

# Pre-Detention Activities that Impact Permanency

Chelsea Cornell, MSW

# Agenda

- ▶ Actuarial and Clinical Assessment
- ▶ Intake
- ▶ Assessment/Investigation
- ▶ Pre-Petition Advocacy

# Assessments

## Actuarial

A statistical method of estimating the risk of a particular event's occurrence; used to predict re-occurrence/risk; often seen as more accurate than just clinical assessment alone; should be based on empirically established relations between data and the risk; the tool is used by entering data into a formula, numerical system, table, chart, etc.

## Clinical

Structured guides or unstructured guides depending on agency preference; more general understandings of risk and risk factors; the assessor is trained to make a thorough assessment

# Intake-Key assessment

1) Are the allegations sufficient?

Structured Decision Making (Hotline tool)

2) What is the response time?

Immediately or 10 days

2) Indian Child Welfare Inquiry?

Division 31-101

# Assessment/Investigations

## KEY ASSESSMENTS

1) IS THE CHILD SAFE?  
SDM Safety Assessment

2) HAS CHILD ABUSE OR NEGLECT OCCURRED?  
Penal Codes 11165.1 -.6

3) SHOULD THE REFERRAL BE PROMOTED TO A CASE?  
SDM Risk Assessment

4) DOES THE EVIDENCE SUPPORT COURT INVOLVEMENT?  
WIC 300

# Is the Child safe?

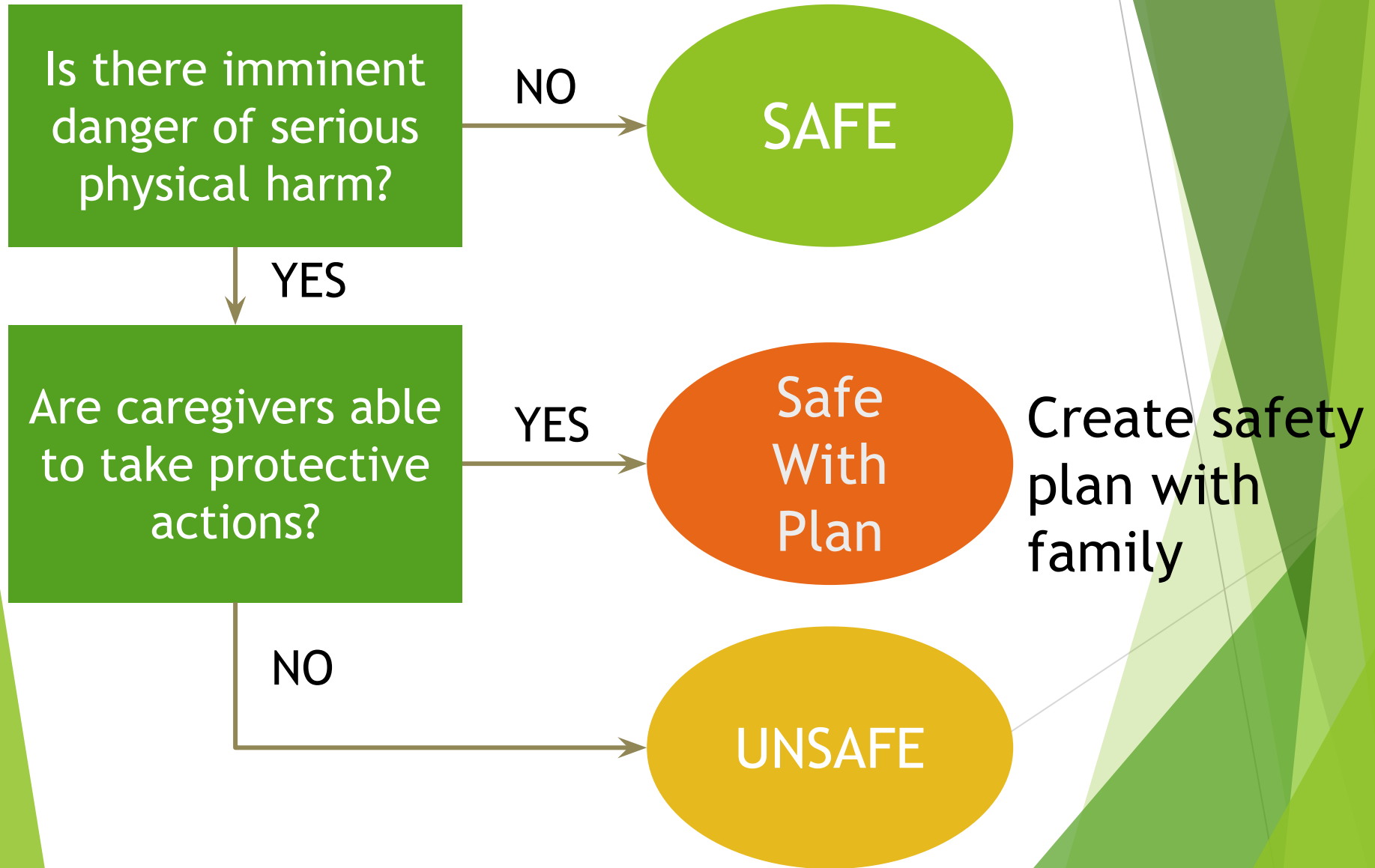
