Appendix XIV

Recommendations for a Research Design Related to the Early Case Management/Early Neutral Evaluation Initiative: Report to the Statewide Steering Committee

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September 2009

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The author would like to note that any opinions contained in this report represent her opinions and not the opinion of either Metropolitan State University or that of Minnesota State Colleges and Universities (MNSCU).

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***Introduction***

The purpose of this report is to provide recommendations for a research design by which the social piece of the Early Case Management/Early Neutral Evaluation (ECM/ENE) initiatives of the state of Minnesota can be scientifically evaluated. This report will include recommendations for both short and long term evaluations, and is written with the following assumptions and understandings:

1. That the first phase of data collection and analysis will need to be completed for a report due to the State Justice Initiative (SJI) due September 10, 2010, and that a final report to the Minnesota Judicial Council will need to be completed by September 2011.[[1]](#footnote-1)
2. That plans need to be put in place for an evaluation that could be completed should the SJI and the Minnesota Judicial Council allow the ECM/ENE Steering Committee more time to collect and analyze data (a year or more). This long-term effort is seen as a plan that could be ongoing for as long as the Steering Committee chooses to continue evaluation efforts.
3. That much of what is needed in terms of an evaluation plan at this time revolves around the Social Early Evaluation pilot (SENE) rather than the Financial Early Evaluation pilot (FENE). This report will focus on SENE data.[[2]](#footnote-2)
4. That this research design should focus primarily on the following jurisdictions, in chronological order according to when they began SENE efforts: the Fourth Judicial District (Hennepin County), the Third/Fifth Judicial Districts in Southern Minnesota, the Sixth Judicial District (Duluth), and the Tenth Judicial District (Anoka).[[3]](#footnote-3)

The remainder of this report is divided into nine sections. The first section provides background of the ECM/ENE pilots, strictly for the purpose of putting each judicial district’s data collection efforts in context. The second section discusses the SENE data collection efforts of the individual pilot districts/counties to date. Within this second section, the author describes the SENE data elements that are currently being collected in each jurisdiction, as well as additional data that are available if not yet systematically collected. The third section entails the author’s assessment of the relationship between current data collection efforts and their relationship to measurable program objectives. The fourth section provides recommendations for a jurisdiction specific research design methodology for an SENE outcome evaluation, using the quantitative data elements as they currently exist in each judicial district. The fifth section provides recommendations for a statewide SENE outcome evaluation, including what data elements are common to the pilot jurisdictions, and what additional data collection efforts are necessary to effect a state level outcome evaluation. The sixth section discusses the need for an SENE process evaluation, and describes process evaluation data collection efforts already in place in several judicial districts. The seventh section describes what could be done for a statewide process evaluation, and the value of such an evaluation for the long term success of the program. The eighth section provides recommendations for data collection efforts which should be undertaken by new pilot jurisdictions as they begin SENE efforts. Finally, the conclusion summarizes the report recommendations, and includes a timeline to follow.

***Background of Early Case Management/Early Neutral Evaluation Project***

The Early Case Management/Early Neutral Evaluation Initiative was developed by the Fourth Judicial District in 2001-2002. In April 2004, Order ADM-04-8002was issued by the Minnesota Supreme Court authorizing implementation by every judge. After the 2006 Family Law for the Judiciary Conference, the initiative gained momentum. Pilots currently exist in seven of the ten judicial districts throughout the state.

The initiative is embodied in Strategic Goal 2 of the Minnesota Judicial Council, Administering Justice for Effective Results. Priority 2B there under specifies the objective to:

***Promote early resolution of cases involving children and the family, through strategies such as Family Early Case Management and Early Neutral Evaluation.***

The overall program objectives, as stated in the grant application program narrative are:

* Expedite resolution of litigation
* Reduce acrimony among parties
* Reduce costs to family court litigants by peacefully resolving disputes
* Reduce the number of appeals and post judgment motions to modify decrees

The strategy for expanding the ECM/ENE initiative has been to use the Fourth Judicial District (Hennepin County) model, with individual pilots tailoring the model as necessary to reflect local resources, practices, and needs.

It is important to note that the districts that have been involved in the ECM/ENE initiative to date have all been successful, regardless of their methods of implementation. In other words, each district has had to adapt the program to work in their individual jurisdictions. The ECM/ENE Steering Committee encourages pilot tailoring by the individual Steering Committees in each jurisdiction, recognizing that the judicial officers, coordinators, and evaluators who work in different parts of the state know their jurisdictions best with regard to aspects of the program that are and are not feasible. In short, the success rates seen thus far are exceptional regardless of minor programmatic differences, and prove that “one size does not fit all” with regard to this pilot.

While part of the ECM/ENE program is Financial Early Neutral Evaluation, this report specifically focuses on Social Early Neutral Evaluation. Thus, the only jurisdictions discussed in this section and the remainder of the report are those that have implemented SENE. They are reported in this section and in subsequent sections in order by pilot start dates. The limited scope of this report should not be contrived as equivalent to the scope of information subject of final evaluation. Rather, at the time this report was commissioned, the statewide Steering Committee required assistance to formulate an evaluation methodology to apply to the tailored SENE programs. The final report to the Judicial Council and the State Justice Initiative should also evaluate Early Case Management and Financial Early Neutral Evaluation.

