

Gather Information About the Family

More comprehensive information than simply the incident of maltreatment must be learned about the family. This body of knowledge must include the extent of maltreatment, the surrounding circumstances, child functioning, adult functioning, parenting and discipline. The following are 6 background ques-

tions that should guide safety in each case. The answers will help the court assess threats of danger, child vulnerability, and protective capacities. The information will later help judges decide what to do about an unsafe child.

1. What is the nature and extent of the maltreatment?

- Type of maltreatment
- Severity of the maltreatment, results, injuries
- Maltreatment history, similar incidents
- Describing events, what happened, hitting, pushing
- Describing emotional and physical symptoms
- Identifying child and maltreating parent

2. What circumstances accompany the maltreatment?

- How long the maltreatment lasted
- Parental intent concerning the maltreatment
- Whether parent was impaired by substance use, or was otherwise out-of-control when maltreatment occurred
- How parent explains maltreatment and family conditions
- Does parent acknowledge maltreatment, what is parent's attitude?
- Other problems connected with the maltreatment such as mental health problems

3. How does the child function day-to-day?

- Capacity for attachment (close emotional relationships with parents and siblings)
- General mood and temperament
- Intellectual functioning
- Communication and social skills
- Expressions of emotions/feelings
- Behavior
- Peer relations
- School performance
- Independence
- Motor skills
- Physical and mental health

4. How does the parent discipline the child?

- Disciplinary methods
- Concept and purpose of discipline
- Context in which discipline occurs, is the parent impaired by drugs or alcohol when administering discipline
- Cultural practices

5. What are overall parenting practices?

- Reasons for being a parent
- Satisfaction in being a parent
- Knowledge and skill in parenting and child development
- Parent expectations and empathy for child
- Decision-making in parenting practices
- Parenting style
- History of parenting behavior
- Protectiveness
- Cultural context for parenting approach

6. How does the parent manage his own life?

- Communication and social skills
- Coping and stress management
- Self control
- Problem-solving
- Judgment and decision-making
- Independence
- Home and financial management
- Employment
- Community involvement
- Rationality
- Self-care and self-preservation
- Substance use, abuse, addiction
- Mental health
- Physical health and capacity
- Functioning within cultural norms

DEFINITIONS

Safe child:

Vulnerable children are safe when there are no threats of danger within the family *or* when the parents possess sufficient protective capacity to manage any threats.

Unsafe child:

Children are unsafe when:

- threats of danger exist within the family *and*
- children are vulnerable to such threats, *and*
- parents have insufficient protective capacities to manage or control threats.

Threats of Danger

A threat of danger is a specific family situation or behavior, emotion, motive, perception or capacity of a family member. The body of knowledge gained from Benchcard A is applied to specific criteria for what constitutes an impending threat of danger:

- Specific and observable;
- Immediate;
- Out-of-control;
- Severe consequences

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- No adult in the home is routinely performing basic and essential parenting duties and responsibilities.
 - The family lacks sufficient resources, such as food and shelter, to meet the child's needs.
 - One or both parents lack parenting knowledge, skills, and motivation necessary to assure a child's basic needs are met.
 - One or both parents' behavior is violent and/or they are behaving dangerously.
 - One or both parents' behavior is dangerously impulsive or they will not/cannot control their behavior.
 - Parents' perceptions of a child are extremely negative.
 - One or both parents' are threatening to severely harm a child, are fearful they will maltreat the child and/or request placement.
 - One or both parents intend(ed) to seriously hurt the child.
 - Parents largely reject CPS intervention; refuse access to a child; and/or the parents may flee.
 - Parent refuses and/or fails to meet child's exceptional needs that do/can result in severe consequences to the child.
 - The child's living arrangements seriously endanger the child's physical health.
 - A child has serious physical injuries or serious physical symptoms from maltreatment and parents are unwilling or unable to arrange or provide care.
 - A child shows serious emotional symptoms requiring immediate help and/or lacks behavioral control, or exhibits self-destructive behavior and parents are unwilling or unable to arrange or provide care.
 - A child is profoundly fearful of the home situation or people within the home.
 - Parents can not, will not or do not explain a child's injuries or threatening family conditions.