**PRIOR TO LEAVING ANY CHILD IN THE HOME OR PLACEMENT  
THE SW MUST...**



**Assess for  
child safety**

**Identify  
safety threats**

# SDM and Safety Threats



# Types of Evidence Gathered

RP/Child/Parents

Photos

Collaterals

Police/Forensic Reports/Other  
Documentary Evidence

# Did Abuse or Neglect occur?

THE PENAL CODES DEFINE  
ABUSE AND NEGLECT

Sexual Abuse  
PC § 11165.1

General/Severe  
Neglect PC §  
11165.2

Emotional Abuse  
PC § 11165.3  
and 11166.05

Physical Abuse/  
Willful Harming of  
a Child PC §  
11165.3 and .4

# What does the evidence tell us?

PENAL CODE 11165.12

## Substantiated

- Credible evidence that makes it more likely than not that child abuse, neglect or exploitation occurred.

## Inconclusive

- Not “unfounded” but findings are inconclusive and without enough info to determine if abuse, neglect or exploitation occurred.

## Unfounded

- Determined to be false, an accidental injury or not constituting child abuse.

# Should the referral be promoted to a case? (Risk assessment)

Factors of Prior Investigations  
Factors of Current investigation  
Family Characteristics

## Likelihood of Future Harm

LOW

MEDIUM

HIGH

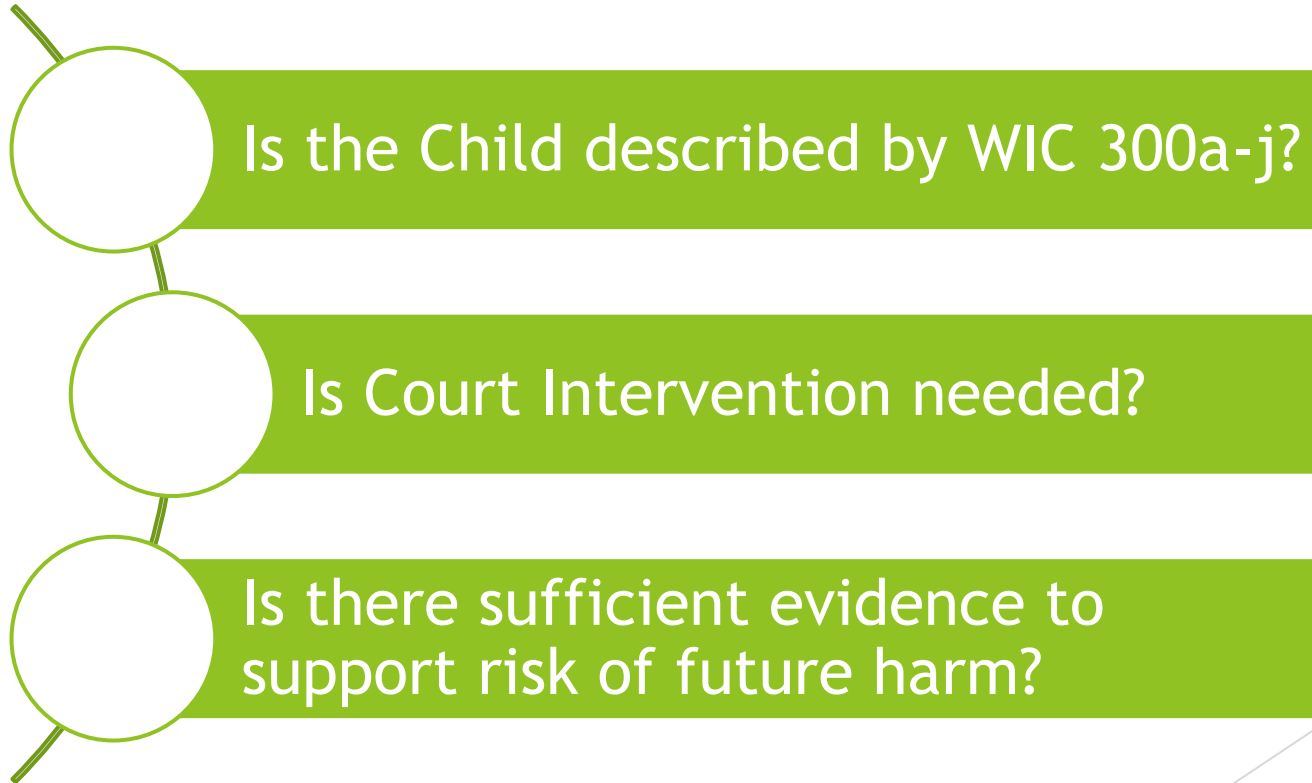
VERY  
HIGH

CLOSE  
REFERRAL

OPEN A CASE  
(VOLUNTARY OR  
PETITION)

