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Practice Implications

Delivering social work services in collaboration with the legal representation for individual clients: An effective, ethical and economical approach to supporting families in child abuse and neglect legal proceedings



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ABSTRACT

This article discusses the need to improve the quality of helping relationships between families and social workers in the child protection system and the growing body of evidence that teams of social workers and lawyers are effective at improving outcomes in child protection legal proceedings. The author presents an alternative structure of delivering social work services within the child protection systems once a court gets involved with a family, proposing that social workers should focus on individual clients in collaboration with their legal representation, rather than the traditional model of a governmental agency social worker serving the family as a unit as it also determines placement of the children. Pairing the social worker to an individual client in tandem with their legal representative would help resolve the widely observed relationship problems between service users and governmental agency social workers that include the power imbalance created by the agency's authority to determine placement of children, the conflicts of interest that agency workers face when required to manage differing family members' needs, and the lack of protection of the due process right of confidentiality for parties involved in legal proceedings. This alternative structure also impacts the need to use resources more efficiently and has been demonstrated to result in substantial returns on investment. This article concludes that when a family becomes involved in child abuse and neglect legal proceedings, the child welfare agency should shift the delivery of social work services to the individual parties, away from the governmental agency and in conjunction with their legal representation.

1. Introduction

It is well established that the quality of the relationship between the social worker and the service user is a determinant of outcomes in child protection cases and is key to mitigating the negative aspects of being involved with child protection services. (Payne, DeVol, & Smith, 2001; Dale, 2004; Lundy, 2004; De Boer & Coady, 2006; Buckley et al., 2011). It is also well understood that engaging the family is an essential component to successful outcomes, but to do so is challenging given the clients' negative experience with the governmental agencies' social workers. (Dickens, Masson, Young, & Bader, 2015; Summers, Wood, Russell, & Macgill, 2012) This article presents the research on the effectiveness of social worker/lawyer teams and highlights lessons

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learned from the Flint MDT Study, a randomized control trial. As more is understood about how social workers collaborate with attorneys and how these teams affect outcomes, a clearer argument in support of this approach as a way to improve relationships between social workers and clients becomes possible.

The emerging evidence of the effectiveness of social worker/lawyer teams brings to light their potential to resolve the commonly observed problem of strained relationships between clients and governmental agency social workers, and the need to improve their quality. (Dale, 2004; Buckley et al., 2011; Maiter, Palmer, & Manji, 2006; Darlington, Healy, & Feeney, 2010; Summers et al., 2012; Pott, 2016) This article explores the benefits to employing social worker/lawyer teams, which include better balancing of power between the social workers and clients since the social workers would not be affiliated with the governmental agency that has the authority to determine placement of their children, resolution of conflicts of interest when a social worker only focuses on one individual's needs, and better protection and use of client confidential information when social workers are loyal to a client and not a governmental agency.

This article then argues for a paradigm shift in how social work services are delivered to court-involved families, advocating that social workers should be part of an individual's independent legal representation instead of part of the governmental child protection agency where they simultaneously serve every member of the family.

2. The challenge of establishing quality relationships in child protection services

One of the commonly cited challenges to successful outcomes in child abuse and neglect cases is the problematic relationship between governmental agency social workers and the clients they serve. Studies from the United Kingdom, Ireland, Canada, Australia, and the United States that profile these relationships report complaints from parents such as not being respected or treated fairly, not being listened to, not feeling a part of the decision making process, and significant disagreements about risk levels and service needs. (Dale, 2004; Buckley et al., 2011; Maiter et al., 2006; Darlington et al., 2010; Summers et al., 2012; Pott, 2016)

Of particular concern is the power imbalance between clients and governmental agency social workers due to the authority the system has to determine placement of children. Clients are keenly aware of the social workers' authority and this unequal power dynamic challenges the development of a productive helping relationship. (Dale, 2004; Buckley et al., 2011; Maiter et al., 2006; Darlington et al., 2010; Summers et al., 2012; Pott, 2016) Studies have observed that service users report keeping communication with agency social workers to a "bare minimum" because of the potentially serious consequences of sharing too much. (Buckley et al., 2011) Studies report this power dynamic creates tensions, and anger often flares between the parent and the agency as this comment from a clients demonstrates: "I kept losing my temper – which is bound to happen when they are threatening to take your son off you." (Dale, 2004) In the extreme, a worker may retaliate against a parent by filing a petition to remove the children from the home after being offended by a parent's behavior that, in reality, is often caused by the parent feeling threatened. (Pott Gonzalez, Coulborn Faller, Ortega, & Tropman, 2009)

There are other challenges to establishing effective helping relationships between agency social workers and their clients. The many work requirements that agency social workers juggle such as investigating complaints, writing reports, and appearing at court hearings tend to detract their attention from developing strong relationships with their clients. (Maiter et al., 2006; Pott, 2016; Haight, Marshall, & Woolman 2015) And, in many jurisdictions, the agency social workers consider attorneys for their clients as adverse parties and may withhold or delay information sharing, which can further damage their relationships with their clients. (Maiter et al., 2006; Haight et al., 2015)

There are many offered potential solutions to improve relationships between clients and agency social workers. They typically include improving training and continuing education, implementing systems for quality assurance regarding professionalism, improving recruitment and retention, and more supervision. (Dale, 2004; Buckley et al., 2011) Some commenters suggest reducing the power imbalance by respecting clients' dignity and autonomy, validating strengths, using common language, and self-disclosures from the social worker. (Maiter et al., 2006) However, to date, studies show that these types of efforts have not mitigated the negative image of agency workers being hostile, powerful, and to be avoided. (Buckley et al., 2011) Plus, it has been noted that there will always be some parents who will not engage with a governmental agency social worker no matter their skill level, simply because of the power imbalance that creates an unequal partnership. (Dale 2004)

3. Empirical evidence of the effectiveness of social worker/lawyer teams

In general, there is a shortage of research on effective legal representation, but studies are emerging that provide evidence that social workers collaborating with lawyers can improve outcomes. (Lalayants & Epstein, 2005; Courtney & Hook, 2012; Pott, 2016) For example, a study in Washington State evaluated the outcomes of "enhanced parental representation," which included social workers as part of the legal team. The study found that the program resulted in more timely court actions, increases in likelihood of family reunifications, and increases in likelihood of case resolutions. (Courtney & Hook, 2012) The social workers for the parents receiving enhanced representation helped parents resolve conflict with other professionals, assisted in obtaining concrete services for parents, and helped locate services required in their case plan. (Courtney & Hook, 2012) Social worker/lawyer teams have also been shown to be effective at preventing out of home placements when they are used to provide civil legal aid to caretakers involved in the child protection system to resolve safety issues and prevent the need to remove the child from their care. That program, the Detroit Center for Family Advocacy, achieved a 98% success rate for preventing out of home placements during its three-year pilot phase (Sankaran, 2014; Thornton & Betsy, 2012). However, both studies were non-experimental and are limited in their ability to discern whether the improved outcomes were attributable to the social work services being delivered in collaboration with the clients' legal

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