Vulnerability

A child is vulnerable when they lack the capacity to self-protect. This nonexhaustive list are issues that determine or increase a child's vulnerability:

- A child lacks capacity to self-protect
- A child is susceptible to harm based on size, mobility, social/emotional state
- Young children (generally 0-6 years of age)
- A child has physical or mental developmental disabilities
- A child is isolated from the community
- A child lacks the ability to anticipate and judge presence of danger
- A child consciously or unknowingly provokes or stimulates threats and reactions
- A child is in poor physical health, has limited physical capacity, is frail
- Emotional vulnerability of the child
- Impact of prior maltreatment
- Feelings toward the parent – attachment, fear, insecurity or security
- Ability to articulate problems and danger

Questions the judge can ask.

- Has the child demonstrated self-protection by responding to these threats? (Self-protection means recognizing danger and acting to secure safety for one's self; it is not calling 911, CPS, or the school *after* an event.)
- Besides defending herself from threats, can the child care for her own basic needs?
- How does the judge find this child *not vulnerable* given the threats?
- Is vulnerability of all children, not just the victim, considered?
- Are there issues preventing this child from self-protecting?
- What plan would this child carry out to protect himself from threats?
- Can the child describe how she will know a threatening situation is developing, rather than recognizing it once it is happening?
- What has been learned about this child's functioning? How comprehensive is the information? How much time did the worker or other parties talk to the child about self-protecting? Is there information about this family and the way threats operate arguing against the child self-protecting?
- Are there ways the child behaves and responds, that escalate the threats to the child?

Protective Capacities

Cognitive Protective Capacities

Cognitive protective capacity refers to *knowledge, understanding, and perceptions* contributing to protective vigilance. Although this aspect of protective capacities has some relationship to intellectual or cognitive functioning, parents with low intellectual functioning can still protect their children. This has to do with the parent recognizing she is responsible for her child, and recognizing clues or alerts that danger is pending.

Cognitive protective capacities can be demonstrated when the parent:

- articulates a plan to protect the child
- is aligned with the child
- has adequate knowledge to fulfill care-giving responsibilities and tasks
- is reality oriented; perceives reality accurately
- has accurate perceptions of the child
- understands his/her protective role
- is self-aware as a caregiver

Behavioral Protective Capacities

Behavioral protective capacity refers to *actions, activities, and performance* that result in protective vigilance. Behavioral aspects show it is not enough to know what must be done, or recognize what might be dangerous to a child; the parent must *act*.

Behavioral protective capacities can be demonstrated when the parent:

- is physically able
- has a history of protecting others
- acts to correct problems or challenges
- demonstrates impulse control
- demonstrates adequate skill to fulfill care-giving responsibilities
- possesses adequate energy
- sets aside her/his needs in favor of a child
- is adaptive and assertive
- uses resources necessary to meet the child's basic needs

Emotional Protective Capacities

Emotional protective capacity refers to *feelings, attitudes and identification* with the child and motivation resulting in protective vigilance. Two issues influence the strength of emotional protective capacity: the attachment between parent and child, and the parent's own emotional strength.

Emotional protective capacities can be demonstrated when the parent:

- is able to meet own emotional needs

- is emotionally able to intervene to protect the child
- realizes the child cannot produce gratification and self-esteem for the parent
- is tolerant as a parent
- displays concern for the child and the child's experience and is intent on emotionally protecting the child
- has a strong bond with the child, knows a parent's first priority is well-being of the child
- expresses love, empathy and sensitivity toward the child; experiences specific empathy with the child's perspective and feelings

Questions the judge can ask.

