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Achieving Desired Outcomes by Privatizing Child Welfare Service Delivery: Lessons Learned through the Kansas Experience

Karl Ensign and Jaymee Metzenthin

Approximately ten years ago, the State of Kansas privatized its child welfare service delivery system in an attempt to achieve desired outcomes. Within just a couple of years, the state's service system was fundamentally transformed into one in which all primary case planning and service delivery for family preservation, foster care, and adoption services was carried out by private agencies. Since that time, private providers have operated under a "no reject/no eject policy." The reform was pushed by new gubernatorial and child welfare agency leadership within the state who attempted to import key elements of reform from those used within community mental health services delivery.

This paper summarizes key reform elements and how these have evolved over the last decade. It also explains the many factors which complicated the reform's intended objectives — politically, fiscally, and administratively. Along the way, many important lessons were learned that can help inform other efforts to privatize child welfare services delivery and introduce performance measurement.

Background and Scope of Reform

During the mid-1990s, the State of Kansas privatized its child welfare services delivery system in an attempt to achieve desired outcomes. The reform was pushed by new leadership within the state. Specifically, a moderate republican governor—William Preston (Bill) Graves—was elected from the business community in late 1994. His platform emphasized education and governmental reform through a number of means, including increasing governmental efficiency through privatization (National Governors Association, 2007). Governor Graves proved to be extremely popular, stepping down after serving the maximum number of allowable terms under state law. Upon his swearing in, he appointed Teresa Markowitz as commissioner of the state's child welfare agency—the Department of Social and Rehabilitation Services (SRS).

The new leadership felt that, on the whole, state expenditures for foster care were relatively high. Moreover, federal reimbursement for these expenditures under title IV-E of the Social Security Act was relatively low because the state lacked the ability to track and claim many expenditures (United States Government Accountability Office [GAO], 2006). Reflecting her background in community mental health services delivery and financing, the new SRS commissioner felt the answer lay in importing key elements of reform from community mental health services delivery into the state's child welfare service delivery system. (The state had undertaken highly touted community mental health reform in the early 1990s.) She sought to align fiscal incentives with desired child welfare outcomes.

Prior to 1995, in-home ongoing family services, shorter-term and more intensive family preservation services, and foster care and adoption services were all provided and staffed by public agency workers. Privately provided child welfare services were only accessed on a case- and service-specific basis. Within just two years, the state's child welfare service delivery system was fundamentally transformed into one in which all primary case planning and service delivery for family preservation, foster care, and adoption was carried out by private agencies statewide (Freundlich & Gerstenzang, 2003).

Through privatization reform, the new leadership sought to: 1) lower the total cost of providing child welfare services; 2) achieve certain performance outcomes in family preservation, foster care, and adoption; and 3) successfully exit the requirements agreed to in 1993 under the state's out-of-court settlement with the American Civil Liberties Union (ACLU), whose compliance was overseen by Children's Rights, Inc. (Planning and Learning Technologies, Inc. & University of Ken-

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tucky, 2006a; T. Markowitz, personal communication, 1997).

Initially, Kansas' privatization reform sought to address a fundamental child welfare conundrum, namely, that the broader child welfare field generally agrees that federal foster care reimbursement (title IV-E) is incongruent with best practice principles that: 1) efforts be made to prevent foster care placement and work with the intact family provided that children can be safely maintained at home; and 2) that out-of-home care be temporary, and that children be placed back home or in another permanent setting as quickly as possible (namely kinship care or adoption). However, title IV-E (the single largest federal child welfare funding source) has been criticized as incongruent with these aims given that it is: 1) targeted at providing states reimbursement for the cost of caring for children in out-of-home care, rather than for the provision of preventive services; and 2) as a federal entitlement program, title IV-E provides open-ended monthly reimbursement for each child for the duration of time they are in care; however, foster care maintenance payments cease as soon as children are reunified or adopted (Child and Family Research Center, 2004).

