MITCHELL | HAMLINE School of Law

William Mitchell Law Review

Volume 26 | Issue 3 Article 1

2000

Open Hearings: A Questionable Solution

Susan Harris

OPEN HEARINGS: A QUESTIONABLE SOLUTION

Susan Harris†

I. INTRODUCTION

According to Minnesota law and rule, juvenile protection cases[1] are confidential and the court must exclude the public from hearings related to these cases.[2] On February 5, 1998, the Minnesota Supreme Court ordered that a pilot project begin which allowed twelve counties to open juvenile protection hearings to the public.[3] This order followed recommendations from the Foster

† Susan Harris is an Assistant Washington County Attorney, Chief of the Juvenile Division. Ms. Harris served on the Minnesota Supreme Court Foster Care and Adoption Task Force and currently serves on the Minnesota Supreme Court Open Hearings Advisory Committee.

1. Juvenile protection refers to civil actions involving cases of abuse, neglect, truancy, runaway, termination of parental rights and permanency cases which are brought on behalf of a child, commonly by the local social service agency.

2. *See* MINN. STAT. § 260C.163, subd. 1(c) (1998) (formerly codified as MINN. STAT. § 260.155 subd. 1(c)); MINN. JUV. PROTECTION R. 64.01 (formerly MINN. JUV. PROTECTION R. 43.01).

3. *See* Amended Order Establishing Pilot Project on Open Hearings in Juvenile Protection Matters, File No. C2-95-1476 (Minn. S. Ct., filed Feb. 5, 1998), *in* BENCH & B. OF MINN., Mar. 1998, at 41 [hereinafter Pilot Project Order]. This order came after a bill for open hearings failed in the Minnesota legislature. Twelve counties are participating in the pilot project: Chisago, Clay, Goodhue,

Care and Adoption Task Force, convened by the Minnesota Supreme Court in October 1995.[4] One of the task force's charges was to assess whether open hearings in juvenile court matters (other than delinquency and petty matters) are desirable and to suggest models for these hearings.[5] The task force listed four reasons in support of open hearings: (1) the closed juvenile protection system lacks accountability; (2) the closed juvenile protection system is not truly based on community standards because the community is not cognizant of the perils children face and cannot respond to or comment on practices or funding of the juvenile protection system; (3) the closed juvenile protection system largely is unnecessary because criminal and divorce proceedings involving children who are victims of abuse or neglect are open to the public; and (4) the state of Michigan has had open hearings since 1988 with no apparent problems.[6] Therefore, Minnesota should adopt Michigan's court rules, statutes and practices regarding open hearings.[7] This article provides background and valid reasons for closed hearings.[8] It then offers reasonable alternatives to open hearings and concludes that open hearings do not meet their intended purpose but unnecessarily expose families to public humiliation.[9]

II. Background of Closed Juvenile Protection Hearings

Minnesota law excludes the general public from all hearings in juvenile court proceedings.[10] The court may, in its discretion, permit persons who have a direct interest in the case or in the work of the court to attend those hearings.[11] In *In re Welfare of R.L.K.*,[12]

Hennepin, Houston, LeSuer, Marshall, Pennington, Red Lake, Stevens, St. Louis (Virginia only) and Watonwan.

4. *See id.*

5. *See* Minnesota Supreme Court Foster Care and Adoption Task Force, Final Report 4 (1997) [hereinafter Task Force Report].

6. *See id.* at 120-22.

7. *See id.* at 120-23.

8. *See infra* Parts II–III.

9. *See infra* Part IV.

10. *See* Minn. Stat. § 260C.163, subd. 1(c) (1998) (formerly codified as Minn. Stat. § 260.155 subd. 1(c)). In the case of juvenile delinquency and extended jurisdiction juvenile matters where the juvenile is 16 years of age at the time the offense was committed and the alleged offense was a felony, the proceedings are open to the public. *See* Minn. Stat. § 260B.130, subds. 1, 2 (1998).

