Minnesota's Experience with Differential Response

Mark Hudson, MD

Minnesota was an early adopter of Differential Response (DR) reform, which was referred to in Minnesota as Alternative Response (AR) or Family Assessment. Over time, Minnesota's AR program evolved into a national model that was widely recognized by other states, and the architects of Minnesota's AR system provided technical assistance to other jurisdictions in program implementation. However, ironically, the most important lesson to be learned from Minnesota's DR experience is the disastrous result when a runaway train goes off the track.

Minnesota's involvement in DR began in 1997, when the Minnesota Legislature authorized pilot programs aimed at intervening earlier with families referred to the public child welfare system and responding to these families in non-traditional ways. In 1999 the Legislature authorized all 87 counties to develop and implement Alternative Response systems. These early efforts were targeted primarily at intervention in neglect cases.

Minnesota saw rapid expansion of Alternative Response in the early 2000s, when the McKnight Foundation provided funds to support a study administered by the Institute for Applied Research. In this study, families deemed "eligible" for Alternative Response were randomly assigned to either the Alternative Response track or the Traditional Response track, thus serving as comparison groups for the study. The McKnight Foundation also provided funding to support services for families in the Alternative Response arm of the trial, but not to families in the Traditional Response arm. This inequitable distribution of funds resulted in a significant increase in the resources available to serve families in Alternative Response.

When the study results were published in 2004, they claimed that children served in Alternative Response were no less safe, and were potentially safer, than children served in Traditional Response, even though the actual difference was quite modest. At the time, researchers and advocates paid little attention to methodological flaws in the study and did not consider the difficulty of maintaining fidelity to the model once the study had concluded and Foundation money was no longer available. Nonetheless, Minnesota child welfare administrators communicated that Alternative Response was an evidence-based intervention, that it was more cost effective, and that children were safe when served in the alternative track. Alternative Response was also regarded as a success because self-reports by parents indicated a higher level of satisfaction, which was naively interpreted to be a measure of better "engagement" of families. Ultimately, the Alternative Response track in Minnesota became the preferred track for families referred to the public CPS system, and it subsequently formalized in a state statute.

By 2006, more CPS referrals were being assigned to the Alternative Response track than to the Traditional Response track, and by 2013 nearly 3 times as many children were being served in AR than in TR. Minnesota's Screening Guidelines document claimed that compelling evidence showed children were safer with the Alternative Response, despite the fact that the rate of re-report to CPS was most often higher in the AR track. This higher re-report rate was particularly startling, given the fact that children in the AR track had reportedly been assessed to be at lower risk than were children assigned to the TR track. A casual observer should have been able to identify this pattern; yet, child welfare leaders in the state made no effort to change course, and they moved forward with ever-expanding application of the Alternative Response.

A primary feature of Minnesota's Alternative Response program was its active discouragement of fact-finding activities that could be construed by parents or caregivers as negative or adversarial. Additionally, in-depth fact-finding was deemed to be irrelevant to ensuring children's safety. Official documents from the Minnesota Department of Human Services (DHS) advised that collateral contacts to gather evidence were unnecessary when evaluating a case in Alternative Response. The philosophy that children were safer, even without an investigation or in-depth fact-finding, was so deeply ingrained that in 2014, the Legislature codified a DHS recommendation that prior child protection reports could not be considered in making screening and track assignment decisions, and no information could be gathered from collateral contacts.

The expansion of Alternative Response in Minnesota also coincided with a significant decrease in funding for child protective services in the state. By 2013, funding for child protection had been reduced by $40 million when compared with 2002 levels. Budget pressures only increased the appeal of Alternative Response. The lack of clear standards or definitions for track assignment, either locally or nationally, and the fact that a determination of maltreatment was not made in the Alternative Response track enabled the most cursory of evaluations of child maltreatment allegations. Yet, administrators could still claim that children were

better off in the Alternative Response because it was an evidence-based program. County data indicated that by 2015, child protective service workers in the Alternative Response track were processing nearly 2.5 times as many cases as their colleagues in the Traditional Response track. Furthermore, a majority of the children in Alternative Response were never offered services, and services were deemed necessary for only a small minority of families served in the AR track. A report by Casey Family Programs (2015) alleged that Alternative Response was being used as a workload management strategy in Minnesota's largest county. Moreover, as formal case dispositions (substantiated or unsubstantiated) were not made for families served in the AR track, assigning a majority of families into Alternative Response falsely decreased the rate of child maltreatment victimization, and of revictimization.

