154 Case Law you will need

1. Coercion can be mental as well as physical. Blackburn v. Alabama 361 U.S. 199, 206 (1960)
2. If neglect statutes conflict with the Fourth Amendment, they must be deemed invalid The State registers no gain towards its declared goals when it separates children from the custody of fit parents. Stanley v. Illinois, 405 U.S. 645, 652 (1972)
3. A showing of harm to the child . . . as a prerequisite for coercive state intervention, statutes incorporating drug use focus on parental behavior and thus subvert themselves. By preserving references to parental misconduct as factors to consider in neglect determinations, statutory law, undermines the express requirement that harm to the child be a sine qua non of intervention. The result of this is that such cases often begin to resemble criminal proceedings against errant parents. Dolgin, supra note 62, at 1227.
4. The assumption that drug use constitutes neglect inappropriately shifts the focus from the welfare of the child to the behavior of the parent. The parenting, not the supposed quality of the individual who is the parent, should be at issue. See Dolgin, supra note 62, at 1213, 1235-36; Wald, supra note 304, at 1034;
5. A trial court cannot terminate a parent's rights absent this finding of unfitness. Parental deficiencies alone do not render a parent currently unfit; the proper inquiry is whether the existing parental deficiencies, or other conditions, prevent the parent from providing for the child's basic health, welfare, and safety. In re Parental Rights to K.MM, 186 Wn.2d 466, 493, 379 P.3d 75 (2016).
6. 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. North Hudson DYFS v. Koehler Family (2001)
7. An officer who obtains a warrant through materially false statements which result in an unconstitutional seizure may be held liable personally for his actions under section 1983. Aponte Matos v. Toledo Davilla (1st Cir. 1998)
8. 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. Wooley v. City of Baton Rouge (5th Cir. 2000)
9. Miller recognized the fundamental liberty interests by parents in the care, custody and management of their children, an interest which must be balanced against the State's interest in protecting children suspected of being abused. 174 F.3d at 373, 374. Citing Croft and Santosky v. Kramer, 455 U.S. 745, 753, 102 S.Ct. 1388, 71 L.Ed.2d 599 (1982),
10. To act under color of state law means the social workers acted beyond the bounds of their lawful authority, but in such a manner that the unlawful acts were done while the official was purporting or pretending to act in the performance of their official

duties. In other words, the unlawful acts must consist of an abuse or misuse of power which is possessed by the official only because they are an official. The social workers committed a misuse of power, possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law, is action taken `under color of' state law.

11. An unreasonable belief of imminent harm to a child will render a seizure unreasonable. Wallis v. Spencer, 202 F.3d 1126, 1140 (9th Cir. 2000)
12. 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. Morris v. Dearborne (5th Cir. 1999)
13. 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. J.B. v. Washington County (10th Cir. 1997)
14. 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. Elrod v. Burns (96 S. Ct. 1976)
15. 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. Whisman v. Rinehart (8th Cir. 1997)
16. In reversing the conviction of a teacher who violated the law, the court held that the Due Process Clause protected the power of parents to control the education of their own children. People V. Bennett (1923)
17. This right to the preservation of family integrity encompasses the reciprocal rights of both parent and children. See Duchesne v. Sugarman, 566 F.2d 817, 825 (2d Cir. 1977)
18. In 1923, the Supreme Court held that there was a constitutionally protected right of parents to establish a home and bring up children. in Meyer v. State of Nebraska (1923)
19. Thus, the qualified immunity analysis has two prongs: (1) whether the official violated the plaintiff's constitutional rights, and (2) whether the right violated was clearly established at the time of the official's conduct. Id. at 232, 129 S.Ct. 808. For a right to be clearly established, the contours of the right must be sufficiently clear that a reasonable official would understand that what he is doing violates that right. That is not to say that an official action is protected by qualified immunity unless the very action in question has previously been held unlawful, but it is to say that in light of pre-existing law the unlawfulness must be apparent. Jones v. Cnty. of L.A., 802 F.3d 990, 999 (9th Cir. 2015)

20. The Supreme Court reaffirmed, that choices about family life, and the rights of parents to raise their children, are rights of basic importance in our society. These rights, the court wrote, are to be protected from the State's unwarranted usurpation, disregard, or disrespect. in M.L.B. v. S.L.J.(1996)
21. Plaintiff's clearly established right to meaningful access to the courts would be violated by suppression of evidence and failure to report evidence. Chrissy v. Miss. Department of Public Welfare (5th Cir. 1991)
22. 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. Brokaw v. Mercer County (7th Cir. 2000)
23. A child has a constitutionally protected interest in the companionship and society of his or her parent. Ward v. San Jose (9th Cir. 1992)
24. The social workers and court officials consisted of two or more persons who conspired to injure, oppress, threaten, and intimidate the mother and her minor child, in the free exercise or enjoyment of any right or privilege secured to the mother by the Constitution or the laws of the United States, (or because of his/her having exercised the same). Title 18, U.S.C., Section 242
25. It further makes it unlawful for two or more persons to go in disguise on the highway or on the premises of another with the intent to prevent or hinder her free exercise or enjoyment of any rights so secured. 18 U.S. Code § 241 – Conspiracy against rights
26. Absent extraordinary circumstances, a parent has a liberty interest in familial association and privacy that cannot be violated without adequate pre-deprivation procedures. Malik v. Arapahoe Cty. Department of Social Services (10th Cir. 1999)
27. The Court held that where abusive government action by a member of the executive branch is alleged, only the most egregious official conduct 522*522 can be said to be arbitrary in the constitutional sense. .Id. at 375, quoting County of Sacramento v. Lewis, 523 U.S. 833, 846, 118 S.Ct. 1708, 140 L.Ed.2d 1043 (1998).
28. 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. K.H. through Murphy v. Morgan (7th Cir. 1990)
29. Under this standard, executive action will not expose the official to liability unless it is so ill-conceived or malicious that it `shocks the conscience.' Id. The Court emphasized that Croft was simply an application of the traditional substantive due process shocks the conscience standard. Miller, 174 F.3d at 376.
30. Stating that only in rare circumstances can allegations of neglect be so severe or credible that an investigation into the allegations is not required for removal; Brokaw, 235 F.3d at 1011
31. 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. Young v. Biggers (5th Cir. 1991)

