

## HOW TO IMPROVE OUTCOMES FOR ABUSED AND NEGLECTED CHILDREN: ENGAGING RELATIVES EARLY

By Judge Leonard Edwards (ret.)

Our foster care system is failing many of the children under its care. Too many children are placed in congregate care such as group homes and not with family members. Even when placement with a relative finally occurs, it often takes too long. Delays in the identification of and placement with family members are prime examples of unnecessary delays in the foster care system. Yet we have the knowhow to remedy this situation – we can identify relatives earlier, engage them more quickly, and in so doing provide more safe and stable placements for these children.

### THE PROBLEM:

Only recently has relative care been identified as the preferred placement for children who must be removed from parental care.<sup>1</sup> When the Fostering Connections Act of 2008 was enacted, the federal government emphasized this policy change and even listed some practices that would expedite identification and engagement of relatives.<sup>2</sup> As a result most states have enacted legislation which reflects the preference for placement with relatives, and requires judges to oversee the identification and placement with family members by social workers.<sup>3</sup>

However, practice has not followed changes in the law. In many jurisdictions relatives are not identified early, they are not engaged in court proceedings or in problem solving practices such as family group conferencing and family team meetings. Social welfare agencies are often reluctant to approve of relative placements where a family member has a criminal record, even if the offense occurred years ago, or does not relate to child safety. Moreover, when relatives finally become engaged, it may be too late – the foster family may have already formed significant connections with the child and may resist attempts to move the child to a relative home.<sup>4</sup> These delays have often resulted in contested court proceedings that have further delayed permanency for the child.<sup>5</sup>

### LEGISLATIVE CHANGES:

The federal government has recognized these problems and in 2014 President Obama signed into law the Preventing Sex Trafficking Law.<sup>6</sup> This legislation includes the strongest language to date for moving children from congregate care to a family setting. Section 112(a) is entitled “Elimination of Another Planned Permanent Living Arrangement as A Permanency Option.” The new law modifies Section 475A of Title 42 of the United States Code by requiring social workers to provide

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<sup>1</sup> Edwards, L., “Relative Placement in Child Protection Cases: A Judicial Perspective,” *Juvenile and Family Court Journal*, Vol. 61, No. 2, Spring, 2009, at pp. 5-9.

<sup>2</sup> Fostering Connections to Success and Increasing Adoptions Act of 2008, P.L. 110-351 (2008), Section 102.

<sup>3</sup> Edwards, L., *op.cit.*, footnote 1, at p. 18.

<sup>4</sup> *Id.* at pp 29-33.

<sup>5</sup> *Id.*

<sup>6</sup> Preventing Sex Trafficking and Strengthening Families Act (H.R. 4980), Section 112.

“documentation of intensive, ongoing, unsuccessful efforts for family placement...at each permanency hearing.”<sup>7</sup> Judges or administrative bodies must

- (A) ask the child about the desired permanency outcome for the child,
- (B) make a judicial determination explaining why, as of the date of the hearing, another planned permanent living arrangement is the best permanency plan for the child and provide compelling reasons why it continues not to be in the best interests of the child to (i) return home; (ii) be placed for adoption; (iii) be placed with a legal guardian; or (iv) be placed with a fit and willing relative.”<sup>8</sup>

States have also changed their policy regarding congregate care. For example, in California the legislature requested that the State Department of Social Services (SDSS) develop a plan to reduce the number of children placed in congregate care. The SDSS responded with a report entitled “California’s Child Welfare Continuum of Care Reform” which led to the passage of Assembly Bill 403. This legislation stresses the importance of reducing congregate care by creating a short-term transitional home for youth, one that will meet their emotional and mental health needs and prepare them for family living.<sup>9</sup> Other states have passed similar laws.<sup>10</sup> These changes contrast sharply with practice 100 years ago when almost all children in out-of-home care were placed in orphanages, alms houses, and other forms of congregate care.<sup>11</sup> The new laws address another significant change in child welfare law – moving foster children from congregate care into family-like settings. Because a serious shortage of foster homes exists, it is clear that more of those placements must be with relatives.

