



**The Survival Guide to
the NYC Child Welfare System:**

**A Workbook for Parents
By Parents**

Acknowledgements

This first and second editions of this workbook were made possible by:

The Child Welfare Fund

The Hite Foundation

The Annie E. Casey Foundation

Evelyn Stefansson Nef Foundation

This workbook was written by attorneys, parents, social workers, and student interns from:

The Child Welfare Organizing Project

South Brooklyn Legal Services

The Legal Support Unit of Legal Services for NYC (LSNY)

Legal Information for Families Today (LIFT)

The Family Defense Clinic, New York University School of Law

The Center for Family Representation

LSNY Bronx

The NYC Public Advocate's Office

Coalition for Asian American Children and Families

Brooklyn Legal Services Corp. A

Table of Contents

| | |
|--|----|
| INTRODUCTION | 5 |
| <u>PART I: KEEPING YOUR CHILDREN OUT OF FOSTER CARE</u> | |
| WHAT IS CONSIDERED NEGLECT OR ABUSE OF A CHILD? | 8 |
| WHAT CAN YOU DO TO PREVENT ACS FROM REMOVING YOUR CHILDREN? | 12 |
| WHAT TO DO IF YOU HAVE A DRUG PROBLEM | 13 |
| WHAT TO DO IF YOU ARE ARRESTED | 15 |
| PREVENTIVE SERVICES | 17 |
| <u>PART II: ACS INVESTIGATIONS</u> | |
| HOW DOES ACS BECOME INVOLVED WITH A FAMILY? (REPORTS TO THE STATE CENTRAL REGISTER) | 22 |
| WHAT HAPPENS DURING AN ACS INVESTIGATION? | 23 |
| ADVICE FOR PARENTS DURING AN ACS INVESTIGATION | 25 |
| ACS CONFERENCES | 33 |
| UNFOUNDED AND INDICATED REPORTS | 35 |
| <u>PART III: HOW DO CHILDREN ENTER FOSTER CARE?</u> | |
| INTRODUCTION | 37 |
| COURT-ORDERED REMOVAL | 38 |
| EMERGENCY REMOVAL | 38 |
| WHAT TO DO IF YOUR CHILD IS REMOVED BY ACS | 40 |
| FIRST COURT APPEARANCE | 41 |
| REQUEST FOR THE IMMEDIATE RETURN OF YOUR CHILDREN: “1028 HEARING” ... | 42 |
| AGENCY PROCESS | 44 |
| <u>PART IV: CUSTODY, FOSTER CARE AND KINSHIP FOSTER CARE</u> | |
| 47 | |
| <u>PART V: ACS CASES IN FAMILY COURT</u> | |
| WHO ARE THE PLAYERS IN FAMILY COURT? | 52 |
| WORKING WITH YOUR ATTORNEY | 53 |
| FACT-FINDING PHASE | 55 |
| DISPOSITIONAL PHASE | 58 |
| PERMANENCY HEARINGS | 59 |
| TERMINATION OF PARENTAL RIGHTS | 62 |
| <u>PART VI: THE FOSTER CARE SYSTEM</u> | |
| WHO ARE THE PLAYERS IN THE FOSTER CARE SYSTEM? | 65 |
| WHAT ARE YOUR RESPONSIBILITIES WHILE YOUR CHILDREN ARE IN FOSTER CARE? .. | 66 |
| WHAT IS THE AGENCY SUPPOSED TO BE DOING WHILE YOUR CHILDREN ARE IN FOSTER CARE? | 67 |
| WHAT OTHER RIGHTS SHOULD YOU KNOW ABOUT? | 72 |

PART VI: THE FOSTER CARE SYSTEM (continued)

| | |
|---|----|
| WHAT ARE YOUR RIGHTS TO VISITING AND STAYING IN TOUCH WITH YOUR CHILDREN? | 73 |
| WHAT CAN YOU DO IF YOU THINK YOUR CHILDREN ARE BEING MISTREATED IN FOSTER CARE? | 76 |
| ADVOCATING FOR YOURSELF | 77 |
| GETTING YOUR CHILDREN OUT OF FOSTER CARE | 80 |
| WHEN YOUR CHILDREN ARE RETURNED HOME | 85 |

APPENDICES

| | |
|--|-----|
| A. WHERE TO CALL FOR LEGAL ADVICE IF YOUR FAMILY COMES INTO CONTACT WITH ACS | 88 |
| B. RESOURCES | 89 |
| C. DRUG TREATMENT PROGRAMS | 92 |
| D. EARLY INTERVENTION AND SPECIAL EDUCATION | 99 |
| E. MENTAL HEALTH SERVICES FOR CHILDREN | 103 |
| F. MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES | 105 |
| G. HEALTH INSURANCE | 107 |
| H. HOW TO CHOOSE A PREVENTIVE SERVICES PROGRAM | 110 |
| I. HOUSING ASSISTANCE FOR FAMILIES WITH ACS CASES | 113 |
| J. HOW TO REQUEST A FAIR HEARING FOR WELFARE BENEFITS | 122 |
| K. WHAT IMMIGRANTS SHOULD KNOW ABOUT THE CHILD WELFARE SYSTEM | 126 |
| L. KEEPING IMPORTANT DOCUMENTS ABOUT YOUR FAMILY | 134 |
| M. LAWS THAT PROTECT YOU WHEN YOUR CHILDREN ARE IN FOSTER CARE | 137 |
| N. FATHERS' RIGHTS AND RESPONSIBILITIES | 140 |
| O. CONTACTING THE ADMINISTRATION FOR CHILDREN'S SERVICES (ACS) | 143 |
| P. CONTACTING THE NEW YORK CITY FAMILY COURTS | 145 |
| Q. SAMPLE LETTER REQUESTING A COPY OF YOUR SERVICE PLAN | 147 |
| R. SAMPLE LETTER TO REQUEST A CASE CONFERENCE | 148 |
| S. SAMPLE LETTER TO REQUEST ANOTHER CASE CONFERENCE | 149 |
| T. VISITATION LOG | 150 |
| U. TELEPHONE LOG | 151 |
| V. SAMPLE LETTER REQUESTING THE VISITORS' ALLOWANCE FROM PUBLIC ASSISTANCE | 152 |
| W. SAMPLE LETTER TO ASK THAT YOUR CHILDREN BE RETURNED HOME | 153 |
| X. "PINS" CASES | 155 |
| Y. HOW TO EXPUNGE OR SEAL AND AMEND REPORTS OF ABUSE OR NEGLECT | 159 |
| Z. FAMILY COURT ABBREVIATIONS AND ACRONYMS | 163 |

| | |
|------------------------------|-----|
| <u>GLOSSARY</u> | 165 |
|------------------------------|-----|

| | |
|---|-----|
| <u>CONTACT INFORMATION</u> | 168 |
|---|-----|

INTRODUCTION

“The school nurse called in a report and I found out about it when my babysitter went to pick up my son and they told her that the police had my son. Then, when I called the school, they didn’t tell me anything and just gave me the precinct number. . . . the fact that they didn’t tell my anything to begin with made me think that my son was dead and that no one wanted to tell me. The thought of it being a case against me never went through my mind because I’ve never abused my son. So then they had the driver from the agency drive me to the 26th Precinct (the Special Victims Unit) and that’s when they read the report to me.”

Most parents and caretakers of children never think that a formal report of child abuse or neglect will be made against them, or that their children will be threatened with being placed in foster care. Approximately 1 out of 4 New Yorkers, however, is listed in the State Central Registry of Child Abuse and Maltreatment (SCR).¹ And although the number has gone down, almost 20,000 New York City children are still in foster care.

What is the Administration for Children’s Services?

ACS is the New York City government agency responsible for investigating reports of child abuse or neglect, deciding whether to place children in foster care, and providing or supervising foster care, adoption, and preventive services. ACS has been called by other names in the past, including CWA, SSC, and BCW.

Should you be worried about your children being placed in foster care?

A lot of people think their children could never be taken by ACS. The reality is that ACS gets involved in families for many reasons that a lot of people would not think of as abuse or neglect. For example, a teenager is not regularly going to school, or ACS thinks a child has a mental health problem and the child is not getting treatment, or a parent has a substance abuse problem. Most children in foster care are there because ACS said their parents neglected them. There do not have to be any allegations of physical abuse for a child to go into foster care.

Which children go into foster care?

Most children in foster care are from families without a lot of money. Most children in foster care are African-American and Latino. If you are a person of color and do not have a lot of money, it is a good idea to think about how to prevent ACS from becoming involved with your family and/or putting your children in foster care. There are certain neighborhoods in New York City where there is a higher risk that your children will be put into foster care. In the recent past those neighborhoods have been in Upper Manhattan, the South Bronx, and Central Brooklyn.

Reference: 1. **Valmonte v. Bane*, 18 F.3d 992; 1004 (2d Cir. 1994); see also *In the Matter of Lee TT.*, 87 N.Y. 2d 699 (1996).

“I know that I would have been treated differently if I weren’t a black woman living in Harlem. You could tell just by the way the caseworker was treating my father and I. It was with such disrespect. I hadn’t really even given it much thought because my focus was keeping my child but now, when I look back, I can see how disrespected I really was.”

Even if your children or children you care for are not put into foster care, a report against you may prevent you from getting jobs working with or around children or from caring for children on a formal basis for as many as 28 years. While an investigation is going on, or afterwards if ACS determined that you and/or the children need help to prevent child neglect or abuse, your family may feel invaded and that its own decision-making power has been undermined or taken away completely.

You can take steps to protect your family from this happening.

One step is to know the rules, specifically, families’ (the parents, the children, and other relatives and family friends’) legal rights and responsibilities when dealing with the Administration for Children’s Services, Family Court, and foster care systems. Another step is to learn how to advocate for yourself and your family and when and how to do so strategically.

Learning that you are the subject of a child abuse or neglect report, and that you will be investigated by ACS, can be a very scary, confusing, intimidating, or infuriating experience. Depending on your situation, you may have had some idea that this was going to happen, or you may honestly say ‘why me?’ When the reality sets in that someone can actually come into your home and take your children, you may feel panic and shock. Having to respond to a stranger who is questioning or challenging your skills as a parent is not easy. You may wonder, ‘how can they really judge me based on an interview or examining my house?’ You will probably feel violated. And in the midst of all these conflicting emotions, you will have to ask yourself some difficult questions and make some tough decisions about how open and forthcoming you should be, are your children really at risk, and what may be the consequences if you do or don’t tell the whole truth?

“The knowledge of being investigated by ACS was a feeling of intrusion. The caseworker approached me while I was sitting on the bench on a June evening. I allowed my eight year old daughter some playtime before retiring for the evening. In front of my neighbors they identified themselves as ACS workers. I was asked if I could be interviewed in the confines of my apartment. The workers did not produce any documents to substantiate their visit. There was a climate that was created of questions of mistrust and preconceptions. My home possessed fixtures of love and togetherness. That did not change their posture of interrogation. The idea that my role as parent and as social service professional was going to be compromised was quite disturbing. The whole investigation process was a very scary experience.”

This workbook was written by parents who have had first hand dealings with ACS. It was written in partnership with lawyers and social workers who work in Family Court and its related systems. The parents who have worked on this book understand the day-to-day realities of these systems: what to do when the system doesn't work the way it's supposed to, how often families' rights are overlooked or violated, how it feels, and how to manage these feelings and achieve your goal: keeping your children home with you, bringing them home as fast as possible, or getting them the best care and support possible if they cannot be home.

This workbook does not have all the answers, and offers no guarantees. The information it contains about your rights and responsibilities is accurate at the time it went to the printers. Some things you read in this workbook you may not want to hear. This workbook explains how the rules are supposed to work and how they actually do work: rights and realities. We know it is very frustrating that things don't work the way they are supposed to. We hope that by knowing how things are supposed to work you will be better able to enforce your rights. But we also want to be honest about the realities of how things work so you are as well prepared to deal with them as possible. Even though the system is changing, ACS and Family Court still have a lot of power to affect your family's future. This workbook is about giving you tools to work within the system as it is now, so that you will have the best chance of accomplishing your goals. You will have a better chance if you read the workbook carefully when you are not in a crisis to learn and understand your rights. Then you can decide whether you want to use the strategies suggested or not. You can always look back in an emergency.

Our hope is that if you know the legal rules, you will be better able to advocate for yourself. You will know what to ask for because you will know what you are entitled to. You will also know what you have to do in order to keep your family together or to get your children back, and what you shouldn't do that might endanger your chances. Then, you can make your own choices about what to do, knowing the potential consequences of your decisions.

This workbook also contains information about organizations you can contact for more help, including parent organizations that are working to change the system. You do not have to walk this road alone.

“I know about my rights now but back in 1993, when ACS took my son, I didn't know about CWOP (Child Welfare Organizing Project) or any other agencies that actually would give me this type of information. I had done parenting skills but they didn't offer this type of service to let you know what ACS is supposed to do and what they're not supposed to do. So now, ACS is trying to make the system more “parent friendly” but to be honest, I still think that they could care less. They have all the plans and information in place but they're not going to let you know about it. So unless you are aware of an information-giving service like CWOP, you're not going to know your rights. You have to start talking ACS' language and once you start talking their language, that's when things start to change.”

PART I: Keeping Your Children Out of Foster Care

What is considered neglect or abuse of a child?

When ACS says the words “neglect” or “abuse” they mean many different things that ordinary people might not think of as neglect or abuse.

A child is considered to be abused or neglected under New York State Law if a parent or another person who is considered legally responsible for the child’s care harms the child, puts the child in a position where he or she is likely to be harmed, or fails to protect the child.

Persons considered to be legally responsible include parents, guardians, adults living in the home, boyfriends, girlfriends and other adults who take care of the child, such as family members involved in the child’s life. Abuse and neglect may include physical abuse, physical neglect, sexual abuse or emotional maltreatment.

Neglect:

Neglect is the withholding of, or failure to provide, adequate food, shelter, clothing, hygiene, school attendance, medical care, and/or supervision to a child when the parent is financially able to do so or offered financial or other reasonable means to do so. Neglect also includes abandonment, excessive corporal punishment (hitting or spanking), and misusing drugs or alcohol to the extent that the child is or can be harmed.

Following is a list of things ACS sometimes claims are neglect. The law does not say these things are always neglect and you can argue in court that they are not neglect. Some things that may be acceptable or even considered good parenting in other cultures may be considered abuse or neglect by ACS. For example, many people think it is alright to hit children with a belt if they misbehave but you may be charged with neglect for hitting your child with a belt.

The writers of this book don’t necessarily agree that all of the things listed below really are neglect, but we want parents to know that ACS or Family Court might think that they are, so that parents can protect themselves and their families. The safest thing to do if you want to avoid ACS involvement for your family is to avoid allowing any of these things to happen.

A parent using drugs or alcohol.

Even if the children never see you using, ACS may charge you with neglect. Even using only marijuana may lead to a case against you. Participating in a drug program may help convince ACS not to charge you with neglect or at least to not take away your children. For more information, see page 13, “Keeping Your Children out of Foster Care: What To Do If You Have a Drug Problem.”

“My drug treatment program was very beneficial. Sharing my experience with others was so empowering for me because there were some people that had been on their journey to wellness so much longer than I had but because of the fact that they did not know their rights and got caught in the web, they were stuck. The fact that I was helping these people through some of that was very empowering for me and it felt good.”

“The fact that I came from a very dysfunctional family brought up on drugs and alcohol made me realize that I don’t want this for myself or my kids. That wasn’t the life I wanted to lean on. What initially made me use drugs were the motions. My family did drugs so it was only natural for me to do them too. But I realized that I didn’t have to do that and that I could change. I’ve been clean for six years now. What kept me strong was realizing that I’m worth more than what I’m wasting.”

“By me going to a drug program, it really helped. I have been in denial for a while but when the drug addiction is so overwhelming and you just spend all your money and sell everything you have for the drug, you should get help. Some women don’t have the guts or the strength to say ‘I need help.’ They just chase the drugs with a blank mind. It is up to the person to surrender that they have a problem. I suggest that they acknowledge that they do have a problem and after they admit to having a problem, to stick to all the services needed so as to keep their children.”

Hitting or spanking your child.

Any form of hitting or spanking can be considered a problem. Even if a lot of people believe a punishment is reasonable, ACS may believe it is inappropriate. ACS is most likely to become involved with a family when hitting causes marks or bruises or involves a belt, wire, cord, or other object.

“What I do with my son when I’m disciplining him is restricting Playstation and all that stuff. I take the control away. I take the games out of his room or I turn the television off. I force him to read. Or I have him write a little essay on why he thinks he’s on this punishment. I mean, I know I didn’t like to get hit when I was little. With my son, I find that I get more results when I take away the things that he likes and he has to earn them back.”

“Parents have to realize that when their children are little and you start hitting them, your children are going to learn to hit as well. And soon, when that little child starts going to school, he’s going to manifest that same behavior to other students and even teachers.”

“You can discipline a child without hitting them. When my two teenage boys act up, I send them to their room and tell them to bring back all the wires and television cords so they don’t have anything to do up there other than think about what they did. They’re not watching TV. They’re not playing video games. And that is what is going to hurt them more. You don’t have to hit them.”

“You can discipline a child without hitting them through behavior redirection. Things like definite guidelines are useful, like saying ‘By the time I count to ten, if you do not pick up the doll then you will lose the privilege of having the doll’. The tone of your voice is also very important. Also, constant verbal prompting helps, like repeating yourself three times.”

Children missing school.

You can be charged with educational neglect if your child has missed a lot of school or has a lot of lateness. You also can be charged with neglect if the school says you are not cooperating with recommendations for services or evaluations or special education.

Leaving children unsupervised.

Leaving children without an adult, even for just a few minutes, can be neglect. You may feel that a child is old enough to be alone, but ACS might not think so. Even leaving your child with another adult could be a problem if ACS doesn’t think the adult is appropriate.

“I don’t think a child should be left home alone if they are younger than thirteen. However, it also depends on the maturity level of the child and how they adapt to it. It’s the morals that you put in them and the responsibilities that they adapt to. If you see that within the child, then you say yes. As long as they know how to take care of themselves when there’s a fire.”

“I would not be comfortable leaving my child home alone until she’s about 14 or 15. She’s a responsible child now but there’s just something about that 14/15 age that makes me feel more comfortable.”

“I have a 15 year old and sometimes I’m still not comfortable leaving her home by herself. Kids are slick nowadays. Maybe she’s a good girl but her friends could be up to no good so I don’t want to take the chance and leave them home alone. You have to be really careful.”

Housing problems.

Not having adequate housing can be child neglect if the parent had a way to fix the problem but didn’t fix it. This can even include having a dirty house. If your home needs repairs or has anything ACS thinks is unsafe (like holes in the wall or exposed wires), and you don’t do anything about it, you could be charged with neglect. If you can show that you tried to get repairs made, that may help prevent ACS from charging you with neglect. The law says that before removing a child, ACS must at least try to help you either by helping you fix the problem with your apartment or by helping you find a new, safe place to live. If you don’t cooperate with their efforts, ACS might view that as neglect.

Anyone sexually touching a child.

You can be charged with neglect or abuse if someone touches your child in a sexual way. Even if you are not there, you can be charged if you don't protect your children from people who sexually touch them. You can also be charged with neglect if you allow a child to see people having sex or to see sexual pictures or movies.

Medical neglect.

If your child is hurt or sick and you do not take the child to a doctor, you can be charged with neglect. If a doctor or social worker thinks your child needs therapy or medication, ACS may consider it neglect if you do not follow those recommendations.

You are arrested or incarcerated.

If you are arrested or incarcerated and you don't arrange for someone else to care for your children, this can lead to neglect charges. For more information, see page 15, "Keeping Your Children Out of Foster Care: What To Do If You Are Arrested"

Domestic Violence.

If you have a domestic violence problem, you can be charged with neglect even if you are the victim of the violence. If ACS does not believe you have taken appropriate steps to address the domestic violence, they may say you are not protecting your children. If you cooperate with domestic violence services, that may help prevent ACS from filing a case against you.

What else should you know about neglect?

- You don't have to hurt your child on purpose to be charged with abuse or neglect.
- Even if your child is hurt by accident or by someone else, that can be neglect if you did not take steps to protect your child.
- Even if your child does not get hurt, you can be charged with neglect for doing something that creates a risk your child could be harmed.
- Neglect does not have to be physical. Neglect can include mental and emotional harm.
- You can be prosecuted for neglect even if you are not the parent. If you spend time with a child, you may be held responsible if the child is neglected. For example, if you are an aunt or a grandmother or you are the boyfriend or girlfriend of a child's parent, you could be charged with neglect.

Abuse

Physical abuse is the non-accidental physical injury of a child inflicted by a parent or caregiver, ranging from superficial bruises and welts to broken bones, burns, serious internal injuries, or both.

Sexual abuse is the sexual exploitation of a child by a parent, relative, caregiver, or other person, which may range from non-touching offenses, such as exhibitionism, to fondling, intercourse, or the use of a child in the production of pornographic materials.

Emotional maltreatment is the constant use of verbally abusive language to harshly criticize and put down a child. It also includes emotional neglect, the withholding of physical and emotional contact in a way that harms the child's normal emotional and, in extreme cases, physical development.

What can you do to prevent ACS from removing your children?

If you want to make sure ACS does not take your children from you, you should try to not do anything ACS might think is neglect. If you are not sure whether ACS would think something is neglect, it is safer to not do it. You can lower the chances ACS will try to take your kids if you:

- Never leave your child alone, even for a few minutes.
- Do not hit your child with your hand or with anything else.
- Make sure your child goes to school regularly.
- Do not use drugs. If you use drugs, go into a drug treatment program. For more information, see page 13, (What To Do If You Have a Drug Problem).
- Do not drink alcohol when it could affect how you take care of your kids. If you have an alcohol problem, go into a treatment program.
- Make sure your home is safe. If your home needs repairs, document efforts you make to get repairs made in your home, like calling 311 to report violations or filing a case in Housing Court.
- Make sure your child is getting good medical care. If a doctor or social worker says your child needs a certain kind of treatment, including counseling or therapy, make sure you obtain that treatment for your child, or, if you don't agree with the doctor or social worker, get a second opinion.
- If you are arrested, make arrangements for someone to take care of your children. For more information, see page 15-, (What To Do If You Are Arrested)
- Cooperate with services if ACS asks you to.

Get to know respected members of your community. If ACS does an investigation, members of your community who know you can tell ACS about your family's strengths. For example, if you are involved with a church or other religious community, a community organization, or a parent organization at your children's school, these organizations may be able to support you if ACS investigates your family. If ACS sees that you are connected to the community and have developed a support network, they will be less worried about your family's safety.

Keep documents that show you take care of your children. If ACS ever investigates your family, they will ask you questions about how you care for your children. Having certain documents and information can help show ACS that you are a good parent, and could protect you against false charges and keep ACS from removing your children. Keep report

cards and any other documents about your child's education, daycare and other activities. Keep documents about your child's medical care. Keep documents about any services you have done and anything that shows you have tried to get services or any other help for your family. For more information, see Appendix L.

Remember:

- Never give original documents to ACS.
- Always keep notes about your contacts with ACS, including the date/s of such contact, and the name/s and phone number/s of ACS staff and what information and/or documents you have given to them.
- Keep copies of important documents handy, but make sure you have the originals put away in a safe place. It is a good idea to give copies of these important documents to someone you trust.

What do you do if you have a drug problem

“ACS needs to be more concerned on the behalf of parents who comes in with the battle of drug addiction or any other problem that is a factor in losing your children. They should have some patience and concern to work with the parents because the parents are very emotional and need someone to guide them through it. They also need to be respectful and make sure not to judge the parents because of their mistakes.”

“In a case like mine, the main thing was about abandonment. They thought I had abandoned my child. It's kind of hard because when you're in that situation, you don't know what to do. I didn't know what to do. I advise people to try to stay calm, try to get the best advice you can get and do whatever they tell you to do. If you are on drugs, stay away from the drugs. If you can stay off the drugs forever, do yourself a favor because marijuana, crack, cocaine doesn't lead to anything good. You can end up being a fiend on the street because you're stressed because you lost your kids. You can lose your kids forever. If you have the luck to bump into a good caseworker, she will advise you to do all the right things.”

If your children are at risk of foster care, or in foster care, for reasons relating to your drug or alcohol use, you may want to consider seeking treatment. There are different kinds of treatment programs. Some are residential. This means you live there and cannot go out without an appointment, and have to earn family visiting privileges. Outpatient is totally different. You travel from home, and sometimes walk through the same streets where drugs are being sold. Some people prefer outpatient because of the freedom, but if their addiction is really strong, they may need residential. Detox is a short-term inpatient program where you can get medication to help you withdraw from drugs or alcohol.

Some people go into a program after detox. You can also go to Narcotics or Alcoholics Anonymous meetings in combination with outpatient treatment, or after detox. This can be helpful because you get to hear how other people have overcome their addictions.

Treatment can be very important not just in terms of keeping your family together, but also if you really want to get off drugs, to make your life better. Not everybody can stop using on their own. In treatment, people get to support one another, to dig deep inside and find out what really motivates them to use in the first place. Treatment can also be a link to vocational training, education, or other services you need to be productive. Treatment is probably not going to work for you if you truly don't feel that you need it, or if you're not really ready to give up your habits.

It can take a long time to find the treatment program that is right for you personally. It's hard. Sometimes you just have to meet the right person, or go out and search on your own. It's like anything else where you have to shop around: call, investigate, visit, try and figure out what is best for you. Having counselors who are in recovery themselves may be important to you. You may want to look for a program that offers other services you need like parenting training, housing advocacy, child care, or legal help. Everybody is different. The program that is right for you may not be right for somebody else.

Try to pick one program and stick with it. If you drop in and out of a series of programs, this can make it seem like you're not totally serious about your recovery, or even like you're trying to play the system. Make sure you understand the rules of a program before you enter it. Attend regularly, and avoid being absent. If you must be absent, for a good reason, make sure you get and keep good documentation, like a doctor's note or a subpoena. Try to develop the kind of relationships with program staff that will make them want to advocate for you with ACS, or with Medicaid, or any other agencies to which you may be accountable.

Be open and honest with your children about your treatment needs, if they are old enough to understand. Let them know that drugs are your problem, that it is not their fault. Recovery can be a struggle, but there are a whole lot of people out there who have been able to achieve sobriety. Reach out for help. The help is out there, but if you don't make that first step for yourself, someone else may try and make it for you.

Information about where to call to begin looking for treatment can be found in Appendix C.

“With my case, the hospital made the call saying that my son was born positive tox even though I wasn't a substance abuser. It was just a mix up in the case and I had no repercussions. Even in cases when their child is born positive tox, it's still not necessary for children to be taken away from their parents because there are drug treatment programs that have space for both parents and infants. A lot of people aren't aware of that because when ACS comes in, the first thing they say is that your child is positive tox and that they have to be removed. But it's possible for both you and your child to go to a drug treatment

program together because your child is in withdrawal too. So, if you are able to get into a drug treatment program that allows your child to be in it as well, ACS should not have to remove your child. The thing is, ACS is not going to give you that information. You have to find out for yourself by going into the community and seeing what's there instead of panicking and waiting for ACS to tell you what to do, because they're not going to. You have to be your best advocate."

Family Rehabilitation Programs

Family Rehabilitation Programs ("FRP" for short) provide community-based, outpatient drug treatment and intensive Preventive Services to families with infants and young children who are at risk of foster care placement because of a parent's substance abuse. FRP may be the right program for you if you think you are ready to participate in outpatient, drug-free treatment while continuing to care for your own children at home. For a list of FRPs in the five boroughs of New York City, see Appendix C.

What to do if you are Arrested

Getting arrested can be a very confusing time. The choices you make about your children at this time can be critical to what happens to them while you are away.

If possible, plan in advance who you will call to take your children if you are ever arrested. Make sure it is a responsible friend or family member, not just a babysitter.

"Me giving custody to my son's father had helped me in the long run. I had an agreement with him in regards to Public Assistance and part of this agreement had to do with me giving him custody of my son. Then, due to a family dispute, I was arrested and ACS had come into my home and had tried to take my kids away. It was then that I realized that my son was under his father's custody so they didn't need to take him away. I told my son's father that ACS couldn't take my son away because he had custody of my son so he got all the paperwork together and proved it. My son didn't need to be taken away by ACS because, technically, he was under his father's custody. The rest of my children, however, were taken away because they weren't under the custody of my son's father."

If you know you may be arrested, try to get the children to the caretaker BEFORE the arrest.

Try to put the arrangement in writing. The letter should state the period of time the children will be living with the caretaker, and should include:

- The parent's name,
- The caretaker's name,
- The children's names,
- The decision-making powers you are giving to the caretaker, such as the authority to enroll them in school, consent to routine medical treatment, or apply for public assistance for them
- The parent's signature with the date. (Or both parents' signature if there is a joint custody order.)

This letter can be good for up to 30 days. If you think you will be away for longer than that, you need to write a more detailed letter. See pages 49-50 for instructions on how to do this.

At Arrest

Even if the police don't ask you, say you have children and that you need to call someone to take care of them. It is NOT advisable to just do nothing, especially with very young children.

Even if you are able to call a friend or relative, it is police policy to call ACS. This means ACS may investigate your family's situation, but it does not necessarily mean that your children will be placed in foster care or that there will be a family court case brought against you. Just the fact that you are arrested is not a basis for ACS to remove your children as long as you make adequate arrangements for them to be taken care of by a responsible adult.

At Arraignment

As soon as possible, tell your lawyer at arraignment that you have children. Knowing this could help your lawyer argue that you should not have to go to jail.

In Jail

If you are being held at Rikers, you will have the opportunity to use the phone. If you want to change custody arrangements, call the person you want to care for your children and ask her to obtain custody. If the person who is caring for the children now does not agree to the change, the new caregiver may have to petition for custody in the family court in the county where the children are living. See page 50 for more information about this process.

If filing a petition in family court is necessary, you will need to be served with papers. Make sure the court knows where you are and that you will need an Order to Produce to appear in court.

If you receive court papers saying that someone has filed for custody of your child, you should write to the Judge before the case is heard in court and state whether you agree or disagree that the person should have custody of your child. If you agree, the Judge is likely to enter a Final Order of Custody. You should also ask the Judge for an Order of Visitation which will require the caretaker to bring the children to see you while you are incarcerated. If you disagree with the custodian's request for a Custody Order, or are concerned about getting visits, you should write the Judge and asked to be produced in court. If there is a dispute about custody or visitation, you have a right to be appointed an attorney. The Judge must hold a hearing to resolve the dispute. After the Judge has made a determination, he or she will issue a Final Order of Custody.

“Keep contact with your family and keep contact with your children. Make phone calls, send pictures, write letters. I don't think there's any restriction on letters so you can write letters every day. Try to keep a constant contact with the family so you can at least have a peace of mind of where they are and how they're doing.”

Preventive Services

You have a right to services if services could help you keep your children. Except in an emergency, ACS is required by the law to try to give you services to address any issues before they take your children. For example, if ACS says you have a drug problem, they should help you find a drug program so you can keep your kids. If ACS says your housing is not adequate, they should help you repair your housing or help you get new housing.

“At the time of my case, I didn't know my rights at all. But once I started working with Preventive Services, I found out that parents can get support without having their children removed. Once ACS comes in and assesses the situation, instead of removing the children, they can send you to Preventive Services. Also, ACS themselves can provide a parent with services that they can use to keep their families together but they did not do that. I didn't know any of this when ACS came into my life but I found out afterwards.”

“ACS has Preventive Programs or alternative programs but they don't know how to work it. They need improvement in resources. They give you tons of numbers but some are useless for your personal case and others are old and don't even offer services anymore. They send you to drug treatment programs but you're not even on drugs anymore. They offer the wrong services. The way I see it, they should offer different options for pay management. They should work with you and check to see if you're on the right track. They can even get an officer to monitor your screens and check to see if you're taking the medication you need, etc. But the way they do it, they make things more complicated.”

“If ACS is involved with your family, you should think seriously about doing services. You have a right to services. Doing services is a way to help prevent ACS from taking your child. This help is called preventive services. They might give you referrals to programs, or offer you preventive services, if they feel you have problems but that your child does not need to be removed from your home. Preventive services might include family or individual counseling, parenting classes, substance abuse treatment, domestic violence intervention, home care, or support for pregnant teens.”

What are preventive services?

- Preventive services means help for your family to prevent your children from being placed in foster care.
- The purpose of preventive services is to help you prevent problems that ACS thinks might cause harm to your children.
- Preventive services agencies are contracted by ACS to provide families with this help.

How can you get preventive services for your family if you already have an ACS case?

- If ACS is investigating your family or considering placing your children in foster care, they must first try to help you and your family so that the children can stay with you.
- ACS can provide you with this help, or refer you to a preventive services agency.

Can you get preventive services if you do not have an ACS case?

You may request preventive services from a preventive services agency even if you do not have an ACS case.

You could also choose to ask for help from an agency that is not affiliated with ACS. For example, if you need help with housing, you could call a legal services provider (see Appendix A). Or, if you need medical treatment or home attendant services, you can contact Medicaid or another health insurance program or healthcare provider (see Appendix G). If you or your child needs mental health services, you can go through the Office of Mental Health (see Appendix E). If your child needs a certain type of educational services, such as speech therapy, tutoring, or special education, you can go through the Department of Education for school-age children, or Early Intervention for younger children (see Appendix D).

Be aware that ACS opens a case for every family that receives preventive services from an ACS-contracted agency. This does not mean that your children will be taken away or that you will be found to have mistreated them, or that you will have an “indicated case” against you. But it does mean that if you are receiving preventive services, ACS will know about your family, and if ACS or the agency feels your children are at risk for any reason, or that you are not following through with services that they think are necessary to keep your children safe, then they could decide to remove your children and bring a case against you in Family Court.

Does asking for preventive services put your family at greater risk of ending up with an ACS or foster care case?

It depends. Preventive services are supposed to help keep your family together and prevent foster care placement. If you cooperate with the services offered to you, then your participation should not lead to a family court case being filed against you or the removal of your children. However, you should remember that the employees of all preventive services and most social services agencies are “mandated reporters,” which means that they have to call ACS if they have reason to think your children might be abused or neglected. (See pages 22-23 for more information on mandated reporters.) Preventive services agencies are contracted by ACS, so even if they don’t make a report against you, they have to give information about your family to ACS. Many parents who have been involved with ACS feel that asking for help – either through preventive services or some other type of agency, like a mental health treatment provider - was what led to their children being placed in foster care.

How can you find a preventive services agency to help your family?

To find a preventive services program in your area, you can call the ACS prevention information and parent helpline at 1-800-342-7472. Be careful in discussing your family’s needs on the phone, because in some cases just asking for help can lead to an investigation of your family. You can ask for the names and numbers of preventive services agencies in your community without saying why you want this information and without giving your name. If you have internet access, you can also find this information on ACS’ website: www.nyc.gov/html/acs/downloads/pdf/preventive_services_april_06.pdf

For ideas about how to choose a program, and a list of questions to ask which may help you decide which program is right for your family, see Appendix H.

What kinds of help can Preventive Services offer?

Cleaning and housekeeping

These are services to help parents who are ill or physically unable to perform basic household chores like general cleaning, grocery shopping, laundry, meal preparation, and errands. They are available by referral from ACS or the agency.

Child care

Vouchers for child care are available from the Agency for Child Development (“ACD”), which is a division of ACS. Parents referred by an ACS or agency worker get priority for these vouchers. If you have an ACS or preventive case, you should apply through ACS, not through welfare, which is a much slower process. These vouchers can be used to pay for a day care center or for your child to be cared for in an individual provider’s home if it is licensed by ACS.

There are also publicly funded child care centers that serve low income families for free. You can ask your ACS or agency worker for a form called a 186(d) to document that you are eligible for child care through ACS, and bring this with you to the center when you apply.

Call 311 to find out about child care options in your neighborhood.

