

Typical DCF Tricks

By Atty. Michael H. Agranoff

Most DCF social workers, supervisors, and managers are good to excellent. As in any organization, a few bad apples slip in. There is no way to look at a person and know if he or she is being straight with you.

It's all how you look at it. One judge recently chastised me from the Bench for criticizing DCF in strong terms, even though I thought my comments were warranted in that case. And yet I sit and hear client after client coming in with horror stories of DCF.

This section outlines typical DCF tricks, in the form of slogans used by some workers. There is no suggestion that all DCF employees do these things. However, the client must beware. These slogans can put you off your guard.

1. "It's a routine form."

The form that you are asked to sign may be routine for DCF, but that does not make it good for you. It's like the wills for sale in hardware stores or in magazines. They may be "legal", but that doesn't mean that they will be in your best interests. Very often, you sign a routine, standard form, and realize too late that you have lost important rights.

You should never sign a legal document without having a lawyer review it. A decent small-firm lawyer should not be that expensive.

Just remember: when someone tells you that a form is "routine", "standard", "pre-approved", "commonly-used", or the like, ask them: "But what does it do to my legal rights?" And if that person is not your lawyer, they have no business answering; and you have no business signing.

It does not take that long for a qualified lawyer to review a form before you sign it.

In particular, DCF often asks you to sign "releases." People are then surprised that their friends, employers, neighbors, doctors, and children's teachers are being asked for information about them, and wonder what is wrong. It can be most embarrassing.

Also, DCF often asks you to sign a "Service Agreement." That is discussed further below.

2. "You'll get a copy."

Everywhere in the civilized world, you are entitled to a copy of legal documents that impact your rights. If a police officer writes you out a traffic ticket, you get a copy. If the sheriff serves you an eviction notice, you get a copy.

Some DCF workers do not subscribe to this philosophy. In earlier days, when you signed a Service Agreement, DCF promised to send you a copy, and seldom did. Since then, thanks to the efforts of this office with Commissioner Dunbar, DCF now uses a carbonless set, and gives you a copy. Unless the worker forgets. Assuming that your lawyer has agreed to the Service Agreement, be sure to insist on a copy after you sign.

As of this writing, release forms are not on multiple sets. The worker may promise to send you a copy, but unless she is organized and makes a note, that is unlikely to happen. Assuming that your lawyer has agreed to signing the release, be sure to insist that a copy be mailed to you,

make a note of what you signed, and tell the lawyer for follow-up.

3. "You don't need a lawyer."

This one is tricky. It is true that you don't "need" a lawyer, as it is not illegal to represent yourself.

Just foolish.

If you think that you don't need a lawyer, just ask anyone who has tried to battle DCF without one. Remember that "Erin Brockovich" is a movie, not real-life; and you are not Julia Roberts.

Do not fall for the suggestion that having a lawyer is an admission of guilt. Plenty of innocent people have gone to jail, and plenty of decent parents have lost their kids. When the entire State of Connecticut is marshaled against you, it helps to have a lawyer on your side.

A more subtle DCF argument is that the lawyer will add to the time to resolve the case. In my experience, the exact opposite is true. DCF is more likely to speed things up if it knows that you have a lawyer who is on top of things.

Note that the familiar Miranda rights do not apply. DCF cannot put you under arrest, and therefore does not have to give you Miranda rights. They do not have to tell you that you can have a lawyer, and that you don't have to talk to them. However, if you do talk or sign without a lawyer, you may regret it.

To provide but one example. DCF will always ask one spouse if the other drinks too much. If the spouse says something like, "I wish he didn't drink so much wine", DCF may write (and in one notorious case did write) that "Mother states that Father has a drinking problem, which he will not acknowledge". The sad thing is, once such a statement appears on a status report or social study, it takes on a life of its own, and is almost impossible to overcome.

If you still think that you don't need a lawyer, **read our pamphlet**, ["The Story of Nicole"](#).

4. "Call if you have a question."

If you have a question, you should call, but not DCF. Call your lawyer.

It is this simple: verbal assurances are not worth much.

If it's not written down, it probably won't be useful to you. Every lawyer has stories of "he said/she said" disputes, with the parties disagreeing, often vehemently, as to who said what and who meant what. The problem can usually be avoided if you call the lawyer, and deal with DCF in writing.

5. "The evaluation will help to clear you."

People are often asked to submit to psychological or medical evaluations for themselves or their children. Again, these should first be cleared with the lawyer. The evaluators are almost always talented and dedicated persons, but a large part of their income is derived from DCF work. In some cases, you may be able to obtain a different evaluator.

There have been cases in which the conclusions of an evaluator were used against parents

when DCF agreed with those conclusions, but not used when the evaluator favored the parents and DCF disagreed with the conclusions. Going through your lawyer will maximize your chance for fairness.

