

**Safety Analysis:
Moving from Assumptive to Critical Thinking**

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Agenda

- PA Mission and Guiding Principles
- Assumptive versus Critical Thinking
- Role of Attorney in Safety Decision Making process
- 6 background questions to guide Safety
- Safety Threat versus Risk
- Vulnerability
- Protective Capacities

Agenda cont.

- Safety and Visitation
- Safety and Reunification
- Summarize and Wrap Up

Mission and Guiding Principles
for Pennsylvania's Child Dependency System

Protect Children

Promote Strong Families

Promote Child Well-Being

Promote Timely Permanency

Safety Assessment and Planning in Pennsylvania

- ASFA was signed and became federal law on November 19, 1997. ASFA is tied to federal funding
- 2000 first child welfare bulletin
- 2006 revised child welfare bulletin
- 2008 child welfare trainings on Safety Assessment
- 2011 Core I provided a "sneak peak" at Safety Assessment to Attorneys
- 2012 National Resource Center on Legal and Judicial issues
- 2013 (Spring) Children's Roundtable Summit
- 2013 (Fall) Hearing Officer Training

Safety Decision-Making: Required Intervals

- Pennsylvania Safety Assessment Intervals:
- Assessment
 - At intake
 - Within 24 hours of first face-to-face
 - When new evidence suggest changes
 - Conclusion of intake

Safety Decision-Making: Required Intervals

- In-Home Services:
 - 24 hours of 1st face-to-face with a newly assigned cw
 - Within 30 days prior to FSP/CPP
 - When new evidence suggest changes
 - 30 days prior to planned return home
 - 24 hours after unplanned return home
 - 30 days after either planned or unplanned return home
 - 30 days prior to case closure

“If we save the body but in so doing destroy the mind and soul of a child, what good have we really done? We must focus on the whole child, the whole parent, the whole family to bring a child to adulthood as a whole person. Only when we do this for every child will we consider our work a success.”

Honorable Max Baer, Supreme Court Justice

Role of Judges and Attorneys in Safety Decision Making Process

- Very little guidance for Attorneys
- Safety determined at every hearing
- Isolated incident or ongoing pattern
- ASFA requirements:
 - Reasonable Efforts to prevent removal 45 C.F.R. Sec. 1356.21 (b)(1)
 - Reasonable Efforts to finalize the permanency goal 45 C.F.R. Sec. 1356.21 (b)(2)
 - “contrary to the welfare” 45 C.F.R. Sec. 1356.21 (c)

**Role of Judges and Attorneys
in Safety Decision Making Process**

- The Juvenile Act has the following declared purposes (42 Pa.C.S. § 6301)
 - To preserve the unity of the family whenever possible or to provide another alternative permanent family when the unity of the family cannot be maintained
 - To provide for the care, protection, safety and wholesome mental and physical development of children coming within the provisions of the Juvenile Act.
 - To achieve the foregoing purposes in a family environment whenever possible, separating the child from parents only when necessary for his welfare, safety or health, or in the interests of public safety

**Role of Judges and Attorneys
in Safety Decision Making Process**

-To provide means through which the provisions of the Juvenile Act are executed and enforced and in which the parties are assured a fair hearing and their constitutional and other legal rights are recognized and enforced

- Pennsylvania Dependency Benchbook, Pennsylvania Juvenile Procedural Rules and the Mission and Guiding Principles strongly recommends "frequent judicial review and oversight including a minimum of 3 month reviews for dependent children.....to review the permanency plan for the child, the date by which the goal of permanency for the child might be achieved and **whether placement continues to be best suited to the safety, protection, and physical, mental and moral welfare of the child**"

Safety Decision-Making

- Safety Assessment and Planning
- Shared Responsibility
- Made ongoing and throughout the life of a case
- Involves critical and sequential thinking
- Helps to provide a clear set of priorities for the parents
- Involves gathering information about 3 key elements
 - Threats
 - Vulnerability
 - Parental Protective Capacities

Safety Decision-Making Analysis

No threat of danger = safe child

Threat of danger + protective capacities = safe child

Threat of danger + A vulnerable child – protective capacities = unsafe child

Safety Decision-Making Analysis

(6 key questions for Attorneys to consider)

1. What is the nature and extent of the maltreatment?
2. What circumstances accompany the maltreatment?
3. How does the child function day-to-day?
4. How does the parent discipline the child?
5. What are overall parenting practices?
6. How does the parent manage his/her own life?

