



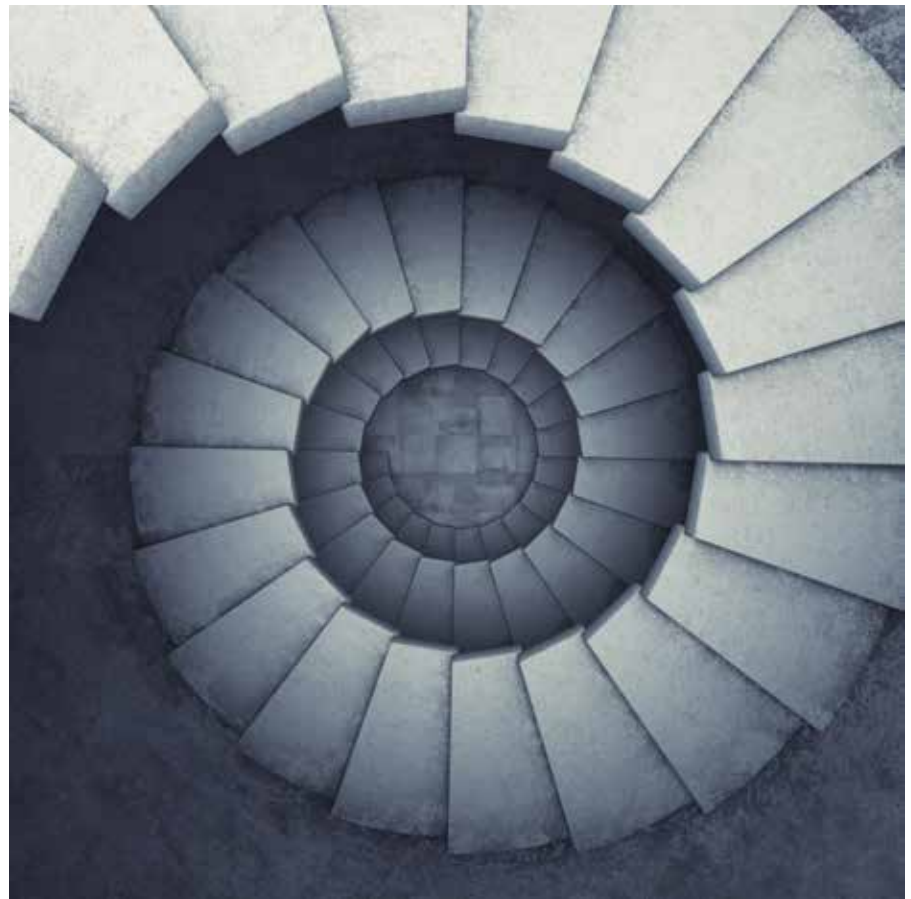
## Coercion and Child Protective Services Investigations

**K**nock, knock. Child protective services.

The key role of the child protective services (CPS) investigator is to determine if a child is at risk of harm. When a child is in immediate danger, CPS and/or law enforcement work to ensure the child's safety. Often a safety plan is developed that is designed to keep a child safe at home. When that is not possible, the child may be taken into protective supervision.

If the unequivocal assessment indicates a high risk of danger, everyone agrees that the child may be removed on an emergency basis. When that determination is not so certain, and the evidence is not incontrovertible, the investigator may nonetheless believe it would prudent for the child, temporarily, to go elsewhere or for certain changes in the household to take place. Toward that end, the investigator may try to influence, encourage, or persuade the caregiver to take certain actions for the child's betterment. If that influence, encouragement, and persuasion crosses the line into coercion has the investigator behaved unethically or illegally? Are all or just some forms of coercion unethical or illegal? With the strong caveat that the topic deserves a more in-depth analysis, this article attempts to briefly address the use of coercion in the CPS investigative setting.

Broadly speaking, coercion seeks to restrict another person's options. Commonly though, we ascribe the term with a negative connotation. Merriam-Webster<sup>1</sup> defines coercion as follows: "(1) to restrain or dominate by force; (2) to compel to an act or choice; (3) to achieve by force or threat." In the CPS context coercion may, at times, be viewed as having a neutral aspect: Coercive behavior by an investigator



seeks to influence the caregiver's decision-making by linking possible sanctions to the caregiver's actions or inactions. Imagine a CPS investigator saying, "Unless there is enough food for your children, we are going to have to temporarily place them elsewhere." While admittedly coercive in either the negative or neutral sense, is this statement unethical or illegal?

It is quickly evident that coercion is a highly subjective and contextualized term, and we are without the luxury of a consensually established precise definition in the CPS context. Resorting to coercion may occur when the worker believes (1) the potential danger to the

child, though not presently obvious, is great, (2) the potential danger to the child is relatively imminent, and/or (3) their own powers of persuasion are insufficient.

