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The Importance of Maintaining Sibling Connections in Foster Care

BY DR. ROBERT WHITE AND SAMANTHA JERNSTROM

For many years, while my parents were drinking and using and dealing drugs, I was all my three siblings had. Due to overuse of methamphetamines, my parents often functioned at a school-aged level. They were also bipolar and got angry at us kids easily, so as the eldest I stood up for my siblings.

Samantha Jernstrom's Story

Not only was I like a parent to my siblings, I had to be one to my own parents as well. I was the one who went out and looked for food, sometimes even stealing from grocery stores to make sure that we were fed. I was the one who worried every day when our next meal would be and where it would come from. I was the one who changed the kids' diapers, clothed them, taught them how to walk, helped them with their homework. My parents' drug use effectively turned me into a parent while I was still only a child myself. I felt as though my siblings would not survive unless I took care of them.

When we entered foster care, I was almost ten years old, and my siblings were nine, six, and five. At first we were brought to the hospital, where we were excited to have our first real meal in months: turkey and mashed potatoes with ice cream. After that, the only question that went through my mind was *Are we going back home?*

I had always been there to help my siblings and take care of them. Now I had no way of knowing what would happen to all of us. I asked where we were going, and was told that we were being taken to a stranger's house.



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The Importance of Sibling Co-Placement

As Samantha's story illustrates, healthy, loving sibling relationships are important to children and should—ideally—last a lifetime. For children removed from their families, “sibling relationships take on more importance because they can provide the support and nurture that are not consistently provided by parents.”¹

Before these children entered the child welfare system, the only support they had might have been from their sisters and brothers. As one former foster youth (who, like Samantha, was permanently separated from her brother) explained: “When I left my little brother, it felt like a piece of my heart was taken. I wasn't sure if I was ever going to get that piece back.”

Many studies have shown that keeping siblings together in foster care can have an enormous impact on their wellbeing. Children often experience better permanency outcomes when placed with their siblings, including “greater placement stability, fewer emotional and behavioral difficulties, fewer placements and fewer days in placement.”² Emotional bonding is an essential aspect of identity formation, contributing to positive educational outcomes, job stability and success, and societal involvement. Through sibling interaction, “siblings are creating a ‘social world of meaning.’”³

Foster care is designed to ensure that children's needs are met, and that they receive the care and foundation they need for positive development. This must include the preservation of existing sibling relationships, since “research has validated that, for many children, sibling relationships do promote resilience...[and] diminish the impact of adverse circumstances such as parental mental illness, substance abuse, or loss.”⁴

Entering foster care can be a very traumatic experience. Although the child may have known abuse or neglect in their prior home, being removed and sent elsewhere can increase feelings of uncertainty and anxiety. When children lose all familiar faces in addition to familiar surroundings, the burden can be overwhelming. One researcher, who interviewed ninety children who had been placed in foster care, summarized their experience: “All sense of family, of comfort, of

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¹ *Sibling Issues in Foster Care and Adoption*. Washington, DC: U.S. Department of Health and Human Services, Children's Bureau, *Child Welfare Information Gateway* (2013). Retrieved from: www.childwelfare.gov/pubs/siblingissues/

² *Practice Principles for the Recruitment and Retention of Kinship, Foster, and Adoptive Families for Siblings*. AdoptUSKids. Retrieved from: www.adoptuskids.org/_assets/files/NRCRRFAP/resources/practice-principles-and-seven-step-process-for-sibling-recruitment.pdf

³ James, S., Monn, A., Palinkas, L., & Leslie, L. 1 January 2008. “Maintaining sibling relationships for children in foster and adoptive placements.” *Children and Youth Services Review*, 30, 1, pp. 90-106.

⁴ *Sibling Issues in Foster Care and Adoption*.

familiarity and of belonging was gone and there was no one except strangers.”⁵

In circumstances such as this, children experience significant loss. Child welfare researchers have found that separation from one’s sibling in foster care can be associated with a range of negative and self-destructive outcomes, including:

- A feeling that the child has lost a part of himself or herself
- Concern that while the child herself have escaped from the abuse, her absent sibling may still be suffering
- A false sense of guilt or feeling that the separation from his sibling was his own fault⁶

Studies have shown that children without a secure attachment to parents, siblings, or other family experience behavioral issues in the later teen years because of identity crises. For example, “[c]rime and delinquency, including violence...are all efforts to maintain identity by...achieving recognition—by whatever means may be available.”⁷

Research shows that the protective benefits of placement with siblings extend not just into the teen years, but far beyond. One recent study of adults who had previously been in foster care found that greater access to siblings while in care was associated with a wide range of positive adult outcomes, including “higher levels of social support, self-esteem, income, and adult sibling relationships.”⁸

The Fostering Connections Act: A Recognition of the Importance of Sibling Co-Placement

In recognition of the importance of placing foster children together whenever possible, Congress included several provisions related to sibling co-placement in the landmark Fostering Connections to Success and Increasing Adoptions Act of 2008. First, the act mandated that “reasonable efforts shall be made...to place siblings removed from their home in the same foster care, kinship guardianship, or adoptive placement, unless the State documents that such a joint placement would be contrary to the safety or well-being of any of the siblings.”