According to the leadership responsible for initially undertaking reform, Kansas' privatization was meant to achieve the following: 1) align fiscal incentives with desired outcomes; 2) establish preventive services consistently throughout the state; 3) empower the private provider community to undertaken case planning and management for all children in substitute care; 4) reward performance by making reimbursement contingent on reaching key milestones associated with moving children to permanency; and 5) track provider performance through a standardized set of measures (T. Markowitz, personal communication, 1997).

This paper summarizes key reform elements and how these evolved over time. It also explains the many factors which complicated the reform's intended objectives—politically, fiscally, and administratively. Along the way, many important lessons have been learned that can help inform other efforts to privatize child welfare services delivery and introduce performance measurement, as well as the broader field of child welfare reform.

Key Reform Elements

Building on her experience in community mental health care systems, shortly after her appointment in 1995, the Commissioner of SRS directed her management team to undertake a series of child welfare reforms. These included the elements discussed below.

The **first** was to divide the state into five service regions. In an effort to reflect the most even distribution of the state's foster care caseload as possible, these regions ranged in geographic size from just one county in the Wichita area to over one-half of the western portion of the state. (James Bell Associates, 2001, p.33)

The **second** was to award contracts, through a competitive process, for foster care providers to deliver case planning and management services to all children in out-of-home care within each region, including those awaiting adoption. Family preservation services were also privatized. During the first round, five contracts were awarded to three foster care providers[1]. Additionally, one separate statewide adoption contract was awarded, building on an earlier Kellogg sponsored initiative (Kansas Families for Kids, or KFFK) that had established an adoption provider network throughout the state prior to privatization reform. Finally, contracts were awarded for family preservation services delivery within each region. (Freundlich & Gerstenzang, 2003, p. 41)

A **third** reform element included reimbursing these providers through a capped, standardized payment meant to cover the total cost for each child in care, regardless of the intensity—or duration—of each child's individualized needs. Specifically, unlike federal title IV-E reimbursement,

[1] During the first round, two providers were each awarded two contracts covering two regions. However, in the second round, a total of five different foster care providers were awarded contracts, one per region.

payment to providers was not ongoing and was not open-ended. Instead, in order to create financial incentives for timely permanency, within each contract providers received a set payment for each child in care in installments, namely, upon entry and exit, and when certain intermediate milestones were reached. Further, foster care providers were required to care for those children re-entering care within 12 months of exiting the foster care contract with no additional reimbursement. Similarly, the adoption provider was required to care for those children re-entering the adoption contract within 18 months of exiting the adoption contract. (James Bell Associates, 2001, p33, p.156) These arrangements were intended to create financial incentives for providers to achieve timely permanence for children while balancing the need to ensure child safety.

Fourth, other reform elements centered on referral processes to the contractors. Each of the state's 12 area offices would continue to receive, assess, and investigate child abuse/neglect allegations; place children in out-of-home when necessary; and provide some limited in-home family services for families needing relatively low-level assistance. However, now the state's SRS area offices would make referrals to the family preservation and foster care providers rather than providing direct case management for these cases. (Freundlich & Gerstenzang, 2003) Referrals to the adoption provider would occur at termination, specifically, when the rights of both parents were terminated by the foster care provider, or sufficient efforts were made to locate missing parents. This was later relaxed so that the rights of only one parent need be terminated prior to referral to the adoption provider. (James Bell Associates, 2001, p.119)

Fifth, private providers were required to operate under a "no reject/no eject" policy. (James Bell Associates, 2001, p.157) This meant that they had to accept all referrals made by the public agency and provide services until the child reached court-approved permanency through reintegration back into the home, adoption, permanent guardianship, or emancipation from out-of-home care or adoption as an adult.

A **sixth** reform element stipulated that the new policies were extended to all children in care, both those within existing public agency caseloads at the time of reform, and new entrants post-reform. In short, publicly provided family preservation, foster care and adoption services ceased to exist within the state. (James Bell Associates, 2001, p.34)

Seventh, under the new system, public agency oversight occurred through assessing and approving key decisions at key points. Generally this oversight came in the form of a report to the court provided by the private agency to the public agency for review and approval prior to the dependency hearing.

