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Summary of Protocols for use when Partner or family member assault/domestic violence is present or suspected in Cases of Child Maltreatment

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Guiding Principle

Partner or family member assault/domestic violence (DV) poses a unique challenge to the Child Protection Service's (CPS) mission of keeping children safe and families strong.

In order to hold the offending parent responsible for the partner or family member assault/partner/domestic violence without undermining the family's safety, it is crucial that CPS Child Protection Specialist, Domestic Violence Advocates, and the criminal justice system closely collaborate with one another. When intervening and working with families in which partner or family member assault/domestic violence is perpetrated by one parent against the other, the primary focus of CPS intervention is an ongoing assessment of the risk posed to children by the presence of the offending parent.

The preferred way to protect children in most cases involving partner or family member violence/domestic violence is two-pronged: joining with non-offending parents in safety planning, empowering them to protect both themselves and their children; and working with perpetrators in a manner that holds them accountable for their abusive behavior with the aim of improving their ability to parent.

Domestic Violence Advocates and Child Protection Specialist need to communicate and coordinate their efforts in order to ensure that families affected by partner or family member/domestic violence and child maltreatment receive appropriate services and supports that provide for the safety of all family members and hold the offending parent accountable. Communication and coordination should emphasize cross-training and follow three important tenets:

1. Not all Child Protection Specialist are expected to be partner or family member assault/domestic violence experts. Rather, they should know where and how to access expertise and resources in order to most effectively intervene in cases involving partner or family member assault/domestic violence;
2. Not all Domestic Violence Advocates are expected to be child protection experts. Rather, they should know where and how to access expertise and resources in order to most effectively intervene in cases involving child abuse and/or neglect;
3. Communication and coordination practices should maintain the integrity and framework of partner or family member assault/domestic violence advocacy and child maltreatment practice while simultaneously bridging these areas of expertise to improve the response to children and families;
4. In order to support and improve communication and coordination practices, each participating agency and program needs to engage in an ongoing relationship-building process that places the needs of the abused individual and their children at the forefront of the discussion.

Safety Assessment for Families with Partner or family member assault/domestic violence

Investigation

The Montana Department of Public Health and Human Services, Child and Family Services Division's ("the Department's") "Investigative Safety Assessment Field Guide" shall be utilized when responding to a report involving partner or family member assault/domestic violence. The "Investigative Safety Assessment Field Guide" provides specific direction to Child Protection Specialist regarding the interview of the mother, children and father. (See **Appendix A, "Investigative Safety Assessment Field Guide," Factor 10 that deals with partner or family member assault/domestic violence.**)

The Child Protection Specialist should pay particular attention to determining which parent is the predominant initiator of the abuse in order to appropriately assess the dangerousness of the abusive parent, the safety of the children and to preserve the family unit as much as possible. During the course of the investigation, the Child Protection Specialist should both make a referral to the partner or family member assault/domestic violence program and ask the non-offending parent to sign a release form allowing CPS to share information with the DV Advocate. However, while both CPS and the DV program can promote and encourage collaboration by requesting a release of information from the non-offending parent; in no case will the release be sought if it might endanger the non-offending parent or children.

Important: Montana law encourages CPS to explore the following options other than removal of the children from the non-offending parent. MCA section 41-3-301:

“(2) If a Child Protection Specialist of the department, a peace officer, or the county attorney determines in an investigation of abuse or neglect of a child that the child is in danger because of the occurrence of partner or family member assault, as provided for in 45-5-206, against an adult member of the household or that the child needs protection as a result of the occurrence of partner or family member assault against an adult member of the household, the department shall take appropriate steps for the protection of the child, which may include:

- (a) making reasonable efforts to protect the child and prevent the removal of the child from the parent or guardian who is a victim of alleged partner or family member assault;
- (b) making reasonable efforts to remove the person who allegedly committed the partner or family member assault from the child's residence if it is determined that the child or another family or household member is in danger of partner or family member assault; and
- (c) providing services to help protect the child from being placed with or having unsupervised visitation with the person alleged to have committed partner or family member assault until the department determines that the alleged

offender has met conditions considered necessary to protect the safety of the child.

(3) If the department determines that an adult member of the household is the victim of partner or family member assault, the department shall provide the adult victim with a referral to a partner or family member assault/domestic violence program.” **See Child and Family Services Policy Manual, Legal Procedure Immediate Protection and Emergency Protective Services, Child in Immediate Danger, Emergency Placement in Cases Involving Partner or family member assault/domestic violence, Section 302-1.**

Safety Planning

If the Child Protection Specialist determines that the children are not safe in the home, a safety plan will be developed with the non-offending parent. Where possible the Child Protection Specialist will also develop a Voluntary Protective Services Agreement or Court Ordered Treatment Plan with the offending parent. **(See Appendix B, “Working With the Offending Parent.”)** The Child Protection Specialist should be sure to ask the non-offending parent what kinds of strategies s/he has utilized in the past to address the partner or family member assault/domestic violence that have been successful and how this can be built upon when developing the current safety plan. The Child Protection Specialist should make an effort to ensure that unsupervised visitation with the offending parent does not take place.

