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When policy meets practice: The untested effects of permanency reforms in child welfare

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The Adoption and Safe Families Act (P.L. 105-89; ASFA) passed into federal law in 1997. ASFA emphasized child protection over family preservation, and introduced reforms intended to increase the likelihood and the speed with which children in the child welfare system attain a permanent home. This article details two provisions of the law, concurrent planning and reunification exception, and explores challenges in their implementation. These provisions have the potential to shift the nature of how child welfare services are delivered, and which families will receive them. An examination of implementation in the state of California suggests there is a need for further research regarding the application and effectiveness of these reforms to ensure they produce their intended effects.

Keywords: *concurrent planning, permanency, reunification exception*

ASFA was developed in a context of concern about the well-being of children served in the child welfare system. Legislators were troubled by the increasing numbers of children in foster care, and the long average length of stay they experienced, feeling that these problems were due to child welfare agencies making "extraordinary" efforts to reunify families (*Foster Children*, 104th Cong., 1996). Comments expressed during congressional debates are illustrative of these larger sentiments: "... The foster care

system is keeping children in foster care for too long. . . . Abusive parents are, today . . . given a second chance, a third chance, a fourth chance, a fifth chance, and on and on. . . . while they try to get their act together . . . their poor little children are shuttled from foster home to foster home" (*Reasonable Efforts*, 105th Cong., 1997). Legislators also expressed concern that children were being inappropriately returned to family situations in which they would still be at risk, due to agencies' misinterpretation of the 1980 Adoption Assistance and Child Welfare Act (P.L. 96-272). "The principle of making reasonable efforts to reunify families is too often misinterpreted to mean reunifying families at all costs—even abusive families that are really families in name only" (*Reasonable Efforts*, 105th Cong., 1997).

National data provide some support for these concerns. The number of children in foster care has been rising over time. While at the end of 1986, there were approximately 280,000 children in out-of-home care (Tatara, 1994), that estimate had climbed to 523,000 by 2003 (U.S. Department of Health and Human Services, 2005a). Part of the growth in the foster care population resulted from an imbalance between foster care entries and exits: throughout the 1990s, entries exceeded exits in most large states (Wulczyn, Hislop, & Goerge, 2000). Based on point-in-time counts of all children in foster care in FY 2002, the mean length of stay for children in out-of-home care was 32 months, and the median length of stay 18 months, while approximately 20% of children who left care in fiscal year 2002 had been in care three years or more (U.S. Department of Health and Human Services, 2005b). Moreover, almost half of the 126,000 children in care "waiting" for adoption—children either with a case plan goal of adoption or who had parental rights terminated for both parents—had been waiting three or more years (USDHHS, 2005b). Longitudinal data show similar trends (for California data see: Needell et al., 2005).

For children who have been reunified, there is a relatively high rate of re-abuse and re-entry to care. In 44 states reporting these data, approximately 8% of children experience subsequent maltreatment within six months of the initial referral (USDHHS, 2005c). In California, approximately 13% of children discharged from care re-entered the system within 12 months (Needell et al., 2005).

As one means of addressing these issues, Congress passed P.L. 105-89 in 1997 with expectations of reducing children's stays in foster care, and expediting alternative permanency options for children who can not return home. ASFA did little to bolster parents' capacities or opportunities to reunify with their children; the law was chiefly designed to address issues faced by children unlikely to reunify and those for whom reunification might prove hazardous.

ASFA makes use of three primary avenues in its effort to move more children to permanency quickly. First, it decreases from 18 months to 12 the time allowed for parents to reunify with their children initially established under the Adoption Assistance and Child Welfare Act of 1980. Second, it provides a number of mechanisms to encourage adoption of children. Third, states must make reasonable efforts not only to preserve and reunify families, but also to find alternative permanent homes for children should reunification fail. ASFA clarifies that these efforts may be made concurrently with efforts to reunify the family. ASFA also enables child welfare agencies to deny reunification services to some parents under certain conditions (hereafter referred to as reunification exceptions) (Adoption and Safe Families Act of 1997).

Two of the provisions of ASFA, reunification exception and concurrent planning, are considered here in more depth. These provisions are of particular interest because they reflect important shifts in our thinking about how services should be delivered to vulnerable families, and which vulnerable families should receive them.

Reunification Exception

Background

States are required by the Adoption Assistance and Child Welfare Act of 1980 to make "reasonable efforts" to reunify a family in order to receive federal Title IV-E funds for the case. However, situations exist in which such efforts seem unreasonable. When parents of a child entering care have already lost multiple children to the system and have made no subsequent change to their lifestyle, providing another 12 months of services seems unlikely

to effect change in the parent, while unduly burdening the child with extended stays in foster care. Similarly, a parent who has committed a heinous act against a child, such as torture or murder, would seem an unlikely candidate for change within the 12 months of services agencies provide. Reunification exception is intended to address such situations, freeing agencies' resources for those families who could benefit, protecting children from profoundly inadequate and dangerous parents, and eliminating months or years of indeterminate foster care stays.

