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Making the Decision to Remove a Child from Parental Care: Twelve Decision-Making Criteria

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Removing a child from parental care is an important and difficult decision to make. There are far reaching consequences for the child and family. Whilst there is a plethora of literature in relation to child protection practice generally, research on decision making is minimal. In this practice paper, I present 12 decision-making criteria to assist practitioners make decisions about child removal. It is important for child protection practitioners to apply the same set of principles and consider the same factors when making these decisions. These criteria are as follows: the severity of the abusive incident; the presence of cumulative harm; whether the perpetrator has access to the child; the functioning of the parent; whether the perpetrator has been responsible for child abuse or intimate partner violence in the past; the cooperation of the parent; the intent of the perpetrator; the age of the child; the functioning of the child; the voice and expressed wishes of the child; protective relationships available to the child and the statutory requirement to cause no further harm. Referring to these criteria will assist practitioners be clear and explicit about how they reach a decision, and result in greater consistency of outcome for children and families.

■ **Keywords:** child abuse, child protection, child welfare, child removal, assessment, decision making

Introduction

Removing a child from parental care is a particularly difficult decision for a child protection practitioner to make. Yet for the sake of children's safety and wellbeing, such decisions must sometimes be made, knowing that the lives of children, young people, parents and communities will be affected for many years, even generations to come.

Decisions about child removal are difficult for a range of reasons. There are disagreements about what constitutes child abuse and neglect (Arad-Davidzon & Benbenishty, 2008) with emotional abuse and neglect being particularly difficult to define (Broadley, 2014). Decisions must often be made with insufficient and conflicting information, under heavy workloads and competing priorities, and within environments that are emotionally charged, highly sensitive and political (Stokes & Schmidt, 2012). Moreover, there is a lack of clear guidelines about when the decision to remove a child from parental care should be taken (Arad-Davidzon & Benbenishty, 2008). Although there is a plethora of literature in relation to child protection practice generally, research on decision making is minimal (Lindsey, 2004; Stokes & Schmidt, 2012).

Under these circumstances child protection practitioners are required to rely heavily on their own discretion and intuitive judgments (Arad-Davidzon & Benbenishty, 2008). However, practitioners are prone to make different judgments about similar cases because they have different life experiences, professional backgrounds, beliefs and values. These experiences, beliefs and values inform professional practice, as well as professional judgments. Beliefs and values impact on the process of information gathering, analysis and assessment and decision making (Rosnow & Rosenthal, 1997). Many beliefs and values are implicitly or explicitly ethical in character and relate not only to ideas about children's rights, but also liberty, justice, fairness and the capacity of individuals to change.

Given the diversity of the child protection workforce it is not surprising that these important decisions are prone to bias, error and inconsistencies (Arad-Davidzon & Benbenishty, 2008; Lindsey, 2004; Osmo & Benbenishty, 2004). Arad-Davidzon and Benbenishty (2008, p. 108) suggest "the idiosyncratic nature of decision making is a major problem in child welfare".

In this paper, I present 12 criteria to assist child protection practitioners as they make decisions about whether or not to remove a child from parental care. This is a practice paper, aimed at child protection practitioners and managers. A set of criteria is important for child protection practitioners

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(Meddin, 1985). Osmo and Benbenishty (2004, p. 1156) suggests that:

> "One of the most difficult decisions social workers face is whether or not to remove a child at risk from his/her family . . . with these high stakes, professionals would prefer to be supported by a solid base of empirical knowledge or clear policy and practice guidelines".

It is also important for children and families to be treated equally before the law (Arad-Davidzon & Benbenishty, 2008). This means applying the same purposes and principles, and considering the same types of factors, when making judgments about similar types of cases (Australian Law Reform Commission, 2006). Australian researchers Braithwaite, Harris and Ivec (2009, p. 15) argue:

> Developing a clear understanding of the incidents or conditions that will trigger action by child protection agencies is critical for both those in the front line of the intervention attempting to protect children as well as parents and young people who are expected to comply with the agency's parenting standards.

Lindsey (2004, p. 175) says "reliable decision-making is the linchpin of the child protection system. If decision making is unreliable then the system is doomed to fail its purpose of protecting children".

These 12 criteria are drawn from more than 10 years professional experience as a child protection practitioner in the state of Victoria, Australia. Before detailing these criteria, I describe the policy and legislative context in Victoria. I also critique decision making approaches used within modern child protection systems – (1) the use of objective and evidence-based tools, (2) the use and place of professional judgment and (3) testing parental capacity and willingness to change over time.