32. The Court held that the CYS caseworker, acting on an anonymous tip with multiple layers of hearsay, without any corroborating evidence, and without any evidence that convinced her one way or another that there was any sexual abuse involved, had insufficient justification for such a drastic infringement on parental and children's rights (familial integrity), and so was an arbitrary abuse of government power.
33. 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. Lenz v. Winburn (11th Cir. 1995)
34. Court held that an anonymous tip standing alone never amounts to probable cause. H.R. v. State Department of Human Resources (Ala. Ct. App. 1992)
35. 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. Hurlman v. Rice (2nd Cir. 1991)
36. 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. Tenenbaum v. Williams (2nd Cir. 1999) and F.K. v. Iowa
37. 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. Walsh v. Erie County Department of Job and Family Services.
38. 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 Griswold v. Connecticut. 1965
39. The Court focused on whether the information available to the defendants at the time would have created an objectively reasonable suspicion of abuse justifying the degree of inference with the parents' rights as the child's parents. In the absence of such reasonable grounds, the governmental intrusions of this nature are arbitrary abuses of power. Due process requires the trial court to explicitly or implicitly find by clear, cogent, and convincing evidence that the parent is currently unfit. A.B., 168 Wn.2d at 918-19.

40. 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. Quilloin v. Walcott (1978) 434 U.S. 246, 255
41. The Supreme Court ruled that testing without maternal consent for the purposes of criminal investigation violated the mother's Fourth Amendment rights. (Lester, 2004) In Ferguson v Charleston, SC, 532 US 67 (2001)
42. Second, because Jones is pro se, we must consider as evidence in his opposition to summary judgment all of Jones's contentions offered in motions and pleadings, where such contentions are based on personal knowledge and set forth facts that would be admissible in evidence, and where Jones attested under penalty of perjury that the contents of the motions or pleadings are true and correct. McElyea v. Babbitt, 833 F.2d 196, 197 (9th Cir.1987) (verified pleadings admissible to oppose summary judgment); Johnson v. Meltzer, 134 F.3d 1393, 1399-1400 (9th Cir.1998) (verified motions admissible to oppose summary judgment); Schroeder v. McDonald, 55 F.3d 454, 460 n. 10 (9th Cir.1995) pleading counts as "verified" if the drafter states under penalty of perjury that the contents are true and correct.
43. A 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 the Interest of Cooper (Kansas 1980)
44. A finding of dependency requires proof of present parental deficiencies. In re the Matter of the Welfare of Walker, 43 Wn.2d 710, 715, 263 P.2d 956 (1953).
45. 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. Matter of Gentry (1983)
46. A municipality(county) violates the Constitution when it has an unconstitutional custom or policy. Id. A custom or policy can take one of three forms: (1) an express policy that, when enforced, causes a constitutional deprivation; (2) a widespread practice that, although not authorized by written law or express municipal policy, is so permanent and well settled as to constitute a custom or usage with the force of law; or (3) an allegation that the constitutional injury was caused by a person with final policy-making authority. McTigue v. City of Chicago, 60 F.3d 381, 382 (7th Cir.1995).
47. In order to state a claim under Section 1983, a plaintiff must allege that the defendants deprived him of a right secured by the Constitution or laws of the United States, and that the defendants acted under color of state law. Starnes v. Capital Cities Media, Inc., 39 F.3d 1394, 1396 (7th Cir.1994)
48. 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. Brokaw v. Mercer County (7th Cir. 2000)
49. Although it is accurate that a trial court may consider prior parenting history, a finding of dependency must be based on proof of a parent's present inability to care for her children. Walker, 43 Wn.2d at 715; Watson, 25 Wn. App. at 512-13.

