

The Columbus Pilot in the Family Court of Western Australia: Some early findings from the evaluation

Paper presented at the
Eighth Australian Institute of Family Studies Conference
Melbourne, 12–14 February 2003

Dr Paul Murphy and Dr Lisbeth Pike

Introduction

Over the past decade, there has been growing concern that the Family Court in Australia has not been achieving optimum outcomes for separating parents and their children. Many of the processes within the court system are adversarial and are therefore not conducive to encouraging cooperative post-separation parenting. This is especially relevant where there have been allegations and/or incidents of domestic violence, child sexual abuse, or child abuse.

One approach to addressing some of the issues inherent in the current system was the Magellan project conducted in the Melbourne and Dandenong Registries of the Family Court of Australia in the late 1990s.

Magellan was ‘judge-led’ and, although it included a multi-disciplinary approach, it essentially ‘fast tracked’ cases involving allegations of child abuse. The project seemed to achieve significant results in terms of time saved, agreed outcomes (Consent Orders), and reduced stress on litigants (and, vicariously, on their children). The Magellan project evaluation report suggested that a ‘case management’ approach could produce a number of other outcomes which significantly affect the way the various Family Court processes might be managed (Brown, Sheehan, Frederico and Hewitt, 2001, 2002).

In early 2001, the Chief Judge of the Family Court of Western Australia approved a pilot project to assess the efficacy of a comprehensive individualised case management approach to expediting cases where there had been allegations of domestic violence, child sexual abuse, child abuse, or where there was evidence of significant risk factors. The ‘Columbus Pilot’ project was implemented in July 2001 and formally ‘launched’ at a symposium in November of that year.

Columbus is an holistic multi-disciplinary individualised¹ case management approach to address allegations of domestic violence, child abuse, child sexual abuse, and family violence where there are inherent child protection implications. A designated

¹ We originally conceptualised the Columbus process as ‘differential case management’. However, this term has a different connotation within the wider Family Court and legal networks where matters are differentiated “direct, standard or complex”, based on the Registrar’s estimation of the number of days that the case might take to resolve – *see* Cooper, D. (2002) p122. We have therefore used the term ‘individualised case management’ to indicate the highly personalised nature of the Columbus process.

Judicial Officer and a Court Counsellor jointly chair a series of Columbus case conferences with a view to achieving a negotiated agreement concerning issues of contact and residence rather than imposing an outcome that, in all likelihood, will become the subject of further court action. Columbus thus epitomises the concept of primary dispute resolution (PDR) proposed in the recent report by the Family Law Pathways Advisory Group (FLPAG, 2001).

An interdisciplinary research team from the Department of Social Work and Social Policy at The University of Western Australia and the School of Psychology at Edith Cowan University was made available to conduct the evaluation of the pilot project. The team presented its First Interim Report in July 2002 (Murphy and Pike, 2002), and this paper reflects some of the early findings in Stage I of the evaluation.

This paper will report some of the preliminary findings of the evaluation and outline the next two Stages in the evaluation project.

Methodology

The evaluation methodology sought to replicate relevant aspects of the Magellan project thereby providing for some degree of comparative analysis. These measures included basic demographic profiles of the sample families, length of time until an acceptable outcome was achieved, and number of attendances at Court – known as ‘Court Events’. As in Magellan, the researchers interviewed members of the court staff (both judicial officers and counsellors), some Child Representatives, and a range of staff from direct service providers represented on the Columbus Reference Group. The researchers also observed various relevant Court Events, including counselling interviews with Columbus clients and Columbus conferences. Feedback from legal practitioners and clients is scheduled in Stage III of the evaluation.

The team also developed a mapping framework (Clare, Murphy and Peerless, 1995) so that each of the cases could be displayed and compared against the Columbus ‘Design’ in terms of process, staff-time intensity, and an imputed ‘cost’ of Court staff. This costing mechanism enabled a comparison of relative costs between:

- the Columbus Pilot cases,
- a ‘Control Group’ (cases with similar characteristics to those in the Pilot but which for one reason or another did not meet the selection criteria),
- a ‘Comparison Group’ (cases which were excluded on the basis of their time in the system), and
- the Columbus ‘Design’.

A total of 25 cases was mapped in this first stage of the evaluation. The three samples were: Columbus Pilot (14), Control Group (11), and Comparison Group (2). It is accepted that these are very small samples. Stage II of the evaluation has 95 in the Columbus sample and 65 in the Control group with three sub-samples (Domestic Violence, Child Abuse, and Family Violence) in both primary samples thereby providing for comparisons within and between the Columbus and Control samples.

However, the primary aim in Stage I was to explore the efficacy of the methodology and to assess its potential as an evaluation approach. It is also possible to extend the costing mechanism to include factors such as Legal Aid assistance (both individual representation and Child Representatives), and the costs of legal representation.