11. *See* Minn. Stat. § 260C.163, subd. 1(c).

12. 269 N.W.2d 367, 371 (Minn. 1978).

the Minnesota Supreme Court held that district courts can rule that the media have a direct interest in a case and permit them to attend juvenile protection hearings. The court allowed a reporter to attend a termination of parental rights hearing after carefully weighing the potential harm to the parties and concluding that no harm would befall the parents or children due to the presence of the reporter.[13] The reporter promised not to reveal the names or addresses of the parties.[14] In dissent, Justice Wahl wrote, "Public exposure of the proceedings to terminate parental rights in the instant case has as much, if not more, potential for harm and humiliation to the parents and children as publicizing an adoption proceeding."[15]

According to court rule, the following persons may attend otherwise closed juvenile protection hearings: a party, participants, the county attorney, persons requested by a party or the county attorney and approved by the court, and persons authorized by the court.[16] Parties include the child's guardian *ad litem*, the child's legal custodian, the petitioner, anyone who intervenes as a party, anyone joined as a party and any other person, including a child, deemed by the court to be important to a resolution in the best interests of a child.[17] A participant includes the child, the child's parent, local social services agency, any guardian *ad litem* for the child's legal custodian, an Indian child's Indian custodian and tribe through a representative, grandparents with whom the child has lived within the two years before filing the petition, relatives caring for the child and other relatives who request notice, current foster parents and those proposed as long-term foster care parents, the child's spouse and any other person whom the court deems important to a resolution in the best interests of the child.[18]

Unlike criminal cases, no constitutional right allows the public and media to attend juvenile protection hearings.[19] Even in criminal trials, such as *Globe Newspaper Co. v. Superior Court*,[20] the

13. *See id.* at 368.

14. *See id.*

15. *Id.* at 372 (Wahl, J., dissenting). Adoption hearings are not open to the public under the pilot project. *See* Pilot Project Order, *supra* note 3, at 41.

16. *See* MINN. JUV. PROTECTION R. 64.01.

17. *See* MINN. JUV. PROTECTION R. 57.01.

18. *See* MINN. JUV. PROTECTION R. 58.01.

19. *See* U.S. CONST. amend. VI ("In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial . . . .").

20. 457 U.S. 596, 607 (1982) (holding unconstitutional a statute requiring closure of criminal hearings during the testimony of sex-crime victims who are

U.S. Supreme Court has recognized that, on a case-by-case basis, the trial court can determine whether closing the hearing is necessary to protect the welfare of a minor victim in situations where "safeguarding the physical and psychological well-being of a minor [victim of a sex crime] is a compelling [interest]."[21] In concurrence, Justice O'Connor declared, "I interpret neither *Richmond Newspapers*[22] nor the Court's decision today to carry any implications outside the context of criminal trials."[23] Thus, the Court often upholds closed criminal hearings when it deems it necessary to protect the welfare of a child. The majority opinions of *Globe* and *Richmond* support this notion.

III. VALID REASONS FOR CLOSING HEARINGS

A. *Benefit of Open Hearings Does Not Outweigh Potential Harm*

Proponents of open hearings argue that public scrutiny and criticism of the juvenile protection system causes professionals (including judges, prosecutors, social workers, public defenders and guardians *ad litem*) to do a better job and make better decisions on behalf of a child. Those who advocate keeping juvenile protection hearings closed do not dispute that public scrutiny encourages professionals to be more conscientious about following and applying the applicable statutes and rules. Fair coverage also could promote informed public involvement in the juvenile protection system and enhance public confidence in the judicial system. However, these benefits do not outweigh the risks to the child.

The most harmful effect of open juvenile protection hearings is exposing the child's identity in the press, either by name or picture. First, this exposure results in embarrassment and trauma to that child.[24] Confidentiality is even more compelling for an abused or neglected child because the child is wholly innocent of wrongdoing.[25] A second consequence of exposing a child's identity

---

minors).

