

## Can Judges, Attorneys and Child Welfare Use the Same Criteria for Child Safety Decisions?

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Exploring  
Adaptation and  
Implementation

Las Vegas, NV

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Issues

## Purpose of Safety Decision Making Process

- Keep children who are or can be made safe at home from going into substitute care.
- Ensure that children remain in care only until they are or can be made safe at home.

## Objective of this Presentation

Introduce basic  
principles contained  
in the Guide

Begin  
consideration of  
how to implement  
The Guide

Acquaint you with how to use the Guide and how to access technical assistance to explore its further use

## Two Ways to Get the Guide

ABA Website

[www.abanet.org/child/rcji/](http://www.abanet.org/child/rcji/)

NRCCPS Website

[www.nrccps.org](http://www.nrccps.org)

Purchase by Order (\$21.99)

Wire bound, hard copy

**Includes** bench cards

**No** appendices

Free down load

print out, bind as you please

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**Includes** Appendices

## Touring the Guide



Removal  
(and return)  
is  
about  
**SAFETY**

Child Safety Guide is

**Not**

a new “practice model”

(and consistent with any)

Child Safety Guide Helps the Legal Community

- Focus on the underlying principles of good safety decision-making in any practice model and on complete relevant information about the family
- Use these principles to rationally and rigorously analyze situations and make decisions about child safety

Safety Guide: Sets Out a Rational Decision Making Process, that Provides...

- Common understanding of “child safety”
- Commonly understood vocabulary to talk about it
- Commonly accepted body of information to draw upon in decision making

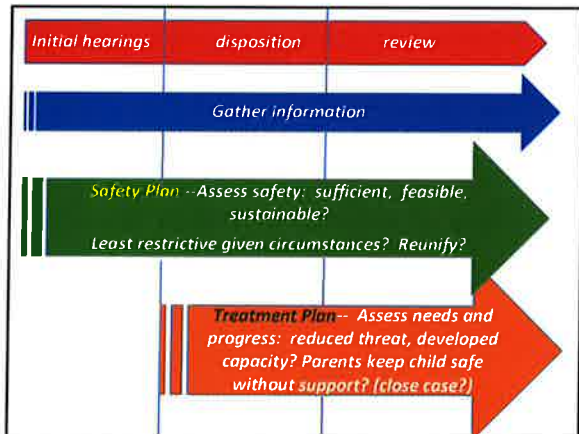
Can people in your court explain...

- The judges’ definition of “safety” for a child?
- How the judge determines whether a child is safe?

*All involved need to know how good decisions are made about child safety*

*To ensure fidelity to the method*





### Key Concept: Assessing Safety

Threat of Danger  
+  
Vulnerable child  
-  
Protective Capacity  
=  
"unsafe child"

Chapter 1 p. 2

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Chapter 1 p. 2

Turn to this page

## Information Drives Decisions About Safety

Chapter 2 p. 3

### How do we know whether a severe injury of a child represents a pattern of dangerous family conditions or is a one-time incident?

### Information/evidence drives decisions

Court and advocates need to be able to assess whether process followed and there is sufficient showing of evidence upon which to base the agency's recommendations.

Chapter 2 p. 3

The bare minimum we need to advocate and make findings about to make safety decisions is found in answers to **six questions**

## Six Questions/Six Categories

1. Nature of maltreatment?
2. Circumstances of maltreatment?
3. Child's day-to-day functioning?
4. Parental discipline?
5. Overall parenting practices?
6. Parental life management skills?

Chapter 2 p 3 - 5

## Time, time, time...

- Initial contrary to welfare determination *may well* be made mostly on the basis of the nature and circumstances of the maltreatment
- Reasonable efforts findings and the case plan—due 60 days from removal—must be made on complete information

Chapter 2 p 7

## Make a rational decision

based on complete  
information

Sufficient Information:  
what it looks like

Open To  
p. 5

INSUFFICIENT INFORMATION

=

POOR DECISIONS

=

POOR OUTCOMES

## Key Concept: Assessing Safety

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Chapter 1, p. 2

## Assessing Safety

- Vocabulary of assessment
- "safe child"
- Threat of Danger
- Vulnerable Child
- Protective Capacities

## Vocabulary: Safe and Unsafe Child

- 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..

Chapter 1, p. 2

## Safety (Danger) Versus Risk

Statutory language **re removal (safety)** varies among states

- *Imminent risk*
- *Risk of harm*
- *Imminent risk of severe harm*
- *Threat of harm*
- *Threat of imminent harm*

Chapter 1, p. 2

## Safety (Danger) versus Risk

**Safety** → concerned about **imminence** and **severe** consequences due to things being **out of control**

**Risk** → vague concept regarding whether something **might** occur if there is not intervention; risk may be mild or serious.

the critical question **re removal and return** is whether or not the child is **safe**.

