

REASONABLE EFFORTS OR UNREALISTIC EXPECTATIONS

A LOOK AT HENNEPIN COUNTY
CHILD PROTECTION CASES



WATCH



Bringing a public eye to justice

**Reasonable Efforts or Unrealistic Expectations
A Look at Hennepin County Child Protection Cases**

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WATCH's mission is to make the justice system more effective and responsive in handling cases of violence against women and children, and to create a more informed and involved public.

Every day trained WATCH volunteers observe court and report on what they see. WATCH follows up with court staff and committees to recommend improvements. Our experience shows that when the public is present in court, everyone does a better job.

- WATCH was founded in 1992 in Minneapolis, Minnesota
- WATCH trains more than 60 volunteers and interns each year who monitor over 4,000 hearings
- Court personnel and advocates for women agree that public scrutiny of the courts leads to improvements
- WATCH supports court monitoring across the U. S. with on-site and web-based training

WATCH is committed to ending racial, cultural, and gender bias in the courts and to reflecting that commitment at all levels of our organization.

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Mary Lay Schuster brought extensive research expertise to the project, served as our primary partner in designing and implementing the project, with a primary emphasis on the role of guardians *ad litem* in child protection cases. Mary is a professor in Writing Studies at the University of Minnesota where she is also a faculty fellow at the law school. She has volunteered with WATCH as a courtroom monitor and has collaborated with WATCH on the 2006 Victim Impact Statement Study. Amy Propen worked with Mary on both projects. She is an Assistant Professor at York College in Pennsylvania and received her PhD in Rhetoric and Scientific and Technical Communication from University of Minnesota.

Eight dedicated WATCH volunteers donated 665.5 hours monitoring CHIPS hearings. In addition, Kristine Schneider spent an additional 89 hours doing data entry of information monitors collected so it could be sorted and analyzed for this report and Tim Davis spent 10 hours creating the bibliography.

Glenda Dewberry Rooney, former WATCH board member and professor of social work at Ausburg University, is dedicated to eliminating racial bias in social welfare policy and practice and was an early champion of this project. She opened many doors to us, as well as advising us all along the way.

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I. EXECUTIVE SUMMARY

CHIPS cases in Minnesota

In June 1998, the Minnesota Supreme Court opened Children in Need of Protection or Services (CHIPS)¹ cases to the public for a three-year pilot project in 12 counties, including Hennepin. Prior to this, CHIPS cases were closed to the public, as they were in most United States jurisdictions, due to the longstanding rationale that closed courts protected the privacy of abused children. Still, many advocating for system reform believed public scrutiny could lead to improvements. As then-Minnesota Supreme Court Chief Justice Kathleen Blatz said, “It’s difficult to understand society’s role in the welfare of children if we can’t evaluate this huge system ... Openness is a conduit through which a lot of good things can happen.”² Following the pilot project, the Minnesota Supreme Court ordered that CHIPS hearings in all Minnesota courts be open to the public effective July 1, 2002.

WATCH initiated a two-year project monitoring CHIPS cases during the pilot project and released a report with findings and recommendations in 2001. In 2008, WATCH returned to juvenile court to again monitor child protection cases and make recommendations to improve how cases are handled. Our primary focus was to:

- document how CHIPS cases move through the court system
- examine the role of the guardian *ad litem* (GAL) in CHIPS cases
- document how domestic violence is handled in CHIPS cases
- examine how the criminal, family, and juvenile courts work together when there are multiple cases involving the same family.

This report is the result of courtroom monitoring, interviews with key stakeholders, and case reviews. WATCH conducted the following activities to gain a sound understanding of CHIPS cases in Hennepin County:

- Monitored approximately 435 hearings involving 129 cases between August 2008 and December 2009
- Interviewed 28 guardians *ad litem* working in Hennepin County
- Interviewed eight juvenile court judges who currently preside or previously presided over CHIPS cases
- Facilitated two focus groups involving thirteen Hennepin County child protection workers
- Reviewed redacted versions of 47 child protection petitions
- Facilitated two group meetings involving partner programs

1 There are several case types under the heading of CHIPS; this report covers child protection, termination of parental rights, and voluntary placement cases.

2 Chanen, David. “Child protection system’s opening creates few ripples.” *Star Tribune* [Minneapolis] 22 Mar. 1999, metro ed.: 1A.

The purpose of this report is to identify ways in which Hennepin County could provide greater support for families throughout the CHIPS process and improve the systems in which judges, social workers, and guardians *ad litem* (GAL) are operating. In addition to this report, Mary Lay Schuster, longtime WATCH monitor and professor at the University of Minnesota, compiled a companion report on the GAL program to assist in making improvements to that program. Both reports are posted on the WATCH website at www.watchmn.org.

Typical courtroom scenario (noted by WATCH monitors)

A WATCH monitor was sitting in a courtroom along with several other people waiting for an Emergency Protective Care (EPC) hearing to begin.³ An attorney walked in followed by two small African American children, a boy and a girl, who both appeared to be younger than 10 years old. As the girl walked into the courtroom, the monitor could see tears streaming down her face.

The children had spent the previous couple of nights at St. Joseph's Home for Children. They were attending the first hearing related to the county's child protection investigation after witnessing a domestic assault. An aunt and grandmother of the children were sitting in the gallery. At least eight court staff were also present: the judge; clerk; guardian *ad litem*; two attorneys, one for the county and one for the children; and three child protection staff—a field worker, a kinship worker, and an investigative worker. The hearing was being held on behalf of four children ranging in ages from three to 13. One of the absent children was living with the aunt, but would later be taken to a shelter, and the other had run away from home.

According to the monitoring notes, the mother and her children had been homeless and moved in with the father of one of her children to get off the streets. The petition stated that both the mother and father were chemically dependent and the father had a criminal history of domestic violence. In this particular situation, the mother had responded to his violence by stabbing him with a knife, and the children had disclosed this at school. The mother was arrested, but the case was not investigated, and no charges were filed against her. The father was neither arrested nor charged, although the petition indicated he had kicked in the door, thrown the doorknob at the children's mother, grabbed her hair, pushed her on the floor, and was "twisting her neck." After she stabbed him, she ran out of the house and drove the children to school, telling them to go to their aunt's home afterwards.

3 An Emergency Protective Care or Hold hearing must be held within 72 hours of a child's removal from the home to determine in court whether the county can "hold" the child in out-of-home custody. In some cases the judge might allow the children to return home, and still find probable cause for a CHIPS case.

We chose to highlight this case because it contains elements monitors saw time and again in the cases they monitored, which are:

- The family is from a *racial minority population*. A February 2010 report released by the Minnesota Department of Human Services (DHS) shows that, in spite of recent efforts to reduce racial disparities in child protection cases throughout the state, little has changed since 2005. According to the report, “African American and American Indian children were four to six times more likely to be the subjects of child protection assessments and investigations than were White children.” Research further indicates children of color are more often taken from their parents, are kept away from home for longer periods of time, and are placed in a greater number of shelters or foster homes than their White counterparts.⁴
- The primary caregiver with whom the children live is *female*. According to national data, almost a third of the families in contact with child protection services are single, female-headed families.⁵ Mothers are held accountable more frequently for the welfare of their children than fathers, who are more likely to be absent or only marginally involved in their children’s care.
- The primary caregiver(s) and the children live in *poverty*. National research indicates that poverty and reports to child protection for abuse and neglect are inextricably linked, something which holds true for Minnesota.⁶ This link has been attributed to increased maltreatment due to higher levels of stress in the family,⁷ fewer resources available to assist poor families such that their difficulty or inability to provide the basic necessities to their children becomes “neglect”, and the increased scrutiny of poor families because of their involvement with mandated reporters through government-sponsored benefit programs, such as Minnesota Family Investment Program (MFIP) or Temporary Assistance for Needy Families (TANF).

4 Minnesota Department of Human Services: Children and Family Services. Minnesota Child Welfare Disparities Report. Minnesota Department of Human Services, 2010.

5 Schlecter, Susan, and Jeffrey Edleson. “In the Best Interest of Women and Children: A Call for Collaboration Between Child Welfare and Domestic Violence Constituencies.” Minnesota Center Against Violence and Abuse (1994). 2 Mar. 2010 <[http://www.cwla.org/CONFERENCES/2007teleconference071106 handout3.pdf](http://www.cwla.org/CONFERENCES/2007teleconference071106%20handout3.pdf)>.

6 “The most common risk children experience is living in financial hardship or poverty. An analysis of census data regarding poverty rates for children in Minnesota reveals that, of all children, African American and American Indian children live in families with the highest levels of poverty: 5. Minnesota Department of Human Services: Children and Family Services. Minnesota Child Welfare Disparities Report. Minnesota Department of Human Services, 2010.

7 Most national studies instead show that while greater numbers of people living in poverty are *reported* for child maltreatment, the actual *incidence* of child maltreatment among poor people is no greater than among others in the population. Shook Slack, Kristen. “The Elephant in the Room: Poverty’s Role in Child Maltreatment Risk.” California Linkages Conference. Sacramento, CA. 8 Sept. 2008.

- The CHIPS case was initiated because of *domestic violence*. It is estimated that in 30-50 percent of domestic violence cases, child maltreatment is also alleged.⁸ In Minnesota, a CHIPS case can be opened for investigation if a child is present during a domestic assault in which the parent is injured, or if the child intervenes in the assault.⁹ In such cases, criminal charges may also be filed against the abuser, but frequently they are not. Rather than a criminal matter where charges are filed against the perpetrator, the assault then becomes a child protection case with allegations against the victim.
- The primary caregiver(s) is *chemically dependent*. Many reports of neglect to child protection are a result of parental chemical dependency. The child protection workers who participated in WATCH's focus groups estimated that drug or alcohol abuse is present in 90% of the cases they investigate. Chemical health evaluations and random urinalysis or drug tests are standard elements of many parents' case plans.

Women of color who are struggling with alcohol or drug addiction, living in poverty, and frequently victimized by domestic violence are over-represented in CHIPS cases. With little or no community support, in a relatively short period of time, women are expected to obtain stable housing, attend a multitude of support groups and parenting classes, and break ties with the father of their child(ren) if he is abusive. If their children have been removed from their care and they are unable to meet these standards set by child protection within the mandated time frame, they face the possibility of permanently losing their children.

Other characteristics common to CHIPS cases include mental illness or developmental disabilities of one or both parents. In these cases appropriate community resources for families may be lacking or insufficient. It is evident from the interactions WATCH had in court, in interviews, and in focus groups that individuals working on child protection cases are concerned about families and seeking solutions to the problems they face. But the project findings show that, among other things, inconsistent communication, burdensome case plans, inadequate funding of county and community services, make it difficult for many families to succeed.

This report focuses on elements of the scenario above recognizing that it is often social and economic inequities that lead to a child protection report and investigation. It is because of this that the focus of child protection needs to shift away from how a mother has failed her children and address the ways in which society has failed the family. This shift in thinking requires that we identify the structural changes needed to provide stability and nurturing to families. Everyone in the system should be focused on bolstering the family's strengths and support systems with the same commitment used to investigate and assess the risk to the children.

8 Edleson, Jeffrey et al. Assessing Child Exposure to Adult Domestic Violence. Minnesota Center Against Violence and Abuse, University of Minnesota. 8 Feb. 2007: 964.

9 Minnesota Statute §626.556

This report reviews the child protection cases monitored by WATCH providing information on the demographics of the children and subjects of the child protection investigations; examining how domestic violence is handled; and how case plans are used to address ongoing concerns such as mental health and chemical dependency. We include our monitors' impressions of the courtroom environment and the role of the guardian *ad litem*. Most sections conclude with a short list of recommendations. The full list of recommendations is also included at the end of the report on the final page.

II. PROJECT DESCRIPTION AND METHODOLOGY

Volunteer training and supervision

Eight volunteers were specially trained in October 2008 and June 2009 to monitor CHIPS cases. The six-hour trainings included speakers from the Minnesota Indian Women's Resource Center, St. Joseph's Home for Children, CornerHouse Interagency Child Abuse Evaluation and Training Center, and the Hennepin County Guardian *ad litem* Program. Speakers shared their experience working with abused and neglected children and discussed their role in working to protect children. See Appendix A for the volunteer training agenda.

