents and children experiencing emotional or behavioral challenges.
- **Substance Use Treatment:** Programs designed to help parents overcome addiction while maintaining or regaining custody of their children.
- **Parenting Support:** Skill-building programs to help caregivers provide safe, nurturing environments for their children.

These services are available for families who are at risk of having their children enter foster care, including children already living with relatives or kin caregivers.

Kinship and Family Placement Support

FFPSA emphasizes the importance of keeping children connected to their families and communities. If a child cannot remain in their home, the law prioritizes placement with relatives or close family friends. This approach aims to:

- Reduce the trauma of separation by allowing children to remain with familiar caregivers.
- Support relatives with funding and services to meet the child's needs.
- Ensure family placements are stable and supportive, reducing the likelihood of repeated removals.

Family First Prevention Services Act (FFPSA)

How Families Can Benefit from FFPSA

The Family First Prevention Services Act empowers families by offering support before a crisis leads to CPS involvement. Here's how you can advocate for its benefits:

- **Request Preventive Services:** If CPS becomes involved, ask about available services under FFPSA to address challenges and keep your family together.
- **Seek Kinship Placement:** If removal is unavoidable, advocate for placement with relatives or close friends, as prioritized under FFPSA.
- **Engage with Support Programs:** Participate in evidence-based services like parenting classes, mental health counseling, or substance use treatment to meet CPS requirements and improve family outcomes.

Building a Brighter Future

The Family First Prevention Services Act is a step toward a more compassionate and supportive child welfare system. By focusing on prevention, family-based care, and evidence-based services, FFPSA helps families stay intact and thrive.



Indian Child Welfare Act (ICWA)

The Indian Child Welfare Act (ICWA), enacted in 1978, is a federal law designed to protect the rights of Native American children, families, and tribes in child welfare proceedings. It was created in response to the alarming rates at which Native American children were being removed from their homes and placed in non-Native families or institutions, leading to the loss of cultural ties and tribal heritage. ICWA establishes standards for the placement of Native children in foster care or adoption to preserve their cultural identity and tribal connections.

Key Goals of ICWA

The primary goals of ICWA are:

- **Preserve Tribal Integrity:** Protect Native American children from being unnecessarily removed from their families and tribal communities.
- **Maintain Cultural Connections:** Ensure that children remain connected to their tribal heritage, customs, and community.
- **Support Tribal Sovereignty:** Recognize the authority of tribes to intervene and participate in child welfare cases involving their members.

When Does ICWA Apply?

ICWA applies to any child custody proceeding involving a Native American child who is either:

- A member of a federally recognized tribe.
- Eligible for membership in a tribe and the biological child of a tribal member.

This includes cases of foster care placement, termination of parental rights, pre-adoptive placements, and adoption.

Protections for Native Families

ICWA establishes specific requirements that child welfare agencies and courts must follow in cases involving Native children:

- **Active Efforts to Prevent Removal:** CPS agencies must make "active efforts" to provide services and support to prevent the removal of Native children from their families.
- **Notification Requirements:** Tribes must be notified when a Native child is involved in a custody proceeding, allowing them the opportunity to intervene or take jurisdiction over the case.
- **Placement Preferences:** If a child must be removed, ICWA prioritizes placement with:
 - Immediate family members.
 - Other members of the child's tribe.
 - Native families from other tribes.
- **Higher Burden of Proof:** Before terminating parental rights or removing a Native child, courts must meet a higher standard of evidence, such as "clear and convincing evidence" or "beyond a reasonable doubt" that the child is in danger.

Indian Child Welfare Act (ICWA)

Why ICWA Matters

ICWA is a critical law that safeguards Native children and families from unjust interventions and ensures that tribes retain their sovereign rights. It recognizes the unique cultural, social, and political importance of Native communities and works to prevent the historical injustices that led to widespread family separations. By maintaining connections to their tribal heritage, Native children are more likely to thrive emotionally, socially, and culturally.