ASFA names five specific conditions that allow states to bypass the provision of reunification services to parents. These are: when the parent has (1) committed murder of another child of the parent; (2) committed voluntary manslaughter of another child of the parent; (3) aided, abetted, attempted, conspired or solicited to commit such murder or manslaughter; (4) committed felony assault resulting in serious bodily injury to child or another child of parent; and (5) had parental rights to a sibling of the subject child involuntarily terminated. The law also allows states to develop a set of "aggravated circumstances" which can be used to exempt agencies from the requirement to provide reunification services to parents. The legislation does not require any specific circumstances be selected, but suggests abandonment, torture, chronic abuse, and sexual abuse of the child (ASFA, 1997)

States have taken different approaches to incorporating this aspect of the federal law into state statute. A 1999 survey shows that most states elected to incorporate all five of the ASFA mandated reunification exception conditions into legal codes; five states added four of the five conditions, and one state added three (NCSL, 1999). All states took advantage of the option to identify "aggravated circumstances," defining from one to 14 additional reunification exception conditions. The majority of states used several of the aggravated circumstances suggested in ASFA and added several of their own, for an average of 5.66 aggravated circumstances in addition to the five conditions mandated by ASFA. In total, states have incorporated an average of 10.5 total reunification exception conditions into their legal codes.

ASFA does not prohibit the provision of reunification services when a reunification exception condition exists. Rather, services *need not* be ordered in these cases. Only four states have set a

presumption against reunification services when certain reunification exception conditions exist (NCSL, 1999). In these states, once one of the reunification exception conditions is found to exist by clear and convincing evidence, the burden of proof is on the parent to prove that reunification is in the child's best interest.

Considerations in the implementation of reunification exception

Certain aspects of this reform have important implications for its effective application. First, the conditions are not based upon research suggesting families with these conditions are unable to parent safely. For some of the conditions, such as murder or torture of another child, one hardly wants to wait for empirical evidence to accumulate before deciding against allowing such a parent to care for another child. However, the question becomes more relevant for the other conditions that may affect a larger number of people, such as the condition allowing reunification exception for parents who have had legal rights to another child terminated previously. For some of these conditions, there is little empirical evidence that families they describe are either less likely to reunify, or less likely to safely parent upon reunification.

A primary challenge then in the practice of reunification exception lies in identifying those families who do not merit services, while ensuring services are provided to families who could benefit from them. The fact that there is little evidence connecting some of these conditions with failure to reunify or with re-entry to care suggests not only that some parents who might have reunified with services may not receive them, but also that indicators may fail to identify the most dangerous parents. Child deaths are more often associated with neglect than any other type of maltreatment (Lindsey, 2005; USDHHS, 2005c), but severe neglect is not a mandated or suggested condition for reunification exception under the federal legislation.

Although professionals vary in their opinions about when it may be safe to reunify children (Karoll & Poertner, 2003), empirical research has identified some characteristics of families and children more and less likely to reunify. Characteristics of the child, such as ethnicity and race (Berrick, Needell, Barth, & Johnson-Reid, 1998; Courtney, 1994; Courtney, 1995; Davis, Landsverk, Newton, & Ganger, 1996;) and age (Berrick et al., 1998;

Courtney, 1995; Fuller, 2005; Landsverk, Davis, Ganger, Newton, & Johnson, 1996) have been shown to be associated with both non-reunification and re-entry to care. Initial placement due to behavior problems (Fraser, Walton, Lewis, Pecora, & Walton, 1996) and child's health problems (Courtney, 1995) are also associated with re-entry to care. Placement with kin (Berrick et al, 1998), and limited or no parental visiting (Davis et al., 1996; Fanshel & Shinn, 1978), are associated with non-reunification (Leathers (2002) also shows a positive association between visitation and reunification), and multiple placements (Fuller, 2005) and previous placements (Fraser et al., 1996) are associated with re-entry. Neglect as the type of maltreatment (Berrick et al, 1998), emotional problems of the parent, and commission of a criminal offense (Rzepnicki, Schuerman, & Johnson, 1997), along with housing problems (Courtney, McMurtry, & Zinn, 2004) are associated with failure to reunify. Although parental drug abuse has been identified as a factor associated with non-reunification (Rzepnicki et al., 1997), compliance with drug treatment has been associated with reunification (Smith, 2003). The child's AFDC eligibility (Courtney, 1995), and the parent's inappropriate use of discipline, fewer parenting skills, and non-utilization of drug treatment, are associated with failed reunifications (Miller, Fisher, Fetrow, and Jordan, 2005; Courtney, 1995).

Examining characteristics of families that failed to reunify or whose children re-entered care may help identify families with a reduced *likelihood* of benefiting from services. However, a reduced likelihood of benefiting from services is not the same thing as an inability to benefit (Baird & Wagner, 2000); in other words, these characteristics are unlikely to perfectly predict which families will fail to reunify. Some families with these characteristics will successfully reunify if given the opportunity, and some will not.

Second, some reunification exception conditions are vaguely worded, and/or potentially broad in scope. For example, "aggravated circumstances" suggested in ASFA legislation include "chronic abuse" and "sexual abuse" (ASFA,1997), while some states use words like "egregious," "cruel," or "abusive" behavior (NCSL, 1999). Six states are no longer required to provide reunification services to parents with extensive histories of substance abuse.

