

Protective Supervision: An Exploratory Study

*“Strengthening the Capacity to Respond to
Children in High-Risk Families”*

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Definition

Protective Supervision is one of numerous dispositions the court can order when it determines that a child is in need of protection or services. As defined in statute, this disposition “place(s) the child under protective supervision of the responsible social services agency or child-placing agency in the home of a parent of the child, under conditions prescribed by the court, directed to the correction of the child’s need for protection or services (Minnesota Statutes 260C.201, subd.1(a)(1)).¹ Further reference to “Protective Supervision is included in the Minnesota Department of Human Services Social Services Manual (see Appendix 1).

In other words, Protective Supervision grants the social service agency court-ordered authority to supervise the child while he/she remains in the legal custody and in the home of his/her parent(s). Allowing a parent to retain custody of his/her child under certain conditions and with supervision implies that the court and the agency have a continuing responsibility to ensure that the terms of the Protective Supervision order are met. Protective Supervision provides a tool for realizing the federal mandate under the Child and Family Service Review’s (CFSR) guidance that “children are safely maintained in their homes whenever possible and appropriate” (Federal Register, Vol. 70, No. 214, November 7, 2005).

Introduction

Protective Supervision of a child maintained at home is clearly, in statute, a case disposition option. However, the specific conditions, circumstances, and practices in the uses of this option have not, as yet, received concentrated attention.

The importance of this study is reflected in the federal review of Minnesota’s child welfare system, which indicated in 2004 a high rate of re-entry (i.e. children removed from home, then reunified with parents, and then once again placed in the foster care system). Re-entry rates in Minnesota exceeded the national standard by more than double—the national rate was nine percent and Minnesota’s rate was 23 percent (DHS Bulletin 05-68-10). Dedicated to improving the child welfare system, the Minnesota Department of Human Services has a primary interest in knowing when and how Protective Supervision could contribute to limiting out-of-home placements and re-entry in the state.

Background

Three distinct, but interrelated factors are currently penetrating the child welfare system:

- The major component of child welfare case loads are children enmeshed in the multi-problem environments of chronically neglecting parents.
- Federal and state deficit reduction strategies are pending. Counties are in a state of pervasive budgetary anxiety, awaiting the impact of yet another round of reductions in the human services.
- The practice dilemma has been increasingly sharpened with the recognition that permanency policy requirements of swift timelines for decision-making do not recognize the timelines for treatment needs of serious substance abuse and mental illness conditions.

¹ The term “Protective Supervision” first appeared in Minnesota statute in the Juvenile Court Act of 1959 (Chapter 685, Section 29).

Further, the introduction of methamphetamine, a seriously addictive drug, and its distinctive use in rural counties poses an additional challenge. Moreover, nearly half (45%) of the counties in the 2004 Minnesota Child and Family Service Review reported a poor ratio of supervisor to front-line staff, thus adding to the stress of child protection. In addition, Targeted Case Management, an essential feature of case planning, will likely be severely curtailed, reflecting Medicaid cuts. Altogether, these factors resulted in a general concern that dwindling resources and the increasing case load composition of families and children with complex needs was producing a child welfare system in crisis.

In this challenging environment, the underlying question for this study was formulated in this way:

Under what circumstances can Protective Supervision be implemented, and what are the implications for policy and practice?

Sources of Information

Information for this exploratory study was gathered from state-wide interviews and focus groups conducted with representatives from the two chief components of the child welfare system: child protection and the judicial system. These groups were interviewed separately.

Child Welfare System

We interviewed and consulted key individuals from the Minnesota Department of Human Services, including the Quality Assurance Staff and the Area Training Managers. We conducted seven regional focus groups attended by supervisors and child protection workers from a majority of counties (see Appendix 2 for a list of represented counties). In addition to seven regional meetings, we convened individual focus groups with Dakota, Hennepin, Olmsted, and Ramsey Counties.

Judicial System

In addition to interviewing or consulting county attorneys, public defenders, judges from four different judicial districts, and a representative from the Children's Justice Initiative, we conducted focus groups or participated in meetings with the following groups:

Hennepin County Guardians ad Litem
Statewide Guardians ad Litem
Hennepin County Public Defenders
Judicial District Chief Public Defenders
Minnesota County Attorneys Association Juvenile Law Committee
Minnesota Tribal Court Association

Scope

The precise proportion of the case load that is under Protective Supervision is unknown. While SSIS does have a structure for documenting court data which includes court dispositions, it is not “required.” Since there is no “requirement” for entry of court information, data are not consistent enough to be reliable.

The only available data on the extent of Protective Supervision comes from the Criminal Justice Analytical Database, which is the court’s data warehouse. Appendix 3 is a spreadsheet that shows the percentage of children involved in child protection cases who were under Protective Supervision. Statewide, it is reported that Protective Supervision is used in 23.2% of cases on average (Criminal Justice Analytical Database). The data also includes children with a permanency decision by the court in the years 2002 to 2004 but has not been updated to include 2005. The updated data will only include one-third to one-half of counties that have switched from the previous case management system, Total Court Information System (TCIS), to the new case management system.

It should be noted that representatives from the child welfare system reviewed the court data with some skepticism. Many observed that the data did not reflect their experiences. An estimate was provided that about one-third to one-half of counties were familiar with the concept and used it.

Obtaining precise data on the scope of Protective Supervision proved difficult and was, in the end, unavailable. This is a limitation of the study.

Retrieving comparative data with other states also proved difficult. In Illinois, the child welfare system uses the following designations for Protective Supervision: “home parent placements” or “children maintained by intact families.” It is acknowledged that identification of these families in their database is elusive (Information from Child and Family Research Center, School of Social Work, Urbana, Outcomes Report, 1999).

California’s child welfare system uses “Family Maintenance” as their designation of “Protective Supervision.” No systematic studies have yet appeared (Personal Communication, Jill Duerr Berrick, June 1, 2005).

Literature Review

A few states² have legislation citing “Protective Supervision,” which is generally understood to be a court ordered disposition that allows children to remain in their homes in the custody of their parent(s) under the supervision of a social service agency. Surprisingly, contemporary references to Protective Supervision in studies, journal articles, or other commentaries are sparse.

Interestingly there is an early historical reference. “Protective Supervision,” as a term and a concept, appears in the literature in the early 1950s in a Children’s Bureau publication on

²In addition to Minnesota, a review indicates that other states with legislation on Protective Supervision include: Ohio, New Mexico, Idaho, Alabama, New Hampshire, Florida, South Dakota, Utah, Wyoming, Connecticut.

standards for courts dealing with children. The 1954 publication revises juvenile court standards the Children's Bureau issued in 1923 and states:

“Protective supervision, as the term is used in these standards, is a legal status and as such must be established by judicial action. It is a status under which a child who has been found by the court to be neglected is permitted to remain in his own home for a period during which casework help to the parents is offered by the court's probation department, or by an agency designed by the court.”

It also clearly states that Protective Supervision, as a legal status, does not result in a change of legal custody nor does it permit the agency to remove the child from his or her home without an order from the court.

The concept emerges again in an article written in 1966 by a Columbia University School of Law instructor discussing the legal framework in place for child abuse. The themes in his discussion of Protective Supervision include a warning of the families' resentment toward court intervention, the importance of periodic reviews of Protective Supervision to avoid unnecessarily prolonged court intervention, and a citation from the Children's Bureau publication urging that Protective Supervision be “a purposeful activity directed toward the improvement of the child's situation” rather than “mere watchfulness” (Paulsen, 1966).

Within the recent past, there are fleeting references to practice issues in the use of Protective Supervision. While there is some explanation of Protective Supervision as a concept and references to it in law reviews or manuals that describe the child protective court process, the published research on the connections between Protective Supervision and out-of-home placements is only indirectly referenced in papers discussing reunification.

More recently, a study of the services for very young children in child welfare noted that children living at home in an “active” child welfare case were much less likely to receive services for developmental or behavioral problems than children living in out-of-home care, although a high rate of developmental delay and significant behavioral issues were noted for children “placed at home with their biological parents” (Stahmer et al, 2005).

Commentaries on the role and usefulness of Protective Supervision have scarcely emerged in the child welfare literature. Rather, the references appear in law journals and court manuals. Occasionally, the concept is explored for special populations such as senior citizens or juvenile offenders. (For further information, see *Literature Review References*.)