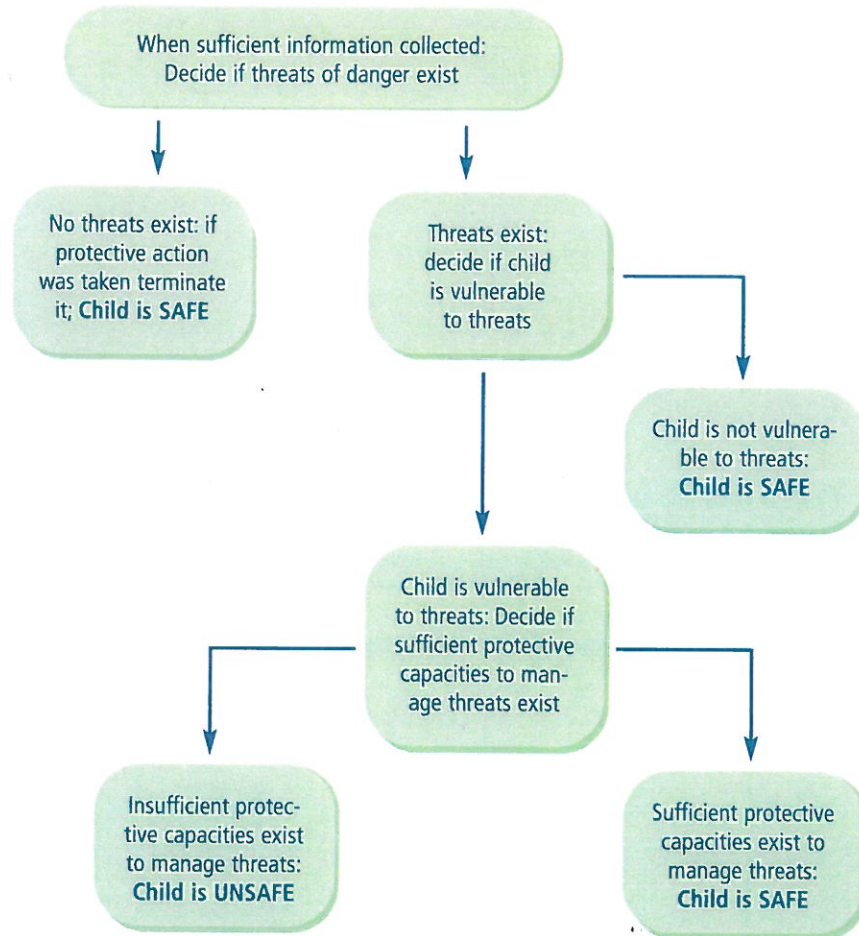
- Has the parent demonstrated the ability to protect the child in the past under similar circumstances and family conditions? (*Behavioral Protective Capacity*)
- Has the parent arranged for the child to not be left alone with the adult/parent maltreater or source of danger? (This could include having another adult present aware of the protective concerns and able to protect the child). (*Cognitive and Behavioral Protective Capacity*)
- Is the parent intellectually, emotionally and physically able to protect the child given the threats? (*Cognitive, Behavioral and Emotional Protective Capacity*)
- Is the parent free from needs which might affect the ability to protect such as severe depression, lack of impulse control, or medical needs? (*Behavioral and Emotional Protective Capacity*)
- Does the parent have resources to meet the child's basic needs in light of the other changes the court is expecting from the family? (*Behavioral Protective Capacity*)
- Is the parent cooperating with the caseworker's efforts to provide services and assess family needs? (*Cognitive and Behavioral Protective Capacity*)
- Does the parent display concern for the child's experience? Is the parent intent on emotionally protecting the child? (*Emotional Protective Capacity*)
- Can the caregiver specifically articulate a feasible, realistic plan to protect the child, such as the maltreating adult leaving when a situation escalates, calling the police in the event the

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restraining order is violated, etc.?) (*Cognitive Protective Capacity*)

