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## SERVICES TO CHILDREN AT RISK

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# Permanency Outcomes in Legal Guardianships of Abused/Neglected Children

by Jim Henry

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### Abstract

Legal guardianships for abused/neglected children are often utilized by the child welfare system to create permanency placements. This descriptive study explores the permanency outcomes for abused/neglect children in legal guardianships. Five hundred forty-five family court guardianship files from two southwestern counties in Michigan were reviewed. The findings indicated that successful permanency was dependent on the reason the guardianship. Legal guardianships established following adjudicated child abuse/neglect (seventy-seven) in family court had a permanency disruption rate of 29%. Guardianships established after child abuse/neglect occurred (thirty-six), but prior to adjudication, had a permanency disruption rate of only 9%. Reasons for the disruptions and potential explanations for these statistically significant differences are examined.

THE EXPERIENCE OF PSYCHOLOGICAL and physical safety is a developmental imperative of childhood. It is predicated on assurances from parents about the permanency of the parent-child relationship. Permanency occurs when children receive sustained primary care from parents throughout childhood. When parents are unable to provide such continuity of care, due to such circumstances as child removal for abuse/neglect, death, and/or incarceration, it becomes essential that children reestablish permanency quickly with an adult caretaker (Ainsworth, 1978; Bowlby, 1988; Grigsby, 1994; Toth & Cicchetti, 1996). When permanency is disrupted for an extended period of time, a significant altering of the psychological, emotional, and intellectual development of the child can occur (Ainsworth, 1978; Bowlby, 1980; Fahlberg, 1979; Kochanska, 1995; Goldstein, Freud, & Solnit, 1973; Verschueren, Marcoen, & Schoefs, 1996).

In an effort to dramatically reduce the impact of impermanence on abused/neglected children, Congress passed Public Law 96-272 (Adoption Assistance and Child Welfare Act of 1980). The permanency planning philosophy subsequently adopted nationwide was that every child has a right to a permanent and stable home, preferably his or her own.

Prior to the 1980 legislation, guardianships were pri-

marily reserved for circumstances of parental death or financial estates and were not considered as permanency choices in cases of abuse/neglect. The legislation established legal guardianships as a tertiary option within a hierarchy of alternatives for creating permanency for abused/neglected children. Twenty states, however, still do not have the legal mechanisms in place to establish guardianships for abused/neglected children (Miller, Saswa, & Watkins, 1994).

The most desirable permanency placement, according to the 1980 legislation, is with natural parents. When children are removed from their parents' care, reunification is the primary goal of system intervention. If reunification is not possible, adoption is the next option. If neither reunification nor adoption is available or desirable, legal guardianship is the next alternative. Guardianships provide legal authority to adult caretakers, suspending parental rights. Guardians are responsible for the care of the children, and in most states, can make all decisions typically held by parents (e.g., authorization for medical care, legal agreements).

Long-term foster care is the least favorable permanent living situation and is to be utilized only when the other arrangements are not possible. As an alternative to long-term foster care, "kinship care" has been created (Dubowitz,

1994; Gebel, 1996; Iglehart, 1994; Scannapieco & Heger, 1995; Thornton, 1991). This is an effort to place children with relatives for extended periods of time but not on a permanent basis. A survey indicates that 31% of all children placed out of their birth parents' home are in relative care (Child Welfare League of America, 1992). Kinship care placements are logical precursors to legal guardianships, as legal guardians are often relatives (Thornton, 1991). A study of California's foster care population found that guardianship was a mechanism used by kinship care providers almost exclusively (Needel, Webster, Barth, Monks, & Armijo, 1995).

Theoretically, guardianships are desirable permanent placement options because they most often provide ex-

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tended family placement when children are removed from the custody of their biological parent. Yet, research indicates that they are an underutilized resource, especially for minority children (Leashore, 1985; Williams, 1991). Guardianships can give children continued access to biological parents and thus can minimize separation anxiety and fears of abandonment (Berrick & Barth, 1994; Grigsby, 1994; Iglehart, 1994; Thornton, 1991). Guardianships by relatives additionally offer continuity in relationships, family identity, and a place to belong.

