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Examination of Organizational Structural Capacity for Change in the Context of Litigated Reform

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Increasingly child advocates have become involved with persistent litigation in order to improve the performance of publicly administered state child welfare agencies. However, strategic plans for change are often implemented without sufficient attention given to assessing the level of and strengthening organizational structural capacity to support system-wide change. Using the conceptual foundation of organizational structural capacity by Hall et al. (2003), a two agency case study was conducted examining the structural capacity factors of relationships and networks, infrastructure and process, and planning and development in the context of litigated reform of the Washington State and New Jersey child welfare agencies. Examination of panel meeting minutes, monitoring reports, and other court documents revealed significant weaknesses in the three structural capacity areas that may have contributed to the failure to attain or maintain half of required performance benchmarks by the end of multi-year court oversight.

Publicly administered state child welfare agencies are complex bureaucratic systems that regardless of funding, staff levels, or resource availability are charged with ensuring the safety, permanency, and well-being of children from abuse and neglect (Blome and Steib 2007, 3; Ellett et al. 2007, 265). In an era of competing interests, funding cuts, and failed bureaucratic institutions, child welfare advocates increasingly have used class action litigation as a tool for child welfare agency reform using the premise of failure to protect the constitutional/legal rights of children in the care or custody of the state (Bertelli 2004, 28; Kim 2005, 149).

Along with critical factors such as workers, resource availability, and funding, the level of organizational structural capacity is an essential component in an agency’s ability to carry out organizational tasks (Hall et al. 2003). Often at the root of failed reform efforts to improve an institution’s ability to achieve its mission and performance goals is insufficient structural capacity marked by disrupted leadership, unclear or weak support for policies and
procedures, and ineffective plans and strategies (Center for the Study of Social Policy [CSSP] 2012a, vi; Hall et al. 2003). Through litigation, child welfare advocates leverage the power of the court to engage leaders’ examination of organizational capacity and functioning and seriously address chronically inefficient and ineffective system practices (Bertelli 2004, 34). Parameters of system change and performance requirements outlined in litigated settlement agreements hold political, bureaucratic, and professional entities accountable for working collaboratively to implement strategic reform to improve of failed systems (Bertelli 2004, 28-29; CSSP 2012a, vii).

For years the Washington State and New Jersey child welfare agencies operated disconnected bureaucracies with insufficient funding and resources, high turnover, inadequately trained workforce, poor stakeholder relationships, and frequent leadership changes. Through class action litigation against these state agencies, child welfare advocates required system-wide changes governed by a court approved settlement agreement with panel or monitor oversight.

In addition to human resources and financial support, an organization’s structure of relationship networks, leadership, processes, and strategic plans is a determinant of its ability to achieve its stated mission and goals (Hall et al. 2003; Vincent 2012, 12). The theoretical concepts of organizational structural capacity developed by Hall et al. (2003) was used to examine Washington State and New Jersey child welfare agency organizational structural capacity issues within the context of litigated reform and the ability of these agencies to achieve compliance with the provisions of their settlement agreements.

A two agency case study involving an analysis of panel meeting notes, monitoring reports and court documents was used to assess key structural capacity factors during litigated mandated reform and panel/monitor oversight. This article begins with an overview of Washington State’s Braam v. State of Washington (2003) and New Jersey’s Charlie and Nadine H. v. McGreevey (2003) class action lawsuits, followed by a discussion of the conceptual foundation for organizational structural capacity, the study methodology, research findings, and discussion of the findings in relation to structural capacity building in child welfare agencies.

Case Overview: Litigated Reform in Washington State and New Jersey


In 1998, Children’s Rights, a New York based child advocacy group filed suit against Washington State Department of Social and Health Services (DSHS) claiming that multiple placements while in the custody of Children’s Administration (CA) Division of Children and Family Services, the child welfare agency under DSHS, had violated the constitutional rights of children to be treated in a manner that comports with professional practice standards (Braam 101 2007, 1). The primary goal of the lawsuit was to reduce multiple foster care placements and raise to professional practice standards the provision of care for agency clientele (Braam 101 2007, 2).

Following court ordered mediation, a settlement agreement (SA) containing thirty-three required performance outcomes was approved by the court on November 9, 2004 (Braam 101 2007, 2; Walters 2011). While system-wide reform was required, areas of particular focus included placement stability and safety, mental health services, foster parent training, sibling separation/visitation, and services for youth aging out of the system (Braam 101 2007, 3).
As part of the SA, the court appointed a six member Braam Oversight Panel (BOP) that provided consulting and technical assistance in developing and implementing the reform plan, monitored compliance, and issued a bi-annual reports of CA’s progress meeting performance outcome benchmarks (Braam 101 2007, 2). The BOP presented an implementation plan in February 2006 and a revised plan in July 2008 that outlined specific performance goals, benchmarks and outcomes: full compliance was achieved when outcome benchmark levels were maintained for eighteen consecutive months (BOP 2013b, 2-3).

