

# CRITICAL DECISION POINTS for ATTORNEY CONSULTATION

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# TOPICS

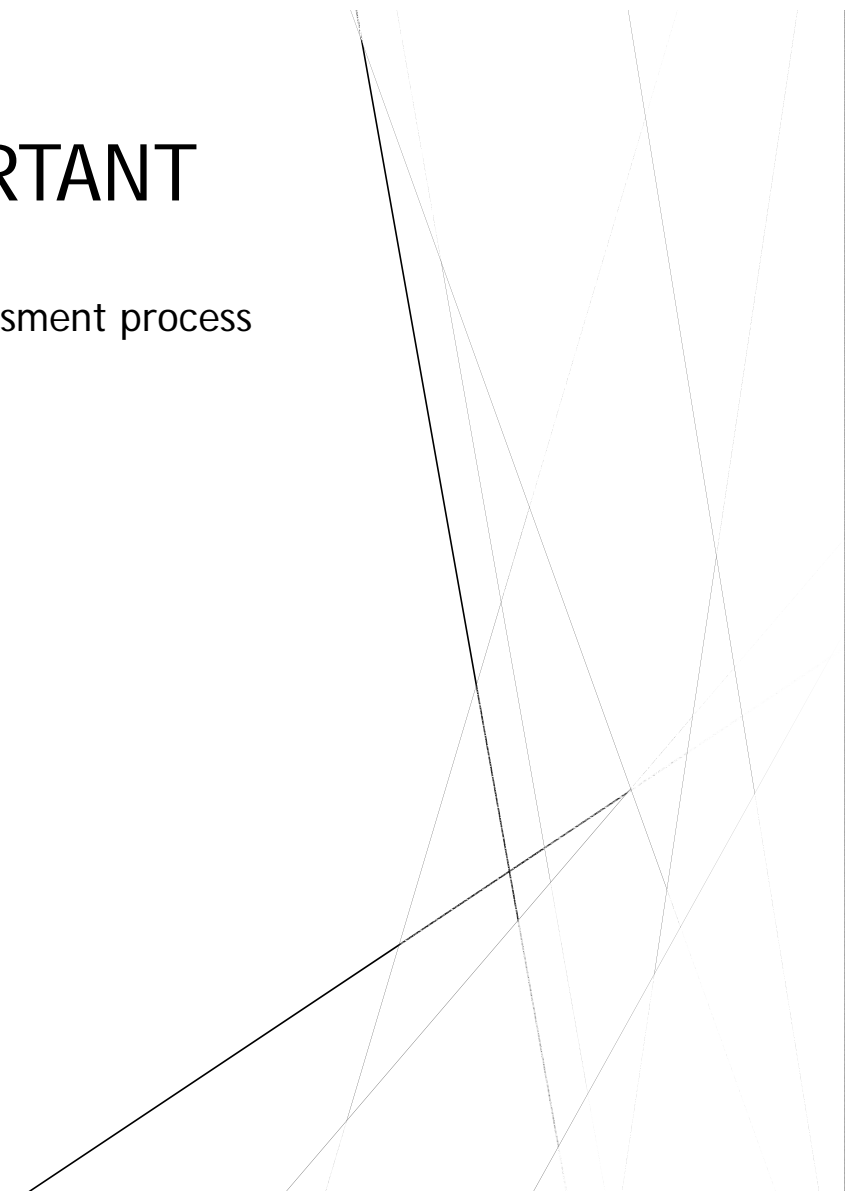
- ▶ Why is this important?
- ▶ Basic overview of screening, assignment and investigation/assessment process
- ▶ Attorney consultation: mandatory and recommended/best practices
- ▶ Tips on working with your agency

**NOT “ONE SIZE FITS ALL”**

WHAT WORKS FOR YOUR COUNTY?

# WHY IS CONSULTATION SO IMPORTANT

- ▶ Decisions made during the screening and investigation/assessment process can impact your case down the road
- ▶ Building relationship with agency
- ▶ Link between the criminal world and the CP world



# SCREENING

- ▶ Minn. Stat. Sec. 626.556 + DHS Screening Guidelines
  - ▶ Law says you have to follow screening guidelines
- ▶ REPORT of alleged child MALTREATMENT made to agency
- ▶ Must meet 3 elements
  - ▶ Allegation meets definition of child maltreatment
  - ▶ Sufficient identifying information to attempt to locate child or member of the family
  - ▶ Includes allegations that have not been previously assessed or investigated
- ▶ If 3 elements are met, the report is SCREENED IN
- ▶ Next step is to determine a TRACK ASSIGNMENT
  - ▶ Two tracks
    - ▶ Family Assessment
    - ▶ Investigation

# TRACK ASSIGNMENT

- ▶ INVESTIGATION (*626.556, subd. 2(e)*)
  - ▶ All reports of sexual abuse (*626.556, subd. 2(n)*)
  - ▶ All reports of substantial child endangerment (*626.556, subd. 2(o)*)
  - ▶ Serious threats to child's safety (*626.556, subd. 10(b)(2)*)
- ▶ FAMILY ASSESSMENT (*626.556, subd. 2(d)*)
  - ▶ Everything else?
- ▶ Similarities
  - ▶ Supposed to be interviewing children and families to determine what happened and whether there is a need for services
- ▶ Differences
  - ▶ Maltreatment finding