Potential threats to guardianship permanency are financial stress and lack of supportive social services. Most states provide either no financial subsidies or relatively small stipends to guardians compared to adoption and foster care payments (Barth & Barry, 1987; Thornton, 1991). The financial stress of additional children can create hardships, which can lead to placement disruption (Thornton, 1991). It has also been argued that the lack of state subsidies to guardians limits the expansion of guardianships for children with relatives (Schwartz, 1993). Recently, federal Title IV-E money has been utilized in a few states (Illinois and California) to create comparable foster care subsidies to minimize financial hardship for guardians, making them

more attractive to potential guardians. In Illinois, since implementation of a five-year guardianship project, guardianships have risen dramatically, from 178 subsidized guardianships in 1997, the first year of the project, to 1,289 in 1998.

Social services historically have been terminated once guardianships have been established, because guardianship placements have been viewed as safe environments where children can be maintained until age eighteen. Service withdrawal can produce further financial hardship on guardians because of the expense in procuring counseling. In addition, guardians can be challenged beyond their parental skill level by children coming from previous abusive/neglectful environments. Without the assistance of available social services, guardian-child conflicts may escalate, thus increasing the likelihood of placement disruption. In the Illinois project, counseling is available and financially provided to both guardians and the children in their care.

Relatively few studies exist that examine the efficacy of guardianships to provide permanency. In one study on legal guardianships, out of 160 sixteen-year-olds in Los Angeles, 60% were found to be in their initial placement. Another study in Los Angeles that looked at the disruption rate for abused/neglected children in guardianships found 3% to 5% returned to foster care. A study of foster children in San Diego, CA, and Pierce County, WA, found that guardianship was used infrequently. Of the 4.2% of foster children who entered into guardianship, all were still with their initial guardians one year after placement (Davis, English, & Landsverk, 1995). In a study of sixty-four guardianships in San Bernardino County, CA, established after child abuse/neglect, 6.25% of the children had placement disruptions, which resulted in a return to foster care.

The majority of research has studied family reunification and adoption. Different studies of children reunited with their parents found return rates to foster care of 10% (Fein & Staff, 1993), 22% (Wulczyn, 1991) and 33% (George, 1990). Adoptions during the past seventeen years have steadily increased, particularly for special needs children. Adoption disruption rates range from 7% to 14% for abused/neglected children (Cohen, 1984; Barth & Berry, 1990), to 47% when abused/neglected children are older and/or hard-to-place (developmentally disabled) (Boyne, Denby, Kettenring & Wheeler, 1984). Studies on the least desirable permanency alternative, long term foster care, reveal disruption rates of 28% to 50% (Fein, 1979).

The primary purpose of this study was to learn the rate of permanency success of guardianships established

for abused/neglected children, in order to determine its viability as a permanency option compared with adoption and long term foster care.

## Method

An exploratory descriptive study was employed to obtain data. Guardianships in two counties in southwestern Michigan were studied. The two counties were chosen because of their demographic diversity and availability. County A is an urban area with a large city population of 223,411. The average income was \$52,415 for two-parent families and \$17,762 for single-parent families. The unemployment rate was 5.2%. Minority children comprised 24% of the total child population, and 15% of the children lived with families whose income was below the poverty level.

County B is a rural county consisting of several small towns and villages with a population of 58,913. The average income was \$40,522 for two-parent families and \$16,517 for single-parent families. The unemployment rate was approximately 9.2%. Minority children comprised 5.5% of the child population. Sixteen percent of the county's children were below the poverty level.

In Michigan, the probate court can grant full or limited guardianships. Whereas full guardianships give authority to guardians to grant permission for children to be married and adopted, limited guardianships do not have such authority. They are sometimes time limited, but are most often meant to be permanent.

