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# Guardian ad Litem Perceptions of Child Protection

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## Guardian ad Litem Perceptions of Child Protection

By

Carla Evans B.A.

MSW Clinical Research Paper

Presented to the Faculty of the  
School of Social Work  
St. Catherine University and University of St. Thomas  
St. Paul, Minnesota  
In Partial Fulfillment of the Requirements for the Degree of  
Master of Social Work

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The Clinical Research project is a graduation requirement for MSW students at St. Catherine University/University of St. Thomas School of Social Work in St. Paul, Minnesota and is conducted within a nine-month time frame to demonstrate facility with basic social research methods. Students must independently conceptualize a research problem, formulate a research design that is approved by a research committee and the university Institutional Review Board, implement the project, and publicly present the findings of the study. This project is neither a Master's thesis nor a dissertation.

### **Abstract**

Research into child protection has focused largely on evaluating the specific interventions that can improve outcomes for children who suffer neglect or abuse. Little is known about how the various elements of the child protection system interact to determine children's permanency decisions and about the system's overall strengths and weaknesses in improving outcomes for children. Guardian ad Litem are in a unique position to evaluate child protection because of their relative independence and because of their specific role of focusing on children's best interests. This research was designed to identify the strengths, weaknesses, opportunities, and threats facing the child protection system in a large Midwestern metropolitan area. The researcher engaged six Guardian ad Litem in qualitative research. The Guardian ad Litem were broadly supportive of the child protection system that they served, believing both the cases brought to court and the ensuing parental case plans they experienced were appropriate. Overall, they experienced positive collaboration within the system and felt that correct decisions were made about the final placement of the children within the system. They believed that they were making a positive difference for children. The most consistent complaint about the system was about the caseloads and turnover of the county social workers. They identified the county social worker as the key factor affecting the successful progression of a case. The researcher perceived quite varying beliefs about what minimum parenting standards should be before a child should be returned home amongst the respondents she interviewed. Therefore, this researcher recommends evidence-based training for Guardian Ad Litem that focus on minimum standards to ensure consistency and best practice for children.

### **Acknowledgments**

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## Introduction

The statistics of child maltreatment in the US are summarized annually by the Children's Bureau. According to their most recent report (2016), 702,000 children in the US were found to be victims of maltreatment in 2014. The Children's Bureau (2016) reported that three-quarters (75.0%) of victims were neglected, 17.0 percent were physically abused, and 8.3 percent were sexually abused. Approximately 1,580 children died of abuse and neglect in 2014, a rate of 2.13 per 100,000 children in the 2014 population (Children's Bureau 2016). These findings came from 3.6 million reports to child protection (involving 6.6 million children), of which 39% reports were screened out (Children's Bureau, 2016). The Children's Bureau (2016) noted that the remaining 3.2 million children received an investigation or another response. Post response services were given to over 1.3 million children (including children at risk where abuse was not substantiated), which included 242,000 children placed in foster care in 2014 (Children's Bureau, 2016).

The local picture appears as follows for the year 2014. Minnesota received 72,000 maltreatment referrals, of which 52,000 were screened out (Minnesota Department of Human Services [MNDHS], 2015). This represents a screen out rate of 72%, significantly higher than the national average of 39%. Maltreatment was confirmed in 2,848 investigations affecting 4,087 victims. There were 19 deaths from maltreatment and 12,172 children spent time in out of home care (MNDHS, 2015).

Minnesota responds to most cases that it accepts with 'Family Assessment' where the aim is to build on parental strengths and ensure family stability without the threat of taking children into care. In 2014, 72% of accepted cases received Family Assessment services (MN DHS, 2015). A much smaller proportion – the most serious neglect and abuse cases – undergo

Family Investigation, which may lead to children entering care. The literature review explores the conflicting pressures to support or separate the family.

The impact of childhood maltreatment is severe and life long. “Child maltreatment has long-lasting effects on mental health, drug and alcohol problems, risky sexual behaviour, obesity, and criminal behaviour, from childhood to adulthood “ (Gilbert et al., 2009, p. 68). How we respond to the needs of maltreated and at risk children is therefore of vital importance. The literature review below considers the research available into common interventions, primarily focusing on those serious cases where out of home care is being considered for the child’s safety. While states are monitored on factors such as, continuity of care and the number of children safely returned to their families after removal, there is little research into how the Courts and Social Services work together to achieve best outcomes for children - the strengths, weaknesses, opportunities and threats (SWAT) to the system of protecting children who the State has removed from their homes. Guardian ad Litem have a particular responsibility for children’s best interests. It is for this reason that the author proposes interviewing experienced Guardian ad Litem using a SWAT analysis to understand how children’s best interests are secured when the state removes children from their homes.

### **Literature Review**

The literature review first explores the contradictory pressures: remove the abused children from their home or support the children in their family of origin. It then evaluates the evidence for whether the conflicting forces of safety and family unity are reconcilable - and what interventions can ensure safety and reunify the family. Interventions examined include Chemical Dependency programs, family preservation programs and reunification programs. The review then considers the evidence to show which parents will be able to parent satisfactorily after an



intervention. It explores the development of child protection, examining the influences on child protection law, both nationally and specifically in Minnesota. The report regards performance indicators to show how Child Protection is working at both the state and national level. Lastly, it considers the role of the Guardian ad Litem in the Court system and why they are uniquely placed to give an informed view of how the welfare of the most vulnerable children can be improved.

### **Preserve the family or rescue the child?**

Child Protection in the United States appears to be something of a Curate's egg: good in parts. Many point to the countless lives saved by child protective action:

The truth is that the system saves lives and futures. As you read this sentence, a social worker somewhere is making a decision that will protect a child. As we look back across history, it is clear that the effort to protect children is not a story of failure, but a story of progress and hope. (Myers, 2008, pp. 462-463)

Nevertheless, outcomes for children in the care system are frustratingly bleak. Joan Kaufman (2016) writes:

The outcomes for children who age out of the foster care system are rather abysmal. More than one in five will become homeless at some point, only 58% will graduate high school by age 19, compared with 87% of all 19 year olds; 71% of young women who age out of the system will be pregnant by age 21; only half of youth will be employed at age 24; fewer than 3% will earn a college degree by age 25, compared with 28% of all 25 year olds; and one in four will be involved within the justice system within two years of leaving the foster care system (p. 115).

Doyle (2007), using a sample of 65,000 Illinois children aged at least 15 years who had been reported to child welfare in the year 2000, investigated caregivers for abuse or neglect. Doyle noted that cases were randomly assigned to child protection workers, but the workers had significantly different rates of removing children and placing into care, so Doyle compared outcomes for children investigated by high removers and low removers. Doyle found that children assigned to investigators with higher removal rates (i.e. children that are more likely to be placed in foster care for similar mistreatment level), had higher delinquency rates, teen birth rates, and lower earnings. In 2008, he used a similar methodology on a sample of 23,000 children whose families were investigated for abuse. He concluded that children on the margin of placement are two to three times more likely to enter the criminal justice system as adults if they had experienced foster care. Lawrence, Carlson and Egeland's 2006 longitudinal study of 189 children using a control group reiterated Doyle's findings of the psychological and behavioral damage of foster care, particularly when foster parents were unrelated.

The evidence shows that removal from a dangerous home may 'save' a child from abuse or neglect, but the very act of removal is in itself damaging. Foster care is no guarantee of a happy and secure future, even when a child is successfully reunited with their family afterward. Child Protection is under the conflicting pressures of family preservation and ensuring children are safe: fewer removed children may mean better long term outcomes for the majority, but it increases the risk of missing the needs of a child who, if not taken into care, will suffer serious injury or even death.

This set of pressures raises two obvious questions: Can we do more to support parents of children at risk of out of home placement to avoid removal altogether or at least hasten

reunification, and can we do better at identifying those where permanent removal is the only option for child well-being to avoid long periods of childhood lost to being in limbo?

### **Common Interventions to Preserve Families or Speed Reunification**

This section explores some of the interventions used when children have been removed or are at risk of removal and considers the evidence for their success and, where possible, what factors influence the likelihood of success. Interventions considered include chemical treatment programs, intensive family preservation projects, and reunification projects.