In October 2011, a revised/exit agreement replaced the original SA in force from 2004-2011; the exit agreement ended panel oversight in June 2013 and extended monitoring for twenty-six months through December 2013 (BOP 2013b, 3). The revised SA included twenty-one enforceable outcomes, most notably, monthly caseworker health and safety visits, sibling placement/visitation, and stable placements (BOP 2009; 2013b, 3).

The Braam Panel held public meetings quarterly between December 2004 and December 2012 with bi-annual reports published from March 2006 through May 2013. In 2008, after CA failed to make adequate progress, the plaintiffs took DSHS back to court for noncompliance of the settlement agreement (BOP 2013a, ii). A revised reform plan was created that reduced required performance outcomes from thirty-three to twenty-one (BOP 2013a, ii). After seven years of court oversight, there was little improvement of the SA outcomes especially in reducing the high number of placements, the primary complaint for which the Braam lawsuit was brought (BOP 2011a). At the end of the original SA in 2011, CA only had completed four of twenty-one outcomes (BOP 2011a, ii) and by the end of 2012, CA had achieved compliance only for five of the twenty-one enforceable outcomes (BOP 2013a, ii).

New Jersey: Charlie and Nadine H. v McGreevey

Children’s Rights filed a class action lawsuit against the New Jersey Department of Health Services (DHS) and the Department of Children and Families (DCF) on August 4, 1999. The plaintiffs alleged DCF was so poorly managed, grossly overburdened, and under resourced that children were denied safety, permanency, and well-being (Kite and McCauley 2003, 3) and the rate of abuse and neglect of children in the New Jersey foster care system was twelve times higher than the national norm (Kosanovich, Joseph, Hasbargen 2005, 45).

The lawsuit remained unresolved for three years (Kite and McCauley 2003, 3). In 2003, Governor McGreevey broke the stalemate following the death of a child while in state custody and an article published by the New York Times detailing gross deficiencies in DCFs Department of Youth and Family Services (DYFS) that placed children in unsafe living conditions (Livio and Patterson 2004). McGreevey ordered DHS/DCF to settle the lawsuit, restructured the state child welfare system, and hired a new DHS commissioner (Jones and Kaufman 2003). The litigated settlement agreement (SA) included a court appointed oversight panel (CSSP replaced the panel in June 2010) served as consultants and monitored compliance with SA requirements (CSSP 2007, 1; Jones and Kaufman 2003). Between 2004 and 2012, CSSP published bi-annual reports detailing DHS/DCF progress meeting SA performance outcomes.

In June 2004, the court approved a reform plan with goals, outcomes, and performance compliance deadlines for eleven areas of foster care (Jones and Kaufman, 2003). Following a non-compliance contempt ruling against DHS in December 2005, the plaintiffs and the state negotiated a modified settlement agreement (MSA) approved in July 2006 (CSSP 2007, 1). The MSA requirements were implemented in a two phase process. Phase 1
(7/2006-12/2008) focused on establishing a strong infrastructure (CSSP 2009a, 1-2) then transitioned to Phase II beginning January 2009 with increasingly higher performance expectations in direct practice staged over the course of the settlement agreement (CSSP 2008b, 3; 2009a, 7; 2010a, 7). By June 2012, DCF had met twenty-one of the fifty-four Phase II performance measures specified in the MSA and improved performance in fourteen other measures (CSSP 2012c, 3). The monitor would continue oversight until all court-ordered performance requirements were met (CSSP 2012c, 3).

Methods

A case study method (Yin 1994) was used to investigate organizational structural capacity issues within the context of class action litigated reform (Cooper 1988, 6). The case study method is appropriate for understanding the complex nature of litigated reform of publicly administered child welfare agencies because it provides a means of studying multifaceted issues within the real-life context of large bureaucratic institutions (Yin 1994, 1). The Washington State and New Jersey cases were selected for the study based on six criteria: (a) class action lawsuit based on the violation of statutory/constitutional rights of children; (b) the lawsuit resulted in system-wide reform; (c) the litigated reform took place during similar time periods between 2003 and 2013; (d) reform requirements were stipulated in a court approved settlement agreement; (e) involved a court appointed oversight panel/monitor; and (f) the defendants have exited or were exit court supervision by December 2013. Analysis involved an examination of publicly accessible court documents, oversight panel meeting minutes, and published monitoring reports.