In addition to the training, volunteers initially were accompanied to court by WATCH staff. Volunteers were then assigned cases and began the process of observing hearings and trials (from start to permanency). Volunteers were asked to monitor a minimum of two shifts per month during the study; each volunteer exceeded this requirement. Volunteers were briefed before and after each court shift, and four group debriefings were held to give volunteers the opportunity to share impressions of the hearings and to address any challenges or concerns. The meetings also functioned as a means to ensure accurate, consistent data collection. See Appendix B for bios of CHIPS volunteers.

Court monitoring

Eight volunteers and two staff members spent 665.5 hours monitoring 435 appearances involving 129 cases. See Appendix C for sample monitoring forms. The hearings that were monitored included:

- Emergency Protective Care (EPC) hearings held within 72 hours of a child being removed from the home because of suspected abuse or neglect
- A variety of review hearings documenting parental involvement/compliance with services included in the case plan
- Hearings regarding placement decisions, including those mandated by the federal Indian Child Welfare Act (ICWA)
- Permanency hearings as state statute requires that after six months or a year, depending on the child's age, a permanent plan must be put in place to avoid prolonged out-of-home placements
- Transfer of legal custody hearings where parental rights are not terminated, but legal custody of a child is transferred, usually to a relative
- Termination of parental rights hearings where the parents' culpability for the abuse or neglect is determined and options in cases where parents are unable or unwilling to meet court orders is assessed

WATCH volunteers monitored CHIPS hearings approximately three days a week. Afterwards, monitors met with staff to talk about what occurred at the hearing and to briefly review their forms. At the end of each week, a WATCH staff member read through the monitoring forms and contacted volunteers if their observations needed clarification.

Interviews

The Guardian *ad litem* Program in the Fourth Judicial District Juvenile Division provided WATCH with 46 randomly selected names and contact information from their over 250 GALs.¹⁰ Of the 46 GAL's WATCH contacted, 28 agreed to a 45-minute face-to-face interview. Twenty of the 28 guardians were volunteers, six were part-time paid contractors, and two were full-time employees of the program. Twenty-three were female, and five were male, with experience ranging from serving in three to 473 CHIPS cases, representing from seven to 940 children. Their ethnicity included White, African American, Asian American, and American Indian. See Appendix D for the guardian *ad litem*'s interview questions.

To understand more about the role of the GAL, Mary Schuster and Sarah Coulter attended 20 of the 40 hours of GAL training and reviewed the National Court Appointed Special Advocate Association Volunteer Training Curriculum.

Eight juvenile justice judges, two male and six female, serving and having recently served in juvenile court, also agreed to similar interviews. See Appendix E for the judges' interview questions.

Focus groups

In February 2010, WATCH facilitated focus groups with Hennepin County child protection workers to deepen WATCH's understanding of CHIPS case. Thirteen workers from the departments of screening, investigation, and field participated. See Appendix F for the consent form and focus group questions.

In addition to focus groups, WATCH staff convened two meetings with community partners. The purpose was to solicit their input to the most important issues in CHIPS cases, and to bring their expertise and perspective to the report and recommendations. Appendix G provides a list of the community partners involved in this review process.

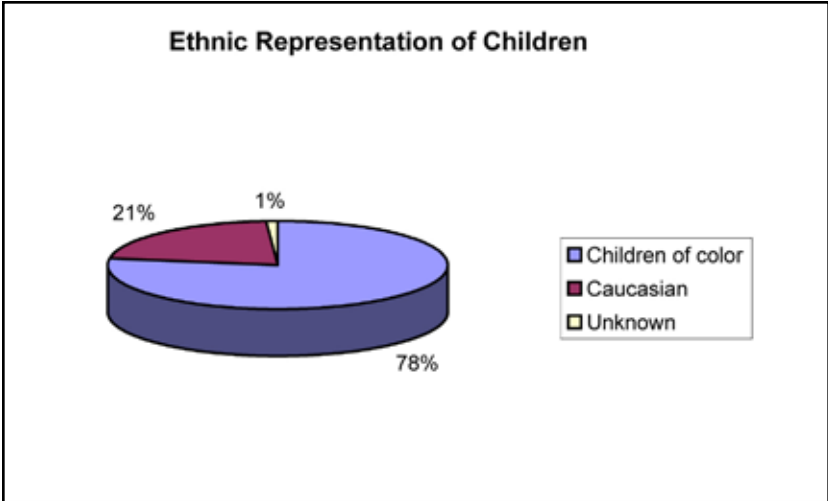
¹⁰ As of March 22, 2010, there were a total of 252 GALs in the Guardian *ad litem* Program, with 235 volunteers carrying 50% of the case load, 12 contractors working part-time and carrying 26% of the case load (these contractors were scheduled to be phased out by June 30, 2010, in a reorganization of the Program), and 5 full-time staff members (4 of whom were Indian Child Welfare specialists) carrying 22% of the case load. There were 832 open cases in Juvenile Court serving 1,149 children.

III. PROJECT FINDINGS

Children

A total of 250 children were *known* to be involved in the 129 CHIPS cases WATCH monitored. Children were rarely present for court hearings. Monitors relied on what was said in hearings and on court petitions (when available) to determine the number of children included in each case. Children were absent from hearings for a variety of reasons, including scheduling conflicts with school and other activities, foster parents' concerns that the hearing might be too traumatizing, and in some cases, by their own choice.

WATCH monitors noted the over-representation of families of color in CHIPS hearings. Sixty-nine percent of the primary caretakers or guardians were from communities of color, and 78 percent of the children who were subjects of the complaints to child protection were from communities of color, with the highest representation being from the African American community at 47 percent.



The racial breakdown of the cases WATCH monitored is consistent with Hennepin County's 2008 data on child protection investigations, which indicate that 81 percent of investigations involved children of color, while only 19 percent involved White children. To put this in perspective, White children under the age of 18 years made up 67% of the county's youth population, and minority children made up 33%.¹¹ In spite of efforts to implement strategies to reduce disparities, recent data show that, "all children of color and tribally affiliated children continue to be over-reported to child protection services, were more likely than White children to receive a determination of child maltreatment, and spend more time in foster care in Minnesota."¹²

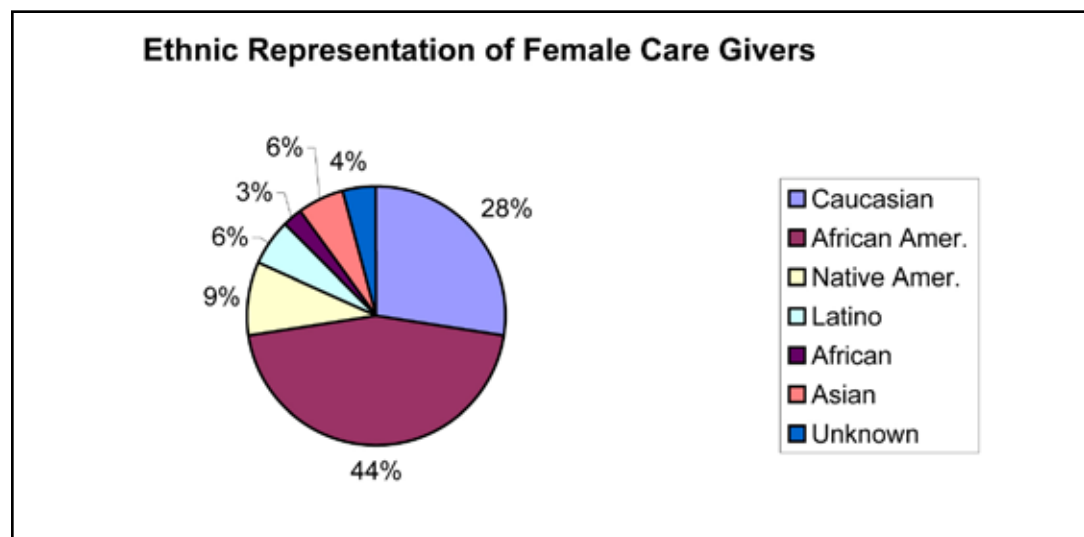
11 Minnesota Department of Human Services, Minnesota Social Service Information Systems. Data pulled 3/10/2009.

12 Minnesota Department of Human Services: Children and Family Services. Minnesota Child Welfare Disparities Report. Minnesota Department of Human Services, 2010.

Hennepin County is taking a number of steps to address racial disparities in child protection cases. Cultural competency training for child protection staff is one element of a multi-phased effort to strengthen connections with communities overrepresented in the child welfare system. Another element is the Family Healing and Restoration Network, a collaboration between Hennepin County Human Services and African American churches.

Female-headed families

As mentioned previously, women are more involved with child protection cases than are men. According to monitors' observations in our sample, 93% (120) of the parents or guardians providing primary care for their children were female. This was most frequently the biological mother, but children also lived with older sisters, aunts, grandmothers, and adoptive mothers. The petitions identified 177 fathers in the cases monitored, but few were involved in the court process or present in court. As illustrated in the chart below, the majority of the women who were subjects of the child protection petitions were women of color.



Approximately 85 percent of reports to child protection in Hennepin County are made by mandated reporters (persons required by law to report suspected abuse or neglect, including teachers, doctors, and social workers). Seventy percent of the cases reported to child protection involve neglect, including medical neglect, educational neglect, or neglect related to inadequate housing.¹³ Hennepin County uses a structured decision-making tool to determine whether to open a case for investigation. The tool assesses a variety of factors deemed important to child safety, such as injuries to the child, including imminent risk of injury, the availability of safe housing, whether there is domestic violence, whether the parents' mental health or chemical dependency is in question, and the status of other caregivers.

¹³ Ibid.

“...you know you see a lot of poverty, you see parents who can’t even go to St. Joe’s [shelter] to visit their kids unless the county gives them a bus card.”

- Guardian ad litem

Reduction in Emergency Protective Care/Hold hearings

Monitors noted a significant drop in the number of EPC Hold hearings starting in the spring of 2009 and continuing throughout the project. At the outset of the project there were typically two to three EPC hearings scheduled each day with as many as five hearings in a day. This number dropped to zero to two cases per day. This drop in hearings was a topic of conversation in courtrooms among workers, attorneys, clerks, and judges. When speculating as to why the numbers were lower than normal or average, it was not uncommon for people to suggest that perhaps fewer reports were being investigated because of budget cuts to line staff in child protection. It is beyond the scope of WATCH’s project to investigate this reduction, but we mention it because it was a concern raised frequently by WATCH monitors.

WATCH recommendation:

- *Conduct an independent investigation into the reduced number of reports of child maltreatment and the number of reports accepted for assessment and investigation.*

Domestic violence

Twenty-seven percent (35) of the cases WATCH monitored involved domestic violence—either the case was initiated because of a domestic assault, domestic violence counseling was part of the mother’s case plan, or domestic violence was discussed as an issue at a hearing. In 12 of the cases involving domestic violence, children were present or witnessed the abuse, and in 13 cases, one or more caregivers was also chemically dependent. Eleven cases involved either stabbings or strangulation.

Our interviews with professionals and volunteers working with CHIPS cases revealed differing views on how to address battering in the context of child protection. One worker stated that the presence of domestic violence means, “*We get a free pass to do what we’re supposed to do and protect the children.*” This individual also expressed the opinion that, “*Kids are often not removed by police when there is domestic violence, but they should be.*” Another shared her concern that some women are afraid to call 911 even if they are experiencing increased violence when they are trying to leave an abusive relationship because they fear “getting tangled up” with child protection.

Criticism by advocacy organizations that battered women are punished for their abuser’s actions when a child protection case is opened has caused child protection workers to feel conflicted about how these cases are handled. While workers sympathize with battered women, they are obligated to ensure children’s safety. Several workers noted that child protection is more likely to allow children to remain at home with their mothers and close a case if the level of violence is low and the woman obtains an OFP against the abuser. If the case gets reopened, one interviewee remarked that “it gets worse for the woman because she has endangered her kids” again.

Some interviewees emphasized the unfairness inherent in these cases. One described it as a “double punishment” because child protection and the court require the mother to leave the abuser, but if she does, she becomes solely responsible for the emotional and financial needs of her family. For women already living in poverty, or those with few social supports, it often becomes difficult or impossible to take care of the family’s basic needs.

The requirement that she separate from her abusive partner can result in the loss of income and housing, both of which are necessary for having the children returned to her care. Subsidized housing vouchers are based on the number of people in the family living in the dwelling. If children are removed from the home, battered women may lose their subsidized housing. As one interviewee pointed out, “The woman will likely lose her housing once the kids are gone. How does she maintain her household?”

