The Effect of Federal Child Welfare Legislation on Termination of Parental Rights in Minnesota: Establishing a Baseline

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Abstract

Termination of parent rights (TPR) is a legal action that permanently severs the relationship between a parent and child. In cases of child maltreatment, TPR frees a child from an abusive parent so that the child may be adopted into a more nurturing home. TPR represents a gross intrusion by the state into private family life, and has historically been invoked sparingly. Despite its drastic nature, rates of TPR have not been widely tracked as an outcome measure of child welfare services. After briefly tracing the history of TPR in the United States, this paper reports rates of TPR in Minnesota for selected years since 1974. The years surveyed coincide with several major pieces of child welfare legislation. The paper sets a baseline for TPR rates that may be used to judge the impact of recent and future child welfare policies, such as the Adoption and Safe Families Act of 1997. Policy implications are discussed.

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I. Introduction

Termination of parental rights (TPR) is an extreme action initiated by the state to irrevocably sever the *legal*, and in most cases, the *physical* bond between parent and child (Mnookin, 1975; Hewett, 1983; Katz, 1971; Rose, 1980; Garrison, 1983). A historic hesitancy to invoke termination has existed, due to the invasive nature of the action and the severity of the consequences (Derdeyn, 1977). The right to privacy and liberty, and, specifically, the rights of parents to raise their children apart from intervention, are closely guarded in our society (Derdeyn, 1977; Derdeyn & Wadlington, 1977; Rosenfeld et al., 1994; Katz, 1971). No other relationships of this type are subject to government interference (Katz, 1971). Hewett (1983) has opined that the permanent loss of one's children is a punishment more severe and intrusive than any criminal consequence, save the death penalty.

The concept of terminating parental rights is one fraught with complex legal and emotional issues. Efforts to protect children inevitably come at the expense of some of the valued freedom and privacy formerly accorded their parents (Beyer & Mlyniec, 1986). Child welfare policy often amounts to a continuous attempt to balance the relationship between state power and interests, the rights of parents, and the needs and interests of children (Beyer & Mlyniec, 1986; Mnookin, 1975; Rose, 1980). Fanshel (1984) notes the difficulty inherent in developing social policy that addresses the complex interplay between children and "dysfunctional" parents.

Child welfare practice invariably involves a series of weighty and difficult decisions. Azar et al. (1995) regard termination of parental rights as "one of the most important decisions that the legal system undertakes regarding children's lives" (p. 599). The difficulty of the decision to terminate parental rights, acknowledging that this act permanently destroys the parent-child bond,

is almost universally acknowledged (Azar & Benjet, 1994; Beyer & Mlyniec, 1986; Rosenfeld, et al., 1994; Mlyniec, 1983; Schottle, 1984).

Mlyniec (1983) goes on to observe that the actual litigation of termination cases is no more simple, since these cases inevitably involve tough calls and highly emotional issues. Davis (1984), a former Family Court judge of the State of New York, became disenchanted with the process through which we as a society terminate the rights of parents to their children, calling such proceedings "cruel" (p. 588) and expressing sympathy for parents in these circumstances.

A TPR may be perceived as a punishment of the biological parent (Garrison, 1983). Indeed, the focus of the proceeding often involves enumerating the faults and failings of one or more parents (Derdeyn & Wadlington, 1977; Garrison, 1983).

Termination proceedings may serve three different legal purposes:

1. to free a child for adoption by a stepparent upon the remarriage of one of the parents;
2. to bypass parental consent when a caretaker wishes to adopt against the wishes of the biological parent; or
3. to permanently end the parent-child relationship when there is concern about the ability of the parent to care for the child in the long term (Derdeyn & Wadlington, 1977).

This paper addresses only the third type of termination, when conditions in the biological family do not render the environment "fit" to raise one or more children.

II. The Current Study

Since the late 19th century, child abuse and neglect has evolved from a non-issue in the United States -- a matter of private, family prerogative -- to fervid public recognition as a

nationwide social problem. In the late 20th century, the federal government has passed a series of landmark pieces of legislation addressing this newly-defined social ill. This series of five major laws has built and refined child welfare practice: the Child Abuse Prevention and Treatment Act of 1974; the addition of Title XX to the Social Security Act; the Indian Child Welfare Act of 1978; the Adoption Assistance and Child Welfare Act of 1980; and the most recent, the Adoption and Safe Families Act of 1997.

The issue of termination of parental rights becomes a subject of particular interest in the wake of the passage of the Adoption and Safe Families Act (ASFA) of 1997. The most recent incarnation in federal child welfare policy, ASFA, has the potential to rapidly accelerate the pace of TPRs. The specific implications of ASFA relative to TPRs will be discussed in detail later.

The current study specifically examines administrative child welfare data from the Minnesota Department of Human Services, and poses two important questions:

1. How has the rate of terminations of parental rights in Minnesota changed with the passage of the five major federal child welfare initiatives?

2. What is the current "baseline" rate of termination of parental rights in Minnesota, so that we may assess the hypothesized effects of the Adoption and Safe Families Act in the future?

Some states, such as Minnesota, keep records of raw numbers of terminations of parental rights among their child welfare caseloads. No national data currently exist. Child welfare researchers have historically preferred the use of other outcome measures, such as the number of adoptions, the average time spent in out-of-home care, or the annual foster care caseload. Tracking such indicators is obviously crucial. However, the purpose of this project is to emphasize that TPRs, which are, perhaps, the most drastic of state interventions in private family

life, also deserve the attention of both government and academia as an outcome indicator. If only from a human rights standpoint, it seems important to establish the rate at which the government is legally severing ties between parents and children.

To that end, this paper contains eight main sections. It starts out with a discussion of the standard legal grounds for terminating parental rights nationwide and continues with a brief section on the prevalence of TPR in Minnesota. The following section provides a historical context for understanding the intersection of the rights of the state, of parents, and of children. Next is a history of the early years of the child welfare movement in the U.S. A history and summary of the five pieces of major federal legislation follows next, with an exploration of how each piece of legislation is hypothesized to effect (or to have effected) rates of TPR. After a discussion of the federal legislation, the paper delves into some persistent policy issues that have plagued the field since its early beginnings. Next is an exploration of what the Minnesota data on termination of parental rights reveals about past and current federal child welfare initiatives: their method of collection and the findings. The last section draws conclusions and suggests policy implications. We now begin with a discussion of the reasons a termination of parental rights may be sought.

III. Standard Grounds for Termination of Parental Rights

Although federal legislation has played a major role in defining child welfare practice in the U.S., laws that address the particulars of termination of parental rights proceedings are found in state statutes.[1] All 50 states have such laws, but depending on the administrative structure of the state, either the state or a smaller entity, such as a county, may actually enforce the statute. In

Minnesota, the 87 counties are responsible for providing child welfare services, and the District Courts handle terminations of parental rights cases. Minnesota's Department of Human Services functions in a supervisory fashion: insuring compliance and training standards; tracking outcomes; acting as a liaison between social service agencies, courts, the Department and the legislature; and providing technical assistance to counties and courts.

The pathway to TPR in child abuse and/or neglect cases follows a route guided by statute and regulation (Minn. Stat. Chapters 626 & 260 (1998)). Initially, a public social service agency receives a report of suspected maltreatment of a minor. After an investigation, if there is a determination that maltreatment has occurred, the child may be placed out of the home. Meanwhile, the agency typically assesses the problems that brought the child into care and provides a case plan of services aimed at making "reasonable efforts" to reunify the family. If the parental conditions are not sufficiently remedied within a given time frame, family reunification efforts may be halted. When it is determined that further reasonable efforts are futile, the agency may file a TPR petition in order to free the child so that a permanent adoptive home can be secured.

Legal standards for terminating parental rights vary from jurisdiction to jurisdiction (Azar & Benjet, 1994; Schottle, 1984). In order for a termination of parental rights to be accomplished, the petitioning party must show:

1. that parental unfitness exists (Azar & Benjet, 1994; Azar & Benjet, 1995; Katz, 1971; Simpson, 1962); and, in most cases,
2. that it provided 'reasonable efforts' to remedy the situations that brought the family into the system, and that the parent either refused to comply with these efforts or was

[1] In Minnesota, the termination of parental rights statute is found in the Juvenile Code (Minn. Stat. Sect. 260.221

not sufficiently rehabilitated (Azar & Benjet, 1994; Azar & Benjet, 1995; Beyer & Mlyniec, 1986).