## Procedure

The probate court files of all guardianships established in the two counties between 1990 and 1995 were reviewed. The court files contained initial case histories, home studies, yearly progress reports on the status of the child completed by guardians, and reasons for termination. The researcher created and employed a questionnaire containing specific variables listed in the standardized court form that could potentially impact permanency. These variables included: reason for guardianships, guardians' relationship to child, parent visitation frequency, developmental disability of children, financial resources of guardians, yearly progress of children, and social services support to children. All the above information on the variables was contained within the court worker's initial report and/or yearly progress reports completed annually by guardians. Likert scales were utilized to measure parental visitation ("none" to "intensive") and guardianship

**Table 1.** *Reasons for guardianship.*

<i>Reasons for Guardianship</i>	<i>Frequency</i>	<i>Percentage</i>
Adjudicated abuse/neglect	77	14%
Avoid child protection	36	7%
Abandonment	17	3%
Incarceration	25	5%
Parent/child conflict	50	9%
Parents unable to care	130	24%
Parents moved away	64	12%
Death	47	9%
Other	91	17%
Totals	545	100%

status ("stable" to "significant concerns").

Difficulties, however, were encountered in extracting relevant information regarding variables from the court files. Frequently, court files did not contain the necessary information, as both caseworkers and guardians often failed to complete the questions in the mandated court files. The lack of some information in many court files often made it difficult to draw conclusions on factors related to permanency.

Following the review of the probate court guardianship files, a juvenile court computer review of all abused/neglected children who had returned to their biological parents following guardianship termination was also performed. The computer review yielded names of children who had been returned home to parents but later were brought into foster care due to parental abuse/neglect.

## Participants

Five hundred forty-five guardianship court files from the years 1990-95 were reviewed from the two counties. The mean age for all of the children at the time of the initial guardianship was 9.7 years. Forty-three percent of the guardianships were established when children were between the ages of thirteen and seventeen years old, and 30% of the children were five or under. Fifty-two percent of the children were males. The child's race was identified in only 57% of the cases. Of those, 35% were Caucasian, 16% were African American, and 5% were listed as other.

Eighty-seven percent of the guardianships involved only one child. Relatives were the appointed guardians in 85% of the cases, with maternal grandparents comprising 37%, paternal grandparents 10%, and aunts 20% of the guardians. Sixty-five percent were limited guardianships, and 35% were full guardianships. Employment status was

known for 59% of the guardians, of which 95% were employed. Forty-five percent of the children had been placed with the guardians prior to the establishment of legal guardianship.

A myriad of reasons were given to explain why the 545 guardianships under study were established (see Table 1). "Parents unable to care for their children" was the most cited rationale (130) documented for guardianships. Within this category, there were various circumstances (e.g., mother too young, parent ill), but there was no mention in these court files of any abuse/neglect. Establishing guardianship in adjudicated abuse/neglect cases accounted for the second highest number (77) of guardianships. All but two of these cases were in County A. Related to adjudicated abuse/neglect were situations where guardianships were established to prevent an abuse/neglect petition from being filed. Most often, these were attempts by family members to keep the children within the extended family prior to a parental removal and an eventual out of home foster care placement. Five of these cases were from County B, with the remainder from County A.

Several of the other reason categories could have been considered under the rubric of abuse/neglect. These included: abandonment (seventeen), incarceration (twenty-five), and parent-child conflict (fifty). They were not, however, identified as abuse/neglect because there were no indications in the probate court files of child protective service or juvenile court involvement. In order to avoid assumptions of abuse/neglect as precipitative factors within these guardianships, they were regarded as distinct and separate from the documented abuse/neglect cases.

## Results

At the time of the study, 61% (335) of all guardianships reviewed (545) had been terminated by court order (see Table 2). Parents petitioning for the return of their children (40%) and children turning eighteen (37%) accounted for 77% of the terminations. In 9% of the cases, termination was due to a lack of care by guardians, as 7% of the guardians were unwilling to provide further care for children, and 2% were deemed unfit by the probate court.

