

Developing a Defense through Investigation and File Review

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Asst. State Public Defender

Juvenile Unit – Madison Trial

Learning Objectives

- **Learn to develop investigation plan**
 - Records to get (“nugget hunting”)
 - Witnesses to call
 - Sources of information
 - Maximizing use of investigator
 - Creating your client’s narrative
- **Learn potential problems of CHIPS file to use at TPR trial**

Agenda

- Get CHIPS file
- Get other records
- Problems with CHIPS file (using it against them)
- Investigation planning
- Questions/discussion

Nugget Hunting



Nugget Hunting



How to get the CHIPS file:

- Records are confidential. WIS. STAT. §§ 48-396, 48.78
- Need court approval to access another case (i.e., the CHIPS case).
- Bring motion, stipulation, proposed order to first hearing on petition.

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH 13

DANE COUNTY

In the Interest of:

[REDACTED]

Case No. 17-JC- [REDACTED]

Case No. 19-TP- [REDACTED]

STIPULATION

The interests of the public, represented by Atty. Amanda Ramaker, and the respondent, [REDACTED], represented by Atty. Matthew Giesfeldt, do hereby enter into the following stipulation:

The Court shall adopt the following Order:

The Dane County Department of Human Services, the custodian of court records, and/or corporation counsel may disseminate otherwise confidential court records in the above-captioned CHIPS matter (17-JC- [REDACTED]) to Atty. Matthew Giesfeldt and the Office of the State Public Defender, who shall have permission to review and make contents of the court files in that matter, but Atty. Giesfeldt and his office may not provide copies of the records to others, nor may Atty. Giesfeldt and his office disseminate any confidential evaluations of the other parent to his counsel. This order is authorized by WIS. STAT. §§ 48.396, 48.78.

SO STIPULATED:

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH 13

DANE COUNTY

In the Interest of:

[REDACTED]

Case No. 17-JC-[REDACTED]

Case No. 19-TP-[REDACTED]

ORDER

Based on a stipulation by the parties, the following shall be the Order of the Court:

Attorneys Cynthia Fiene (representing [REDACTED] in 19-TP-[REDACTED]) and Matthew W. Giesfeldt (representing [REDACTED] in 19-TP-[REDACTED]) are each permitted to review and make copies of the contents of the court files in Dane County Case No. 17JC-[REDACTED] including but not limited to any court-ordered evaluations of either parent or the minor child, but may not provide copies to others, nor may either attorney disseminate the evaluation of the other parent to his/her client.

Health Records

- Client should sign a **release!** (client or child)
- **WIS. STAT. § 51.30; HIPAA; HSS 92 ADMIN CODE**

WISCONSIN STATE PUBLIC DEFENDER AUTHORIZATION FOR DISCLOSURE OF HEALTH INFORMATION

1. Patient information:

Name:

Date of Birth:

I authorize the use and/or release of my protected health information as described in the paragraph five (5) below

2. I Authorize:

Name of person or organization

Street Address

City, State, Zip Code

3. To release protected health information to:

Wisconsin State Public Defender-Madison Trial Office

Name of person or organization you want information released to

17 S. Fairchild St, 2nd Flr.

Street address (where records are to be sent)

Madison, WI 53703

City, State, Zip Code

(608) 267-4816

Phone Number

4. Purpose or need for disclosure:

- Further medical care Disability determination Obtain payment for insurance claims
 Application for insurance Legal investigation Vocational rehabilitation
 Patient's Request Other _____

School Records

- Client should sign a **release!** (client or child)
- WIS. STAT. §§ 118.25, 120.13; FERPA

CONFIDENTIAL INFORMATION RELEASE AUTHORIZATION

TO:

Individual Who is Subject of Record:

Name:

Date of Birth:

Information May be Released to:

Office of the State Public Defender
17 S. Fairchild Street, Second Floor
Madison, WI 53703

Specific Records Authorized for Release (Include dates of records, if applicable)

Purpose or Need for Release of Information

Legal assistance

Phone Records

- Subpoena

STATE OF WISCONSIN, CIRCUIT COURT, DANE COUNTY For Official Use

Case Caption: **Subpoena and Certificate of Appearance**
Duces Tecum

State of Wisconsin, Plaintiff,
v.
, Defendant. Case No. _____

The State of Wisconsin to (Witness Name and Address):