Victoria

In Victoria there is a strong primary prevention and early intervention system of services, which includes universal services for infants, children and young people, such as maternal and child health care services, playgroups, kindergartens and schools (Cummins, Scott, & Scales, 2012). It also includes a system of early intervention services including community-based family services, which have been designed to target vulnerable children and families who are:

> " . . . likely to experience greater challenges because the child or young person's development has been affected by the experience of risk factors and/or cumulative harm; or are at risk of concerns escalating and becoming involved with statutory child protection if problems are not addressed" (Cummins et al., 2012, p. 158).

As a "last resort" there is also the statutory child protection system, which is responsible for investigating concerns about a child's safety or wellbeing. This can lead to either referring children and families to community-based family services and closing the case, or issuing a protection application with the view of obtaining a children's court order. Generally, a children's court order is sought so that child protection practitioners can supervise families in their homes, or so that children can be placed in an alternative care setting (Cummins et al., 2012).

Structured Decision Making and Psychological Testing

Increasingly, the field of statutory child protection has turned to objective and evidence-based tools to inform decision making (Stokes & Schmidt, 2012). Practitioners utilise tick-box forms that ask a range of pre-determined questions, prescribing pre-determined scores to each answer. Although these tools provide a degree of predictability, they cannot capture all the unique characteristics of each child and family, and they can be wrong. Many child protection experts express concern about the appropriateness of using these tools in the child protection context (see Bessant & Broadley, 2014; Broadley, 2012; Forrester & Harwin, 2011; Goddard, Saunders, Stanley, & Tucci, 1999; Harris, 2011; Lonne, Parton, Thomson, & Harries, 2009). It is claimed that such tools have had the effect of de-professionalising practitioners by removing their capacity to make judgments and by reducing:

> " . . . key aspects of their job to a perfunctory robotic role of identifying weighted 'risk indicators' and completing check lists, that claim to produce accurate and unbiased 'measurement' of the problem" (Bessant & Broadley, 2014, p. 722).

Some experts, particularly in the field of psychology, claim that decisions based on actuarial and dynamic risk assessment tools are more accurate than decisions based on clinical judgment and experience (Broadley, 2012; Mossman, 2006). However, some parents are able to "fake good" on psychological tests (Broadley, 2012, p. 43). There is a lack of agreed upon tools for assessing parenting capacity (White, 2005).

> "Traditional psychological tests, devised to measure intelligence and personality, were not designed to evaluate an adult's capacity to care for their children. They only bear an indirect relationship to parenting capacity and research has not yet examined their ability to predict parenting effectiveness. Hence, opinions about parenting should not be over-reliant on such findings" (White, 2005, p. 12).

Professional Judgment

Most Australian states and territories use a professional judgment framework (Bromfield & Higgins, 2005). This includes Victoria (Miller, 2012).

Professional judgment has been described as decision making that is drawn from the practitioner's personal, practice and cultural knowledge, where relevant information, patterns of meaning and individuals own stories are filtered into a decision that is consistent with the organisational

and social context (Stokes & Schmidt, 2012). Bessant and Broadley (2014, p. 722) put it this way:

> ... best practice requires professional judgment requiring a capacity to interpret different and dynamic social setting, cultural signals, and access to a repertoire of knowledge and capacities developed through experience in the field.

Evidence-based tools, rules and psychological tests are useful, but must only be used by child protection practitioners to assist and inform their thinking, not do their thinking for them. Ultimately practitioners must exercise their own professional judgment, to know when and how rules must be followed, when they need to change, bend or even be broken (Bessant & Broadley, 2014).

Testing Parental Capacity and Willingness to Change Over Time

Another important way of determining whether a child is safe or not in parental care, is to test whether a parent demonstrates a capacity to link in with support and treatment services and actually change their parenting practices.

In Victoria, there is the legislative requirement to give parents every assistance and support to change (see Section 10 (3)a of the Victorian Government Children Youth and Families Act, 2005) (Victorian Government, 2005).

Turney, Platt, Selwyn and Farmer (2012, p. 195), state that:

> ... one way of assessing capacity to change is by giving parents "managed" opportunities to change. In these cases, it is important to be clear what needs to change, how change will be measured or assessed, and over what timescale, how parents are to be supported and the consequences if no, or insufficient, changes are made.

Miller (2012, p. 39) similarly suggests that goals should be "specific, measurable, achievable, related to the concerns and timely (SMART)". The author further states that timelines and frequent review are important, and there should be clarity about who should do what and by when (Miller, 2012).