Adjudicated abuse/neglect initial guardianships had a termination rate of 69%. Thirty-one percent of the adjudicated abused/neglected children, at the time of this research, were still living with their initial guardian. Nineteen percent of all adjudicated abused/neglected children remained in the home of their initial guardian without disruption until termination. They either turned eighteen

**Table 2.** Reasons for termination; all guardianships.

Reason for termination	Frequency	Percentage
Child reached 18	135	37%
Guardian can no longer care	25	7%
Parental petition for return of child	147	40%
Guardian unfit (abuse/neglect)	6	2%
Death/illness of guardian	1	.03%
Venue change	19	5%
Child adopted	22	6%
Totals	335	100%

(three), were adopted (six), or moved to another county (five).

In contrast, 29% of guardianships established for adjudicated abused/neglected children did not achieve permanency due to failure on the guardians behalf. Eighteen percent (thirteen) of the children had at least one successor guardian, 4% (three) of guardians returned children to the court, and 7% of the children (five) were removed because the guardians were unfit.

The mean age for children placed with a successor guardian was 12.2 years. The average length of stay with the initial guardian prior to placement with a successor guardian was two years. Nine of the thirteen initial guardians petitioned the court for a successor guardian due to an unwillingness to continue care for the children. Successor guardians provided permanency at a rate of 53% to the adjudicated abused/neglected children. Thirty-one percent of the successor guardianships failed due to the guardian being either unfit or unwilling to care for their children. The remaining 16% returned to their biological parents.

Those children who experienced placement disruption due to initial guardians' being unwillingness to care or because they were deemed to be unfit had a mean age of 13.2 years. They had resided with their initial guardian for approximately four years prior to the disruption.

Fifteen parents regained custody of their children following a parental petition to the court. The mean number of years in placement with guardians prior to returning to parents was four years. The mean age of children returning to parents was eleven years. Of the fifteen parental return cases, 33% (five) were later repeteditioned back into juvenile court for new allegations of abuse/neglect. The five children who returned to foster care comprised 6% of the total adjudicated abuse/neglect group.

In the thirty-six guardianships where child protective services was involved without adjudication, only 9% failed

to achieve permanency. One guardianship (3%) terminated because the guardian was unfit, and there were two successor guardianships (6%). Twenty-six percent of the guardianships were successful in providing permanency at guardianship termination. Six percent (two) of the children turned eighteen, 14% (five) were adopted, and 6% (two) moved out of state.

Twenty-seven percent (ten) of the nonadjudicated children were returned to the biological parent upon parental petitioning of the court. A review of the juvenile court records indicated that there had been no further abuse/neglect petitions filed on any of these children, which suggests that they have remained with their parents.

Type of guardianship, age, race, gender, guardians' employment status, and guardians' financial status had no statistically significant impact on permanency. There was a statistical significant difference in permanency outcomes between adjudicated abuse/neglect and nonadjudicated abuse/neglect. A two-tailed confidence interval test revealed a Z score of 3.84 with  $p = .0001$ .

There was little information within the court files on special needs children, parental visitation, or counseling to children for either the adjudicated or nonadjudicated abuse/neglect groups. Since so few files contained information, no statistical analysis could be run. It is unclear whether the lack of reporting by guardians on special is-

ues, concerns, and/or services reflected that there were no such circumstances, or whether guardians were just unwilling to report to the court officials.

## Discussion

The results of this study reveal that guardianships can provide permanency to abused/neglected children. However, the ability of guardianships to consistently furnish permanency is questionable. The permanency rate (remaining with initial guardians) for children from adjudicated abuse/neglect cases was 51%. Thirteen percent of the guardianships were terminated because the children returned to their biological parents and remained with them. The other 35% did not obtain permanency because they (a) received successor guardians, (b) were placed in foster care due to the guardians failure to provide and/or maintain adequate care of them, (c) were returned to their biological parent only to be placed in foster care due to new parental abuse/neglect.