Case studies provide insight and broad understanding of issues in their natural contexts by using multiple sources of information (Creswell 1994, 12). While the findings of the current study may not be generalizable across all publicly administered state child welfare agencies, conceptual generalizations can be drawn that contribute to the body of knowledge by adding multiple perspectives that might be transferable to similar contexts (Yin, 1994). The implementation of reform to satisfy settlement agreements requirements involved substantial changes that effected organizational structural capacity. Using the conceptual framework of organizational structural capacity by Hall et al. (2003, 4), the litigated reform process was examined within the context of the agency’s structural capacity to support relationships with stakeholders, organizational infrastructure and process, and planning and development.

Organizational Structural Capacity

The term “capacity” is broadly used and conceptualized in the literature as multidimensional, dynamic, and changing (Boigey and Cumenal 2011, 7; Hall et al. 2003, 4; Misener and Doherty 2009, 458). Organizational capacity is the collective ability to utilize a set of resources within a multidimensional structure to accomplish tasks by converting strategic aims into action (Boigey and Cumenal 2011, 7). Organizational structural capacity describes the extent an organization possess critical structures and processes necessary to complete organizational tasks and objectives (Hall et al. 2003, 5; Mackay et al. 2002, 130; Misener and Doherty 2009, 458). Weak organizational structural capacity is associated with a poor history of achieving the institutional mission and goals (Eisinger 2002, 115; Kaplan 2000, 50; Misener and Doherty 2009, 458). While it is difficult to provide a universal model for organizational excellence, a significant contributing factor is the organizational structural
capacity that supports the forming of networks and relationships, infrastructure and processes, and planning and development (Boigey and Cumenal 2011, 11; Jones 2003, 17).

Conceptual Foundation of Organizational Structural Capacity

Organizational structural capacity is multidimensional and integral to the ability of an agency to fulfill its mission and realize its goals through a combination of organizational hierarchy, design and coordination of functions, job and role clarity, and the shape of the organization’s leadership and legal structures (Jones 2003, 18). Structural capacity refers to the ability of an organization to utilize non-financial capital that is embedded in the organizational system. Hall et al. (2003, 4) developed a three dimension conceptual model for understanding organizational capacity to produce desired outcomes that includes the interconnectedness of human resources, structural formation and processes, and financial foundation (Hall et al. 2003, 6, 8, 13). This organizational capacity model is applicable to understanding the complex dynamics of publicly administered child welfare agencies by providing a framework using broad dimensions that are adaptable to various nonprofit-like organizational contexts (Misener and Doherty 2009, 463). Organizational structural capacity, the second dimension of the Hall et al. (2003) organizational capacity model was used as the conceptual foundation for the examination of structural capacity within the context of litigated reform among the Washington State and New Jersey child welfare systems. Organizational capacity is dependent on an organizational structure that supports strategic planning, decision-making, knowledge management, information technology, and administrative structures that facilitate the ability of an organization to achieve its mission and goals (Hall et al. 2003, 25, 27; Jones 2003, 18). Within child welfare agencies, modifications in organizational structure can change the mission and goals of the entire agency or divisions within it, alter priorities and strategies, shift authority and power structures, weaken or strengthen networks and stakeholder relationships, and affect the availability of resources and human capital (Hall et al. 2003, 15, 38, 72, 93). According to Hall et al. (2003, 6), three types of organizational structural capacity that affect organizational capacity include (a) relationships and networks, (b) infrastructure and process, and (c) planning and development.

Relationship and network capacity relates to an institution’s social norms, networks, and trust that facilitate the mutually beneficial sharing of resources, knowledge, and experience through coordination and cooperation (Hall et al. 2003, 6; Putnam 1995, 17). This includes the ability to draw on relationships with clients, stakeholders, funding entities, governmental agencies, legislatures, media, and the public (Misener and Doherty 2009, 463). Critical to the success in developing and implementing organizational strategies is stakeholder input, expertise, resource support, and advocacy for the needs of the agency (Vincent 2012, 9).

