

Structuring Litigation-Driven Child Welfare Reform for Success

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Introduction

I served as child welfare director in Alabama during the first six-year period in which the state's *R.C. v. Hornsby* child welfare case was settled and implemented. After two years of litigation, and on the eve of trial, the parties agreed to begin settlement discussions. Plaintiffs' counsel and defendants sat in a conference room together and said to each other, "So how do we do this?"—meaning design a settlement and determine the chronology of change in the reform. For systems in a similar environment or those undertaking major reform efforts, answering that question will significantly affect success or failure in improving outcomes for families and children.

Even though the period of discovery in the Alabama litigation provided important information about the problems with the system's performance, at the beginning of negotiations neither party felt confident that they knew enough to craft a settlement that would bind the state to strategies that would be in place for years ahead. Plaintiffs' counsel suggested beginning with agreement on a set of practice principles that would ultimately shape an enforceable plan. This led to a practice principle-based settlement that focused on improving practice as the primary means of improving outcomes. That experience strongly informs the content of this paper; however, a number of options to structure a settlement and reform effort for success are explored, which address the systemic change strategies required, the composition of the strategies and the sequencing of implementation. The settlement agreement and subsequent enforceable implementation plan are closely linked, and comments about strategies will not necessarily delineate the distinctions between the two.

The Settlement Environment

Regardless of the facts of the case, settlement discussions usually proceed with parties in agreement that improvement is needed. However, as a result of the different roles of the parties, there may be considerable differences about how those improvements are to be defined, on what timetable they are to be produced and how accountability will be measured. Plaintiffs have an obligation to secure a remedy as responsive to the needs of their clients as possible and defendants want to retain some level of autonomy and flexibility in implementing the remedy and securing a level of accountability that is within their power to reach.

The facts of the case will significantly affect decisions about the settlement's design and ambition, but the level of trust between the parties and the confidence plaintiffs have in the will and capacity of defendants can also affect settlement terms. While contrary to the natural role of attorneys representing defendants, candor about the nature of system deficiencies and a demonstration of commitment to address those deficiencies on the part of defendants can contribute to greater willingness by plaintiffs to consider some allowance for flexibility in implementation. Admittedly, shifting from a litigation posture to a settlement negotiation can be a difficult transition and the challenge of making this transition should be anticipated.

The Role of Stakeholders

Understanding the goals and concerns of key stakeholders in the redesign of the system – families, courts and other legal partners, providers, foster parents and other organizations – can greatly facilitate implementation. While it is not practical to include such parties in settlement negotiations, knowing their

goals and concerns will be vital in developing an effective implementation plan. In the Alabama reform, we made a mistake in leaving the residential provider organization out of the implementation design process largely out of a desire to have a clear internal vision before we translated it to the stakeholder community. We also had a wish to forestall early mischief making by late adopter providers. While that gave us more confidence that we had mastery of the strategy, as the director of a progressive child and family services agency told me, "...but you prevented us from learning about new approaches to practice along with you." One lesson was learned from not involving stakeholders like providers, foster parents and legal partners in the frequent meetings with outside consultants who were helping to design the implementation plan. Stakeholders not only could have sharpened the Department's strategic thinking, but they also might have felt more ownership of the plan. Our job was made more difficult by failing to engage providers early, resulting in a missed opportunity to enlist resisters in the vision of the reform. Maintaining a strategic dialogue with key stakeholders during the design process is critical; child welfare agency reform requires broad stakeholder support.

The Practice Model

The Alabama settlement contained an early version of what has become known as a child welfare practice model, although the term was not in use at that time. The settlement consisted of a set of clear goals for the system and twenty-nine operating principles taken from mental health system of care and child welfare best-practice literature. Part of the settlement agreement, called Agreement Regarding Implementation, also called for the development of an implementation plan based on the principles, leading to all sixty-seven counties practicing consistent with the principles within an eight-year period. Implementation of those principles, supported by other system initiatives like additional staff, new training, new flexible service resources and better accountability had a transformative effect on operations of the agency and outcomes for children and families.