Third, there are no limits on the number of "aggravated circumstances" states can develop, nor any restrictions regarding the characteristics that can be used to deny reunification services to parents. While most states have supplemented ASFA's suggested list of aggravated circumstances with an average of three additional conditions, a few states have named eight or more additional circumstances that may be used to deny reunification services (NCSL, 1999).

Given the probabilistic nature of associations that do exist, the lack of limits on the development of aggravated circumstances, and the vague wording and breadth of some of the conditions, there is the possibility the legislation may be casting the net of reform too widely. For example, estimates of the proportion of children placed in foster care at least in part due to substance abuse issues of the parents range from 50%-80% (Chasnoff, 1998; USGAO, 1998; Young, Gardner, & Dennis, 1998). Consistent application of this "aggravated circumstance" could turn the intent of P.L. 96-272 on its head, essentially denying services to most families, and only providing "reasonable efforts" to a fraction of child welfare clients in the states that make use of this condition. Given the breadth of some reunification exception conditions, it is likely that agencies will use considerable discretion in applying them. However, without explicit guidelines or empirical data to guide decision making, the likelihood that reunification exception will be administered inequitably across states, counties, and populations is great. Ample evidence suggests that children of color are disproportionately represented in the child welfare system (see: Derezotes, Poertner, & Testa, 2005; and USDHHS, 2005d, for a review of published research). Whether or not worker bias or other factors (Chibnall, Dutch, Jones-Harden, Brown, Gourdine, Smith, et al., 2003; Curtis & Denby, 2004) might play a role in applying reunification exception procedures inequitably should be investigated.

Finally, there are no reporting requirements associated with this aspect of the law. States do not have to report or monitor when reunification exception is employed, or which of the available conditions are used to deny reunification services to parents. As a result, implementation and outcomes will be difficult to track. One study reported that most states were not able to provide

data on the use of reunification exceptions (USGAO, 2003). Thus, it is not known what proportion of families are "eligible" for reunification exception, how often it is recommended by agencies or ordered by the courts, how consistently it is applied, or what conditions are used when it is ordered. How this new reform is shaping service delivery in child welfare services is unknown.

California's experience with reunification exception

Most states introduced reunification exception with the passage of ASFA; however, the reform has been a part of California child welfare practice for almost two decades. In the 1980s California established five conditions that allowed the denial of reunification services. Since then, the list of five original conditions has been lengthened by ten new conditions (See Table 1 for a summary of California's reunification exception conditions and the dates they were added to the Welfare & Institutions Code).

In addition to adding more conditions over the last decade, already existing conditions have been amended so that their scope has been broadened. For example, prior to 1996, the third condition—child previously removed due to physical or sexual abuse, now being removed again for physical or sexual abuse—was not to be used if jurisdiction for the prior removal had been dismissed. This qualification was eliminated in 1996. Conditions #3 and #6 originally referred only to maltreatment experienced by the subject child, but were broadened also in 1996 to cover siblings and half-siblings. The same bill amended condition #4 so that formal conviction of a child's death was not required in order to deny reunification services.

California now has fifteen total reunification exception conditions; only Okalahoma, Arkansas, and Louisiana have more (NCSL, 1999). It also uses more unique conditions—conditions neither mandated nor suggested by ASFA—than any other state. A presumption against services exists for all but two of the 15 conditions (as defined in state statute) that allow a reunification exception in California.

Given the increase in the number of conditions in California and the broadening range of existing conditions, over-breadth may be a concern. For example, in a recent study of six California

Table 1

Reunification Exceptions in California W&I Code Section 361.5(b)[1]

Year added	*Reunification Exception Condition*
1987	1. Parents whereabouts unknown
	2. Mental disability rendering parent incapable of making use of services
	3. Child or sibling removed from parent due to physical or sexual abuse and returned again, and now being removed again for physical or sexual abuse.
	4. Parent caused another child's death through abuse or neglect*
	5. Child made a dependent due to 300 (e) [under five and suffered severe physical abuse]*
1992	6. Child or sibling suffered severe sexual or physical abuse.*
1994	7. Child conceived by rape (applies only to the perpetrator).
1996	8. Child has been willfully abandoned and endangered.
	9. Sibling did not receive reunification services due to #3, #5, or #6.
	10. Termination of parent rights ordered for sibling or half-sibling, and parent has not made reasonable efforts to treat problems*
	11. Reunification services have been terminated for sibling or half-sibling because parent failed to reunify, and parent has not made reasonable efforts to treat problems
	12. Parent convicted of a violent felony
	13. Extensive, abusive, chronic history of substance use, and has resisted treatment within last three years, or failed case plan compliance for substance abuse treatment twice
1997	14. Parent has advised court wants no services nor to have child returned
1998	15. Parent willfully abducted child, sib or half-sibling and refuses to disclose whereabouts or return child

*These conditions correspond to the conditions named in ASFA requiring that agencies need not provide services

[1] Because of wording differences between federal legislation and state statute, there may be discrepancies between the number of conditions NCSL reports, and the number in the California W&I Code (or any state's legal code). For example, California combines the first two reunification exception conditions mandated by ASFA (murder of another child of parent, manslaughter of another child of parent) into one condition (parent caused death of sibling) in the state's legal code.

