CASE LAWS

The below information is not to be misinterpreted as any legal advice and is not presented by an attorney. This site is just designed to help as a guide and an individual should seek legal representation for further interpretation and applicability. Also realize some of the case laws may have been appealed or new case law precedent.

Links to Individual Circuit Court Case Laws

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Federal Patent, Int'l Trade, Claims Court and Veterans' Appeals.

CONSTITUTIONAL RIGHT TO BE A PARENT CASE LAWS

Bell v. City of Milwaukee (7th Cir. 1984)

- The Due Process Clause of the Fourteenth Amendment requires that severance in the parent-child relationship caused by the state occur only with rigorous protections for individual liberty interests at stake. The parent-child relationship is a liberty interest protected by the Due Process Clause of the 14th Amendment. 746 f 2d 1205, 1242-45; US Ct. App 7th Cir WI (1985)

Carson v. Elrod

- No bond is more precious and none should be more zealously protected by the law as the bond between parent and child. 411 F Supp 645, 649; DC E.D. VA (1976)

Doe v. Irwin (US. D. C. of Michigan 1985)

- The rights of parents to the care, custody and nurture of their children is of such character that it cannot be denied without violating those fundamental principles of liberty and justice which lie at the base of all our civil and political institutions, and such right is a fundamental right protected by this amendment (First) and Amendments 5, 9, and 14.

Doe et al, v. Heck et al (7th Cir. Ct. App. 2003)

- The practice of "no prior consent" interview of a child, will ordinarily constitute a "clear violation" of the constitutional rights of parents under the 4th and 14th Amendments to the U.S. Constitution. The investigative interview of a child constitutes a "search and seizure" and, when conducted on private property without "consent, a warrant, probable cause, or exigent circumstances (imminent danger)," such an interview is an unreasonable search and seizure in violation of the rights of the parent, child, and, possibly of the private property.

Elrod v. Burns (96 S. Ct. 1976)

- Loss of First Amendment Freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury. Though First Amendment rights are not absolute, they may be curtailed only by interests of vital importance, the burden of proving which rests on their government.

Franz v. U.S.

- A parent's right to the preservation of his relationship with his child derives from the fact that the parent's achievement of a rich and rewarding life is likely to depend significantly on his ability to participate in the rearing of his children. A child's corresponding right to protection from interference in the relationship derives from the psychic importance to him of being raised by a loving, responsible, reliable adult. 707 F 2d 582, 595-599; US Ct App (1983)

Griswold v. Connecticut

- The Constitution also protects "the individual interest in avoiding disclosure of personal matters" Federal Courts (and State Courts), under Griswold can protect, under the "life, liberty and pursuit of happiness" phrase of the Declaration of Independence, the right of a man to enjoy the mutual care, company, love and affection of his children, and this cannot be taken away from him without due process of law. There is a family right to privacy, which the state cannot invade or it becomes actionable for civil rights damages. 381 US 479, (1965)

Gross v. State of Illinois

- State Judges, as well as federal, have the responsibility to respect and protect persons from violations of federal constitutional rights. 312 F 2d 257; (1963)

In the Interest of Cooper (Kansas 1980)

- Parent's interest in custody of their children is a liberty interest which has received considerable constitutional protection; a parent who is deprived of custody of his or her child, even though temporarily, suffers thereby grievous loss and such loss deserves extensive due process protection.

In re J.S. and C.

- A parent's right to care and companionship of his or her children are so fundamental, as to be guaranteed protection under the First, Ninth, and Fourteenth Amendments of the United States Constitution. 324 A 2d 90; supra 129 NJ Super, at 489.

Kelson v. Springfield (US Ct. App 9th Cir. 1985)

- The U.S. Court of Appeals for the 9th Circuit (California) held that the parent-child relationship is a constitutionally protected liberty interest. (See: Declaration of Independence--life, liberty and the pursuit of happiness and the 14th Amendment of the United States Constitution -- No state can deprive any person of life, liberty or property without due process of law nor deny any person the equal protection of the laws.) 767 F 2d 651; US Ct. App 9th Cir, 1985

Langton v. Maloney (527 F Supp 538, D.C. Conn. 1981)

- The liberty interest of the family encompasses an interest in retaining custody of one's children and, thus, a state may not interfere with a parent's custodial rights absent due process protections.