50. Accordingly, the Department had to prove Ms. W. was presently unable to adequately care for her baby son, such that the child is in circumstances which constitute a danger of substantial damage to his psychological or physical development. RCW 13.34.030(6)(c); accord In re Dependency of Brown, 149 Wn.2d 836, 72 P.3d 757
51. When a judge knows that he/she lacks jurisdiction, or acts in the face of clearly valid statutes expressly depriving him/her of jurisdiction, judicial immunity is lost. Rankin v. Howard (1980) 633 F.2d 844, cert den. Zeller v. Rankin, 101 S. Ct. 2020, 451 U.S. 939, 68 L.Ed 2d 326.
52. Federal Tort Law: judges cannot invoke judicial immunity for acts that violate litigants civil rights. Robert Craig Waters. Tort & Insurance Law Journal, Spr. 1986 21 n3, p509-516.
53. A law repugnant of the Constitution is void, and that courts, as well as other departments, are bound by that instrument. Maybury v. Madison, 1 Cranch 137 (1803)
54. Some defendants urge that any act of a judicial nature entitles the judge to absolute judicial immunity, but in a jurisdictional vacuum (that is absence of all jurisdictions) the second prong necessary to absolute judicial immunity is missing. Stump v. Sparkman, id., 435 U.S. 349
55. Where there is no jurisdiction there can be no discretion for discretion is incident to jurisdiction. Piper v. Pearson, 2 Gray 120, cited in Bradley v. Fisher, 13 Wall. 335,20 L.Ed 646 (1872)
56. The claim and exercise of a constitutional right cannot be converted into a crime a denial of them would be a denial of due process of law. Simmons v. United States, 390 U.S. 377 (1968)
57. Hence the act of filing a lawsuit against a government entity represents an exercise of the right to petition and thus invokes constitutional protection. City of Long Beach v. Bozek, 31 Cal.3d 527, at 533-534 (1982)
58. The right to petition for redress of grievances is 'among the most precious of the liberties safeguarded in the bill of rights.' Inseparable from the guaranteed rights entrenched in the 1st amendment, the right to petition for redress of grievances occupies a 'preferred place' in our system of representative government and enjoys a 'sanctity and a sanction not permitting dubious intrusions.' Thomas v. Collins, 323 US 516;65 S.Ct 315, 322.
59. It was not by accident or coincidence that the rights to freedom of speech and press were coupled with the rights of the people to peaceably assemble and petition for redress of grievances. A judge must be acting within his jurisdiction as to subject matter and person, to be entitled to immunity from civil action for his acts. Davis v. Burris, 51 Ariz. 220,75 P.2d 689 (1938)
60. [I]f there is a state deprivation of a 'right' secured by a federal statute, § 1983 provides a remedial cause of action unless the state actor demonstrates by express provision or other specific evidence from the statute itself that Congress intended to foreclose such private enforcement. Wright v. City of Roanoke Redevelopment and Housing Authority, 479 U.S. 418, 423 (1987).
61. No judicial process whatever form it may assume can have any lawful authority outside of the limits of the jurisdiction of the court or judged by whom it is issued

and an attempt to enforce it beyond these boundaries is nothing less than lawless violence. Ableman v. Booth, 21 Hoard 506 (1859)

62. It has been said that clear violations of the laws on reaching the result such as acting without evidence when evidence is required, or making a decision contrary to the evidence, are just as much a jurisdictional error as is the failure to take proper steps to acquire jurisdiction at the beginning of the preceding. Brognis v. Falk Co, 133 N.W. 209 (1911)
63. The essential elements of due process of law are notice, an opportunity to be heard , and the right to defend in orderly proceeding. Fiehe v. R.E. Householder Co., 125 So. 2, 7(Fla. 1929)
64. No man/woman in this country is so high that he/she is above the law no officer of the law may set that law at defiance with impunity all the officers of the government from the highest to the lowest are creatures of the law and are bound to obey it. United States v. Lee, 106 U.S. 196, 220, 1 S.Ct. 240, 27 L.Ed 171 (1882) Buckles v. King County 191 F.3d 1127, *1133 (C.A.9(Wash.),1999)
65. Purpose of statute that mandates that any person who under the color of law subjected it another to deprivation of his constitutional rights, would be liable to the injured party in action at law was not to abolish communities available at common law but to ensure the federal courts would have jurisdiction of constitutional claims against state officials. Act March 3, 1875, 18 State. 470 Butz v. Economou 438 U.S. 478, 98 S.Ct 2894 (U.S.N.Y., 1978)
66. By law a judge is a state officer. The judge then acts not as a judge but as a private person in his person. When a judge acts as a trespasser of the law, when a judge does not follow the law, the Judge loses subject matter jurisdiction and the judges orders are not voidable, but VOID, and of no legal force or effect. Scheuer v. Rhodes, 416 U.S. 232, 94 S. Ct. 1683, 1687 (1974)
67. Acts in excess of judicial authority constitutes misconduct particularly where a judge deliberately disregards the requirements of fairness and due process. Canon v. Commission of Judicial Qualifications 91975) 14 Cal. 3d 678, 694.
68. The 11th amendment was not intended to afford them freedom from liability in any case where, under the color of their office they have injured one of the state's citizens to grant them such immunity would be to create privileged class free from liability from wrongs inflicted or injuries threatened public agents must be liable to the law unless they are to be put above the law. Old Colony Trust Company vs City of Seattle et al. (06/01/06) 271 U.S. 426, 46 S Ct. 552, 70 L. Ed at page 431
69. Not every action by a judge is in the exercise of his/her judicial function it is not a judicial function for a judge to commit an intentional tort occurs in the courthouse when a judge acts as a trespasser of the law when a judge does not follow the law the judge loses subject matter jurisdiction and the judge's orders are void of no legal force or effect. Yates v. Village of Hoffman estates, Illinois, 209 F. Supp. 757 (N.D. Ill. 1962)
70. The purpose of the statute was to deter public officials from using their badge of their authority to violate persons constitutional rights and to provide compensation and other relief to victims of constitutional deprivations when that deterrence failed. Carey v. Piphus, 435 US 247,253 (1978)