**Fourth Judicial District (Hennepin County)**

The Fourth Judicial District (Hennepin County) began SENE efforts in 2002 under the leadership of the Honorable James Swenson, former family court presiding judge and current Chief Judge of the Fourth Judicial District. Judge Swenson and current family court presiding judge, the Honorable Tanja Manrique, guided the Fourth District as they developed the initial model for the state, especially for urban jurisdictions. Hennepin’s settlement rate has been about 72%, with an average disposition time of less than 30 days. Perhaps most remarkable is that with all of Hennepin’s family court judicial officers holding Initial Case Management Conferences and promoting the SENE process, the average time to disposition for dissolution cases is 5 – 7 months, the fastest in the state.

**Third/Fifth Judicial Districts (Southern Minnesota)**

Under the leadership of the Honorable John Rodenberg and the Honorable Robert Benson, the Third and Fifth Districts began their pilot in May 2007. The Third/Fifth coordinator, Monica Suess, along with Judges Rodenberg and Benson, has worked tirelessly to implement the SENE pilot in all 26 counties in Southern Minnesota, an undertaking that was ambitious but appears to have paid off. The Third/Fifth districts are markedly different from the Fourth District, mostly due the fact that they include primarily rural jurisdictions. The Third/Fifth Districts have experienced overwhelming success of the SENE program and may serve as a model for other rural jurisdictions enrolling in the pilot. Their combined 2007/2008 settlement rate was 81%, and at this point in 2009, they have settled 93% of SENE cases.

**Sixth District (Duluth)**

The Duluth pilot launched in January 2008, under the leadership of the Honorable Sally Tarnowski. Duluth has tailored the initiative in unique ways. Two judicial officers (Judge Tarnowski and Judge Shaun Floerke) hold ICMC’s on every dissolution filed. Cases which elect referral to ENE remain on their caseloads; other cases are re-assigned to non-pilot judges. In addition, the pilot judges conduct one another’s assigned ICMC’s when calendaring so requires. Duluth has generated remarkable success. The bar has been particularly instrumental in adopting ECM/ENE as the preferred local practice. With the different approach and early promising results of SENE in Duluth, the Steering Committee has learned that the SENE can be adapted to individual jurisdictions’ needs and have similar successes that transcend jurisdictional differences. From January 2008 through January 2009, Duluth boasted a 44% settlement rate at ICMC and a 77% settlement rate at ENE.

**Tenth District (Anoka)**

The Honorable Sharon Hall led SENE efforts beginning in August 2008. Anoka is the first of the counties in the Tenth District to come on board. However, at the writing of this report, Washington County has just undergone ECM/ENE training and selected November 1, 2009 as its launch date. Anoka is a suburban jurisdiction, and their SENE pilot is gaining speed quickly. Up until just recently, five judges were holding ICMC’s and promoting the SENE process. After six months of pilot data, the bench voted to expand the availability of ECM/ENE to all dissolution cases and all judges. Anoka’s program is experiencing growth and success. To date, Anoka county has experienced a 74% settlement rate. [[4]](#footnote-4)

***Social Early Neutral Evaluation Data Collection Efforts by Jurisdiction***

In this section, the author describes the data that have been collected thus far by the SENE pilot jurisdictions. Also discussed are the data elements available to the individual jurisdictions, even if not yet systematical3ly collected. The recommendations noted are those that will aid in consistency across jurisdictions. While consistency is most useful for a state level analysis, it is also necessary for valid individual jurisdiction analysis, particularly with regard to the dates being collected. To calculate time to case settlement, for example, it is necessary that jurisdictions are using the same start date (court filing date, ICMC date, SENE referral date, SENE date, etc.) and the same end date (SENE settlement date, disposition date, etc.). Otherwise, one jurisdiction’s time to disposition may look markedly different than another’s, simply because of inconsistency of dates used for the calculation.

The following subsections describe data collected by each jurisdiction, and recommendations for improvement.

The Fourth Judicial District (Hennepin County)

The Fourth Judicial District has consistently collected detailed data on both their SENE and FENE cases. For SENE, the following data elements have been entered into a Microsoft Excel spreadsheet since 2003:

|  |
| --- |
| * Representation of parties (pro se or attorney) * Court filing date * District * County * Date ICMC completed * Outcome of ICMC * Referral of case for SENE, referral date, and referring judicial officer * Outcomes of SENE (full, partial, pending or no settlement) * Custody arrangement recommendations (physical and legal) * Type of case (dissolution, custody, parenting time, or paternity) * Number of meetings * ENE evaluator names * Hours spent on case by evaluators * Additional information needed (cd evaluation, interviewing parties or children, etc.) * SENE settlement date |

In addition, the following data elements are already being collected on intake forms, and could easily be entered into additional columns added to an MS Excel spreadsheet:

* Existence of Harassment/Restraining Order and date issued
* Existence of Order for Protection and date issued
* Existence of No Contact Order and date issued
* Involvement of Guardian Ad Litem with the family
* Need for language interpretation in meetings with evaluators

The author recommends that three additional data elements be collected, two of which are easily retrievable from the Minnesota Court Information System (MNCIS):

|  |
| --- |
| * MNCIS case number (from MNCIS) * Custody disposition date |
| * Case final disposition date (from MNCIS) |

***Short-Term Recommendation: Add two fields to MS Excel spreadsheet and begin consistently collecting MNCIS case number, custody disposition date, and case disposition date in Fourth Judicial District spreadsheet.***

The Third/Fifth Districts (Southern Minnesota)

The Third and Fifth Districts have consistently collected data on their SENE cases since mid-2007. The following data elements have been entered into an MS Excel spreadsheet:

* MNCIS case number
* Custody disposition date
* Case final disposition date
* Court filing date
* District
* County
* Date ICMC completed
* Outcome of ICMC
* Referral of case for SENE, referral date, and referring judicial officer
* Outcomes of SENE (full, partial, pending or no settlement)
* Custody arrangement recommendations (physical and legal)
* Type of case (dissolution, custody, parenting time, or paternity)
* Whether divorce papers were served or not
* Whether the case was contested and sent back to court or not
* Primary residence of the children
* Case closed indicator (flag in the data)

The author assumes that disposition date would be equivalent to SENE settlement date, as there is no data field for SENE settlement date.