**Substance use disorder treatment.** Research suggests that treating parental chemical dependency is one of the most common and pressing needs to give children a safe home.

It is estimated that 60-70% of all substantiated child welfare cases and 80% or more of parents whose children are placed in foster care, meet diagnostic criteria for a substance abuse disorder. Among child welfare cases, parental substance abuse is associated with higher rates of child revictimization, greater likelihood of out of home placement, longer stays in care and higher termination of parental rights and child adoption. (Kaufman, 2016, p. 19)

Walsh, MacMillan, and Jamieson, (2003) used the Ontario Mental Health survey of over 8,000 adults to find that respondents who had parents who abused substances were more than twice as likely to report physical and sexual childhood abuse. Wolock and Magura's (1996) study shows that parental substance abuse is associated with higher rates of repeated reports of maltreatment of children after first investigation, particularly for parents abusing both drugs and alcohol. Effective treatment of parental substance abuse is plainly key for child welfare.

Unsurprisingly then, substance abuse treatment orders are issued routinely to parents where there is known substance abuse and a child has entered temporary care. However, in 1998, US

General Accounting Office found that only 13% complete treatment of those required to receive substance abuse treatment (Olivaros, Kaufman, 2011).

We know that entering care is detrimental to children, but family problems are often deep and intractable making a speedy return extremely difficult to bring about. Famularo et al. in their 1989 study found similarly disappointing results, compliance with treatment orders (all types) was less than 40%, and significantly worse for substance abuse treatment orders. We know that children are at risk when their parents abuse substances, but we appear not to know how to address parental addiction reliably.

**Family preservation projects.** Family preservation projects offer short term crisis intervention, life skills and counseling to families. The intent of these projects is to provide intensive services to families to avoid the need for out of home placement; the ‘Homebuilder ‘ model, popular in the 1990s, recommended an intense service period of about six weeks. Dagenais, Bégin, Bouchard, and Fortin, (2004), Kelly (2000), and Lindsey, Martin and Doh (2002) examined the success rate of such projects. The researchers found that while family functioning improved, at least temporarily, such services did not appear to reduce maltreatment or placement rates (Dagenais et al. 2004, Kelly, 2000). Lindsey et al. (2002) argues that poverty is the primary cause of failed parenting, citing neglect as the main cause of placements, leading to his conclusion that case management interventions to preserve families are doomed. Kelly’s (2000) meta-analysis compared Family Preservation projects with Family Reunification projects and found the latter to be more successful, presumably because of the additional commitment and focus brought by the children’s removal and the precise targeting of services on clients that had had their children removed leading to more significant improvements .

Kelly found that the most successful reunification projects have secure funding for at least three years and no financial incentive towards out of home care, the projects target services on the most promising and receptive clients, they offer concrete services like housing, cash and food, and help getting employment or public assistance. He found the 'concrete service effect' to be highest when client income was lowest. He found positive impacts are greatest when treatment regimes are longer rather than shorter (more than Homebuilder plan of 4-6 weeks). Highly skilled or experienced staff are more effective when compared with less skilled staff. He concluded that projects work better with older children and where problems are less severe or fewer.

Ryan and Schuerman in their 2004 study of 292 families in a Family Preservation Project also found that 'concrete services' – cash, clothing, furniture and supplies – reduced subsequent placement rates for those 54% families in his study complaining of difficulty paying bills.

While Kelly's study found that reunification projects were more successful than family preservation projects in turning families around, Biehal, Sinclair and Wade (2015) suggest from their findings that once a child has entered the care system, the emotional and behavioral problems are less severe for children who stay in the care system than for those who return home, particularly in cases of neglect. This suggests that reunification may not always be the ideal, despite the known poor outcomes of children in long term foster care.

Rivera and Sullivan (2015) found promising results in their analysis of the outcomes for 196 children placed in a recent housing-based Family Preservation project in Oregon, finding greatly reduced rates of repeated reports of maltreatment and re entry into foster care, compared to similar families prior to the project. In addition to providing emergency housing followed by permanent housing with continuous supervision, the program requires families to participate in intensive day treatment 20 hours per week and participate in support services such as: case

management and bonding and attachment services. Other support services include transportation, relationship education, couples and family therapy, and medical education and care.

Families typically stayed in the program for 18 to 24 months; about four months were spent in emergency or residential treatment, followed by four months spent in transitional housing. The families were supported through their transition to permanent housing for a minimum of four months and a maximum of a year or more. If temporary foster care could not be avoided, then, families had opportunities to see their child regularly and the child continued to see their foster parent after reunification to avoid distress to the child.

Rivera and Sullivan (2015) compared outcomes of the treatment group – those given housing-based services – and the control group or those who had out of home placement and were later reunified. Rivera and Sullivan (2015) found that whereas only 10% of children in the treatment group experienced subsequent maltreatment measured as a substantiated report within 18 months, 22% of children in the comparison group did. Over 18 months, 5% of children in the treatment group experienced re-entry (a subsequent removal) and 17% of children in the comparison group experienced re-entry (Rivera and Sullivan, 2015). While over 92% of children in the treatment group experienced reunification as their family permanency outcome, just over half of the children in the comparison group (52%) were reunified with their parent permanently (Rivera and Sullivan, 2015). The study does appear to show that children's families can become safe if housing is provided and the services are wide-ranging, intensive and long-lasting.

Rivera and Sullivan's (2015) study did not attempt a cost comparison of housing based project compared to foster care and it did not shed light on which elements of the intensive program were most influential on securing positive outcomes. Nevertheless, the fact that Oregon

has decided after this pilot to roll out these services more widely suggests that it views the approach as worth the expenditure.

The overview of the research implies that changing families' behavior and circumstances so that a child can safely return, is slow and difficult, but possible for most families with enough resources. It appears to support the view that concrete services – housing, clothing, cash – can have a beneficial affect on parenting where there are financial difficulties.

### **Identifying the Parents Who Cannot be Helped to Parent**

The second question raised was whether it is possible to identify in advance parents who are not going to be able to benefit from help, so children can be fast tracked into alternative permanent care. Fast tracking is already permitted under the Adoptions and Safe Families Act of 1997 (H.R. 867) which says reasonable efforts to preserve the family are not required in a number of circumstances, including for example when a parent's right to a sibling have been involuntarily terminated.

In Meyer, McWey, McKendrick & Henderson's 2010 analysis of 30 successful and 30 unsuccessful appeals against termination of parental rights, they found parents who lost their rights were more likely to have mental health problems and have experienced incarceration. In addition, when a composite score of risk factors was analyzed, parents whose rights were terminated had significantly more risk factors. For both groups, poverty was an equally common risk factor.

Grant et al. (2011) specifically sought to identify the differences between substance abusing mothers who were permitted to keep their children and those that weren't. Grant followed 458 women with substance abuse problems who enrolled into a three-year parent-child program. He found the group that had their children removed permanently had multiple and serious risk

factors including recent depression, history of hallucinations, heroin use, and deceased children. The group that the children stayed within the home without disruption had more education, fewer recent psychiatric problems, fewer children and fewer deceased children. Those that had their child removed and then returned, had fewer psychiatric problems than those whose had their child permanently removed. The 60% of mothers that reunified with their child at the end of the three years had more service needs met, more time abstinent from substances, and more support.

Services provided were individualized but included mental health, housing, outpatient treatment, family health care, and public health nurse services. These two studies suggest that there are identifiable risk factors where fast tracked permanent placement would be in the best interests of the child, but that services may make a difference to the parenting of those with fewer psychological problems who are eager and able to follow through on programs.

Given the current ‘push-pull’ between family preservation and out of home care, it is worth a brief overview of how the current system of child protection has developed in the United States: “how we got to here”.

### **Evolution of Child Protection to the Modern Day**

Prior to the New Deal, child protection was not considered to be a government responsibility. The first charity dedicated to child protection was formed in 1875: the New York Society for the Prevention of Cruelty to Children. Other similar voluntary organizations quickly followed across the nation. The Justice system also took an early role in intervening in cases of abuse and neglect. The first juvenile court came into being in 1899 and, like the Child Protection charities, quickly expanded into other states (Myers, 2008).