Matter of Delaney (617 P 2d 886, Oklahoma 1980) verify citation

- Parents have a fundamental constitutionally protected interest in continuity of legal bond with their children.

Matter of Gentry

- A parent's right to the custody of his or her children is an element of "liberty" guaranteed by the 5th Amendment and the 14th Amendment of the United States Constitution. 369 NW 2d 889, MI App Div (1983)

May v. Anderson (73 S. Ct. 840 1952)

- The United States Supreme Court noted that a parent's right to "the companionship, care, custody and management of his or her children" is an interest "far more precious" than any property right. 345 US 528, 533; 73 S. Ct. 840, 843 (1952)

Meyer v. Nebraska (43 S. Ct. 625 1923) check cite

- Parent's rights have been recognized as being "essential to the orderly pursuit of happiness by free man." 262 US 390; 43 S. Ct. 625 (1923)

Nicholson v. Williams

- Suit challenged the practice of New York's City's Administration for Children's Services of removing the children of battered mothers solely because the children saw their mothers being beaten by husbands or boyfriends. Judge ruled the practice unconstitutional in a landmark class action suit in U.S. District Court, Eastern District of New York. Case No. 00-cv-2229.

Parham v. J.R. (1979)

- Involves parent's rights to make medical decisions regarding their children's mental health.

Quilloin v. Walcott (98 S. Ct. 549 1978)

- The U.S. Supreme Court implied that "a (once) married father who is separated or divorced from a mother and is no longer living with his child" could not constitutionally be treated differently from a currently married father living with his child. 98 S. Ct. 549; 434 US 246, 255-56, (1978)

Reynold v. Baby Fold, Inc. - verify citation

- Parent's right to custody of child is a right encompassed within protection of this amendment which may not be interfered with under guise of protecting public interest by legislative action which is arbitrary or without reasonable relation to some purpose within competency of state to effect.

Santosky v. Kramer (102 S. Ct. 1388 1982)

- Even when blood relationships are strained, parents retain vital interest in preventing irretrievable destruction of their family life; if anything, persons faced with forced dissolution of their parental rights have more critical need for procedural protections than do those resisting state intervention into ongoing family affairs. The U.S. Supreme Court ruled that clear and convincing evidence rather than a mere preponderance were needed to terminate parental rights. 455 US 745 (1982)

Stanley v. Illinois (92 S. Ct. 1208 1972)

- The Court stressed, "the parent-child relationship is an important interest that undeniably warrants deference and, absent a powerful countervailing interest, protection." A parent's interest in the companionship, care, custody and management of his or her children rises to a constitutionally secured right, given the centrality of family life as the focus for personal meaning and responsibility. 405 US 645, 651; 92 S Ct 1208 (1972)

DUE PROCESS CASE LAWS

Bendiburg v. Dempsey (11th Cir. 1990)

- Post-deprivation remedies do not provide due process if pre-deprivation remedies are practicable.

Brokaw v. Mercer County (7th Cir. 2000)

- Children have a Constitutional right to live with their parents without government interference. Child's four month separation from his parents could be challenged under substantive due process. Sham procedures don't constitute true procedural due process. -- Just the highlights

Chrissy v. Miss. Department of Public Welfare (5th Cir. 1991)

- Plaintiff's clearly established right to meaningful access to the courts would be violated by suppression of evidence and failure to report evidence.

Croft v. Westmoreland Cty. Children and Youth Services (3rd Cir. 1997)

- Social worker who received a telephone accusation of abuse and threatened to remove child from the home unless the father himself left and who did not have ground to believe the child was in imminent danger of being abused engaged in an arbitrary abuse of governmental power in ordering the father to leave.

K.H. through Murphy v. Morgan (7th Cir. 1990)

- When the state deprives parents and children of their right to familial integrity, even in an emergency situation, the burden is on the State to initiate prompt judicial proceedings for a post-deprivation hearing, and it is irrelevant that a parent could have hired counsel to force a hearing.

Lassiter v. Department of Social Services (1981)

- State intervention to terminate the relationship between a parent and a child must be accomplished by procedures meeting the requisites of the Due Process Clause. 452 US 18, 37.