Infrastructure and process capacity relates to the ability of an organization to use institutional elements related to day-to-day operations and is influenced by the extent that the organizational structure supports information systems, policies, procedures, and culture (Hall et al. 2003, 6). Affecting infrastructure and processes is the recent trend among state legislatures to mandate use of performance based contracting of services typically provided by the agency. Use of private contractors is expected to leverage market competition to lower operations costs and reduce the financial burden on taxpayers (Johnston and Romzek 1999, 383, 385). Finally, planning and development capacity refers to the ability of an organization
to develop and use organizational strategic and program plans, policies, and proposals and is
influenced by the extent organizational members can access and utilize organizational
resources (Hall et al. 2003, 6; Misener and Doherty 2009, 463). Strategic planning capacity
is affected by insufficient human resources and uncertainties about future funding and
funding constraints (Eisinger 2002, 118; Hall et al. 2003, 37; Misener and Doherty 2009,
463). The lack of sufficient funding and loss of long-term workers with institutional
knowledge and experience can pose the greatest threat to sustained planning and development
capacity (Misener and Doherty 2009, 463).

Results

Publicly accessible court documents, oversight panel meeting minutes, and
monitoring reports related to the litigated reform as outlined in court approved settlement
McGreevey (2003) class action lawsuits were examined in the context of the three types of
organizational structural capacity described in the Hall et al. (2003) conceptual model for
understanding organizational capacity: (a) relationships and networks, (b) infrastructure and
process, and (c) planning and development.

Structural Capacity: Relationships and Networks

Washington. DSHS/CA dealt extensively with the plaintiffs, oversight panel,
stakeholders, state legislature, and external agencies providing child welfare related services.
Integral to structural capacity and meeting the settlement agreement requirements was CAs
ability to improve communication, form constructive working relationships with
stakeholders, facilitate the development of networks supporting agency tasks, and collaborate
with the state legislature in passing child welfare legislation, and acquire information.

Initial meetings of the Braam panel, plaintiffs, and CA were marked by antagonism
and resistance in resolving outcome definitions and benchmark target issues (BOP 2008a),
data requirements and measurement methodology (BOP 2007c), and strategy development
and implementation (BOP 2008a). Due to lack of detail and weak strategies, CA experienced
ongoing difficulty submitting compliance plans acceptable to the panel (BOP 2008b). Over
time, interactions became more collegial and collaborative in developing measurable
operational definitions and performance outcome targets (BOP 2005; 2008b; 2010a).

Children’s Administration leaders fostered engagement with stakeholders (e.g.,
parents, caregivers, child advocacy representatives) and the state legislature in the reform
process. At public panel meetings, stakeholders provided input about programs and services
(BOP 2007b; 2009a; 2009c; 2010b; 2011b). Increased communication facilitated
commitment from private entities to support the agency through investment in structural
operation needs and child welfare programs and services (BOP 2010b; 2010c). By 2012, CA
had significantly improved relationships with the foster parent community and other key
stakeholders (BOP 2012b; 2012c). The Braam lawsuit facilitated positive collaboration with
the state legislature in making funding decisions and passing child welfare legislation (BOP
2007c; 2007d; 2009c; 2012b).

Finally, the inability of CA caseworkers and other staff to access information from
state and federal agencies (e.g., school districts, law enforcement, healthcare providers) often
was cited as a barrier to effective case management (BOP 2005; 2008a). To improve access
to external agency information, the state legislature provided CA a court order process to
expedite obtaining foster child health and education information (BOP 2007b; 2007d; 2008a).
The leaders of DHS/DCF worked closely with the panel to develop an implementation plan, performance outcomes, and benchmarks. The monitor identified inadequate progress in critical areas (e.g., screening, case planning, caseworker visits, family team meetings) (CSSP 2009b, 8-9; 2010b, 8; 2011a, 7; NJCWP 2005b, 11); periodically participated in DCF’s quality assurance process (CSSP 2012a, 2), and provided technical guidance in the modification of benchmarks to facilitate improved performance and outcome compliance (CSSP 2009b, 103). However, collaboration between the panel and the DHS/DCF leadership was hampered by tension created over pressures from the plaintiffs for the New Jersey legislature to elevate DCF to a cabinet level agency (CSSP 2009b, 8-9; 2010b, 8; 2011a, 7; NJCWP 2005b, 11).

A primary goal of DCF was to re-engage with critical stakeholders and rebuild public confidence and trust (CSSP 2011b, 75; NJCWP 2005b, 12). Early in the reform process, DHS/DCF failed to engage community stakeholders in collaborative partnerships that supported the work of the agency (NJCWP 2005a, 10-11). Stakeholders were frustrated by DHS/DCF lack of clarity on the help needed, frequent leadership changes, lack of transparency in operations, and confusion about various organizational questions related to DCF (NJCWP 2005b, 78).

