APPENDIX A

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SUMMARY REPORT/OVERVIEW OF THE MINNESOTA RURAL VIOLENCE AGAINST WOMEN/CHILD VICTIMIZATION ENFORCEMENT PROJECT—AUGUST 2001  page A–8
THE RURAL VIOLENCE AGAINST WOMEN/CHILD VICTIMIZATION ENFORCEMENT GRANT PROJECT

A collaboration to enhance safety for women and children among rural and tribal battered women’s, abused children’s and child protection programs

COUNTY & RESERVATION COMMUNITY NEEDS ASSESSMENT RESULTS

September 2000

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COUNTY & RESERVATION COMMUNITY NEEDS ASSESSMENT RESULTS

During May and June 2000, four community specialists working for the project via Minnesota Coalition of Battered Women met with representatives of child protection agencies, battered women agencies, and abused children agencies from 26 Minnesota counties and 10 reservation communities. Their goal was to assess strengths, weaknesses, and needs relative to the delivery of services to families where child abuse exists and the non-abusive parent has been or is being battered. Additionally, through this process, training needs were assessed for use in a collaborative cross-training curriculum that will be developed and implemented through this project.

The following is a list of the identified needs. Although this project focuses on abused children whose mothers are battered, some of the needs apply to other situations where domestic violence and child abuse intersect. This document is not intended to be comprehensive or suggest that all issues occur in every county or reservation. Rather, it is intended to prompt discussion among collaborators as they seek to develop protocols as participants in the Rural Violence Against Women/Child Victimization Collaboration Project.

Need for policy and protocol development. Interviewees identify a need for policy and protocol development to standardize individual agency and inter-agency practices. Interviewees raise the following concerns which could be addressed through the development of policy and/or protocols:

- A majority of child protection agencies do not assess or screen for domestic violence or have specialized responses when it is identified.
- In many places, case plans do not include options for safety or safety planning.
- Most tribal programs have no written protocols with counties.
- The threat or practice of removing children from a battered woman’s care if she fails to get an order for protection (OFP) and/or attend support groups may have negative consequences on the battered woman, her children, and the battered women program.
- When there is drug/alcohol abuse as well as battering and child abuse, there are concerns that some agencies develop case plans that focus primarily on drug/alcohol abuse, as if once that is taken care of the abuse will cease. Several interviewees felt case plans should include a greater emphasis on direct intervention on the batterer’s violence.
- Domestic violence, child protection, and abused children agencies are unclear about when referrals should be made to each other.
- While Alternative Response is often considered an option that is less punitive for battered women than the traditional investigative response, there is concern that its use in domestic violence cases has the potential to incorporate harmful practices for battered women, including mediation and/or family counseling. Additional concerns were voiced that Alternative Response will fail to institutionalize procedures for identifying and considering the safety needs of battered women.
- Most mandated reporters know the procedures in cases of suspected child abuse/neglect. In many counties, however, there appears to be a lack of formal or informal procedures in place for other meaningful information exchange, including followup after a child abuse/neglect report.
• There is uncertainty about the types of information exchange that is allowable under data privacy practices. Interviewees state that confidentiality concerns can erect barriers to communication among practitioners.

• Domestic violence programs are not clear regarding the criteria which child protection agencies use to evaluate whether a battered woman is taking protective action.

• There are concerns that assessments of whether children and the battered parent are safer as a result of an intervention are not routinely conducted.

• Threats by child protection agencies to remove abused children from non-abusing battered women reduce the likelihood that battered women will turn to child protection for help, thus increasing their isolation and the batterers’ control.

• Battered women sometimes lose custody when they temporarily leave their homes in an effort to attain safety for themselves and their children. Their absence is used against them and too often they lose custody to the batterer.

• While accountability for child protection is institutionalized in the form of an appeals process, the concern was expressed that clients are not informed about, understand, or know how to access the appeals process. Additionally, the concern was raised whether/how a practitioner can be held accountable who fails to follow policy, misinterprets the law, etc.

• Teens have trouble accessing services because of their status as minors.

Due to conflicting perceptions, there is a need for development of an underlying philosophical framework that guides the collaborative effort. Interviewees express opinions and perceptions about current practices and what is needed which suggest divergent attitudes, beliefs and philosophical assumptions about the issue. This indicates a need to reach agreement on an underlying philosophical framework to guide individual and collaborative practices. Specific misconceptions, attitudes, and practices that emerged and are barriers to this collaborative effort, include:

• A belief that battered women programs care only about the mother and are opposed to any intervention that directs her to change while child protection agencies don’t care about the mother and are only concerned about the children.

• A belief that cross-parental reports of child abuse/neglect are frequently minimized because it is assumed they are retaliatory or manipulative maneuvers to gain leverage in custody disputes.

• A perception that battered women advocates are overly protective of battered women and act as if all victims are helpless, which contributes to the battered woman’s failure to intervene constructively when her children are being abused.

• A perception that battered women are helpless and fail to intervene constructively when their children are being abused.

• A perception that child protection responses may vary depending on the class of the mother or the status of the mother as someone who already has a “reputation” in the social services community.

• A perception that advocates fail to take into consideration that some battered women care more about their batterers than the welfare of their children.

• A concern that the traditional practice of filing child protection cases under the mother’s name, even
when she is not the abuser, perpetuates a focus on the non-offending parent’s culpability and fails to hold the perpetrator accountable.

• A perception that if a battered woman challenges a case plan or otherwise stands up for herself, she is perceived as uncooperative or non-compliant by child protection.

• An observation that there is little attention paid to controlling the batterer’s violence and his negative behavior toward the mother and children, while mothers may be subject to much closer scrutiny and held to standards that are difficult to meet.

• A perception that child protection agencies blame/penalize battered women for the abuse, discount their efforts to attain safety, and don’t understand that (in the absence of a strong criminal and social justice system) it may be dangerous to leave him.

• A perception that the battered woman’s fear and the extent to which she is controlled by the batterer will not be viewed by child protection as normal and situational, but rather as pathological and evidence that the battered woman is unfit or incapable of keeping her children safe.

• A perception that sanctions are more stringent on the mother if the abuser is not the child’s biological or adoptive parent—that child protection has a tendency to take action against the mother rather than address the behaviors of “non-parent” abusers.

• A perception that child protection seems reluctant to offer services to women and children if they belong to transient populations.

Need for specialized cross-training on the dual issues of domestic violence and child abuse. A majority of interviewees from county and reservation child protection, abused children, and battered women agencies express interest and a need for specialized training on the overlap between child abuse and domestic violence. Suggested areas for training include:

• Confidentiality and data privacy issues in domestic violence, child protection and abused children programs.

• Information about the child protection system—designed for representatives of battered women programs and abused children programs—including the rights of mothers and children within this system.

• Training and licensing issues for county and reservation child protection, domestic violence, and abused children programs.

• The dynamics of domestic violence: battered women’s reality; alcohol/substance abuse and mental health issues for battered women; abuser profiles; separation violence; the effects of violence on children; and related issues.

• Current and emerging model initiatives for responding to the dual issues of domestic violence and child maltreatment.

• Permanency planning, alternative response, family preservation and other child protection initiatives—their application to intervening on behalf of battered women and abused children.

• Indian Child Welfare Act (ICWA)—overview, federal mandates, tribal codes, compliance issues, and the relationship between reservation and county child protection entities.

• The use of domestic violence screening and assessment in child maltreatment cases.
Need for role clarification. A majority of interviewees from county and reservation child protection, abused children programs and battered women programs express a need for collaboration to clarify and define their roles relative to the dual issues of child maltreatment and domestic violence. Specific actions to be taken for this purpose include:

- Identifying the actions of each agency at differing points of entry, including the statutes, policies, procedures, and forms that guide each agency’s activities.
- Identifying systemic barriers and advocacy issues for child protection, abused children and domestic violence programs at every step.
- Outlining areas of overlap, potential conflicts of interest, and/or where agencies appear to be working at cross-purposes.
- Identifying/appointing specific battered women/child advocates to serve in an ongoing capacity on county teams to increase advocate accountability, effectiveness and credibility; clarifying their role on county teams, particularly related to confidentiality and conflict of interest issues.
- Clarifying/defining possible changes in response when an abused child’s mother has been battered, is currently being battered, or has never been battered.

Law enforcement and criminal justice system needs. To further assess needs for woman and child safety, interviewees were asked to identify barriers that exist within the law enforcement and criminal justice systems. Child protection, domestic violence and abused children programs identify the following concerns:

- A perception that there is a general failure to effectively prosecute offenders.
- A perception that there is a lack of comprehensive case planning and follow-through by law enforcement, county attorneys and judges when noncompliance occurs.
- A concern that in some places judges still order family therapy in domestic violence cases.
- A concern that men are ordered to batterers groups but are not necessarily ordered to “complete.” Court monitoring of attendance, participation or completion of sessions is inconsistent.
- A perception that the criminal justice system is slow—increasing the likelihood that batterers plead guilty to lesser charges in domestic violence cases.
- There is a statewide crisis in affordable legal assistance.
- Too often, reports from law enforcement are incomplete and inaccurate.
- There are times when the courts tend to let social services handle cases that might be better handled by the court, e.g., when supervised visitation is needed, courts may leave the decision to the discretion of social services.
- Too often, juvenile court is not a top priority except in extreme cases.
- A perception that guardians ad litem lack cultural understanding, have too much influence on judges and lack training regarding the dynamics of domestic abuse.
- OFPs are inconsistently enforced.
- There is a perception that many law enforcement agencies minimize the seriousness of domestic
violence and/or think it is caused by drug/alcohol abuse. As a result, law enforcement may respond to the immediate crisis without understanding the pattern of abuse or the power dynamics of the situation.

• A perception that police and courts seem reluctant to offer services to women and children if they belong to transient populations.

**Need for changes in the law.** Ideas that were raised for possible legislative initiatives that are needed in order to effectively intervene on behalf of the abused child include:

• Legislation that allocates resources to develop new and expand existing supervised visitation (parenting time) centers because the potential and actual abuse against children and women which occurs during exchanges or unsupervised parenting time is a critical problem.

• Legislation that provides resources to enable battered women to live free of violence and control and provide real safety and stability for their children. These resources include safe and affordable housing; employment, education and childcare opportunities; and treatment facilities (which incorporate children in the treatment modality). All the existing resources are insufficient to meet the demand in rural and reservation communities.

• Legislation that provides more options for child protection without penalizing battered women. Several child protection interviewees expressed the opinion that the enhanced neglect statute passed in the 1999 legislative session gave them more tools with which to intervene on behalf of an abused child. However, some child protection agencies and most domestic violence programs felt that this legislation resulted in a reduction of calls from battered women.

• Legislation that encourages the development and funding of research, model initiatives, practices, and collaborations for responding to the dual issues of battering and child abuse.

• Legislation to enhance civil alternatives and custody and visitation laws that protect battered women and their children. This includes enactment of a rebuttable presumption regarding batterers and custody and/or modifying the “best interest of the child standard” to provide greater safeguards for battered women and their children.

• Other legislation targeted at holding abusers accountable and providing safety and justice for battered women.

September 2000
SUMMARY REPORT/OVERVIEW OF THE MINNESOTA RURAL VIOLENCE AGAINST WOMEN/CHILD VICTIMIZATION ENFORCEMENT PROJECT

August 2001

The following document provides interim summary information about the Minnesota Rural Violence Against Women/Child Victimization Enforcement Project Grant. A grant was received by the Minnesota Coalition for Battered Women (MCBW) along with collaborating agencies through the Minnesota Crime Victim Services (MCCVS), a division of the Minnesota Department of Public Safety. The project began in March 2000 and will continue until June 2003 under a grant renewal received in the fall of 2001.

For further information about the project, contact Sandy Davidson, MCBW, 1821 University Avenue W., Suite S-112, St. Paul, MN 55104 (Tel: 651-646-1109).

Sections highlighted in the document include:
A. Process utilized in working with counties and tribal communities involved in project.
B. Strengths and unique features of the written protocols currently in development.
C. Strengths of the overall project.
D. Challenges and failures of the overall project.
E. Future direction of the project: Tasks in ongoing work with participating agencies and programs.
F. Critique of Effective Interventions in Domestic Violence and Child Maltreatment (aka The Green Book) published by NCJFCJ.
A. Process utilized in working with counties and tribal communities involved in project

- After discussion among grant collaborators and with Praxis rural grantee consultants, a decision was made to limit protocol development to areas of overlap among abused children, child protection, and domestic violence agencies to be able to manage these effectively and assure that unintended harm to battered women did not result.

- Community specialists identified key decision makers and met separately with representatives of county and reservation child protection, abused children and battered women agencies to:
  - provide them with an overview of the project
  - enlist their willingness to participate in the project
  - conduct needs assessment interviews

- Compiled results of needs assessment into document, titled “County and Reservation Community Needs Assessment Results.”

- Met with representatives from child protection, abused children and battered women programs in order to:
  - Explain the project.
  - Identify priority areas for work within their counties that might be addressed in a protocol.
  - Identify how each agency works with battered women and/or her children. In one region, flow charts were created illustrating individual agency roles.

- Developed guiding principles for county teams.

- Regional collaborative teams participated in one 2-day cross training and two 1-day cross trainings held in four regions of the state.

- Continued to address issues within the regions relative to building relationships, and move toward development of county/tribal protocols.

- Worked with DHS to develop protocol for use by child protection agencies.

- Reviewed existing protocols, articles, and held discussion with representatives of other states involved in other collaborations.

- Developed a document titled Draft Recommendations for Protocol and Collaborative Elements for County/Reservation Teams, a companion exercise and recorder sheets for use in guiding the process of protocol development at the spring 2001 training and in meetings held subsequent to these training sessions.

- Began drafting protocols for county and reservation teams utilizing exercise.

- Engaged in ongoing dialog with county teams regarding sustainability of their efforts in the event that continuation funding was not secured.

B. Strengths and unique features of the written protocols in development

- Outlines abused children, battered women, and child protection agencies’ roles.

- Clear process utilized for identifying elements to be included in protocol based on experience of other collaborations, best practices, and recommendations in the field.
• Region’s ability to develop protocols tailored to meet specific region/community conditions.
• Promotion of a clear separation of advocacy role from child protection role, including defining the role of advocates in providing advocacy related to battered women involved in the child protection process. (See Best Practices for Battered Women’s Programs section of Draft Protocol Recommendations document).
• Directives that battered women programs and child protection programs do not collaborate in individual case planning.
• Provides for referral and not mandate of battered women to battered women services.
• Advocate role on child protection team is defined as that of providing systems advocacy and avoiding discussion of individual cases, except where requested by battered women and only after release obtained.
• Systems change focus included as a role of county teams when collaborating, in order to identify community changes needed to enhance safety for women and children and accountability for batterers.
• Protocol development allowed for the institutionalization of existing county strengths. For example in three counties in one region, most child protection workers had experience either working for or volunteering with the battered women’s program. This was identified as a strength and thus a provision whereby child protection interns will spend part of their internship at the battered women program, and the battered women program will provide ongoing training as well as volunteer opportunities to workers was included in their county’s protocol.
• The combined strength of the involved agencies engaged in the protocol makes it easier and more likely to approach other systems and enlist their participation (law enforcement, guardians ad litem, etc.).
• Some teams have included annual “mini” cross training to maintain and enhance relationships and increase inter-agency understanding.

C. Strengths of the project overall
• Targeted focus of the Minnesota Collaborative on improving services and enhancing the safety of battered women and their children when battering and child abuse co-exist allowed for proceeding with caution to avoid unintended consequences.
• Participants were identified as experts at the start in terms of identifying local/county and tribal needs.
• Collaborators were given needs assessment results identified statewide, so they could consider the problem beyond local conditions.
• Teams, via their regional specialists, were given technical assistance through bringing local problems to coalition strategists who helped shape the process to respond to the current climate (following the confusion surrounding the short-lived enhanced neglect statute in 1999).
• Broad base of experience gained because of the large numbers of counties and reservation communities involved (26 and 9, respectively).
• Specific rural focus that is replicable in many rural communities nationwide.

• The overall project includes funding for five additional counties to develop demonstration projects. These counties were selected to develop/enhance existing relationships with child protection with hopes of developing projects that can be replicated in other counties. Community specialists provide technical assistance to these projects and information is/can be exchanged. While the process for protocol development may not be as formal as other aspects of this project, these five teams are building relationships, enhancing the collaborative process, and are developing protocols for their counties.

• Technical assistance and enhancement training was provided by Praxis for community specialists, participants in the demonstration projects, and collaborative teams participating in this project.

• Flexibility in the development of the cross-training curriculum, allowing for input from trainers, community specialists, project consultants, and other stakeholders (child protection, abused children programs, battered women programs) throughout the duration of the grant period.

• Because of collaboration among state agencies in the development and implementation of the project, understanding and buy-in at the state level led to an unintended beneficial consequence, whereby the Minnesota Department of Human Services convened a diverse group of agencies and individuals to develop best practice guidelines for child protection workers for cases where domestic violence and child maltreatment overlap.

• The involvement of the Minnesota Department of Human Services in the development and delivery of the cross-trainings enhanced buy-in among child protection agency participants.

• Relationships were enhanced between child protection and domestic violence programs by involving trainers from each discipline involved in the protocol development who modeled respectful listening geared towards understanding differences across disciplines.

• Project built on experience gained from emerging programs and model initiatives in other parts of the country—through review and discussion of the literature, attendance at Jackson Hole training, participation in audio conferences and direct consultation with program/initiative representatives.

• Good buy-in from many counties was facilitated as a result of:

  – Stable, strong battered women programs and child protection agencies with already existing informal and formal cooperative relationships.
  – Timing: some counties felt the need to collaborate was imminent and welcomed the opportunity to have a facilitated process.
  – Other efforts within their areas in the development of county/tribe reciprocal agreements and/or model responses to domestic violence (the Center for Reducing Rural Violence has selected domestic violence in some rural organizing initiatives).

• Adequate time was built in for relationship building and opportunities for dialog regarding local conditions that would affect development.

• Community specialists came from outside of the involved agencies who were better situated to encourage a process whereby objections and reservations could be aired among participants. This reduced the risk of collusion among team members who might have been constrained from disagreement because of their ongoing relationships outside of the protocol development process.
• Cooperation was increased and the effective use of time enhanced because of the role of the community specialists, who were responsible for the ongoing work of the teams—setting up meetings, compiling the research, typing up agendas, minutes, protocols, copying, etc.

• Community specialists were sensitive to the time limitations of the participants, structuring meetings and tasks in a focused way.

• Community specialists could learn from each other and from what was working in each region.

• Participating teams report being well informed and that the trainings were operative in opening up real community dialogue through the understandings gained there.

• The project adapted to frequent changes in personnel in both child protection and battered women programs.

• Regional cross-trainings were accessible to participants.

• Most counties are committed to the idea of cross-training and addressing domestic violence and child protection overlap issues as part of the orientation process to train new employees and address new statutes/laws/mandates.

• Some counties are institutionalizing monthly “check-ins” to see how the process and protocol are working, which will serve as an informal evaluation piece.

D. Challenges/failures of the project overall

• Some counties were not engaged/interested in participating due to local conditions including:
  – High turnover in child protection and battered women programs
  – Some child protection agency representatives are entrenched, territorial and closed to outside influences.
  – Minnesota is a “county-run state” with respect to human services; and thus, there is little incentive for county-level child protection to invest in the issue if they do not have some sort of interest already.
  – Entrenched victim-blaming attitudes that expect the battered woman to control what the state cannot, namely the batterer and the battering.
  – Resistance on the part of child protection agencies who assume greater authority and credibility in terms of defining the problem, e.g., seeing efforts to protect the adult victim as coming from battered women’s programs lack of professionalism and hence objectivity regarding the culpability of battered women.
  – History of bad relationships between the child protection and battered women agencies and no mandate requiring them to work together.

• In some places, experienced difficulty getting involvement and buy-in from reservations. Possible reasons for this include:
  – The failure to approach the tribal council with the reservation advocates and/or the tribal human service people.
  – Extremely high turnover on the reservations. People filling domestic violence positions do not
believe they will hold their positions for long and consequently lack interest in starting new initiatives.
–Some reservations extremely closed to outside influence.
–History of bad relationships with county agencies.
–History of oppression and exploitation of Indians by white people.

• Some teams had imbalanced representation—typically more representatives of battered women programs were involved.

• Staffing issues made it difficult to leave programs/schedule meetings/attend trainings.

• Rural landscape typified by few staff without the resources to meet extraordinary travel expenses—often the battered women program participants are the only advocate or worker in their county which limits their ability to participate in meetings and trainings (crisis calls take priority over meetings).

• Minnesota winters and springs offer some unique weather challenges.

• In small agencies, in which management often consists of one person, if that one person is obstructionist it can hobble the entire effort (also true for judges, law enforcement, etc.).

• Leadership from DHS is great, but often seems remote and fraught with unrealistic expectations to overburdened, rural workers.

• Data did not exist beyond the anecdotal to prove the need for protocol development. Example: One county did not feel that they wanted/needed a protocol. Believed they were good people already working well and there was little evidence to prove otherwise.

