

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 investigation
- ▶ 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(f))
 - ▶ All reports of substantial child endangerment (626.556, subd. 2(a))
 - ▶ 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?IdcService=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/>