71. State law can create a right that the Due Process Clause will protect only if the state law contains "(1) substantive predicates governing official decision making, and (2) explicitly mandatory language specifying the outcome that must be reached if the substantive predicates have been met." Bonin v. Calderon, 59 F.3d 815, 842 (9th Cir.1995)
72. Yes. Justice Byron R. White wrote the opinion for the 6-3 majority. The Court held that municipalities may be liable for inadequate training of employees, but only when "the failure to train amounts to deliberate indifference" to the constitutional rights of the people with whom the employees will interact. A municipality is then only liable when the failure to train is a deliberate choice on the part of the city. City of Canton, Ohio v. Harris (1988)
73. The Fourteenth Amendment's Due Process Clause protects parents' well-established liberty interest in the "companionship, care, custody, and management of [their] children." Lassiter, 452 U.S. at 27, 101 S.Ct. 2153 (noting that the importance of this right is "plain beyond the need for multiple citation") (quoting Stanley v. Illinois, 405 U.S. 645, 651, 92 S.Ct. 1208, 31 L.Ed.2d 551 (1972)); accord Troxel v. Granville, 530 U.S. 57, 65, 120 S.Ct. 2054, 147 L.Ed.2d 49 (2000) (describing this liberty interest as "perhaps the oldest of the fundamental liberty interests recognized by this Court").
74. Contrary to the district court's conclusion, we hold that any right that James may have was not clearly established on the basis of "common sense." A right can be clearly established by "common sense" only where "conduct is so patently violative of the constitutional right that reasonable officials would know without guidance from the courts that the action was unconstitutional." DeBoer v. Pennington, 206 F.3d 857, 864-65 (9th Cir.2000), vacated on 653*653 other grounds by Bellingham v. DeBoer, 532 U.S. 992, 121 S.Ct. 1651, 149 L.Ed.2d 635 (2001)
75. Undoubtedly it(fourteenth amendment) forbids any arbitrary deprivation of life, liberty or property, and secures equal protection to all under like circumstances in the enjoyment of their rights…It is enough that there is no discrimination in favor of one as against another of the same class… and due process of law within the meaning of the fifth and fourteenth amendment is secured if the laws operate on all alike, and do not subject the individual to an arbitrary exercise of the powers of the government. Giozza v. Tiernan, 148 U.S. 657,662 (1893)
76. Due process of law and equal protection of the laws are secured if the laws operate on all alike, and do not subject the individual to an arbitrary exercise of the powers of the government. Duncan vs. Missouri, 152 U.S. 377, 382 (1894)
77. Accordingly, a child is seized for purposes of the Fourth and Fourteenth Amendments when a representative of the state takes action causing a child to be detained at a hospital as part of a child abuse investigation, such that a reasonable person in the same position as the child's parent would believe that she cannot take her child home. See Kia P. v. McIntyre,235 F.3d 749, 762 (2d Cir.2000) (citing Mendenhall,446 U.S. at 554, 100 S.Ct. 1870)
78. Holding that a child was seized when a hospital told the child's parent that she could not take the child home; California v. Hodari D., 499 U.S. 621, 625, 111 S.Ct. 1547, 113 L.Ed.2d 690 (1991)

79. Social workers not entitled to qualified immunity for removing an infant from the hospital and placing her in a foster home without judicial authorization or a reason to believe that the child would be harmed while in the hospital; Rogers, 487 F.3d at 1295 Rogers v. San Joaquin
80. Whether the law placed a state actor on reasonable notice that her conduct would violate the Constitution must be determined "in light of the specific context of the case, not as a broad general proposition." Brosseau v. Haugen,543 U.S. 194, 198, 125 S.Ct. 596, 160 L.Ed.2d 583 (2004) (quoting Saucier v. Katz,533 U.S. 194, 201, 121 S.Ct. 2151, 150 L.Ed.2d 272 (2001)).
81. The Fourth and Fourteenth Amendments require that a consent not be coerced, by explicit or implicit means, by implied threat or covert force. Schneckloth v. Bustamonte, 412 U.S. 218, 228, 93 S.Ct. 2041, 36 L.Ed.2d 854 (1973) ; see also United States v. Ocheltree, 622 F.2d 992, 994 (9th Cir.1980)
82. The second prong of the qualified-immunity analysis asks whether the right in question was "clearly established" at the time of the violation. Governmental actors are "shielded from liability for civil damages if their actions did not violate 'clearly established statutory or constitutional rights of which a reasonable person would have known.' " "[T]he salient question is … whether the state of the law" at the time of an incident provided "fair warning" to the defendants "that their alleged [conduct] was unconstitutional." Tolan, 134 S.Ct. at 1866 quoting Hope v. Pelzer, 536 U.S. 730, 739, 741, 122 S.Ct. 2508, 153 L.Ed.2d 666 (2002)
83. "The Fourteenth Amendment guarantees that parents will not be separated from their children without due process of law except in emergencies." Mabe v. San Bernardino County, Dep't of Pub. Soc. Servs., 237 F.3d 1101, 1107 (9th Cir.2001).
84. Officials violate this right if they remove a child from the home absent "information at the time of the seizure that establishes `reasonable cause to believe that the child is in imminent danger of serious bodily injury and that the scope of the intrusion is reasonably necessary to avert that specific injury.'" Id. at 1106 (quoting Wallis, 202 F.3d at 1138). The Fourth Amendment also protects children from removal from their homes absent such a showing. Doe v. Lebbos, 348 F.3d 820, 827 n. 9 (9th Cir.2003).
85. Officials, including social workers, who remove a child from its home without a warrant must have reasonable cause to believe that the child is likely to experience serious bodily harm in the time that would be required to obtain a warrant. Mabe, 237 F.3d at 1108.
86. A seizure is a single act, and not a continuous fact. quoting Thompson v. Whitman, 85 U.S. 457, 471, 18 Wall. 457, 21 L.Ed. 897 (1873)).Jones v. Cnty. of L.A., 802 F.3d 990, 1001 (9th Cir. 2015)
87. Absent conditions presenting an imminent risk of serious bodily harm, removing children from their home without obtaining judicial authorization is a violation of a parent's established Fourth and Fourteenth Amendment rights. Rogers v. Cty. of San Joaquin, 487 F.3d 1288, 1297–98 (9th Cir. 2007).
88. In light of this extensive precedent, it cannot now be doubted that the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children. Troxel v. Granville, 530 U.S. 57, 66 (2000).