21. *See id.* at 607.

22. Richmond Newspapers, Inc. v. Virginia, 448 U.S. 555 (1980) (holding the First Amendment protects the right of the press and the public to attend criminal trials).

23. *Globe Newspaper*, 457 U.S. at 611 (O'Connor, J., concurring).

24. *See* TASK FORCE REPORT, *supra* note 5, app. at D-1-D-3.

25. *See In re* T.R., 556 N.E.2d 439, 449 (Ohio 1990) (concluding that there is

is, as argued in the Minority Report of the Foster Care and Adoption Task Force,[26] that a child would not report abuse for fear of public exposure.[27] An incest victim whose case is publicized may be more reluctant in the future to report abuse for fear that his or her family, friends, schoolmates, teachers, church members and neighbors will learn of his or her most shameful experience, marking the child for life.[28] The risk of violating the protected child's identity increases when their names or faces are exposed in juvenile protection matters as well as criminal matters. The majority of the Foster Care and Adoption Task Force members acknowledged this risk to children and recommended that "[t]here should be advance preparation and training for the media regarding open juvenile protection hearings and court records."[29] The Foster Care and Adoption Task Force anticipated encouraging the media to protect the identity of the child as part of media training.[30] In Michigan, which has had open hearings[31] since 1988, numerous Detroit newspaper articles publish children's names and photographs, and information from foster care abuse cases, termination of parental rights and child protection matters.[32] This exposure occurs despite a Michigan representative's testimony to the Foster Care Adoption Task Force that the reporter assigned to cover open hearings had a self-imposed ethic of not publishing the pictures or names of children when covering juvenile protection cases.[33] If the press says it will not reveal the identity of a child in pictures or print but later does, nothing legally prohibits that action. For instance, in an Oklahoma case, an eleven-year old boy was charged with murder.[34] The press was allowed to attend the pre-trial hearing.[35] The press learned the boy's name and took his

---

no qualified right of public access to juvenile court proceedings to determine if a child is abused, neglected or dependent, or to determine custody of a child).

26. *See* TASK FORCE REPORT, *supra* note 5, app. at D-1.

27. *See id.*

28. *See id.*

29. *Id.* at 20.

30. *See id.*

31. *See generally* MICH. R. JUV. P. 5.925(A); MICH. COMP. LAW § 712A.17(7) (providing Michigan's procedures for juvenile open proceedings).

32. *See* TASK FORCE REPORT, *supra* note 5, app. at D-1.

33. *See id.*

34. *See* Oklahoma Publ'g Co. v. District Court, 430 U.S. 308, 309 (1977) (holding that once the juvenile's information was publicly revealed, the court could not constitutionally restrain its dissemination).

35. *See id.*

picture as he was leaving the courthouse.[36] The trial court ordered the press not to publish the boy's name or his picture.[37] The U.S. Supreme Court held that because the information was publicly revealed, the district court's order would be prior restraint of speech violating the First Amendment.[38] Two years later, the Court held that "if a newspaper lawfully obtains truthful information about a matter of public significance then state officials may not constitutionally punish publication of the information, absent a need to further a state interest of the highest order."[39]

B. The Media Will Not Convey an Accurate Picture

The media plays a vital role in our society as unfettered watchdogs of injustices.[40] However, this role is tempered by the media's profit motive and its ever-increasing trend of sensationalizing events.[41] For these reasons, advocates for closed hearings are concerned that the media will not convey a broad picture of juvenile protection hearings.[42] Instead, closed hearing advocates believe that the media more typically will cover cases that serve only a prurient public interest, causing emotional harm to the child.[43] This fear was born out in Hennepin County when the open hearings pilot project first began. A mother appeared in juvenile court to regain custody of her youngest child, who was two years old.[44] The media was interested in the case because three of her children had died within two years of one another.[45] These deaths occurred in the mid-1980s, when the mother lived in Chicago.[46] The mother's eleven-month-old child died from heat stroke and her eight-month-old twins died within fifteen minutes of each other due to sudden infant death syndrome (SIDS).[47] The Chicago Tribune reported the story of the three children's deaths.[48] A week

