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ARTICLES

Representation of Children in Child Abuse and
Neglect Cases: An Empirical Look at What
Constitutes Effective Representation
Donald N. Duquette and Sarah H. Ramsey

Population Changes and Constitutional Amendments:
Federalism Versus Democracy
Peter Suber

Child Sexual Abuse Cases: Reestablishing
the Balance within the Adversary System
Mary Christine Hutton

NOTES

Limiting Directors' Duty of Care Liability:
An Analysis of Delaware's Charter Amendment Approach

Denying the Crime and Pleading Entrapment:
Putting the Federal Law in Order

Mediation in Debtor/Creditor Relationships

Nonmajority Bargaining Orders: The Only Effective
Remedy for Pervasive Employer Unfair Labor Practices
During Union Organizing Campaigns

REPRESENTATION OF CHILDREN IN CHILD ABUSE AND NEGLECT CASES: AN EMPIRICAL LOOK AT WHAT CONSTITUTES EFFECTIVE REPRESENTATION†

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Despite a widespread conviction that children ought to be independently represented in court proceedings in the United States, little consensus exists over what independent representation should encompass. *What* should be the duties and responsibilities of the child advocate in civil protection proceedings? *Who* should represent the child in such cases? *How* can effective representation of the child be accomplished? This empirical study sought to address these questions. First, the study conceptualized a particular role for the child's representative. The study expected representatives to act as aggressive and ambitious advocates, to be concerned with a broad range of the child's interests—both legal and nonlegal—and to provide continuous representation throughout the civil protection proceed-

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ings. Second, the study provided training for this role to demonstration groups of attorneys, law students, and lay (nonlawyer) volunteers. Third, the study compared the effectiveness of each of the three demonstration groups in representing children. Finally, the study compared the representation provided by the demonstration groups to the representation provided by a control group of attorneys who had received no special training and did not serve for the duration of the case.

The study found that the demonstration groups of trained lay volunteers, law students, and lawyers approached their representation of children quite differently than did the control group of attorneys. The demonstration groups differed significantly from the control group on *process* measures—measures that evaluated the steps the advocates actually took to represent the children.

Our analysis of the court orders entered in civil protection proceedings demonstrated that differences in the process of representing the child resulted in significant differences in case *outcomes*. For example, the demonstration representatives scored significantly higher on measures of advocacy than did the control representatives. Our analysis revealed that a high advocacy score was related to more specific court orders for treatment and assessment, and to an accelerated court process—demonstration cases were resolved in fewer days, with fewer court hearings.

Although our study found many significant differences between the control and demonstration groups in the way they handled cases and in case outcomes, there were few significant differences among the demonstration groups of law students, lay volunteers, and trained attorneys. The three demonstration groups performed very much alike and achieved very similar results for their young clients.

This Article describes the purposes and design of our empirical study and analyzes the study's findings. Part I presents a case study of the representation of a child by a volunteer in a way that exhibits the role definition and training of the demonstration groups. Parts II and III discuss who should represent children and how those child advocates should be trained. Part IV discusses the design of the study. Part V presents an analysis of the study's findings. Finally, Part VI considers the policy implications of the study and concludes that the demonstration groups improved the quality of representation and achieved preferred case outcomes for their clients. Accordingly, the demonstration groups offer viable alternative types of child representation to policymakers.

I. A CASE STUDY: SUE B

Child protection court cases generally present elusive and intractable problems between parents and children, with an omnipresent tension between immediately protecting the child and his or her welfare on the one hand, and, on the other, maintaining family relationships that may be in the long-term best interests of the child. The personal dynamics are often subtle—more subtle than our traditional legal system is accustomed to handling. The following case study illustrates the role of the demonstration child advocates in this study as personalized, broad-ranging problem solvers on the child's behalf who may moderate the sometimes indelicate and unsubtle approaches of protective service bureaucracies and the courts.

Mrs. B and her daughter, Sue, had a history of tension between them. The tension climaxed in an argument over the fourteen-year-old's dating, of which her mother disapproved. The argument raged until Mrs. B struck Sue, causing a severe laceration that required twenty stitches to close. The police were called, and Sue swore out a criminal complaint against her mother. Mrs. B was arraigned in criminal court on one count of assault with intent to commit bodily harm.

A Protective Services (PS) worker also filed a petition in Juvenile Court alleging child abuse and seeking to remove Sue from the home. Andrew, a volunteer child advocate (guardian ad litem)¹ appointed by the court, represented Sue at the first court hearing—the preliminary hearing. Prior to the hearing, he spoke with the PS worker, who was emphatic that the severity of Sue's injury mandated that she be placed immediately in a foster home. Andrew also met and consulted with Sue, whose head was wrapped in heavy bandages. Finally, he spoke with Mrs. B and with Sue's two brothers. Mrs. B admitted to having struck Sue, but stated that the tension between them had been caused, in large part, by her daughter's belligerent attitude and actions. Sue's performance in school had been steadily slipping, and Mrs. B stated that this also concerned her greatly. Following this initial investigation, Andrew concluded that Sue must be made

1. Although at one time the phrase "guardian ad litem" had a precise meaning, the definition has broadened to include a variety of kinds of representation including representation in protection proceedings. The traditional guardian ad litem was appointed to represent a child who was a defendant in a lawsuit. See Fraser, *Independent Representation for the Abused and Neglected Child: The Guardian ad Litem*, 13 CAL. W.L. REV. 16, 27-28 (1976).

safe, and decided to concur with the PS worker's recommendation of temporary foster care. He also decided to recommend that Sue and her mother receive counseling to preserve and repair family relationships.

At the preliminary hearing, Mrs. B pleaded guilty to the petition, and Sue was placed in foster care. Within a few days, however, Sue ran away from the foster home, and Protective Services filed a new petition to bring her back into Juvenile Court. Sue was then placed in a second foster home.

Following the preliminary hearing, Andrew closely monitored the case. He contacted PS to learn of the address of Sue's foster home, and went to speak with her there. He maintained contact with the court worker assigned to the case to learn the worker's plans for resolving the problems. Pursuant to Mrs. B's statement that her frustration with Sue had resulted partly from the girl's increasingly poor performance in school, Andrew went to Sue's school to speak with the school officials. They confirmed Mrs. B's assertion. Finally, following the issuance of the runaway petition, Andrew went to Mrs. B's home to discuss with her the status of the case at that point.

Through his discussions with both Sue and Mrs. B, Andrew became convinced that the striking and resultant injury was an isolated incident. Both Sue and Mrs. B expressed affection for and attachment to the other, and indicated that their relationship was basically sound and only recently had become strained. Violence between them was a rarity, and never before had led to serious injury. Sue herself expressed a desire to return home.

Andrew concluded that Sue should be returned home and that, given proper counseling and aid from the Department of Social Services (DSS), the odds that such an event would recur were minimal. He perceived that Sue had treated the incident as a learning experience and that she would cease provoking her mother into such anger.

A few days prior to the contested pretrial hearing in Juvenile Court, which was scheduled to occur approximately two weeks after the Preliminary Hearing, Andrew arranged a conference with the court worker and the DSS Foster Care worker. Andrew hoped to reach a consensus as to the disposition of the case. Andrew related the facts that he had uncovered during his interviews with Sue and her mother. Unaware of the true nature of the family relationship, the court worker entered the meeting convinced that Sue should be removed temporarily from the home. Andrew's interviews changed her thinking, and she too became convinced that the striking was an isolated incident and

that Sue should be returned home. The three agreed that the family required counseling and court supervision. They chose Andrew to attempt to procure Mrs. *B*'s concurrence in a Parent-Agency Agreement to that effect. Andrew succeeded in procuring Mrs. *B*'s concurrence.

At the contested pretrial, all parties were in agreement as to the disposition. Andrew read a prepared statement to the court, apprising it of the joint recommendation that Sue be returned home, that counseling be provided, and that the family remain under court supervision for six months. The court accepted all of the recommendations and entered dispositional orders accordingly.

Subsequent to the disposition of the case in Juvenile Court, Mrs. *B* sought Andrew's aid in the proceedings still pending against her in criminal court. The Juvenile Court judge also requested that Andrew aid Mrs. *B* and advise the criminal court that the Juvenile Court could adequately handle the matter and that the charges should be dropped. Andrew wrote a report to the Prosecutor's Office, advising it of the successful resolution of the matter in the Juvenile Court. He then accompanied Mrs. *B* to the criminal hearing, where the criminal charges were dropped.

Andrew continued monitoring the family. He maintained contact with Sue and became satisfied that she was functioning properly in the home. He also talked with the counselor who was providing the court-ordered therapy to learn any recommendations she may have for the family or for Sue. He continued monitoring the family until the Juvenile Court review hearing, which was held six months after the disposition.

Although Andrew brought outstanding qualifications to his work as a guardian ad litem, there are similar exceptional people in most communities with a demonstrated commitment to the welfare of children. A father of seven, Andrew had worked in numerous volunteer capacities in Flint, Michigan, including one year each at the Sexual Assault Crisis Center, the Crisis Intervention Center, and the Juvenile Court (as a caseworker aide with juvenile delinquents), and three years as a Parent Aide through Protective Services. He was currently a volunteer at Mott's Children's Health Center, which granted him permission to participate in the guardian ad litem project.

Andrew expressed great confidence in his ability to represent children in abuse and neglect cases. He admitted that he was beholden to the supervising attorney to protect the children's legal interests and to deal with the legal jargon with which he was

unfamiliar. However, he asserted that in many respects the representation he could afford a child would be superior to that provided by most attorneys. Andrew stressed the importance of working together and reaching consensus among the various parties in child abuse and neglect cases. Attorneys, he felt, were not sufficiently concerned with reaching consensus, an approach that he thought was instrumental in achieving the best interests of children.

Andrew's approach to representing Sue B typifies the approach presented in our study's training sessions. He was effective for many reasons but primarily because he assessed the case well, discussed the case *regularly* with all significant persons, and won their trust. He facilitated the resolution of a serious family problem. The project encouraged a cooperative and positive approach to child advocacy. Andrew acted as a bridge among persons and institutions, resulting in a solution that was primarily beneficial for Sue, but also was acceptable to Mrs. B, the social worker, and the court.

Andrew was a lay volunteer—a nonlawyer operating under lawyer supervision. Most representatives of children in child protection cases in the United States are lawyers who receive no special training for this task.

II. WHO SHOULD REPRESENT CHILDREN?

Most commentators today generally recognize the need for the child to be independently represented in cases of alleged child abuse and neglect because neither the state nor the parents' interests can safely be assumed to coincide entirely with the child's.² In the United States, most jurisdictions require that children be independently represented,³ usually by a lawyer, in

2. See AMERICAN BAR ASS'N, INSTITUTE OF JUDICIAL ADMIN., JUVENILE JUSTICE STANDARDS: STANDARDS RELATING TO COUNSEL FOR PRIVATE PARTIES PROJECT (1980) [hereinafter ABA STANDARDS-COUNSEL]; NATIONAL CENTER ON CHILD ABUSE & NEGLECT, U.S. CHILDREN'S BUREAU, ADMINISTRATION FOR CHILDREN, YOUTH & FAMILIES, U.S. DEP'T OF HEALTH & HUMAN SERVS., REPRESENTATION FOR THE ABUSED AND NEGLECTED CHILD (1980) (DHHS Publication No. (OHDS) 80-30272) [hereinafter NCCAN]; see also Fraser, *supra* note 1, at 31; Note, *The Non-Lawyer Guardian ad Litem in Child Abuse and Neglect Proceedings: The King County, Washington, Experience*, 58 WASH. L. REV. 853 (1983).

3. The Federal Child Abuse Prevention and Treatment Act of 1974, 42 U.S.C. §§ 5101-5106 (1982 & Supp. III 1985), conditioned a state's receipt of federal funds for certain programs under the Act on the state's fulfilling certain conditions, including a requirement that the state "provide that in every case involving an abused or neglected child which results in a judicial proceeding a guardian ad litem shall be appointed to represent the child in such proceedings." 42 U.S.C. § 5103(b)(2)(G) (1982). Neither the

civil protection proceedings.⁴ In the last decade the federal government has promoted independent representation of children through statutes, state grants, publications, model acts, and various demonstration projects.⁵

Nevertheless, some debate still exists regarding whether a child needs independent representation. Some writers view the child's representative as an extraneous figure and argue that the child welfare agency, the parents, or the judge can adequately protect the interests of the child.⁶ Commentators also argue that the child's representative serves only limited value in a given case because the representative usually has no special training or background for this nontraditional role.⁷ Several influential commentators, including Joseph Goldstein, Anna Freud, and Albert Solnit, would defer to parental autonomy and reserve the power to appoint a legal representative for the child to the parents, unless emergency out-of-home placement or formal court adjudication displaces the parents as the legal protectors of the child.⁸ Nonetheless, the prevailing view is that children should be independently represented in civil child protection proceedings.⁹

Although many commentators have attempted to prescribe the role of the child's representative,¹⁰ little consensus exists regarding the responsibilities and duties of the child's representa-

Act nor the implementing regulations required that the guardian ad litem be an attorney. See NCCAN, *supra* note 2, at 3-4.

4. See C. JOHNSON, MUCH MORE TO DO ABOUT SOMETHING: THE GUARDIAN AD LITEM IN CHILD ABUSE AND NEGLECT JUDICIAL PROCEEDINGS (1979) cited in NCCAN, *supra* note 2, at 10 n.92; NCCAN, *supra* note 2; Johnson, *Statutory Provisions Regarding the Guardian ad Litem Mandate: Some Findings from a Regionwide Survey of Judges in the Southeast*, JUV. & FAM. CT. J., Aug. 1979, at 15; Kelly & Ramsey, *Do Attorneys for Children in Protection Proceedings Make a Difference? A Study of the Impact of Representation Under Conditions of High Judicial Intervention*, 21 J. FAM. L. 405, 408 (1983).

5. See Child Abuse Prevention and Treatment Act, 42 U.S.C. § 5103(b)(2)(G) (1982); 45 C.F.R. § 1340 (1986); NCCAN, *supra* note 2; U.S. DEP'T OF HEALTH, EDUC. & WELFARE, MODEL CHILD PROTECTION ACT WITH COMMENTARY (draft, Aug. 1977).

6. See H. DAVIDSON, REPRESENTING CHILDREN AND PARENTS IN ABUSE AND NEGLECT CASES 5 (National Legal Resource Center for Child Advocacy & Protection, American Bar Ass'n 1980); C. JOHNSON, *supra* note 4; NCCAN, *supra* note 2, at 10.

7. See ABA STANDARDS-COUNSEL, *supra* note 2, at 51; H. DAVIDSON, *supra* note 6, at 13; J. KNITZER & M. SOBIE, LAW GUARDIANS IN NEW YORK STATE: A STUDY OF THE LEGAL REPRESENTATION OF CHILDREN 6-7, 14-15 (1984); Bernstein, *The Attorney ad Litem: Guardian of the Rights of Children and Incompetents*, in WHO'S WATCHING THE CHILDREN? 40 (C. Simmons ed. 1980).