Federal government only became involved after 1935 when the Social Security Act authorized the Children's Bureau "to cooperate with state public-welfare agencies in establishing,



extending, and strengthening, especially in predominantly rural areas, [child welfare services] for the protection and care of homeless, dependent, and neglected children, and children in danger of becoming delinquent" (Social Security Act of 1935, 521, 49 Stat. 620, 633)

In 1962, the pediatrician Henry Kempe published 'The Battered Child Syndrome' which was a culmination of increasing medical awareness of child abuse and public concern. In the same year, Congress amended the Social Security Act requiring states to have statewide child welfare services by July 1, 1975. With pressure from Henry Kempe and his colleagues, by 1967, all states had reporting laws requiring physicians to report abuse suspicions. By 1974, some 60,000 cases were reported (Myers, 2008). This grew to 3.6 million by 2014 (Children's Bureau, 2016).

Congress passed the Child Abuse Prevention and Treatment Act in 1974 (CAPTA). CAPTA authorized federal funds to improve the states' response to physical abuse, neglect, and sexual abuse. In 1978, Congress enacted the Indian Child Welfare Act (ICWA) to reduce the number of Native American children removed from their homes.

In 1994, as a backlash against social workers' determined resolve to place children for adoption in families with the same ethnicity, Congress passed the Multiethnic Placement Act (MEPA). The 1994 MEPA prohibited child welfare agencies from delaying or denying adoptive placements on the basis of race, while still allowing race as a factor in placement decisions.

The Adoption Assistance and Child Welfare Act of 1980 (AACWA) required states to make "reasonable efforts" to avoid removing children from parents with a maltreatment finding. When removal was necessary, reasonable efforts were required to reunite families. Every child in foster care had to have a "permanency plan" to return the child home or move toward termination of parental rights.

The implementation of AACWA raised fears that reasonable efforts and family preservation were causing social workers and judges to leave children in dangerous homes. Congress responded in 1997 with the Adoption and Safe Families Act (ASFA). Although ASFA did not shed family preservation as an important goal, it made child safety the top priority. When children are placed in foster care, ASFA establishes strict time lines for returning them to their parents or terminating parental rights. In cases of sexual abuse and chronic physical abuse, ASFA authorizes states to dispense with efforts to reunify the family and to move directly to termination of parental rights (Myers, 2008).

In Minnesota, the dual pressures of family preservation and safety have been intermingled with concerns that Black and Native American families were experiencing much higher levels of investigation and family separation than White families. The Minnesota child welfare report 2014 reports “American Indian children continued to have the most disparate out-of-home placement rates and were 17.5 times more likely to experience out-of-home care than White children. Children who are African-American or identify as two or more races were 3.6 and 4.5 times more likely to experience care than White children” (p. ii).

A law was passed in May 2014 to partially militate against this apparent systematic discrimination by requiring each allegation of abuse to be examined on its own merits without regard to former rejected reports. Then later that same year, the horrific torturing and eventual murder of Eric Dean hit the press (Stahl, 2014) amidst public outrage that despite 15 separate reports of suspected abuse, Child Protection had only investigated one report and had dismissed it. An investigation then ordered by Governor Dayton into Child Protection found that Minnesota’s counties were choosing to put maltreatment cases that were too serious into the

family support- style program called ‘family assessment’ (more commonly known nationally as Differential Response) and not taking children into care when needed:

Since the implementation of family assessment in the early 2000s, its use and application has grown exponentially. Currently, more than 70 percent of all screened-in reports are assigned to family assessment. This has included high-risk maltreatment allegations, sexual abuse allegations, and cases that meet the definition of substantial child endangerment. It is clear that Minnesota’s use of family assessment is beyond that of other states and beyond what the statute allows. The use of family assessment continues to rise despite the fact that the re-report rate for family assessment has been higher than family investigation in five of the last seven years. This practice is of concern and must be addressed. (Governor Dayton’s Task Force on the Protection of Children, 2014, p5/6)

State law Legislators in 2015 passed a bill, which changed the priority in child abuse cases away from keeping the child in his or her family. Instead, the new law specifically says a child’s safety must be the paramount concern (Minnesota Department of Human Services, 2015). Numbers of children placed into care since Eric’s death in 2013 reflect the risk averse mood (see Table 1).

Table 1: Individual Children Experiencing Out-of-Home Care

Year	Number	Increase / (decrease Over previous year
2015	13612	11.8%
2014	12172	5.8%
2013	11510	0.5%
2012	11453	0.7 %
2011	11368	1.1%
2010	11239	(3.9%)

(Minnesota Department of Human Services 2012, 2013, 2014, 2015, 2016, 2017)

The push-pull of the values of safety versus family preservation can be seen to have influenced federal and state law and also the development and then reduction of specific approaches such as family assessment.

### **How good is our Child Protection?**

While it is easy to castigate a local county's child protection services after a child's death and the glare of negative publicity, it is useful to compare Minnesota's performance against that of other states. Minnesota's child protection performance is measured not just on its placement numbers, but on a wide range of national targets including stability of out of home care placements and adoption rates. The Foundation for Government Accountability (2012) reviewed the performance of all 51 States (including Puerto Rico) and ranked Minnesota 21 overall. More specifically, Minnesota ranked 9<sup>th</sup> for the speed and safety of family reunification, suggesting that it does pretty well in returning children as quickly as possible to their homes and improving the ongoing quality of their care there. However, Minnesota had three times the national average rate

for placing children in institutional (as opposed to foster) care; it ranked 51 out of 51 states for over-use of institutional care. It also had relatively poor performance for such things as stability of placement.

The Minnesota Child Welfare Report 2014 Report (MNDHS, 2015) showed that Minnesota met the Federal target for reunification within 12 months (86.2 % of those reunited were reunited in under 12 months against target of 75.2%), Minnesota narrowly missed the federal objective of 94.6% with an actual of 94.4% of those who had been maltreated in last 6 months of 2013, not being maltreated in next 6 months. They also failed to meet the objective for reunified children returning to foster care within 6 months (23.4% against a target of 9.9%). Minnesota missed federal targets for speed of adoption. Children that were in the care system for over 12 months suffered excessive placement instability, although those under 12 months met the target.

The Children's Bureau Child Maltreatment report (2016) shows Minnesota had a child fatality rate of 1.17 per 100,000 in 2014 against a national average of 2.13. In the same year, 20.6 children per 100,000 received an investigation or alternative response in Minnesota against a national average of 43.7. It was one of only 28 states (53.8%) that met the target of 94.6% (actual Minnesota figure 96.1% ) of victims without another incident of maltreatment within a 6 month period. Nearly 6% of victims of maltreatment received foster care as a post response against a national average of 3.4%. Court action was taken in 36.7% cases against the average of 26%.

The performance of Minnesota should be seen not just in a national, but international context. In 2013, UNICEF published a report ranking 29 developed countries for child welfare. They rank a country's child well being by taking into account material well being, health and safety, educational achievement, behaviors and risk, housing and environment. The US was ranked 26<sup>th</sup> out of 29 developed

countries. Ranking for material well being was affected by income inequality as opposed to absolute poverty measures which will have particularly affected the U.S. ranking, given the wide range of incomes in the US (OECD, 2015, put US and Israel as equal worst for developed countries on income inequality). In 2003, UNICEF specifically looked at child maltreatment rates between developed countries. It found only Portugal and Mexico had more fatalities from maltreatment than the US out of 27 rich nations. The worst performing three countries – the United States, Mexico, and Portugal – had fatality rates that were between 10 and 15 times higher than the average for the leading countries. The US experienced 2.4 deaths per 100,000 children from maltreatment, compared to the best performing countries at the time: Spain 0.1. Greece and Italy 0.2.