How Families Can Advocate Under ICWA

If you or someone you know is involved in a child welfare case that may fall under ICWA:

- **Confirm Tribal Affiliation:** Provide information about your or your child's tribal membership to ensure ICWA protections apply.
- **Contact the Tribe:** Notify your tribe or seek support from tribal representatives who can advocate on your behalf.
- **Demand Active Efforts:** Ensure CPS provides appropriate services to keep your family intact and meets ICWA's higher standards for removal.
- **Consult Legal Experts:** Work with attorneys or advocates familiar with ICWA to protect your family's rights and ensure the law is upheld.

A Path to Justice and Preservation

The Indian Child Welfare Act is a vital tool for preserving Native families and tribal sovereignty while promoting the well-being of Native children. Together, we can honor and uphold the rights of Native communities and their children.

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Family Integrity and Enforcement Strategies

Hold CPS Accountable for Reasonable Efforts

Child Protective Services (CPS) is required to make “reasonable efforts” to keep families together and prevent the unnecessary removal of children from their homes. These efforts, mandated by federal and state laws, are critical in ensuring that CPS interventions focus on family preservation whenever it is safe and feasible. Understanding what “reasonable efforts” entail and how to hold CPS accountable can empower families to advocate for their rights and maintain their family’s integrity.

What Are Reasonable Efforts?

Reasonable efforts refer to the actions CPS must take to:

- Prevent Removal: Provide services and support to address the underlying issues that may lead to a child’s removal.
- Reunify Families: If removal occurs, work actively to help parents meet the conditions necessary for their child’s return.

Examples of reasonable efforts include:

- Offering parenting classes, counseling, or substance use treatment.
- Providing access to housing assistance or financial support.
- Facilitating family meetings or mediation to address concerns.

In some cases, CPS may not be required to make reasonable efforts, such as:

- When there is evidence of severe abuse or neglect.
- If parental rights have previously been terminated for another child.
- In situations where the child’s safety is at immediate risk.

Even in these instances, CPS must follow legal procedures and justify their decision to waive reasonable efforts.

Hold CPS Accountable for Reasonable Efforts

How to Hold CPS Accountable

Families can take several steps to ensure CPS fulfills its obligation to make reasonable efforts:

- **Request Documentation:**
 - Ask CPS to provide written details of the services and support they have offered to prevent removal or facilitate reunification.
 - Keep records of all interactions and services provided.
- **Advocate for Services:**
 - Identify specific needs, such as housing assistance or mental health counseling, and request that CPS include these in their support plan.
 - Highlight any barriers (e.g., transportation or scheduling conflicts) that may prevent you from accessing services and request accommodations.
- **Involve Legal Representation:**
 - An attorney can help review CPS's actions and ensure they meet the legal standard for reasonable efforts.
 - If CPS has failed to provide adequate support, your attorney can challenge their decisions in court.
- **Leverage State and Federal Laws:**
 - Federal laws, such as the Adoption Assistance and Child Welfare Act of 1980, require courts to determine whether CPS has made reasonable efforts before approving a child's removal or adoption.
 - Many states have additional statutes outlining CPS's obligations. Research your state's laws to understand your rights fully.

The Role of the Courts

Judges play a critical role in evaluating whether CPS has made reasonable efforts. During court hearings, families can:

- Present evidence showing a lack of support or unreasonable actions by CPS.
- Request that the court require CPS to provide additional services before approving removal or termination of parental rights.

Empowering Families Through Action

By holding CPS accountable for reasonable efforts, families can advocate for their rights and ensure that the child welfare system works to support, rather than disrupt, family unity. This toolkit provides the knowledge and resources needed to demand fair treatment, access critical services, and protect your family from unnecessary interventions.

Housing and Prevention Strategies

Housing instability is a significant factor that often leads to Child Protective Services (CPS) involvement, as families struggling with unsafe or inadequate living conditions may be unfairly accused of neglect. However, addressing housing challenges can prevent unnecessary family separations and provide a foundation for stability and safety. Understanding the housing resources available and strategies to access them is crucial for families navigating the child welfare system.