8. J. GOLDSTEIN, A. FREUD & A. SOLNIT, BEFORE THE BEST INTERESTS OF THE CHILD 111-29 (1979).

9. See ABA STANDARDS-COUNSEL, *supra* note 2, at 51; NCCAN, *supra* note 2, at 3 ("Most commentators today agree that a child who is the subject of an abuse or neglect proceeding needs an independent representative, but there is some disagreement over who the representative should be.").

10. See *supra* note 2.

tive or regarding what constitutes effective representation of children.¹¹ Representation for children in many child protection proceedings remains haphazard and of variable quality, so that many children in fact do not receive effective representation. Only a few jurisdictions define the duties and responsibilities of the appointed representative in their statutes.¹² In any case, the lack of training and the low fees paid to private attorneys representing children sorely limit the ambitious child advocate's role suggested by many commentators.¹³

Dissatisfaction and uncertainty about the representation and advocacy provided children in child abuse and neglect cases remain widespread. Many people question whether independent representation of the child really makes any difference to the outcome of a case. Others ask whether there are means besides attorney representation of the child that may be effective—perhaps at less cost. Such dissatisfaction and ambiguity have provided an impetus for clarifying the duties and responsibilities of the child's representative and for searching for alternative means of representing children.

This search for alternatives has taken many forms. Communities throughout the nation have experimented with trained volunteers either to represent the child or to assist a lawyer in representation of the child. A prime example of such an alternative form of child representation can be seen in the Court Appointed Special Advocate (CASA) programs that have developed around the country. In 1977, Seattle, Washington, began its guardian ad litem program using the title "CASA" to designate the lay volunteer who represents children in child protection cases.¹⁴ The Seattle CASA's, who worked under the supervision of a social worker and a lawyer, were viewed by themselves and by the court as a substitute for court-appointed lawyers for children.¹⁵

On a nationwide level, the National Council of Family and Juvenile Court Judges (NCFJCJ) has encouraged CASA program development in many ways, including sponsoring national CASA

11. See Fraser, *supra* note 1, at 30; Ray-Bettineski, *Court Appointed Special Advocate: The Guardian ad Litem for Abused and Neglected Child*, JUV. & FAM. CT. J., Aug. 1978, at 65, 66 ("There is considerable misunderstanding over the definition and role of the guardian ad litem, specifically in maltreated children cases."); *supra* note 2.

12. See NCCAN, *supra* note 2, at 7; Note, *supra* note 2, at 862.

13. For example, Kelly and Ramsey found that attorneys typically had no specialized training relevant to abuse and neglect cases and that 68% of the attorneys surveyed did not feel they were adequately paid for the time they spent on their cases. Kelly & Ramsey, *supra* note 4, at 451-52.

14. Ray-Bettineski, *supra* note 11, at 67; see Note, *supra* note 2, at 862.

15. Note, *supra* note 2, at 862 n.65.

seminars and programs.¹⁶ The NCFJCJ also developed an earlier volunteer child advocate program called the Children in Placement (CIP) Program, a post-disposition monitoring process in which a trained lay volunteer tracked children placed out of their homes and advocated meaningful court review of each child's placement. The goal of the CIP program was to return the child to his original family as soon as possible or free the child for adoption.¹⁷ The NCFJCJ, among others, has actively pressed for use of lay volunteers in the foster care review boards that are active in several jurisdictions.¹⁸ The National Council of Jewish Women, after adopting CASA's as a special community service project, developed an extensive manual for CASA programs and sponsored programs around the country.¹⁹ Well over sixty such programs now exist in over thirty jurisdictions.²⁰ Finally, an active National Association of Court Appointed Special Advocates has been organized that provides a national newsletter, an annual meeting, and other services.²¹

The role of CASA's and other lay volunteer child advocates varies greatly from community to community. The volunteer may be paired with an attorney and become the "eyes and ears" of the child's lawyer, or the volunteer may be independent of the child's legal representative, doing separate investigations and independent advocacy for the child. Still other volunteer advocates function as assistants or adjuncts to the caseworkers.

The question of whether someone other than a lawyer should represent children has been raised in several quarters. The American Bar Association (ABA) Juvenile Justice Standards Project comments:

While independent representation for a child may be important in protective and custodial proceedings, a rep-

16. For information on programs, contact the Court Appointed Special Advocates Committee, National Council of Family and Juvenile Court Judges, Judicial College Building, University of Nevada, Reno, Nevada 89507.

17. Steketee, *The CIP Story*, *JUV. JUST.*, May 1977, at 4, 5 (1977).

18. See, e.g., *ARIZ. REV. STAT. ANN.* § 515.01 (Supp. 1986); *MICH. COMP. LAWS ANN.* §§ 722.131-140 (West Supp. 1987); see also *MD. FAM. LAW. CODE ANN.* § 5-535 (1984); *S.C. CODE ANN.* § 20-7-2376 (Law. Coop. Supp. 1986).

19. M. BLADY, *CHILDREN AT RISK: MAKING A DIFFERENCE THROUGH THE COURT APPOINTED SPECIAL ADVOCATE PROJECT* (1982) (available from the National Council of Jewish Women, 15 East 26th Street, New York, New York 10010).

20. NATIONAL COURT APPOINTED SPECIAL ADVOCATE ASS'N, *CASA DIRECTORY* (1985).

21. Information on current programs can be obtained from the National Court Appointed Special Advocate Association, 909 N.E. 43rd, Suite 204, Seattle, Washington 98105.

representative trained wholly in law may not be the appropriate choice for this function.

.....

Accordingly it would not seem irresponsible to suggest that a professional trained in psychology, psychiatry, social psychology or social welfare be assigned the initial responsibility for protecting children under these circumstances. There is, however, no evidence that this alternative is presently available, either in terms of numbers of competent personnel or in terms of occupational independence from official and interested agencies.

.....

... [U]ntil there are sufficient numbers of independent, competent personnel trained in other disciplines who will undertake to ascertain and guard the child's interests in these proceedings, continued reliance on legal representation for the child is necessary.²²

To encourage exploration and evaluation of alternative ways of providing representation to children, the National Center for Child Abuse and Neglect (NCCAN) has funded twenty-eight demonstration projects around the country since 1978 in which volunteer lawyers, law students, multidisciplinary child advocate offices, and lay volunteers represent children in civil protection proceedings.²³ Our study, which was located in Genesee County, Michigan, was one of these projects.²⁴

Our demonstration project compared the performance of lawyers, law students, and lay volunteers. As noted above, one goal of this study was to provide much needed evidence as to whether some alternative to lawyer representation would be both feasible and consistent with effective representation of the child.

22. ABA STANDARDS-COUNSEL, *supra* note 2, at 73-74 (citation omitted); see also Johnson, Thomas & Turem, *Implementing the Guardian ad Litem Mandate: Toward the Development of a Feasible Model*, *Juv. & Fam. Ct. J.*, Nov. 1980, at 3.

23. Telephone interview with Jay Olsen, Project Officer, National Center for Child Abuse and Neglect (Oct. 31, 1985).

24. Genesee County had a 1980 population of 450,449, 17% of whom were black, 81% of whom were white. BUREAU OF THE CENSUS, U.S. DEP'T OF COMMERCE, COUNTY AND CITY DATA BOOK 256 (1980) [hereinafter BUREAU OF THE CENSUS, 1980]. The major city in Genesee County, Flint, is very dependent economically upon the auto industry and was in a recession at the time of the study, with an unemployment rate of 21.1% during 1982. BUREAU OF THE CENSUS, U.S. DEP'T OF COMMERCE, COUNTY AND CITY DATA BOOK 262 (1983).

III. HOW SHOULD REPRESENTATIVES BE TRAINED?

Part of the dissatisfaction with the way in which children are currently represented in child protection proceedings stems from the recognition that there is little in the education and training of lawyers that necessarily enables them to properly serve the special interests of the child. As indicated by one researcher, "Unfortunately, many lawyers who are appointed as guardians ad litem have little knowledge of the complex problems of child abuse and neglect, have had little experience in the juvenile court and have little knowledge of the physical, psychological and developmental aspects of children."²⁵ Few lawyers have any special training or expertise in representing children, except that developed through experience in their local courts.²⁶ Because law schools usually do not provide training in this nontraditional role, many lawyers may feel uncomfortable with the "nonlegal" responsibilities they have in abuse and neglect cases.²⁷

A. Role Definition

Training or special expertise seems desirable for the child's representative. Before addressing the question of training curriculum, however, it was necessary to develop some working assumptions about what the role of the representative should be and about what constitutes a child's "best interests." The demonstration project began by defining the role of the child's representative and then designing a curriculum appropriate for that role.

This project defined the representative's role as one that requires aggressive and ambitious representation and that addresses legal and nonlegal interests of the child. Our definition, which is consistent with that suggested by several major commentators,²⁸ rejects the role concept that the lawyer should be neutral with regard to the outcome of the proceeding and should merely be concerned that the process is procedurally correct.

25. Fraser & Martin, *An Advocate for the Abused Child*, in *THE ABUSED CHILD* 165, 175 (H. Martin ed. 1976).

26. *Id.* at 171-75; S. Streit, *Advocacy for Children in Child Welfare Proceedings* 8 (Feb. 16, 1981) (monograph prepared for Child Watch, Inc.) (copy on file with U. MICH. J.L. REF.).

27. H. DAVIDSON, *supra* note 6, at 13.

28. See ABA STANDARDS-COUNSEL, *supra* note 2; Fraser, *supra* note 1; Johnson, Thomas & Turem, *supra* note 22.

The project expected the representative to act as more than a legal technician, a passive observer, and an adviser to the court. The project insisted that the representative be an advocate, and it broadly defined advocacy to include not only courtroom advocacy, but also out-of-court advocacy, such as informal meetings and telephone calls with agencies and other service providers.

The proper subjects of the representative's advocacy presented a major problem for the project's role definition. The representative could advocate the wishes of the client—the traditional lawyer role—or the child's best interests—a position recommended by some commentators.²⁹ Although, in some cases, the representative might believe that what the child wanted was in fact best for the child, this would not always be true. If Sue B had not been willing to go home, for example, but the representative had felt that a return home was best for her, there would have been a conflict between the child's wishes and the representative's view of the child's "best interests."

Ambiguous statutes and a lack of case law have added to the confusion about this aspect of the representative's role. The Michigan Child Protection Law is illustrative of this problem.³⁰ Although the statute seems to support primarily a "best interests" approach—the statute states that counsel, "in general, shall be charged with the representation of the child's best interests"—it also states that the attorney shall "represent the child."³¹ Additionally, some commentators believe that the *Model Code of Professional Responsibility* would require representation of the wishes of an older child.³²

The project responded to this ambiguity by taking a flexible, client-centered approach to representation. The project expected representatives always to meet the child and, to the extent possible, find out what the child wanted. The wishes of a child were treated with respect and, with older children, would typically guide the representative's actions. Nonetheless, because the av-

29. See, e.g., Isaacs, *The Role of Counsel in Representing Minors in the New Family Court*, 12 BUFFALO L. REV. 501, 506-07 (1963). Most recent commentators have urged, however, that advocates for the child take the position identified by the youthful client when the young person is reasonably capable of making judgments. See ABA STANDARDS-COUNSEL, *supra* note 2, at 1-5; R. HOROWITZ & H. DAVIDSON, *LEGAL RIGHTS OF CHILDREN* § 6.04 (1984); Long, *When the Client is a Child: Dilemmas in the Lawyer's Role*, 21 J. FAM. L. 607, 611 (1983); Ramsey, *Representation of the Child in Protection Proceedings: The Determination of Decision-Making Capacity*, 17 FAM. L.Q. 287 (1983).

30. MICH. COMP. LAWS ANN. §§ 722.621-.636 (West Supp. 1986).

31. *Id.* § 722.630.

32. See, e.g., Guggenheim, *The Right To Be Represented but Not Heard: Reflections on Legal Representation for Children*, 59 N.Y.U. L. REV. 76, 92 (1984).

erage age of children in the study was only 8.8 years, a number of representatives advocated what they identified as the client's "best interests."

But what are the child's "best interests"? Describing the role of the child's representative as advocate for the "best interests" of the child does little to distinguish her role from that of the other actors in the child protection process. The child protection agency generally considers achieving the best interests of the child its primary goal and purpose. The parents' attorney will also argue for what his clients see as the best interests of the child, which is generally to be at home with his or her parents free of government interference. The judge makes the ultimate decision of what is in the best interests of the child, and judicial opinions consistently reinforce the paramount importance of the child's best interests in court decisionmaking.³³

Not surprisingly, participants in the child protection process frequently do not agree about what is best for a child. One cause of this lack of agreement is the absence of conclusive information about the effects of alternative courses of action on a child and the resulting impossibility of predicting the consequences of a choice. We cannot say with certainty, for example, that if Sue B were removed from the home of her alcoholic mother and placed in the foster care system, she would be psychologically healthier or would perform better in school when she is age sixteen. An additional, more fundamental problem is the frequent failure to agree upon the criteria that should guide such a choice. For example, is the "best" choice for Sue B one that would maximize her school performance or one that would maintain her relationship with her mother? The problems involved in setting criteria are many:

Deciding what is best for a child often poses a question no less ultimate than the purposes and values of life itself. Should the decisionmaker be primarily concerned with the child's happiness or with the child's spiritual and religious training? Is the primary goal long-term economic productivity when the child grows up? Or are the most important values of life found in warm relationships? In discipline and self-sacrifice? Are stability and security for a child more desirable than intellectual stim-

33. See, e.g., *Greene v. Walker*, 227 Mich. 672, 199 N.W. 695 (1924); *Weiss v. Weiss*, 174 Mich. 431, 438, 140 N.W. 587, 589 (1913); *Franzel v. Michigan Dep't of Social Welfare*, 24 Mich. App. 371, 180 N.W.2d 375 (Ct. App. 1970); *Finlay v. Finlay*, 240 N.Y. 429, 148 N.E. 624 (1925); see also R. HOROWITZ & H. DAVIDSON, *supra* note 29, at § 6.04.

ulation? These questions could be elaborated endlessly. And yet, where is one to look for the set of values that should guide decisions concerning what is best for the child? . . . [I]f one looks to our society at large, one finds neither a clear consensus as to the best child-rearing strategies, nor an appropriate hierarchy of ultimate values.³⁴

Far from being an objective legal standard, the child's "best interests" represents a very nebulous goal. Nonetheless, while recognizing the imprecision and indeterminateness of the best interests standard, the project trained the advocates to identify and pursue goals believed most likely to be "best" for most children.

