

ISSUE-FOCUSED REVIEW -- Video Introduction

(Michael) Hello. My name is Michael Livingston. I've served the CRB in Marion County for four years, the last three on the specialized board assigned to review the cases of older youth in care. I'm here to talk about how we conduct our reviews, which we call, "issue-focused."

(Lisa) And my name is Lisa Baker. I've served on the CRB in Checklist County for many years. Our cases mostly involve younger children. We conduct our reviews just like we were trained, or we try to. I read all the case materials and take notes on the case notes sheets, paying special attention to the cases assigned to me to lead. It was hard at first, trying to decide what information and what questions went under which finding, but it's gotten easier with time. We try very hard not to make up our minds before hearing from all parties to the review, just like we were taught. This approach feels very fair, but sometimes I get lost trying to sort through what's fact and what's opinion, especially if there's a question about what happened, or who was responsible.

(Michael) Well, that's easy, Lisa, DHS is responsible. Keeping that one fact in mind will help prevent your getting lost. So will focusing on child well being.

(Lisa) Okay, but we still have to be fair to DHS, don't we? That's important too, isn't it?

(Michael) Yes, it certainly is. But let's talk about what that means for how we conduct our reviews. And keep in mind as we talk about fairness, four disturbing findings of the recent "PK Report." One, space availability, rather than the needs of each individual child, was determining placement decisions; two, substitute care providers were not adequately trained or supported to provide appropriate care for high-needs children; three, the pressure to find substitute care placements was compromising certification and licensing standards; and four, DHS was not monitoring the well being of children adequately or responding in a consistent, coordinated way to reports of their abuse and neglect.

(Lisa) I couldn't agree more that we need to keep those findings in mind, but how do I do that and still be fair? I'm worried about developing a bias against DHS, and letting that influence my decisions in a way that's not fair to the caseworker.

(Michael) Remember, though, our findings are as to DHS, not the caseworker. It is possible for the caseworker to have done the best he or she knew to do, and yet you must still make a negative finding.

(Lisa) You mean like when the child is what DHS calls "on runaway", or when the caseworker had no choice but to put the child in a placement not suited to her needs?

(Michael) Exactly. A negative finding in such cases is not unfair to the caseworker, because it's just a fact that the child's safety, health and well being are either unknown, in the case of the missing child, or have been compromised, in the case of the unsuitable placement.

(Lisa) I get that, but it still doesn't feel fair. Our caseworkers try so hard. It's hard to make a negative finding when our caseworkers are doing everything they can.

(Michael) That's understandable, but a well-trained caseworker will understand you are just doing your job, which is to put child well-being first. If it makes you feel any better, you're not the only CRB

member who finds it difficult to make a “no” finding. Given the serious and continuing deficiencies cited in the PK Report, you would expect to see CRBs across the state making a comparable number of “no” findings, right?

(Lisa) Right.

(Michael) Well, that’s not what CRB staff have found.

(Lisa) So, what do we do about it? I’m pretty sure it wouldn’t be fair to impose “no” quotas, would it?

(Michael) No, I agree quotas are not a good answer to the problem. But, focusing on child well-being, and conducting issue-focused reviews in appropriate cases should help. So let’s talk about issue-focused reviews, okay?

(Lisa) Okay. But just remember, I want to be fair.

(Michael) Right, so do I. Now, you said earlier that you try very hard not to make up your mind before hearing from all parties to the review?

(Lisa) Yes.

(Michael) Well, you don’t have to do that in an issue-focused review. In an issue-focused review, if you read something in the materials that would or could support a negative finding, it’s okay to say “unless the information shared at the review hearing indicates otherwise, I’m inclined to recommend a ‘no’” on whatever finding applies, let’s say 3a.

(Lisa) You mean like the child’s on runaway, or was in an unsuitable placement for two months, even though her current placement seems suitable?

(Michael) Yes, exactly. In those cases, it’s very unlikely that anything you hear at the review hearing will change the fact that the child was missing and unaccounted for during some period over the last 6 months, or that the unsuitable placement will somehow turn out to have been suitable. But even in less obvious cases, there’s nothing unfair about making a preliminary determination, yes or no, as long as it’s supported by the case materials. If you’re not sure, discuss it with the other members of your board and your field manager during the board review period.

(Lisa) So, do I have to change how I use the case notes sheet? Like, do I still have to put all the relevant facts under each finding?

(Michael) If it helps you to do that, there’s nothing wrong with it. However, you wouldn’t want to take review time to establish facts not in question. You want to save your review time for what you don’t know, and really *need* to know in order to make a “yes” finding.

(Lisa) What do you mean -- in order to make a “yes” finding? Don’t you mean “in order to make a ‘no’ finding?”

(Michael) Believe it or not, the burden of proof is on DHS. That means, unless you have sufficient information to make a “yes” finding, the answer has to be “no.” That’s why, for instance, if a child is

missing, the finding has to be “no”, even if the caseworker is diligently searching for her.

(Lisa) So how do I make sure my preliminary determination is supported by the case materials?

(Michael) Exactly the same way you’ve been doing in your reviews, when you’ve heard from all the parties, and are ready to make a finding. You read all the materials, weigh the information relevant to each finding and go where the information takes you. For each finding, you write one or two sentences stating the reasons for your decision in your case notes, and that’s what you focus on during the review.

(Lisa) You mean like, I’m initially inclined to find no reasonable efforts because a child with lots of family is placed in a non-relative, non-caregiver home, and the case plan indicates it’s been a year since the last contact with relatives, only I find out at the hearing the contacts were made, they just weren’t put in the case plan. Something like that?