Finally, a set of family preservation, foster care, and adoption performance standards was established (see Table 1). Although provider performance was measured against these standards and compared from region-to-region and from provider-to-provider on a monthly, quarterly, and yearly basis, private agency reimbursement was not directly tied to these standards as explained above. However, the performance standards established a set of statewide priority goals for the state, and sought to reinforce the notion that providers needed to balance the timely achievement of permanency with the need to maintain child safety.

In addition to its comprehensiveness, one of the most notable aspects of Kansas' reform was the speed with which the entire reform process was undertaken within the state-administered system. (Freundlich & Gerstenzang, 2003) It was completed just two years following Governor Graves' inauguration in January 1995. Specifically, on July 1, 1996, five family preservation providers were awarded contracts (one per region). On October 1, 1996, the single statewide contract was awarded to one lead adoption contractor supported by a provider network. And fi-

Table 1. Kansas Performances Standards (Mahoney, 2000, 72-74 as cited in Planning and Learning Technologies, Inc. and University of Kentucky, 2006a, p.28)

Family Preservation Services

- 97% of all families referred shall be engaged in the treatment process.
- 90% of families will not have a substantiated abuse or neglect report during program participation.
- 80% of families successfully completing the program (no child removed from the home) will have no substantiated reports of abuse or neglect within six months of case closure.
- 80% of families will not have a child placed outside the home during program participation.
- 80% of families successfully completing the program (no children removed from the home) will not have a child placed outside the home within six months of case closure.
- Participants (parents and youth ages 14-21) living in the home will report 80% satisfaction 30 days from the start of the program.

Foster Care Services

- 98% of children in the care and supervision of the contractor will not experience substantiated abuse/neglect while in placement.
- 80% of children will not experience substantiated abuse/neglect within 12 months of reintegration.
- 70% of children referred to the contractor will have no more than three moves subsequent to referral.
- 70% of all children will be placed with at least one sibling.
- 70% of children referred are placed within their home county or contiguous county.
- 75% of youth, 16 and over, released from custody will have completed high school, obtained a graduate equivalency diploma or are participating in an educational or job training program.
- 40% of children placed in out-of-home care are returned to the family, achieve permanency or are referred for adoption within six months of referral to contractor.
- 80% of children who are reintegrated do not re-enter out-of-home placement within one year of reintegration.
- 65% of children placed in out-of-home care are returned to the family, achieve permanency or are referred for adoption within 12 months of referral to contractor.
- Participants (parents and youth age 16-21 years) will report 80% satisfaction 180 days after referral or at case closure.

Adoption Services

- 55% of children will be placed with adoptive families within 180 days of the referral for adoption.
- 70% of children will be placed within adoptive families within 365 days of the receipt of the referral for adoption.
- 90% of adoptive placements shall be finalized within 12 months.
- 90% of adoptive children shall continue to have adoptive parents as their legal guardians 18 months after finalization.
- 90% of families (parents and youth age 14 and older living in the home) shall report satisfaction with the adoption processes at the time the adoption is finalized.
- 65% of children will be placed with at least one sibling.
- 90% of all children placed for adoption shall experience no more than two moves from the point in time parental rights are terminated until the adoption is finalized.
- 95% of children in the care and supervision of the contractor will not experience confirmed abuse/neglect

nally, on March 4, 1997, three foster care providers were awarded contracts in the state's five service regions (James Bell Associates, 2001, p.34).

Lessons Learned

Given its speed and significance, the child welfare privatization reform undertaken by Kansas was bold and noteworthy. Many important lessons were learned from the state's efforts. These were documented by the External Evaluation of the state's efforts, independently commissioned by SRS from 1996 – 2001. During this time, the ongoing evaluation of reform implementation was undertaken by James Bell Associates, an Arlington, Virginia, based research and consulting firm[2]. It involved secondary review and reporting of contractor-reported caseload and performance data, and in-depth interviews with key stakeholders conducted throughout the state each year.[3] Several lessons emerged through that effort are summarized below.