The project emphasized certain interests of the child, including the importance of a careful assessment of the family situation and the development of timely and specific case plans. The project stressed that the child's interests should include preserving his placement with his parent or parents, if at all possible, consistent with his well-being and safety. A "child's sense of time"³⁵ was discussed to demonstrate that if the child is removed from his family it should be for the shortest time possible, and his placement should generally be in the setting that is most familiar to him—the least restrictive, most family-like setting.³⁶ The project suggested that, generally, contact with the family should be maintained with regular visits. In addition, the project recommended that if services to the child or family were needed before he could return home, the services should be identified accurately and provided promptly.

The project encouraged the child's advocate to focus on the interests of the child most likely to be overlooked by other participants in the process. Certainly it is in the child's "best interests" to be protected from physical and emotional harm and to

34. R. MNOOKIN, *IN THE INTEREST OF CHILDREN* 18 (1985); see also R. HOROWITZ & H. DAVIDSON, *supra* note 29, § 6.04.

35. J. GOLDSTEIN, A. FREUD & A. SOLNIT, *supra* note 8, at 40-49. The passage of time is subjective and varies with age. A week to a one-year-old child is a larger proportion of his or her life than is a week to a 10-year-old child or to an adult. The time that it takes to break an old attachment or to build a new one depends on the different meanings time has for children of various ages.

36. Other authority advocates the "least intrusive form of intervention," ABA STANDARDS-COUNSEL, *supra* note 2, at 82, and the "least detrimental alternative," J. GOLDSTEIN, A. FREUD & A. SOLNIT, *supra* note 8, at 53-64. The Federal Adoption Assistance and Child Welfare Act of 1980, 42 U.S.C. § 675(5)(A) (1982 & Supp. III 1985), advocates the least restrictive (or most family-like) setting available in close proximity to the parents' home, and consistent with the best interests and special needs of the child.

be provided minimally adequate food, clothing, shelter, guidance, and supervision. The social worker and the court generally addressed obvious deficiencies in the child's care in these areas without the need for intervention by an independent child's representative. Other more subtle interests, however, may be easily overlooked by all but the child's representative.

The project cautioned that state intervention itself presents additional risks to the child of which the child advocate must be wary. The demonstration groups were advised that the interests of the individual child are not always consistent with those of the state agency. Because of high caseloads, agencies may be unwilling or unable to meet each child's individual needs, such as the need for frequent visitation. An overburdened caseworker may not be as sensitive, as careful, or as skilled in judgment as she would be under less taxing circumstances. Consequently, the child runs the risk either of being inappropriately separated from his familiar surroundings or of having an inadequate assessment of his home situation, so that remedies prescribed are inappropriate, inadequate, or too late. If the child is removed from home, he runs the risk of being placed in multiple foster homes, of being abused in foster care, of being placed in inappropriate institutions, and of not having an adequate number of visits with his parents and family. Finally, social agencies may develop reasonable case plans but fail to implement them properly or quickly and thus add to the length of time that the child spends away from home and lessen the child's chances of ever returning home.

To help the representatives determine a "best interests" position for the child, the project trained them to ascertain the facts of the case as clearly as possible by interviewing family members, neighbors, and others as necessary. Instructors suggested that, in some circumstances, the representatives also might rely on a thorough Protective Services investigation. The child advocate was advised to meet the child client in every case, even if the child was an infant—if only for the purpose of getting a "feel" for the child as a real person facing a serious personal problem. The project hoped to personalize the child to the advocate beyond the paperwork of court petitions and social work reports.

The project also stressed that the child's representative should not agree with the social worker's recommendations without question. While maintaining a cooperative spirit, the representative was advised to question the worker closely and extract the underlying basis for the caseworker's positions and recommen-

dations. The child's advocate could then decide whether to defer to the caseworker's judgment and agree with her recommendations. The project emphasized that the advocate should reach independent conclusions, strive to identify the determinants of the problem, and, after identifying the underlying determinants, help discover ways to ease them. Thus, the demonstration child advocates were encouraged to take a broad view of the child's interests, in the context of his family, and to avoid a piecemeal approach to the problems of the child and his family's problems.

B. The Training Curriculum

The project designed a training curriculum for the demonstration child advocates to help them identify the needs and interests of their young clients. Films, lectures, discussions, and exercises reviewed the causes and dynamics of child abuse and neglect and suggested a process of investigation and assessment. The training identified aspects of child development most relevant to determining the child's psychological needs at various ages and described intervention programs available locally that might assist families and their children.

The demonstration attorneys and the volunteers received four days of training from the University of Michigan Child Advocacy Program between January 27 and February 11, 1982.³⁷ The law students received similar training in their coursework at the Child Advocacy Law Clinic. As part of the training, the project provided representatives with a brief Child Advocate's Manual, developed by the Director of the project, which was designed for use in the Michigan system and included descriptions of court processes and checklists for case preparation. In addition, the participants were given a copy of a book that described social work with abused and neglected children and included contributions from a number of disciplines on topics such as sexual abuse and child development.³⁸

The project's training curriculum emphasized the importance of assessing parental conduct, appraising the risks to a child presented by environment, recognizing strengths in the parent-child relationship, and evaluating the soundness of an intervention strategy proposed by the social agency. The representatives

37. See appendix A (training sessions agenda).

38. SOCIAL WORK WITH ABUSED AND NEGLECTED CHILDREN: A MANUAL OF INTERDISCIPLINARY PRACTICE (K. Faller ed. 1981).

were instructed to synthesize the results of the Protective Services investigation; the child's psychological, developmental, and physical needs; the child's articulated wishes; the representative's own assessment of the facts; and the treatment resources available.

In addition to being trained to identify the needs and interests of the child, the demonstration groups were trained to advocate those interests vigorously with the court workers, the social agencies involved, the child's family, and the court. The project taught representatives that advocacy for the child should begin with the social agency that filed the petition. The child's representatives were advised to advocate, both in and out of court, careful assessment of the family situation, adequate and specific case plans, and timely implementation of the case plans.

The curriculum also required that representatives play a significant role in facilitating negotiation and mediation in the child protection process. The program stressed that a swift resolution, which is as cooperative and as nonadversarial as possible, and which provides the needed protection and services to the child, nearly always serves the child's interest. As exemplified by the case of Sue B, the program trained the child representatives to encourage negotiation and to play the role of mediator and conciliator between the social agency and parents.

For court hearings, the curriculum instructed the child's representatives to ensure that all the relevant facts were brought before the judge and to advocate a resolution of the case most likely to achieve the identified interests of the child.

The child's representative was instructed to remain vigorous and active after adjudication. The program asked the child advocate to press and persuade the responsible social agencies for the services and attention that the child client, and perhaps his family, needed. Preferably such nudging would be done in a collegial, nonaccusatory manner, but if social workers or agencies were not fulfilling their responsibility to a particular child, or to his parents, the training instructed the child's representative to insist on a higher standard of service either by a direct request to agency supervisors or by formally raising the issues before the court.

Finally, the project stressed that the child should have continuity in representation throughout the proceedings.³⁹ The pro-

39. Among the reasons that continuity of representation was insisted upon by the researchers was a belief that the child advocates continuously involved in a case would conduct more thorough investigations, would have a greater personal commitment and

ject hypothesized that continuity would allow a representative to have the benefit of investigation and experience with the case over time and, therefore, would result in a better informed advocate. Additionally, the project felt that continuity would result in a better client-representative relationship and would reduce delays in the court proceedings. Consequently, the project emphasized that the representatives were expected to serve for the duration of the case.

In summary, the training incorporated the project's concept of the proper role of the representative: a child-centered advocate who understands the social-psychological problems involved in the case, who understands the importance of the social service agencies in case resolution, and who is committed to actively guiding the case through to its end.⁴⁰

IV. DESIGN OF THE STUDY

To determine whether the demonstration representatives provided sufficient advocacy for children in accordance with the project's goals, our study compared their activities and case outcomes to those of the attorneys who regularly served as representatives. This Part describes how the study was designed so that such a comparison could be made.

A. *Selection of Demonstration Representatives*

The project provided three different kinds of representatives for allegedly abused or neglected children in the Genesee County Juvenile Court, located in Flint, Michigan. Children were represented (1) by private attorneys who received special training from the project; (2) by law students from the University of Michigan Law School, Child Advocacy Law Clinic; and (3) by

investment in the case, and would develop relationships with the child, family, and professionals involved, resulting in increased understanding of the problems and more opportunity for problem solving. The ABA Standards urge that lawyers initially retained or appointed to represent children in neglect proceedings continue their representation through all stages of the proceedings. ABA STANDARDS-COUNSEL, *supra* note 2, at 75. "Continuity is of particular importance in juvenile court proceedings, where close familiarity with clients' circumstances and behavior and those of their parents are of critical significance at disposition." *Id.* at 76.

40. For additional discussion of this concept of the representative's role, see Duquette, *Liberty and Lawyers in Child Protection*, in *THE BATTERED CHILD* 316, 320 (C. Kempe & R. Helfer 3d ed. 1980).

lay volunteers who worked under the supervision of an experienced, trained attorney and who received the same training as did the private attorneys with some additional training in court procedure. These representatives were selected in the following manner:

1. *Attorneys*— The project selected four attorneys at random from the court's list of thirty-three attorneys who were typically appointed to child protection cases on a rotating basis. The first four attorneys contacted about participating in the project agreed to do so. Although these demonstration attorneys participated in the training described below and were encouraged to use the study's forms for case record keeping, the project did not supervise or direct them in any other way.

2. *Law students*— Fourteen law students, taking the Child Advocacy Law Clinic at the University of Michigan Law School for academic credit in the winter, summer, or fall semester of 1982, represented children in Genesee County Juvenile Court as part of this project. Since 1976, eight to twelve law students per semester have enrolled in the Child Advocacy Law Clinic to specialize in child abuse and neglect cases. An interdisciplinary faculty of lawyers, a psychiatrist, and a social worker supervises and teaches the students. The students receive seven law school credits per semester and spend twenty to twenty-five hours per week on clinic activities. At the time of the study, the Clinic represented the child protection agency in Washtenaw County (Ann Arbor and vicinity), parents in Jackson and Oakland Counties, and children in Genesee County—all in child abuse and neglect cases. In the classroom component of the Child Advocacy Law Clinic, law students received training in the same subject areas as the demonstration attorneys and volunteers.

3. *Trained lay volunteers*— Through the Genesee County Consortium on Child Abuse and Neglect and the Volunteer Action Center of Flint, the project identified fourteen potential volunteers. The project sought individuals experienced in dealing with children and the court system. Additionally, the project looked for individuals with a family-oriented and rehabilitative attitude toward child abuse and neglect, who also would be able to accept that a child might need to be removed from his family under some circumstances. The project interviewed potential volunteers and invited ten to participate in the training sessions and to provide representation to children. The volunteers worked in teams of two initially and worked alone after about six weeks.

Eight volunteers actually represented children in the project. The active volunteers included a retired General Motors supervisor, a homemaker with a master's degree in education who was taking time out from the work force until her children were older, an executive director of a social services agency, a journalist, a college senior majoring in psychology, a former juvenile court caseworker, a department store employee, and a General Motors production worker. Because of other time commitments and scheduling problems, five of the initial ten volunteers, working alone or with a partner, handled all of the volunteer cases.

An attorney in private practice in Flint, who had training and experience in representing children, supervised the lay volunteers. The supervising attorney served as the attorney of record because state law required attorney representation for children. The court, however, supported the project and understood that the development of recommendations to the court, investigation of the cases, and advocacy for the children were primarily the responsibility of the volunteer.

The supervisor responded to questions of law and procedure and discussed each case with the volunteers. He did not find it necessary to override any volunteer's assessment of a case or his or her proposed recommendations to the court. Although there were occasions when the volunteer and supervising attorney disagreed on what course of action was necessary—for example, whether to keep the child in foster care or to return him home—there were no cases in which the supervisor rejected the volunteer's judgment on nonlegal matters. The supervising attorney's attitude, and that espoused by the project, was that the judgment of the volunteers, given their individual backgrounds, their training, and their personal contact with the case, equalled if not surpassed the supervising attorney's judgment in such nonlegal areas.

The supervising attorney accompanied the volunteers to their first court appearances. Subsequent to that appearance, however, he made a determination as to whether legal questions or the taking of testimony required his presence, and if not, he would allow the volunteer to appear without him. The supervising attorney appeared in approximately sixty-five percent of the hearings handled by volunteers. If he did not appear in a case, he remained on call in his nearby office. In cases that went to contested adjudication, the trial was handled by the supervising attorney. Appeals also would have been handled by the supervising attorney.

B. Demonstration and Control Cases

A before/after evaluation methodology was used to assess the effectiveness of the demonstration project. The "before," or control, cases and representatives were drawn from the court's regular caseload, prior to the implementation of the demonstration project. The project needed control cases to provide a basis for comparison against which the activities and case outcomes of the demonstration representatives could be assessed.

The control cases consisted of all child abuse and neglect cases that were active between August 1 and October 30, 1981, a time period that would produce a sufficient number of mature cases for the study. Additionally, to eliminate cases that had been under court review for a long time, the project chose only cases in which the petition initiating the case had been filed after May 1, 1981.

The project denominated attorneys for the children in these cases as the control representatives. These control representatives differed from the demonstration representatives in three important ways. First, all were attorneys. Second, they had not received any special training,⁴¹ but rather had simply indicated a willingness to serve on these cases and were selected by the court to do so. Third, these attorneys generally did not serve for the duration of the case. Instead, the court typically appointed one attorney for the preliminary hearing only, and another attorney for subsequent hearings. In contrast, the court appointed representatives in the three demonstration groups at the preliminary hearing and these representatives continued to serve for the duration of the case. This latter system allowed the children to have continuity in representation, and thus satisfied one of the project goals.⁴²

The demonstration cases consisted of child abuse and neglect cases in which a petition was filed between February 1 and December 31, 1982. The court assigned cases to each of the three demonstration groups with a rotating assignment procedure based on the days of the week on which the case had its prelimi-

41. Although the local court had the power to require training as a prerequisite to appointment as a child representative, no Michigan court did so. Only 12% of the control attorneys in our sample indicated that they had attended any workshops or training sessions related to child abuse and neglect, and only 7.5% indicated that they had taken any law school courses that were related to representing a child in abuse and neglect cases. Nationally, few courts impose training requirements. See C. JOHNSON, *supra* note 4; S. Streit, *supra* note 26, at 8.

42. See *supra* note 39.

nary hearing. There was no reason to believe, and analysis did not indicate, that the type or complexity of cases or any other important case characteristic varied systematically with the day of the week that the preliminary hearing was held.⁴³ Therefore, we consider assignment of cases among the three demonstration groups to have approximated a process of random assignment.

