

Capacity Building
CENTER FOR COURTS

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Child Safety: A Guide for Judges and Attorneys

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“Child Safety: A Guide for Judges and Attorneys”

Background and purpose

Safety planning as a shared responsibility

Judges make ultimate safety decisions: whether to remove a child, return a child home, etc.

Judges and lawyers often lack sufficient training in basic principles of safety assessment and planning

Caseworkers often make safety recommendations based on inadequate information or faulty assessments

Judges asking the agency the right questions in each and every case leads to an improvement in agency practice

Purpose of this presentation

Provide for judges and attorneys practical information about child safety so they can:

- Assess whether agency recommendations are based on sufficient information; and ask for additional information to be gathered and reported to court;
- Assess whether agency recommendations are based on thorough analysis of specific criteria to child safety decision making;
- Make good decisions about child safety.

→ Keep kids out of care who don't need to be there
 → Get kids who *initially* needed to be in care *returned home* without unnecessary delay
 → For kids who are unsafe at home, implement an in-home safety plan, or placed in care, where appropriate

Understand changes in DCS Safety Model
 "SAFE Arizona"

Definitions

Safe child

"Vulnerable" children are safe when there are no "threats of danger" within the family or home **OR** when the caregivers possess sufficient "protective capacity" to manage or control any threats.

Unsafe child

Children are unsafe when they are "vulnerable," there are "threats of danger" within the family or home **AND** the caregivers have insufficient "protective capacities" to manage or control the threats, making outside intervention necessary..

6 categories of information to collect on each case so that the judge can assess threats of danger, protective capacities, and child vulnerability

- 1 - What is the nature and extent of the maltreatment?**
- 2 - What surrounding circumstances accompany the maltreatment?**
- 3 - What are the overall, pervasive parenting practices used by the caregiver?**
- 4 - What are the disciplinary approaches and typical context in which such discipline is used by the caregiver?**
- 5 - How does the caregiver function overall in managing his or her own life?**
- 6 - How does the child function on a daily basis?**

Threats of Danger

- 15 universal safety threats
- A child is unsafe when one or more of these threats exist, and the parent/caregiver lacks sufficient protective capacity to manage or control the threats to a vulnerable child
- Threats of danger present in the form of behavior, emotion, attitude, perception or situations
- Guide contains a description of these conditions, and several examples of how these conditions might be manifested within a family

Threats of Danger

Safety Threshold Criteria

- A family condition is **out-of-control**
- A family condition is likely to result in a **severe** effect
- The severe effect is **imminent**
- The family condition is **observable** and can be **clearly described and articulated**

Threats of Danger

1. No adult in the home is routinely performing basic and essential parenting duties and responsibilities.
2. The family lacks sufficient resources, such as food and shelter, to meet the child's needs.
3. One or both parents lack parenting knowledge, skills, and motivation necessary to assure a child's basic needs are met.
4. One or both parents' behavior is violent and/or they are behaving dangerously.
5. One or both parents' behavior is dangerously impulsive or they will not/cannot control their behavior.
6. Parents' perceptions of a child are extremely negative.
7. One or both parents are threatening to severely harm a child, are fearful they will maltreat the child and/or request placement.
8. One or both parents intend(ed) to seriously hurt the child.

Threats of Danger

9. Parents largely reject CPS intervention; refuse access to a child; and/or the parents may flee.
10. Parent refuses and/or fails to meet child's exceptional needs that do/can result in severe consequences to the child.
11. The child's living arrangements seriously endanger the child's physical health.
12. A child has serious physical injuries or serious physical symptoms from maltreatment and parents are unwilling or unable to arrange or provide care.
13. A child shows serious emotional symptoms requiring immediate help and/or lacks behavioral control, or exhibits self-destructive behavior and parents are unable to provide care.
14. A child is profoundly fearful of the home situation or people within the home.
15. Parents can not, will not or do not explain a child's injuries or threatening family conditions.

Protective Capacities

- Refers to personal and caregiving characteristics that specifically and directly can be associated **with being protective** to one's young
- **Personal qualities or characteristics** that contribute to vigilant child protection
- Fundamental **strengths** that prepare and empower the person to be protective
- Guide contains a description of **behavioral, cognitive and emotional protective capacities**, and several examples of how a parent might express these strengths

Cognitive Protective Capacities

Refers to knowledge, understanding, and perceptions contributing to protective vigilance.

Parents with low intellectual functioning can still protect their children

Does the parent recognize she is responsible for her child, and recognize clues or alerts that danger is pending?

For example, 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 parent

Behavioral Protective Capacities

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 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
- sets aside her/his needs in favor of a child
- uses resources necessary to meet the child's basic needs
 - is adaptive and assertive

Emotional Protective Capacities

Refers to feelings, attitudes and identification with the child and motivation resulting in protective vigilance.