Historically, the state has also been required to show it has planned a more appropriate alternative home for the child. A recent Supreme Court decision in Minnesota, however, found that a determination of a child's adoptability is not necessary prior to termination of parental rights (In the Matter of the WELFARE of J.M., J.M., and M.M., 1998).

Certain grounds have historically been invoked in terminating parental rights, and many of these factors continue to provide legal justification for termination today. A comprehensive listing of these conditions includes:

- abandonment;
- severe or repeated neglect, abuse, cruelty, or mistreatment;
- parent's behavior/lifestyle threatens the child;
- parents being too "irresponsible" to care for their children;
- broadly, parental "unfitness;"
- refusal to give parental care and protection;
- nonsupport;
- failure to visit the children in placement;
- lack of rehabilitation/improvement in the parent;
- adultery;
- best interests of the child would not be served by a return to the parent;
- mental retardation of the parent;
- mental illness of the parent, particularly when the condition is resistant to treatment;

(1998)).

- chemical dependency of the parent, particularly when repeated attempts at treatment have failed; and
- loss of civil rights (e.g. parent is legally incompetent or incarcerated).

(Derived from Grisso, 1986; Mnookin, 1975; Simpson, 1962; Proch & Howard, 1984; Mlyniec, 1983; Rosenfeld et al., 1994; Derdeyn & Wadlington, 1977; Katz, 1971; Beckerman, 1991).

Formerly, many of the above conditions may have been, by themselves, sufficient grounds to permanently sever the parent-child relationship. Courts now require a showing that these conditions have a substantial detrimental effect on the child in order to terminate parental rights (Grisso, 1986). For instance, incarceration itself is no longer viewed as valid grounds for terminating parental rights, but the belief that mothers with criminal records are necessarily bad parents can still undermine a woman prisoner's chances at reunification (Beckerman, 1991).

Judges are allowed wide discretion in termination of parental rights cases, and this potentially endangers the rights of parents (Grisso, 1986; Mnookin, 1975; Azar & Benjet, 1994; Azar et al., 1995; Katz, 1971). The risk in allowing vast judicial discretion in determinations of parental fitness is complicated by the potential for bias based on education, class (Schetky, 1992; Katz, 1971; Beyer & Mlyniec, 1986), culture (Beyer & Mlyniec, 1986), and race or ethnicity misunderstandings or misattributions (Azar & Benjet, 1994; Azar et al., 1995).

Expert testimony often employed in courtrooms is no less vulnerable to these pitfalls (Azar & Benjet, 1994). Further, while such decisions and their sequelae are clearly relevant to the field of psychiatry, Schottle (1984) and Mnookin (1975) observe that expert opinions are often necessarily more value-laden and person-oriented than scientific or legal. The skill base and predictive ability of any expert witness has limits (Schottle, 1984; Schetky, 1992). Even if psychiatrists possessed a clear definition of "adequate parenting" or "best interests of the child,"

knowing how to help failing parents improve their skills is still extremely difficult (Schottle, 1984; Mnookin, 1975; Azar et al., 1995; Davis, 1984).

In summary, it can be said that terminating parental rights is a messy, uncomfortable business that involves grave consequences and gross intrusions into private family life for the purpose of keeping children safe and in permanent homes.

IV. Prevalence of TPR in Minnesota

Now that we have established what TPR is and why it is invoked, let us examine how often it occurs. Cases in which a termination of parental rights is initiated comprise a very small percentage of child maltreatment cases. At many stages in the process, less serious cases are "filtered out" of the system. Since most children entering foster care return home within a year, those families who make it to the termination stage represent a residual group with intractable problems -- the most difficult group with whom to achieve positive outcomes (Borgman, 1981; Rosenfeld et al., 1994).

For example, in Minnesota, for 1996, the 603 terminations of parental rights accomplished represent less than 1 percent of 51,778 cases of alleged abuse, and merely 3.6 percent of the 16,684 cases in which a determination of abuse was made (Office of the Legislative Auditor, State of Minnesota, 1998). Evidence suggests that families of color may be more vulnerable to termination of parental rights due to their disproportionate presence in the eligible pool of families: those families in which a finding of abuse or neglect has occurred (Azar & Benjet, 1994).

V. State[2], Parent, and Child Rights and Interests

Fraser (1976) traces the legal recognition of the parent-child relationship back to Babylonian times, over 2000 years B.C. Fraser observes that the "relationship" basically began as a property right: a child was expected to uniformly submit to the will of the parent, and the parent could trade or sell the child as any other commodity. The theme of "child as property" passed virtually unchanged through Hebrew, Greek, Roman, Visigothic, English, and eventually to American code (Fraser, 1976). Parents' rights to their children gradually came to be understood as deriving from their status as natural parents to the child, rather than as a property right. At about the same time mothers came to be recognized as sharing equally in custody rights with fathers (Katz, 1971).

Today, in the U.S., the unbounded control of parents over their children has been replaced by a presumption of a parent's right to care for and control his or her own child. It is assumed that the parent will act in the best interests of the child. Otherwise, the state's intervention is required (Fraser, 1976). While parental rights are not guaranteed by the U.S. Constitution, they have been addressed and upheld by the Supreme Court. American legal values such as the belief in liberty and the right to privacy, as well as the due process and equal protection portions of the Fourteenth Amendment, have all been invoked in defense of parental rights (Derdeyn, 1977).

Parental rights and the needs of children are not identical, although Fraser (1976) and Derdeyn (1977) have argued that American law tends to view them as indistinguishable. Some abusive or neglectful parents will not be rehabilitated sufficiently to be able to care for their

[2] It should be noted that for the purposes of this paper, the word *state* is most frequently used to mean *any* body of government that has some level of coercive power over and/or responsibility to its citizens. It is also used in a more specific sense, when speaking of the *states*, as a whole entity, of the United States. This difference in usage will, I hope, be contextually apparent. When discussing Minnesota in specific, the name of this state is used to avoid further confusion on this matter.

children. The concept of the rights of children in custody matters derive not only from the idea that children themselves have rights, but also from the vested interests of the state in the child (Simpson, 1962). Fraser (1976) describes the state of children's rights in the U.S. as that of "negative legal rights," (e.g. the right *not* to be abused or starved) since the state only intervenes in the event of perceived parental failure to maintain the child (p. 326).

P*arens patriae* is the doctrine used to justify state involvement in the otherwise private parent-child relationship under certain circumstances (Katz, 1971; Fraser, 1976; Garrison, 1983, Jimenez, 1990; Rose, 1980). Passed down from English common law, *parens patriae* is "the principle that the state must care for those who cannot take care of themselves" (Black et al., 1990, p. 1114). Children, as well as the mentally incompetent, have generally fallen within the purview of this doctrine (Katz, 1971). The original rationale behind *parens patriae* is that the Sovereign had the right to protect those of his subjects who were vulnerable. The doctrine is said to have evolved in England during the 1600s, and was consequently inherited by the American legal tradition (Katz, 1971; Fraser, 1976). The broad invoking of *parens patriae* in the U.S. did not occur until the late 19th century when the state began to intervene when abuse was noted in parent-child relationships (Rose, 1980).

Parens patriae evolved in years hence from a mere sense that the state may have *jurisdiction* in parent-child matters to the affirmation of the state's *responsibility* to guard the child's interests when the parent failed in this regard (Fraser, 1976). Katz (1971) and Jimenez (1990) have both observed that over time, the scope of allowable state intervention in this relationship has bloomed, and that the delineation between parent jurisdiction and state jurisdiction over matters pertaining to the child have become somewhat fuzzy.

In later years, the concept of children's rights has flourished. The 20th century saw the rise of the concept of "the best interests of the child" (Rose, 1980). While the child's best interests were presumed to be served by maintenance with the biological parent, the state could now sever parental rights in cases of parental unfitness, abandonment, or with the parent's consent (Rose, 1980). More recently, the "best interests of the child" have been construed as having meaning apart from the child's relationship with the parent. It has thus been acknowledged that that these interests may, in fact, be best served by separation from the natural parent (Rose, 1980).

Finally, with the passage of the Adoption and Safe Families Act of 1997, the "best interests" standard has been bolstered to include the "health and safety" of the child as paramount considerations in any child welfare proceeding. Thus, in the late 20th century, the state has substantial, but not unregulated, power to intervene in private family matters in order to protect the newly-established rights of children.