Malik v. Arapahoe Cty. Department of Social Services (10th Cir. 1999)

- Absent extraordinary circumstances, a parent has a liberty interest in familial association and privacy that cannot be violated without adequate pre-deprivation procedures. An ex-parte hearing based on misrepresentation and omission does not constitute notice and an opportunity to be heard.
- Procurement of an order to seize a child through distortion, misrepresentation and/or omission is a violation of the Fourth Amendment.
- Parents may assert their children's Fourth Amendment claim on behalf of their children as well as asserting their own Fourteenth Amendment claim.

Morris v. Dearborne (5th Cir. 1999)

- Right to Procedural Due Process Violated: The state denied the plaintiff the fundamental right to a fair procedure before having their child removed by the intentional use of fraudulent evidence during the procedure.

Nicini v. Morra (3rd Cir. 2000)

- When the state places a child in state-regulated foster care, the state has duties and the failure to perform such

duties may create liability under 1983. Liability may attach when the state has taken custody of a child, regardless of whether the child came to stay with a family on his own which was not an officially approved foster family.

Norfleet v. Arkansas Dept. of Human Services (8th Cir. 1993)

- When the state places a child in a foster home it has an obligation to provide adequate medical care, protection, and supervision

Quilloin v. Walcott (1978)

- A due-process violation occurs when a state-required breakup of a natural family is founded solely on a "best interests" analysis that is not supported by the requisite proof of parental unfitness. 434 U.S. 246, 255 (1978)

Ram v. Rubin (9th Cir. 1997)

- Children may not be removed from their home by police officers or social workers without notice and a hearing unless the officials have a reasonable belief that the children are in imminent danger.

Whisman v. Rinehart (8th Cir. 1997)

- Mother had a clearly established right to an adequate, prompt post-deprivation hearing. A 17 day period prior to the hearing was not a prompt hearing.

Yvonne L. v. New Mexico Department of Human Services (10th Cir. 1992)

- Children placed in a private foster home have substantive due process right to personal security and bodily integrity.

GENERAL FAMILY RIGHTS CASE LAWS

Blackburn v. Alabama 361 U.S. 199, 206 (1960)

- Coercion can be mental as well as physical.

Brokaw v. Mercer County (7th Cir. 2000)

- Children have standing to sue for their removal after they reach the age of majority. Children have a constitutional right to live with their parents without government interference. -- Just the highlights

Cassady v. Tackett

- Coercive or intimidating behavior supports a reasonable belief that compliance is compelled.

Florida v. Bostick (S. Ct. 1991)

- "Consent" that is the product of official intimidation or harassment is not consent at all. Citizens do not forfeit their constitutional rights when they are coerced to comply with a request that they would prefer to refuse.

J.B. v. Washington County (10th Cir. 1997)

- The forced separation of parent from child, even for a short time (in this case 18 hours), represents a serious

infringement upon the rights of both.

K.H. through Murphy v. Morgan (7th Cir. 1990)

- State employee who withhold a child from their family may infringe on the family's liberty of familial association. Social workers could not deliberately remove children from their parents and place them with foster caregivers when the officials reasonably should have known such an action would cause harm to the child's mental or physical health.

Malik v. Arapahoe Cty. Department of Social Services (10th Cir. 1999)

- Absent extraordinary circumstances, a parent has a liberty interest in familial association and privacy that cannot be violated without adequate pre-deprivation procedures.

North Hudson DYFS v. Koehler Family (2001)

- The court explained "absent some tangible evidence of abuse or neglect, the Courts do not authorize fishing expeditions into citizens' houses. Mere parroting of the phrase "best interest of the child" without supporting facts and a legal basis is insufficient to support a Court order based on reasonableness or any other ground."

Thomason v. Scan Volunteer Services, Inc. (8th Cir. 1996)

- Parent interest is of "the highest order," and the court recognizes "the vital importance of curbing overzealous suspicion and intervention on the part of health care professionals and government officials."