Practice models or practice principles are now more common, both in agency mission statements and as core elements of settlement agreements. Often, however, they fail to rise above slogan status or are too vaguely worded and poorly understood to be operational. To effectively drive practice, principles need behavioral anchors and need to be given primacy by agency leadership. For example, a principle about teaming has a lot more meaning stated as "Every child and family is entitled to his or her own unique team for planning and decision making" instead of being worded "The agency supports teamwork throughout the life of a case." Since the Alabama settlement, practice models increasingly revolve around core principles of family engagement, family involvement in planning and decision making, team-based practice, assessment and planning.²

There should be an intentional, ongoing process whereby the principles are applied to agency policy, training, service array and accountability measures to ensure conformity with the practice model. Utah's *David C. Performance Milestone Plan* included a statement of general agency values, accompanied by a specific set of practice standards that the agency used effectively to guide implementation. The evolving policy, training and accountability measures were reflective of those standards and values and led to significant improvements in system performance.

Sequencing

Knowing the areas where organizational improvement is needed also raises the issue of sequencing the change process. For child welfare agencies facing significant performance challenges related to safety, permanence and well-being, it is likely that many of the following organizational areas will need attention: defining a clear model of practice, high caseloads/workloads, policy content and clarity, human resource management, training, information systems, the service resource array, quality assurance and quality improvement and outcome evaluation. Olivia Golden, former Director of the District of Columbia Child and Family Services Agency (CFSA), noted that decisions about where immediate organizational attention is needed should be responsive to where agency performance is causing the most harm to children. This

might involve replacing emergency shelters with family based settings, returning children from out-of-state congregate settings or addressing placement instability. Unfortunately, some of the most pronounced performance challenges are unlikely to be the easiest to fix, so these may not be the best candidates for an early win. To permit early success and begin work on more complex barriers, early milestones will need to involve both.

Weaker systems or systems where the leadership has not inspired confidence in the agency's will and capacity to succeed at the reform may need a much more structured set of settlement expectations than systems with stronger leadership. In such cases, immediate system capacity building may be a higher priority. Unfortunately, the frequent turnover of child welfare leadership doesn't permit unqualified confidence in current leadership, which is why plaintiffs' lawyers are cautious about providing unqualified flexibility in settlement designs. The practice of establishing progressively higher benchmark targets for each subsequent court reporting period seems to be a functional strategy for providing time for capacity building while still holding systems accountable for improving outcomes.

Deciding on what commitments to change are needed, the answer to the questions of where to begin and how to order the change process will be dependent on unique factors in each system. For example, in recalling struggling systems, Leecia Welch of the National Center for Youth Law mentioned examples where systems are unable to perform basic functions, such as providing accurate data on core issues like numbers of children in out-of home care and placement stability. Obviously it would be essential to find some resolution to such a challenge early in the implementation process.

Upon agreement for settlement there is likely to be a sense of urgency for action by the parties, key stakeholders and political decision-makers to agree to an implementation plan and begin producing improvements quickly. There is danger in making hasty decisions on the provisions of a settlement agreement and in taking on too much organizational change at one time, especially since the system may have limited internal capacity to plan, manage and provide technical assistance. Resources may also be a challenge, limiting the ability to immediately reduce caseloads, build training capacity and expand resources.

As strategies and tasks are developed, attention is needed to deadlines for tasks to ensure that too many task completion dates are not due concurrently or in sequences that are unlikely to contribute to progress, such as initiating foster care recruitment before developing the internal capacity to respond to inquiries promptly and fully. There is a limit to the ability of systems to manage multiple major initiatives at one time and this stress is often magnified when deadlines are an enforceable mandate. Even though the ambition of settlement agreements cannot be limited to current system capacity, it is in no one's interest for a system to fall behind schedule, especially in the early stage of implementation. Whatever the chronology of implementation, settlement language and implementation plans should provide for interim benchmarks of performance which provide clear targets for incremental performance improvement, serve as a motivator for urgent action, measure the effectiveness of organizational change and demonstrate the achievement of improving child and family outcomes. Olivia Golden found that the court benchmarks applicable to CFSA permitted a shift from the perception of constant failure to opportunities to recognize interim success. As will be discussed later, the unpredictability within the change process merits agreement by the parties for a periodic reassessment of strategies and an opportunity for adjustment.

