

1 **Guidelines for Psychological Evaluations in Child Protection**

2 **Matters**

3 The problems of abused and neglected children are epidemic in our society
4 ([U.S. Advisory Board on Child Abuse and Neglect \(ABCAN\), 1995](#)) and create
5 issues that psychologists may be called upon to address. Psychologists are in
6 a position to make significant contributions to child welfare decisions.
7 Psychological data and expertise may provide additional sources of
8 information and a perspective not otherwise readily available to the court
9 regarding the functioning of parties, and thus may increase the fairness of
10 the determination by the court, state agency or other party.

11 As the complexity of psychological practice increases and the reciprocal
12 involvement between psychologists and the public broadens, the need for
13 guidelines to educate the profession, the public and the other interested
14 parties regarding desirable professional practice in child protection matters
15 has expanded and will probably continue to expand in the foreseeable
16 future. Although psychologists may assume various roles and responsibilities
17 in such proceedings, the following guidelines were developed primarily for
18 psychologists conducting psychological evaluations in child protection
19 matters.

20 These guidelines are a revision of the 1994 Guidelines for Psychological
21 Evaluations in Child Protection Matters (APA, 1994). These guidelines are

22 informed by the American Psychological Association's (APA) *Ethical Principles*
23 *of Psychologists and Code of Conduct* ("Ethics Code," APA, 2002). The term
24 "*guidelines*" refers to statements that suggest or recommend specific
25 professional behavior, endeavors, or conduct for psychologists. Guidelines
26 differ from *standards* in that standards are mandatory and may be
27 accompanied by an enforcement mechanism.

28 Guidelines are aspirational in intent. They are intended to facilitate the
29 continued systematic development of the profession and to help facilitate a
30 high level of practice by psychologists. Guidelines are not intended to be
31 mandatory or exhaustive and may not be applicable to every professional
32 situation. They are not definitive and they are not intended to take
33 precedence over the judgment of psychologists. The specific goal of the
34 guidelines is to promote proficiency in using psychological expertise in
35 conducting psychological evaluations in child protection matters.

36 Parents enjoy important civil and constitutional rights regarding the care for
37 their children. Public policy and practice developments in recent years have
38 also increasingly acknowledged the role of extended family and kinship
39 systems, such as policies favoring placement with grandparents or other
40 family member rather than foster care placement with others when doing so
41 is consistent with safety and care for the child. A child has a fundamental
42 interest in being protected from abuse and neglect. Child protection laws
43 attempt to strike a balance between these interests. Under the concept of

44 [parens patriae](#), all states have the right to intervene in cases where a child is
45 at risk for harm. State interventions most commonly occur in three stages.
46 In the first stage, following a report of suspected child abuse and neglect, an
47 investigation occurs. In the second stage, if the findings of the investigation
48 stage indicate the child is at sufficient risk for harm, the state may assume
49 care and/or custody of the child and may make recommendations for
50 rehabilitation of the parents. The third stage may occur if such rehabilitative
51 conditions have failed to create a safe environment for the child's return to
52 the parent(s), or if the child has been returned unsuccessfully. At this point
53 the state may request a hearing for a final disposition. The final dispositional
54 stage may result in involuntary termination of parental rights. Such a
55 disposition typically requires not only a finding of abuse and/or neglect by
56 the parent(s), but also a finding that various rehabilitative efforts with the
57 parent(s) have failed. Psychologists are aware that the most extreme
58 disposition--termination of parental rights--has a finality requiring both due
59 process protection and a higher standard of proof than may be used in other
60 child protection matters.

61 Jurisdictions have statutory or case law requirements that diligent efforts
62 must be made to rehabilitate the parent(s) and reunite the child with his/her
63 parent(s). Typically, these requirements must be met prior to a disposition
64 of parental termination. Different states may have different statutory or case

65 law requirements. In conducting an evaluation, psychologists should be
66 familiar with applicable law.

67 During any of the above-mentioned stages, psychologists may be asked to
68 evaluate different parties for different purposes. Psychologists may act as
69 agents of the court, the child protection agency, or may be directly retained
70 by the parent(s). Psychologists may also be retained by a [guardian ad litem](#)
71 if one has been appointed to represent the child.