Counseling, Group Therapy and Psychiatric Treatment

This includes family or individual counseling or psychotherapy, assessment, diagnosis, testing and treatment for mental health issues. These services can be provided by the agency, or ACS or the agency can refer you to an independent provider. Many parents prefer to obtain these services outside the agency.

Drug or Alcohol treatment

These services are available by referral from ACS or the agency and can be inpatient or outpatient. Some are provided on an outpatient basis at an agency which also has other family services on site, called a Family Rehabilitation Program, or an FRP. Mother/child programs are residential drug treatment programs where you can be with your baby.

ACS or the agency will probably ask you to sign a release to allow the program to give them information about your progress. If you are attending the program consistently and all your tests are negative, then it is probably a good idea to sign a release so the agency can verify this. If you have positive tests, have not attended regularly, or are otherwise not in compliance with the program, you should discuss this decision with a lawyer. See Appendix A for a list of legal services providers.

Domestic violence services

These services include counseling, help getting and enforcing an order of protection, and help moving away from the batterer if necessary.

Educational Counseling and Training

These services are available by referral from ACS or the agency.

Emergency Cash or Goods

ACS or the agency should provide your family with food, clothing, or other items needed in an emergency to avoid placement of your children in foster care.

Family Planning

If you are interested in family planning services, ACS or the agency can make a referral.

Home Attendant Services

ACS or the agency can assist a disabled parent in applying for a home attendant, who can help with chores, housework, and personal services like feeding, bathing and dressing.

Homemaking Services

These are short-term and intensive services available to assist and train parents to meet their children's everyday needs when the child is in the home. Homemakers do things like meal planning and preparation, grocery shopping, light cleaning, laundry, sewing, errands and money management. Homemakers may also provide some hands-on services for ill members of your household.

Housing Assistance

These services include rent subsidies, help paying rent arrears, making repairs, or finding an apartment or shelter for your family. For more information, see Appendix I.

Job Counseling, Training and Referral

These services are available by referral from ACS or the agency.

Legal Services

See Appendix A for a list of providers.

Parenting skills classes

ACS or the agency may refer you to an organization that provides group instruction to learn parenting skills and to help you build better communication and a stronger relationship with your child. You may also ask for specialized parenting classes if your child has special needs.

These services are also available to families whose children are in foster care and who need the services in order to reunify.

What should you do if ACS or a preventive agency refuses to give you the help you feel you need?

Contact a lawyer by calling one of the free legal services organizations listed in Appendix A. Or you can request a fair hearing. See Appendix J for information about how to do this.

If you have a case in Family Court, you or your lawyer can ask the Judge to order ACS or the agency to provide you with, or help you apply for, any of the services listed above, or to make appropriate referrals.

PART II: ACS INVESTIGATIONS

How does ACS become involved with a family?

REPORTS TO THE STATE CENTRAL REGISTER

“I have been involved with ACS on more than one occasion but they all revolved around the same conflicts. ACS didn’t even listen to what I was telling them but, rather, just answered to my children’s wants. As I am a strong believer in discipline, I was very firm with my children and wanted them to be respectful. However, as my kids were becoming more and more influenced by their peers, they were quickly becoming less and less influenced by my own parenting. They had become out of control. On one occasion, in the middle of a heated argument, my daughter had asked the hospital to call the cops on me. Without hesitation, the hospital did just that and before I knew it, I was arrested. I was arrested for doing nothing just because of what my daughter had said in the middle of an argument.”

“One day, my daughter was running around the house and accidentally ran into the hallway. Later, this accident had given her a bruise on her eye. Thinking nothing of it, my daughter went to school just like any other day. But, the nurse had called me in to ACS saying that I had abused my daughter. Just because my daughter has a bruise on her eye does not mean that I abuse her. The nurse didn’t even contact me at all to talk about it. She just made an assumption and called State Central Register and before I knew it, I was involved with ACS.”

A few people voluntarily place their children in foster care. Most families, however, become involved with ACS because someone makes a report of abuse or neglect to the telephone hotline known as the “State Central Register” (“SCR”), resulting in an ACS investigation of the family.

ACS investigations can happen to anyone, even if you have done nothing wrong. When the State Central Register gets a call reporting suspected neglect or abuse, the law says that ACS must do an investigation. Sometimes the call is a mistake or based on misinformation. That means that ACS investigates many families in which they find nothing wrong and the case is closed. Every parent should be prepared in case ACS investigates their family.

Anyone can call the State Central Register and report that they suspect that a child is being mistreated. Sometimes the person who calls is someone you know, such as a friend or neighbor. Or sometimes it is a “mandated reporter” such as a doctor, dentist, nurse, hygienist, teacher, child-care worker, social service worker, counselor, psychologist, therapist, or police officer.

Mandated reporters are required by law to report you if they suspect that your child is being abused or neglected. They don’t have to have proof; they only need reason to suspect that this is so. School teachers and staff are a very common source of reports to the SCR. If a mandated reporter fails to make a report and a child is harmed, they can be punished under criminal or civil law. They are trained to call even if they are in doubt. Additionally, mandated reporters must turn over the relevant portions of their records to ACS, even if you do not give permission, and without a case being filed in court.

Anyone who knowingly makes a false report to the SCR can be convicted of a crime, but it is hard to prove that the individual knowingly made a false report.

People trained as child protective workers answer the calls to the State Central Register and take down as much information as is available. If what the caller tells them would not be considered abuse or neglect even if true, they will not accept the report. If the facts stated would add up to abuse or neglect if true, they will take the report and send it to ACS (for calls about people living in NYC) for an investigation.

What happens during an ACS investigation?

Once you have been reported to the State Central Register for abuse or neglect, an ACS caseworker will be assigned to investigate to see if the report seems to be true.

You should receive a letter telling you that you are being investigated. However, the letter will not say what the charges are. In many cases, you will not receive the letter until after ACS has begun its investigation.

Usually, the first thing the ACS investigator will do is to try to visit your home. You have the right to an interpreter during ACS investigations, and for all interactions with ACS. You should not have to ask your child or other family members to interpret.

During a home visit, the investigator might do any or all of the following:

- Meet individually with each member of the household - the child, his or her siblings, you and your partner or spouse, and any other people living in your home and talk to them privately. This is standard procedure;
- Check your cupboards and your refrigerator to see if there is enough food;

- Look for dangerous conditions in the home, such as no window guards, no fire or smoke alarms, exposed heaters or electrical wires, holes in the wall, peeling paint;
- Ask for the children's immunization records;
- Check for unsanitary conditions, such as bugs or rodents, garbage left out, food left out, clutter, pet odors, lots of dirty laundry;
- Undress the children to look for bruises or marks. You can ask to have a neutral adult (someone not from your family) present when this happens;
- Look for signs that someone in the home uses drugs or alcohol, such as drug paraphernalia, alcohol containers (empty or full), red eyes, or slurred speech.;

In addition to investigating your home, ACS might:

- Find out if there have been any past investigations of you or people in your home, and what the results were;
- Arrange for medical examinations of your children;
- Talk to other people who know your children, such as teachers, doctors, neighbors, other community members;
- Contact the Board of Education to obtain your child's school attendance records;
- Go to your child's school or to a hospital if your child is there, and interview your child or other people there;
- Ask you to take a drug test. See page 30 for more information.
- Ask you to sign releases to view records of drug treatment or mental health treatment. See page 31 for more information.
- ACS might do some of these things before coming to your home, and even before you know there is an investigation.

Caseworkers look for evidence that your child is being abused or neglected. If they don't believe that your child is in immediate danger, they are not supposed to remove your child.

Just because ACS finds something wrong doesn't mean they will remove your children. ACS should try to help you fix the problem before placing your children in foster care. ACS is supposed to make *reasonable efforts* to help you fix the problem and avoid foster care. This includes providing you with *preventive services*. (See page 17.)

Advice for Parents During an ACS Investigation

“The best thing to do is to stay as calm as you can during an investigation. Don’t get violent with the social worker or don’t curse the social worker out. If you do, then you are definitely going to lose your kids because then they’re going to add another allegation that you don’t have any self control or that you need anger management classes. They’re coming in your home with a wrong and in my opinion, two wrongs don’t make a right. So if you don’t have patience with the social worker, then the social worker isn’t going to believe that you have patience with your kids. Then, the case is going to be prolonged and before you know it, your kids are going to be removed from you. You have to stay as calm as you can to deal with ACS.”

“I was trying very hard to stay calm because I know it’s important. It’s really hard though when you know you didn’t do anything wrong and on top of that, in my case, the ACS caseworker was making it so hard for me because she was the one that was being irrational. My son was screaming and trying to reach for me and the caseworker was restraining him so he couldn’t grab me. My father was there with me and he was trying to ask her questions in a calm tone as to why this was happening and she wouldn’t give him an answer and just said ‘No. Shut up. I’m doing an investigation’. I didn’t know why she was acting like that.”

If you become aware that ACS is investigating your family, it can be very useful to try to contact a lawyer for advice and potential representation, as soon as possible, even before the caseworker visits your home. See Appendix A for a list of Legal Services Providers.

If ACS comes to your home to investigate, ask for the ACS worker’s identification. Write down and save his or her name and telephone number.

As long as there is no Family Court case against you, you have a right to decide how much you want to cooperate with ACS’ investigation of you and your family. How ACS responds will probably depend on the seriousness of the allegations against you.

You have a legal right to refuse to let the ACS investigator into your home, unless there is a court order that says ACS can enter your home. However, it may not be the best idea to refuse to let them in because ACS could decide to file a neglect or abuse case against you in Family Court or ask a judge for a warrant for you to come to court. Or, if they have reason to believe that a child is in an emergency situation where his or her life is in danger, they can come to your home with the police, who can then enter your home without your permission and without a court order.

You also have the right to refuse to share personal information with ACS, but if you do so, they may decide to file a court case against you. You can refuse to give them certain information, such as medical, mental health, or drug treatment information about yourself, or you can refuse to let them talk to your children, or to talk to certain people, such as doctors or teachers about your children. You would have to tell the children's doctors or school personnel that you do not want them to speak to ACS about your child. However, if you refuse to share this information, or refuse to let ACS interview your children alone, then ACS will probably become suspicious and might file a court case against you. In court, the judge can order you to allow ACS into your home or to allow ACS to interview your children. ACS can also ask a judge to order service providers, such as your medical, mental health, or drug treatment provider, or your children's school or doctor, to talk to ACS about your family or give ACS copies of your records or your children's records.

If you refuse to let ACS into your home, or if you refuse to give ACS information about your case, you should contact a lawyer as soon as possible to talk about your case. ACS will not close your case until you have convinced them that the report against you is untrue and your children are safe with you. This means that they will either file a case against you in court or find some other way to get information about whether your children are being abused or neglected. A lawyer familiar with abuse and neglect cases may be able to help you decide what information you can share with ACS in order to convince them that your children are safe, to prevent ACS from filing a court case against you. See Appendix A for a list of Legal Services providers.

When ACS knocks, should you open your door?

It is difficult to know what is the right thing to do when ACS first knocks on your door. In some cases, it may be in your best interests to cooperate. In other cases, it may be in your best interests to resist. A lot depends on your individual situation, your legal resources, the nature of the allegations, and your state of mind. As with everything else covered in this book, no two cases are exactly the same. The choice is always yours. If you read and study this book, hopefully you will be better prepared to make the choice that is right for you and your family.

I did not open my door, and this was the right choice

“My kids were coming home from a Christmas party with my grandmother when my youngest brother, who has mental health problems and lived in an institution, attacked them. He punched my son in the face and knocked my grandmother down in the lobby of our building. People in the lobby observed what was going on and called the police. We made a full report of what had happened, and cooperated with the police. The police told me they needed to call State Central Register, but they were going to name my brother as the perpetrator, in order to support the criminal charges they planned to bring against him. I was under no suspicion. They used my phone to make the call, and I heard the report. But I knew, since I had a previous case with ACS, to be ready for trouble.”

“This happened on a Friday night. Somebody from Albany called me that evening. They told me everything that was in the report, that I was not a suspect, and that because there did not seem to be any danger to my children, someone from ACS would contact me on Monday to make an appointment to come to my house. I told my husband, “Watch, they’re not going to call, they’re just going to come in the night, without warning.” He said I should be more trusting.”

“On Saturday, at around 11 PM, ACS was banging on our door. We didn’t open the door. Sure enough, they slid a note under the door saying that I was suspected of child abuse, and that they needed to talk to me. Fortunately, I had a previous relationship through my job with a good legal services organization in my community, and this was my first call. ACS came back to my door on Sunday. This time the note under the door said that my husband was a suspect! We still did not open the door. We just collected the notes. They were banging and knocking, calling my name. My neighbors were coming into the hall. I still did not open the door.”

“Instead, my lawyer called ACS, explained that her organization was representing me, and asked to make an appointment for ACS to come to the house at a decent time when a member of my legal team could be there. My lawyer told me ACS would probably come ahead of the scheduled time, to catch me off-guard, and this turned out to be true. They came an hour and some change ahead of time, but the social worker from my legal team was there with me waiting for them. ACS tried to say I couldn’t have her with me, because of confidentiality. I told them that I would not meet with them without a reliable legal observer there, and I stood by that. They gave in.”

“I also insisted that we speak to the specifics of the current case, not my past case. They still tried to bring up my old case, which involved domestic violence on the part of my children’s father. We had not seen him in nine years, but they still tried to tell me I needed domestic violence counseling services! They said “we want to make sure your old behaviors haven’t trickled back into your life.” I was so glad someone from my legal team was there. I knew my rights, I was prepared for them, and I had representation. It was still nerve-wracking, but this time the outcome was much better. I stood my ground, I was not forced to accept any services I didn’t want or need, and my case was unfounded and closed.”

I opened my door, and this was the right choice

“I was born in Puerto Rico and raised there until the age of 8. I am of Puerto Rican descent. During my childhood, I was taught to respect your elders and people with authority. Opening your door is a show of courtesy, a way of greeting a person and making them feel welcome. You invite the person in and ask them to sit down. You even offer them food, coffee, or a cool drink, to make them feel at home. This is part of my culture and my upbringing. This is just what you do unless you have a good reason not to.”

“Years ago, my grown-up daughter was living with me. She had a medical problem, and her doctor was concerned that she could not care properly for her son because of this problem. He advised her to give custody to me, and told her he would need to make a report to child welfare if she refused. Instead, she tried to give custody to a relative of the baby’s father, someone we did not know much about. When the doctor learned about this, he called my daughter in.”

“Even though I was not the subject of the report, I knew that I was going to be investigated. I wanted to be the one to take care of my grandson. But because I had prior cases with ACS, from when my kids were younger, I knew they might look at me with suspicion, and try to say that I was not fit to care for my grandson. They were investigating me and my daughter at the same time. I knew this would happen, that a day could come when I’d have to stand in front of a judge and fight for my grandson, whether I chose to cooperate with ACS or not.”

“So when ACS came, I opened my door, and I believe that this decision kept my grandson out of danger. The worker was Spanish. She was from my culture, and I think this helped her to do a good investigation. She could see how I lived, what the rules were in my house, whether I was right or wrong. I showed her paperwork to back up what the doctor was saying about my daughter’s medical condition.”

“At the same moment of time that ACS came, my daughter came with the police and tried to take her son out of my house. The lady from ACS stayed with me and prevented this from happening. She called and did a record check on me right from my house. She could see from my record that they wouldn’t let me be a kinship foster parent, so she recommended that I get custody. She also referred us for preventive services, so that my daughter and me could get counseling together.”

I opened my door, and this was the wrong choice

“I relapsed and used on the same day I gave birth to my son. It showed up in my system, but not in his. The hospital social worker did not speak to me about removing my son. She just wanted to help me, but they still had to report it. They asked me about my 17-month old daughter who was home with me. They didn’t say anything about coming to my house, but I had a feeling someone was coming. That day, me and my husband and my daughter went to the park. We were playing, but I had an eerie feeling like something was going to happen.”

“That evening after midnight we heard a knock on the door. My husband wasn’t home, it was just me and my daughter. The baby was still in the hospital. I opened the door and saw two ACS workers with two police officers. The ACS worker immediately showed me a piece of paper and said it was a Court Order to remove my daughter. Me not knowing any better at that time, I let them force their way in. The police said I had to cooperate. I told them my daughter was sleeping. I asked could they come back, could I bring her to the agency. The ACS worker said, no, get her up and get her dressed.”

“By now I’m arguing and crying. “I made a mistake. It wasn’t my daughter’s fault. Can you help me?” The ACS worker didn’t want to hear anything I had to say. “Just give me some time. Let me hold her and kiss her, tell her not to be scared.” Once I started to hold my daughter I didn’t want to let her go. The lady from ACS started like a tug-of-war with me, trying to pull my daughter from my arms. Even the police said “why don’t you just give them a couple of minutes?” But she snatched my daughter from my arms and went down the stairs. The cops shook their heads and followed her.”

“Now I was screaming and crying. My neighbor heard me and came in to give me comfort. She read the paper the ACS worker had showed me and said “This is not a Court Order.” She showed me that the paper was not from the Court. It was from ACS, and it was signed by the worker’s supervisor. When my husband came home he was furious. He didn’t even know I had relapsed. He said I had to get myself together, and we had to do whatever we needed to do to get our kids back.”

“The next day we went to the hospital. The baby was still there. We went to the ACS Field Office. It was a holiday. We went back the next day and they told us we needed to go to Court. When we went to the Bronx Family Court they told us the case was in Brooklyn. We had no 72-hour conference in my case. We had a conference a week and a half later. It was just me, my husband, the ACS worker who took my daughter, and her supervisor. The ACS worker told me that I had never deserved to have my daughter in the first place. She had “slipped through the cracks.” She said because of my previous drug history, I never should have been allowed to take my daughter home. I said “Why? I wasn’t

using when I had my daughter and I was clean when I gave birth to her.” She said “That’s not the point, you’ve had other kids in the system, this new one’s going into the system, and you’re not getting either of them back.” Her supervisor didn’t say anything.”

“Working with the agency where my kids were placed was much better than working with ACS. They let us visit the kids right away. The foster mother was very supportive. She said “People make mistakes. I’m going to mind your kids until you get better, and then I’m going to give them back to you.” She gave me her phone number even though she wasn’t supposed to at that point. The worker didn’t know. My husband went into a drug program, even though he wasn’t using. I went to a separate program.”

“Knowing what I know now, I understand how many different ways our rights were violated. When ACS first came to my door, they didn’t ask to meet my husband. They didn’t ask me if I had any relatives who could watch my kids while they did an investigation. They didn’t really do an investigation. They acted like they had the right to take my kids automatically. They showed me a fake Court Order. They didn’t offer me any services. They treated me like garbage. If I had that night to live over again, I wouldn’t have opened my door. I would have insisted on a real Court Order or a search warrant. If they couldn’t show me one, I wouldn’t let them in. In the time it took them to get one, I would have found a lawyer, made sure my husband was home, and I would have been ready for them.”

If you decide to let the ACS investigator into your home, try to remain calm.

Try not to get defensive. This is hard and may not be possible, but it can really help, because if the investigator feels that you are cooperative then they will be less likely to remove your children. (See below: “How to Communicate with ACS During an Investigation.”) If possible, have someone supportive there with you. Ask the ACS investigator what the charges against you are. (You are not allowed to know who made the allegations, but you should know what they are.) Don’t tell your children what to say when the ACS investigator interviews them. If they ask, tell them to tell the truth. Present the ACS investigator with any helpful documents you have, like your child’s immunization records if they are up-to-date, or your child’s report cards if your child is doing well in school.

If ACS suspects you are using drugs, they may ask you to take a drug test.

If you know the test would show that you are not using drugs, taking the test voluntarily could help your case. If you are taking any prescription medicine, tell ACS this before you take the drug test. If possible, show them the prescription or the bottle. If you think the test might show drugs in your system, try to talk to a lawyer as soon as possible. See Appendix A for a list of Legal Services Providers.

If you refuse a drug test, ACS will often assume that you are using drugs, and they may go to court and ask a judge to order you to take a test. If you are using drugs, it can sometimes help your case to tell ACS the truth and agree to go into a program so that your children can stay with you.

If you are already being drug tested by someone else (like your job or a parole officer) and these tests are negative (don't show any drugs in your system), it is a good idea to give ACS this information.

See page 13, "Keeping Your Children Out of Foster Care: What To Do If You Have a Drug Problem"

"Even though my case was unfounded, I still let them know that I had a drug problem and was willing to get help. Then, ACS let me know about what drug programs I could go to and I did all that. Anything they wanted to know, I told them. Anything they wanted me to do, I did it."

ACS may also ask you to sign releases to allow them to get drug program records or your mental health treatment records, or to talk to your treatment provider: You will have to decide whether you want to sign the releases and how much information you want to release. For example, even though ACS may want your whole drug program record, you can agree to only release the drug test results to ACS. Or if ACS wants you to sign a release for your therapy records, you may want to give them a current letter from your therapist regarding your compliance with treatment, instead of releasing records of your entire mental health history. It is best to speak to a lawyer before making this decision. See Appendix A for a list of Legal Services Providers.

How to communicate with ACS during an investigation

"As parents who have become involved with the child welfare system, we know that this is an unwanted circumstance, but you are still entitled to your opinions, have rights, and can make decisions about your family. The most important thing is communication. Parents may experience some obstacles in dealing with the child welfare system. Learning how to overcome those obstacles isn't easy, but when you learn and know your parental rights you can do more for yourself and your family."

"From my experience, I was nervous and upset when ACS first came to my door, and the more involved ACS became in my life, the angrier I became. As a parent, at times I felt very desperate and challenged. You have a right to be angry and upset in these circumstances, but it is important to vent your anger in the appropriate time and place with someone you trust who will not use your words against you. In communicating with ACS you must remain calm. How? Know that ACS has laws and policies on how your case is supposed to be handled. Obtaining information is helpful and will help you turn your negative into a positive situation without yelling, screaming, and cursing. Parents, be

aware that the more you yell and scream the more you give ACS reason to think and say that you are dangerous and out of control. Instead, try to be calm and organized. If you live in a neighborhood where ACS enters a lot of families' lives and homes, be prepared even if you have no specific reason to expect this. Keep your children's important papers handy: their report cards with attendance records, medical and immunization records, notebooks with homework, pictures from graduations or trophies from team sports, anything to show that you are a caring and responsible parent. Make agreements in advance with your own parent or sibling that they would be willing to take temporary custody of your children in an emergency, so they will be ready to come forward if ACS should decide your children are unsafe with you. Be aware of the Preventive Service or other family service programs in your neighborhood that you could go to if ACS says you need counseling or some other kind of help."

"Be aware that there is a chain of command within ACS. The first worker to visit you is probably a Child Protective Specialist (CPS). The CPS Worker has a Supervisor. The Supervisor has a Supervisor. You have the right to ask for these people's names and numbers."

"When you start making requests about yourself, your family, and your rights, you will feel more in control of your situation. Doors will start opening. You will start to notice a difference. Don't be afraid to ask for services. Don't be afraid to ask about legal rights. You are not alone. Focus on your children and getting yourself together. Think, do lots of research. Knowledge will take you a long way with ACS."

ACS Conferences

During an ACS investigation, ACS may invite a parent to attend an “ACS Family Team Conference.” This conference is voluntary and should be at a time convenient for you. If you are working with or have access to a lawyer or advocate, you should consult them about your individual case and participation in this conference. ACS will want to discuss the allegations with you and depending on your situation, you may not want to meet with ACS or talk about the allegations. This is especially important if you also have a criminal case against you. ACS says that the conference is confidential, however, it is a room full of ACS workers and if you admit to doing something neglectful or abusive, that might result in an indicated case, and in some circumstances, a Family Court case against you.

ACS holds these meetings to create a “service plan,” or a list of services to address a family’s problems. This includes services like therapy or drug treatment or may include child care arrangements or special education referrals. Parents are entitled to bring anyone they want to these meetings – friends, family, advocates – except a lawyer. ACS policy is to invite children if they are 10 or over but it should also depend on what the parent thinks. At the conference, ACS will discuss the allegations and their concerns. Parents can then respond. ACS states that the goal is for everyone to agree on services to support the family. Each service is voluntary unless a judge orders it in court. There is space to write if you disagree with any of the services on the list. ACS also tries to plan a follow-up conference 30 days later. This conference should also fit your schedule and is voluntary.

Each case is very different. If you are invited to a conference with ACS, you should think about whether you would like to attend, and if you do, you should strongly consider bringing people to support you. If you do not want to attend, you should think about how to communicate this to ACS. Even though the conference is voluntary, ACS may see you as uncooperative if you refuse to attend. Parents who are concerned about ACS “indicating” their case at the end of the investigation, or parents who are very worried that ACS may try to put their child in foster care, should strongly consider attending this conference with supportive people. It may be an opportunity to show ACS the ways you are taking care of your family, addressing their concerns and cooperating with the investigation.

Quick Tips for ACS conferences:

- Bring people to support you – family, friends, advocates, etc.- as many as you want.
- Prepare to discuss the allegations and how you want to answer them – if you can, ask a lawyer for advice.
- Have an idea of what services you might want and what you want help with – or what you want to say to ACS if you don’t want their help!
- Ask to step outside with your supports if you are feeling overwhelmed or want to speak to someone privately. ACS allows this.

- Don't agree to services or plans that you know you don't want or are not realistic for you. Tell ACS why in a way that helps you.
- Read the service plan before you sign it. Make sure it is what you want. Note any disagreements in writing in the appropriate section.

You have the right to an interpreter during any conferences with ACS and for all other interactions. You should make a request for an interpreter in advance and also ask for your service plan to be translated into your primary language.

At the time of this writing, ACS offices in different boroughs use conferences differently. Here are some examples of ACS "Family Team Conferences:"

72 Hour Elevated Risk Child Safety Conference

Held about 3-5 days after an ACS worker believes there is some increased risk to a child remaining in his or her home. The goal is to create a list of services and come up with ideas to keep children with their families.

Placement Decision Making Conference

This is a new conference not in all boroughs yet. It is an emergency meeting and the goal is to ensure the safety of the children. Parents are invited to participate in the meeting, but it is possible that the outcome of the meeting will not be the parent's decision. ACS might decide to go to Family Court and the children may be placed in foster care following the meeting.

72 hour Post Placement Child Safety Conference

Held 3-5 (although often more) days after a child has been placed in foster care and a neglect/abuse petition was filed in Family Court. In addition to creating a list of services needed for the family, this is an opportunity to discuss family or friends who could be foster parents or supervise visits and to create a plan for parents and siblings to visit each other while in foster care.

There is often a supervised visit set up between parents and children either before or after this conference. See page 73 for more information.

30 Day Family Permanency Conference

This is held to review and update the service plan agreed upon in the first meeting (Elevated Risk, 72 hour, etc.).

Voluntary Placement and Placement Decision Making Conference

Held when a family requests a voluntary placement of a child in foster care. The conference goal may be to put in services that can help the child stay safely at home. If a child is placed voluntarily in foster care, the conference goal is to review the child's needs and the family's plan to support the placement. Once your child is in foster care, even voluntarily, parents still need to participate in service planning or the agency could file to terminate their parental rights.

Service Plan Review

When a child receives preventive services or foster care services, the planning agency is supposed to hold a formal conference every 6 months to review the services in place for the family and to update the plan. ACS is also invited. If your child is in foster care, this is an important conference and you should let your lawyer know when it is coming up because this is the one conference they are allowed to attend. See pages 69-72 for more information.

You may also hear about other conferences where services and timeframes are discussed, such as: Family Service Planning Conference, Critical Case Conference, Discharge conference, Independent Living Discharge Conference, and Pre Adoption Conference.

If you are having a hard time with any issues related to the conference, you may get assistance by calling the ACS Parent and Children's Rights Hotline at 212-676-9421.

Unfounded and indicated reports

ACS has 60 days to complete an investigation from the day they receive the case, but they may take less time. While the investigation is going on, ACS may decide to remove the children from your home, file a court case, or offer your family preventive services (see pages 17-21), or they may just let your children remain in your home. Within 60 days after they start the investigation, you are supposed to be sent a letter telling you whether they found evidence of abuse or neglect ("indicated") or did not find evidence of abuse or neglect ("unfounded"). The results of the investigation will go in the State Central Register (called the "SCR").

If the letter says the case was unfounded, that means that the ACS worker found no believable evidence of abuse or neglect.

If the letter says the case is indicated, that means that the ACS worker found some believable evidence of abuse or neglect.

Many people do not receive a letter with the results of investigations even though they are entitled to one. You may have to make a request to find out if you have a record in the SCR. See Appendix Y for how to request a copy of your SCR records.

Indicated case

If the ACS worker decides that the report to the SCR is indicated - there is some evidence to support the report - that indicated finding will stay on your record until your youngest child turns 28.

An indicated case doesn't always mean that the children will be removed from the home or that there will be a Family Court case.

If the ACS investigator thinks the allegation is indicated, but that it was just a one-time event that is unlikely to happen again, the case can be closed, but the parent will still have a record at the SCR.

If the investigator thinks there are ongoing problems in the family, she can offer services to resolve those problems. Even if those services are successful and the family is no longer involved with ACS, the SCR record remains on file.

Sometimes families receive services for a while and then a case is filed in court, either because the worker thinks the family didn't use or cooperate with the services or because the problems continued even with the services.

If there is an indicated case against you and you apply for a job in an area such as law enforcement, child care, education, or social services, or if you apply to be a foster or adoptive parent, the prospective employer will be notified about the indicated report. The law does not forbid such employers from hiring you, but many will choose not to hire people with a record in the SCR. Even if a job does not involve working directly with children, the employer may be notified of your SCR record.

You can request a fair hearing to challenge what is in your record and who can see it. If you want to challenge your record, it is often best to do so as soon as you learn you have a record. See Appendix Y, which explains how to request a fair hearing.

“I was employed and they did a clearance and it came back that I had an indicated case and I wrote to the State requesting an administrative hearing and they just denied my expungement. So I was granted a hearing and when I went for the hearing, the ACS attorney didn't realize that my case was fourteen years old. I also had no previous incidents with ACS, was working, had my own apartment, my son was structurally sound so with all those things put together, they agreed to expunge my case.”

PART III: HOW DO CHILDREN ENTER FOSTER CARE?

“I was devastated when my kids were taken, even though I knew this would happen one day. I had been using drugs and couldn’t get off. I was very angry after my children were removed. I hated myself for allowing it to happen. I knew I had let my kids down and let myself down as well. The thought of not having my children made me think of committing suicide. It made me want to do more drugs to numb my body and my feelings.”

“Having your children taken from you is the worst thing that can happen to you as a parent. It doesn’t matter who you are or why it happened; losing your children is extremely traumatic. You will go through a whole range of emotions. You may feel rage. You may feel panic. Who has my children and how do I know they are safe? You may feel guilty, hopeless, lost, or so depressed you can’t move. Some parents can’t bear being alone in their homes after their children are removed. You may only be able to sleep when you are totally exhausted. You may even feel self-destructive. You may shut down emotionally. In other words, you may feel like you are going crazy. The truth is, these are all normal reactions to this kind of trauma.”

“Many different circumstances can bring the child welfare system into people’s lives. No two stories are exactly the same. Some parents have serious problems like drugs, alcohol, or a violent relationship. They may see foster care, the court, or the criminal justice system as the ‘wake-up call’ that forces them to face their problems and accept their share of responsibility. Other parents may feel that they were treated unfairly, falsely accused and denied the opportunity to defend themselves. Many other points of view fall somewhere in between: we may have real problems or issues in our family lives, but removing our children and putting them in foster care is seldom the best or only solution to these problems.”

“Whatever your personal circumstances or feelings may be, one thing remains the same: the motivation to reunite your family must come from inside of you. No one is going to do it for you. You are your children’s best hope, and nobody is going to care more about their future or fight harder for them than you. You may have to search deep inside yourself for this motivation, and it is a lot of work. This may not seem fair, and it is never easy, but there is no way around it.”

A few people voluntarily place their children in foster care. However, most children are placed in foster care because ACS decides after an investigation that the children would be in danger if they remained at home. ACS must then go to Family Court and ask the Judge to order the removal of the children, by telling the Judge why they think the home is

dangerous to the children. Sometimes ACS goes to court first to ask the Judge's permission to remove the children, but more often, they remove the children first and go to court afterwards.

Court-ordered Removal

If the Administration for Children's Services has decided that your children should be removed from your home, they are supposed to first get a court order (called a "remand order") unless you agree to the removal or an ACS caseworker or hospital decides that there is an immediate and serious danger to the health or safety of your children (called "imminent risk").

Although this is the law, this is not the way things usually happen. Most of the time in New York City, ACS takes children away from their homes, schools, doctor's offices, hospitals and other places without a court order.

If your child has been removed from you, ACS must file a petition in Family Court by the next court day and give you a copy of the petition. See Appendix P for the addresses and telephone numbers of all New York City Family Courts. A petition is a document that describes the things that ACS believes you have done which have hurt your child and make it unsafe for your child to remain in your care (called "allegations"). For example, the petition may say that your child came to school with severe bruises that were the result of beatings inflicted with a belt, or that during a particular period of time you were using cocaine, were not in treatment, and your child was left alone and unsupervised for long periods of time without food.

Emergency Removal

"They took my children on a Friday night. I had to be in Family Court that Monday morning. I still didn't know where my children were. There was nobody that I could call to find out where they were. I went crazy for about a week. It was two weeks later when I finally received a letter in the mail telling me what agency, what Case Planner to contact about my kids. I don't know why they couldn't call me and let me know."

When children are subjected to an emergency removal, it is supposed to be because they are in "imminent danger" of abuse or neglect. In other words, it is supposed to be dangerous for them to be at home. You may not agree that there was an emergency requiring the removal of your children. In an emergency removal, you should receive

something called a Notice of Temporary Removal of Child and Right to Hearing. This is also called “Form 701 B.” You should also get a 72-Hour Child Safety Conference brochure. Both of these tell you the name, title, address, and telephone number of the ACS caseworker removing your child. This form must also provide you with the contact information for visits and information on your right to an immediate hearing to have your children returned to your care.

ACS rarely provides parents with information about when to go to court before the first court date. What usually happens is that after your children have been removed, the ACS caseworker may leave a note on your door or call you and tell you that you have to go to court on a specific date. If your children are removed from your care without your consent ACS must file a petition in the Family Court in the borough in which you live by the next court day after the removal. If your child has been removed and you have not received any notice from ACS about court, go to the Family Court in the borough where you live and ask for the immediate return of your children. Explain to the court officers in the lobby that ACS took your children away and you haven’t received any papers. Most likely you will be directed to the record room to find out if a petition has been filed against you and what date you must be in court. Regardless of how you get the information, it is very important that you go to court on the date your case is scheduled.

If you don’t know where your children are, you can try calling the ACS Office of Advocacy/ Parents Rights Unit at 212-676-9421 or go to the ACS field office near you and ask for the name and phone number of the agency that has your child, as well as a person at that agency who can talk to you immediately. See Appendix O for a list of ACS Field Offices. You have a right to know where your children are, even though you may not immediately be able to see them.

“When my children were removed, I wasn’t at home, although their father was. ACS left a white piece of paper stating I had to be in court. At my hearing I was sitting in court waiting for my case to be called. I didn’t have a chance to speak to my lawyer before seeing the judge. When my case was called, someone stood beside me and said she was my lawyer. She told me to admit to abusing drugs, which meant admitting to neglecting my children, but said that it was not going to affect my case. That wasn’t true. Just about everything you say and do affects your case.”

Children born to a mother who already has children in foster care (“Afterborn Children”)

A mother who already has children in foster care may give birth to another child. Often ACS will automatically remove this child from the mother at birth. ACS is required to go to court and get a court order for ANY removal of a child, regardless of whether you have other children in foster care or not. If ACS wants to remove this child, they are required to file a new petition stating the reasons why this child would be in “imminent danger” if she were to remain in your care. If you are pregnant and have children in foster care, you should find out what the agency and/or ACS plans to do when the child is born.