Substantiation/Determination of Reports: The Child Protection Specialist should identify the offending parent appropriately and ensure that the non-offending parent is not blamed for the abuse that occurred and its impact on the children. MCA 41-3-102 Definitions states: the term may not be construed to hold a victim responsible for failing to prevent the crime against the victim. However, the Child Protection Specialist needs to consider at some point, in those cases where DV occurs and the non-offending parent repeatedly returns to the offending parent w/the children, to consider the non-offending parent and whether s/he is failing to protect the child(ren) or exposing them to unreasonable risk (which is part of physical neglect).

“(23) ‘Psychological abuse or neglect’ means severe maltreatment through acts or omissions that are injurious to the child’s emotional, intellectual, or psychological capacity to function, including the commission of acts of violence against another person residing in the child’s home.

(b) The term may not be construed to hold a victim responsible for failing to prevent the crime against the victim.”

See Child and Family Services Policy Manual: Reference Information Definitions, Section 101-1.

Case Planning

Best Practice in Dealing with the Offending Parent Dictates:

1. Hold the abuser accountable by making every effort to develop separate service plans for adult victims and abusers, regardless of their legal status vis-à-vis the children.
2. Avoid using potentially dangerous or inappropriate interventions such as couples counseling, mediation, anger management or family group decision making in cases of partner or family member assault/domestic violence.
3. Document the abuser's controlling and abusive behaviors in addition to assessing the abuser's progress in changing his or her abusive behavior.
4. Collaborate with law enforcement, the judicial system, the partner or family member assault/domestic violence program, and batterers' intervention program in a Coordinated Community Response to ensure victim safety and to increase consequences for abusers for failure to comply with sentencing or service plan requirements.

(See Appendix B, "Working With the Offending Parent")

Best Practice in Dealing with the Non-Offending Parent Dictates:

1. Keep the children with the non-offending parent, this decreases risk to the adult victim, decreases the trauma of removal, decreases the need for out of home placement, and holds the offending parent accountable while maintaining the safety of the children.
2. Link state-based protection of the children to the safety of the non-offending parent and recognize that interventions designed to address child abuse and neglect can potentially escalate violence to adult and child victims of partner or family member assault/domestic violence. Therefore, it is important to implement safe and effective partner or family member assault/domestic violence screening procedures in all cases of child abuse and neglect; to utilize safe and effective safety assessment tools that address the specifics of partner or family member assault/domestic violence and inform investigative planning and decision-making; and to include waivers of usual practice in circumstances where partner or family member assault/domestic violence has been identified and safety is at risk.
3. Implement a differential response to cases involving partner or family member assault/domestic violence. A differential response reflects the diverse experiences and needs of children who are placed at risk due to partner or family member assault/domestic violence and the corresponding relationship with the adult victim. A differential response recognizes that the presence of

risk of harm to children as a result of partner or family member assault/domestic violence can be significantly reduced when the safety of the non-offending parent is addressed and the offending parent is held accountable within the context of the child protection response.

Voluntary Protective Services Agreement: If a safety plan has been implemented with the non-offending parent, further safety assessment will occur at the time that the parent meets with the Child Protection Specialist. The parent will be advised that s/he has the right to have another person present during this reassessment and will be encouraged to have their DV Advocate as that person. During the meeting, the Child Protection Specialist may determine that a Voluntary Service Agreement is appropriate and request that the non-offending parent enter into said agreement with the department. The Child Protection Specialist should focus on assisting the non-offending parent with a plan to keep her/him and the children safe including the development of a safety plan for the children.

If the offending parent will be returning to the home or will be having visitation with the children, the Child Protection Specialists shall develop a Voluntary Service Agreement with the offending parent who also has the right to have a person present during the development of the plan. The Child Protection Specialist shall emphasize to both the offending and non-offending parents that it is the responsibility of the offending parent to comply with the conditions as set forth by the department and that the reason for the plan was due to the offending parent's behavior.

Important: In all instances, the Child Protection Specialist shall enforce the Voluntary Protective Service Agreement. If, for some reason, the non-offending or offending parent cannot or does not follow through, the Child Protection Specialist shall conduct another safety assessment.

Court Ordered Treatment Plan: If it is determined necessary to remove the children from both parents' care, an affidavit shall be filed with the court requesting Temporary Legal Custody (TPL) and that the department has the right to develop treatment plans with both parents. The Child Protection Specialist shall tailor each plan according to each parent's responsibility relative to keeping the children safe. The treatment plan for the offending parent shall designate that s/he was the predominant initiator of the violence and shall include conditions which insure the safety of the non-offending parent whether it be for the purpose of reunification of both parents with the children or reuniting with one parent and visitation with the other.

Important: If the non-offending parent agrees, the DV advocate may assist the non-offending parent with meeting the conditions of the plan including providing supervised visitation between the non-offending parent and children when appropriate and possible.