Questions Guiding Focus Group Discussion

Discussion questions on the uses of Protective Supervision, as identified in the literature and developed by the advisory committee, provided the framework for interviews and focus groups. Participants received the questions before the meetings, along with handouts on the statutory definition and the role of the courts (Appendix 4). Confidentiality was assured. Both the Principal Investigator and the research assistant took notes separately for summary purposes. The list of questions follows:

1. Under what circumstances does the agency consider Protective Supervision as an option? Are any of the following circumstances relevant in your experience?
 - Reunification
 - Drug exposed infants who are allowed to leave the hospital under the mother's care
 - A demonstration of reasonable/ active efforts
 - Compliance problems: (parent has not completed case plan)
 - Disagreements among parties (GALS, public defenders, county attorneys)
 - Educational neglect
 - Others
2. Do families under Protective Supervision share similar characteristics?
3. Does "Structured Decision Making" help to identify the families for Protective Supervision?
4. Is "Family Group Decision Making" considered a resource and service when Protective Supervision is ordered?
5. What role could Protective Supervision play in reducing out of home care? Re-entry?
6. What are your ideas on good practice with families in Protective Supervision?
7. How will the new legislation that permits Trial Home Visits affect the reunification process? The use of Protective Supervision?

Open-ended discussion questions were also suggested by key informants from DHS.

1. To what extent is Protective Supervision provided as an alternative to out-of-home placement?
2. What is the relationship between the provision of Protective Supervision and out-of-home placement, repeat child maltreatment and foster care reentry?
3. What is the relationship between the provision of Protective Supervision and reunification and permanency timelines, when the child is placed with a non-custodial parent or relative? In other words, is reunification delayed, expedited or unaffected when Protective Supervision is provided and the child is placed with a non-custodial parent or relative?

Findings

Introduction

The findings are structured in accordance with the *Discussion Questions*, which provided the framework for the interviews and focus groups. By way of introduction, however, and to set the stage, a summary and striking finding is this: there is no common understanding of the concept, definition, or uses of Protective Supervision among the respondents throughout the state, either in the child protection or in the judicial systems. The following comments from focus groups capture this variation:

- "We fully understand and appreciate the importance of Protective Supervision, but our court system is behind."
- "It is what we are taught in "Best Practices"; it is the least restrictive response before the trauma of separation and we all understand that."
- "Protective Supervision is not understood by any one where I practice."
- "We use Protective Supervision all the time."

“The words are understood, but the meaning [of Protective Supervision] is not.”

—*Child Welfare Supervisor*

- “I have been a county child protection worker for 22 years, and we have used Protective Supervision for as long as I can remember. But there are complaints from the Guardians ad Litem and teachers who feel the children should be removed.”

Several factors could explain the variation in responses, and these will be explored under *Reflections*, later in the report. Among those respondents who reported familiarity and experience with Protective Supervision, what follows is a summary of their responses to the Discussion Questions.

Circumstances that the Agency Considers for the Protective Supervision Option

“Under what circumstances does the agency consider Protective Supervision as an option?”

Reunification

For those counties that grasped the concept of Protective Supervision, reunification after an out-of-home placement was the most frequently cited reason for its use. Protective Supervision was mentioned as a common tool for reunification because it maintains court involvement, provides the agency with “access to the child,” and assumes appropriate services will be provided under a case plan.

Representatives of the judicial system joined child protection in reporting that reunification is a common circumstance for Protective Supervision. Some judges confirmed that Protective Supervision is always ordered during a difficult period of transition when the child is returned to the parents’ care after out-of-home placement.

“In our practice, we use it all the time with reunification. I cannot think of a case that is not under Protective Supervision.”

—*County Attorney*

Several respondents noted that high re-entry rates are most often issues related to child behavior problems rather than parental issues. One county demonstrated

ways in which they try to stabilize the reunification process in these instances by using Protective Supervision. For example, children with mental health disorders reenter out-of-home placement at higher rates than other children. In order for these children to remain home, respite care and brief stays in therapeutic environments are provided to relieve stress. In these situations, Protective Supervision is regarded as the least restrictive means for children with behavior problems to be maintained at home.

By way of clarification, respite care is considered a social service and should not be counted as a “placement.” Episodes in therapeutic environments may or may not be considered a placement, depending on where the therapeutic stay occurs. For example, a brief stay in a hospital setting would not be a placement, while a brief stay in a residential facility would be considered a placement.

Finally, it should be noted that counties reported that they are not likely to reunify in cases where the parent has been incarcerated for an extended period of time.

Commentary

Reunification is a high stress time for families due to experiences suffered by both the parent and child during the time of removal. For example, both the child and the parents endured separation experiences and developed coping skills for this difficult period. Reunification is a time of reconnection. It is especially difficult for the child who is returning to a much different set of family rules and expectations from the foster home environment. This is a time of renegotiation of relationships between parent and child and crises might be expected.

Support services that should be available under a Protective Supervision plan are essential. The importance of providing services when a child is placed under Protective Supervision is underlined with the observation that unless the family environment is stabilized in a timely way, the close monitoring of the family may trigger re-entry.

Substance Abuse & Drug Exposed Infants

Although some counties reported considering Protective Supervision for substance-abusing mothers who are clean when they deliver but are known to have substance abuse issues, most informants from the child welfare and judicial systems reported infrequent use of Protective Supervision, if the mother delivers a drug exposed infant. One county attorney reported that Protective Supervision would not be used because cases of drug exposed infants are more likely to come into the system as emergency custody cases; the county would want to take custody to ensure that the mother is on the road to recovery. One judge reported that while Protective Supervision would be an option with drug exposed infants, more often the mother would need to go through treatment before she takes the infant home.

Commentary

Brief timelines for permanency decisions are now part of child welfare practice. Time needed for substance abuse detoxification, treatment, and rehabilitation with mental health services is often inconsistent with the brevity required in a permanency framework.

Protective Supervision is often used in these cases to “buy time” and “keep parents in line with treatment.”

This is very helpful for parents who are willing to undergo substance abuse treatment, especially in cases of methamphetamine, where treatment takes many months. As methamphetamine cases crowd the court calendar, an increasing number of counties indicate a desire for Protective Supervision rather than pursuing TPR.

“When chemical dependency is involved, those situations require ongoing surveillance—for the concerns around relapse.”

—*Judge*

Demonstration of Reasonable/Active Efforts

The use of Protective Supervision for this circumstance is mentioned only fleetingly. When mentioned it occurred most often in those counties with a close association with tribal child welfare. In some court jurisdictions, when a TPR case is contested, the use of Protective Supervision is introduced as evidence of reasonable efforts.

Compliance with Case Plans

Counties reported differing perspectives on the use of Protective Supervision when parental compliance with a case plan is incomplete. In some counties, Protective Supervision was used

extensively when parents were uncooperative, and it was felt that out-of-home placement was too invasive. As one county reported, for parents who were marginally compliant, Protective Supervision was used as a method to “hold their feet to the fire.” The intent is that the “power of the court,” provided through Protective Supervision, will demonstrate to the family the seriousness of the situation and encourage compliance with the case plan. One judge noted that Protective Supervision is commonly used with compliance problems as an intermediate step before out-of-home placement.

Other counties reported that compliance with a case plan is critical for Protective Supervision and that Protective Supervision is a tool only when parents demonstrate stability and cooperation. There is no room for uncertainty. If parents are unable to demonstrate compliance, the children will be removed and placed into out-of-home care.

Commentary

The use of compliance to measure the ability of a parent to safely maintain their children at home attracted mixed reviews. As some respondents pointed out, compliance with case plans (attendance, sobriety, using basic services responsibly) may not be related to improvements in parenting. In rural counties, transportation and long waiting lists for chemical dependency treatment were often cited as genuine factors in non-compliance. Further, relapses in drug treatment had to be assessed for the implications for parenting, with age of the children and available supportive family networks as factors. In sum, counties are struggling with their court systems on the issues of compliance with case plans as the sole marker for permanency decisions.

Disagreement Among Parties

Although some respondents from the child welfare system reported that Protective Supervision seems to be a negotiating tool and was a bargaining chip 15-20 years ago prior to the permanency guidelines, respondents from both systems generally agreed that Protective Supervision is not used for disagreements among GALs, public defenders, county attorneys, and child protection workers. Several judges noted that disagreements among GALs, public defenders, and county attorneys occur often but is not cause for invoking Protective Supervision.

“Protective Supervision is not a compromise.”
—County Attorney

Commentary

According to county respondents, some judges will hesitate to use Protective Supervision with case workers whom they do not trust or with whom they have not developed a relationship. The key here is the relationship between child protection and the judiciary.

County attorneys are integral in disputed case plans for permanency decisions. The advice of county attorneys carries great weight because it is recognized that they provide legal safeguards for the county. In a few counties, an interdisciplinary meeting is arranged to mediate conflicts.