#### **THE RESEARCH – EARLY AND INTENSIVE SERVICES:**

Recent social science research not only supports the legislative policies mentioned above, but provides guidance how these policies can best be implemented. Two recent studies, one from Hawai’i and one from Canada, indicate that it is critical for social service agencies to have an urgent and expansive effort made at the first contact with the family members who were the subjects of the Child Abuse and Neglect (CAN) referral. In both studies a very strong family and community meeting occurred within 72 hours of the contact with child protection workers. The studies found an 89% - 91% permanency rate was achieved for these children. Additionally, the studies found that repeat maltreatment or re-entry to out-of-home care was under 3%. This is an important finding especially in

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<sup>7</sup>*Id.*

<sup>8</sup>*Id.*

<sup>9</sup> California Assembly Bill 403: The bill advances California’s long-standing goal to move away from the use of long-term group home care by increasing youth placement in family settings and by transforming existing group home care into places where youth who are not ready to live with families can receive short term, intensive treatment. [www.dss.cahwnet.gov/.../AB403](http://www.dss.cahwnet.gov/.../AB403)

<sup>10</sup> Ohio H 2908 (Act No. 254) enacted 6/04/2015;

<sup>11</sup> Edwards, L. “Congregate Care for Children,” *The Bench*, Winter 2016, at pp. 6, 36; also available online at [judgeleonardedwards.com](http://judgeleonardedwards.com), publications blog.

California counties where repeat maltreatment rates are in the 12 to 13 percentage range.<sup>12</sup> The federally accepted range is 9.9%, although some reports indicate a much higher percentage.<sup>13</sup>

The Hawai'i study concluded that 'Ohana Conferences (the Hawaiian version of family group conferences<sup>14</sup>) should take place early in the process.<sup>15</sup> The study demonstrated that (1) When early 'Ohana intervention took place, children were less likely to be removed; (2) If they had to be removed, they stayed in care for a shorter period of time; (3) Within 12 months of an early 'Ohana intervention, more children were reunified and fewer children remained in out-of-home non-relative foster care; (4) The earlier an 'Ohana conference took place, the sooner a child was reunified; (5) When enhanced 'Ohana connections work was done, more family connections were identified; (6) When enhanced 'Ohana connections work was done, the quality of family connections was much stronger; (7) Family Finding methodologies<sup>16</sup> that are blended seamlessly upon one another are effective in identifying and connecting with family.<sup>17</sup>

The Canadian study compared two models of family finding, the integrated and the delegated method.<sup>18</sup> In the integrated method 2 facilitators coached and mentored all staff on family finding tools. The goal of the agency was to integrate family finding as a part of casework from point of first referral to permanency. In the delegated model a set of 7 workers were delegated as the Family Finding Team to oversee referrals of children in care until permanency was found.

The results of the study revealed significant differences between the two methodologies. In the integrated method, the children experienced fewer days to permanency, more children remained at home, a higher number of children were discharged from care into permanent placements and almost three times the number of children lived in permanent placements at the conclusion of the project.<sup>19</sup>

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<sup>12</sup> Webster, D., Armijo, M., Lee, S., Dawson, W., Magruder, J., Exel, M., Cuccaro-Alamin, S., Putnam-Hornstein, E., King, B., Rezvani, G., Wagstaff, K., Sandoval, A., Yee, H., Xiong, B., Benton, C., Hoerl, C., & Romero, R. (2016). *CCWIP reports*. Retrieved 3/16/2016, from University of California at Berkeley California Child Welfare Indicators Project website. URL: <[http://cssr.berkeley.edu/ucb\\_childwelfare](http://cssr.berkeley.edu/ucb_childwelfare).

<sup>13</sup><https://www.federalregister.gov/articles/2015/05/13/2015-11515/statewide-data-indicators-and-national-standards-for-child-and-family-services-reviews>; Wulczyn, Fred H., Hislop, Kristen Brunner, and Robert M. George. 2000. "Foster Care Dynamics 1983-1998." Chicago: Chapin Hall Center for Children; Casey Practice Digest, Issue 3, January 2013, Re-Entries into Care, Casey Family Programs, Seattle.

<sup>14</sup> Family Group Conferences bring together family members to discuss the child's situation and make recommendations to the court how the family will safely care for the child. Family Group Conferences are a best practice identified in the federal Fostering Connections Act of 2008. *Op.cit.* footnote 2.

<sup>15</sup> For a description of 'Ohana Conferencing, see Family Connections Hawai'i, *Final Report*, Department of Human Services, State of Hawai'i, Dec. 31, 2012, at pp 13-14.

<sup>16</sup> Family Finding, developed by Kevin Campbell, uses a search engine to identify and locate a child's family members. The federal government identified Family Finding as a best practice in the Fostering Connections Legislation of 2008. *Op.Cit.* footnote 2.