In addition, the 3rd/5th coordinator indicates that she has data on the representation of the parties (attorney v. pro se) and the date divorce papers were served. However, these fields were not visible in the dataset sent by the coordinator. If data fields for these elements do not currently exist but the data are being collected in some other format, it would be a simple fix to add two columns to the spreadsheet currently being used in these districts.

Finally, the total number of hours spent by each SENE team is critical in each jurisdiction. It does not appear that the 3rd/5th is collecting these data yet, but the author recommends that they add this data field as well.

***Short-Term Recommendation: Add four fields to MS Excel spreadsheet and begin consistently collecting representation of parties, service date, SENE settlement date, and total number of hours spent by team in the Third/Fifth Judicial District spreadsheet.***

Sixth Judicial District (Duluth)

The Sixth Judicial District (Duluth) has consistently collected data since early 2008. The following data elements have been entered into an MS Excel spreadsheet.

* MNCIS case number
* Representation of parties (pro se v. attorney)
* District
* County
* Completion of Initial Case Management Conference (ICMC) and date completed
* Outcome of ICMC
* Referral of case for SENE, referral date, and referring judicial officer
* Outcomes of SENE (full, partial, pending or no settlement)
* Custody arrangement recommendations (physical and legal)
* Case type (dissolution, custody, parenting time, paternity)
* Number of meetings
* SENE settlement date
* Total number of hours for team
* SENE declined

The author recommends that three additional data elements be collected, two of which are easily retrievable from MNCIS.

|  |
| --- |
|  |
| * Court filing date * Custody disposition date * Case disposition date (from MNCIS) |

***Short-Term Recommendation: Add fields to MS Excel spreadsheet and begin consistently collecting court filing date ,custody disposition date, and case disposition date in Sixth Judicial District spreadsheet.***

Tenth Judicial District (Anoka)

Since mid-2008, Anoka has been collecting basic case data in a Microsoft Word table. However, a wealth of data is being collected on the intake forms litigants are asked to complete at the start of the SENE process. The author recommends that these data be combined and entered into an MS Excel spreadsheet for ease of analysis. The following data elements are in the MS Word table:

* MNCIS case number
* District
* County
* Completion of Initial Case Management Conference and date completed
* Outcome of ICMC
* Referral of case for SENE, referral date, and referring judicial officer
* Case type (dissolution, custody, parenting time, paternity)
* Name

There are a few key data elements missing from this table. These missing elements are collected on post-SENE evaluation forms/surveys given to participants, attorneys, and evaluators. It is unclear to the author whether and where these data are being entered at this time. These additional data elements are:

* Representation of parties (pro se or attorney)
* Outcomes of SENE (full, partial, pending or no settlement)
* SENE settlement date
* Number of meetings and hours per case

The following data elements are being collected on intake forms. It is unclear to the author whether and where these data are being entered at this time:

* Existence of Harassment/Restraining Order and date issued
* Existence of Order for Protection and date issued
* Existence of No Contact Order and date issued
* Involvement of Guardian Ad Litem with the family
* Need for language interpretation in meetings with evaluators
* Petitioner and respondent dates of birth
* Date of marriage
* Date of divorce or separation
* Number of children
* Gender and date of birth of each child

***Short-Term Recommendation: Data from intake forms, evaluation forms/surveys, and Microsoft Word document be combined and entered into one spreadsheet for ease and consistency of analysis.***

***Short-Term Recommendation: Court filing date and disposition date be added as additional data elements.***

In addition, the author recommends that the following data elements be added to said spreadsheet:

* Total number of hours for team

***Relationship of Current Data Collection Efforts to Measurable Program Objectives***

As stated in the first section regarding background of the SENE Pilots, the objectives for the program are as follows:

* Expedite resolution of litigation
* Reduce acrimony among parties
* Reduce costs to family court litigants by peacefully resolving disputes
* Reduce the number of appeals and post judgment motions to modify decrees

Expedite Resolution of Litigation

Based on data collection efforts as described in the previous section, it would be relatively simple to determine whether litigation is expedited in SENE cases (see next section on Research Design Methodology). This is assuming, however, that start dates and end dates are collected across jurisdictions. The simplest way to do this may be to use court filing date and disposition date, as both are in MNCIS. In short, even if a jurisdiction has a lapse in their own data collection, the start and end dates will be retrievable from the state’s online comprehensive database of cases.

One recommendation that would ensure that time to resolution of SENE cases could be determined, even just using MNCIS, is to have Minnesota State Court Administration add an activity code which “flags” SENE cases. According to Craig Hagensick of the State Court Administrator’s Office Court Services Division, adding activity codes is a simple change to MNCIS .

***Short-Term Recommendation: Ensure that the same start and end dates for SENE cases are being used across jurisdictions.***

***Long-Term Recommendation: Request an additional activity code be added to MNCIS to flag SENE cases.***

Reduce Acrimony among Parties

This is a qualitative issue which can only be discovered by asking the parties themselves, their attorneys, and the evaluators about their experiences with the process. At this point, the Third/Fifth and Tenth Judicial Districts are all administering surveys to the parties involved in the process. The Fourth Judicial District is just beginning to collect this survey data. The author recommends that the Sixth Judicial District begin to administer surveys to participants as well, and that all new pilot districts begin collecting data as early as possible. More will be discussed about surveys in the subsequent section entitled “Recommendations for Research Design Methodology for Process Evaluation by Jurisdiction.”