Chapter 1, p. 2

## Threat of Danger

OPEN TO

Chapter 3, p. 10 of online Guide's Appendix A

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Chapter 1 p. 2

## Vocabulary: Threats of Danger

A specific family situation or behavior, emotion, motive, perception or capacity of a family member  
*observable*  
*out of control*  
*immediate*  
*severe consequences*

Chapter 3 p. 10 or online Guide's Appendix A

## Threats of Danger

- Where does the threat of danger perceived by the agency fit on this list?
- Require specificity
- Justify threats with six categories of information

Chapter 3 p. 10 or online Guide's Appendix A

## Child Vulnerability

OPEN TO

Chapter 3, p. 11

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Chapter 1 p. 2

## Vocabulary: Vulnerability

- Vulnerability: degree of dependence on others for protection and care
- Assess vulnerability in light of  
*This child's functioning and the specific threats in this family*

Chapter 3, p. 11

## Obvious Vulnerabilities

- Age 0-6
- Physical, developmental disabilities or delays
- Poor health, physical capacity
- Inability to articulate danger

Chapter 3, p. 12

## Less Obvious Vulnerabilities

- Isolated from community
- Cannot anticipate or judge presence of danger
- Consciously or unknowingly provokes danger
- Emotionally vulnerable
- Impact of prior maltreatment
- Family loyalty, fear, insecurity re parent
- Unable to articulate problems or danger

Chapter 3, p. 12

## Vulnerability Case Example

OPEN TO

Page 12

## Protective Capacities

Chapter 3, p. 13 or [online Guide's Appendix B](#)

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Chapter 1, p. 2

## Vocabulary: Protective Capacities

### Personal characteristics

associated with being protective,

That indicate protective vigilance,  
preparation and power to protect.

Chapter 3, p. 13 - 17 or [online Guide's Appendix B](#)

## Three Types of Protective Capacity

Cognitive	Behavioral	Emotional
<ul style="list-style-type: none"> <li>• knowledge</li> <li>• Understanding</li> <li>• perceptions</li> </ul>	<ul style="list-style-type: none"> <li>• Actions</li> <li>• Activities</li> <li>• performance</li> </ul>	<ul style="list-style-type: none"> <li>• Feelings</li> <li>• Attitudes</li> <li>• Identification</li> </ul>
Online Guide's Appendix B	Online Guide's Appendix B	Online Guide's Appendix B

Chapter 3, pp 13-16 or online Guide's Appendix B

## How do we know sufficient protective capacity exists?

- Not a matter of good intentions or sincerity
- Credible evidence (from answering six questions) shows that the parent can protect against a *threat that exists*.

Chapter 3, p. 13-18 or online Guide's Appendix B

## Prompting Questions

- Demonstrated ability to protect
- Intellectually, emotionally and physically able
- Display concern re child's experience
- Articulates feasible, realistic plan to protect
- Understand threat
- Emotionally able to carry out plan
- Believe problems are not child's fault

Chapter 3, p. 15-16

## This Process is **Both** a Sword and a Shield

- Children who are not safe can be protected
  - Children who are safe will not be taken into care
- What is the cause of unnecessary removals and tardy returns?
- Uncertainty caused by lack of evidence and a consensus about how it should be applied.
  - "better safe than sorry"

## Unsafe Child?

What now?

## Safety Plans



Chapter 5, p 21 – 23



**Safety Plan**

actions and services that will temporarily substitute for the lack of parental protective capacity to control the threat of danger

Chapter 5, p. 21

**Key Concept: Assessing Safety**

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Chapter 5, p. 21

**"CASE PLAN"**  
§475 [42 USC 675] ("The ASFA")

**Safety Plan**: "A plan assuring that the child receives safe and proper care..."

**Case Plan**: "and that the services are provided to the parents, child and foster parents in order to improve conditions in the parent's home, to facilitate return of the child to his own home."

Keeping track of two plans

Chapter 8, p. 39

**Safety Plan ≠ Case Plan**

Does not include:

1. How parent needs to change, or
2. Services to be employed to support parental change

**Safety Plan Must**

- 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 simply start controlling what has already been assessed as out of control

Chapter 5, p. 21

**What Type of Safety Plan?**

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

Chapter 6, p. 26 Benchcard G

## Is a plan...

- Sufficient?
- Feasible?
- Sustainable?
- How often and for how long would services be necessary?
- Providers available as often and for duration needed?
- Aware, committed and reliable people involved?
- Able to sustain the intense effort until parents are able to protect without support?

Chapter 6, p. 26

## An in-home safety plan in **this** case?

- Can this vulnerable child, notwithstanding lack of these parents' capacity to protect from these threats of danger, be made safe in this home?
- Is the agency the only source of potential safety planning?

Chapter 5, p. 22

## Out of home placement/*out of home safety plan* only when

it can be shown:

- that **insufficient protective capacities** by adult caregivers exist;
- and
- that an in-home safety plan managed by CPS is **not sufficient, feasible and sustainable** *to control for safety*.

Chapter 6, page 26

## Reasonable Efforts?

If an in-home safety plan would be sufficient,

and the agency fails to consider or implement one,

then the agency **has failed** to provide reasonable efforts to prevent removal (or to return child home).

Chapter 6, p. 25

## Reasonable Efforts to Prevent Placement

Was the safety plan implemented the least intrusive possible?