In 2014, Brandon Stahl, a journalist for Minneapolis' newspaper the *Star Tribune*, published a series of articles examining Minnesota's child protection system. His efforts culminated in a story about the death of a young boy named Eric Dean. Concerns about Eric had been reported to child protective services on numerous occasions, and most of these reports had been screened out. Eric had also been assigned to the Alternative Response track, having reportedly suffered injuries that included bite marks and bruised ears. Yet, these injuries had reportedly never been investigated and law enforcement never notified. Eric had received no significant intervention from CPS. Ultimately, Eric died of an abdominal injury days after the injury had been inflicted. This and other stories published in the *Star Tribune* ultimately led Minnesota's Governor, Mark Dayton, to describe Eric's case as a "colossal failure." Supporters of the Alternative Response program were quick to claim that Eric's case was an anomaly. However, Stahl's investigative reporting revealed that lack of agency attention in Eric's case was more often the rule than exception in AR cases, and lack of investigation and fact-finding, the absence of a multidisciplinary response to maltreatment allegations, and lack of comprehensive services were in line with standards of care in the Alternative Response track.

Ultimately, public outrage led to the formation of the Governor's Task Force on Child Protection, co-chaired by the DHS Commissioner and a County Commissioner from Minnesota's second largest county. The Task Force consisted of 26 members from diverse backgrounds, including legislators, law enforcement personnel, social service providers, physicians, activists, former judges, educators, and social service administrators. The Task Force embarked on a broad review of Minnesota's child protection system. Three work groups addressed six primary topics: screening, racial equity and disparity, resources, family assessment, training, and oversight and transparency. After intensive review, consultation with experts, and vigorous debate, each work group made recommendations for topics to be further dialogued in more depth by the Task Force. Ultimately, the Task Force reached consensus and recommended sweeping changes in the state's child protection system, engineering the reversal of many of the changes that had been implemented under Alternative Response.

What follows has been excerpted from the primary document outlining the Task Force's findings and recommendations. The document, titled *Governor's Task Force on the Protection of Children: Final Report and Recommendations*, dated March, 2015, is available online at the following Web address: https://edocs.dhs.state.mn.us/lfserver/Public/DHS-7057A-ENG

The Future of Our Two-Track Child Protection System

Today, once a maltreatment report is screened into our child protection system, that screener makes a decision whether to place the case on the "family investigation" track or the "family assessment" track. Currently, Minnesota Statute 626.556 directs this decision in cases of Substantial Child Endangerment to the family investigation track, and there is no agency discretion. As noted in the Task Force's preliminary recommendations, family assessment has been the "preferred response" to child protection reports, and more than 70 percent of all screened-in reports are assigned to family assessment. The reported benefits of family assessment are a less adversarial process (leads parents to more readily engage in safety and case planning) by reducing resistance through a strength-based approach. However, as noted in the Task Force's preliminary report, "it is clear that Minnesota's use of family assessment is beyond that of other states and beyond what the statute allows." In its final recommendations, the Task Force recommends short-term changes to family assessment, including steps on how "track" decisions are made, as well as narrowing the types of cases in the family assessment track. In the longer term, the Task Force questions whether a two track system is appropriate and recommends, as part of its overall redesign, that DHS consider moving toward one child protection system, with fact-finding for all "screened in" cases, but several potential "branches" of that system available depending upon the best interests of the child.