(Child Safety: A Guide for Judges and Attorneys, 2009)

Safety Decision-Making (Threats)

Safety Threats (immediate and impending) versus Risk

- Safety Threats are specific situations that are occurring *now* or in the near future that put a child in danger.
- Risk evaluates future potential threats to a child

Example 1: -It's wintertime and you are concerned about a big snowfall = **Risk**
 -Its wintertime, you look out your window and see a few inches already on the ground and snow coming down very heavy = **Impending Threat**
 -It's wintertime, snow is falling and you see a large crack in your roof due to several inches of snow sitting on your roof = **Immediate Threat**

**Safety Decision-Making
(Threats)**

Example 2: -Mother has a history of cocaine use, but has been clean for 3 months = **Risk**
 -Mother has a history of cocaine use and recently relapsed. Mother immediately contacted her previous D/A counselor to begin treatment = **Impending (Imminent) threat**
 -Mother has a history of cocaine use, caseworker makes an unannounced home visit and finds mom passed out, with drug paraphernalia laying on the kitchen table and her 4 year old unsupervised = **Immediate threat**

**Safety Decision-Making
(Threats)**

- PA Safety Threats
- In order to be considered an immediate threat, the following criteria must be present:
 - S: Specific
 - O: Observable
 - O: Out of Control
 - V: Vulnerable Child affected
 - I: Immediate and potential for serious harm

**Safety Decision-Making
(Threats and Critical Thinking)**

- Safety Analysis ensures that more than just maltreatment is considered
- Information gathered on the Safety Assessment Form provides for:
 - more clarity surrounding circumstances
 - critical thinking in making a decision regarding a child's safety
 - a basis for providing clear priorities to the family
 - more specific recommendations to the Court to ensure safety

**Safety Decision-Making
(Threats)**

- Good Safety Assessment = clear expectations for **behavioral change** needed to ensure child's safety
- Helps avoid confused thinking
- "Cookie Cutter" Assessments
- Threat at removal guides subsequent hearings and ultimately determines reunification

Risk or Threat or Nothing?

- Neighbor calls the agency to report that the father had been drinking and doing marijuana at the neighbors house two weekends ago and there is another party planned next weekend
- Caseworker shows up for an unannounced home visit and finds no food in the house, dog feces on the floor and an infant crawling on the floor
- Middle school child reports to her teacher that her mom's boyfriend is getting out of jail next month and child is afraid of him because he has hit her in the past

**Safety Decision-Making
(Vulnerability)**

Vulnerability - a child's ability to self-protect and provide self care.

- Can be oversimplified
- Not just age
 - Example 1: 17 year old with severe MR
 - Example 2: 15 year old abuse victim emotionally debilitated with fear
 - Example 3: 9 year old who is mature and grandparents live next door
- Threats + qualities child possesses

**Safety Decision-Making
(Vulnerability and Critical Thinking)**

- Is the child able to self-protect
- Has vulnerability of all children in the home been considered
- Can the child identify a threatening situation developing
- What is the child's overall functioning
- Are the child's behaviors escalating the threats

Risk or Threat or Nothing?

- A 16 year old who recently returned home, from a Residential Treatment Facility due to inflicting self harm, tells his mother that he consumed multiple household liquid cleaning products because the voices were telling him to hurt himself again
- Grandmother calls the agency to report that her ex-daughter-in-law's babysitter quit and she plans to leave her 7 year old, with mild autism, alone next week until she finds a new babysitter
- School called to report that a 12 year old, honor student, was watching her brothers 6 and 9 afterschool for 3 hours every day until the parents returned from work

**Safety Decision-Making
(Protective Capacities)**

3 Categories of Protective Capacities – specific strengths of a parent that controls and manages safety threats.

- **Cognitive Protective Capacities** – parent recognizes they are responsible for child, is aware of clues or alerts that danger is pending
 - Aligned with the child
 - Is able to put a plan in place for protecting
 - Adequate knowledge as a parent
 - Accurate perception of the child
 - Self-aware

**Safety Decision-Making
(Protective Capacities)**

- **Emotional Protective Capacities** – feelings, attitudes and identification with the child and motivation to protect
 - Is able to meet their own emotional needs
 - Is emotionally able to intervene
 - Does not expect the child to produce gratification and self-esteem
 - Is tolerant
 - Displays concern and is intent on protecting
 - Strong bond
 - Expresses love, sensitivity and specific sympathy with the child's perspective and feelings

**Safety Decision-Making
(Protective Capacities)**

- **Behavioral Protective Capacities** – actions, activities, and performances that result in the parent protecting
 - Is physically able
 - History of protecting others
 - Acts to correct problems or challenges
 - Has impulse control
 - Demonstrates adequate skill as a parent
 - Puts child's needs first
 - Uses resources when needed
 - Is adaptive and assertive

**Safety Decision-Making
(Protective Capacities and Critical Thinking)**

- Is this an isolated incident or pattern of behavior?
- Has the parent cooperated with the caseworker's efforts to help identify services?
- Is the parent aligned with the child and intent on protecting?
- Is the parent free from needs which might affect the ability to protect (MH, D/A, medical, etc.)?
- Can the parent specifically articulate a detailed and realistic plan to protect the child?