# Does the evidence support court involvement?

## WIC 300

- 
- Is the Child described by WIC 300a-j?
  - Is Court Intervention needed?
  - Is there sufficient evidence to support risk of future harm?



# Pre-Petition Advocacy

Every year, an average of nearly 17,000 children are removed from their families' custody and placed in foster care only to be reunited within 10 days.

- Marshall Project analysis of 10 years of federal Department of Health and Human Services records data

**PURPOSE:** To encourage all child welfare agencies, courts, administrative offices of the courts, and Court Improvement Programs to work together to ensure parents, children and child welfare agencies, receive high quality legal representation at all stages of child welfare proceedings.

<b>ACF</b>  Administration for Children and Families	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration on Children, Youth and Families	
	<b>1. Log No:</b> ACYF-CB-IM-17-02	<b>2. Issuance Date:</b> January 17, 2017
	<b>3. Originating Office:</b> Children's Bureau	
	<b>4. Key Words:</b> Legal Representation and Child Welfare; Parent Attorney, Children's Attorney, Agency Attorney, Quality Legal Representation	

**TO:** State, Tribal and Territorial Agencies Administering or Supervising the Administration of Title IV-E and IV-B of the Social Security Act, Indian Tribes and Indian Tribal Organizations, State Courts, and State and Tribal Court Improvement Programs.

**SUBJECT:** High Quality Legal Representation for All Parties in Child Welfare Proceedings

**PURPOSE:** To encourage all child welfare agencies, courts, administrative offices of the courts, and Court Improvement Programs to work together to ensure parents, children and youth, and child welfare agencies, receive high quality legal representation at all stages of child welfare proceedings.

**LEGAL AND RELATED REFERENCES:** Title IV-E and IV-B of the Social Security Act; the Child Abuse Prevention and Treatment Act (CAPTA) (42 U.S.C. 5106a et seq.); the Indian Child Welfare Act of 1978 (ICWA) (Pub. L. 95-608)

#### **INFORMATION**

The purpose of this information memorandum is to emphasize the importance of high quality legal representation in helping ensure a well-functioning child welfare system. This memorandum also highlights important research and identifies best practices and strategies to promote and sustain high quality legal representation for all parents, children and youth, and child welfare agencies in all stages of child welfare proceedings.

The Children's Bureau (CB) strongly encourages all child welfare agencies and jurisdictions (including, state and county courts, administrative offices of the court, and Court Improvement Programs) to work together to ensure that high quality legal representation is provided to all parties in all stages of child welfare proceedings.

#### **I. Background**

Courts play an integral role in the child welfare system. A court order is required to involuntarily remove a child or youth from the home and to find that child or youth dependent.

## Components of procedural justice

Client voice

Neutrality

Respectful treatment

Trustworthy authorities

# Legal representation for children, parents and youth contributes to or is associated with:

- ▶ Increases in party perceptions of fairness;
- ▶ Increases in party engagement in case planning, services and court hearings;
- ▶ More personally tailored and specific case plans and services;
- ▶ Increases in visitation and parenting time;
- ▶ Expedited permanency; and
- ▶ Cost savings to state government due to reductions of time children and youth spend in care.

**SUBJECT:**  
Reshaping child welfare in the United States to focus on strengthening families through primary prevention of child maltreatment and unnecessary parent-child separation.

<b>ACF</b> Administration for Children and Families	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration for Children and Families	
	1. Log No: ACYF-CB-IM-18-05	2. Issuance Date: November 16, 2018
	3. Originating Offices: Children's Bureau	
	4. Key Words: Primary Prevention, Family Strengthening, Reasonable Efforts, Trauma, Unnecessary Removal, Concrete Services, Protective Factors, Well-being, Family Support	

**TO:** State, Tribal and Territorial Agencies Administering or Supervising the Administration of Titles IV-E and IV-B of the Social Security Act, Indian Tribes and Indian Tribal Organizations, State Courts, and State and Tribal Court Improvement Programs, and all mandatory Children's Bureau Grantees (including CBCAP, PSSF, and CJA/CAPTA).

**SUBJECT:** Reshaping child welfare in the United States to focus on strengthening families through primary prevention of child maltreatment and unnecessary parent-child separation.