Housing Programs for Families

- **Family Unification Program (FUP):**
 - FUP is a federal housing voucher program that assists families at risk of separation due to inadequate housing or who need stable housing for reunification.
 - Administered by local public housing authorities, FUP provides long-term housing subsidies to eligible families.
 - To apply, contact your local public housing authority or ask CPS to facilitate the application process.
- **Emergency Housing Assistance:**
 - Many states offer temporary shelters, rapid rehousing programs, or emergency rental assistance for families facing eviction or homelessness.
 - Organizations like the National Center for Housing and Child Welfare (NCHCW) can help connect families to resources in their area.
- **Preventive Legal Advocacy:**
 - Some legal aid organizations work to address housing issues that may put families at risk of CPS involvement. This may include fighting evictions, negotiating with landlords, or securing housing vouchers.

Strategies to Advocate for Housing Stability

- **Document Your Needs:**
 - Keep records of housing challenges, such as unsafe conditions, eviction notices, or overcrowding.
 - Highlight efforts you've made to secure housing, like applying for rental assistance or contacting landlords for repairs.
- **Request CPS Support:**
 - CPS is required to make "reasonable efforts" to prevent removal, including addressing housing concerns. Advocate for CPS to connect you with housing resources or include housing assistance in your family's case plan.
- **Engage Community Resources:**
 - Contact local nonprofits, housing agencies, or faith-based organizations for additional support. Many provide direct assistance or referrals to housing programs.
- **Leverage Federal and State Programs:**
 - Research programs funded by the Family First Prevention Services Act or other federal initiatives to access housing and prevention services.

Housing and Prevention Strategies

How Housing Programs Prevent Family Separation

Stable housing can dramatically reduce the likelihood of family separation by creating a safe and supportive environment for children. Preventive services tied to housing stability, such as parenting programs or substance use treatment, also address broader challenges that may lead to CPS involvement. Research shows that families receiving housing assistance are more likely to reunify quickly and avoid future CPS interactions.

Building a Stronger Future

Housing is a cornerstone of family stability. By understanding and utilizing available resources, families can overcome housing challenges, prevent unnecessary CPS involvement, and create a safer, more secure future for their children. This toolkit provides detailed guidance on accessing housing programs and navigating the challenges that families may face, empowering you to advocate for the support you need.

Notes:



Placement Preferences for Family and Friends

When children cannot remain safely at home, placing them with family members or close friends—known as kinship placement—can help minimize trauma and maintain important connections. Federal and state laws prioritize kinship care as the preferred option for children removed from their homes, recognizing that familiar environments promote stability and well-being. Understanding placement preferences and how to advocate for them is essential for families involved with Child Protective Services (CPS).

Why Kinship Placement Matters

Research shows that children placed with relatives or close family friends experience better outcomes than those placed in non-relative foster care, including:

- **Emotional Stability:** Children are more likely to feel secure in familiar environments and maintain strong bonds with loved ones.
- **Cultural Continuity:** Kinship placements preserve a child's cultural identity, traditions, and community connections.
- **Improved Permanency Rates:** Children in kinship care are more likely to achieve permanency, whether through reunification or guardianship.

Kinship placements help children avoid the trauma of separation from their family and community while maintaining a sense of belonging.

Legal Framework for Placement Preferences

- **Federal Requirements:**
 - The Adoption and Safe Families Act (ASFA) and the Indian Child Welfare Act (ICWA) prioritize placing children with relatives or kin whenever possible.
 - CPS is required to identify and notify all known relatives within a specific timeframe after a child is removed.
- **State Laws:**
 - Many states have codified placement preferences for relatives, emphasizing the importance of keeping children within their extended family network.
 - Some states allow families to designate potential caregivers in advance to ensure their preferences are considered.
- **Tribal Sovereignty:**
 - For Native American children, ICWA mandates that placement preferences prioritize the child's extended family, tribal members, or other Native families to maintain cultural ties.