36. *See id.*
37. *See id.* at 308.
38. *See id.* at 311-12.
39. Smith v. Daily Mail Publ'g Co., 443 U.S. 97, 103 (1979).
40. *See* TASK FORCE REPORT, *supra* note 5, app. at D-1-D-3.
41. *See id.* at D-1.
42. *See id.* at D-2.
43. *See id.*
44. *See* Randy Furst, *Judge Ejects Media From Child Protection Hearing on Day Two of Court Experiment*, STAR TRIB. (Minneapolis-St. Paul), June 24, 1998, at B1.
45. *See id.*
46. *See id.*
47. *See id.*
48. *See Open Children's Cases to Scrutiny: Ruling for Secrecy Frustrating but Logical,*

before the June 23, 1998, hearing, a local television station attempted to interview the mother at home, where her eight- and nine-year-old children lived.[49] Just a day after the open hearings pilot project began, the judge closed the hearing at the request of the mother's public defender.[50] The judge found exceptional circumstances[51] to close the hearing and stated:

> I am concerned that this case, unlike the thousand other cases that we have in this court system, presents a set of facts that are of great interest to the media because there is some sensationalism involved. I am extremely concerned with what the media is going to do with it. I am appalled that there were reporters at the mother's home last Friday. She has two children ages 8 and 9, living with her. They are going to be exposed to this kind of media scrutiny, and that is not protecting those children.[52]

Later that same day, two local television stations focused their cameras through the courthouse windows (from the sidewalk outside) on the mother as she walked through the lobby of the courthouse.[53]

The Ohio Supreme Court upheld a trial court's decision to close a divorce proceeding to the media due to the harmful effects of publicizing a custody dispute over a child born to a surrogate mother.[54] The Ohio Supreme Court stated, "[p]ublic access has the potential to endanger the fairness of the proceeding or disrupt the orderly process of adjudication."[55] Analogizing this to juvenile protection matters, the court reasoned that "[t]he need for confidentiality is even more compelling in the case of a child who is abused, neglected or dependent."[56]

How does having the public and media present during these

PIONEER PRESS (St. Paul), June 26, 1998, at A10.

49. *See id.*

50. *See id.*

51. *See* Pilot Project Order, *supra* note 3, at 41 (permitting open proceedings to be closed or partially closed only in exceptional circumstances).

52. Molly Guthrey, *Judge closes out media: Two days into test, privacy issues raised in juvenile hearing*, PIONEER PRESS (St. Paul), June 24, 1998, at 2D.

53. *See id.*

54. *See In re* T.R., 556 N.E. 2d 439, 452-55 (Ohio 1990).

55. *Id.* at 451.

56. *Id.* at 449.

hearings or accessing documents[57] from these hearings hold the system more accountable when the media and public show little or no interest? The three-year open hearing pilot project is more than halfway complete. In seven of the twelve counties, initial media interest died off or no media interest existed.[58] In the other five counties, the media were interested when hearings first opened but that interest has waned for the most part.[59] In all twelve counties, the public has shown very little interest in the juvenile protection hearings and is not attending the hearings.[60]

Some of the twelve counties report that relatives have shown greater interest in these hearings, resulting in children being placed with those relatives rather than in foster care.[61] However, the increase in the relatives' interest is not due to open hearings. In April 1998, a Minnesota law took effect requiring that a child's relatives be notified of hearings, which in turn allows them to attend and speak at those hearings.[62] In addition, state law now requires more emphasis on placing children with relatives rather than in foster care.[63]

IV. VIABLE ALTERNATIVES TO OPEN HEARINGS

More effective and accurate methods than open hearings exist to hold the juvenile protection system more accountable and generate public interest. Minnesota rules and statutes already provide three methods. The first method provides that children who are subjects of juvenile protection matters have court-appointed counsel. Counsel is appointed if the child so desires but is financially unable to afford it and the court determines that such appointment is appropriate.[64] The second method requires

57. *See* Pilot Project Order, *supra* note 3, at 41.