Another unfair and troubling aspect of these cases is the likelihood the abuser will not face criminal charges for his violence, while the victim will still be held accountable by child protection. The following case illustrates how battered women are held responsible for the violence committed by their abusers and labeled “uncooperative” by juvenile and criminal court.

3/28/09 Police were called to a house regarding a domestic assault in progress. The victim told officers that her boyfriend (also the father of her children) was high on crack cocaine and had hit her in the face and head several times. The victim was seven months pregnant and was holding one of her children during the assault. She also told police he had assaulted her previously, but she had not reported it. The suspect fled the scene before police arrived and was never arrested or charged.

The case was referred to child protection for a family assessment. The victim moved into a shelter with her children, but declined to file for an OFP because she “hoped he would get clean, and everything will be fine.”

5/14/09 Police responded to another domestic assault. The victim told police officers that her boyfriend, had been drinking and became angry with her when she asked him to help with their kids. She stated that he assaulted her, including pistol whipping her with a BB gun for over an hour. Her two children were present during the incident, and she tried to protect and shield them during the assault. She was eventually able to escape after the defendant passed out. He was arrested at the scene and was charged with felony second degree assault and prohibited person in possession of a firearm. The children were temporarily removed from her care.

5/21/09 In an interview with child protection on this date, the child protection worker reported in the CHIPS petition that the victim “minimized the issues of domestic violence and substance abuse in her relationship with the defendant,” stated that his selling drugs was “bringing in extra cash/food for the family,” and said that it was “more harmful to have the kids away from their father.” The petition also noted that the victim “refused to obtain an order for protection against the defendant because he was still in jail.”

8/18/09 The charges against the defendant, who had been released, were dismissed because the victim was unwilling to testify or participate in the case investigation.

11/13/09 The victim told police officers that she had been assaulted by her boyfriend, who was passed out inside her house. She said earlier that night, he had gotten drunk and punched her in the face, pulled her hair, and knocked her head into the wall. Fearing for her safety, she waited until the defendant fell asleep, snuck out a window, and called police. Officers entered the house and arrested the defendant. The victim also told the officers that she obtained an order OFP against the defendant the month before. The defendant was arrested and charged with felony domestic assault and violation of an OFP. On 12/17/09, a warrant for the defendant's arrest was issued after he missed a court hearing. WATCH learned from the county attorney and domestic abuse advocate that the defendant left the state. His criminal case is still pending.

12/3/09 At the CHIPS hearing, the victim spoke about her efforts to follow her case plan and her struggles to get enough money to obtain housing. She said she felt like no one appreciated what she's done. When she was questioned by the county attorney about why she did not want to cooperate with the criminal case and OFP process initially, she said she was afraid the defendant would become angrier with her. The monitor noted the judge telling the victim, "You are here because he hits you. The criminal case and juvenile court cases are connected. Until you see it, you can't protect your kids. It needs to be safe in the house." After the hearing, the monitor heard the victim say, "No one is trying to help me; I'm all alone."

3/30/10 The dad's parental rights were terminated, and the children went home to their mom on a trial home visit. The case remains open, and the children will likely be returned to their mom under protective supervision. The CHIPS case is still scheduled for trial, but could be dismissed if child protection decides the children are no longer in danger.

The victim's perception that she was all alone and no one was trying to help her illustrates the importance of changing the way child protection and the courts handle domestic violence cases. In this case, the woman was correct—compared to everyone else who is a party to the CHIPS matter, she is the only one without someone fighting for her, focusing on her protection, and looking out for her best interests.

Though the victim was characterized as "uncooperative" by the court, it could be argued that the justice system did not cooperate with her. When she called the police the first time after being assaulted, she took her children to a shelter. The assailant was gone by the time police arrived and was not arrested or charged for that crime. She notified the police again when she was assaulted two months later, and the children were temporarily removed from her care. The abuser was arrested and charged for the crime, but once again, was not held accountable for it as the charges were dismissed. The CHIPS petition says that the mother is 'okay' with illegal drug sales which was a strike against her, but no one in the justice system did anything to stop the sale of illegal drugs in her home. Why was she expected to put an end to it when the criminal justice system wouldn't? Finally, she sought protection again by obtaining an order for protection and calling the police after the third assault. This time the defendant was arrested and charged, but he bailed out of jail and fled the state.

It was appropriate and required by law that child protection intervene in this case and attempt to help the mother understand that if she remained with her abuser, her children would not be safe. The criminal system failed her by not holding her abuser accountable for his assaults and child protection failed to help her understand that her safety is as important as the safety of her children. There is good evidence that protecting battered women results in greater safety for children.

The Family Violence Department of the National Council of Juvenile and Family Court Judges (NCJFCJ) states that “making adult victims safer and stopping batterers’ assaults are two important ways to remove risk and thereby create permanency for children.”¹⁴ The focus of the child’s safety cannot be separated from the mother’s safety in a situation of battering. According to a training manual created by the NCJFCJ, protecting mothers does not always result in increased safety for children, but it is the “best hope for stability.”

To link the safety of children to the safety of their mothers is the goal, although it may not always work in practice. Some battered mothers, for example, seriously maltreat their children or remain in violent relationships that are dangerous to their children despite repeated efforts to provide safety resources. Some batterers may not stop their violence despite intervention.... However, in many cases, trying to make mothers safe does make children safer and offers children their best hope for stability.¹⁵

The increased understanding of the complexity of domestic violence in child protection cases has influenced how child protection intervenes in cases, but greater emphasis needs to be focused on the mother’s safety as a means to keeping the children safe. This would likely require that risk assessments and safety planning be a part of all child protection cases involving domestic violence. More collaboration with domestic violence advocacy organizations could result in better outcomes for battered women and their children.

Outcomes of domestic violence cases

Of the 35 cases that involved domestic violence, the case outcomes are as follows:

- The children were reunited with the non-offending custodial parent in 23 of the cases.
- The children were reunited with an offending custodial parent in one case.
- Six custodial parents rights’ were terminated (3) or transferred to another caregiver (3).
- Five cases are still pending.

With the limited information WATCH has access to, it is difficult to draw conclusions about the outcomes of the cases. In one case, the CHIPS case was dismissed when the mother’s attorney argued that she had successfully completed all elements of her case plan “except for the couple’s counseling, but that would require two people, and since the father isn’t around, she can’t follow through on that part of the case plan.”

14 Schechter, Susan and Jeffrey Edleson. *Effective Intervention in Domestic Violence & Child Maltreatment Cases: Guidelines for Policy and Practice*. Reno, Nevada: National Council of Juvenile and Family Court Judges, 1998: 19.

15 Ibid.

WATCH recommendations:

- *Ensure victims of domestic violence know of the community services available to them and their children.*
- *Involve a victim advocate in cases of domestic violence to give support and help with a safety plan.*
- *Use validated risk assessments to determine dangers to children witnesses to domestic violence and make every attempt to support victims of domestic violence to continue to care for their children at home.*

Case Plans

Minnesota statutes require counties make “reasonable efforts to prevent placement.”¹⁶ As a result, counties create a case plan for every family that is the subject of a CHIPS investigation. The plan outlines what conditions the county requires the parent(s) to meet in order for their child(ren) to be returned (or remain at) home.

The case plan is presented to the family at the Emergency Protective Care hearing, held within 72 hours of the child(ren) being removed from their home. Once that hearing is over, parents are expected to begin meeting the conditions of their case plan. Depending on the age of the child, parent(s) typically have up to six months or up to one year to meet the required goals, though extensions may be granted by the court in some situations.¹⁷

Monitor notes indicate that judges generally did a good job of talking with parents about what was required of them in their case plans. One wrote, “The judge did a great job of making sure the voluntary part of the case plan was understood as well as what was actually required from it.” But monitors frequently noted that the case plans seemed overwhelming and included a high number of requirements. For example, most case plans require the following:

- Chemical dependency evaluation and/or treatment
- Random urinalysis/drug testing
- Parenting assessment and/or classes
- Domestic violence counseling
- Individual or family therapy, or support group(s)
- Psychological assessment

Though the stated purpose of the case plan is to help reunite the family, in many cases it may be counterproductive. Considering the high rates of mental illness, chemical dependency, and domestic violence, it should be clear that parents are already struggling with many obstacles. To then face multiple court-ordered requirements within a limited time frame may set people up for failure.

¹⁶ Minnesota Statute §260.012 (d)

¹⁷ Minnesota Statute §260C.201, Subd. 11 and 11A

“Because it’s far more about the parents than it’s about the children. The parents can go for drug counseling four thousand times while the kids wait by, and I just think that we forget that it’s not about the parents; it is about the children, and I don’t see enough of people focusing on the kids.”

- Guardian *ad litem*

Several individuals WATCH interviewed during this project expressed concern about “overloading” families with services and requirements. Some interviewees commented that too much was being asked of families and that the case plan should focus on safety and specifically address only the minimum required of the parent(s) to have a safe environment for the child(ren).

Many parents face obstacles in fulfilling the requirements of their case plans. Even transportation costs to attend the required classes and support groups can be challenging. These challenges are exasperated by the fact that most parents in this situation are frustrated and angry at the system. This frustration can sometimes result in disregard for following through or taking ownership of what is being asked or required of them.

A further challenge discussed in all the interviews conducted by WATCH was the difficulty in securing appropriate services for families. Workers commented on the lack of resources, primarily due to cuts in services from community organizations and a reduction in contracted services through Hennepin County. They mentioned having an especially difficult time finding services for parents with developmental disabilities or chronic mental illness. Given the high number of families of color, the need for culturally specific services is also great. One worker expressed frustration that, “the lack of services [through no fault of parent(s)] could result in a transfer of legal custody.”

Housing was mentioned as a big problem for parents, particularly those with mental health issues. Trying to locate appropriate, stable housing can stall the court process and as one worker said, it’s “always using up the timeframe. The family may have to wait up to two and a half months for the worker to get resources together and find housing the county will pay for.” Some child protection workers also expressed the need for more diversity in the types of services available to victims of domestic abuse and their families.

Most significant, it became clear in our interviews with judges, guardians *ad litem*, and child protection workers that many doubt the effectiveness of case plans. The following are examples of their skepticism:

- “All I hear is whether or not she attended the class, but I don’t know if it made any difference or helped her at all.”
- “. . . often times the County asks for parenting classes and parenting evaluations, and I do question how effective that truly is. The domestic violence [class] as well. I just question the effectiveness of sitting in a class.”

- “Now domestic violence is one where, you know, how much help do we do? We don’t have that much time either before the case needs to be closed, before the judge has to make that decision.”
- “I feel like we kid ourselves if we really think that anything that we are going to do in a year or six months in a courtroom or by sending people to domestic abuse counseling once a week for twelve weeks or whatever it is, that we are going to change people.”

Ironically, though our interviews revealed a lot of doubt regarding the effectiveness of case plans, there is a strong adherence to them in the courtroom. It is the number one reason given for why a parent should or should not be allowed supervised visitation, at-home visits, or dismissal of the child protection case. It is also a key factor in cases where a parent’s legal rights are terminated. From the hearings WATCH monitored, it is evident that there is a lot riding on whether or not the parent is following through on the case plan to the county’s satisfaction.

And there were examples where adherence to the case plan seemed counterproductive for the family and possibly dangerous for the child. In one of the cases WATCH monitored, the mother, who suffered from depression and addiction, was only allowed supervised visits with her children. In contrast, the father of the two youngest kids, who is a convicted sex offender, was allowed unsupervised visits. The reason the children’s mother was not allowed unsupervised visits? According to the monitor’s notes, the guardian *ad litem* and county attorney both argued against unsupervised visits, citing the mother’s failure to fulfill her case plan, specifically noting she had missed two evaluation appointments and some appointments at Chrysalis.

Even when a parent tries to adhere to a case plan, they may experience setbacks. Anyone who has tried to change a long-standing life pattern knows there are both internal and external barriers that must be continually faced and overcome. Particularly when it comes to staying sober or ending an addiction, relapses should be expected. Studies have shown that 54 percent of alcohol and other drug abuse patients can be expected to relapse, and 61 percent of that number will have multiple periods of relapses from one month to 12 months after treatment.¹⁸ But when a relapse happens in the context of a child protection proceeding, the results can be devastating. The following case illustrates this problem.