- Does the caregiver believe the child's report of maltreatment and is he/she supportive of the child? (*Emotional Protective Capacity*)
- Is the caregiver capable of understanding the specific threat to the child and the need to protect? (*Cognitive Protective Capacity*)
- Has the caregiver asked the maltreating adult to leave the household (if applicable)? (*Behavioral Protective Capacity*)
- Does the caregiver have adequate knowledge and skill to fulfill parenting responsibilities and tasks? (This may involve considering the caregiver's ability to meet any exceptional needs that the child might have). (*Cognitive and Behavioral Protective Capacity*)
- Is the caregiver emotionally able to carry out a plan and/or to intervene to protect the child (caregiver is not incapacitated by fear of maltreating adult)? (*Behavioral and Emotional Protective Capacity*)
- Do the caregiver and child have a strong bond and does the caregiver demonstrate clearly that the number one priority is the safety and well-being of the child? (*Behavioral and Emotional Protective Capacity*)
- Even if the caregiver is having a difficult time believing the other adult would maltreat the child, does he or she describe the child as believable and trustworthy? (*Emotional Protective Capacity*)
- Does the caregiver believe that the problems of the family (including current CPS and court involvement) are not the child's fault or responsibility? (*Cognitive and Emotional Protective Capacity*)

Putting the Information Together and Making a Safety Decision



Actions and Services to Control Threats of Danger

Actions or Services to Control or Manage Threatening Behavior

This type of service is concerned with aggressive behavior, passive behavior or the absence of behavior – any of which threatens a child's safety. For example:

- In-home health care
- Supervision and monitoring
- Stress reduction
- Out-patient or in-patient medical treatment
- Substance abuse intervention, detoxification
- Emergency medical care
- Emergency mental health care

Actions or Services that will Manage Crises

Crisis management aims to halt a crisis, return a family to a state of calm, and to solve problems that fuel threats of danger.

Appropriate crisis management handles precipitating events or sudden conditions that immobilize parents' capacity to protect and care for children. Examples include:

- Crisis intervention
- Counseling
- Resource acquisition, obtaining financial help; help with basic parenting tasks

Actions or Services Providing Social Support

These services may be useful with young, inexperienced parents failing to meet basic protective responsibilities; anxious or emotionally immobilized parents; parents needing encouragement and support; parents overwhelmed with parenting responsibilities; and developmentally disabled parents. Services or actions include:

- Friendly visitor
- Basic parenting assistance and teaching
- Homemaker services
- Home management
- Supervision and monitoring
- Social support
- In-home babysitting

Actions or Services that Can Briefly Separate Parent and Child

Separation is a temporary action ranging from one hour to a

weekend to several days. Separation may involve hourly babysitting, temporary out-of-home placement or both. Besides ensuring child safety, separation may provide respite for parents and children. Separation creates alternatives to family routine, scheduling, and daily pressures. Separation also can serve a supervisory or oversight function. Examples:

- Planned parental absence from home
- Respite care
- Day care
- After school care
- Planned activities for the children
- Short term out-of-home placement of child: weekends; several days; few weeks
- Extended foster care

Actions or Services to Provide Resources (Practical Benefits the Family Might Otherwise Be Unable to Afford)

These actions and services provide unaffordable practical help to the family, without it the child's safety is threatened.

- Resource acquisition, obtaining financial help, help with basic needs
- Transportation services
- Employment assistance
- Housing assistance

Reasonable Efforts to Prevent Removal: In-Home Safety Plans

Determining whether there were reasonable efforts to prevent placement goes beyond identifying relevant information (the 6 questions) and considering threats of danger, vulnerability and protective capacities to determine whether the child is safe.

Instead, the court now must focus on what should have been and actually was done to control those threats. The question becomes: *was the actual in-home or out-of-home safety plan (or some combination) the least intrusive approach that was needed to keep the child safe?* This analysis begins with the judge getting answers to the questions in this checklist, and determining whether the child can be kept safe with an in-home safety plan, and if so, some key components of the plan.

- Once threats are identified and the child is vulnerable, determine if the family can protect the child. Does the family possess sufficient protective capacity?

If the family's protective capacities are insufficient, determine what will protect the child by examining how and when threats emerge.

- Does each threat happen every day? Different times of day? Is there any pattern or are they unpredictable?
- How long have these threats been occurring? Will it be easier or harder to control or manage threatening behavior with a long family history?
- Does anything specific trigger the threat or accompany the threat, such as pay day, alcohol use, or migraine?