VI. History of the Early American Child Welfare Movement

The section contains a discussion of the early history of the child welfare movement in the U.S., prior to the passage of the major federal legislation that is the focus of this paper. In the early days of this country, state and federal governments played almost no role in child welfare policy or practice. As has been explored earlier, children were viewed as the property of their parents, specifically the father. State intervention in the family was generally neither desired nor allowed. Indeed, children were viewed merely as small adults.

From the Colonial period until the late 1800s, children were traditionally apprenticed out to work, or placed out in almshouses if their parents were unable to care for them. Placement in children's institutions and sending children west on "orphan trains" were later child welfare

interventions (Garrison, 1983; Jimenez, 1990; Fraser, 1976; Derdeyn & Wadlington, 1977; Rosenfeld et al., 1994; Simpson, 1962). In any case, no effort was made to maintain children with their biological parents (Garrison, 1983).

During the Progressive Era, the development of the idea of childhood as a separate developmental stage gained currency (Trattner, 1994). It was acknowledged that children had special needs different from that of adults, and policies began to attempt to address these needs (Trattner, 1994; Jimenez, 1990). As a result, in the late 19th and early 20th century, child labor fell into disfavor (Garrison, 1983). In the wake of the massive child welfare movement of the late 19th century, many children were removed from almshouses and placed in care in private homes (Trattner, 1994).

It was not until the last half of the 19th century that childhood began to be recognized as a distinct developmental stage. At that point, the idea that children deserved special treatment gained currency. Children began to be placed in separate institutions called orphan asylums. Early informal foster care and adoption programs were put in place. In 1874, the case of Mary Ellen inspired a "child saving" movement, aimed at protecting children from mistreatment at the hands of their parents.

Mary Ellen was a young girl who had been severely abused by her alcoholic parents. Despite the concern of neighbors, no systems were in place to provide protection for the girl. Mary Ellen came to the attention of a member of the local Society for the Prevention of Cruelty to Animals. He reasoned that since there were no established means with which to intervene to protect children, he would step in on Mary Ellen's behalf by invoking the animal anti-cruelty system. Mary Ellen was eventually rescued; her parents, jailed. Highly publicized, her case caused a public uproar. With their newfound respect for the concept of childhood, the public

found it untenable to protect animals, but not children, from abuse. Animal anti-cruelty societies across the nation sprang into action in defense of children. These private organizations formed the beginning of the child protection movement. Eventually, progressive era reformers began to lobby for separate juvenile courts, for mandatory schooling, and for laws prohibiting child labor.

As has been discussed, as time went on, states gradually began to acknowledge a role in matters relating to children through statute. Massachusetts is generally regarded as having the first adoption statute (1851) (Katz, 1971; Trattner, 1994; Derdeyn & Wadlington, 1977), but Louisiana and Texas were at least acquainted with the idea at an earlier date (Katz, 1971). During the 19th century, the child's interests received no attention in adoption laws (Katz, 1971; Mlyniec, 1983; Garrison, 1983; Derdeyn & Wadlington, 1977). Rather, they were put in place for the purpose of providing heirs (Katz, 1971), or providing extra labor for the family farm or business (Mlyniec, 1983). Adoption has become progressively more complex in the years hence (Katz, 1971). Now it is widely acknowledged that obtaining consent to adopt from the biological parent is in certain cases unnecessary, impossible, or undesirable (Katz, 1971). In these cases, termination of parental rights is invoked.

According to Mlyniec, foster care and adoption had long gone hand-in-hand, (Mlyniec, 1983). Mlyniec (1983) explains, further, that adoptions of foster children were allowed, were somewhat informal and did not require a termination of the rights of the biological parent. Gradually, as the rights of biological parents began to receive more legal attention, biological parents who had not been consulted prior to the adoption of their children had sometimes become perceived as an unwanted "distraction" to adoptive parents and children. Termination of parental rights was used in order to officially remove the parent from the adopted child's life, so prospective adoptive parents had no risk of later interference from the parent. At the same time,

the termination proceeding was intended to better guard the newly acknowledged rights of parents. Now the termination process was completely separate from adoption. The goal of separating the adoption and termination proceedings was to remain more objective in each decision through this separation (Simpson, 1962).

In terms of more broad-based child welfare interventions, government-initiated mothers' pensions, and later, the AFDC program provided cash assistance to poor families with children. The child protection system itself existed as a web of private agencies and, later, in some less-than-comprehensive laws. In the 1960's and especially later, child welfare laws became more extensive and more prescriptive of social work practice.

VII. History of Major Federal Child Welfare Legislation

This section is a discussion of the five pieces of major child welfare legislation mentioned earlier: the Child Abuse Prevention and Treatment Act of 1974, Title XX of the Social Security Act (Social Services Block Grant,) the Indian Child Welfare Act of 1978, the Adoption Assistance and Child Welfare Act of 1980, and the Adoption and Safe Families Act of 1997. The main focus of this section is a summarization of key points of each of the five laws, and the hypothesized effect of each on terminations of parental rights in the state of Minnesota. (Refer to Table 1 in the Appendix for a summary.)

In the 1970s, 1980s, and 1990s, the federal government has passed major legislation aimed at solidifying the role of government in child protection. States must pass individual legislation bringing them in compliance with federal mandates. Through funding provided by Title XX of the Social Security Act, and its state and local counterparts, private agencies continue to play an important role in the provision of services to families involved in the child protection system. In

the last half of the twentieth century, however, federal and state governments have consistently reaffirmed that the primary duty for protecting children lies with *public* agencies. Invoking the centuries-old concept of *parens patriae*, government entities exercise jurisdiction over maltreated children because they perceive a public interest in the child's well-being, as well as an interest in maintaining social order.

The more comprehensive child welfare laws of the second half of the century reveal an ongoing attempt to balance the state's interest with the rights of parents and those of children. Few have explicitly addressed the issue of termination of parental rights. Due to intended effects on the number of children in the child welfare system and the effects on the type of services they receive, one can predict likely effects on rates of terminations of parental rights based on particular aspects of each of the following public laws.

Two major pieces of legislation, both passed in 1974, represent the federal government's first concerted effort at dictating child welfare policy. The Child Abuse Prevention and Treatment Act (CAPTA) of 1974, and the Social Services Amendments of 1974 (Title XX of the Social Security Act) serve to bring child maltreatment to the fore as a legitimate social problem and provide funding, services, and guidance about how to address the problem. (See Table 1 in the Appendix for a summary.)

More specifically, CAPTA is focused on the prevention, identification, and treatment of child abuse and neglect. CAPTA established a National Center on Child Abuse and Neglect, a clearinghouse for research, information, training materials, and technical assistance to anti-child abuse efforts. It also called for the appointment of an Advisory Board on Child Abuse and Neglect. The Act further authorized the federal government to contract and make grants for demonstration projects aimed at the prevention, identification, and treatment of child abuse and

neglect. Under CAPTA, states are required to pass child abuse and neglect reporting laws, and must provide for investigation and enforcement under such laws in order to receive funding under the Act.

CAPTA was not an unfunded mandate: it provided $60 million for the following three fiscal years following passage for these purposes. The federal government itself acknowledged the importance of the role it was beginning to play, through CAPTA, as a party responsible for the provision of child welfare services: "Federal funds made available under this Act … increase the level of state funds which would, in the absence of Federal funds, be available for such programs and projects" (Sec 4. (b)(2)(H)).

Although the Act lists the *prevention* of child abuse and neglect as one of its major goals, it could still be expected to increase the rate of terminations of parental rights. By adding the issue of child abuse and neglect to the public agenda, and by providing funding and legal backing for the establishment of formal child maltreatment response systems, CAPTA could be expected to bring a greater number of abused and neglected children to the attention of authorities. With the pool of candidates for termination of parental rights increased, rates of TPR would be expected to rise as well.

The effect of the other piece of major legislation from the 93rd Congress on termination of parental rights is not as clear. The Social Services Amendments of 1974 added a new title to the Social Security Act, Title XX. This Act authorizes grants to states for the purpose of "preventing or remedying neglect, abuse, or exploitation of children … unable to protect their own interests, or preserving, rehabilitating, or reuniting families," among other purposes (Sec. 2001 (3)). To this day, services provided through Title XX form the core of child protection case plans. Title

XX effectively provides the "teeth" to CAPTA by funding services to "fix" the problem decried by CAPTA.