Gilbert (2012) compared ten developed nations' child welfare systems. He found a correlation between high rates of placement and child well being (using Unicef's 2007 Innocenti Research Center's multi-dimensional index of child well being), as well as the more anticipated correlation between greater income equality and child well being, already suggested by the UNICEF reports. Gilbert's study shows that countries with higher child welfare also have higher rates of placement in out of home care. However, importantly, the higher rate of placement was primarily for older children and often with the voluntary consent of both parents and child. The US and England had the largest proportion of youngsters 0-to-4 years of age in placements, the group most at risk for fatalities arising from maltreatment (UNICEF, 2003). Gilbert found that of the developed nations he compared, the US had higher rates of maltreatment deaths than most rich nations and the greatest income inequality, but had one of the lowest placement rates.

The caveats around the differences in ages of children in care between high welfare and low welfare countries makes the argument for increasing placements in the US based on inter country comparisons to improve child welfare less compelling. However, Gilbert's and

UNICEF's findings on the correlation between child welfare and income equality are reinforced by Bywaters' et al.'s 2016 study on the link between poverty and maltreatment which concluded:

There is a strong association between families' socio-economic circumstances and the chances that their children will experience Child Abuse and Neglect (CAN). Evidence of this association is found repeatedly across developed countries, types of abuse, definitions, measures and research approaches, and in different child protection systems.... Poverty is neither a necessary nor sufficient factor in the occurrence of CAN. There can be many factors causing CAN. Poverty is only one factor, but perhaps the most pervasive. (Bywaters, 2016, p. 3).

From all the evidence above, we know that states struggle to achieve good outcomes for children who are the victims of maltreatment. We know that US rates of maltreatment compare poorly with other developed countries and it is likely that relative poverty contributes to these high rates. The evidence shows that Minnesota's performance in dealing with child maltreatment against national benchmarks is by no means the worst compared to other states, but there remains deep unease about the state's Child Protection system and whether we are doing all we can to further the best interests of this most vulnerable group.

### **Guardian ad Litem**

Within the Court system, it is the Guardian ad Litem (GAL) that is responsible for representing the child's best interests when there is an allegation of maltreatment.

Snider (1990) states "A state cannot qualify for child abuse and neglect related federal assistance unless it provides for guardians ad litem or their equivalent in judicial proceedings involving abused or neglected children" (p. 1253).

All states therefore employ GALs, but the GAL required training and qualifications differ from state to state. In California, the GAL must be a mental health professional (McCarthy, 2013). In Minnesota, GALs are unpaid graduate volunteers with a minimum of 40 hours pre-training in child protection (Minnesota Guardian ad Litem Board, 2016), while in neighboring Wisconsin, GALs are paid attorneys with some specific advocacy training (Murray, 2013).

Snider refers to Minnesota Judges Association's Guidelines for Guardians Ad Litem (1986) to describe the role:

To be effective in [participation in court proceedings], the guardian ad litem must become actively involved in the issues and actions which affect the child both before, during, and after actual court hearings. The primary duties of a guardian ad litem include case investigation, participation in negotiations and hearings, development of dispositional recommendations, presentation of recommendations to the court, regular contact with the child, protection of the child's rights, participation in decision making meetings that affect the child, case monitoring, advocacy on behalf of the child to ensure their needs are met, and compliance with all statutory requirements pertinent to the matter to which he or she has been appointed. The guardian ad litem, whose only focus is on the child's best interests, may also be in a unique position to facilitate the resolution of cases without litigation. (p. 23)

The GAL's independence from the adversarial proceedings between County and Parental Attorney, the thoroughness with which they must become acquainted with the child, the family and his or her social worker before and after court proceedings, and their witnessing and participation in the Court process puts the GAL in a unique position to comment on the system in place to protect children .



Little research is available that sets out what GAL perceive to be the strengths, weaknesses, opportunities for improvement and dangers within the Child Protection system. The life long importance of having an effective system for maltreated children makes the fresh insight of an independent but informed and concerned group to be potentially both new and useful. This research therefore seeks to find out from the GAL's perspective, what are the strengths, weaknesses, opportunities and threats for children and families involved in child protection?

### **Conceptual Framework: The Ecosystems Perspective**

The concept of the 'person in the environment' has been influential for a century since Mary Richmond introduced it in 1917. A person influences and is influenced by the environment that they find themselves in. A person and their environment adapt to each other and are interconnected. The Ecosystems perspective builds on this understanding to provide an approach to ensure that the practitioner takes into account the multiple interacting elements of a case. It is not so much a guide to practice – what to do – as it is a guide to looking at clients and their behavior before intervening (Mattaini & Meyer, 2002).

The ecosystems perspective tries to identify the network of various important systems affecting an individual – family, school, work, church, neighborhood, friends etc. – to get a full and relatively complete overview of the influences and potential supports that surround a client. "Ecomaps" which plot the key systems around an individual - are a widely used tool in the Social Work field because they encourage a broadening of focus that can better illuminate both the causes and possible solutions to a problem. An Ecomap clarifies the significant elements of a case and allows greater insight into the dynamics. Capra reminds us that the systems are not made up of objects but an "inseparable web of relationships" (Capra, 1996, p. 37). It is the

transactional relationships within the network that make the network vibrant. (Mattaini et al., 2002).

Another key tenet of the ecosystems perspective is that the elements of a network interconnect so that changes in one area are likely to have ripples into other areas. There are therefore multiple entry points to create change; there is more than one option to tackle a problem and what will work best will be affected by the individual's particular network and its dynamics. Tackling an easily accessible problem may reverberate positively on other 'harder to reach' aspects.

The execution of a Child Protection case can be seen through the ecosystems lens. The case elements ideally are working together as a system to achieve a child's welfare. Are the Social Worker, the client, the client's family members, the judge, the county and client attorney, the foster carer, and the Guardian ad Litem all working together as a system to achieve the best possible outcome for the child? Are the imposed structure and processes impeding or aiding the desired outcome? Are the personal relationships and interactions between these parties a source of strength? Are external systems surrounding the parent – services such as mental health, housing, drug treatment, transport, employment, welfare payments adequate and being worked for the benefit of the parent and their children.

The questions asked of the respondents in the research are designed to consider the whole system in play when a child is taken into care and consider how well the elements work together and the transactions between them. The researcher uses a Strengths, Weaknesses, Opportunities, Threats (SWOT) analysis to give a rounded evaluation of the Child Protection system's impact on families. SWOT is a planning method, widely used in both business and non-profits to inform decision makers considering the necessary steps to achieve objectives. It involves specifying the

objective – in our case, the best interests of the child - and identifying the internal (strengths, weaknesses) and external (opportunities, threats) factors that are favorable and unfavorable to achieve that objective. It does not help identify priorities, but nevertheless helps the planning process by bringing the focus onto both the barriers to success and the organizational assets which can be employed to overcome the barriers.

## **Method**

### **Research Design**

In this study, semi structured qualitative interviews were used to identify GAL perceptions of the strengths, weaknesses, opportunities and threats in the Child Protection System in Minnesota. A qualitative design was necessary for this study to explore and examine the experiences of GALs.

### **Sample**

Six practicing GALs with at least one year's experience were interviewed for this qualitative research project; five were female, one was male. The GALs work in the County Courts of a large Midwestern metro area.

This study used a convenience sampling procedure in order to recruit eligible participants. Convenience sampling is a method defined as, “samples composed of those elements that are readily available or convenient to the researcher” (Monette, Sullivan, Dejong, & Hilton, 2014, p. 494). Using this method, the researcher firstly contacted a GAL coordinator for Ramsey County, and secondly used a local neighborhood information exchange website to invite suitably qualified participants within the Twin Cities to contact her. The GAL Coordinator responded to the researcher's request and emailed the researcher the contact details

of interested parties. The researcher then made contact with the two groups expressing an interest via email in order to provide adequate information regarding the study.

### **Protection of Human Subjects**

Prior to the interview, the consent form was reviewed with the respondent (see Appendix A). The respondents were informed that the interview would last approximately 30-45 minutes. The consent form clarified that the only people with access to the transcript would be the researcher and the Committee Chair. It explained that the findings would be aggregated and would not use any identifying information in the final report. The form explained that the results would be disseminated in an oral report at St Thomas and in a written report to be submitted to the School of Social Work. The informed consent form was developed from a template approved by the University of Saint Thomas Institutional Review Board (IRB) for expedited review. The researcher stressed the voluntary nature of the interview and explained that the interview could be terminated by the respondent at any time. The researcher asked the respondents questions about the risks of the study in order to test understanding before the respondents signed the consent form.