58. The seven counties are Chisago, Le Sueur, Marshall, Pennington, Red Lake, Stevens and Watonwan. *See* MINNESOTA SUPREME COURT STATE COURT ADMINISTRATORS OFFICE, EVALUATION OF OPEN HEARINGS IN JUVENILE PROTECTION MATTERS, INTERIM PROGRESS REPORT 9, 25, 27, 29-30, 32, 38 (1999).

59. The five counties are Clay, Goodhue, Hennepin, Houston and St. Louis (Virginia only). *See id.* at 12, 15, 19, 35-36.

60. *See id.*

61. *See id.*

62. *See* MINN. STAT. § 260C.152, subd. 5 (1998).

63. *See id.*

64. *See* MINN. JUV. PROTECTION R. 61.02. Before March 1, 2000, the Juvenile Protection Rules entitled children to representation by counsel at public expense if a child could not afford such representation, regardless of whether the court determined that the appointment was appropriate.

appointment of a guardian *ad litem* for all children who are subjects of a juvenile protection matter.[65] The third method creates citizen review panels with authority to ensure that children are properly handled within the juvenile protection system.[66]

A. *Appoint Counsel for Children*

One Minnesota rule provides for the appointment of counsel to represent children in juvenile protection matters.[67] It is the role of the child's attorney to represent that child's legal interests and wishes.[68] The child's attorney is critical to ensuring that the child, the focus of the proceedings, has a voice.[69] The attorney also holds the system accountable.

In a study conducted as part of the Foster Care and Adoption Task Force, data were collected from six counties representing a mix of urban, suburban and greater Minnesota counties.[70] Of the 1,600 CHIPS petitions reviewed,[71] children were appointed counsel only 44% of the time.[72] Yet Minnesota Rule 40.01 requires such representation regardless of the child's age.[73] Otter Tail County appointed attorneys for children in 99% of reviewed cases. Anoka County was second with 95%. Clay County reported 72%; Duluth was at 55%. The survey revealed that Minnesota's two largest urban counties (Hennepin and Ramsey), which have the largest number of juvenile protection matters in the state, had the smallest percentage of children with legal representation.[74] Before rushing to open all juvenile protection matters to the public, we first must ensure that children have counsel. Only then can an attorney,

65. *See* MINN. JUV. PROTECTION R. 62.01

66. *See infra* Part IV.C.

67. *See* MINN. JUV. PROTECTION R. 61.02 (formerly MINN. JUV. PROTECTION R. 40.01).

68. *See* TASK FORCE REPORT, *supra* note 5, app. at D-3.

69. *See id.*

70. *See id.* at app. B-4. The six groups were: Anoka (suburban), Clay (greater Minnesota), Hennepin (urban), Otter Tail (greater Minnesota), Ramsey (urban) and Duluth in St. Louis County (greater Minnesota). *See id.* The findings were summarized in RESEARCH & EVALUATION, MINNESOTA SUPREME COURT, SUMMARY OF FINDINGS FOR THE SIX COUNTY COURT FILE REVIEW OF CHIPS CASES, Nov. 8, 1996 (on file with the Minnesota Supreme Court) [hereinafter SUMMARY OF FINDINGS].

71. *See* TASK FORCE REPORT, *supra* note 5, app. at B-5.

72. *See* SUMMARY OF FINDINGS, *supra* note 70, at G-7.

73. *See* MINN. JUV. PROTECTION R. 61.02.