However, providing parents with opportunities to change can place children in real danger, particularly if the parental history involves sexual assault or violence, and they are continuing to parent their child. When there are low impact incidents of abuse and/or neglect that are chronic, supporting and testing parental change over time may be more appropriate.

Twelve Decision-Making Criteria

Decisions about whether to remove a child from parental care only need to be made in situations where either (1) the abuse is not a criminal offence, or (2) the abuse is a criminal offence but there is insufficient evidence to enable the criminal justice system to intervene by charging and removing the perpetrator from the home. Obviously, it is preferable for perpetrators, not victims, to be removed from their home. When perpetrators cannot be removed, these very difficult decisions must be made.

The Severity of the Abusive Incident

The severity of the abusive incident is a key factor when determining future risk to the child (Arad-Davidzon & Benbenishty, 2008; Benbenishty & Chen, 2003; Britner & Mossler, 2002; Meddin, 1985; Miller, 2012). There are no explicit criteria for determining severity and it may be beneficial for practitioners to be provided with relevant guidelines. In relation to physical abuse, a punch to a 5-year old child's head that results in a head injury is more serious than a squeeze to a child's arm that results in bruising. The former should be considered sufficient reason to separate the child from the perpetrator. The latter may or may not be considered child abuse and the child may or may not be separated from the perpetrator. The latter incident must be considered in conjunction with a range of other criteria (e.g., the presence of chronic maltreatment, and the intent of the perpetrator).

It is important to note that a child may be removed from parental care as a result of *actual* significant harm and/or *risk* of significant harm. For example, a child may be removed if the child's parents have significant substance use problems, mental health issues, other disabilities, or if a parent or adult in the home is an alleged or convicted child sex offender – because there is *risk* or *likelihood* of harm, not necessarily because of *actual* harm.

The Presence of Cumulative Harm

Consideration must be given as to whether the primary concern for the child is in relation to a specific incident of abuse or neglect, or chronic maltreatment (Benbenishty & Chen, 2003; Britner & Mossler, 2002; Broadley, 2014; Miller, 2012). Chronic maltreatment is likely to result in cumulative harm. "Cumulative harm is the existence of compounded experiences of multiple episodes of abuse or 'layers' of neglect" (Victorian Government Department of Human Services, 2007, p. 1). The Victorian Child Death Review Committee report *Child Death Group Analysis: Effective Responses to Chronic Neglect* suggests that the "notion of low (or unnoticed) impact and high frequency events compared to high impact and low frequency events can be useful in understanding cumulative harm" (Victorian Child Death Review Committee, 2006, p. ix).

Although chronic maltreatment does not *always* result in cumulative harm, as there is usually not a single cause that inevitably leads towards a poor outcome for a child – the research convinces us that deleterious consequences are *likely* (Broadley, 2014; Victorian Government Department of Human Services, 2007). Garbarino (2011, p. 798) explains that it is the "accumulation of risk factors and the accumulation of developmental assets that generally describe the level of social toxicity and social robustness, which when coupled with the forces of human biology tell the story of a child's

development". However, Garbarino (2011, 798) also argues that any definition of psychological abuse (and indeed any other type of abuse) must be located solidly within a human rights framework, where the focus is on children, their rights, and how they should be treated: "if you have sex with a child, terrorize a child or throw a child against a wall and the child is unhurt that does not make it any the less child maltreatment".

An isolated incident involving a parent angrily squeezing a child's arm causing bruising may not necessitate the removal of the child. However, if the child has suffered multiple "low impact" incidents of abuse or neglect, then she may need to be removed from parental care, despite the most recent incident being less severe when considered in isolation.

Whether the Perpetrator has Access to the Child

The greater the access the perpetrator has to the child, the higher the risk to the child (Britner & Mossler, 2002; Dwyer & Miller, 2014; Meddin, 1985). A child who is living with intimate partner violence may only be considered safe if the non-offending parent supports the removal of the perpetrator from the home, with a legal order in place. However, if the non-offending parent is unwilling or unable to separate from the perpetrator and returns to the relationship, then removal of the child may be necessary (Dwyer & Miller, 2014).

The Functioning of the Parent

The functioning of the parents should be used as a criterion to assess the risk to the child (Britner & Mossler, 2002; Meddin, 1985; Miller, 2012; Turney et al., 2012). Attention must be given to whether the parents have drug and alcohol problems, mental health problems, a physical or cognitive disability, a propensity for violence or are socially isolated. Miller (2012, p. 32) refers to these problems as "complicating factors" which may "singularly or in combination, diminish the capacity to provide sufficient care and protection to the child or young person".

