

CONDITIONS FOR RETURN

What are Conditions for Return?

Child placement should always be thought of as a temporary safety response required until such time as circumstances within the home can be established to produce less intrusive means for protection. A statement of the conditions for return respects the rights of the caregivers; provides a benchmark for reunification; and informs all parties to the action about what is expected in order for children to return home.

Conditions for Return are statements of what must exist for a child in substitute care to return home with an in-home Safety Plan. Conditions for Return focus on the specific behaviors, conditions, circumstances, and resources that must be in place for an in-home Safety Plan to manage child safety. Reunification decisions are safety management decisions and should not be based upon the parent's completion of specific services or reaching Expected Outcomes.

In other words, parents need not be capable of keeping their child safe on their own for the child to safely return home with a sufficient, sustainable in-home Safety Plan. Following reunification, the child's safety is effectively managed by DHS while the parent continues to work toward the Expected Outcomes and ultimately regaining responsibility for the child's safety.

Developing Conditions for Return:

Conditions for Return will be related to one or more of the three following areas:

1. Parental willingness and ability – (a) to support the in-home ongoing safety plan; and, (b) to continue to work with DHS toward reaching the expected outcomes and regaining responsibility for their child's safety.

Parents must demonstrate both a willingness and ability to support DHS managing the child's safety with an in-home safety plan as well as a basic motivation to achieve the Expected Outcomes. Parents might be willing, but not able, or visa versa. More is required than a parent simply saying what they think DHS wants to hear (i.e., "I'll do anything you say.") Some examples of possible Conditions for Return related to parental willingness and ability are:

- The parent demonstrates a basic understanding of how they have contributed to their child's lack of safety.

- The parent demonstrates a basic desire to work with DHS to increase their ability to keep their child safe.
- The parent's behaviors are safe, calm and predictable enough to allow DHS to effectively manage child safety with an In-Home Safety Plan.
- The parent does not blame the child for DHS involvement in the family.
- The parent is willing to have as much DHS and safety service provider involvement as necessary to ensure child safety.

2. Living environment – must be safe, stable and calm enough for DHS to be able to effectively manage the child's safety. Remember, DHS is responsible for managing the child's safety with an In-Home Safety Plan, so the parent does not need to be able to manage all aspects of the living environment on their own at the time of reunification. Some examples of possible Conditions for Return related to the living environment are:

- The parents has sufficient financial resources to obtain and sustain safe, adequate housing.
- The living environment must be free of dangerous persons and activities (i.e., criminal activity, gang members, etc.)
- The living environment shall be physically safe for the child.
- The parent is willing and able to notify DHS, law enforcement, etc. as necessary if safety threats to the child occur (i.e., the offending parent violates a restraining order, a dangerous circumstance or condition arises in the home, etc.)

3. Resources (Safety Service Providers) - must be available, willing and able to provide the necessary supervision and support to ensure the child's safety.

DHS should consistently seek to identify and involve appropriate community resources as participants in an in-home safety plan to allow children to return safely to their homes as quickly as possible. Resources to consider include family members, friends, church members, neighbors, school staff and other professionals and community members. Some examples of possible Conditions for Return related to Resources are:

- A DHS approved person (or persons) will supervise all child/parent contact to ensure child safety.
- A DHS approved person (or persons) will make unannounced visits to the home at least every other day to ensure the living environment is safe.
- DHS staff will make frequent, random, unannounced visits to the home

- and will have access to the entire home.
- No persons other than those approved by DHS will be present in the home at any time.
 - School staff will immediately notify DHS if the child does not arrive at the start of the school day.

When are Conditions for Return developed?

When a child is removed as part of a short-term Protective Action during the CPS assessment, there is no need to identify Conditions for Return. However at the conclusion of the CPS assessment, when the safety analysis concludes the child is unsafe and an ongoing case will be opened, the Child Safety Meeting is promptly held.

If the Child Safety Meeting results in an out-of-home Safety Plan, Conditions for Return must be discussed and documented on the Safety Plan form (1149) developed at the Child Safety Meeting. The Conditions for Return are also documented in the Case Plan (333) and should be part of the court order.

When determining Conditions for Return, consider the following questions:

- Why was an out-of-home Safety Plan originally necessary? (i.e., parental issues, living environment issues, and/or resource issues?)
- Do the stated Conditions for Return address all of the issues that made an out-of-home Safety Plan necessary?
- If the stated conditions for return are met, will a *sustainable* in-home Safety Plan be possible?
- Do the stated Conditions for Return include conditions related to the parent demonstrating the willingness and ability to support the in-home Safety Plan?
- Will meeting the stated Conditions for Return confirm the parent is willing and able to continue working toward the Expected Outcomes?
- What level of supervision is necessary to ensure child safety?
- What times, days, etc. must resources (Safety Service Providers) be available to ensure child safety?

The Expected Outcomes Equation

This document is designed to guide workers and supervisors step-by-step through the process of developing effective Expected Outcomes.

Expected Outcomes are clearly articulated case goals directly related to changes in parental knowledge, behaviors and emotions (protective capacities) related to child safety. When Expected Outcomes are (1) clearly defined, (2) progress is observed and measured, and (3) changes are achieved and sustained, the identified safety threats will be mitigated to the point the child is no longer unsafe. When Expected Outcomes are (1) clearly defined, (2) lack of progress is observed and measured, and (3) changes are not achieved or sustained, concurrent case planning processes are well supported.

In order to develop and document Expected Outcomes that clearly describe the changes needed to regain sustainable child safety, it is first necessary to precisely identify and describe the Safety Threats as they are occurring within the family AND identify the parental capacities that are directly related to those Safety Threats.

The 4-step process for defining Expected Outcomes is as follows:

Step 1 - Clearly identify and describe the Safety Threats. A “Safety Threat” is “family behavior, conditions or circumstances that could result in harm to a child.”

- a. Carefully review all of the 16 possible safety threats in the Oregon Safety Threat Guide (Procedure Manual, Appendix 2.4), including the paragraphs and examples following each stated Safety Threat.
- b. Select the Safety Threat(s) that most clearly, concisely and completely describe the Safety Threats occurring within the family AND meet the Safety Threshold Criteria (observable/describable; occurring now or likely to occur soon; likely to result in harm to a child; out-of-control/not managed by the family; child is vulnerable to the safety threat.)

Note: If the worker does not have enough information to confidently rule in/rule out a particular Safety Threat, the Safety Analysis portion of the CPS assessment is likely incomplete and more information must be gathered. It is not enough that one of the listed Safety Threats or bulleted examples on the Oregon Safety Threats Guide is merely a bit similar to what is happening in the family. If a Safety Threat is truly occurring within the family, the worker should be able to very clearly describe how that particular Safety Threat (as opposed other, possibly similar, Safety Threats) is occurring and how it meets the Safety Threshold Criteria.

It is tempting to select Safety Threats by simply reading the stated Safety Threat (i.e., The family situation results in no adult in the home routinely performing parenting duties and responsibilities that assure child safety.) However, that is insufficient. With careful analysis of the family situation, the Safety Threats and the Safety Threshold Criteria, the right Safety Threat(s) will “fit like a glove” and clearly and completely describe what is happening that leads to an unsafe child.)

c. Safety Threats must be documented in the following manner:

1. First, state the Safety Threat verbatim from the Oregon Safety Threats Guide: *The family situation results in no adult in the home routinely performing parenting duties and responsibilities that assure child safety.*
2. Then, using a series of bulleted statements or a short paragraph, clearly and concisely describe how that particular Safety Threat is occurring with the family: *The 3 year old child has recently been left alone by her parents on at least five occasions for periods ranging from 45 minutes to 4 hours. The condition of the family home is dangerous to a 3 year old child, including exposed wiring, animal and human feces, and prescription and illegal drugs present and in the reach of the child. The child has been determined by a medical provider to grossly underweight and anemic and the parents state they have been feeding the child only baby formula.*

Once the Safety Threats have been clearly and concisely identified and documented, it is time to move on to Step 2 of the creation of the Expected Outcomes: understanding and documenting *why* the Safety Threats are occurring (i.e. which Parental Protective Capacities are diminished AND are leading to the identified Safety Threats.)

Step 2 - Clearly identify and document the diminished Protective Capacity(ies) directly related to the specifically identified Safety Threats.

a. Carefully review all of the Protective Capacities listed on the Protective Capacity Reference (Procedure Manual, Appendix 3.1) including the examples listed for each.

b. Select the Protective Capacity(ies) that most clearly, concisely and completely describe why the previously identified Safety Threats are occurring within this family.

Note: If the worker is unable to rule in/rule out each of the protective capacities, the Protective Capacity Assessment is likely incomplete and more information must be gathered. Simply observing that a parent is not providing sufficient supervision does not tell us why that is occurring. In-depth discussions with parents and others, and perhaps professional assessments, will be necessary to clearly understand which relevant capacities are diminished. It is tempting to jump to the conclusion that a parent lacks knowledge (i.e., needs parenting classes) when they aren't doing what they need to do. However, identifying relevant diminished capacities is a crucial step in the development of Expected Outcomes.

Just as when identifying Safety Threats, it is not sufficient to merely pick a few capacities that appear to be diminished. The identified diminished Protective Capacities, should clearly answer the question, "Why exactly are these particular safety threats occurring within this particular family? Is it because the parent doesn't know what to do (i.e. a diminished cognitive capacity)? Is it because something (or someone?) is preventing them from taking actions they know they should take (i.e., diminished behavioral, or perhaps diminished emotional capacity)? Stated another way, when identifying relevant Protective Capacities, the answer to the following question should be clear: "If we increase this (these) particular Protective Capacity(ies), will that mitigate the identified Safety Threats in a sustainable way?"

c. Protective Capacities must be documented in the following manner:

1. First, state the Diminished Protective Capacity(ies) verbatim (although stated in the negative) from the Protective Capacity Reference: *The parent and child do not have a strong bond, and the parent is unclear that the number one priority is the well-being of the child.*

2. Then, using a series of bulleted statements or a short paragraph, clearly and concisely describe how that particular diminished Protective Capacity is leading to the lack of child safety:

The mother does not feel emotionally connected to her child. She reports she has never felt a responsibility to care for and nurture her child. She reports having raised herself and her siblings from a very young age and sees nothing wrong with choosing to meet her own emotional and social needs at the expense of the care and supervision her child's needs.

Step 3 – Review the precisely identified and documented Safety Threat(s) and diminished Protective Capacity(ies). Restate the opposite of one or more of the Safety Threat(s) as related to the increase in Protective Capacity(ies) to create one or more Expected Outcome(s) as follows:

Expected Outcome: Because the mother will be strongly bonded to the child and will believe the number one priority is the well-being of the child, the child will have a responsible adult in the home routinely performing parenting duties and responsibilities that assure child safety. The child will have appropriate supervision at all times. The condition of the family home will be safe and adequate for the child.

Step 4 – Repeat Step 3, creating as many Expected Outcomes as necessary to clearly and concisely describe the all needed changes in behaviors, circumstances and conditions - - through increasing relevant Protective Capacities - - to mitigate the identified Safety Threats.