Is an in-home safety plan sufficient to control the threats, in view of when and how the threats of danger emerge?

- Are the parents living in the home, or do they disappear occasionally?
- Are the parents willing to cooperate with an in-home plan? How are we gauging "cooperation?"
- Is the household predictable enough that actions will eliminate or manage threats of danger?

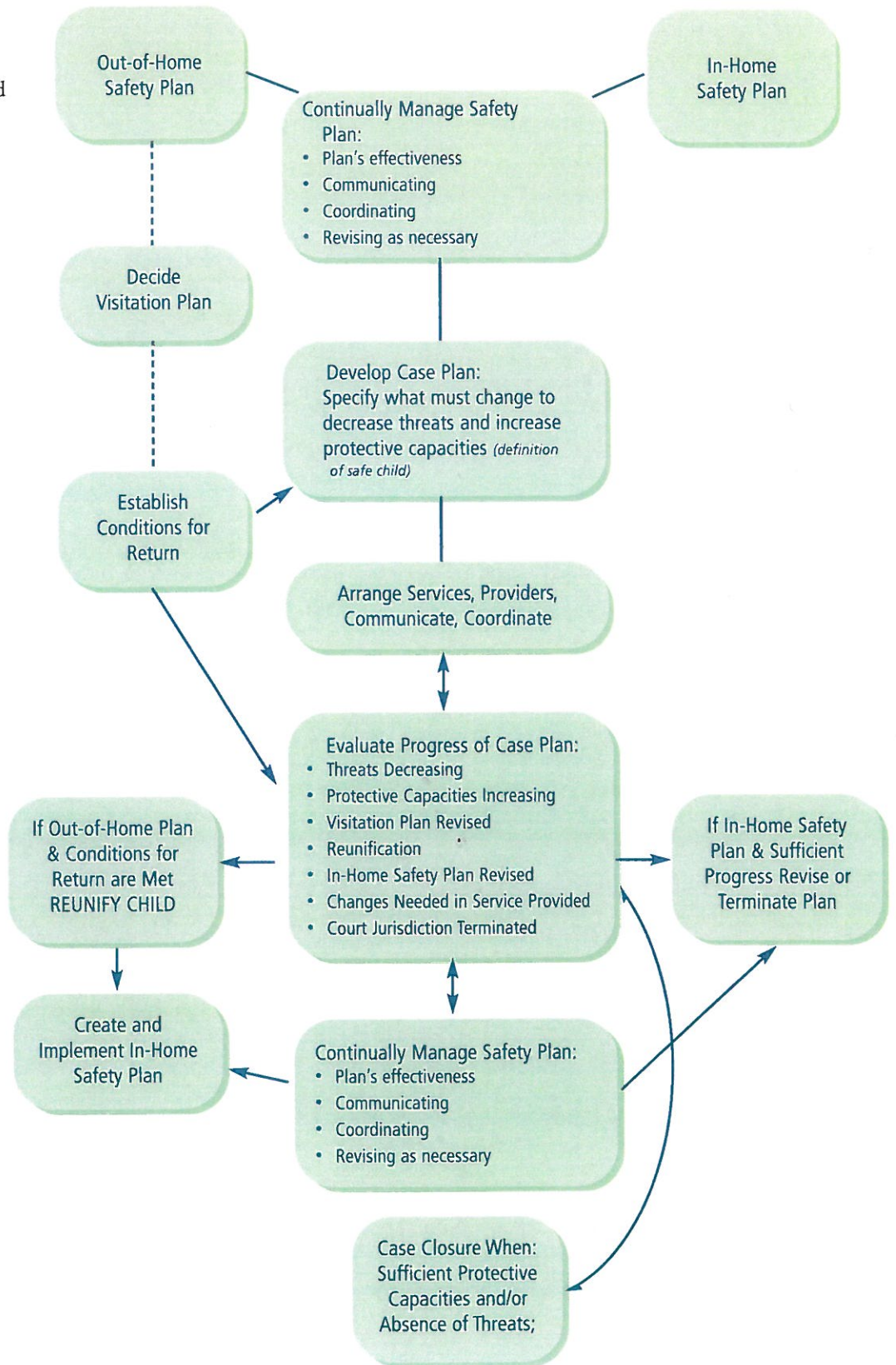
(If the answer to any of these questions is "no," then an in-home safety plan may not be appropriate.)