As Melemed (1976) observes, Title XX was not the first federal attempt at funding social services programs, but it does signify a novel approach to administration and program design. Title XX allows states to designate the menu of social services it will offer, and provides federal grants for their provision. Title XX provides a 75/25 percent federal/state match for the provision of social services for the purposes outlined above. Title XX monies are chiefly aimed at the needs of low-income families and individuals, a group commonly served by the child welfare system. In its original inception, Title XX allocated $2.5 billion for these purposes, and distributed monies to states based on the ratio of their population to that of the nation as a whole. Further, Title XX outlines specific services it aims to fund, which clearly fall under the child welfare umbrella:

- emergency shelter care;
- protective services for children;
- services for children in foster care;
- information, referral, and counseling services;
- services designed to meet the special needs of children, the mentally retarded, alcoholics and drug addicts; and
- child care.

Finally, Title XX establishes a federal "Parent Locator Service" designed to aid in the establishment of paternity and the collection of child support.

There is evidence that the enactment of Title XX resulted in greater expenditures on social services, at least at the federal level. Prior to the inception of Title XX, a relatively small

proportion of states spent up to their federal limit on social services. Afterward, many states expended up to or beyond their official federal ceiling (Melemed, 1976).

Title XX could be expected to reduce terminations of parental rights because it funds services intended to preserve families, and aims its services directly at the demographic most frequently served by child protection. In addition, through the institution of the Parent Locator Service, Title XX could be expected to preserve families by finding absent parents and requiring them to support and/or care for their children, when necessary, thus decreasing the need for terminations of parental rights. It should also be mentioned that Title XX could encourage terminations to the extent that it "clientizes" maltreated children and their families through the provision of services. Embroiling individuals in the system, the pool from which terminations of parental rights are consummated, could increase rates.

In summary, overall, Title XX alone could be expected to decrease rates of terminations of parental rights. However, with the passage of the CAPTA the same year (1974) and the concomitant public fervor over child maltreatment, on the balance, we should expect to see terminations increase in the years immediately following 1974. Importantly, with the passage of CAPTA and the inception of Title XX, the federal government established a role in the provision of child welfare policy. Though not directed at affecting rates of terminations of parental rights, these and following laws have the potential to indirectly affect this phenomenon.

CAPTA had raised public concern about the issue of child abuse neglect and sparked a drastic increase in child abuse reporting (Jimenez, 1980). Meanwhile, concern began to grow among representatives of the nation's Indian Tribes about the number of Indian children winding up in the child welfare system and, eventually, all too often in placement in Caucasian families (Mannes, 1995).

In response to intense lobbying efforts (Mannes, 1995), in 1978, Congress passed the Indian Child Welfare Act (ICWA). (See Table 1 in the Appendix for a summary.) The Act itself acknowledges the problem it was intended to address:

> [A]n alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children from them by nontribal public and private agencies and … a alarmingly high percentage of such children are placed in non-Indian foster and adoptive homes and institutions (Sec. 2 (5)).

ICWA standardizes practices for removing Indian children from their homes. It also lists preferences for their placement, giving priority to family members, Tribe members, and other Indian persons. ICWA directs agencies to provide "active efforts" at reunification, and clarifies the jurisdictional rights of Indian tribes in relation to their children. Finally, ICWA provides grants for on- and off-reservation Indian child and family programs.

A number of provisions in ICWA would naturally cause restraint in foster care and adoption matters relating to Indian children, and we would expect to see a concomitant reduction in out-of-home placement (particularly in non-Indian homes), and a reduction in terminations of parental rights. Because the Indian population is so small relative to other ethnic groups in the U.S., the reduction in termination of parental rights would likely be small. Importantly, the passage of the ICWA marks the beginning of a new phase in child welfare policy. In the ongoing attempt to balance the rights of parents, children, and the state, the federal government took steps to protect the rights of at least one group of parents to their children. This trend continued with the next piece of major legislation.

In 1980, Congress took its most drastic step in prescribing child welfare practice so far. Among other requirements, with the Adoption Assistance and Child Welfare Act (AACWA), the

federal government set two major practice directives: (1) *family preservation*: preventing the removal of children from their homes through the provision of "reasonable efforts;" (2) *reunification*: achieving permanent placements for children through reunifying families after placement whenever possible. (See Table 1 in the Appendix for a summary.) The emphasis of the Act is *permanency*, that no child should grow up in foster care, with a strong preference for the child's biological family as the permanency option. It outlines complex protocols for reimbursing some foster care and adoption costs. States were required to outline plans for compliance in order to receive key funding.

The AACWA sets forth additional practice mandates in a number of different areas: case plan requirements, out-of-home placement directives, guidelines for voluntary placements, and timelines for court reviews and hearings. These measures serve to protect the rights of parents involved in the system by providing oversight and regulation to child welfare. The government's role in prescribing child welfare practice was greatly strengthened through the passage of AACWA.

The AACWA could be expected to decrease terminations of parental rights because it is, in many ways, an attempt to regulate a system that was perceived as treading on the rights of parents. AACWA encourages the system to exercise restraint, preserve and reunify families whenever possible, thus prioritizing reunification as the preferred permanency outcome.

The latest incarnation of government intervention in child welfare practice is the recent passage of the Adoption and Safe Families Act of 1997 (ASFA). (See Table 1 in Appendix for a summary.) With ASFA, the federal government reinforced the importance of family preservation services, while simultaneously emphasizing the preeminence of the health and safety of the child.

Further, the Act acknowledges once again that growing up in foster care is unacceptable. ASFA makes notable policy changes designed to speed the exit of children from the system.

The ASFA directly influenced practice by spelling out cases in which reasonable efforts are *not* required, as well as certain cases in which the state is *mandated* to file a termination of parental rights petition, both of which will accelerate the route to TPR. The ASFA also requires the state to move expediently to finalize permanency by shortening the deadline for permanency planning from 18 to 12 months. With ASFA, states are also allowed to proceed with reasonable efforts while simultaneously developing an alternative permanency plan: "concurrent planning." Thus, under ASFA, with its streamlined pathways and accelerated timelines, we would expect to see a somewhat drastic acceleration in rates of TPR.

With the passage of these five major federal child welfare laws, the government has sent a clear message: we are the architects of child welfare policy, and will continue to dictate specifics of child welfare practice. This is a much different, evolved role in shaping practice than had existed 150 years earlier.

VIII. Persistent Policy Issues

Throughout the passage of the series of federal child welfare interventions discussed above exist some persistent policy issues, including: the paradox of foster care and permanency planning efforts, the seemingly contradictory goals of child welfare policy, and the swaying of a familiar pendulum as the rights of parents, children, and the state are re-calibrated.

Arguably, the main focus of child welfare practice since the passage of the AACWA has "permanency planning" -- finding permanent homes for children in the child welfare system -- whether through a termination of parental rights followed by adoption, or reunification with the

biological family. While reunification with the child's biological family is the preferred outcome because it is presumed, when feasible, to produce better outcomes for children, termination and adoption has become the preferred method of achieving permanency (Beyer & Mlyniec, 1986; Garrison, 1983).

Rosenfeld et al. (1994) have observed that in the wake of the permanency planning movement, many children have ended up permanently out of their biological families, despite the implied focus of the movement to return children to their original homes. Guggenheim (1995) also notes this undeniable paradox in child welfare policy. Changes in child welfare laws in the last 15 years have caused an unprecedented boom in the foster care population, a rise in the number of terminations of parental rights and in the number of "legal orphans" (i.e. wards of the state whose parental rights have been terminated and who are awaiting adoption).

Once viewed as a panacea for the child welfare system, foster care has fallen into disfavor. Jimenez (1990) has observed that foster care was originally designed as an intervention to "preserve family values," but that this perception has since been lost. Ironically, the passage of the AACWA of 1980 had followed on the heels of criticism of the foster care system and had been designed in its inception to have precisely the opposite effect: to prevent placement, limit placement time, and reunite families whenever possible. In explaining this phenomenon, Guggenheim (1995) suggests that perhaps families have never received the level of prevention, intervention, and reunification services envisioned by the AACWA. It is also possible that economic factors in existence during the 1980s, along with the epidemic of crack cocaine use, have combined to overwhelm the system (Guggenheim, 1995).