Parents who have drug or alcohol problems, for example, may have good intentions to care for their children. Yet it is known that all types of child abuse and neglect occur significantly more often when the parent or parents have a drug or alcohol problem (Barnard, 2007; Dawe et al., 2007), and child neglect is probably most common (Barnard, 2007; Kroll & Taylor, 2003). Substance abuse also increases the likelihood of violence (Barnard, 2007; Holland, Forrester, Williams, & Copello, 2014; Kroll & Taylor, 2003).

Problematic substance use can also interfere with a parental ability to engage successfully with support and treatment services (Holland et al., 2014; Laslett, Dietze, & Room, 2013). Holland et al. (2014, p. 13) agree that substance misuse can become "a major barrier – and often *the* major barrier – to achieving change". They suggest it is not only the result of other problems (such as mental illness or social isolation), but also a "powerful reinforce and creator of further problems for families".

Whether the Perpetrator has Been Responsible for Incidents of Child Abuse, Neglect and/or Intimate Partner Violence in the Past

If a parent has a history of sexual assault or violence against another child or previous partner, this will increase the risk to the child (Britner & Mossler, 2002; Miller, 2012). In these situations, it is important to undertake a very careful and thorough assessment to determine whether the parent, has made positive change, and whether the parent poses a risk to his or her current partner and/or children.

Turney and colleagues (2012, p. 53) quote studies that suggest that such an assessment should consider "parental acceptance of responsibility for past acts and any damage done". However, the authors also acknowledge that a parent may be articulate, cooperative, say all the correct things, and be believable, but these utterances may be misleading. Turnell and Edwards (1999) have a different view. They believe it is unhelpful to focus on parental acknowledgment, because when parents deny responsibility (which often they do) it renders the case unworkable. They instead argue:

> "... casework is more productive when professionals organize their thinking around safety, specifically around building sufficient safety for the child to remain in or return home. The practitioner has greater latitude when acknowledgement is not the only avenue through which progress can be made" (Turnell & Edwards, 1999, p. 138).

It is also important to consider the following factors: (i) the severity of the previous incident, (ii) the time that has passed since the previous incident, (iii) the programs and treatment undertaken by the perpetrator since the previous incident, (iv) the feedback from the treatment provider about progress since the previous incident and (v) the functioning and life situation of the parent at the time of the previous incident compared with currently.

It must also be acknowledged that a decision can only be informed by previous incidents of sexual assault or violence that are *known* to have occurred, and this may only be the "tip of the iceberg" of what has *actually* occurred. Intelligent offenders are more likely to "get away" with additional incidents of violence and abuse than is officially reported (Broadley, 2012).

The Cooperation of the Parent

It is important to assess parental insight, intention to change and cooperation with support and treatment services (Benbenishty & Chen, 2003; Britner & Mossler, 2002; Meddin, 1985; Miller, 2012; Turney et al., 2012).

Cooperation must also be viewed in conjunction with the severity of the incident. For instance, a man who has perpetrated incidents of very serious violence against a partner may agree to engage in a men's behaviour change program. However, Dwyer and Miller (2014, p. 96) remind us that "the desire to change dangerous or neglectful behaviour

does not equal the capacity to change". Therefore, it may still be necessary to place the child in alternative care whilst the father demonstrates and sustains change.

Cooperation must also be considered in the context of whether the parent has been responsible for incidents of child abuse and neglect, but has not been able to achieve and sustain change despite receiving previous treatment and support. How useful is it, for instance, to refer neglectful parents to a family support service, if they have previously neglected their children and previously received similar assistance? Why might change occur this time?

The Intent of the Perpetrator

It is important to understand the intent of the perpetrator. For example, a parent who grabs a child tightly on the arm causing bruising in order to stop the child from running onto a busy road should be viewed differently from a parent who squeezes the child's arm in anger. Similarly, a parent who accidently injures her child by running over him as she backs the car from the driveway should be viewed differently from the parent who intentionally drives the car over her child with a desire to harm her child. Although other factors, such as parenting functioning, must also be considered. For example, if the accident occurred whilst the parent was alcohol affected then this would increase the future risk to the child.

