Barriers to permanency planning

What the literature suggests

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Early studies concerned with permanency planning identified that many children remained in care for prolonged periods of time, in the absence of clearly defined plans for their long-term future. The studies also highlighted concern that multiple placements have a deleterious impact on children. As a consequence, permanency planning frameworks were developed to address the problems of welfare drift, the essence of permanency planning being timely decision-making and concurrent planning. However, there appear to be some systemic issues impacting on the application of the permanency planning framework. There also remains a policy preference for family preservation, which adversely affects permanency planning. The need is to conceptualise permanency planning as existing along a continuum of planning options for children, co-existing with family preservation models.

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Legislation, policy and practice in the child welfare field emphasise intervention as an option of last resort. Where state intervention does occur, there is a dual mandate to protect children and strengthen families (Health & Community Services 1994). In this context, there remains significant reluctance to place children out of parental care for even short periods, let alone on a permanent basis. Placement of a child out of parental care has been said to represent a form of psychosocial bankruptcy for any family (Steinhauer 1991).

In the child welfare field, the question of whether to remove a child from parental care poses a choice between the lesser of two risks. There is no guarantee that the alternative to parental care will offer either a higher standard of care, or that it will aid optimal development. The removal of a child from parental care, however necessary such removal may be for the safety of the child, represents disruption to original permanence (Freundlich & Wright 2003). In making the decision to seek placement, there must be consideration of the dimensions not only of safety, but also of child well-being and permanence (Barbell & Freundlich 2001).

Decisions about the permanent placement of a child go to the heart of concerns about civil liberties, given the consequences of such placement for parental rights. The preferred option for permanence is always within the child's family of origin (Health & Community Services 1994; Freundlich & Wright 2003). This stance has led to the domination of family preservation as the policy of preference. However, it needs to be recognised that, in some instances, the prognosis for parental change is poor from the outset of intervention, although discussion of such families tends to be avoided (Jones 1987). Some families are untreatable regardless of the level of assistance offered. In these instances the child requires a permanent and sustainable substitute family.

Child welfare in Australia has a long-standing tradition of permanent removal of children from parental care although this has not occurred in a context of permanency planning. The tradition of child welfare activity, until relatively recent times, has been to institutionalise children. Parental contact, let alone reunification, has not been encouraged. Likewise, there has been a disastrous history of permanent removal of Indigenous children.

This discussion is concerned with permanency planning as a framework which is able to enhance long-term outcomes for children needing statutory intervention to ensure their safety. The central position adopted is that all activities of statutory intervention into family life should be primarily concerned with the achievement of sustainable outcomes for children and permanent membership of a nurturing family.

THE IMPETUS FOR PERMANENCY PLANNING FRAMEWORKS

A landmark study in the United States in the 1950s highlighted the needs of children for permanence (Maas & Engler 1959). That study examined the circumstances of children in state care across nine counties. The children studied were identified as being deprived of parental figures and, as a consequence, facing difficulties in forming the

positive links needed to develop human relationships. Multiple placements, rather than the length of time in care, were identified as having significant influence on the development of emotional disturbance.

In a follow up study (Maas 1969), a primary uncertainty for children was identified as relating to their length of stay in foster care in the absence of clearly defined long-term plans. This study did not find that foster care was used only as a temporary option. The study found that, of the children considered, 52% remained in foster care for more than six years and 31% for more than ten years. It is significant that these findings have continued to be replicated. There continues to be concern about whether foster care should only be perceived as a short-term option, given that in many instances there are prolonged stays in foster care. There is also concern that multiple placements, and children remaining in limbo, may be more deleterious to children's well-being than their original circumstances (Fernandez 1996; Barbell & Freundlich 2001).

Another study, undertaken in a foster care agency in Chicago, developed a technique of casework to prevent long-term placement and to secure permanent arrangements for children (Epstein & Heymann 1967). This study conceptualised foster care as an abnormal social relationship, being unable to offer children an experience of family life based on permanent mutual commitment between parent and child (Epstein & Heymann 1967). An important shift in practice emerging from this study was the need to think about long-term alternatives from the outset of intervention. The critical component of this approach is the need to ensure that parents are aware of the alternatives to reunification from the commencement of intervention. Parents need to understand from the beginning that failed reunification attempts may result in permanent placement of the child out of parental care.

These early studies highlight the core issues of permanency planning. These are about the avoidance of welfare drift, the

preference for a family environment, and the need to focus on the child's developmental timeframes (Maluccio, Fein & Olmstead 1986). Conceptually, permanency planning reinforces the significance of the child's biological parents and the importance of permanent relationships.