Placement Preferences for Family and Friends

How to Advocate for Kinship Placement

If your child is at risk of removal or has already been placed in foster care, you can take steps to ensure CPS considers family and friends as placement options:

- **Provide a List of Relatives and Trusted Adults**
 - Share the names, contact information, and relationship to the child of relatives or close family friends who can provide care.
 - Include individuals who can meet the child's needs and are willing to undergo background checks or home studies.
- **Request a Kinship Placement**
 - If a child has been placed in non-relative foster care, formally request that CPS re-evaluate potential kinship caregivers.
- **Engage an Attorney**
 - A legal advocate can help ensure CPS follows state and federal placement preferences and address any roadblocks.
- **Document Family Connections**
 - Provide evidence of the child's bond with the proposed caregiver, such as photos, school records, or letters of support.

Kinship Care Support and Resources

Caring for a child placed through kinship care comes with unique challenges. Fortunately, resources are available to support caregivers, including:

- **Financial Assistance**
 - Many states offer subsidies, stipends, or kinship guardianship payments to help relatives meet the child's needs.
- **Training Programs**
 - Kinship caregivers can access parenting classes, support groups, and training to address trauma or behavioral challenges.
- **Legal Guidance**
 - Assistance with navigating custody, guardianship, or adoption processes may be available through legal aid organizations.

Placement Preferences for Family and Friends

Challenges to Kinship Placement

Despite the benefits, families may face obstacles in securing kinship placements, such as:

- **Strict Eligibility Requirements:** Background checks or home studies may disqualify some relatives.
- **Lack of Communication:** CPS may fail to notify all relatives or consider all potential caregivers.
- **Limited Support:** Kinship caregivers may not receive the same financial or service support as non-relative foster parents.

Advocates and policymakers are working to address these barriers by expanding kinship support programs and improving CPS practices.

A Path to Stability and Connection

Kinship placement prioritizes the best out-of-home option for children by allowing them to remain connected to their families, communities, and culture. By understanding placement preferences and advocating for them, families can play an active role in ensuring the best outcomes for their children. This toolkit provides resources and strategies to help you navigate the process and secure a placement that prioritizes your child's well-being.



Resources for Families

Navigating CPS Involvement

This resource page offers links to tools, guides, and organizations that can help families understand their rights, access support, and advocate effectively during Child Protective Services (CPS) investigations. These resources are grouped into key categories to ensure families can quickly find the assistance they need.

Respond in Power Guide by Operation Stop CPS

A comprehensive guide that educates families about their legal rights and how to respond during CPS investigations.

[Access the Guide](#)

Grandfamilies & Kinship Support Network

A national technical assistance center providing guidance, training, and resources for relatives and kin caregivers raising children.

[Access Support for Kinship Families](#)

American Bar Association's Parent Representation Resources

Find state-specific information on your right to legal counsel and other child welfare resources.

[Visit the ABA Parent Representation Resources](#)

National Right to Counsel Map

An interactive tool to explore states with laws guaranteeing legal representation for parents in child welfare cases.

[View the Map](#)

Legal and Advocacy Support State Public Defender Directory

A list of public defender offices across the U.S. for families seeking free or low-cost legal representation.

[Find a Public Defender](#)

Barton Center's Preventive Legal Advocacy Programs

Information on national programs offering legal advocacy to prevent CPS involvement.

[Explore Preventive Legal Advocacy](#)

National Association of Counsel for Children (NACC)

A resource for finding specialized legal advocates experienced in child welfare cases.

[Visit the NACC](#)

Resources for Families Navigating CPS Involvement

National Center for Housing and Child Welfare (NCHCW)

Resources for families in need of housing support, including information about the Family Unification Program (FUP).

[Learn More About Housing Support](#)

Family First Prevention Services Act Resources

State-specific plans for accessing housing, mental health, and parenting services under the Family First Act.

[Explore State Plans](#)

Tribal and Cultural Advocacy

Indian Child Welfare Act (ICWA) Resources

Information and tools to help Native families understand their rights under ICWA and advocate for tribal involvement in child welfare cases.

[Learn About ICWA](#)

Tribal Contacts and Support

Contact information for tribal representatives who can intervene in child welfare cases involving Native children.

[Find Tribal Support](#)

Educational Materials and Data

Child Welfare Information Gateway

A hub of publications, statistics, and guides related to child welfare policies and practices.

[Visit the Gateway](#)

ProPublica: Child Welfare Investigations

Investigative journalism that highlights systemic issues in CPS and child welfare practices.