1/19/09 An Emergency Protective Care hearing was held after a baby was removed from her mother’s care at birth. According to the CHIPS petition, the woman’s three older children were all removed from her care due to her drug use. The monitor noted details of the mother’s case plan, which included completing a psychological evaluation, random urinalysis, obtaining safe and suitable housing, and completing a parenting assessment. The monitor also noted that during the hearing it was stated that the woman had completed a chemical dependency evaluation and was in a treatment program.

¹⁸ Simpson, D.D., Joe, G.W., Lehman, W.E.K. and S.B. Sells “Addiction careers: Etiology, treatment, and 12-year followup outcomes.” *Journal of Drug Issues* 16.1 (1986): 107-121.

4/13/09 At the settlement hearing, the monitor noted the mother was working on her case plan, seeing her mental health doctor, and taking her medication. Her case plan was also updated and included no illegal drug use, no alcohol, required participation in relapse prevention classes, a neuropsychological evaluation, contact with a mental health worker, parenting classes, and participation in an anger management class. At this hearing the mother was allowed supervised visits with her infant daughter.

7/24/09 At the review hearing the county attorney, the woman's attorney, the guardian *ad litem*, and the judge all praised her and spoke about how well she was doing. Her drug tests were negative and she had successfully completed many parts of her case plan. The county attorney and the guardian *ad litem* recommended she be allowed to see her daughter more often if she continued to follow the case plan.

9/1/09 At this review hearing, the judge praised her for continuing to make progress and reminded her about an opening in a supportive housing program, which, the judge said, could lead to stable housing, more overnight visits with her daughter and eventually reunification. The monitor notes stated that everyone encouraged the woman to participate in the program.

9/28/09 At the review hearing, the judge extended the timeline in which the mother can fulfill the case plan, and everyone commended her on how well she was doing.

11/10/09 At the pre-trial hearing, the county attorney reported that visitations between the woman and her daughter were going well, her urine tests were negative for drug use, and she was participating in a supportive housing program.

12/2/09 The day before the trial, the woman called her social worker to report she had a relapse. At trial, given the option of voluntarily agreeing to the termination of her parental rights, or going through a trial that could result in her losing those rights involuntarily, the woman agreed to voluntarily give up legal rights to her daughter. As of this writing, her 15-month-old child is in foster care awaiting adoption.

Interestingly, in the cases WATCH monitored, the stated reason for termination of parental rights or transfer of legal custody in 52% of cases was not evidence of continued child abuse or neglect, it was a parent's chemical dependence.

For CHIPS cases where a parent's rights have been terminated, the child is still left without a permanent placement unless they are adopted. Studies have shown that the transition for children who are in foster care until adulthood face higher risks of living in poverty, being homeless, becoming chemically dependent, re-entering the public welfare system, and committing crimes.¹⁹ These outcomes show that when the courts determine that families are unable to provide a safe, stable home for their children, the state cannot guarantee the alternative placement will adequately meet the child's needs and assist them to overcome the obstacles they face.

19 Casey Family Services, Cambridge Family and Children's Services, the Eagle-Tribune Publishing Company, and United Front Child Development Programs. *Someone to Care, A Place to Belong: Adolescents and Foster Care in Massachusetts*. Casey Family Services. New Haven, CT: 2003.

WATCH recommendations:

- *Reduce the number of services and providers required in case plans.*
- *Do not make domestic abuse or couple's counseling a requirement of a battered woman's case plan, but inform her of community services available.*

IV. MULTIPLE COURTS AND CASES

In forty-three percent (55) of the 129 CHIPS cases WATCH monitored, one or more of the child's caregivers had previous or current cases in criminal and/or family court, including twenty civil orders for protection and thirty-six criminal charges. A few women who were the subject of CHIPS petitions had other CHIPS cases pending, and a few also faced criminal charges. In addition, criminal charges, including child maltreatment and neglect, assault, and sex crimes were filed against several of their intimate partners.

However, WATCH monitors observed an apparent lack of communication and coordination between the courts, each court working through its case process separately from the others. This can result in courts issuing conflicting orders, and parents being unable to carry out their case plan. In addition, CHIPS cases involve limited time frames (typically six months to one year), while criminal cases can take much longer to resolve. Since a pending criminal matter can impact a CHIPS case, this can also cause complications and delays.

Lack of communication between courts

A review of WATCH monitoring notes from CHIPS cases indicates inconsistency in how case information was communicated from one part of the system to another. In one case, a monitor assisted a juvenile court clerk at a proceeding by giving her the criminal case number so she could look up the next hearing date for the corresponding criminal case in order to schedule the next CHIPS hearing. It was not unusual for monitors to overhear attorneys discuss, usually while waiting for a child protection hearing to begin, their lack of information regarding a pending criminal case. In many cases, monitors noted that the attorneys working on the child protection matter were even unaware of which county attorney or public defender had been assigned to the criminal case.

Overall, child protection workers felt strongly that they should be informed about the progress of criminal court cases so they could incorporate that information into the case plan. One specifically suggested that, "Clerks from criminal court can and should call the juvenile court to fill them in on what is happening in a case." Several had examples of when they had been contacted by a criminal court judge, clerk, victim advocate or probation officer, but whether or not it happened depended on each individual. The more typical experience is illustrated by what a child protection worker noted during the focus group—that it is common for an attorney from criminal court [or the criminal case] to call several months after the child protection case has been closed to let her know that the criminal case is going to be charged and ask for an update on the CHIPS case. She commented, "I tell them, 'We closed that case months ago.' I don't understand why criminal charges take so long."

One child protection worker stated that when a family is involved with the two court systems, “There needs to be communication back and forth to prevent confusion and [inadvertent] violations of orders.” Workers all had stories about cases where conflicting orders had been in place. Some mentioned that two-year *no contact* orders issued in a criminal domestic violence case causes problems if the parents were attempting to stay together. In one case a juvenile court judge told a couple they could not live together because of an OFP that was in place. One of the parents said that their criminal case was dropped as was the OFP. The judge asked the department to look into it, but he should have had that information ahead of time.

WATCH recommendation:

- *Improve communication and coordination between criminal, family, and juvenile courts, especially as it pertains to court orders and hearing information that is not available through the state database.*

Delays in processing CHIPS cases

If a CHIPS case goes to trial, a parent can be called to testify regarding allegations in the CHIPS petition. Testimony from the CHIPS trial can later be used as evidence in a criminal trial, if criminal charges are brought against the parent. To protect a parent’s constitutional right to be protected from self-incrimination, a CHIPS case will often be put on hold until the related criminal case is resolved.

This can cause significant delays in the CHIPS process and leave children and families in limbo for months. WATCH monitored at least three CHIPS cases that were still pending at the end of the project because of an unresolved criminal case. If a child has been placed out of the home awaiting resolution of the CHIPS case, delays affect every aspect of the child’s life, from contact with parents, family members and friends, to school placement.

In other cases, a child may be kept out of her/his home not due to a pending criminal case against her/his caregiver, but because of a crime committed by the other parent. In a case we began monitoring in June 2009, monitors consistently heard at the hearings that the child wanted to go home and live with her mother, but was not allowed to because her father was facing a criminal sexual conduct charge and was not allowed contact with his daughter, the victim. The defendant lived with his sister (with home monitoring) a couple of blocks from where the girl had been living with her mother. When WATCH last attended a hearing on this case in December 2009, the girl was still in foster care, and attorneys were discussing how delays in the criminal trial were keeping the child away from her mother. WATCH was later notified that the dad had been deported and the child protection kept the case open to determine if the child was in need of services.

V. CASE OUTCOMES

WATCH had limited access to case information. Case files are heavily redacted to protect the privacy of parties to a case (children, relatives, foster families, etc). In some cases, WATCH monitors were unable to observe every hearing, either due to scheduling problems or because the case was not resolved by the end of the monitoring project. Pre-hearing reports as well as progress reports prepared for review hearings are also private. Finally, children were not present at most hearings, and only general statements about them were made (e.g., “children are doing well in placement”). The information on outcomes for the 129 cases WATCH monitored was gathered from volunteer notes and follow-up calls with juvenile court clerks and can be broken down as follows:

- 46% (59) resulted in families being reunited.
- 4% (5) resulted in child(ren) placed in long-term foster care.
- 21% (27 cases) resulted in termination of the parents’ legal rights to their child (TPR), the transfer of legal custody of the child to another caregiver (TLC), or a combination of both in cases involving more than one child. The breakdown is as follows: parental rights terminated in 15 cases, legal custody transferred in 12 cases, and a combination of both in three cases.
- Less than 2% (2) were dismissed because the family moved out of Hennepin County.
- 28% (36) were scheduled for hearings in 2010 (monitoring concluded in December 2009).

In most cases, WATCH was unable to determine the number of times children were moved from place to place or the number of times children were placed with relatives. As noted on p. 27 of this report, that is partly due to the fact that most hearings focused primarily on the parents, rather than the children, so nothing was said about the child’s living situation.

Reunification/case dismissal

In nearly half the cases WATCH monitored, the family was reunified, and the CHIPS court case was dismissed. In two instances, the case was moved to another jurisdiction, and we do not know the outcome. Below are typical comments volunteers gathered from reunification hearings:

- The judge stated the family was “a perfect example of what happens in court. The family fixed their issues with the tools that were provided.”
- The judge stated, “You don’t know how unusual this is [to the mom], and it’s all because you’re doing such a great job. Keep it up.”
- The GAL, who was in favor of terminating the county’s involvement, stated, “Mom is doing well and is organized and keeping the kids involved with their therapist and Mom is working with them.”
- The county attorney stated the mom was doing well on her case plan, doing well in Alcoholics Anonymous, and taking her meds. She recommended the child be returned to the mom.
- The mother’s attorney stated, “The mom understands the abuse that occurred, and the change in the workers has opened up their lines of communication.” The attorney agreed with having the case dismissed.

Termination of Parental Rights or Transfer of Legal Custody case outcomes

The following information applies only to the 27 cases in which parents lost some or all of their legal rights to their children.

- In nine cases, the child was placed with relatives.
- In eight cases, the child was placed in foster care (non-relative).
- Three cases involved siblings who were split up (for example, one was placed with their father, and one was placed for adoption, etc).
- In seven cases, we were unable to identify where the child(ren) were placed.

“...fathers are rarely involved in these cases, for whatever reasons. Because they are not listed anywhere, or maybe there is not enough work done to locate a father. And that might be a societal issue. I think we don’t know because they are never located, they never, very few ever show up. It’s usually just the moms.”

- Guardian ad litem

In three of the 27 cases, a relative offered to care for the child(ren), but the request was denied. In two of these cases, we were unable to identify where the child(ren) were placed. In one case, a monitor noted that the “aunt’s house wasn’t licensed.” Another monitor noted “the grandma wasn’t seriously considered for placement because they said the child had already bonded with the foster family.” While this is a small sampling of cases, it may indicate the need for an expedited foster home licensing process to ensure children are placed with family members whenever possible. It should also be noted that fathers were seldom in the picture and therefore they and the paternal relatives are often not considered for foster placement. There should be greater attempt to involve the fathers early in the CHIPS process to provide greater options for kinship placement.

Non-relative foster homes provide an important alternative placement for children who, for safety reasons, cannot stay with family members. A foster home may also be closer to the child’s home than a relative’s, allowing the child to stay in the same school, which may provide some stability. And while many foster homes are loving, caring places, research shows that it often is traumatic for children to live away from their family members and to be moved from place to place.

In a typical scenario involving termination of parental rights, the parents must either agree to give up their legal rights to the children or face a trial where the state will attempt to prove they are unfit to raise their children. While technically a “choice,” it is not surprising that parents appear to feel pressured into giving up their rights and express negative feelings about the process. The following monitoring notes reflect this situation:

- When the mom was asked if she agreed to the transfer of legal custody of her children, she said, “I don’t feel like I have a choice” and that she felt pressured. The judge had all the parties meet again, and eventually they all agreed to the order.

- The mother stated “I’m pissed” when asked to sign a voluntary termination of parental rights and then left the courtroom.
- The mom quietly cried and said she wanted her child adopted by the foster family “because they were a good family.”