Using Accurate Baseline Cost and Caseload Information

One of the lessons learned through Kansas' efforts is the need to base privatization reform on accurate service cost and caseload information. As noted earlier, the state did not have information systems able to accurately and comprehensively capture case management costs. In fact, very little information that could be used to project the actual cost of providing services through the new service delivery system was available at the time that the contracts were put out to bid and awarded (T. Markowitz, personal communication, 1997).

During the first five years of reform, foster care and adoption providers experienced severe cost overruns necessitating several special legislative appropriations. Additionally, providers reported tapping internal funding sources and appealed to their membership for donations (Personal communication with private providers, 1998). Eventually, one foster care provider declared bankruptcy under the initial set of contracts, and the primary adoption provider discontinued providing services in the state due to financial constraints (ELCA News Service, 2002).

As a result, SRS commissioned an independent audit. An April 1999 report issued by Deloitte and Touche found that the monthly cost of providing care was approximately 65 percent higher than anticipated. The report found that a number of factors contributed, including: 1) overly optimistic assumptions on the level and type of care that would be provided; 2) the cost of developing and maintaining needed infrastructure, including developing information and tracking systems; and 3) costs associated with a number of start-up issues, including the need for private agencies to hire and train new workers and provide services to referred cases prior to receiving reimbursement (James Bell Associates, 2001, p.157).

During the first year of privatization, SRS increased the case rate by 14 percent for foster care and 22 percent for adoption. However, providers continued to experience cash flow problems. Eventually, the department transformed the payment structure to a more traditional one, reimbursing providers on a monthly open-ended basis through a regionally standardized fee for each child in care (James Bell Associates, 2001, p.156).

[2] The primary author of this article served as the External Evaluation's project director.

[3] Specifically, throughout the state, the following groups were separately interviewed each year for The External Evaluation of the Kansas Child Welfare System: program directors, contract managers, supervisors and caseworkers in the public agencies and within the private agencies providing family preservation, foster care, and adoption private services, as well as with judges hearing dependency cases. Additionally, interviews were held with SRS central office staff.

Although this eventually helped solve provider cash flow issues, it also ended the state's attempts to directly link financial incentives with desired outcomes. Specifically, provider reimbursement was no longer contingent on achieving certain case-specific steps associated with timely permanency. The state continued to emphasize the timely and safe achievement of permanency through the statewide performance standards (Table 1) but payment was not directly tied to achieving these.

Creating an Accurate Reporting System

Another lesson that emerged was the need to establish a centralized reporting system with appropriate quality assurance. As noted earlier, SRS developed a set of performance measures for family preservation, foster care, and adoption services. Yet the measurement of these outcomes was reliant on data self-reported by private providers. Data reconciliation was inconsistent and hampered by the state's lack of a quality management information system (GAO, 2006).

Creating Contracts that Don't Hinder Integrated Service Delivery

It also emerged that it is vitally important to think through the necessary integration of child welfare activities in contracts. For instance, historically many agencies have struggled with finding the correct balance between integrating and separating the tasks involved with adoption and foster care services. Although the two require a separate set of specialized skills and tasks, they also must be coordinated on a case-specific basis, particularly given the emphasis on the achievement of timely permanency and concurrent planning. As Kansas discovered, privatization can complicate this balance.

Initially, Kansas let separate contracts for foster care and adoption, but this caused several unintended consequences. First, concurrent planning was difficult to coordinate given that separate contractors held foster care and adoption contracts. Second, disruptions in services frequently occurred at the time when children were extremely vulnerable—when parental rights were terminated and cases were transferred from the foster care provider to the adoption provider. Often foster care and adoption providers had separate subcontracts for therapy and other services, meaning that services were interrupted during this time. And third, eventually, the most difficult-to-place children—including teens in relatively high-level placement—came under the care of the adoption provider. Foster care providers sought to reunify children in a timely fashion consistent with the state's performance standards, or terminate parental rights and refer them on to the adoption contractor (James Bell Associates, 2001).

As a result of these problems, the state merged foster care and adoption services in its most recent iteration of contracts. SRS officials note this change helped reduce disruptions in service, although workers have been challenged to become skilled in tasks involving both foster care and adoption services. However, the benefits of service continuity are becoming evident.