Risk or Threat or Nothing?

- Hospital called Childline to report a child had been brought in to the ER, by the mother, for abdominal pain and multiple bruises. The child said her stepfather had punched her yesterday morning for not doing the dishes. Mother has kicked step father out of the house.
- Police are called to the home after neighbors reported seeing a young child driving the family car recklessly. Upon arrival, the father said he was drunk so he let his 13 year old drive him to the corner store for cigarettes.
- Hospital Social Worker calls a referral into the agency due to a 15 year old recently delivering a newborn and concerns that she is not getting up in the middle of the night with the baby.

Safety Plan

- Safety Plan has to include activities that are different from the activities that were occurring when the threat was identified
- Reasonable Efforts to prevent removal. 45 C.F.R. Sec. 1356.21 (b)(1).
- Act 55 Family Finding
- To determine if safety can be assured through a safety plan, consider the following questions:
 1. How and When does the threat occur
 2. Who are the participant of the plan
 3. Is the action required possible

(Child Safety: A Guide for Judges and Attorneys, 2009)

Safety and Visitation

“Visitation is a Right, not a Privilege”

- Important to keep in mind the threat at the time of removal when considering visitation
- Unsafe to live full time with a parent may or may not equal unsafe to visit unsupervised with the parent
- Visitation is a key component of the agency’s “reasonable efforts” toward the goal of reunification

<https://ocfcpacourts.us/childrens-roundtable-initiative/state-roundtable-workgroups/visitation>

Safety and Visitation
 “Visitation is a Right, not a Privilege”

- Pennsylvania case law strongly protects parents’ interest in visitation with their children. In *In re Rhine*, 310 Pa. Super 275, 456 A.2d 608 (1983), the Pennsylvania Superior Court announced that courts and child welfare agencies may not suspend parents’ visitation with a child who has been adjudicated dependent unless the party seeking to limit the visitation proves, by clear and convincing evidence, that visitation poses a “grave threat” to the child. In order to conclude that a “grave threat” exists, the court must find that “there are no practicable visitation options that permit visitation AND protect the child”

Safety and Reunification

- Reunification is based upon **safety**
- Resist “raising the bar”
- Revisit the original reason for removal (threats)
- Compliance versus Progress
- Behavioral changes of the parent
- Have a clear understanding of:
 - When to reunify
 - When will long-term services be necessary
 - When will change occur over a period of time

Safety and Reunification

Questions to ask:

1. Does my client know what exactly has to be different cognitively, emotionally or behaviorally?
2. Will the recommended services accomplish #1?
3. Do I know what the Safety Threat and Protective Capacities are so that I can advocate for my client?
4. Has the Threat that caused removal been mitigated?
5. Are the questions that I am asking during the court hearing leading to findings specific to the **current** Safety of the child?

Safety and Reunification

- “Calendar Watching”

- Reunification when:
 - Evidence that threats have been eliminated; and/or
 - Parental Capacities have been enhanced; and/or
 - The child’s vulnerability is no longer a factor

“What worries me more is what am I doing now in my practice that I may look back on 5 or 10 years from now and wish that I done differently”

Honorable John Kuhn
Court of Common Pleas of Adams County

In Summary

- Safety Decision Making requires critical thinking by all parties involved in the child’s case
- Safety is the joint responsibility of those practicing in Dependency
- Judges have clear legal expectations and obligations to consider, review and make rulings on safety throughout the life of the case
- Attorneys share in the responsibility to provide the Court with as much evidence as possible to determine the safety of the child

In Summary

- Safety Threats, Vulnerability and Protective Capacities determine whether a child is safe in their home
- Safety Plans can be either In-Home Safety Plans or Out-of-Home Safety Plans (County practices may determine type of plans used)
- Visitation is one of the key indicators for reunification
- Not all visitation needs to be supervised
- Family and Community Involvement: More eyes on a child will likely increase the safety.

In Summary

No threat of danger = safe child

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Threat of danger + A vulnerable child – protective capacities = unsafe child

Shelter Hearing Scenario

- Adolescent appears at a shelter hearing after being picked up by the police at an underage party. Mother reports that her teen son had not come home for 2 days, but that this was the first behavioral incident at home since agency involvement 5 months ago, their work with in-home services and his medication change. The son, expresses remorse for his actions and admits it was a set back from how far he had come over the past several months.
- The agency recommends group home where he can get intensive counseling. Mother and son are not in agreement.

Shelter Hearing Scenario

- GAL and Parent Attorney:
 - What questions will you ask?
 - What documents do you review?
 - What evidence will you provide to the court to advocate for your client?

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