Contrary to previous studies on adoption (Barth & Berry, 1988; Boyne et al., 1984; Tremiere, 1984), reaching adolescence was not a predictor of placement disruption. For those children who were placed in foster care due to guardians being unwilling or unfit to provide further

**Table 3.** Reasons for termination; adjudicated abuse/neglect.

<i>Reason for termination</i>	<i>Frequency</i>	<i>Percentage of termination</i>	<i>Percentage of all adj. abuse/neg.</i>
<b>Permanency Success</b>			
Child 18	3	6%	4%
Child adopted	6	12%	8%
Venue change	5	10%	7%
<b>Permanency Failure</b>			
Guardian unfit	5	10%	7%
Guardian can no longer care	3	6%	4%
Successor guardian	13	25%	18%
<b>PARENTAL RETURN</b>			
Parental petition for return of children: remained	10	19%	13%
Parental petition for return of children: returned to foster care	5	10%	7%
<b>Other</b>			
Death/illness of guardian	1	1%	1%
Totals	38	100%	69%

care, the mean age was 13.2 years. The mean age for the group of children who went to successor guardians was 12.2 years and for those who returned to foster care after being with parents, 11 years. These mean ages indicate that placement disruption was not attributable to adolescence, which has been identified as the period when the highest rates of placement disruption occur.

Abused/neglected children who were not adjudicated had a much higher rate of permanency. Sixty-four percent remained with their initial guardian, and 27% successfully returned to their parents. Only 9% of the guardianships failed to maintain permanency. A statistically significant difference in permanency between the two groups was confirmed by analysis.

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The demographic characteristics and yearly progress reports did not yield any factors that could explain the differences between the two abuse/neglect groups. Some differences existed between the two groups in the number of children with developmental disabilities and/or in special education, but these did not correlate with guardianship failure. Both groups had few children that attended counseling.

Due to the fact that the court records revealed no data on potential intervening variables, explanations for the differences in permanency between groups are speculative. One possible reason for placement disruption may be the severity of children's problems (Kadushin & Seidl, 1971). Children from more abusive/neglectful environments and/or those who have been in out-of-home placements (adjudicated cases) are frequently difficult to manage because of previous psychological harm incurred. They are more likely to be anxious, lag in development, become delinquent, and have emotional and behavioral disorders (Avery, 1994; Barth & Barry, 1988; Chernoff et al., 1994; Cries et al., 1996; Halfon et al., 1992; Pilowski, 1995; Schneiderman et al., 1997; Truppin et al., 1993; Urquia, 1994). Disruptive behaviors strain guardian-child relation-

ships and increase the likelihood of placement failure. Supporting this explanation is the fact that five out of the six guardianships that failed because the guardians were unfit were in the adjudicated abuse/neglect group. Further support for increased stress in adjudicated abuse/neglect guardianships is evident in that nine out of the fourteen successor guardianships granted were due to guardians being either unwilling or unfit to maintain care of the children. Of the fourteen successor guardianships, 53% failed to provide permanency.

The lack of substantive information in the court files on guardians creates difficulty in determining possible guardian characteristics that contributed to placement failure for adjudicated abused/neglected children. Studies on disrupted adoptions reveal that families with rigid roles and rules (Boneh, 1979; Cohen, 1984; Sack & Dale, 1982), insufficient training or information on the child (Nelson, 1985; Pardeck, 1983), or too many familial stressors and few resources (Zwimpfer, 1983) are more likely to experience placement failures. These characteristics are applicable to guardianships, except familiarity with child, as 95% were relatives and over 65% had the children placed with them prior to the guardianship. Guardians typically receive no training on how to respond to potential difficulties in forming and maintaining their new role relationship with the children. Further, as previously mentioned, states rarely provide financial resources or social services to assist guardians. The findings from the adoption literature shed little light on why the rates of guardianship disruption are higher in adjudicated abuse/neglect cases than nonadjudicated abuse/neglect cases.