The recordings were made on a password protected phone and deleted after 24 hours once the transcript had been made by the researcher. The transcript was kept in a password protected file and destroyed upon completion of the study.

### **Data Collection Procedures and Instruments**

The researcher met the respondents in a private setting of their choosing, such as an office, library room or the participant's own home.

The respondents agreed to participate by signing the consent form (see Appendix A). The interview was in a semi-structured format, guided by a set of questions that were preapproved by the Committee members and as required by the IRB. The questions were developed to be as open-ended and non-directive as possible to maintain the integrity of the research, unhindered by bias of the interviewer. The interviewer asked some additional follow up questions for clarification. The interview was recorded for later transcription and coding.

The questions were developed as a result of questions that arose from the literature and addressed the respondents' perceptions of the strengths and weaknesses of the Child Protection system and the respondents' views on what changes they believed would be helpful (opportunities), as well as their views on the factors and influences on the Child Protection system that might impact negatively on children's best interests (threats). The questions began generally; exploring GALs' reasons for taking on their role, and then their views on child protection policy. The respondents were then invited to analyze the child protection system as they have experienced it personally. Questions were asked in respect of cases where the respondent felt the Courts and county caseworkers had brought about positive outcomes for the children, what actions or circumstances had brought this about? Where outcomes for children were perceived to be unnecessarily negative, what had gone wrong and what could have been done differently? Lastly, the questions explored the affects of the wider environment on child protection and their recommendations for system changes.

### **Data Analysis**

A grounded theory approach was used for data analysis (Böhm, 2004). Data analysis began with the open coding process followed by axial coding and then selective coding. This allowed the researcher to identify common themes in the participants' experiences and to

connect the themes in order to provide an exploration into the research question for the study. Initially, subthemes were identified through open coding. The purpose of open coding was to identify key concepts that would be the “building blocks” for further data analysis (Böhm, 2004, p. 271). These initial codes were then reviewed with the committee chair and combined or disregarded to create themes that accurately reflected the data. Upon completion of identifying the emerging themes, the themes were connected in relation to one another and to the overarching objectives of the research (the strengths, weaknesses, opportunities and threats) to produce the findings. This process is referred to as selective coding and it is done with the intent of identifying the main idea embedded in the data (Böhm, 2004)

### **Findings**

In this section, the findings have been separated for clarity into strengths and weaknesses (internal factors) and opportunities and threats (external). Recurrent topics include the personnel that implement the child protection system, the services delivered to parents, and the guidelines that the GALs follow in order to make their recommendations about the return or otherwise of the child to the family of origin. The writer found GALs were broadly satisfied with the quality of the personnel, services to parents and decision making of the courts. Their recommendation for changes and improvements were diverse.

#### **Strengths (internal)**

GALs perceived strengths in the qualities of the various personnel in the Child Protection system, in the availability and relevance of services given to parents and children and in their own ability to meet their mission of securing the best interests of the child.

**The personnel.** GALs overwhelmingly thought positively about their own particular role, they felt they were making a difference:

*I really believe in the child-centered work that the guardians do, always looking at what's in the best interest of the child.*

*Those kids are better off, the ones that we're dealing with are better off....they're safer. Its not perfect, but I remember some politician used to say "don't sacrifice the good in the hope of the perfect," I don't know, that's how I feel anyway.*

In most cases they felt the Courts were making appropriate decisions that were in accord with their recommendations:

*I've seen the judges I've worked with, really take all the information presented and I've seen good decisions. I haven't had a case where the judge didn't agree with me.*

They felt all the roles were necessary – the judge, the social worker, the guardian ad Litem, the parent attorney, the child attorney and the county attorney:

*...when everyone is fulfilling their role properly, they're very unique roles, they each have their own purpose*

Most interviewees felt there was good teamwork amongst the various players with a strong common goal:

*I've seen good collaboration. I have seen people's hearts in it, you know, not just pushing pencils and trying to make a check mark, this is done. I see people really caring about what's in the best interest of the child and trying to reunify the family....*

*Talking to social workers, talking to lawyers, talking to service providers, and the court, the judges..., they always truly have the best interests of the families at heart and really,*

*really want to reunite families. I feel everyone has that one goal, it maybe a hard road to get there, but we all have that one goal and I think we all kinda work together.*

All the GALs identified the social worker as the key person in their eyes who could make a difference for the client:

*You can have a social worker that is very proactive. Not that they're doing the paperwork for the client or whatever, but following up – "have you tried this avenue, there's housing vouchers coming available next week, here's the contact, here's the call", following up with whoever is facilitating the parenting group, and really taking the time to know the person.*

The GALs felt that all the cases they had seen had been appropriately assessed by the intake workers to be in need of child protection where the child is removed from their family. For the most part, they felt that the social workers, responsible for developing the case plan and supporting the parents to achieve reunification, were working hard. They felt that the case plans the social workers created with the parents were relevant, and that there was an appropriate balance of handholding and expecting the client to take steps for themselves in order to follow through those case plans:

*I find in most cases the social workers put together a comprehensive plan that is focused on the issues that brought the child into Child Protection. Most of the social workers I work with are very collaborative and we're on the same page of what is in the best interests of the child.*

*The social worker plays a huge role. For the majority of my cases, I've had great social workers, part of why I've had success is because we work collaboratively, lotta times we*



*meet with the families together so we're both hearing the same things together and then we can discuss what our opinions are.*

*In 95 % cases we're in agreement on what should be done, they're responsive, and they do well, and we work well together.*

**Child Protection services to parents.** Guardian ad Litem largely felt that the services offered to parents were both relevant and sufficient. They identified drug treatment, mental health and parenting training as being both the most common and necessary services, while acknowledging that parental receptivity to these services was quite mixed. Most had ideas for minor improvements and changes, but overall they perceived that reunification chances were less to do with a shortage of services to parents and more down to parental motivation:

*I don't think the case plans are too stringent at all. I think they're what we would expect.*

*I find with that, it's all the parent's willingness to want to work a program. So if you want drug services and psychological treatment and transportation, there's a lot.*

*I don't think its about how the service is performed, I think it's the willingness of the parent to get clean and sober.*

*I think there are really pretty good services and if you're willing to show up where you're supposed to, you know, not have a drug house... If you're doing what you're supposed to,*

*you can get services. ... you can get rides to your doctor's appointments, you can get clothing, you can get psychological help, you can get drug dependency help.*

**Guidelines.** Overwhelmingly, GALs were confident in their role and in their ability to identify the outcome that was most in the child's interest:

*I weigh very heavily what I research, and see and be a part of, first hand. I mean sometimes you read the paperwork and it sounds like the individuals surrounding this child might be the worst nightmares in the world or the greatest thing since sliced bread and you really have to take what's written by other people with a grain of salt.*

The GALs appeared to take their role seriously but trusted their own judgment, several described 'best interests' as a relatively simple concept:

*There probably are guidelines, I don't use guidelines, I really use my gut instinct. I'm just really a staunch believer in whatever is best for the child and to me it's always been pretty obvious.*

*I wish I sounded more cerebral, but it really is a lot of common sense. I mean when you're around the parent and child, they can't fake that bond and they can't really fake for too long how they react disciplining that child....*

All the GALs were aware that reunification was the goal wherever possible. The GALs were very aware that they needed to put aside their own parenting and housekeeping standards, and they also appeared to feel confident that they were able to put their own biases aside:

*One thing I think about a lot that my manager years ago said to me "never try to figure out if it's good enough for your children because it never will be. Just figure out if it's good enough."*

*Everybody's definition of good parenting can be different so you have to leave your own biases out of things.*

*As guardians, we are told that we may have a different idea of kind of what basic needs are, but that's all, by law, that the parent is supposed to provide. It might be different from ours, so I have to kind of look at that as I make decisions about families.*

### **Weaknesses (internal)**

The GALs identified weaknesses in the same areas where they had also identified strengths, namely in the personnel and in the services. The writer also noted that while the GALs were rigorous, committed, and confident in their judgment about whether children should return home, there appeared to be quite wide variations in what Guardians viewed to be critical which suggests there could be inconsistent standards.