WATCH recommendations:

- *Expedite foster care licensing process when a capable family member is available and interested in caring for the children.*
- *Make attempts to locate fathers early on in the child protection case so he or paternal relatives may be considered for kinship placement.*

VI. COURTROOM ENVIRONMENT

Delays in individual hearings

CHIPS hearings often start late. On average, WATCH monitors noted that hearings started 45 minutes after the scheduled start time. Emergency protective care (EPC) hearings, which are all scheduled for 1:30 p.m., tended to have the worst delays, with families sometimes waiting hours for their hearing to begin if the calendar was full. As one monitor noted, “The parties always think their EPC hearings will start at 1:30, since that’s when they are scheduled. I think it needs to be explained to them in a letter that they need at least a half day off from work and their cases will be heard in no particular order.”

These delays affect everyone—parents, concerned family members, foster parents, and justice system members. Monitors observed from three to as many as 11 people in court for a single hearing. In addition, the majority of guardians *ad litem* in Hennepin County are volunteers who come from a variety of backgrounds, including individuals who are employed full-time. One former guardian *ad litem* told WATCH that he couldn’t continue to volunteer because he had to wait too long for hearings to begin and it conflicted too much with his work schedule.

“There was a group of people gathered outside of the courtroom waiting to meet their attorney. They were saying things like: ‘I haven’t even met my attorney. They told me to be here at 1:00 and no one’s here, the door is locked. Government and logic is an oxymoron.’”

- WATCH monitor

Though delays are common, reasons for them were rarely explained. WATCH monitors noted a few instances of judges apologizing for the delay and giving a reason, and one instance in which a judicial clerk came out to the waiting area to give family members an update on the status of their hearings.

WATCH recommendation:

- *Start hearings on time and explain reason(s) when there are delays.*

Lack of privacy at the courthouse

Monitors also noted the lack of space and privacy available to families waiting for hearings or wanting to meet with their attorney or child protection worker. The majority of the waiting areas are large rooms with few options for speaking privately.

WATCH monitors made the following observations:

- “Seven people spoke about their case in the middle of the waiting area on the second floor. Everyone could hear their conversation...these families were discussing very private, personal issues in a very public setting.”
- “On a few occasions, parties have had to spend time looking for a place to discuss their case in private. One had to go to another floor, delaying the hearing, and another went to a corner of the courtroom and tried to speak softly.”

The lack of private space can also lead to unwanted (or legally prohibited) contact among parties before a hearing, making it uncomfortable or dangerous when parties must wait together for long periods of time before a case is called.

WATCH recommendation:

- *Locate more meeting spaces and make them available to waiting families, workers and attorneys.*

Confusion about the process

The court process can be a confusing and overwhelming experience for families. Our study indicates that there is confusion about the purpose and process of courtroom proceedings and a lack of clarity about where family members are supposed to go, who they are supposed to talk with, and what is going to happen. One monitor observed a defense attorney meeting his client for the first time just before the hearing. The monitor noted, “The client didn’t know her attorney and had never talked with him before today.” A child protection worker had a similar concern, “Attorneys should communicate with families a few weeks before the hearing, not wait until a few minutes before the hearing.” We acknowledge that the Public Defender’s Office is facing serious financial cuts and high workloads. But meeting with clients prior to court dates in child protection cases needs to be a priority.

Families often don’t understand what’s going on during the hearings and the decisions that are made.” One judge commented that she relies on the children’s attorneys or guardians to answer the children’s questions, “I really count on them to answer the children’s questions about what is going on . . . to just explain . . . Plus, most of the parents don’t even know what the heck we are doing”.

In another case, a mother’s parental rights had been terminated and custody given to the children’s father. The father then became the subject of a CHIPS petition because he left the children in the care of their mother. At the hearing, the court clarified that since her legal rights had been terminated, she was only allowed supervised visits with her children, but could not be their sole caregiver.

Throughout the CHIPS project, families approached WATCH monitors to ask questions about the court process while waiting for a hearing. One monitor, who is African American, made the following comments about his experiences:

- “African American families have asked me how the process works and have expressed concern that the county attorney is aiming to take their children without the possibility of reunification. I know the goal is reunification, but the families feel discouraged.”
- “I have been asked many questions by families during my time monitoring CHIPS cases. I understand the system, but it doesn’t seem like all the families do. It seems that there is a communication problem within the system.”

WATCH recommendation:

- *Explain court processes in non-legal terms to families and help them understand what to expect at each court hearing.*

Adequate representation

The most common reason noted by volunteer monitors for hearing delays was waiting for all the parties to arrive, most often prosecutors or public defenders. A GAL recounted a case in which a woman had been waiting several hours for her attorney to arrive. When she learned that her public defender could not attend the hearing and a substitute appeared, she came out of the conference room angry, saying, “Who is this woman? She is not helping me—she doesn’t even know me.” Moreover, public defenders are overbooked, and GALs observed that parents who “are at a very serious point like termination of parental rights [might] not necessarily be getting what they need” in last-minute pre-hearing conferences with these attorneys. In addition, while children who are the subjects of CHIPS petitions are considered by statute to be parties to the case with a right to legal representation, only children age 10 and over have the right to a publicly appointed attorney. Children under 10 must obtain a private one or be unrepresented.

“Two women (mother and grandmother) were sitting by me in the waiting area. They were looking for their son’s attorney, but only knew she was a female and didn’t have a name. They also said the receptionist did not have a name for them.”

- WATCH monitor

WATCH recommendation:

- *Ensure that parents have the opportunity to speak with their attorneys in advance of the day they are to appear in court so they have adequate time to ask questions and make informed decisions about their case.*

Children in court

In addition to the right to an attorney, children 10 and older have a legal right to access court documents, including the CHIPS petition. The petition details the incident(s) that lead to the child protection report and may also include information about other family problems, including domestic violence, other criminal charges, addiction, or difficulty providing for children's basic needs. Many in the system question whether it is traumatizing to young children to be given this information. At a minimum, workers felt that children should only receive the petition from their attorney who can be with them when they read it and respond to their questions. Some workers described situations where children received the petition from the clerk while waiting for a hearing to begin and sat with their family reading through it.

“...finally it actually made me think to ask the child to come to court, to come to court and ask permission of the parties to speak to the child alone so I could assess whether this mother was as bad a mother as she was frustrating to me or whether the kid was doing OK. And low and behold this girl comes in; she look fabulous; she is healthy ... she behaves. And I talked to her about what it is that is making it difficult for her to get to school, and she talks about how her mother is supporting her, and so it changed my vibe about this case. And as a result, we are close to closing out the case.”

- Hennepin County Juvenile Court Judge

WATCH monitors frequently noted that the welfare of the child(ren) was seldom discussed in court. One monitor wrote, “I really felt like there was no focus on the child and no discussion of the safety of the other child who remains at home.” Because it was rare, when it did occur, most monitors made a note of it, such as in the case where the monitor noted that the judge arranged for the child to meet with her attorney and then be able to leave, so she wouldn't miss participating in a track meet later that day. Showing a commitment to keeping the child involved in something positive illustrates the concern people working in the system have for the children. Below are similar monitor comments:

- The judge asked about how the baby was doing (if he was sleeping through the night) as well as asking questions about additional medical treatment he needed.
- The judge spoke directly with the kid(s) and made good eye contact. She made sure that each child could voice any concerns.
- It helps when judges take time to check in with the children. One person gave the example of a judge asking everyone at the table to move aside so he/she could see the child and talk with her.

Child protection workers and GALs also expressed concern that, in the words of a social worker, “court isn’t about the kids, it’s about the parents.” One GAL stated that “...when a case comes up, I would like to see slowly rise a picture of the children. Because [court] is far more about the parents than it is about the children. The parents can go for drug counseling 4,000 times while the kids wait by, and I just think that we forget that it’s not about the parents, it is about the children, and I don’t see enough people focusing on the kids.” Judges also emphasized the importance of children being in court so they can speak directly to them. As one judge said, “I would also like to see more kids come to that [initial] hearing because I think there is a way to handle it so they are empowered by it...when they are there, I try to say that, ‘This case is about you. And I want you to tell the guardian if you need anything.’ I try to set up a relationship that the court needs to hear from them directly, and that’s hard when they never come at all.”

WATCH recommendations:

- *Focus on health and safety of children in court. If no one offers specific information as to how the children are doing in their current placement, the judge should make a point of asking the GAL, foster parents, custodial parents, or social worker.*
- *Make greater attempts to have children 10 years and older present at hearings. If they cannot be present, explore remote access through use of technology.*

Guardians ad litem

In juvenile court, the role of the guardian *ad litem* (GAL) is to represent the best interests of the neglected or abused child.²⁰ The child’s attorney represents the child’s wishes, the parents’ attorneys argue for what the parents want, and the county attorney appears on behalf of the county. As one judge noted, “The guardian is there sort of as the independent voice, if you will, on behalf of the child, recognizing that the county sort of has its own agenda working with the parents, and there are child services workers working with the children...but generally I look for the guardian as really more of an independent voice, not beholden, if you will, to anybody.”

By maintaining that independent voice, GALs can bring to the court’s attention very specific problems and needs that emerge in the case. Because of the GAL’s statutory mandate, judges expressed their expectations that GALs “do their due diligence and do their research,” “to fulfill their fiduciary duties under the law,” and “in meeting those statutory duties to provide the court with information that, in my humble view, is truly in the best interests of the child and not affected by anything other than the best interests of the child.”

As one judge said of GALs, “They are not advocating...they are not pushing any agenda,” and they rely on the “whole wealth of skill and knowledge of things” to tell the court, ““You know, something is just not right. Something is really bothering me, and I don’t exactly know what it is. I am trying to figure that out.”” Another judge confirmed the need to have this independent voice in CHIPS cases: “And the department [County Human Services and Public Health Department] child services workers are great, but the department speaks with one voice. And it’s not always what the child service workers’ first choice would have been. And the guardians can really get in that more independent voice, so I just really appreciate having them on every single case.” GALs can also suggest ways to meet a child’s needs that go beyond the scope of the department.

20 Minnesota Statutes §260C.163, Subd. 5

Initially, the most important role of the GAL is to investigate the child's situation either through direct observation or from talking with or reading the reports from specialists such as teachers, doctors, therapists, and foster parents. GALs have access to all records, including ones considered confidential in other settings. In addition, GALs are allowed to make out-of-court statements in their oral or written reports, and these statements are "part of the factual basis upon which the GAL forms recommendations."²¹

Both GALs and judges described the role of the GAL through analogies that represent their relationship with the court. Many GALs, for example, view themselves as "the eyes and ears for the judge." To this end, one GAL described how she frames her role when talking to children involved in CHIPS cases: "I tell them, 'The judge would want to know what is going [on] with you, you know, how are things going, how are you doing at school...anything I see or hear, I am going to tell the judge.' Older kids, I let them know that I am not their attorney, that I am speaking for their best interests, which may or may not be what they want, so it's important that they tell their attorney what they want, and they can certainly tell me and I will listen, and, you know, take that into consideration, but it may or may not be what they are looking for."

Judges appreciate that GALs are able to uncover details about the child's situation that might otherwise be missed. As one judge said, "Ultimately I get a better idea of what the kids need and want as well as what is best for them. But a lot of times, the guardians give me the practical things that the kids really need, and to me, we have reached our goal when I get that from the guardian."

GALs' recommendations to the court are informed by their interviews with individuals such as teachers, parents, foster parents, doctors, and social workers. GALs often visit schools to observe the child or meet with their teachers. Teachers, as one GAL puts it, "have a lot to say about children. You will find out about their friends, do they have friends? How are they doing with their peers? Are they able to follow school rules? That little classroom is a microcosm of life," and teachers can often provide a unique perspective on the child's well being.

Judges confirm this important source of information; for example, one judge gave a hypothetical example of how a GAL might talk with teachers or therapists to find out details about how a child might have acted when there was something happening at home that they didn't know about at the time; in a case like this, the GAL might come back to the judge and describe the continuing effect of the incident of neglect or abuse on the children.

One judge summed up the important contribution of GALs, "I hope that they will give me a different perspective, that they will report what they see without bias, that they may dig a little deeper and push a little harder on behalf of the child, that they kind of represent the community, in terms of expectations of what the system will do for that child."

21 Gilats, Resa M. (2007). Out-of-court statements in guardian ad litem written reports and oral testimony. *William Mitchell Law Review*, 33, 911-938.