What to do if your child is removed by ACS

Every case is individual. You will need to speak to a lawyer about your case. But there are some things that make sense for almost anybody whose children are removed by ACS:

Try to stay calm

Even though it is natural to be upset, angry and even hostile when a stranger comes and takes your children, acting this way can hurt your case when you get to Family Court. Call friends or family members if they can help you calm down and deal with the situation.

Talk to the ACS worker on your case

Ask the ACS worker for his or her phone number. Stay in touch so you can stay informed about your child's case and show you are involved. If you do not have a phone number for the worker, go to the nearest ACS office to ask for the worker. Try as hard as you can to be polite to the worker and do not lose your temper. Remember that the judge will listen to what the worker says about you.

Tell the worker if your child is on any medication or has any special needs. Tell the worker about any family members or friends who could take care of your child for a short time so the child does not have to be with strangers in foster care while you are fighting to get the child back to you. Give the worker contact information for as many of these family members and friends as you can.

Ask for visits with your child right away. Ask the worker when and where the first visit will be.

The worker is supposed to set up a meeting with you and other people involved with your case very soon after your child is removed. This meeting is called a "72 hour conference." See page 34 for more information. Ask the ACS worker for the name and phone number of the foster care agency caseworker for your case. The foster care agency caseworker is responsible for supervising your child in foster care. It is important for you to talk to the foster care agency caseworker as soon as possible

Go to Family Court

The worker should tell you when your case will be in court. If the worker does not tell you, ask when the case will be in court. It is very important that you go to court and that you get there on time.

First Court Appearance

You have the right to:

a lawyer- if you have a lawyer, you should bring her to court with you. If you do not have a lawyer and you cannot afford to get a lawyer, you have the right to have the court appoint a lawyer for you (called an 18-B). The court should give you a lawyer the same day. Make sure to get the lawyer's business card, or name, address, telephone and cell phone number. If there are no lawyers available, or if the judge won't assign you a lawyer, the judge may adjourn the case and tell you to come back another day with a lawyer or to be assigned one. Once a lawyer is assigned to represent you, that lawyer will represent you until your children are returned to your care, custody is awarded to another person or your parental rights are terminated

If you'd prefer to find your own lawyer, you can call one of the legal services offices listed at the end of this manual. See Appendix A. The lawyers from Legal Aid Society Juvenile Rights Division that are in family court are there to represent your children. They are called Law Guardians. You will not be able to get a lawyer through the Legal Aid Society.

A copy of the petition - it is very important that you get a copy of the petition that lists the charges ("allegations") that ACS has made against you. Make sure that your lawyer, the judge or the ACS caseworker gives you your own copy. This document is important because it will help you and your lawyer prepare to respond to the accusations that ACS has made against you.

Information about your child - You should also get the name and telephone number of the lawyer for your child (the law guardian) so that your child knows how to contact his or her lawyer.

Immediate visitation - Except in a few rare instances, you have the right to an immediate plan for visits with your child. If you have not seen your child and no plan has been made for you to visit with her, you should tell the judge and ask that the judge direct ACS to begin visits. Unless the judge specifically limits or restricts your visits, you should be able to visit at least every week at the agency according to ACS visitation guidelines. If the judge remands or places your child in foster care, she must set forth a visitation plan in her order.

Have your child placed with a family member - Upon determining that a child must be removed or placed into foster care, the Court must direct ACS to conduct an immediate investigation of any non-custodial parents, relatives you suggest as resources and relatives that a child over the age of five tells the agency about. ACS is supposed to ask you if there are any relatives with whom you would like to have your children placed. If ACS has not done that, be prepared to ask that certain relatives of yours (grandparents, aunts, adult siblings) be investigated as possible caretakers for your children until they can come home to you. You should discuss this with your relatives before giving their names to ACS or the

court. Make sure that they understand that ACS will check their homes and find out whether they ever had an ACS “case” against them. If possible, ask your relatives to come to court with you to show the judge that they are serious about taking care of your children and to answer any questions that the judge may have. Also, since ACS is not always that good about following-up, it helps to have your relative in court to give ACS and the judge whatever information is needed and to arrange for a home visit. The judge can order an investigation of a relative to begin within 24 hours.

Services that would help your child come home - If there are services such as individual counseling, family therapy, or a homemaker that you believe would make it possible for your children to be returned to you, you should request that the judge direct ACS to provide those services for you. See page 17 (preventive services) for a list of services.

“My mother-in-law was willing to take my children in care, but ACS was giving her a hard time. They wanted me to be in an in-patient drug program before releasing the kids to her. But my husband’s lawyer did a very good job having my children released. She spoke up and told the judge that my mother-in-law wanted the children and that she could provide for them. The next day my children were released to my mother-in-law.”

When there is an order to place your child in foster care, and for as long as your child is in foster care, ACS has legal custody of the child, no matter whom the child is living with. This means that ACS will have the right to make most decisions about the child, and even a kinship foster parent will have to consult with ACS before making any decisions about your child. If a relative or another person has custody of the child (rather than being a foster parent), he or she will have more power to make decisions about your child than if he or she is a kinship foster parent.

Request for the immediate return of your children: “1028 hearing”

If ACS has removed your children, you have the right to request the immediate return of your children to your care and to have what is called a 1028 hearing (“ten-twenty-eight hearing”) in front of the judge within 3 days of your request.

Very often parents request a 1028 hearing the first time in court. While it is understandable that you may want to ask for your children’s return immediately, there may be reasons to wait. For instance, in a domestic violence case, you might postpone asking for a 1028 until you have an order of protection. You might also hold off if they say that they’re going to return your child when they begin providing services. Another concern is that “hearsay” is admissible at a 1028 hearing but not at a fact finding hearing. “Hearsay” is “he said, she said” conversations such as things the ACS worker heard from your neighbor about you. You may prefer to wait for the fact-finding hearing if ACS may give damaging “hearsay” during the 1028. You should thoroughly discuss with your lawyer whether and when to ask for this hearing.

Often parents are given the impression the first time they are in court that if they don't ask for the 1028 hearing immediately they give up ("waive") their right to that type of hearing forever. This is not so. There are two things to remember when the issue of a 1028 hearing comes up:

- 1- you may request a 1028 hearing ANYTIME while your case is pending but before completion of your fact-finding hearing (explained below) and,
- 2- if you do not ask for a 1028 hearing on your first court date, you do not have to "waive" your right to a 1028 hearing. You can reserve your right to request this hearing at a later time.

At the 1028 hearing, the judge decides whether your children can safely be returned to your care while the rest of the case continues. To keep them in care, ACS has to show that your children would be in immediate serious danger ("imminent risk") if they were returned to you now. Usually ACS will have the caseworker who removed your children testify about what led to the removal. Most likely you will then testify and will have to respond to the concerns about your behavior and your children's safety that were raised by the ACS caseworker.

It is very important that you work closely with your lawyer in preparing for your 1028 hearing. Since the hearing occurs within 3 days of the request, you and your lawyer must prepare very quickly, and you may be in the best position to get helpful information and witnesses for your case.

For example, it may be helpful to get your lawyer:

- your children's medical records, school records, letters from doctors, clergy or teachers who know you and can talk about your ability to safely care for your children.
- if drug or alcohol use is an issue, proof that you are in a drug or alcohol rehabilitation or treatment program, letters from your counselor, and urine/blood screens to show you are drug free. If you're not in a program and ACS accuses you of using drugs, but you are not, ask the judge to send you for an immediate drug test.
- if your emotional or physical health is an issue, letters from your therapist, doctor or clinic about your health.
- a list of witnesses who know you and can come to court and tell the court ("testify") about your ability to safely care for your children. Most likely you will have to contact them on your own and ask them to come to court and testify on your behalf.

You should also think about what services or help you might need to have your children safely returned to you. See page 17 (preventive services). For example, if your children were removed because you weren't giving one of the children her asthma medication but your Medicaid case was closed and you couldn't renew the prescription, it's possible that with a supply of medication and help in re-opening your Medicaid case your children could come home. Other types of help that might make it possible for your children to be safely returned to your care are orders of protection and domestic violence counseling.

These are examples of “preventive services” that ACS is supposed to offer you to help keep your children safely with you. If you believe there are services that would allow this to happen, tell your lawyer to raise this issue at the 1028 hearing. Your lawyer should argue that putting these services in place would allow the children to be returned home. Your lawyer should ask the judge to decide (“find”) that ACS has not made “reasonable efforts” to prevent the removal of your children. If the judge agrees, she may order ACS to find and arrange certain services for you and/or your children so they can come home.

At the end of the 1028 hearing the judge may decide:

- that there is no immediate danger and your children can come home immediately, or
- that once certain services are in place your children can be returned home. (If the judge decides this but the services are not provided, or the children are not returned, you may need to advocate with the agency and/or your lawyer to make it happen), or
- the children cannot be returned home at this time.

Even if your children are returned at the end of the 1028 hearing, the case still continues and you will have to return to court. If the children are returned at this stage it is likely that the ACS caseworker will be monitoring you and your children closely. If services have been provided, the caseworker will make sure that you are following through on appointments and referrals. It is an important victory to have children returned at this early stage of the proceedings.

It is more likely that you will have your children returned at a later stage in the proceedings as long as you are working to address the issues that led to placement. If you do not win the 1028 hearing, make sure that at the end of the hearing a visitation schedule with your children is in place and that there is an order requiring ACS to provide whatever services and referrals you need so that your children can safely come home in the future.

Agency Process

ACS worker

The first ACS worker you’ll meet is the investigative worker who is responding to the report of abuse or neglect. If your child enters foster care or preventive services, you will have a new worker through ACS (called a Case Manager) who is responsible for monitoring your case and making decisions about your family’s needs. Be sure to get the worker’s name and number, as well as the name and number of his or her supervisor. You may or may not have much contact with this ACS worker, because ACS often contracts with private agencies that will also be working with you. Many parents feel anger and resentment toward their ACS workers due to their power to remove, and keep, their children. However, many also feel that to get their children back, developing some form of a working relationship with the ACS worker is important. Even though there won’t be much contact between you and the ACS worker, the ACS worker will be making recommendations about whether and when your child should come home.

Foster Care Agency Worker

Your agency worker is called a Case Planner. This is the person who you will probably have the most contact with. Your Case Planner is the person who supervises the foster family that has your children and who is supposed to refer you to the services you will need to get your children back. Your Case Planner also develops the “permanency plan” for your child. This means that they are working on ensuring your child has a permanent home.

Often, while they are working with you on planning for your family’s reunification, they are also working on an alternative plan for your child in the event that they decide not to return your child to you. This is referred to as “concurrent planning.” “Concurrent planning” can be an added stress for families. An example of “concurrent planning” is when the Case Planner is working with the foster family on possibly adopting your children at the same time that they are working with you on your child’s return. In that situation, your children should be returned to you if you are following up on services they’ve referred you to and visiting your child regularly.

Your Case Planner may process requests for housing subsidies and funds for carfare to your appointments. She will decide how frequently you have visits with your children and whether your visits will be supervised or unsupervised, unless the court has ordered a visitation schedule. The agency worker will also tell ACS when she believes you are ready to have your children returned.

72-hour Case Conference

There are two types of 72 Hour Child Safety Conferences: “Elevated Risk” (before a child is removed) and “Child Safety” (after a child is removed). Elevated Risk Conferences are requested by the ACS investigator when s/he feels that there is substantial risk to the child but wants help deciding if removal is necessary. 72-Hour Child Safety Conferences are supposed to be held within 3 to 5 days after ACS takes your child. (The main exception is situations in which there are claims of violence or sexual abuse within the family.) ACS should tell you where and when the conference will be held. ACS may also ask you whom you would like to attend. The purpose of the meeting is to begin developing a service plan for your family. (Service Plans are discussed more later.) You should be able to discuss whether your children can be safely returned home right away and whether any services could be provided right away to make the immediate return of the children possible. If immediate return isn’t agreed to, you can discuss other possibilities, such as having the children live temporarily with your relatives.

You can bring up to three people to the conference. You may invite anyone you wish to the conference, except a lawyer. Examples of the kind of people you might want to ask to come are friends, relatives, clergy, counselors, therapists, parent advocates or people from community organizations in which you are involved. It would be helpful to bring someone who knows you and your children and can help explain your strengths as a parent and the sources of support and help you have. You could also bring someone for emotional support - someone who can help you feel calm and give you the courage to speak up for yourself. Very personal things may be discussed at the meeting, so you shouldn’t invite anyone who you don’t want to hear this information.

The person who will facilitate the conference is an ACS employee called a Child Evaluation Specialist. The purpose of the meeting is to reach an agreement on a “child safety plan.” If a plan is agreed to, it will be written down and everyone will be asked to sign it. You may be offered the opportunity to have a “caucus” during the conference. This means that you and those you bring with you may take a few minutes to discuss privately what is going on and what the options are prior to signing the child safety plan. If you want to have a caucus with your support people and none is offered, request one. If you go to court, bring a copy of the plan for your attorney.

The child safety plan will be given to the judge as the first service plan. A copy will go to the contract agency. Make sure you are also given a copy. ACS says that in most cases when parents go to the 72-hour conference, an agreement is reached. This might be because parents find it very hard to disagree with what the caseworkers tell them is the best (or only possible) plan.

If you disagree with what is being proposed, you do not have to sign anything. You should explain why you disagree. You should also try to make clear to the caseworkers that you are willing to work with them even though you disagree. It would be a good idea to try to take notes of what occurs at the conference. You should then speak with your lawyer about why you disagree with the plan. Your lawyer should raise this in court.

“My 72-hour Conference was different because the Case Planner neglected to show. She said she didn’t know about it. The ACS worker was there, her supervisor, and a third person –who seemed to be in charge of the worker and the supervisor – but I don’t remember what she was called. They asked for a few things. One thing was the requirements to get my kids back: individual and family counseling, domestic violence, and individual counseling for my children. My case was also different because I was being charged on criminal charges. I didn’t feel like I could speak my mind or disagree because I could incriminate myself. But the conference was okay because they didn’t ask me to do anything I couldn’t do. For example, I might not have gone to see a therapist on my own free will, but I just went along with what they told me. After the conference they send you a letter. They ask for your feedback on the results and you have another chance to say if there’s anything you disagree with.”

PART IV: Custody, Foster Care, and Kinship Foster Care

Even if you are temporarily unable to care for your child, you can still prevent your child from going into foster care by arranging for your child to be cared for by a responsible friend or relative. For example, if you are incarcerated, or have a drug problem or a medical or mental health condition which makes you unable to care for your child, you could make arrangements for your child to be cared for temporarily by someone else in order to avoid being accused of neglect, and to protect your children from being placed in foster care. You can do this by formally or informally giving custody of your child to this person.

Sometimes, children are placed in the care of relatives through the foster care system. This is called kinship foster care. It is important to know the differences between kinship foster care and placing your child in the custody of a relative so that you can make an informed decision.

Even if your child is being cared for by a relative, you still have rights as a parent. It is important to speak to a lawyer about any decision to place a child with a relative, to make sure that you preserve your parental rights. See Appendix A for a list of legal services offices.

What is Custody?

Custody means the right to care for a child and make daily decisions about the child's care. Usually, the person who has custody of the child is the person the child is living with. The person who has custody also has the responsibility of making sure that the child is safe and that all of her needs are met. Parents may give custody of their children to someone else in informal or formal ways.

What rights does a parent keep if someone else has custody of his or her child?

As a parent, you have certain rights whether or not you have custody of the child. You have these rights even if your child is in foster care, or in the custody of a relative, unless a judge has granted a petition to terminate your parental rights. (See page 62 for more information on termination of parental rights.)

These rights include:

- The right to decide what religion the child will be raised in
- The right to have a say in serious, non-emergency medical decisions
- The right to decide whether the child should be enrolled in special education
- The right to decide whether the child can marry or enter the active Armed Forces before the child is old enough to decide himself or herself
- The right to file a petition in Family Court asking for custody or visitation. The court may or may not grant the request, but the parent has a right to ask.
- The right to decide whether to allow your child to be adopted by someone else.

What Are the Differences Between Placing your Child in the Custody of a Relative and Kinship Foster Care?

If you give a relative or friend custody of your child:

By placing your child in the custody of a relative or friend, you may be able to avoid or minimize your family's involvement with ACS and with Family Court. You are most likely to avoid this involvement if you make the custody arrangement informally with someone you trust and have a good relationship with. You can also lessen the risk of having a termination of parental rights case filed against you. It is important to note, however, that there are no guarantees, and any family situation, especially those that involve Family Court, can end up getting complicated.

The relative or friend who has custody of the child will not receive a stipend from ACS. If necessary the relative or friend can apply for public assistance for the child. The law says that someone who is caring for a child does not need a custody order to apply for public assistance for the child- she only needs proof that the child is living with her.

If your child is placed in kinship foster care:

When a child is in foster care, even if the foster parent is a relative, the child is in the custody of ACS. This means the relative ("kinship foster parent") will have less decision-making authority concerning your child than if she had custody, and ACS will have more. The rules of the foster care system, described in pages 65-85 of this book, will apply. You will have a Family Court case, and in order to get your child back, you will be required to comply with the orders of the Court and with ACS mandates designed to address the reasons your child came into foster care. ACS and the Family Court will also make the decisions about how much and what type of visitation you have with your children.

The kinship foster parent will have to comply with ACS and the foster care agency to have her home certified as a foster home. She will have to comply with court orders about bringing the child to visits and appointments. The kinship foster parent will have to inform ACS about any vacation or travel plans. ACS will have the authority to remove the child from your relative and place the child with a non-kinship foster parent without going to court. Your relative will only have a right to a fair hearing about whether the removal was reasonable.

The relative (kinship foster parent) will receive a stipend from ACS which is larger than the amount she would receive from public assistance for the child.

You will be at risk of having your parental rights terminated if your child remains in foster care for more than a year, and the kinship foster parent may be pressured to adopt your child.

How does a child enter Kinship Foster Care?

To be in kinship foster care, a child must first be placed in the foster care system. This can happen either because a parent signs a voluntary placement agreement, or because ACS files an abuse or neglect petition against the parent and a judge orders the placement of the child in foster care. (See pages 37-46 for more information on how this happens.)

Once the child is placed in foster care, ACS must consider whether there are any relatives who could care for the child. However, there is no guarantee that ACS will decide to place the child with any particular relative.

In order to become a foster parent, the relative will have to be certified by ACS or the foster care agency. The relative will have to show ACS that he or she is in good physical and mental health, and that his or her home meets health and safety requirements. ACS will do a background check on the relative and all the adults in his or her household to see if they have ever been accused of abuse or neglect and if they have been convicted of any crimes. ACS will then re-evaluate the relative's home periodically as long as the child remains in foster care.

How can you make an informal custody arrangement?

If your case is already in Family Court, then any custody arrangement will need to be approved by the judge. However, if you need to put your children in the care of a friend or relative and you do not have a Family Court case, you can do this without going to court. Many families prefer to avoid going to Family Court by making an informal custody arrangement.

If you can come to an agreement with a friend or relative who you trust and who is willing to be the caretaker for your child, then there is no need to go to court. Not going to court also means there will not be an automatic ACS investigation of the caretaker's home.

One simple way to do this is by writing a letter designating a "person in parental relation." This letter is also called a "designation." A new state law enacted in 2005 gives parents the ability to choose a caretaker for their child and write a letter granting that person the power to enroll the child in school or obtain routine medical care for the child. This caretaker can be a relative or a non-relative. You can decide what type of decisions to allow the caretaker to make.

The letter should state what decision-making powers you want to give the caretaker, such as the authority to enroll the children in school, consent to medical treatment (not including elective major medical procedures, which must be approved by the parent), or apply for public assistance for the child.

If you want to give these powers to the caretaker for *thirty days or less*, then the letter just has to include the following:

- The parent's name,
- The caretaker's name,
- The children's names, and
- The parent's signature with the date. (Or both parents' signature if there is a joint custody order.)

If the letter does not state the period of time that it is effective for, then it is automatically good for 30 days.

If you want to give these powers to a caretaker for longer than thirty days, the letter must include more detailed information. The letter can be valid for up to six months if it contains the following:

- The name, address and telephone number of the parent,
- The name, address and telephone number of the caregiver,
- The children's names and dates of birth,
- The date or event upon which the powers in the letter will go into effect,
- A statement by the caretaker consenting to the agreement,
- A statement that there is no court order that would prevent the agreement, and
- The notarized signature of the parent (or both parents' signature if there is a joint custody order)
- The caretaker's signature, preferably notarized.

The letter is valid for a maximum of six months, but you can write a new letter every six months for as long as you like.

In order to enroll the child in a new school, the caretaker may need additional proof that the child is residing with him or her, such as a sworn affidavit from the parent stating that the child lives with the caregiver. The school should not require a custody or guardianship order if the caregiver has a letter that satisfies the requirements described above and some other proof of the child's residence.

This agreement is temporary and does not interfere with the parent's right to regain custody of the child in the future. When the parent wants to regain custody of the child, there is no need to go to court as long as the caretaker agrees to return the child to the parent. If the caretaker will not give the child back, the parent may go to Family Court and sue the caretaker for legal custody of the child. If you find yourself having difficulty getting your child back, it is important to speak to a lawyer before going to court or taking any action on your own, like calling the police or ACS.

How can you make a formal custody agreement?

A relative or caretaker may decide to formalize a custody arrangement by filing for a custody order in Family Court. Final orders of custody are granted by the Family Court after a judge or referee has heard the facts of the case. The caretaker can ask the Family Court judge for a Temporary Custody Order while the permanent custody case is being decided.

In almost every custody proceeding, an investigation is done by ACS to evaluate the homes of the parties seeking custody of the child. Often the judge will appoint a lawyer to represent the child, known as a “law guardian.”

The caretaker must serve a copy of the custody petition on the parent, and the parent should come to court to tell the judge whether she agrees or disagrees with the caretaker having custody.

If the court grants a custody order to a relative or friend, the parent will have to return to court when she wants to regain custody of that child.

How can you get your child back from a relative or caretaker who has been granted custody?

Although a parent has a right to file a petition to get her child back, she will not automatically succeed. Parents have superior legal rights to custody over non-parents. This means that a non-parent seeking to keep custody away from the parent must prove that there are “extraordinary circumstances” present in the case which justify denying the biological parent custody of her child. Extraordinary circumstances could include a prolonged separation of the parent and child or the current unfitness of the parent. If the judge finds that extraordinary circumstances exist in particular case, he or she will make a determination based on the best interest of the child.

It is often more difficult for a mother to get custody of her children back from their father than from a relative or other caretaker. This is because the law says that a mother and a father have equal rights to their child.

If it has been a long time since you lived with your child, you will need to show the judge why it is best for your child to be returned to your care. Often, judges in custody cases want to see evidence of positive change in a parent’s life in order to give back custody of her child. For example, you can document the progress you have made with certificates of completion from parenting skills classes or substance abuse treatment programs. Letters of support from community-based organizations, churches or counselors are also helpful. You will also need to show the judge that you have suitable housing and a source of income for the child. Public assistance is generally considered to be an adequate source of income.

If you can show the judge that you were able to stay in touch with your child while your child was in someone else’s custody, this will help your case. If you are currently separated from your child, it is important to make every effort to maintain a relationship with your child and to document your efforts. You should try to keep copies of letters and cards you send to your children, as well as a log of telephone calls and visits. This shows the judge that you never intended to abandon the child and that you and your child have a meaningful relationship.

PART V: ACS CASES IN FAMILY COURT

Who are the players in Family Court?

Family Court Judge

Child welfare cases are handled in Family Court. Judges in Family Court proceedings hear your case and decide if neglect occurred and if so, what should happen to the children. They may be involved in decision-making regarding when and under what circumstances you can visit your children, whether or not your children can be placed with relatives, or what kinds of services you must be offered. You may have to assert yourself in order to be a part of this type of decision-making. The best way to do this is often through your attorney. However, it is good to be prepared yourself, by having your own copies of all documents you want the judge to see.

Your Attorney

If you cannot afford a private attorney, you have the right to be assigned a court-appointed attorney. In New York City, this attorney is called an "18-B." 18-B lawyers have heavy caseloads, which may make it difficult or impossible for them to get to know their clients well. Many do not have offices, secretaries, or other kinds of support. Some may not return your phone calls. Lawyers may have very little time to communicate with you outside of the courtroom, which affects their ability to represent your wishes.

There are steps you can take, however, to help your attorney work for you more effectively. The key to this is to be actively involved in planning your own defense, and not to expect the attorney to do it all for you. This may mean providing your attorney with information, witnesses, and evidence.

Your Child's Law Guardian

When your children are removed from your custody, they will be assigned their own lawyer called a Law Guardian. Most often, Law Guardians work for the Legal Aid Society's Juvenile Rights Division. The Law Guardian's job is to represent your children's own wishes if they are old enough to express their wishes, or according to what the Legal Aid Society determines to be in their best interests if they are not. The Law Guardian is not your lawyer. He or she may sometimes see you as a threat or a risk to your child. You may talk to your child's Law Guardian, and it can sometimes be useful to do this, but only with the advice and involvement of your own attorney.

You have the right to an interpreter in the Family Court Petition Room and in the court room. For a referral to an interpreter, contact the Office of Court Interpreting Services at (646) 386-5670. Try to call several days in advance.

Working With Your Attorney

“My lawyer didn’t try to get to know me. Didn’t try to find out if I was guilty or innocent. Didn’t call any of the people I knew who would have testified on what kind of mother I am or on how active I am in my community. I tried calling my lawyer, but that usually didn’t work. I’d suggest that if your lawyer has an answering machine, instead of calling one or two times, call every five minutes until they call back. Write to her. Keep a copy. If she does not respond, send a letter to the Board that supervises those lawyers; get it certified so that you know it was received there.”

Most parents find it difficult to share information with their attorney if s/he does not return their phone calls, does not take time to explain what is going on, or does not seem to be listening. Since your attorney is very important to your case, here is some information on how to make the best use of him/her:

- Be sure to get your attorney’s name and phone number. Your attorney should give you a business card when you first meet. If s/he does not, be sure to ask for his/her name, phone, fax and cell phone numbers and address. If all you know is your attorney’s name, you may still be able to find out his/her phone number. If a judge in Manhattan or Bronx Family Court appointed the attorney to you, you can call (212) 340-0598. Give them the name of your attorney, and they should be able to give you his/her contact information. If a judge in Queens, Brooklyn or Staten Island Family Court appointed the attorney to you, you can call (718) 875-1300. If your attorney works for a Legal Services office, you can call 646-442-3600. See Appendix A.
- Keep in touch with your attorney. If you call and s/he does not call you back, be persistent and call again.
- If your attorney does not respond to phone calls, try contacting him/her another way. You can write a letter requesting a meeting or sharing information about your case. If you know his/her fax number, you may want to fax the letter so that it will reach him/her faster. Whenever you send a letter to your attorney, be sure to date the letter and keep a copy for yourself. Sending letters to your attorney certified / return receipt requested ensures that s/he has information about your case even if you cannot speak on the phone or meet face-to-face before a court appearance. In addition, if you ever need to complain about your attorney, your letters can show that you tried to work with him/her. See Appendix P.
- Arrange to meet with your attorney before important court appearances. Ideally, you should arrange to meet with your attorney in his/her office several days before an important court appearance. Often attorneys will have parents meet them in court the same day they are scheduled to see the judge. Try to avoid this. The best way to avoid this is by getting in touch with your attorney well before the next court date, maybe a month before, to arrange a meeting in his/her office. Once you schedule a meeting, it is a good idea to confirm it before you go. You can do this by calling or sending a letter a few days before the meeting is scheduled.

- Before court appearances make a list of important information, questions or concerns you have for your attorney. If you are unable to speak or meet with him/her before your court date, bring to Family Court a list of things you want him/her to know and things you have questions about.
- Get letters from treatment providers before going to court. Often, the judge and other people involved in your case want to see documentation that you have completed or are participating in programs. When you know you have an upcoming court date, try to get documents from programs you are attending or have completed. For example, you may want to ask your therapist to write a letter that confirms that you regularly attend sessions. If you are going to ask a treatment provider to write a letter, be sure to do so well before the court date so that they can get the letter to you on time. Do not give copies of the letter to anybody until you have shown it to your attorney.
- Send copies of important documents to your attorney. Whenever you receive any papers from the court, ACS, or the foster care agency, keep one copy for yourself and mail a copy to your attorney. Whenever you get a certificate of completion from a program or a letter from a treatment provider, keep copies for yourself and mail a copy to your attorney. Always keep some copies with you in case someone misplaces the one you sent or someone shows up in court without the copies you sent them.
- Bring extra copies of your important documents to court. Whether or not you are able to mail copies of your important documents to your attorney, you may want to bring extra copies to court with you. Usually everybody involved in your case wants to see documentation that, for example, you completed a program. If you have completed a program or have gotten a letter of attendance from a program or therapist, you may want to give copies to the Case Planner.
- Communicate your needs and listen to your attorney's response. If you don't think that your attorney is doing as good of a job as s/he should be, you need to talk to your attorney about it. You might want to request a meeting and do so in person, or you might feel more comfortable writing your attorney a letter.

When You Can't Work With Your Attorney

If you find that you simply cannot work with your attorney, because s/he does not return your calls, treats you rudely, does not take the time to answer your questions, or simply did not respond to your attempts to have him/her do a better job, you do have options. If s/he works for an office like Legal Services, you can ask to speak with his/her supervisor. You can explain to the supervisor all the reasons you think that you and your attorney are not working well together and request that your case be assigned to a new attorney. If you feel strongly that you want your case re-assigned and the supervisor is unwilling to do so, you can ask to speak with the supervisor's boss.

If your attorney is an 18-b attorney, there is no supervisor for you to make a complaint to. Instead, you need to make a complaint to the administrator who oversees the panel of attorneys available to be appointed by the court. See Appendix P for information about where to write to make a complaint about an 18-b attorney. The administrator may simply speak with your attorney and encourage him/her to change some behavior. (For example, the administrator may tell the attorney to make sure that s/he returns your calls promptly). Or, your complaint may be investigated and the attorney may be disciplined.

However, the administrator cannot assign a new attorney to your case. Only the judge can do that. You can ask the judge to appoint you a new attorney. However, there are not a lot of attorneys who do this work, so there may not be another attorney for the judge to appoint. The judge also may not be willing to assign a second lawyer. In addition, keep in mind that a new attorney will not know anything about your case; s/he will have to start from scratch. A new attorney can mean further delays in your case.

You can also try to get a new attorney by calling the Legal Services office in your borough. See Appendix A for the number. You can also call SHIELD at (212) 626-6720. SHIELD is a program that is run by the Association of the Bar for the City of New York that provides some legal information and can sometimes find attorneys to represent people.

You may be so upset about your legal representation that you want to make a formal complaint. A formal complaint is a complaint that you can make to the Disciplinary Committee. To make a formal complaint, write to the Disciplinary Committee or Grievance Committee explaining the problem. A formal complaint will result in an investigation. If your attorney is found to have violated the ethics of the profession, s/he may be disciplined. See Appendix P for addresses of the committees.

Fact-Finding Phase

Whether your children are living with you or not, the judge will have to decide whether you have neglected or abused your children. This is called the fact-finding stage of the case. You will have to decide if you want to have a hearing, or if you want to settle the case.

Pre-trial/Settlement

Before you decide whether to go to trial (hearing) or to settle, there is certain information you should have. You should review a copy of the neglect petition that has been filed against you. Talk with your attorney about any allegations (charges) that you believe are untrue. Your attorney should also have a copy of the ACS or foster care agency case record. This case record should contain information about the ACS caseworker's investigation and should also show whether or not they offered any services to keep you with your children.

You should also help your attorney prepare for your case. Think about what information you can gather to help in your defense. Are there any witnesses or documents that can help you prove that there was no neglect, or that you were not responsible for it? Most fact-findings are resolved through settlements, not trials. The alternatives to going to trial are:

- Submit to the jurisdiction of the court without admitting to the facts. This means your children can be placed in foster care and the judge can order you to comply with services, but you do not admit to the allegations in the petition. This is also called a 1051(a) admission.
- Admit to all the charges that are in the petition.
- Admit only to the charges that you agree were neglectful acts. For example, if the petition charges you with educational neglect and drug use and you believe that ACS can prove educational neglect with school records, but that there was not drug use, you may try to negotiate an admission only to the educational neglect.
- Agree to an Adjournment in Contemplation of Dismissal (ACD). The neglect petition would be dismissed in a year if nothing goes wrong. You will probably be under the supervision of ACS and will have to meet certain conditions, such as continued counseling, completion of parenting classes, etc. The children may be returned to you upon specific conditions. You will still have an indicated case on your record.

It is important to talk with your attorney about whether it makes sense to have a hearing in your case. You should consider the evidence of abuse or neglect. You will want to consider the strength of ACS' case and the strength of your case. For example, ACS may have a strong case if it has urine tests proving that you were using illegal drugs. On the other hand, you may have a strong case if you are able to prove that you had a prescription for the medication that showed up on the test.

You should think about what you will gain and what you will lose from having a trial. If you win at trial, your children will be returned and there will be no finding of abuse or neglect entered against you. If you lose at trial, there will be a finding of neglect entered against you. In addition, whether you win or lose, a fact-finding trial may also take a long time to complete. Most likely, there will be several adjournments and the hearing may continue over a period of months.

ACS' case

If you ask for a hearing, ACS must prove the allegations that they have charged you with in the petition. To prove the allegations, ACS will have witnesses tell the court what they have seen and heard. ACS may also have documentary evidence, like police reports, hospital records, and school records.

ACS has the burden of proving its case. That means it must go first, and it must prove its case by a fair preponderance of the evidence. ACS must show that it is more likely than not that abuse or neglect happened and that you were responsible. You may know that in criminal cases, the standard is proof beyond a reasonable doubt. The standard at fact-

finding is far lower; a judge only has to believe that it probably happened. It is much easier for ACS to prove its case in an abuse or neglect hearing than it is for a prosecutor to prove his case in a criminal court.

During ACS' case your attorney will have a chance to cross-examine or question any witnesses ACS presents. Your attorney should have a copy of the caseworker's records so that she can ask particular questions about what is contained in those records. The law guardian appointed to represent your children will also have a chance to cross-examine the witnesses.

ACS will probably have its investigative caseworker testify. This caseworker can tell the court about anything you said and anything your children may have said about the alleged abuse or neglect. The caseworker can also tell the court about anything he observed, like a clean or messy house, signs of drug use, or marks or bruises on the children. There may also be other witnesses.

If the allegations are excessive corporal punishment, the caseworker might testify about what the children said, what you said to the caseworker, and any marks or bruises he observed. Doctors or nurses might testify if they observed any bruises. If drug use is alleged, the caseworker might testify about anything he observed, and anything you may have admitted to him. ACS might also show the judge drug tests or police records.

“With me, at first I was really open and honest with the ACS worker, I thought she was going to help me. After all, I had called for help when my husband threatened violence. I left myself so open that she used it against me and turned everything all around. I advise you not to do that because they do use a lot of the information that you give them not to help you but to backstab you. They twist it and they turn it and they add to it and, you know, try to force you into a lot of things that they shouldn't, they really shouldn't. They use you for their game. When you go to court, you don't expect them to turn on you. And that's what she did. She turned on me. The minute we got into the courtroom.”

Your case

After ACS presents its case, you will have an opportunity to defend yourself by presenting any evidence or witnesses that will show that your child was not abused or neglected, or that you were not responsible for the abuse or neglect.

If you are going to trial, you will almost certainly have to testify. This is very different from Criminal Court. In Criminal Court, people charged with crimes can assert their Fifth Amendment Privilege. This means that the judge cannot consider their failure to testify in deciding whether they are guilty. In Family Court, if you do not testify, the judge can assume that the allegations against you are true.

You can also consider calling other witnesses. For example, if the allegations are that you were not in a drug rehabilitation program and you were, you might want to call your counselor from the program. You should also talk with your attorney about what other documents might be helpful. For example, if you are facing medical neglect charges, you may want to introduce medical records other than those introduced by ACS.