Educational Neglect

Respondents from the child welfare and judicial systems reported differing responses regarding the use of Protective Supervision in the circumstance of educational neglect. Some counties reported finding Protective Supervision useful because it conveys the serious nature of the

problem and the need for parental cooperation. One county in particular reported using Protective Supervision almost exclusively for educational neglect cases involving young school-age children.

Other respondents noted that Protective Supervision is seldom used for educational neglect cases for varying reasons. One judge noted that they have institutionalized other methods for handling educational neglect such as truancy court. Others reported that with budget constraints and the subsequent narrowing of screening criteria, educational neglect and truancy do not rise to the level of investing scarce social services resources for a problem that is the responsibility of the school system. Even though it is generally accepted that educational neglect is the tip of the iceberg and often indicates more widespread neglect, respondents observed that the resources for educational neglect and truancy are not priorities.

Commentary

One respondent who reported using Protective Supervision for truancy observed that the usefulness of Protective Supervision seemed to depend on the age of the child. If the child is younger and the truancy is a result of the parents' indifference or lack of supervision, then it can be useful. If the child is older and the truancy is part of the adolescent's behavior, it is not as useful.

Single Incident

Respondents reported using Protective Supervision with single incidents, such as when the maltreatment of a child is due to the mother's partner and the perpetrator is no longer in the picture. This often occurs in situations of sexual abuse or domestic violence when the perpetrator has left the family after the abuse was reported. In these situations, the key question for child protection workers is, "Can the single parent provide safety and well-being for her child?"

Interfamilial sexual abuse, in which an older sibling is the perpetrator, was also reported as a circumstance for Protective Supervision. In these cases the perpetrator is removed and the remaining children are placed under Protective Supervision, whereby the court and child protection system work with the family to help them understand the seriousness of the situation. These incidents occur more frequently when there are blended families and children of different fathers.

A singular event that can destabilize the family environment is the re-entry of an absent parent, such as a parent who returns after prison. Protective Supervision is reported as useful during transition periods of family life.

A Profile of Families Under Protective Supervision

"Do families under Protective Supervision share similar characteristics?"

Respondents reported that families under Protective Supervision tend to be chronically neglecting and marginally cooperative. They often have continuing allegations of maltreatment chiefly around a lack of supervision, inattention to the children's well-being, and indifference to their children's need for affectionate care. Further, respondents reported intergenerational poverty, chemical dependency and/or mental illness, marginal cognitive capacity to care for their children, a lack of education, and general incompetence. One respondent noted that these

“We are generally dealing with poorly educated and financially poor families. There is not one case I have right now where there is not a MI or CD component.”

—County Attorney

families have often been in the system numerous times because they are “enmeshed in dysfunction.” Respondents generally noted that in most child protection cases, including those under Protective Supervision, families are living in poverty circumstances. These families resemble, specifically, the difficult-to-employ MFIP population.

Structured Decision-Making and Protective Supervision

“Does ‘Structured Decision-Making’ help to identify the families for Protective Supervision?”

Responses from informants in the child welfare system varied with respect to “Structured Decision-Making” (SDM). Many counties reported that SDM provides consistency, validates decisions workers make informally, offers a guide when there is a disagreement among workers, and helps workers present a decision in court. Many agreed that using SDM as a tool is just one piece of the information gathering process and is not necessarily used to determine the need for Protective Supervision.

Other respondents were more critical and reported that while SDM could be an effective quantitative tool, it is not used as it was intended. They noted that it loses its meaning because there are so many components; it is not useful when checked off in a routine way, it becomes an exercise in “paperwork compliance.” One county reported that during the assessment, they take into account factors that are not included in the SDM tool, such as mental health. They also added that they have no way of affording the case load ratios dictated by the SDM tool, since it prescribes a worker to case load ratio based on the intensity of the case. They do not have the staffing resources for this standard.

Family Group Decision-Making and Protective Supervision

“Is ‘Family Group Decision-Making’ considered a resource and service when Protective Supervision is ordered?”

The pattern of using “Family Group Decision-Making” (FGDM) among the counties is mixed. Courts generally approve of the idea. One county reported that judges will hardly look at a case if FGDM has not been offered. Another reported that the CJI team in his county will not implement CHIPS unless FGDM has been utilized.

The child protection respondents pointed out some limitations to FGDM. One child welfare supervisor stressed that the disabilities in extended families, including mental illness, substance use, and cognitive disabilities, among others, have impacted the effectiveness of the conferencing. The supervisor remarked that the extended family must be somewhat healthy to make it successful. However, counties that used FGDM at both the opening and closing of Protective Supervision cases noted that it had the potential of providing an essential informal support system.

The Role of Protective Supervision in Reducing Out-of-Home Care and Re-entry

“What role could Protective Supervision play in reducing out-of-home care? Re-entry?”

Data are not available that would enable us to track a linkage between the provision of Protective Supervision and the incidence of out-of-home placement or re-entry. However, those in the child welfare and judicial systems who are familiar with Protective Supervision note that it is an important family preservation strategy that can prevent out-of-home placement and re-entry into foster care. Respondents from one region reported: “Protective Supervision is a good way to get family preservation into court.”

“Protective Supervision is an underutilized tool. It is a tool in our box that is not used enough.”

—Judge

Generally, judges emphasized Protective Supervision as a preventive strategy to avoid removing children. Illustratively, reporting that Protective Supervision is an “underutilized tool,” one judge urged that utilizing Protective Supervision should be considered on a more universal basis. This judge described the institutional resistance to returning children home after placement and observed that, if possible, Protective Supervision should be used to decrease removals.

Protective Supervision and Practice Issues

“What are your ideas on good practice with families in Protective Supervision?”

Regardless of geographic location, respondents consistently offered the same observation: time with families to establish a trusting relationship and to provide first-hand observations on the well-being of the children has been persistently eroded in order to meet procedural paperwork requirements. While recognizing the need for data for SSIS, reimbursement, and SDM, the consequences in terms of limiting the time for strengths-based casework has not been fully realized.

For child protection workers already feeling the time constraints from high case loads and paperwork requirements, the court process, which is also time-consuming, poses an additional challenge. According to one respondent, “court hearings are not time-friendly—any time you go to court a substantial amount of social workers’ time will be spent on paperwork.”

“We lose sight of how the kids are doing by the time we have completed our check-off lists.”

—Child Protection Supervisor

Further, child protection respondents observed that there was insufficient recognition of the challenges in working with parents who had a long and troubled history with child protection as “chronically neglecting.” While there was recognition that parents need advocacy within the system for a family preservation approach, a child protection worker noted that “we cannot be a cheerleader if kids are endangered.”

There was agreement from all sectors of the child welfare system that resources were not available for sound case planning (see Appendix 5). Respondents persistently observed that there was a mismatch between needs and resources. There appeared to be general agreement that in-

home services (home visiting with a family-based worker), respite care, and timely access to sufficient substance abuse treatment and therapeutic counseling were essential, but were already curtailed or faced an uncertain future. A few counties managed to retain homemakers, which they considered essential for “shaky,” marginally functioning parents, but there was anxiety that this resource would probably not survive the next wave of budget cuts.

“Every minute spent writing a report, heading to court, waiting for court, etc., is a minute that the worker is not ‘social working’ the case. With case loads and time constraints being what they are, this can be a significant factor in deciding whether or not to file a petition.”

—County Attorney

Guardians ad litem particularly raised questions regarding resources. They observed that child protection has limited services once the children return home. “There is no child services worker to get the children to appointments.” Insufficient attention to

children was noted in the lack of grief counseling for children who have been removed under traumatic circumstances.

The need for stability and availability of essential resources was a persistent observation among respondents. As one respondent emphasized, “there is too much screening and not enough services.” The way in which the availability of services bears on the use of Protective Supervision will be addressed more thoroughly in *The Reflections* section of this report.

Issues in Closing the Case

While Protective Supervision, in statute, does not have a timeline, court rules require a court hearing every 6 months (Minnesota Rules of Juvenile Protection Procedure 41.06, Subd. 2 (b)). Many respondents said the court holds review hearings after 90 days. The length of time Protective Supervision is ordered varies; one judge mentioned ordering it for as little as 30-45 days.

The Minnesota Department of Human Services’ standard and procedure for closing a case—a reassessment using the Structured Decision-Making tool—is useful. However, the final decision remains with the court. The guardians ad litem who responded asserted that many families who function marginally should have an open case for extended periods, in order to receive support services. Data on this position were mixed for both fiscal and ethical reasons. Numerous respondents emphasized the civil rights argument that families should not be under surveillance without limits.

Protective Supervision and Trial Home Visits

“How will the new legislation that permits Trial Home Visits affect the reunification process? The use of Protective Supervision?”