72 As evaluators in child protection cases, psychologists are frequently asked to
73 address such questions as:

74 1. How seriously has the child's psychological well-being been affected?

75 2. What therapeutic interventions would be recommended to assist the
76 child?

77 3. Can the parent(s) be successfully treated to prevent harm to the child in
78 the future? If so, how? If not, why not?

79 4. What would be the psychological effect upon the child if returned to the
80 parent(s)?

81 5. What would be the psychological effect upon the child if separated from
82 the parents or if parental rights are terminated?

83 (See Barnum R. A suggested framework for forensic consultation in cases of
84 child abuse and neglect. Journal of the American Academy of Psychiatry and
85 the Law 1997; 25; 581-594.)

86 In the course of their evaluations, and depending upon the specific needs of
87 a given case, psychologists may wish to evaluate the parent(s) and/or the
88 child individually or together. Psychologists may wish to gather information
89 on family history, assess relevant personality functioning, assess
90 developmental needs of the child, explore the nature and quality of the
91 parent-child relationship and assess evidence of trauma. Psychologists are
92 encouraged to consider specific risk factors such as substance abuse or
93 chemical dependency, domestic violence, financial circumstance, health
94 status of family members and the entire family context. Psychologists may
95 wish to review information from other sources including an assessment of
96 cultural, educational, religious and community factors.

97 Particular competencies and knowledge are necessary when performing
98 psychological evaluations in child protection matters so that adequate and
99 appropriate psychological services can be provided to the court, state
100 agencies or other parties. For example, in cases involving physical disability,
101 such as hearing impairments, orthopedic handicaps, etc., psychologists
102 strive to seek consultation from experts in these areas. Particular attention
103 should also be given to other aspects of human diversity such as, but not

104 limited to, ethnic minority status, sexual orientation and socioeconomic
105 status.

106 Conducting psychological evaluations in child protection matters can be a
107 demanding and stressful task. The demand of such evaluations can become
108 heightened because the issues involved may include child abuse, neglect
109 and/or family violence. Psychologists are alert to these personal stressors,
110 and when appropriate, undertake relevant study, training, supervision and/
111 or consultation.

112

113 **Guidelines for Psychological Evaluations in Child Protection Matters**

114 **I. Orienting Guidelines**

115 ***1. The primary purpose of the evaluation is to provide relevant,***
116 ***professionally sound results or opinions, in matters where a child's***
117 ***health and welfare may have been and/or may in the future be***
118 ***harmed.***

119 Rationale: The specific purpose of the evaluation is determined by the nature
120 of the child protection matter. In investigative proceedings, a primary
121 purpose of the evaluation is to assist in determining whether the child's
122 health and welfare may have been harmed. When the child is already

123 identified as being at risk for harm, the evaluation often focuses on
124 rehabilitation recommendations, designed to protect the child and help the
125 family. An additional purpose of such an evaluation may be to make
126 recommendations for interventions that promote the psychological and
127 physical well-being of the child, and if appropriate, facilitate the reunification
128 of the family. Psychologists appreciate the value of expediting family
129 reunification when safe and appropriate.

130 In proceedings involving termination of parental rights, the primary purpose
131 of the evaluation is to assess not only abuse or neglect by the parent(s), but
132 also whether rehabilitation efforts for and by the parent(s) have succeeded
133 in creating a safe environment for the child's return.

134 Application: Psychologists seek to identify the specific nature of the child
135 protection proceeding, identify the issues to be addressed or questions to be
136 answered that are relevant to the specific investigation or legal proceeding,
137 and design and implement an evaluation process adequate to addressing
138 these issues or questions.

139 ***2. In child protection cases, the child's interests and well-being are***
140 ***paramount.***

141 Rationale: In these cases, the state is intervening in the family based on the
142 concern that the child's needs at that time are not being served by the

143 family, resulting in the child's psychological or physical harm. Thus, the
144 child's interests and well-being are paramount. In proceedings where
145 involuntary termination of parental rights is being considered, the primary
146 purposes of the evaluation are to assess both abuse and neglect by the
147 parent(s) and also whether rehabilitation efforts for and by the parents can
148 be successful.