counties, about two in five (38.4%) parents with children ages 0–10 entering out-of-home care in 1998–2000 had one or more reunification exception indicators in their cases making them eligible for a reunification bypass (Berrick, Choi, D'Andrade, & Frame, in review). Findings from another study suggest that a number of parental characteristics frequently highlighted in reunification exception statutes are not just common throughout the child welfare population as a whole, but also in parents of children who reunified. In the same California study, 37% of parents who had characteristics making them *eligible* for a denial of services but who, in fact, received services reunified with their children within three years of entry to care (Berrick, Choi, D'Andrade, & Frame, in review). Although lower than the reunification rate for parents who did not have a characteristic associated with a reunification exception (58%), the reduced likelihood of reunification for the eligible group should not be confused with an inability to benefit from services. In a study of parents who "successfully reunified" with their infants (i.e., parents who reunified with their infant child and who did not re-enter care within the following three years), many had conditions which suggest they could have been eligible for reunification exception: 78% were substance involved at the point of child removal; 59% had experienced recent criminal activity, 62% had mental health problems, 62% had used drugs during pregnancy, and 34% had documented abuse or foster care histories (Frame, Berrick, & Brodowski, 2000). If reunification exception conditions were relevant and had been used for any of the families in either study noted above, none of them would have been given the opportunity to reunify.

In addition to over-breadth, inequitable application of reunification exceptions may occur. In California, social workers act as the first gatekeeper, determining whether to recommend reunification exception to the court. Judges act as the second gatekeeper (with lawyers on all sides attempting to influence the decision) determining whether or not the exception will be applied. Depending on child welfare staff and judicial training, community standards, and agency resources, parents with similar characteristics might be treated quite dissimilarly with geography playing a greater role in case outcomes than other, more relevant factors. A recent survey of California counties suggests reunifica-

tion exception is being applied quite differently across the state, with counties tending to rely on different circumstances to deny services to parents. For example, of 51 counties responding to a survey (out of 58), 15 counties most often used conditions #10, 15 and #13, and six indicated they often used condition #3, to deny services to parents (D'Andrade, Mitchell, & Berrick, 2003). In fact, when tested empirically in six counties (Berrick, Choi, D'Andrade, & Frame, in review), we found that although recommendations to bypass services were relatively infrequent overall (about 5% of all parents in the study), significant differences were found between counties: In one county it was almost impossible for a family *not* to receive services (only 1.5% of eligible parents were recommended for a bypass), whereas in another, well over a third of parents eligible for bypassed services (36.9%) were recommended to the courts.

An examination of court appeals related to this portion of the state legal code shows that vague or ambiguous wording of indicators has caused some difficulties. For example, confusion has arisen with condition #13, which addresses the situation of substance addicted parents. Reunification services are not to be offered substance abusing parents when they have "resisted treatment" in the last three years, or failed related case plan requirements twice before. While some courts interpreted "resisting treatment" to mean a parent has actively refused to participate in ordered or recommended treatment (In re Brian M., 2000), other courts ruled that merely failing to seek and obtain treatment can be considered "resisting" (In re Levi U., 2000). While these concerns have since been clarified with further legislation, they resulted in legal delays due to court appeals, and inequitable application of a law that has extremely serious consequences for parents.

The state of California does not require that counties track how and when reunification exception conditions are applied, or which are used. A survey of California counties found that while most counties report using reunification exception, only half of them track use. Of those that do monitor when reunification exception is used, only slightly over half identify which conditions were used to deny services to parents (D'Andrade, Mitchell, &

Berrick, 2003); certainly there are no federal requirements for reporting, so utilization and variability between states is unknown.

In sum, the limited information available regarding California's experience with reunification exception suggests that there may be problems with over-breadth and equitable implementation, and improved monitoring and evaluation of the practice is warranted.

Concurrent Planning

Background

While reunification exception may represent the far end of the spectrum in terms of changed practices to promote timely permanence, concurrent planning is another tool used increasingly by child welfare agencies to move children out of foster care. ASFA clarified that efforts toward alternative permanency can be made concurrently with reunification efforts (thus, "concurrent planning"). Specifically, concurrent planning provides for the provision of reasonable efforts to parents, but begins the process of locating a potentially permanent home immediately, and allows placement of a child in that home while parents are receiving reunification services. Should the parents fail, the child is already in a home willing to adopt (a "fost-adopt" home). The development of concurrent planning has been greatly influenced by the work of Linda Katz and her colleagues at Lutheran Social Services in Washington State. Potentially, concurrent planning can mean fewer placements and earlier permanency for children, as well as provide incentives for parental efforts to reunify through clear messages about consequences of inaction. While 25 states now allow concurrent planning in child welfare cases, as of 1999 only three states required it (NCSL, 1999).

Considerations in the implementation of concurrent planning

As with reunification exception, aspects of this new practice have implications that should be considered in planning its use. First, concurrent planning places a significant burden upon fost-adopt caregivers. The practice requires fost-adopt caregivers to commit to a permanent relationship with a child before it is known whether the child will be available for adoption, and

to support the parents in reunification efforts at the same time (Katz, 1999). The emotionally taxing nature of fost-adopting may result in agencies having some difficulty recruiting these special caregivers.