• Small battered women programs can be unwilling to identify child protection problems when they lack community organizing skills and are striving for legitimacy among community agencies.

• Some counties have agencies that are at odds with county administration, and progress is inhibited by local mistrust.

• Some counties are opposed to separate case plans for batterers, due to time constraints.

E. Future direction/tasks in ongoing work with participating agencies/programs

• Further training, consultation, and mentoring for battered women programs is needed regarding the rights of battered women in the child protection system and how to advocate effectively for them as well as to strengthen their agency’s capacity to effectively meet extra responsibilities necessitated by protocol development and implementation.

• Flyers should be handed out to battered women in the child protection system developed by the battered women’s programs, which outline:

  –Services that battered women programs provide in general for battered women and their children
  –Services provided specifically for battered women in the child protection system (in particular information about the availability of advocacy for battered women to assure that their rights are met in the child protection system).

• Need to identify what separate case plans for batterers would include beyond completion of
batterers groups. In counties where batterers groups exist, they may be over-relied upon to provide accountability for batterers. In many other counties, they are non-existent or ineffective.

• Tracking and monitoring of the extent to which criminal, civil and juvenile justice system sanctions are used to respond to batterers who also abuse their children is needed, including the identification of resource or other systemic impediments that contribute to the under-utilization of these remedies. Anecdotally, it is known that civil and criminal remedies are not often used against batterers.

• Expand involvement in project to other intervenors, including law enforcement, prosecution, batterers programs, schools, and other court agencies.

• Review protocol with battered women who were dissatisfied with their involvement with the child protection system to test whether the existence of the new protocol would have made a difference in their situation and to adapt as needed to strengthen it.

• Review each point of entry for battered women to identify where protocol needs further development to assure safety for them and their children.

• Review problem of overrepresentation of women of color in child protection system and identify solutions for child protection and battered women programs.

• Create grid or other method of assisting child protection and battered women programs in considering when children should be taken from a battered woman for failure to protect, including possible sanctions to hold male perpetrator accountable and to assist her in gaining separation in those cases where staying with him and sanctions against him has not resulted in his reform.

• Monitoring the development of Alternative Response, particularly in Olmsted Co.

• Provide input, training, etc. as part of the advisory council to ensure safety needs of women and children are considered and incorporated in each county’s Alternative Response.

• In addition to protocol development, identify what leadership on this issue would look like for participating agencies.

• In areas where participation by child protection was low, work with battered women programs to document the need and organize within their communities to get them to the table.

• Assess for unintended consequences to battered women and their children.

• Provide a reservation community specialist to serve as liaison to county teams and reservation communities.

• Reservation-specific evaluation is needed, i.e., assessing the outcomes for Indian children.

• See also “Developing Protocols: Exercise for County Teams,” D section.

F. Critique of Effective Interventions in Domestic Violence and Child Maltreatment (aka The Green Book) published by NCJFCJ.

Strengths:

• Leadership coming from a reputable national organization.

• Good section on audit to identify community obstacles (this section was incorporated into the Draft Review and Recommendations for Protocol Development).

• Clear guide to refer to as communities and local teams move forward.

• Provides a reminder to integrate juvenile court responses, identify and expand resources, cultural competence, etc.

• Availability of copies free of charge to provide to each county team to review and/or implement recommendations as resources allow.

• Some recommendations will be useful if/when expanding the protocol to more systems.

• Good challenges to the criminal justice system concerning accountability.

• Batterers programs are directed to participate in annual cross-trainings. Both batterers programs and other systems might benefit from their participation.

• Suggestions that battered women programs, which generally lack expertise in this area, increase their internal capacity.

• Recommendations for mediators, where mediation is mandated, are good—though our feeling is that it would be better if mediation were not mandated.

• Laudatory suggestions regarding setting standards for competent, well-trained attorneys.

• Encourages cross-communication and understanding, and ongoing trainings between involved systems.

Weaknesses:

• Assumes level of expertise that battered women programs (and perhaps others) do not necessarily have relative to engaging in collaborative efforts.

• It seems to blur the distinction between the battered women advocacy and child protection role or erroneously assumes that the battered women program is in a position to articulate its independence (not clear which).

• Surfeit of principles with few specifics for practice.

• Metro-centric focus, which does not take into account rural issues. Assumes some resources that aren’t available in rural areas, for example, batterers programs, transportation, childcare, etc.

• Language not conducive to buy-in by rural participants, e.g., use of many “shoulds” in the principles don’t provide inviting tone.

• Teams seem overwhelmed at the complexity of collaboration; the book could add something to make it more user-friendly, like encouraging one- and two-year measurable objectives to provide milestones of success for teams.

• Not always realistic, particularly for rural, economically deprived areas.

• More focus needed on holding perpetrators accountable and how this is done.

• See also #5: Future direction/ tasks in ongoing work with participating agencies/ programs.

• Recommendation #50 regarding extension in permanency, refers to “healing.” No reference to lack of resources, which if available would preclude the necessity of her healing.

• The problems with mediation are not addressed head-on. Likewise advises use of dangerous
interventions such as couples counseling and family conferencing with caution. Why use them if they are dangerous?

• Confidentiality not addressed.

• Recommends joint case consultation: Is this with external battered women programs and if so this may increase the danger to the battered woman, particularly in rural areas.

• Seems to suggest expanding existing coordination efforts, to include child protection issues (recommendation #6). This seems to assume coordinating councils have been successful. Seems unwieldy and unworkable to have a larger group take on the whole of this issue.

• Is recommendation # 8 promoting internal advocacy over external advocacy?

• Should reference the importance of battered women advocate involvement.

• Needs to operationalize offender accountability and safety for battered women—what do those terms mean?

• Many recommendations are unclear.

This document was compiled by the MCBW-hired staff of the Minnesota Women and Child Safety Project/Rural Violence Against Women/Child Victimization Enforcement Project and does not necessarily represent the opinions of other persons, agencies, organizations or governmental offices involved in or participating in the project.
APPENDIX B

CONFIDENTIALITY & INFORMATION SHARING
CONFIDENTIALITY & INFORMATION SHARING

CONFIDENTIALITY, CLIENT PRIVACY, AND THE SHARING of information are significant issues of any inter-agency agreement or multi-disciplinary collaboration in the overlapping areas of child maltreatment and domestic violence. These issues must be addressed directly and early in any cross-system collaboration where information about clients or those receiving services might be shared.

Assessment involves issues related to gathering information. In part, dividing the gathering of information from the issues around confidentiality and information sharing is arbitrary since the multiple considerations about personal and private information and how it is to be used are interconnected. The question of what information an advocate or agency needs to gather and how they will gather and record that information is answered, at least in part, by understanding how the information will be used. Generally speaking, in the area of family and intimate violence we want to gather the information needed to be helpful to the parties in eliminating the violence or in protecting the victims of violence. And, of course, we want to enter into an agreement with the client about how this information will be used and with whom it may be shared.

Decisions about these sticky issues should be guided by laws that protect invasion of privacy, professional codes of practice and ethics, and the well-considered policies of the organizations or agencies we work for. When we enter into cross-agency or multidisciplinary agreements, the laws, codes, policies, and practices may differ greatly. Nowhere is it more important for careful and deliberate discussion to occur than here and now when we are talking about the personal safety of those we advocate for.

While each professional involved might have differing standards, there are a few issues that need to be understood and discussed among collaborative participants:

1. What information do you/does your agency gather?
2. Who gathers the information and under what conditions?
3. From whom is this information gathered?
4. What does the client/family/subject of the information know about how this information is going to be used? (e.g., Do they sign a form showing that they understand how information will be used?)
5. What does the client/family/subject of the information know about where this information is kept and how long it is kept?
6. What is communicated to the client/subject about who else may see this information? (e.g., Release of information? Limited release v. broad/general release?)
7. Overall what are your agency’s policies and practices about client information?

The following role-play exercise asks participants to take on the roles of persons who come together for the purposes of consultation as a “Multidisciplinary Child Protection Team,” as recognized by Minnesota statute. The players are asked to play their part in this context with information about a particular case scenario.
In many rural areas or smaller communities it is common for “everyone to know everyone’s business.” In that context, professionals may have information pertaining to a family because of both their professional role and their personal relationships in the community. Thus, another factor enters into the process of sharing information. In addition to the disciplinary or professional rationale and standards used for gathering and sharing information, which may already be in conflict, people might have more personal information or biases that come into play.

**Objectives**

Upon completing this segment of the training, participants should:

- Understand more about the complexities of confidentiality and information sharing when there are multiple victims of abuse and violence in the same family.

- Gain a greater understanding of the different philosophies, policies and practices regarding confidentiality and sharing of information across various disciplines (esp. CPS, DV advocate, education/school system, and law enforcement).

- Gain a deeper appreciation for some of the issues related to racism, history, and cultural misunderstandings about Native American families involved in the child protection and other government systems.

- Consider how their personal knowledge and biases may impact their professional decision making, particularly in a smaller community.

- Begin a discussion among their own multidisciplinary team about issues of confidentiality, informed consent, release of information, gathering information, and protection of the privacy of clients, particularly victims of violence and abuse.

*Role-play exercise begins on next page*
Exercise: Child protection team meeting

(Role-play handout)

Setting: “Mellon County’s Child Protection Team” (a fictional rural county in Minnesota, adjacent to the “Baye Verte Band Reservation”). You have come to this county child protection team meeting as you or someone from your agency does each month the team meets. The team operates under the general guidelines provided by the State of Minnesota (Sect. 626.558, Subd.1–3) and does case consultation among other things, including some public education. It is the practice of this particular team that information is shared at these meetings rather informally, but that “what is shared in the meeting stays in the meeting.” Once a year team members are supposed to sign a confidentiality/data sharing agreement related to their participation on the team.

Members of this county child abuse team:

1. Gil, the local CPS agency supervisor
2. Carol, the family’s CP case worker
3. Terri, from Baye Verte Tribal Services and an ICWA advocate
4. Michella, the Dickens Elementary School counselor
5. Geri, ECFE Program parent educator, also helps with supervised visitations
6. Joan, a Public Health Nurse who does Home Visits
7. Keith, a sheriff’s deputy
8. Pat, the assistant county attorney
9. Kelly, DV advocate

Instructions to players:

Read and use the additional information known individually by you; some of it is professional knowledge and some is not. Come to the table as if you were on a CP team, as you know them, even if you have not personally served on one. Carol will begin by asking to do a case consultation. You begin without using names, but after a while “everyone knows” who you’re talking about. In the course of the role play, you individually need to decide what you will and won’t share with the others in the group based on your knowledge of the situation, your assigned role in the role play, and your sense of what is or isn’t appropriate to share or disclose given your understanding of confidentiality. At the end of the role play, you will have the opportunity to discuss your thinking process and rationale for doing what you did in terms of disclosing or not disclosing certain information in the course of the case consultation. Remember, play the role; this is not about you or your job.

Instructions to observers:

In the course of the role play, listen and watch for things that raise issues of confidentiality and ethics around sharing of information. You will join in discussion at the end of the role play session.
Case scenario*:

Following is the case overview that Mary and Carol are bringing to discuss at the CP team for case consultation. Carol, the CP worker, is having difficulties working with Annie around issues of chemical dependency and still having contact with Thomas. Mary thought it would be helpful to bring it to the team since she knew that many local agencies have had contact with this family over the years, and their knowledge of ways to handle this may help Carol to assist Annie and her children. Mary asks Carol to present the case for discussion. At first, no names are used, but as time goes on Annie's name is used, and soon everyone “knows” what family is being talking about.

Annie (age 28) is a Native American woman who has been battered over the course of about seven years by her partner Thomas (age 32), a non-Indian man. They have two children John (9) and Patricia (6), and are now separated. There is a history of alcohol abuse by both Annie and Thomas. Annie has reported at least five incidents of abuse to the police, but there have been others she did not report. (There have been three arrests, two were charged, and one went to court and got a conviction). They are separated and in the process of a divorce. Thomas wants custody of the children. He believes Annie is an unfit parent and makes numerous attempts to prove this point. He is working now, while she is not.

Annie has a lawyer from Tribal Legal Aid who is assisting her with the ICWA issues, and who is also well versed in domestic violence issues. Annie has an active OFP against Thomas due to an incident about six months ago when she was leaving to move in with a family member.

Meanwhile, Thomas is persistent in his attempts to paint a picture of Annie as an unfit mother with alcohol and mental health problems. He calls the sheriff, child protection, and relatives with allegations that Annie is drunk and has left the children unattended and hungry. In response to these calls, the local sheriff’s deputies have gone to her home after receiving such a report to find Annie with some alcohol on her breath, but no signs that the children had been abused or neglected.

*Disclaimer: This case and the role-play is a fictitious hybrid and is not meant to represent a real case or real CP team. We recognize that the roles in the role play and the situation are in some ways exaggerated to get at the issues around confidentiality we wish to address. We do not mean to imply that any or all teams nor any or all of those in these roles would act this way in reality. Child protection team meeting facilitator instructions
Child protection team meeting facilitator instructions

Objectives of exercise

- To experience a case consultation of a CAN/DV/CD case in a multi-agency/disciplinary team
- To explore the roles, responsibilities, and perspectives of team members that may be different from one’s own
- To uncover issues surrounding sharing of information and confidentiality that arise in such cases
- To develop an understanding from others’ experiences and perspectives about the difficult choices each team member has to make in their work

Instructions

1. Use two facilitators to do this role-play; they should sit on different sides of the circle/group to observe.
2. Participants select or are assigned either a role to play or to be an observer. The number of roles can be altered depending on the number of participants in the group. The exercise can be done with just those roles marked with an *.
3. Roles may be assigned or chosen so that players have roles either most similar or most different from that which they would normally take.
4. All participants in the role-play get the list of other participants, a name tag for their own role, the overview case study, and their specific role information.
5. The person who represents CP should present the case and what additional information they chose from their role information. He/she must then pose a question or dilemma that he/she needs feedback on during the consultation.
6. The discussion of that issue takes place with people playing their respective roles and in the process deciding what information to share or not share with the others. Participants need to note why they made decisions to share information or not.
7. At the end, after approximately 15 to 20 minutes, the facilitators stop the role-play and assist the group to process what occurred.
8. Minnesota statutes about the child abuse teams should be available if a question should arise.

Processing questions

1. What was it like to hear the information being shared?
2. How did you feel when you had information you did not choose to share?
3. What was your decision-making process as you determined what to share or to keep confidential?
4. Has this sort of thing happened to you when working on a particular case? In what other situations do concerns about information sharing arise for you?
5. How important are confidentiality and information sharing in working collaboratively?
6. What steps do you as a professional think you need to take to determine why information is shared?
ROLE DESCRIPTIONS

(Make a copy of these role descriptions. With a scissors cut apart the descriptions of each role and distribute them to the role players. Audience participants should not have a copy of this during the exercise.)

1. Gil, the local CPS agency supervisor

You have been working with this county CPS agency for 12 years. So you have been around much longer than Carol, who has only been at the agency for two and a half years. You know that there were two previous undetermined reports of possible child neglect and abuse that came in to the office when John (now nine) was about two years old. And, the children were removed from the home once when Annie was beaten up by Thomas and she had to go to the hospital. Your agency and tribal social services also have been involved with the family in the past due to allegations that Patricia was sexually abused by a relative, but it was never determined. John was recently hit by his father, leaving welts, as a punishment for stealing some money, and Annie called the CP agency about it. You are not too concerned about this case right now, but know it’s complicated and the family has a long history in the community. You also remember hearing that Annie’s parents were involved with CP when Annie was a girl.

2. Carol, the family’s CP case worker

Your agency and tribal social services have been involved with the family in the past due to allegations that Patricia was sexually abused by a relative, but it was never determined. John was recently hit by his father as punishment for stealing some money, and Annie called the CP agency about it. Annie has had chronic alcohol problems but is on Antebuse. As her CP worker, you’ve worked diligently with her on all the issues that have arisen over the past two years since you became her case worker, but you have little understanding of the dynamics of chemical dependency. You’re trying, but the domestic violence issues are frustrating to you as well. At times you feel that if Annie really wants to do her best for the kids, she’d just sober up and get out of the unhealthy relationship. Your case plan with Annie includes maintaining sobriety. Annie really wants to keep her children, but knows that the drinking is an issue and something that is keeping her stuck. You’ve gotten permission from Annie to talk with Kelly and feel that she’s been helpful in general.

3. Terri, from Baye Verte Tribal Services, an ICWA advocate

Annie has been in consultation with a lawyer from Tribal Legal Aid who is assisting her with the ICWA issues, and who is also well-versed in domestic violence issues. Annie has an OFP against Thomas. You know that Annie and her children are enrolled members of the Baye Verte Band, though they don’t currently live on reservation land, but rather in a town near the reservation. Annie has a number of other family members with whom you and your agency have had contact over the years. You know Annie’s sister quite well and have been friends with her brother since you were in grade school. You privately have always worried about Annie’s relationship with Thomas, and have heard stories from her siblings about what he’s done to her. You also know one of the people at the treatment center where Annie most recently went for CD treatment. They told you “confidentially” that they thought Annie would have a hard time keeping sober. While she was in treatment, Annie’s children, John and Patricia, were staying with Annie’s sister and her family on the reservation. You are very suspicious of Thomas, and know that given ICWA considerations there is no way he should have custody of the children.
4. Michella, the elementary school counselor

This is the first time you have been at a meeting where a specific family was discussed, and you’re a little surprised for some reason. You don’t know a lot about them, but you have met both of the children. John, who is in third grade, and Patricia, who is in first grade, have come to your attention through their teachers. John’s teacher came to you concerned about some particularly aggressive behaviors she was noticing, and she wondered if you knew more about what might be going on at home. The teacher felt that she may need some help in knowing how to control his aggressiveness better. You have never actually met or talked with Annie, but you have seen her once when she came to get Patricia from school when she was sick. You recall that Patricia looks just like her mother. Her teacher came to you over a year ago concerned about Patricia’s day-dreaming and lack of ability to pay attention in school. You both agreed to keep an eye on it, but nothing more came up. You haven’t heard from her teacher this year. You know that there have been times when the children have had runs of unexcused absences from school. You know Geri and Joan pretty well and often freely discuss things going on in the families of the kids at the school, though sometimes you feel that it is getting close to a breech of confidentiality.

5. Geri, parent educator, ECFE program

You have facilitated a parents group in the area for years, and you know Terri, Joan, and Michella pretty well. Annie was in one of your parenting groups for a while some years ago. You recall that, at the time, the children were about one year and four years old. You remember Annie as a quiet and somewhat reserved woman, but was a good mother with her children during the year or so they were involved with your program. You and Michella talk pretty regularly about parents and children common to your program and the school. Generally there is a free exchange of information and perceptions. You also volunteer shifts with a local supervised visitation center. You’ve also met Thomas, and despite his shortcomings, you think he is quite charming.

6. Joan, public health nurse

As you are listening to the discussion, it dawns on you that you know this family. You were around when another one of the nurses called child protection when John was about two years old because there was a concern about child neglect. You recall that the report had a lot to do with how Annie seemed to be drinking and may not be able to care for her son, John, who as very young. And, now you remember also that she was the one who wouldn’t leave the man who was being abusive to her and had landed her in the hospital at least once from what you’ve heard. As you listen you are wondering why the hell she is still even in any contact with this guy. You know Geri and Michella pretty well and often freely discuss things going on in the families of the kids at the school.
7. Keith, a sheriff’s deputy
You know that Annie has an OFP against Thomas. And, you also know that on at least one occasion you were called when an argument broke out at a local bar between Thomas and Annie’s brother Larry. You also recall having driven past Thomas’s home sometime in the past few weeks and seeing what you thought were Annie’s car and kids out in front. No one called in about the OFP being “broken,” you don’t think. But, you’ve heard some stories about “domestics” at Thomas and Annie’s place over the last few years. Seems like the two of them were always arguing about something. And that Annie was often as drunk as Thomas was. Generally, though, you like Thomas and think he’s an okay guy. You know Pat and Mary pretty well, and know Kelly from church.

8. Pat, the assistant county attorney
You are aware of Thomas’s record with the domestic violence calls, but there was only once that things ever got so bad that you filed charges. The case went to court, but Thomas only got a little time, and you’re not sure off the top of your head when that was exactly. You had contact with the women’s shelter advocate and with Terri from that band at some points. You also know about the sexual abuse accusation because there was some consideration about charges being filed against Thomas at that time too, but it was also dropped for lack of evidence. You are aware of the legal ramifications of breaches of confidentiality and also have lawyer-client privileges.

9. Kelly, a women’s DV advocate
You have known Annie for longer than most people in the room, you think. She called and you talked with her probably 10 years ago when she was pregnant with John, had been beaten up badly by Thomas, and was quite drunk when she called you. You had left the area for a while, but returned to work at the Tri-County Advocacy and Intervention Project (T-CAIP) about a year and a half ago. Annie, John, and Patricia had contact with you for about a week around that time and you remembered her from your earlier contacts. You are worried that given some of Annie’s history, the fact that she is Native American, and the fact that the CPS agency has been involved, she may have her parental rights terminated if the kids get removed again, as they had been at least once before. You are upset and disappointed that Annie has not been able to get away from Thomas, and you saw her at a bar. When she saw you she was sure to tell you that she was only drinking Coke. Annie called you recently when she got threatening phone calls from Thomas that he was going to take the children from school. You are very guarded about what you share with the CP team on this, and other cases. You know that what is said here sometimes seems to trickle out other places, and you are very worried about what elements of Annie’s safety plan could somehow get back to Thomas, further jeopardizing her and the children. You know Keith pretty well, and generally respect how he and his office have responded to most DV situations.
State of Minnesota statutes
626.558 Multidisciplinary child protection team.