Decision

At the end of the hearing, the judge will either make a “finding” of abuse or neglect against you, or find that ACS did not prove its case and dismiss the petition. If the case is dismissed, the case will be over and the children returned. If there is a finding made against you, the case will move to the dispositional phase.

Dispositional Phase

If your case is not dismissed after fact-finding, the case will go to the dispositional phase at which time the judge decides whether the children should stay in foster care or be returned to you. If there is an order of foster care placement, the initial placement runs until the completion of the first permanency hearing. The date for the first permanency hearing is eight months after your child was initially removed and will be chosen on your very first day in Court. Permanency hearings are then held every six months if after the initial permanency hearing the Court orders that your children remain in foster care. Children remain placed in foster care from permanency hearing to permanency hearing. The Court has the authority to grant permission for a child to be released from foster care prior to the next permanency hearing as long as 10 day advance notice is provided to the law guardian.

The judge should consider the steps you have taken to address any problems or to plan for the return of your children. Usually, the judge will order an I & R (Investigation and Report) after the fact-finding. This is a report prepared by ACS that recommends what should happen to your children. Make sure the ACS worker knows of any programs or services you are involved in so he can report about your progress.

Depending on your case, the judge may also order a mental health examination. This may be done by someone at the foster care agency or by the Mental Health Services at the Court. This evaluation will be called a MHS (Mental Health Study) or FET (Full Evaluation Testing). You can expect that the examiner will ask you questions about your family background, your childhood and your current family situation. If you have been involved in any services, you should provide information about those services to the examiner. Provide names and numbers for counselors, getting letters of support, parenting class certificates, etc.

After the I & R is prepared, you will return to court, and ACS will state its position. Ask your lawyer what ACS is recommending. You can agree to the disposition they have suggested or ask for a hearing if you do not agree with ACS' recommendation. There is rarely a formal hearing about the disposition. Often parents' attorneys just argue why the plan should be different. You can help your attorney prepare for this stage by getting witnesses and letters of support as described above in the section on 1028 Hearings.

The dispositional order should contain your visitation plan. You should discuss with your lawyer whether it is better to try to get increased visits through the judge or through the agency. If you believe the agency will not be reasonable about visits, then you may want the judge to set a visitation schedule. You should also ask the judge to order any services you need to help reunite your family if the agency is not providing the services.

At disposition, the children may be returned home to you under ACS supervision or the children may remain in foster care. You may also want to advocate for the children to be put into another person's custody. If there are relatives who did not come forward initially, they may still be considered at disposition as a possible resource. This means that the judge may consider whether it would be in the children's best interests to live with the relative you are suggesting.

The dispositional order should also tell you what services you must comply with and inform you of your right to be notified of service planning conferences. Make sure you get a copy of the order. If you are not given one that day, then you can come back to court another day and go to the record room to get a copy of the order. You can also ask your attorney to provide you with a copy of the order.

Permanency Hearings

Permanency Hearings are held when children have been in foster care initially for 8 months. The Court must set the date for the first permanency hearing on the very first day you are in Court if your children are removed from your care. Even if a date is set for the initial permanency hearing, it does not mean that your children have to remain in foster care until the chosen date. However, if your children remain in foster care after the first permanency hearing, hearings are held every 6 months thereafter. Depending on your individual case, the initial permanency hearing may be combined with the dispositional hearing. Children remain placed in foster care from permanency hearing to permanency hearing. The Court has the authority to grant permission for a child to be released from foster care prior to the next permanency hearing as long as 10 day advance notice is provided to the law guardian.

At this stage, the judge can decide that the children should be:

- returned home
- freed for adoption by having a “termination of parental rights” case filed against you
- sent to live permanently with a legal guardian
- placed permanently with a relative
- placed in another permanent living arrangement (the court will review this plan)

You have a right to

- prior written notice of this hearing and a copy of a written report must be sent to both you and your attorney 14 days in advance of the hearing. The permanency report must include updated and accurate information regarding:

Your child’s current permanency goal.

The status and a description of your child’s health and well being since the last Court hearing.

Information about your child’s current placement.

Updated information about your child’s educational and vocational progress since the last Court hearing.

A description of the current visiting plan, including any sibling visits and a description of the frequency, duration and quality of visits.

If your child is fourteen or older, the report must include a description of any independent living skills services that are being provided.

A description of any other services being provided to a child in foster care.

The status of a parent including services that have been offered to a parent to enable a child to return home safely, steps a parent has taken to use the services or complete the services, any barriers a parent encountered in the delivery of such services, the progress a parent has made toward reunification and a description of any other steps a parent has taken to comply with the service plan and achieve the stated permanency goal.

A description of the reasonable efforts that the agency has undertaken to achieve the child’s permanency plan since the last hearing.

- an attorney at this hearing (to help you decide whether to agree with the plan or not). This is the same attorney who represented you when your children first entered foster care.
- be present to say whether you agree or not with the plan

The judge will then decide on the permanency plan for your children. The judge should also review the latest service plan prepared by the agency and decide whether it needs any changes. You have a chance to tell the judge if you think the goal or the services are not best for the children. For example, if the goal has changed to “free for adoption,” you

can tell your lawyer to argue that the agency hasn't provided appropriate services, or that you have completed the recommended services, and that the goal should be return to parent. You may also ask for a change in services. For example, the agency may ask for job training as a condition of return and you may feel like job training is not an appropriate service for you. The agency may not have included housing assistance and you might need appropriate housing to reunify with your children. Finally, you should make sure that the judge addresses visitation if that is an issue. Visitation should be addressed in the final order.

Rules for changing permanency goals

Children's permanency planning goals are supposed to be reviewed at service plan reviews. The court then reviews the goal at the next permanency hearing. If the goal is changed from reunification to termination of parental rights, the agency is supposed to file a petition to terminate parental rights. According to state regulations, they are supposed to do so within 30 days of the goal change. They rarely do so this quickly. The agency must allege grounds for filing a petition and must prove the grounds in court in order to terminate your rights.

The law says that if a child has been in foster care for 15 out of the last 22 months, the agency must file a petition to terminate the parent's rights. There are exceptions to this rule:

- If the children are living with a relative or are in kinship foster care. However, it is not enough that the children are living with relatives to find an exception. ACS says that the goal should still be changed unless there is a good reason not to.
- If there are compelling circumstances not to file a petition, which must be documented in the case record. This could be anything, but the law defines what some compelling circumstances are. These are the most frequent:
 - a) The child's goal is not free for adoption.
 - b) There are no grounds for filing a termination petition (see below).
 - c) The child is 14 or over and will not consent to adoption.
- If the agency has not provided your family with services in a timely manner. It is very unlikely that an agency would choose this reason not to file a petition. However, if this is true, you can use this reason to fight termination of your rights.

The agency is also supposed to change the goal from reunification to free for adoption if the parent has abandoned a child. Abandonment means failure to have any contact with a child for six months.

Termination of Parental Rights (TPR) Cases

What is Termination of Parental Rights?

Before explaining how you can use a termination proceeding as a means of bringing your child home, it is important to understand what termination of parental rights is, what the proceeding will be like in court, and how to defend your case. Your parental rights are really a group of rights that includes rights to seek custody and visitation with your child, and the right to make important decisions about education, medical care, money and religion for your child. When a parent's rights to her child are terminated, the parent loses all of these rights and has no grounds to try to get visitation with or custody of the child again. The purpose of terminating a parent's rights is to legally "free" a child to be adopted by someone else.

Proceedings to terminate parental rights are the most serious cases parents must defend in Family Court. Some people say that termination of parental rights is like the death penalty of the foster care system because it is a final and virtually irreversible legal separation of the child from a parent.

All of the information and advice in this workbook is designed to help you get your children home and avoid having a petition to terminate parental rights filed against you. However, it can and does happen to many parents each year.

In order to file a petition to terminate parental rights, the agency must argue that the parent did something that deserves termination of parental rights. It can't be just anything the agency thinks the parent did wrong; it must be a specific legal reason, called a "ground." A parent's rights can only be terminated if the agency proves that one of the grounds exists. In New York there are five grounds.

Permanent Neglect

The most common ground for terminating parental rights is permanent neglect. In order to win its case, the agency must show that for more than one year after a child was placed in foster care, the parent failed to keep in contact with the agency and plan for the future of the child or failed to complete necessary services. In order to terminate rights under this ground, the agency must also show that it made serious efforts to reunify the family.

Abandonment

The agency must prove that the parent failed to visit or communicate with the child and the agency for at least six months immediately prior to the date the petition is filed in court. The agency will have to show that during the six-month period the parent was able to be in contact and was not prevented or discouraged from doing so by the agency. Even if the parent is incarcerated, or if there is an order of protection against the parent preventing visitation, the parent can still be charged with abandonment if he or she did not keep in touch with the agency or the children by mail or phone.

Mental Retardation, Mental Illness and Severe or Repeated Abuse

These are also grounds that the agency can use to terminate parental rights. They are not used very frequently and only in unusual cases.

The foster care agency, and not ACS, usually files the termination case against the parent. The agency has the “burden of proof” which means that they must prove one of the grounds listed above. Parents must have a good defense in order to win the case and be able to reunify with their children. All parents have the right to have an attorney represent them in a termination trial. Our advice is that you do not try to represent yourself. Get a lawyer. See Appendix A.

Negotiating a Suspended Judgment

Your lawyer will help you decide if you can effectively fight a petition to terminate your parental rights. If you both decide that your case is not strong, your next best chance of getting your child home is to try to negotiate a suspended judgment. A suspended judgment is like a plea bargain between the parent and the agency that is approved by the court. Suspended judgment is only available when the only charge against the parent is permanent neglect. The parent admits to the court that she has permanently neglected her child. In exchange for making this admission, the agency and the parent negotiate a plan to return the child to the parent within one year. The plan will require certain things of both the parent and the agency. For example, the plan may require the parent to complete drug treatment and the agency to provide the parent with a housing subsidy. The parties have one year to complete the plan and send the child home. If it takes more than one year, and the agency can prove that the parent did not hold up her end of the bargain, parental rights will be terminated. This is the risk of entering into a suspended judgment. You are in the best position to consider a suspended judgment if you have already done everything the agency has asked you to do, or if you are currently involved with all of the required services and likely to complete them within the next year.

Conditional Surrender Agreements

While it is hard to think about doing so, a parent can voluntarily give up her parental rights by signing a **conditional surrender agreement**. These are also called open adoptions. The reason that we are including this information in the workbook is to help parents who don't have a good chance of keeping their rights to their children or who think it would be best for their children to remain in the care of others. Conditional surrender is an alternative to fighting a termination you can't win, but it's a very personal and difficult option to think about.

A conditional surrender agreement has the same effect as a termination of parental rights order except that parents can keep certain rights, like the right to visitation. It is important for parents to know that they can negotiate a visiting plan in the surrender agreement. The parent, prospective adoptive parent, and law guardian must all agree to the terms of the visiting plan and a judge must determine that the plan is in the children's best interest. However, if, for instance, a parent initially has regular visits with her child in an open adoption, but a time comes when the adoptive family no longer allows such visits,

the visiting agreement gives parents the right to bring the case back to court to ask a judge to enforce the agreement. However, the failure by a foster or adoptive parent to follow the visiting agreement does not invalidate the surrender or the adoption.

Conditional surrenders also allow parents to choose who they want to adopt their child. For example, a parent can sign a surrender agreement that states that she is giving up her parental rights only on the condition that the child's grandmother adopts her. The person who is put forth as the adoptive resource must be approved or certified as a foster parent or be investigated for adoption. If the person named by the parent does not adopt the child, the agency must notify the parent and the law guardian that the condition failed and the parent or law guardian has 60 days from the date they are notified to ask the Court to undo the surrender. While a parent has the right to ask the court to undo the surrender, this does not mean that the judge will or that the child or children will be returned home and could mean that the agency files a new termination of parental rights petition.

Entering into a conditional surrender agreement should not be done without discussing it in detail with people who support you and have a good understanding of what you want for your family. If possible, try to discuss it with a lawyer.

PART VI: THE FOSTER CARE SYSTEM

Who are the players in the Foster Care system?

NYC Administration for Children's Services (ACS)

While ACS is investigating you, the worker assigned to your case will be a Child Protective Services (CPS) worker from a field office in the borough where you live. You may also see this worker in Family Court. If a judge decides that your child should remain in foster care, a different ACS worker from a division called Office of Contract Agency Case Management (OCACM) will be assigned to your case. You may have little or no contact with this person, whose official title is Case Manager, but s/he must approve decision-making in your case, including when your children can be returned to you. ACS is represented in Family Court by an attorney from Family Court Legal Services ("FCLS").

Foster Care Agency

ACS provides some foster care services directly, but most children who are placed in foster care are placed with private, non-profit agencies under contract with ACS. There are about 40 of these agencies in New York City at the time of this writing. These agencies have city contracts to serve specific neighborhoods. Although they are independent agencies with their own staff, leadership, and boards of directors, all receive public money and all are accountable to ACS. There are many requirements these agencies are supposed to meet and services they are supposed to provide to you and your family under the law and their ACS contracts. Many of these requirements will be explained in some detail in this workbook. Your agency worker is called a Case Planner. Although this person was not involved in the decision to remove your child, your relationship with your Case Planner is one of the most important factors determining how quickly your child can be returned to you. This is because the Case Planner is the person who is supposed to have regular contact with you, your children and the foster family. The experience, quality, and education level of Case Planners varies. On the whole, people tend not to stay in Case Planner positions for very long. If your child is in foster care for six months to a year or more, it is very unlikely that you will have the same Case Planner the entire time.

The Foster Parents

Foster parents are people who have been trained and certified to care for children who are in foster care. They receive money to meet the needs of the foster child. Foster parents must follow certain rules when caring for children in their home. Your relatives may be able to become foster parents to your children. ACS requires foster care agencies to use an approach to foster care called "Family-to-Family." This means that the foster parents are supposed to get to know you and be helpful to you as well as to your child. This is very different from the way many foster parents have traditionally been trained and expected to relate to parents. "Family-to-Family" remains more an ideal than a reality in most agencies at the time that this workbook is being written.

“Having the foster parent in your corner can be a good thing. When you and the foster parent get along it makes it easier for your children and you. You’ll feel a lot better and more at ease knowing your babies are safe and in a good home. I know you’re angry that your children have been taken away. But you have to give the foster parents a chance. You have to give each other time to feel each other out before you jump off the deep end. Give the foster parents a couple of months before you start complaining about them. I asked the foster mother of my kids if I could bring some things from home for my kids. My daughter’s foster mother didn’t know how to braid hair. During visits, I braided my child’s hair. It helped the foster mother, and it was good for me and my daughter. That was bonding time when I was doing her hair. In the beginning, I was telling the foster parent how my children were. The foster parent gets to know your children. The foster parent can also vouch for the mother. She can validate some of the things the mother is saying to the Case Planner.”

What are your responsibilities while your children are in foster care?

Stay in contact with your worker.

Staying in touch with your Case Planner is considered “planning” for your children. Let the worker know if you move or change phone numbers. If you can’t make a scheduled meeting with the Case Planner or will be late, call the Case Planner to let her know. Call the Case Planner to ask questions about your children’s health and schooling, to find out when your service plan review will be, and to confirm scheduled visits.

Attend all visits with your children

Maintain as much contact as possible with your children. Visiting with your children on a regular basis is the best way you can show you are planning for their return. Try not to miss any scheduled visits unless there is an emergency. Try to call the Case Planner as soon as possible if you can’t make a visit. Document the reasons why you miss any visits. If the agency or foster parents cancel visits with your children hold them to the same standard. Write a letter if necessary to your Case Planner and her supervisor if the Case Planner fails to provide reasonable explanations and notice when they’ve canceled your visit or if the Case Planner fails to reschedule visits they’ve canceled. Keep copies of these letters.

Attend service plan reviews

Prepare for them in advance. Attending service plan reviews and advocating for yourself is hard work and may be uncomfortable. However, this is where important decisions about your children are made.

Plan for your children’s future.

This means that you must attempt to address the issues that led to your children’s foster care placement. If you do not think that you will be able to get your children back quickly, you should be planning for them by thinking of relatives or friends who could care for them.

Follow through with your family service plan.

The family service plan should include tasks that the agency is supposed to complete and the tasks that you are supposed to complete. You are in a much better position to advocate with the agency when you have done what was agreed to at the service plan review. Ask for services you think you need or programs that will help you, such as parenting, family therapy, or classes on children with special needs. Taking initiative should help you in court.

“In my case, substance abuse led to my children being put into foster care. I had to admit to myself that I had a drug problem. That’s when I was able to address the issues that led my children into care. I put myself into a residential drug program, which helped me to address my drug problem. I took parenting classes, so I can learn to be a better parent and learn to discipline them without putting my hands on them. I was also in therapy, and therapy helped me with the bigger issues that were suppressed, which led me to drugs in the first place. These are the things that I did in order to plan for my children’s future.”

What is the agency supposed to be doing while your children are in foster care?

These are the responsibilities the agency has to you and your children while they are in foster care:

Make diligent (or reasonable) efforts to help you maintain your relationship with your children.

The agency has a legal obligation to help maintain your relationship with your children while they are in foster care. This means that they must help you get the services and other help you need to have your children returned to you. In addition, these services should be appropriate for you and your family. They cannot just refer you to any services. See page 17 (preventive services) for information about the types of services you are entitled to. These services are called “preventive services” but they are available to families whose children are in foster care and who need the services in order to reunify, as well as to families who need them to prevent foster care placement.

The agency must also arrange visits between you and your child.

Develop permanency planning goals for your children.

When children enter foster care, the goal is almost always that the child will be returned to his or her parent (also called “reunification.”). The agency can change the goal from family reunification to another goal, so you should always know what your child’s permanency goal is and advocate that reunification remain the goal. The child’s permanency goal is supposed to be discussed with you at your Service Plan Review. If you do not know what your child’s permanency goal is now, ask your Case Planner to tell you.

Although the agency decides the permanency goal, the goal must be reviewed in court by the judge at a permanency hearing. (This is discussed earlier in the section on permanency hearings.) However, it is much better to try to address these issues with the agency before you go to court.

Federal law requires that the agency have one of the following goals for your child:

- **Return to parent:** This goal, of course, means that the children will be returned to you. It is very important to try to obtain reunification before the goal is changed since there are legal time pressures to change the goal.
- **Terminate parental rights/free for adoption:** Your child's goal can be changed to termination of parental rights. The fact that the agency changes the goal does not mean that your rights will be terminated. The agency has to file a petition to terminate your parental rights in court and only the judge can decide whether your rights should be terminated. In addition, you can try to challenge the agency's decision to change the goal by advocating with the agency at your next service plan review or by disputing the goal change at your next permanency hearing in Family Court. (There is more information about termination of parental rights in the section called "Termination of Parental Rights Cases" on pages 62-64 of this workbook)
- **Refer for legal guardianship:** Instead of being returned to you or being adopted by someone else, your child could be appointed a legal guardian who has full responsibility for your child. The person would have to file a guardianship petition in Family Court. This option is better for you than termination of parental rights because it means you can still see your children and that you may be able to get them back if things change at a later date. If there is a chance that your child's goal is going to be changed to termination, you may want to think about relatives or friends who have a relationship with your child and would be able to take on the responsibility of caring for the child. Keep in mind that ACS prefers that children be adopted rather than have a guardian because they believe that this is a more permanent goal for the child.
- **Permanent placement with a fit and willing relative:** This means that a relative would have legal custody of your child instead of the relative adopting the child or being the legal guardian. The person would have to file a custody petition in Family Court. For the same reason as guardianship, this is a better option for you than termination of parental rights, but again, ACS prefers adoption. ACS also believes it is better for the relative to be a guardian than a custodian since a guardian has more authority than a legal custodian.
- **Another permanent living arrangement:** According to ACS, this is the least preferred method of permanency planning for children and should only be the goal when none of the other ones are possible. This goal includes independent living (for children 16 and over who will be given services to be discharged to live on their own when they turn 18 or 21.) The law says that the teen has to request this goal. This arrangement is also made when the parent is unable to care for the child because of an emotional or physical disability and the child's foster parents will raise the child until he or she turns 18 and will arrange visits with the parent.

Holding family service plan reviews (SPR) every six months.

When your children enter foster care, the agency must develop a family service plan to discuss the problems your family is facing and the services needed to overcome these problems. The first family service plan is supposed to be developed within 30 days after your child enters care. A comprehensive plan is supposed to be developed after 90 days. After that, the plan must be reviewed every six months at a case conference that you are supposed to be invited to.

The agency must write up the family service plan, along with a visiting plan, and a risk assessment (evaluating the risks to the child if returned home). These documents are called the Uniform Case Records (UCR) or the Family Assessment Service Plan (FASP). The UCR must be submitted to ACS on a regular basis and must be approved by ACS.

Who attends the SPR?

Your Case Planner should be there, and a supervisor may also be present. A “third-party reviewer” who does not work directly on your case is supposed to be present and to help by asking questions and keeping the focus on planning for the child. S/he should not just support the agency’s position. Often ACS sends the Case Manager, who oversees that foster care agency’s work. According to ACS, the Case Manager’s role is to monitor the agency’s progress and try to bring about a permanent home for the children as soon as possible. Children over 10 or foster parents are supposed to be invited but usually are not. Sometimes the agency will bring other personnel, like an administrator or a psychiatrist.

What are your rights regarding service plan reviews?

- You have a right to be at the Service Plan Review. You are entitled to written notice of the date of the review and notice that you have a right to bring a person of your choice to the review. Your participation in these reviews is critical. In addition to participating in the review, you should prepare for the review beforehand so that you get the most out of the meeting. See the section on self-advocacy below if you have not been invited to a Service Plan Review. Foster parents and children over 10 also have the right to notice of the service plan review date.
- You have a right to a copy of the family service plan. The agency must give you a written copy of your service plan or, if you did not attend, a summary of what was discussed at the service plan review. You should be given a copy of the 90-day comprehensive service plan and all the six-month reviews after that. You should ask for it at the review. They may not give it to you at that time. If not, make sure you ask for it at a later time. If you do not have service plans from the past, ask your Case Planner for copies and write a follow up letter requesting them. Send a copy to the supervisor. See Appendix Q for a sample letter.

Advocating for yourself at Service Plan Reviews (SPR):

The first step in advocating for yourself at an SPR is by attending. If you cannot attend on the date the agency has selected, notify the Case Planner immediately and ask to reschedule. If you never received a written notice informing you of when the SPR would be held and your Case Planner calls you on Monday and tells you that your SPR is

scheduled for later that day, or the next day, explain to the Case Planner that you have a right to get written notice of the SPR two weeks in advance and that the time is not good for you. If the Case Planner insists that they will hold the SPR, ask to speak with a supervisor. You may have to ask to speak with the director of the agency, but it is important that the agency give you enough notice so that you can attend your SPR. If they have the meeting without you, you can request a new meeting. It's also good to document in writing that you were not informed of the meeting, so they don't try to hold it against you that you did not attend. See Appendix R for a sample letter you can use to request a conference. Keep a copy of the letter you send.

Because the SPR is so important, you want to be prepared. There are several ways to prepare for your SPR:

- Think about whom you want to attend with you. You are entitled to bring somebody with you. You can invite your attorney, a drug treatment counselor, a friend, relative, or anybody who you feel will be helpful and supportive. Try to bring somebody who is familiar with your case and the efforts you have made to have your child returned.
- Bring information about the programs you are in or have completed. Bring a letter of progress or any completion certificates you have. If you are being drug tested and have a clean test results, bring those. Talk about any other accomplishments, such as attending a GED or job training program.
- Prepare a list of things you want to discuss. The SPR is a time to discuss the service plan for your family. You know your family better than anybody so you need to share with people at the SPR what services you think would be helpful. The SPR is also a time to discuss any problems you may be having with the foster family, or the Case Planner. You may want to write things down so that you don't forget anything.
- Be ready to discuss your child's future. The SPR will review your child's permanency goal, as described above. Find out the agency's plan and be prepared to explain the steps you have made toward reunification.

There are many things you can discuss during an SPR. For example, you may want to discuss:

- Referrals to services for you and your family - See pages 17-21 (preventive services) for information about types of services you can request.
- Your child's progress - It is important to get information from the Case Planner about your child's schooling, medical care, and other activities. You can ask to see your child's report card, medical records, and his or her Individualized Education Plan (IEP), among other things. You may have creative ideas about how to be more involved in your child's life, like attending parent-teacher school conferences and medical appointments, or attending some of your child's therapy sessions. Once you get information about your child's progress, you may have ideas about services you believe your child needs. You may, for example, want the agency to refer your child to an Early Intervention Program (EIP) or to therapy. The SPR is the time to ask for these services.

- The amount and quality of visitation – You can ask for more frequent visits, longer visits or unsupervised visits. You can ask that visits occur outside the agency for all or part of the visit. Reasons to expand visits include the success of current visits, children wanting more or unsupervised visits, and progress toward reunification. You may have creative ideas about how you and your child can have more contact, like supervising homework and preparing meals in the foster home, or attending school field trips. If the agency expresses concerns about the visits you have been having, it is important that you listen to what they have to say and try to address their concerns. A record of visits you have had is a useful tool when talking about expanding visits. We have attached a sample visiting and contact log in Appendices T and U.
- The goals you must meet to have your children returned – During the SPR, you can also learn about what the agency expects you to do to reunify with your children. If you disagree with something the agency expects you to do, this is the time to explain why. For example, the agency may tell you that they think you need to take a parenting skills class even though you have already completed two classes. Tell the agency about the two classes you completed and ask them to explain why you need to take another class. The agency may still insist that you need to take another class. You can agree or disagree. If you disagree, you may want to note your disagreement on the service plan when they ask you to sign. You may want to write that you agree with the service plan except for the part about taking another parenting skills class.

Whether you agree with the whole service plan or not, and whether or not you leave the agency with a copy of the service plan, you may want to write a follow-up letter that summarizes your understanding of the SPR. Be sure to date the letter and keep a copy for yourself. You may want to send a copy of that letter to the Case Planner and his/her supervisor, the ACS case manager, your attorney, and any other professionals who attended the SPR.

Here are some other tips for attending your SPR:

- Before the SPR begins, ask that everybody introduce himself or herself and get their names and addresses. There may be people at the SPR who you do not know (for example, the third party reviewer and ACS case manager). If you get the name and address of everybody who attends, it will be easier for you to send a follow-up letter to all of them.
- Bring a pad of paper and pen to the SPR. A lot will be discussed at the SPR. You may want to take notes. If many different topics are being covered in the SPR such as your child's education, therapy for you, therapy for your child, or visitation, you may want to summarize what was agreed to regarding each topic before a new one is discussed. Your notes may also be helpful if you decide to write a follow-up letter.
- Listen to what others have to say. You will be a much more effective advocate for yourself if you know the reasons why a decision is being made. The most important question you can ask is "why?" Why do you think I need to take a parenting skills class? Why can't my visits be unsupervised? Why do you think that my children and I don't have a bond?

- Relax. Very sensitive issues are discussed at the SPR. You may feel uncomfortable because there are people in the room who are judging you and may seem unfair. Losing control will hurt you in the long run. If you feel like you are going to start yelling or acting out, you may want to excuse yourself from the room and get a drink of water.
- If your last SPR did not go well, you may want to request that some additional people attend the SPR. You may want to request that the Case Planner's supervisor attend, that a parent advocate attend, or that somebody superior to the supervisor attend. While many of the people who attend the SPR may be intimidating or make you uncomfortable, remember that the SPR is your time to show how you have complied with services, to ask for other services that you think will help your family, and to learn about how your children are doing. This is about your family and you have the right to ask as many questions as you need to in order get the information you feel you need.

“My worker used to talk to me so badly, I would get furious. I used to curse her out, tellin’ her she had no right talking to me the way she did. But what did she do? She wrote down, “Mother’s unstable. No visit this week.” Then she’d find new projects for me to complete. It took me six years to get my son back. Six years! I’ve seen so many parents give up. They get so tired of fighting with workers who treat them like they’re the enemy – holding their children hostage. You can’t give up though. Those are your children! No one is going to love them the way you do, no one! When you can’t beat the enemy you have to join them. Do what you have to do and get your kids home.”

What other rights should you know about?

Education

You have the right to know what is happening with your children’s education. You may ask for report cards, assessments for special education, and meetings with your children’s teachers. You can attend parent/teacher meetings unless there is a court order to prevent you from having this information or contact. You have the right to be consulted before your child is placed in Special Education, and to participate in the decision-making process, unless the Family Court issues an order taking away these rights. See Appendix D for more information about Special Education.

Medical

You have the right to attend your children’s medical appointments and to participate in their medical care unless a court order says you cannot. You can ask your Case Planner about your children’s medical health, medical care, and psychological health. A lot of parents complain that their children are being medicated without their consent. Unless there is an emergency, you should be consulted before medical treatment is given and before any medications are given to your children. If you are not, speak to the Case Planner, the doctor and your lawyer about your concerns.

“When my visits were supervised, I went to their medical appointments with their foster mother. Once I got unsupervised visits I took my children to their medical appointments. I also took them to school and picked them up, and did homework with them. I also took them to the park, movies and on trips. Of course I consulted with my Case Planner before I did these things. It helped that we had developed a relationship and that I was doing what they had required of me.”

What are your rights to visiting and stay in touch with your children?

“Even before my case had started, I was already a parent advocate so I knew my rights. If I didn’t know my rights, they would have definitely taken advantage of that. They were telling me that I could only visit my child for an hour every other week but I knew that I could visit my child every week. Also, sometimes the foster mother was unable to bring the children to the agency for a visit so when I would go to the agency, they would tell me that the foster mother was unable to get a ride there so the visit had to be cancelled. But I knew that I was still entitled to my visit. I would tell them that I know that it’s their job to provide rides if the foster parent is unable to do it herself. I even told them that I could get a paper that showed them the particular services that they’re supposed to provide for me. So after they realized that I knew my rights, they left me alone.”

What the law says:

State law requires that at a minimum you and your children have visits every other week at the agency. However, most agencies provide visits at least once a week to parents and their children. You know better than anyone how important visiting is to staying close to your children. As discussed in the next section, you have a right to request more visits and better visits. You should do so at Service Plan Reviews and whenever you can speak with your Case Planner and/or the supervisor. The agency should consider your schedule and your children’s schedule when making a visiting plan. This means scheduling visits for times when you do not have to work or do other mandated services and when your children are not in school.

You must be given financial help, transportation, or other help necessary to enable biweekly visiting to happen. The agency is supposed to follow up with you if you miss a visit to make sure it doesn’t happen again. The agency must arrange for visits to occur in a private and comfortable location.

“A lot of people don’t know it, but when you start getting weekend visits with your children you can get additional help from Public Assistance. My Case Planner wrote a letter for me to take to Public Assistance verifying that I was having weekend visits with my children. They added to my budget for food assistance. You can get something like \$4 per day per child.” (See Appendix V for a sample letter)

Agencies may not deny you visits with your children unless they have a court order. They must get a court order immediately if they are trying to stop your visits completely. The court can only deny visits if the visits would place your children in danger. This means that visits cannot be denied because you have failed to comply with services or some other directive of the agency. You have a right to have a hearing in court about this issue.

When a parent is incarcerated, the agency is required to arrange for the child to be brought to the facility to visit at least once a month, as long as the permanency goal is reunification, unless there is a court order preventing visits. Visits should not be limited or denied because of the distance to the jail or prison. Incarcerated parents should contact the agency to ask for visits, in writing if possible, and keep a copy of their request. You can also call the ACS Children of Incarcerated Parents Program (“CHIPP”) at 212-487-8630 or 212-487-8632.

What ACS guidelines say:

In December 2000, ACS developed written guidelines for foster care agencies on arranging visits for children in foster care. The guidelines can be very helpful to you in advocating for improved visiting with your children. You can refer to the basic principles of the guidelines below when advocating for improved visiting with your children:

- Your visits should be unsupervised unless the agency has a reason to supervise the visits. Visits should only be supervised if necessary to protect your child, to prevent your child’s court testimony from being influenced or if a court orders the supervision. The agency can supervise some visits to assess your family interactions, but it does not have to supervise them all.
- If visits are supervised, the least amount of supervision necessary should be used. Unless your child is at serious risk of harm, the agency should not supervise your entire visit or interfere with your contact with your child, even during a supervised visit.
- Parents should visit with their children every week for at least two hours. ACS requires the agency to arrange for weekly two hour visits unless there is a reason not to do so.
- Visits should take place during your children’s ordinary activities, such as at hair cutting, doctor or dentist appointments, sports games, shopping, and school plays.
- The agency should help you arrange to have other contact with your children, including phone calls and letters between visits. Ask your Case Planner if you can call the children or they can call you. It is very important to have contact between visits.
- The agency is supposed to develop your initial visiting schedule, increase your visits or change your visits from supervised to unsupervised visits without ACS approval. The agency plans your visiting schedule. It does not have to consult with ACS. Waiting for ACS approval should NEVER be a reason to postpone either an increase in visits or a change to unsupervised visits.
- The agency cannot decrease the amount of your visits without a court order or your written consent. The agency must ask a court to approve any decrease in your visits unless you agree in writing that you should have fewer visits with your children.

- Your children should be allowed to visit with each other and other people who are important in their lives. If your children are not placed in the same foster home, they have the right to visit with each other at least once every other week. The agency should also try to arrange visits with other people who are important to your children, even if those people are not relatives. You should tell the agency about people you think your children would want to visit. Your children can also tell the Case Planner.
- Your visits should increase over time in preparation for your children's return home. Visits should progress from weekly two hour visits to more frequent and longer visits, to day-long visits, to overnight and weekend visits, then to trial discharge and lastly, final discharge of your children. If the agency does not increase your visits during a six-month period, you should ask your Case Planner why you are not getting more visits.
- Your visiting plan should be reviewed at every Service Plan Review. The Service Plan Review is an important time to ask for more visits with your children and for an explanation if the visits are not increased. However, you do not have to wait until the SPR to ask for more visits. You can ask the caseworker at any time.
- You have the right to visit with your children even if the agency changes your children's permanency goal to adoption. You have the right to visit with your children unless and until your parental rights are terminated. It will be very difficult, however, to have the visits increased during this time.

“In my case I was tired of being unable to take my children to the park, store, movies, etc. I had been clean for 10 months already, so I felt that I should be allowed more time with my children and that my time should be unsupervised. I asked my social worker at my program to write a progress letter for me. I took the progress letter to court and petitioned for unsupervised visits and they were granted. Now I see my children daily. I’m able to take them to medical appointments; I take them to school and pick them up. I help with homework. I can take them anywhere I want, as long as I have them home at a reasonable time. Having a good relationship with your worker is very helpful in a situation like this, because when I mentioned to her that I was thinking of petitioning the court for unsupervised visits she supported me.”

How do you get more visits?

Getting unsupervised and overnight visits with your child is the first, and most important, step in the process of bringing them home. If you have not been able to get the agency to agree to increase your visits or move from supervised to unsupervised visitation, and there is a long wait until the next court date, you should consider bringing the case to court. You can file a petition to modify the dispositional order entered by the judge at disposition or at the last permanency hearing. The dispositional order is the order that places your child in foster care but it also explains what the visiting plan for your family should be. You can bring your case back to court just for the purpose of asking the judge to change your family's visiting plan.

Before you go to court, ask the Case Planner why the agency will not increase your visits. If the worker has particular concerns about your family relationships, your children's behavior, or your readiness to have unsupervised visits, try to respond to her concerns by asking her to observe your family's interaction during agency visits and by gathering proof of your achievements since the last visitation order was entered. The same information that you use to try to convince the agency to support you will also be helpful when trying to convince the court. The more you can learn about why the agency doesn't support a change in visiting for your family, the better you can respond to their concerns.

What if the agency says it needs a court order?

ACS's own guidelines say the agency does not need a court order to increase visits. If the worker is not aware of the guidelines, ask to speak to a supervisor. You can also call the ACS Office of Family Visiting at (212) 487-8630.

