

Colorado Assessment Continuum (CAC) Judicial Training

Safety Intervention Concepts

Implications for Judicial Oversight



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Presentation Objectives

- Overview of the State-of-the Art of CPS Safety Intervention
- What You Should Expect from CPS Safety Practice and Decision-making: A Standard
- Using Safety Intervention Concepts and Criteria to Support and Oversee CPS Recommendations to the Court

Overview of CPS Safety Intervention

- Existing state-of-the art
- Universally accepted standardized approaches to safety practice and decision-making
- Varied success with implementation
- Evolving
- The Adoption and Safe Families Act (ASFA)
- The Children and Family Service Review (CFSR)
- Litigation
- Significant attention nationally to refine standing safety intervention approaches

What is required of CPS? ASFA & CFSR

- Timely response
- Evaluation of safety during initial intervention
- Evaluation of safety in placement
- Safety services to keep children in their homes
- Address safety issues during treatment
- Continual safety management
- Measure progress related to reduction of safety threats
- Reasonable Efforts
- Safety assessment related to family preservation
- Safety outcomes

Legal Issues in Safety Intervention

- Search & Seizure
 - Doe v Heck (WI)
- Due Process
 - DuPuy v McDonald (IL)
- Danger Creation
 - Currier v Doran (NM)
- Reasonable Efforts
 - Child Welfare and Adoption Assistance Act
 - Adoption and Safe Families Act

Court's Regulatory Responsibility?

- Overseeing the Management of Child Safety and Protection
- Safeguarding Parent/Caregiver Rights

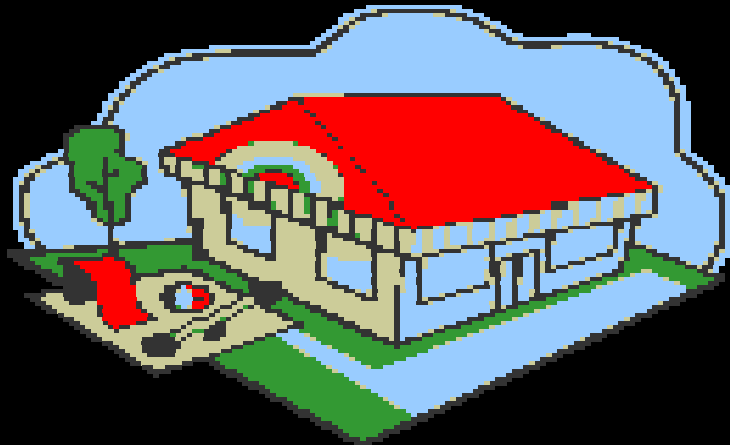
Specific Judicial Decisions Associated with Safety

- Request for CPS jurisdiction in in-home service cases
- Request for removal
- Request for continuation of placement
- Request for reunification
- Critical information to know
 - Definition of safe and unsafe
 - Process for safety decision-making
 - Information necessary for assessing child safety
 - Safety assessment criteria and standards
 - Criteria for reasonable efforts

Statutory and Safety Intervention Language

- Lack of clarity
- Imprecise usage
- Confusion regarding concepts
- Inappropriate use of words interchangeably
 - Risk
 - Risk of harm
 - Imminent risk (imminent risk of harm)
 - Threat of harm
 - Threat of imminent harm
 - Unsafe
 - Safety risks

What is Safety?



Is Child Safety the Primary Judicial Decision?

The standard for a court to enter an emergency protection order is that a danger exists to the life or health of the child in the reasonably foreseeable future

(Colorado Revised Statutes 19-1-104 (3), 19-3-316 (2)(e),

CPS Definition for Safe Child

Children are safe when there are no “threats of danger” within the family or when caregiver(s) possess sufficient “protective capacities” to manage or control threats.

CPS Definition for Unsafe

Children are unsafe when they are “vulnerable”, to “threats of danger” within the family and caregiver(s) do not have sufficient “protective capacities” to manage or control threats, making outside intervention necessary.

Threats of Danger

Specific family conditions and/or caregiver behaviors, emotions, perceptions, attitudes, intentions, actions or situations within a family that represent the potential for severe harm to a child. A threat to danger may be classified as present danger, impending danger or a safety concern

Caregiver Protective Capacities...