For example: If another diminished capacity was related to lack of knowledge of proper nutrition for children (i.e., *The parent does not have adequate knowledge to fulfill caregiving responsibilities and tasks*), the following Expected Outcome could be appropriate:

Expected Outcome: Because the mother will have adequate knowledge of child nutrition for all stages of growth, the child will receive adequate, appropriate, and nutritious food and liquids every day.

A Brief History of Child Safety Intervention

Introduction

Ours is a field where recording and knowing about the history of its evolution has not been a high priority. For instance, what do you know about the history of the development of safety intervention—at least as we know it today? Our guess would be probably not much. Some might say, “Who cares?” But how could you know since it hasn’t been written down and those who know either lived it or have learned about it through word of mouth.

Occasionally we encounter people in the field who ask questions about the current approach to safety intervention, and what is obvious is that they are unfamiliar with important events, people, milestones, and experiences that occurred or evolved during the past twenty years. The history of the development of safety intervention provides an important context for understanding and judging the current state of the art concerned with safety intervention.

Normally our monthly articles are devoted to conceptual and practice-related content. But we decided this month to take a break from the work that goes on in the trenches and lay out a chronology of safety intervention as we experienced it and believe it to be. So for what it’s worth....read on.

The Pre-Design Period

We probably ought to benchmark the beginning of the era leading to the eventual design of a safety intervention approach as the mid 1970’s. It’s important to know that this was when the National Center on Child Abuse and Neglect was formed, and that the federal Child Abuse Prevention and Treatment Act propelled the federal government into a leadership role unprecedented prior to that time. That leadership role resulted in an emphasis on bringing out

minimum standards and characteristics for child welfare programs consistently applied throughout all jurisdictions. For example, it wasn't until this influence that all states eventually created child abuse and neglect reporting laws (all of which turned out to be quite similar). The expectations and energy occurring during this period began to influence an emerging recognition for the need for structure and methods to influence case decision making. The initial area of attention was at intake (i.e., receipt of the referral). States such as Texas and Illinois began developing screening criteria and methods for judging priority response (i.e., how quickly CPS should respond to a report). This work was an early example of what some have referred to as the genesis of "protocolizing" CPS decision making. Certainly it represented the awareness among professionals at that time that CPS decision making was a complex matter that deserved serious thinking governed by standards, structure, and methods.

Another important influence occurred in the late 1970s and continues even to today. It involved studies, research, and articles about the quality of casework decision making. The early work generally concluded that casework decision making in child protective services was suspect—even random in nature associated with all sorts of influences such as worker experience, nature of cases, or who sat on the court. Professionals conducting these studies were on record about the need for improvement and regulation in child protective services decision making.

In the late 1970s and early 1980s, precursors to risk and safety models began to form. Illinois created a risk matrix which identified 10+ case variables (i.e., case situations, behaviors, etc.) and provided descriptions of those variables based on a low to moderate to high concern. The objective of this "tool" used by investigation workers was to determine whether children should be removed. We can conclude that even though this was referred to as a risk matrix it was concerned with child safety. This "model" was an important development for two reasons: (1) it was the first attempt to use a method within a state to enhance and manage CPS worker decision making; and (2) after its introduction into practice

in Illinois, it was borrowed by many states and became a common method for decision making in many jurisdictions.

In the early 1980s, university-based and private consultation organizations were beginning to explore how best to affect CPS decision making. Although the work lacked some conceptual precision in terms of child safety, it represented important activity that steered more attention to the use of child safety as a foundation for decision making. For example, Taylor Institute in Chicago launched a project to evaluate case decision making associated with the decision to remove. Theodore Stein and Tina Rzepnicki produced an assessment model that, while referred to as being risk related, emphasized the question of child removal.

By the end of the 1970s and early 1980s, several authors were writing about child safety but doing so indirectly. A review of the literature during that period will reveal that while articles are about safety decisions they were focused almost entirely on the question of removal. You would be far more likely to find literature based on studies that were exploring and seeking to understand the reasons for child removal or child placement. In particular, what was going on among professionals at that time was the initiation of the process of refining thinking and articulation of concepts that are fundamental to effective safety decision making.

Risk Assessment

Without question, the idea of using the concept of risk of maltreatment and the development of risk assessment provided direction and set the stage for the idea of using the concept of child safety and the development of safety assessment and safety intervention models.

The development of risk assessment models flourished in the mid 1980s and early 1990s. These models were being produced by different originators. For

example, consider this list as representative of the activity occurring in the development of risk assessment:

- ➡ *State Initiated:* Diane English and her colleagues developed a state risk assessment model for Washington State that becomes a touchstone work for many developers who follow her.
- ➡ *County Initiated:* Emily Hutchinson developed the Jefferson County risk scales in Louisville, Kentucky which is an example of creation occurring at the local level which gained some national exposure.
- ➡ *National Organization Initiated:* Wayne Holder and Michael Corey with ACTION for Child Protection developed the Child at Risk Field Decision Making System which subsequently was used in 15 states and became among the more prominent “clinical” or “consensus” models.
- ➡ *University Initiated:* Wynn Tabbert, Peggy Sullivan, and their colleagues at California State University at Fresno developed their approach to risk assessment that was advanced through training all over California for several years.
- ➡ *Other Discipline Initiated:* Chris Baird with the National Council on Crime and Delinquency and the Children’s Research Center brought the experience of the use of actuarial risk assessment from the juvenile justice field to child welfare decision making, and that model continues to be implemented in many jurisdictions across the nation.

These five examples are a reflection of a vast number of models and approaches designed during this period. We identified these sources of

development to show the pronounced interest and breadth of contribution to the question of structuring and regulating child welfare decision making. On through the 1980s, into the 1990s, and to a lesser extent today, states picked up the challenge and began to create their own versions of risk assessment models. These models were either variations of previously developed works or newly created ones, often based on research and evaluation. During the era of risk assessment development, you can find an abundance of round table reports, professional literature, and research studies focused on understanding and improving this concept as a driving influence in child welfare decision making. During the 1990s, every state had some sort of approach to using risk of maltreatment in decision making.

The risk assessment movement was staggering in terms of the attention given to research and development. No other period within modern child welfare services has seen that kind of academic and creative design and evaluation occur. All of the work on risk assessment provided a tremendous foundation for the “discovery” of safety assessment and the refinement of safety intervention.

The Development of the First Safety Assessment Model

In 1985 Michael Corey and Wayne Holder with ACTION for Child Protection were leading a national workshop on their brand of risk assessment being hosted by the Child Welfare Institute in Atlanta, Georgia. During that workshop, Holder pulled Corey aside and observed, “We are talking about risk and safety as if they are the same thing and although they are related, they really aren’t the same thing.” For Corey and Holder and ACTION for Child Protection, this epiphany launched a process of study and deliberation concerned with the concept of child safety and how it drives CPS intervention.

We mention that date and the event because up until that time there had been no clear distinction, if even a recognition apparent in the field (e.g., in literature,

presentations, training, etc.) that risk of maltreatment and threats to a child's safety are distinct and different concepts.

The epiphany that occurred during that workshop resulted in collaboration with Susan Notkin, who through the Edna McConnell Clark Foundation, arranged for a grant to ACTION for Child Protection to develop a safety assessment model.

In 1986 ACTION for Child Protection staff, most notably Wayne Holder, Michael Corey, Diane De Panfilis, and Theresa Costello, developed and began implementing a plan to design and test a safety assessment model. The process included evaluation of 35 state policies for the purpose of identifying policy, procedures, and criteria that could be considered associated with child safety specifically. This study observed that there were little to no definitions, guidance, or regulation apparent in states' policies. Policies did not even use the term child safety. ACTION formed a group of national child welfare experts and asked each of them to provide no more than 10 criteria that were believed to be indicative of a threat to a child's safety. The result was over 90 indicators. Project staff collected and reviewed research concerned with the dynamics and manifestation of child abuse and neglect as a means of furthering the consideration of indicators of threats to child safety. Through this process, a safety assessment model was devised. The model included a philosophical base, a conceptual – theoretical base, the results of the various studies and inputs, and the formation of a safety assessment and safety plan instruments. The original safety assessment instrument employed a list of 20 safety threats refined from the various study sources and contributors.

The model was pilot tested in Anne Arundel County, Maryland for one year. Staff were trained in the approach and provided case consultation routinely by ACTION staff. The test included an evaluation of 76 cases in which children were determined to be unsafe. The pilot test was completed and reported upon by Theresa Costello in 1988. Two of the important findings were: (1) use of the safety

model was successful in reducing the rate of placement of maltreated children identified at CPS intake by 29%; (2) for 100% of the children in which a safety plan was developed, there was no further report of child maltreatment. Among cases referred to court, the Court concurred with the agency's safety plan 100% of the time. The obvious result of the test was that this was conceptually and structurally the right approach to safety intervention (despite some pretty rough edges and its "*T-Model*" sophistication).

The Spread of Safety Assessment and Safety Planning

Following the successful experiment with this model, ACTION made revisions based on findings and began implementing it across the country. Several states experimented with the approach, and some continue to use a version of the original today. Notably New York was among the first states to employ this new safety assessment and safety planning model in conjunction with a larger risk assessment project. Following some pilot work there, Barry Salovitz and his colleagues made revisions to the original safety model and instituted it as the official New York Model. This development is important because versions of the New York model began to "pop up" in various states as the evolution continued. For example, Ed Cotton and his colleagues in Illinois considered Salovitz's work when they created their Child Endangerment Risk Assessment Protocol which is the Illinois safety assessment model. And... this Illinois example is remarkable because the Illinois model clearly became the most influential model during the 1990s as states began to use it as a reference point to create their own approach or simply used it as a template, adopting it with minor tailoring.

In 1997 the National Resource Center on Child Maltreatment conducted a national survey to determine the extent to which safety intervention was an operating concept throughout the country. The results revealed that the field was still at the onset of instituting safety intervention. Most states continued to have insufficient to no policy or procedure to guide workers in safety decision making. Approximately 25% of the states reported having safety assessment models.

In 1999 Tom Morton and Wayne Holder, representing the National Resource Center on Child Maltreatment (NRCCM), wrote *Designing a Comprehensive Approach to Child Safety*. This publication set forth a philosophical framework for safety intervention, provided definitions and explanations of concepts, described perimeters and ingredients to intervention, and suggested steps toward designing models. The publication was widely distributed and was accompanied by regional seminars conducted by Resource Center staff at federal regional offices. This work resulted in stimulation and guidance that sprung loose considerable additional development across the states. By the early 2000's, every state had some form of a safety model or was in the process of creating one.

Prior to 2000 and since then, the greatest amount of active development, revision, and redevelopment has been concerned with the criteria that states use in their safety assessment. This refers to the list of safety threats that are used by a worker to judge the presence of threats to safety within a family. It is reasonable to say that diligent attempts to identify indicators of threats to child safety have really been occurring for twenty years. What can be concluded also is that a high degree of consensus exists as to what the correct indicators of threats to child safety are. A few years ago we analyzed all the safety assessment models that were being implemented by states at that time. We found that among all safety assessment models there were 10 universal safety threats—safety threats common to all models. This continues to be confirmed by our current work with states.