74. *See* SUMMARY OF FINDINGS, *supra* note 70, at G-7 (reporting that attorneys were appointed for CHIPS children in only six percent of cases in Hennepin County and five percent in Ramsey County).

rather than the media, speak for a child languishing in foster care, returned to an abusive home or suffering abuse in foster care.[75]

B. *Appoint Guardians* ad Litem *for Children*

Minnesota law requires that a guardian *ad litem* be appointed for a child "in every proceeding alleging a child's need for protection or services."[76] The guardian *ad litem*'s role is, in part, to monitor the child's best interests throughout the judicial proceeding.[77] The guardian *ad litem* also must carry out the following responsibilities:

> (1) conduct an independent investigation to determine the facts relevant to the situation of the child and the family . . . (2) advocate for the child's best interests by participating in appropriate aspects of the case and advocating for appropriate community services when necessary; (3) maintain the confidentiality of information related to a case . . . and (5) present written reports on the child's best interests that include conclusions and recommendations and the facts upon which they are based.[78]

Despite the guardian *ad litem* requirement, in 1995, Hennepin County appointed a guardian *ad litem* in only 43% of cases and Ramsey County appointed a guardian *ad litem* in only 76% of cases.[79]

The guardian *ad litem* typically is a volunteer from the community who has undergone extensive training.[80] This person actively participates in the juvenile protection system and has a powerful role in holding the system accountable.[81] If the statute is followed and all children involved in child protection proceedings

---

75. These are the frequent complaints about the juvenile protection system for which it needs to be held accountable. *See* TASK FORCE REPORT, *supra* note 5, app. at D-2, D-3.

76. MINN. STAT. § 260C.163, subd. 5(a) (1998).

77. *See id.* § 260C.163, subd. 5(b)(4).

78. *Id.* § 260C.163, subd. 5(b).

79. *See* SUMMARY OF FINDINGS, *supra* note 70, at G-6. No comprehensive statewide analysis exists regarding representation by guardians *ad litem* because the State Judicial Information System did not record appointment of guardians *ad litem* until late 1995.

80. *See* TASK FORCE REPORT, *supra* note 5, app. at D-3.

81. *See id.*

have a guardian *ad litem*, then that guardian *ad litem* can ensure that the court's paramount consideration is the best interest of the child.[82]

C. *Engage Citizen Review Panels*

Public criticism of the juvenile protection system goes beyond what occurs in the closed court hearings. Only a small percentage of total referrals for child protection services end up in court. Social service agencies often are criticized for not taking more cases and conducting more face-to-face interviews. Many families seek services voluntarily and the majority of social service agencies' decisions are made without court involvement. Therefore, what occurs in juvenile protection hearings is only one frame in a long series of events. The Minnesota Government Data Practices Act[83] and the Maltreatment Reporting Act[84] govern access to information collected by social service agencies as well as other state and local government agencies. The Minnesota legislature has deemed this information private and, in some situations, confidential.[85] Even if juvenile courts are open to the public, most of the information gathered for those cases is not available to the media.[86]

If the system is to be held accountable in an atmosphere that is comprehensive, fair and does not risk harm to the child, then the entire process should be subject to review by random surveys of cases reviewed by a panel of experts and community members. In 1998, a law was enacted which permits review through the use of citizen review panels.[87] The citizen review panel is another excellent alternative to open hearings. Review panels have authority to examine policies and procedures of state and local welfare agencies and to evaluate the extent to which agencies

82. *See* MINN. STAT. § 260C.001, subd. 2 (1998) (requiring that "[t]he paramount consideration in all proceedings concerning a child alleged or found to be in need of protection or services is the best interests of the child").

83. *See id.* §§ 13.01-13.99 (establishing a presumption that "government data are public and are accessible by the public for both inspection and copying unless there is federal law, a state statute, or a temporary classification of data that provides that certain data are not public").

84. *See id.* § 626.556, subd. 11 (requiring certain records maintained by local welfare agencies and social service agencies, for example, to be kept private and released only in certain circumstances).