Given the recent enactment of the Trial Home Visit concept in 2005 (M.S. 260C.201, Subdivision 1), respondents were asked for their observations on its use and how it may affect the use of Protective Supervision. Guidance and training on the practice of Trial Home Visits had not been established at the time this study began, which could explain the variation in responses to its use: some counties reported extensive use of Trial Home Visits, whereas others had not yet implemented it. Among those counties that use Trial Home Visits, two themes emerged.

By way of background, it is important to note that although Trial Home Visits and Protective Supervision are both court dispositions and share common features, they also have important distinctions, clarified in Appendix 6. Whereas both Trial Home Visits and Protective Supervision can be used to stabilize the reunification process, Trial Home Visits are exclusively for reunification. Protective Supervision, on the other hand, is useful for another constituency: children who have not been removed, but live in an environment with some level of risk.

“The two work in tandem, effectively.”

—County Attorney

With that clarification in mind, the first theme that emerged from the focus groups is that *in cases of reunification* there is a general preference for Trial Home Visits, among those counties using it. Many respondents reported that one of the barriers to using Protective Supervision is that you cannot remove a child without a court order or law enforcement, whereas since the agency retains custody of the child under a Trial Home Visit, the agency has the flexibility to remove a child without a court order, if the Trial Home Visit is not successful. Others said they prefer to start with Trial Home Visits for reunification because it “has more teeth”; they want the court involved, but they want to retain custody of the child.

Other respondents observed that county attorneys, in particular, prefer Trial Home Visits. Since they provide legal safeguards for the county, respondents said county attorneys prefer retaining custody of the child, permissible under Trial Home Visits.

Respondents had differing answers to the question of how the initiation of Trial Home Visits would affect the use of Protective Supervision. Some speculated that there would be less use of Protective Supervision now that there is the option of Trial Home Visits, while others reported that it is too early to know. Despite these differing observations, a second theme emerged that pertains to how these two court dispositions relate to each other: the strategy of using Trial Home Visits and Protective Supervision in tandem. In other words, numerous respondents, primarily from the judicial system, reported that once the Trial Home Visit has been successful and completed, Protective Supervision is initiated to maintain the involvement of the court when the custody is transferred from the agency to the parents. One judge reiterated this strategy when observing that if a child has been removed and the progress of the case suggests reunification, a common approach would be a Trial Home Visit followed by Protective Supervision for a limited time (30-90 days).

The Income Issue in Reunification

A factor in reunification is the capacity of the parents to provide household and housing stability. Slight attention in this study was directed to the condition of parents whose income, to a significant extent, depended on their children’s presence. How they survived when this income source was disrupted through the removal of the children and placement in foster care was scarcely mentioned.

But in reunification, the source of parents’ income support is a key factor in establishing and maintaining a satisfactory home environment. Certainly in Trial Home Visits there is an income issue. This will require an understanding of how poor parents survived in the interim with loss of income that was dependent on their children and how quickly they can mobilize sufficient income to maintain a household to recover their children. (See a clarifying note in Appendix 7 on income eligibility, once children are removed and subsequently reunified on a Trial Home Visit.)

Best Practices

The following were considered necessary components for “best practices” by child protection respondents in regions throughout the state:

- Skill in integrating information from a variety of sources in order to ascertain: the level of functioning of the parents; the condition of the child; the relationship of the parent and child; and the specific origin and level of risk to be addressed
- Competency in constructing a case plan which is detailed, clear, and specific. Respondents from the child welfare system specifically noted that ambiguity in case plans is a barrier to Protective Supervision. Public defenders reported that families do not understand the conditions laid out in the case plan. The case plan should disclose the current level of functioning and what services will address this level for improvement. The case plan should anticipate barriers and secure the permission of the court to address these (e.g., access to schools for information on school-age children).
- Ability to engage the family in case planning through tools such as Family Group Decision-Making. One respondent remarked, “often families are not engaged and do not understand what Protective Supervision is and therefore may not be asking for services or supports from county agencies to help the reunification effort to be successful.”
- Capacity to develop an advocacy relationship with the family which conveys the hope that they can care for their children safely and well. As one respondent noted: “You can accept the parent’s perspective, but you never forget when and how to challenge it, if there are concerns about the children.”
- Skill in evaluating the services provided by community agencies: was the treatment relevant to the condition; was the treatment received (absences, inattention); and was the treatment provided with a respect for the tradition and ethnicity of the parents?

The judicial system provides another perspective on “best practices.” Many judges find the case management model unsatisfactory, unless the model requires the workers to have face-to-face visits with the parents, as well as observations on the interaction of the parents and the child. The reports from various referral agencies on assessment of risk, progress in treatment, and compliance with a case plan (attendance, relapses) may need interpretation. In order to continue Protective Supervision, the court requires evidence that parents can change by reducing the risk that initiated an open case in child protection. As respondents noted, the frequency of visits and the quality of face-to-face visits are key items in monitoring safety and well-being of children and providing evidence for the court.

A barrier to frequent face-to-face visits is high case loads. Consistent with the County Self-Assessment included in the Minnesota Child and Family Service Review’s 2004 Year-End Report, respondents frequently raised the issue of case loads and the need to improve staff to client ratios. The Child Welfare League of America recommends a case load of 12-15 children per worker; a national survey indicated that workers handle on average 24-31 children (*NASW News*, July 2006). In some rural counties in Minnesota, the case load ratio was as high as 1 to 50 or 1 to 80.

“Social workers have extremely heavy case loads. As a result, it may not be humanly possible for a social worker with the case loads they have, to provide the very close supervision necessary for more high risk placements. If adequate funding were provided so that social worker case loads were manageable, then we could, in good conscience, place children under Protective Supervision in more high-risk situations than we feel comfortable with [now], given the current social worker case loads.”

—County Attorney

The Rural Factor

Discussions with rural county child welfare supervisors and front-line workers revealed numerous themes. Some observations resonate with those of metro countries, although more intensely, while others are distinct to rural counties. Even within regions, rural counties differ in their capacity to respond to Protective Supervision requirements. One striking feature that became apparent, however, is that the penetration of methamphetamine production and use, as well as the settlement of new populations, has transformed rural county child protection.

The following other issues emerged most frequently:

Availability of Services

All counties report concerns about their ability to provide a range of services, particularly with impending federal cuts to Medicaid. However, rural counties reported a lack of services with greater acuity. Unlike metro counties, rural counties noted an absence of a therapeutic base, which affects their ability to provide bilingual therapy, children’s mental health and psychiatric care, grief counseling, nontraditional therapies, and treatment for chemical dependency relapse. Rural counties also reported serious concerns about the ability of families to actually obtain services due to a lack of transportation and child care—both of which prevent families from complying with case plans. Recruitment of foster care providers and personal care attendants was also a problem.

In addition to concerns about the availability of services, rural counties also reported a lack of choice in providers. Frequently, one outside provider delivers all county services, which poses a problem for clients who dislike them, but have no other option. It also creates waiting lists which are problematic because of timelines.

Overburdened Staff

Many counties, both metro and rural, reported overburdened staff and extremely high case loads. Unique to rural counties were reports that case managers’ responsibilities in rural counties were particularly overwhelming because they are “seriously overburdened.” Rural social workers “do it all.” Since rural social workers tend to be generalists who cover all areas, some counties reported that there are no social workers specifically for child protection.

Lack of Confidentiality

According to numerous counties, child protection decisions in rural areas are critically scrutinized by the public and pose distinctive challenges to confidentiality. Some respondents from rural counties reported running into people from the community (commissioners, public health nurses, teachers, etc.) who ask about specific cases. Others reported deciding to keep a case open to “keep the public off our back.”

Rotating Judges

The judicial practice of rotating judges leaves rural child protection in vulnerable situations when a judge appears who has minimal understanding of child protection and its formidable mandates and complex requirements for “best interests of the child.” A candid assessment of the quality of judicial practice does not seem available to child protection for discussion and resolution.

Local Culture

Some rural counties reported a local culture of resistance to any intervention or involvement from child protection or the court unless the safety of the children is in jeopardy. These counties noted a reluctance to consider Protective Supervision because the concept, which ensures surveillance, is in conflict with the county’s prevailing attitude about the role of the court and child protection. “Don’t mess with the family’s business.”

Emerging Issues

Assessing Child and Parent Needs

At the heart of ensuring the safety and well-being of a child in a seriously dysfunctional family under Protective Supervision is the assessment phase. The practice field is not always aware of the distinction between screening, a first cursory glance to find indications of disability, and assessment, which provides details on the extent and nature of the problems in order to highlight treatment issues for the purpose of managing risk.