Subdivision 1.  Establishment of team.  A county shall establish a multidisciplinary child protection team that may include, but not be limited to, the director of the local welfare agency or designees, the county attorney or designees, the county sheriff or designees, representatives of health and education, representatives of mental health or other appropriate human service or community-based agencies, and parent groups.

As used in this section, a “community-based agency” may include, but is not limited to, schools, social service agencies, family service and mental health collaboratives, early childhood and family education programs, Head Start, or other agencies serving children and families.  A member of the team must be designated as the lead person of the team responsible for the planning process to develop standards for its activities with battered women’s and domestic abuse programs and services.

Subd. 2.  Duties of team.  A multidisciplinary child protection team may provide public and professional education, develop resources for prevention, intervention, and treatment, and provide case consultation to the local welfare agency or other interested community-based agencies.  The community-based agencies may request case consultation from the multidisciplinary child protection team regarding a child or family for whom the community-based agency is providing services.  As used in this section, “case consultation” means a case review process in which recommendations are made concerning services to be provided to the identified children and family.  Case consultation may be performed by a committee or subcommittee of members representing human services, including mental health and chemical dependency; law enforcement, including probation and parole; the county attorney; health care; education; community-based agencies and other necessary agencies; and persons directly involved in an individual case as designated by other members performing case consultation.

Subd. 2a.  Juvenile prostitution outreach program.  A multidisciplinary child protection team may assist the local welfare agency, local law enforcement agency, or an appropriate private organization in developing a program of outreach services for juveniles who are engaging in prostitution.  For the purposes of this subdivision, at least one representative of a youth intervention program or, where this type of program is unavailable, one representative of a nonprofit agency serving youth in crisis, shall be appointed to and serve on the multidisciplinary child protection team in addition to the standing members of the team.  These services may include counseling, medical care, short-term shelter, alternative living arrangements, and drop-in centers.  The county may finance these services by means of the penalty assessment authorized by section 609.3241.  A juvenile’s receipt of intervention services under this subdivision may not be conditioned upon the juvenile providing any evidence or testimony.

Subd. 3.  Information sharing.  (a) The local welfare agency may make available to the case consultation committee or subcommittee, all records collected and maintained by the agency under section 626.556 and in connection with case consultation.

A case consultation committee or subcommittee member may share information acquired in the member’s professional capacity with the committee or subcommittee to assist in case consultation.
(b) Case consultation committee or subcommittee members must annually sign a data sharing agreement, approved by the commissioner of human services, assuring compliance with chapter 13. Not public data, as defined by section 13.02, subdivision 8a, may be shared with members appointed to the committee or subcommittee in connection with an individual case when the members have signed the data sharing agreement.

(c) All data acquired by the case consultation committee or subcommittee in exercising case consultation duties, are confidential as defined in section 13.02, subdivision 3, and shall not be disclosed except to the extent necessary to perform case consultation, and shall not be subject to subpoena or discovery.

(d) No members of a case consultation committee or subcommittee meeting shall disclose what transpired at a case consultation meeting, except to the extent necessary to carry out the case consultation plan. The proceedings and records of the case consultation meeting are not subject to discovery, and may not be introduced into evidence in any civil or criminal action against a professional or local welfare agency arising out of the matter or matters which are the subject of consideration of the case consultation meeting. Information, documents, or records otherwise available from original sources are not immune from discovery or use in any civil or criminal action merely because they were presented during a case consultation meeting. Any person who presented information before the consultation committee or subcommittee or who is a member shall not be prevented from testifying as to matters within the person’s knowledge. However, in a civil or criminal proceeding a person shall not be questioned about the person’s presentation of information before the case consultation committee or subcommittee or about opinions formed as a result of the case consultation meetings.

A person who violates this subdivision is subject to the civil remedies and penalties provided under chapter 13.

HIST: 1981 c 150 s 1; 1986 c 444; 1986 c 448 s 8; 1987 c 135 s 4–6; 1989 c 282 art 2 s 202; 1990 c 542 s 34; 1997 c 203 art 5 s 31,32; 1999 c 245 art 8 s 80; 2000 c 445 art 2 s 27

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Supplemental Reading for Trainers

Advocacy: Issues Regarding Confidentiality

By Loretta Frederick, Esq.
Legal Counsel, Battered Women’s Justice Project
Adapted from presentation made for the National College of District Attorneys (1998).

Summary

This paper will address the issues for advocacy raised by the collection, maintenance and release of information in domestic violence cases. While the considerations for the proper handling of such information may differ depending on whether the advocate or organization is part of the criminal justice system or is, on the other hand, a separate non-profit agency, some principles related to safety and security concerns are universal. The paper uses a combination of information and hypothetical case study to highlight issues for advocates and criminal justice system personnel who must deal with the collection and release of data in domestic violence cases.

I. The proper creation, maintenance and handling of records and information obtained from and about victims of domestic violence is a critical function of any advocacy program, regardless of whether the program is governmental (police or prosecutorial victim witness program) or external (usually non-profit) in nature.

A. Improper handling of victim information and records can cause great harm to individual victims.

1. Release of information about the victim’s residence or location can make her accessible to the perpetrator from whom she is hiding. Such accessibility can endanger both the victim and the children.

2. Release of some kinds of information about the victim or the children can provide ammunition to an abuser seeking to punish or intimidate the victim through child custody battles or child protection complaints.

3. Release of certain information to the abuser can complicate or harm the state’s case in any criminal proceeding brought against the perpetrator, thereby placing some victims in further jeopardy.

B. Improper handling of victim information and records can harm the ability of the advocacy program to accomplish its goals in the community

II. External/Community Based Advocacy Programs

A. Battered women often seek services of traditional external advocacy programs (such as shelters) instead of other types of services (such as governmental) for the reason that they need and want a confidential relationship with an advocate.

B. A crisis in victims’ confidence in the local advocacy program, which causes victims to become reluctant to seek the program’s services, can result from the improper release of information about a woman served. This reluctance to seek help can expose women to risk of further violence.
C. Some states have established limitations on the disclosure of information about the identity of victims served by state funded programs, and some federal grants to domestic violence programs are conditioned upon compliance with rules requiring confidentiality of services rendered.

D. The goal of a domestic violence advocacy program should include both victim safety and victim autonomy; offender accountability to the criminal justice system may not be the goal of individual advocacy where the woman does not make that a priority.

E. The centrality of victim autonomy to the role of advocacy programs makes the handling of information about the woman even more sensitive.

III. Victim-Witness Governmental programs (within law enforcement or prosecutor’s offices)

A. The goals of each victim witness program should include victim safety as well as the enforcement of criminal laws. While offender accountability may be the critical role served by the criminal justice, victim autonomy may not be a value where such autonomy undercuts the ability of the system to hold the offender accountable. Record handling by such programs must balance victim safety considerations with the legal requirements for disclosure of information to the defendant.

B. Victims seeking advocacy services from victim witness programs must be told clearly what the limits of confidentiality may be so that unreasonable expectations are not created.

C. Victim witness programs which are separate from the prosecutor’s or law enforcement agencies offices within which they are located must establish physically separate files and record keeping methods to ensure that their true independence is understood by victims and by agency staff.

II. Adequate and effective policies governing the confidentiality of victim records and information must address several issues.

A. What types of information are sought from victims at various stages of involvement with her case?
   i. External domestic violence advocacy programs and victim witness programs generally differ in the information they seek and the purposes for which information on victims is maintained. Both types of programs should seek and maintain only information that is important to the function of the program; demanding information that is irrelevant or extraneous only increases the potential danger of subsequent disclosure.

B. In determining what kinds of information should be sought from and about victims of domestic violence, victim witness programs should take into account laws and principles that may require disclosure of information or may protect it from disclosure.

C. The prosecutor has an obligation to disclose certain information, which has implications for the advocates’ role, if any, in evidence collection.
   i. Prosecutors must disclose exculpatory evidence (which may include recantations). Exculpatory evidence is generally evidence which is “favorable to an accused” and “material to guilt or to punishment.” [Brady v. Maryland (1963) 373 U.S. 83] “Materiality” relates to whether the evidence undermines the prosecutors’ confidence in the outcome” or if it “may make a difference between conviction and acquittal.” [United States v. Bagley, (1985) 473 U.S. 667.]
ii. Prosecutors may have the obligation to disclose other relevant evidence, such as names and addresses of witnesses, statements of defendants, past criminal records of witnesses.

D. The obligation to disclose is subject to certain exceptions, such as where the evidence is not relevant admissible evidence or will reasonably lead to relevant admissible evidence, where the defense has another way of obtaining the evidence, and where there is a valid governmental interest in confidentiality.

E. The prosecutor’s work product is protected from disclosure to the defense under the principles which hold that an attorney’s legal research, opinion, conclusions and impressions are not generally discoverable by the other party to litigation.

F. Victim witness programs, in conjunction with the prosecutor or law enforcement agency within which it is located, must decide exactly what the role of the program staff will be vis-à-vis victims and the prosecutor whose office hosts the program. The resulting roles must be clearly defined for all staff in orientation and in-service trainings.

G. In determining what information should be sought from victims, external battered women’s programs should:

   i. limit inquiries to critical matters,

   ii. not ask questions which call for answers which may endanger the victim if released, and

   iii. be conscious of legal requirements for disclosure upon subpoena where there are no statutory privilege attached to the advocate-battered woman relationship.

H. The quality of advocacy afforded victims is enhanced if the two types of programs in a community develop a cooperative working relationships which reflect the differences in their functions relative to the victim.

   i. Both types of programs should hold joint meetings of their boards and staffs to examine their differing roles in supporting victims and in other related goals.

   ii. Planning should result in the creation of mechanisms, including data collection and release practices, for enhancing cooperation and the best use of resources in the community’s efforts to improve victim safety and offender accountability while changing the climate that permits domestic violence.

What information is provided to victims about the nature of the victim/advocate relationship and any confidentiality implications thereof?

1. Most external domestic violence advocacy programs have strong confidentiality policies, and that fact is advertised as one of the advantages of their programming. As to their ability to successfully defeat subpoenas, state laws vary widely from the existence of a qualified “advocate/victim” privilege to no privilege at all. Funder’s restrictions may also direct confidentiality policies. Victims must be fully informed of any potential disclosures to persons outside the program before they are asked to make statements of a sensitive nature. And program staff must have clear understandings of the process to be followed in the event of a request for information about a battered women, including receipt of a subpoena or a request to serve a resident of the shelter.
Governmental advocacy programs (with the notable exception of certain California programs) may have limitations on the confidentiality of communications between victims and advocates, primarily because the advocacy program may be one component of a larger office which has a larger mandate, e.g. prosecution of crimes.

The obligation to disclose exculpatory evidence (noted above) should be addressed by plans which limit the evidence-gathering function of the victim witness staff people in a prosecutor’s office.

If evidence gathering is one function of the victim witness staff, victims must be told about this function before they are asked to make statements she may think will be held in confidence.

Information about these functions and any limits on confidentiality should be the topic of written (in relevant languages) brochures and notices, as well as regular workshops in the larger jurisdictions whose numbers would support such information sessions.

State laws may mandate reporting of suspected child maltreatment (and prescribe criminal penalties for violation of the rule), regardless of the existence of any other testimonial privilege.

Victims must be informed of such requirements before being asked to disclose information they may believe will be held in confidence.

What information is recorded by the advocate and in what form is it retained by the program?

1. Purposes for recording information include
   a. collecting data which documents program activities for funding and management purposes, including personnel management and supervision of staff;
   b. ensuring consistency of service from one shift or worker to the next;
   c. building and maintaining a record of injuries or abuse for future purposes; and
   d. preparing a case for trial, including witness information and both discoverable and work product records.

2. Forms for recording information include:
   a. permanent written records, and
   b. temporary forms of recording (3M notes, for example)

3. There are varying levels of security that can be provided to certain records, in terms of the location of the records and the access which is provided to certain staff.
What is the procedure for responding to any request for information, whether by letter, subpoena, phone call, law enforcement inquiry, or funder request?

1. External/free-standing domestic violence programs must have detailed policies drafted upon consultation with legal counsel. Policies must be the subject of ongoing training and review.

2. Victim witness programs must have policies consistent with those of their governing or host agency, drafted with reference to legal requirements for disclosure or maintenance of evidence and victim location information.

General Principles for Setting Policy on Confidentiality

A. Policy must be informed by legal advice on state and federal law applicable to records handling by the program.

B. Policy must be informed by the purpose of the program and be designed, in any event, to promote victim safety.

C. Policy must be set out clearly in writing and be the subject of ongoing training and supervision, in light of the high stakes associated with its implementation.

D. Policy must be made available (in an accessible format and language) to all victims in advance of conversations that may or will result in disclosure of sensitive information.

E. Policy must be subject to regular review. Staff’s understanding of the policy and how to implement it must be the subject of supervision and training.

IV. The following questions must guide the process of drafting and implementing any policy on data management and confidentiality in domestic violence cases:

A. What is the purpose for the collection of this information?

B. What harm could come to the victim/victim’s children and family if the information was disclosed to the abuser or abuser’s attorney?

C. In light of this risk, should the information be recorded at all?

D. If the information should be recorded, what is the best format to use for the record? How permanent a form of record? How detailed/summary?

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(1998)
APPENDIX C

RISKS & BENEFITS OF ALTERNATIVE RESPONSE
MINNESOTA—JUNE 2002
**Risks and Benefits of Alternative Response (AR)—June 2002**

<table>
<thead>
<tr>
<th><strong>RISKS</strong></th>
<th><strong>BENEFITS</strong></th>
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<tr>
<td>Primary goal is family engagement with a focus on family strengths. When a family meets, however, AR cannot be confidential. With the exception of one county, responses do not respond specifically to domestic violence, therefore safety for battered women is not institutionalized in AR. There may be unforeseen risks as the process is “new.”</td>
<td>Primary goal is family engagement with a focus on family strengths. This type of approach is particularly beneficial for Native American and communities of color who have a history of distrust and who are over-represented in the Child Protection system.</td>
</tr>
<tr>
<td>AR varies across Minnesota. No clear state standards yet; still evaluating. Screening for the co-occurrence of child maltreatment and domestic abuse not a standard in Minnesota. Structured Decision Making is not yet a state-wide system and where used may be problematic. (ex: Question used reads: “Is the primary caregiver in a harmful relationship?” If case file is in a battered woman’s name, the points are against her if the answer is “yes”).</td>
<td>Process for Alternative Response: Report – Screen – Assessed – Open for Services – Treated – Closed. No determination is made for abuse or neglect. A case does not need to be opened to deliver services.</td>
</tr>
<tr>
<td>No determination is made (even if a battered woman wants it). Without a determination, there is no record of the perpetrator. With no record, case is less likely to be appealed or reviewed.</td>
<td>Battered women’s record stays clear. CPS decisions can be appealed and reviewed (although more difficult with no record).</td>
</tr>
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<td>“Culturally sensitive/appropriate” interventions may vary from county to county.</td>
<td>Attempts are made to be culturally sensitive with referrals to culturally specific resources</td>
</tr>
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<td>Family Group Conferencing/Decision Making may be used and where parties meet together is potentially dangerous for the battered woman. In addition, CPS may recommend marriage counseling.</td>
<td>Families feel respected and have been known to seek ongoing contact with social worker even after the case is closed. Some women are provided with money to accomplish their goals.</td>
</tr>
<tr>
<td>The process is “new” and there may be unforeseen risks. Guidance is needed for a greater degree of standardization, procedure manuals developed with clear protocols developed for responding to safety issues for battered women and their children.</td>
<td>AR is a philosophical shift in CPS, is positive not punitive VS “policing parenting behaviors.” Families feel respected and provided support, education, and resources. AR can involve community agencies to coordinate resources.</td>
</tr>
<tr>
<td>Counties may not separate the domestic violence from chemical dependency or other issues. Adequate training regarding the dynamics of battering are lacking.</td>
<td>Many workers, families, and the professionals community prefer AR to traditional CPS. Though no mandate, CPS guidelines have been developed where battering and child maltreatment co-exist.</td>
</tr>
<tr>
<td>“Culturally appropriate” in relation to interventions may vary from county to county.</td>
<td>“Family” may include extended family members and could provide increased understanding and support for a battered woman.</td>
</tr>
<tr>
<td>AR is not really “voluntary”—has to meet the criteria for mandated reporting.</td>
<td>Traditional CP involvement typically leads to higher levels of out of home placement for Native American and children of color.</td>
</tr>
<tr>
<td>There is nothing in the process that lets battered women know what to expect and the case may go to a traditional response anyway.</td>
<td>“Parent disclosure form” used to ensure the parent understands what he/she is agreeing to.</td>
</tr>
<tr>
<td>In some counties, supervisors can/do make decisions to go AR or traditional CPS VS decisions made by a “team.” Potential for personal bias if lack understanding of the dynamics of battering. There is a discretionary or override clause/mode so other information known to the agency can be considered.</td>
<td>Battered women have more involvement in the development of the case plan. When focus is on family strengths, potential to clarify protective factors used for children can be explored/expanded.</td>
</tr>
</tbody>
</table>
APPENDIX D

RESOURCES

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RESOURCES

Glossary of terms
Definitions of terms in this glossary are general and do not adhere strictly to the Code of Law for the State of Minnesota or its jurisdictions.

Child protection terms
Refer also to the Minnesota Department of Human Services publication entitled Reporting Child Abuse and Neglect: A Resource Guide for Mandated Reporters (April 2000), which is regularly updated by the Family and Children’s Services Division. Copies can be obtained in paper version, on-line, and in alternative formats by request.

Adjudicatory hearings—Held by the Juvenile/Family Court to determine whether a child has been maltreated or whether some other legal basis exists for the State to intervene to protect the child. Each State has its own terms and definitions in the jurisdiction provisions of its law. Depending on the State, a child may be subject to the Juvenile Court’s authority if he/she is abused, battered and abused, abused or neglected, sexually abused, maltreated, dependent, deprived, abandoned, uncared for, in need of aid, in need of services, or in need of assistance, to name a few.

Alternative response—Also called “differential response,” this refers to a relatively new form of response by child protection agencies to situations that come to their attention where there is some risk for child maltreatment, but the family may be better served by a strengths-based assessment and service referral than a more traditional legal investigative procedure.

CASA—Court-appointed special advocates (usually volunteers) who serve to ensure that the needs and interests of a child in child protection judicial proceedings are fully protected.

Case plan—The professional document which outlines the outcomes, goals, and strategies to be used to change the conditions and behaviors resulting in child abuse and neglect.

Case planning—The stage of the child protection case process when the CPS caseworker and other treatment providers develop a case plan with the family members.

Child Protective Services (CPS)—The designated social service agency (in most states) to receive reports, investigate, and provide rehabilitation services to children and families with problems of child maltreatment. Frequently, this agency is located within larger public social services agencies, such as Departments of Social Services or Human Services.

Disposition hearing—Held by the Juvenile/Family Court to determine the disposition of children after cases have been adjudicated, such as whether placement of the child in out-of-home care is necessary and what services the children and family will need to reduce the risk and address the effects of maltreatment.

Egregious harm—As defined in Minn. Stat. 260C.007, subd. 26, “egregious harm” means the infliction of bodily harm to a child or neglect of a child, which demonstrates a grossly inadequate ability to provide minimally adequate parental care.
**Emergency hearings**—Held by the Juvenile/Family Court to determine the need for emergency out-of-home placement of a child who may have been a victim of alleged maltreatment. If out-of-home placement is found to be unnecessary by the court, other measures may be ordered to protect the child. These might include mandatory participation by a parent in a drug abuse treatment program or a parenting skills class or regular supervision by a caseworker. These hearings must be held between 24 and 72 hours of any emergency placement, depending on State law, once an emergency custody order has been issued.

**Evaluation of family progress**—The stage of the child protection case process (after the case plan has been implemented) when the CPS caseworker and other treatment providers evaluate and measure changes in the family behaviors and conditions which led to child abuse and neglect, monitor risk elimination/reduction, and determine when services are no longer necessary. Frequently, community treatment providers coordinate their evaluation of case progress through periodic team meetings.

**Family or household members**—Means spouses, former spouses, parents and children, persons related by blood, and persons who are presently residing together or who have resided together in the past, and persons who have a child in common regardless of whether they have been married or have lived together at any time.

**Family assessment**—The stage of the child protection process when the CPS caseworker, community treatment providers, and the family reach a mutual understanding regarding the most critical treatment needs that need to be addressed and the strengths on which to build.

**Family preservation/reunification**—Established in law and policy and the philosophical belief of social services agencies that children and families should be maintained together if the safety of the children can be ensured.