This criterion is particularly relevant to decision making about families from culturally and linguistically diverse backgrounds. Australia is a culturally diverse society, with one in four Australians born overseas (5.3 million) (ABS Census, 2011, quoted from Kaur, 2012). Acceptable parenting practices vary from one culture to another. "What is acceptable in one culture may be labelled as child abuse in another" (Reisig & Miller, 2009, p. 1). Reisig and Miller (2009) provide a number of examples to illustrate parenting practices of immigrant parents that can be interpreted as child abuse by Western cultures. They suggest, for example, mainstream American culture may label an immigrant parent as neglectful if the parent opts for traditional medical remedies to care for their children.

It is important for practitioners to be reflective and objective. They must consciously and deliberately ensure they do not attach their own meanings, ideas and rules to the actions and behaviours of others. This will help guard against a complete misunderstanding of the other person's intentions. However, intent must be considered in conjunction with a range of other criteria.

The Age of the Child

The age of the child should influence decision making. Infants are more vulnerable than many older children, and their need for protection is usually greater. This is because they are totally dependent on their primary carers to provide for their basic needs and their protection.

An infant with finger bruising on his arm will require more protection than many older children with similar bruising. An infant or toddler whose parents misuse substances may need to be removed from parental care, whereas there may be sufficient safety for a 14-year old to remain living at home. Older children living with intimate partner violence may be taught to implement safety strategies – for example:

> ... running out of the home when the incident starts, ... locking themselves in a bedroom, ... dialing triple zero, ... leaving home as soon as they see that Dad has been drinking, or observe other behaviours that they know are warning signs of a scary incident (Bancroft, 2004, quoted from Dwyer & Miller, 2014, p. 92).

These decisions must be made in conjunction with other criteria such as the statutory requirement to "cause no further harm" (see criteria number 12). It is important to remember that a much older child is likely to be ineligible for a permanent placement. Removal from parental care will ensure temporary protection, only until his 18th birthday (at the most) and then he will be out on his own. If he, like many of his care leaving counterparts returns to his family of origin (Broadley, 2015; Mendes, Johnson, & Moslehuddin, 2011) he may be less able to implement safety strategies than if he had been supported, equipped and "skilled up", to remain at home in the first instance.

The Functioning of the Child

It is important to consider the functioning of the child and make an assessment about a child's mental and physical capacity when determining whether a child is likely to be safe at home (Arad-Davidzon & Benbenishty, 2008; Meddin, 1985; Miller, 2012; Turney et al., 2012).

It is important to know whether a child has a disability, and if so, the nature and severity of the disability. Disability brings with it an increased vulnerability to abuse and neglect (Robinson, 2012). Vulnerability is magnified for children who have high support needs, are dependent on others for personal care, are physically and/or socially isolated, and do not have a trusted adult who they can communicate with, and who can and will use influence on their behalf (Robinson, 2012). Children with disabilities are also less likely than their non-disabled peers to report abuse. This may be because they have not been educated about sexuality and personal safety and are left without the language to describe abuse. It may be because they are without a trusted adult who they feel able to communicate with (Robinson, 2012).

Children who have been abused and neglected often suffer a range of emotional, behavioural and cognitive difficulties. Children who have lived with violence, for example, can suffer anxiety, depression and post-traumatic stress symptoms (Dwyer & Miller, 2014). Careful consideration must be given to whether it is in the child's best interests to be in the care of a parent who has been previously violent. Even if the violence has ceased, a continuation of manipulative or aggressive behaviours can still re-traumatise the child (Dwyer & Miller, 2014). Decisions such as these must be

made in conjunction with other criteria – such as the voice of the child.

The Voice and Expressed Wishes of the Child

Children's voices should also impact decision making (Arad-Davidzon & Benbenishty, 2008; Miller, 2012). Article 12 of the UN Convention on the Rights of the Child (UNCROC) states that the views of the child should be given "due weight in accordance with the age and maturity of the child" (United Nations Convention on the Rights of the Child, 1989). Similarly, section 10, 3(d) of the Victorian Government Children Youth and Families Act 2005 requires that consideration be given to:

> ... the child's views and wishes if they can be reasonably ascertained, and they should be given such weight as is appropriate in the circumstances (Victorian Government, 2005, p. 27).

However, it can be challenging to know what weight to put on what children want and say. What, for example, if a child aged 10 says that he wants to return to a physically abusive parent? What if a 13-year old wants to be in a sexual relationship with a 25-year old? What if a 15-year old wants to stay overnight at a friend's house and the friend's parents are drug users? Should the practitioner advocate for a child's right to express these views and make these choices? Should the practitioner discourage the child from pursuing such options, but in the end allow them to make their own choice? Or should the practitioner use physical force (with the assistance of the police) or coercion, to ensure the child does what is in their "best interests" regardless of what the child wants or thinks? (Bessant & Broadley, 2014).