Attn: Subpoena Compliance
Sprint Corporate Security
6480 Sprint Pkwy
Overland Park, KS 66251
Fax: 816-600-3111

Service Information		
Date Served	Time Served	Fee Charged \$
Manner of Service <input type="checkbox"/> Personal <input type="checkbox"/> Substitute:		Witness Fee Enclosed \$
Serving Agency		
Served By (Signature)		

You are required to appear and give evidence:

APPEARANCE INFORMATION		
Date	Time	Location (Include Room Number) DANE COUNTY COURTHOUSE ROOM _____ 215 S HAMILTON STREET MADISON WI 53703-3285
Presiding Official	Type of Proceeding	
On Behalf Of Defendant		

You are further required to bring with you the following:
In lieu of appearance, please provide the **subscriber information** and **incoming/outgoing call** and **SMS text message logs** for phone number: _____ for the time period: _____. Records may be emailed: rozmarnowskik@opd.wi.gov

This is a third-party subpoena. Unless all parties agree otherwise, do not provide any requested items before the date and time of the above proceeding.

Failure to appear may result in punishment for contempt, which may include monetary penalties, imprisonment and other sanctions.

Social Media

- Preservation Requests/Subpoenas:
 - Snap
 - Facebook/Instagram
 - WhatsApp
- Investigation & Screenshots



Jail Records

- Open records request. WIS. STAT. §§ 19.31-19.39
- Subpoena *duces tecum*
- Evidence request through LE
- Check local practices and rules
- Ask nicely 😊

Family Court

- Release, court order, OAC...



Other Agency Stuff (not in court file)

- Documents: [redacted] ts:



State Standards



Protecting Children, Strengthening Families, Building Communities

Report Child Abuse

Report Fraud



Select Language
Disclaimer

Start Typing to get Search Suggestions

Wisconsin Child Welfare Policies and Standards

- Child Welfare Standards
- Reports and Dashboards
- Child Welfare Worker Portal

The policies, standards, and Indian child welfare information provides a resource of the state rules and regulations guiding the State of Wisconsin child welfare system.

Standards

These standards specify the requirements necessary to perform Child Protective Services practice in the state of Wisconsin.

- [Safety - Intervention](#)
- [Access - Initial Assessment](#)
 - [Current In-Brief Excerpts](#) provides an overview of all changes in the newest Access - IA Standards.
 - [Alternative Response \(AR\) Draft Addendum](#)
 - [Assessing the Safety of Drug-Affected Infants](#)
- [Ongoing Services](#)
- [Youth Justice](#)

Wisconsin Indian Child Welfare Act (WICWA)

Policy Documents

The Policy Memos

The data table contains only those policy memos currently in effect. Sign up for an [email notification](#) when there is an

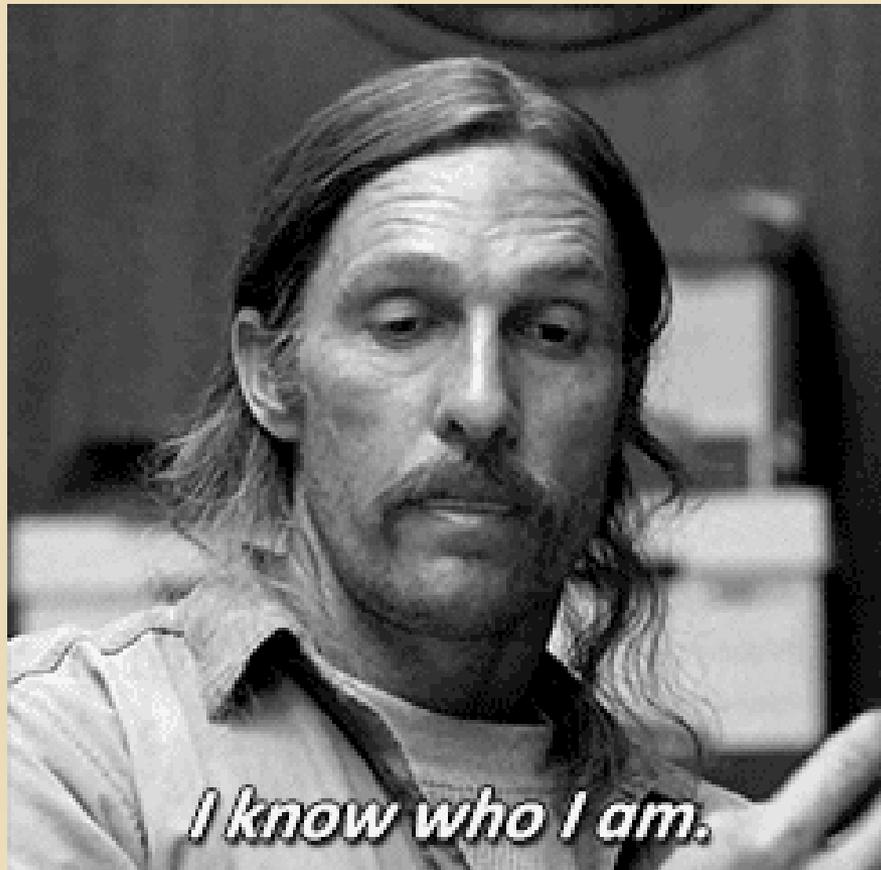
Talking to the kid?