Another plausible explanation for this phenonmenon is an unworkable conflict in child welfare policy. As Jimenez (1990) notes, since the Progressive Era, a very troubling tension had

begun to develop, one which would continue to plague child welfare policy into the late 20th century: the privacy rights of families versus the responsibility of the state to intervene. This policy tension is often described anecdotally as a "pendulum" swinging back and forth between "family preservation" and "child saving."

One might also construe it as the periodic waxing and waning of the *parens patriae* doctrine, discussed in detail earlier. The public alternatively wishes to protect children from harm, but remains skeptical of too much state meddling in what is viewed as private family matters. For example, the CAPTA represented a swing toward state intervention, while the AACWA favored family rights (Jimenez, 1990).

All too frequently in child welfare practice, Jimenez (1990) points out, these simultaneous beliefs in child saving and family privacy are contradictory. The policy goals they imply are often mutually exclusive as they apply to child welfare caseloads. Jimenez (1990) maintains that this ongoing tension in child welfare policy has caused confusion and ineffectiveness in child welfare practice, and continues to plague the child welfare system today. Jimenez's (1990) concern that would probably be exacerbated by the passage of the ASFA.

Concern that the needs of children were being compromised by an over-attentiveness to the preservation of biological tie, the "pendulum" has once again swung back. The focus in the post-ASFA era has been on re-emphasizing the ascendancy of the needs of the child, and on expedited permanency for children in the child welfare system. As has been discussed, terminations of parental rights can doubtless be expected to rise in the current climate.

IX. Minnesota Data on Termination of Parental Rights

In this section, Minnesota child welfare data is employed to test hypotheses regarding TPR rates as detailed earlier.

Method

Administrative data[3] from the Minnesota Department of Human Services provides the quantitative basis of this study. The author extracted data from reports and computer printouts, with specific attention to the following:

- the out-of-home placement population[4] each year;
- the number of "new state wards," "children entering guardianship," or "terminations of parental" rights each year (these terms are virtually synonymous for the purposes of this paper)[5];
- the state ward population[6] for each year.

Using the sources of administrative data, rates of terminations of parental rights were calculated using three methods:

1. TPRs as a percentage of children who were in out-of-home placement at any time during the year as defined;

[3] Specifically, for the earlier years of the study (pre-1990), the Minnesota Department of Public Welfare Foster Care Costs Annual Reports, the Calendar Year Annual Reports of Minnesota Children in Substitute and Adoptive Care, the Statewide Data for Children in Out-of-Home Placement, the Substitute Care in Minnesota, and the Children Under State Guardianship as Dependent/Neglected reports were most useful. For the 1990s, the data is computerized, and printouts were used.

[4] Consists of children placed in foster care or residential treatment due to abuse or neglect on the part of their parents.

[5] These three categories all refer to the same group of children: those whose parents' rights were terminated for reasons of abuse/neglect during the current fiscal year.

2. rates of TPRs per 1000 children in who were in out-of-home placement at any time during the year as defined; and
3. rates of TPRs per 1000 children under eighteen in Minnesota during the year as defined.[7]

Data was not collected for all possible years. The Department of Human Services keeps records dating back to the 1940s. For the purposes of this study, data was only tracked for the three years immediately following the effective date of one of the five major pieces of federal legislation identified previously.

Table 1. Relevant Laws and Corresponding Year(s) Surveyed

Relevant Law	Year of Passage	Year Surveyed
CAPTA and Title XX (Social Services Block Grants)	Both in 1974	1974,* 1975, 1976, 1977
ICWA	1978	1979,* 1980, 1981, 1982
AACWA	1980	1983,* 1984, 1985, 1986**
ASFA	1997	1993, 1994, 1995, 1996, 1997 (extended baseline years) 1997,* 1998***

*indicates the date at which relevant portions of the law took effect
**complete data was not available for three key years (1984, 1985, 1986)
***1998 is the last year for which any data are available. Incomplete data exists for this year.

A number of caveats are necessary with regard to this data. First, in using administrative data, there is always the possibility of recording error. However, some evidence indicates that administrative data is as reliable as other sources. In a review of data relating to child protection

[6] Children whose guardianship rests with the state of Minnesota; their parents' rights have been terminated. Children may linger in state ward status for an extended period of time while waiting for adoption.
[7] The total number of children under 18 comes from US Census data. Except for 1980, all numbers are official estimates.

case plans, Ferleger et al. (1988) found that administrative data was as reliable as caseworker reports of case details.

Second, another peculiarity of this type of data is that it is vulnerable to periodic changes in data collection practices. For instance, it is important to note that of the years for which data was collected, from 1974 to 1982, the Department of Human Services kept track of data based on fiscal years beginning July 1. The Department began using calendar year calculations in 1983. For the purposes of this study, the "year surveyed" during the time in which fiscal years were used (1974-1982) means July 1 of the previous year to June 30 of the year surveyed. For example, the year 1980 is operationalized as July 1, 1979-June 30, 1980 (fiscal year 1980). One final result of this change is that in the transition year, a gap occurs between fiscal year 1982, which ends June 30, 1982 and calendar year 1983, which begins January 1, 1983.

In addition, for a few years at the beginning of the years studied, children were legally considered state wards until the age of 21. Since age 18 is now the cutoff, for the sake of consistency, any counts of children (including caseloads, state ward populations, statewide populations, and terminations of parental rights) are for children under the age of 18, whether that was the legal cutoff in a given year or not.

A fourth caveat relates to a degree of measurement error imposed by treating the categories of children under investigation as discrete groups. Between categories (e.g., state wards and children in out-of-home placement), a child may be counted more than once. It would be virtually impossible to break the data down to a level of analysis that would describe precisely the flow of children through the system. In other words, in a given year, a given child's status at the beginning of the year relative to his/her status at the end of the year is unknowable. Figure 1

in the Appendix provides a flow chart of the myriad ways in which a child may travel through the system within a given year.

Findings

The following section will review overall trends in TPR during the years 1974-1997. In addition, it will examine the hypothesized effect of each piece of major federal child welfare legislation on terminations of parental rights

Overall Trends, 1974-1997

Table 2 below reports the three TPR rates discussed in the Method section: TPRs as a percentage of out-of-home placements, TPRs per 1000 out-of-home placements, and TPRs per 1000 Minnesota children. TPRs as a percentage of children in out-of-home placement range from a low of 1.99 percent in 1993 to a high of 3.47 percent in 1984. TPRs per 1000 children in out-of-home placement likewise range from a low of 19.87 in 1993 to a high of 34.72 in 1983. TPRs per 1000 Minnesota children range from a low of 0.2288 in 1975 to a high of 0.5165 in 1997.

Table 2. Rates of TPRs Due to Abuse or Neglect in Minnesota, 1974-1997, Selected Years

Year/Event	TPRs as a Percentage of Children in Out-of-Home Placement	TPRs Per 1000 Children in Out-of-Home Placement	TPRs Per 1000 Children in Minnesota
Effective Date of CAPTA and Title XX			
1974	3.44%	34.44	0.2643
1975	2.73%	27.25	0.2288

1976	3.16%	31.61	0.2761
1977	2.90%	29.02	0.2832
Effective Date of ICWA			
1979	3.13%	31.32	0.3328
1980	3.10%	30.96	0.3542
1981	2.47%	24.65	0.3215
1982	3.09%	30.90	0.3528
Effective Date of AACWA			
1983	3.47%	34.72	0.3630
1993	1.99%	19.87	0.3037
1994	2.10%	20.98	0.3344
1995	3.26%	32.61	0.4875
1996	3.44%	34.44	0.4875
1997	3.51%	35.14	0.5165
Effective Date of ASFA			

Figures 1, 2 and 3 below illustrate graphically the overall slight increase in the rate of TPRs over the period studied. Note that TPRs stayed more constant relative to out-of-home population than to the total population of Minnesota children. Rates of TPR relative to the Minnesota child population rose steadily during the years surveyed, particularly since 1993. Figure 4 shows that the statewide out-of-home placement caseload likewise rose during these years. Rates of TPR were not constant from year to year by any of these measures, and the next subsections will examine these trends as they relate to major child welfare legislation.

Figure 1.