**Good faith**—The standard used to determine if a reporter has reason to suspect that child abuse or neglect has occurred and to assess the basis for a decision to petition the court. In general, good faith applies if any reasonable person, given the same information, would draw a conclusion that a child may have been abused or neglected.

**Guardians ad litem**—A lawyer, legal counsel, or lay person assigned to represent the best interest of children in juvenile and family court proceedings. Usually, this person considers the best interests of the child and may perform various roles including those of independent investigator, child advocate, legal advisor, and/or guardian for a child. A lay-person serving in this capacity is sometimes known as a court-appointed special advocate (CASA).

**Immunity**—Established in all child abuse laws to protect reporters from civil lawsuits and criminal prosecution resulting from filing a report of child abuse and neglect. Immunity is provided as long as the report is made in good faith. This protection also applies to those who make decisions to petition the court. If the basis for the decision is based on good faith, immunity applies. Depending on each State’s law, this immunity may be absolute (complete) or qualified (partial).

**Intake/screening**—The stage of the child protection case process when community professionals and the general public report suspected incidents of child abuse and neglect to CPS and/or the police; CPS staff and/or the police must determine the appropriateness of the report and the urgency of the response needed. If it is deemed appropriate, the report will be further investigated. (Approximately 50% of all reports do not raise to the level of concern needed to continue past this stage.)
**Initial assessment**—The stage of the child protection case process when the CPS caseworker and/or law enforcement personnel determine the validity of the child maltreatment report, assess the risk of maltreatment, and determine the safety of the child and the need for further intervention. Frequently, medical, mental health, and other community providers are involved in assisting in the initial assessment.

**Interview protocol**—A structured format used to ensure that family members are seen in a planned strategy, that community providers collaborate, and that information gathering is thorough.

**Juvenile and family courts**—Established in most States to resolve conflict and to otherwise intervene in the lives of families in a manner that promotes the best interest of children. These courts specialize in areas such as child maltreatment, domestic violence, juvenile delinquency, divorce, child custody, and child support.

**Liaison**—The designation of a person within an organization who has responsibility for facilitating communication, collaboration, and coordination between agencies involved in the child protection system.

**Mental injury (psychological abuse)**—Type of maltreatment that refers to acts or omissions that caused or could reasonably cause psychological or emotional instability of a child. It includes emotional neglect, psychological abuse and mental injury, etc. Frequently occurs as verbal abuse or excessive demands on a child’s performance and may cause the child to have a negative self-image and disturbed behavior.

**Multidisciplinary team**—Established between agencies and professionals to mutually discuss cases of child abuse and neglect and to aid decisions at various stages of the child protection system case process. These teams may also be designated by different names, including child protection teams, interdisciplinary teams, or case consultation teams.

**Neglect**—A type of maltreatment that refers to the failure by a person responsible for a child’s care to supply a child with necessary care such as food, clothing, shelter, health, medical, supervision or other care required for the child’s physical or mental health when reasonably able to do so. May also include failure to protect the child from conditions or actions that imminently and seriously endanger the child’s physical or mental health when reasonably able to do so.

**Out-of-home care (placement)**—Child care, foster care, or residential care provided by persons, organizations, and institutions to children who are placed outside of their families, usually under the jurisdiction of Juvenile or Family Court.

**Parent/caretaker**—Person responsible for the care of the child.

**Parens patriae doctrine**—Originated in feudal England, this doctrine vests in the State a right of guardianship of minors. This concept has gradually evolved into the principle that the community, in addition to the parent, has a strong interest in the care and nurturing of children. Schools, juvenile courts, and social service agencies all derive their authority from the State’s power to ensure the protection and rights of children as a unique class.

**Petition**—A document filed with the court that is used to initiate a civil child protective proceeding. The petition contains the essential allegations of abuse or neglect that make up the petitioner’s complaint about a particular child’s situation. It does not include all of the detailed facts available to the petitioner to support these allegations.

**Physical abuse**—Types of maltreatment that refer to physical acts that caused or could have caused physical injury to the child.
**Primary prevention**—Activities geared to a sample of the general population to prevent child abuse and neglect from occurring.

**Preponderance of evidence**—The burden of proof for civil cases in most States, including child maltreatment proceedings. The attorney for CPS or other petitioner must show by preponderance of evidence that the abuse or neglect happened. This standard means that the evidence is more credible than the evidence presented by the defendant party.

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

**Protocol**—An interagency agreement between CPS and law enforcement that delineates joint roles and responsibilities and establishes criteria and procedures for working together on cases of child abuse and neglect.

**Reasonable efforts**—As required by State law, the State child welfare agency must make reasonable efforts to keep the family together or, if the child has already been removed, to reunify the family. Before a State may receive Federal financial support for the costs resulting from a child’s removal from home into out-of-home care, a judge must determine that reasonable efforts have been made to keep the family together. Similarly, placement may not be continued with Federal support without a finding by the judge that such efforts have been made to reunite the family.

**Reporting policies/procedures**—Written referral procedures which delineate how to initiate a suspected child maltreatment report and to whom it should be made. These procedures were established by professional agencies with a mandated responsibility to report suspected child abuse and neglect cases.

**Response time**—A determination made by CPS and law enforcement after receiving a child abuse report regarding the immediacy of the response needed by CPS or law enforcement.

**Review hearing**—Held by the Juvenile/Family Court to review dispositions (usually every 6 months) and to determine the need to maintain placement in out-of-home care and/or court jurisdiction of a child. Every State requires State courts, agency panels, or citizen review boards to hold periodic reviews to re-evaluate the child’s circumstances if he/she has been placed in out-of-home care. Federal law requires, as a condition of Federal funding eligibility, that a review hearing be held within at least 18 months from disposition, and continuing at regular intervals to determine the ultimate resolution of the case (i.e., whether the child will be returned home, continued in out-of-home care for a specified period, placed for adoption, or continued in long-term foster care).

**Risk**—The likelihood that a child will be maltreated in the future.

**Risk assessment**—An assessment and measurement of the likelihood that a child will be maltreated in the future, usually through the use of checklists, matrices, scales, and/or other methods of measurement.

**Risk factors**—Behaviors and conditions present in the child, parent, and/or family, which will likely contribute to child maltreatment occurring in the future.

**Secondary prevention**—Activities targeted to prevent breakdowns and dysfunctions among families who have been identified as at risk for abuse and neglect.

**Tertiary prevention**—Treatment efforts geared to address situations where child maltreatment has already occurred with the goals of preventing child maltreatment from occurring in the future and avoiding the harmful effects of child maltreatment.
**Treatment**—The stage of the child protection case process when specific treatment and services are provided by CPS and other service providers geared toward the reduction of risk of maltreatment.

**Sexual abuse**—A type of maltreatment in which a child is involved in some form of sexual activity, often to provide sexual gratification or financial benefit to the perpetrator. It includes contacts for sexual purposes, molestation, statutory rape, prostitution, pornography, exposure, incest or threat to sexual abuse.

**Termination of parental rights (TPR) hearing**—A legal proceeding to free a child from a parent’s legal custody, so that the child can be adopted by others. The legal basis for termination of rights differs from State to State but most consider the failure of the parent to support or communicate with the child for a specified period (extreme parental disinterest), parental failure to improve home conditions, extreme or repeated neglect or abuse, parental incapacity to care for the child, and/or extreme deterioration of the parent–child relationship. In making this finding, the court is determining that the parents will not be able to provide adequate care for the child in the future by using a standard of clear and convincing evidence. This burden of proof is higher than a preponderance of the evidence which is used in civil abuse or neglect cases where termination is not sought.

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**Domestic violence/battered women's program terminology**

**Domestic violence**—Concept with various names such as wife beating, spouse abuse, intimate violence, battering or partner abuse. It also has varying definitions depending on the context in which it is used. The clinical or behavioral definition is usually more comprehensive than its legal definitions. It includes physical, sexual and psychological attacks as well as economic coercion. Legal definitions vary from state to state, they usually do not include economic coercion or many types of psychological abuse. It typically does not include child abuse, child-to-parent violence or sibling violence. Here we use term domestic violence as a pattern of assaultive and coercive behaviors, including physical, sexual and psychological attacks, as well as economic coercion, that adults or adolescents use against their intimate partners. It is primarily purposeful and instrumental behavior. Perpetrator’s pattern of abusive acts is directed at compliance from or control over the victim. The pattern is not impulsive or “out of control” behavior. Perpetrator selectively chooses tactics that successfully control the victim.

**Economic coercion**—Perpetrators control victims by controlling the access to the family resources (time, transportation, food, clothing, shelter and money.) Actions include:

- Holding complete power over the household finances
- Keep victim from working and encourage economic dependence
- Lying about money
- Stealing victim's money

**Physical abuse**—Most overt type of domestic violence. Includes kicking, hitting, biting, choking, pushing, hair pulling, throwing across the room or down on the floor and assaults with weapons. Sometimes particular areas of the body are targeted, such as abdomen of pregnant woman.

**Psychological/emotional abuse**—More than verbal arguments and demeaning language, this form of abuse is systematic destruction of individual’s self-esteem. It includes:
• Threats of violence against victim, others, or self
• Acts of violence against self or people other than victim
• Attacks against property/pets; stalking; other intimidating acts
• Emotional abuse, humiliation, degradation
• Isolation of victim

**Sexual assaults**—It includes from pressured sex when the victim does not want sex, to coerced sex by manipulation or threat of physical force, to violent sex. Victims may be coerced or forced into a kind of sex they do not want or at a time they do not want it. In pressured sex, the perpetrator’s tactics might be more subtle (sulking or complaining when the victim say no.) It also includes force to look at sexual material and threat to sexual abuse. Marital rape is similar to rape occurring outside the family. It is act of violence and aggression in which sex is the method used to humiliate, punish, hurt, degrade, and dominate the victim.

**Survivor**—This term is used to emphasize self-empowerment rather than the term “victim.” The term “battered women” is used to keep focus on the fact that gender has a power dynamic attached to it. There is recent discussion why the term “victim” is perceived as negative.

**Use of children to control adult victim**—Perpetrators use tactics involving children to control or punish the intimate partner. It includes:
• Degrade and physically assault children as a means to control victims
• Threat to take the children away
• Forcing children to spy on the victim
• Forcing children to assault the victim

**Battered women’s programs**—Any program that serves battered women or other victims of domestic or partner violence. In Minnesota, such programs include the following:

**Shelters**—A residential facility providing 24-hour emergency crisis intervention, temporary shelter (1-60+ days depending on need), legal and systems advocacy and accompaniment, support groups, children’s advocacy, information & referral, transportation, community education, and training of community professionals. Legal advocates provide civil, criminal, family, juvenile, and tribal court advocacy. Shelters generally serve all women who call for help, though some shelters have a specific community or geographic focus.

**Community advocacy programs**—A community-based program, established independently or as part of a shelter or other umbrella organization, providing 24-hour emergency crisis intervention, temporary shelter (through a local safe-home network or referral to a shelter), legal and systems advocacy and accompaniment, support groups, children’s advocacy, information and referral, transportation, community education, and training of community professionals. Legal advocates provide civil, criminal, family, juvenile, and tribal court advocacy. Programs generally serve all women who call for help, though some programs have a specific community or geographic focus.

**Safe homes**—Part of the programming offered by some community advocacy programs and some shelters, both rural and metro. These are private homes in which owners volunteer to house battered women and their children on a short-term temporary basis (1–3 nights). One program in the metro area (Sojourner) has established a volunteer program among motel/hotel operators in which battered
women are offered temporary (1–3 nights) free housing in vacant motel/hotel rooms. Most metro shelters use this network as a back-up when full or when placing women on waiting lists.

**Intervention projects**—(DAIP’s) Programs established independently or as part of a shelter or community advocacy program to coordinate a consistent, effective response by the criminal justice system to domestic assault crimes. Intervention Projects organize within particular jurisdictions (cities, counties, or reservations) to monitor the response of the criminal justice system to crimes against battered women and their children and to improve arrest and conviction rates for these crimes. Legal advocates focus on criminal law, but also assist women with civil, family, and juvenile court advocacy as needed.

**Hospital/clinic advocacy programs**—Programs established within hospitals or clinics to provide advocacy for battered women identified by medical service providers in the delivery of health care services.

**Visitation centers**—Programs established independently or programming offered by some shelters and some community advocacy programs to provide a safe location for exchange of children for visitation and/or supervised visitation. Programs receive court referrals for supervised visitation. Some programs offer parenting education.

**Batterers re-education/treatment programs**—Programs established independently or as part of a shelter, community advocacy program, or intervention project to provide re-education, treatment, or intervention with perpetrators of domestic assault crimes. Most programs operate as a component of an intervention project, receiving court referrals as a condition of a stayed sentence.

**Statewide programs**—Programs or projects established to advocate on a statewide level on behalf of battered women and their children, including some with a focus on a particular community.

**Glossary references**


Minnesota Coalition for Battered Women. Battered Women’s Programs in Minnesota
[Online document: members.tripod.com/~DAWN_1/MCBW/advprog.htm]


http://www.leg.state.mn.us/leg/statutes.htm


National Clearinghouse on Child Abuse and Neglect Information. Glossary of Terms.

National Clearinghouse on Child Abuse and Neglect Information. What is Child Maltreatment?
## Table of Additional Documents & Copyrighted Articles Used in Trainings

<table>
<thead>
<tr>
<th>Author/Article/Book</th>
<th>Publisher/Contact</th>
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<tr>
<td><em>Duluth-Model</em>: Power &amp; Control Wheel; Equality Wheel; Culture Wheel; and Definitions List (from Praxis Training Packet)</td>
<td>Domestic Abuse Intervention Project Minnesota Program Design/National Training Project 202 East Superior Street Duluth, MN 55802 Phone: <a href="http://www.duluth-model.org">www.duluth-model.org</a> <a href="http://www.praxisinternational.org">www.praxisinternational.org</a></td>
</tr>
<tr>
<td><em>Crossing the Bridge Curriculum</em>, Colorado DHS: Myths of Domestic Violence; Family Characteristics Associated with Child Maltreatment</td>
<td>Colorado Dept of Human Services Domestic Abuse Assist. Program 1575 Sherman Street, 2nd Floor Denver, CO 80203 Phone:</td>
</tr>
<tr>
<td>Ganley, A. &amp; Schecheter, S. (1996) <em>Domestic Violence: National Curriculum for CPS</em> Definition &amp; Forms DV Takes (pp. 42-43); Barriers to Leaving (p. 56, #2-6); How Adult Victims Survive… (p. 62, #2-8); Sources of Info. for Id’ing DV (#3-1); Interview Questions for Assessing the Impact of DV on Children (#4-7); Routine Screening for DV: Sample Questions; Case Study 1</td>
<td>Family Violence Prevention Fund 383 Rhode Island Street, Suite 304 San Francisco, CA 94103-5133 Fax: 415-252-8991 Phone: 415-252-8900 <a href="http://fvpf.org">http://fvpf.org</a></td>
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536 Broadway  
NY, NY 10012  
Ph: 212-431-4370; Fx: 212-941-7842  
www.springerpub.com |
| Glossary Sections & Fact sheets/Definitions from: NCCANCH; NCCAN Clearing House | NCCAN  
www.calib.com/nccanch/pubs/factsheets/  
nccanch@calib.com  
National Clearinghouse on Child Abuse and Neglect Information  
330 C Street NW  
Washington, DC 20447  
Ph: 800-FYI-3366  
Fx: 703-385-3206 |
| Kalichman, S.C. (19) Mandated reporting of suspected child abuse: Ethics, law, & policy. APA. (Table) | American Psychological Association  
Publications/Copyright  
750 First Street NE  
Washington, DC 20002  
www.apa.org |
| Personalized Safety Plan; Hart & Steuhling, PCADV; Based on document from Office of the city Attorney, City of San Diego, CA | Available on: MINCAVA Clearinghouse  
www.mincava.umn.edu |
| “DV Specialists on-site at CW Offices/Roles and Responsibilities” and “MOU: Writing a Memorandum of Understanding” | DHHS/Admin for Children & Families  
Caliber Associates  
10530 Rosehaven Street, Ste. 400  
Fairfax, VA 22030  
Ph: 703-385-3200  
Fx: 703-385-3206  
caliberservices@calib.com |
1821 University Avenue, Suite S-112  
St. Paul, MN 55104 |
Services to Children and Families  
State of Oregon DHS  
500 Summer Street, NE  
Salem, OR 97310-1017  
Ph: 503-945-6686  
Fx: 503-581-6198 |
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<tr>
<td>David and Lucile Packard Foundation</td>
<td>The Future of Children, 9, 3, Winter 1999</td>
<td></td>
<td>David and Lucile Packard Foundation Dr. Richard E. Behrman, M.D., Editor Journal/Publications Department 300 Second Street, Suite 200 Los Altos, CA 94022 (Reprinting encouraged with the following attribution: From The Future of Children, a publication of The David and Lucile Packard Foundation.)</td>
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<td>The Unmaking of martyrs: Black mothers, daughters, and intimate violence</td>
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<td>Association for Research on Mothering C/o Centre for Research on Mothering Rm. 726, Atkinson College York University 4700 Keele Street Toronto, ON M3J IP3 <a href="mailto:arm@yorku.ca">arm@yorku.ca</a></td>
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<td>Domestic violence as a barrier to women's economic self-sufficiency. WIN Issue Notes, 3 (10), 1-11.</td>
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<td>Child Protection services, the Judicial system, and Men who batter. pp. 66-111. (Permission of author)</td>
<td></td>
<td>Fernando Mederos 86 Forest Hills, Street Jamaica Plain, MA 02130 <a href="mailto:fernmederos1@aol.com">fernmederos1@aol.com</a></td>
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| Child Abuse/Neglect Report Form for Advocates by BWLAP                  | Battered Women's Legal Advocacy Project  
1611 Park Avenue South, 2nd Floor  
Minneapolis, MN 55404  
612-343-0786               |
| Nancy Mischel (2000), Advocates Guide to Minnesota's Child Protection System (booklet), Legal Services Advocacy Project | Legal Services Advocacy Project  
Midtown Commons  
2324 University Ave., Ste. 101  
St. Paul, MN 55114  
651-222-3749 x103  
nmischel@mnlsap.org       |
| Reporting Child Abuse And Neglect: Resource Guide for Mandated Reporters (MN DHS)  
www.dhs.state.mn.us/childint/programs/ | Minnesota Dept. of Human Services  
Children's Services  
444 Lafayette Road North  
St. Paul, MN 55155           |
2455 Teller Road  
Thousand Oaks, CA 91320-2218  
(Some parts are copyrighted by the Greater Hartford Legal Assistance Project; we have permission to use from Jill Davies.) |
Greater Hartford Legal Assistance, Inc.  
80 Jefferson Street  
Hartford, CT 06106-5051  
Tel: 860-541-5000 • Fax: 860-541-5050  
TTY: 860-541-5069  
email: ghla@ghla.org     |
| Kristine Lizdus (2000), Data privacy and confidentiality issues arising from child protection services/DV Program collaborations. | K. Lizdus  
Battered Women's Justice Project  
4032 Chicago Ave. South  
Minneapolis, MN 55407  
Ph: 612-824-8768  
Fx: 612-824-8965  
(Ask Loretta how to get permission to use.)            |
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<tr>
<td>AZ</td>
<td>1. Governor’s Office</td>
<td>1. State Office for Domestic Violence Prevention</td>
</tr>
<tr>
<td>CO</td>
<td>1. Colorado Dept. of Human Services  2. Rocky Mountain Children’s Law Center Pro Bono Project, Denver</td>
<td>1. Colorado Dept. of Human Services; Colorado Domestic Violence Coalition; American Humane Association  2. Guardians ad litem project</td>
</tr>
<tr>
<td>CT</td>
<td>1. Family Violence Outreach Program of the Coordinating Council for Children in Crisis (CCCC) and  2. Child Development – Community Policing (CD-CP) Project, Yale Child Study Center, New Haven, CT</td>
<td>1. (See below)  2. Yale Child Study Center; New Haven Department of Police Services</td>
</tr>
<tr>
<td>D.C.</td>
<td>1. The Center for Children Protection and Family Support</td>
<td>1. The Center for Children Protection and Family Support; DC Children and Family Services; DC Coalition Against Domestic Violence</td>
</tr>
<tr>
<td>HI</td>
<td>1. Dept. of Human Services, East Hawaii  2. Parents and Children Together – Family Visitation Center, Honolulu</td>
<td>1. East Hawaii Family and Adult Services Division, Intake &amp; Investigation Unit</td>
</tr>
<tr>
<td>State</td>
<td>Collaborating Entities</td>
<td></td>
</tr>
<tr>
<td>-------</td>
<td>------------------------</td>
<td></td>
</tr>
</tbody>
</table>
| IL    | 1. Project Safe Families, Bloomington  
2. Rainbow House/Arco Iris, Chicago  
3. Dove, Inc. – Domestic Violence Program, Decatur | 1. Illinois State University; Lighthouse Institute; Chestnut Health Systems; Illinois Dept. of Children and Family Services; Office of Alcoholism and Substance Abuse; Illinois Dept. of Human Services |
| IA    | 1. Cedar Rapids Partnership for Safe Families | 1. YWCA; University of Iowa; Child Protection, etc. (Edna McConnel Clark Foundation Initiative) |
| ME    | 1. Maine Department of Human Services- CPS/DV Initiative, Portland | 1. Maine Department of Human Services; Edmund S. Muskie Institute of Public Affairs; Maine Coalition for Family Crisis Services |
| MA    | 1. Coalition of Battered Women’s Service Groups  
2. Partnership Project on Domestic Violence  
3. AWAKE, Children’s Hospital, Boston  
4. Child Witness to Violence Project, Boston Medical Center  
5. YWCA Visitation Center, Springfield | 1. MA Coalition of Battered Women's Service Groups, Department of Social Services  
2. Simmons College School of Social Work; MA Department of Social Services; Boston City Hospital |
| MN    | 1. DAIP/Minnesota Program Development Inc., Duluth  
2. MN Coalition for Battered Women & Others, St. Paul  
3. Supervised Visitation Network, Grand Rapids | 1. DAIP/Minnesota Program Development Inc., St. Louis County Social Services, Women’s Coalition  
2. MN Coalition for Battered Women, Crime Victims Services, State Department of Human Services  
3. |
| MO    | 1. Division of Family Services | 1. State Division of Family Services; Missouri CADV |
| NC    | 1. Mecklenburg County Dept. of Social Services  
2. Shelter for Battered Women, Charlotte | 1. Mecklenburg County Dept. of Social Services; United Family Services; Battered Women’s Shelter and Victims Assistance |
<p>| NH    | 1. District Court Coordinating Council Project, Concord | 1. NH District Court; NH Domestic Violence Coordinating Council |
| NJ    | 1. National Center for Protective Parents, Trenton |</p>
<table>
<thead>
<tr>
<th>State</th>
<th>Resources</th>
</tr>
</thead>
</table>
| NY    | 1. Westchester County DSS; County Office for Women & Child Protection  
       2. Urban Justice Center; NYC Administration for Children’s Services; Columbia University School of Social Work  
       3. Ohio Department of Human Services; Ohio Domestic Violence Network  
       4. Artemis Center for Alternatives to Domestic Violence; Montgomery County Children’s Services; TWC/A Shelter & Housing Network  
       5. Women’s Center & Shelter of Pittsburgh; Allegheny County CYS  
       6. Domestic Abuse Project of Delaware County, Inc.; Children and Youth Services of Delaware County  
       7. County Office for Women  
       8. Urban Justice Center  |
| OH    | 1. Westchester County DSS; County Office for Women & Child Protection  
       2. Urban Justice Center; NYC Administration for Children’s Services; Columbia University School of Social Work  
       3. Ohio Department of Human Services; Ohio Domestic Violence Network  
       4. Artemis Center for Alternatives to Domestic Violence; Montgomery County Children’s Services; TWC/A Shelter & Housing Network  
       5. Women’s Center & Shelter of Pittsburgh; Allegheny County CYS  
       6. Domestic Abuse Project of Delaware County, Inc.; Children and Youth Services of Delaware County  
       7. County Office for Women  
       8. Urban Justice Center  |
| OR    | 1. Oregon Services to Children and Families  
       2. Oregon Coalition Against Domestic and Sexual Violence  |
| PA    | 1. Women’s Center & Shelter of Greater Pittsburgh  
       2. Domestic Abuse Project of Delaware County, Inc.  |
| PA    | 1. Domestic Abuse Project of Delaware County, Inc.  
       2. Children and Youth Services of Delaware County  |
| RI    | 1. Rhode Island Coalition Against Domestic Violence; Rhode Island Department of Children and Families  
       2. Blackstone Shelter  |
| TN    | 1. The Family Place; Dallas County Child Protective Services  
       2. Dallas County Children's Services  |
| TX    | 1. The Family Place; Dallas County Child Protective Services  
       2. Dallas County Children's Services  |
| WA    | 1. King County Domestic Violence-Child Protection  
       2. Ho Chunk Nation Collaboration  
       3. Lac de Flambeau Domestic Abuse Program, Lac De Flambeau Reservation  |
| WI    | 1. Lac de Flambeau Domestic Abuse Program, Lac De Flambeau Reservation  
       2. Ho Chunk Nation Collaboration  |