149 Application: Psychologists remain aware that the interests of the child, the
150 interests of the child's caregivers, and the interests of the state may not
151 always coincide. In such circumstances, psychologists maintain focus on the
152 interests and wellbeing of the child as the most important consideration.

153 ***3. The evaluation addresses the particular psychological and***
154 ***developmental needs of the child and/or parent(s) that are relevant***
155 ***to child protection issues such as physical abuse, sexual abuse,***
156 ***neglect, and/or serious emotional harm.***

157 Rationale: In considering psychological factors affecting the health and
158 welfare of the child, psychologists focus on parental capacities in conjunction
159 with the psychological and developmental needs of the child.

160 Application: This may involve an assessment of:

161 (a) the adult's capacities for parenting, including those attributes, skills and
162 abilities most relevant to abuse and/or neglect concerns;

163 (b) the psychological functioning and developmental needs of the child,
164 particularly with regard to vulnerabilities and special needs of the child as
165 well as the strength of the child's attachment to the parent(s) and the
166 possible detrimental effects of separation from the parent(s);

167 (c) the current and potential functional abilities of the parent(s) to meet the
168 needs of the child, including an evaluation of the relationship between the
169 child and the parent(s);

170 (d) the need for and likelihood of success of clinical interventions for
171 observed problems, which may include recommendations regarding
172 treatment focus, frequency of sessions, specialized kinds of intervention,
173 parent education and placement.

174

175 **II. General Guidelines: Preparing for a Child Protection Evaluation**

176 ***4. The role of psychologists conducting evaluations is that of***
177 ***professional expert who strives to maintain an unbiased, objective***
178 ***stance.***

179 Rationale: Whether retained by the court, the child protection agency, the
180 parent(s) or the guardian *ad litem* for the child, psychologists strive to be
181 objective.

182 Application: Psychologists' findings may be used to separate the child from
183 her/his parent(s) or may be a factor in the decision to terminate parental
184 rights. The gravity and potential permanence of these consequences
185 underscore the importance for psychologists to reasonably insure the
186 objectivity of the assessment procedure and findings.

187 Psychologists rely on scientifically and professionally derived knowledge
188 when making judgments and describe fairly the data, inferences and
189 opinions that form the foundation for their conclusions and recommendations
190 or the substance of their written reports or testimony. If psychologists
191 cannot accept this unbiased objective stance, they should consider
192 withdrawing from the case. If not permitted to withdraw, psychologists
193 disclose factors that may bias their findings and/ or compromise their
194 objectivity.

195 **5. *Psychologists gain specialized competence.***

196 Rationale: Psychologists who conduct evaluations in child protection matters
197 are aware that special competencies and knowledge may be necessary for
198 the undertaking of such evaluations.

199 Application: Competence in performing psychological assessments of
200 children, adults and families is necessary but not sufficient. Education,
201 training, experience and/or supervision in the areas of forensic practice,

202 child and family development, child and family psychopathology, the impact
203 of separation on the child, the nature of various types of child abuse and the
204 role of human differences.⁸ may help to prepare psychologists to participate
205 competently in psychological evaluations in child protection matters.

206 Psychologists make reasonable effort to use current knowledge of scholarly
207 and professional developments, consistent with generally accepted clinical
208 and scientific practice, in selecting evaluation methods and procedures. The
209 current [Standards for Educational and Psychological Testing \(APA, 1999\)](#) are
210 adhered to in the use of psychological tests and other assessment tools.

211 Psychologists also strive to become familiar with applicable legal and
212 regulatory standards and procedures, including state and Federal laws
213 governing child protection issues. These may include laws and regulations
214 addressing child abuse, neglect and termination of parental rights.