Troxel v. Granville (2002)

- The state may not interfere in child rearing decisions when a fit parent is available. - Just the highlights. 530 U.S. 57

Valmonte v. Bane (2nd Cir. 1993) Decided March 03, 1994

- A Central Register that identifies individuals accused of child abuse and neglect and the communication of those names to potential employers in the child care field, implicates a protectible liberty interest under the Fourteenth Amendment.
- Appellant alleged the inclusion of her name on the New York State Central Register of Child Abuse and Maltreatment violated her right of due process. On appeal, court ruled that the appellant's right of due process was violated because it was found that she did have a liberty interest which was imperiled by the procedures.
- The court noted that the procedures, which permitted inclusion on the Register by virtue of "some credible evidence" of abuse, created a high risk of error.
- In a similiar case Paul v. Davis, the court ruled that damage to one's reputation is not "by itself sufficient to invoke the procedural protection of the Due Process Clause. Rather, the Court held, loss of reputation must be coupled with some other tangible element in order to rise to the level of a protectible liberty interest. This has been interpreted to mean that "stigma plus" is required to establish a constitutional deprivation.

Ward v. San Jose (9th Cir. 1992)

- A child has a constitutionally protected interest in the companionship and society of his or her parent.

Weller v. Department of Social Services for Baltimore (4th Cir. 1990)

- The private, fundamental liberty interest involved in retaining custody of one's child and the integrity of one's

family is of the greatest importance.

Whisman v. Rinehart (8th Cir. 1997)

- Parents and child had a clearly established liberty interest in associating together. This right was violated where the defendants allegedly had no indication of any physical neglect of the child, no indication of any immediate threat to his welfare, and no indication of any criminal activity by his mother, where they had only third-hand hearsay that the child's mother had gotten drunk and failed to pick up the child from his babysitter, and where defendants refused to return the child, had not investigated to determine whether it was necessary to remove the child in the first place, and had not investigated the possibility of returning the child to his mother, grandmother, or anyone designated by the mother.

JUDGES & PROSECUTORS - ABSOLUTE IMMUNITY CASE LAWS

Ashelman v. Pope

- As long as the judge's ultimate acts are judicial actions taken within the court's subject matter jurisdiction, immunity applies. -- Just the highlights

Buckley v. Fitzsimmons (S. Ct. 1993)

- Prosecutor's allegedly false statements made during a press conference announcing the indictment of plaintiff had no functional tie to the judicial process and were not entitled to absolute immunity.

Chrissy v. Miss Department of Public Welfare (5th Cir. 1991)

- Prosecutor was not entitled to absolute immunity for failure to initiate an investigation, failing to disclose medical reports at a court hearing and allowing father to have contact with child in violation of a court order.

Forrester v. White (S. Ct. 1988)

- Holding that judges do not have absolute immunity when acting in an administrative capacity. -- Just the highlights

Joseph v. Patterson (6th Cir. 1986)

- Prosecutor was not entitled to absolute immunity where it is alleged that he supervised and participated in an unconstitutional police interrogation.

Kalina v. Fletcher (S. Ct. 1997)

- A prosecutor is not entitled to absolute immunity for allegedly false statements of fact made in an affidavit supporting an application for a warrant.

Power v. Coe (2nd Cir. 1984)

- Prosecutor is not entitled to absolute immunity for statements he distributes to the press.

Zarcone v. Perry

- Denying judicial immunity to a judge who ordered a coffee vendor brought before him in handcuffs because of the poor quality of the coffee.

QUALIFIED IMMUNITY CASE LAWS

Ernst v. Child and Youth Department of Chester County (3rd Cir. 1997)

- Court emphasizes that only qualified immunity is available for "investigating or administrative" actions such as opening and investigating child abuse cases.

Germany v. Vance (1st Cir. 1989)

- Case worker who intentionally or recklessly withheld potentially exculpatory information from an adjudicated delinquent or from the court itself was not entitled to qualified immunity.

Good v. Daupin County Social Services (3rd Cir. 1989)

- Defendants were not entitled to qualified immunity for conducting a warrantless search of home during a child abuse investigation where exigent circumstances were not present. Court held that a search warrant or exigent circumstances, such as a need to protect a child against imminent danger of serious bodily injury, was necessary for an entry without consent, and an anonymous tip was insufficient to establish special exigency. 891 F.2d 1087

Grossman v. City of Portland (9th Cir. 1994)

- Individuals aren't immune for the results of their official conduct simply because they were enforcing policies or orders. Where a statute authorizes official conduct which is patently violative of fundamental constitutional principles, an officer who enforces that statute is not entitled to qualified immunity.