APPENDIX D | RESOURCES | D-49
WEB SITES OF MINNESOTA STATE AND LOCAL RESOURCES

**Minnesota State Government**
- General: www.state.mn.us
- MN Indian Affairs Council: www.indians.state.mn.us
- Dept. of Children, Families, & Learning: http://children.state.mn.us
  - Abused Children’s Programs and Children's Trust Fund
- Dept. of Human Services: www.dhs.state.mn.us
- Dept. of Health: www.health.state.mn.us
- Dept. of Public Safety: www.dps.state.mn.us
  - Center for Crime Victim Services: www.dps.state.mn.us/mccvs

**Minnesota Organizations**
- Battered Women’s Justice Project: www.bwjp.org
- Domestic Abuse Project, Minneapolis: www.mndap.org
- Minnesota Center Against Violence and Abuse: www.mincava.umn.edu
- Minnesota Coalition for Battered Women: www.mcbw.org
- Minnesota Program Development, Inc., Duluth: www.Duluth-model.org
- Praxis International: www.praxisinternational.org
- Women’s Rural Advocacy Programs (Southwest MN): www.letswrap.com

**Minnesota State Court System:** www.courts.state.mn.us/trial_crts.htm

**American Bar Association:** www.abanet.org

**NATIONAL DOMESTIC VIOLENCE ORGANIZATIONS**

Family Violence Prevention Fund
383 Rhode Island Street, Suite 304
San Francisco, CA 94103-5133
Phone: 415-252-8900  FAX: 415-252-8991

National Coalition Against Domestic Violence Policy Office
1532 16th St. N.W.
Washington, DC 20036
Phone: 202-745-1211  FAX: 202-745-0088

National Coalition Against Domestic Violence
P.O. Box 18749
Denver, CO 80218
Phone: 303-839-1852  FAX: 303-831-9251

National Resource Center On DV
Pennsylvania Coalition Against Domestic Violence
6400 Flank Drive, Suite 1300
Harrisburg, PA 17112
Phone: 800-537-2238  FAX: 717-671-8149

National Health Resource Center on Domestic Violence
Family Violence Prevention Fund
383 Rhode Island Street, Suite 304
San Francisco, CA 94103-5133
Phone: 800-313-1310  FAX: 415-252-8991
Supported by the Department of Health & Human Services
Battered Women's Justice Project  
Criminal Justice Center and Administrative Office  
Minnesota Program Development, Inc.  
4032 Chicago Avenue South  
Minneapolis, MN 55407  
TOLL-FREE: 800-903-0111 Ext: 1  
Phone: 612-824-8768   FAX: 612-824-8965  

Resource Center on Child Custody and Child Protection  
National Council on Juvenile and Family Court Judges (NCJFCJ)  
P.O. Box 8970  
Reno, NV 89507  
Phone: 800-527-3223   FAX: 702-784-6160  

Battered Women's Justice Project  
c/o PCADV - Legal Office  
524 McKnight Street  
Reading, PA 19601  
Phone: 1-800-903-0111   FAX: 610-373-6403  

Battered Women's Justice Project  
National Clearinghouse for the Defense of Battered Women  
125 South 9th Street, Suite 302  
Philadelphia, PA 19107  
TOLL-FREE: 800-903-0111 ext. 3  
Phone: 215-351-0010   FAX: 215-351-0779  

National Clearinghouse on Marital and Date Rape  
2325 Oak Street  
Berkeley, CA 94708  
Phone: 510-524-1582  

Center for the Prevention of Sexual and Domestic Violence  
936 North 34th Street, Suite 200  
Seattle, WA 98103  
Phone: 206-634-1903   FAX: 206-634-0115  
E-mail: cpsdv@cpsdv.org  

National Network to End Domestic Violence, Inc.  
666 Pennsylvania Ave. SE Suite 303  
Washington, DC 20003  
(202) 543-5566  
(202) 543-5626 Fax
LOCAL RESOURCES

<Add your local and regional resources information here.>
LEGAL INFORMATION LINKS AND PERTINENT STATUTES

**Minnesota laws**
- Statutes: www.leg.state.mn.us/leg/statutes.htm
- Rules: www.revisor.leg.state.mn.us/
- Legislative information/Session information: www.leg.state.mn.us

The Department of Human Services also publishes a bulletin that describes its interpretation of the laws as they apply to human services work.

**Federal laws**
- http://thomas.loc.gov/home/thomas/html

This site will give you links to federal laws, congressional actions, state government information, and judicial opinions at both the state and federal levels.

**General child welfare information**
- Cornell Child Abuse Prevention Network: http://child.cornell.edu/capn.html
- Virginia Child Protection Newsletter: http://cep.jmu.edu/graysojh/vcpn_home.htm

RELATED CURRICULA


PROTOCOLS & SERVICE DELIVERY MODELS


Police Chief’s Association of Santa Clara County. (1997.) Domestic Violence Protocol for Law Enforcement: Police Chief’s Associate of Santa Clara County.

RELATED BOOKS & ARTICLES


**RESEARCH & EVALUATION BIBLIOGRAPHY**


---

**FILM & VIDEO RESOURCE LIST**

*(Note: Not all the videos and other training materials listed have been reviewed by this curriculum’s authors or contributors, and are not necessarily endorsed by any of the agencies or organizations affiliated with this curriculum and resource guide. They are listed here purely as resources that could be helpful.)*

**ABA Publications**
American Bar Association – Commission on Domestic Violence
Washington, DC 20005
(312) 988-5522

*It’s NOT Okay: Let’s Talk About Domestic Violence* —A young man discusses domestic violence and emphasizes the effects on children and what to do to stay safe if a child lives in a violence home. Safety planning addressed. (Ages 7–12, 10 min)

**Cambridge Documentary Films**
P.O. Box 390385
Cambridge, MA 02139-0004
617-484-3993
www.cambridgedocumentaryfilms.org

*Strong at the Broken Places*—Award-winning film about people whose lives have been “devastated by trauma and loss, and who find common ground for their journeys to recovery.” Addresses personal strength, hope, and resilience despite the odds. (Adult audiences, 38 min, with study guide)
Defending Our Lives—Winner of the 1994 Academy Award for short documentary, this incredible film documents the lives of four women all incarcerated for killing their batterers. The women interviewed are members of a grassroots organization called Battered Women Fighting Back. (Adult audiences, 30- and 42-minute versions, also available in Spanish, with resource study/guide)

Children’s Violence Prevention Videos
Future Educational Films, Inc.
Films focus on critical issues affecting children, women, and families, especially sexual abuse and incest as well as missing children/child kidnapping.
www.cvpv.org

Cinema Guild
Video and Film Catalog
www.cinemaguild.com

Committee for Children
www.cfchildren.org

Consortium of College and University Media Centers (CCUMS)
www.indiana.edu/~ccum/rentaldirectory.html

Discover Films, Inc.
www.discover-films.com
Violence Begins at Home

Films for the Humanities & Sciences
Princeton, NY
1-800-257-5126/609-275-1400

Bill Moyers’ Special Series (PBS)
What Can We Do About Violence? Solutions for Children (Part 4) (1998, 56 min)

Film Ideas, Inc.
Collection on Violence Prevention and Conflict Resolution
www.filmideas.com
The Last HIT: Child & Violence

Intermedia Films
www.intermedia-inc.com
You’re Hurting Me, Too—Effects of domestic violence on children. (1996, 24 min, comes with guide) (Free 30-day preview, purchase price $189)

Kidsrights
1-800-892-KIDS

Secret Wounds—Seven vignettes, and drawings by children. (33 min)

Kinetic Video, Inc.
255 Delaware Ave., Suite 340
Buffalo, NY 14202
716-856-7631
www.kineticvideo.com

Tulip Doesn’t Feel Safe—Animated film validates children’s feelings and experiences when their parents or other significant adults fight. Gives strategies for children’s safety planning. Workbook also available. (For children K–3, 13 min)
Also distributed by: Johnson Institute
Minneapolis, MN 55439-2159
1-800-231-5165
www.johnsoninstitute.com

Learning Publications, Inc.
www.learningpublications.com

London Family Court Clinic
254 Pall Mall Street, #2000
London, Ontario
CANADA N6A 5P6
519-679-7250

A School-based Anti-violence Program (ASAP)—School-based prevention/early-intervention program. Addresses roles of everyone from the board to the classroom. (Incl. curriculum & video)

Media Education Foundation
Tough Guise: Violence, Media & the Crisis of Masculinity
**Media Guild, The**  
1172 Sorrento Valley Road, Suite E  
San Diego, CA 92121  
(619) 755-9191  

*The Crown Prince*—Produced by the National Film Board of Canada. Video shows feelings and frustrations of a battered woman's two sons, one in grade school and the other a teenager. Explores children's disclosure of violence to a teacher. (Children 10–13 and/or teachers and parents, 38 min)

**Media Ventures Video**  
Minneapolis, MN 55409  

*TOUCH: What your child needs to know*—Performed by Illusion Theater Company, Minneapolis, MN (612-339-4944). Through vignettes the play-on-video shows the continuum of touch from neglectful touch to abusive touch, especially focused on preventing sexual abuse of young children.

**Minnesota Coalition for Battered Women (MCBW)**  
1821 University Ave. West, Suite S-112  
St. Paul, MN 55104  
651-644-6177  
www.mcbw.org  
Will loan films that they have available from their resource library.

**National Film Board of Canada**  
212-586-5131  
www.nfb.ca/E/index.html  
Series of films related to preventing family violence.  
-Also available from—  
Benerjee Associates  
Skillman, NJ 08558  
(609) 683-1261


*How Then Shall We Live*—Survivors of violence talk about how they left abusive relationships and about their road to recovery. (1999)  

*Kids' Stuff*—Combines drawings and puppet animation to convey how domestic violence can tear at the equilibrium and sensitivity of a child who hears his mother being beaten. “Intense and powerful.” (6 min)


**National Training Project**  
Duluth Domestic Abuse Intervention Project  
202 East Superior Street  
Duluth, MN 55802  
(218) 722-2781  
http://www.duluth-model.org  

*In Our Best Interest* (training materials)  

*Power & Control: Tactics of Men Who Batter*  
(materials and video)  

*Domestic Violence & the Law*  

*Walking in Balance*  

*The Journey Part I & Part II*  

*Working with Native American Men Who Batter*  

*Profile of an Assailant*  
Also—various other lecture/training materials

**New Day Films**  
Franklin Lakes, NJ  
www.newday.com  

*To Have and To Hold*—Film tells the story of wife abuse from the man's experience of it. Several former clients of Boston General Hospital's EMERGE program and their partners discuss the abuse and violence in their relationships and the steps they took to change it.

**Pearson Learning**  

**MTI/Film & Video**  
illinois  
1-800-621-2131  

*Tell 'Em How You Feel*—Story of a child who feels all alone and is angry at his parents and best friend. A friendly troll from the woods teaches him how to handle anger and conflicts without holding in feelings or resorting to violence and fighting. (Grades K–4/6, 18 min)

*It's Not Always Happy at My House*—Dramatization of family violence; mother and three children end up leaving to go to a shelter. Shows how the
violence may affect siblings differently due to age, gender, and sibling order. (Grades 9–12/College/Adult, 34 min)

What Tadoo with Fear?—Explores both the positive and negative elements of fear with the help of puppets. Uses realistic examples of situations to show children how they can deal with their fears and open up to adults they trust. (K–4, 20 min)

What Tadoo with Secrets?

SAFE Place
Battle Creek, MI
Battered Hearts: A Story of Family Violence (1996, 12 min)

Terra Nova Films
Chicago
1-800-779-8491

West Virginia Coalition Against DV
304-956-3552
Safe at Home?

ORGANIZATIONAL LISTINGS
Organizations with programs, publications, technical assistance, information, and Web sites related to the overlap of child maltreatment and domestic violence. In cases where Internet addresses were available they are given, otherwise U.S. Postal addresses or phone numbers are used.

Based in Minnesota (most are national programs based in Minnesota)

Battered Women’s Justice Project
Domestic Abuse Intervention Project; National Clearinghouse for the Defense of Battered Women; Pennsylvania Coalition Against Domestic Violence
Minneapolis, MN
800-903-0111

Domestic Abuse Project
204 W. Franklin Ave.
Minneapolis, MN
612-874-7063
www.mndap.org

Duluth Domestic Abuse Intervention Project
Minnesota Program Development, Inc. (Also, Mending the Sacred Hoop)
206 West Fourth Street
Duluth, MN 55806
218-722-2781
www.duluth-model.org

Institute on Domestic Violence in the African American Community
School of Social Work, University of Minnesota
105 Peters Hall, 1404 Gortner Avenue
St. Paul, MN 55108
612-624-5357

Minnesota Association for Children’s Mental Health
1821 University Avenue, N-184
St. Paul, MN 55104
651-644-7333
www.macmh.org

Minnesota Coalition for Battered Women
1821 University Avenue, S-112
St. Paul, MN 55104
651-646-1109
www.mcbw.org
Minnesota Center Against Violence and Abuse (MINCAVA)
School of Social Work, University of Minnesota
105 Peters Hall, 1404 Gortner Avenue
St. Paul, MN 55108
612-624-0721
www.mincava.umn.edu

Praxis International
Duluth, MN
www.praxisinternational.org

Violence Against Women Online Resources
www.vaw.umn.edu

Other national organizations

American Bar Association
Commission on Domestic Violence
www.abanet.org/domviol/home.html
Children and the Law
www.abanet.org/child

American Humane Association
www.americanhumane.org
1998 Roundtable on Family Group Decision Making: Summary of Proceedings ($25.00)
Family Group Decision-Making: Implementation and Evaluation of Outcomes for Children,
Protecting Children, Vol. 14, #4, 1998. ($11.00)
Assessing Outcomes in Child Welfare Services: Principles, Concepts, and Core Outcome Indicators
(A Publication of the Annie M. Casey Foundation Outcomes and Decision Making Project) ($5.00)
First National Roundtable on Innovative Community-Based Partnerships: Summary of Proceedings (1998; $12.50)

Action for Child Protection (see National Resource Center on Child Maltreatment)

American Psychological Association (APA)
www.apa.org
APA Presidential Taskforce on Violence and the Family

Center for the Study of Social Policy
www.cssp.org

Children’s Defense Fund
www.childrensdefense.org

Children, Youth, and Family Consortium
www.cyfc.umn.edu

Child Welfare Institute (see National Resource Center on Child Maltreatment—NRCCM)

Child Welfare League of America
www.cwla.org
Standards of Excellence for Services for Abuse or Neglected Children and their Families (1998, $16.50)
Child Well-being Scales and Rating Forms --from-- Outcome Measures for Child Welfare Services: Theory and Application (Maguara & Silverman Moses, 1986; $34.95)
Standards for Organizations and Administration of all Child Welfare Services (1998, $14.50)
Outcome Initiatives in Child Welfare (Gordon, 1999, $14.95)
Quality Improvement and Evaluation in Child and Family Services: Managing into the Next Century

Crimes Against Children Research Center
University of New Hampshire
Durham, NH
www.unh.edu.ccrc
Family Violence Prevention Fund
San Francisco, CA
www.fvpf.org

Health Resource Center on Domestic Violence
San Francisco, CA
888-792-2873
www.fvpf.org/health/

National Center for Injury Prevention and Control
www.cdc.gov/ncipc.dvp

National Children’s Advocacy Center
Huntsville, AL
256-533-0531

National Clearinghouse on Child Abuse and Neglect Information
800-394-3366
www.calib.com/nccanch
www.calib.com/dvcp

National Clearinghouse on Families and Youth
Silver Spring, MD
301-608-8098
www.ncfy.com

National Council of Juvenile and Family Court Judges (NCJFCJ)
Family Violence Department; Child Welfare, Custody, & Child Abuse and Neglect
Reno, NV
www.ncjfcj.unr.edu

National Resource Center on Child Maltreatment (NRCCM)
(Child Welfare Institute & Action for Child Protection merged)
Atlanta GA, 404-881-0707
www.gocwi.org/who
www.gocwi.org/nrccm

National Resource Center on Domestic Violence
Harrisburg, PA
1-800-537-2238

National Resource Center to End Violence Against Native Women
Sacred Circle
Rapid City, SD
877-733-7623; 605-341-2050
scircle@sacred-circle.com

Resource Center on Domestic Violence (see NCJFCJ)

United Way of America—Outcome Measurement Resource Network
www.unitedway.org/outcomes

Urban Institute
www.urban.org

Research & evaluation organizations/institutions

EnSearch, Inc.
2925 Noble Avenue North
Golden Valley, MN 55422
612) 521-7571

Minnesota Center Against Violence & Abuse (MINCAVA)
School of Social Work
University of Minnesota
105 Peters Hall, 1404 Gortner Avenue
St. Paul, MN 55108
(612) 624-0721
www.mincava.umn.edu—and–www.vaw.umn.edu

Minnesota Program Development, Inc. & Praxis International
202 East Superior Street
Duluth, MN 55802
www.praxisinternation.org

National Network for Collaboration
http://crs.uvm.edu/nnco/
Part of Children, Youth and Families Education and Research Network (CYFERNet)
www.cyfernet.mes.umn.edu
Rainbow Research
621 West Lake Street, #300
Minneapolis, MN 55408
(612) 824-0724

Wilder Research Center
1295 Bandana Blvd. North, Suite 210
Saint Paul, MN 55108
www.wilder.org

Wilder Foundation Publications
919 Lafond Avenue
St. Paul, MN 55104
www.wilder.org

American Evaluation Association
EVALTALK list serve
www.eval.org

Community Systems Group
Lawrence, KS
785-838-3320

Harvard Family Research Project (HFRP)
38 Concord Avenue
Cambridge, MA 02138
Phone: 617-495-9108
Evaluation Exchange
www.gse.harvard.edu/~hfrp/

National Clearinghouse on Child Abuse and
Neglect Information
Section on “Evaluating Child Abuse Prevention
Programs”
www.calib.com/nccanch/pubs/prevensres/eval.htm

STOP Violence Against Women Grants
Technical Assistance Project
1601 Connecticut Avenue, Suite 500
Washington, DC 20009
1-800-256-5883
For copies of STOP-TA Manual (Ref # NCJ-
172217):
Nat’l Criminal Justice References
Box 6000
Rockville, MD 20849-6000
800-851-3420

The Urban Institute
2100 M. Street NW
Washington, DC 20037
www.urban.org
APPENDIX E

THE ADVOCATE’S GUIDE TO MINNESOTA’S CHILD PROTECTION SYSTEM
THE ADVOCATE’S GUIDE TO
MINNESOTA’S CHILD PROTECTION SYSTEM

FIRST EDITION

Written by
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With assistance from
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Irene Opsahl, Legal Aid Society of Minneapolis
Jan Werness, Southern Minnesota Regional Legal Services

Funding provided by
The McKnight Foundation
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**Information about the Legal Services Advocacy Project**

Since 1979, the Legal Services Advocacy Project (LSAP) has represented low-income Minnesotans through state-level policy advocacy, education and research, and technical assistance to nonprofit organizations. LSAP grew out of joint efforts of the six regional Minnesota legal services programs, which serve the entire state. LSAP is a statewide division of Mid-Minnesota Legal Assistance.