What actions or services are required for an in-home safety plan to control the threats of danger to the child?

- How often and long would services be needed (for example, separation: after-school daycare two times per week, from 3 pm to 6 pm)?
- Are providers available to carry out services at appropriate times, frequency and duration?
- Are the people carrying out the in-home the safety plan aware, committed, and reliable?
- Are safety plan providers able to sustain the intense effort until the parent can protect without support?

Safety Decision-Making: Developing the Safety Plan through Terminating Court Jurisdiction

Once the court orders the safety plan, review hearings continue to address safety and other issues. Steps to resolve safety issues are depicted in the following chart.



Determining Visitation

- Organize visits to occasionally allow parents to learn or practice the protective capacities they lack. Can visit length and location help make this happen?
- Arrange visits so CPS or another service provider can evaluate whether parents' protective capacities are improving. Can visit length and location help with this?
- Reasons visits may or may not be supervised are based on:
 - Threats of danger: some threats may be more difficult to manage without supervision than others. Unmanageable threats may include violence, child's intense fears, premeditated harm, extreme negative perception of the child, and likelihood of fleeing with the child.
 - The volatility of the threat and how difficult it would be to manage without supervision. Analyze volatility by considering when and how the threats emerge, parent's impulsivity, whether home environment is unpredictable, or safety could be maintained only through 24 hour in-home help.
 - Whether significant information is lacking about the parent, due to parent unwillingness or other obstacles.
 - Whether parent's or children's functioning deteriorating during visits. If so, threats of danger must be reconsidered
- Is allowable contact spelled out, including email, text messages, and phone?
- Is there reason *not* to include parents at appointments, school, and church events?
- Are the requirements and logistics for visits and contacts provided in writing to parents and other visitation participants? Are they clear to *all*, not just legal parties?
- Are participants clear that visits will not be used as punishment or reward?
- Set dates when visitation terms and contacts will be reconsidered.

Establishing Conditions for Return

The judge should expect CPS and the legal parties to use the following process to identify the conditions for return to include in the court's order. (The following builds on the decision process needed to determine whether to remove a child from home, as discussed in Chapter 6.)

- Carefully review *exactly* why an in-home safety plan was originally determined to be insufficient, unfeasible or unsustainable.
- Ask the following questions regarding each threat of danger (including any new threats that may have emerged):
 - How does the threat emerge, including its intensity, frequency, duration, etc?
 - Can it be controlled with the children in the home and, if so, how?
 - Can anyone substitute for the parent within the home to provide sufficient protective capacity to assure control of the threat of danger?
- Based on the answers to the above questions, discuss what is needed to control threats of danger. Referring to the analysis that led to the original decision that an in-home safety plan would not work, identify what circumstances must be different. Answer the following questions (discussed more fully in Chapter 6):
 - Were the parents' capacity, attitude, awareness, etc. factors in the original decision that an in-home safety plan would be insufficient?
 - Do any of these factors need to change before the child can return home with an effective in-home safety plan?
 - What is the potential for other threatening parents or persons leaving home?
- Specify the acceptable people, behaviors, situations, and circumstances (including alternatives and options) that, if in place and active, would resolve the reasons an in-home safety plan was originally determined to be insufficient.
- Always include as a condition for return that the family agree to a court-ordered in-home safety plan.