Discussion

Columbus was conceived as an early intervention strategy in which clients would be: identified, have risk issues confirmed, be referred for inclusion, be assessed and allocated to the Pilot (or Control Group), then individually case managed through a series of conferences. The conferences are jointly chaired by a Registrar and a Counsellor until either a stable, safe contact regime is established or the matter is referred back into the formal Court process (usually for a Pre-Hearing Conference, and possible Trial). There is currently no specified number of conferences available to a couple, although pressure on resources may require some restrictions to be considered in the future.

Imputed Costs

The Columbus 'Design' envisaged an initial short Court appearance where some indication of violence or abuse alerted the Magistrate. The matter was then referred to the Family Court Counselling Service (FCCS), where the couple were separately interviewed to assess the situation and levels of risk. Depending on the Counsellor's recommendations, the Magistrate then formally referred the case for assessment by the Manager, Family Court Counselling. Once a case was included in the Pilot, a Columbus Conference was then scheduled as soon as possible. Cases which, for various reasons, could not be assigned to the Pilot were placed in the Control Group.

The 'Design' cost of this process to the end of the first two-hour Columbus conference is estimated as approximately \$1085. The 'Design' cost of each successive conference is about \$900 (see example at Appendix A).

The average imputed cost of the 14 Columbus cases in this study was \$2,544 compared with the 'Design' cost of \$2,813. The average imputed cost of the 11 Control Group cases was \$1,330. However, half of this group had not achieved stable or 'acceptable' outcomes and were continuing with further, and increasingly more expensive, Court Events (hence the need for the longitudinal data in Stage II).

It must be remembered that the clients assigned to this study are some of the most difficult and complex cases that commonly require up to five days if they proceed to Trial. The imputed 'cost' of court staff is approximately \$3,000 for each trial day (not including preparation time). Thus the apparent initial high cost of the Columbus process may be justified purely in terms of cases that do not proceed to Trial.

Data Analysis

The First Interim Report considered the data from a number of perspectives:

- a comparison with the Magellan project outcomes,
- the Columbus Pilot process and benchmark indicators,
- the impact on Family Court staff,
- the impact on the wider Columbus Network, and
- the impact on clients.

There was a significant difference in the types of parental relationships between the two populations (Western Australian and Victorian). Almost half (48%) of the Columbus clients were living in de facto relationships (compared with 39% in Magellan), and 12% had not cohabited (compared with 2% in Magellan). Almost two thirds (64%) of the couples in the Columbus sample were repartnered families.

The parents in the Columbus sample also tended to be younger, the lengths of relationships were shorter, and the ages of the children were also younger than in the Magellan project. These differences may be a reflection of the small sample sizes in the Columbus Pilot and will be investigated further in Stage II.

The average time that a Columbus case took from identification to the first conference was two weeks – the benchmark of early intervention is being achieved.

Eleven of the fourteen Columbus cases (78%) had achieved a stable contact and residency regime within 25 weeks of first filing. Only six of the eleven Control Group (54%) had achieved a similar outcome within the same timeframe.

The Control Group averaged slightly fewer Court Events (5.6 compared with 6.1) but half of this group were scheduled for further hearings. Longitudinal data (Stage II) may well establish that the Control Group will conform to the pattern exhibited in the Comparison Group where the average number of Court Events needed to attain a stable outcome was 10 in each case (with an average imputed cost of about \$3,000). This also suggests that the apparent initial high cost of the Columbus process may be more cost-effective in the long term.

Although the processes within Columbus are highly managed and monitored, informal feedback from Columbus clients suggests that, although they may not achieve the hoped-for outcomes, they at least feel as if they have been heard and had their views acknowledged. In contrast, the Control Group cases continue under their own momentum, and this creates its own pressure on all parties (and their children).

Other Outcomes

Supplementary outcomes of the Columbus Pilot have been:

- The interdisciplinary understanding, mutual acknowledgement, and collegial support that has developed between the Judicial Officers and Counselling Staff. This is having its own impact on the culture of the Family Court.
- The Child Representatives becoming an integral element in the conferencing process as their role evolves to address the challenges of a 'team approach'.
- The involvement of non-government agencies as part of the evolving Columbus Network has led to new areas of understanding and collaboration. Various protocols are being developed which enable information sharing and referral mechanisms to be more transparent.

Future Developments

Among the recommendations of the First Interim Report was the need for both longitudinal comparative data on the two sample populations (Columbus and Control Group) and the inclusion of formal feedback from clients and, if possible, their children. As shown in Appendix B, two distinct but interconnected studies have been developed (Columbus Stages II and III) to achieve the recommendation. Both studies have been funded and will be undertaken during 2003.

Conclusion

The Columbus process incorporates the ADR principles of enabling and empowering parents to determine their own outcomes as they seek to establish their own unique post-separation parenting regime. On the evidence to date, Columbus appears to be achieving positive results for about three quarters of the families involved and, despite the apparent high cost, may prove to be a cost-effective use of court resources. Consideration is currently being given to expanding the Pilot to include cases involving allegations of significant substance abuse.