2 issues (1) the attachment between parent and child, (2) 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

Vulnerability of Child

- Assessing the **child's ability to protect himself** from threats
- **Criteria** to consider include age, physical ability, cognitive ability, developmental status, emotional security, and loyalty to the family
- Vulnerability must be **judged in light of the threats** that are occurring in a family and the lack of protective caregivers
- **Danger of oversimplifying** the assessment of whether the child is vulnerable

Vulnerability of Child

Examples of criteria:

- lacks capacity to self-protect
- susceptible to harm based on size, mobility, social/emotional state
- physical or mental developmental disabilities
- isolated from the community
- lacks the ability to anticipate and judge presence of danger
- consciously or unknowingly provokes or stimulates threats and reactions
- poor physical health, has limited physical capacity, is frail
- emotional vulnerability
- impact of prior maltreatment
- feelings toward the parent – attachment, fear, insecurity or security
- ability to attach and vulnerability to future separations
- ability to articulate problems and danger

Overview of the decision process

Sufficient information about the family gathered and presented in court (the six questions)

Information assessed to determine:

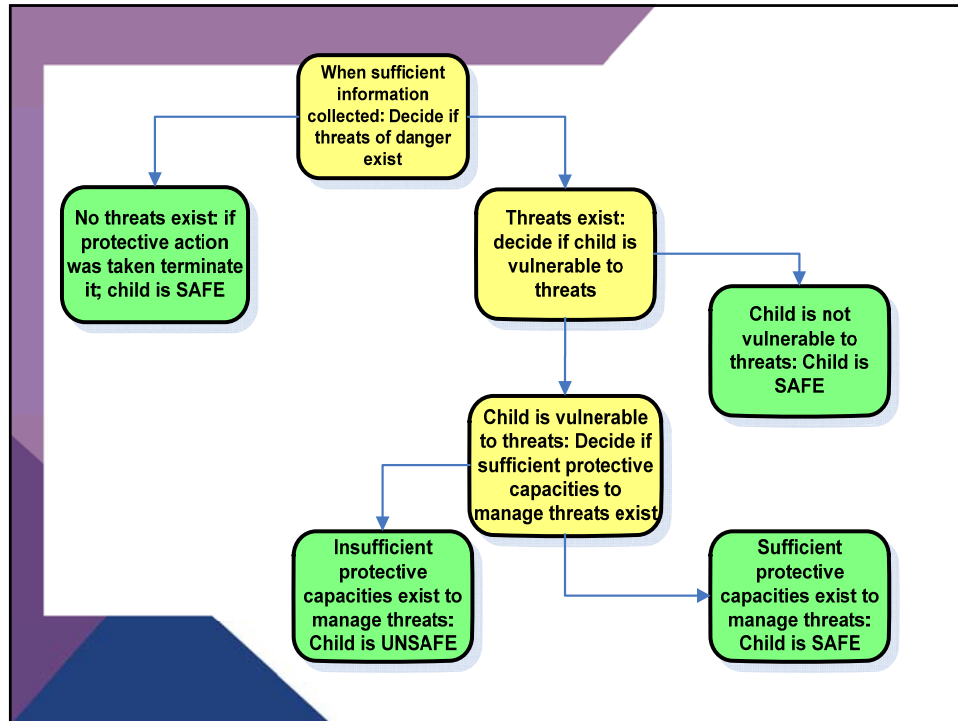
- whether threat(s) of danger (15 threats) exist
- whether child(ren) is vulnerable
- whether sufficient protective capacities are present in order to manage specific threats.

→ If no threats are present, the child is safe.

→ If threats are present, but the child is not vulnerable, the child is safe.

→ If threats are present with a vulnerable child, but sufficient protective capacities exist, the child is safe.

→ If threats are present, child is vulnerable and protective capacities are insufficient, the child is unsafe.



With Unsafe Child ... what type of Safety Plan?

In Home? Out of Home? or combination?

- How and when do threats emerge?
- Home environment conducive to controlling the pattern of emerging danger?
- What outside actions or services required to do that?

A safety plan controls threats of danger

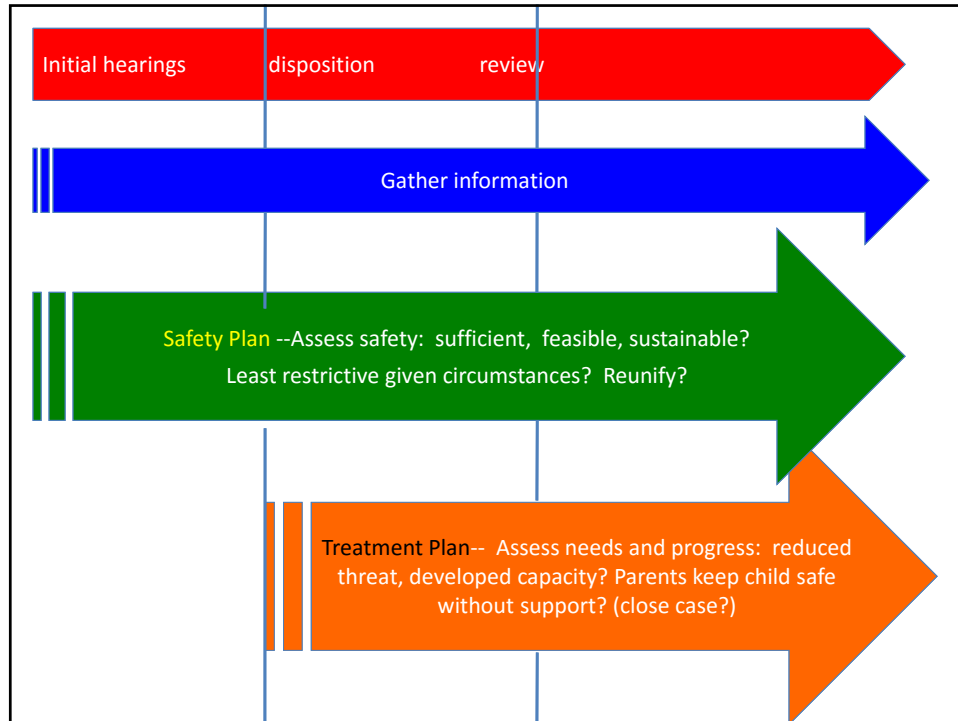
Immediately control or manage threat of danger