- Cognitive capacities
 - Intellect
 - Knowledge
 - Understanding
 - Perception
- Emotional capacities
 - Feelings
 - Attitudes
 - Identification
 - Motivation
- Behavioral capacities
 - Action
 - Activity
 - Performance



Safety Intervention Process

Judicial CPS

1. Judge's Order for Removal
2. Detention Hearing
(within 72 hours)
3. Adjudicatory Hearing
(within 45 days)

1. I.D. Present Danger
2. Protective Action
(Reasonable Efforts)
3. Information Collection
4. Assess Impending Danger
5. Safety Analysis/Planning:
 1. Reasonable Efforts
 2. Implement In-Home Safety Plan
 3. Need for Placement
 4. Conditions for return

CPS Safety Intervention Information Standard

Six Questions that Inform and Guide the Safety Assessment

- The extent of maltreatment?
- The surrounding circumstances of maltreatment?
- Child functioning?
- Adult functioning?
 - Adult mental health & substance abuse functioning?
- Disciplinary approaches?
- Parenting practices?

Where is the safety threshold?



The Safety Threshold

- Vulnerable child
- Severity
- Out-of-Control
- A specific time frame (imminence)
- Observable, specific behavior, emotion, perception, attitude, situation, etc

Severity

- Consistent with harm that can result in significant pain; serious injury; disablement; grave/debilitating physical health or physical conditions; acute/grievous suffering; terror; impairment; death

Vulnerability

- Dependence on others for protection
- Refers to a child's capacity to self-protect
- Includes the issue of accessibility to the threat to safety

Out-of-Control

- Family conditions which can affect a child and are unrestrained; unmanaged; without limits or monitoring; not subject to influence, manipulation or internal power; are out of the family's control

Imminence

- A belief that threats to child safety are likely to become active without delay; a certainty about an occurrence within the immediate to near future that could have severe effects

Observable

- Danger is real; can be seen; can be reported; is evidenced in explicit, unambiguous ways; is fact-based

Safety Assessment Decision

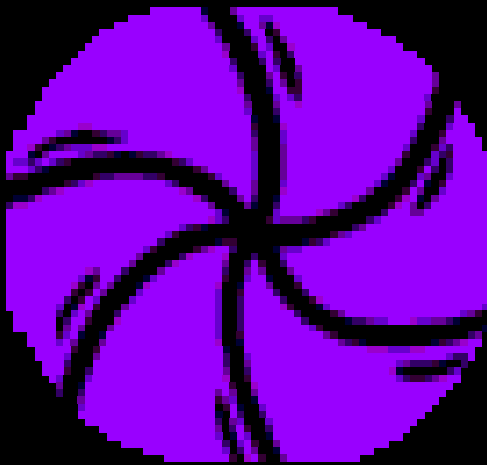
Colorado's CPS Standardized
Safety Concerns
(Impending Danger Threats)

Safety Intervention Analysis:

Criteria for Demonstrating Reasonable Efforts

- Caregiver Protective Capacity?
- Home Environment?
- Caregiver(s)' residing in home?
- Caregiver willingness?
- Resource availability and accessibility?
- Resources are action oriented; immediate impact?

What is the basis for reunification?



Conditions for Return

Conditions for Return

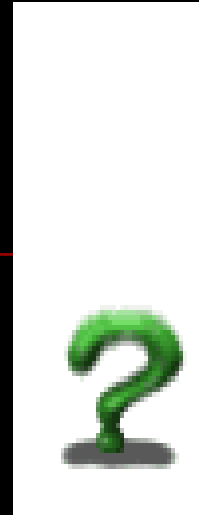
A statement that is part of a court order which identifies specific behavior and circumstances that must exist within a child's home for the child who is placed to return.

The Concept of Conditions for Return

Principles of Provisional Protection

- Threats of severe harm do not have to be reduced or eradicated in order for children to be reunified with their families.
- Caregivers do not necessarily have to change in order for children to be reunified with their families.
- What is necessary for children to be reunified with their family is the establishment of well-defined circumstances within a child's home that mitigate against threats to child safety.

Summary...



- Questions
- Other resource material:
 - Lambelet Colman, D.
 - *Storming the Castle to Save the Children: The Ironic Cost of Child Welfare Exception to the 4th*
 - www.actionchildprotection.org
 - *Safety and the Legal Process Part 1 and 2 (Jan/Feb 2005)*
 - *Safety Intervention and Civil Rights (Apr 2006)*



Thanks

See our monthly articles on child safety

www.actionchildprotection.org

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