89. The innocent individual who is harmed by an abuse of governmental authority is assured that she will be compensated for her injury. Owen v. City of Independence
90. A court must weigh, in the factual setting before it, whether the imminent risk to the child can be mitigated by reasonable efforts to avoid removal. It must balance that risk against the harm removal might bring, and it must determine factually which course is in the child's best interests. Nicholson v. Scoppetta, 820 N.E.2d 840, 852 (N.Y. 2004)
91. The innocent individual who is harmed by an abuse of governmental authority is assured that she will be compensated for her injury. Owen v. City of Independence
92. The US Supreme Court stated that when a state officer acts under a state law in a manner violative of the federal constitution, he/she comes into conflict with the superior authority of that Constitution, and s/he is in that case stripped of her/his official or representative character and is subjected in her/his person to the consequences of her/his individual conduct. The state has no power to impart to her/him any immunity from the responsibility to the supreme authority of the United States. Scheuer v. Rhodes, 416 U.S. 232, 94 S. Ct. 1683, 1687 (1974)
93. When a judicial officer acts entirely without jurisdiction, or without compliance with jurisdiction requisites, she may be held civilly liable for abuse of process even though her act involved a decision made in good faith that she had jurisdiction. U.S. Fidelity & Guaranty Co., 217 Miss. 576, 64 So. 2d 697
94. However, a showing of probable cause does not satisfy the conclusion that MD was in imminent danger of serious physical injury sufficient to justify a warrantless removal. LaLonde v. County of Riverside, 204 F.3d 947, 954 (9th Cir. 2000) Mabe v. San Bernardino County, 237 F.3d 1101, 1108 n.2 (9th Cir. 2001)
95. However, in her written claim, which was submitted on a form provided by the County, appears to contain several relevant allegations including: names, dates, details and causes of action based upon state grounds, violation of statutes, and intentional and negligent infliction of emotional distress. These details satisfy the threshold notice requirement of claim submission. See Cal. Gov't Code §§ 910, 910.4. While Mabe's CTCA submission contains duplicative claims addressed elsewhere in this opinion, at least two of these claims sound in state law, which are also presented in Mabe's opening brief on appeal — statutory violations and emotional distress. Mabe v. San Bernardino County, 237 F.3d 1101, 1111 (9th Cir. 2001)
96. When the district court denies summary judgment on qualified immunity grounds, the appealable issue is a purely legal one: whether the facts alleged [by the plaintiff] support a claim of violation of clearly established law.Id. at 528 n. 9, 105 S.Ct. 2806. Jones v. Cnty. of L.A., 802 F.3d 990, 999 (9th Cir. 2015)
97. To establish municipal(county) liability, the Plaintiff must show that (1) she was deprived of a constitutional right; (2) the County had a policy; (3) the policy amounted to a deliberate indifference to her constitutional right; and (4) the policy was the moving force behind the constitutional violation. Van Ort v. Estate of Stanewich, 92 F.3d 831, 835 (9th Cir. 1996).
98. It is well settled constitutional law that, absent exigent circumstances, probable cause alone cannot justify an officer's warrantless entry into a person's home. Mabe v. San Bernardino County, 237 F.3d 1101, 1108 n.2 (9th Cir. 2001)

99. A material question of fact exists regarding whether . . . there was reasonable cause to believe, on the basis of the information in the possession of the . . . police officer, that the . . . children faced an immediate threat of serious physical injury or death. Mabe v. San Bernardino County, 237 F.3d 1101, 1108 (9th Cir. 2001)
100. Government officials are required to obtain prior judicial authorization before intruding on a parent's custody of her child unless they possess information at the time of the seizure that establishes Reasonable cause to believe that the child is in imminent danger of serious bodily injury and that the scope of the intrusion is reasonably necessary to avert that specific injury. Wallis v. Spencer,202 F.3d 1126, 1138 (9th Cir. 2000) (citing Mincey v. Arizona,437 U.S. 385, 393, 98 S.Ct. 2408, 57 L.Ed.2d 290 (1978)).
101. In the area of child abuse, as with the investigation and prosecution of all crimes, the state is constrained by the substantive and procedural guarantees of the Constitution. The fact that the suspected crime may be heinous—whether it involves children or adults—does not provide cause for the state to ignore the rights of the accused or any other parties. Wallis v. Spencer, 202 F.3d 1126, 1130 (9th Cir.1999)
102. Parents and children may assert Fourteenth Amendment claims if they are deprived of their liberty interest in the companionship and society of their child or parent through official conduct. See Lemire v. Cal. Dept. of Corr. & Rehab., 726 F.3d 1062, 1075 (9th Cir. 2013) (parents and children); Smith v. City of Fontana, 818 F.2d at 1418-19; Curnow v. Ridgecrest Police, 952 F.2d 321, 325 (9th Cir. 1991) (parent); Crumpton v. Gates, 947 F.2d 1418, 1421-24 (9th Cir. 1991) Thomas v. Cannon, No. 3:15-05346 BJR, 14 (W.D. Wash. Jan. 11, 2018)
103. Families in child abuse investigations are protected by two provisions of the Constitution, the Due Process Clause of the Fourteenth Amendment and the Search and Seizure Clause of the Fourth Amendment. Parents and children have a well-elaborated constitutional right to live together without governmental interference. That right is an essential liberty interest protected by the Fourteenth Amendment's guarantee that parents and children will not be separated by the state without due process of law except in an emergency. Under the Fourteenth Amendment right to familial association, an official who removes a child from parental custody without a warrant must have reasonable cause to believe that the child is likely to experience serious bodily harm in the time that would be required to obtain a warrant. Rogers v. Cnty. of San Joaquin,487 F.3d 1288, 1294 (9th Cir.2007).
104. Seizing and interrogating a suspected child abuse victim without parental consent violates the child's Fourth Amendment rights absent a warrant, court order, or exigent circumstances. See James v. Rowlands, 606 F.3d 646, 652 n. 2 (9th Cir.2010)
105. The child subjected to seizure is also protected by the Fourth Amendment's prohibition against unreasonable searches and seizures. Kirkpatrick v. Cnty. of Washoe,792 F.3d 1184, 1187–89 (9th Cir.2015) ; Wallis,202 F.3d at 1137 n. 8. Jones v. Cnty. of L.A., 802 F.3d 990, 1000 (9th Cir. 2015)
106. The Fourteenth Amendment guarantees that parents will not be separated from their children without due process of law except in emergencies. See Stanley v. Illinois, 405 U.S. 645, 651, 92 S.Ct. 1208, 31 L.Ed.2d 551 (1972); Ram, 118 F.3d at