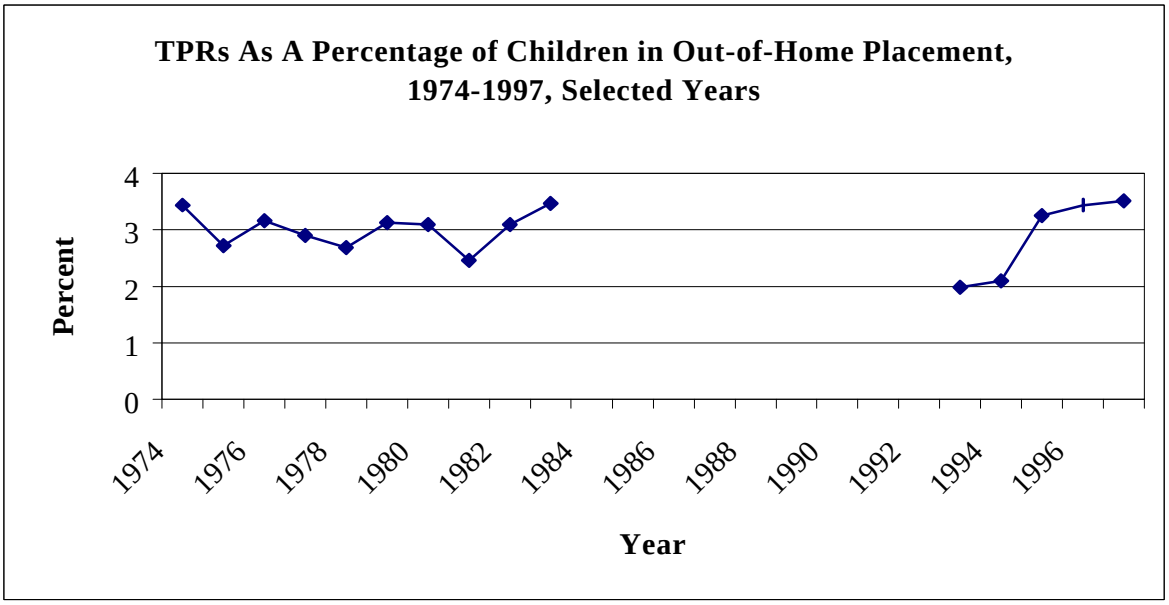


Figure 2.

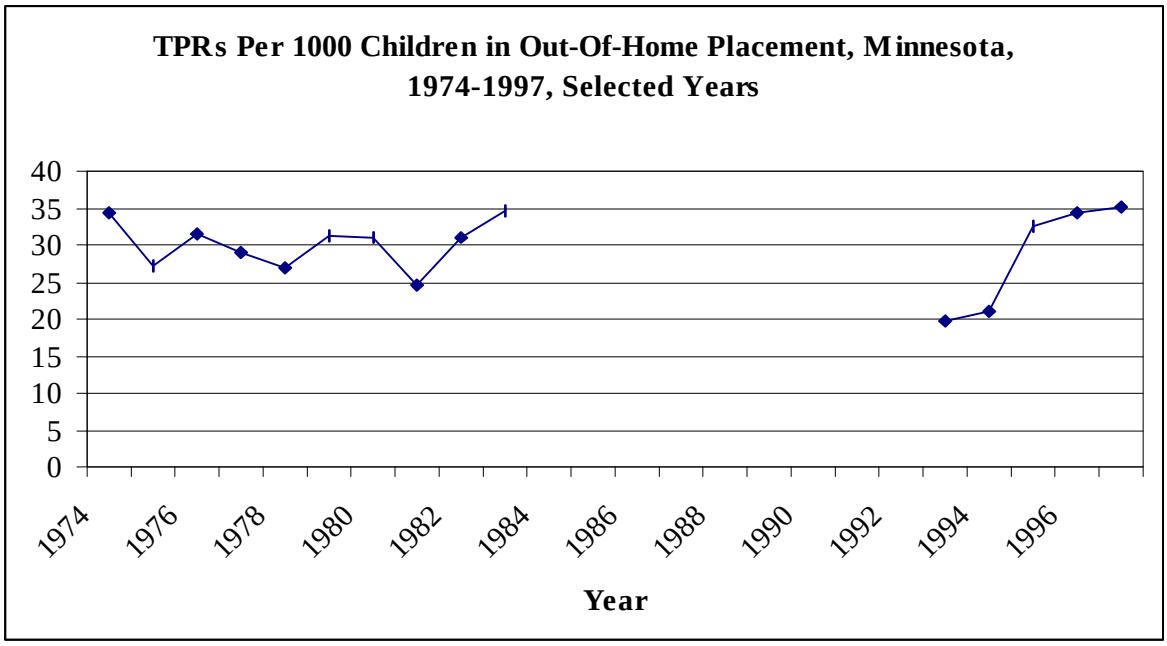


Figure 3.