If the agency tells you that the judge said there can be no change in the level of supervision or the frequency of visitation without a court order, ask them if they would be willing to support your efforts to get an increase. The agency can support you by writing a report for the court that recommends increased and/or unsupervised visitation and that provides information about how visitation is going. If they are not willing to write a report but still support your position, tell your Case Planner the date your case will be heard and ask her to come to court to tell the judge that she recommends more visits for your family.

Once your petition is before the court, the judge will ask all of the parties if they agree that there should be more or unsupervised visits. If everyone agrees, the judge is likely to change the order, either ordering a specific plan for increased visits or giving the power to the foster care agency to decide how and when your visits with your child should be expanded. If everyone does not agree, the judge can hold a hearing to decide what the visiting plan should be for your family. Again, it is important to listen to the reasons why people are not supporting you so that you know what information you need to bring to court to address their concerns. Information can be the types of documents discussed above, like certificates and letters, or testimony from witnesses. For instance, maybe your counselor can come with you to court. If your counselor does come to court, the other lawyers will be able to ask her questions as well. Think about all of the different ways that you can show the court that you and your children are ready for more visits.

What can you do if you think your children are being mistreated in foster care?

Suspecting that your children are not being treated properly in foster care (for example, finding bruises on them, or having them come to visits dirty or dressed inappropriately) is one of the most frustrating, nerve-wracking experiences a parent can have. It is particularly frustrating if you suspect that your child, who was placed in care on the

premise that s/he was unsafe with you, is being mistreated by foster parents or group care staff. It can be hard to stay calm while dealing with this sort of situation, but there are definite steps that you can take:

- First, try to explain and share your concerns within the foster care agency. Go up the chain of command, first your Case Planner, then her supervisor, the foster care director, the Executive Director, as needed. Be prepared to document your concerns with specifics such as dates, witnesses, photos, etc. If you have an attorney, plan these actions with her. If you cannot get the problem solved to your satisfaction within the agency, there are further steps you can take:
- Call the ACS Parents' Rights Unit: (212) 676-9421. Be ready to document your concerns and to explain what has been your agency's response and why you are not satisfied with it. If you do not think ACS Parents' Rights Unit is taking you seriously enough, you can also make a report of suspected child abuse/neglect directly to the New York State Central Register (SCR): 1-800-342-3720. You have the option of doing this anonymously, but if you want SCR to follow up with you, you will need to tell them how to get back in touch with you.
- Contact your child's Law Guardian at the Legal Aid Society, ask your lawyer to, or have your child call herself, if she is old enough. If you are unsure who the Law Guardian is, call: (718) 237-3100 (Brooklyn); (212) 312-2260 (Manhattan); (718) 579-7900 (Bronx); (718) 298-8900 (Queens); and (718) 981-0219 (Staten Island). You need your child's name, date of birth and the mother's name to get the information.

“There was this one time I was going upstate to visit my son, and when he came down I noticed he had a long-sleeve shirt and a turtleneck. It was a hot day, and when I asked him “why do you have on this hot shirt?” he kept trying to make excuses, but I persisted and convinced him to let me see. He had marks all over his neck and arms. I started to cry. I could not say anything. I took my son and went to see my caseworker. I asked “do you see this on my son?” She told me she had not been in his cottage in two days. I was very mad and upset. I said, “What are you going to do about this?” She said she would report it right away. When nothing came of her report, we made a plan together to look into it. My worker found out that my son was not the only child going through this. They got the guy who was hitting the kids, and they got him out of the agency. If this ever happens to you, please follow up. Don't let them make you feel as if you do not have any rights because you do, and you can use them to help your children.”

Advocating for Yourself

When you feel that you and your family are not being helped in the way you should be, or that you are not receiving services or information to which you have a right, your best strategy is to advocate for yourself. Advocating for yourself means knowing what your rights are and holding people responsible.

“I did most of the footwork for myself. Before my kids were removed, my ACS worker found an outpatient drug treatment program for me. But I really needed an inpatient program. After my children were removed, I began to feel sick and tired of being sick and tired. I found a detox center on my own and talked to a counselor. I told him my story and that I really needed help. The first program I tried didn’t work because I was pregnant, but eventually I received the help I needed to turn my life around at a mother and child program called La Casita. La Casita had childcare on site, counseling, therapy, social work, parenting classes, group therapy, and individual counseling. In La Casita I started to see the damage I’d been doing to my children and myself. The counselor I had was a recovering addict, so I opened up to her. She helped me to see that everything that I was going through reflected on my past and how it was a pattern that needed to be broken.”

“I also advocated for myself in court, providing certificates to the judge showing all of the classes and treatment programs I had completed. I petitioned the court for unsupervised visits after I had 10 months clean in my program. The visits were granted.”

How to Deal with ACS/Agency worker

The truth of the matter is that ACS and the foster care agency have a lot of power over your life and the lives of your children. You may feel that the agency workers are watching you as if you were under a microscope. Every contact you have with them and your child is being analyzed and documented. Getting your child back home may rely on your ability to show how level headed you are, especially if there have been any accusations of abuse. But you may be feeling anything but level headed. If you need to scream or cry, wait until you get home; don’t lose control at the agency or in court. The more upset you get with or in front of people, the less likely they will be to believe that you can handle having your child returned to you. This can be a frustrating, infuriating and demeaning process. Since the workers are documenting all of their contacts with you, it is a very good idea for you to document the contacts too, through journals, visitation logs, and telephone logs that detail everything from your point of view. See Appendices T and U for sample logs. Although it is best if you can develop relationships with your workers, if you feel that your rights are being violated, you should speak to your worker’s supervisor. You can write letters regarding any problems and send a copy to the supervisor and to your lawyer. If necessary, continue to climb “up the ladder” to the supervisor of supervisors with your complaints if you feel your rights are being violated.

“Keep a book of when you go to court, when you go to your visits, what was said by the Case Planner. They keep a file on you. Everybody has a file on you from family court to the agency to ACS. You keep your own file. Keep your papers together. Get phone numbers. Don’t be afraid to write to your worker’s supervisor. Go all the way to the director if necessary.”

“In my case, once I complied with what the workers wanted, everything fell into place for me. But I have seen other parents, who have done everything required, and they still can’t seem to get anywhere with the agency. Sometimes you just have to bite your tongue and keep fighting. It doesn’t help to get angry, and sometimes it makes matters worse. They’ll come up with something else for you to do. Just do the best you can and don’t give up, have faith and keep trying. It helps to see the worker as another person trying to do their job to the best of their ability. They may not be well trained or may just be learning the system themselves. Sometimes it seems like they don’t even like their jobs, or they may seem like they’re just following orders of supervisors or judges. Some of them are not even parents, and may not know how hard it is. Sometimes it is hard to trust the workers, but if you can develop a relationship with your worker, it may help them see you as a responsible, respectful mother trying to care for your child as best you can. We’re only human, just like them.”

There are many different ways to advocate for yourself. The decision about what approach you take will depend on your past experiences, with the particular person you are dealing with, with strategies that have worked or not worked before, and your personality. Some people are comfortable demanding things in an assertive way and have found that approach effective in the past. Other people prefer to speak slowly and quietly and try to negotiate with others. Remember, the best way to advocate for yourself is to try a different strategy when one approach does not seem to be working.

The first thing you need to know in order to advocate for yourself is the agency’s chain of command. Agency chain of command has to do with who has the power to make decisions. For example, your Case Planner must answer to his/her supervisor. The supervisor has to answer to somebody as well, perhaps a unit director or associate director. The Executive Director of the agency has the most power. It is important for you to find out about the power structure within the agency you are working with.

“It’s always good to know the chain of command in case your worker is failing on her part. It’s also good to build a relationship with the worker, even if you don’t like her. That’s what I did. Whenever I had questions, I would ask her. I wasn’t afraid to ask or tell her any concerns I had.”

When Advocating for Yourself Is Not Enough

There are some times where advocating alone will not be enough to achieve the result you hope to achieve. In those cases, you may want to get your attorney, the Law Guardian, or the court involved.

For example, the Case Planner was supposed to refer your child for therapy and has failed to do so. You followed all of the above steps, but still your child has not been referred for therapy. While you may want to continue working with your Case Planner’s superiors and ACS to hold the Case Planner responsible, you may also feel that it is really important that your child start therapy right away.

You may want to seek out a therapist for your child yourself. You can speak with other parents you know through the foster care agency, your child's teacher, your own therapist, or anybody else you can think of to identify a therapist for your child. You can then call to set up an appointment for intake. If your child lives in a foster home that is not in your neighborhood, you may want to try to locate an agency that is convenient for the foster parent.

Once you get an intake appointment, it is important that you make sure everybody who needs to know about it does. You should write a letter to the Case Planner, the supervisor, and the ACS case manager (if you know his/her contact information). Be sure that you explain why you made the appointment yourself. Include the date and time of the appointment, the name of the agency, its location and phone number, and the name of the person with whom you spoke.

You can take these same steps if the Case Planner was supposed to make a referral for you and failed to do so. While it is important that the Case Planner do his/her job and be held responsible, sometimes you don't have time to wait for things to get done. You may have to do some of the work yourself. Be sure to tell everybody involved in your case what services you have arranged.

Sometimes you might want to notify the Law Guardian when your child is not getting the services that you believe s/he needs. Not only may this result in your child getting what s/he needs, but it also demonstrates to the Law Guardian that you are concerned about your child's well being. Always speak with your attorney first before speaking with the Law Guardian. Remember: the Law Guardian represents your child, not you, and anything you say can be used against you in your case.

Getting your children out of foster care

There are various points in the course of your ACS case when decisions regarding keeping or returning your children are discussed. Many of these discussions provide an opportunity for you to advocate for the return of your child. As with many other parts of this process, instead of waiting for the agency or the court to make things happen, you may have to take steps on your own to bring your children home. Children come home either on trial discharge or final discharge.

TRIAL DISCHARGE is the most common way for children to be discharged from foster care. During trial discharge, your child is still legally placed in foster care but is living with you. This means that ACS and the foster care agency are still involved and will supervise your home after the children come home. The greatest risk to families during trial discharge is that ACS can remove your child from your home without getting the approval of the judge. For example, if the ACS worker came by to visit you during trial discharge and found your children alone or with a babysitter who was too young to be considered

responsible, ACS might immediately remove them again. Trial discharges usually last between three and twelve months. FINAL DISCHARGE means your child is living with you and you have legal custody of your child. Final discharges can be with or without agency supervision.

One of the most important parts of successfully getting children out of foster care is taking action at the right time. It can be difficult to figure out when the time is right and what you can do. This section of the workbook will help you to evaluate your situation and give you suggestions for different things you can do, both in and out of court, to reunify your family. It can be hard to take this part slowly, when you feel that you are ready and that you know what is best for your children, but this may be the most important time to be patient and wait until the correct time in order to be successful.

“I got impatient when I felt that I had proven myself. I wanted to know why ACS had to approve anything. I felt that the Case Planner didn’t have enough power to make decisions. I started to get frustrated like when my Case Planner wanted to start overnight visits but said she had to wait until we went back to court and get the judge’s permission. I wasn’t sure if this was true, and felt mad at the Case Planner because she saw how hard I was working and I felt that she was messing me over. We got into arguments. Later, when I would go home and calm down I realized that she didn’t have the discretion she should to make important decisions about my family. I wrote letters to the supervisor and director asking for a meeting.”

The first thing to do is to think carefully about your Family Service Plan, what has been requested of you by the agency or ordered by the court. Ask yourself if you have done the things that were requested. Just registering for a parenting class or taking one drug test is not going to be enough. The agency and the court are going to want to see a real commitment to services, which usually means that you will have to fulfill the majority of your service plan over a period of time before you will get the support of the professionals in your case. Once you have completed the requirements of your Family Service Plan, or, if you are involved in long-term services and can show progress (such as attending therapy regularly, or getting a series of clean drug tests), you are ready to start pursuing a plan to bring your children home.

“Once I faced the problems that were pointed out to me, I went into a residential drug program. This particular program seemed to have been made for me, ‘cause they had everything that I needed: parenting classes, therapy, individual counseling, G.E.D. classes. I took advantage of all of these things and applied myself to them. I also kept close contact with my worker. I would make a phone call just to say hello, and never missed a visit or appointment regarding my case.”

The next thing to do is communicate with your Case Planner about creating a plan for the return of your children. It is important to express clearly to your Case Planner why and how things in your home have changed since your children entered care. It is also important to document for the Case Planner all of your accomplishments. If your Case Planner still has concerns about reunifying your family, ask her to tell you specifically what those concerns are. It can be difficult to hear other people's opinions about you and your children, but showing your Case Planner that you take her seriously demonstrates that you are able to look at your family's situation in a realistic way. Even more importantly, understanding what the Case Planner is thinking will help you develop a plan to deal with her issues.

Advocating With the Agency for the Return of Your Children

“Advocating with the agency Case Planner can be easy, when trust is established, hard when dealing with different caseworkers (the revolving door). It's easier when somebody understands you, is not trying to put you down as a parent, and especially when they were raised the same or similarly. Someone who looks at you as human, shows some type of compassion. In the relationship between the caseworker and the parent, communication is very important.”

When you start working with your Case Planner toward discharging your children from foster care, be clear about your achievements. This may mean collecting and copying certificates you have received for completing programs like parenting skills classes or drug treatment. If you have participated in services that don't award certificates, like therapy, ask the professional you are working with to write a letter on your behalf. Also, if you are participating in services that don't have a completion date or graduation, you can ask your counselor or therapist for a letter confirming your participation and progress.

“Every single visit that you have with your child at the agency you should want to meet with your Case Planner. I wanted everything on the record to show that I was trying to do what I am supposed to. Even if things don't work out the way they are supposed to, you can't say I didn't try or didn't tell you what was going on.”

Throughout the period before you request that your children be discharged, you will want to notify the Case Planner of any problems you may be having enrolling in or completing the required programs. While you want to show the Case Planner that you are ready to take care of your children, knowing when to ask for help is an important part of parenting too. Be careful though. While it should be okay for parents to ask for help, sometimes a Case Planner might think it means you are not ready to care for your children. An example of this might be if you were a victim of domestic violence and you told your Case Planner that you had mixed feelings about the person who abused you, or you saw similar patterns developing in a new relationship. This would almost certainly make a Case Planner concerned about your readiness to care for your children. Don't avoid the problem; just deal with it in a different way. One way to deal with this is to address your fears and

concerns with people other than your Case Planner. You may already have a counselor that you feel you can trust and who will keep what you say confidential, or you may have to locate services on your own.

“I always made sure my worker was aware of my accomplishments. Instead of waiting for my program to fax or mail any of my papers (that always seemed to take too long) I would get copies of them and bring them to her myself. If any problems came up during my case, I preferred to tell her myself before she heard it from someone else, because by the time it gets back to the Case Planner it’s another story.”

You may find when you raise the idea of reunifying with your children that your Case Planner supports it but hasn’t done anything about it. In that case you may want to ask her what the next steps are in seeking approval for a “trial discharge” of your children to your care. If the Case Planner seems unsure of what the next steps are, or reluctant to file the necessary paperwork, you can suggest that a supervisor get involved in the process.

One good way to keep the Case Planner moving towards reunification is to ask her to gradually increase visits over time. If you are starting with supervised visits, you want the next step to be unsupervised visits. Once you have unsupervised visits, you can get involved in your child’s daily life. Then you can try to move from daytime visits to overnights, then weekends, leading up to a trial discharge. Having patience during this process will show the Case Planner that you want the transition to go smoothly for you and for the children.

Because children stay in foster care for long periods of time, it is likely that you will have a number of Case Planners. It is almost always difficult to change from one person to another, especially when a new Case Planner might be inexperienced, won’t know you, and may not know what’s in your file. Changeover of Case Planners can make the reunification process take longer because new workers may treat the case as “new.” Don’t assume that the Case Planner has read the file or knows anything about your family’s readiness for reunification. The burden is on you to try and create a positive relationship with each new Case Planner. While it will probably be frustrating, the best thing for you is to be open and communicate with the new worker about the good things you have done to get your kids home. If you had a bad relationship with your former Case Planner, you can look at this as a new opportunity to have a supportive person in your case.

“When I found out I was going to have a new worker I was worried that she wouldn’t understand me, worried that she was going to be one of these workers that have no children and was going to tell me what to do and how to raise my kids. But I was very cordial. I didn’t want to come in there and start off with a negative attitude about getting a new worker.”

In cases where parents do not have a good working relationship with a Case Planner, it may be necessary to look to others to move the process along toward discharge. If you feel like your worker is not cooperating with you to get your kids home, you can request a case conference that will include supervisors, or even the director of the agency. At the conference you can explain why you believe it is time for the kids to be discharged and present certificates for services you have completed and letters you have collected in support of your case.

Sometimes parents have done everything they were supposed to do but still don't feel ready to have all their children come home at the same time. You may feel this way if you have three or four children or your children have been out of your home for a long time. Again, asking for help and being patient can work to your advantage. It can show the worker that you are being careful about the decisions you are making. Talk to your Case Planner about the possibility of not having the children all come home at the same time. Maybe the children can come home one per month or one every two weeks, so both you and your children have a chance to adjust to the change. An important thing for you and your children to understand at this time is that it may be better to stay in care a little bit longer now than to risk going back in because you become overwhelmed by bringing the children home too quickly. This will be a complicated thing to communicate to the children, and it may be helpful to talk to a counselor about how to discuss it with them. With older children it may be easier to be honest about your reasons. Make it clear to them that you want the reunification to be successful. Depending on your child, you can decide how comfortable you are being honest about your fears and concerns. Most importantly, explain to a child in this situation what you as the parent are doing to address your concerns or fears and why having them come home one at a time is better.

Taking Your Case for Family Reunification to Family Court

If you are unable to work out a plan with the agency and ACS for the return of your child from foster care, or if the court has said that your child can not be sent home until the court orders it, then you will have to shift from working with the agency to going to court. Parents are able to bring their cases back to the judge by asking their attorney to file a Motion to Terminate Placement. Or you can file this motion on your own by going to the petition room and meeting with a clerk who will help you write the motion. On the day you file your motion you will see a judge in "intake" who will ask you some questions about what you are asking the court to do on your case, give you a date to come back to court, and give you instructions about serving your motion on the attorney for ACS and the law guardian. Usually the judge that originally placed your child in foster care will hear your motion.

Before you file a Motion to Terminate Placement, described below, it is good to have a plan for how you will convince the judge and the law guardian to support you. It is important to either attach documents showing your achievements to the motion you file, or to be prepared to bring that proof with you on the first day your motion is heard in court.

Motion to Terminate Placement

Parents have a right to formally request the return of their child from foster care. This is usually done by filing a motion to terminate placement. Before you file a motion to terminate placement, you must make a formal request, either in person or by letter, to your Case Planner for the return of your child. See Appendix W for a sample letter. If your request is denied or 30 days passes after you made the request and your children have not been returned to you, you can file the motion. In your motion you should clearly state the reasons why your children should not be kept in foster care. The primary reason should always be that you have done the things that the court ordered or the agency has asked you to do to be reunified with your child. There may be other reasons why your child should no longer be in foster care and you should also put those reasons in the motion. Starting a court proceeding to terminate placement will bring a lot of attention to your family's case. As always, be prepared to provide the court and the other lawyers on the case with all of the information you have about what you have accomplished since your children entered care. If your children are not doing well in foster care or are not getting the services they need you should raise this issue as well.

When Your Children are Returned Home

“I used my visitation time to prepare the kids for coming back home, especially our weekend visits. I was honest, explaining to them what they needed to do when they came home to help prevent them going back into care...things like housework, school work, respecting me. I let them know there were a lot of changes to be made. I didn't feel I was the only one who needed to make changes. I felt that setting ground rules before the children came home was important. Also, giving them a choice, asking them if they wanted to return home or stay in care. These are things I did before allowing them to come home. I say allowing them because I was asked by my Case Planner, lawyer, judge and counselor if I was ready or did I need more time.”

“The challenge I faced was trying to deal with them as individuals, four different personalities who were very dependent on me. Plus there were too many people telling me what to do at once; overwhelming us with too much once the children came home. My children came back to me all baby like, seeking attention. I'm trying to raise them to be strong, knowledgeable and responsible so we can work as a team together and help each other. I want to feel that my children are smart enough to be their own person, and help take care of each other. When they were in foster care I did see how this was a part of them. I had taught them to stick together, no matter what, and they took good care of each other. I think family therapy is helpful and should be recommended to families, especially if it wasn't provided while the kids were in care.”

Many parents find that when their children are finally returned to their home, many issues need to be addressed. There may be financial or housing problems. Many times children are sad or angry. Often, they blame their parents or feel that their parents abandoned them. In some cases, they may miss their foster families. Parents may find themselves dealing with difficult behaviors they don't feel prepared to handle. They may also fear that if they ask for help, ACS will think they aren't ready to have their children returned home.

“My kids were different when they came back. Dealing with all the different personalities. My son was all over the place. He had been medicated while he was in care because the foster parent couldn't handle him. Supposedly I could have refused to medicate him but I liked his foster mother and they would have moved him if I had refused. It was hard.”

“I was scared. We had lost so much time. At first they just came home on the weekends. I felt so much guilt. They were afraid when I was spending time in the bathroom that I was using drugs again. I had to pamper them, reassure them. The kids were testing me. They were angry. They called me ‘crack head,’ ‘whore.’ It was terrible. You can't keep beating yourself up though, even though you're going to feel guilt at times. The past is in the past and you have to move on. I had to reassure them that I was always going to be there for them. I had to be clear with them. It's not easy. We do a lot of talking. Communication is the best thing. It took about a year for us to come back together. We had Preventive Services after they came home. It helped knowing that there was someone there giving us encouragement and support.”

Before your children are returned home, your agency should refer you to services designed to help you keep your children home and to help everyone in the home adjust. Services might include family and/or individual counseling. Family therapy should be offered if your family did not receive it while the children were still in care. This is especially helpful if the bond between parents and children or between siblings has weakened, when trust has been lost, or when there are still unresolved issues. Many agencies will provide preventive services to you when your children return, although some parents resent the continued intrusion into their lives, and worry that the agency is just waiting for a new reason to remove the kids again. Others find the services and support helpful. Many clinics, hospitals, and some private therapists accept Medicaid, so you can choose to find your own provider if you'd prefer not to work through the agency, or if your agency is not helpful. If your agency has not lined up these services and you want the services, you can also call the ACS Office of Advocacy/ Parents Rights Unit at 212-676-9421 and ask them to assist you. They will call the agency to tell them they must provide you with the services or refer you to those services.

If your children have been in foster care for six months or more, you are entitled to a discharge grant of \$750 for each child being discharged from care. The grant is supposed to help you purchase things for your children, such as beds, clothing or school items. Your Case Planner at the agency will request the grant from ACS, and may take you shopping for

the items your children need. The grant is usually not provided until final discharge, but if your child is coming home on trial discharge and you need the items, speak to your worker. They can sometimes arrange to help you get some of the items during trial discharge. If you receive the funds from the grant during trial discharge, the funds you receive will be deducted from your final discharge grant. If you have reached final discharge status and your worker is not responding to your requests for the discharge grant, you should speak with her supervisor. You can also call the ACS Office of Advocacy/Parents Rights Unit.

If you receive public assistance, food stamps or Medicaid, you should talk to your Case Planner about getting a letter to take to your public assistance caseworker stating that your children were in foster care and need to be added to your budget because they are being returned to your care (with date specified). The foster care agency should also assist you in obtaining daycare for your children if this service could help prevent your children from returning to foster care in the future. For information about obtaining housing assistance to help you get or keep your children out of foster care, see Appendix I.

“In the beginning it was hard to juggle, like, going and taking the kids to school, going to my program, doing what I got to do and stuff like that, helping them with their homework, going to the laundry. It was hard keeping those things in order. So now, in the program I attend, they teach you how to budget. They have different types of classes and stuff like that. Take advantage of it.”

“Even though they are doing well in school, and I am doing good, the pain is still there. It may not go away, but you know how to deal and cope with things better, just like I am learning. I am there for my children. I don’t put a man – because I did put the man – before them. At first I didn’t see it, but as I got better, I started to see, yeah, I put the drugs and this man before my children and I love my children dearly. I accept today that God comes first and then myself and then my children and everybody else can take a number.”

**Appendix A:
Where to call for legal advice if your family
comes into contact with ACS**

Bronx

Legal Services of New York - Bronx - (718) 928-3700

Brooklyn

South Brooklyn Legal Services - (718) 237-5500

Bedford-Stuyvesant Community Legal Services - (718) 636-1155

Brooklyn Legal Services Corp. A (Williamsburg) - (718) 487-2300

Manhattan

Harlem Legal Services - (212) 348-7449

Legal Services of New York - Manhattan - (646) 442-3106

Queens

Queens Legal Services - (718) 657-8611

Staten Island

Legal Services of New York - Staten Island - (718) 233-6480

Citywide

Center for Family Representation - (212) 691-0950

NYU Family Defense Clinic - (212) 998-6430

New York Legal Assistance Group - (212) 750-0800

**Sanctuary for Families – (212) 349-6009
(Represent victims of domestic violence only)**

Appendix B: Resources

We list here advocacy organizations which may be able to assist you. Legal services contact information is provided in **Appendix A**. A list of drug treatment programs is provided in **Appendix C**. A list of organizations that help children obtain appropriate education services is included at the end of **Appendix D**. A list of preventive services agencies that help specific immigrant groups is included in **Appendix K**.

Advocates for Children (212) 947-9779

Training and advocacy for parents on rights of children in the NYC public school system, both regular and special education

Child Welfare Organizing Project (CWOP) (212) 348-3000

Information and support for ACS-involved parents, citywide

Concerned Citizens for Family Preservation (718) 447-6788

Information and support for parents involved with the child welfare system. Located in Staten Island.

Coalition for Asian American Children and Families (212) 809-4675

Advocacy and peer support for ACS-involved Asian American families

Correctional Association of New York (212) 254-5700

Systemic advocacy for incarcerated mothers and their children

The Door (212) 941-9090

Advocacy for older youth; they help any youth 12-21 in foster care

Family Resource Center (800) 344-3314

Information hotline for families of prisoners incarcerated in New York State

Grandparent Advocacy Project (718) 863-4776

Advocacy for grandparents caring for grandchildren

Grandparents Empowerment Movement (718) 389-5100

Support groups for parenting grandparents

Grandparent Resource (212) 442-6407

Support for grandparents caring for young children

The Bridge Builders Advice Line (718) 928-2880

Legal information hotline for families in the Highbridge section of the South Bronx (zip code 10452)

HIV Law Project (212) 577-3001

Information and advocacy for families affected by HIV / AIDS

Hour Children (718) 433-4724

A program to strengthen bonds between incarcerated mothers and their children

Immigrants and Child Welfare Project (212) 452-7435

A project intended to influence ACS to adopt training curricula and policies that are more sensitive to the needs of immigrant families

Legal Action Center (212) 243-1313

Expert legal advice for parents in recovery from addiction

Legal Information for Families Today (LIFT) (212) 330-7777

Information for families facing legal proceedings

National Child Abuse Hotline (800) 422-4453

Crisis Services, information, and referrals 24 hours/7 days a week

NYC Youthline (800) 246-4646

New York State Coalition Against Domestic Violence Hotline (800) 942-9606

Information, referrals, and more; 24 hours/7 days a week

En español (800) 942-6908

Parents Without Partners (800) 637-7974

Support for single parents

People United for Children (212) 368-8600

Advocacy and organizing for parents of children in the child welfare and juvenile justice systems

Prevent Child Abuse NY Parent Helpline (800) 342-7472

Provides information and referral services; 24 hours/7 days a week

The Samaritans (212) 673-3000

Suicide Prevention hotline; 24 hours/7 days a week

Sanctuary for Families (212) 349-6009

Services for victims of domestic violence

SHIELD (212) 626-7383

Advice and assistance for people who are filing divorces.

Single Parent Resource Center (212) 951-7030

Support for single parents

Triangle Tribe (212) 491-5911

Services and advocacy for gay, lesbian, bisexual, transgendered, and questioning (GLBTQ) youth in foster care and their families

Voices of Women (212) 696-1481

Group support and advocacy for women who are survivors of domestic violence

Voices of Youth(212) 279-0708 Ext. 150/109

Empowering older youth in, and recently discharged from, foster care to assert a voice in policy-making and professional education

Youth Advocacy Center (212) 675-6181

Self-advocacy training for older youth in foster care

Appendix C: Drug Treatment Programs

For referrals to drug treatment programs in your community, you can also call (800) LIFENET, or the OASAS Substance Abuse Hotline at (800) 522-5353.

Below is a list of Family Rehabilitation Programs, which provide drug treatment to parents while their children remain at home.

Note: Names of program directors are current at the time of this writing.

BRONX

CARDINAL MCCLOSKEY CHILDREN & FAMILY SERVICES FAMILY REHABILITATION PROGRAM

951-953 Southern Boulevard, 3rd floor
Bronx, New York 10459
(718) 542-0255
(718) 542-0354 - Fax Number
Marion Greaux, Administrative Director
Email: Mgreaux@CardinalMcCloskey.org

DOMINICAN SISTERS FAMILY HEALTH SERVICES FAMILY LIFE PROGRAM II

279 Alexander Avenue
Bronx New York 10454
(718) 292-0151,81
(718) 993-1747 - Fax Number
Karen Pollack, Program Director
DominicanSisters@ao.com

KINGSBRIDGE HEIGHTS COMMUNITY CENTER PARENT AND CHILD PROGRAM

3101 Kingsbridge Terrace
Bronx, New York 10463
(718) 884-0700, Ext. 137
(718) 884-0858 - Fax Number
Doug Simon
Email: dsimon@khcc.nyc.org

LEAKE AND WATT SERVICES, INC.

Substance abuse Prevention Intervention & Education Program (SAPIE)

1529 Williamsbridge Road

Bronx, New York 10461

(718) 794-8500

(718) 794-8581 - Fax Number

Daphne Stephenson, Program Director

Email: Dstephenson@Leakeandwatts.org

NEW YORK FOUNDLING MOTT HAVEN PREVENTION PROGRAM

364 East 151st Street, Basement

Bronx, New York 10455

(718) 993-2600

(718) 993-0590 - Fax Number

Stephanie Stanton, Director

SALVATION ARMY MHCF

7 West Burnside Avenue

Bronx, New York 10453

(718) 561-3190 Ext. 201

(718) 561-3856 - Fax Number

Ruth Schulder

E-Mail: SRuth1947@aol.com

SCAN NEW YORK FAMILY RENEWAL CENTER

1377 Jerome Avenue

Bronx, New York 10452

(718) 293-2230

(718) 293-2674 - Fax Number

Evelyn Castro, Program Director

E-Mail: evycaastro@aol.com

Brooklyn**CHILD DEVELOPMENT SUPPORT CORPORATION**

352-358 Classon Avenue

Brooklyn, New York 11238

(718) 398-2050 Ext. 8512

(718) 230-9562 - Fax Number

John Ofori, Program Director

oforijcdsc@aol.com

COMMUNITY COUNSELING & MEDIATION

810 Classon Avenue
Brooklyn, New York 11238
(718) 230-5100 / (718) 398-1144
(718) 230-5425 - Fax Number
lena Cherry, lcherry@ccmny.org
Program Supervisor Alfonso Cayetano

ST. CHRISTOPHER OTTILIE BEDFORD STUYVESANT FAMILY LIFE CENTER

613-619 Throop Avenue, 5th floor
Brooklyn, New York 11216
(718) 919-1226
(718) 919-2017 - Fax Number
Floaria Ladja, Program Director
Email: Fladja@sco.org

**FLATBUSH HAITIAN CENTER, FLATBUSH FAMILY SERVICES INTENSIVE
PREVENTIVE SERVICES**

2211 Church Avenue, Room 310
Brooklyn, New York 11226
(718) 693-5700
(718) 693-5354 - Fax Number
Margarette Tropnas, Program Director
Email: fhcfrp2211@verizon.net

GOOD SHEPHERD SERVICES

503 5th Avenue, 4th floor
Brooklyn, New York 11215
(718) 965-3313
(718) 965-4102 - Fax Number
Charles Barrios, Assistant Director
Email: Charles_Barrios@goodsheperds.org

JEWISH CHILD CARE ASSOCIATION

3003 Avenue H
Brooklyn, New York 11210
(718) 859-4500
(718) 859-5708 or 421-7438 - Fax Number
Lillian Arbelo, Director
E-Mail: arbelol@jccany.org

FAMILY CONSULTATION SERVICES DIOCESE OF LONG ISLAND PREVENTIVE SERVICES

1837 Pitkin Avenue
Brooklyn, New York 11212
(718) 498-4100
(718) 498-8299 - Fax Number
Carlos Morales, Program Director

**JEWISH CHILD CARE ASSOCIATION
HELPING HANDS FOR FAMILIES**

3003 Avenue H
Brooklyn, New York 11210
(718) 859-4500
(718) 859-5708 or (718) 421-7438 - Fax Number
Judy Berman, Program Director

**SALVATION ARMY SOCIAL SERVICES FOR CHILDREN
WILLIAMSBURG FAMILIES AGAINST DRUGS**

295 Division Avenue
Brooklyn, New York 11211
(718) 782-4507
(718) 782-5729 - Fax Number
Phyllis Hyatt
Email: PhyllisHyatt@use.salvationarmy.org

**SALVATION ARMY SOCIAL SERVICES FOR CHILDREN
BUSHWICK FAMILIES AGAINST DRUGS**

815 Broadway Avenue, 3rd floor
Brooklyn, New York 11206
(718) 302-6921, Ext. 107
(718) 302-6922 - Fax Number
Marcia Harris
E-mail: MarciaHarris@use.salvationarmy.org

**WOMEN'S PRISON ASSOCIATION AND HOME, INC.
BROOKLYN COMMUNITY OFFICE**

2632 Atlantic Avenue
Brooklyn, New York 11207
(718) 385-2600
Brenda Jackson, Program Director
E-Mail: Bjackson@WPAonline.org

MANHATTAN**ALIANZA DOMINICANA****CENTER FOR REHABILITATION EDUCATION & ORIENTATION (CREO)**

2410 Amsterdam Avenue, 4th floor

New York, NY 10033

(212) 740-1960

(212) 740-1967 - Fax Number

CARDINAL MCCLOSKEY**EAST HARLEM FAMILY REHABILITATION CENTER**

205 East 122nd Street, 2nd floor

New York, NY 10035

(212) 987-1806 Ext. 14

(212) 348-0504 - Fax Number

Rosemarie Rosa, Program Director

E-Mail: rrosa@cardinalmccloskey.org

HARLEM CHILDREN'S ZONE**PROJECT CLASS**

1916 Park Avenue, Suite 212

New York, NY 10037

(212) 534-0700

(212) 678-4201

Jevone Beverly

E-mail: Jbeverly@hcz.org

SCAN**SAFE HAVEN**

249 East 117th Street 4th Floor

New York, NY 10029

(212) 348-3986

(212) 348-0072 - Fax Number

Margarita Leandry, Supervisor

Angel Carrasquillo, Program Director

Angel4797@hotmail.com

ST. LUKE'S-ROOSEVELT HOSPITAL**VERY INTENSIVE PREVENTIVE (VIP) AND ADOLESCENT VERY INTENSIVE (AVIP)**

1111 Amsterdam Avenue, Scrymser building 6th floor

New York, NY 10025

(212) 523-2955 / 2685

(212) 523-3206 - Fax Number

Karen Otte, Program Director

E-Mail: KOTTE@chpnet.org

NEW YORK FOUNDLING PATHWAY CENTER

542 West 153rd Street
New York, NY 10027
(212) 862-3427
(212) 491-9563 Fax Number
Margaret Becker
Email: Margaret.becker@dfa.state.ny.us

QUEENS**FAMILY CONSULTATION SERVICES****QUEENS FAMILY REHABILITATION PROGRAM**

216-10 Jamaica Avenue
Queens Village, New York 11428
(718) 776-2333 Ext. 26
(718) 479-0205 - Fax Number
Elaine Caracciolis Supervisor
E-Mail: elaineFRP@AOL.Com

NEW YORK FOUNDLING QUEENS PREVENTIVE PROGRAMS

11-43 47th Avenue
Long Island City, New York 11101
(718) 784-4422
(718) 784-7084 - Fax Number
Ms. Gonzalez
E-Mail: AwildaGonzalez@nyfoundling.org

**SAFE SPACE (FORMERLY CCF)
FAMILY REHABILITATION PROGRAM**

19-31 Mott Avenue
Far Rockaway, New York 11691
(718) 471-6818
(718) 337-2750 - Fax Number
Nadine Merriweather, Program Director
E-Mail: Nmerriweather@safespaceNYC.org

**ST. CHRISTOPHER-OTTILIE
FAMILY DEVELOPMENT CENTER**

70-20 47th Avenue
Woodside, New York 11377
(718) 803-2000
(718) 505-5588 - Fax Number
Thomas Cocks, Program Director
E-Mail: tcocks@sco.org

QUEENS CHILD GUIDANCE CENTER

JAMAICA FAMILY CENTER

89-56 162nd Street, 3rd floor

Jamaica, New York 11432

(718) 297-8000

(718) 262-8228 Fax Number

Elizabeth Hernandez

Beverly Houston

STATEN ISLAND

SEAMEN'S SOCIETY FOR CHILDREN AND FAMILIES

HEALTHY FAMILIES PROGRAM

25 Hyatt Street

Staten Island, New York 10301

1(888) 837-6687

(718) 447-7740 Ext. 4761

(718) 273-4376 - Fax Number

Joyce Russell-Andersen, Program Director

E-Mail: joyce@roots-wings.org

Appendix D: Early Intervention and Special Education

If you feel that your child has special needs – such as developmental delays, learning disabilities, or emotional problems - there are free programs that your child may be eligible for. Early Intervention services are for children 0-3 years old and Special Education services are for ages 3-21. As a parent, you have the right to request these services and be part of the process and services.