- ✚ Violent caregivers or others in the household
- ✚ Caregiver makes child inaccessible
- ✚ Caregiver lack of self-control
- ✚ Caregiver has distorted or extreme perception of a child
- ✚ Caregiver fails to supervise/protect
- ✚ Hazardous living arrangements/conditions
- ✚ Intention to harm and cause suffering

- ✚ Child provokes maltreatment
- ✚ Fearful child
- ✚ Caregiver is unwilling/unable to meet immediate needs of child

Adoption and Safe Families Act (ASFA)

We believe that the single most important stimulus to the development of safety intervention was/is ASFA. The field originally responded to ASFA with respect to the requirements and emphasis on permanency. Eventually recognition occurred concerning the significant implications ASFA has for safety intervention. What is most important is that ASFA fully established federal interest and leadership concerned with expectations that states develop effective approaches to child safety intervention. Of course, ASFA also resulted in the formation of the federal Children and Family Service Review (CFSR) which emphasizes state compliance with safety outcomes judged by specific safety indicators. Whether planned or not, ASFA also has provided structure to ongoing CPS intervention that was not necessarily clear before ASFA. ASFA requires that case plans include attention to safety concerns. The expectation is that case planning consider how safety threats can be eliminated, reduced, or managed within the family system. This has required states to consider conceptually how that might be done effectively. In many states this has led to the employment of the concept of caregiver protective capacities as the target of intervention within case plans and during ongoing CPS. ASFA also focused on evaluating safety in kin and foster placements, including a time line for when those evaluations are to occur.

ASFA propelled states into action with respect to adoption of safety intervention approaches. Intake and investigation/initial assessment have been the natural places to begin to build safety models. ASFA reinforced that process but also influenced program and model developers to see beyond early intervention as they began to conceptualize their approaches more robustly

across the CPS process. As the evolution continues, we can conclude that we really are still in the ASFA - influenced era.

Where Do Things Stand?

Every year we work with between 30 – 40 states. This provides us with lots of first hand experience about what is happening across the country, and what we are seeing and concluding is that the child welfare field is more active than ever in continuing to improve safety intervention. Here is what we observed as being more prominent these days in terms of safety intervention system development:

- ➡ An emerging school of thought that seeks to create and build a CPS intervention approach more exclusively driven by safety concepts, safety intervention methods and practice, and safety decision making
- ➡ Authoring new policy or revising standing policy to assure that policy directs and supports effective safety intervention
- ➡ Acceptance of the differences between risk of maltreatment and child safety and implications for who an agency seeks to serve and how to conduct intervention
- ➡ Revisiting and refining the use of safety in screening and decision making at intake, in particular with respect to priority response
- ➡ Continued refinement of safety assessment criteria, articulation and clarification of safety threats and the language describing them
- ➡ Enhancing the framework and process related to safety intervention practice, process, and decision-making events

- ➡ Thinking and planning that reflects an understanding of safety intervention as a systematic methodology, identifying how to create and support a safety intervention system
- ➡ Solving how to effectively address safety concerns, threats, issues within the “treatment” case plan
- ➡ Employing caregiver protective capacities as the critical issue for change in CPS ongoing services and treatment
- ➡ Understanding and planning how ongoing CPS staff will perform safety intervention and, in particular, safety management
- ➡ Considering how to infuse safety as the determinant in reunification decisions
- ➡ Enhancing supervisor expertise in safety intervention generally but specifically with respect to safety decisions
- ➡ Addressing and improving the CPS – court interface with respect to the application of safety intervention and safety concepts
- ➡ Considering how to operationalize and support safety intervention practice and decision making in automated systems
- ➡ Promoting fidelity in performance among staff using safety intervention practice and decision-making approaches through improved strategies for training, case consultation, mentoring, and coaching

History Continuing to Be Made

Safety intervention as it exists today has been developing over two decades. The first decade can be thought of as the formative stage that included recognition, introduction, and beginning experimentation. The second decade began with ASFA which has taken us to new levels and understanding as we have seen continued acceptance and improvement. The *T-Model* version of safety intervention has evolved into a much sleeker, better performing vehicle. Here are some of the things that we believe are expressions of increasing understanding and continuing advancement:

- ☑ An operational definition of child safety is conceived within a family context that brings into focus and *emphasizes caregiver protective capacities* as significant, if not more so than the presence of specific threats.
- ☑ Threats within families are manifested in two ways: (1) threats are active and creating *present danger*; and (2) threats are inactive and represent *impending danger*.
- ☑ Safety intervention practices and decisions exist within *a structured and sequential order of events and processes* that require standards and methods uniquely suited to the purpose and outcomes of each of those events and processes.
- ☑ Effective safety assessment and decision making are profoundly associated with the picture of the family that is created from *thorough information collection and analysis*.
- ☑ *Safety threshold criteria* can be applied during safety assessment to analyze and draw conclusions about the existence of threats to safety.

- ☑ A *safety intervention analysis* can provide a structured, analytical approach for arriving at the least intrusive means for keeping a child safe.
- ☑ Increased understanding of the *nature and form of safety planning* and safety plans is occurring in relation to legal implications and standing; in-home safety management compared to foster care; use of kin, non professional and professional providers; purposes and process governing safety plans and management from the beginning to the end of intervention.
- ☑ There is an *elevation of the concept of caregiver protective capacities* in all aspects of safety intervention but particularly concerned with specific objectives for treatment and change.
- ☑ Employment of the concept of *conditions for return* is used as a safety decision making device when children are placed.
- ☑ *Reunification is a safety decision.*
- ☑ *Termination of CPS services* is decided by safety concepts, notably reduction of impending danger and/or enhanced caregiver protective capacities.

Closing

While safety intervention has been evolving, something else has been happening. A secondary and perhaps more important phenomenon is occurring. The concept of safety in many places is resulting in refining, clarifying, and re-directing Child Protective Services in unique ways which reduce the scope and focus of intervention. This refinement is clearly differentiating Child Protective Services from Child Welfare Services in an interesting manner related to some very essential issues such as the rationale for who the service population ought to

be; client civil rights; justification for government intrusion into family life; use of resources and workload management; and essential, acceptable standards for what constitutes success.

Wonder what the next ten years will bring?

Safety and the Legal Process Part 1: The Temporary Custody Hearing

Introduction

Here are three common observations related to CPS safety intervention and court involvement. First of all, virtually all cases that CPS takes to court are done so because of threats to child safety. Secondly, often CPS prepares for and presents a case to the court without effectively expressing the need for court authority based on fundamental safety intervention concepts. And lastly, generally speaking, those who participate in the court process may not fully understand concepts, practices and decision-making that comprise safety intervention. Confusion about the differences between maltreatment, risk of maltreatment and threats to child safety is fairly common among a wide spectrum of professionals associated with the court process. This includes judges, agency/state's attorneys, defense attorneys, GALs and CASA representatives. To confuse matters further, even CPS caseworkers and supervisors are often not well schooled in how to effectively use safety intervention concepts when taking a case to court. This problem exists in spite of the fact that CPS staff are those most likely to have been exposed to the state-of-the-art for the longest time and who, presumably, are using it in their daily work.

The apparent disconnect in the use of safety intervention concepts when invoking court involvement is no minor issue for everyone involved, most notably, the family and the child's caregivers. This month we begin a two-part series concerned with using safety concepts in presenting cases to the court. This article addresses initial CPS intervention, which results in temporary/immediate protective action that requires court involvement. Our concern is how to effectively communicate safety concepts to the court during the temporary custody hearings that justify child removal.

The following case example provides an illustration of how safety concepts and criteria can be used in court and subsequently support CPS practice decision-making. Specifically, we will attempt to demonstrate how safety related information can be provided to the court in order to promote and achieve necessary judicial decisions.

(Note: We recognize that the legal process, legal concepts, rules of evidence, etc., and all the CPS responsibilities related to invoking the legal process is complicated and far too large an undertaking for two articles. So, for this two-part series, we will keep our attention focused on the use of child safety concepts as the basis for information presented in temporary custody and adjudicatory hearings only.)

Maria Delgado

Maria Delgado has an 8-year-old son named Jose. The school reported to CPS that Jose's teacher noticed bruises on his face and on both arms. Jose was not explicit about the bruising but indicated that his mother had grabbed and hit him the previous evening. Jose has appeared at school in the past with unexplained bruises. This is Jose's first year attending this school and the first report to CPS from the school.

CPS interviewed Jose at school following lunch. The interview revealed that Maria, Jose's mother, had exploded over the television being too loud and grabbed Jose by the upper arms and shook him repeatedly, then slapped his face twice. The assault left "gripping" kind of bruises on Jose's upper arms and a distinct handprint bruise on the left side of his face. Jose was extremely fearful about possible repercussions from CPS involvement. His affect was generally apprehensive; he was shy and hesitant in talking about himself, his mother and his situation. He is small for his age and, while not frail, he is physically vulnerable.

Maria was contacted by phone at her place of employment to identify a time when she could meet with CPS. She was evasive and indicated she would call back immediately. Within a few minutes, she returned CPS' call and was outraged. She refused to meet with CPS. She refused to discuss or explain Jose's injuries. She demanded that Jose be allowed to take the school bus home.

CPS transported Jose home with an intention of intercepting Maria when she arrived home from work. Maria continued her hostile response to CPS and was totally uncooperative. After several attempts to engage Maria in a conversation about the current circumstances, CPS advised her that the first and primary responsibility was to assure that Jose was protected until additional time could be spent understanding what was going on in the Delgado family. Maria objected to CPS involvement and refused to participate in planning for an immediate/temporary protective action. She did confirm that there was no one in town (relatives or others) that could assist in providing protective care of Jose.

Jose is in Present Danger

Following the exchange with Maria, CPS determined that Jose was in present danger and must be protected while the initial assessment (investigation) continued. CPS judged that Jose's situation was consistent with the definition of present danger. Present danger is an immediate, significant and clearly observable threat to a child occurring in the present. Using its standard for present danger, CPS identified the following threats of present danger:

- Injuries to the face;
- Child extremely afraid of home situation;
- Caregiver who is out-of-control now; and
- Caregiver cannot/will not explain child's serious injuries.

Present danger must be managed immediately so that the initial assessment (investigation) can proceed. CPS recognized that, given Maria's reaction, a protective action was required. Reasonable efforts determined that Jose had no relatives or others who could provide for his immediate protection (same day as initial contact with the child). During the point of initial contact with the family, reasonable efforts to keep the child in the home or locate a less intrusive placement setting with relatives were unsuccessful because it was determined that the current circumstances and the need to promptly secure Jose's safety were not conducive to the development of a sufficient in-home protective plan and, further, there appeared to be no immediate viable resources (relative, friends, services, etc.) to prevent placement out of the home. This resulted in the necessary decision that CPS would place Jose in an emergency foster home while the initial assessment continued.

The Temporary Custody Hearing: Seeking Immediate Custody

CPS attempted to involve Maria in a discussion and plan to temporarily place Jose, but Maria refused. Maria was fully informed of CPS' intentions regarding the protective action to be taken and informed that follow-up with her would occur within the following day. Jose was placed with an approved agency foster family.