Child protection respondents were keenly aware of the shortcomings of current assessment practices. In some instances, community agencies that are contracted for assessment provide incomplete guidance on identification of risks, on what risks can be diminished, on what risks cannot be mitigated, and on a suggested time frame for expected change in a parent’s behavior. The limitations of using child protection staff for assessment were also identified.

The screening phase for detecting disabilities in children has been mandated in state statute (M.S. sections 125A.27 through 125A.47) and in federal law. The low take-up rate in screening and assessment is a matter of concern. Part of the difficulty arises from our incomplete knowledge on these questions:

- What is a reasonable time frame to allow parents to “get their act together,” when they suffer from dual disorders (substance abuse and mental illness)?

- What are the community standards for minimal conditions in a home environment? (Is the garbage house syndrome and its physical neglect of children a public health, law enforcement, or zoning concern?)
- Do we have standards for measuring emotional neglect (a lack of warmth, responsiveness)?

“Parenting assessment used to be exclusively directed toward assessing cognitive function; now it is a fishing expedition, overly ordered. It has nothing to do with the reality of the situation. It becomes another way for parents to fail.”

—Public Defender

At this time, we have little guidance in predicting behavior changes. How much change can we expect within three months, when a parent is in a substance abuse treatment program that usually take up to 12-23 months for sobriety and has an expectation of relapses? How quickly can we measure change in managing or curbing chaotic households? Maintaining a constructive use of supportive services?

Deconstructing Compliance

Case plans are almost exclusively limited to a few basic actions: requiring parents to attend substance abuse, mental health, and parenting programs; maintaining housing stability; and ordering the violent and abusive “paramour” out of the household. The progress reports are chiefly limited to an account of attendance and participation in treatment programs.

There is general dissatisfaction with this measure of case plan compliance, since it is only vaguely related to the safety and well-being of the child. The public defenders and GALs are particularly critical of evaluating progress through attendance in programs.

These groups filter the parent’s dissatisfaction with case plans: treatment failures are due to inappropriate and poorly designed interventions (insisting on attendance in a parenting session when they are about to become homeless); requiring a psychotherapy session to explore their abusive childhood, when they need a grief counselor to deal with the violent death of a family member. Parents perceive the case plan as a series of tests calculated to provide evidence of their failure.

“Permanency planners feed the rope until the family has enough to hang itself.”

—Guardian ad Litem

Research studies report that parents receive less treatment than is acknowledged. Compliance, as measured in attendance, is generally low in both voluntary and involuntary programs. The so-called “uncooperative client” requires an astute explanation. Perhaps the content and mode of treatment is irrelevant to their condition. A thorough understanding of compliance with a case plan requires, as the centerpiece, attention to the condition of the children, not attendance sheets.

The Early Years of a Child's Life in a High-Stress Family

Infants and toddlers in open child protection cases have not had sustained attention. Case plans are chiefly focused on parents leaving very young children “in limbo,” awaiting parent improvement.

The relationship of child protection to public health nurses, children’s mental health, and community agencies providing therapeutic nursery schools and crisis nurseries is not well understood. A concerted effort to protect infants and toddlers in chronically neglecting families has not yet appeared, perhaps as a reflection of the dwindling portion of social services money for preventive services.

There is a fundamental question, here: How should we identify, train, and supervise a program for the important work of attachment, if the parent is unavailable or incapable of providing essential developmental experiences?

The Adversarial Courtroom

Child protection respondents, in all of the regions, made reference to the courtroom environment, in which the fate of parents and children was decided. In some courtrooms, children were present, and a “friendly” court was emphasized. In others, the courtroom was described as a crowded and contentious place. It was the scene of a high-stakes drama in which a child may be separated or reunified with his or her parents, parental rights may be terminated, and placement options are considered. The courtroom holds a collection of interested parties: parents and their lawyers; children and their lawyers; county attorneys and child protection workers; guardians ad litem; foster parents; adoptive parents; advocacy community agencies; and in some counties, the press.

A distinct characteristic was consistently observed about the nature of Minnesota’s courtrooms: the large measure of control exerted by each judge in how the courtroom is conducted, leading to a variety of judicial environments within 87 counties. The “culture” of the courtroom—the mix of behaviors, expectations, and the tone of exchanges—is largely directed by the judge.

The extent to which child protection was a respected partner or suffered the allegation of having failed the parents raised speculations on the training and experiences of judges. Certainly, respondents observed, CJI has helped, but the issue of providing fairness, accuracy, and insights to guide judicial decision remains a hot topic.

Harm Reduction

Reconciling substance abuse treatment time frames with child protection permanency clocks is, at this time, a seriously perplexing issue. The classic statement that achieving sobriety and abstinence is the only condition that can assure safety and well-being of children is sharply challenged. The high rate of failure of completing treatment (less than a third) and the evidence of high rates of relapse have now focused on a harm reduction model. Can the parent reduce their chemical dependency and still keep the children safe? Exploration of harm reduction requires training in “motivational interviewing” and in “stages of change.” Recovery may come in stages and the relevance to child well-being should always be at the center. Harm reduction as a treatment approach requires skilled social work practice. It may be an essential component for Protective Supervision.

Reflections

To a large extent, “Protective Supervision,” in a policy sense, is an invisible part of the child welfare system. One notes, for example, that it rarely appears for discussion in Minnesota’s Child and Family Service Reviews nor does SSIS require the documentation of its uses. Nonetheless, Protective Supervision is familiar in definition and practice in some counties and dismissed as having no relevance in others. Although the continuum of responses to maltreatment was widely accepted, the position of Protective Supervision as a centrist option between Family Assessment and removal of children from home was not clearly grasped. The respondents in this study disclosed a wide variety of responses to the concept, from misunderstanding to sophisticated knowledge of its purpose and implementation.

“When you have a county that is poor in resources and their county attorney is hypervigilant on liability issues, then they play it safe. Remove the kids.”

—Public Defender

Three factors appear to explain these wide-ranging responses to Protective Supervision:

- the relationship between child protection and the court system
- local culture—“keep out of the family’s business unless the children will suffer imminent harm”
- the availability of resources and size of the staff

Child Protection and the Court System

The relationship between child protection and the court system appears to determine, to a large extent, the implementation of Protective Supervision. If child protection perceives the court to be punitive and dismissive of child protection’s ability to protect children, Protective Supervision is not considered as an option. This attitude is reinforced when a judge appears disinclined to learn the complexities of child welfare or concludes that the spectre of litigation or a tragedy makes Protective Supervision too risky—accidents could happen but “not on my watch.”

Further, for some counties, in both their history and practice, maintaining flexibility and autonomy over a case is preferable to sharing decisions with the court. In these counties, there is the perception that Protective Supervision will formalize the court authority for compliance in a case plan and diminish child protection’s flexibility. In these counties, there is neither the time nor the inclination for these exchanges.

For those counties who have a confident partnership with the judicial system, Protective Supervision is a crucial part of the continuum and helps high-risk families maintain their children safely at home. With the formal initiation of Trial Home Visits for reunification, if the children are removed, the child welfare system now has the opportunity to use these interventions in tandem.

Respondents in each part of the system readily identified the short-comings of their so-called partners, underscoring how the relationship between child protection and the court system bears on the implementation of Protective Supervision. In the court system, child protection workers are criticized for insufficient direct knowledge of the parents and children, relying too much on derivative information from referral agencies (substance abuse or counseling). According to one

metro child welfare supervisor, “courts blame [child protection] when families fall apart, not the parents.” Some guardians ad litem urged that social workers be required by statute to be “doing social work” in the family’s home more than they are presently.

Similarly, supervisors and front-line workers in the child welfare system reported frustration about what they perceive as short-comings of the court system. One supervisor from a rural county said, “When we see that there is a strong attachment with mothers and children, we don’t fracture that: it is worth a chance to keep them together. But our judge doesn’t get it. He wants to jump the gun.” When describing the lack of understanding about Protective Supervision, a rural supervisor said, “The courts slap [Protective Supervision] on everyone. It is used in every court order from a 17 year-old truant to a 2 year-old. If they are going to use it, they need to be more serious about it. The county monitors what it means, and it would be nice if the court took it more seriously. The court does not understand what it means for a county to implement the court disposition.”

Local Culture

Respondents observed that reluctance to use Protective Supervision could stem from counties’ local culture of resistance to any intervention or involvement from child protection or the court, unless the child is in imminent harm. These counties see no value in court monitoring; rather they perceive it to be intrusive and an unnecessary surveillance of a family’s business.