Hafer v. Melo (S. Ct. 1991)

- Social workers (and other government employees) may be sued for deprivation of civil rights under 42 USC 1983 if they are named in their 'official and individual capacity. -- Just the highlights

Harlow v. Fitzgerald (1982)

- If the law was clearly established at the time the action occurred, a police officer is not entitled to assert the defense of qualified immunity based on good faith since a reasonably competent public official should know the law governing his or her conduct. 457 U.S. 800, 818

Hurlman v. Rice (2nd Cir. 1991)

- Defendant was not entitled to qualified immunity or summary judgment because he should have investigated further prior to ordering seizure of children based on information he had overheard.

K.H. through Murphy v. Morgan (7th Cir. 1990)

- Social workers were not entitled to absolute immunity where no court order commanded them to place plaintiff with particular foster caregivers.

Malik v. Arapahoe Cty. Department of Social Services (10th Cir. 1999)

- Police officer was not entitled to absolute immunity for her role in procurement of court order placing child in state custody where there was evidence officer spoke with the social worker prior to social worker's conversation with the magistrate and there was evidence that described the collaborative worker of the two

defendants in creating a "plan of action" to deal with the situation. Officer's acts were investigative and involved more than merely carrying out a judicial order.

Malley v. Briggs (S. Ct. 1986)

- Police officer is not entitled to absolute immunity, only qualified immunity, to claim that he caused plaintiff to be unlawfully arrested by presenting judge with an affidavit that failed to establish probable cause.

McCord v. Maggio (5th Cir. 1991)

- Immunity is defeated if the official took the complained-of action with malicious intention to cause a deprivation of rights, or the official violated clearly established statutory or constitutional rights of which a reasonable person would have known.

Millspaugh v. County Department of Public Welfare (7th Cir. 1991)

- Social worker was entitled to absolute immunity for her testimony in an ex-parte judicial proceeding, but her application for the ex-parte order is only entitled to qualified immunity.

Shay v. Rossi (2000)

- Connecticut Supreme Court decision on qualified immunity and the individual liability of the state child welfare workers. The court held, inter alia, that the common-law doctrine of sovereign immunity did not bar claims against officers and employees of the Department of Children and Families in their official capacities and that statutory immunity under Connecticut Gen. Stat 4-165 did not prohibit claims against defendents in their individual capacities.
- Background: The state supreme court will decide the threshold issue of whether the denial of a motion to dismiss on grounds of sovereign immunity is an appealable final judgment. The trial court denied defendent's motion to dismiss tort claims against the defendents in their official capacity. The trial court rules that the allegation that the defendents exceeded their statutory authority in issuing a 96-hour hold takes the case out of the realm of sovereign immunity. On appeal, the plaintiff's argue that their failure to allege reckless, wanton or malicious conduct does not implicate the court's jurisdiction, but rather affects only the legal sufficiency of the case. On cross appeal, the defendents argue that - due to the lack of any allegation that the defendents either did not have the statutory authority to issue a 96-hour hold or issued the hold to further an illegal plan- the court erred in denying the motion to dismiss claims against them in their official capacity.

Snell v. Tunnell (10th Cir. 1990)

- Social workers were not entitled to absolute immunity for pleadings filed to obtain pick-up order for temporary custody prior to formal petition being filed. Social workers were not entitled to absolute immunity where department policy was for social workers to report findings of neglect or abuse to other authorities for further investigation or initiation of court proceedings.
- Social workers investigating claims of child abuse are entitled only to qualified immunity.
- Assisting in the use of information known to be false in order to further an investigation is not subject to absolute immunity.
- Social workers are not entitled to qualified immunity on claims they deceived judicial officers in obtaining a custody order or deliberately or recklessly incorporated known falsehoods into their reports, criminal complaints and applications.
- Use of information known to be false is not reasonable, and acts of deliberate falsity or reckless disregard of the truth are not entitled to qualified immunity.
- No qualified immunity is available for incorporating allegations into the report or application where official had no reasonable basis to assume the allegations were true at the time the document was prepared.