Statistics on permanency rates for adoption and long term foster care provide baseline data to determine the efficacy of guardianship as a permanency solution for abused/neglected children. Statistics from previous studies on adoption indicate that permanency disruption rates range from 7% to 14% for abused/neglected children (Barth & Berry, 1988; Cohen, 1984), 22% to 26% for adolescents (Barth & Berry, 1988, 1990) and up to 47% for special needs and hard-to-place children (Boyne et al., 1984). Because there were few special needs children represented in this study, the adjudicated abuse/neglect guardianship disruption rate (36%) is two to three times higher than in most adoption studies.

In this study, guardianships established after adjudicated abuse/neglect, although almost exclusively by relatives, did not approximate the rate of permanency compared to rates reported in adoption studies of abused/neglected children. This statistic does not negate

the importance of extended family to abused/neglected children, but it does challenge the premise that relatives are the best permanent placement for children who have been adjudicated in the juvenile court system. It could be argued that subsequent placement with a successor guardian is not the same as foster care or adoption disruptions, because they are likely to be relatives with whom children have some familiarity. The difficulty, however, is that a move to a successor guardian, in all probability, still leads to significant disruptions in children's affective bonds. Because the new guardian is a relative in no way ensures the child's affective attachment. Children must develop new roles, patterns of interaction, and relationships in order to fit into the successors' families. Loss of security and trust are additional stressors that can produce psychological harm.

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**Developing best practices in  
making permanent placement  
decisions demands awareness of  
outcomes of past practices.**

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Guardianships in which adjudication had not occurred appeared to be a positive option in securing permanency or family reunification. These guardianships had a permanency disruption rate of 9%, which is equivalent to adoption rate failure of 7%-14%. Further, the 100% success rate of children who were returned to biological parents provides strong support for these guardianships as temporary mechanisms for later family reunification. Relative guardianship care in these situations of less chronic abuse/neglect may be a positive precursor to permanency by providing temporary care to children as a bridge to return to parents or permanent relationships in a guardianship. These findings lend support to a concept called "co-guardians" (Schwartz, 1993). These types of guardianships could be created, according to Schwartz, to assist parents with parenting skill problems and/or substance abuse issues. Co-guardians would share in the decision making for children, but would hold more authority and be the protector of the child. By such an arrangement, child welfare involvement could be minimized, the need for a abuse/neglect petition avoided, and proactive sup-

portive services could be introduced to decrease any future need for placement of children into foster care.

Guardianships do appear to be more successful than long-term foster care in providing permanency. With disruption rates as high as 50% (Fein, Davies, & Knight, 1979) in long-term foster care, guardianships may be a positive alternative. In addition, guardianships offer the probability of relative placement that serves to continue the family connection for the child. If a successor guardian is appointed, it is likely that the new guardian will be an extended family member with whom the child is acquainted. This possibility, although not optimal for children, does provide familial continuity that does not exist for children in long-term foster care.

Yearly reports did not contain information that indicated any problems prior to placement disruption. Guardians either did not want to communicate difficulties to the court or minimized presenting problems with the guardianship. The failure to report problems prevented statistical analysis that could have produced an understanding of what factors contribute to permanency rather than placement disruption.

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## Conclusion

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Developing best practices in making permanent placement decisions demands awareness of outcomes of past practices. This study provides initial empirical data on permanency rates of guardianships for abused/neglected children. The findings caution professionals that adjudicated abused/neglected children in guardianships had only a 49% chance of remaining with their initial guardian with a positive permanency outcome. If permanency is the goal, this finding warrants strong consideration before placement decisions are made.

Guardianship in situations of abuse/neglect, prior to legal intervention through juvenile court, may provide a positive alternative for permanency and family reunification. In such circumstances, guardianships may be useful alternatives to consider in lieu of juvenile court petitions for abuse/neglect.

This study did not furnish many insights into factors that contribute to guardianship permanency success or failure. Limited information within court files prohibited statistical analysis. Future study in this area should include personal interviews with guardians.

This study is limited by its numbers and location, which prevents generalizations. Yet, it does provide important findings that can inform practice in determining



permanency placements.

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