In all states when removing a child in circumstances such as these, CPS files an affidavit or petition that invokes court involvement. The petition results in a hearing. Although this first hearing is given a variety of names among states (e.g., shelter care, detention or temporary custody hearing), it generally serves the same purpose: to determine whether Jose should be temporarily placed outside his home pending the ultimate disposition of the case. When a child is already in emergency out-of-home care like Jose, this hearing is used to decide whether this temporary custody arrangement should be continued. While court hearing timelines vary somewhat among the states, in most instances a temporary custody hearing is convened within 72 hours in order to determine whether CPS

can detain a child in custody or must return a child to his or her caregivers. The emergency order petition must contain the basis for CPS maintaining physical custody of a child.

Presenting Present Danger

Our contention is that the basis for maintaining immediate temporary physical custody should usually, if not always, be related to safety – in this instance present danger.

Following Jose's placement in emergency foster care, CPS prepared a petition based on present danger. The petition contained the following facts:

- The Delgado family moved to this city 4 months ago; no previous history is known about the family.
- Jose has been enrolled in this school for 2 ½ months.
- No previous reports of child maltreatment have been filed on Jose's behalf.
- Mrs. R., Jose's teacher, observed bruises on both arms and his neck one other occasion (date); Jose denied mistreatment.
- Mrs. R., Jose's teacher, observed bruising to Jose's face and his upper arms; she consulted with Miss O, the school nurse, who believed the bruises to be suspicious; the teacher and nurse consulted with Mr. B., the school principal, who reported the concerns to CPS.
- CPS interviewed Jose in the presence of his teacher; the interview lasted for 25 minutes.
- Jose is notably small for an 8-year-old boy; he is slight of build.
- Jose appeared tense, frightened and hyper-vigilant as a child who is extremely upset about what might happen to him.
- Jose had distinct bruises on his upper arms consistent with marks that could be left by roughly squeezing or grabbing; he had a handprint bruise on his left cheek; the face bruise extended under his left eye.

- Jose was reluctant to explain the injuries; he indicated that his mother had grabbed him and slapped him on the evening prior to the report to CPS. *(The petition should contain exactly the words that were used.)*
- Jose indicated that the reason for being slapped was he had not turned the volume of the television down promptly when Maria had told him to do so. *(The petition should contain exactly the words that were used.)*
- Maria was contacted by phone in order to proceed with the initial assessment; she was first evasive, then openly hostile and overtly resistant to CPS involvement.
- CPS arrived at the Delgado home to confer with Maria at the end of her workday. She remained hostile and totally uncooperative; she would not explain Jose's injuries; she refused to continue discussions with CPS; she demanded that CPS leave with Jose remaining with her. *(The petition should contain exactly the words that were used.)*
- Maria refused to participate in a discussion or plan to assure Jose's immediate/temporary protection, which would allow the initial assessment to continue.
- These facts are consistent with child abuse as defined in the statute and as now understood represent an immediate threat of serious harm to Jose.
- Jose is in present danger as evidenced by:
 - Injuries to Jose's face, which is viewed by CPS as evidence of caregiving behavior that is impulsive and reactionary.
 - Jose is extremely afraid of the home situation which, a reasonable person would conclude, that Jose believes the home environment to be unsafe.
 - Maria appears to be emotionally, socially and behaviorally out-of-control as evidenced by the physical assault as reported by Jose, by her emotional reaction when contacted by CPS and by her refusal to meet with CPS.
 - Maria refuses to offer any explanation for Jose's injuries or circumstances that led to them.

- The circumstances are such that CPS cannot proceed with the initial assessment unless Jose's safety is secured. By taking immediate/temporary protective action, CPS can proceed with information collection and analysis to ascertain a fuller understanding about what is occurring within the Delgado family and to establish whether Jose is subject to impending danger.

CPS petitioned the court for physical custody of Jose pending completion of the initial assessment (investigation) in order to determine what is occurring in the Delgado family; to fully assess Jose's safety; and, if Jose is not safe, to decide how best to assure Jose's safety.

Reasonable Efforts

Federal law requires that the judge determine that reasonable efforts have been made to keep Jose in his home. The fact that CPS can be convincing about the existence of present danger and the need for protection of Jose while the initial assessment continues does not obviate this requirement of demonstrating what was done to explore options other than out-of-home placement. CPS reasonable efforts justification can be predicated on three positions:

- A description of the specific effort, action, attempts to engage Maria in a discussion about current circumstances and the need for Jose's protection;
- A description of Maria's hostile resistance; and
- A description of exploration of resources known to the family who could provide immediate/temporary protection.

The reasonable efforts conclusion is that CPS made reasonable attempts to involve Maria. Maria was totally uncooperative. Maria would not allow outside

(service) resources to be involved. No family relatives or associates reside in the county.

The Judicial Determination

The temporary custody hearing results in a judicial determination that a child is in danger and that reasonable efforts have occurred but were not successful in protecting a child in his own home. The judge may make a temporary protective or removal order. When an emergency custody has already been initiated, as in Jose's situation, the court will either ratify the child's removal or return him home.

We believe that the use of safety concepts, in particular present danger, provides a convincing CPS position that effectively empowers the court to make the necessary judicial determination. In the Delgado case, the judge can clearly see the need for immediate/temporary protection and can understand it to be required in order to enable the initial assessment to continue. This judicial determination should be viewed and accepted by all parties to the case as *temporary* and subject to prompt re-examination once more information can be evaluated and brought to the court's attention.

We mentioned that in most states the temporary custody hearing occurs within 72 hours – 3 days. In the Delgado case, Jose was removed on day 1 and a petition was filed requiring the temporary custody hearing. CPS should feel compelled to meet with Maria as promptly as possible – by day 2. It is likely that she would remain inaccessible in terms of participation but alternatively she could provide additional information that could be provided to the court at the hearing on day 3. That additional information could clarify the nature of the present danger and could have an effect on the judicial determination such as Jose's early return home. Of course, we think that in the Delgado case that would be unlikely. However, what about other cases where *temporary* really was

realized because of prompt CPS follow-up? But that's a subject for another article.

Next Month

In February, 2005, we continue with the second part of the series "Safety and the Legal Process." In that feature, we will focus on the use of safety concepts during the adjudicatory hearing.

Safety and the Legal Process Part 2: The Adjudicatory Hearing

Introduction

Last month, January 2005, we began this two-part series concerned with using safety concepts to present and support CPS positions and decisions during legal proceedings. In the first article, we addressed the temporary custody hearing and focused on present danger. In this article, we move forward in the judicial process to consider the implications for using safety concepts during adjudicatory hearings. Here the focus for safety decision-making shifts from present danger, which is the primary safety standard used when “arguing for” emergency temporary custody, to the safety standard of impending danger.

We continue using the Delgado case example as we proceed to this discussion regarding the adjudicatory hearing. You are encouraged to return to the January article to acquaint yourself with how the Delgado family came to be known to CPS and what the initial intervention involved.

(Note: Last month we emphasized that our attempt in this series is in no way to fully explore all the complexities of CPS involvement in the legal process or to review legal concepts and practices. We mention it again here to show our full appreciation and respect for that area of work with families and to the court process.)

Jose is in Impending Danger

A brief excerpt of a video interview with Maria is available in our September 2003 safety article. Take a look.

This article picks up following the temporary custody hearing. The judge ratified CPS protective action involving removal of Jose to an approved foster home.

CPS promptly proceeded to engage and involve Maria in the initial assessment information gathering. After several attempts by CPS, Maria agreed to meet with CPS. She was openly hostile and aggressive with CPS. She threatened CPS in various ways and demanded CPS get out of her life. Within a week of the school's report to CPS, the initial assessment was completed. It included three interviews with Maria; one interview with Jose; one visit with Jose at the foster home; an observed visitation between Maria and Jose that was disrupted by Maria; an interview with Jose's school teacher; an interview with the school counselor and a phone interview with Maria's sister in a neighboring state. Maria refused to identify others who could provide information about her circumstances.

A brief and general summary of the information gathered during the initial assessment and the safety assessment findings is as follows.

Initial Assessment

What was the extent of maltreatment?

Physical abuse was confirmed. Jose's bruises resulted from being physically assaulted by Maria. The bruising on the arms and the face were a direct result of Maria grabbing Jose by the upper arms, shaking him, and slapping his face twice. Jose reported that the slap was so hard that it knocked him to the floor.

What are the circumstances that surround the maltreatment?

Maria admitted that she slapped Jose because he would not mind her and turn down the television. Maria sees Jose as disobedient, defiant and behaving in ways to torment her. She blames Jose for her life being difficult. She is provoked by Jose's physical resemblance and mannerisms to her ex-husband whom she says she

hates. While Maria denies that she has been abusive to Jose in the past, however, her perception and attitude toward him are such that it is believable that this current incident exists within a pattern. Jose and Maria's sister describe that this current abusive act happens often, even though most times without physical injury.

How does Jose function on a daily basis?

Jose is a shy, quiet, likeable, intelligent boy. He is small for his age and physically slight. He is fearful of his mother but does not appear frightened of other adults. He is troubled about being separated from his mother whom he loves but remains afraid of what she will do when he returns home. He feels responsible for what has happened. He does well in school and enjoys peer interaction. His adjustment in the foster home has been reasonable although he reportedly has periods of worry and withdrawal apparently related to his ambiguous feelings about being away from his mother and home. He cannot protect himself and is reluctant to seek help or assistance from adults in his life. He appears to have been socialized to being accepting of Maria's fits of anger and aggression.

How does Maria function on a daily basis?

Maria is an intelligent, strong-willed woman who has a history of employment and self-sufficiency. She has been a good provider for herself and Jose since her ex-husband deserted her when Jose was born. She is physically healthy and robust. Her anger and volatility are general and pervasive with respect to all aspects of her life. Her relationships with family members who live in another state are conflicted; she has no current friendships; she does not associate with neighbors and does not belong to any social groups. She has deep and bitter feelings about her failed marriage. She blames others for her difficulties. She feels misunderstood. Maria denies the seriousness of what is happening with regard to CPS involvement. She is highly impulsive, often breaking out in a hostile tirade over something appearing to be minor. Anger, aggression and hostile communication are her immediate problem-solving responses. She is socially

isolated and mistrusts others. She does not use substances and has no history of diagnosed mental disorders.

What are Maria's general parenting practices?

Maria blames Jose for her life circumstances in general and for daily challenges and stresses. Her negative attitude toward Jose is constant and pervasive. She describes feelings of wanting to hit him. She mentions wanting to be away from him. She does not individualize Jose and has extreme difficulty separating out her perception and feelings about Jose from her anger and resentment toward her ex-husband. Maria is dissatisfied as a parent. While she is intelligent enough to understand Jose's needs and capabilities and is able to perform necessary parenting skills, her current state of mind prevents her from doing so. Her parenting behavior is predominantly negative, abrasive and threatening. She does not demonstrate affection for Jose nor does she feel empathy toward him. She is forthright about wanting Jose returned to her saying that she is far better able to care for him than the state and explaining that he remains her responsibility. Her motivation for having Jose with her is not entirely clear.

What are Maria's disciplinary practices?