Availability of Resources

The perception of the availability or unavailability of resources also appears to contribute to the varying responses to Protective Supervision. Respondents reported reluctance to consider Protective Supervision as an option if there are any concerns that the county lacks the resources to provide oversight and close supervision. In this way, a county’s ability to use Protective Supervision in the most effective way, or at all, hinges on the services available within the county.

“Protective Supervision has more to do with the services provided in the county. It can affect whether or not Protective supervision is used or if the county retains custody.”

—*Child Protection Worker*

The current fiscal threats and constraints for funding social services may affect the implementation of a sturdy Protective Supervision program. If the response to cuts leads to diminished access to services, the elimination of support services, and raising the bar for opening cases of maltreatment reports, the effort to maintain children, at home, safely, may be in decline. Protective Supervision, with its court-directed case plans, may not survive as a viable choice.

Recommendations

Protective Supervision provides important opportunities for strengthening the child welfare system in these ways:

- responds to the “least restrictive” mandate
- encourages active relationships with schools and community agencies
- creates an option for delinquent children committing first offenses
- provides the potential for a positive experience for vulnerable families and children
- reduces neglect, possibly, if used in connection with truancy courts
- provides a foundation for training across disciplines

Create visibility for Protective Supervision as an option in a continuum of responses to determined maltreatment reports:

- Appoint a task force representing child protection and the judicial system to develop guidance for best practices in Protective Supervision. Among the issues to be considered: skills in involving parents in the case plan; resources required for enabling parents to improve the well-being and safety of the children (respite care, child care, transportation, and linkage to community resources for children such as therapeutic nursery, crisis nursery, Headstart); schedules and content for home visiting linked to severity of risk; guidance for closing a case with criteria for 1-3 month periods and beyond, if indicated.
- Develop standards that are suggested but not mandated. The outcome of task force considerations should be standards and protocols that can be reviewed from time to time.
- Support documentation of Protective Supervision in SSIS through Core Training and SSIS mentor meetings.
- Review cases in Protective Supervision in county reviews (CFSR).

Strengthen relationships between child protection and the judicial system:

- Suggest items for CJI agendas, such as criteria for opening and closing Protective Supervision cases; ethical and civil rights issues in family surveillance; deconstructing compliance; shifting attention to the safety and well-being of children; sharing experiences in using Protective Supervision and Trial Home Visiting in tandem.
- Conduct joint training for the child protection system and the judicial system about what is possible and appropriate in seeking and ordering Protective Supervision. Among the topics should be the role of the county agency in developing a case plan to address the child’s needs and in recommending to the court what should be included in the Protective Supervision order (e.g. including information the agency might need to provide appropriate services for the school age child, such as access to the schools for information).

Improve practice by developing content for workshops and training on assessment. The following could provide detailed documentation of the child's safety and well-being at the time of court reviews:

- Parent/child relationships
- Supervision of home-based workers
- Evaluating services and treatment provided by community agencies
- Reviewing casework with involuntary clients.
- Convene a Supervisor's Quarterly Forum to review experiences with the use of Protective Supervision and Trial Home Visits in tandem.

Improve response to ICWA cases:

- Convene quarterly regional meetings with county tribal child welfare services and tribal courts to review issues that arise in this transitional period of ICWA/IV-E autonomy.
- Strengthen availability of consultation to deal with adolescents and families that move between tribal reservations and the metro area: define areas of responsibility and availability of resources and reimbursement issues.

Literature Review References

- California Department of Aging. (2003). *Multipurpose Senior Services Program*. Retrieved June 6, 2006 from <http://www.aging.state.ca.us/html/programs/mssp.html>
- Danek, T. A., Barnes, A. & Freeman, F. E., Jr. (1990). The Intensive Supervision Experiment. *Evaluation Review*, 14(6), 607-611.
- Nusbaum Feller, J., Davidson, H. A., Hardin, M. & Horowitz, R. M. (1992). Working with the Courts in Child Protection. Retrieved on June 7, 2006 from the National Clearinghouse on Child Abuse and Neglect Information website: <http://nccanch.acf.hhs.gov/pubs/usermanuals/courts/courts.pdf>
- Paulsen, M. G. (1966). Legal Protections Against Child Abuse. *Children*, 13(2), 42-48.
- Schroeder, O., Jr. (1974). Legal Medicine as an Interdisciplinary Intellectual Discipline. *Legal Medicine Annual*, 399-420.
- Stahmer, A. C., Leslie, L. K., Hurlburt, M., Barth, R. P., Webb, M. B., Landsverk, J., & Zhang, J. (2005). Developmental and Behavioral Needs and Service Use for Young Children in Child Welfare. *Pediatrics*, 116(4), 891-900.
- U.S. Department of Health, Education, and Welfare, Social Security Administration, Children's Bureau: Standards for specialized courts dealing with children. (1954). CB Publication No. 346.
- Villanova Law Review. (1967). Legislation as Protection for the Battered Child. 12(2), 313-323.
- Virginia Commonwealth University. (2003). Virginia Best Practices in School Based Violence Prevention, Intensive Protective Supervision Project. Retrieved on April 10, 2006 from http://www.pubinfo.vcu.edu/vabp/program_details.asp?id=123



Appendix 1

MN Department of Human Services

Social Services Manual

Children's Protective Services

XVI-4000

Based on statutes and rules in effect as of 08/01/2000

Court Dispositions XVI-4530

The court may provide the local social services agency with authority to intervene under the following dispositions:

1. protective supervision;
2. legal custody;
3. special court orders;
4. domestic child abuse- temporary order for protection;
5. termination of parental rights;
6. transfer of guardianship and legal custody; and
7. court order to produce the alleged victim.

Minn. Stat. 260C.201, subd. 1

Protective Supervision

XVI-4531

Protective supervision is a disposition of the Juvenile Court which provides that while the child is in the home of a parent of the child, the child is under the supervision of the county or human services board or child placing agency. Conditions are prescribed by the court and directed toward correcting the child's need for protection or services.

When a child is under protective supervision:

1. the local agency is responsible to the court for the supervision of the child and must promptly inform the court if it appears that the welfare of the child is jeopardized by remaining at home;

Adapted from Minn. Stat. 260C.201, subd. 1

2. the parent(s), guardian or legal custodian has the responsibility for providing for the needs of the child;

Adapted from Minn. Stat. 260C.007, subd. 15

MN Department of Human Services**Social Services Manual****Children's Protective Services****XVI-4000**

Based on statutes and rules in effect as of 08/01/2000

3. the local social services agency must provide or arrange for another agency to provide individual or family therapy, in home or family-based services, parenting education, parent support groups, domestic abuse treatment, or sex offender treatment, to enable the parent(s) to meet the needs of their child more adequately; and

Part 9560.0228, subparts 2-5

4. in the event that a parent refuses to cooperate with the treatment plan, the court must be informed.

Part 9560.0220, subpart 8 (c)

NOTE: Protective supervision does not give the local agency authority to place the child in a different living situation. In order to place the child, the parent must authorize a voluntary placement, or a juvenile court order must be obtained which orders the child to be placed out of the home.

Appendix 2

List of Participating Counties

The following counties had representatives at regional focus groups.

Aitkin	Anoka	Becker	Benton
Blue Earth	Brow	Carlton	Carver
Cass	Chippewa	Chisago	Clay
Clearwater	Cook	Cottonwood	Crow Wing
Dakota	Dodge	Faribault	Fillmore
Houston	Isanti	Jackson	Kanabec
Kandiyohi	Koochiching	LeSueur	Lincoln
Lyon	Mahnomen	Martin	Meeker
Mille Lacs	Morrison	Mower	Murray
Nicollet	Nobles	Otter Tail	Pennington
Pine	Pipestone	Polk	Ramsey
Redwood	Renville	Rock	Scott
Sibley	St. Louis	Swift	Todd
Wadena	Washington	Wabasha	Waseca
Watonwan	Wright	Yellow Medicine	



Appendix 3

Court Data

NOTES:

- 1) **Protective Supervision** = children who were never in out-of-home placement (under protective supervision for duration of CHIPS case)
Out-of-Home Placement = children who were ever placed out-of-home placement during the CHIPS case
- 2) Children are grouped by the year in which the permanent placement determination was made
- 3) Excludes cases involving runaways, truants, voluntary placements due to developmental delays or emotional handicap, children who are placed because of mental illness, and TPRs
- 4) Excludes cases that were dismissed by the court if there were no hearings and no adjudication after the case was filed