**The personnel.** All interviewees expressed concerns about both the heavy workload and the turnover of social workers and the impact of this on the cases. Some also noted the heavy caseloads of the case aides (the people who transport and supervise children at visitation with their parents). Some GALs reflected on the frequent calls for GALs to take on extra cases and expressed concerns about the caseload pressures on the group of paid GALs and the retention of GAL coordinators.

GALs saw that this heavy workload of social workers gave rise to social workers being reactive rather than proactive and saw parents not having their questions answered:

*The social worker (affects whether the case goes well or badly), and probably the case load of the social worker, they're ridiculous. It's just too much. And the revolving door of*

*social workers. If there isn't the same social worker on a case, oftentimes it just falls apart in the transition... They just don't retain social workers, there's just a new batch coming in all the time and people quitting, they have to get a handle on that career... when these people have 35 or 40 cases and some of these families have seven kids, its ridiculous.*

*I think the social workers are really dialed in on the very immediate things and so you're just putting out fires, instead of really, what would really help this child feel more comfortable, and have their needs met? And a lot of times, it's really simple things. Like Driver's Ed is a big deal to kids and they're entitled to get driver's ed, but sometimes you have to just set it up and get the money and you know, so...*

Some GALs commented on the lack of knowledge of social workers about available services and how GALs would sometimes have to educate the social worker:

*I think a lot of the services have to do with the knowledge of the social workers and I think that can be a hindrance to some cases. I think with my experience I've become aware of more of the services that are available to help parents work with their babies. So I'm able to offer that, but if you don't have that experience or that social worker doesn't have the experience, then that's lacking.*

Although all the GALs thought that the majority of the social workers were competent, most had met social workers who appeared somewhat unhelpful:

*There are good social workers and not so good social workers who don't pay attention to the service needs that the mother might have, that don't respond promptly, that maybe*

*have a harder view about how helpful they should be, I think in some cases they should have a more helpful view about doing their work, some of them.*

*They don't try to help them find services, you can kinda check a lot of boxes, just "I met with mom, met with dad, told dad he had to do this." But a lot of these clients don't have any idea really how to navigate some of the system.*

A clear majority found the social workers were collaborative and inclusive towards the GALs, which was highly valued. GALs appreciated when social workers invited the GAL to meetings with the parents and then reviewed the case with them afterwards. Being on the same page as the social worker was much preferred. However, this collaborative experience was not universal:

*"I have a few minutes, let's make it short". That's kinda what my experience has been with them (the social workers). But I've worked with several social workers where I feel that I'm nagging at them to get back to me, so email I find works better, because then when they have time, they can get back to me.*

**Child protection services to parents.** GALs believed that Child Protection made efforts to provide suitable services, but they felt they didn't always turn the family around:

*The chemical dependence and that, I don't know, that's a mixed bag. I've seen just a couple of times where that's been effective and the moms have gotten their babies back. But like I was saying earlier, I've had moms who go through it just for whatever reason, to go through the steps and really don't want to give up the drugs. I think even when children aren't involved, treatment is very iffy and has to be repeated multiple times. It's just incredibly difficult.*

Several GALs mentioned delays to services being a problem:

*The waiting lists, for the mental health. If you're even going to give parents a chance, they have to be able to partake in services on their case plan, even in home parenting education, a mom wanted it quite a while, and there's waiting lists.*

*The mental health piece is huge. And when we were talking about policy before, that is another area where probably more resources are needed, to try and get a child to a psychiatrist or a psychologist, there's often wait times, waiting lists.*

**Guidelines.** While GALs felt confident in their ability to make the right choices for children regarding their best interests, there was a wide variety of answers in respect to the factors that were taken into account: consistency of care, planning for the future, school attendance, the parent's support network, and use of the correct car seat for example.

Many mentioned 'safety', but there were wide variations in what this meant:

*When I think about safety, the big bright alarms are – did you see a firearm in the house, was there any drug paraphernalia in the house, were there signs of abuse of the child, bruise marks, things like that.*

*I'm very, very lenient when it comes to that occasional accident because I had children, you know, we had a lot of injuries, I would be a hypocrite if I held parents, especially young parents with a lot of issues, without a lot of the blessings that I had, the safety and security around me that I had, a lot of parents are struggling, its hard sometime to be that perfect parent, so I don't hold them to that standard at all...I don't think in six years*

*from a physical point of view I've seen a situation that was drastic enough for me to raise a red flag that we really need to do something here.*

While all the GALs seemed aware that the law is looking for a minimum standard of parenting, what that minimum might be was quite varied. Only one GAL appeared to be aware of and use any guidelines from their training. The GAL shared these guidelines with the writer, but these guidelines were more topics to explore rather than standards to follow – for example, the child's medical and educational needs, the child's family relationships, the child's past experience, their religious and cultural needs, the child's interests and preferences. Some GALs expressed that they would be affected by an older child's preferences, other saw their role as more explaining to the child why the child was wrong, if the child's view differed from the GAL's:

*If I disagree with them, I tried to really explain to them why I disagree with them and "you understand I have to do what I think is in your best interest and this is why I don't think it's best for you to go to say, go live with Grandma".*

*But if they're thirteen, fourteen, fifteen (years old), I would say they may be too young from a legal standpoint to express a preference, but their words are really weighty and should be considered by the court and so I would focus on that, more with an older child, not someone who is three or four.*

Some GALs saw Marijuana use as counting against the parents quite severely while others saw it as of no import. Some saw Marijuana as a gateway drug and therefore saw continued use as dangerous because of what it might lead to, while others, also firmly against Marijuana use, were looking for signs that the parent was prioritizing their child above all else. If

the parents weren't willing to give up Marijuana for the return of their children, then they weren't prioritizing their children enough.

*Personally, I don't like it. I view it as a negative if they're continuing to use marijuana, because it leads to other drugs.*

*My standard is if you can't make changes in your life in this arena enough that we think its safe for your child to go back to you, when are you ever going to make those changes?*

*If they occasionally smoke it I view it like I would have a glass of wine, I would not expect my children to be taken away from me for that, that's kind of the way I see it because I don't think marijuana is a step to heroin or whatever.*

*She worked so hard on her program, and we did reunify. Are we going to find she's ever going to relapse? You know well, probably...You know you can't take everybody's children away if they have a drinking problem or drug problem, it's what they do with their children if they're drinking and doing drugs...*

Some looked towards whether the parent was meeting the case plan to decide on reunification, others whether the parent was trying and at least making progress on the case plan. For others still, they were looking for a bit more than meeting current basic needs.

*Ones that are a little trickier are the ones where the parent is making progress, and if they have a strong support system around them, those cases I feel much more comfortable moving towards that reunification piece.*



*I do see where it's hard for her. I think she's trying really hard, but she's not meeting the goals. And until she starts meeting the goals, she's not getting her kids back.*

*Do I see this parent making a commitment to this child and to the best interests of this child, for the future, not just for now and getting through this case and getting \_\_\_\_\_ county off of their backs? And so I think for me that weighs as the biggest thing in weighing the best interest of the kid, what is their future going to look like.... I felt like in the present she was fine, she was providing for her child, but I would have liked to have seen more thought about the future in her situation.*

### **Opportunities (external)**

GALs identified schools, medical professionals, and communities with a strong ethos of mutual support as external factors that were current supports for some families:

*When I think of outside factors, I think more of, the larger umbrella that I work a lot with. These are the medical professionals involved with my kids, therapists and schools a lot and those can be make or break, they either really cooperate with you, and they generally really do, but those are the outside influences I see that directly impact the kids I work with.*

*Like the Somali community is now such a big part of the twin cities and that's almost communal living, you know so those children are almost like children of the village. So that's been something new and really positive... because the more positive supports a child has, I don't care who you are or where you come from. Its just important the child has somebody.*

There was little overlap in what GALs perceived to be the opportunities for improving the system. Some ideas were borrowed from business such as staff retention strategies and the provision of out of hours services (for case aides and drug testing) to parents in the evenings so that parents could hold down their jobs. Other ideas expressed included preventative wrap around services tightly tailored to the individual needs of any family in difficulty, greater use of parent mentors, family meetings that included all the family members concerned about the child in care (not just the parents), peer support groups for recovering addicts, and parent advocates / support for every new parent to prevent crises developing.