Our recommendations for short-term improvements are made with the idea that they could be building blocks for long-term reform as well. Fundamental to our recommendations is the belief that:

- All children, regardless of track, should receive a comprehensive assessment which provides the foundation for assisting children, youth, and

families with what they need
- Progress should be monitored to see if the child (and the family, where appropriate) is getting better because of child protection intervention
- Child Protection workers (in both tracks) should review progress with both forensic and family engagement tools close at hand.

If these fundamental building blocks are in place, a continuum of safety-focused child protective responses can and should protect children and meet the unique service needs of families. It is best to proceed methodically, making thoughtful short-term changes to the current model while examining long-term redesign options. (p. 12-13)

Therefore, the following recommendations are made which relate to Family Assessment:

29. Rename Family Assessment to Differential Response (DR) and Family Investigation to Traditional Response (TR). This renaming would be consistent with national practice and help avoid confusion when interpreting federal laws and regulations.

30. Differential Response and Traditional Response are both involuntary child protection responses to reports of alleged child maltreatment. It is critical that either response provide a critical and methodical assessment of child safety while identifying key family strengths that can be built upon to mitigate safety and risk concerns. The goals of any child protection response should be to:

    - Make child safety paramount in decision making
    - Assess and ensure the safety of any child involved
    - Conduct thorough fact-finding to determine if a child has been harmed and/or if services are needed
    - Identify family strengths to mitigate risk factors and ensure child safety
    - Be culturally affirming
    - Coordinate and monitor services to families
    - Address effects of maltreatment through trauma-informed interventions
    - Promote child well-being and permanency
    - Increase positive outcomes (i.e., reduced re-reports, avoid subsequent harm)

31. Make child safety the focus of any child protection response. The statute should no longer identify Differential Response as the preferred method.

32. Interview children individually first and prior to contact with parent/legal guardian whenever possible. In addition, DHS should research and implement training on best practices in regards to child interviewing protocols. These protocols would be developed in consultation with content experts, cultural advisors, counties and other key stakeholders. Specific practice guidance should be provided regarding audio recording of interviews, locations of child interviews, and interview techniques that are culturally responsive and trauma-informed. Child safety must be the primary guide as to when and how to structure interviews.

33. Ensure that fact-finding occurs in all child protection responses. DHS should develop protocols to support thorough fact-finding. At minimum, information to be gathered should include gathering details from a variety of sources including the alleged victim(s), sibling(s), parent(s), and other relevant collateral contacts regarding:

    - Who, what, when, where and how regarding the reported allegation
    - Patterns of behavior that present risk to a child (i.e., recentness, frequency, duration, severity)
    - Harm (current and historical) and the respective impact it has on said child
    - Protective parental capacities (e.g., knowledge of parenting and child development; nurturing and attachment; parental resilience; social and emotional competence; concrete supports in times of need; and social connections)
    - Child vulnerability factors (e.g., age, disability, etc.)
    - Family and/or child(ren)'s strengths that promote resiliency
    - Context and times in the family when the child is safe as a starting point for additional safety planning or services.

    DHS should develop a required case summary form for Traditional Response and Differential Response cases in the Social Service Information System (SSIS) where results of fact-finding must be documented. This would include details surrounding the reported allegations and include

a statement about whether or not the reported maltreatment incident occurred and identify the victim(s) and offender(s). Data from this case summary form will be gathered and tracked to identify county, tribal, and state trends.

34. DHS to encourage and support the use of Multi-Disciplinary Team (MDT) decision making by developing the infrastructure to support the development of MDTs across the state. The MDT infrastructure would address:

    - Philosophy behind MDTs
    - MDT-specific training
    - An evaluation component
    - Ongoing training for MDTs.

    Any and all statutes, policies, and/or practice guidance that discourage use of MDTs should be discontinued.

35. Adopt stronger and more robust intake and screening tools for data gathering prior to pathway assignment to strengthen the quality of the information available.