	Protective Supervision			Out-of-home Placement			Total Children		
	2002	2003	2004	2002	2003	2004	2002	2003	2004
Aitkin	55.0%	23.1%	27.5%	45.0%	76.9%	72.5%	80	39	40
Anoka	13.5%	10.9%	6.1%	86.5%	89.1%	93.9%	244	229	361
Becker	14.0%	21.0%	23.7%	86.0%	79.0%	76.3%	57	62	76
Beltrami	11.8%	15.5%	18.1%	88.2%	84.5%	81.9%	76	129	72
Benton	20.0%	7.9%	10.7%	80.0%	92.1%	89.3%	35	38	28
Bigstone	50.0%	27.3%	28.6%	50.0%	72.7%	71.4%	*	11	*
Blue Earth	15.2%	10.0%	missing	84.8%	90.0%	missing	46	40	missing
Brown	32.4%	43.3%	24.4%	67.6%	56.7%	75.6%	37	30	41
Carlton	21.3%	26.7%	16.0%	78.7%	73.3%	84.0%	61	86	25
Carver	26.0%	0.0%	missing	74.0%	100.0%	missing	73	*	missing
Cass	56.2%	31.8%	36.4%	43.8%	68.2%	63.6%	112	110	88
Chippewa	16.7%	27.3%	66.7%	83.3%	72.7%	33.3%	*	11	*
Chisago	23.6%	17.6%	6.8%	76.4%	82.4%	93.2%	72	85	44
Clay	26.9%	37.2%	24.7%	73.1%	62.8%	75.3%	78	78	85
Clearwater	69.2%	12.5%	18.2%	30.8%	87.5%	81.8%	13	*	11
Cook	14.3%	30.8%	25.0%	85.7%	69.2%	75.0%	*	13	*
Cottonwood	21.1%	36.7%	61.9%	78.9%	63.3%	38.1%	19	30	42
Crow Wing	13.2%	22.6%	11.6%	86.8%	77.4%	88.4%	38	84	95
Dakota	22.9%	19.1%	21.8%	77.1%	80.9%	78.2%	192	215	193
Dodge	61.5%	0.0%	0.0%	38.5%	100.0%	100.0%	13	21	*
Douglas	33.3%	30.0%	22.6%	66.7%	70.0%	77.4%	27	30	31
Faribault	16.7%	8.3%	20.7%	83.3%	91.7%	79.3%	18	12	29
Fillmore	41.2%	44.4%	42.1%	58.8%	55.6%	57.9%	17	18	19
Freeborn	21.7%	28.6%	6.5%	78.3%	71.4%	93.5%	23	28	31
Goodhue	25.0%	9.3%	20.0%	75.0%	90.7%	80.0%	32	43	40
Grant	30.0%	66.7%	36.4%	70.0%	33.3%	63.6%	10	*	11
Hennepin	34.7%	29.2%	25.7%	65.3%	70.8%	74.3%	1460	1488	1653
Houston	5.9%	36.8%	12.9%	94.1%	63.2%	87.1%	17	19	31
Hubbard	34.5%	40.9%	31.0%	65.5%	59.1%	69.0%	29	22	29
Isanti	3.6%	13.8%	20.5%	96.4%	86.2%	79.5%	55	65	39
Itasca	9.9%	19.8%	3.4%	90.1%	80.2%	96.6%	91	96	59
Jackson	56.2%	50.0%	57.1%	43.8%	50.0%	42.9%	32	14	21
Kanabec	17.4%	6.2%	22.2%	82.6%	93.8%	77.8%	23	16	18
Kandiyohi	38.3%	25.5%	41.8%	61.7%	74.5%	58.2%	47	55	67
Kittson	0.0%	0.0%	0.0%	100.0%	100.0%	100.0%	*	*	*
Koochiching	0.0%	30.0%	36.4%	100.0%	70.0%	63.6%	18	20	33
Lac Qui Parle	100.0%	0.0%	16.7%	0.0%	100.0%	83.3%	*	*	*
Lake	15.8%	21.1%	20.8%	84.2%	78.9%	79.2%	19	19	24
Lake of the Woods	75.0%	50.0%	66.7%	25.0%	50.0%	33.3%	*	*	*
Le Sueur	50.8%	35.9%	51.6%	49.2%	64.1%	48.4%	61	64	31
Lincoln	0.0%	63.6%	33.3%	100.0%	36.4%	66.7%	12	11	*
Lyon	19.2%	24.6%	28.6%	80.8%	75.4%	71.4%	26	61	42
Mcleod	20.9%	41.1%	27.9%	79.1%	58.9%	72.1%	43	56	68
Mahnomen	24.0%	15.4%	0.0%	76.0%	84.6%	100.0%	25	26	*
Marshall	25.0%	9.1%	25.0%	75.0%	90.9%	75.0%	*	11	*
Martin	10.7%	26.3%	29.7%	89.3%	73.7%	70.3%	28	19	37
Meeker	12.5%	11.1%	71.4%	87.5%	88.9%	28.6%	*	18	14
Mille Lacs	19.0%	39.3%	30.3%	81.0%	60.7%	69.7%	21	28	33
Morrison	39.1%	40.4%	36.8%	60.9%	59.6%	63.2%	23	52	19

Mower	36.8%	17.1%	41.0%	63.2%	82.9%	59.0%	38	41	39
Murray	0.0%	40.0%	0.0%	100.0%	60.0%	100.0%	*	*	*
Nicollet	60.0%	40.0%	48.1%	40.0%	60.0%	51.9%	20	15	27
Nobles	10.0%	41.2%	50.0%	90.0%	58.8%	50.0%	10	17	12
Norman	28.6%	60.9%	75.0%	71.4%	39.1%	25.0%	14	23	16
Olmsted	17.9%	22.3%	22.7%	82.1%	77.7%	77.3%	95	112	88
Otter Tail	25.0%	33.3%	33.3%	75.0%	66.7%	66.7%	44	54	84
Pennington	33.3%	30.8%	29.3%	66.7%	69.2%	70.7%	36	26	41
Pine	66.7%	22.7%	23.0%	33.3%	77.3%	77.0%	42	44	61
Pipestone	7.7%	0.0%	25.0%	92.3%	100.0%	75.0%	13	*	20
Polk	31.3%	35.1%	29.8%	68.7%	64.9%	70.2%	83	57	57
Pope	50.0%	36.4%	85.7%	50.0%	63.6%	14.3%	10	11	*
Ramsey	13.0%	14.1%	18.2%	87.0%	85.9%	81.8%	460	547	566
Red Lake	20.0%	0.0%	44.4%	80.0%	100.0%	55.6%	*	*	*
Redwood	12.5%	19.0%	29.2%	87.5%	81.0%	70.8%	*	21	24
Renville	5.0%	28.6%	58.3%	95.0%	71.4%	41.7%	20	14	12
Rice	12.0%	4.3%	44.0%	88.0%	95.7%	56.0%	25	23	25
Rock	12.5%	12.5%	18.2%	87.5%	87.5%	81.8%	*	*	11
Roseau	33.3%	12.5%	28.6%	66.7%	87.5%	71.4%	*	*	21
St. Louis	13.7%	8.2%	9.3%	86.3%	91.8%	90.7%	183	269	270
Scott	missing	missing	missing	missing	missing	missing	missing	missing	missing
Sherburne	7.8%	31.9%	19.1%	92.2%	68.1%	80.9%	51	47	89
Sibley	23.1%	72.2%	64.3%	76.9%	27.8%	35.7%	13	18	14
Stearns	15.6%	13.6%	12.9%	84.4%	86.4%	87.1%	45	59	93
Steele	4.2%	37.9%	42.5%	95.8%	62.1%	57.5%	24	29	40
Stevens	57.1%	12.5%	0.0%	42.9%	87.5%	100.0%	*	*	10
Swift	53.1%	64.7%	81.8%	46.9%	35.3%	18.2%	32	17	11
Todd	11.1%	6.5%	29.6%	88.9%	93.5%	70.4%	45	31	27
Traverse	11.1%	20.0%	33.3%	88.9%	80.0%	66.7%	*	*	*
Wabasha	60.0%	16.1%	12.9%	40.0%	83.9%	87.1%	15	31	31
Wadena	22.2%	27.3%	8.0%	77.8%	72.7%	92.0%	18	11	25
Waseca	31.2%	42.1%	7.1%	68.8%	57.9%	92.9%	16	19	14
Washington	24.5%	25.0%	12.9%	75.5%	75.0%	87.1%	102	92	62
Watsonwan	75.0%	50.0%	25.0%	25.0%	50.0%	75.0%	32	16	16
Wilkin	50.0%	11.1%	36.4%	50.0%	88.9%	63.6%	10	*	11
Winona	18.9%	50.0%	26.7%	81.1%	50.0%	73.3%	37	22	15
Wright	19.6%	13.0%	14.1%	80.4%	87.0%	85.9%	46	54	78
Yellow Medicine	33.3%	22.2%	44.4%	66.7%	77.8%	55.6%	15	18	*
Statewide	27.0%	23.9%	23.2%	73.0%	76.1%	76.8%	5092	5418	5588

Appendix 4

Protective Supervision and the Role of the Courts

Definition as Defined in Statute

Protective supervision is defined in statute as, the child is placed under protective supervision of the responsible social services agency or child-placing agency in the home of a parent of the child, under conditions prescribed by the court, directed to the correction of the child's need for protection or services (Minnesota Statutes 260C.201, subd.1(a)(1)).