There are no simple answers to any of these questions. Bessant and Broadley (2014) suggest that practitioners must, through experience, develop the ability to make good practical judgments. Knowing how to communicate with children and knowing what to think in a particular situation is not easy. It is important for practitioners to maintain some distance, and not identify too strongly with the events and the children they are working with. But they still need to connect, listen and respond appropriately to each particular child and unique situation. They also need to "weigh up" what the child says against other criterion here listed.

Protective Relationships Available to the Child

Information about the child's social network, including the existence of protective and supportive relationships, must influence decision making (Britner & Mossler, 2002; Miller, 2012). It is important to consider the possibility of enhancing and introducing protective factors, "that may reduce or mitigate the negative impact of risk factors" (Hunter, 2012, p. 6). Intervening in the child's environment can increase the safety and wellbeing of the child (Bronfenbrenner, 1975 quoted from Miller, 2012). One significant factor for counteracting adverse circumstances is providing children with an enduring close relationship in which they are safe and valued (Gilligan, 2003). This could be with a supportive relative or, alternatively, a child protection practitioner may be instrumental in arranging contact with a buddy, mentor, or youth worker.

If the child of neglectful parents can be made safer as a result of an extended family member or volunteer regularly taking the child to school, providing meals, and having the child for regular respite at their home, then this may build sufficient safety, and removal of the child may not be necessary.

The Statutory Requirement to "Cause No Further Harm"

It has been well established that out-of-home care placements can cause children and young people harm. Victorian inquiries have found that some children and young people in out-of-home care are physically and/or sexually abused – either at the hands of carers or staff, or by other children (Ombudsman Victoria, 2010). Many more children and young people in out-of-home care experience poor quality and multiple placements (Cummins et al., 2012; Mendes et al., 2011), frequent changes of schools (Wise, Pollock, Mitchell, Argus, & Farquhar, 2010), and that fewer than one in five children in out-of-home care are living with all of their brothers and sisters in the same home (Wise, 2011). After leaving care, these young people lack safe, secure and affordable housing (Broadley, 2015; Mendes et al., 2011). Whilst it is important for these system failures to be attended to by increasing funding, and by increasing transparency, it is also important that child protection assessments and decisions are informed by the statutory requirement to "cause no further harm" (Broadley, 2014).

Not only can out-of-home care placements cause harm to children and young people – removing children and young people from their homes, treating them, even punishing them, as though they have done wrong, can also be damaging to their psychological and emotional wellbeing.

Consider the previously cited example of a 13-year old adolescent who is believed to be involved in a sexual "relationship" with a 25-year old. She is not legally able to give consent because of her limited knowledge and power. However, from the adolescent's perspective she is giving her consent. She refuses to make a statement to police, but second and third hand information gathered from her school teachers leaves practitioners with little doubt about the details of her "relationship" with the 25-year old. Clearly, it is preferable for criminal or civil action to be taken, to remove the perpetrator from the home – however this is not possible. Although the severity of the abuse is likely to be high, it does not necessarily follow that the best way forward is to forcibly remove the adolescent from this abusive situation[1]. It is possible that by taking action against her will, and treating her as the criminal could cause her more harm than good.

Furthermore, research undertaken by Leitenberg and Saltzman (2003) questions whether the severity of such

abuse is always high. Whilst they found that adolescent girls who first had sexual intercourse as a very young adolescent (13–15 years) exhibited more behavioural problems than those who first engaged in sexual intercourse as an older adolescent, they also found that these problems occurred regardless of the age difference between the adolescent and her partner. In essence – Leitenberg and Saltzman (2003) found that the age difference between the young adolescent and their sexual partner was not significantly associated with problem behaviours or later psychological distress. However, it is important to note, they recommend that it is not beneficial for young adolescents to be having sex.

These arguments do not mean that child protection practitioners should walk away from the 13-year old, close the case and do nothing to protect her – this would be negligent. However, in a case such as this, it must be emphasised that a disempowering, heavy handed, highly interventionist response that goes against the expressed wishes of the adolescent, and treats her as the criminal, may be detrimental to her personhood. A supportive, empowering and educative approach may be more helpful.