Because the project used a before/after comparative method rather than a random assignment method to evaluate differences between demonstration and control cases, it was important to determine if the demonstration and control cases differed in any important respects other than the introduction of the demonstration method of representation. The project found no significant⁴⁴ differences between the demonstration and the control cases as to the types of abuse and the severity of the types of abuse. There were also no significant differences between the demonstration and control groups as to the children's race or sex, and as to the mean number of children per case.⁴⁵

In addition, the same judge heard all cases of both the control and the demonstration groups.⁴⁶ No changes occurred in the local court processes, statutes, or rules governing child protection cases during the eighteen months in which data collection for control and demonstration cases took place. Staff levels and the operating budgets for the court and the Department of Social Services remained approximately the same during this period. Thus, the basis for the project's comparison of the control and demonstration groups appears to be relatively strong.

43. Because of the small number of cases in each demonstration group, we did not make a comparison of the cases themselves using characteristics such as type of abuse, severity of abuse, and age of children.

44. When a relationship between two variables or a difference between two variables is referred to as "statistically significant," this means that the likelihood is very small that the relationship or the difference could be the result of chance. Thus, if a difference between the groups in our study is significant at the .05 level, statistical theory indicates that this difference would be produced by chance one in 20 times and, therefore, the likelihood is strong that the difference reflects true differences in the groups. Because our sample sizes were small, we will report differences and relationships that are significant at the .10 level in some circumstances.

45. The control group had significantly more older children (age 12 and older) than the demonstration group, and the demonstration group had a larger proportion of very young children (infant to three years old) than the control group. The mean age of children in the control group, however, was 10.1 years as compared to a mean age of 7.9 years for the demonstration group. This difference was not statistically significant. To compensate for the bias that these age differences might introduce in subsequent analyses, age was used as a control variable in the early stages of all multivariate analysis and was kept in those models in which it was found to have a significant impact on outcome variables.

46. Judge Thomas M. Gadola heard all the cases that went beyond the preliminary hearing.

C. Data Sources and Data Set

The data for the evaluation of the performance of the representatives came from two primary sources: the court's records on each case, and a face-to-face forty-five minute interview with the representatives, using an interview instrument with both structured and open-format questions, for each case that was handled.⁴⁷ The project collected information on cases from the preliminary hearing through the first major disposition. The "first major disposition" was considered to be the point at which the court entered dispositional orders after having addressed the merits of the case. For those cases that did not go beyond the preliminary hearing, the first major disposition was considered to be the court's decision at the preliminary hearing.

In the control group, the project collected information on thirty-eight court cases and completed fifty-three interviews with thirty-seven different attorneys.⁴⁸ The number of interviews exceeded the number of cases in the control group because the project interviewed attorneys who served only at preliminary hearings as well as attorneys who served at subsequent hearings. In the demonstration group, the project collected information on fifty-three court cases and completed fifty-three interviews.⁴⁹ Law students handled sixteen cases, volunteers handled twenty-two, and the trained attorneys handled fifteen cases. The project interviewed control attorneys from February 1982 through June 1982, and interviewed the experimental attorneys, law students, and volunteers between September 1982 and March 1983, after cases reached the first major disposition. To compare the performance of the control and demonstration representatives, the project divided data from the interviews into two subsets: data

47. Because the court did not keep extensive records on those cases that ended at the preliminary hearing, we supplemented court data for those cases with information from the Department of Social Services (in control cases) and the records of the representatives (in demonstration cases). The court record and interview instruments are in appendix B.

48. Initially, the project selected 42 control cases. In three of these cases, however, the attorneys served for the duration of the case. Because activities of these attorneys differed significantly from those of the other control attorneys, and because their appointment duplicated a major innovation of the demonstration model, we eliminated these three cases. We eliminated one additional case because no interview of either the preliminary hearing or dispositional order representative was completed on the case. Only two control attorneys refused to be interviewed. Some of the attorneys, however, did not recall enough about certain cases to remember what they did. We treated these as missing cases, which made the response rate for control attorney interviews 82%.

49. The demonstration groups handled 54 cases, but one law student case was omitted because an interview was not completed.

from representatives who served only at preliminary hearings and data from representatives who served at subsequent hearings. This division was necessary because procedural differences made it likely that the performance of the representatives at the preliminary hearing would differ significantly from their performance at subsequent hearings.

The preliminary hearing was usually a short and informal proceeding that was held without a prosecutor and before a referee, rather than a judge. The referee's task was to determine whether the petition should be authorized, and whether the child should be removed from his parents' care pending trial. In addition, differences in performance at the preliminary hearing stage could be attributed to the customary appointment, in both the demonstration and control groups, of the child's representative on the day of the preliminary hearing and the consequently meager advance information that the representative had about the case.

Thus, the project divided the interview data into a preliminary hearing subset (subset 1) and a subsequent hearing subset (subset 2), and compared the activities of demonstration and control representatives within each subset (see table 1).

TABLE 1
Composition of Subsets of Interviews with Representatives

	<u>Demonstration</u>	<u>Control</u>	<u>Total</u>
Preliminary Hearing (Subset 1)	13 interviews with representatives on cases dismissed at preliminary hearing stage	6 interviews with representatives on cases dismissed at preliminary hearing stage; 23 interviews with representatives who served at preliminary hearing only on cases that continued to subsequent hearings	42 interviews
Subsequent Hearing (Subset 2)	40 interviews with representatives on cases that continued to subsequent hearings	24 interviews with representatives on cases that continued to subsequent hearings	64 interviews
TOTAL	53 interviews	53 interviews	106 interviews

The preliminary hearing subset (subset 1) consisted of thirteen interviews with demonstration representatives who served on cases that did not go beyond the preliminary hearing, six interviews with those control attorneys whose cases did not go be-

yond the preliminary hearing, and twenty-three interviews with those control attorneys who served only at the preliminary hearing even though the case continued to subsequent hearings. Because the control representatives did not serve for the duration of the case, the project considered all control attorneys who served at the preliminary hearing as one group for the purpose of analyzing attorney activity. In other words, the preliminary hearing subset (subset 1) consists of interviews with representatives who served only at preliminary hearings without regard to whether their cases ended at the preliminary hearing.⁵⁰

The subsequent hearing subset (subset 2) consisted of forty interviews with demonstration representatives whose cases continued beyond the preliminary hearing and twenty-four interviews with control attorneys appointed after the preliminary hearing and serving at subsequent hearings.

Virtually all petitions listed more than one allegation of abuse and neglect. For purposes of analysis, the allegations were divided into six categories. These categories and the percentage of cases that contained at least one allegation within that category can be summarized as follows: (1) physical abuse (e.g., burns, bruises, broken bones)—40%; (2) sexual abuse (e.g., oral or anal intercourse, fondling)—9%; (3) neglect (e.g., inadequate food, shelter, medical care)—46%; (4) abandonment (e.g., parents' whereabouts unknown, parental requests that child be removed from home)—40%; (5) emotional abuse/neglect (e.g., verbal abuse, family violence)—55%; and (6) parent problems (e.g., parent mentally ill, a substance abuser)—48%.

The ninety-one court cases in the sample included 148 children, 52% of whom were boys, 48% of whom were girls. The children ranged in age from under one month to 17.7 years with an average age of 8.8 years. In a majority (68%) of the cases, the petition included all of the children who were in the family home. The number of children in a petition ranged from one to

50. This grouping decision could be criticized because differences in representative activity, which were found when the control and demonstration representatives were compared, could be caused by differences in the cases themselves, if cases that end at the preliminary hearing are substantially different from cases that continue on to subsequent hearings. Because there were no significant differences in the control and demonstration caseloads overall, it was reasonable to conclude that the demonstration representatives' cases were more likely than the control representatives' cases to end at the preliminary hearing because of the representatives' activities rather than because of any inherent differences in the cases themselves. Nonetheless, especially when dealing with such small numbers, there is some possibility that the results were due to chance.

five, and two was the median number of children. Black children were substantially overrepresented in the sample.⁵¹

V. ANALYSIS OF THE FINDINGS OF THE STUDY: PROCESS AND OUTCOME

As its primary purpose, the project's analysis sought to determine if the representatives from the demonstration group could perform as well as or better than the control attorneys, in accordance with the concepts of the appropriate role and function of the child's representative described earlier.⁵² If the analysis found that demonstration representatives performed at least as effectively as the control representatives, then the project would consider representation by law students or lay volunteers to be acceptable. To determine this, the project developed two sets of measures: process measures and outcome measures. The project designed process measures to identify and assess the activities of the representatives and to thereby ascertain what the representatives had actually done. The project designed outcome measures to determine the impact of the representatives on the cases by looking at the way the court actually handled cases.

A. *Stages of the Analysis*

The analysis was completed in three stages. First, the project compared the three types of demonstration representatives with each other to ascertain whether significant differences existed between them on process measures. Also, because of the small number of cases in each demonstration group, we wished to determine whether three small groups could plausibly be collapsed into a larger group to facilitate subsequent comparison to the control group. In fact, as will be shown, our analysis found few significant differences between the demonstration representatives on process measures, and thus determined that they could be treated as one group.⁵³ The second stage of the analysis involved a comparison of the demonstration representatives with

51. In 1980, blacks comprised 17% of the Genesee County population and whites comprised 81%. See BUREAU OF THE CENSUS, 1980, *supra* note 24, at 256. In our sample, however, 40.6% of the children were black and 58.7% were white.

52. See *supra* Part III(A).

53. See *infra* table 3 accompanying Part V(C).

the control representatives on process measures.⁵⁴ The final stage of the analysis compared the demonstration cases with the control cases on measures of outcome.⁵⁵

B. Process Measures

Information for process measures came from the interviews with the representatives themselves. The project designed the questions asked during the interview to gauge the activities and approaches that the representatives used to handle a case. The interview included questions about such things as the persons the representatives talked to, the sources of information that the representatives considered to be important, and the representatives' attitudes toward their role.

In all, the project asked over 100 questions that were related to the process of handling the cases. To consolidate the large number of process measures into a smaller number of process variables and to minimize measurement error, the statistical technique of factor analysis was used.⁵⁶ Factor analysis allowed questions that actually were measuring the same underlying dimension of an activity or attitude to be combined into a single, more accurate, condensed scale. Using factor analysis, our analysis developed four standardized scales.⁵⁷

Factor 1: Investigation-Interaction Scale— a measure that combines the number of people the representatives talked to, the total number of sources of factual information, the number of persons who urged the representatives to accept their recommendations (an indication of the representative's interaction with others), and the total number of hours spent on the case.

Factor 2: Advocacy Scale— a measure that combines the number of recommendations made by the representative, the number

54. See *infra* tables 4 and 5 accompanying Part V(D).

55. See *infra* figures 1 and 2 accompanying Part V(G)-(H).

56. Factor analysis is a widely used statistical technique. "Factors" are the hypothesized, underlying variables that are presumed to be the sources of the observed variables. For a thorough discussion of factor analysis, see generally J. KIM & C. MUELLER, *INTRODUCTION TO FACTOR ANALYSIS* (1978).

57. To enhance the interpretability of subsequent multivariate analyses, we estimated the factor scales in a manner that makes each scale statistically independent of the other (the orthogonal solution). Because the scales have been standardized, each has a mean of zero and a standard deviation of one. The factor table is available on request from the authors.

of services obtained, and the number of people monitored by the representative after the first major disposition.

Factor 3: Motivation Scale— a combination measure indicating the degree to which the representatives saw their role as important, were highly interested in the case, and were more likely to characterize their role at the hearings as active rather than passive or neutral.

Factor 4: Child Scale— a combination measure that indicates whether or not the representative met with the child, the percent of time spent talking to the child, the rank of the child as an important source of information, the utility of contact with the child, and the degree of consideration given to the child's wishes.

Our analysis retained and examined separately other variables that were not related to these four scales, but still had theoretical or practical significance. For the purpose of discussion, the analysis combined these other variables and the factor scales into the following four broad categories of process measures: (1) Investigation/Advocacy/Mediation; (2) Representative's Attitude Toward Role; (3) Representative's Attitude Toward the Child; (4) Representative's Attitude Toward Others. Table 2 lists the factor scales and variables that each of these four categories contain.

TABLE 2

Four Categories of Process Measures

1. Investigation/Advocacy/Mediation
 - Investigation-Interaction Scale (Factor 1)
 - Advocacy Scale (Factor 2)
 - People Tried to Convince (the number of different persons the representative tried to convince to accept his or her recommendations)
 - Follow-up Activities (yes or no)
 - Sum of Mediation Actions (number of different actions representative took to try to get the parties to agree—for example, phone calls, meetings, etc.)
 - Role in Getting Services (Did the representative play a role in getting the court to order services?—yes or no)
2. Representative's Attitude Toward Role
 - Motivation Scale (Factor 3)
 - Outcome Different Because of Child Advocate (Did the representative think his/her presence made a difference in outcome?—yes or no)
 - Satisfaction with Outcome (Was the representative satisfied with the outcome of the case?—rated on 5 point scale: not at all to very much)

3. Representative's Attitude Toward Child
Child Scale (Factor 4)
Purpose of Representative's Contact with Child:
State Recommendations (yes or no)
Assessment (yes or no)
4. Representative's Attitude Toward Others
Courtworker's Competency (rated on 5 point scale:
very low to very high)
Prosecutor's Competency (rated on 5 point scale:
very low to very high)
Social Service Worker's Competency (rated on 5 point scale: very low
to very high)
Responsiveness of Agency/Court Personnel (rated on 5 point scale:
very low to very high)
Proceedings Moved Too Slowly (yes or no)

The above listing includes any process measure that, when used as a basis for comparison between the three demonstration groups or between the combined demonstration group and the control group, resulted in differences that were statistically significant at the .05 level.⁵⁸ Table 2 thus represents a complete listing and explanation of the process measures that were significant in any comparison between demonstration groups or between the combined demonstration group and control group.

C. *Comparison of Demonstration Groups on Process Measures*

The first stage of the analysis was to compare the three types of demonstration representatives—trained attorneys, law students, and lay volunteers—to determine the extent to which significant differences existed among them on the process measures. Table 3 presents differences between the three types of demonstration representatives that were statistically significant at the .05 level or better on these measures of process.⁵⁹ In making the comparison, the analysis used either the Chi-square statistic (X^2) or the F-statistic to determine whether the differences were statistically significant.⁶⁰

58. For a discussion of statistical significance, see *supra* note 44.

59. Note that table 3 lists only those process measures that were statistically significant for the particular comparison being described. In contrast, table 2 is a listing of all process measures that were statistically significant in any comparison.

60. The selection of the appropriate statistical test for evaluating differences between groups is largely based on the types of variables that are being used in the comparisons. Dichotomous variables, that is, variables that have only two values and no inherent scale (e.g., yes/no, male/female), require the use of nonparametric statistics such as the Chi-

We had hoped that our analysis would find few differences between the three demonstration groups because we thought that all three groups, with training, could provide comparable representation for the child. For the most part, the findings bore out this expectation. Although our analysis compared the three groups on sixteen different process measures (see table 2) that could have resulted in forty-eight significant differences, in fact, we found only fourteen (twenty-nine percent) significant differences (see table 3). The law students scored much higher than either the volunteers or the attorneys on the Investigation-Interaction Scale, and were found more likely to use a variety of approaches to get the parties to agree than were the volunteers. Perhaps the law students felt that they should spend more time and effort in these activities because the cases were part of their course work and because they were closely monitored and required to report regularly on their progress.