### **Threats (external)**

The main threats to child well being in wider society were identified as poor family support networks, drug culture, and the shortage of low-income housing. GALs were fully aware of the correlation between poverty and child neglect/abuse (Byers, 2016), but they largely did not believe in a solution of simply raising family incomes and saw poverty as a symptom of other, deeper problems.

**Family support networks.** GALs were aware that a supportive wider family can make all the difference and several recalled their own good fortune in having a strong personal support network:

*If you don't have someone to catch you - because you are going to fall at some point in your life - if you don't have someone to catch you or help you stand you back up when you do fall, you're not going to succeed.*

*The other thing I see is there are so many broken families. Every family that I have, there is no two people, there's only one.*

*People that do the best are people that have family support around them, have a job and have transportation.*

**Drug culture.** While some GALs questioned whether drugs were really the core problem or whether mental health issues lay behind the drug use, most perceived drugs in society as having a very negative influence on child welfare:

*So many of the families come into child protection because the parent is using drugs.*

*That has a significant impact. Drug and alcohol. If we could tackle that problem, there would be less children in child protection.*

*If we could crack that nut, the addiction / mental health issues that lead to addiction, we would have a lot less children in child protection.*

One Guardian ad Litem described a persistent pattern of pimps controlling women through drug dependency and a repeated pattern of babies born to drug addicted prostitutes.

**Low-income housing.** Several Guardians raised the topic of the shortage of affordable housing, although they did not directly attribute cases they had seen to homelessness:

*Housing, we need more housing for people who are struggling, especially unemployed mothers that are trying to get their babies back. I mean, how the heck are they supposed to provide for children when they have no job and little skills...*

*That's how people get into precarious situations, right; get behind in your rent and now you've got evicted, now you've got an eviction on your record so it becomes harder to find an apartment because nobody wants you if you've had an eviction on your record,*

*and to get the eviction off your record that costs money and it becomes a very quick downward spiral.*

**Poverty.** All the GALs were aware of the correlation between poverty and child protection involvement, but there was a very real hesitation about directly blaming poverty for family difficulties and an inchoate disbelief that raising welfare would in itself reduce child protection numbers:

*It does seem like that most of the kids that end up...that I've seen...that they almost all, all, have been in impoverished situations, I haven't had any of them who weren't. If we had more shelters for moms and their kids without all the rules. If they were a user but planning to get treatment, could they go into like Harriet Tubman and do both at the same time?*

*Um, well it's hard not to include poverty and all its factors in a better outcome for a child, um, but I'll use an example...I had a dad that was getting \$3000 per month from his tribe and still was not... providing housing and...there are certain situations and poverty, yes, like food stamps housing, so I guess yes if you....But more specifically to the child protection, I haven't had – I'm trying to think if I've had any cases- that just really, poverty really drove somebody into court.*

*To me that goes to that broader issue of a cultural system that families are in, you know, they stay in and they stay in and never break out of it. And I don't think anyone would want to stay at that level of poverty, but in some cases, they, due to their drug addiction or alcohol issues or mental illness, they can't break out of it.*

*Kids at school at a certain level of poverty get breakfast and lunches and my grandchildren go to a school where they have done that in such a nice way and those kids don't look any different to anyone else, the system that they've set up the kids that can afford to pay, their parents pay at the end, its not like the kid has to turn in a ticket or anything and they do after school programs too to keep the kids at school so the parent can pick them up when they're through with their job. In the summer they do backpack lunches or whatever. So I see us trying to do stuff.*

### **Discussion**

The GALs were broadly supportive of the child protection system that they served, believing both the cases brought to court and the ensuing case plans that they saw were appropriate. They mostly felt that there was good collaboration within the system and that correct decisions were made about the final placement of the children within the system. They felt that they were making a positive difference for children.

The uniform confidence in the appropriateness of the court cases is reassuring in the context of the surge of court-addressed child protection cases subsequent to Governor Dayton's task force report, which had recommended a greater proportion of cases being handled by the courts, as opposed to the option of voluntary family services. The change of policy, alongside an increased number of reports made to child protection, could have meant more marginal cases being addressed by the courts, but the GALs had not observed inappropriate referrals.

GALs also had little criticism of federal policy direction more generally. For example, several GALs described the pressure of the timelines set by the courts for determining permanency outcomes – particularly in Chemical Dependency cases, but they felt that the timelines were necessary in order to focus minds and deliver progress, and they also felt that

where there was genuine but incomplete progress, the timelines could be suitably flexible.

Guardians saw kinship and sibling policy appropriately in action, but also felt that common sense came into play so that the rules were not followed blindly.

Interestingly, given the national criticism of Minnesota (Foundation for Government Accountability, 2012) about the over use of institutional care, none of the GALs described this over use of institutional care as a flaw in the child protection system. The Foundation had found Minnesota was the worst state for overuse of institutional care for children aged 12 and under. There was one mention by GALs of the shortage of foster care providers able to take care of children with medical needs and a complaint that their homes were so full the houses were more like institutions than homes, but none described more generally either over burdened foster care providers or there being a general shortage. It should be noted however, that the GALs interviewed all worked in one of two urban counties, which may have skewed the results. It is possible that there is a greater shortage of foster care providers in other parts of the state.

None of the GALs drew attention to concrete services (cash, clothing, furniture and supplies) as being helpful for reunification, which had been indicated by the research (Kelly,2000, Ryan & Schuerman 2004). Several were supportive of parenting classes as being helpful, but noted that parents could be reluctant to participate. GALs did not generally criticize the quality of the services they saw, but did raise concerns about delays to services, particularly in the context of the timelines that the courts follow to reach permanency decisions.

The broad and profound impact of drugs and alcohol on parenting was familiar and well understood by GALs (Walsh et al., 2003), but how to reduce their societal influence was understandably unaddressed. They voiced doubt about the effectiveness of chemical dependency treatment, echoing Famularo's (1989) findings of the poor treatment success rates. However,

they recognized the difficulty of becoming sober, rather than blamed the service providers for the poor results.

They did not advocate major blanket welfare reform to tackle poverty which might have been an expected response given the close association between poverty and child abuse, and given the high levels of child abuse in the US compared to other developed nations. GALs perceived the problems of families to be more complicated than a lack of financial resources. One area where there was a desire for greater public intervention was that of homelessness; many GALs voiced the need for more low-income housing and bewailed the destructive impact on family welfare of home loss.

The GALs made varied suggestions for improving child protection, there was not a unified theme with the exception of reducing social workers' caseloads and reducing staff turnover, and perhaps a greater emphasis on prevention through early services. While in many ways obvious – heavy workloads and lack of continuity in social workers are likely to result in poorer outcomes – this concern was not anticipated by the research the writer had previously explored which had emphasized concrete services and intensive housing based services, long-term services, screening out unpromising cases and reducing income inequality.

Ryan, Garnier, Zyphur & Zhai (2006) confirm the sound basis of GALs' anxieties about the effects on children of staff turnover. They found "children associated with multiple caseworkers experienced significantly longer stays in foster care. Similarly, caseworker turnover is also related to family reunification. Specifically, turnover is associated with a decrease in the likelihood of achieving reunification. (p1003)"

There is some evidence that there may be a particular problem with staff morale and caseloads in Ramsey County. Horner (2017) reported in The Pioneer Press that The American

Federation of State, County and Municipal Workers Minnesota Council 5 has described Ramsey County as having a ‘broken child protection system’, because of concerns about staff shortages and high caseloads. The AFSCME Council has filed a lawsuit against the county. The county spokeswoman, Allison Winters, advised that caseloads were around 14 for case management workers (as at December 2016) which is above the 10 case maximum recommended by Governor Dayton’s task force, but is within national guidelines (Horner 2017).