- Were actions and services necessary for safety identified accurately?
- Was sufficiency, feasibility and sustainability of in-home plan assessed?

Chapter 6, p. 25

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

An out-of-home safety plan raises two issues the court must decide:

1) Family contact; Visitation/Parenting time

2) Conditions for Return

Chapter 7, p. 33

## Visitation

## Supervision of Visits?

### Consider:

- Violence toward child?
- Child's fears of parents?
- Premeditated harm?
- Negative perceptions or unrealistic expectations of child?
- Abduction risk?
- Volatility?

Chapter 7, p 34

## Minimum Visitation Plan

- Face to face weekly and more frequently
- Sibling visits at least once per month
- Augment with other contact
- Written into an order distributed to everyone
- CPS oversight as appropriate to the case
- Other steps to maintain attachment and develop protective capacity
- Dates to review
- Most natural, visitation friendly settings

Chapter 7, p 33

## Conditions for Return

### HOW DO WE KNOW WHEN TO REUNIFY?

Chapter 7, p 34 or online Guide's Appendix D

## We Know Conditions for Return

- Behaviors and circumstances that must exist in the home that would allow for an **in-home safety plan** managed by CPS that is **sufficient feasible and sustainable**.

Chapter 7, p 35 or online Guide's Appendix D

## Developing Conditions for Return

- List Specific Threats of Danger
- Why the analysis shows in home plan was insufficient, unfeasible or unsustainable
- Conditions for Return: the benchmarks for reunification; what will be necessary for an in-home safety plan to work?

## Reunification is a Safety Decision

- What circumstances made you decide an in home safety plan would not be sufficient, feasible and sustainable?
- Do those same circumstances still exist?

Chapter 7, p. 36 or online Guide's Appendix D

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## "CASE PLAN" §475 [42 USC 675] ("The ASFA")

"A plan assuring that the child receives safe and proper care..."

Safety Plan

"and that the services are provided to the parents, child and foster parents in order to improve conditions in the parent's home, to facilitate return of the child to his own home."

Case Plan

Keeping track of two plans

Chapter 8, p. 39

## The Goals of Case Plan

INCREASING PROTECTIVE CAPACITIES  
&  
ELIMINATING THREATS

Chapter 8, p. 39

## Case Plan is

- An effective and expedient strategy to prepare parents to protect child
- States what change is expected, what evidence will show change and how will it be generated
- Revised over time

Chapter 8, p. 39

## Stating needed change defines:

- Actions to be taken to bring about change, and
- Evidence from which we can conclude whether or not change has taken place

## Evaluating the Case Plan

- Concrete/behavioral goals and tasks?
- Follows logically from threats and capacities?
- Same as safety plan???
- Targets where threats arise? Where capacities compromised?
- What is parental reaction to plan?
- Both threat reduction and capacity increase?

Chapter 8, p 40

## Evaluating Progress

NOT -- have parents completed services?

BUT -- can we identify parental change that has taken place in terms of lessened threat and/or increased capacity?

Chapter 9, p. 43

### Example:

#### evaluation of parental progress

##### Change needed/protective capacity to be developed:

– parent sets aside her/his needs in favor of a child

### Example:

#### evaluation of parental progress

- Have parents demonstrated the ability to put the child's needs above their own?
  - Does parent give time to child rather than to own gratification?
  - Does parent spend money on child's needs?
  - Are meal and bedtimes appropriate for child's needs rather than convenient for parents?

## Review Hearing Includes

- Are safety plan and case plan up to date and appropriate?
- Are services being provided and is meaningful evidence being gathered to evaluate progress?

Do facts indicate that change is happening?

Chapter 9, p 43

## Lack of Progress?

Right strategies to enhance this protective capacity?

Services appropriate?

Parents understand change required and accept the need?

Time frame realistic to make this change?

Chapter 9, p 44

## Review Hearing Also Includes

*Will an in home safety plan  
now keep the child safe?*

Does progress suggest that conditions for return have been met?

Does some other change suggest that conditions for return have been met?

Chapter 10, pp 47-48, Benchcard L

## return home

Can in-home safety plan replace the out-of-home safety plan?

Can we step down intensity of our intervention?

Chapter 10, pp 47-48, Benchcard L

## Closing the Case — **Safe Child**

Eliminated threats

Improved capacity

Combination of the two

- Ongoing parental improvement?
- Insight?
- Engaged in steps to sustain change?
- Developed supports?

Chapter 11, p 51



## Free Download of Online Version of Guide: [www.nrc cps.org](http://www.nrc cps.org)

Questions?  
Contact

The National Resource Center on Legal and Judicial Issues  
The National Resource Center for Child Protective Services

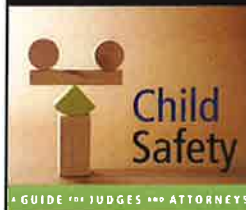
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*"A decision... must be borne of deliberation and not happenstance, inattention or neglect."*

Justice John Paul Stevens

## Contact Information for Technical Support



GUIDE FOR JUDGES AND ATTORNEYS

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