New Jersey's experience offers one possible option for strengthening the opportunity for well-informed planning. According to Molly Armstrong, who had a leadership role in New Jersey during the development of major revisions to an earlier settlement, systems negotiating a settlement should consider bargaining for time for an initial diagnostic period during which organizational capacity can be assessed before committing to an implementation plan. In New Jersey, the diagnostic period was approximately six

months and permitted time to identify system barriers and what would be required to address them. To some extent, New Jersey used the principles in its new case practice model to create placeholders for strategies that needed additional assessment and time to make them thoughtful and functional. Similarly, the Alabama settlement permitted the initial implementation of new practice to begin in just six counties for a period of experimentation prior to committing to a detailed implementation plan for the entire state. The settlement included specific expectations for the content and specificity of the plan, providing assurance to plaintiffs that deferral of selected commitments would receive proper attention at a later date when more planning information was available. As a result, the Department had the benefit of experimentation in identification of barriers and implementing improvements on a small scale before agreeing to an enforceable plan. This process may not fit all systems, but does provide a mechanism for testing assumptions before making binding commitments.

Both New Jersey and Alabama approached intensive practice reform incrementally, providing training and coaching in additional groups of counties each year rather than trying to introduce new practice simultaneously in all the counties at once. Child welfare systems are not likely to have the training and coaching capacity or resources to strengthen practice and performance statewide in a short time frame. While some areas of performance improvement are so critical that statewide attention is needed immediately, such incremental implementation of front-line practice improvement permits the practice change to go deeper in the organization and strengthens the likelihood of sustainability.

When the court in Utah's *David C.* case decided to replace the original settlement with a new implementation plan (the Performance Milestone Plan), the court directed that the Department utilize technical assistance to develop the plan over a six month period, which permitted the agency six months to craft a detailed implementation plan. That plan, even though it needed revision periodically as experience identified better strategies, remained an effective platform for achievement of settlement objectives and eventual exit.

It is unlikely that all the reform strategies and performance benchmarks specified during settlement discussions or development of the implementation plan will be relevant or constructive in any system after several years of implementation experience. As Grace Lopes, court monitor in Mississippi's *Olivia Y.* case, observed, reform is dynamic and messy. Undoubtedly, this recognition led to the often heard metaphor in system reform of "riding a bicycle while repairing it." It would be worthwhile for parties to build in the expectation that implementation plans and obligations will undergo reexamination and provide for a periodic assessment of how well strategies are working and what changes are required.

Although each system environment will dictate the details of sequencing, there are some elements of the change process that merit a higher priority for early attention. The following sections will discuss the areas where system improvement will most likely need attention, how improvements might be designed and what priority they should have in the chronology of implementation.

Capacity Building

Unfortunately, many child welfare systems dealing with significant performance problems have limited internal capacity with which to create and implement strategic remedies. State budget constraints and pressures to limit the size of the public workforce have in numerous systems reduced the number of staff available to work directly with families. This has affected the central office as well, lessening the capacity to effectively plan strategically, provide technical assistance and manage multiple initiatives. Where front-line capacity is insufficient to address current workloads, settlements often specify maximum caseload size limits, requiring systems to increase the workforce size to permit adequate attention to child and family needs. Ceilings for turnover rates may likewise be prescribed to help address the challenge of high caseloads and staff inexperience. In addition, settlements may also require the creation or expansion of

support functions, like training or quality assurance. Whatever caseload targets are adopted, parties should recognize that low caseloads alone do not assure improved practice and outcomes, which is why practice model implementation is so important.

The Alabama experience is instructive in regard to staged workload reduction, an issue particularly relevant where budget constraints are present. In the first year of Alabama's pilot site operations, there were not sufficient funds to support significant staffing increases, even in the six pilot counties. The system leadership made several key decisions that affected workload size projections for the next several years. Since the workforce could not be substantially increased immediately, the leadership decided to first improve the competency and quality of casework of the workforce that existed, concentrating on family strengthening, retraining and coaching strategies like greater family engagement and involvement in decision making, the use of family team meetings/conferences, individualized planning and allocation of flexible funds to pilot counties. Even with caseloads higher than desired, better practice with families and individualized plans supported with flexible funds began to keep more children safely with their own families and permit them to be reunified sooner. Modest caseload reductions occurred and savings in foster care costs were reinvested in system improvements, such as additional staff. Also, a specific "safe-case closure" process was employed to quickly address needs in low risk cases, further reducing caseload size. These steps alone were not enough to meet additional staffing needs but did permit practice improvement to not only begin earlier but also to reduce caseloads and, most important, begin to improve outcomes. The early Alabama experience illustrates the fact that budget constraints can also be an opportunity for long-needed creativity, permitting, for example, attention to interventions and programs that are not successful.

