

KNOW YOUR RIGHTS! DURING A CHILD PROTECTIVE SERVICES INVESTIGATION

A Child Protective Services (CPS) investigation can be a stressful process. Most investigations involve allegations against low-income families of color. Although CPS may not tell you, you DO have the right to consult with an attorney before speaking to the CPS worker. A CPS worker is assigned to investigate the allegations of child neglect or abuse is made to the New York State Central Register.

Legal Services of the Hudson Valley (LSHV) can work with clients in Westchester County, from the moment they become aware of a CPS investigation concerning their family.

Below are the answers to frequently asked questions, to assist you in understanding your rights during a CPS investigation, but it is not a substitute for speaking with a lawyer about your case.

Do I have a right to know the allegations against me?

Yes you do!

If the CPS worker does not have a court order, do I have to speak to them?

NO. You do NOT have to speak with them concerning the allegations. You are also not required to allow them into your home or to speak to your children.

If I refuse to speak to CPS, will the investigation end?

NO. If you don't speak to CPS, the investigation will continue and CPS will speak to other sources. The CPS worker can also go to court and seek a court order to assist in their investigation, if they feel it is necessary, the CPS worker can also file a case against you in family court and in extreme situations even remove your children from your care.

If I make a statement, can it be used in court?

Yes. If you choose to speak to the CPS worker, keep in mind that any information you provide to the CPS worker can be used against you later in a proceeding in family court.

Do I have to submit a drug test?

No. CPS workers often ask people to submit to a drug test or a mental health evaluation as part of their investigation. Unless the CPS worker has a court order, you are NOT required to submit to any drug test or a mental health evaluation.

Can I speak to a lawyer before speaking with CPS?

Yes. You have the right to speak to an attorney before talking with the CPS worker. The attorney can assist you in knowing what information you should and should not share with the CPS worker. Additionally, attorneys that have social workers as part of the team can send a social worker or advocate to your meetings with CPS to help you advocate for yourself.

I have an open criminal matter; will a CPS investigation affect that case?

Yes. Your statements could be used against you in that criminal proceeding. If you also have an open criminal matter concerning the allegations that are being investigated, you should consult with a criminal attorney before speaking to CPS.

Do I have to provide CPS with my personal information?

No. Unless the CPS worker has a court order, you do NOT have to provide the CPS worker with personal information like your medical or mental health status, your criminal history or your immigration status. If you are asked to sign releases for any of the above, you have a right to consult with an attorney first, to decline to sign or limit information being disclosed.

Pro-Tip!

Always remember that you can consult with an attorney before speaking to CPS even about the allegations. Legal Services of the Hudson Valley has an intake hotline you can call at 1-877-574-8529.