- GAL permission
- Pros? Cons?



Your Client

... is your best source of information



Witnesses

- Lay the foundation!
- *But see* WIS. STAT. § 908.03(6m)
- Stipulate to admission?
- Put everyone on the witness list!

Problems with CHIPS file

- Privileged?



Problems with CHIPS file



Problems with CHIPS file



What did the agency have to do?

- “Case management”
- “Services to target behavioral changes”



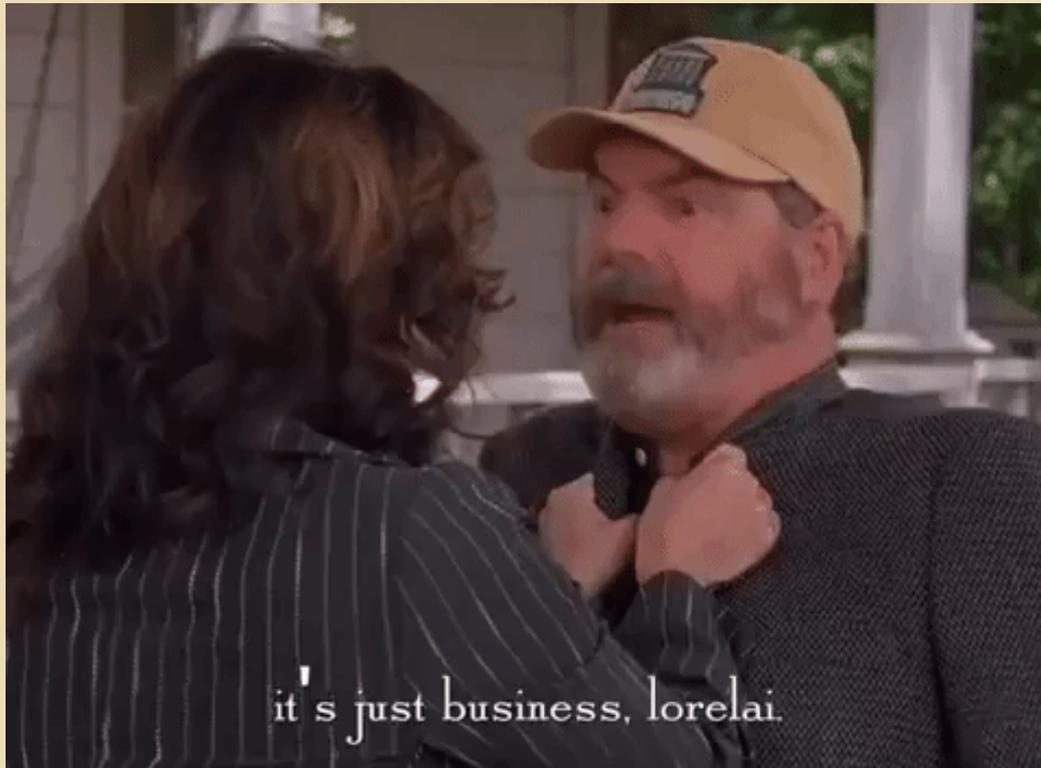
What did the agency **THINK** it had to do?

- “Case management”
- “Services to target behavioral changes”



Problems with the CHIPS file

- Business record exception? Wis. STAT. § 908.03(6)



Investigator



**We are the original
storytellers.**





The boys at the zoo today

Sat 3:27PM

Nice!!!

Sat 5:34PM



Questions/Discussion/Case Study