Introduction

This provision implies that the court will keep authority over the parties involved or may delegate supervisory power to the agency. The court and the agency then have a continuing responsibility to ensure that the terms of the protective supervision order are being met.

Protective Supervision of a child in the parent's home is widely reported as a case disposition option. However, very few studies exist on circumstances, practices, models or outcomes.

In Minnesota, the specific conditions of the uses of Protective Supervision and the outcomes vary widely from county to county.

While it is generally understood that Protective Supervision is an important option for medium and high-risk families in order to meet the state's obligation to provide an option that is the "least restrictive," scant attention has been paid to a systematic study of this option.

The Court's Use of Protective Supervision

Among the circumstances in which the court may provide the local social services agency with authority to engage in "continued monitoring" (a.k.a. Protective Supervision) the following are noted:

- When a parent refuses to cooperate with the treatment plan.
- When a case plan is completed but there are risk factors remaining that cause concern about the child's safety and well-being.
- When the parent has substantially or sufficiently complied with the case plan, but has not completed the plan, and the court, with child protection guidance, has extended the time line for reaching permanency decisions.
- When a guardian ad litem, child protection worker, public defender, advocate, etc. cannot agree on a plan for placing a child or reunification, then Protective Supervision is a negotiated option.
- Medical neglect situations: when the child requires medical care for a life-threatening condition and the parent's capacity to follow medical instructions is uncertain.



Appendix 5

Required Resources Identified by Respondents for Protective Supervision

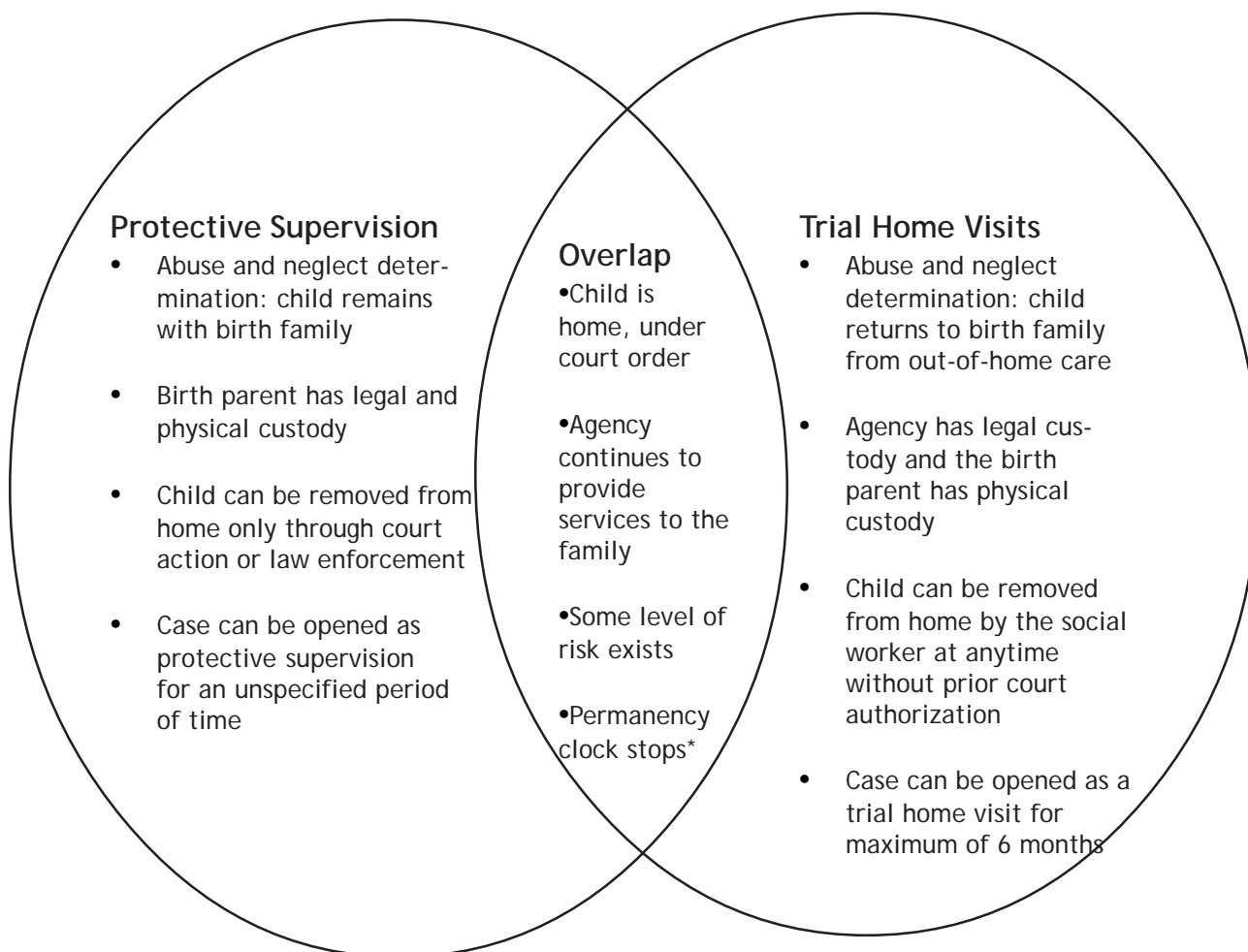
- extended substance abuse treatment
- transportation
- supervised visitation
- child care—therapeutic and other
- grief and loss counseling
- daycare, in order to go to appointments
- ethnically diverse providers
- intensive in-home therapy
- personal care attendant
- respite care
- foster care
- psychiatric services
- bilingual therapists
- non-traditional therapy



Appendix 6

Trial Home Visits and Protective Supervision: The Overlap

Maintaining children under the care of their parents at home is the preferred option in a continuum of care for high-risk children. Protective services are usually summoned for this task. If compliance with a case plan is shaky, protective supervision, which is court-ordered, may be initiated. In the course of events, if the children are in imminent harm they are removed and placed in the foster care system. When the progress of the case suggests reunification, then trial home visit becomes the strategy to utilize in practice.



*The permanency clock stops ticking if the child is in the home of the custodial parent. It continues if the child is in the home of a previously non custodial parent.



Appendix 7

A Clarifying Note on Income Eligibility Once Children are Removed and Subsequently Reunified on a Trial Home Visit*

If children have been placed and are supported in foster care on non-IV-E funds, the parent (caretaker) may continue to receive a MFIP grant up to 6 months. They must also meet the other requirements of temporary absence in 256J.13(subd2).

However, if the child (children) are placed with IV-E funds as the source of their foster care payments, the parent loses MFIP support. The consequences are that the parent(s) is left without income. The parent cannot receive IV-E and TANF funds for a child at the same time. If the parent has other children not in placement, the parent and those children may remain eligible for MFIP.

If reunification is imminent, the parent may apply for general assistance (eligibility is open to single persons), while an application for MFIP is being prepared. (May take up to 30 days). The General Assistance program may be available if parent meets a GA eligibility category and is within GA income and resource limits. However, the GA standards are very low and the parent would unlikely be able to maintain housing for the family on a GA benefit.

Since 2003, counties have been eligible for a grant from a consolidated fund. Counties may use these funds for emergency grants. These funds are available for local discretionary purposes, such as paying for shelter for homeless families; providing assistance to parents released from prison, in order to establish a living arrangement for children; or to establish a living arrangement for a parent who expects to be reunified with their children through a trial home visit. Most counties use a portion of their consolidated funds for their county EA (Emergency Assistance) programs. The state Emergency Assistance program ended July 2003 when the consolidated funds were first distributed. EA must be used for short term (4 months or less) non-recurring needs for families who are in crisis situations. EA payments do not count toward the 60-month TANF lifetime limit. Information about consolidated fund policy can be found in 256J.626.

*This information was garnered from an e-mail communication between Esther Wattenberg, Principal Investigator and Dianne Brown, Policy Analyst, Children and Family Services, Minnesota Department of Human Services on June 30, 2006.