Our analysis revealed that the law students were also more critical of other professionals involved in the proceeding than either the volunteers or the attorneys. This increased criticism may be the result of higher student expectations, less practical experience than the other groups of representatives, or the very nature of the law school experience, which places a premium on critical thinking. Furthermore, because the law students were assigned cases only over a semester, they had less investment in ongoing relationships in Genesee County and thus remained more independent of local influences.

Curiously enough, our analysis found both the law students and the volunteers to be more likely than the attorneys to feel that their activity as the child's representative made a difference in the outcome of the case for the child. Possibly the attorneys tended to think of outcome in terms of ultimate legal adjudication rather than more subtle differences in the child's welfare, or perhaps the attorneys viewed their accomplishments more cynically. Volunteers and law students may have been less confident than the attorneys in the ability of the other professionals to reach the final case outcome without the child advocate's

square. Continuous or internal level variables possess an inherent scale (e.g., number of days, number of hours) and may employ a more powerful statistical method in evaluating comparisons between groups. For these variables, we used the statistical technique referred to as analysis of variance and calculated the F-statistic. The Chi-square statistic and the F-statistic are used to estimate the probability that the result obtained occurred by chance. If the estimate shows that the result was not likely to occur by chance, then the estimate is statistically significant. See generally D. BARNES & J. CONLEY, *STATISTICAL EVIDENCE IN LITIGATION* (1986).

TABLE 3
Comparison of the Three Demonstration Groups:
Significant Differences on Process Measures

Process Measures	Mean or % / N* on Process Variables			Comparisons of Groups**			
	Student	Volunteer	Attorney	Student/Volunteer F or X ² /(sign.)*	Student/Attorney F or X ² /(sign.)*	Volunteer/Attorney F or X ² /(sign.)*	
1. Investigation/Advocacy/Mediation Investigation/Interaction Scale***	1.6/16	.0/22	-.2/15	17.6 (.00)	24.9 (.00)		NS
People Tried to Convince	1.2/16	.4/22	.5/15	5.3 (.03)	NS		NS
Sum of Mediation Actions	.8/16	.1/22	.3/15	8.6 (.01)	NS		NS
2. Rep.'s Attitude Toward Role Outcome Different	66.7%/15	76.2%/21	26.7%/15	NS	6.3 (.00)		8.7 (.00)
3. Rep.'s Attitude Toward Child Purpose of Contact: Assessment	12.5%/16	50.0%/23	13.3%/15	5.8 (.02)	NS		5.3 (.02)
4. Rep.'s Attitude Toward Others Courtworker's Competency+	3.2/10	4.1/20	4.2/13	5.5 (.03)	5.8 (.02)		NS
Prosecutor's Competency+	2.0/4	3.8/10	2.9/13	14.6 (.00)	4.3 (.05)		7.3 (.01)
Social Service Worker's Competency+	3.1/15	3.8/16	4.2/13	NS	9.4 (.00)		NS

* N = sample size; sign. = significance level.

** The percent and X² value are given for dichotomous variables. The mean and F-statistic are given for continuous variables. The X² and F-statistic are not given when not significant (NS).

*** This is a composite measure constructed from the weighted values of several items through factor analysis. The result of this procedure is a standardized measure. A higher score on the measure indicates a relatively higher performance on the underlying dimension of the scale. Although the mean is not inherently interpretable, the means of the demonstration and control groups can be compared to determine if they differ significantly.

+ Measured on a five point scale with Low = 1, High = 5.

involvement. On the other hand, attorneys possessed more experience with the court and with related professionals and may have developed certain expectations of how the cases would be resolved.

Finally, our analysis found that the volunteers were much more likely than either the law students or the attorneys to have met with the child for the purpose of assessing the child and the child's environment. This might indicate that the volunteers placed more importance on the social work aspect of their role.

Overall, our analysis did not view these differences as great enough to warrant a conclusion that the performance of any one demonstration group substantially differed from the performance of any other demonstration group. The lay volunteers, the law students, and the trained attorneys performed similar activities while representing their child clients. Because our analysis found only the few differences in process measures noted above, we combined the three demonstration groups for the comparison of the demonstration and control groups on the process measures.

D. Comparison of Demonstration and Control Representatives on Process Measures: Findings and Discussion

To measure the performance of the representatives, our analysis compared the demonstration and control groups with each of the two previously discussed subsets of data: representatives who served at preliminary hearings only (subset 1) and representatives who served at subsequent hearings (subset 2) (see table 1). Table 4 presents the differences between the demonstration and control representatives at the preliminary hearings (subset 1) and indicates which differences were found to be statistically significant at the .05 level or better. Table 5 presents the differences between the demonstration and control representatives at the subsequent hearings (subset 2). The analysis compared these representatives with regard to their activities at the first major dispositional hearing,⁶¹ which was identified by the researchers from the court records.

1. *Investigation/Advocacy/Mediation*— Our analysis revealed that, at the preliminary hearings, demonstration repre-

61. For our definition of first major disposition, see *supra* text accompanying notes 47-48.

TABLE 4
Process Measures for Demonstration and Control Representatives in Subset 1 (Preliminary Hearings Only)

Process Measures	Demonstration % or Mean* (of N)	Control % or Mean* (of N)	X ² *	F*	Significance
1. Investigation/Advocacy/Mediation					
Investigation-Interaction Scale**					
Advocacy Scale**					
People Tried to Convince	.0	-.7(mean)		5.6	.02
Follow-up Activities (yes)	-.1(mean)	-.5(mean)			NS
Sum of Mediation Actions	.7(mean)	0(mean)		8.8	.00
Role in getting services (yes)	23.1%	0	6.5		.01
Rep.'s Attitude Toward Role	-.4(mean)	.1(mean)		5.2	.02
Motivation Scale**	80.0%	46.2%			NS
Outcome Different (yes)	-.2(mean)	0(mean)			NS
Satisfaction with Outcome +	46.2%	18.5%			NS
Rep.'s Attitude Toward Child	2.6(mean)	4.3(mean)		21.6	.00
Child Scale**	.0(mean)	.1(mean)			NS
Purpose of Contact:					
State Recommendations (yes)	0%	0%			NS
Assessment (yes)	0%	0%			NS
Rep.'s Attitude Toward Others					
Courtworker's Competency (Courtworker usually not assigned until after preliminary hearing.)					
Prosecutor's Competency (Prosecutor does not appear at preliminary hearings.)					
Social Service Worker's Competency +	3.8(mean)	4.0(mean)			NS
Responsiveness of Agency/Court Personnel +	3.4(mean)	4.8(mean)		14.3	.00
Proceedings Moved Too Slowly (yes)	7.7%	3.4%			NS

* The percent and X² value are given for dichotomous variables. The mean and F-statistic are given for continuous variables. The X² and F-statistic are not given when not significant (NS). N = sample size.

** This is a composite measure constructed from the weighted values of several items through factor analysis. The result of this procedure is a standardized measure. A higher score on the measure indicates a relatively higher performance on the underlying dimension of the scale. Although the mean is not inherently interpretable, the means of the demonstration and control groups can be compared to determine if they differ significantly.

+ Measured on a five point scale with Low = 1, High = 5.

TABLE 5
Process Measures for Demonstration and Control
Representatives in Subset 2
(Disposition Hearings)

Process Measures	Demonstration % or Mean* (of N)	Control % or Mean* (of N)	X ²	F*	Significance
1. Investigation/Advocacy/Mediation Advocacy Scale**	.6(mean) 40	.0(mean) 24		6.2	.02
People Tried to Convince Follow-up Activities (yes)	.6(mean) 40	-.3(mean) 24		10.5	.00
Sum of Mediation Actions	54.1% 37	25.0% 24			NS
Role in Getting Services (yes)	.3(mean) 40	-.5(mean) 24	5.0		.03
Rep.'s Attitude Toward Role Motivation Scale**	84.8% 33	38.5% 13	9.9		NS
Outcome Different (yes)	.2(mean) 40	-.5(mean) 24		9.8	.00
Satisfaction with Outcome +	63.2% 38	9.5% 21	15.8		.00
Rep.'s Attitude Toward Child Child Scale**	3.9(mean) 40	4.1(mean) 23			NS
Purpose of Contact: State Recommendations (yes)	-.2(mean) 40	.2(mean) 24			NS
Assessment (yes)	5.0% 40	20.8% 24	3.9		.05
Rep.'s Attitude Toward Others	37.5% 40	0% 24	11.8		.00
Courtworker's Competency +	3.9(mean) 37	4.5(mean) 22		4.5	.04
Prosecutor's Competency +	3.1(mean) 27	3.8(mean) 18		5.4	.02
Social Service Worker's Competency + Responsiveness of Agency/Court Personnel +	3.7(mean) 35	3.9(mean) 19			NS
Proceedings Moved Too Slowly (yes)	4.5(mean) 39	4.8(mean) 24	4.8		NS
	33.3% 39	8.7% 23			.03

* The percent and X² value are given for dichotomous variables. The mean and F-statistic are given for continuous variables. The X² and F-statistic are not given when not significant (NS). N = sample size.

** This is a composite measure constructed from the weighted values of several items through factor analysis. The result of this procedure is a standardized measure. A higher score on the measure indicates a relatively higher performance on the underlying dimension of the scale. Although the mean is not inherently interpretable, the means of the demonstration and control groups can be compared to determine if they differ significantly.

+ Measured on a five point scale with Low = 1, High = 5.

representatives attempted to convince more people to accept their recommendations about what should happen to the child than did the control representatives. They also played a more active role as mediators by using a greater variety of actions, such as phone conversations or informal meetings, to facilitate agreement among the parties. Additionally, the demonstration representatives scored higher than the control representatives on the Investigation-Interaction Scale⁶² and also were found more likely to engage in follow-up activities than the control representatives. Our analysis also demonstrated that for those cases dismissed at the preliminary hearing, the demonstration representatives spent an average of 5.5 hours per case, compared to control representatives' average of only one hour per case.

Our analysis determined that, at subsequent hearings (subset 2), the demonstration representatives also performed significantly better than the control representatives on most of our measures of investigation/advocacy/mediation. They scored significantly better on the Investigation-Interaction Scale and on the Advocacy Scale. The analysis found the demonstration representatives (subset 2) to be more likely to take an active role in getting services for the child or the child's family and, like the preliminary hearing demonstration representatives (subset 1), more likely to engage in follow-up actions than were the control representatives. The analysis also discovered that the demonstration representatives (subset 2) spent an average of 8.5 hours per case compared to an average of 5.6 hours for the subset 2 control representatives.

The findings related to the process measures of investigation, advocacy, and mediation bear out many of the hypotheses we developed prior to the beginning of our study. The representatives in the demonstration groups scored higher on a number of these measures, indicating that they were more likely to investigate their cases thoroughly, were more involved with the other parties in the proceedings, tried harder to serve their clients' needs, and were more likely to follow-up on their cases. Overall, the behavior of the demonstration representatives reflected vigorous advocacy and suggests that they implemented the approach suggested during training.

2. *Attitude toward own role*— Our analysis demonstrated that, following the preliminary hearing, demonstration representatives (subset 1) felt less satisfied than the control representatives with the outcome of their cases. The study found

62. See *supra* text accompanying notes 57-58.

demonstration representatives at the subsequent hearings (subset 2) to be more likely to believe that the case's outcome would have ended differently for the child or the family if there had not been a representative for the child. Also, the subsequent hearings demonstration representatives (subset 2) scored higher on the Motivation Scale than did the subset 2 control representatives.⁶³

As we hypothesized, the demonstration representatives felt that their presence in the proceedings made a difference, and the analysis of the outcome measures, discussed in the next section, confirms their impressions. The demonstration representatives who served in cases that ended at the preliminary hearing, however, did not score significantly higher than the control representatives on the Motivation Scale and, as noted, were also less satisfied with the outcome of the preliminary hearing cases than were the control representatives.

Several possible explanations can be offered to account for this difference in satisfaction of child advocates at the preliminary hearing. First, demonstration preliminary hearing cases were dismissed entirely from court jurisdiction, whereas control cases generally were passed on to the next procedural stage with another attorney appointed to represent the child. The control attorney handling preliminary hearings often did not stay with a case and could take some solace in the knowledge that the system, in which she was more likely to have confidence than the demonstration representative, would look after the child's welfare. Second, because of their training, the demonstration representatives were more likely to identify issues and problems in alleged child abuse and neglect cases and to realize the elusive nature of meaningful solutions. Because the demonstration representatives often lacked an uncritical faith in "the system," they simply may have concluded that urging the court not to take jurisdiction offered the "least detrimental alternative" for the child and the family, but not, by any means, an ideal solution.

3. *Attitude toward the child*— In responding to the question, "For what purpose did you have contact with the child?" our analysis found the subsequent hearings control representatives (subset 2) more likely to describe the purpose of the meeting as telling the child what the representative would recommend to the court. In contrast, the analysis revealed the subset 2 demonstration representatives to be significantly more likely to

63. *Id.*

say that the purpose of the contact with the child was to assess the environment of the child and his relationship with his parents or other custodian. The analysis found that there was no significant difference, however, between the demonstration and control representatives for either subset on the Child Scale.⁶⁴

The findings related to attitude toward the child did not support our hypothesis. Although we expected the demonstration representatives to score significantly higher on the Child Scale than the control attorneys, no significant differences of this type were found in either subset. Both control and demonstration representatives appeared to share a similar concern for and involvement with the child as measured by the Child Scale. As noted, however, our study did discover significant differences in the subsequent hearings subset in the reasons the representatives gave for having contact with the child. These varied purposes may indicate the demonstration representatives' concern with doing a thorough and independent case assessment.

4. *Attitude toward others*— Our analysis found the demonstration groups to be more critical of the court process and its actors than the control group. The preliminary hearing demonstration representatives (subset 1) rated court and agency personnel as significantly less responsive to their requests for information than did the control representatives. Similarly, the subsequent hearings demonstration representatives (subset 2) rated the overall competency of the courtworker and the prosecutor lower than did the control representatives. Finally, our analysis found that the subset 2 demonstration representatives were significantly more likely to think that the proceedings moved too slowly.