Public child welfare has a history of promoting from within, which while appropriately rewarding good performance and capitalizing on experience in the field, tends to make systems insular. State and county merit system rules can make it difficult for professionals outside the system to compete for employment with existing agency staff. At a time of major system change, agencies need access to new ideas and experiences in different settings that professionals from outside the system may bring.

In addition to addressing human resource rules that may be a barrier to accessing potential employees outside the system, a topic discussed later in this paper, systems inevitably will need some external technical assistance. That was certainly the case at the beginning of the Alabama reform, so much so that the parties agreed in the settlement that the Department would utilize outside consultants to assist in developing and implementing the implementation plan. This provision was particularly helpful in overcoming the resistance to paying "outside consultants" by political decision-makers. In using technical assistance it will be important to ensure that one of the consultant roles is to build internal capacity, not just to perform tasks agency staff are unable to do.

Training and Coaching

The need for additional and improved staff training is a common problem in child welfare reform efforts and often is focused on family-centered practice, which has various forms from state to state. Training is also likely to be needed in support of other specific areas like permanency initiatives, information system implementation or risk-assessment tools, for example. For systems adopting a practice model of any ambition, significant practice improvement training will be needed.

In assessing the design and quality of training across many states, The Child Welfare Group has found that current child welfare training may be limited in its ability to produce practice faithful to agency models of practice. Training is frequently focused on information and procedure to the relative exclusion of practice skill development, is delivered by trainers that may not yet have mastery of practice model skills,

is disproportionately directed to new staff rather than the existing workforce and has not adequately prepared supervisors to mentor the practice desired.

Alabama, Utah and New Jersey are three states working within settlement agreements that focused heavily on training and coaching to build frontline practice skills. Each began with a concrete practice model and shaped training modules based on the natural process of family work – engagement, teaming, assessment, and planning/intervention rather than individual and often disconnected topics. Trainers were thoughtfully selected, and considerable attention was paid to training the trainers in the new curricula. Experienced staff as well as new staff received practice model training. This approach, the considerable training time devoted to each module and the provision of skilled coaching led to meaningful gains in practice quality and improved outcomes for children and families. In a more recent development, Los Angeles County Department of Children and Family Services is similarly responding to obligations under the *Katie A.* settlement, developing an ambitious practice model and planning for training and coaching in the same fashion. The lessons learned regarding training and coaching in these reforms can be instructive to other systems undertaking settlement implementation that involves building skills and competencies.

Coaching also is essential for new practice to become sustainable. Classroom training alone is not sufficient to assure that skills are effectively applied in work with families. Coaching development can be directed at supervisors, since this is a natural role. However, supervisory responsibilities must be adjusted to permit supervisors to have the time to coach new practice with actual children and families. Some systems designate full-time coaches who can mentor engagement, assessment, team facilitation, planning or other skills. Language in settlement agreements should directly address training content, trainer competency and coaching expectations.

Human Resources

Human resource/personnel issues and system policies are frequently overlooked barriers to reform. Responsibility for personnel policy may lie outside the child welfare agency but regardless of its placement, it is essential to enlist the human resource leadership into planning for the development of an effective child welfare workforce. Classifications may need to be changed, performance expectations will need to respond to obligations under the settlement and recruitment strategies may need adapting to respond to a need for diversity, different staff values and skills. One example of a system human resource barrier involves the need to recruit parent coaches to help other parents and foster parents deal with child behavioral issues. Because of the unavailability of “qualified” professionals, who had to meet professional licensing standards, the agency was unable to meet caregiver coaching needs. The credentialing criterion prevented the agency from using paraprofessionals and parent partners (who were thoroughly trained) for this role, despite the fact that it is common practice in other systems.

In a successful human resource intervention, Utah’s Department of Child and Family Services (DCFS) revised the performance expectations for its staff to match the practice requirements of their practice model and Qualitative Service Review (QSR) design. This provided congruency between the practice model and frontline casework.

In Alabama, the settlement agreement contained a provision directed at addressing potential barriers that might be posed by the state’s personnel system. That provision, which was never formally invoked but was occasionally referenced in discussions with recalcitrant personnel officials, read as follows:

If necessary to address staffing needs identified in the Implementation Plan and/or to acquire staff needed to assure compliance, defendant may modify state government administrative requirements, especially those imposed by the state personnel system. When he determines that it is necessary to exercise his authority under this paragraph, defendant shall give prior notice to the State Personnel

Director as soon as practicable, so as to give the State Personnel Director the opportunity to obviate the necessity for defendant's action.