UNDERSTANDING PERMANENCY PLANNING

The momentum for permanency planning did not significantly gather until the 1980s, and then primarily in the United States (Barbell & Freundlich 2001). Despite gathering momentum, permanency planning has never been able to capture attention in the same way as family preservation (Pelton 1991). It is significant that in Victoria the legislation offers a mechanism for securing Permanent Care Orders (*Children & Young Persons Act 1989* section 112), but provides no legislative framework for permanency planning.

The primary focus of permanency planning is to prevent welfare drift (Maluccio, Fein & Olmstead 1986). The underlying principle is that every child has a fundamental right to a stable, permanent home (Pelton 1991). Permanency planning recognises that, although foster care was developed to overcome the shortcomings of institutional care, it gave rise to subtle abuses in the form of multiple placements, denying the child a sense of belonging to a family of their own (Fein & Maluccio 1984).

There is no guarantee that the alternative to parental care will offer either a higher standard of care, or that it will aid optimal development.

The question of multiple placements is significant (Cashmore, Dolby & Brennan 1994; Fernandez 1996). Children have firstly experienced trauma from the original abuse, and secondly from separation from their biological family. This trauma is compounded if the child is subsequently denied the opportunity to form lasting relationships with significant others and denied a permanent home.

The intent of permanency planning in preventing welfare drift means that the essence of permanency planning must be timely decision-making (Maluccio, Fein & Olmstead 1986). More specifically, there is a need for concurrent planning (Maluccio, Fein & Olmstead 1986) which is a process of working towards reunification while at the same time developing an alternative placement plan, in the event that reunification cannot occur or fails (Katz 1999). Concurrent

planning also means that the substitute caregivers have the capacity to actively work with parents and to prepare the child for reunification, but they have also already been identified as permanent caregivers in the event that reunification proves not to be feasible (Katz 1999).

The intent of concurrent planning is to minimise placement changes for the child. It enables the incorporation of family preservation into the framework for planning and is family preservation focussed in the initial stages. It also promotes timely decision-making where reunification proves unachievable. Practice methods central to concurrent planning are early case planning and intensive casework with parents (Katz 1999). From the outset, biological parents are aware of the parameters of the change required of them and the consequences of non-achievement of these changes.

It is important to emphasise that the decision to seek permanent placement does not necessarily signify the severance of parental contact. The importance of parental contact has been recognised since the earliest days of the permanency planning movement (Maas & Engler 1959; Colon 1978). In any discussion about permanency planning it is important to emphasise the primacy of the child's experience with their biological family in establishing, and maintaining, the child's sense of worth and personal significance (Colon 1978; Barbell & Freundlich 2001). It must always be understood that the child has an inherent relationship with their biological family, as well as a fundamental right to always know their biological family.

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Permanency planning entails conceptualising outcomes for children as existing on a continuum, encompassing consideration of the needs and rights of biological parents, as well as consideration of how to achieve lasting outcomes for children whose biological family cannot offer these. Permanency planning is not a placement event. It is a process that emphasises children's developmental needs and their needs for security (Freundlich & Wright 2003). Central to this concept is the child's sense of time. For younger children, there is greater urgency about the achievement of permanent outcomes, their developmental timeframes being significantly different to those of adults.

The central issue here is the need to make decisions, as failure to do so can perpetuate welfare drift (Scott 2001). In

this context, decision-making tends to challenge many aspects of child welfare practice, particularly areas concerned with parental rights and parental capacity to change. In some instances it will be the case that the child will never thrive in parental care, it being futile to persist with attempts at reunification in a family that will never be able to offer nurture (Jones 1987). Focus on family preservation has had the impact of shifting the focus away from the needs of the child and towards the needs of the family, the challenge being to distinguish between those parents able to achieve improved parenting and those who cannot (Jellinek, Little, Benedict, Murphy, Pagano, Poitrast & Quinn 1995).

Any consideration of permanent separation of children from the biological family must, in the first instance, question the level of support offered to the biological family (Maas & Engler 1959; Maluccio, Fein & Olmstead 1986; Katz 1990). In early phases, there was consensus among supporters of permanency planning that a two year time frame would be an appropriate period over which to support a family before efforts towards reunification could, or should, cease (Maluccio, Fein, Hamilton, Klier & Ward 1980; Child Welfare & Legislation Review Committee 1984; Maluccio, Fein & Olmstead 1986).

There are issues that complicate this picture. This is particularly the case with children aged less than five years, where two years constitutes a very significant proportion of their lives (Scott 2001). The needs of very young children have gained attention in the United States where it is required that permanent outcomes be achieved within 12 months of placement, this being enshrined in Federal legislation (Barbell & Freundlich 2001).

Permanency planning frameworks are best understood in the context of family preservation and placement prevention approaches, with each being conceptualised as points on the same planning continuum. A continuum perspective conceptualises the need to strengthen and preserve families wherever possible, reflecting the premise that the best protection and permanence for any child is within their biological family. A continuum perspective also promotes timely decision-making, reflecting an understanding that children cannot wait indefinitely for their permanent futures to be resolved.