Seldom a voice of dissent

In the majority of CHIPS hearings, differences of opinion between the county attorney and the guardian *ad litem* were rare. For as much as judges look to GALs for an independent voice based on the unique relationship with the children, WATCH seldom observed GALs representing a point of view different from the county attorney. GALs rarely spoke up during hearings, and when they did, they usually made a general comment about the child's status such as, "The child is doing well in placement" or "I have nothing further to add."

The GAL had conflicting recommendations from that of the county attorney in only six of the 129 cases WATCH monitored. In five of these cases, the GAL stated specific reasons to substantiate their disagreement with the recommendations.

For example, in one case, the GAL disagreed with the county attorney and the father's attorney, who argued at two review hearings that the case should be dismissed. The guardian opposed the dismissal because the father had not completed the case plan and the guardian believed the father's mental health was hindering his ability to parent. At each of these hearings, the judge ruled in favor of the GAL's recommendations. Eventually, the GAL's and the county attorney's recommendations were in agreement, and the case was dismissed.

In addition to judges depending on GALs for an independent perspective, child protection workers also want GALs to serve in this role. Workers commented that in addition to hearing more from GALs, they want to ensure that GAL recommendations are supported by clear evidence, not the guardian's personal perspective. Some expressed frustration when they felt that the GAL was not doing his/her job adequately, for example, if they were aware that a GAL made a recommendation without meeting with the child or family. Or, as happened in one case, the GAL recommended the children return to the home because they were "good" and "sweet" children. In this particular case, the judge did not return the children to the home.

WATCH recommendations:

- *GALs should submit reports in writing prior to hearings and provide the judge with specific information about how the child(ren) is doing. All recommendations should be based on documented information.*
- *Increase recruitment and retention of GALs from a variety of ethnic and socioeconomic backgrounds.*

Examples of going above and beyond

Through our monitoring and interviews, we have a couple examples of times when child protection workers, judges, and GALs showed their concern for the child(ren) and families in ways that stood out. We wanted to mention them here to reinforce that, while some aspects of the system are flawed and in need of improvement, individuals strive to help children and families in very concrete ways.

“I thought that it was critical to him, and so I really pushed and pushed, and we got him on the football team . . . they wanted \$75 to put his name on his jersey, and so I was like absolutely mental because how could you put a kid out [there] without his name on when everybody else has their name on, I am like I don’t care if I have to pay for it out of my own pocket. But he went in . . . and they just did it, the school did it. He was so proud. He called me, and he said . . . “I just got it. I got my name on.” “How did you do it?” and it was like, oh, he got pushy. So I was really proud of him.”

Other GALs talked about making sure teenagers had the hair products they like to use while living in a group home or taking children out for an outing that they would enjoy. Judges worked to ensure that children would not miss out on an important school activity by attending court. In one case, the judge showed her concern by having the child meet with the attorney prior to the hearing so she could attend her track meet. These small acts show compassion for children and can be used to strengthen the relationship with the families.

VII. CONCLUSION

In the past decade, Minnesota has implemented several “child welfare reforms that are family-centered, strength-based practices to engage the family and their support system in a partnership to protect children, ... and ensure the wellbeing of children and their families.”²² The approach is to strengthen families by providing services such as support groups, assessments, and treatment programs. But the laundry list of services are typically based on the parent’s deficits and in most cases, their challenges need to be addressed over a long period of time, not within the permanency timelines.

In the case outlined in the Executive Summary, there are at least four ways in which the mom tried to protect or provide for her children. On the outset it looks as if the mother is doing everything wrong. Through a different lens, one that looks for strengths, we can see a homeless woman making choices, that although not perfect, show care and concern for her children.

- 1) She got them off the street and put herself at risk to give shelter to her children. It may have not been the best choice of places to go, but perhaps it seemed the only way of getting a roof over their heads and that was her main priority at that time.
- 2) She tried to shield the children from a domestic assault and defended herself by fighting back. This shows her concern for their physical safety.
- 3) She drove her children to school after being assaulted. She had the fortitude in the midst of a crisis to get her children to school. She obviously is committed to their education.
- 4) She arranged for her children to return to another location at the end of the day. This action indicates that she did not want them to be exposed to more violence, but wanted them to be cared for so told them to go to their aunt’s home.

22 Minnesota Department of Human Services: Children and Family Services. Minnesota Child Welfare Disparities Report. Minnesota Department of Human Services, 2010:6.

It would not be accurate to describe this situation as a good environment for children. The system needed to intervene and did so appropriately. Where it failed was to recognize the mother's positive intentions and use these intentions as building blocks for her future. They should be used as a foundation for her to move ahead.

The child protection system needs to investigate the strengths and family support systems with equal commitment as identifying and resolving challenges. Though the majority of people involved in a child protection case in Hennepin County are economically disadvantaged and face tremendous challenges such as chemical dependency and domestic violence, they have internal strengths that need to be recognized and acknowledged by people in the system.

Recommendations to improve handling of CHIPS cases in Hennepin County

- Conduct an independent investigation into the reduced number of reports of child maltreatment and the number of reports accepted for assessment and investigation.
- Ensure victims of domestic violence know of the community services available to them and their children.
- Involve a victim advocate in cases of domestic violence to give support and help with a safety plan.
- Use validated risk assessments to determine dangers to children witnesses to domestic violence and make every attempt to support victims of domestic violence to continue to care for their children at home.
- Reduce the number of services and providers required in case plans.
- Do not make domestic abuse or couple's counseling a requirement of a battered woman's case plan, but inform her of community services available.
- Improve communication and coordination between criminal, family, and juvenile courts, especially as it pertains to court orders and hearing information that is not available through the state database.
- Expedite foster care licensing process when a capable family member is available and interested in caring for the children.
- Make attempts to locate fathers early on in the child protection case so he or paternal relatives may be considered for kinship placement.
- Start hearings on time and explain reason(s) when there are delays.
- Locate more meeting spaces and make them available to waiting families, workers and attorneys.
- Explain court processes in non-legal terms to families and help them understand what to expect at each court hearing.
- Ensure that parents have the opportunity to speak with their attorneys in advance of the day they are to appear in court so they have adequate time to ask questions and make informed decisions about their case.

- Focus on health and safety of children in court. If no one offers specific information as to how the children are doing in their current placement, the judge should make a point of asking the GAL, foster parents, custodial parents, or social worker.
- Make greater attempts to have children 10 years and older present at hearings. If they cannot be present, explore remote access through use of technology.
- GALs should submit reports in writing prior to hearings and provide the judge with specific information about how the child(ren) is doing. All recommendations should be based on documented information.
- Increase recruitment and retention of GALs from a variety of ethnic and socioeconomic backgrounds.

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APPENDIX A: CHIPS VOLUNTEER TRAINING AGENDA

WATCH CHIPS Volunteer Training October 4, 2008 Midtown YWCA 9am-3pm

- 9.00-9:30** **Welcome, Introductions, Brief Overview of the CHIPS Project and Handouts**
Marna Anderson, WATCH Executive Director
- 9:30-10:15** **Minnesota Indian Women's Resource Center**
Lorraine White, Family Stabilization Director
Fawn Edberg, Healing Journey Manager
- 10:15-11:15** **St. Joseph's Home for Children**
Andy Martin, Program Director, Central Intake Services, Quality Improvement and Grounds Supervision
- 11:15-12:15** **Hennepin County Guardian *ad Litem* Program**
Kelley Leaf, Guardian *ad Litem* Coordinator
- 12:15-12:45** **Lunch**
- 12:45-1:30** **Juvenile Court procedure, CHIPS calendar, Monitoring Form and Courtroom Diagram**
Sarah Coulter, WATCH Court Monitoring Coordinator
- 1:30-2:30** **CornerHouse**
Miriam Maples, Family Liaison - Volunteer Coordinator
- 2:30-3:00** **Guardian Aid Litem Project, Interview Process and Questions**
Mary Lay Schuster, University of Minnesota Professor
- 3:00** **Sign up for shadow shifts and debriefing meeting.**

APPENDIX B: CHIPS VOLUNTEER BIOS

Volunteer A is retired from a long career concerned with institutional improvement, specifically changing schools and colleges to better serve students and the public—as a teacher, a consultant on expanding opportunities for women and minorities, and as director of intersystem cooperation for Minnesota’s public colleges and universities. Her volunteer activities have included service on a Human Rights Commission, conducting workshops on institutional racism and sexism, and working on political campaigns. She has a Ph.D. from the University of Minnesota.

Volunteer B is a former competitor and trainer of horses for the discipline of stadium jumping. She is a dedicated community volunteer who also serves on boards of organizations that are primarily concerned with issues affecting women and children.

Volunteer C works in the Stillwater School District. She has a B. A. from the University of Iowa and will be pursuing a Masters in Social Work. She has volunteer experience as a guardian *ad litem* in Washington County and has volunteered at a community health and family planning clinic and a clothing donation center.

Volunteer D is a retired federal executive who worked for the US Department of Labor, Wage and Hour Division, and the Social Security Administration. She has a B. A. in Economics from Macalester College.

Volunteer E is a senior at the University of Minnesota pursuing a degree in Family Social Science with a minor in Family Violence Prevention. She has volunteered at WATCH and the Sexual Violence Center.

Volunteer F is a retired high school teacher. She has a master’s degree in Education from the University of Minnesota and has been volunteer treasurer for the Minnesota Council for Social Studies. She has also served on the board of The Free Store and the Orono Superintendent Advisory board.

Volunteer G was an intern at WATCH while pursuing a degree in political science at the University of Wisconsin-Milwaukee. He previously volunteered with Big Brothers and Big Sisters of Milwaukee, for the UWM Annual Hunger Cleanup and at Hennepin County Department of Juvenile Corrections.

Volunteer H is a professor in Writing Studies at the University of Minnesota where she is also a faculty fellow at the law school. She teaches courses in domestic violence and sexual assault, the literature of social movements, and technical communication and the law. She has done research with WATCH on victim impact statements and also is working with a bioethics research team on end-of-life decision making.

APPENDIX C: COURT MONITORING FORMS

WATCH CHIPS Monitoring Cover Sheet

Please take a minute to complete this form and return it with your other forms to the
WATCH office at:
608 2nd Ave S. • Northstar East • Suite 465 • Minneapolis, MN 55402
Phone: (612) 341-2747 • Fax: (612) 339-1171

Your Name: _____ Date: _____

Court/Calendar Monitored (please circle all that apply):

JUVENILE: EPC/ HOLD HEARINGS CHIPS HEARINGS

Hours Spent Volunteering: _____ Number of Appearances Monitored: _____

Count ALL appearances you physically witness OR receive information about from court personnel.

Feedback, Comments & Recommendations

Use the space below and on the back of this page to comment on any aspect of the criminal justice system that was particularly interesting or troubling to you today. Include any suggestions you have for improving the criminal justice system, and issues you would like to see WATCH investigate further.

Observations from CHIPS waiting area:

Judge's Name _____

Your Name _____

Date _____

WATCH CHIPS Monitoring Form

Type of Hearing _____ Family ID _____ Case # _____

Family/ Parties' Name: (Mother) _____ (Father[s]) _____

Child(ren) Name(s) and Age(s): _____

Family present:	mom	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Apparent Ethnicity:
	dad	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Apparent Ethnicity:
	child(ren)	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Apparent Ethnicity:
	others	_____		

Court personnel present:

Attorney for mom	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Attorney for dad	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Attorney for child(ren)	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
*GAL	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
*HSPHD field worker (social worker)	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> No
HSPHD investigations worker	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
HSPHD kinship worker	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
HSPHD child services worker	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
County attorney	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Attorney for GAL	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Tribal representative	<input type="checkbox"/> N/A	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Interpreter	<input type="checkbox"/> N/A	<input type="checkbox"/> Yes	<input type="checkbox"/> Needed but not present

Language: _____

Others _____

I. Efficiency of the court

a. Scheduled start time? _____ Actual start time? _____ End? _____

b. Reason for the delay? _____

c. Which parties were NOT represented by counsel? _____

Reason? _____

d. If dismissed or continued, what was the reason?