85. *See id.*

86. *See id.*

87. *See id.* § 256.01, subd. 15.

effectively discharge their child protection responsibilities.[88] The review panels may examine specific cases to evaluate the effectiveness of child protection activities.[89] Membership on these review panels "must include volunteers who broadly represent the community in which the panel is established, including members who have expertise in the prevention and treatment of child abuse and neglect, child protection advocates, and representatives of the councils of color and ombudspersons for families."[90] Review panels have access to nonpublic data regarding the child and parents that is not available to the public through the Rule on Public Access to Records Relating to Open Juvenile Protection Proceedings.[91] This broad examination of the state and local juvenile protection system reviews the entire process, not just the small percentage of cases that go to court. The panel evaluating the system has access to all private information on a particular case and therefore has a more complete picture than can be obtained through the rules governing the open hearing process. The individuals comprising the review panels represent the broad community with expertise and diversity compared with, at best, a half-interested media that must be trained and educated in the area of juvenile protection.[92] The result is a comprehensive, competent and intelligent review of the juvenile protection system that does not risk harm to the child.

---

88. *See id.* § 256.01, subd. 15(a).

89. *See id.*

90. *Id.* § 256.01, subd. 15(b).

91. *See id.* § 256.01, subd. 15(c); Order Promulgating Rule on Public Access to Records Relating to Open Juvenile Protection Proceedings, File No. C2-95-1476 (Minn. S. Ct., filed May 28, 1998), *in* BENCH & B. OF MINN., July 1998, at 40. Such records include audio tapes or video tapes of a child alleging or describing physical abuse, sexual abuse or neglect of a child; victim's statements; portions of juvenile court records that identify reporters of abuse or neglect; HIV test results; medical records and chemical dependency evaluations and records, psychological evaluations and records, and psychiatric evaluations and records; sexual offender treatment program reports; portions of photographs that identify a child; records or portions of records that specifically identify a minor victim of an alleged or adjudicated sexual assault; and records or portions of records that identify the home or institution in which a child is placed pursuant to a foster care placement, pre-adoptive placement or adoptive placement. *See* MINN. STAT. § 256.01, subd. 15(c).

92. *See* David Chanen, *Child Protection System's Opening Creates Few Ripples*, STAR TRIB. (Minneapolis-St. Paul), June 22, 1999, at A1; Amy Mayron, *Juvenile Hearings Draw Few: Open Court Experiment Praised by Professionals*, PIONEER PRESS (St. Paul), June 28, 1999, at 1B; Ruben Rosario, *Caring Community Must Protect Abused Children: Juvenile Court Program Needs Volunteers to Monitor Cases*, PIONEER PRESS (St. Paul), Feb. 7, 2000, at 1B.

V. CONCLUSION

The purpose of the closed system is to provide a protective, rehabilitative environment for both parents and children by shielding them from public humiliation and stigmatization. Laws and rules already are in place which, when followed, involve the public and protect the interests of children. These options include court-appointed counsel for children, court-appointed guardians *ad litem* and citizen review panels. Citizen review panels now are in place and can be used to review practices of the much broader juvenile protection system than what is represented in court hearings. But these statutes and rules are not uniformly applied, most often due to lack of resources. This lack of resources does not require media involvement, which risks harm to the child, to make the public and lawmakers aware of the need for more resources and to hold the juvenile protection system accountable. The expectation that open hearings will make an entire system accountable is wishful at best, particularly when no empirical evidence demonstrates that open hearings result in more accountability. Even Michigan reports that the media and public do not attend hearings in that state.

It is a disappointment to the advocates for open hearings that little interest has been shown by the media and public in the twelve counties involved in the pilot project.[93] How can opening these very sensitive hearings to the media and public hold the system accountable if no one attends? Yet at the same time, children's names and pictures are at risk of appearing in local newspapers and on television for circumstances not based upon any wrongdoing of the child.

Alternatives such as court-appointed attorneys and guardians *ad litem* for all children as well as citizen review panels should be given a fair chance before we seriously consider turning to the media to correct problems in the juvenile protection system.

93. *See* TASK FORCE REPORT, *supra* note 5, at 122.

***