Second, the practice is resource intensive, requiring either two social workers per case—one to pursue reunification efforts and one adoption possibilities—or a single worker who simultaneously works toward both plans, which may necessitate caseload reductions. More extended and costly recruitment efforts may be necessary to locate caregivers capable of the degree of flexibility required. Once located, these "resource families"—a term used to denote caregivers available to provide either temporary or permanent homes for children—may require additional support services such as training, support groups, and follow-up care (Katz, 1999; for more information on resource families see: www.aecf.org). If resources are not sufficiently dedicated to this resource-intensive practice, the result may be incomplete and potentially less effective implementation.

Since the majority of children who enter out-of-home care reunify with their families (Wulczyn, 2004), it makes sense to target this challenging and resource-intensive practice toward those families least likely to reunify. In fact, according to Weinberg and Katz, " . . . requiring concurrent planning for all cases seriously distorts the model" (1998, p.12). A tool was developed to assist workers in targeting appropriate families, based on practice wisdom accumulated at Lutheran Social Services (Katz & Robinson, 1991). The tool lists conditions describing families believed to have a low likelihood of reunification, and hence who would be most appropriate for concurrent planning ("poor prognosis indicators"), as well as conditions thought to identify families likely to reunify ("family strengths indicators"). The tool has been adopted by many states implementing concurrent planning (D'Andrade, Mitchell, & Berrick, 2003). Table 2 lists poor prognosis indicators from the California version of the Katz tool.

The ability of this targeting tool to accurately and consistently identify families unlikely to reunify is unknown. Certainly, some of the poor prognosis indicators reflect conditions established through research to be negatively associated with reunification. For example, indicators #8 and #18 refer to substance abuse,

Table 2

Poor Prognosis Indicators from the California Tool

	Similar to REI #
1. Parental rights to another child have been terminated following a period of service delivery to the parents and no significant change has occurred in the interim	11
2. Parent has killed or seriously harmed another child through abuse or neglect and no significant change has occurred in the interim	4, 5, 6
3. Parent has repeatedly and with premeditation harmed or tortured this child.	3, 6
4. Parent's diagnosed severe mental illness has not responded to previously delivered mental health services.	2
5. Parent's only visible support system and means of support is found in illegal drugs, prostitution and street life.	
6. There have been three or more CPS interventions for serious separate incidents, indicating a chronic pattern of abuse or severe neglect.	3, 10, 11
7. Other children have been placed in foster or kin care for periods of time over six months duration or have had repeated placements with CPS intervention	3, 10, 11
8. Parent is addicted to illegal drugs or alcohol.	13
9. Parent has a diagnosis of chronic and debilitating mental illness that responds slowly or not at all to current treatment modalities.	2
10. This child has been abandoned with friends, relatives, hospital, or in foster care, or once the child placed in subsequent care, the parent does not visit of his/her own accord.	1, 8
11. Pattern of documented domestic violence between the partners and they refuse to separate	
12. Parent has a recent history of serious criminal activity and jail	12
13. Child experienced physical or sexual abuse in infancy	
14. Parent grew up in foster care or group care, or in a family of intergenerational abuse.	
15. Parent is under the age of 16 with no parenting support system, and placement of the child and parent together has failed due to parent's behavior.	

	Similar to REI #
16. CWS preventive or family preservation measures have failed to keep the child with the parent.	
17. Parent has asked to relinquish the child on more than one occasion following initial intervention.	14
18. Mother abused drugs/alcohol during pregnancy, disregarding medical advice to the contrary	13
19. Lack of prenatal care for other than financial reasons. Conditions predictive of lack of bonding: sociopathic personality, drug involvement, or other serious conditions	
20. Parent is intellectually impaired, has shown significant self-care deficits, and has no support system of relatives able to share parenting.	2
21. In addition to emotional trauma, the child experienced more than one form of abuse, neglect, or sexual abuse.	

indicator #12 to criminal activity, and indicator #10 to lack of parental visitation. However, some indicators describe a slightly different condition than the one known to be associated with reunification failure. For example, indicator #8 limits its scope to those parents who are addicted to *illegal* drugs; indicator #18 appears to refer only to prenatally substance-abusing mothers who *received and disregarded* medical advice. For a few indicators, the logic associating the indicator with reunification is unclear, such as for indicator #5. While the lifestyle described is certainly illegal, it is not apparent why it would be likely to result in a reunification failure. Critical words in the poor prognosis indicators are also undefined, leaving their meaning open to subjective interpretation. For example, indicator #12 refers to a "recent" history of "serious" criminal activity, but does not specify what time frame is meant or what nature of criminal activity constitutes "serious."

The validity and reliability of the poor prognosis indicators will be important for states and agencies hoping to target concurrent planning toward families less likely to reunify, in order to maximize scarce resources and limit the emotional burden for caregivers. But some have voiced concerns that concurrent

planning itself may threaten reunification efforts, if for example social workers fail to provide adequate reunification services due to time constraints (Stein, 2000), or if through inadequate implementation fost-adopt caregivers fail to support natural parents (Weinberg & Katz, 1998).