II. Notes/ Recommendations

III. Guardian *ad litem*

- a. Was the guardian ad litem represented by an attorney? Yes No
- b. Did the judge request the opinion of the guardian *ad litem*? Yes No

c. What statements or recommendations did the guardian *ad litem* offer to the court at this time?

d. What evidence or proof did the guardian *ad litem* offer to support his or her recommendations?

e. After the judge's ruling, were the guardian *ad litem's* recommendations primarily in agreement or in conflict with those of the:

- | | | | |
|-------------------|------------------------------------|-----------------------------------|---|
| County attorney? | <input type="checkbox"/> Agreement | <input type="checkbox"/> Conflict | <input type="checkbox"/> Not Applicable |
| Mom's attorney? | <input type="checkbox"/> Agreement | <input type="checkbox"/> Conflict | <input type="checkbox"/> Not Applicable |
| Dad's attorney? | <input type="checkbox"/> Agreement | <input type="checkbox"/> Conflict | <input type="checkbox"/> Not Applicable |
| Child's attorney? | <input type="checkbox"/> Agreement | <input type="checkbox"/> Conflict | <input type="checkbox"/> Not Applicable |
| Judges? | <input type="checkbox"/> Agreement | <input type="checkbox"/> Conflict | <input type="checkbox"/> Not Applicable |
| Others? _____ | <input type="checkbox"/> Agreement | <input type="checkbox"/> Conflict | <input type="checkbox"/> Not Applicable |

f. Did the GAL have any special knowledge of additional information unknown to other parties?

- Yes No Describe.

IV. Judicial Demeanor/Court Decorum

- a. Was the judge respectful of all parties? Yes No
- b. Was the atmosphere problem-solving rather than adversarial? Yes No
- c. Was the judge compassionate (especially in cases involving housing issues and/or domestic abuse)? Yes No NA
- d. Did the judge generally keep control of the courtroom? Yes No
- e. What was the outcome of the hearing? Open Closed
- f. Describe the judge's ruling and any reasons for his or her decision.

V. Safety/welfare of the child

- a. Where are the child(ren) placed at the time of this hearing?
 In a shelter (e.g., St. Joseph's) With another family member In a foster home Still at home Unsure Other:
- b. Will the child(ren) be returned to the home? Yes No Not all N/A
If so describe:
Child 1:
Child 2:
Child 3:
- c. Will the child(ren) be returned home under conditions? Yes No N/A
Conditions included (check all that apply);
 Protective supervision Delivery of in-home services Classes and/or treatment programs Other:
- d. Are siblings listed in the petition kept together? Yes No N/A Unknown
If not, is visitation among them discussed? Describe. Yes No N/A
- e. Did the judge ask or did the proceedings disclose information about the current welfare of the child(ren)? Yes No N/A
If so, describe.

f. Were services recommended for the mother? Yes No

Services included (check all that apply);

- Parenting Assessment Parenting Classes Rule 25 Chem Assess.
 CD Treatment
 UAs No Alcohol/Drug Use Psych Eval MH Treatment
 Therapy DA Counseling Supervised Visitation
 Psycho-Sexual Eval Safe and Suitable Housing Other:
 Continue Prior Orders

g. Were services recommended for the father? Yes No N/A

Services included (check all that apply);

- Parenting Assessment Parenting Classes Rule 25 Chem Assess.
 CD Treatment
 UAs No Alcohol/Drug Use Psych Eval MH Treatment
 Therapy DA Counseling Supervised Visitation
 Psycho-Sexual Eval Safe and Suitable Housing Other: Cont Prior Orders

h. Were services recommended for the child? Yes No

Services included (check all that apply);

- Medical Dental Therapy CD Assess/Treatment
 MH Assess/Treatment Psychological Eval/Treatment Other:

i. Are services aimed at family reunification offered? Yes No

Do they appear to be available in a "timely" manner or must parents wait for services?

- Yes No Unknown

VI. CHIPS Allegations

a. Did mom admit or deny the allegations?

- Admit Deny N/A

If admitted, describe.

b. Did dad admit or deny the allegations?

- Admit Deny N/A

If admitted, describe.

c. What is the paternity status of the father?

- Alleged Non-adjudicated Adjudicated Paternity testing in process
 Don't know N/A

d. Was any information given about the allegations? If so, describe.

VII. Application of the Law

- a. Is this an Indian Child Welfare Act (ICWA) case? Yes No
Was any information given about the case's compliance with ICWA? If so, describe.
- b. Describe any recommendation:

VIII. Other Court Involvement

- a. Are you aware of other court involvement?
 - OFP Yes No _____
 - Criminal Charges Yes No _____
 - Domestic Violence Yes No _____
 - Sexual Assault Yes No _____
 - Drug Case Yes No _____

If yes, please describe.

Date and time of next appearance _____

Judge's name and type of appearance _____

Your Notes and Questions

Judge's Name _____

Your Name _____

Date _____

WATCH CHIPS Trial Monitoring Form

Family ID _____ Case # _____

Family/ Parties' Name: (Mother) _____ (Father[s]) _____

Child(ren) Name(s) and Age (s): _____

Family present:	mom	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Apparent Ethnicity:
	dad	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Apparent Ethnicity:
	child(ren)	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Apparent Ethnicity:
	others	_____		

Court personnel present:

Attorney for mom	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Attorney for dad	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Attorney for child (ren)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
*GAL	<input type="checkbox"/> Yes	<input type="checkbox"/> No
*HSPHD field worker (social worker)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
HSPHD investigations worker	<input type="checkbox"/> Yes	<input type="checkbox"/> No
HSPHD kinship worker	<input type="checkbox"/> Yes	<input type="checkbox"/> No
HSPHD child services worker	<input type="checkbox"/> Yes	<input type="checkbox"/> No
County attorney	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Attorney for GAL	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Tribal representative	<input type="checkbox"/> N/A	<input type="checkbox"/> Yes
Interpreter	<input type="checkbox"/> N/A	<input type="checkbox"/> Yes

Language: _____

Others _____

I. Efficiency of the court

a. Scheduled start time? _____ Actual start time? _____ End? _____

b. Reason for the delay? _____

c. Which parties were NOT represented by counsel? _____

Reason? _____

II. Recommendations

a. County Attorney:

b. Mom's Attorney:

c. Dad's Attorney:

d. Other Attorney [child (ren) or other]:

III. Guardian *ad litem*

Was the guardian ad litem represented by an attorney? Yes No

a. What statements or recommendations did the guardian ad litem offer to the court at this time?

b. What evidence or proof did the guardian ad litem offer to support his or her recommendations?

IV. Judicial Demeanor/Court Decorum

- a. Was the judge respectful of all parties? Yes No
- b. Was the atmosphere problem-solving rather than adversarial? Yes No
- c. Was the judge compassionate (especially in cases involving housing issues and/or domestic abuse)? Yes No NA
- d. Did the judge generally keep control of the courtroom? Yes No
- e. Describe the judge's ruling and any reasons for his or her decision.

V. Hearing information

Please describe below what occurred during the hearing. Use back of page if you need more space.

Date and time of next appearance_____

Judge's name and type of appearance_____

APPENDIX D: GUARDIAN AD LITEM CONSENT FORM AND INTERVIEW QUESTIONS

Consent Form

CHIPS Hearings in Minnesota: The Role of the Guardian *Ad Litem*

You are invited to be in a research study of the roles of guardians *ad litem* in child protection hearings in Minnesota. You were selected as a possible participant because you serve as a guardian *ad litem* in child protection hearings and were identified as a possible participant by Mark Toogood, Program Manager, of the Guardian *Ad Litem* Program. We ask that you read this form and ask any questions you may have before agreeing to be in the study.

This study is being conducted by: Professor Mary Schuster, Department of Writing Studies, University of Minnesota, and by WATCH, a local volunteer-based court monitoring and research organization that follows family and sexual violence cases and provides feedback to the justice system.

Background Information

The purpose of this study is to discover what role the guardian *ad litem* plays in child protection hearings in Hennepin County and to see how the guardians *ad litem* interact with judges, attorneys, social workers, children, and families before and during the hearings. In particular, we are interested in how you, as a guardian *ad litem*, establish a voice and authority in such hearings and what persuasive strategies you have developed to assert that voice and authority. And, we also hope that you will share any recommendations for improvements for the guardian role and for the hearings in general. We will also be observing child protection hearings in Hennepin County and will use interviews with guardians *ad litem* to inform and understand those observations. Our goal is not only to provide more information about the roles and challenge of guardians *ad litem* in the legal system to a variety of local and scholarly readers but also to make suggestions to the court system as how to improve any interactions with guardians *ad litem*. We intend to publish an article on the project in the WATCH POST and in other academic or advocacy journals.

Procedures

If you agree to be in this study, you would be asked to participate in an interview with Professor Schuster. The interview will last no more than 45 minutes and will take place in the WATCH office (608 Second Ave, Northstar Suite 465, Minneapolis, MN 55402) or, if the WATCH office is inconvenient for you, a location of your choosing. Professor Schuster will ask questions about your experience as a guardian *ad litem* (see sample interview questions attached). With your permission, she will tape record the interview. No one but Professor Schuster has access to the interview tapes, and she will erase them after completing this project, no later than July 1, 2011.

Risks and Benefits of Being in the Study

The study has limited risk for you. Professor Schuster will not be asking any questions about particular cases nor ask you to reveal the names, case numbers, or particulars of any case. If at any time, during the interview you become uncomfortable or do not wish to continue, she will be glad to terminate the interview and will destroy the tape and any notes of the interview. Again, she will be assigning you a pseudonym and will not reveal your identity to anyone. There is no direct benefit to you except in contributing to our knowledge about child protection hearings and the role of guardians *ad litem*.

Confidentiality

The records of this study will be kept private. In any sort of report that might be published, Professor Schuster will not include any information that will make it possible to identify a subject. Instead, when referring to people interviewed, the author will use pseudonyms to protect participants' identities. Research records will be kept in a locked file; only Professor Schuster will have access to the records.

With your permission, Professor Schuster will use a tape recorder to record the interview. No one besides Professor Schuster will have access to the interview tapes. She will erase them as soon as she completes the study, or not later than July 1, 2011.

Voluntary Nature of the Study

Participation in this study is voluntary. Your decision whether or not to participate will not affect your current or future relations with the University of Minnesota or WATCH. If you decide to participate, you are free to not answer any question or withdraw at any time without affecting those relationships.

Contacts and Questions

The researcher conducting this study is Mary Schuster. You may ask questions about the project during the initial contact or during the interview. If you have questions later, you may contact Professor Schuster at the Department of Writing Studies, University of Minnesota, 150 Wesbrook Hall, 77 Pleasant Street SE, Minneapolis, MN 55455; Phone: (612) 624-2262; email mmlay@umn.edu. If you have any questions or concerns regarding the study and would like to talk to someone other than the researcher(s), contact Research Subjects' Advocate Line, D-528 Mayo, 420 Delaware Street S. E., Minneapolis, Minnesota, 55455; telephone (612) 625-1650.

You will be given a copy of this information to keep for your records.

Statement of Consent:

I have read the above information. I have asked questions and have received answers. I consent to participate in the study.

Signature _____ Date _____

Signature of Investigator _____ Date _____

I grant the interviewer, Mary Schuster, permission to tape record her interview with me, with the understanding that she will be the only person with access to the interview tapes, and that the tapes will be erased as soon as the study is complete, and no later than July 1, 2011.

Signature _____ Date _____

Signature of Investigator _____ Date _____

Sample Interview Questions—Guardians *Ad litem*:

1. How long have you served as a guardian *ad litem*? Could you give an estimate of the number of cases you have handed and the nature of those cases? [From this question, I hope to gain some demographic information about the guardians and their experiences.]
2. What attracted you to the position of guardian *ad litem*? How did you hear about the program and what motivated you to apply? [From this question, I want to understand the personal motivations and values that might reflect the ideologies of the guardian *ad litem* program and role.]
3. Could you explain the process by which you are appointed to a case and what work you do before the child protection hearings you might attend? [From this question, I want to understand how the guardian *ad litem* becomes involved and what role she plays before the public hearings take place.]
4. How well do you think you are received by the child and the family and attorneys involved in the case? Have you developed strategies to overcome any hostility or opposition to your role in the case? Would you share these with me? [From this question, I hope to understand the interpersonal challenges that the guardian *ad litem* might face. Also, I want to understand the rhetorical or persuasive strategies a guardian *ad litem* might use in her work.]