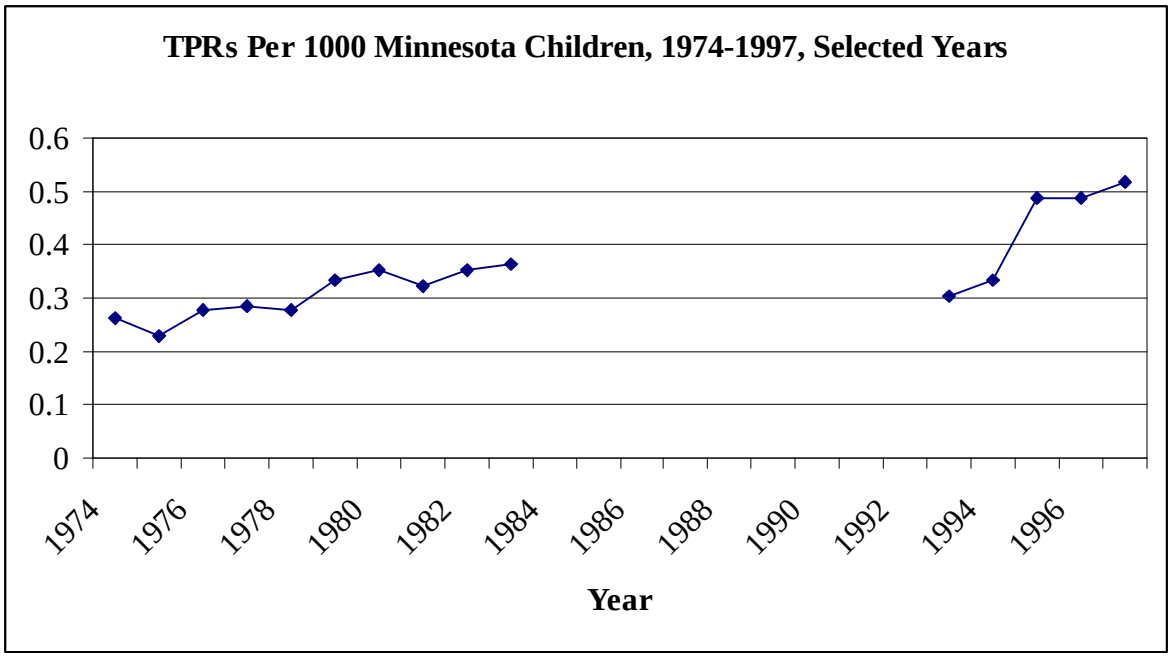
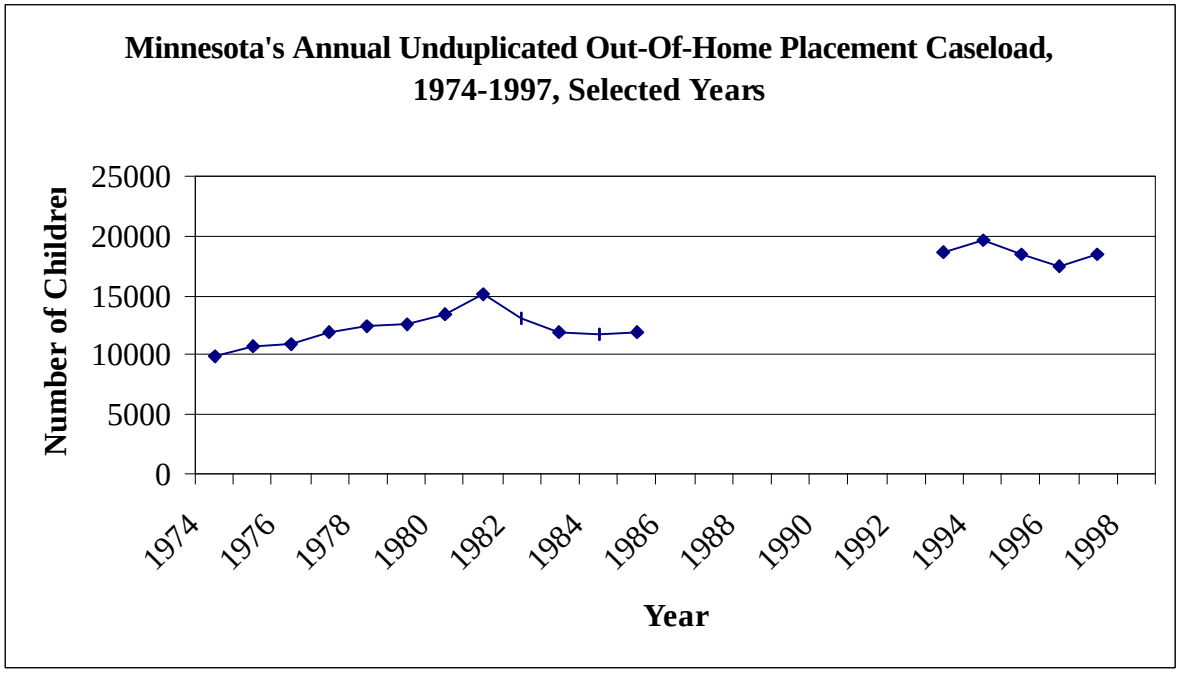
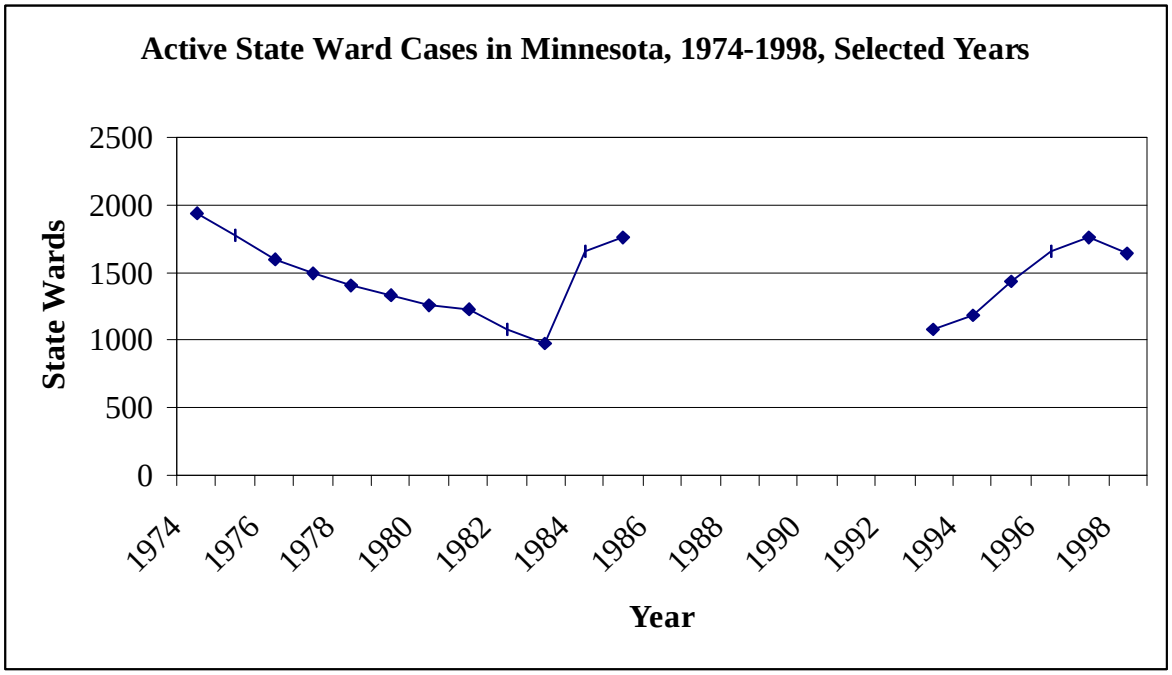

TPRs Per 1000 Minnesota Children, 1974-1997, Selected Years
0.6
0.5
0.4
0.3
0.2
0.1
0
1974
1976
1978
1980
1982
1984
1986
1988
1990
1992
1994
1996
Year

Figure 4.


Minnesota's Annual Unduplicated Out-Of-Home Placement Caseload,
1974-1997, Selected Years
Number of Children
25000
20000
15000
10000
5000
0
1974
1976
1978
1980
1982
1984
1986
1988
1990
1992
1994
1996
1998
Year

During the same time period, the state ward population initially declined, then rose again. Figure 5 below illustrates this decrease through the 1970s and early 1980s. In 1984, the state ward population began to increase dramatically. After a low in 1993, the population is once again on the rise.

Figure 5.



1974 Legislation: CAPTA and Title XX

CAPTA was hypothesized to have the effect of increasing terminations of parental rights, while Title XX was predicted to somewhat decrease the rate of terminations. In combination, it was expected that the overall effect of these two pieces of legislation would be to increase terminations on the whole. Data for the years 1974-1977 provide the basis for examining the effect of CAPTA and SSBG on TPRs in Minnesota. In revisiting Table 2 and Figures 1-3, we can see the results are equivocal. Relative to out-of-home placement, TPRs actually decrease over

the time period 1974-1977. In considering TPRs per 1000 Minnesota children, the exact opposite is true. In sum, no clear trend validates the hypothesis that the 1974 legislation increased TPRs.

Indian Child Welfare Act (ICWA) of 1978

The ICWA was hypothesized to have a slightly decreasing effect on terminations of parental rights. The ICWA was passed in 1978, and was officially in effect in 1979, so the years 1979 to 1982 provide insight into the effect of the ICWA on TPR's. By all three measures, rates of TPR were nearly constant over this time period, with a slight dip in 1981. Thus, the data do not bear out the prediction that ICWA would decrease TPRs.

Adoption Assistance and Child Welfare Act (AACWA) of 1980

The AACWA was predicted to decrease the number of terminations of parental rights. Effective in 1983, the years 1983-1986 were slated to provide data to test this hypothesis. However, unfortunately, full data were unavailable for 1984, 1985, and 1986. Using the sole representative, 1983, as an indicator is not ideal but will have to suffice. Since the rates of TPR increased in 1983 relative to previous years, it can be tentatively stated that the AACWA appears to have the opposite of the hypothesized effect on TPR rates.

Adoption and Safe Families Act (ASFA) of 1997

The ASFA, effective in 1998, is predicted to increase rates of terminations of parental rights. Since ASFA is a very recent development in child welfare policy, little or no data exist to evaluate its effects at this time. Instead, the trend in terminations of parental rights from 1993-

1997 establishes a baseline from which the effect of ASFA may be calculated in later years. Rates of TPR increased dramatically between 1993 and 1997 by all three measures.

X. Conclusions and Policy Implications

Several conclusions may be drawn from the data analyzed above. First, relative to the out-of-home placement population, TPRs due to abuse and neglect have remained relatively constant over the period 1974-1997. Second, TPRs increased overall relative to the total number of children in Minnesota during the same time period. These two statistics are not contradictory, but merely indicate the fact that the out-of-home placement population grew relative to the total child population. Thus, TPRs, as a relatively constant portion of the growing out-of-home placement population, increased in comparison to the total child population in Minnesota. Third, both TPR rates and the state ward population have seen a dramatic increase since 1993.

Finally, none of the specific hypotheses regarding the effect of the various pieces of major child welfare legislation on TPR rates was borne out. However, TPRs have increased in absolute terms over the years surveyed, so there does seem to be some effect over time. Perhaps it can be said that the laws in question affected out-of-home placement caseloads, rather than TPRs per se, and that, consequently, TPRs as a relatively constant proportion of out-of-home placement caseloads thus increased in number.

Another plausible explanation is that rates of TPR may respond to a variety of factors in addition to changes in policy:

- variations in funding streams for social services and courts;
- periodic fluctuations in the economy;

- differential rates of abuse and neglect reporting;
- social phenomena like the 1980s crack epidemic;
- social worker caseload size and composition;
- poverty rates;
- the age and sex of the child;
- the race of the family members;
- the parent's addictions; disabilities, or mental illness; and
- domestic abuse in the family

All of these issues are all possible correlates of TPR which have gone unexplored here. A more sophisticated multivariate analysis could account for these variables.