Wallis v. Spencer and Wallis v. City of Escondido (9th Cir. 2000)

- State law cannot provide immunity from suit for federal civil rights violations. State law providing immunity from suit for child abuse investigators has no application to suits under 1983. -- Just the highlights. 202 F.3d 1126

Walsh v. Erie County Department of Job and Family Services

- Child protection social workers claimed they were immune from liability in a civil violation (4th Amendment) suit, claiming qualified immunity because "they had not had training in Fourth Amendment law." They felt they couldn't be sued for their mistake, because they thought they were not binded by the Fourth Amendment. The court disagreed ruling "That subjective basis for their ignorance about and actions in violation of the Fourth Amendment does not relieve them of the consequences of that ignorance and those actions." and denied their immunity. 3:01-cv-7588.

Whisman v. Rinehart (8th Cir. 1997)

- Defendants were not entitled to prosecutorial immunity where complaint was based on failure to investigate, detaining minor child, and an inordinate delay in filing court proceedings, because such actions did not aid in the presentation of a case to the juvenile court.

Young v. Biggers (5th Cir. 1991)

- A defendant in a civil rights case is not entitled to any immunity if he or she gave false information either in support of an application for a search warrant or in presenting evidence to a prosecutor on which the prosecutor based his or her charge against the plaintiff.

SEARCH & SEIZURE CASE LAWS

Aponte Matos v. Toledo Davilla (1st Cir. 1998)

- An officer who obtains a warrant through material false statements which result in an unconstitutional seizure may be held liable personally for his actions under section 1983.
- False statements made to obtain a warrant, when the false statements were necessary to the finding of probable cause on which the warrant was based, violates the Fourth Amendment's warrant requirement. The warrant clause contemplates the warrant applicant to be truthful: "no warrant shall issue, but on probable cause, supported by oath or affirmation." Deliberate falsehood or reckless disregard for the truth violates the warrant clause. When a warrant application is materially false or made in reckless disregard for the truth, the warrant becomes invalid and will have been obtained in violation of the Fourth Amendment's warrant clause. A search must not exceed the scope of the search authorized in a warrant. By limiting the authorization to search to the specific areas and things for which there is probable cause to search, the Fourth Amendment particularity requirement ensures that the search will be carefully tailored to its justifications, and will not take on the character of the wide-ranging exploratory searches the Framers of the Constitution intended to prohibit. There is a requirement that the police identify themselves to the subject of a search, absent exigent circumstances. Failure to knock and announce forms part of the reasonableness or not inquiry under the Fourth Amendment.

Brokaw v. Mercer County (7th Cir. 2000)

- Child removals are "seizures" under the Fourth Amendment. Seizure is unconstitutional without court order or exigent circumstances. Court order obtained based on knowingly false information violates fourth amendment. -- Just the highlights.

Calabretta v. Floyd (9th Cir. 1999) Warrant-less Search

- There is no exception to the warrant requirement for social workers in the context of a child abuse investigation. A social worker may not force their way into a home without a search warrant in absence of an emergency. Police officers and social workers are not immune for coercing or forcing entry into a person's home to investigate suspected child abuse, interrogation of a child, and strip search of a child, without a search warrant or special exigency.. -- Just the highlights. 189 F. 3d 808.

California v. Hobari D. (1991)

- For purposes of the Fourth Amendment, a "seizure" of a person is a situation in which a reasonable person would feel that he is not free to leave, and also either actually yields to a show of authority from police or social workers or is physically touched by police. Persons may not be "seized" without a court order or being placed under arrest. 499 U.S. 621

Good v. Dauphin County Social Services (3rd Cir. 1989)

- Police officer and social worker may not conduct a warrant-less search or seizure in a suspected abuse case, absent exigent circumstances.
- Defendants must have reason to believe that life or limb is in immediate jeopardy and that the intrusion is reasonably necessary to alleviate the threat.
- Searches and seizures in investigation of a child neglect or child abuse case at a home are governed by the same principles as other searches and seizures at a home. 891 F.2d 1087

Griffin v. Wisconsin (483 U.S. 868 - 1987)

- The United States Supreme Court has held that courts may not use a different standard other than probable cause for the issuance of such orders. If a court issues a warrant based on an uncorroborated anonymous tip, the warrant will not survive a judicial challenge in the higher courts. Anonymous tips are never probable cause.