5. What information do you think is important for the judge (and other parties) to hear about a case? What aspects of that information are requested or required by the court, and what aspects do you find yourself adding, if any, to represent the child in need of protection? [From this question, I want to understand what voice or authority the guardian *ad litem* develops and what “evidence” she might want to present to best represent the child. This evidence might not be required, but the guardian *ad litem* might consider it important.]
6. Do you always attend a hearing? When you attend a hearing, what roles do you play in the courtroom as a guardian *ad litem*? How often do you speak, if all? What questions might you be asked? Or does a report already submitted speak for you? [From this question, I want to understand to what degree the guardian *ad litem* submits her information or evidence orally or in writing.]
7. In the hearings, do you find yourself and your recommendations respected? Have you developed strategies to persuade the parties involved of your authority in making recommendations? Is there a difference, among the judges, attorneys, families, and social workers, in how they react to your recommendations? [From this question, I want to determine what persuasive strategies a guardian *ad litem* might use to assert authority or voice.]
8. Do you have any recommendations for the court or the legal system in how to improve your role as a guardian *ad litem*? Or to improve the hearings in general? [From this question, I hope to gather a list of recommendations for the participants in the study, including the Family and Juvenile Court judges.]
9. Is there anything else that you would like to share with me? [I end the interview with an open question to make sure that the participant has been able to share all of what she wishes with me.]

APPENDIX E: HENNEPIN COUNTY JUDGES CONSENT FORM AND INTERVIEW QUESTIONS

Consent Form

Child Protection Hearings in Minnesota: The Role of the Guardian Ad Litem

You are invited to be in a research study of the roles of guardians ad litem in child protection hearings in Minnesota. You were selected because you serve or have served as a judge within the Juvenile Justice Court in the Fourth District. I ask that you read this form and ask any questions you may have before agreeing to be in the study.

This study is being conducted by Professor Mary Schuster, Department of Writing Studies, University of Minnesota, and by WATCH, a local volunteer-based court monitoring and research organization that follows domestic violence and sexual assault cases and provides feedback to the justice system, in coordination with the Guardian ad Litem program in Hennepin County.

Background Information

The purpose of this study is to discover what role the guardian ad litem plays in child protection hearings in Hennepin County and to see how the guardians ad litem interact with judges, attorneys, social workers, children, and families before and during the hearings. In particular, we are interested in how you, as a judge, may interact with the guardian ad litem as he or she establishes a voice in such hearings and what persuasive strategies you might encourage or witness the guardian ad litem exercising to assert that voice. And, we also hope that you will share any recommendations for improvements for the guardian role. We will also be observing child protection hearings in Hennepin County and will use interviews with guardians ad litem and with the judges in the Juvenile Justice system to inform and understand those observations. Our goal is not only to provide more information about the roles and challenge of guardians ad litem in the legal system to a variety of local and scholarly readers but also to make suggestions on how all participants in child protection hearings might make the court more accessible and understandable to children. We intend to publish an article on the project in the WATCH POST and in other academic or advocacy journals.

Procedures:

If you agree to be in this study, you would be asked to participate in an interview with Professor Schuster from the University of Minnesota and with Sarah Coulter from WATCH. The interview will last about 45 minutes and can take place in your chambers or in the WATCH office (608 Second Ave, Northstar Suite 465, Minneapolis, MN 55402) if you would like. We will ask questions about your experience in the courtroom (see sample interview questions attached). With your permission, we will tape record the interview. No one else will have access to the interview tapes, and we will erase them after completing this project, no later than July 1, 2011.

Risks and Benefits of being in the Study

The study has limited risk for you. We will not be asking any questions about particular cases nor ask you to reveal the names, case numbers, or particulars of any case. If at any time, during the interview you become uncomfortable or do not wish to continue, we will be glad to terminate the interview and will destroy the tape and any notes of the interview. Again, we will be assigning you a pseudonym and will not reveal your identity to anyone. There is no direct benefit to you except in contributing to our knowledge about child protection hearings and the role of guardians ad litem.

Confidentiality:

The records of this study will be kept private. In any sort of report that might be published, we will not include any information that will make it possible to identify a subject. Instead, when referring to people interviewed, we will use pseudonyms to protect participants' identities. Research records will be kept in a locked file; only the two of us will have access to the records. Professor Schuster will have a co-writer in any scholarly publication of the project, Amy Propen from York College in Pennsylvania, but only Professor Schuster will participate in the interviews; Professor Propen will see the transcripts only when pseudonyms have been assigned.

With your permission, we will use a tape recorder to record the interview. No one besides the two of us will have access to the interview tapes. We will erase them as soon as we completes the study, or not later than July 1, 2011.

Voluntary Nature of the Study:

Participation in this study is voluntary. Your decision whether or not to participate will not affect your current or future relations with the University of Minnesota or WATCH. If you decide to participate, you are free to not answer any question or withdraw at any time with out affecting those relationships.

Contacts and Questions:

The researchers conducting this study are Mary Schuster and Sarah Coulter. You may ask questions about the project during the initial contact or during the interview. If you have questions later, you may contact Professor Schuster at the Department of Writing Studies, University of Minnesota, 150 Wesbrook Hall, 77 Pleasant Street SE, Minneapolis, MN 55455; Phone: (612) 624-2262; email mmlay@umn.edu; or Sarah Coulter at WATCH, 608 Second Ave. South, Suite 465 Northstar East, Minneapolis, MN 55402; Phone: (612) 339-1171; email scoulter@watchmn.org. If you have any questions or concerns regarding the study and would like to talk to someone other than the researcher(s), contact Research Subjects' Advocate Line, D-528 Mayo, 420 Delaware Street S. E., Minneapolis, Minnesota, 55455; telephone (612) 625-1650.

You will be given a copy of this information to keep for your records.

Statement of Consent:

I have read the above information. I have asked questions and have received answers. I consent to participate in the study.

Signature _____ Date _____

Signature of Investigator _____ Date _____

I grant the interviewers, Sarah Coulter and Mary Schuster, permission to tape record this interview with me, with the understanding that they will be the only people with access to the interview tapes, and that the tapes will be erased as soon as the study is complete, and no later than July 1, 2011.

Signature _____ Date _____

Signature of Investigator _____ Date _____

Sample Interview Questions—Judges in the Juvenile Court in the Fourth District (Hennepin County):

1. When a guardian ad litem is assigned to a child protection case that comes before you, what do you hope that guardian ad litem might accomplish in working on the case?
2. From your observations, does the guardian ad litem usually attend all hearings? Does the guardian ad litem speak during the hearings? If not, do you receive a report from the guardian ad litem to consider before the hearing?
3. What information do you think is important for you and other parties to hear about a case? What aspects of that information are requested or required by the court? What might you hear from the guardian ad litem that you would not be likely to hear from other parties?
4. In the hearings, have you observed the guardian ad litem 's persuasive strategies to ensure that the guardian ad litem's opinion and recommendations are heard?
5. Which of these strategies do you find persuasive in your courtroom?
6. Have you handled many cases in which domestic violence is also an issue for the family or parent? And, in your opinion, are there resources that address this problem? Do you bring a particular perspective to these cases as you and the parties in your courtroom and on the case work on behalf of the child?

7. Have you observed any ethnic or cultural match challenges in your courtroom?
From your own point of view? Or from that of others?
8. Do you think that when an attorney is appointed to the guardian ad litem communication in your courtroom is enhanced or restricted?
9. Do you have any recommendations for the court or the legal system in how to improve the role as a guardian ad litem? Or to make the court more accessible and understandable to kids?
10. Is there anything else that you would like to share with me?

APPENDIX F: HENNEPIN COUNTY CHILD PROTECTION WORKERS CONSENT FORM AND FOCUS GROUP QUESTIONS

Consent Form

CHIPS cases in Hennepin County

You are invited to participate in a focus group on February 25, 2010, as part of a research study of CHIPS cases in Hennepin County. You were selected as a participant because your work involves families and children who need services in cases of child neglect and abuse. This form is for your files. We provide one copy for you and will keep one signed copy at WATCH. Please feel free to ask any questions you may have before agreeing to be in the study.

This study is being conducted by WATCH, a local volunteer-based court monitoring and research organization that follows domestic violence and sexual assault cases and provides feedback to the justice system, in coordination with the Guardian ad Litem program in Hennepin County.

Background Information

The purpose of this study is to discover what is working well in child protection hearings in Hennepin County and to better understand the challenges. In particular, we are interested in how you, as a child protection worker, participate in court hearings and interact with the guardians and other parties involved. And, we also hope that you will share any recommendations for improving the court process in child protection cases. We have observed child protection hearings in Hennepin County and interviewed guardians ad litem and judges as part of this project. Our goal is to focus on the best practices employed to help families and children and to make suggestions on how all participants in child protection hearings might make the court more accessible and understandable to families and children. We intend to publish an article on the project in the *WATCH POST* and a more lengthy report, which will be available to all participants.

Procedures

If you agree to be in this study, you would be asked to participate in a 45-minute focus group on February 25, 2010.

Risks and Benefits of being in the Study

We will not ask any questions about particular cases nor ask you to reveal the names, case numbers, or particulars of any case. If at any time during the focus group, you become uncomfortable or do not wish to continue, we will understand.

Confidentiality

The records of this study will be kept private. In any sort of report that might be published, we will not include any information that will make it possible to identify a subject. Instead, when referring to people interviewed, the author will use pseudonyms to protect participants' identities.

Voluntary Nature of the Study:

Participation in this study is voluntary. Your decision whether or not to participate will not affect your current or future relations with WATCH. If you decide to participate, you are free to not answer any question or withdraw at any time without affecting those relationships.

Contacts and Questions:

Marna Anderson, from WATCH, will conduct the focus group. Along with Marna will be Sarah Coulter from WATCH and Mary Schuster from the University of Minnesota, both of whom were involved in the interview and courtroom observation stage of this study. You may ask questions about the project during the initial contact or during the focus group. If you have questions or more comments later, you may contact Marna Anderson at 608 Second Ave, Northstar Suite 465, Minneapolis, MN 55402, 612-341-2747 or manderson@watchmn.org.

You will be given a copy of this information to keep for your records.

Statement of Consent:

I have read the above information. I have asked questions and have received answers. I consent to participate in the study.

Signature _____ Date _____

Signature of Investigator _____ Date _____

Sample focus group questions:

1. Given your job within child protection, what information is important for you in making a decision about opening or closing a case?
2. Please describe how you ensure effective communication among other participants and parties on the case?
3. Have you handled many cases in which domestic violence is also an issue for the family or parent? What additional challenges exist in cases where domestic violence is present?
4. Do you have any recommendations for how to improve the court process in child protection cases? Or to make the court more accessible and understandable to kids and families?
5. Do you have anything else you would like to share with us?

APPENDIX G: COMMUNITY PARTNERS

Mary Lay Schuster, a law fellow and professor of writing at the University of Minnesota, and WATCH volunteer, is the primary project collaborator. Her focus is on the role of the guardian *ad litem* in juvenile court, and in addition to contributing to WATCH's project, she is compiling her findings into a book to be published next year. Mary conducted the interviews with the judges and guardians *ad litem*.

Glenda Dewberry Rooney, former WATCH board member and professor of social work at Augsburg College, provided ongoing input to the project's development and implementation, with a particular emphasis on the disparate treatment of families of color. She introduced WATCH to Our Children Our Future, a coalition of individuals and organizations dedicated to addressing racial disparities in the child protection system in Hennepin County and was the gateway to our meeting with county child protection management and setting up the focus groups with child protection workers.

Ann Hill, Minnesota Ombudsperson for African American Families, made several suggestions and connections helpful to this project. The Office of the Ombudsperson for Families ensures that children of color and their families covered by child protection services are guaranteed fair treatment by all agencies that provide child welfare services. The office monitors agency compliance with child welfare laws and placement decisions impacting these children.

The Children's Law Center's (CLC) volunteer attorneys represent children in Hennepin County CHIPS cases who are legal wards of the state, invited WATCH to present information on the completed CHIPS project to its staff. The discussion centered on information sharing and ways the CLC could support WATCH in presenting its findings and recommendations.

Legal Aid provides representation to children who are the subjects of CHIPS cases, especially for those under 10, who do not qualify for court-appointed attorneys. Two attorneys with Legal Aid attended the community partner meetings to provide feedback on recommendations and the report.

The Battered Women's Justice Project (BWJP) is a national training and technical assistance organization that promotes change within the civil and criminal justice system to enhance their effectiveness in providing safety, security, and justice for battered women and their families, including battered women involved in child protection and child custody proceedings. BWJP attended a community partner meeting and provided feedback on the report.