Increasing the Case Plan's Likelihood for Success

(with focus on safety issues)

- Does the case plan include goals or tasks addressing changes in behaviors, commitments, and attitudes related to safety? Listing services people must attend, directing them to “follow all treatment recommendations,” does not allow the court to measure progress, only to measure attendance or participation.
An example: “Alan will demonstrate an ability and willingness to delay his own needs to provide food, supervision, and attention for his daughter Kayla.”
- Does the case plan follow logically from the threats and gaps in protective capacities in the home? Be precise when detailing a case plan's strategy, and specify what must change.
- Does the case plan duplicate the safety plan? If yes, one plan (or both) is not fulfilling its purpose. A case plan does not replace the safety plan, nor is it a duplicate. These plans work concurrently. The case plan works on changing things so the parents, in time, can keep their child safe without the court intervening; while the safety plan, in or out-of-home, helps control things now so the child stays safe from threats.
- Does the case plan target issues that influence threats of danger? Does it target conditions interfering with parent protective capacity? Some parents must deal with their own experiences of being victimized to develop protective capacities. Some mental health issues make a parent so ill-prepared for being protective that those issues must be addressed first. A case plan calling for the parent to “learn about child development” will fail if it does not address these crucial problems.
- How do parents react to the case plan? An experienced judge knows how to gauge a parent's hope, fear, or remorse.
- Does the case plan focus on reducing threats without also increasing protective capacities? The family has the best chance for success if they reduce threats *and* increase protective capacity. Compare the benefits of a) having a single mother end her live-in relationship with her boyfriend who physically abused her and her child; and b) helping that mother develop her alertness to danger and willingness to put her child first. If the first succeeds, one threat is eliminated. If the second succeeds, future threats will be managed by the mother. Both strategies can be in the case plan. Focusing solely on reducing threats, while more obvious, will likely limit long-term success.

Determining Whether to Reunify

While deciding whether to reunify, the judge requires the following information:

- The status of the original threats of danger and any newly emerged threats
- The nature, quality, and length of visits between child and parent. (By the time reunification is considered, visits should have been frequent, consistent, and unsupervised).
- Specific information about changes in parent behavior, attitudes, motivation, and interactions. (This has little to do with how many service sessions parents attended).
- Parental willingness and capacity to support reunification and an in-home safety plan. (Note this has *nothing* to do with gaining parental promises to control situations already determined out-of-control).
- Information and observations from the out-of-home care provider. (What are patterns of child or parent behavior before, during, and after visits, or changes in the child since placement that will influence reunification's success)?
- The preparation given the out-of-home care provider to support reunification. (The natural loss experienced by the provider if reunification occurs does not rule out the value of their information; consider how their support or lack of it will influence reunification).
- Progress noted by providers; opinions of providers regarding reunification; recommendations from providers about what is needed for the in-home safety plan to be sufficient. (Scrutinize differences of opinion; resist relying on one party, or the person with the most credentials; sort through turf wars and personality conflicts).
- The recommendation and its justification from the CPS worker. (The worker should not be relying solely on "the recommendations of Dr. X"—demand that the worker make a recommendation and explain how he/she arrived at the recommendation).
- The specifics of a reunification plan, including: (A reunification *plan* means that even if the court orders reunification, it must happen with preparation, not at 6 pm tonight. Neither should it wait until the end of the school semester or some other lengthy timeframe.)
 - The changes to the visitation schedule, how will visits increase and still be used to keep measuring and building confidence in the reunification decision?
 - Involvement as appropriate of the extended family
 - Involvement of the out-of-home care provider, foster parent
 - Specific time frames
 - The plan to prepare the child; who will talk to the child? Who will discuss emotions, such as what will be missed in the placement home and other issues important to the child?
 - The plan to prepare the family and the home for child's return. (There are unspoken issues the parent may feel guilty about raising, or worried that they may be misinterpreted as not being ready. There also must be a plan (who, when) for discussing and solving practical issues such as school or transportation and emotional issues such as fear or anxiety. Do not assume the therapist will do this. Get specifics on how these important topics will be resolved).
 - The specifics of the in-home safety plan: actions, frequency, providers, and roles. (Details are required: who will do what, when, and for how long).
 - The role and responsibility for active safety plan management by the CPS worker; reunification is the most dangerous time for the child. (The court should be alert; often agency and service providers now see this family as successful so contact slows. Order specifics of how the safety plan will be aggressively supervised).