***Short-Term Recommendation: Administer surveys to all program participants. Within these surveys, include questions that address acrimony issues.***

Reduce Costs to Family Court Litigants by Peacefully Resolving Disputes

In the data sent to the author, there was little emphasis on cost of cases. That is not to say that cost data are not being collected; it is simply unclear to the author where that data is being kept, if at all. For simplicity sake, fields could easily be added to each jurisdiction’s data spreadsheet in order to track cost per meeting, total cost of SENE, etc. [[5]](#footnote-5)

***Short-Term Recommendation: Add data fields to individual jurisdiction spreadsheets to capture costs of cases. Cost variables should be consistent across jurisdictions so as to compare similar costs for similar case types.***

Reduce the Number of Appeals and Post-judgment Motions to Modify Decrees

It appears that data regarding appeals and post-judgment motions has not been consistently collected by the pilot jurisdictions. However, Craig Hagensick of the State Court Administrator’s Office Court Services Division has indicated that these data are retrievable from MNCIS, as long as the case numbers on the SENE cases are entered accurately. This is another instance where having an SENE “flag” in the case activity code would be helpful, so as to identify SENE cases and their number of appeals, as compared with other dissolution with children cases. The Fourth Judicial District have seen a 28% decrease in appeals since ECM/ENE was implemented.

***Long-Term Recommendation: Plan to include appeal and post-decree motion data in analysis. These data do not necessarily need to be part of individual jurisdiction spreadsheet, as they are easily retrievable from MNCIS.***

***Long-Term Recommendation: Request an additional activity code be added to MNCIS to flag SENE cases.***

***Recommendations for Research Design Methodology for Outcome Evaluation by Jurisdiction***

Descriptive Analysis

All of the data described in the previous section easily lend themselves to descriptive analysis. Each pilot jurisdiction can tell its own story based on the data collected. Some will be able to say how long it takes between service of divorce papers and the scheduling of an ICMC, whereas others may be able to point out the time between SENE referral date and SENE settlement date. Each may be able to assess whether cases where custody is an issue take longer than those only evaluating parenting time. Perhaps more meetings are necessary when other issues (e.g., harassment/restraining orders, Guardian Ad Litems, interpreters) are involved.

Regardless of the variables used, each jurisdiction can perform its own descriptive analysis based on data collected. Data reported should naturally be based on the critical issues specific to each jurisdiction. Judicial officers, coordinators, and evaluators in each jurisdiction, with the help of the Steering Committee when necessary, should be responsible for making these decisions.

***Short-Term Recommendation: Reports based on descriptive analysis of data should be jurisdiction specific and based on decisions made by judicial officers, coordinators, and evaluators in each jurisdiction.***

Evaluation of Program Outcomes: Does SENE “Work” Better than the Alternative?

Besides descriptive analysis, the Steering Committee is aware that the SJI and Minnesota Judicial Council want to know if the SENE pilots are “working” or not to achieve the measurable objectives stated in the grant application program narrative (see page 6). All of those involved in the SENE pilots have sung the program’s praises. Intuitively, the program makes sense. It saves court time which benefits both the litigants and the court itself. Anecdotally, it is a success. Descriptive data collected so far corroborates the idea that the program is a success. However, for the purposes of long-term evaluation, a scientific research methodology which compares data from the initiative to “business as usual” should be implemented.

The “gold standard” of scientific research methodology is experimental design. Experimental designs randomly assign individuals to treatment or control groups, so as to remove any confounding factors that may exist due to self-selection into a treatment condition. In other words, when individuals are allowed to choose to be part of an experimental group and be subjected to a certain treatment condition, those who make the choice may have better outcomes at the end of the experiment due to the qualities that influenced them to choose the treatment condition in the first place. That being said, it is difficult to execute experimental designs in the justice arena, due to issues of ethics and practicality. For the purpose of the voluntary SENE pilot, for example, it would be both unethical and impractical to randomly assign petitioners and respondents to the treatment or control group, either coercing them to engage in the SENE process or denying them the opportunity if they were randomly selected for the control group.

In cases where experimental designs are not feasible, the next best method is what is known as a quasi-experiment***.*** A quasi-experiment, by definition, is an experiment “to a certain degree” (Maxfield & Babbie, 2009, p. 125). In quasi-experiments, researchers use a naturally existing control group with which to compare the outcomes of the treatment group. Researchers engaging in quasi-experimentation then refer to a “comparison group” rather than a “control group” so as not to imply randomization.

Each SENE pilot jurisdiction may need to employ a slightly different comparison group in their quasi-experimental design. In some jurisdictions, it will make more sense to use concurrent data from cases not involved in the SENE project, whereas in others it will make more sense to use data from years just prior to when SENE efforts began.

For each pilot jurisdiction, the author recommends using all the existing data to date, rather than suggesting a “snapshot” of a given month, set of months, or year. The following subsections detail the comparison data that should be used in each individual jurisdiction, as well as statewide. In each case, the author assumes that comparisons will be made regarding time to disposition and settlement rates. In addition, each jurisdiction can decide what they would like to track, so long as the data are available in MNCIS for the comparison group.

***Long-Term Recommendation: Each SENE pilot jurisdiction should employ a quasi-experimental design in order to assess program outcomes.***

Fourth Judicial District (Hennepin)

As has already been discussed, the Fourth Judicial District has been collecting data since 2003. All of their judicial officers have been holding ICMC’s and promoting the SENE process. This precludes the possibility of comparing the data to concurrent comparison data.