A court can order an evaluation. However, your lawyer can insist that the evaluation be fair. DCF sometimes tries to submit documents to the evaluator ahead of time which are loaded with hearsay. Your lawyer can ensure either that these are not submitted, or that you will be able to submit your own documents to the evaluator also.

Many persons get nervous when meeting with an evaluator, either in answering test questions or in responding to verbal questions. People may say the wrong thing, and it comes back to haunt them. We always prepare clients for psychological evaluations by telling them what to expect, what the evaluator looks for, and reassuring them to tell the truth and not be nervous. After seeing hundreds of these evaluations, and knowing the ways they are used by Courts, we have a fair idea of how to help our clients. If all this is new to you, then you are well-advised to be prepared by a professional.

Also, psychologists are like lawyers and teachers and any other professionals: some are better than others. We know who to avoid, and will insist that certain psychologists not be the ones to evaluate our clients.

As mentioned elsewhere, for persons of means, you may be able to hire your own psychological evaluator to supplement the court-ordered evaluator. This should be discussed with the attorney.

6. "Sign this Service Agreement or we'll seize the kids."

A "Service Agreement" is a voluntary agreement that you will do or not do something. For example, you might agree that Uncle Joe cannot be allowed in the presence of your children; or you might agree that you will submit to a sexual abuse evaluation. It is not a court order, and you cannot go to jail for violating it. However, the threat is that if you do not comply, the kids may be seized, or other consequences.

Most people assume that if they do comply, then all will be well. You will notice that the Service Agreement never says this. Virtually every week, someone says to me, "I did everything they wanted, and yet they are still in my lives after all these months...."

It is foolish to sign a Service Agreement without the advice of a lawyer. This document can really come back to haunt you. Despite the pressures you will be under, you have every right to first consult a lawyer.

In order to seize the kids, DCF needs a judge's order. A DCF manager can also order the kids seized for a maximum of 4 days, but then must return them unless a judge signs an order. In other words, Service Agreements should be taken seriously; but do not be pressured by fear into signing without a lawyer.

7. "The Court will get you a lawyer."

The Court will **not** get you a lawyer if you are simply being investigated.

The Court will **not** get you a lawyer if you have been substantiated as a perpetrator of abuse or neglect, or placed on the Registry, and wish to appeal that decision.

In fact, in those cases, DCF seldom tells you that you have the right to get your own lawyer. Some workers imply that you will do better without a lawyer.

The Court **will** get you a lawyer if DCF files a Neglect Petition, or a Termination of Parental Rights Petition, in the Juvenile Court, **and** if you are found by the Judge to qualify on the basis of financial need. In that case, the court-appointed lawyer will cost you nothing.

The problem is that, at present, Juvenile court-appointed lawyers are paid between \$16.67 and \$40.00 an hour for their services. This is not a salary, but is self-employment income, meaning that the lawyer is responsible for his or her own office expenses. As a result, the actual payment, in salary terms, is more like \$8.00 to \$20.00 an hour. And on top of that, most direct expenses, such as auto travel, long distance calls, your own expert witnesses, etc., are either not reimbursable, or are very difficult to get reimbursed.

Many court-appointed lawyers are excellent in spite of the above problems. Others, however, simply do not have the financial resources to do the demanding work that privately-retained lawyers have.

When I did court-appointed cases, I was astounded at how many people told me that I was the only lawyer who ever visited them or their kids. I was amazed that many lawyers never followed-up with DCF, but waited until DCF filed motions and petitions. I was often asked to call other lawyers and beg them to call their clients.

One of the strangest incidents occurred when I was new to the field. I represented a child, and attended a case status conference, which is a gathering in the courthouse of all parties and lawyers on a case, but without a judge. The idea is to be informal, get status, and try to settle matters. The conference was run by a Court Services Officer (CSO), and this particular CSO was, and still is, one of the best. The CSO went around the room and asked every lawyer and DCF what they thought. She clearly saw me, and yet completely skipped over me. When all others were done, the CSO started to summarize. I interrupted with, "I'm the child's lawyer. Don't I get to voice my opinion?" The CSO looked incredulous. She assumed that, as the child's court-appointed lawyer, I would not bother to actually visit the child, and would simply adopt DCF's position. We straightened it out. Fortunately, that type of thing is no longer a problem; but it is still common to see lawyers for parents and children absent from case status conferences.

In other words, you can get a court-appointed lawyer under some conditions. It is wise to check and be sure that the lawyer is working for you.

8. "It's just a communication problem."

If a parent fails to show up for a visit with a child in a DCF case, then that fact is noted and is often used against the parent for years to come.

If the parent shows up, but a DCF worker or volunteer fails to bring the child for any reason, and fails to call the parent ahead of time, then it's excused as a "communication problem."

The term "communication problem" is one of the most Orwellian phrases in American usage today. It means everything and nothing. If someone uses it on you, beware. If you have a lawyer who uses that phrase on you, I would find someone else.