LSAP works on a variety of issues affecting the poor, including housing, health care, family law and child support policy, welfare-to-work, energy, taxes and consumer issues.

This booklet is not intended to be and should not be used as a substitute for legal counsel. If legal advice is required regarding a specific factual situation, a lawyer should be contacted.

*Information in this manual is current as of October 1, 2000.*

Copies of this booklet may be obtained by contacting:

Nancy Mischel
Legal Services Advocacy Project
2324 University Ave, Suite 101
St. Paul, MN 55114
(651) 222-3749, x.103
email: nmischel@mnlsap.org

Your comments and suggestions for future revisions of this booklet are appreciated and may be forwarded via mail, phone, or email to Nancy Mischel.
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of The Advocate’s Guide to Minnesota’s Child Protection System

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BACKGROUND

This booklet is intended to be a basic guide to the child protection system for legal services attorneys, volunteer attorneys, and battered women’s advocates whose clients may be involved with child protection. It is not a complete or definitive guide to every law that pertains to child protection. For the most part, the information in this booklet is organized in chronological order, following a child protection case from the initial report to possible termination of parental rights.

Child protection is a highly regulated area. Federal law, state law, court rules and local county policy all affect child protection issues. These laws and policies will be discussed throughout this booklet. Several federal laws govern, including the Adoption and Safe Families Act of 1997, which is intended to emphasize the health, safety, and permanency of children in foster care, the Child Abuse Prevention and Treatment Act (CAPTA) and the Multi-Ethnic Placement Act. The ability of states to receive federal matching funds to pay for foster care placement of a child is contingent on their compliance with these laws. Minnesota has adopted the federal laws so that they are reflected in our state laws.

This booklet provides information about laws that generally apply to all children in the child protection system. The Indian Child Welfare Act (ICWA) and the Minnesota Indian Family Preservation Act (MIFPA) are additional laws that apply to American Indian children because of their unique legal status as members of individual tribes. References to these laws will be made whenever the rights of American Indian families are different. In addition, information pertaining specifically to American Indian children is italicized to further highlight these differences. Abuse or neglect of American Indian children that occurs on a reservation will be investigated by tribal social services and handled by the tribal court. Tribal social service and court procedures may be different than those outlined in this booklet.

The child protection system, which is county-administered in Minnesota, is designed to respond to reports that a parent or caregiver has abused or neglected a child. In general, the child protection system serves multiple purposes of investigating allegations, providing services to a family to aid in family preservation and reunification efforts, and planning for permanent placement of a child outside the home if a parent cannot safely care for the child. Outside of tribal courts, the state’s juvenile court has exclusive jurisdiction in proceedings concerning child protection issues.

For convenience, this booklet uses the term “parent” to refer to the person(s) responsible for the care of the child who is the subject of a child protection report, investigation, or case. The term “advocate” is used to refer to both attorneys and advocates unless it is important to distinguish between the two, such as when providing legal advice or legal representation. In addition, this booklet refers to “the county” rather than specifying the child protection unit of the social services or human services division of a particular county.

Endnotes listing statutory cites and other information can be found at the end of the text. It may be helpful to look at the flowchart in Appendix A at the end of the booklet before reading on, as it shows the stages of a child protection case that does not involve American Indian children.

THE ROLE OF AN ADVOCATE

Do parents and children have the right to representation in juvenile court?

Parents and children each have the right to an attorney when they are involved in a proceeding alleging that the child is in need of protection or services. If a parent and/or child desires representation and is
unable to afford it, the court must appoint an attorney in any juvenile protection matter in which the court deems it appropriate.8

Generally, the appointed attorney will be from the public defender’s office. However, the court may not appoint a public defender to represent a child under age 10.9 An American Indian parent’s right to an attorney is absolute under the ICWA. In addition, an American Indian person caring for a child also has a right to an attorney.10

**What can a legal services attorney or other advocate do?**

Public defenders generally are not appointed unless a case goes to court, and meet their client for the first time shortly before going into court. There is much an advocate can do prior to this point, since many cases never get to court. In addition, an advocate can continue to play an extremely important role in cases that do go to court. For simplicity, this booklet generally refers to “parent” as the person assisted by an advocate. However, an advocate working with a child rather than a parent should find some of the same suggestions apply.

An advocate can assist a parent or child in determining what services could help prevent an out-of-home placement. An advocate may then help provide some of those services to the client. For example, services that might assist a battered mother include an Order for Protection, support and education groups for both the mother and her children, safety planning, and parenting education groups that focus on the effects of violence on children and parenting in crisis.

If a child is removed in an emergency, an advocate can help a parent enforce their right to visitation with their child. *ICWA mandates that Indian children be placed in another Indian home, preferably with relatives or someone from the same tribe. An advocate can help a parent determine if his/her child is enrolled or if they are eligible for enrollment in an Indian tribe. If so, the advocate can contact the Indian Child Welfare Worker assigned to that tribe to determine what help is available. An advocate can help a parent ask for a reconsideration and/or appeal a determination of neglect or abuse as part of the administrative process.* If an out-of-home placement is necessary, an advocate can help find relatives or family friends who may take the child on a temporary basis to prevent juvenile court involvement. These areas will be covered in more detail later.

An advocate can also recommend that certain services for the family are included in the child protection case plan. An advocate may be more familiar with services that would be helpful for a particular parent than the court-appointed attorney. In addition, an advocate may be more aware of the different systems a parent is involved in, and how those systems intersect. For example, a parent may be required to do something as part of their welfare-to-work employment plan which may put them in jeopardy with child protection. The parent’s employment plan might require that they take an available job to avoid sanction, yet the hours of the job might leave some time where the parent cannot find any child care. The child is thus left unattended for that period of time. This could leave a parent vulnerable to a finding of neglect, depending on the age of the child and the length of time left alone.

A positive working relationship with the county child protection staff may help in obtaining beneficial outcomes for clients. In the best case scenario, the county may view an advocate as someone who is knowledgeable about available resources for families, perhaps domestic abuse victims in particular. A good working relationship is not always possible, but when it exists, an advocate may be able to more effectively intervene for a client early on in the process, before a case gets to court. An advocate’s efforts may even prevent court action.
How else might advocates influence child protection policy?

In 1996, Congress amended the CAPTA, requiring each state to establish at least three citizen review panels in order to receive federal funding. In Minnesota, Chisago, Ramsey and Washington counties volunteered for a two-year pilot project, which ends in 2001. However, the Department of Human Services (DHS) plans to continue working with citizen review panels after the pilot project ends.

Each review panel is made up of 11 to 16 people. Panel members must include community volunteers, appointed by the DHS commissioner and county commissioners. Panel members are responsible for examining and evaluating the extent to which the county is effectively fulfilling their child protection responsibilities.11

Advocates living in these counties may want to talk with their county commissioners or contact DHS about serving on a citizen review panel. Members serve a two-year term.

Who can help if there are problems?

There are four ombudspersons with statewide authority to investigate child protection concerns involving African-American, American Indian, Asian-Pacific and Chicano/Latino children.12 Advocates and/or parents may contact these ombudspersons with complaints regarding child protection. In addition, tribes in Minnesota, along with the state, have jointly set up a compliance review team to investigate complaints of non-compliance with ICWA and the Minnesota Indian Family Preservation Act.

CHILD PROTECTION INTAKE

How do cases come to the attention of a county’s child protection unit?

The county first hears about a case when someone calls to make a report of maltreatment. Many of these calls come from the police, who find children unattended or in other dangerous situations. Many others come from people who are mandated to report suspected maltreatment. Mandated reporters are people who regularly come into contact with children and are required under state law to report information to the county when it meets certain criteria. The county also receives reports of suspected abuse and neglect from concerned neighbors, relatives or friends of a family. Anyone may voluntarily make a report to child protection.

A child may call and ask for assistance in leaving an abusive home. In addition, the county may receive requests for help or services from parents who are having difficulty caring for their children. This is explained more thoroughly later in the section dealing with voluntary placements.

Who are mandated reporters and what do they have to do?

Mandated reporters include professionals working in the following areas: health care, childcare, social services, education, mental health and law enforcement.13 For example, nurses, doctors, teachers, day care workers, therapists, social workers, battered women’s shelter employees, police, and ministers are all mandated reporters. Members of the clergy are also mandated reporters, unless the information they obtained is privileged under the law.14 Police are often notified of suspected abuse and encounter it in their official duties, thus they are a major source of child protection reports. Attorneys are not mandated reporters.

A mandated reporter who knows or has reason to believe a child is being neglected or physically or sexually abused, or has been neglected or physically or sexually abused within the preceding three years,
must immediately report the information to the county. After business hours or on a weekend, reports must be made to the police or sheriff’s department. Physical abuse is defined by law to include any physical injury, mental injury or threatened injury inflicted by other than accidental means. Abuse does not include reasonable and moderate physical discipline that does not result in injury. The law gives examples of actions that fall outside of what is considered reasonable and moderate. Neglect is defined as the failure to provide enough food, shelter, medical care, supervision, education, or other protection. In addition, mandated reporters are required to report women who use a controlled substance for non-medical purposes during their pregnancy. Controlled substance does not include alcohol under this law. A mandated reporter must follow up an oral report with a written report to the county within 72 hours, excluding weekends and holidays.

Failure to make a report when required can result in a mandated reporter being found guilty of a misdemeanor. A mandated reporter is immune from liability if s/he acted in good faith in making a report. Also, a mandated reporter’s identity also is protected by law.

**Can mandated reporters find out what happened to a case they report?**

Depending on the circumstances, mandated reporters may be able to find out what happened with their report. The county is allowed to provide relevant data to mandated reporters who have an ongoing responsibility for the health, education, or welfare of a child affected by the data, if it is in the best interests of the child. Data must be limited to that which is relevant to the individual’s responsibility for caring for the child.

**What happens when a county’s child protection unit receives a report?**

First, the county will screen the report to decide if the allegation violates a law. Screening criteria varies by county, although all screeners will look at whether the report alleging physical, sexual abuse or neglect meets the definitions provided in the law. If it does, the screener will assess the level of risk of harm to the child, which will determine how quickly the county responds. Even though the county is required to assess all reports that meet the statutory definitions of abuse or neglect, counties must prioritize as a result of the large number of reports they receive. In most counties, for example, a report alleging severe physical or sexual abuse will be investigated before one alleging more minor physical abuse or neglect. Any time a child is in imminent danger, the county will respond immediately. The county may conduct their assessment/investigation in conjunction with any criminal investigation by law enforcement in order to avoid duplication of efforts and multiple interviews. An advocate’s familiarity with the specific screening or risk assessment criteria used by a county can be helpful to parents living in that county. For example, some counties have guidelines regarding the age at which children may be left home alone. The law provides minimal guidance, and counties have discretion in interpreting this law.

**Is child witnessing of domestic violence considered abuse or neglect?**

There is no clear answer to this question at the present time. The legislature has been considering whether and to what extent child witnessing of domestic violence should be specifically defined as neglect under the child protection statutes. In the 2000 session, the legislature passed a law that defines the circumstances under which a child is considered to have been exposed to domestic violence, and provides factors for determining the protective action for child protection to take and the services to offer. Although this law is scheduled to become effective July 1, 2001, it will only go into effect if the legislature appropriates...
funding to help counties handle the resulting increase in caseload. In addition, because another legislative session convenes January 3, 2001, there may be changes made to the language before the effective date, or the legislature might repeal the language entirely. Nevertheless, under current law counties may still attempt to hold a battered mother of a child who witnesses domestic violence liable for neglect under the “failure to protect” provision of the law.26

What is alternative response?
The Alternative Response program allows counties to respond differently than they traditionally would to some child protection cases. Counties involved in the alternative response pilot project use a screening tool to decide whether a report of abuse or neglect will be assessed using the traditional investigation model or using alternative response. Situations involving children who have been seriously harmed or who are at imminent risk are not eligible for alternative response and will continue to receive the traditional response. When alternative response is offered by the county, a family’s participation is voluntary. If the family chooses to participate, the county will provide appropriate services, make necessary referrals, and divert the family to programs that increase the family’s ability to safely and appropriately nurture its children. Under alternative response, no investigation or determination of child maltreatment is made, to avoid labeling of a parent as neglectful or abusive. Instead, a family assessment is completed to determine the safety of the child, the risk of maltreatment, and to identify family needs and strengths. The goal of a strength-based intervention is to draw on the strengths and resources of family members to increase family stability and child safety.27

Alternative response may be very beneficial to some parents in that it can provide a parent access to supportive services while avoiding a finding of maltreatment. However, the county may offer services that are inappropriate for some domestic violence victims, such as family group decision making that includes the abuser. In addition, use of alternative response does not prevent the county from later taking some enforcement action against a parent if the parent refuses services and the county finds a current risk to the child’s safety. An advocate needs to read the information about alternative response, inform a parent regarding the risks and benefits, and then let the parent determine the best way to proceed. An advocate may also be in a position to work with the county to ensure that offered services are appropriate and promote the safety of both a battered mother and her child.

Which counties are using alternative response?
There are 20 counties currently participating in the alternative response pilot project. They are Anoka, Blue Earth, Carlton, Carver, Chisago, Cottonwood, Dakota, Hennepin, Kandiyohi, McLeod, Nicollet, Olmsted, Polk, Pope, Ramsey, St. Louis, Scott, Waseca, Wright and Yellow Medicine.

CHILD PROTECTION INVESTIGATIONS

How does the county investigate and assess a case?
The county must collect information to determine whether or not a child was maltreated and whether or not the child needs services. The county will question the person accused of the maltreatment, the parent and others who take care of the child, the child and possibly siblings. The county must contact the police about a report for possible criminal investigation.28

The county and the police may go directly to interview a child without a parent’s permission. Staff at
a school or day care are not allowed to notify the parent of such events. However, the police and social worker are required to notify the parent when they have talked with his/her child.\textsuperscript{29}

\textit{When the county is investigating and assessing an American Indian child, the child’s tribe must be notified. Tribal social services may assist in the investigation and assessment.}\textsuperscript{30}

Those interviewed must be informed verbally and in writing:
(1) that they have the right not to answer any question;
(2) why the questions are being asked;
(3) what will be done with the information they provide;
(4) what could happen if they answer or refuse to answer questions; and
(5) that information they provide may be given to others, such as the county attorney.

This notice is commonly known as the \textit{Tennessen warning}.

As part of the investigation, the county will collect information on prior reports of maltreatment; the child’s age, gender and development; the alleged offender; the person who reported and the person accused of maltreatment.\textsuperscript{31}

The county may collect other information such as a medical examination of the child, and medical records relating to the maltreatment and interviews with health professionals. The county must tape record all interviews when possible. In cases involving sexual abuse, the county must videotape interviews with the alleged victim and child witnesses when possible.\textsuperscript{32}

The county must take into account accepted child-rearing practices of the child’s culture that are not detrimental to the child’s health, welfare and safety, when investigating a maltreatment report.\textsuperscript{33} If the investigation indicates the possibility of drug or alcohol abuse by the parent, the county must conduct a chemical use assessment.\textsuperscript{34}

\textbf{What does the county do once it has completed its investigation of a case?}

The county must make two determinations upon the conclusion of an investigation: first, whether maltreatment has occurred, and second, whether child protective services are needed.\textsuperscript{35} Within 10 working days of completing its investigation, the county must send a letter to the parent of a child notifying him/her of the county’s determination regarding maltreatment and the need for services. The notice must include the length of time records will be kept, and the appeal rights of a person determined to have maltreated the child.\textsuperscript{36}

Usually this notice is sent in English, and may not have a language block telling the parent in other languages where to call in order to find out what the notice says. This practice is obviously problematic for a parent who does not speak or read English and may be raised as a defense to a late appeal or request for review of the determination.

Some counties only require services or make a finding of maltreatment if the parent believed to be harming the child is the custodial parent. If the harm comes from the non-custodial parent, the county may simply urge the custodial parent to take legal action in family court to change custody or visitation, or to seek an Order for Protection (OFP). If taking the requested action would be dangerous to the safety of a battered mother and/or her child, an advocate should explain to the county why the parent cannot comply with their request.
Even if a determination of maltreatment is made, the child will remain at home unless the county finds that the circumstances warrant emergency placement.

**How long are records kept by the county?**

If no determination of maltreatment is made, the results of the investigation are kept on file for four years. These records may not be used for employment, background checks, or purposes other than to assist in future risk and safety assessments. Records have traditionally been maintained under the mother’s name. Where a determination of maltreatment is made, or the county determines there is a need for services, records must be kept for at least ten years.

**DETERMINATION OF MALTREATMENT**

**Can a parent challenge a determination of maltreatment?**

Yes, a parent has the right to ask the county to reconsider its final determination regarding maltreatment. The request for reconsideration must be submitted in writing to the county within 15 calendar days after receipt of notice of the final determination regarding maltreatment. If the county denies the request or fails to act upon the request within 15 calendar days of receipt, the parent may submit to the State Commissioner of Human Services a written request for an administrative hearing. The Department of Human Services (DHS) must assure that the hearing is conducted and a decision is reached within 90 days of receipt of the request for a hearing.

In such cases, advocates and legal services attorneys can be extremely helpful to parents. Because the case is not yet in court, at this administrative level the parent and child are not entitled to the appointment of a public defender. An advocate can help a parent ask the county for a review of the determination of the finding of maltreatment. If this is unsuccessful, an attorney can advise a parent on the merits of their case and represent them at an appeal hearing in front of an administrative law judge. An attorney may be able to show that either the county’s allegations do not meet the required definition of abuse or neglect found in the law, or that the allegations are not true.

**What happens after the county makes a determination of maltreatment?**

Once a determination of maltreatment is made, the county must also assess whether or not the child needs protective services. If the county determines that the child needs protective services, but the parent is not willing to accept or make use of those services, the county may decide to file a Child in Need of Protection or Services (CHIPS) petition to assure the child’s safety. This procedure is discussed in more detail later in this booklet in the section entitled Starting a CHIPS Proceeding. If the county determines that no services are necessary, the county may simply close the file without ever filing a CHIPS petition or offering services to the family.

An advocate can play a crucial role here in helping a parent determine whether or not the parent and/or his or her child is entitled to services and wishes to receive them now in the hopes of alleviating or reducing future problems. For example, a child may have some behavioral problems related to a disability and be eligible for mental health services or developmental disability services. Early intervention may help the family as a whole in this situation. Without supportive services the child’s behavior may continue to get worse. The parent may reach the point of being so frustrated with the behavior that s/he loses control and hurts the child. At this point, child protection may become involved again, and the outcome may be
much more negative for the parent and child. Where appropriate, an advocate can help a parent see the situation as an opportunity to receive services that might benefit the entire family.

Sometimes a county makes a determination of maltreatment but decides no services are necessary. For example, the county could determine that the incident leading to the report was a one-time occurrence with an older child, and that the parent has taken sufficient protective action by having the child live with a grandparent for the time being. Yet, the grandparent and/or child may benefit from services the county could provide to help ensure this living situation works out. The parent may not be aware that they and/or their child are eligible for services without an advocate to tell them.