According to our early hypotheses, we expected that the representatives in the demonstration group would be more critical of others in the program because they would have higher expectations of what should and/or could be done in a particular case, would be more independent of the system, and would be more aware of ways that the process could be improved to better serve the child's interest. The findings generally supported our hypothesis. Interestingly, neither subset differed significantly in the rating given to the Department of Social Services caseworker. Demonstration representatives and control attorneys both rated the caseworker as somewhat less competent than the courtworker. The finding that the demonstration representatives in subset 2 felt that the proceedings moved too slowly

64. *Id.*

is striking because demonstration cases, in fact, moved through the court system much more quickly than did the control cases.

5. *Conclusion*— Our analysis revealed that the demonstration representatives' performance accorded with the role of the representative for the child presented by the training. Thorough investigation, active advocacy, and a skeptical but active role characterized the representation provided by the demonstration representatives and by each group of demonstration representatives—the lay volunteers, the law students, and the trained attorneys.

E. Outcome Measures

The third stage of the analysis compared the demonstration and control representatives on measures of case outcome. The outcome measures were designed to ascertain the impact of representatives on their cases by comparing the actual management and disposition of cases by the court as reflected in the court's orders.

The project used eight different outcome measures based on data from the court records:⁶⁵ (1) court processing time, (2) placement orders (home, relative, or other), (3) visitation orders, (4) treatment/assessment orders, (5) no contest pleas, (6) ward of the court, (7) dismissals, and (8) other procedural orders.

1. *Court processing time*— The first of the outcome measures—court processing time—measured the number of days between the filing of the petition and the first major dispositional hearing. Because the training emphasized the importance of expeditious handling of cases, we hoped that the cases handled by representatives from the demonstration groups would move more quickly through the court system than those of the control representatives. The project used the measure of court processing time as a means for ascertaining whether this expectation was met.

65. Because the court, in some cases, gave parents specific directives about such things as employment ("get a job," "go to work regularly"), substance abuse ("stop drinking"), or marriage ("stop fighting"), we also recorded these orders even though we had no expectations with regard to what, if any, influence the demonstration representatives would have on the number of these types of orders. The analyses showed that neither the type of representative nor representative activities significantly influenced this category of orders, referred to as "admonitions," and therefore we omitted this category from the discussion.

2. *Type of placement for children*— Three outcome measures—home, relative, and other—were used to classify the court's orders related to placement for children. Each measure counted the number of orders in each category for the case. The category "other" primarily consisted of placement in foster care, although it also included placements in institutions and with family friends. Because the training had emphasized the importance of avoiding the removal of children from home, if possible, we anticipated that the demonstration representatives would be more likely than the control representatives to have cases with home placements.

3. *Orders for visitation*— The project also collected information on court orders related to visitation. The training emphasized the importance of continued contact between parent and child and the need for limitation of visitation in some cases. The category "visitation" gave a count of orders and included any order relating to visitation, such as orders allowing supervised or overnight visitation, or prohibiting visits.

4. *Orders for treatment and assessment*— The project also counted orders for medical and psychological evaluation and treatment. The training had emphasized the need for information regarding the mental and physical health of the child and family members and the need for prompt treatment. The category "treatment/assessment" included orders relating to medical treatment or psychological counseling of any family member and assessments of the child, caretakers, or the environment.

5. *Orders regarding formal court jurisdiction*— The final group of outcome measures related to the assumption of formal court jurisdiction over a child and included orders of no contest, dismissal, ward of the court, and other procedural. We expected that the demonstration representatives, because of their mediation activities, would be more likely to have cases in which parents entered a plea of no contest; these would be cases in which a negotiated settlement had been reached that would obviate the need for a formal hearing. Additionally, we expected the demonstration groups to be more likely to have cases dismissed and less likely to have a child adjudicated as a ward of the court, which is a formal declaration of the child's need for continued court jurisdiction. The category "other procedural" was a miscellaneous category that included such court orders as denial of motions or petition amendments.

F. Comparison of Demonstration Groups on Outcome Measures

We expected that the three demonstration groups would not differ significantly on outcome measures because they had performed similarly on the process measures. It seemed reasonable that cases handled in a similar fashion would have similar results. Our analysis bore out this expectation as we found no significant differences between the three demonstration groups on any of the outcome measures. This finding is especially important because it indicates that the court and social agencies responded to advocacy by laypersons and law students in the same fashion as to advocacy by trained attorneys. A separate study indicated that the lay volunteers appeared competent to other participants in the proceedings.⁶⁶ Because there were no significant differences on outcome measures between the demonstration groups, the project combined the groups for purposes of comparison with the control representatives on outcome measures.

G. Path Analysis

After identifying measures of case outcome, the next step in the analysis was to consider what factors might affect these measures. As our primary factor of interest, we examined whether the cases handled by the demonstration representatives differed on outcome measures from those handled by the control representatives. Because of the design of the study, it would have been tempting to simply compare the demonstration and control groups on the outcome measures—a bivariate analysis. However, the project pursued a more sophisticated multivariate approach in addition to a simple bivariate analysis for two reasons.

66. An analysis of 95 interviews with the social service workers and courtworkers who served on the cases handled by the study representatives indicated that they felt that the volunteers were very competent. See Faitler, *The Guardian ad-Litem Role in Child Abuse and Neglect Cases: Examining the Perceptions of Department of Social Service and Probate Court Workers on the Differences Between Trained and Untrained Guardians ad-Litem* (student paper on file at the University of Michigan Child Advocacy Clinic). In addition, the project interviewer, a student in the University of Michigan School of Social Work, rated the volunteers significantly higher than either the law students or the trained attorneys on their knowledge of the case and understanding of the problems involved in the case.

Second, because the project used a before/after quasi-experimental design rather than a random assignment experimental design, the groups may not be completely equivalent with respect to background variables. These variables have the potential to confound the comparative analysis of the demonstration and control groups. Because our goal was to make the comparisons between these groups as rigorous as possible we decided to control for sources of nonequivalence between the groups that were related both to treatment and outcome variables. We accomplished this by introducing case-characteristic variables, such as the type of abuse, in the first stage of the path model, and thereby controlling for effects that might have been produced by a case characteristic rather than by the demonstration treatment or a process variable. The use of such case-level control variables increases the statistical confidence in the estimate of the size of any experimental impact that may be revealed in the analysis.⁶⁸ Because the influence of case characteristics on outcome is tangential to this analysis, a description of the characteristics and their influence is omitted here but is contained in appendix C.

To analyze the relationship between the independent variables, such as the type of representative (demonstration or control), representative activity (process variables), and case characteristics (control variables), and the dependent variables of case outcome, we used a multifactor or multivariate path analysis.⁶⁹ Multivariate techniques made it possible for us to estimate and evaluate the strength, direction, and significance of the independent contributions of a number of factors to the explanation or prediction of dependent variables.⁷⁰ Thus, for example, the

68. *See id.* at 302-05.

69. On the technical issue of selecting an appropriate multivariate technique for the estimation of the path models, it should be noted that because nearly all of the dependent outcome variables are dichotomous—that is, their response categories are either yes or no—the log-linear technique would normally be the method of choice. However, because the number of cases is small relative to the number of independent variables and their categories, the log-linear method, which requires a large number of cases, was considered to be overly restrictive. For this reason, the less restrictive, ordinary least squares approach was chosen despite its less rigorous quality in estimating models with dichotomous dependent variables. *See* L. GOODMAN, *ANALYZING QUALITATIVE/CATEGORICAL DATA* 7-25 (1978).

70. We chose a more liberal inclusion level (in the .10 range, rather than the traditional .05 level of statistical significance) because of the small number of cases in the sample and because we felt that our quasi-experimental design required a more rigorous multivariate test of program impacts on the outcome variables. This choice allows us to detect program effect in well-controlled models, although we recognize that the small size reduces the odds that program effects would be found at higher levels of statistical significance. *See supra* note 44.

unique effect of the representative's degree of involvement in the case on the type of placement could be measured while taking into account or controlling for the effect of other factors, such as the type of abuse.

The path analysis also allowed us to evaluate possible indirect relationships in the model. For example, the path analysis demonstrates that the effect that the representative type had on the outcome variable "court processing time" resulted from the impact that representative type first had on the process variable "Advocacy," which in turn influenced court processing time. This made it possible to identify more clearly which child advocacy steps, taken by the demonstration groups, affected case outcome. A simple bivariate analysis would not have shown which activities of the demonstration groups made a difference on case outcome.

H. Comparison of Demonstration and Control Groups on Outcome Measures: Findings and Discussion

This section describes the effects of type of representative—control or demonstration—and of the representative's activities, measured by process variables, on the outcome measures. To simplify analysis, we used as measures of representative activity only the four scales: Investigation-Interaction, Advocacy, Motivation, and Child.⁷¹

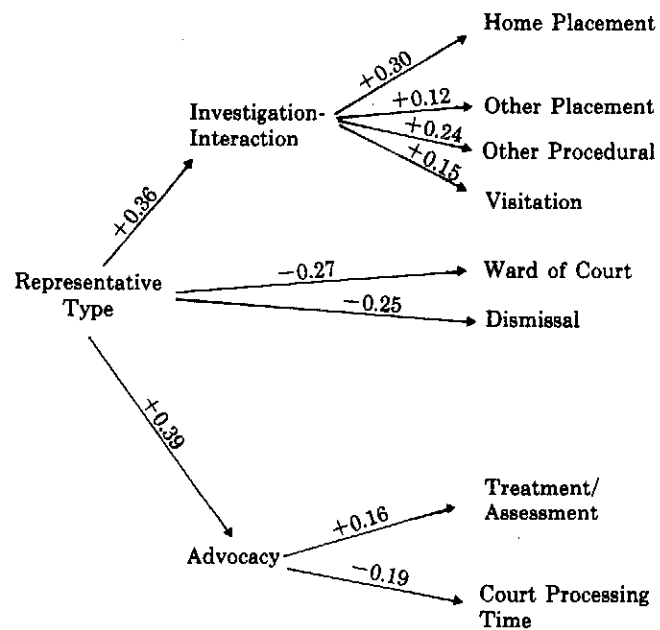
The effects of type of child representative and of child representative activities on case outcome measures are presented in figure 2. Figure 2 gives the Beta weights—standardized regression coefficients that range from a high of +1 to a low of -1—for each relationship. An advantage of the standardized score is that the strength and direction of the relationships between all of the variables in the model can be compared easily. For example, a strong positive relationship can be seen between the process measure Investigation-Interaction and the outcome measure "home placement" (+.30); a relatively weak positive relationship can be found between Investigation-Interaction and "other placement" (+.12).

The analysis determined that the demonstration representatives did have an impact on a number of aspects of case out-

71. For control cases with more than one attorney, we used the performance of the attorney who represented the child at the first major disposition. Demonstration cases had only one representative per case.

come. This effect was sometimes directly related to the type of representative (demonstration = 2; control = 1). For example, our analysis revealed that children represented by the demonstration representatives were less likely to be made wards of the court than were the children represented by the control representatives. This result may have been due to the continuity of representation provided by the demonstration representatives, to their overall activity, or to some combination of these factors. More often, however, this effect was indirect; the demonstration representatives performed differently, as measured by the process variables, and this difference in representational processes resulted in a change in the outcome variables. For example, the demonstration representatives were more likely to have a high score on the Advocacy Scale, and a high score on the Advocacy Scale was positively related to treatment/assessment orders.

Figure 2:* Path Model of the Actual Effects of Type of Representative (Demonstration or Control)** and Representative Activity (Process Measures)*** on Outcome



* All relationships in the model are expressed as standardized regression coefficients (Beta) and are significant in the .10 range.

** Control = 1; Demonstration = 2.

*** Because the Motivation Scale and the Child Scale did not influence outcome, they are omitted.

1. *Court processing time*— Our study revealed that the representatives' activity as measured by the Advocacy Scale influenced court processing time. When representatives scored high on the Advocacy Scale, the number of days in the system was significantly reduced. Furthermore, as reported above, the demonstration representatives scored significantly higher on the Advocacy Scale. In other words, while the type of representative did not directly influence court processing time, the demonstration treatment resulted in more advocacy that, in turn, reduced the number of days between the filing of the petition and the first major disposition. The advocacy activities of the demonstration groups resulted in their cases progressing more rapidly to the decision stage. On average, the demonstration cases reached the first disposition in 37.9 days, compared with 60.6 days for the control cases. Although this difference is statistically significant, it should be noted that the path model demonstrates that it was the fact that demonstration representatives engaged in more advocacy activities that caused this difference, not representation by the demonstration representatives in itself.

Interestingly, our project revealed that 30% of the cases handled by the demonstration group finished the court process within four days (see table 6). The continuity of representation provided by the demonstration groups may have caused this result. The demonstration representatives were able to work toward a resolution of their cases, whereas the responsibilities of the control representatives who served at the preliminary hearing ended after a single court appearance.

TABLE 6
Percent of Cases by Case Type and Length
of Time (in Days) in Court System

	0-4 days	5-42	43+	Total
Control	3% (1)	42% (16)	55% (21)	100% (38)
Demonstration	30% (16)	40% (21)	30% (16)	100% (53)

2. *Type of placement*— The presence of the demonstration representatives also affected indirectly home and other placements. Demonstration representatives were more likely to score high on the Investigation-Interaction Scale, and a high score on this scale was positively and strongly related to home placement and less strongly to other placement. The presence of the demonstration representatives did not directly or indirectly affect placements with relatives as these occurred at approximately the same rate for both control and demonstration cases.

We had anticipated that the demonstration representatives' cases would be likely to have more home placements and fewer court orders of foster care placements. That expectation was partially borne out by the increased number of home placement orders. These orders seemed to indicate both a greater concern for stability and continuity in the child's environment and an attempt to make the child safe in his own home, whenever possible. However, we did not expect a greater number of other placement orders, primarily orders for foster care, in the demonstration cases. The analysis showed that those representatives who scored high on the Investigation-Interaction Scale were more likely to have orders relating to both home placement and other placement. This result may indicate that these representatives were more concerned about the placement of the child clients and, consequently, more likely to ask for a court order regarding placement, regardless of whether the move was from home to foster care, from foster care to home, or some other placement change. These orders did not necessarily mean, however, that the clients of the demonstration representatives were moved more frequently than those of the control representatives, but, rather, that the court ordered the move rather than allowing a change of placement at the discretion of the caseworker.

3. *Orders for visitation and treatment/assessment*— The presence of the demonstration representatives also indirectly affected visitation orders. This analysis found orders related to visitation to be more likely when either the demonstration or control representatives had a high score on Investigation/Interaction, and found the demonstration representatives more likely to have a high score on this scale. The representative type also indirectly affected orders relating to treatment/assessment. Demonstration representatives were more likely to score high on the Advocacy Scale, and high scores on this measure were related to more orders for treatment and assessment.

4. *Formal court jurisdiction*— The type of representation directly and strongly affected two variables reflecting formal

court jurisdiction: ward of the court and dismissals. The demonstration cases resulted in far fewer wards of the court, with 39% of the demonstration cases as compared to 62% of the control cases. This may indicate a more rapid assessment of the cases and successful diversion of certain cases from the formal court process.