36. DHS should, as an interim measure, retain dual pathways for responding to reports of alleged child maltreatment. The dual pathways should include Traditional Response (Family Investigation) and Differential Response (Family Assessment). Explicit criteria for immediate assignment of High Risk and Low Risk allegations of child maltreatment must be defined:

    - High Risk (all Substantial Child Endangerment and can include other risk factors) – Traditional Response

    - Low Risk (Reports of alleged child maltreatment that are clearly low risk. These are reports that exclude all Substantial Child Endangerment and Moderate and High Risk. Additional criteria are necessary to ensure the proper parameters that clearly define a maltreatment report as low risk) – Differential Response

    - All other cases, which include those with moderate risk and those which are difficult to assign without additional information (excludes all Substantial Child Endangerment). These maltreatment referrals require fact-finding before track assignment can be made. DHS is to provide guidance on necessary fact finding inclusive of collateral contacts and face-to-face interviews with child subjects and parents or caregivers.

37. DHS must develop, in consultation with counties, tribes, stakeholders and subject matter experts, a required information standard for making pathway response determination. This standard should reflect what is required and be implemented with a practice understanding that more information is better. Fact- finding must occur until such time the pathway assignment required information standard is met. Fact finding efforts may include collateral contacts and "in-person" interviews with the child subject and the family.

38. DHS shall, in consultation with counties, tribes, subject matter experts, and stakeholders, define clear and consistent pathway assignment criteria to either pathway including a definition for cases appropriate for Differential Response. Cases that clearly should follow pathway assignment into Traditional Response will be assigned within 24 hours, consistent with the Substantial Child Endangerment statute. DHS should develop guidance regarding the timing for those cases that require initial fact finding.

    Criteria should also be provided for when path switching is or is not allowed and identify specific documentation requirements to support the decision. It is important to note that pathway determination should not extend any existing timeframes for the initial face-to-face contact with the alleged child victim. These criteria should be developed on or before December 31, 2015. In addition to existing statutes that define specific child protection responses for defined actions (i.e., Substantial Child Endangerment), other criteria for pathway assignment to be considered should minimally include:

    - Necessary fact-finding before a track decision is made for those alleged maltreatment referrals believed to present moderate risk
    - Multiple differential response cases within a certain time period
    - The age of the child and other children in the home. The identified age should be based on clearly defined objectives which could include the risk for fatal or near fatal injury, brain development, social isolation, or the child's ability to protect him/herself
    - Other vulnerabilities (child is developmentally delayed, pre-verbal, etc.)

- The presence of unrelated adults in the household.

39. DHS will monitor and evaluate initial pathway assignment and path changes using the established criteria and provide feedback to counties and tribes regarding the quality of decision-making. A culture of continuous quality improvement should be supported and promoted. Results of pathway assignment should also be used for training and accountability.

40. DHS should immediately review, update, and validate all decision-making tools, with priority given to the safety assessment. In general, any tools used by DHS and counties are to have a clear purpose to facilitate decision making at critical points in the child protection response, and that such tools are updated and valid; and, that any tools adopted are culturally responsive and appropriate for families from different racial, ethnic, and socio-economic backgrounds. Overall, regarding all tools, DHS should clearly define:

    - What decision-making tools are to be used at key decision making points along the child protection continuum
    - The purpose for each decision making tool, and
    - How the specific tools are to guide decision-making.

41. Identify a validated safety assessment tool that better reflects dangerousness and child vulnerability factors. A safety assessment should address any factors proven to predict safety concerns. Some potential factors could include:
    - Recentness of abuse/neglect
    - Frequency
    - Severity
    - Child characteristics.

42. DHS should review research on protective factors and predictive analytics for how it can reduce or eliminate risk factors, and implement this information in trainings and practice. This would include use of screening and assessment instruments that have been validated. This should be done through a long-term contract arrangement to improve child safety outcomes over time.

43. Require in statute a mandatory consultation with the county or tribal attorney to determine the appropriateness of filing a Child in Need of Protection or Services (CHIPS) petition in the event that a family does not engage in necessary services and child safety and/or risk issues have not been mitigated prior to closure of a child protection case, regardless of track.