There are two options for comparison groups for the Fourth District. The first option is to use all the cases that chose not to be part of the SENE process. In order to do this, a data analyst would simply need to pull all the dissolution with children cases in the Fourth District since 2003, and subtract from this data set all the case numbers that are SENE cases. The remaining cases would be ones that had the option of engaging in the SENE process, but chose not to. Again, this process would be made simpler with the inclusion of an SENE flag in the MNCIS activity code field.

The caveat to keep in mind, however, is that the circumstances which prevented cases from engaging in SENE may also cause worse outcomes for these cases as compared with the SENE cases. A marked difference in length of time to settlement, for example, may be due to the effectiveness of the SENE process, or it may be due to the fact that non-SENE cases are simply more complicated and difficult. The results of this analysis would not provide an explanation of why the outcomes are what they are. In short, while this design makes some methodological sense, the results of such a design must be interpreted with caution and may not be that meaningful in the long run.

The other option would be to compare the SENE in the Fourth Judicial District to dissolution with children cases that occurred before SENE was available. This is less biased and, as a result, more valid in that the comparison group likely has similar cases which would have engaged in SENE had the program been available. To simplify this type of evaluation, researchers could analyze outcomes for dissolution with children cases from the year 2000. Cases that occurred in 2000 are early enough so as not to be influenced by the early development of the SENE pilot.

The only caveat here is that there may have been other differences (unknown to the author) in the way these cases were handled in 2000, and that the maturation of the family court system itself may play a minor role in observed differences. This is less of a concern, however, than the selection bias described above.

If it is unwieldy to collect data on all 2000 cases, it is perfectly acceptable to pull a random sample of these cases as a comparison group. As much as possible, the comparison group demographics would need to be compared with the treatment group demographics, to ensure that the samples are matched appropriately.

Ultimately, considering the volume of cases handled in the Fourth Judicial District, and the fact that the Fourth has already been established as a model for the rest of the state, it may not be cost-effective to pull the volume of comparison data that would be necessary to effect an evaluation of their data. The recommendation below comes with the caveat that such data collection efforts should only be undertaken should the Steering Committee decide it is necessary to complete a full evaluation of the Fourth Judicial District, and should the value of such an evaluation far outweigh the cost and time that would be involved in doing so.

***Long-Term Recommendation: Compare Fourth Judicial District SENE data from 2003 through 2009 with Fourth Judicial District dissolution with children cases from 2000.***

Third/Fifth Judicial Districts (Southern Minnesota)

As with the Fourth, two options exist for a quasi-experimental comparison group. Again, the first option is to compare outcomes with cases that chose not to participate in SENE. As discussed above, the more valid option is to use data from dissolution with children cases that occurred prior to the pilot. This is less problematic in the Third/Fifth Districts, as the pilot began in 2007, thus any data from 2006 or prior can be used. To ensure that the beginning of the SENE pilot did not influence timing statistics for prior cases, the author recommends pulling a random sample of dissolution with children cases that occurred between 2000 and 2005 as the comparison group for the SENE cases in southern Minnesota.

***Long-Term Recommendation: Compare Third/Fifth Judicial District SENE data from 2007 through 2009 with Third/Fifth District dissolution with children cases from 2000 through 2005.***

Sixth Judicial District (Duluth)

In Duluth, a natural comparison group exists in that Judges Tarnowski and Floerke have been the only judges doing ICMC’s and promoting the SENE process as of the current date. This allows for a concurrent comparison group of all cases NOT handled by Judges Tarnowski and Floerke during the same time period as the SENE pilot. The author assumes that it is relatively simple to pull judicial officer data from MNCIS to accomplish this.

***Long-Term Recommendation: Compare Duluth SENE data with dissolution with children cases from the same time period NOT handled by Judges Tarnowski and Floerke.***

Tenth Judicial District (Anoka)

As with Duluth, until very recently all SENE cases in Anoka have been handled by a small group of judges (Judges Hall, Walker-Jasper, Fredrickson, Gibbs, and Sullivan). Again, this programmatic issue lends itself to a quasi-experimental design with a natural comparison group. All dissolution with children cases NOT handled by these five judges can be compared with the SENE cases. It will be important, in this case, to watch start dates closely, as recently the rest of the Anoka family court bench has agreed to begin promoting SENE’s. To keep the treatment and comparison groups from overlapping, it would be best to compare SENE cases up to the current date with the dissolution with children cases handled by other judicial officers through May of 2009.

***Long-Term Recommendation: Compare all Anoka SENE data with dissolution with children cases NOT handled by Judges Hall, Walker-Jasper, Fredrickson, Gibbs, and Sullivan through May 2009.***

***Recommendations for Research Design Methodology for Outcome Evaluation Statewide***

Data Elements

While it may make the most sense to keep the SENE research design jurisdiction specific, there is some possibility that a statewide outcome evaluation could be accomplished as well. In order to do this, attention must be paid to consistency among data elements tracked. To date, the following data elements are currently being captured by ALL SENE pilots:

* District
* County
* Filing date (if not captured by jurisdictions to date, available in MNCIS)
* MNCIS case number (available in MNCIS)
* Referring judicial officer
* Case type (dissolution, custody, parenting time, paternity)
* Date ICMC completed
* Referral of case for SENE, referral date, and referring judicial officer
* Representation of parties (pro se v. attorney)

As discussed in prior sections, the consistent definition of dates is critical to a statewide evaluation. As a start date, it may be simplest to use court filing date. However, SENE referral date is a possibility as well, assuming that all jurisdictions regard the SENE referral date the same way (i.e., the date the judicial officer refers the case, or the date the SENE is scheduled, or the date the SENE actually occurs, etc.). From discussions with members of the Steering Committee, it seems that the most critical piece of data is the time between court filing date and the date of the ICMC. For this reason, it is necessary that court filing date and the dates that the ICMC is held, the date the ICMC is completed, and the date the case is referred to ENE must be entered consistently.

