

Critical Decision Points For Attorney Consultation

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?
- 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
- **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/>

Gayle Borchert, Assistant Stearns County Attorney
320.656.6380 or gayle.borchert@co.stearns.mn.us

Christos Jensen, Assistant Ramsey County Attorney
651.266.3034 or christos.jensen@co.ramsey.mn.us

Erin Johnson, Assistant Washington County Attorney
651.430.6128 or erin.johnson@co.washington.mn.us

Lori Whittier, Managing Assistant Hennepin County Attorney
612.348.8949 or lori.whittier@hennepin.us