You also have the right to say that you do not want your child to receive services. If you refuse the evaluation or services, you may face an accusation of neglect if someone tells ACS that you are not meeting your child's needs. The best ways to prevent an accusation is to seriously consider whether or not your child may have some difficulties doing what is expected of other children his/her age. If that is the situation, keep proof that you are trying to get services your child may need.

Early Intervention is a free program for infants and children with special needs. Any child up to age three can be referred for Early Intervention services by a parent, family member, teacher, doctor, or service provider. A referral can be made without a parent's consent, but parental consent is required for the evaluation and services. To get Early Intervention, first the child is evaluated. If the child is eligible and you agree, services can be set up. Some examples of services are physical therapy, occupational therapy, counseling, speech or language instruction, respite care, and assistance with transportation.

If your child gets these services, you have the *right to be involved* in every aspect of the process. Even if your child is in foster care, your consent is required if you still have your parental rights. Your child's records for the whole program are kept confidential, unless you say otherwise. You also have a *right to not consent* to evaluations and services and to disagree with specific services recommended. Again, if you refuse the evaluation or services, you may face an accusation of neglect for not meeting your child's needs.

If you want your child to be evaluated by a specific agency, you should contact that program and tell them that you are interested in applying for Early Intervention and would like to work with them. That program can assist you in making the referral and may provide services later.

**For NYC Early Intervention referrals, call: (800) 577-BABY
(Monday – Friday 9am – 5 pm)**

Special Education includes services for children ages 3-21 who need help in school because of a learning disability, emotional problem or other disability. Children ages 3-5 are eligible for pre-school special education services; children 5-21 are eligible for special education services. The services are set up in school.

Whether or not your child is in foster care, you have the right to be consulted before your child is placed in Special Education and to participate in the decision-making process.

A child may be referred for an evaluation by the parent, school, or an outside agency that works with the child. For pre-school students, the referral is sent to the Region's Committee on Preschool Special Education (CPSE). A child does not need to be enrolled in a preschool in order to be tested for special education services. For school age children, the referral is made to the chairperson of the Regional Committee on Special Education (CSE) and the principal of the child's school. Parents can call 311 or check on line at www.nycenet.edu to find the phone number and address for their child's CPSE or CSE.

If the Department of Education wants to evaluate your child for special education, you have the right to say no. However, it is probably a good idea to agree to get an evaluation done to find out more about your child's educational needs and the reason for the school's concerns. If you prefer, you can arrange for an independent evaluation, done by a provider other than the Department of Education. Many hospitals and medical providers do psycho-educational evaluations. If you refuse to have your child evaluated, the Department of Education can choose to request a hearing and ask a hearing officer to override your decision, but this does not happen very often.

Once a referral has been made, the CPSE or CSE will interview you and interview and test your child. For school-age children, the school psychologist will be responsible for conducting some testing and for getting the other evaluations together. Preschool students are evaluated by an agency that you select from a list sent to you by the Regional CPSE. Once testing is completed, a meeting will be held at the school or CSE or CPSE in your Region to discuss an education plan for your child. You have the right to attend this meeting and to participate and voice your opinion about what services your child should receive. You also have the right to have the meeting scheduled at a time when you can be present. You should ask to be provided with a copy of your child's evaluations in advance of this meeting. The purpose of the meeting is to determine what services your child needs and to develop a document called an IEP (Individualized Education Program), a summary of your child's needs, including strategies to help with any behavior or learning problems your child may have, and what services your child is eligible for.

You have the right to refuse to consent to Special Education placement for your child, unless a judge has taken away this right or your parental rights have been terminated.

After the meeting you will receive a notice telling you whether your child will be placed in a special education class or some other type of program and what services he or she will receive. If you disagree with the decision, you should respond by writing a letter to the Committee on Special Education in your Region explaining why you disagree. Keep a copy of the letter. If you tell the Committee in writing that you do not want them to place your child in Special Education, they may not legally do so. If you think your child needs different services than those being offered, you have the right to request mediation,

another IEP meeting, or an impartial hearing. You should try to get letters or evaluations from teachers or other professionals showing what other services your child needs and submit this evidence at the meeting or hearing.

The school has to make sure that your child receives all the services listed in his IEP. The services and goals for your child should be updated yearly. At least every three years, your child should be retested to make sure he or she is getting the right services.

If you have questions about the services or need help advocating for yourself or your child, the following agencies serve NYC and provide information and assistance:

Advocates for Children, Inc.

151 West 30th Street, 5th Floor
New York, NY 10001
(212) 947-9779
FAX: (212) 947-9790
www.advocatesforchildren.org

Resources for Children with Special Needs

200 Park Ave. South, Suite 816
New York, NY 10003
Tel. (212) 677-4650
www.resourcesnyc.org

United We Stand of New York

202 Union Avenue, Suite L
Brooklyn, NY 11211
(718) 302-4313
FAX: (718) 302-4315
www.UnitedWeStandofNY.org

The Learning Disabilities Assoc. of New York City

27 West 20th Street, Room 303
New York, NY 10011
(212) 645-6730
FAX: (212) 924-8896
E-mail: ldanyc@verizon.net

Parent to Parent New York, Inc.

1050 Forest Hill Road
Staten Island, NY 10314
(718) 494-5122
FAX: (718) 494-0837

Legal Services for Children, Inc.

271 Madison Avenue, 17th Floor
New York, NY 10016
(212) 683-7999
FAX: (212) 683-5544
www.kidslaw.org

Legal Services for New York - Bronx

579 Courtlandt Avenue
Bronx, NY 10451
(718) 928-3700

Queens Legal Services

45-15 Crescent St.
Long Island City, NY 11101
(718) 392-5646

South Brooklyn Legal Services

105 Court St. 3rd floor
Brooklyn, NY 11201
(718) 237-5548

New York Lawyers for the Public Interest

151 West 30th St., 11th Floor
New York, NY 10001
(212) 244-4664

New York Legal Assistance Group

130 East 59th Street
New York, NY 10022-1302
(212) 750-0800

The Door - A Center of Alternatives, Inc.

121 Avenue of the Americas
New York, NY 10013
(212) 941-9090
FAX: (212) 941-0714

The Legal Aid Society

Educational Advocacy Project
(provides special education advocacy for children in foster care)
(212) 577-3342

Appendix E: Mental Health Services for Children

Families who have children and adolescents with serious emotional problems face many challenges. Special Education services in school might not be enough help in some cases. Sometimes ACS becomes involved with these families. If your child's emotional problems affect his/her ability to function with family, friends, in school, or at home, there are ways to get mental health services for your children without involving ACS. One way is to get help through the Office of Mental Health (OMH). They have mental health services for children and adolescents who have problems such as behavioral problems, depression, ADHD, Oppositional Defiant Disorder, eating disorders, and other mental illnesses. Depending on your child's needs, OMH can help you figure out if your child needs counseling or a more intense program, like crisis intervention in the home. Some of the programs take place in your home or the community. They also have residential programs.

OMH programs are in all the boroughs. Some of the same agencies that provide preventive services might also have mental health services through OMH. OMH is separate from ACS and may be a safer alternative than asking ACS for help if your child suffers from mental health problems. Service providers are mandated reporters (they are mandated by law to report child abuse or neglect to the state central registry in Albany), but they are supposed to be trained specially to work with children and adolescents who suffer from emotional problems, so they should be equipped to handle crises.

If you want more information on these programs, you can call 1-800-Lifenet or call/visit one of the Parent Resource Centers. There is a Parent's Guide to Children's Mental Health Services in New York City that you can request on the phone or download at <http://www.mhaofnyc.org/PDF/Parents%20Guide%20English.pdf>.

If you want to speak with someone about your situation, you may want to call a Parent Resource Center. They can give you more information about specific programs. Many parents have found these centers to be very helpful, especially because the system can be confusing.

Bronx Parent Resource Center - HUB

400 East Fordham Road, 6th Floor

Bronx, NY 10458

Tel: (718) 220-0456 Fax: (718) 364-3357

Bronx Parent Resource Center - South

1503-05 Walton Avenue Apt. B

Bronx, NY 10452

Tel: (718) 583-2447 Fax: (718) 583-2452

Bronx Parent Resource Center - West

38 West 182nd Street

Bronx, NY 10453

Tel: (718) 329-3854 Fax: (718) 329-3861

Manhattan Parent Resource Center

157 Chambers Street

New York, NY 10007

Tel: (212) 614-6316/ Español (212) 614 6378/ Mandarin (212) 614-6388

Fax: (212) 964-7302

Appendix F: Mental Retardation and Developmental Disabilities

To get more information about services for people who are mentally retarded or who have severe developmental problems, contact the NYC regional office of the Office of Mental Retardation and Developmental Disabilities (OMRDD):

NYC Regional Office
75 Morton Street
New York, NY 10014
(212) 229-3231

Or, you can contact the Developmental Disabilities Service Office in your borough:

Metro NY Developmental Disabilities Services Office
(Counties served: Bronx & Manhattan)
75 Morton Street
New York, NY 10014
Phone: (212) 229-3000
Fax: (212) 924-0580

Staten Island Developmental Disabilities Services Office
(County served: Richmond)
1150 Forest Hill Road
Staten Island, NY 10314
Phone: (718) 983-5200, Fax: (718) 983-9768

Bernard M. Fineson Developmental Disabilities Services Office
(County Served: Queens)
80-45 Winchester Boulevard
Building 12
Queens Village, NY 11427
Phone: (718) 217-4242, Fax: (718) 217-4724

Brooklyn Developmental Disabilities Services Office
(County Served: Kings)
888 Fountain Avenue
Brooklyn, NY 11208
Phone: (718) 642-6000, Fax: (718) 642-6282

If you have trouble accessing services for yourself, you may contact:

The Self-Advocacy Association, New York City Office

75 Morton Street, 1st Floor

New York, NY 10014

Phone: (212) 627-2104, Fax: (212) 229-3183

If you have trouble accessing services for your child, you may contact:

Parent to Parent of New York State, New York City Office

75 Morton Street

New York, NY 10014

Phone: (800) 405-8818 or (212) 299-3188 or (212) 741-5545, Fax: (212) 229-3146

Appendix G: Health Insurance

If you are trying to keep your children from going into foster care, it is important to make sure that all members of your family receive whatever medical and mental health services they need. To do this, you will need health insurance coverage.

If you do not have insurance and you or your child is ill, go to a hospital emergency room for services. You will not be turned away.

The following are descriptions of several of the different public health insurance programs available in New York City:

Child Health Plus

Child Health Plus A is an insurance program for children under 19 years old who are eligible for Medicaid coverage, including working families whose income is higher than the regular Medicaid income levels. Children in this program get a Medicaid benefit card and can receive all medical services covered by Medicaid. There is no cost or monthly insurance premium. Most children in the program will also be enrolled into a health plan. Undocumented children are not eligible for Child Health Plus A, but a child who is a US Citizen is eligible, regardless of his or her parents' immigration status, as long as the child is income eligible.

Child Health Plus B is a state insurance program for children under age 19 who are not eligible for Medicaid. Parents choose the health plan their children are enrolled in. Once enrolled, children receive a health plan identification card and are entitled to a range of services covered by that health plan. Depending upon the family's income, there may be a low monthly fee. Eligibility depends only on income, not immigration status. That means undocumented children are eligible for Child Health Plus B as long as they are financially eligible.

Citizenship/Immigration Status

Child Health Plus is only interested in the *child's* immigration status. An individual is considered a child up to age 19. Immigration status information will not be reported to anyone, and will only be used to help determine eligibility.

To apply, or for more information:

Call (800) 698-KIDS (4543) Monday-Friday, 8 am-6 pm; Saturday-Sunday 12 pm-5 pm. If you are hearing impaired, call the TTY number, (877) 898-5849.

You can enroll through your local Department of Social Services. To get the address and phone number for your local Department of Social Services, call (718) 557-1399 or (877) 472-8411 (toll free within the five boroughs).

Most hospitals can also assist you in applying for Child Health Plus.

Family Health Plus

Family Health Plus is a state insurance program that serves single adults, childless couples and adults in families who are not eligible for Medicaid. Recipients are enrolled directly into the health plan, receive a health plan identification card, and receive all their health services through the health plan.

Citizenship/Immigration Status

Family Health Plus is not available to undocumented immigrants.

Medicaid

Medicaid is the major federal/state program that provides health insurance for individuals and their families, particularly children, pregnant women, the elderly and the disabled. It is for low-income families and people who meet the income requirements. People who get SSI and public assistance are automatically eligible, as are children in foster care. People who apply and are found eligible receive a Medicaid benefit card.

To find out how to apply for Medicaid, call HealthStat at (888) 692-6116 for the location of the nearest community HealthStat office.

Additional Health Care Providers

Most hospitals have clinics that operate on a sliding scale. A sliding scale means the fee for service will be based on what you can afford.

The city also operates some free medical clinics. Call 311 and ask for one in your community.

Prenatal Care Assistance Program (PCAP)

PCAP provides free pregnancy care and other health services (including routine pregnancy care, hospital care during pregnancy and delivery, HIV counseling and testing, and family planning) to woman and teens who are income eligible. The health coverage will be provided to the woman for up to 2 months after delivery and to the baby for up to one year after birth.

Request information from New York State Growing Up Healthy Hotline (800) 522-5006 (provides contact information on the nearest PCAP programs).

WIC (The Special Supplemental Nutrition Program for Women, Infants and Children)

The Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) helps pregnant and breastfeeding women and their children (up to their fifth birthday) get access to nutritious foods, referrals to appropriate healthcare, and nutrition education.

Request information from New York State Growing Up Healthy Hotline (800) 522-5006 (provides contact information on the nearest WIC program).

If any of the phone numbers change, call 311 for the new phone number.

What should I bring to a health insurance screening?

- Proof of identity + age: birth certificate, passport, baptismal/religious record, drivers license or official photo ID, marriage records, naturalization certificate, school records, adoption records, hospital record
- Home address: rent receipt, lease, postmarked envelope, utility bill, dated letter with your address, official photo ID with address (Proof must be dated within 6 months of application)
- Proof of household income: last 4 paychecks, letter from your employer, tax returns, business records, benefit check stub, public benefit award letter, correspondence from SSA, alimony checks (document all sources, provide most recent proof)
- Proof of household expenses: (Not required for children under 19 and pregnant women) rent receipt/lease, mortgage payment, heating costs (if not included in rent)
- Social Security Number: (if available, not needed for pregnant women) SS card, tax return, SSA letter, Social Security application (SS-5)
- Other Health Insurance information if applicable
- Medical Bills: (paid or unpaid) - up to 3 months prior to month of application.
- Child Care and Adult Dependent Costs: if applicable, will be used as a deduction against your income. Written statement or cancelled check from childcare center/provider

Appendix H: How to Choose a Preventive Services Program

These are some questions you can ask if you are looking for the best Preventive Service program for you and your family. These questions are intended mainly for parents who are seeking services voluntarily. The basic eligibility criteria for Preventive Services is that you have an urgent personal or family problem that may result in harm to a child or in foster care placement if you do not receive services. You can request Preventive Services voluntarily if you think you are eligible. You do not have to be referred by ACS. If you already have a case with ACS, some of the same questions may still be useful, but you may also have less power to choose a program for yourself. In either case, we suggest that you ask these questions before volunteering any information, or answering any questions, about your personal or family situation.

“What is your confidentiality policy? Who exactly will have access to my case record?”

An experienced, knowledgeable provider will probably mention the Advocates settlement, assure you of their own professional commitment to protecting your privacy, but also explain that the ACS Office of Contract Agency Case Management does have a right and responsibility to review your file.

“What is your policy on reporting clients of your program to the State Central Register? Please give me an example of an incident or a suspicion that you would consider reportable. If you felt that you might need to call me in to SCR, would you discuss this with me first?”

It is hard to suggest a simple right or wrong answer for this one. There are a lot of gray areas, depending upon individual parents' histories and circumstances. This question is more of a conversation-starter. A responsible provider will stress honest, open interactions with client families, e.g. “We *are* mandated reporters but that doesn't mean we call you in just to cover ourselves. We would need to see some real risk to a child that persists in spite of our best efforts, or some serious violation of a service planning agreement that we've made together, for example: we find your four year old home alone after you have agreed never to do this again.” If a Preventive Service provider feels a need to call SCR, they generally *should* discuss this with the client first, unless they believe that doing so will cause physical danger to a child or to a staff member.

“In your opinion, when does discipline cross the line into excessive corporal punishment or abuse?”

Once again, no clear-cut right-or-wrong answer, but the person you're questioning is likely to reveal a lot about themselves and their program in their response. Some acknowledgement that different styles of parenting and different cultural traditions are acceptable would probably be a good sign. A rigid “hands-off” response might not be as good a sign. A lot depends on your own values and point of view.

“What are your policies and procedures for communicating with the ACS Division of Child Protection when a new SCR report is received on one of your clients?”

A good program will indicate some willingness to advocate with ACS on your behalf when this seems appropriate.

“Do you invite families to participate in their own case conferences? How?”

The answer should be “yes, the worker and the family develop the family’s service plan together.”

“What other kinds of services does your program offer besides counseling and case management?”

Any reputable program should have services to offer that are relevant to the needs of people in the community - an after school program, food pantry, community organizing around housing issues, health care for the uninsured, *something* to show that they are doing more than just meeting the minimal requirements of an ACS contract, that they are listening to parents in the community and responding to them in ways that are direct and meaningful.

“Can you help parents with public assistance, school, or housing problems?”

Once again, the answer should be “yes,” hopefully with some specifics about the agency’s relationships and experience with local schools, HRA, NYCHA, etc.

“For how long has your program had a Preventive contract with ACS?”

Only if you think experience counts for something.

“Do clients of your agency participate in setting agency priorities in any way? Do you have a client advisory group, former clients on your staff or Board?”

Some form of a “yes” would probably be a good sign.

“Where do most of your referrals come from?”

If a healthy percentage of the program’s clients are walk-ins, self-referred, or referred via institutions that are trusted in the community such as houses of worship, daycare centers, or block associations, this is probably a good sign. All Preventive programs are required to give priority to ACS referrals, but if someone tells you that almost all of their referrals come from ACS, this may indicate that program leadership values accountability to ACS over more direct forms of accountability to people in the community.

“Do your clients have some say in choosing the worker with whom they feel most comfortable?”

The answer should be something like “yes, as much say as possible, and you can also ask to change workers once you’re in the program.”

“Can you arrange for me to speak privately with a current or former client of your program so I can ask their opinion about the quality of your services?”

This question may cause some confusion or hesitation, but the provider should probably find a way to say “yes,” or - at least - “let me think about the best way to do that and get back to you.”

A General Observation:

Different programs handle intake differently. Some rotate intake responsibility between Case Planners. A relatively new or inexperienced Case Planner would probably not be able or willing to answer some of these questions intelligently. For this and other reasons, in my opinion, the best Preventive programs tend to have their most experienced people - Supervisors or Program Directors - minding the front door.

But no matter who you are talking to, none of the above questions are impertinent or outrageous. “I don’t know” can be an honorable answer, but if anyone reacts as if you are being difficult, or wasting their time, or “who are you to question me?,” it’s probably time to move on. Most communities have more than one Preventive Service provider, and unless a Judge specifically orders you into a particular program, which is not common, it usually pays to shop around.

Appendix I: Housing Assistance for Families with ACS Cases

If your family has an ACS case and ACS determines that your current housing is unsuitable for your family, ACS must assist your family in obtaining adequate housing.

ACS may not legally remove your children simply because you lack adequate housing. Instead, they should assist you to find better housing by helping you enroll in the programs described below.

You may be eligible for these programs if you live in a shelter, in overcrowded conditions, doubled up with friends or family members, in unsafe conditions, such as no heat or hot water, at risk of eviction, or in any other living situation that your ACS or agency worker says is unsafe or inappropriate for your family.

Some of the programs described below may not work the way they are supposed to - they may take longer to respond to your application or you may be found ineligible for something you should be eligible for. *If you have trouble obtaining housing through any of the programs described below, you can call South Brooklyn Legal Services at (718) 246-3260. Or, see Appendix A for a list of legal services providers.*

ACS Housing Subsidy Program

What is the ACS Housing Subsidy?

The Housing Subsidy Program provides a rent subsidy of up to \$300 per month paid directly to your landlord for up to 3 years for a total of up to \$10,800. The total Housing Subsidy grant cannot exceed \$10,800 or a time limit of three years, whichever comes first.

Up to \$1,800 in Housing Subsidy funds may be used to pay for: broker's fee, security deposit, moving expenses, exterminator fees, storage fees & essential repairs, and furniture. Funds used for any of these purposes will be deducted from the total available amount of \$10,800.

An additional \$1,800 is available for rent arrears (back-rent) or mortgage monies owed. This amount is also deducted from the total available amount of \$10,800.

If you are using the subsidy to pay ongoing rent, ACS calculates the amount to be paid based on your income and how much rent you pay. You must pay at least 30% of your monthly income (defined as the gross household income minus \$40 for each child and minus childcare expenses) towards your rent. ACS will pay the difference between your total rent and 30% of your income, up to \$300. In other words, if your rent minus 30% of your monthly income is more than \$300, then ACS will pay \$300 per month. If your rent minus 30% of your monthly income is less than \$300, then ACS will pay the difference.

Who is eligible?

You are eligible for the ACS Housing Subsidy Program if:

Your children are in foster care and your lack of adequate housing is the main reason your children aren't being returned to you, OR

You have an open preventive services case with an ACS-contracted agency, or have applied to open a preventive services case and are willing to receive at least one other preventive service in addition to housing, and ACS or the preventive agency feels that your housing situation presents a risk to your children.

In order for you to be financially eligible for ongoing rent assistance, your rent must be more than 30% of your monthly income.

How can you apply?

You can submit an application even if you have not found housing yet. You may request an application form by contacting the ACS office of Housing Policy and Development (HPAD) at: (212) 442-4723 or (212) 676-7390 or (212) 341-8973.

Or, you can apply in person at 150 William Street, 1st Floor, New York, NY 10038 (corner of Fulton: take the J, M, Z, 2, 3, 4, or 5 train to Fulton Street or take the A or C train to Broadway - Nassau in Manhattan).

How will you know if you are found eligible?

Once you submit an application for the ACS Housing Subsidy, you should receive a response within 30 days, telling you whether you are eligible.

What can you do if you are found ineligible?

If you are found ineligible, you should receive a denial notice giving the specific reason for the denial.

You have a right to a State Fair Hearing if you disagree with the denial. You also have a right to a State Fair Hearing if you do not receive an approval or denial within 30 days. See Appendix J for information about how to request a fair hearing.

It is also a good idea to contact a lawyer for assistance. See Appendix A for a list of free legal services providers.

What happens once you are found eligible?

If you are found eligible for the ACS Housing Subsidy, you should receive a package that includes an eligibility notice, a notice to potential landlords explaining how the program works, and various forms for the landlord and broker to fill out. You should take the package with you when you search for an apartment, so that you can show brokers and landlords that your broker's fee, security deposit, and up to \$300 per month of your rent will be paid directly by ACS. In order to be paid by ACS, the landlord and broker must fill out the forms and you must submit them to your agency case worker or directly to the ACS Housing Subsidy Unit.

What happens once you find an apartment?

When you have located an apartment with a landlord who accepts the ACS housing subsidy, your ACS or foster care agency case planner must inspect and approve the apartment. Then, you or your case planner must submit a package to the ACS Housing Subsidy Unit. The package must include: the forms filled out by the landlord and broker (and the mover and furniture store if you are using housing subsidy funds to pay these costs), proof that the landlord owns the apartment, such as a copy of the deed, proof of your income (such as 2 months' worth of paystubs or a letter from your employer, an award letter from social security or unemployment, and/or a letter from someone who will be helping you with the rent, such as a roommate or relative. Also include documentation of childcare expenses if applicable) and several forms filled out by your case planner.

Once the ACS Housing Subsidy Unit receives the complete package, they will process your request and issue funds directly to the landlord and broker (and/or the mover, furniture store, exterminator, or repairperson if applicable), so that you can sign the lease and move into the apartment.

How can you contact the ACS Housing Subsidy Unit?

Call (212) 341-3548, or ask your case planner to call.

Housing Stability Plus (HSP)

What is HSP?

HSP is a five-year subsidy for public assistance recipients who need housing in order to reunite with a child or children in foster care. Homeless families who receive public assistance are also eligible. The subsidy decreases each year. Recipients are required to comply with public assistance requirements.

Who is eligible?

You are eligible for HSP if:

- You are receiving cash assistance from welfare, AND
- You have children in foster care and housing is the main obstacle to reunification, or you are living in a shelter

How can you apply?

You may request an application form by calling (212) 442-4723 or (212) 676-7390 or (212) 341-0886

Or, you can apply in person at 150 William Street, 1st Floor, New York, NY 10038 (corner of Fulton; take the J, M, Z, 2, 3, 4, or 5 train to Fulton Street or the A or C train to Broadway - Nassau in Manhattan).

If possible, you should go with your agency case planner so that he or she can provide the ACS housing office with necessary information.

If you are living in a shelter, you may also apply for HSP through the Department of Homeless Services (“DHS”), however, DHS will not include any children in foster care in your application. If you have children in foster care and the permanency goal is family reunification, then you should apply through ACS in order to have these children included in your application.

How much will HSP pay for an apartment?

The amount depends on how many people are in your family. HSP will only certify an apartment where the rent is this amount or less (you are not allowed to pay extra yourself, and the landlord is not allowed to charge extra on the side):

| <i>Family Size</i> | <i>Total Rent</i> |
|--------------------|---|
| 1 | \$765 (\$283 public assistance shelter allowance plus \$488 HSP supplement) |
| 2 | \$820 (\$283 P.A. shelter allowance plus \$537 HSP supplement) |
| 3 | \$925 (\$400 P.A. shelter allowance plus \$525 HSP supplement) |
| 4 | \$925 (\$450 P.A. shelter allowance plus \$475 HSP supplement) |
| 5 | \$1176 (\$501 P.A. shelter allowance plus \$675 HSP supplement) |
| 6 | \$1176 (\$524 P.A. shelter allowance plus \$652 HSP supplement) |
| 7 | \$1397 (\$546 P.A. shelter allowance plus \$851 HSP supplement) |

This is the total amount paid by HSP for a family in which all members are active on the public assistance budget and there is no other household income. If someone in your family has other income (such as SSD), then that person will have to pay 30% of his or her income, and the HSP supplement will be decreased by this amount. However, you still can only rent an apartment where the rent is less than or equal to the HSP amount for your family size.

The HSP supplement decreases by 20% each year. After five years you will only receive the regular public assistance shelter allowance for your family size.

How will you know if you are found eligible?

Once you submit an application to ACS for HSP, you should receive a response within 30 days. If you are found ineligible, you should receive a denial notice giving the specific reason for the denial.

What happens once you are found eligible?

If you are found eligible for HSP, you should receive a package that includes “Housing Stability Plus Certification Letter” telling you the maximum amount that you can rent an apartment for and several forms for you, the landlord and the broker to fill out. You should take the package with you when you search for an apartment, so that you can show brokers and landlords that your rent, broker’s fee and security deposit will be paid by HSP.

Where can you get help with your apartment search?

Your foster care agency should help you find an apartment. Either your case planner or the housing specialist at the agency should provide you with lists of available HSP apartments, and assist you in making calls to landlords and realtors. These lists can be obtained from the ACS housing office at (212) 442-4723. If you are in a shelter, you can also get lists from the housing specialist at the shelter.

What happens once you find an apartment?

Once you find an apartment, your case planner must inspect it. If it is approved, then you or your case planner must get the landlord and broker to fill out the forms in the HSP package and submit the completed forms to the ACS housing office, along with a copy of the deed (proving that the landlord owns the apartment), a copy of the broker's license, and a standardized two-year lease, signed but not dated. The ACS housing office will then schedule a lease-signing date so that you can move in to the apartment.

What happens if your welfare case is closed or you are sanctioned?

If your welfare case is closed or you are sanctioned, HSP will stop paying your rent. Therefore, it is very important that you comply with welfare rules while you are receiving HSP. If your case is closed or sanctioned due to an error, it is very important that you contact your welfare center to get it fixed and, if that doesn't work, request a fair hearing with "aid continuing." See Appendix J for information about how to request a fair hearing.

Can you receive both HSP and the ACS Housing Subsidy?

If you are found eligible for HSP and are unable to locate an apartment for 3 months or more, you may be able to receive the \$300 ACS Housing Subsidy in addition. See above for information about the ACS Housing Subsidy.

How can you contact the ACS Housing Office?

Call (212) 442-4723 or (212) 676-7390 or visit the office at 150 William Street, 8th floor in Manhattan.

The New York City Housing Authority ("NYCHA") and Section 8**What is the New York City Housing Authority ("NYCHA")?**

NYCHA is the agency that provides public housing in New York City, often called "the projects." The rent in NYCHA housing is subsidized so that families and individuals who live in NYCHA housing pay only 30% of their income in rent.

What is Section 8?

Section 8 is a federal program that pays the difference between your rent and 30% of your household gross income, which you are responsible to pay the landlord. Families who receive Section 8 are given a voucher which they use to pay for a private apartment.

It is very difficult to obtain a Section 8 voucher or to get into NYCHA housing because the waiting lists are very long. However, families referred by ACS are given a priority which allows them to access Section 8 vouchers and NYCHA apartments more quickly.

Who is eligible to apply for NYCHA and Section 8 housing through ACS?

You may be eligible for a NYCHA or Section 8 priority through ACS if:

- You have children in foster care, AND
- you are not eligible for HSP, AND
- lack of housing is the only obstacle to your children being returned to you, AND
- you have a stable source of income, such as SSI or employment (NOT public assistance).

If anyone in your household has a history of drug use in the past 3 years, that person will need to prove that he or she completed a drug treatment program.

All members of your household over age 16 must pass a criminal background check. If anyone has a conviction (not including juvenile convictions, which do not affect eligibility), NYCHA will look at how serious the conviction was and the amount of time that has passed since the most recent conviction and decide whether your family is eligible for housing.

What can you do if you are denied NYCHA or Section 8 Housing because of a criminal conviction?

If you are denied, you can request a hearing. You must request the hearing within 90 days of your denial.

At this hearing, you can present evidence that the person who was convicted is now “rehabilitated” and will no longer be a threat to the community. This evidence can include letters or testimony from people who know you, such as case workers, counselors, treatment providers, probation or parole officers, employers, teachers, and/or clergy members.

If the person who was convicted is not going to live with you, you can present evidence of this, such as proof that he or she is living at a different address (their lease, rent receipts, bills, and/or a written statement from them and/or someone who lives with them), and/or proof that they do not currently live with you (such as a letter from your landlord or shelter).

How can you apply for NYCHA and Section 8 through ACS?

Contact the ACS housing office at (212) 442-4723 or (212) 676-7390 or (212)341-0886 or go to 150 William Street, 1st floor housing intake office. If possible, have your case planner come or call with you.

The Family Shelter System

If you are unable to locate an apartment or preserve your housing using the subsidies described above, and you have no other appropriate housing, you have the right to reunify with your children in a family shelter (also called a “Tier II”). If your children are with you and ACS has determined that you have no safe place live, ACS should help you with the shelter application process. If your children are in foster care and ACS agrees that the only thing you need for them to be returned to you is housing, then ACS should help you reunify in the shelter system. In either case, you should ask ACS to hold a “housing conference” with someone from the Department of Homeless Services (“DHS”) to plan your family’s entry in the shelter system.

How do families enter the shelter system?

Families who are entering the shelter system for the first time, and those who enter through an ACS housing conference, may apply for shelter at the PATH Office, located at 346 Powers Avenue in the Bronx (take the 6 train to Cypress Avenue). PATH is open 24 hours, but it is best to get there early in the day to be processed faster. Applicants are interviewed at PATH and then placed in a family shelter where they can stay while DHS investigates their eligibility for shelter. If they are determined eligible, they can remain in the shelter system until they find permanent housing.

How do you know if you will be found eligible for shelter?

When you go to PATH to apply for shelter, you should bring with you a letter from ACS or your foster care agency case planner explaining in detail why you are homeless. The letter should give the specific reasons why you and your children cannot live in any of the places you have lived over the past two years, or with any of your close relatives. If ACS or the agency has determined that these places would be unsafe for you and your children to live in together, then they must include the reasons in this letter. If they have not yet made this determination, then they should visit these places and investigate whether your children could be returned to you there. This is important because without a written explanation from ACS or the agency of why you cannot live in the places you have lived before, DHS might find you ineligible for shelter on the grounds that you and your children are not really homeless because you have a place to stay.

If you have an ACS housing conference before you go to PATH, you can use the conference to discuss your eligibility for shelter and to make sure that ACS or the agency will write a letter to DHS explaining why you are homeless. You can also use the conference to tell DHS if there is a particular borough where your family needs to be placed.

What if you are found ineligible for shelter?

If you are found ineligible for shelter, you can call South Brooklyn Legal Services at (718) 246-3260. Or, see Appendix A for a list of legal services providers.

You may re-apply for shelter. However, you might not be provided with a temporary shelter placement while DHS is making its eligibility determination. If you re-apply and are not placed in shelter, you should immediately call the Legal Aid Society's Homeless Rights Project at (800) 649-9125.

What are family shelters like?

Families in the shelter system are entitled to a private unit, separate from other families, with a door that locks. Some family shelters are like apartment buildings, others are more like hotels. Shelters must provide families with a room that is appropriate to the family size, with enough beds for everyone. Most, but not all, have private bathrooms and cooking facilities in the rooms. A few serve meals in a cafeteria or have shared bathrooms.

If someone in your family has special medical needs that require certain accommodations, such as a room in an elevator building or on the first floor, or a wheelchair-accessible room, or private kitchen or cooking facilities, you should obtain documentation on this from a doctor and bring it with you to PATH when you apply for shelter. DHS is required by law to provide shelter that is medically appropriate for your family.