215 ***6. Psychologists are aware of personal and societal biases and***
216 ***engage in nondiscriminatory practice.***

217 Rationale: Psychologists engaging in psychological evaluations in child
218 protection matters are aware of how biases regarding age, gender, race,
219 ethnicity, national origin, religion, sexual orientation, disability, language,
220 culture and socioeconomic status may interfere with an objective evaluation
221 and recommendations.

222 Application: Psychologists recognize and strive to overcome any such biases
223 or withdraw from the evaluation. When interpreting evaluation results,
224 psychologists strive to be aware that there are diverse cultural and
225 community methods of child rearing, and consider these in the context of
226 existing state and federal law. Also, psychologists should use, whenever
227 available, tests and norms based on populations similar to those evaluated.

228 ***7. Psychologists strive to avoid role conflicts and multiple***
229 ***relationships.***

230 Rationale: In conducting psychological evaluations in child protective
231 matters, psychologists are aware of the need to avoid confusion about role
232 boundaries.

233 Application: Psychologists generally do not conduct psychological evaluations
234 in child protection matters in which they serve in a therapeutic role for the
235 child or the immediate family or have had other involvement that may
236 compromise their objectivity. This does not, however, preclude psychologists
237 from testifying in cases as fact or expert witnesses concerning therapeutic
238 treatment of the children, parents or families. In addition, during the course
239 of a psychological evaluation in child protection matters, psychologists do
240 not accept any of the participants involved in the evaluation as therapy
241 clients. Therapeutic contact with the child or involved participants following a

242 child protection evaluation is discouraged and when done, is undertaken with
243 caution.

244 Psychologists asked to testify regarding a therapy client who is involved in a
245 child protection case are aware of the limitations and possible biases
246 inherent in such a role and the possible impact on ongoing therapeutic
247 relationships. Although the court may order psychologists to testify as fact or
248 expert witnesses regarding information they became aware of in a
249 professional relationship with a client, psychologists must appreciate the
250 difference in roles and methods between being psychotherapists and being
251 child protection evaluators. Psychologists appreciate that persons seeking or
252 receiving their evaluation services in child protection cases may not always
253 reliably distinguish between clinical and forensic roles, or recognize other
254 potential role conflicts or multiple relationships that may arise in the context
255 of these cases. For example, family members may not clearly differentiate
256 between when a psychologist is acting in a clinical capacity or a forensic
257 capacity, or reliably identify when a court or state child welfare agency may
258 be the psychologist's client. Similarly, state child welfare agencies or courts
259 may not understand the difference between providing clinical assessment or
260 therapy services and providing forensic assessment and/or expert witness
261 services. Therefore, psychologists strive to communicate with referring
262 parties and family members in a manner that avoids misperceptions of their
263 role, and to avoid role confusion, potential conflicts or multiple relationships

264 that may compromise their objectivity, competence or effectiveness.
265 Psychologists seek to acknowledge and discuss any potential limitations of
266 tests or measures that are used when they are not normed for members of a
267 particular population, and to identify and discuss any implications that these
268 limitations may have for the conclusions, opinions and/or recommendations
269 offered as a result of their use. More broadly, just as with other professional
270 competencies, psychologists strive to be mindful of the social and cultural
271 context of the evaluation, the cultural and other competencies required to
272 provide the necessary psychological services, and to access appropriate
273 consultation as required to engage in culturally informed, non-discriminatory
274 practices.

275

276 **III. Procedural Guidelines: Conducting a Psychological Evaluation in** 277 **Child Protection Matters**

278 In child protection matters, there are many different situations representing
279 a wide variety of legal and/or ethical considerations. The appropriate
280 procedure in one case may not be appropriate in another. Psychologists
281 should be alert to applicable laws which govern the evaluation, as well as
282 applicable sections of the *Ethical Principles and Code of Conduct for*
283 *Psychologists*, particularly those sections dealing with confidentiality. In
284 addition, psychologists appreciate the need for timeliness in child protection

285 matters (e.g., response to evaluation referral, scheduling appointments,
286 completion of report).

287 **8. *Based on the nature of the referral questions, the scope of the***
288 ***evaluation is determined by the evaluator.***

289 Rationale: The scope of the protection-related evaluation is determined by
290 the nature of the questions or issues raised by the referring agency, person
291 or court, or is inherent in the situation.