Practitioners must be vigilant about not making assumptions, and about considering the unintended consequences of their interventions on the lives of the children and young people they are trying to protect.

Conclusion

The decision to remove children from parental care is fraught with emotion and difficulty. The two distinct, sometimes incompatible goals of keeping children and young people safe, and supporting families to stay together, make the task particularly challenging. Many practitioners would prefer to focus on family strengths, and support families to be together, rather than remove children from parental care.

In this paper, I have provided 12 criteria to guide practitioners as they make the difficult decision about whether to remove a child from parental care. Referring to criteria such as this can eliminate much of the uniquely private decision making that results in inconsistent and unfair treatment of children and families. It can make decision making more consistent, predictable, transparent and public. Such criteria may also reduce some of the uncertainty, and therefore some of the stress experienced by child protection practitioners (Meddin, 1985; Osmo & Benbenishty, 2004).

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Endnote

[1] If the adolescent refuses to make a statement to the police, and there is no evidence of a crime being committed, the police will not be able to press criminal charges and apply for bail conditions that will exclude the alleged perpetrator from the home. If the adolescent's parents are supportive of, or turning a "blind eye" to the relationship, then seeking a civil child protection order to remove the alleged perpetrator may prove meaningless. Neither the parents nor the alleged perpetrator will face criminal sanction for non-compliance with a child protection order.

References

Arad-Davidzon, B., & Benbenishty, R. (2008). The role of workers' attitudes and parent and child wishes in child protection workers' assessments and recommendation regarding removal and reunification. *Children and Youth Services Review*, *30*(1), 107–121.

Australian Law Reform Commission. (2006). *Same crime, same time: Sentencing of federal offenders*. Sydney: Australian Law Reform Commission.

Barnard, M. (2007). *Drug addiction and families*. Philadelphia: Jessica Kingsley Publishers.

Benbenishty, R., & Chen, W. (2003). Decision making by the child protection team of a medical center. *Health & Social Work*, *28*(4), 284–292.

Bessant, J., & Broadley, K. (2014). Saying and doing: Child protective services and participation in decision making. *International Journal of Children's Rights*, *22*, 710–729.

Braithwaite, V., Harris, N., & Ivec, M. (2009). Seeking to clarify child protection's regulatory principles. *Communities, Children and Families Australia*, *4*(1), 7–23.

Britner, P. A., & Mossler, D. G. (2002). Professionals' decision-making about out-of-home placements following instances of child abuse. *Child Abuse & Neglect*, *26*(4), 317–332.

Broadley, K. (2012). Sex offender risk assessments in the child protection context. Helpful or not? *Children Australia*, *37*(1), 40–45.

Broadley, K. (2014). Equipping child protection practitioners to intervene to protect children from cumulative harm. *The Australian Journal of Social Issues*, *49*(3), 365–284.

Broadley, K. (2015). Is there a role for adult protection services in the lives of young people with disabilities transitioning from out-of-home care? *Australian Social Work*, *68*(1), 84–98.

Bromfield, L., & Higgins, D. (2005). National comparison of child protection systems. *Child abuse prevention issues*, *22*. Retrieved from, https://aifs.gov.au/cfca/publications/national-comparison-child-protection-systems

Cummins, P., Scott, D., & Scales, B. (2012). *Report of the protecting Victoria's vulnerable children inquiry*. Melbourne: Department of Premier and Cabinet.

Dawe, S., Frye, S., David, B., Moss, D., Atkinson, J., Evans, C., ... Harnett, P. (2007). *Drug use in the family, impacts and implications for children*. Canberra: Australian National Council on Drugs.

Dwyer, J., & Miller, R. (2014). *Working with famlies where an adult is violent Best interests case practice model Specialist practice resource*. Melbourne: Victorian Government Department of Human Services.

Forrester, D., & Harwin, J. (2011). *Parents who misuse drugs and alcohol effective interventions in social work and child protection*. NJ: Wiley.

Garbarino, J. (2011). Not all bad treatment is psychological maltreatment. *Child Abuse & Neglect*, *35*(10), 797–801.

Gilligan, R. (2003). Promoting resilience in children and young people. *Developing Practice: The Child, Youth and Family Work Journal*, *5*, 29–36.

Goddard, C., Saunders, B. J., Stanley, J. R., & Tucci, J. (1999). Structured risk assessment procedures: Instruments of abuse? *Child Abuse Review*, *8*, 251–263.