DHS should place you and your children in a shelter in the borough where your children go to school or where you work or attend treatment. If it is absolutely necessary for you to be placed in a certain borough, you should get a letter from your ACS caseworker, or from the school, employer, doctor or treatment provider explaining why this is necessary and present it at PATH.

Keeping your housing: Preventing eviction**Can you continue to receive the full shelter allowance while your children are in foster care?**

Yes. If you are a public assistance recipient who already has housing, and your children are removed by ACS, public assistance will decrease the amount of cash you receive, but should continue to pay your full shelter allowance as if your children were still with you. This is true as long as the permanency goal for your children is to return to your care.

You should ask your foster care agency case worker to write a letter to your welfare center documenting that the permanency goal is to return the children to you, and requesting that welfare continue to pay your full shelter allowance so you don't get evicted. Bring a copy of the letter to your welfare worker, and keep a copy for your records. If your shelter allowance is cut due to the removal of your children, you should also request a fair hearing with "aid continuing" and bring a copy of the letter from your foster care case worker to the hearing. See Appendix J for instructions on how to request a fair hearing.

Where can you get help if you owe back rent?

One shot deal: If you are in danger of being evicted for non-payment of rent, you may be able to get some or all of your arrears paid by welfare through a “one shot deal.” You do not need to be eligible for ongoing welfare payments to get a one shot deal. A one shot deal is a grant from public assistance to pay arrears (back rent) and prevent eviction. In order to get a one shot deal to cover rent arrears, you must show that you will be able to pay your rent in the future. You can request a one shot deal at your local welfare center. Call the Human Resources Administration at (877) 472-8411 to find out where that is.

ACS Housing Subsidy: You may also be able to get back rent paid by the ACS Housing Subsidy program. See above, under “ACS Housing Subsidy Program” for more information.

FEPS: This is the program that replaced “Jiggetts” relief. If you have an eviction case in Housing Court, and you are on welfare and have at least one child under the age of 18 living with you, you may be eligible for FEPS. FEPS will pay more than the public assistance shelter allowance and will also pay rent arrears. You must have a one year lease or be in a rent controlled or rent stabilized apartment to be eligible for FEPS and you cannot have a sanction on your welfare case. Your rent must be below a certain amount, which depends on your family size. For more information, call Legal Services of New York at (646) 442-3600 and ask for the number for your local Legal Services office.

Community Organizations: Some non-profit organizations give grants to help families who owe back rent. You should try welfare first, but if you still need help, call the Citywide Task Force on Housing Court at (212) 962-4795 to find out about organizations that might be able to help you.

Appendix J: How to Request a Fair Hearing for Welfare Benefits

What is a Fair Hearing?

If your government benefits have been cut off, or your application for benefits has been denied, or if you believe your benefits are inadequate, you can request a Fair Hearing.

A Fair Hearing is an informal administrative hearing in front of an administrative law judge (“ALJ”) of the New York State Office of Temporary and Disability Assistance (“OTADA”) to review an action of the New York City Human Resources Administration (“HRA”).

How do you ask for a Fair Hearing?

You can request a Fair Hearing:

In person at:

14 Boerum Place (Brooklyn) or
330 West 34th (Manhattan).

By fax:

(518) 473-6735. This is the fastest way.

By telephone:

(800) 342-3334 (Toll free)
(518) 474-8781 It’s hard to get through. Keep trying.

By mail to:

New York State Office of Temporary and Disability Assistance
Office of Administrative Hearings
P.O.Box 1930, Albany, New York 12201-1930

Online at:

<http://www.otda.state.ny.us/oah/forms.asp>

KEEP A COPY OF YOUR REQUEST AND ANY CONFIRMATION.

All requests should include your name, address, case number, number or location of your welfare center, and the reason you are requesting a hearing.

You should always ask for “aid continuing” when you request a Fair Hearing, which may prevent your benefits from being changed until you get a Fair Hearing Decision.

When?

To get aid continuing, you must request a Fair Hearing within 10 days of receiving notice of a change in your benefits or before the effective date of the notice. If you did not get a notice, ask as soon as you notice a problem. Always ask for aid continuing.

You should request a Fair Hearing within 60 days of the date on the notice of an action in your case. If the problem is with Food Stamps, you must make a request within 90 days. If you wait longer than the 60 or 90 days, you will have to explain to the judge why you waited so long. If you did not get the notice, for instance, that is a good reason.

You can always request a Fair Hearing if you are getting less money than you should be or if you did not get notice of a change in your grant.

Where are Fair Hearings held?

Most fair Hearings are held in Brooklyn at 14 Boerum Place.

Some Fair Hearings concerning Medicaid are held in Manhattan at 330 West 34th Street.

Emergency Hearings: You can get your hearing scheduled sooner if you are seeking emergency assistance, for example to prevent an eviction or utility shutoff.

Home Hearings: If you are unable to travel to the hearing for health reasons, you can ask to have your hearing by telephone.

Adjournments: If you cannot go to the hearing on the scheduled date and you have a good reason such as you are sick or you need more time to get documents, you may be able to postpone (“adjourn”) the hearing to a later date. The phone number to call for an adjournment is on the Notice of Fair Hearing: (877) 209-1134.

Case Conference**What is a case conference?**

A case conference is an informal meeting with the City to try to get them to change their plan to reduce or cut off your benefits. You must request a case conference to get one.

A case conference is not a Fair Hearing and will not give you aid continuing. Even if you request a case conference, you should also always request a Fair Hearing and aid continuing (so that your benefits will continue unchanged).

How do you request a case conference?

When you get a notice from the City that they plan to reduce or cut off your benefits, ask for a conference by calling the phone number on your notice. You may also go to the Fair Hearing Unit at your welfare center to request a case conference.

Who will be at the conference?

Your conference should be with someone at the welfare center who has the power to make changes in your case. Your conference should not be with your caseworker. You can bring an advocate with you.

What happens at the case conference?

You will explain your problem. If the City agrees that there is a problem, they should tell you how they will fix it. You have a right to a decision after the conference.

If you lose at the conference, you can still challenge the City's action if you request a Fair Hearing. Make sure your request your hearing within the time limits of 60 or 90 days.

You can also request the "evidence packet" - what the City will show to the judge - ahead of the time of the Fair Hearing. As soon as you receive a Fair Hearing number you can ask for the packet. Send you request to: HRA Division of Fair Hearings, 14 Boerum Place, 6th floor, Brooklyn, New York 11201; fax number : (718) 722-5018.

Mandatory dispute resolution ("MDR")**What is MDR?**

Mandatory dispute resolution ("MDR") is when the City calls you in to your welfare center after you request a Fair Hearing. In MDR, the City tries to resolve your problem.

Be sure to go to your MDR appointment and bring with you the documents you have that show you are right.

Do I have to withdraw my Fair Hearing at MDR?

No. The City may ask you to withdraw your Fair Hearing when you go to MDR, but you do not have to withdraw your Fair Hearing. You have the right to go to a Fair Hearing and explain your side to an administrative law judge ("ALJ").

You should not withdraw your Fair Hearing if the City does not give you everything you wanted from your Fair Hearing at MDR.

If the City agrees to give you all the benefits you are entitled to at MDR, get a notice in writing stating exactly what welfare will give you. Even if the City gives you all your benefits, you can still go to your Fair Hearing.

What happens at Fair Hearings after MDR?

If the agency agreed to resolve the case at the MDR, explain that to the judge and show proof. If the agency did not agree to fix the issue at the MDR, present your evidence and explain why the City is wrong and you are right.

If you did not go to the MDR, you have to explain why not to the judge. The judge is allowed to “draw a negative inference”, that is, hold it against you, if you did not go to the MDR.

For more information about Fair Hearings, look on the internet at www.otda.state.ny.us/oah/ or www.projectfair.org.

Appendix K: What Immigrants Should Know About the Child Welfare System

There is much to learn when moving to a new country. In the United States, this includes understanding the laws on how you care for and discipline your child. In the U.S. there are certain laws that state what is considered acceptable forms of punishment and caring for children. These laws are based on U.S. standards and maybe different from how things are done elsewhere. For example, some forms of physical punishment such as hitting a child with a coat hanger may be considered “child abuse” in the U.S. even though it may be widely practiced in other places. Also, certain acts might be considered “child neglect” such as keeping a young child at home alone even for a short time. You should know that findings of child abuse or neglect in Family Court may affect your immigration status if you are applying to become a citizen.

If you do become involved in the child welfare system, it is also important to know your rights and the laws that can protect you as well as the resources that can help you. In this section, you will learn about your rights, some policies and laws that may impact you as well as the resources that you can turn to for assistance.

ACS’ child welfare services are provided to all children and families regardless of immigration status.

This means that all children and families, including permanent residents, refugees, undocumented individuals or those without visas, etc., have the right to preventive and foster care services. However, based on your immigration status, you might not be eligible for some of the programs ACS refers you to. ACS should make efforts to refer you to affordable programs for which you are eligible. For more information on eligibility for health care, see the section on Health Insurance [see page 107].

The confidentiality of your immigration status should be protected by city agencies.

Under Executive Order 41, which was signed by Mayor Bloomberg, city agencies, including ACS, must protect the confidentiality of immigration status. This means that ACS, by law, cannot share this information with others including immigration authorities. However, ACS and other social service agencies may ask you about your immigration status in order to determine your eligibility for services and benefits. There are certain situations when ACS may share your immigration status, such as when disclosure is required by law, when there is an investigation of illegal activity, or when there has been prior written permission.

You have the right to remain silent about your immigration status.

Under Executive Order 41 you do not have to answer questions regarding immigration status, although it may affect your ability to obtain services.

Language Issues.

Many immigrants are not proficient in English, but there are few agencies that can provide services in multiple languages. You have the right to request services in your native language. The child welfare agencies must make reasonable efforts to provide services in your primary language or refer you to another agency that can better serve you, but they are not required to do so. Following this section is a list of child welfare agencies that serve a wide range of immigrant communities in multiple languages.

These are some important things you should keep in mind:

Do not sign anything you do not understand. You should have the document translated before you sign it.

You have the right to an interpreter for all your interactions with ACS, including the investigation, conferences and at Service Plan Reviews, which take place every six months to review and update your service plans. *For more information see the section on Service Plan Reviews* [see pages 69-72].

You have the right to an interpreter who speaks your language in both the Family Court Petition Room and the Court Room. If you need an interpreter at Court, you should contact the Chief Clerk's Office of the court to which you are going. You can call Office of Court Interpreting Services at (646) 386-5670 for a proper referral. Be sure to call several days in advance to arrange for an interpreter.

If English is not your primary language, you should make a request with your agency Case Planner and ACS Case Manager for:

- *Oral interpretation* for all your meetings, conferences and interactions with ACS.
- *Written translation* for any correspondence from ACS.
- A copy of your service plan in your primary language.

While ACS or your agency may not provide you with all of the above, it is important that they have a record of your request so it is always good to make requests in writing.

Keep track of the availability of interpretation for all your interactions with ACS. Make a note of whether or not communication was in your primary language for all your meetings, written correspondence, and conversations with ACS as well as how long you had to wait for services in your native language.

Custody and Kinship Care.

If you are temporarily unable to care for your children, you can consider placing your children with immigrant family members, including relatives who are undocumented (for example, those who do not have legal status because they came without a visa or overstayed their visa) through 1) formal or informal custody or 2) kinship foster care.

By giving a relative *custody* of your children, you are giving them the right and responsibility to care for your child and make decisions about your child's care. *Kinship foster care* means that the child is in the custody of ACS and first placed in foster care, and then ACS may place the child with a relative. The relative must be certified by ACS as a kinship foster parent. For more information, please see the section on *Custody, Foster Care and Kinship Care* [see page 47].

In order to be eligible and certified by ACS for kinship care, all persons, including undocumented persons, must demonstrate their ability to financially support the child, provide a stable environment, and meet other criteria necessary to be considered a foster parent. Undocumented persons or those without a Social Security Number can demonstrate financial support through making copies of paychecks or letters from employers.

Termination of Parental Rights.

The Adoption and Safe Families Act (ASFA) requires that agencies file a petition to terminate parental rights if the child has been in foster care for 15 of the most recent 22 months. However, there are a few exceptions. One exception is when the agency has not yet provided services required for reunification within the timeframe. For example, if you cannot receive services in your language, it makes it hard for you to fulfill your mandated service requirements. Please see the section on *Termination of Parental Rights* for more information [see page 62].

Important Immigration Policies and Laws

Special Immigrant Juvenile Status (SIJS).

Immigrant children under the age of 21 who are in long-term foster care or guardianship and who will not be reunified with their parents due to abuse, neglect or abandonment may be eligible to apply for Special Immigrant Juvenile Status which can provide them with a green card. It allows the juvenile to remain in the U.S. and eventually obtain a green card. SIJS also provides documentation that enables the child to work. The child may be documented or undocumented. The child must be under 21 and unmarried, and the court must find it not in the best interest of the child to return to her/his country of origin. For more information and assistance with SIJS, contact the following:

Call the **New York City Immigration Hotline** at (800) 566-7636 for general immigration related questions (serves families speaking Spanish, Haitian-Creole, French, Italian, Chinese, Russian, Polish, Hindi, Urdu, Punjabi, Albanian, Macedonian, Serbo-Croatian, Arabic, Turkish, and Korean).

Catholic Charities, Office for Immigrant Services: (212) 419-3700 (serves families speaking Albanian, Hindi, Japanese, Punjabi, Spanish and Urdu).

Catholic Migration Office (Brooklyn Diocese): (718) 236-3000 (serves families speaking Albanian, Creole, Nigerian, Polish, and Spanish).

Covenant House, Advocacy and Legal Services Department: (212) 330-0513 (serves families speaking Spanish).

The Door, Legal Services: (212) 941-9090 x 3345 (serves families speaking Spanish and other languages as needed).

Lawyers for Children: (212) 966-6420 x 624 (serves families speaking Spanish, and has access to translation services for other languages as needed).

Legal Aid, Juvenile Rights Division: (212) 577-3328 (serves families speaking Cantonese, Korean, Spanish, and other languages as needed).

New York Association for New Americans: (212) 898-4180 x1362 (serves families speaking Hindi, Russian, Sindhi, Spanish, Tamil and Urdu).

Sanctuary for Families: (212) 349-6009 (serves families speaking Hindi, Korean, Mandarin, Spanish, Urdu, and other languages as needed).

Violence Against Women Act (VAWA).

This is a collection of federal laws which protect immigrant abused spouses and abused children without the knowledge or cooperation of the abuser. VAWA enables an abused child of a U.S. citizen or a lawful permanent resident to petition for their own green card.

Call the **New York City Domestic Violence Hotline** at (800) 621-HOPE (4673) for help and more information.

Immigrant Women and Children Project of the City Bar Fund: (212) 382-6717
Provides social and legal services to families speaking Spanish, French, Korean, Portuguese, Haitian-Creole

Sanctuary for Families/Immigration Intervention Project: (212) 349-6009 x 246
Provides legal services to families speaking French, Hebrew, Hindi, Korean, Polish, Spanish, Urdu

Trafficking Victims Protection Act (TVPA).

TVPA is a law that aims to prevent trafficking and protect victims of trafficking. Adult victims of trafficking are those who have been forced into commercial sex such as prostitution or forced into labor such as restaurant or domestic work. Minors under the age of 18 who are involved in prostitution and forced labor may also be considered victims of trafficking. For example, if someone came to the U.S. expecting one type of a job, but then was forced to work in another job such as a restaurant for little or no pay or to pay

off a debt, they may be a victim of trafficking and protected under TVPA. Non-U.S. citizens who are victims of trafficking may be eligible for the *T Visa* or *U Visa*, which provides lawful residency to victims of trafficking. These visas allow victims of trafficking to live and work in the U.S. for three years after which they may be eligible to adjust their status to that of a lawful permanent resident. Contact the agencies below for more information on legal and/or social services:

Asian American Legal and Education Defense Fund: (212) 966-5932 x 234

Provides legal services to families speaking Bengali, Chinese, Hindi, Khmer, Korean, Lao, Punjabi, Tagalog, Thai, Urdu and Vietnamese

Immigrant Women and Children Project, City Bar Justice Center: (212) 382-4711

Provides legal services to families speaking Spanish as well as other languages on a case by case basis

New York Asian Women's Center: (888) 888-7702

Provides social services to families speaking Bengali, Chinese, Hindi, Korean, Japanese, Punjabi, Urdu, Vietnamese

New York Association for New Americans: (888) 242-5838

Serves families speaking Hindi, Russian, Sindhi, Spanish, Tamil and Urdu

Safe Horizon Anti-Trafficking Program: (718) 899-1233

Provides social services to families speaking ASL, Bengali, Gujarati, French, Hindi, Spanish, Urdu and other languages as needed.

Sanctuary for Families/Immigration Intervention Project: (212) 349-6009 x 246

Provides social and legal services to families speaking French, Hebrew, Hindi, Korean, Polish, Spanish, Urdu

Sex Workers Project of the Urban Justice Center: (646) 602-5690

Provides legal services to families speaking Hindi and Mandarin

Call the U.S. **Trafficking in Persons and Worker Exploitation Task Force Line** at (888) 428-7581 to make a report of trafficking situation and for more general information.

Preventive Service Agencies Serving Specific Immigrant Communities

Arab American Preventive Service Agency

Arab-American Family Support Center, Preventive Services

150 Court Street, 3rd Floor
 Brooklyn, NY 11201
 Phone: (718) 643-8000

Asian American Preventive Service Agencies

Center for Family Life

345 43rd Street
 Brooklyn, NY 11232
 Phone: (718) 788-3500
 Serves Chinese speaking families in Sunset Park

Chinatown YMCA, Family Support Program

I.S. 131
 100 Hester Street
 New York, NY 10002
 Phone: (212) 925-1891
 Serves Chinese speaking families

Chinese-American Planning Council, Asian Family Services (serves Chinese and Korean speaking families citywide)

Manhattan Office:
 365 Broadway, 1st Floor
 New York, NY 10013
 Phone: (212) 941-0030

Queens Branch Outstation:
 PS 20
 142-30 Barclay Avenue
 Flushing, NY 11354
 Phone: (718) 359-0021

Brooklyn Branch Outstation
 6022 7th Ave.
 Brooklyn, NY 11220
 Tel: (718) 630-1275

Lower East Side Family Union (serves Chinese speaking families)

Manhattan Office:
84 Stanton Street
New York, NY 10002
Phone: (212) 260-0040

Queens Office:
107-30 71st Road
Forest Hills, NY 11375
Phone: (718) 575-5520

Queens Child Guidance Center, Asian Outreach Clinic

87-08 Justice Avenue, Suite C-7
Elmhurst, NY 11373
Phone: (718) 899-9810

Serves South Asian, Chinese, Korean and Filipino families

Haitian Preventive Service Agency

Flatbush Haitian Center, Inc., Family Preventive Services

75 Erasmus Street, 2nd Floor
Brooklyn, NY 11226
Phone: (718) 856-6114
Serves Creole and French speaking families

Greek Preventive Service Agency

Hellenic-American Neighborhood Action Committee (HANAC),

Child & Family Counseling Services
31-14 30th Avenue, 2nd Floor
Astoria, NY 11102
Phone: (718) 274-9007

Latino Preventive Service Agencies

Alianza Dominicana, Inc., Family Assistance Program

2410 Amsterdam Avenue
New York, NY 10033
Phone: (212) 740-1960

Dominican Women's Development Center, Rising Families

519 West 189th Street
New York, NY 10040
Phone: (212) 994-6060

Lower East Side Family Union

Manhattan Office:
84 Stanton Street
New York, NY 10002
Phone: (212) 260-0040

Puerto Rican Family Institute

Bronx Child Placement Prevention Program
384 East 149th Street, Suite 622
Bronx, NY 10455
Phone: (718) 665-0005

Bushwick Child Placement Prevention Program

545 Broadway, 2nd Floor
Brooklyn, NY 11206
(718) 387-5200

Manhattan Child Placement Prevention Program

145 West 15th Street, 4th Floor
New York, NY 10011
(212) 229-6909

Williamsburg Child Placement Preventive Program

295 Division Avenue, 2nd Floor
Brooklyn, NY 11211
(718) 782-7701

East New York Child Placement Prevention Program

2924 Fulton Street, 1st Floor
Brooklyn, NY 11207
(718) 647-7520

Orthodox Jewish Preventive Service Agency**Ohel Children's Home & Family Services, Preventive Services Program**

4510 16th Avenue
Brooklyn, NY 11204
Phone: (718) 851-6300
Serves the Orthodox Jewish Community in Brooklyn

Appendix L: Keeping important documents about your family

If ACS ever investigates your family, they will ask you questions about how you care for your children. Having certain documents and information can help show ACS that you are a good parent, and could protect you against false charges and keep ACS from removing your children.

Remember:

- Keep copies of these documents handy, but make sure you have the originals put away in a safe place. It is a good idea to give copies to someone you trust.
- Never give original documents to ACS.
- If you can, speak to a lawyer before deciding what information to share with ACS.
- Always keep notes about your contacts with ACS, including names and phone numbers of ACS staff and what information or documents you've given to them.

What kind of documents should you keep available in case ACS investigates your family?

School and daycare information

- Report cards, Conference Notices, Awards your child has received.
- Notes you have sent to the school or letters you have received from the school which show you are working with the school to help your child.
- If your child is in Special Education, copies of your child's IEP and any other documents about what services he or she gets or should be getting.
- Papers showing that your child is in an afterschool, tutoring or mentoring program
- Papers showing that your child is enrolled in Headstart or daycare

If you are challenging something the school is doing, or refusing to do, and you have documents showing this, these could be helpful if someone accuses you of not cooperating with the school.

Housing related information

- Leases, sub-leases.
- Utility notices, documents showing what you have done to keep your gas and electricity turned on or to get it back on if it was turned off.
- Any documents from the shelter system, if you and your family are or were living in a shelter.
- Housing Court papers, Notices of Eviction or other papers from your landlord or letters you have written to your landlord.

If you have been trying to get your landlord to fix something in your apartment, keep papers that show what you have done, especially housing court papers if you have taken the landlord to court. This is very important because ACS might be worried about conditions in your apartment, and you will have to show that you have been doing what you can to get the landlord to fix the problem.

Court and legal documents

- Orders of Protection: temporary or final.
- Custody, Visitation or Child Support orders
- Divorce papers
- Any other order that shows who is supposed to be in your home or caring for your children

If you have filed a petition asking for any of the documents listed here, or if you have a court date scheduled, keep copies of court documents showing this.

Health and mental health information

- Children's Medicaid Cards
- Children's Immunization records
- Children's appointment notices from a doctor, clinic or hospital
- Copies of prescriptions for you or your children
- Papers showing that your child gets services such as speech therapy, physical therapy, early intervention or counseling services, either in your home or elsewhere.
- Papers showing that you or your children get mental health treatment such as counseling, group or individual therapy or psychiatric services.

If you have tried to get the services listed here for your child and have not been able to, keep copies of any letters you have written, fair hearing decisions, and notes about who you have spoken to about it, what you requested and what they said.

Services for yourself

If you are receiving any of the following services, supportive letters from these programs can be helpful if ACS investigates your family

- Counseling, therapy, or other mental health treatment
- Employment services
- Substance abuse treatment
- Parenting skills classes

Financial Information

Sometimes an ACS caseworker will want to know how you support your family. Have documents available showing what income you get from the following sources:

- Employment
- Public assistance (welfare)
- Food stamps
- SSI / SSD (disability)
- Child support
- Unemployment
- Any other payments you regularly receive.

Also keep documentation of any applications you submit for benefits (welfare, food stamps, Medicaid, SSI, SSD, unemployment) or employment.

Information about Past ACS Investigations

If ACS investigates you, the caseworker will be able to find out about any past ACS investigations of your family. So you should keep records related to past investigations.

If you are trying to get your past records amended and sealed by the State Central Registry, keep copies of documents showing this, as well as any requests you made for your complete record and anything else you've sent to Albany in support of your request to have the record sealed.

If you have ever spoken to a District Attorney or the police about a problem with someone harassing you by making false reports to the State Central Registry, keep documentation of this.

Notices showing that earlier allegations were Unfounded.

Identification

Always have copies of identification for everyone in your family in a safe place, and keep copies on hand. Have the following easily accessible for yourself and your children.

- Birth certificates
- Social security cards
- Greencard, passport, or other immigration documents (if applicable).

ACS may not require you to show proof of citizenship or residency as a condition of receiving services, but these documents can help for identification purposes or to obtain help from other agencies.

If for some reason you have to leave your home while ACS is investigating your family, be sure to take everything with you.

Appendix M: Laws That Protect You When Your Children Are in Foster Care

According to the following law, I HAVE THE RIGHT TO BE INVOLVED IN MY CHILD'S SERVICE AND DISCHARGE PLANNING:

“Efforts shall be made to involve the following persons as participants in the development and review of the service plan and the case conference: (1) the child, if she or he is 10 years of age or older, unless there is a documented reason why the child should not be involved; (2) the parent(s), guardian(s), or, in the case of a child whose permanency planning goal is charged to a relative, the relative to whom the child will be discharged...”
18 NYCRR § 430.12(c)(2)(i)(a).

According to the following law, I HAVE THE RIGHT TO BE PRESENT AT EACH SERVICE PLAN REVIEW:

“A panel of at least two people must participate in the development and review of each comprehensive assessment and service plan... The panel must include the Case Planner and an administrator, or other person not responsible for the case management or delivery of services to that case. The review panel must convene a case conference, with the review of the panel members and the parent(s) and child present... to review and develop a service plan for the case.” 18 NYCRR § 430.12(c)(2)(i).

According to the following law, I have the right to be INVITED TO EACH SERVICE PLAN REVIEW, and to bring someone with me:

“The efforts to include participants... must include, but are not limited to: written notice to each participant at least two weeks prior to the case conference inviting them to attend, giving the date, time, and location of the conference and informing them that they may be accompanied by a person(s) of their choice.” 18 NYCRR § 430.12 (c)(2)(i)(b)(1)(i).

According to the following law, if I had to miss a case conference, I HAVE THE RIGHT TO RECEIVE A SUMMARY OF MY SERVICE PLAN within 30 days of the conference:

“During the face-to-face contact [with the Case Planner]... those invited participants who were unable to attend the case conference must be given a summary of the service plan for the child which at a minimum must include the following:

- new or continued goals or outcomes and anticipated completion dates when goals have been established;
- tasks which describe the activities to be completed within the upcoming review period, and the family members and/or the service provider who are to perform each activity;
- an updated visiting plan for children in foster care

- documentation stating the involvement of the parent, child, and any others in the development of the service plan...
- a review of the previous service plan, which describes the progress in meeting or completing previously stated goals or outcomes and tasks or activities, the participation of family members in the process, and the service provision problems, if any, during the period under review.” 18 NYCRR § 430.12(c)(2)(i)(b)(2).

According to the following law, I HAVE THE RIGHT TO VISIT MY CHILD AT LEAST TWICE A MONTH:

“Districts must plan for and make efforts to facilitate at least bi-weekly visiting between the child and the parents or caretakers to whom the child is to be discharged, unless such visiting is specifically prohibited by court order, or by the transfer of custody agreement, or the child is placed in a facility operated or supervised by the Office of Mental Health or Office of Mental Retardation and Developmental Disabilities.” 18 NYCRR § 430.12(d)(1)(i).

According to the following law, THE AGENCY MUST GIVE MY FAMILY AND ME MONEY, A RIDE, OR OTHER HELP TO GET TO AND FROM VISITS WITH MY CHILD:

“The efforts of the district to facilitate at least bi-weekly visiting must include: provision of financial assistance, transportation or other assistance which is necessary to enable bi-weekly visiting to occur.” 18 NYCRR § 430.12(d)(1)(i)(a).

According to the following law, I HAVE THE RIGHT TO VISIT WITH MY CHILD OR CHILDREN IN A PLACE THAT IS PRIVATE, SAFE, AND COMFORTABLE – NOT IN A CROWDED AGENCY WAITING ROOM:

“The efforts of the district to facilitate at least bi-weekly visiting must include: arranging for visits to occur in a location that assures the privacy, safety, and comfort of the family members. In no case, except where a family court has ordered supervised visiting, will congregate visits involving members of more than one family satisfy the provisions.” 18 NYCRR § 430.12(d)(1)(i)(c).

According to the following law, IF MY CHILDREN ARE NOT PLACED TOGETHER, THEY HAVE THE RIGHT TO VISIT EACH OTHER:

“Authorized agencies are responsible for ensuring that diligent efforts are made to facilitate regular biweekly visitation or communication between minor siblings or half-siblings who have been placed apart, unless such contact would be contrary to the health, safety or welfare of one or more of the children, or unless lack of geographic proximity precludes visitation.” 18 NYCRR § 431.10(e).

According to the following law, IF MORE THAN ONE OF MY CHILDREN ARE PLACED INTO FOSTER CARE, THEY HAVE THE RIGHT TO BE PLACED TOGETHER UNLESS THE COURT DETERMINES, based on the advice of a health care professional, that this would not be in their best interest:

“Foster children who are siblings or half-siblings must not be unnecessarily separated. The social services district is responsible for ensuring that diligent efforts are made to secure a foster family boarding home or agency boarding home which is willing and able to accept the placement of siblings together, unless placement together is determined to be detrimental to the best interest of the siblings.” 18 NYCRR § 431.10(a).

According to the following law, MY WELFARE HOUSING ALLOWANCE CANNOT BE REDUCED AS LONG AS THE PERMANENCY GOAL IS FOR MY CHILDREN TO RETURN TO MY CARE:

“... no public assistance shall be given to or for any minor child who has been or is expected to be absent from the home ... for a consecutive period of forty-five days or more without good cause ... Good cause shall include absence for a placement in foster care if the goal set forth in the child service plan ... is the return of the child to a member of the household ... if it is in the best interests of the child to return home and return is expected within a reasonable time.” Social Services Law § 131(15).

According to the following law, PREVENTIVE SERVICE AGENCIES MUST MAKE REASONABLE EFFORTS TO COMMUNICATE WITH ME IN MY PRIMARY LANGUAGE.

“Reasonable efforts shall be made by the preventive services agencies to communicate with the child and his family in their primary language”. 18 N.Y.C.R.R. § 423.4(m)(2)

According to the following law, I SHALL BE NOTIFIED OF AVAILABLE LANGUAGE ASSISTANCE SERVICES:

“Upon initial contact, whether by telephone or in person, with an individual seeking benefits and/or services offered by another covered agency, the other covered agency shall determine the primary language of such individual. If it is determined that such individual’s primary language is not English, the other covered agency shall inform the individual in his/her primary language of available language assistance services. NYC Administrative Code tit. 8 § 1005d.

Appendix N: Fathers' Rights and Responsibilities

“What can I do in court to show that I am a responsible father? Appear. Better yet, before you appear in court, get the docket number and look into the case. When dealing with a child that is already in foster care and you just found out about it, call ACS and say ‘Listen my child is in foster care and I don’t know where they are’ and get all the information you can. Tell them that you want to visit your child. What you would like to do is one thing, what you know you can do is something else. If you know you are entitled to visit your child, that empowers you and they understand that you know your rights and that they have to oblige. Because of the stigma that men have of being aggressive and being violent, you’re looked down upon. So the best thing that you can do is shine yourself up. How do you do that? Get knowledge of the case. Know what you are going to court for. Yes, we walk into court with a stigma just like women have a stigma when it comes to being police officers or firefighters. We all have these stigmas. It’s the battle of the sexes. It’s been happening since the beginning of time.”

What are your rights and responsibilities as a father?

A father’s rights and responsibilities are the same as a mother’s, so all the information contained in the rest of this book applies to men who are “legal” fathers.

Who are legal fathers?

A man who is married to the child’s mother before or after the child is born is presumed to be the father (unless another man is the legal father, such as a prior husband).

A man who signs an Acknowledgement of Paternity that is filed with the Department of Health. This is usually done at the hospital when the child is born, but may be signed at any time. If the mother applies for welfare, she will be required to cooperate with the Welfare Department to establish paternity and the Department may ask the man she identifies as the father to sign an Acknowledgement.

The mother, the father, or the Welfare Department (when the child is on P.A.) can file a paternity petition in the Family Court. If the man admits that he is the father, either before or after genetic (DNA) tests, or if the court decides he is the father after a trial, an Order of Filiation will be issued, naming him the legal father.

Just having your name on the child’s birth certificate is not enough to make you the legal father.

Be aware that *being a legal father is not always enough to prevent your child from being adopted*. See below for information on what you need to do if you want to prevent your child from being adopted.

What if ACS takes your child's mother to court for neglect or abuse?

ACS should serve you with a copy of the initial court papers (the summons and petition), along with a notice telling you that there is a child protective case going on and that you have a right to participate in the case in order to ask for custody and to take part in all hearings or arguments that have to do with the question of custody.

If the court decides to remove the child from the mother or if ACS has already done so and the court continues the removal, if you have not received notice, the court is supposed to direct ACS to conduct an investigation to find you and inform you about the case and give you a chance to seek custody.

Even if you are not a respondent (not charged with neglect or abuse), once your child goes into foster care, you are at risk of having your parental rights terminated or having the court decide you don't have the right to prevent an adoption of your child. If you want to prevent your child from being adopted, you should ask ACS and the court for custody as soon as you can if your child goes into foster care. If you don't succeed in getting custody right away, you should visit with your child, cooperate with the foster care agency in planning for your child, and offer to pay child support. If you do not have a lot of money, you will not have to pay a lot in child support, but it is important to offer to pay at least something, even while your child is in foster care. See the section of this book called, "What Happens While Your Children are in Foster Care" to learn more about your rights and responsibilities.

Even though the law requires ACS and their foster care agencies to locate fathers and work with them, it doesn't always happen. They seem to forget about fathers who are not respondents. Therefore, it's really important for you to do everything you can to get in touch with the agency caseworker as soon as you learn your child is in care and to be persistent.

"I didn't even have a case with ACS. I just came in as a father trying to get his son and I thought that it would be easy but it wasn't. They just assume that you're a dead-beat dad. But I try my hardest to be there for my kid and to sacrifice my life for him. That's what being a responsible father is. It's understood that fathers can't give the same love that a mother can, that motherly love. What I do is get guidance from important motherly figures that are in my child's life, like the foster mother. That way, I'm able to take care of my child while he still is getting that motherly love he needs."

What if the mother's rights are terminated and ACS wants your child to be adopted?

If you are the legal father as discussed above, your child cannot be freed for adoption unless you consent, your parental rights have been terminated, or the court finds that you do not have the right to veto (prevent) an adoption. To terminate your rights or find that you do not have the right to veto an adoption of your child, ACS has to show that you abandoned the child or that you did not plan with the agency for the child or that you did

not maintain regular contact with the child or that you did not provide financial support to the child. To prove abandonment, they have to show that for at least six months, you haven't visited or communicated with the child or the agency even though you were able to. Paying child support can count as communication. Infrequent visits or communication is not enough to keep your rights from being terminated. If there is an order of protection keeping you away from your child, your rights can still be terminated unless you keep in touch with the foster care agency and participate in planning.

If you haven't been declared to be the legal father, you may still be entitled to notice of the adoption proceeding. Notice has to be given to men who are:

- named as the father on the child's birth certificate
- named by the mother as the father in a sworn written statement
- married to the mother within 6 months of the child's birth
- named in the putative father registry by having filed an Acknowledgement of Paternity with the registry

If you were given legal notice of the termination of parental rights case against the mother, however, you are not entitled to another notice.

Having a right to notice doesn't give you the right to veto the adoption, but only to come to court to offer evidence about what is in the child's best interests. If you want to have the right to prevent an adoption, you should do as much as you can to stay in touch with the child, plan with the agency, and provide financial support for the child.

