

EXECUTIVE SUMMARY

This is the final evaluation report of the Surrey Court Project's Facilitated Planning Meeting, which is referred to as the Facilitated Planning Meeting Project (FPMP) throughout this document. The FPMP was a pilot mediation project in the Ministry of Children and Family Development's South Fraser Region to shorten the time frame required to make effective decisions for children in protection cases, and to reduce the proportion of cases which proceed to contested protection hearings. Although the project is still ongoing, its formal duration as a pilot project was from June 2001 through August 2002. The methodologies for this report consisted of analysis of a range of quantitative data extracted from the FPMP database, and a comparison between FPMP cases and a baseline set of protection cases from the same offices, in terms of the time for cases to reach various milestones and a final disposition.

On June 17, 2002, an interim evaluation report presented – among other content – qualitative feedback about the FPMP process based on interviews with a sample of social workers, parents, lawyers, mediators and judges who had been directly involved with FPMP cases. This feedback is for the most part not repeated in the current report.

Project Description

The key elements of the FPMP process during the pilot period were:

- A Court Work Supervisor who identified potential cases, received referrals, attended Orientation Sessions with the social worker, and attended the Planning Meeting.
- FPMP Administrative Coordinator, who assigned a mediator to the case and scheduled all meetings
- Orientation Sessions held between the mediator and each party to determine issues, interests and logistics for the Planning Meeting.
- A Planning Meeting facilitated by the mediator, in which all parties meet to attempt to resolve key issues.

Quantitative Findings for all FPMP Cases

Key quantitative findings are as follows:

- 86 cases were referred to the project from four primary MCFD offices in the Surrey Provincial Court region. A fifth office did not fully participate, but did refer a few cases. This represented approximately 28% of removal cases from May 2001 to February 28, 2003. Some offices began referrals in June and others in October of 2001.
- Seven cases were discontinued at the beginning of or during the orientation sessions.
- Of the 79 cases where orientation sessions were completed, 77% (61/79) of cases involved two or three orientation sessions, and 23% (18/79) four or five. The average combined time of the sessions was 4.9 hours.
- 89% (70/79) of cases were completed in one planning meeting. The average number of participants in planning meetings was 5.5, and the average length of meetings was 5.3 hours (including combined times if more than one meeting was held).

- In the 78 cases, 378 issues were dealt with in the planning meeting. Of these, 92% (348) were resolved. This represents a slight increase over the 90% rate reported for the first 42 cases in June 2002. Issues concerned access, behaviour and parenting, communication, residence, services/resources and return of the child. The highest resolution rate (97%) was for issues concerning services and resources; the lowest resolution rate (83%) concerned behaviour and parenting issues.
- Overall, 83% of cases (65/78) had all issues resolved; 12% (9/78) had some issues resolved; only 5% (4/78) had no issues resolved. This resolution rate is even higher than those reported for the first 42 cases (79% fully resolved).
- 69% (54/78) of cases were completed in less than 40 days from referral. This statistic, in combination with the high degree of resolution of issues identified in the two previous points, is a strong indicator of the success of FPMP to date. However, in the June 2002 interim evaluation, which assessed cases to February 2002, the comparative figure was 77%. It was also pointed out in that report that the elapsed time would likely increase in the future. This was because an essential part of the model is that the Court Work Supervisor participates in both the orientation meeting with the social worker and in the planning meeting. As the overall caseload has increased, it has been more difficult to schedule the necessary meetings expeditiously. Although not a factor in the demonstration period, the loss of a full-time Administrative Coordinator to schedule all meetings could also affect overall elapsed time.
- Although numerous barriers to settlement were identified by mediators, the two most frequently mentioned were a parent's inconsistent or unrealistic expectations of what MCFD could agree to, and parent no-shows at meetings.
- A wide array of services were stipulated in the mediated agreements, sometimes as many as six. The three most common forms of service were some sort of personal counselling or support, counselling on parenting, and alcohol drug counselling, assessment, testing or support groups.

Baseline / FPMP Comparisons

The primary objectives of the baseline / FPMP comparison analysis was to ascertain differences, if any, between the samples in terms of the percentage of overall cases that result in contested protection hearings, and in terms of the length of time from removal to significant events or number of proceedings involved.

Criteria for drawing the baseline sample were created to develop as close a fit with FPMP cases as possible, as follows:

- The CFCSA file was in the court system between July 1, 1999 and September 30, 2000. The FPMP sample was also drawn from a 15 month period.
- The child had been removed and the director was intending to keep the child in custody or under a supervision order for a period.
- The MCFD office was Guildford, Langley or White Rock. The FPMP intake expanded to include two other offices, but cases from these offices were not included in the comparative analysis.
- The parent is contesting an order being sought by the Ministry in regard to the removal. This was the most difficult criterion to determine in baseline cases, and the issues involved are described in the main report.

There were four issues that impacted the number of cases in the analysis and the capacity to provide a final analysis at this point in time:

- "Duplicate" cases.
Some FPMP cases were treated as separate intakes (i.e. two cases) by FPMP, if they were resolved in the mediation but came back to the project. This could happen if an order agreed to in the first mediation was about to expire, but the Ministry wanted to extend it for another six months. If the parents disagreed with certain conditions, it might be referred back to the project. To be comparable to baseline cases which frequently would come back to court, the FPMP cases needed to be combined for purposes of the analysis.
- Acceptance of FPMP cases from more offices than originally planned.
As noted above, cases from other offices were not included in the analysis.
- Acceptance by FPMP of cases which had already been in the court system for many months or years.
To make an equal comparison, these cases were excluded from the analysis, as FPMP could have had no way of impacting the overall duration of the case prior to referral to the project.
- Three baseline and 15 FPMP cases had not reached a final disposition.
Since this circumstance would mean that the FPMP sample did not include its longest running cases, the results of the analysis can only be seen as provisional at this point, and should be seen as understating the average length from removal to final disposition for FPMP cases.