1310 (9th Cir. 1997) Mabe v. San Bernardino County, 237 F.3d 1101, 1107 (9th Cir. 2001)

107. Washington State statute does not authorize Children's Administration (CA) to accept referrals for CPS investigation or initiate court action on an unborn child. Guidelines for Testing and Reporting Drug Exposed Newborns in Washington State (July 2015)

108. A person has been `seized' within the meaning of the Fourth Amendment … if, in view of all of the circumstances surrounding the incident, a reasonable person would have believed that he was not free to leave. United States v. Mendenhall, 446 U.S. 544, 554, 100 S.Ct. 1870, 64 L.Ed.2d 497 (1980).

109. Under the Fourth Amendment, we must determine whether the defendants' alleged conduct constituted a seizure and if so, whether the seizure was unreasonable in light of the factual allegations. Donovan v. City of Milwaukee, 17 F.3d 944, 948 (7th Cir.1994)

110. Qualified immunity shields a government official from liability for civil damages if (1) the law governing the official's conduct was clearly established; and (2) under that law, the official objectively could have believed that her conduct was lawful. Mabe v. San Bernardino County, 237 F.3d 1101, 1106 (9th Cir. 2001)

111. Noting that a warrant, probable cause, or a reasonable belief that a child is in imminent harm is necessary to justify a seizure of a child under the Fourth Amendment; J.B. v. Washington County, 127 F.3d 919, 1011*1011 929 (10th Cir.1997)

112. The state may not remove children from their parents' custody without a court order unless there is specific, articulable evidence that provides reasonable cause to believe that a child is in imminent danger of abuse. Cf. Landstrom v. Illinois Dept. of Children and Family Serv., 892 F.2d 670, 676 (7th Cir.1990)

113. The police cannot seize children suspected of being abused or neglected unless reasonable avenues of investigation are first pursued, particularly where it is not clear that a crime has been — or will be — committed. id. Whether a reasonable avenue of investigation exists, however, depends in part upon the time element and nature of the allegations. Croft v. Westmoreland County Children and Youth Serv., 103 F.3d 1123, 1127 (3d Cir.1997)

114. To establish personal liability in a § 1983 action, the plaintiff must show that the government officer caused the deprivation of a federal right. Luck v. Rovenstine, 168 F.3d 323, 327 (7th Cir.1999)

115. An official causes a constitutional violation if he sets in motion a series of events that defendant knew or reasonably should have known would cause others to deprive plaintiff of constitutional rights. Morris v. Dearborne, 181 F.3d 657, 672 (5th Cir.1999)

116. An official satisfies the personal responsibility required of § 1983 if she acts or fails to act with a deliberate or reckless disregard of plaintiff's constitutional rights, or if the conduct causing the constitutional deprivation occurs at her direction or with her knowledge or consent. Smith v. Rowe, 761 F.2d 360, 369 (7th Cir.1985)

117. A custom or policy may be established by an allegation that the constitutional injury was caused by a person with `final policymaking authority. McTigue, 60 F.3d

at 382. See also, Baxter by Baxter v. Vigo County Sch. Corp., 26 F.3d 728, 735 (7th Cir.1994)

118. While a private citizen cannot ordinarily be held liable under Section 1983 because that statute requires action under color of state law, if a private citizen conspires with a state actor, then the private citizen is subject to Section 1983 liability. Bowman v. City of Franklin, 980 F.2d 1104, 1107 (7th Cir.1992)

119. To establish Section 1983 liability through a conspiracy theory, a plaintiff must demonstrate that: (1) a state official and private individual(s) reached an understanding to deprive the plaintiff of his constitutional rights, and (2) those individual(s) were willful participants in joint activity with the State or its agents. Fries v. Helsper, 146 F.3d 452, 457 (7th Cir.1998)

120. If the Defendants conceal exculpatory evidence and Plaintiff is further deprived of possession of her child, this is a violation of her fair trial rights under the 14th Amendment due process clause and is actionable under Section 1983. Fields v. Wharrie, 740 F.3d 1107 (7th Cir. 2014).