The writer was struck by the lack of uniformity amongst GALs in what constituted ‘good enough’ for a child to be better off in their family of origin rather than permanent placement elsewhere. This was particularly evident in respect of the varied attitudes towards marijuana use, but was also evidenced by some GALs expecting the case plan to be fully met, others that there should be merely progress and others again looking for evidence above and beyond the case plan that the parent wouldn’t revert to their old ways when the Child Protection case was over.

GALs were all clearly aware that reunification was the goal wherever possible, but appeared to vary considerably about what that minimum parenting standard should be. This is likely to reflect a wider lack of certainty shared by broader society and even social workers (Doyle 2007) about where the line lies for a child to be better off at home rather than in an alternative permanent placement. The research that the writer explored is not clear cut about where the line should be. Doyle provides evidence that children on the margin of placement are better off left at home, while Biehal et al. (2015) point to studies both in the USA and in England that appear to show reunified children fare even worse than children who remain in care, particularly for those who have suffered neglect. Biehal et al. (2015) suggest that reunification results for the child’s emotional and behavioral health are worse when ‘nothing significant had



changed' (p115), strengthening the position of those GALs interviewed who looked to evidence that the parent had actually met the case plan rather than simply 'tried'.

Clearly every case is different. It would be very hard to write guidelines that could set an absolute, consistent standard that could apply to every case. However, given there appeared to be such a broad range of views about what the minimum parenting standard should be, it did seem that the initial training could be helping GALs have a closer range of variation, perhaps by illustrating a number of marginal cases and giving guidance about where judgment about permanent placement should fall, after a thorough evaluation of the evidence base.

### **Limitations**

The study has a number of limitations. The sample size is small including only six participants from only two counties. The sample was a convenience sample: the participants were not randomly chosen. The nature of qualitative research, in any case, is that it is more subject to the biases of the researcher and its findings are more subjective than those of quantitative research. These factors make the findings and conclusions of this research more tentative and less suitable for generalization. Qualitative research however is often undertaken to explore a topic quite broadly in order to point to areas where further research would be useful. The writer recommends that further research is undertaken on the minimum appropriate parenting standards - when it is in the best interests of a child to return home - so that children's welfare can be more confidently delivered in the Child Protection system.

### **Practice Implications**

Child Protection is a team effort. Social workers may benefit from a greater understanding of how GALs see their role. They may wish to learn from the GALs' perspective about what makes a good social worker, particularly the point about doing more than ticking boxes, and the fact

that GALs appreciate it when social workers make efforts to include them in parental visits and engage in discussion about the best way forward. The fact that GALs are also noticing social workers' heavy workloads and high turnover adds impetus to the voices already calling for smaller caseloads and staff retention incentives.

## Appendix A: Consent Form

**Consent Form****[977194-1] Guardian ad Litem Evaluation of Child Protection**

You are invited to participate in a research study about Child Protection, investigating what is working well in the system and what could be improved. I invite you to participate in this research. You were selected as a possible participant because you are a Guardian ad Litem working in the Twin Cities. You are eligible to participate in this study because you are a Guardian ad Litem with at least one year's Guardian ad Litem experience. The following information is provided in order to help you make an informed decision about whether or not you would like to participate. Please read this form and ask any questions you may have before agreeing to be in the study.

This study is being conducted by Carla Evans, a graduate student of social work at St Thomas, overseen by the research advisor, Renee Hepperlen, AM, PhD, LICSW. This study was approved by the Institutional Review Board at the University of St. Thomas.

**Background Information**

The purpose of this study is to find out from the Guardian ad Litem perspective what are the strengths, weaknesses, opportunities and threats facing the Child Protection system in the Twin Cities.

**Procedures**

If you agree to participate in this study, I will ask you to do the following things:

- To meet me at a place of your choosing in January or February 2017.
- To undertake one audiotaped interview about your experience of Child Protection for 30-45 minutes (total meeting time approximately 50 -60 minutes).

You will be one of approximately 6 interviewees who will all be interviewed separately.

**Risks and Benefits of Being in the Study**

The study has risks. Because your interview will be recorded and then written up, there is an inherent but small risk to the confidentiality of your data. The risk will be minimized as follows:

- The audio recording will be done using a cellphone which is password protected.

- The interviewer will transcribe the contents of the interview onto 'One Drive' which is password protected and encrypted. The password has to be reentered if the computer is left idle.
- The transcript will be completed within 72 hours of the interview and the audio recording will then be deleted.
- Your name and personal details will not be audio-recorded or added to the transcript, with the exception of noting the Courts in which you have experience working as a Guardian ad Litem.

There are no direct benefits for participating in this study.

### **Privacy**

Your privacy will be protected while you participate in this study. You will control the location, timing and circumstances of the interview.

### **Confidentiality**

The records of this study will be kept confidential. In any sort of report I publish, I will not include information that will make it possible to identify you. The types of records I will create include the audio recording, the signed consent form, written notes and the transcript maintained on 'One Drive'. Only the interviewer will have access to the audio recording and it will be deleted with the notes once the transcript has been transcribed into One Drive. Only the interviewer and the research adviser will have access to the transcript. The transcript and signed consent form will be destroyed on 15<sup>th</sup> June 2020.

### **Voluntary Nature of the Study**

Your participation in this study is entirely voluntary. Your decision whether or not to participate will not affect your current or future relations with any individuals or the University of St. Thomas. There are no penalties or consequences if you choose not to participate. If you decide to participate, you are free to withdraw at any time without penalty or loss of any benefits to which you are otherwise entitled. Should you decide to withdraw, data collected about you will be destroyed at your request. You can withdraw by telling me you wish to withdraw, either during the interview or by email. You should indicate whether any of your collected data can be used or if it should be destroyed. You are also free to skip any questions I may ask.

### **Contacts and Questions**

My name is Carla Evans. You may ask any questions you have now and any time during or after the research procedures. If you have questions later, you may contact me at 612-756-2533 or [evan7444@stthomas.edu](mailto:evan7444@stthomas.edu). You may also contact the University of St. Thomas Institutional Review Board at 651-962-6035 or [muen0526@stthomas.edu](mailto:muen0526@stthomas.edu) with any questions or concerns.

**Statement of Consent**

I have had a conversation with the researcher about this study and have read the above information. My questions have been answered to my satisfaction. I consent to participate in the study. I am at least 18 years of age. I give permission to be audio recorded during this study.

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

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**Signature of Study Participant**

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**Date**

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**Print Name of Study Participant**

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**Signature of Researcher**

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**Date**

<https://www.citiprogram.org/verify/?wf3f5d37c-1fd9-435e-bba5-38c43d7d3282-21728898>

## Appendix B: Qualitative Interview Questions

1. Tell me about your role as a Guardian ad Litem, including why you do it and how long you've been doing it?
2. Can you describe the factors you weigh when determining the child's best interests? Are there guidelines that you follow to help you weigh them?
3. What impact do you see policy having on how child protection cases are handled?
4. For you, what counts as a successful case?
5. From your own experience of seeing services provided to children and families, have you noticed any particular services or service characteristics which are most likely to yield positive outcomes?
6. Have there been times where you felt that services provided to children and their families let the child down? If so, why?
7. What factors at play in the child protection system do you identify as affecting whether the case goes well or badly?
8. How well do you think policy, the Court, the Social Worker, the Guardian Ad Litem, the parent and any other service providers collaborate to achieve good outcomes for children?
9. What if anything, would you change about how the child protection system works?
10. If money were no object, what would you do to achieve better outcomes for children who come to the attention of child protection?
11. Are there outside factors that interact with the child protection system which you see as either helping or exacerbating its weaknesses?

12. We all have unconscious biases. What kind of personal biases do you notice arising in this work?
13. Is there anything else that you would like to say about either being a Guardian ad Litem or about Child Protection more generally?

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