What is the effect of a determination of maltreatment?
A determination of maltreatment can impact a parent’s current and/or future employment opportunities. A finding may result in revocation of a parent’s daycare or teaching license, and may affect the parent’s ability to work in a group home or as a foster care provider, nurse or nurse’s aide.

A determination of maltreatment may also affect a client’s immigration status and/or ability to remain in the United States. Advocates should consult immigration experts for more information when their client is not a United States citizen.

VOLUNTARY PLACEMENT
What is voluntary placement?
When a parent is unable to care for a child, s/he may decide to ask the county to help place the child in out-of-home care. A “voluntary placement” results from an agreement between a parent and the county to place a child in out-of-home care. The county must inform the parent and the child that they have the right to separate legal counsel before signing a voluntary placement agreement. The parent and/or child must be able to afford an attorney, however, since the law does not allow for a public defender to be appointed in this situation.

Special rules apply to voluntary placements involving Indian children. The child’s tribe must be notified of every voluntary placement. In addition, the parent’s consent must be given in front of a judge. Note that a number of counties do not follow this last requirement.

The county must work with the parent, and the child if the child is old enough to understand, to develop a case plan identifying the reasons for placement, and the steps that will be taken to eliminate or correct the problems that led to placement. Case plans are discussed in more detail later in this booklet.

Will a child in voluntary placement be returned to home when the parent asks?
It depends. While voluntary placement can provide respite for a parent and stabilization for a child, the parent should be aware of the potential ramifications of entering into such an arrangement. Under law, a parent must be notified at the time of signing the voluntary placement agreement that the parent may at any time request the child be returned to their care, and that the county must return the child within 24 hours of receiving the request. However, the county may not agree that the parent is ready to resume care of the child. In that case, the county may file a CHIPS petition to seek a court order continuing placement of the child outside the home.

The county may also file a CHIPS petition if the voluntary placement extends beyond 90 days. This
process happens in two steps. If the child has not been returned to the care of the parent within 90 days of the original placement, the county must either return the child to the parent or file a CHIPS petition in court seeking a 90 day extension of the placement. The county could also ask the court to terminate parental rights. If the court extends the placement, and the child is not returned home before the end of the second 90 day period, the county must file a CHIPS petition. If the child was placed because of developmental disabilities or emotional handicap, the county has 6 months to decide whether or not a CHIPS petition should be filed. The petition must state its statutory basis, the reason for the placement, and the progress on the case plan.

The parent should also be aware that the time the child spends in out-of-home placement under a voluntary placement agreement will be counted in determining the timing for filing of permanency proceedings. There are limits as to how long a child can stay in foster care. Permanency must be established for the child within 6 months for children under age 8 at the time the CHIPS petition is filed, and within 12 months for children 8 and older at the time the CHIPS petition is filed. The clock begins running 60 days after the date the voluntary placement began. Permanency issues are covered in more detail later in this booklet.

An advocate can help inform a parent of the risks and benefits of agreeing to a voluntary placement. In addition, an advocate can assist with case plans and encourage regular visitation between parent and child.

**EMERGENCY PLACEMENT PROCEDURES**

**Can the police and/or the county take a child from a home without a court order?**

The police do not need a court order to take a child from a home if they find the child in surroundings or conditions that they consider dangerous to the child’s health or welfare. The county, however, does need to get a court order before it can remove a child. Whenever a police officer takes a child into emergency protective custody, the officer must notify the parent why the child is being taken. The parent may request the child be placed with a relative or a standby custodian instead of a shelter care facility. The officer must also give the parent a list of names, addresses, and telephone numbers of social service agencies that offer child welfare services. If the parent was not home when the child was removed from the residence, the list must be left with an adult on the premises, or left in a conspicuous place on the premises if no adult is present. If the officer has reason to believe the parent is not able to read or understand English, the officer must provide a list that is written in the appropriate language. There is no liability, however, for mistakes or omissions in the list, nor is there any promise that an agency listed will, in fact, be able to help the parent.

**Where will the child be placed?**

An emergency placement must be in the least restrictive setting consistent with the child’s health and welfare and in as close a location to the child’s family as possible. Placement may be with the child’s relative, a standby custodian or in a shelter care facility. Additional options, such as a detention facility, are available if the child is a runaway, delinquent, truant, or has violated probation. An advocate can help locate family or friends of the parent to take the child on a temporary basis. An advocate can also help a parent complete a delegation of powers if appropriate. By making a delegation, the parent transfers to another person the temporary authority to care for and make decisions about the child. A delegation of powers cannot last longer than six months.
How long can a child be kept in placement without a court hearing?
If there is an emergency placement, an emergency protective care (EPC) hearing must be held within 72 hours, excluding weekends and holidays. For example, if a child is placed in a shelter on a Thursday, the hearing must be on or before Tuesday. The purpose of the hearing is to determine whether or not the child will be returned home or ordered into protective care, such as foster care. EPC hearings are explained in more detail later in this booklet.

STARTING A CHIPS PROCEEDING

What is a CHIPS petition?
A child in need of protective services (or CHIPS) petition is a court action that is filed on behalf of a child who is alleged to be in need of protection or services because the child:
(1) is abandoned or without parent, guardian, or custodian;
(2) has been a victim of physical or sexual abuse; lives with a victim or perpetrator of domestic child abuse or with a perpetrator of domestic child abuse; or is a victim of emotional maltreatment;
(3) is without necessary food, clothing, shelter, education or required care because the child’s parent, guardian, or custodian is unable and unwilling to provide that care;
(4) is without the special care made necessary by a physical, mental, or emotional condition because the child’s parent, guardian, or custodian is unable or unwilling to provide that care, including a child in voluntary placement;
(5) is medically neglected;
(6) is one whose parent, guardian, or other custodian for good cause wants to relieved of the child’s care and custody, including a child in voluntary placement;
(7) has been placed for adoption or care in violation of the law;
(8) is without proper parental care because of the emotional, mental, or physical disability, or immaturity of the child’s parent, guardian, or other custodian;
(9) is one whose behavior, condition, or environment is such as to be injurious or dangerous to the child or others;
(10) is experiencing failure to thrive, or growth delays, that have been diagnosed by a physician and are due to parental neglect;
(11) has engaged in prostitution;
(12) has committed a delinquent act or juvenile petty offense before age 10;
(13) is a runaway;
(14) is a habitual truant;
(15) has been found incompetent to proceed or has been found not guilty due to mental illness or mental deficiency in connection with a delinquency proceeding or other juvenile proceeding;
(16) has been found by the court to have committed domestic abuse by a minor, has been ordered excluded from the child’s parent’s home by an order for protection/minor respondent, and the parent or guardian is either unwilling or unable to provide an alternative safe living arrangement for the child.
Filing a CHIPS petition is the first step in what may be a series of hearings in juvenile court to protect a child from harm within his or her family.
What is the procedure for filing a CHIPS Petition?
Most CHIPS petitions are filed by the county attorney. A summons and petition are served on the parties. The summons must advise the parties of the right to counsel and of the consequences of failure to obey the summons. The petition will include allegations as to why the child is in need of protection or services, using the criteria stated above. If the petition regards an American Indian child, a notice must be attached describing rights under Indian Child Welfare Act (ICWA). The summons, petition, and notice must also be served on the child’s tribe.

Who are the parties in a CHIPS proceeding?
Under Minnesota’s juvenile court rules, parties to a petition are the child’s legal custodian, the petitioner (usually the county), the guardian ad litem and any other person, including the child, who is deemed by the court to be important to a resolution that is in the child’s best interest. Legal custodian is defined as a person, including a guardian, who by court order or statute has sole or joint legal or physical custody of the child. The child, a parent who does not have legal and/or physical custody, grandparents with whom the child has lived in the last 2 years, and the tribe of an American Indian child are not automatically parties. However, all of them have a right to receive notice. They also have a right to intervene and may do so by filing a notice of intervention, thereby becoming a party. An unmarried father whose paternity has not been acknowledged or established will not necessarily receive notice of the CHIPS petition.

Can a CHIPS Petition be filed by someone other than the county?
Yes. Although the majority of CHIPS petitions are filed by counties, a CHIPS petition may be filed by any “reputable” person. These petitions are often referred to as private CHIPS petitions. A private CHIPS petition must allege facts that, if proven, would show that there is a need for protection or services for the child named in the petition.

When a CHIPS petition is filed by someone other than the county attorney, the court must review the petition to determine whether there is probable cause to believe that a need for protection or services exists before the matter is set for hearing. The court must review a private CHIPS petition within 3 days of its filing. The court cannot allow a petition to proceed if it appears the sole purpose is to modify custody between the parents or if the petition fails to include the required information. If the court finds there is merit to proceed, an admit/deny hearing will be scheduled.

Sometimes relatives will consider filing a CHIPS petition to seek court ordered services for a child they consider to be at risk of harm. An advocate must be prepared to advise these relatives about the risks and benefits of juvenile court and child protection involvement in family life.

COURT CASES INVOLVING AMERICAN INDIAN CHILDREN

What additional laws apply to American Indian children?
The ICWA and the MIFPA provide additional protections for an American Indian child, provided the child is eligible for membership in a federally recognized tribe or Alaska Native village. Each tribe has the right to decide who qualifies as a member of the tribe, and membership criteria varies greatly among tribes. Unfortunately, Indian children who are members of Canadian or other non-United States tribes, as well as children who identify as Indian but who are ineligible for membership in a federally recognized tribe, are not covered by these laws. Each individual tribe has its own laws that apply to child abuse and neglect that occurs on the reservation.
Why is it important to have a tribe involved?
A child’s tribe is an important resource for that child. Tribes have a great deal of experience working with families. Most tribes have their own child protection and social services staff who are knowledgeable about child-rearing practices in the community as well as services to help families. Some license their own foster homes. Because tribal membership is usually based on genealogy, tribes are in a position to identify and locate extended family members. This is especially important for American Indian parents who were themselves adopted and raised by non-Indians. A tribe can provide a sense of belonging and continuity to a child who may otherwise be lost in the foster care system.

How are the laws different?
The ICWA and MIFPA recognize that a child’s tribe has an important role to play in a child’s life, and should make decisions about the child when the parents cannot. These laws require that American Indian children be protected in their own homes and community whenever possible and that decisions about a child be based on the cultural and social standards prevailing in the Indian community. Congress enacted the ICWA in 1977 in an attempt to halt the long-term negative impact of the large numbers of American Indian children who were being removed from their families and tribal communities.

ICWA allows any parent or tribe of an Indian child to request the case be transferred to a tribal court. The parent and the tribe can also veto the transfer. If an American Indian child resides on a reservation, the case must be transferred to the tribal court even if the abuse took place off the reservation.

The ICWA and MIFPA require that tribes be notified whenever a minor child of the tribe is involved with child protection. The tribe can then actively participate in risk assessment, case plans, placement decisions, and court proceedings.

Parents of an American Indian child must be notified of their rights under ICWA at the beginning of a court case. The county must have substantial evidence before an American Indian child can be placed outside his or her home. The county must make active efforts to prevent placement, and to reunite families once placement has occurred. Every out-of-home placement must be supported by an expert knowledge about the child rearing practices of the child’s tribe.

ICWA has a strict order of preference for placements (tribes can vary this order):
1. Extended family member
2. Foster home licensed, approved, or specified by the child’s tribe
3. Indian foster home licensed or approved by non-Indian licensing authority
4. A suitable institution for children approved by the tribe or operated by an Indian organization.

The county must make active efforts to find a first preference placement. Finally, the ICWA preserves a child’s tribal ties even after a termination of parental rights.

EMERGENCY PROTECTIVE CARE HEARING

What happens at the emergency protective care (EPC) hearing?
The EPC hearing is critical because it is the first opportunity for the court to hear evidence about the family’s situation. It is also the first opportunity for the court to look at where the child should live. The
judge will review the police and child protection records and hear recommendations from all parties as to what should happen. The hearing may include testimony from parties and witnesses.

As stated earlier, if a child has been removed from the home of the parent, the court must hold an EPC hearing within 72 hours of removal, unless the child has been released. Although the hearing may be delayed for 8 days (in addition to the original 72 hours) to allow parties time to prepare, that means additional time in placement for the child and additional uncertainty for the parents. Since the parent and child will not have a court-appointed attorney until they appear for this first hearing, evidence often needs to be developed by someone else. An advocate can help parents make concrete changes necessary to protect a child, such as latches on doors and windows, food and safe shelter. An advocate can help with safety planning and assist a parent to connect with programs to address issues that led to the placement. If a parent wants the child placed with a relative or friend, that relative or friend should contact the county prior to the hearing and should also attend the hearing. If the parent is working with a counselor or community agency that supports immediate reunification or a particular placement, that counselor or community agency should attend the hearing and/or submit a report. If the child has an advocate, that person should also be at the hearing.

If the judge finds the child is in imminent danger, the judge can order the child to remain in emergency protective care. For American Indian children, the imminent danger must be a physical danger. If the judge does not find the child to be in imminent danger, the child will be released to the parent. If the child is released there will probably be conditions placed on the parent. Usually the CHIPS case will continue even if the child is returned.

**ADMIT/DENY HEARING**

**What happens at the admit/deny hearing?**

If the child is not in emergency protective care, the first hearing is generally referred to as an admit/deny hearing. In this hearing, the parent may admit or deny the allegations in the CHIPS petition, or remain silent. The admit/deny hearing may be combined with an EPC hearing if the parties agree. Otherwise, the admit/deny hearing will follow an EPC hearing. If the parent and child are not represented and request attorneys, they will be appointed at this initial hearing.

For most cases, an admit/deny hearing must be held no sooner than 5 days and no later than 20 days after service of the CHIPS petition. For cases involving Indian children, however, the admit/deny hearing must be at least 10 days after service and parties have the right to an additional 20 days if they request it.

If a parent denies the statements in the petition, or remains silent, a trial will be scheduled. If a parent agrees that the statements in the petition are true, the parent can admit the petition. If a parent agrees with some statements, but not others, the parent and county may negotiate an agreement whereby the county drops some allegations and the parent admits others. For example, if the parent agrees to admit to five out of six allegations, the county may agree to drop the sixth. Often the parties negotiate an admission in connection with an agreement on the services that will be provided as part of the case plan.

The court has the same authority whether the parent admits to one or six allegations. It is important, however, that only accurate facts be admitted because the admission can be used against the parent in later proceedings. One advantage of admitting a petition is that, if both parties agree, the court can withhold an
adjudication for 90 days. This is an appropriate resolution if the parent is addressing the underlying issues, such as receiving chemical dependency treatment. If the parent complies with the case plan, the entire case can be dismissed at the end of 90 days.

Parents need to make a realistic assessment about their position and whether they want to focus on contesting the county’s allegations in court, focusing on services that can change the problem that led to county involvement, or both. Because the law requires permanent decisions to be made within 6 months to a year after placement, focusing all energy on contesting the allegations may be counter-productive unless there is a clear and realistic chance of winning. If they want, parents can receive services and develop a case plan before the court decision.

If the petition is admitted, the case proceeds to a disposition hearing, which is explained later in this booklet. If a person remains silent, denies the allegations, or the court does not accept the admission, the court will issue an order making findings and proceed to pretrial.

What is a guardian ad litem (GAL)?
At the first court appearance, the judge must appoint a guardian ad litem (GAL) for the child, regardless of the child’s age. The guardian ad litem’s role is to carry out an independent investigation, maintain confidentiality of information, advocate for and monitor the child’s best interests in judicial proceedings. Judges rely on a guardian ad litem to provide an unbiased opinion about what is best for the child. The guardian ad litem may not also act as attorney for the child.

Who can attend the hearing?
The parents, the child’s legal custodian (if different), the child, the guardian ad litem, the county, and a tribal representative (if the child is American Indian), and attorneys for all parties. Any party can request that others, such as advocates and relatives, be allowed to attend the hearing. If any other party objects, however, that person may be asked to leave.

Are juvenile court hearings open to the public?
In general, no. However, there is a pilot project currently underway in 12 counties that allows for juvenile court proceedings and most court records to be open to the public. The 12 counties participating in this pilot project are Chisago, Clay, Goodhue, Hennepin, Houston, LeSeur, Marshall, Pennington, Red Lake, St. Louis (Virginia court only), Stevens and Watonwon. In counties that are not part of the pilot project, juvenile court records are generally available without a court order to:

1. the court and court personnel;
2. any party;
3. counsel for any party or the child; and
4. the county attorney.

What happens if the parent does not appear at the hearing?
If the parent was properly served, failure to appear may eventually result in the court finding the petition has been proved. The court may then order the child into placement, order the parent to do certain things, or grant other relief requested by the county. An advocate should stress how important it is that the parent be present for each and every court hearing in a child protection case.
TRIAL IF ALLEGATIONS IN CHIPS PETITION ARE DENIED

What if the parent denies the allegations in the petition?
A trial must then be held within 60 days of the EPC hearing or the admit/deny hearing, whichever is earlier.73 A pretrial conference will be scheduled at least 10 days before trial.74 The purpose of the pretrial conference is to see whether any issues have been settled, and to decide other procedural items, such as whether the child will testify. A trial may not be continued or adjourned for more than one week unless the court makes specific findings that the continuance or adjournment is in the child’s best interests.75

The petitioner (usually the county) has the burden of proving that the allegations in the petition are true. The county must also show what efforts have been made to help prevent an out-of-home placement. For American Indian children the trial must include testimony by an expert knowledgeable in the child-rearing practices of the child’s tribal community.76

Within 15 days of the completion of the trial, the court must issue its order stating whether or not the statutory grounds alleged in the petition have been proved.77 The court will order the petition dismissed if the allegations are not proven. If the judge finds the allegations have been proved, the case will proceed to disposition.

DISPOSITION HEARING

What happens at a disposition hearing?
At a disposition hearing, the court determines where a child will live and what services will be provided in the case plan. This hearing is held if the court has made an adjudication or the parent admits that the child is in need of protection or services. If possible, the disposition hearing should take place the same day as the adjudication or admission. Otherwise, the disposition order must be issued within 10 days of the date the court entered its adjudication.78

The court may order any one of the following dispositions:
(a) that the child be placed under the protection supervision of the county in the home of a parent of the child under conditions prescribed by the court;
(b) that the child live with a noncustodial parent with conditions prescribed by the court;
(c) that legal custody of the child be transferred to a child-placing agency or the county for placement in foster care;
(d) that a child age 16 or older live independently, under appropriate supervision, if the child has sufficient maturity and the county agrees with this alternative.79

A judge may also order that the child be placed with a parent who does not otherwise have legal custody, however, this does not confer legal custody on that parent. A child can also be ordered into the home of a father who is not adjudicated if the father cooperates with establishing paternity in order for the child to remain in his home. When the court orders an out-of-home placement for a child, the court must state in its disposition the intended outcome of the placement.80

At the disposition hearing the judge will review, modify and adopt a case plan which has been prepared by the county, the parents, the guardian ad litem and the child, if the child is old enough to understand.
CASE PLAN

Who must have a case plan?
A parent whose child has been placed away from home, whether voluntarily or not, must have a written case plan. The case plan must be completed within 30 days after the child is placed outside the home. The court may approve the plan, or modify the plan and order the agency to provide alternate or additional reunification services.

A parent and a child each have a right to representation in the development of their case plan, and must be told of this right at the time placement is made outside the home. Representation must be at public expense if the parent and/or child desire but cannot afford an attorney. Some counties, such as Hennepin, have dispositional advisors who are familiar with all the services available in the county and assist the public defender with making recommendations regarding services to be provided to the parent and/or child. Since most counties do not have such staff, an advocate can serve in a similar role. For each disposition ordered, the court will direct the county to prepare a written case plan that is to be developed after consultation with the child and the child’s parent, guardian or custodian, guardian ad litem and tribal representative (if the tribe has intervened).

What must be included in a case plan?
The case plan must indicate the actions to be taken by the child and the child’s parent or foster parent to ensure the child’s safety, and the services to be offered by the county to the child and the child’s parent. The court will review the case plan, and upon approval, incorporate it into its disposition order. The case plan must state what reasonable efforts (active efforts in the case of an Indian child) will be provided to the family. Reasonable efforts is explained in more detail in the following section.

The case plan must include a discussion of the following items:
1) the availability of appropriate prevention and reunification services for the family to safely prevent the removal of the child from the home or to safely reunify the child with the family after removal;
2) any services or resources requested by the child, the child’s parent or foster parent since the date of initial adjudication and whether those services or resources were provided, or the basis for denial of the services or resources;
3) the need of the child and family for care, treatment, or rehabilitation;
4) the need for participation by the parent, guardian or custodian in the plan of care for the child;
5) the visitation rights and obligations of the parent or other relatives during any period when the child is placed outside the home;
6) a description of any services that could safely prevent placement or reunify the family if such services were available;
7) the need for continued monitoring of the child and family by the appropriate local social services agency once the family has completed all services required in the case plan.

A case plan can be changed by agreement of the parties, or by court order. A party can request court review of the reasonableness of the case plan upon showing a substantial change of circumstances.
**REASONABLE EFFORTS and ACTIVE EFFORTS**

What are reasonable efforts?