121. Finally, we note that to the extent the defendants knew the allegations of child neglect were false, or withheld material information, and nonetheless caused, or conspired to cause, C.A.'s removal from his home, they violated the Fourth Amendment. Malik v. Arapahoe County Dept. of Social Services, 191 F.3d 1306, 1315 (10th Cir.1999) (government officials' procurement of a court order to remove children based on information they knew was founded on distortion, misrepresentation, and omission, violated the Fourth Amendment).

122. Prior to the events in question, we had repeatedly held that a family's rights were violated if the children were removed absent an imminent risk of serious bodily harm. A reasonable social worker would need nothing more to understand that she may not remove a child from his or her home on the basis of a situation that does not present such a risk. 487 F.3d at 1297. Mabe, Rogers,

123. When determining whether a parent can discharge parental responsibilities, the court must consider how the substance abuse hinders the parent's ability to effectively parent. Raymond F., 224 Ariz. at 377-78, In making this finding, the court has flexibility to consider the circumstances of each case. Maricopa Cty. Juv. Action No. JS-5894, 145 Ariz. 405, 409 (App. 1985).

124. Balances, on the one hand, the need to protect children from abuse and neglect and, on the other, the preservation of the essential privacy and liberty interests that families are guaranteed under both the Fourth and Fourteenth Amendments of our Constitution. Rogers v. Cty. of San Joaquin, 487 F.3d 1288, 1297 (9th Cir. 2007).

125. Our conclusion that no exigency existed here is also supported by the fact that the Child Protective Services delayed in investigating the case and in removing the children. See Calabretta v. Floyd, 189 F.3d 808, 813 (9th Cir.1999) (holding that a 14-day delay by social workers in entering the family home to investigate a report of abuse is evidence of lack of exigency)

126. When officials have reasonable cause to believe that the child is likely to experience serious bodily harm in the time that would be required to obtain a warrant. Kirkpatrick, 843 F.3d at 790

127. However, it is not necessary that a case be on "all fours" with the facts of the instant case. A right is clearly established if "[t]he contours of the right[are] sufficiently clear that a reasonable official would understand that what he is doing violates that right." Saucier, 533 U.S. at 202, 121 S.Ct. 2151 (quoting Anderson v. Creighton, 483 U.S. 635, 640, 107 S.Ct. 3034, 97 L.Ed.2d 523 (1987).Rogers v. San Joaquin, 487 F.3d 1288, 1297 (9th Cir. 2007)

128. The doctrine of qualified immunity protects government officials from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known. Pearson v. Callahan, 555 U.S. 223, 231 (2009)

129. Families have a Well elaborated constitutional right to live together without governmental interference. Wallis v. Spencer, 202 F.3d 1126, 1136 (9th Cir. 2000); accord Kirkpatrick v. Cty. Of Washoe, 843 F.3d 784, 789 (9th Cir. 2016) (en banc); Burke v. Cty. of Alameda, 586 F.3d 725, 731 (9th Cir. 2009); Rogers v. Cty. of San Joaquin, 487 F.3d 1288, 1294 (9th Cir. 2007); Mabe v. San Bernardino Cty., 237 F.3d 1101, 1107 (9th Cir. 2001); Ram v. Rubin, 118 F.3d 1306, 1310 (9th Cir. 1997).

130. "However, an official's prior willingness to leave the children in their home militates against a finding of exigency, as does information that the abuse occurs only on certain dates or at certain times of day. Mabe, 237 F.3d at 1108; Wallis, 202 F.3d at 1140." Rogers v. San Joaquin, 487 F.3d 1288, 1295 (9th Cir. 2007)

131. The claims of the parents in this regard should properly be assessed under the Fourteenth Amendment standard for interference with the right to family association. Id. at 1137 n. 8. But because only the children [a]re subjected to a seizure, their claims should properly be assessed under the Fourth Amendment. Id. Parents cannot assert that the seizure of their child violated their own Fourth Amendment rights. Mabe v. San Bernardino Cty., 237 F.3d 1101, 1107 (9th Cir. 2001); The parent has no standing to claim a violation of the child's Fourth Amendment rights. Kirkpatrick v. Cnty. of Washoe, 792 F.3d 1184, 1188 (9th Cir. 2015)

132. The district court did not appear to disagree with the premise that a parent is authorized to assert causes of action belonging to his minor child on behalf of the child. See Fed.R.Civ.P. 17(c)(2) ("A minor or an incompetent person who does not have a duly appointed representative may sue by a next friend or by a guardian ad litem."); Fed.R.Civ.P. 17(b)(3)

133. For child removal claims brought by the child, we have concluded that the Constitution provides an alternative, more specific source of protection than substantive due process. When a child is taken into state custody, his or her person is 'seized' for Fourth Amendment purposes. The child may therefore assert a claim under the Fourth Amendment that the seizure of his or her person was 'unreasonable.' Hernandez ex rel. Hernandez v. Foster, 657 F.3d 463, 474 (7th Cir.2011)

134. The mere presence of drugs, or prior use, does not pose the same threat to a child. As the Second Circuit has warned, if the mere 'possibility' of danger constituted an emergency, officers would 'always' be justified in making a forced entry and seizure of a child whenever the child was in the presence of a person who

had.. a history that heightens the possibility of danger to the child. United States v. Venters, 539 F.3d 801, 808-09 (7th Cir. 2008)

135. In Walker, the Court noted, an existing ability or capacity of parents to adequately and properly care for their children is inconsistent with the status of dependency. Id.; see also In re the Welfare of Watson, 25 Wn. App. 508, 512-13, 610 P.2d 367 (1979).

136. Government action designed to prevent an individual from utilizing legal remedies may infringe upon the First Amendment right to petition the courts. In re Workers' Compensation Refund, 46 F.3d 813, 822 (8th Cir.1995).