Be made up of components (people and services) accessible when threat will be present

Describe concrete, action oriented activities and tasks assigned to identified people

Never rely on parental promises to control what has been assessed as out of control

Safety plans (in or out of the home) do not require parental change if it makes child safe



The Out-of-home Safety Plan: Tasks and Responsibilities

An out-of-home safety plan becomes necessary whenever an in-home safety plan is not sufficient, feasible or sustainable.

An out-of-home safety plan poses DCS responsibilities and issues the court must decide:

- 1) What kind and amount of contact will there be? Visitation**
- 2) What are the minimum expectations or conditions for the child to return home?**
 - clear to the court and family
 - related to behaviors and circumstances that must exist that would allow for an in-home safety plan managed by CPS that is both feasible and sustainable.
- 3) Development of the Case Plan**

Developing the Case Plan

Purpose of the Case Plan:

- 1) Eliminate or reduce the threats
- 2) Enhance protective capacities

- **Conditions for Return**
- **Building a Case Plan**
- **Knowing when to reunify (based on safety)**

Threat to safety:

Caregiver cannot control behavior

Mother is so depressed that she cannot provide basic care to her 3 children, ages 7, 2 & 3. Lethargic, sleeps, refuses to take meds, cannot keep home safe. She allows the 7 year old to basically parent her 2 and 3 year olds in terms of food, clothing, supervision.

Case plan objectives

Mother participates in services (identified in plan) that:

Decrease her lack of control over her depression

Demonstrate effective coping

Demonstrate effective energy and activity to perform basic parenting duties of feeding, clothing, supervision, protection from harm

Carry out essential tasks related to self-care, finances, food/clothing

Demonstrate ability to delay own needs to meet needs of children

Demonstrate appropriate expectations of and sensitivity to children and their needs.

Conditions for Return: Safety Informs the Reunification Decision

- Adults are available to assist with childcare supervision and protection as often and for as long as necessary
- Responsible adult assures home is safe and clean
- Mother gets evaluation and follows recommendations
- Mother follows necessary regimen to treat her depression
- Mother keeps house clean
- Mother demonstrates ability to feed and provide basic care to children
- Mother allows for in-home safety plan including access to providers and services
- Mother's depression lessens or in control

Increasing the Case Plan's Likelihood for Success

- Does the case plan include goals or tasks addressing changes?
- Does the case plan follow logically from the threats?
- Does the case plan duplicate the safety plan?
- Does the case plan target issues that influence threats of danger?
- How do parents react to the case plan?
- Does the case plan focus on reducing threats without also increasing protective capacities?

ASFA Requirements

Federal law requires the court to hold annual permanency hearings (periodic reviews every 6 months), and determine:

- Safety of the child;
- Continuing necessity for and appropriateness of the placement;
- Extent of compliance with the case plan;
- Extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and
- A likely date by which the child may be returned to and safely maintained in the home or placed for adoption or legal guardianship.
42 U.S.C. 675(5)(B).

Unclear, imprecise, vague conditions for the child's return produces bad outcomes.

Parents being confused about what they must do or accomplish creates barriers to the child's safe and timely return.

Failing to identify and explain conditions for return leads to lower rates of reunification.

Reasonable Efforts

Evaluating Progress: Reunification

Judge must evaluate progress during the review hearing no matter how many other many issues need to be resolved. The judge evaluates progress to determine whether:

- The safety plan and case plan are appropriate;
- Services, actions, tasks and responsibilities are being carried out according to plan;
- Parents and others are participating according to commitments made in both plans;
- Progress is occurring;
- Conditions for return have been met; and
- The safety plan or case plan must be modified or revised.

Checklists for judges:

- Safety related questions for judges to consider
- Determining whether to reunify
- Case closure

Reunification not based upon case compliance

Closing the Case

Eliminated threats

Improved protective capacity

→ Combination of the two

- Ongoing parental improvement over time
- Parental insight
- Parental engagement in steps to sustain change
- Supports from social service agencies, family and others in place