292 Application: In child protection matters, psychologists are frequently asked
293 to address parenting deficits. Consequently, psychologists are often asked to
294 propose a rehabilitation plan for the parent(s) or to discuss why prior
295 rehabilitation attempts have failed. The scope and methods of the
296 assessment should be based upon consideration of the referral questions
297 and the appropriate methods by which to evaluate them. Sometimes the
298 evaluation is limited to one parent without attempting to compare the
299 parents. Likewise, the scope may be limited to evaluating the child.

300 Psychologists may be asked by a child protection agency to provide
301 evaluation services during the investigation phase. At other times,
302 psychologists may be asked to critique the assumptions and methodology of
303 another mental health professional's assessment. Psychologists may also
304 identify relevant issues not anticipated in the referral questions that could
305 enlarge the scope of the evaluation. Also, psychologists might serve as pure

306 expert witnesses in such areas as child development or social psychology,
307 providing expertise to the court without relating it specifically to the parties
308 involved in a particular case.

309 ***9. Psychologists performing psychological evaluations in child***
310 ***protection matters obtain appropriate informed consent from all***
311 ***adult participants, and as appropriate, inform the child participant.***

312 Rationale: Psychological evaluations in child protection matters are often
313 performed at the request of an agency, by order of a court or at the request
314 of another individual, such as an attorney. Due to the nature of child
315 protection matters, the complexity of the legal issues involved and the
316 potential serious consequences of the evaluation, psychologists need to be
317 particularly sensitive to informed consent issues.

318 Application: Efforts toward obtaining informed consent should make clear to
319 the participant the nature of the evaluation, its purpose, to whom the results
320 will be provided and the role of the psychologist in relation to the referring
321 party. This information should be provided in language understandable to
322 the recipient.

323 Because participants in this type of evaluation may feel compelled to
324 cooperate, psychologists should attempt to obtain confirmation of the
325 participants' understanding of and agreement to the evaluation, including its

326 purposes and its implications, prior to the initiation of the evaluation. The
327 *Ethical Principles of Psychologists and Code of Conduct* requires appropriate
328 informed consent and many state laws require written consent. Should there
329 be refusal to give consent or evidence that the individual may lack capacity
330 to give consent, it may be advisable to refer the individual back to his/her
331 own attorney or seek the guidance of the court or referring agency before
332 proceeding. The purpose of the evaluation, the results and where and to
333 whom the results are distributed are all determined by the individual
334 characteristics of the case as well as by legal requirements and agency
335 regulations. As described in the Ethics Code (3.07), "When psychologists
336 agree to provide services to a person or entity at the request of a third
337 party, psychologists attempt to clarify at the outset of the service the nature
338 of the relationship with all individuals or organizations involved. This
339 clarification includes the role of the psychologist (e.g., therapist, consultant,
340 diagnostician, or expert witness), an identification of who is the client, the
341 probable uses of the services provided or the information obtained, and the
342 fact that there may be limits to confidentiality."

343 Psychologists strive to provide information to the child as appropriate, to the
344 extent that the child is able to understand and seek to obtain the child's
345 assent if the child cannot legally provide their own informed consent. (Ethics
346 Code 3.10 (b)). Psychologists explain to the child the nature of the
347 evaluation procedures. Psychologists attempt to make it clear to the child

348 that his/her safety is the primary interest and because of that interest, the
349 information will be shared with others. Psychologists allow time for questions
350 by the child and answer them in a developmentally and culturally
351 appropriate fashion.

352 **10. *Psychologists use multiple methods of data gathering.***

353 Rationale: Psychologists strive to use the most appropriate methods
354 available for addressing the questions raised in a specific child protection
355 evaluation.