[Explore ProPublica Reports](#)

Community Support and Hotlines

ChildHelp National Child Abuse Hotline

A 24/7 hotline offering confidential support and resources for families and children.

Phone: 1-800-4-A-CHILD (1-800-422-4453)

[Visit ChildHelp](#)

These resources are designed to support you during a CPS investigation, providing guidance, tools, and advocacy to protect your family. If you need further assistance, consult a trusted legal professional or community advocate in your area.



Rights

The 4th Amendment protects you and your child against “unreasonable government search & seizure”

- You don’t have to let CPS into your house without a warrant/court order unless they believe a family member’s life or limb is in jeopardy.
- CPS violates children’s rights when they are wrongfully taken into government custody.

You might have a right to attorney

- There is no *federal* constitutional right to an attorney (even in termination of parental rights proceedings), because many states have created a parent/ caregiver right to an attorney. The timing of when this right activates may vary by state. The availability of an free attorney may also vary in states that have created a right to an attorney.

The 14th Amendment protects you against a governmental intrusion on your right to family integrity without providing you the substantive process that is due to you, unless there is an emergency.

- If a court has not found you to be an unfit parent, then you don’t have to let the government remove your child from your home without a court order, decide who your child can speak to, dictate where your child can visit, or direct from whom your child can receive care.

The Child Abuse Prevention and Treatment Act (CAPTA) requires that CPS explain all complaints or allegations to the parents and caretakers at first contact.⁵

Resources

See the [“Respond in Power Guide” by Operation Stop CPS](#)

[Review the Right to Counsel Map](#)

Look at the [map of preventive legal advocacy and pre-petition programs](#)

Research your State’s Right to Legal Counsel law in [the American Bar Association’s Parent Know Your Right Guides](#)

[Contact your state’s Public Defenders](#)

State laws relating to emergency child removal vary widely. Ask the CPS worker or consult with a high-quality defense attorney to learn the legal requirements for emergency removal in your state.

See the worksheet on page 23 of the [“Respond in Power Guide” by Operation Stop CPS](#)
See also, relevant Q & A in the federal [Child Welfare Policy Manual](#)

CWARE Know Your Rights

Quick Reference

Family Integrity Enforcement Strategies	Resources
<p>You may hold the agency accountable to making active or reasonable efforts to prevent your child being placed into foster care</p> <ul style="list-style-type: none">Nearly every state has codified the federal Child Welfare Act of 1980, which requires courts to determine whether a CPS agency made “reasonable efforts” to prevent the child’s removal, unless an exception exists.Additionally, the Indian Child Welfare Act requires agencies to make “active” efforts to prevent the removal of an Indian child from their Indian family. <p>Active or Reasonable Efforts Could Include:</p> <ul style="list-style-type: none">Housing<ul style="list-style-type: none">The Family Unification Program (FUP) was designed to address housing needs for the over 25,000 children who enter care because their families need safe, decent, affordable housing.Preventions Services<ul style="list-style-type: none">The Family First Prevention Services Act provides state CPS agencies with funding to provide mental health, parenting skills, and substance use treatment services to families in order to prevent the children from being removed from their family and being placed into foster care.Keeping Your Child With Family<ul style="list-style-type: none">If your child must be removed from your home, you might have the right to designate family members or friends who you prefer your child to live with (aka “to be placed with.”)	<p>https://www.childwelfare.gov/resources/</p> <ul style="list-style-type: none">To see each state’s “reasonable efforts” law, expand the “state statutes” menu in the left hand column and select “Reasonable Efforts to Preserve or Reunify Families and Achieve Permanency for Children.” <p>See the National Center for Housing and Child Welfare’s info on FUP</p> <p>Look up your state’s prevention services plan at the National Conference of State Legislatures website and whether you want to ask for any of your state’s “Proposed Evidence-Based Preventive Services” as effort to prevent removal.</p> <p>Learn more about state laws regarding placement preferences.</p>

⁵ (42 U.S.C. 5101 et seq.) CAPTA section 106(b)(2)(B)(xviii).