The main findings of the comparative analysis are as follows:

Cases which go to protection hearing.

- Whereas all the baseline cases (47/47) went to a protection hearing, only 14% (5/37) of FPMP cases did so. Instead, in the vast majority of cases where agreements were reached in a planning meeting, the social worker needed only to appear in court for a few minutes on the originally scheduled date, in order to confirm the agreement. This outcome clearly represents a savings in court and social worker time in FPMP cases.

Duration of Cases.

- The average time from removal to a substantive presentation hearing, i.e. one at which a section 35 order is made, is approximately 50% longer for FPMP cases than for baseline cases (48.0 days versus 32.3 days).¹ This is primarily accounted for by the time taken to hold the orientation and planning meetings. Even though this period of time extends this initial phase, two factors deserve emphasis. First, the parents are not left in limbo during this period. They are actively engaged in the orientation meetings with the mediator, and in the planning meetings with all parties. They are thus part of a process that is both providing them with information and moving the case towards a potential resolution. In fact, the vast majority of cases referred to mediation did result in agreement, with the result that a Section 35 order was made by consent. Secondly, in most instances, the ultimate effect of the orientation and planning meetings is to shorten overall case duration, as shown in the points which follow.
- The average time from removal to commencement of protection hearings is also longer for FPMP cases, but only by approximately 9%.

¹ The FPMP was specifically designed to refer cases to mediation early in the court process; cases eligible for referral were intended to be contested matters between removal and the commencement of the substantive protection hearing. This design element was based on an assumption that there was a significant court backlog early in the court process, e.g. that the time between removal and the commencement of the substantive presentation hearing was typically 2 – 3 months duration. In fact, the average duration of 32.3 days for the baseline cases in this study suggests that this assumption was incorrect.

- The average time from removal to temporary order or supervision order is about 25% shorter for FPMP cases than for baseline cases.
- As of March 15, 2003 the average time from removal to final disposition is significantly shorter for FPMP cases than for baseline cases, but the extent of this difference will likely narrow when the remaining 15 cases (50% of the overall comparison sample) are complete.

Number of court proceedings involved

- As with the pattern for overall duration of cases, the average number of court proceedings in FPMP initially exceeds the average in baseline cases, but in the longer term there are fewer proceedings in FPMP cases.

Further analysis of the 22 completed FPMP cases reveals several streamlining effects of the mediation process which contribute to fewer court dates and also fewer demands on social worker time:

- In approximately half the cases a Section 41 order is made in the first proceeding shortly following the planning meeting, or is combined with a Section 35 order in a "stacking" of orders, or the case is simply withdrawn. This is clear evidence of the streamlining effect the mediation has had. This was true even with seven cases that were referred to FPMP after up to two years in the court system (excluded from the time analysis above).
- Almost half the cases ultimately involve only 1 – 3 proceedings after the mediation to bring the case to a final disposition. Frequently only one temporary order or supervision order is required after the planning meeting.
- Approximately a third of cases involved the striking or vacating of trial dates from the court list.

Qualitative Findings

Sections 5 and 6 of this report contain findings from interviews undertaken in May 2002 and reported in the Interim Report of June 17, 2002. The satisfaction data reported below were based on a sample of cases to February 28, 2002.

- combined satisfaction ratings for parents, social workers, lawyers and judges concerning the following issues are indicated on a 7 point scale, where 1= very dissatisfied and 7= very satisfied:
 - speed with which appropriate parties were brought together to address issues: 5.6
 - FPMP's success in reaching appropriate outcomes: 5.9
 - opportunity FPMP affords parties to be heard: 6.2
 - respect shown by the mediator to parties: 6.8
 - ability of FPMP to determine the best interests of the child: 5.8
 - ability of the project to facilitate a family's access to necessary resources: 5.9
 - overall satisfaction with the FPMP: 6.2
- The average parent, social worker and lawyer ratings for all items were 6.2, 6.1 and 6.0 respectively.

Selected observations about the FPMP process made in interviews in May 2002 by the mediators, Court Work Supervisor and Director's Counsel include the following:

- Although there was some evidence that mediators may be able to reduce the length of the planning meeting below the current average of 5.1 hours, it could not come close to the 2 hours originally envisioned in the planning stages. A number of factors which affect length are described in the report.

- Although a more detailed comparative analysis of court versus FPMP time in cases will be presented in the final evaluation report, preliminary indicators are that the FPMP process is superior both in the speed of resolution of cases and in the time expended in meetings (versus court hearing time) for comparable resolution outcomes.
- The orientation sessions are critical to the success of the FPMP, allowing both parties to reframe their issues and arrive at the planning meeting more prepared and less defensive.
- The Court Work Supervisor role was praised by all parties. Several aspects that are central to this role are described in this report, the key one being that it is a collaborative rather than adversarial function.

Future Research

Future research of the facilitated planning meeting process should include analysis of:

- Trial days vacated following completion of planning meetings.
- CCO cases to explore issues addressed in mediation, reasons for discontinuance or non-success, substantive issues addressed in orientation and planning meetings, factors and issues involved if partner(s) are mentally handicapped or emotionally fragile, and the way resources or services differ in CCO cases compared to temporary order cases.
- The use of planning meetings at more than one point in a case history (i.e. where there are issues around subsequent extensions of temporary orders).
- The impact that involvement in planning meetings has on the culture and practice of protection social work, and in regard to CCO cases, adoption social work.

In general, a case study approach would be more appropriate to address the qualitative dimensions implicit in these issues.