While there are limitations to the applicability of this language, the provision did prove helpful in addressing unnecessary personnel policy impediments to implementation.

Policy

There is often early attention to creating conforming policy that is intended to guide compliance. Here, too, caution should be observed in not issuing policy materials or instructions to the workforce too soon. Where new practice and approaches are concerned, testing processes through practice should lead policy, not vice versa. As a general principle, the practice model should inform the content of policy. For example, if the practice model promotes individualized planning, does policy on flexible funding permit the creative design of interventions? If a form of family teaming is to be employed, does the reimbursement system for providers permit them to be compensated for participation in team meetings? When practice expectations cannot be met because of policy constraints, staff can easily become convinced that the leadership's vision for improved practice lacks conviction.

Several colleagues who were interviewed about this issue suggested that new formal policy development should be tested for practicality and fidelity to the practice model at the office or county level after training and coaching is completed. Molly Armstrong noted that in an interim environment, necessary minimal policy guidance should be issued by memorandum before incorporating it into official policy manuals. Utah's DCFS, for example, developed a simple practice guide that incorporated the primary guidance for practice model performance, which was a more accessible and flexible tool than the formal policy incorporated in administrative rules.

Service Array

Assessment prior to settlement agreements may identify service gaps as a barrier to achieving desired outcomes. An insufficient number and diversity of family foster care resources is a common barrier, but more specialized services like trauma-informed therapy, home-based services and substance abuse treatment are also found to be in limited availability in many jurisdictions. Resource development should be a well-supported part of settlement agreements and implementation plans, but child and family needs should be clearly understood before committing financial resources to new services. The *Brian A.* settlement in Tennessee addressed this issue in a novel way through a provision in which the Department agreed to set aside a specific sum annually for service expansion, with guidance on its use to be provided and assessed annually by a Technical Assistance Committee (TAC). The TAC conducted several initial annual needs assessments after which the Department assumed the function. That process permitted a more deliberate analysis of service needs, and as a periodic event, it allowed the system to adapt to changing needs over time.

In Tennessee's first needs assessment, the TAC found that rather than major gaps in services being the greatest impediment to better outcomes, the lack of a clear, functioning model of practice was a crucial barrier. As a result, the first TAC needs assessment recommended the creation of a well-articulated practice model, new practice model training and coaching and the use of additional dollars as flexible funds to be available to individualize child and family plans. As implementation of the settlement continued, other needs were identified in later years, such as supports for transitional age youth.

In some cases, litigation identifies specific areas where service deficits have led to poor outcomes. In Tennessee's *Brian A.* settlement, another novel remedy involved educational advocacy. Prior to the

settlement, the state had many children who resided in group homes, attended in-house schools in small facilities and were provided insufficient resources to meet their educational needs. It was not unusual for the children living in group homes to have been expelled from local public schools because of the education system's strict disciplinary policies. In many group homes, the educational programs were inferior to public schools. A settlement provision resulted in hiring educational specialists and attorneys trained in educational advocacy to help the Department assure that the children's educational rights were protected. Another provision required that any congregate care in-house school meet state educational standards.

In Alabama, getting providers to the point where the flexibility to tailor services to individualized plans is available when needed involved a combination of close partnership, incentives and accountability. An important result of this transition to flexible funds and intensive home-based services was that the significant sums the Department had been spending on frequently ineffective office-based counseling and therapy declined significantly in favor of individualized, home-based mental health supports.

Procurement rules often focus mainly on ensuring fair competition, absence of conflicts of interest and a defensible vendor selection process. If procurement policies involve a protracted process before awarding contracts or lead to selecting poor quality providers, implementation can stall and outcomes will suffer. Regardless of the service expansion needs, part of the design of settlements, or at least implementation planning, should address the ability of the child welfare system to execute new service contracts quickly and creatively, and to be responsive to child and family needs.