***Short-Term Recommendation: Begin immediately to ensure that court filing date, ICMC date, ICMC completion date, and ENE referral date are being entered consistently across all pilot jurisdictions.***

As with jurisdiction specific descriptive analysis (see page 14), any of the above can be analyzed and reported, depending on the Steering Committee’s needs and interests. However, the only variables that will be able to be assessed in comparison to non-SENE cases are those that exist in MNCIS for dissolution with children cases as a whole.

As an end date, some jurisdictions are tracking disposition date and some are tracking SENE settlement date. Again, consistency is of the utmost importance. Disposition date is available in MNCIS, but may not make as much intuitive sense as SENE completion date. By using SENE completion date, however, the analysis is limited to descriptive analysis rather than comparative. The Steering Committee should decide what is most important on a statewide level, and allow that decision to guide the definitions of the start and end dates for these cases. Once those decisions are made, the Steering Committee should oversee consistent tracking of these data by individual jurisdictions to best accomplish a meaningful statewide evaluation.

***Short-Term Recommendation: The ECM/ENE statewide Steering Committee should decide what date they would like to consider the “start date” and what date they would like to consider the “end date” for SENE cases and instruct all individual jurisdictions to define these dates the same way.***

Data Collection

Over the last several months, as the author of this report spoke with judges, coordinators, and ENE evaluators around the state of Minnesota, it became clear that all are working diligently to keep track of their own data, in addition to the most important work of participating in the SENE project and reducing time, acrimony, and cost for divorcing families. It is not the author’s intention to suggest more work for these SENE collaborators. For that reason, while it may be most efficient to create one new statewide data collection form, the author realizes that this would not be greeted with enthusiasm.

Alternatively, individual jurisdictions should be prepared to add necessary fields to their existing data collection forms, based on the recommendations of this report and the Steering Committee. Once all data are collected, one person could be designated to merge the data into one spreadsheet for analysis. Should funds be available, this is a good project for an intern or temporary employee. The person would need to be trained as to the importance of careful data entry, and the work may be fairly labor intensive.

Individual jurisdictions would be asked to submit their spreadsheets for cases from this point forward to the designated data entry person on a monthly basis. The only other question is what is to be done about missing data from cases that have already been completed. The more data that can be captured the better; however, going back and pulling data from old files may be more work than is reasonable for individual jurisdictions. If that is the case, the Steering Committee should be prepared to be able to report certain data elements on a statewide basis from the start of the program, and certain additional data elements from this point forward.

***Long-Term Recommendation: Individual jurisdictions should send their spreadsheets, including additional data elements as recommended in this report, to a data entry person designated by the Steering Committee on a monthly basis.***

***Long-Term Recommendation: The Steering Committee should decide whether or not to ask individual jurisdictions to go back to old cases and add in the data that has been missing to date, in order to effectively answer questions about all SENE cases from the beginning of the pilot.***

Additional Information to be Tracked

It is clear to all involved with the ECM/ENE initiative that the majority of work involved in these cases happens at the beginning, but that such an investment of time results in ultimate time and cost savings for litigants and the court system, as well as reduced emotional strain for litigants. To effectively measure such benefits, the author recommends that the following data points be tracked statewide:

* Number of trials
* Number of discovery motions
* Number of temporary hearings
* Number of motions for amended findings
* Number of appeals
* Number of ENE cases with post-decree litigation

***Long-Term Recommendation: All jurisdictions should begin collecting data in the above bullet points, and these data should be included in any standardized statewide data collection efforts.***

Quasi-Experiment

Similar to the research designs for the individual pilot jurisdictions, a quasi-experiment is also feasible on a statewide basis. To this end, all dissolution with children cases could be pulled for a given time period, and the MNCIS case numbers for the SENE cases could be subtracted out to leave a comparison group of all non-SENE cases. However, to effectively compare time to resolution, the start date and end dates tracked for the SENE cases must be filing and disposition date, rather than SENE specific dates which will obviously not be available for non-SENE cases.

The other measurable objective that can be assessed statewide is the number of appeals and post-decree motions. As discussed above, this is retrievable from MNCIS for both SENE and traditional dissolution with children cases. In addition, the Steering Committee may wish to compare representation of parties in SENE cases as compared with traditional dissolution cases, and see if attorney representation has more or less of a measurable effect on outcomes in SENE cases.

***Long-Term Recommendation: Conduct a statewide quasi-experimental research design by subtracting SENE cases from all dissolution with children cases entered into MNCIS in the last several years. Compare these cases on time to resolution, appeals and post-decree motions, and any other data elements that can be compared.***

***Long-Term Recommendation: Make this process easier by requesting an SENE “flag” be added to the activity codes in MNCIS.***

The question of sample size is a valid one: how many cases should be included in each jurisdiction to be able to claim scientific validity? Statistical formulas do exist that determine necessary sample size as a function of the precision of the estimates researchers wish to achieve (Wright, 1979, p. 30). This would require knowledge of the standard deviation of the data, expected variance of outcomes, etc., which seems more technically complicated than is necessary for the purposes of the statewide Steering Committee at this time.