*Reasonable efforts* means the exercise of due diligence by the county to use appropriate and available services to meet the needs of the child and the child’s family in order to prevent removal of the child from the child’s family; or upon removal, services to eliminate the need for removal and reunite the family.\(^{85}\)

The court must review the county’s efforts to determine whether or not they were reasonable. In doing so, the court will consider whether services to the child and family were:

1. relevant to the safety and protection of the child;
2. adequate to meet the needs of the child and family;
3. culturally appropriate;
4. available and accessible;
5. consistent and timely; and
6. realistic under the circumstances.\(^{86}\)

A child’s health and safety must be of primary concern in determining what efforts are reasonable. The burden is on the county to show that they have been, and are, making reasonable efforts to provide services and reunite the family where required.

**Does the county always have to make reasonable efforts?**

For non-Indian children, the county is not always required to make reasonable efforts towards reunification. Reasonable efforts are not required if the court determines that a termination of parental rights petition has been filed by the county stating a prima facie case that:

1. the parent has subjected the child to egregious harm;
2. the parental rights of the parent to another child were involuntarily terminated; or
3. the child is an abandoned infant.\(^{87}\)

*Egregious harm* is defined as the infliction of bodily harm to a child or neglect of a child, which shows a grossly inadequate ability to provide minimally adequate parental care.\(^{88}\)

Evidence of abandonment is presumed when a parent has had no contact with the child on a regular basis, has not demonstrated consistent interest in the child’s well-being for six months even though the county has made reasonable efforts to facilitate contact, or the child is an infant under age 2 and the circumstances show an intent not to return to care for the child.\(^{89}\)

If reasonable efforts are not required, a permanency hearing must be held within 30 days.

What are active efforts?

*Active efforts* are required only for American Indian children. The county must make active efforts to prevent placement and to reunite the family. As part of active efforts a county should assist the family in making connections to their tribe, and in enrolling the child if that has not already been done. *Active efforts* means the county must be proactive in helping the family.
At each point where the court is required to review the appropriateness of the county’s active efforts, the burden is on the county to show that they have been, and are, making active efforts to provide services and reunite the family where required. If a parent, child or tribe objects to out-of-home placement, an expert witness must testify whether active efforts have been made.\(^90\)

**CONCURRENT PLANNING**

What is concurrent planning?
Concurrent planning means that at the same time the county makes reasonable efforts to reunify a child with his/her family, the county also is developing an alternative plan for permanency in case reunification efforts do not work.\(^91\) Counties began using concurrent planning in 1998, and an evaluation will be completed by January of 2001. If a county decides to use concurrent planning on a case, the county must disclose its decision and both plans to all parties and to the court.\(^92\)

**RELATIVE or KIN CARE**

Can a relative care for the child?
Since the law provides that extended family members are the preferred foster parents, the county must ask the parent if there are any relatives who could care for the child. After identifying relatives, the county must notify them of the need for a foster care home for the child.\(^93\) To serve as a foster care placement, the relative must be licensed by the state or an American Indian tribe to care for children. A county may place a child with a relative who is not licensed to provide foster care if the following procedures for emergency licensure are met:

1. the county must conduct an initial inspection of the home where the foster care is to be provided to ensure the health and safety of any child placed in the home. Whenever possible, the initial inspection must be conducted prior to placing the child in the relative’s home. The inspection must be done no later than three working days after placing the child in the home;
2. at the time of inspection or placement (whichever is earlier), the relative being considered for an emergency license will receive an application form for a foster care license; and
3. whenever possible, prior to placing the child in the relative’s home the relative being considered for an emergency license must provide information required for the background study.\(^94\)

The emergency license holder must complete the foster care application and paperwork within 10 days of the placement. The county must help the license holder to complete the application.\(^95\)

If the application for an emergency foster care license is denied, the relative may request that the Department of Human Services review the denial. The child may not remain with the relative during DHS’ review. No further appeal is allowed if DHS upholds the denial.\(^96\)

Relatives who obtain foster care licensing are eligible for foster care maintenance payments. Relatives who have legal custody of the child transferred to them will no longer be eligible for foster care benefits. They may, however, be eligible to receive relative custody assistance payments.
A helpful booklet for non-parental relatives who are caretakers of children to learn more about their rights is the *Kinship Caregiver Resource Manual.*

**DISPOSITION REVIEW HEARING(S)**

**What happens at a disposition review hearing?**
During review hearings, the court looks at how the case is progressing. The court will look at what the parent and the county have been doing to determine the parent’s progress in achieving case plan goals and determine whether or not the county has provided promised services. At this point, the parent can demonstrate their compliance with the case plan. Parental compliance with the visitation schedule is extremely important.

If an attorney representing the parent believes reasonable efforts are not being made by the county, the attorney can use the disposition review hearings to hold the county to the case plan or seek changes in the case plan. A judge who determines that the county failed to make reasonable efforts is unlikely to return a child if the judge believes a risk to the child still exists. However, the judge may order services more appropriate to the parent’s needs. If the case proceeds to a Termination of Parental Rights Petition, a series of findings that reasonable efforts have not been made may weigh in favor of a finding that parental rights will not be terminated.

**What happens if a parent does not comply with their case plan?**
A parent who does not comply with their case plan may never have their child returned. An advocate should encourage a parent to ensure appropriate activities are included in a case plan. A parent must then comply with his/her case plan, or work with the county to have the case plan modified if the activities are no longer appropriate.

**How often are disposition review hearings held?**
If a child is placed outside the home, a disposition review hearing will be held every 90 days until the permanent placement decision. If the child remains at home, a review must be conducted at least every 6 months.

Foster parents, relatives caring for the child, and pre-adoptive parents must be given notice of the opportunity to be heard at all review hearings.

**PERMANENCY HEARING**

**What happens at a permanency hearing?**
At a permanency hearing, a decision will be reached as to permanent placement of the child, such as returning home, adoption, or permanent placement with a relative. If the judge determines that the child cannot return to the care of the parent, the judge must order one of the following three options:

1) Transfer of permanent legal and physical custody to a relative. This does not require a termination of parental rights.

2) Termination of parental rights. This leads to a search for an adoptive family for the child.
3) Long-term foster care. This can only happen if the child is age 12 or older. Parental rights do not need to be terminated to order a child into long-term foster care. This option is the last resort after reasonable efforts by the county have failed to find a family to adopt the child. A child in long-term foster care may stay there until at least his/her 18th birthday.100

Are there new timelines for the court to make a permanency decision for a child?
Yes. As stated earlier, the permanency hearing must be held within 12 months of removal for children age 8 or older. For a child under age 8, the permanency hearing must be within 6 months of removal. Removal refers to the date the child was removed from the home and placed in foster care.

The lengths of all out-of-home placements are cumulated. The calculation will include the lengths of all prior time periods when the child was placed out of the home within the previous 5 years. However, if a child has been placed out of the home for 12 months or more, the court may extend the total time the child may continue out of the home under the current petition up to an additional 6 months before making a permanency determination. The court can do this only if it has compelling reasons and finds it is in the best interests of the child.101

Clearly, these deadlines will impact parents with chronic substance abuse problems or mental illness. Given the time necessary to stabilize in recovery, it can be very hard for a parent with a substance abuse problem to meet these deadlines. Parents who are in jail will also be negatively impacted by the timelines. The interplay between the permanency law and ICWA has not been resolved. It is clear, though, that the permanency timelines alone would be insufficient for a termination of parental rights of an American Indian child.

TERMINATION OF PARENTAL RIGHTS PETITION (TPR)

How can parental rights be terminated?
The county files a petition with the court asking for termination of parental rights. The first stage in a TPR proceeding is an admit/deny hearing. This must be held not less than 10 days after serving the petition on the parent. The parent may admit, deny, or remain silent regarding the allegations in the petition. A court can also allow a parent to voluntarily terminate their parental rights if the parent provides written consent and has good cause for desiring termination of parental rights.102 A trial is held when termination of parental rights is involuntary.

Following a trial, the court may terminate all rights of parent to a child if it finds that:
(a) the parent has abandoned the child;
(b) the parent has substantially, continuously, or repeatedly refused or neglected to comply with the duties imposed on that parent by the parent and child relationship, such providing the child with necessary food, clothing, shelter, education, and other care and control necessary for the child’s physical, mental, or emotional health and development, and reasonable efforts by the county have failed to correct the conditions or would be futile and unreasonable;
(c) a parent has been ordered to contribute to the support of the child or financially aid in the child’s birth and has continuously failed to do so without good cause;
(d) a parent is palpably unfit to be a part of the parent and child relationship because of a consistent pattern of specific conduct before the child or of specific conditions directly relating to the parent and child relationship of a duration or nature that makes the parent unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental, or emotional needs of the child;
(e) following the child’s placement out of the home, reasonable efforts, under the direction of the court, have failed to correct the conditions leading to the child’s placement.

It is presumed that reasonable efforts have failed upon a showing that:
(i) a child has lived out of the parental home under court order for cumulative period of 12 months within the preceding 22 months. In the case of a child under age 8, when the child has lived out of the parental home under court order for 6 months unless the parent has maintained regular contact with the child and the parent is complying with the case plan;
(ii) the court has approved a case plan;
(iii) conditions leading to the out-of-home placement have not been corrected. It is presumed that conditions leading to a child’s out-of-home placement have not been corrected upon a showing that the parent or parents have not substantially complied with the court’s orders and a reasonable case plan; and
(iv) reasonable efforts have been made by the social services agency to rehabilitate the parent and reunite the family. ²⁰³

Who are the parties in a TPR proceeding?
Parties in a TPR proceeding include all those who qualify as a party in a CHIPS proceeding, plus a few more. Additional parties in a TPR include the child’s parents, including any noncustodial parent and any adjudicated or presumed father, any person entitled to notice of any adoption proceeding involving the child, and any other person who is deemed by the court to be important to a resolution that is in the best interests of the child.²⁰⁴ Those who automatically qualify as a party do not have to file a notice of intervention to be involved in the proceedings. As in a CHIPS proceeding, an unmarried father whose paternity has not been acknowledged or adjudicated is not guaranteed to receive notice of a TPR proceeding.

What happens if parental rights are terminated?
If the court grants the petition to terminate parental rights, guardianship is usually transferred to the state and the agency will look for a permanent placement for the child. The court may, however, transfer guardianship and legal custody to a licensed child-placing agency; an individual who is willing and capable of assuming the duties and responsibilities to the child; or the child’s tribe, if the child is American Indian.²⁰⁵ No termination of parental rights can be ordered for an American Indian child unless the court finds evidence beyond a reasonable doubt that parental custody is likely to result in serious emotional or physical damage to the child. The evidence of serious damage must include testimony by qualified expert witnesses knowledgeable about child rearing practices in the child’s community.²⁰⁶

If the court transfers legal custody of the child to an individual, it must give first preference to placement with a relative, unless it would be detrimental to the child or no relative is available.

Second preference is placement with an important friend with whom the child has lived or had significant contact.²⁰⁷
If parental rights are terminated and adoption is the permanency plan, the court must continue to review the case every 90 days to see whether progress is being made in finding a permanent placement for the child.108

ENDNOTES

2. 42 U.S.C §5101 et seq. 30. Minn. Stat. §260.761, subd. 2.
3. 42 U.S.C. §620 et seq; §670 et seq. 31. Minn. Stat. §626.556, subd. 10(h).
8. Minn. R. Juv. Ct. Proc. 61.02, subd. 1 and 2. 36. Minn. Stat. §626.556, subd. 10f.
11. Minn. Stat. §256.01, subd. 15. 39. Minn. Stat. §626.556, subd. 10i(a).
21. Minn. Stat. §626.556, subd. 4. 49. Minn. Stat. §260C.175, subd. 1(a) and (b).
59. Minn. R. Juv. Ct. Proc. 58.02, subd. 1 and 59.01.
60. Minn. Stat. §260C.141, subd. 1.
61. Minn. Stat. §260C.141, subd. 1(b).
63. Minn. Stat. §260C.178, subd. 1(b).
66. Minn. Stat. §260C.152, subd. 3.
68. Minn. Stat. §260C.163, subd. 5.
69. Minn. Stat. §260C.163, subd. 3(c).
70. Minn. R. Juv. Ct. Proc. 44.01.
71. Minn. R. Juv. Ct. Proc. 44.02.
73. Minn. R. Juv. Ct. Proc. 40.03, subd. 1(d).
74. Minn. R. Juv. Ct. Proc. 40.03, subd. 1(c).
75. Minn. R. Juv. Ct. Proc. 41.01, subd. 2.
76. Minn. R. Juv. Ct. Proc. 74.04, subd. 2(a).
77. Minn. R. Juv. Ct. Proc. 74.05, subd. 1.
80. Minn. Stat. §260C.193, subd. 5.
82. Minn. Stat. §260C.212, subd. 1(f).
83. Minn. Stat. §260C.201, subd. 6.
84. Minn. Stat. §260C.201, subd. 6.
86. Minn. Stat. §260.012(c).
89. Minn. Stat. §260C.301, subd. 2(a).
91. Minn. Stat. §260C.213, subd. 1(b)
93. Minn. Stat. §260C.212, subd. 5(a).
94. Minn. Stat. §245A.035, subd. 2 and 3.
95. Minn. Stat. §245A.035, subd. 5.
96. Minn. Stat. §245A.035, subd. 6.
97. The Kinship Caregiver Resource Manual is available through the Legal Aid Society of Minneapolis. To request less than 6 copies, call (612) 588-2099. For more than 6 copies, call (612) 827-3774.
98. Minn. R. Juv. Ct. Proc. 40.03, subd. 1(g).
100. Minn. Stat. §260C.201, subd. 11(e).
102. Minn. Stat. §260C.301, subd. 1(a).
103. Minn. Stat. §260C.301, subd. 1.
104. Minn. R. Juv. Ct. Proc. 57.01, subd. 3.
107. Minn. Stat. §260C.193, subd. 3(c).
108. Minn. R. Juv. Ct. Proc. 40.03, subd. 3(e).
APPENDIX F

CASE STUDIES FOR DISCUSSION
CASES FOR STUDY AND DISCUSSION

Note: These case studies are fictitious composites and are not meant to represent actual situations or persons.

Case #2—Mary
A woman, Mary, has a history of depression and mental health problems. Her boyfriend, Thomas, was abusing her and had been for two years. When Mary became pregnant with their child, Justin, Thomas was very angry and beat her, kicking her in the abdomen. By the time the baby was born, the couple was not seeing each other any longer. Mary had made only one report to the police about the abuse because she was afraid of what Thomas would do to get back at her.

Mary moved to live with her sister in another county, and things were going fairly well when she came home from the hospital. She felt that with her family’s help, life was getting better. When Justin was six months old, Thomas got a lawyer and tried to get custody. His lawyer used Mary’s mental health history to prove that she was not a fit parent, and complained that Mary had left so that their son couldn’t have contact with his father. Thomas won custody of Justin. Her lawyer did not bring in the history of domestic violence because there was so little evidence. In order for Mary to get visitation, she was told she would have to move back to the same county where Thomas was living.

Case #3—Sue Ann
Sue Ann is 14 years old. She was raped and beaten by a date, a young man from a high school in another town not far away. She told her mother about what had happened, but it was not reported to the police. She was terrified that this boy and his friends would come after her. Her father found out about it and called the local Women’s Crisis Center to get help for his daughter. Sue Ann refuses the services of the Center telling them, “It’s none of your damn business.” Now Sue Ann has dropped out of school, is considered truant, is shoplifting, and her parents say there is nothing they can do. They called child welfare to see about a foster placement, but she was not considered to be in imminent danger, and thus the case was not assigned.

Case #4—Jones family
A child protection worker gets involved with the Jones family when she is sent out to investigate a report due to an 8-year-old’s report to a teacher at school that her parents are fighting a lot, and last week her dad knocked her mother down the stairs while she was holding the girl’s two-year-old brother. The CP worker calls ahead and sets a time to visit with Patricia Jones, the mother. When she arrives at the house, Patricia comes to the door. She has a cut above her right eye, and seems to be walking with a slight limp, favoring her left leg. This is the first CP report on this family, but the CP worker checked with the local sheriff’s office and found out that there have been about four squad calls to the house in the past two years for domestic disturbances.

Case #5—Tyanna & Malik
Tyanna’s son, Malik, was taken away from her and placed in foster care when he was just 2 days old. Tyanna, age 29, had been beaten by her boyfriend, the baby’s father, while she was pregnant with Malik. That incident was not the first time this had happened, but Tyanna had decided that she was going to move away to California and was not going to take any more abuse. During a routine public health screening when a nurse at the hospital asked Tyanna about domestic violence, she answered candidly about what had
gone on with James. When James came to the hospital the next day and offered to give them a ride home when they were released, Tyanna reluctantly agreed, having only a taxi or bus to get home otherwise. The nurse had spoken to the social worker about what had happened in the household, and the social worker and nurse decided that they had to call child protection and make a neglect report. (The finding of the CP investigation was “neglect: failure to protect the child from dangerous or threatening circumstances.” In this jurisdiction, a child can be placed in out-of-home care if a parent has engaged in acts of domestic violence. Incidents of domestic violence in the presence of a child are sufficient grounds for a CP report of neglect.) On the grounds of the police calls regarding the violence and the fact that “Tyanna had let a dangerous person back into her home where a newborn resided,” he was placed in foster care.

Case #6—Michelle & John

Child Protection has decided to investigate a case in which there are three young children, ages 3, 4, and 7, who are living with their mother, Michelle, who was recently attacked by her estranged husband. Their father, John, and mother are currently separated and there has been a filing for divorce. Michelle has taken out four previous restraining orders against John over the course of the past five years. He has violated each one, and this time he showed up at her new apartment at midnight demanding to see his children. Terrified of what he would do if she didn’t let him in, she opened the door. Then she saw that he seemed drunk and that his car outside was left running. She tried to close the door, but he pushed his way in. The 7-year-old heard the commotion from down the hallway and raced back into his room, hid his younger brother and sister in the closet, and called 911. The police arrived after about 25 minutes, but John had left. He was later located and arrested, but he was in prison for only three days and then was out awaiting trial. During that time he had a friend make calls to Michelle threatening to kidnap the children if she testified against him. By the time the CP worker arrived at the house to talk with Michelle, she is downplaying what occurred that night. The CP worker notes that on a previous investigation four years ago, she also recanted the report she gave to the police. The worker returns to her supervisor and at the unit meeting discusses her dilemma with her unit colleagues.

Case #7—Kiva

Kiva comes to Women’s Place Shelter with her two children, 8-year-old Maurice and 4-year-old Laurel. This is her first time at Women’s Place but she has been to other shelters in the past. When she arrives, the children go into a play area while an advocate conducts an intake and listens to what is going on for her and her family. Kiva tells her that their father, with whom they have all been living, has been pushing her around for a few years, and that she’s had enough of it. Tonight before she arrived he had stormed out of the house in a rage taking money she had gotten from her paycheck that she had just cashed, and in the process of storming out he’d thrown a mug across the room where it smashed on the wall.

As they are talking, Laurel comes back to her mother and tries to get her mom’s attention by saying “Mama, Mama” and pulling at her dress. Kiva repeatedly pushes her hand down to make Laurel release her skirt. The advocate notices that Laurel’s eyes are all red and swollen, her nose is running fiercely, and she has a large purple bruise on her right cheek and a long scar on her arm. Just then, Kiva hollers loudly at Laurel to get off her and knocks her to the ground. Laurel collapses to the ground at her mother’s feet in tears. Maurice, hearing his sister’s crying, comes racing into the room with a look of panic on his face and runs to her, bundling her up in his arms and smoothing her hair.
Case #8—Annie

Annie, age 28, is a Native American woman who has been battered over the course of seven years by her partner Thomas, age 32, a non-Indian man. There are also other issues complicating her story. They have two children, 9-year-old John and 6-year-old Patricia; the local CPS and tribal social services have been involved with the family. Patricia was apparently sexually abused, John has been hit by his father, and there is a history of alcohol abuse in the family. Thomas wants to have custody of the children. In the past, however, Thomas has been the perpetrator named on a CHIPS petition due to the assault of John. Thomas’s abuse of both Annie and the children is a red flag for those who are trying to keep the children safe.

Annie has a lawyer from Legal Aid who is assisting her with the ICWA issues, and who is also well-versed in domestic violence issues. Annie has an OFP against Thomas. Meanwhile, Thomas is persistent in his attempts to paint a picture that Annie is an unfit mother. He calls the police, child protection, relatives, and even legislators with false allegations that Annie is drunk and has left the children unattended. In some cases, local sheriff’s deputies have gone to her home after receiving these reports only to find nothing that indicated drinking, nor abuse or neglect of the children.

Annie has had an alcohol problem, but is on substance abuse medication. Her CP worker, Carol, has worked diligently with her on all the issues, but has little understanding of the dynamics of chemical dependency. Carol feels that if Annie “really wants the kids, she’d just sober up, stop drinking, just plain quit.” Her case plan with Annie includes maintaining sobriety. Annie really wants to keep her children, but knows that the drinking is an issue, and something that is keeping her stuck.