# ASSESSMENT/INVESTIGATION PROCEDURE

- ▶ Interview child (timing and with or without parent/caregiver) *(626.556, subd. 10(j))*
  - ▶ Immediate Face to Face (within 24 hours for sexual abuse or SCE)
  - ▶ Face to Face (within 5 days for all other reports)
- ▶ Interview perpetrator *(626.556, subd. 10(i))*
- ▶ Interview other children, non-offending caregivers, collaterals with relevant information
- ▶ Can get data without releases in either assessment or investigation
- ▶ 45 days to complete *(626.556, subd. 10e(a))*
- ▶ Should be documentation
  - ▶ SSIS chronos
  - ▶ Closing summary
- ▶ Findings
  - ▶ Both - are child protective services needed? *(626.556, subd. 10e(c))*
  - ▶ Investigation only - did maltreatment occur?
  - ▶ Notice to parent, reporter, facility w/in 10 days of findings *(626.556, subd. 10f))*

# ATTORNEY CONSULTATION POINTS DURING SCREENING PROCESS

- ▶ To Screen In or Screen Out
  - ▶ Use of Multidisciplinary screening team (*626.558*) - See Appendix E
  - ▶ General consultation
- ▶ Track Assignment - FA vs. INV
  - ▶ Be aware that track assignments can “flip”
- ▶ Interpretation of criminal statutes
  - ▶ 626.556 references definitions from criminal statutes for things like sexual abuse, assault, etc.
  - ▶ Egregious harm = criminal statutes (*260C.007, subd. 14*)

# ATTORNEY CONSULTATION DURING INVESTIGATION OR ASSESSMENT PROCESS

- ▶ **MANDATORY CONSULTATION** - See Appendix C of Screening Guidelines
  - ▶ Immediate filing of TPR petitions
  - ▶ Birth Match
  - ▶ Modifications to Screening Guidelines
- ▶ **RECOMMENDED Consultation** - See Appendix C
  - ▶ Sexually Exploited or Sex Trafficked Youth
  - ▶ Prenatal Substance Abuse
  - ▶ Criminal Statute Interpretations, e.g., what is a weapon
  - ▶ Frequent, multiple reports regarding same family
  - ▶ Switching tracks
  - ▶ Ending investigation early



# MANDATORY CONSULTATIONS

## ▶ Immediate TPR Filings

- ▶ A/The Child Subjected to Egregious Harm (*260C.301, subd. 6/260C.503, subd. 2(1)*)
- ▶ Sibling Subjected to Egregious Harm (*260C.503, subd. 2(2)*)
- ▶ Prior involuntary TPR or TPLPC to another child
  - ▶ Compelling Reasons CHIPS
- ▶ Predatory Offenders - See Appendix B
- ▶ Abandoned infant
- ▶ Sexual Abuse Against Child or Another Child of the Parent

## ▶ Questions

- ▶ How do you define egregious harm? See definition in 260C.007, subd. 14, including the "catch-all" language
- ▶ How do you proceed on prior involuntary TPRs or TPLPCs
- ▶ Criminal proceeding vs. CP proceeding
- ▶ Do you advise agency about making egregious harm determination?

# MANDATORY CONSULTATIONS

- ▶ High Risk Closures or Closures with Lack of Cooperation
  - ▶ 626.556, subd. 10m(b): The local welfare agency shall consult with the county attorney to determine appropriateness of filing a CHIPS petition if
    - ▶ Family does not accept or comply with plan for child protective services
    - ▶ Voluntary child protective services may not provide sufficient protection or
    - ▶ Family is not cooperating with assessment or investigation

# RECOMMENDED CONSULTATIONS

- ▶ Removal Decision
- ▶ Lack of compliance with investigation/assessment
- ▶ Placement recommendations
- ▶ Help with interpreting criminal charges, probation conditions, sentencing orders
- ▶ Multi-Disciplinary Team
- ▶ 24/7 Screening
- ▶ CFSR Audits

# LATER DECISION POINTS

- ▶ Change of Placement
- ▶ Revocation of Trial Home Visit
- ▶ 6-month Permanency Progress Review Hearings
- ▶ Permanency Decisions



# RELATIONSHIP WITH YOUR AGENCY

- ▶ Governor's Task Force: recommendations for more involvement from county attorney's office and MDT teams
  - ▶ How do you get in the door if your agency is not receptive?
  - ▶ How do you start a MDT in your county or area?
- ▶ How to encourage your agency to consult and have frank discussions
  - ▶ Building trust
- ▶ Be supportive and encouraging - learn how to talk/think like a social worker
- ▶ Be available
- ▶ Offer training, consultation, support

# RESOURCES

- ▶ Maltreatment of Minors Reporting Act - Minn. Stat. Sec. 626.556

<https://www.revisor.mn.gov/statutes/cite/626.556>

- ▶ DHS Screening Guidelines

<https://edocs.dhs.state.mn.us/lfserver/Public/DHS-5144-ENG>

- ▶ Best Practices for FA and INV

<https://edocs.dhs.state.mn.us/lfserver/Public/DHS-7059-ENG>

- ▶ Predatory Offenders

See handouts

# RESOURCES - CONT.

- ▶ DHS Bulletins and Guides

<https://mn.gov/dhs/people-we-serve/children-and-families/services/child-protection/resources/>

[http://www.dhs.state.mn.us/main/idcplg?ldcService=GET\\_DYNAMIC\\_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=Bulletins\\_2018](http://www.dhs.state.mn.us/main/idcplg?ldcService=GET_DYNAMIC_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=Bulletins_2018)

- ▶ Governor's Task Force and Recommendations

<https://www.leg.state.mn.us/docs/2015/other/150620.pdf>

- ▶ DHS Dashboard

<https://mn.gov/dhs/partners-and-providers/news-initiatives-reports-workgroups/child-protection-foster-care-adoption/child-welfare-data-dashboard/>