There are, in my view, no communication problems. There are: unintentional errors; semi-intentional errors; and intentional errors. I make unintentional errors every day. I admit them, and when called for, I make a refund to the client. DCF, for some reason, is very reluctant to

admit errors. This is probably more a reflection on bureaucratic imperatives than on individual workers. Organizations have a life of their own.

There is only one known cure for communication problems: put it in writing!

Further, if you have a problem: TELL YOUR LAWYER IMMEDIATELY. The lawyer should be able to do something to solve the problem. If the lawyer doesn't know, then he cannot help. Please, do not assume that the lawyer will automatically get wind of a problem.

Another reason for putting things in writing is that social workers on a case frequently change, for a variety of reasons. Everyone has experienced calling an organization and hearing, "He doesn't work here any more, and I don't know about that." Verbal deals are meaningless even with honest persons, if the person is no longer there. Tell the lawyer, who will put it in writing.

Errors can and should be corrected. And "communication problems" are simply a myth.

Side Note: Bright young people once went to college and majored in literature, philosophy, history, art, and the like. Today many of them major in "Communications", a watered-down and worthless curriculum. Today we have more data and less meaningful communication than ever before. Sadly, therefore, it appears that "communication problem" will continue to be used in our language; but hopefully, not by you.

9. "We're just protecting the kids."

One subtle argument of DCF is that it requires special rules, and hearsay evidence, because it is protecting children; and children are often helpless and invisible victims. Everyone knows of the truly horrendous stories of child abuse, and every decent person wants to prevent child abuse and neglect. DCF, in its important battle against child abuse, often implies that parents' rights must be skirted in order to get at the truth. In fact, one Judge actually lectured me recently from the Bench, saying, "You know, DCF must get at the truth, and parents and guardians don't always tell the truth."

DCF also uses this argument at State Legislative hearings whenever its power is threatened.

What DCF neglects to mention is that children at risk can always be protected under existing laws.

If DCF convinces a Judge, in a sworn affidavit, that a child is in imminent danger of serious harm, then the Judge will sign an OTC (Order of Temporary Custody), which empowers DCF and the Police to remove the child immediately, by force if necessary. The parents then get a hearing after the fact to plead their case, and are entitled to a full trial if agreement cannot be reached.

Also, if there is no time for an OTC, DCF can seize the child for 4 days (called a "96-hour-hold"). At the end of the 4 days, DCF must return the child, unless it has secured an OTC. In other words, children are **not** left unprotected simply because the rights of parents and guardians **are** protected.

10. "Don't complain; it's a free country."

Freedom is a relative thing. In this country, you can say almost anything that you want, provided that you don't actually do anything. People who buck the system are not quite as free as the glad-handers would have you believe.

One Judge who knocked heads with prosecutors was removed from hearing cases after the

prosecutors caused a very negative two-page editorial to be published in a local newspaper. The resulting outcry by a public which did not fully understand the issues proved too much for the judge.

Another Judge who knocked heads with DCF and other authorities was suddenly the victim of a campaign to have her removed from the Bench. All sorts of allegations against her also surfaced; allegations which likely would have been ignored for more compliant judges. Fortunately, the judge survived.

Members of Congress who buck the leadership may find their district out of pork that year, and their re-election in jeopardy. The point is that no matter who you are, or how exalted a position you have, you are vulnerable if you don't play the game.

Court-appointed lawyers who complained that the system was stacked against them used to be subjected to audits, slow reimbursement, and even cancellation of their contracts. Fortunately, that has now changed.

In ordinary life, people who assert their rights too much may find themselves out of friends, out of a job, or even worse.

There is actually a legion of psychologists who make a lot of money, working for organizations, telling them how to deal with "attitude problems", and diagnosing individualists as persons with "personality disorders", "oppositional/defiant disorders", and the like. The old Russian practice was to declare political prisoners insane, so that they could justify imprisoning dissidents, not for free speech, but for insanity. Today we justify stifling dissent by labeling dissenters as mentally defective in one way or another.

Even the universities are on the bandwagon. My very alma mater gives an M.S.O.B. degree, defined as "Master of Science in Organizational Behavior". This astounding graduate curriculum uses psychologists to scientifically tell students how to handle anyone who won't roll with the punches. The pressure to conform is enormous, often irresistible.

Side Note: All this was identified over half a century ago by Marshall McLuhan. His classic book, "The Mechanical Bride", is available through the internet. It is worth buying, to understand modern life.

Yes, this is a free country, as the history of individual rights goes. But thinking that you can say or do what you want, so long as you don't break the law, is a mistake. There are consequences for asserting yourself. Liberals as well as Conservatives do not like people who make waves.

I am always saddened when people come to my office, look at me, and say, "But I'm a law-abiding American citizen. Don't I have rights?" And I have to respond, "Not as many as you think."

The bottom line: When faced with a new adversary, you do best to call a lawyer as soon as possible.