What is most important to consider is that in analyzing bivariate data (where one variable is compared with another), it is best to have enough cases so as to avoid table cells with zero cases in them. For example, in a traditional study where demographics are measured, if you only have a small number of cases and wish to look at the effect of a certain demographic characteristic (e.g., race) on a certain outcome (e.g. satisfaction with case outcomes), you may have so few cases that have no people of color who have experienced the outcome you are trying to measure.

The recommendation here, in order to avoid this issue, is to pull a minimum of 20% of total ENE cases in each jurisdiction, and match them with an equivalent number of non-ENE (i.e., comparison group) cases, by jurisdiction. This will provide a sample that is representative of the total population of cases in each jurisdiction; for example, it makes intuitive sense to have more cases from larger jurisdictions and fewer from smaller jurisdictions. In addition, this should not require an inordinate amount of data collection; in Duluth, for example, if there are between 200-300 ENE cases at the time of this report, the sample would be between 40 and 60 cases, and then those would be matched with another 40-60 non-ENE Duluth cases.

Finally, cases pulled should be done so randomly. Someone with access to a statistical program will be able to do this easily. The reason for random sampling is to avoid any bias on the part of those involved in choosing which would be the “best” cases to be evaluated which would threaten the validity of any results from the evaluation.

***Long-Term Recommendation: Randomly sample 20% of ENE cases from each pilot jurisdiction, and match with an equivalent number, also randomly sampled, of non-ENE cases from each jurisdiction.***

***Recommendations for Research Design Methodology for Survey Research by Jurisdiction***

While quantitative data regarding time and settlement rates are important, to qualitatively assess whether SENE is making a difference for families the best method is to survey the participants. Surveys in general are the most common method of data collection (Maxfield & Babbie, 2009), and for good reason. Often the quantitative data tells a small part of the story for evaluation research; grantors and collaborators also want to know how those who the program is designed to help feel about the program and the impact it has made on their lives.

Nearly all of the pilot jurisdictions thus far are using survey research. Each jurisdiction has developed its own surveys. Some have been collecting survey data since the inception of their pilot, whereas others are just beginning to collect survey data now and still others have yet to develop surveys. This is a critical part of data collection for all jurisdictions from this point forward. The Third/Fifth and Tenth Judicial Districts have done an excellent job of administering satisfaction surveys to the petitioner and respondent and their attorney. These surveys are comprehensive and thoroughly address participants’ satisfaction with the process. While there may not exist comparison data (i.e., no satisfaction surveys have been given to parties engaging in traditional divorce proceedings), the descriptive data they provide is invaluable. The Fourth Judicial District is just beginning to collect survey data at this time. The author has seen drafts of the surveys, and they also comprehensively address participant satisfaction. To the author’s knowledge, the Sixth Judicial District has yet to develop participant surveys, but may be planning to do so.

***Short-Term Recommendation: All SENE pilots should continue or begin to survey petitioners, respondents, attorneys and evaluators regarding their opinions about the SENE process.***

At this point in time, the author’s understanding is that data from these surveys is being manually entered in each jurisdiction. To simplify this process, jurisdictions could use a scannable survey form whereby the surveys are scanned into software which loads the data directly into a spreadsheet format for analysis. The benefit of the scannable form is that this would still enable data to be collected via hard copy, either just after the SENE is completed, or to be taken home and mailed back to the court. The disadvantage, however, is that this method may be costly. The scanner and software would need to be purchased, and postage paid envelopes would have to be provided to SENE participants.

A cheaper and perhaps more efficient option is to use survey software to distribute surveys online. There are products such as “survey monkey” which would allow a designated survey administrator in each jurisdiction to send a link via e-mail to all program participants. Participants would then simply click on the link and answer survey questions. The advantage of this option is that it is both efficient and cost effective. The disadvantage is that it assumes that all participants have internet connections and e-mail access, which may not be true in all jurisdictions.

***Long-Term Recommendation: Use an online survey tool to collect survey data statewide.***

***Short and Long-Term Recommendation: Analyze and report all survey results as part of the short and long term research evaluation efforts.***

***Recommendations for Research Design Methodology for Statewide Process Evaluation***

In evaluation research, outcomes are important, but often overlooked and perhaps equally important is process. A process evaluation “seeks to determine whether a public program was implemented as intended” (Maxfield & Babbie, 2009, p. 317). Especially for a program like SENE which is bound to have jurisdictional differences based on geographic area (rural v. urban), number of judicial officers involved, and resources available, it is important to clearly establish process priorities and evaluate on a regular basis whether or not program protocol is being followed. When new pilot jurisdictions begin, they go through extensive training led by members of the Steering Committee. However, over time, strict adherence to program protocol may loosen, some for valid jurisdictional reasons, but others for less valid reasons.

For example, some jurisdictions use a mental health professional and an attorney as evaluators, both having had a number of years experience with dissolutions and custody evaluations, while other jurisdictions use two mental health professionals. Pilots have made and should continue to make decisions regarding the actual implementation model based on available resources. However, it may be important to note the similarities and differences between jurisdictions.

Analysis of the process, then, may be important. The author recommends a form of “field observation,” whereby a designated team of individuals visits each pilot jurisdiction to observe an actual SENE and speak with program staff. Ideally, this team would be equipped with a quantitative checklist with which to code program elements. Their purpose would be to identify jurisdictional differences, assess what, if any, adjustments can be made to standardize the process, and determine recommendations for ongoing training.