Harris, H. (2011). Does responsive regulation offer and alternative? Questioning the role of formalistic assessment in child protection investigations. *British Journal of Social Work*, *41*, 1383–1403.

Holland, S., Forrester, D., Williams, A., & Copello, A. (2014). Parenting and substance misuse: Understanding accounts and realities in child protection contexts. *British Journal of Social Work*, *44*, 1491–1507.

Hunter, C. (2012). Is resilience still a useful concept when working with children and young people? *Child Family Community Australia*, *2*, 1–11.

Kaur, J. (2012). Cultural diversity and child protection. *Australian research review on the needs of culturally and linguistically diverse (CALD) and refugee children and families*. Queensland Australia: Diversity Consultants.

Kroll, B., & Taylor, A. (2003). *Parental substance misuse and child welfare*. Philadelphia, PA: Jessica Kingsley Publishers.

Laslett, A., Dietze, P., & Room, R. (2013). Carer drinking and more serious child protection case outcomes. *British Journal of Social Work*, *43*(7), 1384–1402.

Leitenberg, H., & Saltzman, H. (2003). College women who had sexual intercourse when they were underage minors (13–15): Age of their male partners, relation to current adjustment, and statutory rape implications. *Official Journal of the Association for the Treatment of Sexual Abusers (ATSA)*, *15*(2), 135–147.

Lindsey, D. (2004). *The welfare of children* (2nd ed.). Oxford: Oxford University Press.

Lonne, R., Parton, N., Thomson, J. & Harries, M. (2009). *Reforming child protection*. London. Routledge.

Meddin, B. J. (1985). The assessment of risk in child abuse and neglect case investigations. *Child Abuse & Neglect*, *9*(1), 57–62.

Mendes, P., Johnson, G., & Moslehuddin, B. (2011). *Young people leaving state out-of-home care: A research-based Study of Australian policy and practice*. North Melbourne: Australian Scholarly Publishing.

Miller, R. (2012). *Best interests case practice model: Summary guide*. Melbourne: Department of Human Services.

Mossman, D. (2006). Another look at interpreting risk categories. *Sexual Abuse: A Journal of Research and Treatment*, *29*(1), 41–63.

Ombudsman Victoria. (2010). *Own motion investigation into child protection - out of home care*. Melbourne: Ombudsman Victoria.

Osmo, R., & Benbenishty, R. (2004). Children at risk: Rationales for risk assessments and interventions. *Children and Youth Services Review*, *26*(12), 1155–1173.

Reisig, J. A., & Miller, M. K. (2009). How the social construction of "child abuse" affect immigrant parents: Policy changes that protect children and families. *International Journal of Social Inquiry*, *2*(1), 17–37.

Robinson, S. (2012). *Enabling and protecting. Proactive approaches to addressing the abuse and neglect of children and young people with disability*. Melbourne: Children with Disability Australia.

Rosnow, R. L., & Rosenthal, R. (1997). *People studying people artifacts and ethics in behavioral research*. New York: W. H. Freeman and Company.

Stokes, J., & Schmidt, G. (2012). Child protection decision making: A factorial analysis using case vignettes. *Social Work*, *57*(1), 83–90.

Turnell, A., & Edwards, S. (1999). *Signs of safety: A solution and safety oriented approach to child protection casework*. NY: W. W. Norton & Company Inc.

Turney, D., Platt, D., Selwyn, J., & Farmer, E. (2012). *Improving child and family assessments turning research into practice*. London: Jessica Kingsley Publishers.

United Nations Convention on the Rights of the Child. (1989). Retrieved 13 May, 2013, from http://www.un.org/cyberschoolbus/humanrights/resources/child.asp.

Victorian Child Death Review Committee. (2006). *Child death group anlysis: Effective responses to chronic neglect*. Melbourne: State Government of Victoria Department of Human Services.

Victorian Government. (2005). *Children youth and families act (2005)*. Melbourne: Department of Human Services.

Victorian Government Department of Human Services. (2007). Cumulative harm: A conceptual overview. *Best Interest Series*. Melbourne: Department of Human Services.

White, A. (2005). *Assessment of parenting capacity: Literature review*. Ashfield, New South Wales: New South Wales Department of Community Services.

Wise, S. (2011). *All together now. Research examining the separation of siblings in out-of-home care*. Victoria: Anglicare Victoria.

Wise, S., Pollock, S., Mitchell, G., Argus, C., & Farquhar, P. (2010). *Care-system impacts on academic outcome*. Melbourne: Anglicare Victoria/Wesley Mission Victoria.

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