THE SITUATION IN VICTORIA

In Victoria, there are practice guidelines to facilitate permanency planning (Health & Community Services 1994). However these appear to be overshadowed by family preservation approaches, and an absence of broad and coherent permanency planning frameworks. Legislative and practice reviews have identified concerns for children in long term care who lack definitive plans for their future (Child Welfare & Legislation Review Committee 1984;

Auditor-General 1996). Legislative review acted on these concerns by introducing Permanent Care Orders (*Children & Young Persons Act 1989* section 112) as one means of addressing these concerns. These review processes have not otherwise furthered the cause of comprehensive permanency planning frameworks.

In the absence of legislative options in Victoria, along with the absence of permanency planning frameworks, early efforts to address welfare drift emerged via case planning processes. These efforts empowered the case planning process to administratively declare a long-term foster placement of more than two years duration to be a permanent arrangement (Community Services Victoria 1985).

There remained no legislative options to legally secure these arrangements until the proclamation of the *Children and Young Persons Act 1989*. The legislation, however, offers only a procedural framework (*Children & Young Persons Act 1989* section 112), the requirement being that children must have been out of parental care for two years, or two out of the past three years, as the primary grounds for seeking a Permanent Care Order. Perhaps not surprisingly, this had led to a view that a permanent care case plan cannot commence until a two year period of intervention has lapsed, a position not consistent with either permanency planning or concurrent planning frameworks.

The extent to which policy and legislation have been able to achieve their aims in reducing drift remains questionable (Auditor-General 1996; Carter 2000; Scott 2001). However, the extent to which permanency planning has been able to reduce welfare drift remains equally open to question (Auditor-General 1996; Carter 2000). The concern is that substantial numbers of children continue to face uncertain futures.

FACTORS IMPACTING ON THE ACHIEVEMENT OF PERMANENCY PLANNING

A central issue in permanency planning is to seek permanent outcomes for children at the earliest possible time, without compromising efforts to achieve reunification, or prematurely giving up on parents (Maluccio, Fein & Olmstead 1986; Freundlich & Wright 2003). Currently, approaches of strengthening families, placement prevention, reunification and permanent placement are viewed as being in conflict with each other. They are not viewed as being different points on the same planning continuum and appear therefore to mirror the conflict between parental rights and children's rights. This is perhaps the most significant conceptual factor influencing permanency planning outcomes.

The character of an effective child welfare system ought to be the capacity to energetically pursue the goals of family reunification whilst simultaneously seeking permanent arrangements at the earliest possible time when prognosis for parental change is poor (Scott 2001). While the focus and intent of permanency planning is to achieve lasting outcomes for children, this intent can become blurred by the mechanisms for achieving permanency. Policies and procedures for the management of child welfare matters can undermine the focus on the needs of children for lasting outcomes.

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Firstly there are delays due to the organisation of the service system, particularly the out-of-home care system. Concurrent planning envisages an out-of-home care system where caregivers, who have already been identified as permanent caregivers should reunification not proceed, are able to work simultaneously to facilitate reunification (Katz 1999). The reality is that children experience multiple placements (Cashmore, Dolby & Brennan 1994; Fernandez 1996). The reality is also that caregivers are likely to be designated as having a single function, such as short term care, rather than the dual function envisaged under concurrent planning. These practices clearly undermine the capacity to achieve permanency. The solutions would appear to rest in a major re-organisation of the out-of-home care system.

Secondly, delays are experienced in the achievement of outcomes from Court. It appears that once the child's immediate safety is assured, there is diminished urgency in the achievement of lasting outcomes (Bishop, Murphy, Jellinek, Quinn & Poitrast 1992). Delays at Court appear to be a significant contributor to the loss of focus on the child's needs for expedited outcomes. Numerous chances appear to be granted to parents (Jellinek et al 1995; Sheehan 2001). Underpinning these concerns appear to be tensions between views supporting parental rights to custody and the right of the state to intervene (Fernandez 1996), along with a lack of commitment to the notion of a lifetime family as important for the child.

Thirdly, the record of the state as parent adversely affects permanency planning. There is concern expressed about outcomes for young people leaving care. There is also concern that, even where there has been a decision to place a

child in a permanent substitute family, there may be significant delays before the placement is made (Thomas & Beckett 1994). Linked to this would appear to be notions of the primacy of the family, and concern that the welfare bureaucracy does not undermine family autonomy (Sheehan 2001).

Fourthly, concerns reflect a range of specific case factors that compromise the capacity to achieve permanency in a timely fashion. These factors include the age of the child at the time of placement, child vulnerability and child resilience, the number and length of placements that the child has experienced, and complexities posed by sibling groups. There are also concerns relating to parents and the degree to which parental interests are in conflict with the interests of the child (Thomas & Beckett 1994).