In this respect, the Family Court of Western Australia is playing a leading role in addressing critiques of the Family Court system while at the same time becoming an increasing influence on the promotion of social capital and therapeutic jurisprudence for its clients.

Appendices:

- A Example of Staff-Time Intensity Map
- B Overview of the Columbus Pilot Evaluation Project

Dr Paul Murphy is seconded to the Family Court of Western Australia from the Department of Social Work and Social Policy at The University of Western Australia. Paul can be contacted on Paul.Murphy@justice.wa.gov.au

Associate Professor Lisbeth Pike is Head of the School of Psychology at Edith Cowan University (Joondalup Campus). Lisbeth can be contact on l.pike@cowan.edu.au

References

- Brown, T., Sheehan, R., Frederico, M. and Hewitt, L. (2001) *Resolving Family Violence to Children: The Evaluation of Project Magellan, A Pilot Project for Managing Residence and Contact Disputes when Allegations of Child Abuse Have Been Made*, Family Violence and Family Court Research Program, Monash University: Caulfield, Victoria.
- Brown, T., Sheehan, R., Frederico, M. and Hewitt, L. (2002) "Child abuse in the context of parental separation and divorce", *Children Australia*, Vol. 27, No. 2 : 35-40.
- Clare, B., Murphy, P. and Peerless, H. (1995) "Mapping the Intensity of 'Family Support' Service use by Parents with Intellectual Disabilities", Paper presented at the Australian Society for the Study of Intellectual Disability National Conference, Melbourne, 23-28 September.
- Cooper, D. (2002) " 'Quicker, Cheaper, Less Formal'; Does the Federal Magistrates Service Mantra Conflict with an Emphasis on Dispute Resolution?", *Australasian Dispute Resolution Journal*, Vol. 13 : 113-125.
- Murphy, P. and Pike, L. (2002) "Columbus Pilot Project Evaluation: First Interim Report", Report prepared for the Family Court of Western Australia, School of Social and Cultural Studies, The University of Western Australia and the School of Psychology, Edith Cowan University: Perth, Western Australia.
- Family Law Pathways Advisory Group, (2001) *Out of the Maze: Pathways to the Future for Families Experiencing Separation*, Commonwealth of Australia: Canberra.
[In text reference: FLPAG]

Appendix A

Example of Staff-Time Intensity Map

The case involved a very young couple, and it took considerable time to establish a workable contact regime. A VRO was extant, and the father attended parenting and anger management courses. By the fifth conference, regular supervised contact had been established and appeared to be working. A further (review) conference was set for mid-2002.

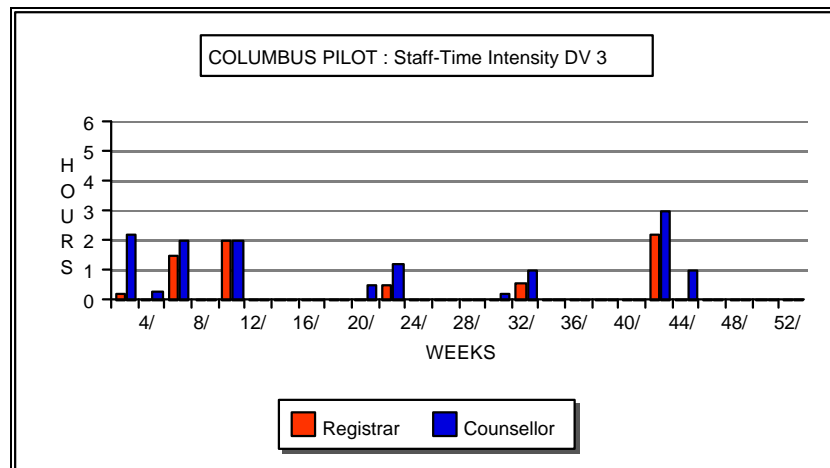
Comparison of Case Process and the Columbus Design [Design time in square brackets]:

I	identification – first GL appearance	5	[5 minutes]
II	confirmation (FCCS)	135	[60 minutes]
III	referral for inclusion – second GL appearance	10	[5 minutes]
IV	assessment (Manager, FCCS)	20	[20 minutes]
V	case management		
	First Columbus Conference:		
	Registrar	90	[120 minutes]
	Counsellor	120	[210 minutes]
	Second Columbus Conference:		
	Registrar	120	[120 minutes]
	Counsellor	120	[210 minutes]
	Third Columbus Conference:		
	Registrar	30	[120 minutes]
	Counsellor	60	[210 minutes]
	Fourth Columbus Conference:		
	Registrar	40	[120 minutes]
	Counsellor	30	[210 minutes]
	Fifth Columbus Conference:		
	Registrar	130	
	Counsellor	180	

Additional Counsellor time (2 hours) was spent coordinating the case.

Hourly Costs: Registrar \$273
 Family Court Counsellor \$100

Cost to completion of Fifth Conference = \$3,242 [\$4,669] (inc \$900 for 5th Conf)



The Columbus Pilot Evaluation Project