Discipline and socialization are not an objective in Maria's parenting behavior. Her physical reactions toward Jose are not for the purpose of teaching or managing Jose's behavior. The reactions are examples of Maria's explosive personality and her inability to respond to Jose in a controlled, purposeful manner. Maria does not view hitting Jose as directed at teaching him anything. Hitting is for hurting and occurs strictly as an unplanned, impulsive, emotional response. Maria expresses frustration regarding how to discipline Jose and, yet, she justifies the use of excessive physical disciplinary responses.

The Safety Assessment

Based on the information collected during the initial assessment interviews, CPS concluded from its safety assessment criteria that the following impending danger threats to Jose's safety were evident.

- There is no responsible adult in the home to provide Jose protection.
- Maria acts violently.
- Maria does not control her behavior toward Jose.
- Maria has an extremely negative perception of Jose that provokes her aggression toward him.
- Maria is not motivated to behave differently toward Jose.
- Jose is fearful of Maria.
- Jose is seen by Maria as responsible for her difficulties.
- Maria exhibits no remorse or guilt over what has transpired with Jose.

The Adjudicatory Hearing: Seeking Continuing Custody

The primary purpose of the adjudicatory hearing is to determine whether CPS (the state) has shown reasonable grounds for obtaining jurisdiction over Jose based on standards established in state law. CPS' purpose is to establish legal authority to continue to protect Jose out of the home while remedial intervention continues. The CPS initial assessment and safety assessment concluded that Jose is an "abused" child according to state statutory definition and is at threat of serious harm. The most significant testimony that can be offered at the adjudicatory hearing is evidence that establishes that Jose is unsafe. To be effective, CPS must transmit information about Jose's safety into legally acceptable evidence. The challenge is to present evidence in such a manner to convince a judge who is the sole decision maker. Depending on the state, either a preponderance of evidence or clear and convincing evidence must exist in order to meet the burden of proof that Jose is an abused child and is at threat of serious harm – unsafe. CPS must be

concerned with both the amount of evidence (e.g., preponderance) and the quality of evidence (e.g., credibility and persuasiveness) that support the presence of threats of serious harm to Jose.

Based on the initial assessment and corresponding safety assessment, CPS concluded that Jose is unsafe – is at threat of serious harm. Reasonable efforts concluded that Jose cannot be protected through the provision of in-home safety services. Through consultation with the agency attorney, CPS determined that it was necessary to seek an adjudication of child abuse and physical and legal custody of Jose in order to assure Jose's protection and to begin a remedial program with Maria. CPS was prepared to give testimony that would provide evidence for its conclusions.

CPS must testify to a number of things such as the nature of the report, the process for gathering information, who was involved in providing information, relevant documentation and reports and so on. Establishing that Jose is an abused child consistent with state statutory definitions can be based on testimony from Jose and school personnel as related to the nature of the bruises and Jose's statements. Maria's sister can provide an affidavit that places Maria's abusive act within a pattern of similar behavior which also can be verified by Jose. CPS can provide statements concerning observed injuries along with photos and a physician's statement.

In this article, our primary objective is to consider how CPS can effectively present information to the court that clearly supports the decision that Jose is unsafe and the family is in need of continued CPS involvement. To achieve this objective, CPS must be able to explain during testimony its approach to safety assessment. Workers can enhance their credibility with the court with respect to safety decision-making by carefully articulating the following four standardized steps to safety assessment:

1. Sufficient information gathering related to specific areas of study that is fundamental to assessing safety:
 - *Extent of maltreatment;*
 - *Surrounding circumstances associated with maltreatment;*
 - *Child functioning;*
 - *Adult/caregiver functioning;*
 - *General parenting practices; and*
 - *Disciplinary approaches.*

2. Information related to family conditions is analyzed and differentiated in terms of significance for decision-making and implications for CPS intervention by utilizing standardized safety criteria:
 - *Vulnerable Child;*
 - *Family conditions are deemed out-of-control;*
 - *Negative family conditions pose an imminent threat;*
 - *Implications for severe harm to a child; and*
 - *Negative conditions that pose an immediate threat of severe consequences to a child can be specifically described and justified.*

3. Negative family conditions that are consistent with the five safety criteria are applied against a list of standardized safety factors that are characteristic of the state-of-the-art of safety assessment models in use nationally.

4. Case information safety decision-making criteria and the applicability of safety factors are considered, discussed and analyzed in the context of supervisor consultation.

Based on the results of these safety assessment steps, during testimony, CPS can identify the eight safety factors that were concluded to exist during the safety assessment and therefore must be prepared to provide evidence that supports CPS safety assessment conclusions along with the sources of credibility.

The justification for the eight safety factors in the Delgado case is as follows.

- *Maria acts violently.*

Maria's behavior toward Jose has been described by Jose and Maria's sister as physically aggressive. Jose can testify to this. Maria's sister (from another state) can provide an affidavit verifying this conclusion. From each source, violent acts and physical aggression and assaults can be reduced to time, place, events and circumstances. CPS can testify that Maria admits to the incident of grabbing and slapping Jose and admits to having feelings of wanting to hit Jose.

- *Maria does not control her behavior toward Jose.*

CPS can testify as an eyewitness to the fact that Maria behaves impulsively by providing details about her behavior and communication during the initial assessment. Jose and Maria recount the same scenario for how the abuse occurred which provides statements from both about her impulsive, out-of-control reaction to Jose for a minor matter concerned with the television volume. Maria has informed CPS that she does not intend to behave differently toward Jose which is yet another expression of being out-of-control. Furthermore, CPS can testify to the fact that there are no other people within the home or associated with the family that can serve to manage or control Maria's outbursts and aggression toward Jose.

- *Maria has an extremely negative perception of Jose that provokes her aggression toward him.*

CPS can testify that Maria has been absolutely clear about her extremely negative view of Jose. By recounting interview results using Maria's words, CPS can elaborate on how Maria sees Jose as like her ex-husband whom she hates. That elaboration can establish how Maria's distorted perception serves to justify her aggression toward him and emphasizes her total intolerance for Jose. CPS can state that this safety factor is the predominant threat of serious harm to Jose in that Jose's very existence serves to provoke either physical attacks by Maria or total avoidance.

- *Maria is not motivated to behave differently toward Jose.*

CPS can testify that Maria has admitted that she often wants to hit Jose or not be around him and that she both demonstrates and says she will not and cannot feel differently. CPS testimony can state, according to Maria's words, that Maria blames Jose for all her difficulties including the CPS intervention, and that Jose is the person who will have to change.

- *Jose is fearful of Maria.*

CPS can testify in descriptive terms to having observed Jose's fear and can state what Jose said about being afraid of Maria. Jose represents an eyewitness to his own fear and may be able to describe the breadth, depth and influence of that fear. School personnel can provide collateral testimony regarding Jose's fear based on having observed Jose's fear at the time of the CPS report and generally as related to his functioning at school and subsequent to CPS intervention. The foster parents can testify to Jose's anxiety and apprehension related to visitation and generally. Maria's sister

can state in her affidavit examples of Jose being afraid in the past.

- *Jose is seen by Maria as responsible for her difficulties.*

CPS can testify that Maria stated that she blamed Jose for difficulties in her life and that she holds him responsible for CPS intervention. Maria told CPS that Jose creates stress and problems for her daily. CPS can explain that Maria's perception results in Maria feeling justified in being physically aggressive toward Jose which she admitted during the initial assessment.

- *Maria exhibits no remorse or guilt over what has transpired with Jose.*

CPS can testify that throughout the initial assessment Maria did not accept any responsibility for the physical abuse, showed no empathy toward Jose or his experience and demonstrated no remorse for Jose or guilt for what she admitted she did. Furthermore, CPS can state that Maria's lack of remorse is evident in her statements that Jose gets what he deserves and that her intention is to continue to behave toward him in similar ways.

- *There is no responsible adult in the home to provide Jose protection.*

CPS can testify that its initial assessment has established that there are no other adults in the home besides Maria and that there are no adults associated with the family that can act in a responsible way to assure that Jose is protected.

CPS is likely to be challenged as to why the court should accept the identification of these safety factors as being legitimate threats of serious harm. CPS must be ready to respond to such a challenge. The attorney representing CPS can provide direction as to how best to respond to such a challenge. Certainly, establishing the credibility of the safety assessment

model employed by the agency is important as mentioned earlier. But it may be necessary in certain case situations to be prepared to speak to how each safety factor represents a threat of serious harm. This may be particularly true for case situations where CPS has identified impending danger and determined that a child is unsafe, but a child has not received a serious injury as a result of maltreatment. For case situations where it is determined that a child is unsafe in spite of not having a serious injury, it is critical that workers have a clear understanding of the concept of safety. This includes the ability to speak to the difference between maltreatment and safety and risk of maltreatment and safety. Further, these three standards may help in forming a response: 1) Reasonableness, 2) Safety Threshold, 3) Expert Opinion.

Reasonableness

A standard that is common to courts is what a reasonable person would believe or do. Reasonable as described here refers to what one would accept as a logical and prudent judgment based upon clear justification and rationale. The question, simply stated, is, "Would an ordinary, reasonable person believe that a particular safety factor as clearly and specifically described represent a threat to a child's safety?" In the Delgado case, for example, is it reasonable, sensible, rational and logical to conclude that Maria's distorted perception of Jose could provoke Maria to seriously harm Jose?

Safety Threshold

Family behavior and circumstances become a threat to a child's safety when they pass over the safety threshold. Therefore, safety factors within the CPS safety assessment model and those described for the court in the Delgado case are family behavior and circumstances that have passed over the safety threshold. The safety threshold is based on the safety criteria mentioned earlier.

Behaviors, emotions, perceptions, intent, motives, attitudes and/or situations are determined to be out-of-control, and nothing within the family can manage or control the safety factor.

The safety threat is likely to result in severe effects for a child because of the out-of-control nature of the threat coupled with the vulnerability of the child.

The safety factor is imminent; with a degree of certainty there is a professional judgment that the threat is likely to become active within the near future. Again this judgment is predicated and supported by a worker's ability to clearly describe family conditions that are out of a caregiver's control.

We'll use the same case example to illustrate application of the safety threshold:

Maria's perception of Jose as an adult man who Maria hates can be judged to be distorted and out-of-control. That perception arguably provokes Maria as well as justifies her aggression toward Jose, and it is the physical assaults (including to the head) that could result in severe effects. Maria's distorted perception of Jose is vocalized by Maria in vivid and demonstrative ways which validate its existence and continuance. It is currently active and stimulates Maria's reactions toward Jose. Jose is vulnerable. He has come to expect and accept Maria's behavior, so he does not seek to protect himself. His very presence provokes Maria. He is physically defenseless.

Expert Opinion

In many places, CPS caseworkers are considered experts and can be qualified as such. These days it certainly makes sense that CPS staff should be considered experts in safety intervention. We say this because CPS is supposedly the bastion of safety intervention state-of-the-art within communities where children are unsafe

as we are considering that concept here. It is our contention that it is reasonable that one way that CPS can justify that safety factors are valid is expert opinion. The value and qualification of expert opinion can be based on four factors:

- Whether the subject matter of testimony (i.e., safety factors) is outside the average judge's knowledge or experience;
- Whether the state-of-the-art (of safety assessment) permits an expert opinion;
- Whether the CPS caseworker qualifies as an expert on the subject matter (i.e., safety assessment); and
- Whether the basis of the expert's opinion is reasonably reliable.