A further issue then is that very little is known about the effects of concurrent planning. Quantitative evaluation studies are relatively few, and their conclusions arguably equivocal due to design and measurement problems. Several articles report outcomes for the original program in Washington state (Katz, 1990; Katz, 1996 as cited in Schene, 2001), but the lack of any comparison groups makes it difficult to make definitive conclusions about the program's effectiveness. Other studies make use of various types of comparison groups (Brennan, Szolnoki, & Horn, 2003; Kelly & Taylor, 2000; Martin, Barbee, Antle, & Sar, 2002; Monck, Reynolds, & Wigfall, 2003; Schene, 1998) or employ correlational designs to examine implementation of concurrent planning (Martin et al., 2002; Potter & Klein-Rothschild; 2001). These studies have found concurrent planning associated with the following positive outcomes: higher rates of permanency at one year (Potter & Klein-Rothschild, 2001; Schene, 1998); shorter lengths of stay (Martin et al., 2002; Monck et al., 2003; Schene, 1998); fewer placement changes (Monck et al., 2003); lower placement costs (Kelly & Taylor, 2000; Schene, 1998); and improved parental compliance (Martin et al., 2002).

However, comparison group studies do not include control for possibly confounding factors, even when known differences between groups are large, and likely to be associated with permanency outcomes (see Brennan et al., 2003; Martin et al., 2002; Monck et al., 2003; Schene, 1998). Correlational studies similarly do not include controls for other variables that may affect permanency outcomes (see Martin et al., 2002; Potter & Klein-Rothschild, 2000). Overall, while studies of concurrent planning report generally positive results, they are limited in number and design, preventing definitive conclusions about the effects of the practice.

California's experience

Many county social workers in California had interpreted "reasonable efforts" to mean that efforts to secure an alternative

permanent home for a child had to wait until efforts to reunify the parent had failed, even in cases where agency staff felt parents were unlikely to be successful. Children could linger for years in temporary foster care before efforts began to find an adoptive home, efforts that themselves could take several years. California legislation passed in 1997 mandated consideration of concurrent planning in case plans, and clarified that placement of a child with fost-adopt parents could not be considered evidence that reasonable efforts toward reunification had not been made.

For the most part, the model of concurrent planning adopted by the state of California was taken directly from the model developed by Linda Katz. The Katz targeting tool was incorporated into the California state concurrent planning training manual (CDSS, 1998). A review of several preliminary studies of concurrent planning in California suggests the state is struggling with some of the considerations delineated here. In the study of 51 California counties, over half reported they are having difficulty recruiting fost-adopt caregivers (D'Andrade, Mitchell, & Berrick, 2003). Resource issues appear to be affecting implementation as well. Although fost-adopt parenting is likely to place greater burdens upon caregivers, only half of responding counties in the same study provide them additional services beyond those provided to standard foster parents. Most counties rely on single worker models of concurrent planning, but do not offer any caseload reductions to social workers (D'Andrade, Mitchell, & Berrick, 2003).

While most California counties report targeting concurrent planning toward families less likely to reunify (D'Andrade, Mitchell, & Berrick, 2003), it is not clear how the Katz tool, offered in the state's concurrent planning training manual, should be applied; the manual does not explain what accumulation of poor prognosis indicators merits a diagnosis of "unlikely to reunify," or how or if family strengths indicators counter poor prognosis indicators and should be factored into the equation, is not addressed.

Discussion

While distinctly different approaches to improving permanency outcomes for children in out-of-home care, concurrent

planning and reunification exception share some fundamental similarities. A review of the characteristics associated with a poor prognosis for reunification, and the list of reunification exception conditions detailed in California law, shows significant overlap in these characteristics. The second column in Table 2 lists reunification exception conditions that are similar to the listed poor prognosis indicators. For example, aggravated circumstance #13 roughly compares to poor prognosis indicators #8 and #18, concerning drug involvement. The overlap is, in some ways, appropriate; both are attempting to identify the latent concept of reunification failure. In fact, in California, the state training manual suggests that reunification exception conditions not used to bypass services automatically become poor prognosis indicators, identifying cases that should be targeted for concurrent planning (CDSS, 1998).

In addition to describing some similar parental characteristics, poor prognosis indicators and reunification exception conditions also share a potential for over-breadth and bias in their application. Additionally, for both practices overall there is a basic lack of information on when and how they are being implemented, and what their effects are on the families and children served by the child welfare system. Given the leeway states have in shaping these policies, and the history of racial inequities related to child welfare outcomes (Dezerotes, Poertner, & Testa, 2005), such a lack of accountability could be cause for concern.

Of course, the reforms share similar goals as well: improving safety and permanency outcomes for children removed from home. Clearly, ASFA has shifted the focus of child welfare services towards children's rights with an emphasis on promoting children's safety and legal permanency. The innovation states have shown in legislating approaches to reaching these goals are positive developments, and the concerns expressed here should not be taken as a condemnation of either reunification exception or concurrent planning. Thoughtfully and appropriately employed, both reforms hold promise for improving children's foster care experiences and outcomes. However, it must be noted that little is known about their practical application across states and localities, or their effects on children and families. As this paper

suggests, much remains to be learned about these avenues to permanence. California's experiences with reunification exception and concurrent planning suggest care in the implementation and evaluation of these reforms will be critical to their success. The more complex and larger agenda—to promote children's development, health, and mental health within the context of child well-being—may be the next frontier, once we gain more confidence in our capacity to appropriately facilitate permanence.