<sup>17</sup>*Op.cit.* footnote 115 at pp 2-3

<sup>18</sup> Stoddart, J., *et.al.*, "Family Finding: Comparison Study of Two Implementation Methods," Family & Children's Services of the Waterloo Region and The Children's Aid Society of Ottawa, (unpublished power point presentation, available from the author).

<sup>19</sup> *Id.* at slide 16.

More than 80% of the participants indicated that the family finding tool impacted the way they plan to approach families in the future.<sup>20</sup>

It is clear from these studies that early and intensive efforts by the social worker produces better-longer lasting results. Moreover, the longer children remain in care before a permanent placement is found, the more likely they will present with more challenging multi-system issues such as problem behaviors.<sup>21</sup>

### **IMPLEMENTING THE LAW:**

These studies highlight the importance of early identification and engagement of relatives. However, practice has proven difficult for many jurisdictions. First, relatives must be identified and engaged as soon as possible. In practical terms, the child protection or social worker who arrives at the scene of a situation where removal of a child is likely should start the search for relatives immediately. Not only should the parents and other family members at the scene be questioned about relatives, but the child protection or social worker should initiate family finding. When the child protection or social worker contacts the relatives they should inform them of the crisis in the child's life and invite and encourage the relatives to participate in a family meeting as well as appear at the next court hearing.

At the outset of a case the multiple tasks which face the social worker are daunting. Among her other duties she has to provide services that will prevent the need for removal,<sup>22</sup> ensure that the child is safe, explain to the parents what is happening and why, identify and engage relatives, and prepare reports for any court proceedings which will occur in a day or two. One person cannot effectively accomplish all of these tasks. This over-load of responsibilities has been ameliorated in some larger jurisdictions by designating a social worker or a team of social workers whose job it is to identify and engage relatives.<sup>23</sup>

Allegheny County, Pennsylvania, provides a model for effective intervention. There, the social services agency devotes significant resources to the "front end" of the child protection system. The social workers run relative background checks in the field and assess the proposed caretaker's home immediately so that the child can move from parent, to medical-physical, and to relative care within a few hours.<sup>24</sup> Social workers identify relatives as soon as possible, and in most cases they appear at the 72-hour shelter hearing.<sup>25</sup> Because the agency recognizes the need for support for any relative placement, services such as mentoring, transportation, respite, or other family needs are addressed.

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<sup>20</sup> *Id.* at slide 26

<sup>21</sup> *Op.cit.* footnote 15.

<sup>22</sup> Reasonable efforts is a term taken from federal law, first in the Adoptions Assistance and Child Welfare Act of 1980. P.L. 96-272; 42 U.S.C. §670, *et.seq.* §472(a)(2)(A)(ii) and CFR §1356.21(c).

<sup>23</sup> Email from Marc Cherna, Director, Allegheny County Children Youth & Families. A copy of the email is available from the author.

<sup>24</sup> Email from Jacki Hoover, LSW, Assistant Deputy Director, Allegheny County Children Youth & Families. A copy of the email is available from the author.

<sup>25</sup> *Id.* This hearing in other states is sometimes called an emergency hearing or a detention hearing.

Once a child is in care for 30 days the social worker refers the case to SWAN (Statewide Adoption Network) for child prep, at 60 days for profile and at 90 days for child specific recruitment. At this point the SWAN worker is using family finding in the traditional sense. In other jurisdictions (including Hawai'i), a specially trained social worker or team of workers convenes family group conferences or other forms of team meetings in order to permit the family to develop a plan for the child.

In order to take advantage of the positive results derived from early, intensive services, social service agencies must re-structure their organization. They must provide resources and use their expertise at the front end of the case process. The frequent refrain that "we need more foster homes" is understandable, but relatives are preferable to foster homes. Moreover, the need for foster homes can be significantly reduced if early and intensive efforts either prevent removal or identify a relative placement.

#### **SUMMARY:**

Child welfare practice has made enormous strides in the past 25 years. Best practices have been identified and implemented in many jurisdictions. One conclusion is clear: the most effective interventions happen immediately. It is the front end of the system where the most positive and long-lasting results occur.

Placement with relatives is now the preferred choice when a child must be removed from parental care. Moreover, studies show that early intensive efforts will yield longer lasting, safer placements, and will significantly reduce the time that a child remains in foster or group home care. Restructuring social service resources so that intensive efforts are expended early in the case will result in better outcomes for children. Child Welfare agencies must employ specialists in family finding and engagement, and must create protocols that bring families together as soon as possible to create family plans for the future of the child. These efforts will save money, but more importantly, they will serve the best interests of the child.