The analysis shows, however, that the demonstration cases were also less likely to be dismissed once court jurisdiction was exercised. By the first major disposition, 37% of the demonstration group cases were dismissed compared with 56% of the control group ($X^2 = 3.43$, $p = .06$). Orders of dismissal tended to be entered at the preliminary hearing for the demonstration group (thirteen of the twenty-one dismissal orders (62%)). Of cases not dismissed at the first major disposition, the control cases had significantly more dismissals than demonstration cases within four months after the first major disposition (demonstration—30%; control—57% ($X^2 = 5.6$, $p = .01$)).⁷²

Thus, our analysis found that control cases were more likely to result in a ward-of-the-court order and then be dismissed, whereas demonstration cases, when dismissed, tended to be dismissed without first resulting in such an order. That is, demonstration cases were more likely to be diverted from the formal court process. Although demonstration cases were more likely to be dismissed at the preliminary hearing, once a case reached the dispositional hearing the demonstration cases were far less likely to be dismissed. This finding may be attributed to more careful assessment and screening of cases by the demonstration groups at the preliminary hearing stage and perhaps to more watchful advocacy on behalf of any child designated as a ward of the court. Continuity of representation also may have helped the representatives make a more accurate, earlier assessment of the need for court intervention. Importantly, a follow-up after six months showed that none of the demonstration cases that had been dismissed by the court had returned for further court action.

The timing of no contest pleas presents another example of the demonstration representative's acceleration of the court process. Although the difference in the number of no contest pleas between the two groups is not significant, no contest pleas were entered significantly earlier in the process in the demonstration cases. In 88% of the demonstration cases in which a no contest

72. We completed a follow-up study to determine the status of both the demonstration and control cases at four months after the first major disposition.

plea was entered (fifteen out of seventeen cases), the plea was entered at the preliminary hearing or at pretrial, compared to 46% of the control cases (six out of thirteen); in 54% of the control cases (seven out of thirteen), no contest pleas were entered at adjudication/disposition hearings, compared to 12% of the demonstration cases (two out of seventeen) ($X^2 = 15.1$, $p = .001$).

Overall, the path analysis revealed that the demonstration representatives did have an impact on case outcome. Orders of ward of the court and dismissal were less likely to occur in the demonstration cases. Cases in which the representatives scored high on the process measure "Advocacy" were more likely to pass quickly through the court system and to have orders related to treatment or assessment. Finally, high scores on the process measure "Investigation-Interaction" were positively related to orders of home placement, other placement, and visitation.

VI. CONCLUSIONS AND POLICY IMPLICATIONS

The project sought to compare the effectiveness of a new model of child representation to the status quo of representation in the subject county. Under the existing system, the court appointed attorneys on a rotating basis to represent children. Typically, the attorneys were general practitioners who had no special training in child abuse and neglect. Additionally, the attorneys did not follow a case through the entire court process. Instead, one attorney was appointed for the preliminary hearing and another was appointed to serve at subsequent hearings.

The demonstration model differed in three respects from the existing system. First, a number of the representatives were not attorneys, but rather lay volunteers and law students supervised by attorneys who had special training and experience in representing children in child abuse and neglect proceedings. Both nonattorney groups did a substantial amount of the investigation and decisionmaking in their cases. Second, the project provided the demonstration child advocates with four days of training (or its equivalent in the case of the law students) in assessing families and children, critically reviewing the social agencies' recommendations, advocating prompt services for their child clients, and following up on their cases. Finally, demonstration child representatives served for the duration of the case.

Our study pursued the comparative analysis of the effectiveness of these two systems of representation in three stages. First, we compared the three demonstration groups—the trained attorneys, the law students, and the lay volunteers—to ascertain whether significant differences could be found in the kind of representation provided. A major finding was that the trained lay volunteers, the law students, and the trained lawyers performed substantially alike as child advocates. As a result, we treated the three kinds of demonstration representatives as one group for the subsequent analysis.

In the second stage of the analysis, our study compared the activities of the demonstration and control representatives. We found significant differences in this comparison as to process measures. Overall, the demonstration representatives were more active on behalf of their young clients. For example, they scored higher on measures of case investigation-interaction and follow-up.

The final stage of our analysis considered the effect of representation on case outcomes. We found no significant differences among the three demonstration groups on outcome measures. We concluded that certain activities of the representatives were effective in producing "better" outcomes for the children and that the demonstration representatives were significantly more likely to engage in those activities. While we cannot say for certain whether any particular outcome was better for any particular child, many, if not most, experts in the field agree that a general shortening of time required for processing these cases, a reduced number of court appearances, a greater selectivity with regard to the need for formal court jurisdiction, and greater attention to specific orders of placement, assessment/treatment, and visitation are desirable for children who are subjects of the child protection process.

We have drawn at least two major policy implications from this study. First, the demonstration model of representation, in which the trained child advocate plays a continuous, aggressive, and ambitious role and addresses both the legal and nonlegal interests of the child, was successful in improving the quality of representation and, as a consequence, "better" case outcomes resulted. The demonstration model appears to have been a clear improvement over the prior system in Genesee County.

Second, because all three demonstration groups provided similar high quality representation, the demonstration model implicitly provides policymakers with a choice from among the three types of representatives. Our study demonstrates the importance

of training child representatives, regardless of who the representative may be. Nonlawyers carefully selected and trained and under lawyer supervision performed as well as trained lawyers in representing children, and certainly performed better than lawyers without special training.⁷³ The lawyers who did receive training behaved differently from their fellow members of the bar, which demonstrated the importance of a clear role definition for attorneys.⁷⁴

In deciding which type or types of child representatives should be used, policymakers could base their choices upon such features as cost and availability. Using attorneys exclusively would probably increase the total program cost, in contrast to the lower costs of using volunteers or law students under an attorney's supervision. The process of selection, training, and supervision of the volunteers, however, has great importance and could involve considerable expense. Many communities would have a sufficient pool of intelligent, caring, confident, and aggressive persons who would be willing to serve as volunteers. Law students or persons with education in social work or psychology might be available. The volunteers would need careful monitoring, however, and, possibly, could not be expected to serve more than one year. Training would thus have to be repeated for each new group. Because the improvement in advocacy for children could also save court resources by reducing the number of hearings and time necessary to bring a case to a conclusion, the training sessions could nonetheless be viewed as cost effective.

Because of the high quality of child representation provided by the project's lay volunteers and the potential cost savings of such volunteer programs, we recommend that other jurisdictions consider whether they could benefit from initiating programs that rely on nonlawyer representation of children, under lawyer supervision, with representation provided by carefully selected and trained volunteers, such as law students, social workers, psychologists, or graduate students in those disciplines. The least expensive model of representation would utilize law students, whose training and supervision are provided by a law school without cost to the court system. This project would also help produce attorneys trained in representing children. Law stu-

73. See *supra* note 66 and accompanying text.

74. Other studies of attorneys representing children in cases of child abuse and neglect have suggested that lack of training, lack of experience, and confusion about role are major causes of poor quality representation. See J. KNITZER & M. SOBIE, *supra* note 7, at 79-139; Kelly & Ramsey, *supra* note 4, at 411-16.

dents, however, might not be able to cover an entire caseload or even a partial caseload year-round. Communities should thus consider a flexible system of child advocacy, drawing on several models, as the most cost-effective system of representation.

Currently, in most communities throughout the country, courts appoint representatives for children in child protection proceedings from a list of attorneys who have expressed an interest in representing a child, but who have no special training in child advocacy. Unfortunately, these attorneys tend to provide poor quality representation. Our findings in Genesee County indicated that substantial benefit accrued to the child and to the court system itself as a result of training and continuity of representation for the child. In most jurisdictions, juvenile and family court judges possess the power to mandate that attorneys receive a certain course of training before they may be appointed to represent children in child protection proceedings. Although the results in Genesee County cannot be generalized to dissimilar areas, certainly other jurisdictions should consider requiring training as a prerequisite for child advocates and requiring continuity in representation. Provided that the representatives are adequately trained and are committed to an active role, a flexible system of child advocacy drawing on several models would probably arrive at the most efficacious and cost-effective system of child representation.

APPENDIX A

TRAINING SESSIONS AGENDA

DAY ONE — January 27, 1982

- 2:00 Introduction of Project Staff, of Attorneys, and of
Volunteers
Overview of Guardian ad Litem Project
Overview of Training Sessions
Donald N. Duquette, Project Director
- 2:30 Types of Child Abuse and Neglect and Implications for
Family Dynamics
Kathleen C. Faller, Ph.D., Assistant Professor of
Social Work, University of Michigan; Codirector,
Interdisciplinary Project on Child Abuse and
Neglect
- 3:45 Film: "Don't Give Up On Me," MTI Teleprograms,
Inc., Schiller Park, Illinois
- 4:45 Resources in Genesee County
Robert Hartley, Genesee County Consortium on
Child Abuse and Neglect
- 5:30 Adjourn

DAY TWO — February 5, 1982

- 10:30 (Volunteers Only - Meet in Genesee County Juvenile
Court)
Welcome and Orientation to Court
Gerald Thalhammer, Court Services Director
- Introduction to Juvenile Court Procedure in Child
Abuse and Neglect Cases
Patric Parker
- I. Initial Court Involvement
 - II. First Court Date — Preliminary Hearing
 - III. Second Court Date — Contested Pretrial
 - IV. Formal Hearing
Adjudicative Phase
Dispositional Phase
 - V. Review Hearings
- 12:30 LUNCH (Volunteers and attorneys together)
- 2:00 Child Development Issues of Attachment and
Separation
Permanent Planning for Children in Foster Care
Kathleen C. Faller

- 3:15 BREAK
3:30 Role of Caseworker in Child Abuse and Neglect Cases
Kathleen C. Faller
4:30 Exercise: Develop and Critique a Case Plan
5:30 Adjourn

DAY THREE — February 9, 1982

- 2:00 Duties and Responsibilities of the Child's Advocate at
Each Legal Stage
Donald N. Duquette
Personal Liberty and the Role of the Court
Preliminary Hearing
Court Procedure
Child Advocate's Role
Interviewing the Social Worker
Interviewing the Child
The Placement Decision
The Case Plan
Advocacy Between Hearings
3:15 BREAK
3:30 Duties and Responsibilities of the Child's Advocate
(continued)
Pretrial Conference
Court Procedure
Child Advocate's Role
Preparation
Negotiation Opportunities
The Case Plan
Monitoring
Trial
Dispositional Hearing
Review Hearing
4:15 Exercise and Role Play: Preliminary Hearing
5:30 END

DAY FOUR — February 11, 1982

- 3:30 Department of Social Services Office
Orientation to Protective Services and Foster Care
Units
Introductions
Discussion of Case Practices
Questions

Guardian ad Litem (GAL) Interview Questions

1. When did you receive your law degree? _____ (year)
2. How many years have you been in practice? _____ years
3. Do you specialize in any areas of the law?
If yes, specify _____
4. How many times, including this case, have you served as GAL for a child in an abuse and neglect case? _____ (all years)
5. Now I want to ask you questions about particular hearings in the _____ case. (Give interviewee sheet with hearing dates.) Please indicate those hearings in which you served as counsel for the child, and indicate which children were represented by you and the dates of representation.

One of the purposes of this study is to enable us to describe what the counsel for the child does at various stages in the proceedings. I would like to begin with the hearing on _____ (date) and to ask you questions about that hearing. Please try to place yourself back in time to that hearing in particular, and to remember what you were thinking then. (Code the hearing number from court file data.)

6. When that hearing began, what conclusions, if any, had you reached about what should happen to _____? (Name all children represented by interviewee.)
7. (If indicated conclusions) Which facts were most important in your reaching these conclusions, beginning with the most important?
8. Generally, what were the main sources of your factual information? (Check all that are mentioned.)

- _____ Child
- _____ Parent(s)
- _____ Parent caretaker (if other than parents)
- _____ Other relatives of child (other than parents or caretaker)
- _____ Prosecutor
- _____ Parents' attorney
- _____ Court worker
- _____ DSS worker, foster care
- _____ DSS/court report
- _____ Person providing treatment to child/parent
- _____ Expert or treatment person's written report
- _____ Testimony
- _____ Prior GAL
- _____ Petition/court file
- _____ Other expert
- _____ Other, specify: _____

9. (If conclusions indicated in Question 8) Of these sources, which were the most important in your reaching your conclusions, beginning with the most important? RANK ORDER

- Child
- Parent(s)
- Parent caretaker (if other than parents)
- Other relatives of child (other than parents or caretaker)
- Prosecutor
- Parents' attorney
- Court worker
- DSS worker, foster care
- DSS/court report
- Person providing treatment of child/parent
- Expert or treatment person's written report
- Testimony
- Prior GAL
- Court file/petition
- Other expert
- Other, specify: _____

10. By the time that hearing began, what aspects of the case had you investigated? That is, what kinds of information about the case did you have?

11. PROBE ONCE: Were there any other areas of information?

12. In the time period preceding that hearing, before the hearing actually began, did anyone other than your client urge you to accept their recommendations about what should happen to the child?

1 yes; 2 no (IF NO GO TO 18)

13. If yes, who urged recommendations?

14. How much confidence did you have in that person? (Scale A)

VERY HIGH VERY LOW
 5 4 3 2 1

15. To what extent did you agree with that person? (Scale A)

VERY HIGH VERY LOW
 5 4 3 2 1

	<u>YES/NO</u>	<u>CONFID.</u>	<u>AGREE</u>
Parents	_____	_____	_____
Child's caretaker other than parents or foster parents	_____	_____	_____
Foster parents	_____	_____	_____
Prosecutor	_____	_____	_____
Parents' attorney	_____	_____	_____
Court worker	_____	_____	_____
DSS workers	_____	_____	_____
Other: specify _____	_____	_____	_____

- 16. (If someone tried to influence) Did you have any additional recommendations? ____1 yes; ____2 no (IF NO, GO TO 18)
- 17. (If yes) What were your additional recommendations?
- 18. At any time prior to the hearing did you talk with other parties or persons involved in the proceeding about what *you thought* should happen to the children? ____ 1 yes; ____2 no (IF NO, GO TO 26)
- 19. (If yes) With whom did you talk and when? (Approximate days before hearing)

PERSONS

(yes = 1; no = 2)

NUMBER OF DAYS BEFORE HEARING

- ____ Parent(s) _____
- ____ Child caretaker (if not parents, not foster parents) _____
- ____ Foster parents _____
- ____ Prosecutor _____
- ____ Parents' attorney _____
- ____ Court worker _____
- ____ DSS worker _____
- ____ Other, specify: _____

- 20. (If yes) Did you try to convince anyone to accept your recommendations? ____ 1 yes; ____ 2 no (IF NO, GO TO 23)
- 21. (If yes) Whom did you try to convince? (Check all that apply.)
 - ____ Parents
 - ____ Child's caretaker (if other than parents, not foster parents)
 - ____ Foster parents
 - ____ Prosecutor
 - ____ Parents' attorney
 - ____ Court worker
 - ____ DSS worker
 - ____ Other, specify: _____
- 22. (If yes) Were all your conclusions or recommendations accepted by the other parties or persons involved in the proceeding? ____ 1 yes; (GO TO 26); ____ 2 no
- 23. (If recommendations not totally accepted) Did you try to get the parties to reach a middle ground, to look for a solution that was acceptable to everyone? ____ 1 yes; ____ 2 no; ____ DNA. (GO TO 26)
- 24. (If yes) What steps did you take to try to get the parties to agree?
Check all that apply.