**LEGAL AND RELATED:** Titles IV-E and IV-B of the Social Security Act; the Child Abuse Prevention and Treatment Act (CAPTA) (42 U.S.C. 5106a et seq.)

**PURPOSE:** The purpose of this Information Memorandum (IM) is to strongly encourage all child welfare agencies and Children's Bureau (CB) grantees to work together with the courts and other appropriate public and private agencies and partners to plan, implement and maintain integrated primary prevention networks and approaches to strengthen families and prevent maltreatment and the unnecessary removal of children from their families. Coordinated and robust primary prevention efforts are critically important to strengthen families, prevent the initial occurrence of and ongoing maltreatment, prevent unnecessary family disruption, reduce family and child trauma, interrupt intergenerational cycles of maltreatment, and build a well-functioning child welfare system.

**BACKGROUND:**

The number of children entering foster care is increasing and, as a nation, we continue to struggle with achieving satisfactory outcomes for the vulnerable families and children served by state and tribal child welfare systems. As the federal agency charged with administering funding to states and tribes to operate child welfare systems, providing guidance, and monitoring outcomes, it is incumbent upon CB to support, encourage, and hold states and tribes accountable for improving system efficacy and implementing programs, services, and approaches that best serve children and families. CB strongly believes that working with families sooner, through upfront primary prevention efforts, is necessary to improve child welfare outcomes nationally.

To reverse troubling trends of increasing foster care populations and reports of maltreatment, along with unsatisfactory outcomes, CB's top priority is to reshape child welfare in the United States to focus on proactively strengthening families through primary prevention of child

# Key Components of Primary Prevention

## Services and resources

- ▶ Voluntary
- ▶ Community based
- ▶ Align with community values, norms and culture
- ▶ Are offered by Public, non-profit, faith based agencies
- ▶ Are open to all community members
- ▶ Enhance parental protective factors
- ▶ Provide concrete supports
- ▶ Include various funding streams (family first prevention act offers opportunity)

# Collateral Issues Impacting Family Stabilization

- ▶ A restraining order is needed to keep a mother safe at home with her child.
- ▶ A landlord/tenant issue is jeopardizing a family's stable housing.
- ▶ A relative needs a guardianship to establish permanency.
- ▶ A parent on probation has an outstanding warrant and a heightened risk of reincarceration.
- ▶ A parent in recovery needs help finding a new sponsor.
- ▶ Language or literacy issues where support is needed

Attorney

Social  
Worker

Mentor  
Parent

Interdisciplinary Team

# Pre-petition Advocacy Myths

The agency social worker's job will be more difficult.



Early legal representation for parents will have a negative impact on children and child safety.



There is no funding for this. It's too expensive.

- ▶ Parent Partner Programs
- ▶ Dependency Advocacy Center (Santa Clara County)
- ▶ Detroit Center for Family Advocacy
- multiple examples presented in CB's 2018 memo

## Examples of Pre-Petition Advocacy/ Preventive services

# RED Teams (Review, Evaluate, and direct

Olmstead County, Minnesota

- ▶ provide both structure and process in review of alleged reports of child maltreatment
- ▶ evaluation of the available information, and direction regarding the agency response
- ▶ Three critical pathways in their child protection model
  - ▶ Strong integration of domestic violence intervention (provides assessment that may result in provision of social services w/o formal finding of child abuse)
  - ▶ Alternative response (offers a family assessment process instead of a traditional forensic investigation)
  - ▶ Traditional response (reports of sexual abuse, licensed facility reports, egregious and serious harm)

Sawyer, R., Lohrbach, S. Differential Response in Child Protection: Selecting a Pathway. Protecting Children. Vol.20. pp.44-53

# Resources of additional information

ACF Primary Prevention Memorandum

<https://www.acf.hhs.gov/sites/default/files/documents/cb/im1805.pdf>

ACF Legal Representation Memorandum

<https://www.acf.hhs.gov/sites/default/files/documents/cb/im1702.pdf>

Casey Family Programs

<https://www.casey.org/parent-partner-topic-page/>

Casey Family Programs

<https://www.casey.org/Appendix-A-Research-Parent-Partner-Programs/>

Dependency Advocacy Center, Santa Clara

<http://www.sccdac.org/>

Indian Child Welfare Act - Desk References

[https://www.cdss.ca.gov/Portals/9/Additional-Resources/ICWA/ICWA%20Desk%20Reference\\_whb\\_9-30-20.pdf](https://www.cdss.ca.gov/Portals/9/Additional-Resources/ICWA/ICWA%20Desk%20Reference_whb_9-30-20.pdf)

The Marshall project

<https://www.themarshallproject.org/2020/02/11/the-hidden-trauma-of-short-stays-in-foster-care>