Let's look at each of these individually.

**1. The potential danger to the child, though not presently obvious, is great.** There may be a history of abuse or neglect or there may be changes in the home's atmosphere that are troublesome. There is no clear evidence, but the worker is concerned that there are some indications portending danger.

**2. The potential danger to the child is relatively imminent.** There is a professional belief that within a short period of time the child may come to harm. Once again, the worker would like to see more compelling evidence but his or her professional judgment suggests something is amiss.


**3. Their own powers of persuasion are insufficient.** Soft persuasion is not working. Even after consultation with his or her supervisor or other child protection professionals, the worker is unable to convince the caregiver to cooperate and act in the child's best interest.

Because of the above concerns, some CPS investigators may conclude that, not only is coercion sometimes permissible, it their right and duty to

use coercion in order to impose compliance with the child protection laws they have pledged to uphold. In other words, they are using their best professional judgment and concluding that the child's well-being is at stake and some degree of coercion is necessary.

While the foregoing thinking may, at times, seem intuitively defensible, it may also occasionally lead to an unbribed, unauthorized, unethical, and illegal use of coercion. CPS workers must always hold themselves accountable to larger legal constitutional duties, including due process. These federal and state constitutional duties take precedence over every aspect of the child protective endeavor.

Fifteen years ago, in his commentary on the topic, "How we can better

protect children from abuse and neglect," Larry Pelton wrote, "The fundamental structure of the public child welfare system is that of a coercive apparatus wrapped in a helping orientation" (Pelton, 1998, p. 126)<sup>2</sup>. Agree or not, a CPS investigator cannot break the law in order to uphold it. 

#### Reference Notes

1. [www.merriam-webster.com/dictionary/coerce](http://www.merriam-webster.com/dictionary/coerce)
2. Pelton, L. (1998). Four commentaries: How we can better protect children from abuse and neglect. *The Future of Children*, 8(1), 126–129.

**Daniel Pollack** is professor at Yeshiva University's School of Social Work in New York City. He can be reached at [dpollack@yu.edu](mailto:dpollack@yu.edu).

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example, in an online working paper (available at [http://www.readynation.org/uploads/db\\_files/RN%20PFS%20Contracts%20Working%20Group%20Report%20130610.pdf](http://www.readynation.org/uploads/db_files/RN%20PFS%20Contracts%20Working%20Group%20Report%20130610.pdf)), ReadyNation provides a sample Memorandum of Understanding (MOU) to serve as a guide for organizing the contractual agreement for a social impact finance project in early childhood education. This model MOU defines the obligations of the project organizer, service provider, government entity, and independent evaluator involved in the project, as well as the terms of repayment for the financial facilitator. The work of ReadyNation can be used as a stepping stone to make implementation of SIB programs easier for those interested who are currently intimidated by the technical legal aspects of these contracts.

Additional assistance is available from the Harvard Kennedy School Social Impact Bond Technical

Assistance Lab, which researches how governments can optimally implement SIBs and provides pro bono technical assistance to states and localities interested in initiating SIB projects. The SIB Lab recently held a national competition in which state and local governments applied for help with SIB implementation. As a result, Connecticut; Denver, Colorado; Illinois; New York; Ohio; and South Carolina will be receiving the benefit of the SIB Lab's technical assistance and expertise within the coming year in order to start projects in areas such as homelessness and child welfare.<sup>2</sup>

While the final word on the success of Pay for Success finance is not yet in, interest in its potential has seen an exponential increase over the past year in the United States. The creative incentive structure that SIBs offered seems to create an intersection for the interests of governments aiming

to improve outcomes while achieving cost savings, service providers that yearn for the opportunity to innovate, and investors that would like to profit from the large social returns of successful human service projects. Given the variety of lifetime benefits that accrue to individuals as a result of early human capital investment, the true social return to a Social Impact Bond in early childhood education, in particular, may turn out to be greater on average than that of any standard financial instrument. 

#### Reference Notes

1. "United Way of Salt Lake Announces Results-based Financing for Low-income Preschool Students." United Way of South Lake, June 6, 2013. Retrieved August 8, 2013. [http://www.uw.org/news-events/media-room/-/news-releases/uw\\_resultsbasesfinancingnr.pdf](http://www.uw.org/news-events/media-room/-/news-releases/uw_resultsbasesfinancingnr.pdf)
2. *Harvard Kennedy School Social Impact Bond Technical Assistance Lab*. Retrieved August 8, 2013. <http://hks-siblab.org/>