Important policy implications follow from these conclusions. First, if TPR rates fall outside the ranges established here, there may be reason to examine whether such rates are a desired consequence of current policy. Rates that fall outside these ranges indicate a departure from what society has tacitly deemed an "acceptable" rate of TPRs, during selected years from 1974-1997:

- TPRs as a percentage of children in out-of-home placement: 1.99 percent to 3.47 percent;
- TPRs per 1000 children in out-of-home placement: 19.87 to 34.72; or
- TPRs per 1000 Minnesota children 0.2288 to 0.5165.

Second, if ASFA has the predicted effect of increasing TPR rates, the coming years may see a further acceleration in the increase in TPR rates and the state ward population that began in 1993. Rising state ward populations may indicate that a state is simply terminating parental rights without ensuring children will be adopted in the aftermath.

Children whose parents' rights have been terminated, and who have not yet been adopted are known as "legal orphans" because the court, rather than Mother Nature, has made them parentless. Guggenheim's (1995) cautions that on a national level, "there is reason to be concerned that, in an increasing number of cases, states are destroying the legal relationship between parents and children for no good purpose and that, as a result, a record number of children have become legal orphans" (p. 121/122). These words of admonition resonate for Minnesota. Legislators, courts and practitioners must work to ensure that parental rights are only terminated when specific and severe harm to the child would otherwise result (Garrison, 1983) and when the child has a realistic chance of being adopted. Otherwise, as Garrison (1983) suggests, TPR amounts to a punishment of parents who do not perform to community standards.

Finally, future research must be done to ascertain the predicted effects of ASFA on rates of TPR. As a means to this end, national child welfare databases ought to include TPRs as a measure. Termination of parental rights, one of the most drastic interventions the government makes in the private lives of citizens, must continue to be monitored as federal and state child welfare policy evolve.

XI. Appendix

Table 1. Summary of Relevant Federal Child Welfare Laws

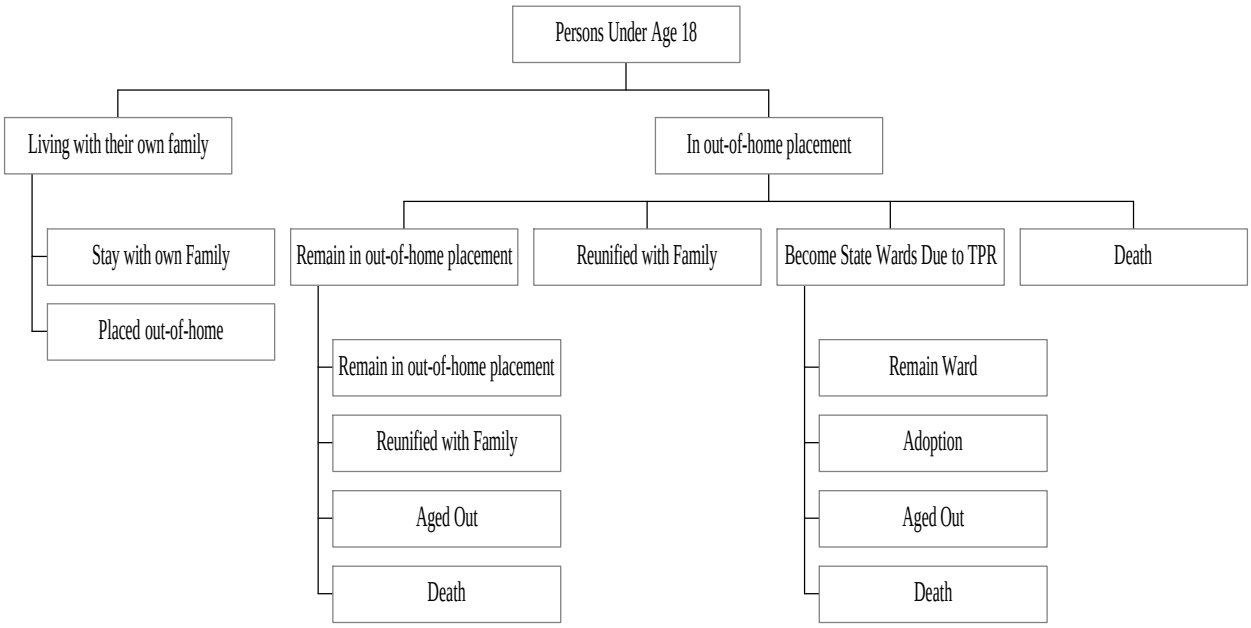
Public Law	Year	Effective Date	Relevant Highlights	Expected Effect on TPRs
Child Abuse Prevention and Treatment Act (CAPTA)	1974	January 31, 1974	• Establishes a National Center on Child Abuse and Neglect, a clearinghouse for research, information, training materials, and technical assistance to anti-child abuse agencies. • Calls for the appointment of an Advisory Board on Child Abuse and Neglect. • Authorizes the federal government to contract and make grants for demonstration projects aimed at the prevention, identification, and treatment of child abuse and neglect. • Requires states to pass child abuse and neglect reporting laws, and requires state investigation and enforcement of such laws in order to receive funding under the Act. • "… increase[s] the level of state funds which would, in the absence of Federal funds, be available for such programs and projects" (Sec 4. (b)(2)(H)) • Appropriates $60 million for the following three fiscal years for these purposes.	Increase
Title XX of the Social Security Act	1974	October 1, 1974	• Authorizes grants to states for the purpose of "preventing or remedying neglect, abuse, or exploitation of children … unable to protect their own interests, or preserving, rehabilitating, or	Decrease by itself, but in combination with CAPTA, *increase*,

			reuniting families" (Sec. 2001 (3)). • Provides a 75/25 percent Federal/State match for the provision of social services to this end. • Allocated $2.5 billion for this purpose, and distributes the money to states based on the ratio of their population to that of the nation as a whole. • Outlines specific services it aims to fund, which clearly fall under the child welfare umbrella: emergency shelter care; protective services for children; services for children in foster care; information, referral, and counseling services; services designed to meet the special needs of children, the mentally retarded, alcoholics and drug addicts; and child care. • Funds were aimed at the needs of low income families and individuals. • Establishes a "Parent Locator Service" designed to aid in the establishment of paternity and the collection of child support (effective July 1, 1975).	overall.
Indian Child Welfare Act of 1978 (ICWA)	1978	May 8, 1979	• Standardizes practices for removing Indian children from their homes. • Establishes a protocol of preferences for their placement, giving priority to family members, Tribe members, and other Indian persons. • Directs agencies to provide "active efforts" at reunification of families embroiled in the system. • Clarifies the jurisdictional rights	Decrease slightly

			of Indian tribes in relation to their children. • Provides grants for on- and off-reservation Indian child and family programs.	
Adoption Assistance and Child Welfare Act (AACWA)	1980	Oct. 1, 1980 (funding) Oct. 1, 1983 (deadline for institution of relevant program provisions)	• Sets two major practice directives: 1.) family preservation: preventing the removal of children from their homes through the provision of "reasonable efforts;" 2.) reunification: achieving permanent placements for children through reunifying families after placement whenever possible. • Emphasis on permanency, that no child should grow up in foster care, with a strong preference for the child's biological family as the permanency option. • Outlines complex protocols for reimbursing some foster care and adoption costs. States were required to outline plans for compliance in order to receive key funding. • Sets forth additional practice mandates in a number of different areas: case plan requirements, out-of-home placement directives, guidelines for voluntary placements, and timelines for court reviews and hearings. • Provides protections for parents through regulation of the system.	Decrease
Adoption and Safe Families Act (ASFA)	1997	April 21, 1998	• Along with "best interests," the "health and safety" of the child are now to be paramount	Increase

			considerations for a child in need of protective services, and in determining reasonable efforts. • Reasonable efforts are now not required in certain cases. • When reasonable efforts are not required, the state must move expediently to finalize permanency. • In certain cases, counties are required to file a termination of parental rights within 30 days of out-of-home placement. • Court reviews are required every 90 days following TPR. During these reviews, counties must attest to the efforts they have made toward permanency. • Filing of adoption petitions must now occur within 12 months (rather than 24) after placement in a pre-adoptive home. • The deadline for permanency planning is shortened. • States are allowed to proceed with reasonable efforts while simultaneously developing an alternative permanency plan: "concurrent planning."	

Figure 1. Flow Chart Leading to TPR



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