137. Although drugs are illegal, a parent's criminal activity does not authorize the government to separate a family through child neglect statutes. Kozey v. Quarles, No. 3:04 CV 1724 MRK, 2005 WL 2387708

138. Such knee-jerk intervention signals a return to the discredited practice of focusing on the repugnance of parental conduct. Whether prior parental conduct is blameworthy or repulsive should not be of concern to the child welfare system. Robin-Vergeer, supra note 314, at 760

139. Finding no exigent circumstances among evidence of cluttered home, the developmental delays of the children, and the lack of educational and medical care for the children because there was no showing of imminent or likely harm to the children. Walsh v. Erie Cnty. Dep't Job & Family Servs., 240 F. Supp. 2d 731, 740, 749-50 (N.D. Ohio 2003)

140. Although the federal circuit courts have developed different standards to identify exigent circumstances justifying seizure of a child from his home in the absence of a court order, parental drug use fails to constitute exigent circumstance under any of these standards. Because exigent circumstances require the immediate threat of harm to the child, rather than a mere possibility of harm occurring to the child. Gates v. Texas Dep't Protective & Regulatory Servs., 537 F.3d 404, 428-29 (5th Cir. 2008)

141. Mere drug possession amounts to neither probable cause nor exigent circumstances. Therefore, neglect statutes that explicitly designate drug abuse as child neglect lead to unlawful seizures within the meaning of the Fourth Amendment and should be struck down as unconstitutional. Brokaw v. Mercer Cnty., 235 F.3d 1000, 1010 (7th Cir. 2000)

142. Cases in which parents misuse drugs or alcohol but do not neglect their child fail to justify such drastic state intervention. The lack of causation between parental drug use and harm to a child, the child's interest in staying with his natural family, and the bleak outlook for a child in the foster care system demonstrate that the government's interest does not outweigh the individual privacy interests of a child in cases involving drug use. The desire to avoid a domestic dispute cannot form a reasonable basis for depriving a child of his fourth and fourteenth amendment rights. Wooley v. City of Baton Rouge, 211 F.3d 913, 925-26 (5th Cir. 2000)

143. Under any of these standards, however, parental drug use fails to constitute an exigent circumstance, for it does not put a child in immediate jeopardy, nor does it pose the threat that the child is likely to experience serious bodily harm. Good, 891 F.2d at 1094.

144. The U.S. Supreme Court has repeatedly held that parents have a fundamental right to make decisions as to the companionship, care, custody, and management of their children, which right is a protected liberty interest under the due process clause of the Fourteenth Amendment. Troxel v. Granville, 530 U.S. 57, 65–66, 120 S.Ct. 2054, 2060 (2000)

145. Justice William J. Brennan, Jr. delivered the opinion of the 7-2 majority. The Court held that the legislative history of the Civil Rights Act of 1871, and specifically the Sherman Amendment, indicated that municipalities could be liable for the infringement of constitutional rights. Additionally, by 1871 there was a clear legislative and precedent-based history for municipal corporations — such as a school board — to be considered a "person" for the purpose of lawsuits and liability. The Court held that this liability only existed when the constitutional infringement was the direct result of an official policy. Monell v. Department of Social Services,436 U.S. 658, 98 S.Ct. 2018, 56 L.Ed.2d 611 (1978)

146. The court first applied California's one-year statute of limitations for personal injury claims and found all claims accruing prior to December 29, 1999, to be time-barred. Though the court denied Eleventh Amendment immunity to Blanas and determined that the County could be subject to liability for Blanas's actions under Monell v. Department of Social Services,436 U.S. 658, 98 S.Ct. 2018, 56 L.Ed.2d 611 (1978) Jones v. Blanas, 393 F.3d 918, 925 (9th Cir. 2004)

147. The First Amendment also provides a possible cause of action. Courts have recognized that the First Amendment protects the fundamental right to intimate association, which includes the familial association between parents and children. Doe v. Fayette County Children and Youth Servs., No. 8-823, 2010 WL 4854070, *18–19 (W.D. Pa. Nov. 22, 2010); Behm v. Luzerne County Children and Youth, 172 F.Supp.2d 575, 585 (M.D. Pa. 2001).

148. Neglect statutes that identify drug use or possession as forms of neglect justifying removal of a child from a home fail to constitute exigent circumstances. Drug use or possession does not cause direct harm to a child and is not a guarantee of direct harm to a child, but merely poses a possibility of harm to a child. This possibility of harm is not an exigency. Tenenbaum, 193 F.3d at 594

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

150. Courts should not accept the standard set by neglect statutes that mere possession, or even use, of narcotics constitutes neglect because it does not necessarily cause real physical or emotional harm to the child, nor does it mean that the child is in imminent danger. Furthermore, neglect statutes that incorporate drug use into their definitions of neglect do not fulfill their purpose of protecting children because the immorality of a particular behavior does not necessarily lead to harm. Roe v. Conn, 417 F. Supp. 769, 779 (M.D. Ala. 1976).

151. Unlike abuse, which involves some form of negative parental action, child neglect typically presents in the form of parental omissions, and therefore, cases of neglect are substantially less likely to warrant immediate action. New York v. Burger, 482 U.S. 691, 727 (1987)

152. Evidence of an increased likelihood of harm to a child does not constitute actual or imminent threat of harm to a child. Imminent danger must be near or impending, not merely possible. Nicholson v. Scoppetta (2004)

153. 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. Florida v. Bostick (S. Ct. 1991)

154. 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. Whisman v. Rinehart (8th Cir. 1997)