References

Adoption Assistance and Child Welfare Act of 1980, Pub. L. No. 96–272, 94 Stat. 500. Adoption and Safe Families Act of 1997, Pub.L.No. 105–89, 111 Stat. 2115. (1997).

Baird, C., & Wagner, D. (2000). The relative validity of actuarial- and consensus-based risk assessment systems. *Children and Youth Services Review, 22(11/12)*, 839–871.

Berrick, J. D., Choi, Y., D'Andrade, A., & Frame, L. (in review). Reasonable efforts? Implementation of the reunification exception provision of ASFA.

Berrick, J.D., Needell, B., Barth, R.P., & Jonson-Reid, M. (1998). *The tender years: Toward developmentally sensitive child welfare services for very young children.* New York, NY: Oxford University Press.

Brennan, K., Szolnoki, J., & Horn, M. (2003). *Lutheran Community Services concurrent planning evaluation Stuart Foundation final report.* Seattle, WA: University of Washington, School of Social Work, Northwest Institute for Children and Families, Evaluation Services.

California Department of Social Services, Adoptions Initiative Bureau. (1998). *Concurrent planning implementation guide.* Sacramento, CA: Author.

Chasnoff, I.J. (1998). Silent violence: Is prevention a moral obligation? *Pediatrics, 102(1)*, 145–149.

Chibnall, S., Dutch, N., Jones-Harden, B., Brown, A., Gourdine, R., Smith, J., & et al. (2003). *Children of color in the child welfare system: Perspectives from the child welfare community.* Retrieved June 13, 2005, from http://www.acf.hhs.gov/programs/opre/abuse_neglect/respon_coc/reports/persp_ch_welf/cccws_pers_title.html

Courtney, M. (1994). Factors associated with the reunification of children with their families. *Social Service Review, 68*, 81–108.

Courtney, M. (1995). Re-entry to foster care of children returned to their families. *Social Service Review, 69(21)*, 226–241.

Courtney, M.E., McMurtry, S.L., & Zinn, A. (2004). Housing problems experienced by recipients of child welfare services. *Child Welfare, 83*(5), 393–422.

Curtis, C.M., & Denby, R.W. (2004). Impact of the adoption and safe families act

on families of color: Workers share their thoughts. *Families in Society, 85*(1), 71–79.

D'Andrade, A., Mitchell, L., & Berrick, J. D. (2003, January). *Permanency and child welfare reform: California and the United States.* Paper presented at the conference of the Society for Social Work and Research, Washington, D.C.

Derezotes, D., Poertner, J., & Testa, M. (Eds.) (2005). *Race matters in child welfare: The overrepresentation of African American children in the system* Washington, D.C.: Child Welfare League of America.

Davis, I.P., Landsverk, J., Newton, R., & Ganger, W. (1996). Parental visiting and foster care reunification. *Children and Youth Services Review, 18(4/5)*, 363–382.

Fanshel, D., & Shinn, E. (1978). *Children in foster care: A longitudinal investigation.* New York, NY: Columbia University Press.

Frame, L., Berrick, J.D., & Brodowski, M.L. (2000). Understanding re-entry to care for reunified infants. *Child Welfare, 74(4)*, 339–369.

Fraser, M.W., Walton, F., Lewis, R.E., Pecora, P.J., & Walton, W.K. (1996). An experiment in family reunification: Correlates of outcomes at one-year follow-up. *Children and Youth Services Review, 18(4/5)*, 335–361.

Fuller, T. (2005). Child safety at reunification: A case-control study of maltreatment recurrence following return home from substitute care. *Children and Youth Services Review.*

In re Brian M., 82 Cal. App.4th 1398, (2000).

In re Levi U., 78 Cal App 4th 191, (2000).

Karroll, B.R., & Poertner, J. (2003). Indicators for safe family reunification: How professionals differ. *Journal of Sociology and Social Welfare, 30*(3).

Katz, L. (1990). Effective permanency planning for children in foster care. *Social Work*, 35, 220–226.

Katz, L. (1999). Concurrent planning: Benefits and pitfalls. *Child Welfare, 78(1)*, 71–87.

Katz, L., & Robinson, C. (1991). Foster care drift: A risk-assessment matrix. *Child Welfare, 70(3)*, 347–358.

Kelly, C.M. & Taylor, M., (2000). *Expedited permanency planning in Colorado: 6th annual report to the Colorado Legislature.* Colorado Department of Human Services and Colorado Judicial Branch.

Landsverk, J., Davis, I., Ganger, W., Newton, R., & Johnson, I. (1996). Impact of child psychosocial functioning on reunification from out-of-home care. *Children and Youth Services Review, 18(4/5)*, 447–462.

Leathers, S.J. (2002). Parental visiting and family reunification: Could inclusive practice make a difference? *Child Welfare, 81*(4), 595–616.

Lindsey, D. (2005). *The welfare of children.* New York: Oxford University Press.