(Michael) Yes, exactly.

(Lisa) But what about “the good stuff”? Isn’t it important to bring out parental progress? the child’s accomplishments? the caseworker’s hard work?

(Michael) Yes, certainly, acknowledging “the good stuff”, and sometimes even “the bad stuff” is important to show you understand and appreciate the parties’ circumstances. But, you want to focus on the issues. You’ve got only forty minutes, remember.

(Lisa) Seems like issue-focused reviews are kinda, well, negative. Only focusing on issues. That sounds like focusing on the negative aspects of a case. How is that fair?

(Michael) How is it not fair? Look, we’re reviewing the conditions and circumstances of children in care. We’re not there to assess the lawyers’ or caseworker’s performance. We’re there to assess whether DHS has done what the law requires. If fairness to you means making sure there are positives to balance any negatives in a case review, then issue-focused reviews will probably feel very unfair to you.

(Lisa) Then why do them?

(Michael) Because the PK Report has told us that our reviews are missing the mark. That our cases have issues we’re overlooking. Child well-being issues.

(Lisa) So, you’re saying focusing on the issues isn’t unfair? even though it feels that way? I don’t know about that.

(Michael) Yes, that’s correct, I’m saying focusing on the issues isn’t unfair, even though it might feel unfair in the moment. Here’s what you need to understand. Some, if not most, of our cases have very hard facts. These young people are often extremely vulnerable for their years, and caring for them takes great skill.

(Lisa) Okay, I’ve had the trauma-informed care training. I get that.

(Michael) We know, however, from the PK Report, that too often, these youth do not receive the care

they need because of failures in the child welfare system.

(Lisa) I agree.

(Michael) Now imagine you've got a case in which there've been a series of failures, all different kinds, many placements, lots of unanswered questions, and loose ends. Those are the cases we see.

(Lisa) Got it.

(Michael) Take my word for it, hearing from all the parties and sorting out what actually went on in these cases is not easy, even in forty minutes, especially if the case includes siblings and multiple placements. You just won't be able to do it unless you're focused on the issues in the case.

(Lisa) I guess I can see that.

(Michael) Yes, reviews that aren't issue-focused might be more pleasant for everyone, but they would be unlikely to identify the systemic problems that we know exist as a result of the PK Report.

(Lisa) Okay, I guess I'll have to get less uncomfortable with the negativity, then. Any idea how I might do that?

(Michael) Yes. Although it's normal to feel uncomfortable in review hearings, especially if they involve difficult facts or "no" findings, the better prepared you are, and the more practice you get, the less uncomfortable you're likely to feel. -----

(Lisa) So, do I have to change how I prepare, then?

(Michael) Well, like we talked about earlier, as you read the materials and make notes, you'll want to try and make a preliminary determination as to each finding, and write one or two sentences stating the reason for the "yes" or "no" finding.

(Lisa) Is that all?

(Michael) Pretty much. Then, during the board review time, if you're assigned to lead the case, you'll ask if anyone has any "potential nos" on your case, and if so, or if you have any, that'll be the focus of your discussion. This is where you test your statement of reasons with your fellow board members and the field manager, and of course they do the same. You have to challenge each other's statements, and keep each other honest.

(Lisa) But everyone's free to change their view, based on what we hear at the review?

(Michael) Yes. And that happens rather often.

(Lisa) Okay. Can we talk about a theoretical case and see if I get how to do this?

(Michael) Sure.

(Lisa) Okay, let's say we have a 16 year-old girl who was adopted out of care at age 8. At age 13, she was placed in a residential facility called Mountain Ridge under a voluntary placement agreement with DHS. She spent several months there, returned home, then was sent back. She was eventually placed in a proctor home and seemed to do very well, but, the placement disrupted after about

twelve months. She was sent back to Mountain Ridge and was placed with two other families before graduating from treatment and being placed in regular foster care. The placement seemed fairly stable, but then the foster family went on vacation without her, and left her in a shelter. After two weeks, she ran away, but came back within a day. Mountain Ridge agreed to take her back until the caseworker could find an opening in another program. The caseworker found another program, but she ran away from it. Now she's back in the shelter and the caseworker says there are still no openings at Mountain Ridge and the other program won't take her.

(Michael) Okay.

(Lisa) Where do I start? Assume I've read the materials and taken notes.

(Michael) Well, how much of that happened in the last six months?

(Lisa) Let's say she graduated from Mountain Ridge five and a half months ago.

(Michael) Okay. Based on that summary you just gave, I'm guessing you're already leaning in a particular direction. Are you?

(Lisa) Well, yes. I have some questions, of course, but I'm really concerned about the number of placement changes and their suitability. I'd like to know what DHS did to support that first foster placement, and what about it made DHS think it was suitable. I'd also like to know about the decision to put the youth in a shelter, rather than go on vacation with the family. What kind of training did these foster parents have? The same questions of suitability apply to the subsequent placements, including the current one. All in all, the facts seem to me to indicate a lack of planning on DHS's part, so I'm inclined toward a "no" on 3a, unless these concerns are addressed during the review hearing.

(Michael) Do you feel you're being entirely fair, Lisa?

(Lisa) Well, yes, I do, actually. I haven't made up my mind -- I just know what I'm looking for. It's a lot less confusing, focusing on child well-being, isn't it?

(Michael) You're off to a good start. All you need now is practice.

The End

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