⁵ Folman, R.D. 1998. “I was taken’: How children experience removal from their parents preliminary to placement into foster care.” *Adoption Quarterly*, 2(2), 7-35, at 25.

⁶ Outcomes listed below are from McCormick, A. 2010. “Siblings in foster care: An overview of research, policy, and practice.” *Journal of Public Child Welfare*, 4, 198-218.

⁷ Bracher, Mark. *Social Symptoms of Identity Needs: Why We Have Failed to Solve Our Social Problems and What to Do About It*. London: Karnac, 2009.

⁸ McCormick, A. 2009. *The role of the sibling relationship in foster care: A comparison of adults with a history of childhood out-of-home placement*. Doctoral dissertation: The University of Texas at Arlington, page iv.

Additionally, the Fostering Connections Act required that when sibling co-placement was not possible, the state must “provide for frequent visitation or other ongoing interaction between the siblings, unless that State documents that frequent visitation or other ongoing interaction would be contrary to the safety or well-being of any of the siblings.” The act also required that close relatives of the child (including adult siblings) be notified that the child had been taken into care so that they would have the opportunity to volunteer to serve as a placement for the child.

While several dozen states had previously enacted laws or regulations to improve siblings’ co-placement, the passage of the Fostering Connections legislation marked the first time the full importance of maintaining sibling relationships for foster children was recognized by federal law. Unfortunately for Samantha, her siblings, and thousands of foster children like her, the promise of the Fostering Connections Act did not translate into an opportunity to be placed together. As Samantha recalls:

During our time in foster care, my siblings and I were separated—just like a majority of the sibling groups in foster care.⁹ We were split up twice, and eventually separated permanently. When my two youngest siblings were adopted, both their adoptive parents and the state promised that I would be able to stay in contact with them. But those promises were broken. Later, when I sought help from the state, I was told that there was nothing anyone could do.

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Legal Obstacles to Sibling Co-Placement

While the Fostering Connections Act has improved child welfare outcomes on several fronts, a number of legal obstacles have emerged that have limited the law’s effectiveness in maintaining sibling relationships.¹⁰

Issue 1: Foster children have difficulty challenging placement decisions in court.

As Samantha’s experience illustrates, it can be difficult or impossible for a foster child to get a court to enforce state and federal requirements that reasonable efforts be made to place siblings together. There are a number of reasons for this, including the general unwillingness of federal courts to find that federal requirements to the states (i.e., to make reasonable efforts at co-placement) may be compelled by legal action brought by an individual. A few federal courts have allowed foster children to assert that they have a right of association that would provide federal protection to

⁹ One estimate is that 60 to 73 percent of sibling groups in foster care are split up among different placements (see Children’s Rights, Spring 2013, *Notes from the Field*, available at childrensrights.org). Unfortunately, precise figures are difficult to obtain, since federal law does not currently mandate the collection of sibling placement data. From the data we do have, it appears that some states are doing much better than others in keeping siblings together.

¹⁰ We focus here on a few legal impediments to sibling co-placement. A range of other factors can also impact co-placement rates. Among others, these obstacles include the difficulty of attracting foster families able to care for large sibling groups, the lack of reliable data on sibling co-placement, and insufficient emphasis on sibling co-placement in some agencies.

their relationships with their siblings. However, the U.S. Supreme Court has thus far declined to specifically rule on the issue.

Issue 2: Many sibling placements are not recognized as “relative placements” under federal law.

Another legal obstacle to sibling co-placement can be the federal definition of who qualifies as a “relative placement.” Federal law requires states to give preference to an “adult relative” when determining placement of a child.¹¹ However, a child’s siblings often live in the home of an adult who does not have a direct relationship with the child. This would occur, for example, when a child’s half-sister (through one parent) lives with her other parent in a separate household. Alternatively, the child’s sibling may have already been adopted out of foster care, in which case his custodial parents are his adoptive parents.