Martin, M.H., Barbee, A.P., Antle, B.F., & Sar, B. (2002). Expedited permanency planning: Evaluation of the Kentucky Adoptions Opportunities Project. *Child Welfare, 81*(2), 203–224.

Miller, K.A., Fisher, P.A., Fetrow, B., & Jordan, K. (2005). Trouble on the journey home: Reunification failures in foster care. *Children and Youth Services Review,*

Monck. E., Reynolds, J., & Wigfall, V. (2003). *The role of concurrent planning: Making permanent placements for young children.* London, England: British Association for Adoption and Fostering.

National Conference of State Legislatures (1999, August). Child welfare aggravated circumstances. Retrieved May 23, 2001, from http://www.ncsl.org/programs/cyf/aggravat.htm.

Needell, B., Webster, D., Cuccaro-Alamin, S., Armijo, M., Lee, S., Lery, B., et al. (2005). *Child Welfare Services Reports for California.* Retrieved June 6, 2005, from University of California at Berkeley Center for Social Services Research Web Site: http://cssr.berkeley.edu/CWSCMSreports/

Potter, C.C. & Klein-Rothschild, S. (2001). Getting home on time: Predicting timely permanence for young children. *Child Welfare*, 81(2), 123–150.

Reasonable Efforts. 105th Cong. S3947 (1997). Statement of Senator DeWine. From the Congressional Record Online via GPO Access [wais.access.gpo.gov].

Rzepnicki, T., Schuerman, J., & Johnson, P. (1997). Facing uncertainty: Re-uniting high-risk families. In J. Berrick, R. Barth, & N. Gilbert, (Eds.), *Child Welfare Research Review Volume 2* (pp.229–251), New York, NY: Columbia University Press.

Schene, P. (1998). *Expedited permanency planning in Colorado: An evaluation prepared for the Colorado Department of Human Services.* Unpublished manuscript.

Schene, P. (2001). *Implementing concurrent planning: A handbook for child welfare administrators.* Portland, ME: National Child Welfare Resource Center for Organizational Improvement.

Smith, B. (2003). How parental drug use and drug treatment compliance relate to family reunification. *Child Welfare, 82*(3), 335–366.

Stein, T.J. (2000). The Adoption and Safe Families Act: Creating a false dichotomy between parents' and children's rights. *Families in Society: the Journal of Contemporary Human Services, 81(6)*, 586–592.

Tatara, T. (1994). Some additional explanations for the recent rise in the U.S. child substitute care population: An analysis of national child substitute care flow data and future research questions. In Barth, R., Berrick, J.D., & Gilbert, N. (Eds.), *Child Welfare Research Review v.1* (pp.126–145). New York, NY: Columbia University Press.

U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau (2005a, June). *Trends in foster care and adoption.* Retrieved June 6, 2005, from http://www.acf.dhhs.gov/programs/cb/dis/afcars/publications/afcars.htm

United States Department of Health and Human Services, Administration for Children and Families, Administration of Children, Youth and Families, Children's Services Bureau (2005b, June.). AFCARS Report #9. Retrieved June 6, 2005, from http://www.acf.hhs.gov/programs/cb/publications/afcars/report8.htm.

U.S. Department of Health and Human Services, Administration on Children, Youth and Families, *Child Maltreatment 2003* (Washington, DC: U.S. Govern-

ment Printing Office, 2005c). Retrieved June 22, 2005 from the World Wide Web: http://www.acf.hhs.gov/programs/cb/publications/cmreports.htm

United States Department of Health and Human Services, Administration for Children and Families, Administration for Children, Youth, and Families, Children's Services Bureau (2005d, June). Database of published research on children of color in the child welfare system. Retrieved June 13, 2005, from http://www.acf.hhs.gov/programs/opre/abuse_neglect/respon_coc/reports/dbase_pub/dbase_pub.html

United States General Accounting Office (1997). *Foster care: States' efforts to improve the permanency planning process show some promise.* (GAO/HEHS-97-73, May 1997). Washington, D.C.: Author.

United States General Accounting Office (1998). *Foster care: Agencies face challenges finding stable homes for children of substance abusers* (GAO/HEHS-98-182, September 1998). Washington, D.C: Author.

United States General Accounting Office (2003). Foster care: States focusing on finding permanent homes for children, but long-standing barriers remain. (GAO-03-626T, April 2003). Washington, D.C.: Author.

Weinberg, A. & Katz, L. (1998). Law and social work in partnership for permanency: The Adoption and Safe Families Act and the role of concurrent planning. *Children's Legal Rights Journal, 18(4),* 2–23.

Wulczyn, F.H. (2004). Family reunification. *The Future of Children, 14*(1), 95–114.

Wulczyn, F.H., Hislop, K.B. & Goerge, R.M. (2000). *An Update from the Multistate Foster Care Data Archive: Foster Care Dynamics, 1983–1998.* Chicago, IL: Chapin Center for Children at the University of Chicago.

Young, N., Gardner, S., & Dennis, K. *Responding to alcohol and other drug problems in child welfare: Weaving together policy and practice.* Washington, D.C.: Child Welfare League of America. Retrieved June 11, 2003, from http://www.ncsacw.samhas.gov/files.RespondingtoAODProblems.pdf.