Appendix O: Contacting the Administration for Children's Services (ACS)

ACS Office of Advocacy / Parent's Rights Unit - (212) 676-9421 (incarcerated parents can call (212) 619-1309 collect)

ACS Ombudsman - (212) 341-2954 - Call this number if a city agency other than ACS is giving you directions which conflict with those given by ACS. For example, your ACS worker is telling you to attend parenting classes and your public assistance worker is telling you to report to a work assignment during the same hours.

ACS Office of Family Visiting - (212) 487-8630 or (212) 487-8632 - Call if your children are in foster care and you need help advocating for more frequent visits, longer visits or unsupervised visits with your children.

ACS Children of Incarcerated Parents Program ("CHIPP") - (212) 487-8270 or (212) 487-8630 - Call if you are incarcerated and need help arranging visits with your children in foster care.

Field Offices

ACS has Field Offices (also called Borough Offices) in each of the five main boroughs of New York City. The main activity of ACS Field Offices is child protective investigation and casework. If your child has been placed in foster care, you can call your local Field Office. ACS field offices also provide information about preventive services programs for families and help to parents who want to voluntarily place their children in foster care.

Bronx ACS Field Office

2501 Grand Concourse, 4th Floor
Bronx, NY 10453
(718) 933-1212 or (718) 292-8338
Subway: 2, 4 or 5 trains to East 149th St. & 3rd Ave. Station

Brooklyn ACS Field Office

1274 Bedford Avenue
New York, NY 11217
(718) 623-4975 or (718) 826-5542
Subway: A train to Nostrand Ave. and C train to Franklin Ave. stations
Bus: B25 to corner of Fulton & Bedford

Manhattan ACS Field Office

150 William Street, 2nd Floor
New York, NY 10038
Phone: (212) 676-7055
Subway: A, C, 2 or 3 trains to Fulton St. station

Queens ACS Field Office

165-15 Archer Avenue, 4th Floor

Jamaica, NY 11433

Phone: (718) 481-5700

Subway: E, J or Z trains to Sutphin Blvd. - Archer Ave. station

Staten Island ACS Field Office

350 St. Marks Place, 5th Floor

Staten Island, NY 10301

Phone: (718) 720-2765

Bus: S42 from the Ferry to St. Marks St. & Fort Pl.

Appendix P: Contacting the New York City Family Courts

In the Bronx:

Bronx County Family Court

900 Sheridan Avenue - (718) 590-3321

In Brooklyn:

Kings County Family Court

330 Jay Street - (347) 401-9600

In Manhattan:

New York City Family Court

60 Lafayette Street - (646) 386-5200

In Queens:

Queens County Family Court

151-20 Jamaica Avenue, Jamaica - (718) 298-0198

In Staten Island:

Richmond County Family Court

100 Richmond Terrace - (718) 390-5353

Formal Complaints About Attorneys

In the Bronx and Manhattan, contact the Departmental Disciplinary Committee, First Judicial Department, 61 Broadway, 2nd Floor, NY NY 10006 (212) 401-0800

In Brooklyn, Queens, and Staten Island, contact the New York State Grievance Committee for the 2nd and 11th Judicial Districts, 335 Adams Street #2400, Brooklyn, NY 11201

Complaints about Court Appointed Attorneys

In Brooklyn, Queens or Staten Island, call Harriet Weinberger: (718) 923-6350

In the Bronx and Manhattan, call Jane Schreiber (212) 340-0514

Bias or Corruption Complaints:

Call the NY State Commission on Judicial Conduct: (212) 809-0566

Complaints about Family Court Judges

For procedural complaints, write to:

Hon. Barry Crozier

Deputy Chief Administrative Judge

NYC Family Court

80 Centre Street

New York, NY 10013

Bias or corruption complaints:

Call the NY State Commission on Judicial Conduct: (212) 949-8860.

Office of Court Interpreting Services

Office of Court Administration, Division of Court Operations

25 Beaver Street, 8th Floor

New York, NY 10004

(646) 386-5670

or email courtinterpreter@courts.state.ny.us

**Appendix Q:
Sample Letter to Request a Copy of Your Service Plan**

(Date)

(Case Planner's name)

(Case Planner's agency)

(Agency Address)

(City, State, Zip Code)

Re: _____
(Your name)

(Your child's name - add additional lines if more than one child is in foster care)

Dear _____:
(Case Planner's name)

I am writing to request a written copy of the most recent service plan for my family's case. On *(insert date of your last meeting)*, I was told that a copy of this plan would be mailed to me. However, it has been *(fill in the number)* days, and I still have not received it. As you know, under state law 18 NYCRR 430.12 (2)(i)(c), I am entitled to either a copy of the service plan, or a written statement of the conclusions or recommendations from the last service plan review meeting.

Please send the service plan to me at the following address:

(Your street address)

(City, State, Zip Code)

Thank you, in advance, for your time and cooperation.

Sincerely,

(Your signature)

Appendix R: Sample Letter to Request a Case Conference

(Please see the note in the letter about the timing of this meeting. If less than 30 days have passed since your last case conference, you should leave out the first line from your letter. Otherwise, you can just write it as it appears below).

(Date)

(Case Planner's name)

(Case Planner's agency)

(Agency Address)

(City, State, Zip Code)

Re: _____
(Your name)

(Your child's name - add additional lines if more than one child is in foster care)

Dear _____:
(Case Planner's name)

It has been more than 30 days since the last case conference to review the service plan for my family. *(If it has been less than 30 days, ignore that first line and instead write, "I am writing to request a case conference to review the service plan for my family." Then simply continue on as written here.)* I was not present at the last case conference because I did not receive notice of the meeting. I am therefore writing to request a meeting with you to review my service plan. Please contact me at *(insert your phone number here)* to arrange a meeting place and time as soon as possible.

In the future, please be sure that I receive written notice of the next service plan review, at least two weeks in advance of the case conference, including the date, time, and location of the meeting. This is required by state regulations under 18 NYCRR 430.12 (2)(i)(b)(1)(i). Thank you for your time and assistance.

Sincerely,

(Your signature)

Appendix S: Sample Letter to Request Another Case Conference

(This letter should be used if you had a case conference, but were unprepared because they did not notify you of the meeting at least two weeks in advance.)

(Date)

(Case Planner's name)

(Case Planner's agency)

(Agency Address)

(City, State, Zip Code)

Re: _____
(Your name)

(Your child's name - add additional lines if more than one child is in foster care)

Dear _____:
(Case Planner's name)

On (insert the date of the first case conference), I attended a meeting at your agency. Because I was not advised in advance of this meeting, in writing, as required by state regulations under 18 NYCRR 430.12 (2)(i)(b)(1)(i), I was unprepared for the meeting. Had I received written notification two weeks in advance, I would have brought (fill in what or who you feel was missing from the meeting) with me.

Since the case conference did not meet social service regulation requirements, I was not allowed to participate fully in the development of the service plan for my family. I am therefore writing to request that you meet with me again to review my family's service plan in accordance with these regulations. Please contact me at *(insert your phone number here)* to arrange a meeting place and time as soon as possible.

In the future, please be sure that I receive written notice of the next service plan review, at least two weeks in advance of the case conference, including the date, time, and location of the meeting. Thank you for your time and assistance.

Sincerely,

(Your signature)

**Appendix V:
Sample Letter Requesting the Visitor's Allowance
From Public Assistance**

(Date)

(Public Assistance Caseworker's Name)

(Public Assistance Center #)

(Public Assistance Center Address)

(City, State, Zip Code)

Dear Ms./Mr. _____:
(Caseworker's Name)

I have three children who are currently in foster care. Beginning (*insert date visits are scheduled to begin*) I will have weekend visits with my children each week from Friday evenings through Sunday evenings. The visits are scheduled to take place every weekend until the children are discharged to me on a trial basis this fall or winter.

I would appreciate it if you could assist me in obtaining a visitor's allowance from public assistance to help me care for the children while they are visiting in my home. In accordance with 18 NYCRR 352.29(f), and 88 INF-59 at p. 21-23, I believe that I am entitled to an additional allowance of \$4.00 per child, per day that they are visiting. For the period beginning (*insert date visits are scheduled to begin*) the amount that I should receive is as follows: 3 children multiplied by \$4.00 per day, multiplied by 2 days which equals \$24.00 per week, which should then be multiplied by 4.33 to equal \$103.92 per month. The visitors allowance can be authorized based solely on my statement that the children are visiting. See 88 INF-59 at p. 21. However, you can also contact the foster care agency caseworker assigned to my family to confirm the visiting plan. Her name is (*insert your caseworker's name*) and you can reach her at (*insert caseworker's telephone number*).

Thank you in advance for your assistance with this matter.

Sincerely,

(Your name)

Appendix W: Sample Letter to Ask That Your Child Be Returned Home

(NOTE: This letter uses drug use as an example. If this does not apply to you, you should list the problems you had and have taken care of.)

(Date)

(Case Planner's name)

(Case Planner's agency)

(Agency Address)

(City, State, Zip Code)

Dear Ms./Mr. _____:
(Case Planner's last name)

Please accept this letter as my written application for the return of my child, (insert your child's name here), from foster care.

I am actively engaged in the recovery process and have not used drugs for more than a year. Five days a week, I attend the Methadone Maintenance Program at *(insert the name of the hospital or program here)* where I receive drug treatment, methadone maintenance, and counseling. I have also been receiving computer training and taking a GED preparation course at *(insert name of agency or agencies where you have gone for the training and/or course)*. I have attached a letter of support from *(insert the name of your counselor who has written a support letter)*, who is my counselor at the program.

I am also working with *(insert the name of the agency here)*, a community-based organization that provides case management and housing services. I have also attached a letter of support from *(insert Case Planner's name)*, my Case Planner there. While my current apartment is adequate for me, my Case Planner is helping me to find a larger apartment where *(insert your child's name)* and I can be more comfortable.

I have addressed the problems that led to my child being placed in foster care. I have visited with *(insert child's name)* on a regular basis, and we have a close and loving relationship. I have adequate housing and a regular source of income. I believe that it would be in *(insert your child's name)*'s best interests for her/him to be returned to my care right away.

Please advise me immediately, in writing, whether you will return *(insert your child's name)* to my custody. Thank you in advance for your help with this matter.

Sincerely,

(Your name)

(Important: Be sure to type your name a few lines below the "Sincerely" line and then sign in the space above it. Some people may not be able to read your signature, and you want to be sure they know whom your letter is from).

(Your street address)

(City, State, Zip Code)

Appendix X: “PINS” Cases

What is a PINS case?

PINS stands for Person In Need of Supervision.

PINS are a kind of case that can be filed to ask a Family Court to provide supervision and services for children up to age 18. If a young person is found to be a PINS, they are put under the jurisdiction of the court, which means the court can make orders about where they live and place other conditions on them.

A PINS case is not a criminal case. It is a case that the parent or another adult brings against a young person.

How do PINS cases work?

Usually parents file PINS cases. School personnel and certain other adults can also file them.

To file a PINS you go to a Family Court and ask to file a PINS petition.

You should bring the child to court with you if you can on the day you file the PINS petition. If the child will not come to court voluntarily, a judge may issue a PINS warrant. If a warrant is issued, the police are supposed to try to locate and pick up the child and bring him or her to court. You may need to provide information to the police for them to locate the child. You can ask the court for a warrant that is for court hours only, meaning that the police are only supposed to pick up the child when court is open. But sometimes when a child is picked up on a warrant, the police hold them overnight or over a weekend until the Family Court opens.

Before a PINS case goes to a judge, the probation department is supposed to see if there is some way the problems can be addressed without the case staying in court. The probation department runs a program called Diversion to do this. Diversion is supposed to include services such as joint counseling. Some parents find Diversion services helpful. Some parents report Diversion does nothing on their cases.

There are two parts to a PINS case. The first part is called the fact-finding. At the fact-finding the court must decide if the young person is a Person In Need of Supervision. The second part is called the disposition. At the disposition the court can decide what should happen to the young person.

Are there lawyers on PINS cases?

Young people charged with PINS cases are given lawyers to represent them. Usually these lawyers work for Legal Aid. The young person's lawyer is called a law guardian. The lawyer for the young person does not represent the parent. Sometimes parents are given lawyers in PINS cases, but usually not. Parents are not entitled to lawyers in PINS cases.

What happens at a PINS Fact-Finding?

In order to determine that a young person is a PINS, the court needs to decide that the young person did something wrong. The young person can choose to admit he or she did something wrong or to have a trial. The young person is entitled to a trial at which the lawyer will defend him or her and the parent will have to prove the allegations. The parent can testify about what the young person did and/or bring in other evidence.

Usually it is easy to prove the young person has done something wrong because almost all teenagers have done something they are not supposed to. Some examples of behavior that can be a basis for a PINS are cutting school, using drugs, and disobeying parents. Other behavior can be a basis for a PINS if it shows the person needs supervision.

What happens at a PINS Disposition?

After the court decides the person is a PINS, then the court has the authority to make some decisions about what should happen to the young person. The decisions about what should happen are called the disposition. Disposition is like the sentencing.

It is important to know what the options in a PINS case are. Many parents want things for their teenagers that the court cannot order. What a court can do is:

- Send the young person home with certain conditions. The conditions can be things like the court setting a curfew or the court ordering the young person to go to counseling.
- Send the young person to a group home.
- Send the young person to a diagnostic or residential treatment center (DRC or RTC).
- Give an ACD. ACD stands for Adjournment in Contemplation of Dismissal. This means the court is giving the young person a chance to show that he or she is not a Person In Need of Supervision and that the case should be dismissed. Usually an ACD requires the young person to meet certain conditions for 6 months. If the conditions are not met, the parent can bring the case back to court.

What the court cannot do in a PINS case

The court cannot order that a teenager be put in prison or detention. No place that a young person is sent in a PINS case will be a locked facility.

The courts generally do not place teenagers in boot camps in PINS cases. Many parents want boot camps, but often they are not available.

Things to consider if you are thinking about filing a PINS case

ACS is likely to get involved with your family if you file a PINS case. Almost all young people who are sent away from home in PINS cases are placed in ACS facilities. ACS then has an obligation to work with the parent and the young person. ACS will also have to make reports to the court about how things are going with the family. These reports can criticize how the parents are handling things. You should think carefully about whether you want to invite ACS involvement with your family.

“Some ACS workers don’t even have children. If you don’t have children, it’s hard to understand what a parent goes through. Having children is like a 24-hour job. If your children aren’t home when they should be, your mind wanders and you’re worried about where they are and why they aren’t home. They don’t know what that feeling is like.”

Many parents seek PINS because their teenagers are not obeying them. The parents believe the teenagers will listen to the judge and maybe be scared into behaving better. Some young people do respond to PINS cases by improving their behavior. Some young people’s behavior does not get better when there is a PINS case. A significant number of young people run away after PINS cases are filed. You know your child - you should think about whether your child is likely to do better or worse if there is a PINS case.

If a young person is placed with ACS in a PINS case, it is not up to the parent when the child can return home. Often judges send children home when their parents want them back, but not always. The judge may follow ACS recommendations that the child be required to do certain things before the child is allowed to go home. The judge may even require that the parent do certain things before the child is allowed to go home. For example, the judge could require the parent to do joint therapy with the child.

Keep in mind that the majority of teenagers placed away from home in PINS cases are put in ACS group homes. Many parents are surprised to learn their child is going to a group home. Often teenagers have less supervision when they are in a group home than they do living with their parents. Often group homes allow the teenagers to engage in behavior that their parents would not allow.

A PINS case can take a long time to be resolved and sometimes requires many trips to court by the parent.

Having a PINS case creates a record for the young person. Although it is not the same as a criminal record, it is similar and can lead to similar kinds of problems.

Taking out a PINS case may help you get services that address your child’s issues. But a PINS case is not a magic solution to the difficulties of raising a teenager. Remember that a judge can only issue orders. The judge cannot ensure that the teenager will follow the orders. Ultimately, you and your child will have to do most of the work involved in getting the child through his or her teenage years successfully. You continue to be responsible for

your child after you file a PINS case. You may want to take out a PINS if you believe it will help you meet the child's needs. But you should not file a PINS case based on the idea that it will make being the parent of a teenager easy.

“ACS needs to understand that peer pressure is very strong with teenagers and as a single parent that has to work, the supervision might not be there as much as ACS thinks it should be. They need to understand that it can be very difficult to put teenagers in constructive programs like mentoring or after-school programs and still have them be able to grow instead of being stunted by being isolated from everything else. You don't want to isolate your child. Teenagers are going through their own things like hormones and peer pressure and they need to have positive programs for teenagers in order to get what they can't get at home.”

Appendix Y:

How to expunge or seal and amend reports of abuse or neglect

State Central Register:

Reports of child abuse and neglect are made to the New York State Central Register (SCR). Anybody can call in reports to the state child abuse hotline. Some people, called “mandated reporters” (these include doctors, teachers and other service providers), are required to call the hotline if they have concerns about child maltreatment. The SCR decides whether a report should be investigated and, if so, forwards it to the local child welfare agency. In New York City, this is the Administration for Children’s Services (ACS). ACS has 60 days to complete the investigation, which can include interviewing the children at home, making home visits, and speaking with family, friends, doctors, and teachers. The result of the investigation will be that a report is either indicated (if ACS decides there is some believable evidence of child abuse or neglect) or unfounded (if ACS decides there is no believable evidence). If a case is indicated, that goes in your record at the SCR even if ACS decides not to remove your children or take the case to court.

Indicated records are available to many employers and to foster care and adoption agencies so it is important that you be aware of any SCR records about you and that you decide whether you want to try to amend (change) or seal (prevent the release) of those records.

“Often ACS tells a person who is being investigated that the case is being closed and it is not clear that even though the case is closed, the person is going to have a record in the SCR. It is important for you to take steps to find out if you have a record, so that you can challenge the record if you want to do so.”

Indicated Reports:

If ACS finds that there is some believable evidence that the report is true, it will mark the report as “indicated.” Indicated reports are kept at the SCR until the youngest child involved is 28 years old. Many employers (including schools, child care agencies, social service agencies, and others) and foster care and adoption agencies will be notified of indicated reports. Indicated reports often prevent people from getting or keeping certain jobs, becoming foster parents, or adopting. Employers may be notified and refuse to hire people even when jobs do not involve working directly with children. Law enforcement agencies, child welfare agencies, and the courts will also have access to reports in the SCR for other investigations (for example, when custody issues are decided).

Unfounded Reports:

If the local agency finds that there is no believable evidence that the report is true, it will mark the report as “unfounded.” The report will be maintained at the SCR, but will be sealed. This means that it is only available to police or ACS when they are investigating another report of child abuse or neglect involving you or your children. A sealed report is not available to employers or foster care or adoption agencies. Unfounded reports will remain in the SCR for ten years.

Getting Information about Your Case:

You are entitled to a copy of any records of reports against you in the State Central Register. You should receive a letter telling you whether a report is unfounded or indicated within 60 days of the start of the investigation. Many people do not receive this letter even though records were made in the SCR against them. You can ask for a copy of any reports the SCR has against you by writing to:

New York State Office of Children and Family Services
Child Abuse and Maltreatment Register
P.O. Box 4480
Albany, NY 12204-0480

Challenging an Indicated Report:

You can challenge an indicated report to try to have it amended (changed to unfounded) or sealed (so it won't be released to employers or foster or adoption agencies). There are certain times when you are definitely entitled to a hearing (at other times you may request one, but it is up to the State's discretion whether to give you one). If you request the hearing within 90 days of being notified that a case was indicated, you are entitled to a hearing about both amending and sealing your record. This means it is often best to request a hearing quickly after you are notified.

If you have been notified that an employer or agency has requested your SCR records (an SCR clearance) and you have not had a fair hearing yet, you are entitled to one. The State may say a fair hearing requested at this stage can only be about amending the record and not about sealing it. However, if you had not been notified of the indicated case earlier, you can request to both amend and seal the record.

You may not be able to amend (change) a report if a court has already decided you neglected or abused a child, but you still may be able to get it sealed. Getting a record sealed can prevent many of the problems having a record in the SCR causes.

How to request a fair hearing:

Send a letter to the New York State Office of Children and Family Services at the address above asking that all reports against you be amended to unfounded and sealed. A sample letter that you can use to do this appears below. You should also request a copy of the contents of all reports the SCR has on you. In the letter, give your name and date of birth, the names of any children that the report might mention and, if you have them, the Case ID numbers and the Intake Stage ID numbers. Send this letter return receipt requested and keep a copy of it so you have a record. If you do not receive a response, send another letter requesting a fair hearing and stating when you sent your first request.

The Review and Fair Hearing process

Once you request a hearing, the Office of Children and Family Services (“OCFS”) has 90 days to conduct an internal review. You do not get to attend the internal review, but you may submit documentation to be reviewed during this process. If you do not submit materials, OCFS will only look at the materials ACS has sent them. OCFS may decide the report should be unfounded. If OCFS decides not to change the report to unfounded or if the review is not completed within 90 days, then a fair hearing should be scheduled automatically. (If it is not scheduled, then you should request one again.) You should receive notice of where and when the fair hearing will be held and you are entitled to attend.

At the hearing, you may present your side of the story and any proof and evidence you have. You should be prepared to explain why the report against you should be amended and/or sealed. You should bring any documents and witnesses that support your explanation. ACS must give you copies of any evidence they are going to use against you. You are allowed to bring a lawyer or you may speak for yourself at the fair hearing.

If the fair hearing is about amending the record, the judge (called an “administrative law judge” or “ALJ”) will decide if more of the evidence indicates there was child abuse or neglect or not. If more of the evidence indicates there was not child abuse or neglect, the report will be amended (changed) to unfounded.

If the fair hearing is also about sealing the record, the judge will consider whether any indicated reports are relevant to jobs that involve contact with children or to being a foster or adoptive parent. Even if the judge does not change your record to unfounded, it can still be sealed if the report is not relevant to these positions. If your record is sealed it cannot be shown to employers or agencies. In deciding whether to seal a record, the judge should consider many factors, including any efforts at rehabilitation. Therefore, you should explain any positive steps you have taken since the report was made and bring any documents or witnesses that show you have addressed the issues involved in the case (for example, certificates from parenting classes or drug programs).

If you lose the fair hearing, you may appeal the decision by filing a petition (called an “Article 78”) in New York State Supreme Court on the grounds that the determination was capricious, arbitrary, or not in compliance with the law. It is helpful to have a lawyer to help you file an appeal.

If you never received notice

If the report was made more than 90 days ago, but you never received notice of the result of the investigation, you can still request a fair hearing. Your 90 day period starts when either ACS or the SCR notifies you. You do not have to prove that you did not receive notice - the agency has to prove they notified you.

Expunging reports

Before 1996, people with records in the SCR were entitled to have fair hearings to determine if their records could be *expunged* (removed) from the SCR. The law has been changed and the State is no longer required to hold fair hearings on expungement. Now unfounded records are generally only expunged after ten years and indicated records are generally only expunged after the youngest child turns 28 years old. In rare cases, an unfounded report can also be expunged if: 1) the source of the report was convicted for falsely making the report; or 2) the subject presents clear and convincing evidence that affirmatively refutes the allegation of abuse or maltreatment. In most SCR cases, amending or sealing a record is the best outcome a person can get.

Form letter to request to amend and seal a report in the SCR

You can use the following letter to challenge an indicated report against you in the SCR. All you have to do is fill in the blanks and send it to the address at the top of the letter.

You do not have to add any additional information, but it may be helpful to put the following information at the bottom of the letter if possible: the Case ID number(s), the Intake Stage ID number(s), the name of the child or children discussed in the report, and a telephone number where you can be reached.

Date:

New York State Office of Children and Family Services
 Child Abuse and Maltreatment Register
 P.O. Box 4480
 Albany, New York 12204-0480

To Whom it May Concern:

I am requesting that the indicated report(s) against me in the State Central Register be amended to “unfounded” and legally sealed. Additionally, I request that the indicated report(s) against me be deemed irrelevant to and not reasonably related to employment, adoption or the provision of foster care.

Further, pursuant to Section 422(7) of the Social Services Law, I am requesting a copy of all records associated with my case.

Sincerely,

Name

Date of Birth

Address

Appendix Z: Family Court Abbreviations and Acronyms

| | |
|-------|--|
| ACD | ADJOURNMENT IN CONTEMPLATION OF DISMISSAL |
| ACD | AGENCY FOR CHILD DEVELOPMENT |
| ACS | ADMINISTRATION FOR CHILDREN'S SERVICES |
| ADA | ASSISTANT DISTRICT ATTORNEY |
| ADJ | ADJOURNMENT DATE (FOR NEXT COURT APPEARANCE) |
| AJA | APPLICATION FOR JUDICIAL ACTION |
| ATTY | ATTORNEY |
| AWOL | ABSENT WITHOUT LEAVE |
| BCW | BUREAU OF CHILD WELFARE (PRIOR NAME OF ACS) |
| BM/BF | BIRTH/BIOLOGICAL MOTHER / BIRTH/BIOLOGICAL FATHER |
| BOE | BOARD OF EDUCATION (PRIOR NAME OF DEPARTMENT OF EDUCATION) |
| CASA | COURT APPOINTED SPECIAL ADVOCATES |
| ICM | INTENSIVE CASE MANAGER |
| CM | CASE MANAGER |
| CO | COURT ORDER |
| COI | COURT ORDERED INVESTIGATION |
| COS | COURT ORDERED SUPERVISION |
| CPLR | CIVIL PRACTICE LAW AND RULES |
| CPS | CHILD PROTECTIVE SPECIALIST (ACS) |
| CPSE | COMMITTEE ON PRESCHOOL SPECIAL EDUCATION |
| CSE | COMMITTEE ON SPECIAL EDUCATION |
| CSE | CHILD SUPPORT ENFORCEMENT |
| CW | CASEWORKER |
| DLS | DEPARTMENT OF LEGAL SERVICES (PRIOR NAME FOR ACS ATTORNEY) |
| DOE | DEPARTMENT OF EDUCATION |
| DRC | DIAGNOSTIC RECEPTION CENTER |
| DV | DOMESTIC VIOLENCE |
| ECS | EMERGENCY CHILDREN'S SERVICES |
| EI | EARLY INTERVENTION |
| ERC | ELEVATED RISK CONFERENCE |
| 18-B | COURT APPOINTED PANEL ATTORNEY |
| EOP | EXTENSION OF PLACEMENT |
| FCA | FOSTER CARE AGENCY |
| FCC | FOSTER CARE CONTINUED |
| FCLS | FAMILY COURT LEGAL SERVICES (ACS ATTORNEY) |
| FET | FULL EVALUATION AND TESTING |
| FP | FOSTER PARENT |
| GAL | GUARDIAN AD LITEM |
| HHC | HEALTH AND HOSPITAL CORPORATION (NYC) |
| HRA | HUMAN RESOURCES ADMINISTRATION (NYC) |

| | |
|-------|---|
| HOH | HEAD OF HOUSEHOLD |
| HSP | HOUSING STABILITY PLUS (HOUSING PROGRAM) |
| I&R | INVESTIGATION AND REPORT |
| ICPC | INTERSTATE COMPACT FOR THE PLACEMENT OF CHILDREN |
| JRD | JUVENILE RIGHTS DIVISION OF THE LEGAL AID SOCIETY (LAW GUARDIANS) |
| LAS | LEGAL AID SOCIETY |
| LFC | LAWYERS FOR CHILDREN (LAW GUARDIANS) |
| LG | LAW GUARDIAN |
| LMSW | LICENSED MASTER OF SOCIAL WORK |
| MGM/F | MATERNAL GRANDMOTHER/GRANDFATHER |
| MHS | MENTAL HEALTH STUDY |
| N/A | NEGLECT/ABUSE |
| NA | ABUSE PETITION - PRECEDES DOCKET NUMBER |
| NCO | NO CONTACT ORDER |
| NN | NEGLECT PETITION - PRECEDES DOCKET NUMBER |
| NYCRR | NEW YORK CODE OF RULES AND REGULATIONS |
| OASAS | OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES (NYS) |
| OCFS | OFFICE OF CHILDREN AND FAMILY SERVICES (NEW YORK STATE) |
| OCI | OFFICE OF CONFIDENTIAL INVESTIGATIONS |
| OCACM | OFFICE OF CONTRACT AGENCY MANAGEMENT (ACS) |
| OCSE | OFFICE OF CHILD SUPPORT ENFORCEMENT |
| OMH | OFFICE OF MENTAL HEALTH (NYS) |
| OMRDD | OFFICE OF MENTAL RETARDATION & DEVELOPMENTAL DISABILITIES |
| OP | ORDER OF PROTECTION |
| ORT | ORAL REPORT TRANSMITTAL |
| OTSC | ORDER TO SHOW CAUSE |
| PA | PUBLIC ASSISTANCE (WELFARE) |
| PDM | PLACEMENT DECISION MAKING CONFERENCE |
| PINS | PERSON-IN-NEED-OF-SUPERVISION |
| PLR | PERSON LEGALLY RESPONSIBLE |
| PPG | PERMANENCY PLANNING GOAL |
| PPRS | PURCHASED PREVENTIVE SERVICE |
| RJA | REQUEST FOR JUDICIAL ACTION |
| RTC | RESIDENTIAL TREATMENT CENTER |
| RTF | RESIDENTIAL TREATMENT FACILITY |
| SC | SUBJECT CHILD |
| SCR | STATE CENTRAL REGISTER OF CHILD ABUSE & MALTREATMENT |
| SPR | SERVICE PLAN REVIEW |
| SSI | SUPPLEMENTAL SECURITY INCOME |
| TANF | TEMPORARY AID TO NEEDY FAMILIES (PA) |
| TOP | TEMPORARY ORDER OF PROTECTION |
| TPR | TERMINATION OF PARENTAL RIGHTS |
| UCR | UNIFORM CASE RECORD |
| VPA | VOLUNTARY PLACEMENT AGREEMENT |

GLOSSARY

Admission – this term is used to mean two different things in Family Court:

1. a statement made by a party outside of court that is used in a hearing against that party. For example, if a parent tells an ACS caseworker or a nurse s/he used drugs while talking to those people at a hospital, that statement by the parent can be used as legal evidence against her at a hearing. (This is a legal exception to “hearsay” and one of the most commonly used in Family Court neglect or/and abuse cases.)
2. a type of settlement of a neglect or abuse case where a parent or person legally responsible gives up his or her right to a trial and admits (tells the judge) that he or she legally neglected or abused the child in some way, either as listed in the petition or in another way, often with the hope that the child and the family will be more quickly reunited.

Allegation – an accusation (of neglect or abuse)

Appeal — a request to a higher court or decision maker to change the order of a judge or the determination of an agency a person appeals to the Appellate Division of the New York State Supreme Court from most Family Court judges’ orders. A person asks for a Fair Hearing if s/he disagrees with something welfare or a foster care agency does outside of court.

Appellant – the person or party who starts an appeal

Article 10 – The part of the law that neglect and abuse cases in Family Court are controlled by. Lawyers and judges often call neglect or abuse cases an Article 10 case.

Child protective services – the governmental agency responsible for investigating claims of neglect and/or abuse of children In New York City, ACS is child protective services. In other places, the Department of Social Services of the Office of Children and Family Services are the child protective services.

Consent father – A man whose involvement with his child is often and substantial enough that he is granted the power to decide whether or not his child should or should not be adopted, unless it is proven in court that there is a legal reason to terminate his parental rights. Consent fathers usually have regular contact with their children and have also done any legal paper work necessary to be legally recognized as the fathers of their children.

Freed for adoption – Able to be adopted. After his or her parents’ rights are terminated or they surrender their rights, a child is considered “freed for adoption.” The child may or may not actually be adopted in the future.

Guardian ad litem - a person who takes the place of another person in a legal case affecting that person's rights because that person cannot represent him/herself because of a disability - the disability could be mental, emotional, physical, age (usually a legal minor which is someone less than 18 years old), or an inability to be present in court (for example, being on active duty in the military in a war or being incarcerated out-of-state).

Hearing - a trial

Hearsay - any statement made outside of a courtroom, either said or written, that is used to prove the truth of what is in that statement in a hearing. There are MANY exceptions to the hearsay rule so that hearsay is not very helpful in many Family Court hearings.

Mandated reporter — a person whose has a job that, by law, requires him or her to report to the SCR when he or she reasonably suspects child neglect and/or abused is occurring or recently happened.

Notice father - A man whose legally recognized involvement with his child is so limited that the court does not allow him the power to decide whether or not his child should or should not be adopted. A man who is unable to prove that he has had regular contact with his child, or who has not done the paper work necessary to be legally considered the child's father, may be considered a "notice father."

Parole: When a judge "paroles" a child to a parent or relative, this means that the child goes home with the parent or relative. It is called a parole of the child when the child goes home before *disposition* in a neglect/abuse case. This means that it is temporary until the court decides the disposition in the case (whether the children should be discharged to their parents or relative or placed in foster care.) If something happens while the child is paroled to the home of a parent or relative, ACS could come back to court and ask that the child be returned to foster care. There may be a hearing first.

Party - someone who rights or interests are or may be affected by a law suit (lawsuit) and who has a right to take part fully in that law suit (obtain records, documents, and other things which may be offered into evidence by the other parties before a hearing occurs, present their own witnesses and documents to the judge or referee at a hearing). **Adverse party** - a party taking a different position than the one you take in a legal case affecting you

Person legally responsible - a person, over 18 years old, who regularly lives with AND who takes care of and acts responsible for, a child

Petition - legal papers that list the allegations against the parent(s) or/and person legally responsible

Petitioner - the person or agency that starts a legal case. In abuse and neglect cases, the petitioner is ACS.

Regulation – a rule of a government agency for example, the New York State Office of Children and Family Services makes regulations about foster care which ACS and the foster care agencies must obey.

Referee – a person in court who does not have all the powers of a judge, but has the power to make reports to the judge about different parts of a case, and if the parties' consent, to make decisions in certain cases or in parts of a case

Remand: A remand is when a judge orders that a child be placed in foster care. It is called a remand when the judge does this before disposition. When ACS files an abuse/neglect petition, ACS can ask the judge for a remand order or the judge could decide to remand the children even if ACS does not ask. The remand order gives ACS temporary legal authority over the child until there is a decision on the child's *disposition*.

Respondent – the person who has a legal case started against him or her.

Service (of process) – giving legal papers to someone involved in a law suit in one of the legally required ways. Usually, in a neglect and/or abuse, termination of parental rights, custody or guardianship case, the parent must be handed the petition; but service can be considered acceptable if the legal papers are:

- not taken by the parent
- given to another person who lives or works where the parent does and who understands how serious the situation is, is given the legal papers and is likely to give them to the parent AND the parent is mailed the papers,
- posted on the door where the parent usually lives or works AND the parent is mailed the papers,
- given to the person's lawyer for the case or who regularly deals with their legal problems of all kinds;
- advertised in a newspaper the parent may be likely to read.

Settlement – a way to end a legal case or part of a legal case where the judge, the parties and their lawyers agree to the conditions under which the case or part of the case will end

Statute – a law passed by the legislature

Subpoena — legal papers that demand that a person come to court (or sometimes to a lawyer's office) to be a witness in a case and/or bring or send a document or something to court that could become evidence in a case

Summons – legal papers about a court case a person is involved with that tell the person where to be and when to be there to have an opportunity to protect her/his rights

Voluntary placement agreement - a legal document signed by a parent or person legally responsible for a child so that the child goes into foster care without an allegation of neglect or abuse against the parent or person legally responsible made in court. When a parent signs a voluntary placement agreement, he or she gives up custody rights to the child placed in foster care, but not all parental rights to a child.

CONTACT INFORMATION

Name of Child: _____

Foster Care Agency: _____

Address: _____

Case Planner: _____ Tel: _____

Case Planner's Supervisor: _____ Tel: _____

ACS Contact: _____ Tel: _____

ACS Contact Supervisor: _____ Tel: _____

Foster Parent(s)

Name(s): _____

Address: _____

Telephone Number: _____

My Lawyer: _____

Address: _____

Telephone Number: _____

Other Important Contacts:

Name: _____ Tel: _____

Name: _____ Tel: _____

Name: _____ Tel: _____

Name: _____ Tel: _____