While it is true that most any average citizen believes that he or she knows when a child is unsafe, average citizens do not base their judgment on conceptualized, formulated models of evaluation and intervention. Judges make decisions every day about child safety and likely would be offended if their knowledge and experience were brought into question. However, we know from having worked with nationally recognized family court judges that, when faced with what they know about specific concepts and processes related to safety assessment, they admit that their knowledge and experience is not fully developed.

The state-of-the-art in safety assessment and safety intervention has evolved during the past 15 years such that one can be expert in it. Forty-five states now have a safety intervention model and each is notably similar. However, despite the development of the state-of-the-art in this area, it cannot be concluded that every CPS caseworker and supervisor is an expert. Such expertise must be developed based on extensive training, supervision and experience. Such expertise must be directly related to one's particular state or agency safety assessment/intervention

model.

A caseworker representing CPS in court concerning witnessing to the presence of impending danger to a child's safety should be an expert in his or her agency's approach to safety assessment. Therefore, he or she should be able to be qualified as an expert by the agency attorney. What are the implications if a person who has conducted the safety assessment and represents CPS' position in court cannot be qualified as an expert in safety assessment and intervention?

The reliability of a CPS expert's position concerning safety factors can be established by reference to the consistency of the expert's position with the state-of-the-art and other experts, even nationally recognized experts. That a CPS caseworker's position is reliable and reasonable can be the direct result of the quality of his or her testimony as well.

Final Comments

It has been a worrisome task writing this series on safety and the legal process. The use of legal intervention by CPS is complicated and, in preparing this article, we have contended with not oversimplifying the subject matter as if our focus on presenting safety concepts and how they contribute to the rationale for the safety assessment is the whole of the matter for CPS to build credibility in the judicial process. On the other hand, we do not apologize for our expression of how critical effective communication of safety concepts to the court is with respect to the mission of CPS for protecting children. In our attempt to give this attention to communicating safety assessment findings to the court as the basis for seeking physical and legal custody of children who are not safe, we recognize that we have not given equal attention to other challenges to safety intervention when working with the courts such as safety intervention analysis criteria, reasonable efforts and conditions for return. You will have to look for those safety intervention practices in previous or future monthly articles.

PROTECTIVE CAPACITY REFERENCE

Enhancing Protective Capacities in the Case Plan: What Behavior Must Change

Protective Capacity

"Protective capacity" means behavioral, cognitive, and emotional characteristics that can specifically and directly be associated with a person's ability to care for and keep a child safe.

Criteria for Determining Protective Capacities

- The characteristic prepares the person to be protective.
- The characteristic enables or empowers the person to be protective.
- The characteristic is necessary or fundamental to being protective.
- The characteristic must exist prior to being protective.
- The characteristic can be related to acting or being able to act on behalf of a child.

Behavioral Protective Capacities

<p><u>The parent has a history of protecting.</u></p>	<p>This refers to a person with many experiences and events in which he or she has demonstrated clear and reportable evidence of having been protective. Examples might include:</p> <ul style="list-style-type: none"> • People who've raised children (now older) with no evidence of maltreatment or exposure to danger. • People who've protected his or her children in demonstrative ways by separating them from danger, seeking assistance from others, or similar clear evidence. • Parents and other reliable people who can describe various events and experiences where protectiveness was evident.
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<p><u>The parent takes action.</u></p>	<p>This refers to a person who is action-oriented as a human being, not just a caregiver.</p> <ul style="list-style-type: none"> • People who perform when necessary. • People who proceed with a course of action. • People who take necessary steps. • People who are expedient and timely in doing things. • People who discharge their duties.
<p><u>The parent demonstrates impulse control.</u></p>	<p>This refers to a person who is deliberate and careful; who acts in managed and self-controlled ways.</p> <ul style="list-style-type: none"> • People who do not act on their urges or desires. • People that do not behave as a result of outside stimulation. • People who avoid whimsical responses. • People who think before they act. • People who are playful.
<p><u>The parent is physically able.</u></p>	<p>This refers to people who are sufficiently healthy, mobile and strong.</p> <ul style="list-style-type: none"> • People who can chase down children. • People who can lift children. • People who are able to restrain children. • People with physical abilities to effectively deal with dangers like fires or physical threats.
<p><u>The parent has/demonstrates adequate skill to fulfill care giving responsibilities.</u></p>	<p>This refers to the possession and use of skills that are related to being protective.</p> <ul style="list-style-type: none"> • People who can feed, care for, supervise children according to their basic needs. • People who can handle, manage, oversee as related to protectiveness. • People who can cook, clean, maintain, guide, shelter as related to protectiveness.

<p><u>The parent possesses adequate energy.</u></p>	<p>This refers to the personal sustenance necessary to be ready and on the job of being protective.</p> <ul style="list-style-type: none"> • People who are alert and focused. • People who can move, are on the move, ready to move, will move in a timely way. • People who are motivated and have the capacity to work and be active. • People express force and power in their action and activity. • People who are not lazy or lethargic. • People who are rested or able to overcome being tired.
<p><u>The parent sets aside her/his needs in favor of a child.</u></p>	<p>This refers to people who can delay gratifying their own needs, who accept their children’s needs as a priority over their own.</p> <ul style="list-style-type: none"> • People who do for themselves after they’ve done for their children. • People who sacrifice for their children. • People who can wait to be satisfied. • People who seek ways to satisfy their children’s needs as the priority.
<p><u>The parent is adaptive as a caregiver.</u></p>	<p>This refers to people who adjust and make the best of whatever caregiving situation occurs.</p> <ul style="list-style-type: none"> • People who are flexible and adjustable. • People who accept things and can move with them. • People who are creative about caregiving. • People who come up with solutions and ways of behaving that may be new, needed and unfamiliar but more fitting.
<p><u>The parent is assertive as a caregiver.</u></p>	<p>This refers to being positive and persistent.</p> <ul style="list-style-type: none"> • People who are firm and convicted. • People who are self-confident and self-assured. • People who are secure with themselves and their ways. • People who are poised and certain of themselves. • People who are forceful and forward.

<p><u>The parent uses resources necessary to meet the child's basic needs.</u></p>	<p>This refers to knowing what is needed, getting it and using it to keep a child safe.</p> <ul style="list-style-type: none"> • People who get people to help them and their children. • People who use community public and private organizations. • People who will call on police or access the courts to help them. • People who use basic services such as food and shelter.
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<p><u>The parent supports the child.</u></p>	<p>This refers to actual, observable sustaining, encouraging and maintaining a child's psychological, physical and social well-being.</p> <ul style="list-style-type: none"> • People who spend considerable time with a child filled with positive regard. • People who take action to assure that children are encouraged and reassured. • People who take an obvious stand on behalf of a child.
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Cognitive Protective Capacities

<p><u>The parent plans and articulates a plan to protect the child.</u></p>	<p>This refers to the thinking ability that is evidenced in a reasonable, well-thought-out plan.</p> <ul style="list-style-type: none"> • People who are realistic in their idea and arrangements about what is needed to protect a child. • People whose thinking and estimates of what dangers exist and what arrangement or actions are necessary to safeguard a child. • People who are aware and show a conscious focused process for thinking that results in an acceptable plan. • People whose awareness of the plan is best illustrated by their ability to explain it and reason out why it is sufficient.
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<p><u>The parent is aligned with the child.</u></p>	<p>This refers to a mental state or an identity with a child.</p> <ul style="list-style-type: none"> • People who strongly think of themselves as closely related to or associated with a child. • People who think that they are highly connected to a child and therefore responsible for a child’s well-being and safety. • People who consider their relationship with a child as the highest priority.
<p><u>The parent has adequate knowledge to fulfill care giving responsibilities and tasks.</u></p>	<p>This refers to information and personal knowledge that is specific to care giving that is associated with protection.</p> <ul style="list-style-type: none"> • People who know enough about child development to keep kids safe. • People who have information related to what is needed to keep a child safe. • People who know how to provide basic care which assures that children are safe.
<p><u>The parent is reality oriented; perceives reality accurately.</u></p>	<p>This refers to mental awareness and accuracy about one’s surroundings, correct perceptions of what is happening, and the viability and appropriateness of responses to what is real and factual.</p> <ul style="list-style-type: none"> • People who describe life circumstances accurately. • People who recognize threatening situations and people. • People who do not deny reality or operate in unrealistic ways. • People who are alert to danger within persons and the environment. • People who are able to distinguish threats to child safety.

<p><u>The parent has accurate perceptions of the child.</u></p>	<p>This refers to seeing and understanding a child’s capabilities, needs and limitations correctly.</p> <ul style="list-style-type: none"> • People who know what children of certain age or with particular characteristics are capable of. • People who respect uniqueness in others. • People who see a child exactly as the child is and as others see the child. • People who recognize the child’s needs, strengths and limitations. People who can explain what a child requires, generally, for protection and why. • People who see and value the capabilities of a child and are sensitive to difficulties a child experiences. • People who appreciate uniqueness and difference. • People who are accepting and understanding.
<p><u>The parent understands his/her protective role.</u></p>	<p>This refers to awareness...knowing there are certain solely owned responsibilities and obligations that are specific to protecting a child.</p> <ul style="list-style-type: none"> • People who possess an internal sense and appreciation for their protective role. • People who can explain what the “protective role” means and involves and why it is so important. • People who recognize the accountability and stakes associated with the role. • People who value and believe it is his/her primary responsibility to protect the child.
<p><u>The parent is self-aware as a caregiver.</u></p>	<p>This refers to sensitivity to one’s thinking and actions and their effects on others – on a child.</p> <ul style="list-style-type: none"> • People who understand the cause – effect relationship between their own actions and results for their children • People who are open to who they are, to what they do, and to the effects of what they do. • People who think about themselves and judge the quality of their thoughts, emotions and behavior. • People who see that the part of them that is a caregiver is unique and requires different things from them.

Emotional Protective Capacities

<p><u>The parent is able to meet own emotional needs.</u></p>	<p>This refers to satisfying how one feels in reasonable, appropriate ways that are not dependent on or take advantage of others, in particular, children.</p> <ul style="list-style-type: none"> • People who use personal and social means for feeling well and happy that are acceptable, sensible and practical. • People who employ mature, adult-like ways of satisfying their feelings and emotional needs. • People who understand and accept that their feelings and gratification of those feelings are separate from their child.
<p><u>The parent is emotionally able to intervene to protect the child.</u></p>	<p>This refers to mental health, emotional energy and emotional stability.</p> <ul style="list-style-type: none"> • People who are doing well enough emotionally that their needs and feelings don't immobilize them or reduce their ability to act promptly and appropriately. • People who are not consumed with their own feelings and anxieties. • People who are mentally alert, in touch with reality. • People who are motivated as a caregiver and with respect to protectiveness.
<p><u>The parent is resilient as a caregiver.</u></p>	<p>This refers to responsiveness and being able and ready to act promptly.</p> <ul style="list-style-type: none"> • People who recover quickly from set backs or being upset. • People who spring into action. • People who can withstand. • People who are effective at coping as a caregiver.
<p><u>The parent is tolerant as a caregiver.</u></p>	<p>This refers to acceptance, allowing and understanding, and respect.</p> <ul style="list-style-type: none"> • People who can let things pass. • People who have a big picture attitude, who don't over react to mistakes and accidents. • People who value how others feel and what they think.