Fifthly, personal values and beliefs appear to influence decision-making, although the literature is relatively silent on this matter. However there are suggestions that in judicial decision-making, the judiciary may revert to common sense and life experience in order to resolve matters of complexity (Steinhauer 1991; Sheehan 2001). These are not necessarily frameworks well based in theory and practice. It is suggested that beliefs about bonding and attachment may also have an influence, the suggestion being that these beliefs hold that all parents can bond with their children if parents are provided with sufficient resources (Sheehan 2001).

Decision-making in child welfare and child protection matters requires consideration of multiple values. There are tensions between the child's rights to safety, the child's rights to permanence, and parental rights, each of these value positions underpinning practice, policy and legislation (Freundlich & Wright 2003). The issue is that decision-makers may consider all of these values, but they may hold that one value is of greater importance and therefore overrides all other considerations. This raises the question of how state intervention into family life is conceptualised. The Courts appear to harbour significant doubts about state intervention into family life (Sheehan 2001), and appear reluctant to fragment family relationships. Given the policy preference for family preservation there is little reason to believe that other stakeholders do not share these same views.

THE IMPACT OF FAMILY PRESERVATION ON PERMANENCY PLANNING

Trends towards family preservation models reflect a policy preference for holding families together, the state being no substitute for the family. Family preservation tends to prevail even where there is a strong history of disruption and damage to the child. Family preservation has its origins in advocacy that too many children were being placed in care. Research on bonding and attachment was instrumental in driving the policy shift away from protecting children

towards preserving families (Lindsey, Martin & Doh 2002). Accompanying such trends have been trends towards increased involvement of families in decision-making and emphasis on forming collaborative partnerships with families.

Since the 1970s, family preservation approaches have multiplied. However, prevailing wisdom suggests that the trend has moved too far (Lindsey, Martin & Doh 2002). The question is whether family preservation achieves its goals, or whether it places some children at risk of repeated abuse and injury (Gelles 1996). Family preservation is not immune to recidivism, outcomes failing to define whether there is reduced risk of abuse, reduced risk of placement or reduced risk of poor developmental outcomes (Berry 1991). There is growing question, and waning enthusiasm, as to the extent family preservation models prevent placement (Lindsey, Martin & Doh 2002).

The intent of intervention ought to be not only the protection of children from the original abuse, but also protection from any subsequent abuse that may arise as a consequence of intervention.

A specific area of difficulty regarding family preservation concerns the area of reunification. With reunification, the focus rests upon assisting the family to re-constitute. A basic drawback is that this is based on an implied assumption that intervention can always create a safe environment (Gelles 1996). There tends to be less attention paid to the fact that treatment compliance does not necessarily equate with change. Many reunifications fail due to the absence of resolution of the factors that originally necessitated placement (Gelles 1996), and indeed there has been a lack of attention paid to standards for reunification (Farmer 1996).

Family preservation cannot eradicate family dysfunction, nor can it offer a panacea to avoid placement. Many families require long term support, yet most family preservation approaches are time limited. Further, family preservation has been unable to address the broader structural problems of the family in their social, political and environmental context (Lindsey, Martin & Doh 2002), remaining a service of residual nature.

SUMMARY

Child welfare needs to find clear solutions to problems as they emerge, but there is a need to be cautious about optimistic policy decisions. Whether there is a policy preference for family preservation or permanency planning,

the suggestion remains that some children admitted to care from situations of extreme adversity find their experience in care neither enriching nor stable (Fernandez 1996).

Multiple placements remain the most critical issue compromising long-term outcomes for children (Cashmore, Dolby & Brennan 1994; Fernandez 1996). Arguably, it is a lack of focus on the achievement of permanent outcomes, whether these are achieved within the biological or a substitute family, that perpetuates the process of subjecting children to multiple placements and short-term interventions. The intent of intervention ought to be not only the protection of children from the original abuse, but also protection from any subsequent abuse that may arise as a consequence of intervention.

The adverse effects of welfare drift have been demonstrated over time (Maas & Engler 1959; Epstein & Heymann 1967; Maluccio, Fein & Olmstead 1986; Cashmore, Dolby & Brennan 1994; Fernandez 1996). The implementation of permanency planning approaches will require re-thinking about how the service system is organised and will need to emphasise timely decision-making. This focus need not undermine the concept of family preservation. The challenge is to emphasise planning for children as occurring on a continuum of policy options and planning responses.

There will always be tensions between children's rights and the rights of their parents. This is an unavoidable reality of protecting children and securing positive futures for them. Focus needs to rest on the long-term impact of decisions, which effectively leave children in limbo, in those instances where parental change is possible change rather than probable change. ☐

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