356 Application: Psychologists generally use multiple methods of data gathering,
357 including but not limited to, clinical interviews, observation and/or
358 psychological testing that are sufficient to provide appropriate substantiation
359 for their findings. Psychologists may review relevant reports (e.g. from child
360 protection agencies, social service providers, law enforcement agencies,
361 health care providers, child care providers, schools and institutions). In
362 evaluating parental capacity to care for a particular child or the child-parent
363 interaction, psychologists make efforts to observe the child together with the
364 parent and recognize the value of these observations occurring in natural
365 settings. This may not always be possible, for example, in cases where the
366 safety of the child is in jeopardy or parental contact with the child has been
367 prohibited by the court. Psychologists may also attempt to interview
368 extended family members and other individuals when appropriate (e.g.,

369 caretakers, grandparents and teachers). If information gathered from a third
370 party is used as a basis for conclusions, psychologists attempt to corroborate
371 it from at least one other source wherever possible. The corroboration
372 should be documented in the report.

373 **11. *Psychologists neither over-interpret nor inappropriately***
374 ***interpret clinical or assessment data.***

375 Rationale: Psychologists refrain from drawing conclusions not adequately
376 supported by the data. Psychologists interpret any data from interviews or
377 tests cautiously and conservatively, strive to be knowledgeable about
378 cultural norms and present findings in a form understandable to the
379 recipient. For example, Psychologists strive to acknowledge to the court any
380 limitations in methods or data used. In addition, psychologists are aware
381 that in compelled evaluations the situation may lend itself to defensiveness
382 by the participant, given the potentially serious consequences of an adverse
383 finding. Consequently, the situational determinants should be borne in mind
384 when interpreting test findings.

385 Application: Psychologists interpret any data from interviews or assessment
386 measures cautiously, striving to avoid over-interpreting or under-
387 interpreting data, and to be knowledgeable about the influence of social and
388 cultural factors upon generating data, drawing inferences from available
389 data, and offering conclusions, opinions or recommendations. In order to

390 avoid overstating or understating child protection concerns, psychologists
391 seek to understand relevant cultural variations in the use of physical or
392 verbal methods of discipline, child care giving by adults in the extended
393 family, or contributions to child care or family finances by older siblings.
394 When reporting findings from a child protection evaluation, psychologists
395 seek to present the substance of the evaluation and any conclusions based
396 upon the evaluation in a form that is understandable to the recipient of a
397 written report or oral testimony. Recipients of the psychologist's work in
398 child protection proceedings typically include persons without extensive
399 training in psychology or evaluation methods. Therefore, psychologists in
400 their written reports and testimony aspire to clearly distinguish among data,
401 inferences, and conclusions or opinions so that recipients can readily
402 comprehend, analyze and apply the psychologist's work in the case.

403 ***12. Psychologists conducting a psychological evaluation in child***
404 ***protection matters provide opinions only when they have obtained***
405 ***sufficient data to support those opinions.***

406 Rationale: As required by the Ethics Code (9.01), psychologists provide an
407 opinion regarding the psychological functioning of an individual only after
408 conducting an evaluation of the individual adequate to support their
409 statements or conclusions.

410 Application: This guideline does not preclude psychologists from reporting
411 what an individual has stated or from addressing theoretical issues or
412 hypothetical questions, so long as any limitations of the basis of such
413 information are noted. When, despite reasonable effort, a personal
414 evaluation of an individual is not feasible, psychologists report this and
415 appropriately limit the nature and extent of their conclusions or
416 recommendations.

417 **13. Recommendations, if offered, are based on whether the child's**
418 **health and welfare have been and/or may be seriously harmed.**

419 Rationale: When conducting a psychological evaluation in child protection
420 matters, psychologists may choose to make a variety of recommendations,
421 including but not limited to, psychological treatment for the child,
422 psychological treatment for the parent(s), and/or suggestions for parental
423 rehabilitation that would help create a safe environment for the child.

424 Application: If recommendations are made, the primary focus must be the
425 child's health and welfare. Recommendations are based on sound
426 psychological data, such as clinical data, interpretations and inferences
427 founded on generally accepted psychological theory and practice. Particular
428 attention may be given to outcomes research on interventions with abusive
429 families. Psychologists strive to disclose relevant information and clinical
430 data pertaining to the issues being evaluated while maintaining an

431 awareness of the limitations in predicting future violent behavior. They also
432 explain the reasoning behind their conclusions.