<p><u>The parent displays concern for the child and the child’s experience and is intent on emotionally protecting the child.</u></p>	<p>This refers to a sensitivity to understand and feel some sense of responsibility for a child and what the child is going through in such a manner to compel one to comfort and reassure.</p> <ul style="list-style-type: none"> • People who show compassion through sheltering and soothing a child. • People who calm, pacify and appease a child. • People who physically take action or provide physical responses that reassure a child, that generate security.
<p><u>The parent and child have a strong bond, and the parent is clear that the number one priority is the well-being of the child.</u></p>	<p>This refers to a strong attachment that places a child’s interest above all else.</p> <ul style="list-style-type: none"> • People who act on behalf of a child because of the closeness and identity the person feels for the child. • People who order their lives according to what is best for their children because of the special connection and attachment that exists between them. • People whose closeness with a child exceeds other relationships. • People who are properly attached to a child.
<p><u>The parent expresses love, empathy and sensitivity toward the child; experiences specific empathy with the child’s perspective and feelings.</u></p>	<p>This refers to active affection, compassion, warmth and sympathy.</p> <ul style="list-style-type: none"> • People who fully relate to, can explain, and feel what a child feels, thinks and goes through. • People who relate to a child with expressed positive regard and feeling and physical touching. • People who are understanding of children and their life situation.

Case Transfer Information Sufficiency Checklist

Determine the sufficiency of information in the Initial assessment, Safety Assessment, Analysis and Plan, and supporting documentation.

- Does the documentation within the initial assessment sufficiently answer the 6 assessment questions?**
 - *Are there “gaps” in information?*
 - *Is there need for further clarification regarding documented information?*
 - *Are family and child functioning sufficiently understood?*
- Do you understand how safety threats are occurring in the family?**
 - *Does documentation in the initial assessment support the identification of safety threats?*
 - *Is it obvious how threats to child are operating in the family?*
 - *Are safety threats justified, clearly and precisely described in the safety assessment?*
 - *Is further information needed to understand the safety assessment decision?*
- Can the family adequately manage and control for the child’s safety without direct assistance from Child Welfare?**
 - *Does documentation support the decision that the family can sufficiently manage safety on its own?*
 - *Is there an adequate basis for determining that a non-maltreating parent has the capacity and willingness to protect?*
 - *Is further clarification indicated?*
- Can an in-home safety plan sufficiently manage safety threats?**
 - *Does the safety analysis documentation clearly support the decision to use an in-home safety plan?*
 - *Do identified safety actions match up with how safety threats are manifested?*
 - *Does the in-home safety plan provide a sufficient level of effort?*
 - *Is it clear who is responsible for providing what safety action?*
 - *Are there gaps in information that require immediate follow-up?*
 - *Is there a need for further clarification and supervisory consultation?*
- Does out-of-home placement appear to continue to be necessary?**
 - *Does the safety analysis documentation obviously support the decision to place out of the home?*
 - *Is there a need for further clarification regarding the decision to place?*
- Identification of Caregiver Protective Capacities**
 - *Does documentation identify specific strengths associated with the parents’ role?*
 - *Is there need for clarification regarding parental protective capacities?*
 - *Consider what possibilities may exist for discussing and using parental protective capacities during the PCA process.*

Planning for Conducting the PCA and Implications for Immediate Response

- If it is unclear how safety threats are manifested, seek supervisor consultation and clarification from the CPS worker.*
- If the safety response is unclear or not supported in the documentation, seek supervisor consultation and follow up with the CPS worker.*
- Consider whether there is a need to immediately contact safety service providers (in-home safety plan) prior to the PCA Introduction with the parents. Make immediate adjustments to safety plans as indicated.*
- Always consider if there is a need for immediate adjustments to safety plans prior to initiating the PCA Introduction with parents.*

- *If there are significant gaps in information related to safety threats and/or safety analysis and plans, attempts should be made to promptly make face-to-face contact with parents and children to verify that child safety is being sufficiently managed.*
- *If safety threats are not well understood and cannot be clarified by the CPS worker, seek to reconcile what information is unknown by the conclusion of the Introduction meeting(s), and make adjustments to the safety plan as indicated.*
- *Consider how the parents' reaction to Child Welfare might influence how you introduce yourself and the PCA.*
- *Prior to the Introduction meeting(s) with parents, make sure that you are clear about what you want to accomplish by the end of the meetings.*
- *Given variation in family dynamics, consider carefully how best to initiate the PCA process with parents.*

Caseworker's Role During the Protective Capacity Assessment

The caseworker-parent collaboration that occurs during Protective Capacity Assessment requires caseworkers to be versatile and competent when it comes to the “use of self” as a facilitator. The Protective Capacity Assessment is an activity that cannot be effectively completed in the absence of a caseworker actively facilitating the assessment process. The Protective Capacity Assessment is an ongoing Department intervention with families and, as such, it relies heavily on the caseworker's mentality, skills, techniques and direction.

Facilitation

Caseworker facilitation in the context of the Protective Capacity Assessment refers to the interpersonal, guiding, educating, problem solving, planning and brokering activities necessary to enable a family to proceed through the assessment process resulting in the development of a change strategy that can be formalized in a case plan.

A caseworker's primary objectives for facilitating the Protective Capacity Assessment include:

- Building a collaborative working relationship with family members,
- Engaging the parents in the assessment process,
- Simplifying the assessment process for the family,
- Focusing the assessment on what is essential to child protection and child safety in the family's home,
- Learning from the family what must change to sustain child safety in the child's home,
- Seeking areas of agreement regarding what must change to sustain child safety in the child's home,
- Stimulating ideas and solutions for addressing what must change, and
- Developing strategies for change that can be implemented in a case plan.

Facilitation in the Protective Capacity Assessment involves four roles and several related responsibilities. The four facilitative roles within the Protective Capacity Assessment are: guide, educator, evaluator and broker. (Adapted from *Techniques and Guidelines for Social Work Practice* 4th ed. - Sheafor, B.W., Horejsi, C.R. and Horejsi, G.A. 1997)

Guide

The role of the guide involves planning and directing efforts to navigate families through the assessment process by coordinating and regulating the approach to the intervention and focusing the interactions with families to assure that assessment objectives and decisions are reached.

- Engage family members in the assessment process and change.
- Establish a partnership with parents.
- Assure that parents are fully informed of the assessment process, objectives and decisions.
- Adequately prepare for each series of interviews; be clear about what needs to be accomplished by the conclusion of each of your series of interviews.
- Consider how best to structure the interviews in order to achieve facilitative objectives.
- Focus interviews on the specific facilitative objectives for each intervention stage.
- Redirect conversations as needed.
- Effectively manage the use of time both in terms of the individual series of interviews and also the assessment process at large.

Educator

The role of the educator involves empowering families by providing relevant information about their case or about “the system,” offering suggestions, identifying options and alternatives, clarifying perceptions

and providing feedback that might be used to raise self-awareness regarding what must change.

- Engage family members in the assessment process.
- Be open to answering questions regarding the Department's involvement, safety issues, practice requirements, expectations, court, etc.
- Support client self-determination and right to choose.
- Inform parents of options as well as potential consequences.
- Promote problem solving among parents.
- Provide feedback, observations and/or insights regarding family strengths, motivation, safety concerns and what must change.

Evaluator

The role of the evaluator involves learning and understanding family member motivations, strengths, capacities and needs and then discerning what is significant with respect to what must change to create a safe environment in the family's home.

- Engage family members in the assessment process.
- Explore a parent's perspective regarding strengths, capacities, needs and safety concerns.
- Consider how existing family/family member strengths might be utilized to enhance protective capacities.
- Focus on safety threats and diminished protective capacities as the highest priority for change.
- Clearly understand how impending danger is manifested in a family and determine the principal threat to child safety.
- Raise awareness and seek agreement with parents regarding protective capacities that must be enhanced that are essential to reducing impending danger.

- Seek to understand family member motivation; identify the stage(s) of change for parents related to what must change to address child safety.

Broker

The role of the broker involves identifying, linking, matching or accessing appropriate services for parents and children as needed related to what must change to create a safe environment.

- Engage the family in the case planning process.
- Promote problem solving among parents.
- Seek areas of agreement from parents regarding what must change.
- Consider parent motivation for change.
- Collaborate and build common ground regarding what needs to be worked on and how change might be achieved.
- Brainstorm solutions for addressing safety related issues.
- Have knowledge of services and resources and their availability.
- Provide options for service provision based on family member needs.
- Create change strategies with families and establish case plans that support the achievement of the change strategy.

The following are some basic principles for interacting with family members during the Protective Capacity Assessment:

- Interpersonal engagement is fundamental to facilitation.
- Fully informed parents make for better working partners.
- Be prepared to work with an involuntary client.
- Empathetic responses encourage client engagement and participation.
- Developing partnerships with families requires that ongoing Department intervention does not take a paternalistic.

- Feel comfortable enough with your authority to consider ways to increase a family's sense of power and autonomy, specifically in terms of parent options and choices.
- Acknowledge that resistance to change and motivation to maintain certain behavior (status quo) is common among everyone.
- Be open to considering the healthy intentions embedded in problematic behavior.
- Demonstrate acceptance for individuals; maintain objectivity.
- In a collaborative working partnership, there are responsibilities for both the Department and the family; be clear about the Department's role and reasonable about what the Department can be expected to achieve.
- Recognize that ultimately the responsibility for change rests with parents/the family.
- Avoid arguing, demanding or expecting compliance; these are not intervention strategies.
- You can bring a horse to water, but you cannot make it drink.
- Be clear about Department expectations and the limits to negotiating, compromising or dismissing.
- The Department mission is assuring child protection by confirming child safety can be sustained in the child's home.

Adapted from Prochaska and DiClemente's Stages of Change Model

Stage of Change	Characteristics	Techniques
Pre-contemplation	Not currently considering change: "Ignorance is bliss"	Validate lack of readiness Clarify: decision is theirs Encourage re-evaluation of current behavior Encourage self-exploration, not action Explain and personalize the risk
Contemplation	Ambivalent about change: "Sitting on the fence" Not considering change within the next month	Validate lack of readiness Clarify: decision is theirs Encourage evaluation of pros and cons of behavior change Identify and promote new, positive outcome expectations
Preparation	Some experience with change and are trying to change: "Testing the waters" Planning to act within 1 month	Identify and assist in problem solving re: obstacles Help the client identify social support Verify that the client has underlying skills for behavior change Encourage small initial steps
Action	Practicing new behavior for 3-6 months	Focus on restructuring cues and social support Bolster self-efficacy for dealing with obstacles Combat feelings of loss and reiterate long-term benefits
Maintenance	Continued commitment to sustaining new behavior Post-6 months to 5 years	Plan for follow-up support Reinforce internal rewards Discuss coping with relapse
Relapse	Resumption of old behaviors: "Fall from grace"	Evaluate trigger for relapse Reassess motivation and barriers Plan stronger coping strategies

Protective Capacity Assessment Decisions

The following decisions are reached by the conclusion of the initial PCA. The decisions must be regularly re-evaluated throughout the life of the case to guide case planning and implementation and to measure progress.