- | | <u>ACTION</u> | <u>W/WHOM</u> |
|--|---------------|---------------|
| ____ Informal meeting, conversations outside court, etc. | _____ | _____ |
| ____ Formal meetings | _____ | _____ |
| ____ Telephone conversation | _____ | _____ |
| ____ Proposed a compromise | _____ | _____ |
| ____ Suggested consultation with experts | _____ | _____ |
| ____ Other, specify: _____ | _____ | _____ |

25. Who was involved? (Check all that apply.)
 Caseworker, court, DSS
 Prosecutor
 Parents' attorney
 Prosecutor and parents' attorney
 Prosecutor and caseworker
 Prosecutor, parents' attorney, caseworker
 Prosecutor, parents' attorney, caseworker, other expert
 Other, specify: _____
26. Were there services provided for your client or his family before that hearing? 1 yes; 2 no (GO TO 29); 3 don't know
27. Did you have a role in getting those provided? 1 yes; 2 no; (GO TO 29); 3 not applicable, preliminary
28. (If yes) What role did you have in getting these services provided?
29. How responsive were the agency or court personnel to your requests for information or assistance? (Scale B)
- | | |
|-----------------|-------------------|
| VERY RESPONSIVE | VERY UNRESPONSIVE |
| 5 | 1 |
| 4 | 2 |
| 3 | 3 |
30. Now, please consider again what happened at the hearing: When the hearing began, were the recommendations of the court worker/DSS worker about what should happen to the child the same as yours?
 1 yes (GO TO 32); 2 no
31. (If no) In what areas were they different?
32. At the time of the hearing did you make any recommendations to the court about what should happen to the child? 1 yes; 2 no (GO TO 35)
33. (If yes) What were your recommendations?
34. Which of your recommendations were accepted by the court?
35. Was there any testimony taken? 1 yes; 2 no (GO TO 37)
36. How many persons, if any, did you question or cross-examine: _____ witnesses.
37. Did you question or cross-examine the social worker? 1 yes; 2 no (GO TO 39)
38. (If yes) For what purpose?
 1. to discredit
 2. to challenge, to test
 3. to support, strengthen GAL's recommendation
 4. other, specify: _____
39. Was there expert testimony taken at this hearing? 1 yes; 2 no (GO TO 41)
40. Who called the expert? Specify: _____
41. (If expert not called by GAL) Did you question or cross-examine the expert witness? 1 yes; 2 no (GO TO 43)

42. (If yes) For what purpose?
1. to discredit
 2. to challenge, to test
 3. to support, strengthen GAL's recommendation
 4. to find out more about what the expert was recommending, what he thought was best for the child.
 5. other, specify: _____
43. What services did the court order? (if none, GO TO 46)
44. Did you agree that these services were needed? _____ 1 yes; _____ 2 no; _____ 3 didn't consider
45. What role did you have in getting these services ordered?
46. Did you advocate any (other) services which were not ordered? _____ 1 yes; _____ 2 no
47. Please describe the role you took at this hearing.
1. Neutral, with a commitment to making sure that all relevant facts were presented to the court.
 2. Advocate, with a commitment to have your recommendations prevail.
 3. A middle ground, passive, the child's interests were considered.
 4. None of the above, specify: _____
48. Did (do) you assume any follow-up responsibilities subsequent to this hearing? _____ 1 yes; _____ 2 no; (GO TO 50) (if no prior hearings, GO TO 57)
49. (If yes) What kind of follow-up activities?
- A. *MONITORING*
- _____ Monitoring court worker
 - _____ Monitoring DSS
 - _____ Monitoring school system
 - _____ Monitoring medical health
 - _____ Monitoring mental health
 - _____ Monitoring other, specify: _____
- B. *PROCURING*
- _____ Procuring services from court worker
 - _____ Procuring services from DSS
 - _____ Procuring services from school
 - _____ Procuring medical services
 - _____ Procuring mental health services
 - _____ Procuring other, specify: _____
- C. *OTHER*
- _____ Maintaining contact with the child
 - _____ Other, specify: _____

If no prior hearings, GO TO QUESTION 57

PRIOR HEARING #1
QUESTIONS FOR GAL'S ABOUT PRIOR HEARING

50. You indicated at the beginning of the interview that you were also involved at the _____ hearing on _____. When that hearing began, what conclusions, if any, had you reached about what should happen to _____ (names of children). (If no hearing GO TO 57.) (If no conclusions, GO TO 52.)
51. (If indicates conclusions) What facts were most important to you in reaching these conclusions?
52. What did you want to accomplish at that hearing?
53. What did you do in preparation for that hearing?
54. What did you as guardian do at the hearing?
55. Did you assume any follow-up responsibilities subsequent to this hearing? _____ 1 yes; _____ 2 no (GO TO 57)
56. (If yes) What kind of follow-up activities? (Check all that apply.)
- A. *MONITORING*
- _____ Monitoring court worker
- _____ Monitoring DSS
- _____ Monitoring school system
- _____ Monitoring medical health
- _____ Monitoring mental health
- _____ Monitoring other, specify: _____
- B. *PROCURING SERVICES*
- _____ Procuring services from court worker
- _____ Procuring services from DSS
- _____ Procuring services from school
- _____ Procuring medical services
- _____ Procuring mental health services
- _____ Procuring other, specify: _____
- C. *OTHER*
- _____ Maintaining contact with the child
- _____ Other, specify: _____

GENERAL QUESTIONS

I'd like to ask you some general questions about the case, not related to specific hearings but rather about the case overall.

57. How important was the presence or actions of the representative for the child to the outcome of this case? (Scale C)
- | | | | | | |
|----------------|---|---|---|---|------------------|
| VERY IMPORTANT | 5 | 4 | 3 | 2 | VERY UNIMPORTANT |
| | | | | | 1 |
58. Do you think the outcome of the case might well have been different for the child or the child's family had there not been a representative for the child? _____ 1 yes; _____ 2 no; _____ 3 don't know (GO TO 60)
59. (If yes) In what way might the outcome have been different?
- A. Child would have been placed in:
- | | |
|----------------------|------------------------|
| 1. _____ Foster care | _____ 3. Adoptive home |
| 2. _____ Institution | _____ 4. With relative |
- B. _____ Child would not have been placed.
- C. _____ Information would not have been obtained.
- Specify: _____

- D. _____ Services would not have been obtained.
Specify: _____
- E. _____ The plan would have been different in other ways.
Specify: _____
- F. _____ Jurisdiction would not have been made.
- G. _____ Other, specify: _____
60. What were your reasons for accepting this case as Guardian ad Litem for the child? (Please rank all that apply using "1" as most important. Do not assign ties. Read list.)
- _____ To get court experience.
 - _____ Professionally obligated to offer services to the public through such assignments.
 - _____ Interest in the particular case.
 - _____ The fee involved.
 - _____ Interest in the welfare of children.
 - _____ Other, specify: _____
61. Compared to other cases you have handled, how much interest did you have in this particular case? (Scale A)
- | | | | | | |
|-----------|---|---|---|---|----------|
| VERY HIGH | | | | | VERY LOW |
| 5 | 4 | 3 | 2 | 1 | |
62. How would you rate the competence of the court worker in this case? (Scale A)
- | | | | | | |
|-----------|---|---|---|---|----------|
| VERY HIGH | | | | | VERY LOW |
| 5 | 4 | 3 | 2 | 1 | |
63. How would you rate the DSS worker in this case? (Scale A)
- | | | | | | |
|-----------|---|---|---|---|----------|
| VERY HIGH | | | | | VERY LOW |
| 5 | 4 | 3 | 2 | 1 | |
64. How would you rate the competence of the parents' attorney in this case? (Scale A)
- | | | | | | |
|-----------|---|---|---|---|----------|
| VERY HIGH | | | | | VERY LOW |
| 5 | 4 | 3 | 2 | 1 | |
65. (Do not ask for preliminarily) How would you rate the prosecutor with regard to overall knowledge and effectiveness in this case? (Scale A)
- | | | | | | |
|-----------|---|---|---|---|----------|
| VERY HIGH | | | | | VERY LOW |
| 5 | 4 | 3 | 2 | 1 | |
66. Were there any aspects of this case that made you wish you had not been involved in it? _____ 1 yes; _____ 2 no (GO TO 68)
67. If yes, specify: _____
68. Do you feel that representatives are or are not needed for the child in abuse and neglect cases? _____ 1 yes; _____ 2 not needed; _____ 3 don't know, undecided
69. (If needed) Do you think such people should be attorneys? _____ 1 yes; _____ 2 no; _____ 3 don't know, undecided
70. Please explain: _____
71. How satisfied did you feel about the outcome in this case after the first hearing we discussed? (Scale D)
- | | | | | |
|-----------|-------------|-----------|-------------|------------|
| VERY MUCH | PRETTY MUCH | SOME-WHAT | VERY LITTLE | NOT AT ALL |
| 5 | 4 | 3 | 2 | 1 |

72. Did you have contact with the child in this case? _____ 1 yes; _____ 2 no
(IF NO, GO TO 79)

73. (If yes) To what degree did the contact with the child help you to reach decisions in the case? (Scale D)

VERY MUCH NOT AT ALL
5 4 3 2 1

74. (If contact helpful) How did the contact help you to reach decisions?

75. How many contacts did you have with the child?

76. Which hearings did they precede?

77. What were the main purposes of these contacts?

TYPE OF HEARING

1. Emergency
2. Preliminary
3. Pretrial conference
4. Adjudication
5. Disposition problems
6. Review hearing
7. Termination
8. Other

PURPOSES

1. Meet the child
2. Learn child's wishes
3. Tell child what you will recommend
4. Discuss specific problems
5. Other, specify: _____

<u>HEARING</u>	<u># CONTACTS</u>	<u>PURPOSES</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

78. Did you learn the child's wishes about disposition in this case? _____ 1 yes; _____ 2 no (IF NO, GO TO 80)

79. (If yes) How much weight did you attach to the child's wishes in this case? (Scale A)

VERY HIGH VERY LOW
5 4 3 2 1

80. (If child removed) What visitation did you think was appropriate in this case?

81. What visitation was allowed by DSS or court?

82. Did you think that the proceedings moved too slowly at any stage?
_____ 1 yes; _____ 2 no

83. (If yes) Did you try to speed things up? _____ 1 yes; _____ 2 no (IF NO, GO TO 85)

96. Would you please comment on any aspects of representing children in abuse and neglect cases that should be changed?
97. Have you had any special training or experience that helped you representing a child in abuse and neglect cases?
98. Have you raised or are you raising a child? _____ 1 yes; _____ 2 no
99. How frequently have you talked or played with children within the last 12 months?
- | | |
|---------------------------|------------------------|
| _____ 1. daily | _____ 4. monthly |
| _____ 2. 2-3 times a week | _____ 5. hardly at all |
| _____ 3. weekly | |
100. Apart from this case, within the last 12 months have you had any contact with human services agencies, such as the Department of Social Services? _____ 1 yes; _____ 2 no
101. How many times in the past two years have you served as counsel for the child in a juvenile delinquency proceedings?
102. What is your age?

APPENDIX C

A number of case characteristics were used as control variables in the path model. *See supra* notes 68-69 and accompanying text. The path model included all cases, both demonstration and control. Table A below lists a number of case characteristic variables that were used in the analysis. Table B lists the results of the regression analysis on case characteristics. These results demonstrate that case characteristics did influence outcome. For example, when the type of abuse was abandonment, a child was more likely to be placed in foster care ("other placement") and fewer visitation orders were issued. Although the relationships between case characteristics and outcome are very interesting, the purpose of our study was to consider the impact of representation and hence these relationships are not discussed.

As was noted earlier, *see supra* text accompanying notes 44-45, the control and demonstration cases were compared on case characteristics and no significant differences were found.

Table A: Illustrative List of Case Characteristics

Prior history of abuse and neglect
 Average age of children
 Number of young children (age 0-3)
 Number of middle children (age 4-11)
 Number of older children (age 12+)
 Race
 Sex
 Number of children in the petition
 Parents had attorney
 Child eligible for Aid to Families with Dependent Children (AFDC)
 Perpetrator
 Severity of abuse
 Type of abuse

Type of abuse was divided into the following categories: physical abuse (e.g., burns, bruises, broken bones); sexual abuse (e.g., oral, anal intercourse, fondling); neglect (e.g., inadequate food, shelter, medical care); abandonment (e.g., parents' whereabouts unknown, parent requests that child be removed from home); emotional abuse/neglect (e.g., verbal abuse, family violence); and parent problems (e.g., parent mentally ill, a substance abuser). Virtually all petitions listed more than one type of abuse/neglect. The types of abuse were not summed by case; instead, the type-of-abuse variables indicate whether or not a case contained that kind of allegation.

Table B: Regressions of Process Measures and Outcome Measures on Case Level Characteristics

<u>Case Characteristic</u>	<u>Process* Beta/(significance)</u>	<u>Outcome Beta/(significance)</u>
Parent Problems (no=1; yes=2)	Advocacy .16/(.096)	Court Processing Time .21/(.056)
		Relative Placement .24/(.017)
		Treatment/Assessment .16/(.126)
		Ward of the Court .17/(.106)
Abandonment (no=1; yes=2)		Other Placement .23/(.031)
		Visitation -.18/(.073)**
		No Contest .16/(.144)
Sexual Abuse (no=1; yes=2)		Visitation .39/(.000)
		No Contest .22/(.048)
		Dismissal -.18/(.081)**
		Ward of the Court .21/(.041)
Physical Abuse (no=1; yes=2)		Court Processing Time -.19/(.076)**
		Treatment/Assessment .18/(.076)
Emotional Problems (no=1; yes=2)		No Contest -.16/(.143)**
Average Age of Children		Visitation -.20/(.040)**
Number of Children		Relative Placement .35/(.001)
Number of Young Children		Treatment/Assessment -.18/(.105)**
Number of Boys		No Contest .23/(.034)

* The only process factor scale that was directly affected by a case characteristic was the Advocacy Scale. Advocacy was more likely to be present when there was an allegation of parent problems in the petition.

** Note that these are negative relationships. This means, for example, that visitation orders were less likely when abandonment was present or when the average age of the children increased.