***Long-Term Recommendation: Implement a process evaluation that may include field observation. If resources are not available for direct field observation, this could be accomplished with phone calls and e-mails to key people in each jurisdiction.***

***Recommendations for Evaluation Efforts for New Pilot Jurisdictions***

As new pilots begin conducting SENE’s, it is critical that data collection be part of the process. Should there be questions about what data elements to collect and how to collect them, this report should serve as a guide (see pages 14-20). Someone from State Court Administration or the Steering Committee may be able to help new jurisdictions create a spreadsheet, surveys, etc. It is vital that complete and accurate information be collected from the beginning in every new pilot jurisdiction.

If more time and resources are available, the author recommends creating a website whereby all new jurisdictions can enter data directly into a secure database with consistent elements across the state. Over time, this may replace the individual spreadsheets created by each jurisdiction.

***Short-Term Recommendation: New pilot jurisdictions should begin collecting outcome and survey data from the first day that SENE’s are conducted. Data elements should be consistent with the recommendations in this report and as agreed to by the Steering Committee.***

***Long-Term Recommendation: If an activity code for SENE is added to MNCIS, new pilot jurisdictions should be instructed to enter this code as cases are entered into MNCIS. This may require some training of those who are charged with MNCIS data entry.***

***Long-Term Recommendation: Create a website with a secure database into which all new jurisdictions can enter their data.***

***Summary of Report Recommendations***

The following recommendations are determined based on the needs of the Statewide Steering Committee as of the time that this report was written. They are subject to change as the ENE program continues to evolve over time.

Short –Term Recommendations Summarized

* ***Add necessary fields to individual jurisdiction spreadsheets, as detailed in report.***
* ***Create statewide data spreadsheet, and begin to have each pilot jurisdiction enter their data into this spreadsheet.***
* ***Ensure that the same start and end dates for SENE cases are being used across jurisdictions.***
* ***Add data fields to capture costs of cases. Cost variables should be consistent across jurisdictions so as to compare similar costs for similar case types.***
* ***Reports based on descriptive analysis of data should be jurisdiction specific and based on decisions made by judicial officers, coordinators, and evaluators in each jurisdiction.***
* ***Begin immediately to ensure that court filing date, ICMC date, ICMC completion date, and ENE referral date are being entered consistently across all pilot jurisdictions.***
* ***The ECM/ENE statewide Steering Committee should decide what date they would like to consider the “start date” and what date they would like to consider the “end date” for SENE cases and instruct all individual jurisdictions to define these dates the same way.***
* ***All SENE pilots should continue or begin to survey petitioners, respondents, attorneys and evaluators regarding their opinions about the SENE process.***
* ***New pilot jurisdictions should begin collecting outcome and survey data from the first day that SENEs are conducted. Data elements should be consistent with the recommendations in this report and as agreed to by the Steering Committee.***

Long-Term Recommendations Summarized

* ***Request an additional activity code be added to MNCIS to flag SENE cases. Train court personnel as appropriate to enter this code.***
* ***Plan to include appeal and post-decree motion data in analysis. These data do not necessarily need to be part of individual jurisdiction spreadsheet, as they are easily retrievable from MNCIS.***
* ***Each SENE pilot jurisdiction should employ a quasi-experimental design in order to assess program outcomes.***
* ***Individual jurisdictions should send their spreadsheets, including additional data elements as recommended in this report, to a data entry person designated by the Steering Committee on a monthly basis.***
* ***As much as possible, data collection efforts should be standardized across jurisdictions.***
* ***Conduct a statewide quasi-experimental research design by subtracting SENE cases from all dissolution with children cases entered into MNCIS in the last several years. Compare these cases on time to resolution, appeals and post-decree motions, and any other data elements that can be compared.***
* ***Randomly sample 20% of ENE cases from each pilot jurisdiction, and match with an equivalent number, also randomly sampled, of non-ENE cases from each jurisdiction for said evaluation.***
* ***Use an online survey tool to consistently collect survey data statewide.***
* ***Analyze and report all survey results as part of the short and long term research evaluation efforts.***
* ***Implement a process evaluation that may include field observation. If resources are not available for direct field observation, this could be accomplished with phone calls and e-mails to key people in each jurisdiction.***
* ***Create a website with a secure database into which all new jurisdictions can enter their data.***

**References**

Maxfield, M.G. & Babbie, E. (2009). *Basics of research methods for criminal justice and criminology* (2nd edition). Belmont, CA: Wadsworth.

Wright, S.R. (1979). *Quantitative methods and statistics: A guide to social research*. Beverly Hills, CA: Sage Publications.

1. However, the Statewide Steering Committee anticipates that many of the recommendations in this report will be implemented beginning in September 2009. [↑](#footnote-ref-1)
2. At the time this report was commissioned in early 2009, most pilots were engaged in the Social ENE process, but few were participating in the Financial ENE initiative. [↑](#footnote-ref-2)
3. As this report was being written, new pilots in the 2nd Judicial District (Ramsey County), 10th Judicial District (Washington County) and the 9th Judicial District (Itasca County) were coming on board, and other jurisdictions continue to develop pilots. For the purpose of this report, however, the author focused on only those jurisdictions that had been up and running long enough to have collected a significant amount of data. [↑](#footnote-ref-3)
4. As the ECM/ENE initiative grows, additional districts/counties continued to launch their pilots during the writing of this report. The Second District (Ramsey County), Itasca County (in the 9th district), and Washington County (in the 10th district) are currently beginning their SENE pilots. [↑](#footnote-ref-4)
5. Each pilot jurisdiction has a well-defined fee structure, most of which are based on a sliding scale to maintain affordability for litigants with lower household incomes. Specific fee structure information is available from the individual jurisdictions upon request. [↑](#footnote-ref-5)