Quality Assurance and Quality Improvement

The growth and capacity of child welfare information systems has permitted child welfare agencies to track performance for hundreds of indicators, ranging from the frequency of visits with children and families to the timely receipt of health services. In many systems, performance can be reliably tracked to the individual caseworker level, meaning that compliance monitoring can identify conformity with policy at the worker, supervisory, office and system level on a regular basis. Unfortunately, the ability of systems to determine what is most important to track lags behind the capacity for comprehensive monitoring, leaving systems vulnerable to overwhelming staff with compliance monitoring and unintentionally creating a rigid compliance-based culture of practice. Because such compliance-driven practice cultures result in rules being the ceiling for performance rather than the floor, they tend to drive out the more effective approach of "whatever it takes" that many practice models attempt to create.

The growth of quality measurement in child welfare, beginning with the Qualitative Service Review (QSR) process developed as part of the Alabama settlement, has provided important additional tools for assessing outcomes and system performance. The QSR has provided persuasive feedback for many systems about what is working, or not working, and why. It was a core element of both the Alabama and Utah settlements. The caution, suggested earlier, is that in employing these advances in monitoring compliance, assessing practice quality and evaluating outcomes, some balance should be struck among the demands to act on feedback from data sources. Utah is a state that due to its original settlement agreement committed to track approximately 180 different agency policy and procedural obligations. This proved to be impossible due to the volume of issues to be tracked and drove staff to see compliance rather than practice and outcomes as their most important job. Noonan, Sabel and Simon, in a study of the monitoring issues before and following the Development of Utah's Milestone Plan, noted regarding the original 180 obligations, "But a monitoring system that reports failure from all directions cannot direct efforts to improve."³ When the original settlement agreement was replaced by a new practice model-driven/outcome focused settlement plan, the parties agreed that the state would be held accountable for many fewer case process measures and would add QSR findings and a limited number of outcome

measures as exit conditions. This permitted Utah to focus more intensely on core issues, demonstrate improved outcomes and, ultimately, exit court oversight.

Measuring Outcomes

An additional caution should be heeded related to outcome measurement. Decisions about the outcomes to which the system should be held accountable should largely be based on what knowledge is needed to achieve needed outcomes, not on federal measures alone. Federal measures, while useful, provide an incomplete picture of performance. For example, in the Los Angeles County *Katie A.* settlement, the parties considered the federal measures in identifying outcome indicators to be tracked but selected measures that differed in some ways from federal measures, especially in the methodology used. Most of the *Katie A.* outcome measures are based on annual entry cohorts, and stability measures used both entry and exit cohorts to capture the universe of children subject to measurement. Obviously states have to conform to federal reporting requirements, but if the settlement is to be successfully implemented, systems shouldn't default to them exclusively. Development of outcome measurement capacity may need to be an explicit provision of the settlement agreement if internal capacity is insufficient. Parties may choose to include specific provisions related to building technical expertise, transfer of successful applications from other systems, use of consultants, or the sequencing of data collection.

In the Los Angeles settlement, which has a member class of children with mental health needs served by the child welfare system, an unintended statutory barrier became an obstacle to effective tracking of class members. Language in confidentiality statutes prevented the child welfare and mental health systems from sharing databases to identify and track the outcomes of children served by both systems. The barrier was solved using the federal court, which approved a stipulation between the parties permitting such cross referencing. As a result, outcomes for the class could be effectively tracked. Such a provision would have been helpful if contained in the settlement agreement had parties been aware of the confidentiality restriction at the time.

Exit Conditions

In structuring settlements, exit terms should be included in settlement language if negotiations permit. To the extent that the parties have clarity about the results to be achieved, implementation strategies will be more relevant to their achievement. Utah's experience offers support for this argument. During negotiations on the Performance Milestone Plan, there was agreement on the process measures, qualitative indicators, implementation strategies, outcomes to be measured and the goals to be achieved as a condition of exit. Utah built their plan on their practice model and "taught to the test" to achieve the objectives. The *Brian A.* settlement agreement in Tennessee also contained explicit performance and outcome benchmarks that informed implementation planning and formed clear exit expectations.

As is the case with implementation plans, exit conditions may need adjustment over time as progress and implementation experience present new facts about system performance. For that reason it would be helpful to build into settlement agreements a process for the parties to revisit exit conditions after a period of implementation. Based on recent experience in several systems negotiating exit, it is likely that further adjustments will be made in exit discussions between the parties once settlement provisions have been substantially achieved.