Unfortunately, in cases such as these, the foster child’s placement with his sibling would not legally qualify as a “relative placement,” since the adults in the household have no direct legal relationship with the foster child themselves.¹² Relative placements often enjoy expedited licensing requirements and are typically statutorily preferred to non-relative placements. Thus, if a sibling’s household does not qualify as a “relative placement,” it can make it much more difficult for sibling co-placement to occur.

Issue 3: Many siblings lose their status as “siblings” when their parents’ rights are terminated.

Implementation of the sibling provisions of the Fostering Connections Act has been hampered in some places by state laws prematurely terminating the sibling relationship. As noted by a legal scholar in this area, “[s]ome state statutes, and courts interpreting those statutes, cut off all familial ties [including sibling ties] at the point when parental rights are terminated.”¹³ Such actions render meaningless the requirements under the Fostering Connections Act that siblings be placed together whenever possible, since the children involved are no longer legally considered to be siblings once termination of parental rights occurs.

Potential Changes to Federal Law

Legislative fixes to the second and third of these obstacles to sibling co-placement may be forthcoming at the federal level as part of this Congress’s adoption incentives reauthorization bill. Late last year, the Senate

¹¹ 42 USC § 671(a)(19)

¹² A handful of states do have specific laws or regulations in place that allow parents of a foster child’s sibling to be considered a relative placement for the child. For states whose laws closely follow the language of the federal statute, however, parents of siblings are unlikely to be considered as relative placements.

¹³ Randi Mandelbaum. 2011. *Delicate Balances: Assessing the Needs and Rights of Siblings in Foster Care to Maintain Their Relationships Post-Adoption*, 41 N.M. L. Rev. 1, at 56.

Finance Committee passed reauthorization legislation that would allow the permanent homes of siblings to qualify as “relative placements,” even when the sibling’s parents may not be otherwise related to the child in care.

Additionally, the bill provides that children do not lose their status as siblings simply because their parents’ legal rights have been terminated. This change ensures that state law regarding the status of children post-termination does not interfere with the goal of ensuring that each child is able to remain with his or her brothers and sisters. If this measure is soon passed into law, it will be easier for thousands of children to receive the benefits associated with placement with a sibling.¹⁴

Hoping for a Better Future

In the seven years since we were separated, I have only seen my siblings twice. They’ve since moved two states away with their adoptive family. It has been a heartbreaking seven years, knowing that I lost my younger siblings because of the foster care system.

When I was younger, no matter how terrible things were with my parents, I never imagined a life without my siblings. I have now lived for seven years without them. Mine is just one family—there are tens of thousands of youth in the foster care system with stories just like ours. The reality is that there are simply not enough foster and adoptive families willing to take in large sibling groups.

As child welfare and adoption advocates, we must consider stories like Samantha’s and recognize that foster care and adoption *do not make sibling relationships any less important*. We must work to better educate those who work with and adopt youth in foster care, and impress upon foster and adoptive parents just how essential these relationships are. Ideally, siblings should be adopted out of foster care as a group; but when this is impossible, youth should be empowered and supported in maintaining positive, lasting connections with their brothers and sisters. Our hope is that, in the not-too-distant future, all children in foster care will have the opportunity—from their own personal experience—to appreciate this insight from a New Jersey judge:

Surely, nothing can equal or replace either the emotional and biological bonds which exist between siblings, or the memories of trials and tribulations endured together, brotherly or sisterly quarrels and reconciliations, and the sharing of secrets, fears and dreams. To be able to establish and nurture such a relationship is, without question, a natural, inalienable right.¹⁵

¹⁴ The full Senate has not yet voted on the reauthorization bill described here. Additionally, the adoption incentives reauthorization bill passed by the House of Representatives does not include a similar provision. As a result, it is unclear whether the provision will ultimately be signed into law.

¹⁵ L. v. G., 203 N.J.Super. 385, 497 A.2d 215 (Ch. Div. 1985)

ABOUT THE AUTHORS

Dr. Robert White is an assistant professor at Iowa State University. His child advocacy work led to the 2013 passage of an Iowa law which has enhanced the ability of children in foster care to be placed together with their siblings. He and his wife, Sharon, are the parents of four children, three of whom were adopted. They are also licensed foster parents. The child welfare reform efforts of Robert and Sharon White were recently recognized by Senator Chuck Grassley at an event in Washington, DC.

Samantha Jernstrom spent five years in foster care before being adopted by her foster parents. Her siblings were placed with their aunt and uncle in Oregon. As a result of her separation from her siblings, Samantha is especially passionate about sibling rights. She was a 2013 Congressional Coalition on Adoption Institute Foster Youth Intern, conducting research on foster care issues and advocating for youth in care. She lives in Idaho, and works as an AmeriCorps VISTA volunteer with One Church, One Child to advocate for youth in foster care and their families.



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