- Are safety threats being sufficiently managed in the least restrictive way possible?
- Can existing protective capacities (strengths) be built upon to make needed changes?
- What is the relationship between identified safety threats and currently diminished protective capacities?
- What is the parent's perspective or awareness regarding safety threats and their relationship to diminished parental protective capacities?
- What are parents ready, willing and able to work on in the case plan?
- What are the areas of disagreement between the parents and the Department regarding what needs to change?
- What change actions, services and activities will be used to assist in enhancing diminished parental protective capacities?

Facilitator Role and Qualifications

While the assigned caseworker has primary responsibility to be sure that participants are identified and prepared for the meeting, the facilitator often makes the many detailed contacts and arrangements that are necessary to accomplish these tasks. It is especially helpful for participants to have contact with the facilitator before the meeting and become more comfortable with the meeting process. Facilitators may be child welfare staff or contracted providers. The local child welfare office maintains a current list of approved and/or contract facilitators.

Facilitator Role:

- Coordinate with the caseworker to communicate the purpose of the meeting to participants, and describe how the meeting will proceed, including ground rules
- Conduct each meeting in a respectful manner that promotes and encourages the participation of each person attending
- During the meeting, guide participants to:
 - a) Share all concerns and recommendations for reducing, mitigating, eliminating or managing the safety threats and increasing the family's ability to protect the child. Some participants may need guidance to phrase these in a constructive manner, focusing on the needs of the children and parents. Using the language of "concerns" often reduces defensive attitudes and helps move the meeting towards positive action. Recommendations for change should describe what needs to exist to meet the children's needs. These often flow out of the concerns previously stated.
 - b) After all recommendations have been heard, then ask the group to focus on areas of agreement and recommend actions for the family and service providers.
- Document agreement on decisions and actions to be taken.
- Document areas where agreement was not achieved.
- Schedule subsequent meeting(s) when appropriate.

Facilitator Qualifications:

- Has completed Meeting Facilitator training.
- Experienced as a team member in Oregon Family Decision-making Meetings.
- Knowledgeable about child welfare laws, policies and procedures.
- Able to routinely screen for issues of family violence that may require separate meetings for each legal parent, or exclusion of a participant that may put others at risk.
- Skilled in basic engagement and meeting facilitation.
- Able to be objective; and decline to facilitate in any case where objectivity cannot be maintained.

Accommodations: The facilitator, in conjunction with the caseworker, and using local child welfare office protocols, arranges for:

- A translator when necessary

- An interpreter for hearing-impaired clients
- An advocate for a client with mental illness or developmental delays.
- Site access

Domestic Violence and Sexual Abuse Considerations

The caseworker must take into consideration the issue of domestic violence and sexual abuse when planning a meeting. Meetings are scheduled for the care and protection of children and are not primary ways of confronting batterers and child sexual offenders. A combination of group therapy and court intervention are often necessary to effectively stop these types of behaviors. However persons who demonstrate these behaviors are often also parents and should be consulted about their recommendations for the care of their children.

Family members may attend a scheduled meeting unless the caseworker determines that the family member may threaten or place other participants at risk. A family member who is violent, unpredictable or abusive or is an alleged perpetrator of sexual abuse, domestic violence, or severe physical assaults is an example of who may be excluded from a meeting.

While it is best if all parties participate as equals in a meeting, persons under threat of harm, due to domestic violence or other covert forms of abuse cannot equally participate in meetings without protection and support from other family members¹. It is also important that there are family members present who will hold abusers accountable.

It is not recommended that child sexual abuse victims attend meetings if a decision is made to include the offender in the meeting. Even reading a letter from the offender may be a disturbing experience. For further information refer to the issues to be resolved below.

- Ensure that the meeting facilitator and the caseworker have skills and strategies to recognize symptoms of domestic violence in families.
- Assess the level of risk both within the larger family system and for individual participants.
- Clarify the purpose of the meeting and emphasizing the highest priority of child safety.

The caseworker considers the following questions prior to recommending an exception to conducting a required meeting when domestic violence is a consideration.

- Can someone identify the pattern of power and control?
- Is sufficient information available to accurately assess risk?
- Is the family a closed system with possible major secrets?
- Who will hold the batterer accountable? Is legal leverage available?
- Who will support the child victim?
- Who will support the adult victim?
- Are there effective strategies for engaging and empowering the abused persons before and during the meeting?
- How will hidden intimidation be identified and managed?
- Should the batterer attend the meeting and fully participate? Should a separate meeting be held?
- Have strategies been developed for the abused person to prepare potential plans prior to a meeting, rather than have pressure to agree to plans made at a meeting that might compromise safety for the person or for the child?
- Can adequate safety measures be devised given the level of risk in the family?
- What are the potential effects of exclusion of an unrelated (no children in common) partner?
- What are the necessary safety plans and follow-up for after the meeting?

The caseworker excludes the alleged perpetrator when previous history or current assessment indicates a risk of violence by a parent or when contact is prohibited. Family members may be told not to attend the meeting. The caseworker can arrange for input through written information, consultation prior to the meeting, or by phone if appropriate.

¹ Note: Individuals with restraining orders or “No Contact” orders may not be included in Family Meetings if their participation would violate these orders.

Oregon Family Decision-Making Meeting
Suggested Agenda

The facilitator guides the Oregon Family Decision-Making Meeting

1. Introductions:

- The facilitator states the purpose of the meeting and confirms participant understanding of this purpose.
- The facilitator asks all participants to introduce themselves and describe their relationship to the child and family.
- The facilitator requests names of other persons not present who should receive a copy of the meeting notes.

2. Ground Rules:

- The facilitator provides ground rules for the meeting including, but not limited to:
 - **Respect for Privacy:** Request that information discussed in the meeting is not shared outside of the meeting. Participants should be advised that recommendations may be included in the Case Plan and included in reports to the Court.
 - **Time limits:** the meeting will usually last two hours.
 - **Respectfulness:** the facilitator assures that each participant has the opportunity to speak with the focus on determining the services and activities to establish a permanent placement, either at the home of a legal parent or an alternate permanent home.
 - **Agreement:** The goal of the meeting is to develop a partnership that addresses the child's safety and permanent care.
 - **Responsibility:** The Department is responsible for the final decisions on the safety of the child.

3. Identification of issues impacting child safety and parental protective capacity

- The caseworker is asked to explain why the meeting was scheduled, summarize safety threats, relevant parental protective capacities and related child welfare history.
- Other participants contribute their information about child safety concerns and parental capacity to protect the children.

4. Assessing Options

- Participants consider placement and service options; including both the permanency and concurrent permanency plan. Options should focus on what needs to happen to keep a child safe, and help the family increase their capacity to protect the child.
- The caseworker may add any additional actions or services the Department requires for child safety. If some recommendations are not chosen, the worker will let participants know the reasons for not choosing them. Participants may not always agree on placement or service decisions.

5. Making Decisions/Coming to Agreement

- Review the suggested options
- Participants may revise or add to the options
- The caseworker must approve or revise the options that impact child safety
- If consensus is achieved then the recommendations are finalized and documented in the meeting notes. If consensus cannot be achieved for one or more recommendations, the meeting notes will document this as well, however participants should be advised that these will not be included in the Case Plan.

6. Follow up and Documentation

- During the meeting the facilitator or scribe will record decisions on the local child welfare office Oregon Family Decision-Making Meeting form. Each participant is asked to sign the form acknowledging attendance and participation.
- Debrief the process and the plan developed at the OFDM with the caseworker and the child welfare supervisor.

International Travel Procedures for Children in DHS Substitute Care

This document outlines the procedures to follow when children in the custody of DHS require international travel. Refer to child welfare policy I-B.1.4 “Guardian and Legal Custodian Consents”, and OARs 413-020-140 and 413-020-150 for more information on authorizations needed for international travel.

When adult(s) are planning to travel with a child on DHS’s behalf, (including foster parents) to a country outside the USA, the caseworker needs to do the following:

- Complete an “Out of State Travel Authorization” form (DHS 1293) for each adult and have it signed by the SDA Manager or designee;
- Obtain a Court Order from the court having jurisdiction of the child, granting permission for the child to travel. The Court Order must be in both English and the language of the country to which travel will take place.
- For travel TO MEXICO, obtain a “Carta de Presuncion Nacionalidad” from the Mexican Consulate. Contact Luis Elias (Chancellor), Mexican Consulate’s Office, (503) 274-1442 x14. He will describe the steps for obtaining a “Carta de Presuncion Nacionalidad” and passport photos. Mr. Elias will be instrumental in getting the caseworker and the child through Customs and Immigrations smoothly and can answer questions about the travel process.
- Fax a copy of the signed Out-of-State Authorization form, (DHS 1293) as well as the Child’s Consent to Travel form to DHS - CAF, Field Administration, Fax #: (503) 373-7492. If more than one employee will accompany the child(ren), written documentation to support the additional person must be submitted at this time. (Similar criteria as that used by ICPC will be considered - i.e. safety and health risks).

The packet of information is reviewed and forwarded to the CAF Field Administrator for signature authorization. It is then sent to the Director’s Office for final authorization and signature. CAF Field Administration

support staff will contact the local child welfare office directly upon final approval and provide the caseworker with an authorization number. These steps can take up to 5 working days.

Keep a copy of the entire out-of-country packet in the child's case file for audit purposes.

Travel to Mexico.

- If there are any problems, the contact in Mexico is:
 - Maria del Carmen Linares Tecanhuey
 - Office of the Secretary for Foreign Affairs
 - Telephone: (5) 782-4221

- Or call Luis Elias of the Mexican Consulate Office in Portland Oregon, as he can direct you or advise you on what to do or who to contact: (503) 274-1442 x 14.

- Or call the U.S. Embassy in Mexico City

- Or call the Cultural Competency Coordinator in Central Office at (503) 945-5700

Documents Needed for Travel/Placement

Agency Staff: A passport is preferred AND the caseworker's DHS ID. For alternate documentation, consult with DHS's travel agency or the airline the caseworker and child are traveling on.

Examples of alternate documents that are acceptable include:

- Original or certified copy of birth certificate
- Certificate of Citizenship
- Official government document verifying citizenship
- Consul report of birth abroad of a US citizen
- Photo identification.

Child:

- Court Order that establishes jurisdiction;

- Birth certificate of the child; and
- The signed form, DHS 1293, “Out-of-State Travel Authorization”
- La Carta de Presuncion Nacionalidad (for travel to Mexico with a child).

In addition, the Mexican Government recognizes and accepts documents that are Apostilled. Apostille is a certificate with the state seal adhered which verifies the Notary of the document is in good standing with the state and can notarize documents. For this process, contact the Secretary of State’s Office, Corporation Division, Attn.: Notary, 255 Capital St. NE Suite 151, Salem, OR 97310. Phone number (503) 986-2593. Call prior to sending the documents to learn the cost of the process, who to direct them to, and what documents can be Apostilled and the requirements. To have a document Apostilled it must first be notarized.

If a Court Commitment Order is used that has not been Apostilled, have the court order certified with a raised seal and the signature in an ink color other than black. This will increase the chances the document is viewed as being “official”.

(12/05)