One other approach in the Utah settlement provided an acknowledgement that exit standards reached years before might not have the same relevance today and that some exit targets may not have been fully based on tested and reliable standards. This somewhat controversial provision, which was created in part based on the experience of other court monitors, permitted the court monitor to inform the court and

parties, assuming that certain achievements had been reached, that system performance was “close enough” to exit standards for the monitor to recommend exit consideration to the court. The level of performance needed to exercise this option was high and required significant duration and was specifically described in the enforceable plan.

The Role of Leadership

In even the most wisely crafted settlement agreement, achieving the objectives of the agreement is highly dependent on the quality of leadership exercised by defendants. The Child Welfare Group has worked in a number of systems operating under settlement agreements or pursuing voluntary reforms where passive, poor or antagonistic leadership in the public agency has slowed or stopped progress. There is no shortage of guidance in leadership literature about the characteristics of effective leaders where qualities like vision, accountability and empowerment are frequently referenced. However, an important lesson about leadership came from a staff member during one of the more stressful periods of the Alabama reform. One day, a staff member stopped me to ask if something was wrong. When I told her there was nothing wrong and inquired why she asked the question, she replied that I had been frowning. When I reassured her that nothing was happening to cause concern, she said, “You know we watch you all the time.”

The most successful leaders I have observed, in addition to employing many important leadership practices relevant to all organizations, modeled with their language, attention and presence that the success of the reform was among the most important obligations for everyone in the organization. In addition to attending to conventional management duties, they accompanied staff on visits, sat in on family team meetings, participated in qualitative reviews and sought opportunities to engage families, frontline staff and stakeholders in solving the challenges of implementation. This interaction with practice not only signaled the importance with which they viewed frontline practice, it also informed them about the system challenges that needed attention at the management level. They knew staff were “watching them all the time” and took the opportunity to show staff that applying the practice model principles and achieving good outcomes for families and children was the most important part of their job.

Conclusion

The experience of systems involved in settlement agreements described in this paper highlight some key lessons regarding the content of settlement agreements and their implementation. Those are:

- Candor about the problems faced by the child welfare system can enhance the possibility of reasonable state flexibility in implementing the settlement.
- Seek opportunities to assess the crucial areas of poor performance before committing to long-term strategies.
- Ensure that organizational capacity is not overwhelmed by having to complete numerous task deadlines that occur simultaneously.
- Provide for progressively more ambitious outcome expectations and benchmarks annually to permit opportunities for success throughout implementation.
- Define exit conditions through a balance of case process, practice quality, and outcome measures, all of which reflect the intent of the practice model.
- Provide for periodic examination of implementation strategies with agreement on the process that parties should employ for revising strategies that are not being effective.

- Employ a well-articulated practice model rooted in values and principles, with principles behaviorally anchored for clarity, to guide implementation.
- Attend to resource development needs by targeting service gaps where known and setting expectations for continuous refinement of the service array.
- Anticipate the need for the human resource functions to respond to implementation challenges, and create a placeholder to pay attention to human resource barriers.
- Involve key stakeholders in developing the implementation plan to help identify potential barriers, develop more effective strategies and enlist resisters in the vision of reform.
- When addressing capacity building, attend to central office capacity as well as skills and workloads of the frontline staff.
- Ensure that skill development is supported by providing training and coaching to all staff in the practice model content, and by paying attention to fidelity and results.
- For leaders, model the importance of the reform in the field by participating in implementation at the local level.

ABOUT THE AUTHOR

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Paul Vincent is the director and founder of The Child Welfare Policy and Practice Group, a nonprofit technical assistance organization created in 1996. The Child Welfare Group directs its technical assistance toward improving outcomes for children and families through strengthening front-line practice. Current work involves child welfare systems in New Jersey, Florida, Pennsylvania, New York State, Tennessee, Florida, California and Virginia. Work in these systems includes strategic planning, curriculum development, training, front-line practice coaching and practice evaluation. He also leads the organization's participation in the provision of technical assistance in systems involved in class action litigation, such as in Los Angeles, where he serves as Chair of the *Katie A.* Advisory Panel in California, Tennessee, where he serves on the *Brian A.* Technical Assistance Committee. The Child Welfare Group was also court monitor in Utah through its exit from court oversight. Prior to the creation of The Child Welfare Group, Mr. Vincent was the director of Alabama's child welfare system during a period of successful class action litigation-driven reform, from 1989 to 1996. He was awarded National Association of Public Child Welfare Administrators' Annual Award for Excellence in Child Welfare Administration in 1994.