433 The profession has not reached consensus about whether making
434 dispositional recommendations in child protection evaluations is within the
435 purview of psychological practice. However, if psychologists choose to make
436 dispositional recommendations, the recommendations should be derived
437 from sound psychological data and must be based on considerations of the
438 child's health and welfare in the particular case.

439 ***14. Psychologists create and maintain records in accordance with***
440 ***ethical and legal standards.***

441 Rationale: All data obtained in the process of conducting a child protection
442 evaluation are properly maintained and stored in accordance with the APA
443 *Record Keeping Guidelines* (APA, 2007).

444 Application: Psychologists recognize that when engaging in forensic work, it
445 is particularly important to maintain complete, legible, and accurate
446 documentation of all their work. All records, including raw data and interview
447 information, are recorded with the understanding that they may be reviewed
448 by other psychologists, the court or the client.

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Glossary of Terms (From Original Guidelines)

454 The following definitions are written generally and are intended solely to
455 familiarize readers to some common terms used in child protection matters.
456 These are not to be construed as uniformly accepted legal definitions or
457 applied in specific legal matters. Readers wishing to use these terms as part
458 of their evaluations are encouraged to confer with a licensed attorney in the
459 state in which they are providing the evaluation.

460 **Abuse, emotional:** also referred to as 'psychological maltreatment'
461 generally defined as a repeated pattern of behavior that conveys to children
462 that they are worthless, unwanted or only of value in meeting another's
463 needs; may include serious threats of physical or psychological violence.

464 **Abuse, physical:** generally defined as the suffering by a child, or
465 substantial risk that a child will imminently suffer, a physical harm, inflicted
466 non-accidentally upon him/her by his/ her parents or caretaker.

467 **Abuse, sexual (child):** generally defined as contacts between a child and
468 an adult or other person significantly older or in a position of power or
469 control over the child, where the child is being used for sexual stimulation of
470 the adult or other person.

471 **Abuse, neglect: (see Neglect)**

472 **Burden of proof:** an obligation by a party (e.g., plaintiff in civil cases, the
473 state in a termination of parental rights matter) to demonstrate to the court
474 that the weight of the evidence in a legal action favors his/her side, position
475 or argument.

476 **Beyond a reasonable doubt:** highest standard of proof used in cases
477 where the loss of liberty interests are at stake (e.g., incarceration or loss of
478 life). Generally defined as the highest degree of support or level of certainty
479 (90-95% chance).

480 **Child Protective Services (CPS):** The social service agency (in most
481 states) designated to receive reports, investigate and provide rehabilitation

482 services to children and families with problems of child maltreatment.
483 Frequently, this agency is located within a large public entity, such as a
484 department of social services or human services.

485 **Clear and convincing:** intermediate standard of proof used in cases when
486 significant liberty interests are at stake (e.g., loss of parental rights, civil
487 commitment). Generally defined as a high degree of support or level of
488 certainty (75% chance).

489 **Disposition hearing:** held by the Juvenile/Family Court to determine the
490 disposition of children after cases have been adjudicated, includes
491 determinations regarding placement of the child in out-of-home care when
492 necessary and services needed by the children and family to reduce the risks
493 and address the effects of maltreatment.

494 **Evidence:** any form of proof presented by a party for the purpose of
495 supporting its factual allegation or arguments before the court.

496 **Expert witness:** an individual who by reason of education or specialized
497 experience possesses superior knowledge respecting a subject about which
498 persons having no particular training are incapable of forming an accurate
499 opinion or deducing correct conclusions. A witness who has been qualified as
500 an expert will be allowed (through his/ her answers to questions posted) to
501 assist the jury in understanding complicated and technical subjects not
502 within the understanding of the average lay person. Experts are also allowed
503 to provide testimony based on "hypothetical" scenarios or
504 information/opinions which are not specifically related to the parties in
505 particular legal action.