44. Include in statute the requirement for a minimum of monthly face-to-face contact with children for cases in which a family is receiving protective services while the child(ren) remains in the home.

45. Traditional Response cases should result in the following determinations: maltreatment determined (yes or no), and, are child protective services needed (yes or no). For Differential Response cases the determination would include whether or not child protective services are needed. Documentation for DR cases will include a case summary form, which will include a statement that will identify if the child experienced maltreatment. This data should be entered into SSIS so that they can be reviewed in future cases and so that summary data on a countywide basis can be collected. DHS should provide guidance on criteria and best practice for making the determinations and require supervisory review and approval.

46. Complete trauma pre-screenings should be completed for any child during a child protection response. DHS should pilot a trauma pre-screening tool in 2015 and expand statewide in 2016. Implementation of trauma pre-screening should be consistent with research on best practices.

Longer-Term Reforms:

47. DHS should, as part of a redesign review, engage an outside expert to work with the agency, counties, tribes, and stakeholders to advise, develop, and implement Minnesota's child protection response continuum. This evaluation should consider when and how pathway decisions should be made and whether Minnesota should move to a single child protection response, albeit one with different branches and approaches depending upon how to best meet the interests of child safety and welfare. Part of this review should consider the impact of any changes that result from the work of this Task Force.

48. DHS shall convene a workgroup for further analysis and definition of threats to child safety

and risk of maltreatment as the foundation for development of a comprehensive long-term child protective services response continuum. This continuum must be designed for appropriate response alignment based on child safety and risk and may include multiple pathways, depending upon the best interests of the child. This response continuum design should be completed by January 1, 2017. The workgroup shall minimally include the representation from the following agencies/disciplines:

- Minnesota DHS
- Administrative and frontline County/Tribal Child Welfare Agency staff
- Law Enforcement
- County Attorney
- Court
- Defense Attorney
- Guardian Ad Litem
- Pediatrician
- Child Development
- Mental Health
- Parent(s)
- Child Welfare-Focused Academic Institutions
- Child Safety/Risk Subject Matter Experts

49. Coordinate services and financing across the system in the fields of mental health, chemical dependency, housing, and other related areas within the State of Minnesota—Department of Human Services for children and families who need child protection case management services so as to prioritize services for interventions that would increase safety and reduce risk of future harm. This would promote more holistic and effective responses for children and families who have experienced trauma, abuse, neglect and/or other egregious harm to reduce recidivism into the child protection system.

50. Make referrals for clinical, mental health, and functional assessments of children, along with their families, who receive child protective case management services, and who have trauma or mental health needs identified during screening. These assessments should be conducted by experts in the field. For example, if significant trauma to a child has occurred, a clinical trauma assessment with a qualified mental health professional should be required.

    For this recommendation to be effectively implemented, resources must be allocated to counties and community providers to improve the social and emotional well-being of children to heal from trauma, as well as reducing physical harm.

51. DHS should adopt a plan to monitor the provision of services and outcomes to assure that children and families receive appropriate, effective and needed services. This plan should include a periodic functional assessment of a child's well-being while in the child protection system and evaluate whether such services actually improved and benefitted children and their families. (p. 13-19)

References

Casey Family Programs Assessment Team. (2015, June). Full report: Hennepin County Assessment and Recommendations. http://archive.kare11.com/legacy/pdfs/hennepin-county-full-report.pdf

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About the Author

Mark Hudson, MD, received his Doctor of Medicine degree from the University of Minnesota and completed a Pediatrics residency at the University of Minnesota. Following residency he completed a two-year Child Abuse Fellowship and is Board Certified in Child Abuse Pediatrics. Dr. Hudson is a Fellow of the American Academy of Pediatrics and a member of the Ray Helfer Society. He is currently the Medical Director of Midwest Children's Resource Center, a medically based Child Advocacy Center at Children's Hospitals and Clinics of Minnesota. He is the Executive Director of the Midwest Regional Child Advocacy Center. He was a member of the Governor's Task Force on Child Protection and was the Lead of the Workgroup on Family Assessment.