Steps for Developing a Case Plan with the Offending Parent

Important: MCA section 41-3-301 includes the following reminder regarding unsupervised visitation with the offending parent, which the Child Protection Specialist should keep in mind as s/he develops a Voluntary Protective Services Agreement or Court Ordered Treatment Plan for the offending parent:

“(2) If a Child Protection Specialist of the department, a peace officer, or the county attorney determines in an investigation of abuse or neglect of a child that the child is in danger because of the occurrence of partner or family member assault, as provided for in 45-5-206, against an adult member of the household or that the child needs protection as a result of the occurrence of partner or family member assault against an adult member of the household, the Department shall take appropriate steps for the protection of the child, which may include:

- Making reasonable efforts to protect the child and prevent the removal of the child from the parent or guardian who is a victim of alleged partner or family member assault;
- Making reasonable efforts to remove the person who allegedly committed the partner or family member assault from the child’s residence if it is determined that the child or another family or household member is in danger of partner or family member assault; and
- providing services to help protect the child from being placed with having unsupervised visitation with the person alleged to have committed partner or family member assault until the department determines that the alleged offender has met conditions considered necessary to protect the safety of the child.”

See Child and Family Services Policy Manual: Legal Procedure Immediate Protection and Emergency Protective Services, Emergency Placement in Cases Involving Partner or family member assault/domestic violence, Sec. 302-1.

Steps:

1. Assess Abuser Dangerousness

Assessing dangerousness is not merely trying to predict whether or not the abuser will seriously harm or kill the victim(s). The Assessment requires assessing the risk of life-threatening behaviors against others. This assessment is important to protect the Child Protection Specialists and to lessen the risk for children and their mothers. (See **Appendix B, “Working With the Offending Parent,” page 4.**)

- Ensure victim/child safety (See **Appendix A, “Investigative Safety Assessment Field Guide.”**)
- Use collateral sources
- Involve law enforcement where necessary

2. Interview Abuser

One-to-One interviews of abusers provide an opportunity to observe and document abusive and controlling behaviors. This supplements information from police reports, criminal records, victims or other sources.

- Avoid sharing victim disclosures that compromise safety (**Do Not Share Victim Disclosures with the Offender!**)
- Always warn the victim first if victim disclosures must be made (to the court, for example)

3. Develop Separate Voluntary Protective Services Agreement or Court Ordered Treatment Plan for Offending Parent. This creates a framework for the abuser to change his/her behavior and a way of measuring the progress.

4. Hold Abuser Accountable for Compliance With Voluntary Protective Services Agreement or Court Ordered Treatment Plan and Conditions Contained in Court Order of Release.

Steps for Developing a Case Plan with the Non-Offending Parent

Important: MCA section 41-3-301 includes the following reminder regarding unsupervised visitation with the offending parent, which the Child Protection Specialist should keep in mind as she/he develops a Voluntary Protective Services Agreement or Court Ordered Treatment Plan for the non-offending parent:

“(2) If a Child Protection Specialist of the department, a peace officer, or the county attorney determines in an investigation of abuse or neglect of a child that the child is in danger because of the occurrence of partner or family member assault, as provided for in 45-5-206, against an adult member of the household or that the child needs protection as a result of the occurrence of partner or family member assault against an adult member of the household, the department shall take appropriate steps for the protection of the child, which may include:

(a) making reasonable efforts to protect the child and prevent the removal of the child from the parent or guardian who is a victim of alleged partner or family member assault.

(c) providing services to help protect the child from being placed with or having unsupervised visitation with the person alleged to have committed partner or family member assault until the department determines that the alleged offender has met conditions considered necessary to protect the safety of the child.

Steps:

Interview the non-offending parent prior to developing the Case Plan. The interview should convey the following: that the Child Protection Specialist is concerned for the non-offending parent’s safety and wants to support him/her in achieving personal safety

and safety for the children; that the Child Protection Specialist does not blame the victim for the partner or family member assault/domestic violence; that the Child Protection Specialist will connect the victim with partner or family member assault/domestic violence resources in the community who can offer support while making decisions about the relationship with the offending parent.

When completing the Case Plan for children and adult victims, the following services and activities may be appropriate, depending on the circumstances of the case:

1. Encourage the non-offending parent to participate in a Partner or family member assault/domestic violence Assessment conducted by the local DV program.
2. Develop a Partner or family member assault/domestic violence Safety Plan with the non-offending parent or encourage her to work with a DV Advocate to develop a Safety Plan.
3. Develop a Partner or family member assault/domestic violence Safety Plan for the children in consultation with the non-offending parent or encourage him/her to work with a DV advocate to develop a Safety Plan for the children.
4. Encourage the non-offending parent to attend support group or educational group at the local partner or family member assault/domestic violence agency.
5. If the non-offending parent develops a Safety Plan with assistance from the DV program, incorporate the recommendations and safety actions developed in that plan into the CPS Case Plan.