506 **Fact witness:** generally defined as an individual who by being present,
507 personally sees or perceives a thing; a beholder, spectator or eyewitness.
508 One who testifies to what he/she has seen, heard, or otherwise observed
509 regarding a circumstance, event or occurrence as it actually took place; a
510 physical object or appearance, as it usually exists or existed. Fact witnesses
511 are generally not allowed to offer opinion, address issues that they do not
512 have personal knowledge of or respond to hypothetical situations.

513 **Family/Juvenile court:** courts specifically established to hear cases
514 concerning minors and related domestic matters such as child abuse,
515 neglect, child support, determination of paternity, termination of parental
516 rights, juvenile delinquency, and family domestic offenses.

517 **Family preservation/reunification:** the philosophical belief of social
518 service agencies, established in law and policy, that children and families
519 should be maintained together if the safety of the children can be ensured.

520 **Guardian *ad litem*:** generally defined as an adult appointed by the court to
521 represent and make decisions for someone (such as a minor) legally
522 incapable of doing so on his/her own in a civil legal proceeding. The guardian
523 *ad litem* can be any adult with a demonstrated interest.

524 **Guardianship:** legal right given to a person to be responsible for the
525 necessities (e.g., food, shelter, health care) of another person legally
526 deemed incapable of providing these necessities for him/ herself.

527 **Maltreatment:** generally defined as actions that are abusive, neglectful, or
528 otherwise threatening to a child's welfare. Commonly used as a general term
529 for child abuse and neglect.

530 **Neglect:** generally defined as an act of omission, specifically the failure of a
531 parent or other person legally responsible for a child's welfare to provide for
532 the child's basic needs and proper level of care with respect to food, shelter,
533 hygiene, medical attention or supervision.

534 **a. emotional:** generally defined as the passive or passive-aggressive
535 inattention to a child's emotional needs, nurturing or emotional well-being.
536 Also referred to as psychological unavailability to a child.

537 **b. physical:** generally defined as a child suffering, or in substantial risk of
538 imminently suffering, physical harm causing disfigurement, impairment of
539 bodily functioning, or other serious physical injury as a result of conditions
540 created by a parent or other person legally responsible for the child's
541 welfare, or by the failure of a parent or person legally responsible for the
542 child's welfare to adequately supervise or protect him/her.

543 **Out-of-home care:** child care, foster care, or residential care provided by
544 persons, organizations, and institutions to children who are placed outside of
545 their families, usually under the jurisdiction of Juvenile/Family Court.

546 ***Parens patriae*:** refers traditionally to the role of state as sovereign and
547 guardian of persons under legal disability. It is a concept of standing utilized
548 to protect those quasi-sovereign interests such as health, comfort and
549 welfare of the people, interstate water rights, general economy of the state,
550 etc. Literally means "parent of the country."

551 **Petition:** a formal written application to the court requesting judicial action
552 on a particular matter.

553 **Preponderance of evidence:** lowest of the three standards of proof, and
554 applied in most civil actions; generally defined as "probable" degree of
555 certainty (e.g., "more likely than not" or 51% chance).

556 **Protection order:** may be ordered by the judge to restrain or control the
557 conduct of the alleged maltreating adult or any other person who might
558 harm the child or interfere with the disposition.

559 **Review hearing:** held by the Juvenile/Family Court to review dispositions
560 (usually every 6 months) and to determine the need to maintain placement
561 in out-of-home care and/or court jurisdiction of a child. Every state requires
562 state courts, agency panels, or citizen review boards to hold periodic reviews
563 to reevaluate the child's circumstances if s/he has been placed in out-of-
564 home care. Federal law requires, as a condition of Federal funding eligibility,
565 that a review hearing be held within at least 18 months from disposition, and
566 continue to be held at regular intervals to determine the ultimate resolution
567 of the case (i.e., whether the child will be returned home, continued in out-
568 of-home care for a specified period, placed for adoption, or continued in
569 long-term foster care).

570 **Termination of parental rights hearing:** formal judicial proceeding where
571 the legal rights and responsibility for a child are permanently or indefinitely
572 severed and no longer legally recognized and where the state assumes legal
573 responsibility for the care and welfare of the child.

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