Involving key stakeholders from the start

Another very important lesson learned was the need to actively involve public agency staff and the courts in privatization reform planning and implementation roll out. As noted above, the transfer of case planning and management was comprehensive in scope and carried out relatively quickly. Internally, public agency staff at all levels expressed resentment, saying they felt their work was undervalued by leadership. In interviews conducted across the state, public agency staff questioned the reasoning behind the decision to transfer case management to a private sector contractor which struggled to hire and train sufficient staff, and build necessary infrastructure, during the first few years. As a result, positive collaboration between the public and private sectors was often low. During the first five to six years of implementation, public agency staff focused on closely monitoring, and questioning,

case management and services decisions reached by private agency staff. Private agencies complained that their decisions were often micromanaged and required excessive justification and documentation, and that this interfered with the timely and efficient achievement of permanency for children in their care.

SRS quickly realized that a formalized process for reconciling areas of disagreement was needed and moved to establish one. However, at times, differences spilled over into the courtroom and/or discussions with foster parents.

Further complicating the situation was the fact that the judges responsible for overseeing dependency case hearings expressed concern that the child welfare system changed quickly without their input and that neither public nor private agency staff seemed fully accountable for service delivery. As a result, many courts adopted checklists, specifying the completion of parent and child assessments from community mental health and substance providers regardless of whether private or public agency staff felt these relatively high-end assessments were needed (James Bell Associates, 2001, p.160). Specifically, courts increasingly ordered parenting and psychological evaluations and assessments, along with drug testing, in order to get an independent assessment from community mental health and/or substance abuse providers.

For some families, these evaluations and assessments proved to be necessary and meaningful. Provided that an initial assessment by the community provider showed these high-end evaluations were needed, the costs of these tests were charged to parents on a sliding scale reflecting their ability to pay. However, when initial assessments showed these evaluations were not needed, parents had to pay the complete costs out-of-pocket as a condition of fulfilling their court ordered child welfare case plan obligations. In interviews conducted with families across the state, they reported that these expenditures could run into the thousands of dollars (James Bell Associates, 2001, p.160).

As a result, Kansas SRS undertook a series of initiatives with the courts and community services. For instance, working with the state's mental health consortium SRS sought to clarify reimbursement and referral prioritization policies and protocols.

The state also worked to improve public agency monitoring. In April 2003, a pilot project was initiated in the northeast region of the state (including Topeka) to end public agency case-specific monitoring and supportive case management of foster care and adoptive cases. The pilot shifted various responsibilities to the private agencies, including the authority to work directly with the courts.[4] State officials note that prior to initiating the pilot, public agency and contractor staff at all levels engaged in extensive collaborative planning. Community stakeholder involvement was also markedly evident.

Improvement in permanency, reunification, and timeliness supported the conclusion that the public agency could delegate much of the case monitoring it had undertaken during the first ten years of implementation to providers. As a result, SRS expanded this approach statewide (Planning and Learning Technologies & University of Kentucky, 2006b).

Establishing Clear Contract Definitions

The importance of establishing clear contractual definitions of responsibility was also learned. For instance, one area overlooked in the initial round of privatization reform was the specification of who would be responsible for determining eligibility and cost claiming for federal funding—namely title IV-E foster care maintenance and Medicaid case management funding. Following privatization, the state noted that locating the information needed for this function rested with

[4]State officials note that the region did not delegate any federal or state mandated requirements, such as investigations of abuse/neglect, participation in case planning, determinations of title IV-E eligibility, or acceptance of consents and relinquishments.

private providers. Yet private providers—focused on delivering needed child welfare services within negotiated reimbursement rates and schedules—viewed this as an additional burden that fell outside their contracts as originally negotiated. Later, the state came to understand that this was a responsibility that could not be delegated to the private sector state; however, this remained an unresolved issue during initial implementation of privatization reform implementation.