H.R. v. State Department of Human Resources (Ala. Ct. App. 1992)

- Court held that an anonymous tip standing alone never amounts to probable cause. 612 So. 2d 477

Hurlman v. Rice (2nd Cir. 1991)

- Defendant should've investigated further prior to ordering seizure of children based on information he had overheard. The mere possibility of danger does not constitute an emergency or exigent circumstances that would justify a forced warrantless entry and a warrantless seizure of a child.

Lenz v. Winburn (11th Cir. 1995)

- The Fourth Amendment protection against unreasonable searches and seizures extends beyond criminal investigations and includes conduct by social workers in the context of a child neglect/abuse investigation.

Lion Boulos v. Wilson

- One's awareness of his or her right to refuse consent to warrantless entry is relevant to the issue of voluntariness of alleged content.

Schneckloth v. Bustamonte

- Consent to warrantless entry must be voluntary and not the result of duress or coercion. Lack of intelligence, not understanding the right not to consent, or trickery invalidate voluntary consent.

State v. Hatter (1983)

- The exigent circumstances exception to the warrant clause only applies when 'an immediate major crisis in the performance of duty afforded neither time nor opportunity to apply to a magistrate.' 342 N.W.2d 851, 855 (Iowa 1983)

Tenenbaum v. Williams (2nd Cir. 1999) and F.K. v. Iowa

- 'In context of a seizure of a child by the State during an abuse investigation...a court order is the equivalent of a warrant.' 193 F.3d 581, 602 (2nd Cir. 1999) and F.K. v. Iowa district Court for Polk County, Id.

United States v. Becker (9th Cir. 1991)

- The protection offered by the Fourth Amendment and by our laws does not exhaust itself once a warrant is obtained. The concern for the privacy, the safety, and the property of our citizens continues and is reflected in knock and announce requirements. 929 F.2d

Wallis v. Spencer (9th Cir. 1999/2000)

- Police officers or social workers may not "pick up" a child without an investigation or court order, absent an emergency. Parental consent is required to take children for medical exams, or an overriding order from the court after parents have been heard. -- Just the highlights 202 F3d 1126

Walsh v. Erie County Department of Job and Family Services

- Child protection workers are subject to the 4th and 14th Amendment in the context of an investigation of alleged abuse or neglect as are all "government officials". The court ruled "despite the defendant's (child protection worker) exaggerated view of their powers, the Fourth Amendment applies to them, as it does to all other officers and agents of the state whose request to enter, however benign or well-intentioned, are met by a closed door." "The Fourth Amendment's prohibition on unreasonable searches and seizures applies whenever an investigator, be it a police officer, a DCFS employee, or any other agent of the state, responds to an alleged instance of child abuse, neglect, or dependency". 3:01-cv-7588.

White v. Pierce County (9th Cir. 1986)

- A government official cannot coerce entry into another's house without a search warrant or applicability of an established exception to the requirement of a search warrant. Any governmental official can be held to know that their office does not give them an unrestricted right to enter peoples' homes at will. Police could not enter a dwelling without a warrant even under statutory authority where probable cause existed without exigent circumstances. 797 F. 2d 812.

Wooley v. City of Baton Rouge (5th Cir. 2000)

- Defendants could not lawfully seize child without a warrant or the existence of probable cause to believe child was in imminent danger of harm.
- Where police were not informed of any abuse of the child prior to arriving at caretaker's home and found no evidence of abuse while there, seizure of the child was not objectively reasonable and violated the clearly established Fourth Amendment rights of the child.

Yabarra v. Illinois (1979)

- Where the standard for a seizure or search is probable cause, then there must be particularized information with respect to a specific person. This requirement cannot be undercut or avoided simply by pointing to the fact that coincidentally there exists probable cause to arrest or to search or to seizure another person or to search a place where the person may happen to be. 44 U.S. 85

Under Title IV-E "reasonable efforts", DCF is required by Federal law to pr
ovide the disabled mother with any services she needs in order to keep the
child home.