It is also important to establish clear definitions of who falls under the contract and who does not. It quickly became apparent that the responsibility for the care and custody of certain high-end cases had not been taken into account in the initial contracts. This included those referred to child welfare from other service delivery systems (for instance, by juvenile courts) and those children cared for by the child welfare system due to their specialized medical or emotional needs (rather than abuse/neglect). Private providers argued that the cost of providing care for these cases was usually extremely expensive and highly specialized. The need to think through all categories of cases in out-of-home care along with their multiple methods of (and reasons for) entry became apparent.

Evolving Public Agency Role

Perhaps the most important lesson learned was that even under comprehensive privatization reform, the public agency role evolves, but does not "wither away." Although those involved with initial implementation in Kansas called the transition abrupt, gradually it became apparent to all involved that both the public and private agencies needed to adjust to their new roles. Today, private agencies continue to assume greater responsibility for the day-to-day case planning and management associated with cases under their care. Meanwhile, the public agency continues to assume greater responsibility for holding private agencies accountable for achieving key outcomes, while allowing private agencies a certain degree of acceptable flexibility. The Topeka pilot described earlier helped build confidence among public agency staff that private providers could assume greater autonomy and responsibility.

It also became apparent that certain responsibilities will always fall to the public agency. Public agencies will always retain their oversight capacity. But perhaps even more importantly, public agencies will need to continue to address service needs and gaps at a systemic level. For instance, although Kansas' private agencies became adept at negotiating with other community-based agencies for needed services through sub-contract arrangements, they also encountered limits. Specifically, private agencies found they were less able to address service gaps and access funding and resources at a systemic level. As noted earlier, SRS undertook a number of initiatives to address outstanding issues with the courts and community services.

It appears that the respective roles of public and private agencies will continue to evolve in Kansas. For instance, in 2007 SRS officials report the state's mental health delivery system received a federal waiver to establish a prepaid ambulatory health plan to manage mental health care provided by the public agency. Children served by private providers are eligible beneficiaries, through affiliation agreements with community mental health centers. Driven by the need to comply with Medicaid requirements, it is anticipated that the plan will maintain (if not increase) access to mental health services for children in foster care (Department of Health and Human Services Office of the Inspector General, 2003, p.11). SRS continues to work with their counterpart state agencies on issues such as these.

Conclusion

This paper summarized key elements of Kansas' initial child welfare privatization reform and how these evolved over the last decade. It also explains the many factors which complicated the

reform's intended objectives. They fall into three major areas: political, fiscal, and administrative.

Politically, the state's efforts show the importance of actively involving key stakeholders in reform planning and implementation roll out. Because public agency staff and the courts felt they had not been actively included, much of early implementation was marked by these stakeholders second-guessing and micro-managing private providers' day-to-day decision making. This inhibited case planning when these differences spilled over into the courtroom.

Fiscally, the state's efforts show how difficult it is to try to align fiscal incentives with desired outcomes by reimbursing providers only when certain case milestones are reached. In the absence of quality information on the cost of case management, the cost of providing care and services was underestimated. Providers faced immediate cash flow problems and special legislative appropriations and adjustments to the case rate were necessary. Yet problems persisted, and eventually the department transformed the payment structure to a more traditional one, reimbursing providers on a monthly open-ended basis for each child in care.

Finally, administratively, Kansas' efforts show that over time the private and public agencies roles will continue to grow and evolve. Increasingly, public agency staff focus on the "big picture," overseeing private agency case management by focusing on key outcomes at an aggregate case level. Both public and private agency staff talk about the importance of building trust as the system evolves. But it is important that certain public agency functions will always remain, such as addressing systemic issues associated with service and resource gaps. This can provide a basis for a lasting public agency/private agency partnership under privatization.

In conclusion, many important lessons can be gleaned from Kansas that can help inform other efforts to privatize child welfare services delivery, and introduce performance measurement. To the state's credit, during the first five years of reform, these lessons were documented, analyzed, and fed into ongoing reform efforts through the state's independently commissioned External Evaluation. This third-party feedback loop allowed SRS to continue to make needed adjustments and address issues that emerged during implementation.

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