The Department of Children and Families experienced difficulty accessing information and coordinating care across diverse state government agencies (e.g., Medicaid HMOs) and contracted mental health service providers (NJCWP 2005b, 55) that negatively affected DCFs ability to achieve performance benchmarks (CSSP 2011b, 129). As the reform progressed, DCF improved its collaborative working relationships with external service providers, policy experts from other state agencies, child advocacy groups, and private agencies (CSSP 2012a, 154).

Structural Capacity: Infrastructure and Process

The Washington and New Jersey child welfare agencies faced infrastructure and process problems related to the SACWIS case management system technology, quality assurance mechanisms, diffusion of the agency professional practice model, managing performance based contracts, and changes in leadership and agency organizational structure.

SACWIS Case Management System

Washington. In 2009, CA converted to the new FamLink SACWIS case management system. Though the original launch date was September 2008, system conversion did not begin until February 2009 (BOP 2007d; 2009a) during which periods of data loss, unreliability, and inaccessibility prevented CA from assessing several performance benchmarks (BOP 2010a; 2009a; 2009b). Budget cuts during conversion to the new system negatively impacted on-site support for field staff (BOP 2009d). With the resolution of data management problems, FamLink provided case management capabilities and quality assurance mechanisms that strengthened structural capacity to manage data and track progress meeting performance outcomes.

New Jersey. In 2007, DCF converted to an updated SACWIS case management system, NJ SPIRIT (CSSP 2009a, 45; NJCWP 2004, 13). After a one year delay, NJ SPIRIT was launched statewide August 2007 (CSSP 2008b; 2009a, 45). Conversion problems resulted in unreliable or inaccessible data (CSSP 2008a, 7; NJCWP 2005b, 38) that impeded caseworker ability to provide appropriate and expedient services (CSSP 2008b, 6). Integration of the new system in day-to-day operations was delayed due to ongoing technical problems (CSSP 2008a, 8) and lack of staff competency using NJ SPIRIT (CSSP 2008b, 15). Diffusion...
of the technology was facilitated by the inclusion of super users who provided staff with guided practice in data input and access (CSSP 2008b, 6). After several years, most NJ SPIRIT system problems were resolved, worker competency increased significantly, and the system provided a broad range of data on benchmark and performance outcomes progress (CSSP 2008a, 30; 2010b, 12).

Quality Assurance Mechanisms

Washington. Children’s Administration had ongoing difficulty implementing a quality assurance system due to FamLink migration problems that: (a) limited data access and reliability (BOP 2006a; 2009a), (b) led to insufficient documentation and failure to maintain FamLink case records (BOP 2010c; 2012b), and (c) failed to capture information from external service providers (BOP, 2005b). FamLink technical problems caused delays or the outright inability of CA to demonstrate compliance with benchmark requirements (BOP, 2010a). On several occasions, data problems necessitated the panel change outcome definitions and/or measurement parameters due to the inability to continue to track progress of an existing outcome (BOP 2006a; 2007d; 2010a). However, once FamLink was fully operational, quality assurance mechanisms were integrated into the system to monitor organizational activities directly related to care (e.g., supervisor case reviews and caseworker alerts) (BOP 2010a; 2012c).

New Jersey. The Department of Children and Families experienced a weak quality assurance program (CSSP 2009a, 9; 2010b, 10-11; NJCWP 2004, 6). Data collection and reliability problems existed for several years during which workers resorted to alternative methods (e.g., hand counts) because programs did not exist to pull together or provide consistently reliable data (CSSP 2008b, 6). Unreliable quality assurance assessments due to data problems limited the ability of the agency to demonstrate outcome performance trends or compliance over time (CSSP 2008b, 39; NJCWP 2005b, 26).

The Department of Children and Families experienced problems aligning the qualitative review process to assess case practice performance benchmarks (CSSP 2010a, 11). After several delays, in 2010 a new quality assurance system (ChildStat) was implemented that used data from multiple sources (e.g., caseworkers, clinicians, resource parents) to assess service delivery (CSSP 2009b, 10; 2012b, 5). The quality assurance program helped leaders pinpoint barriers to quality case practice and identify effective strategies, policies, and practices for improving agency performance (CSSP 2012c, 5).

Implementing the Professional Practice Model

Washington. Children’s Administration experienced problems implementing a new solutions-based casework practice model (SBC) to guide professional practice (BOP 2007d; 2008d). The SBC model was generally well received system-wide (BOP 2008c). However, supervisors expressed frustration with expectations to integrate the values and principles of the model at the field level without adequate guidance from management (BOP 2008d; 2012c). Lack of training support and budget cuts (BOP 2009b) led to inconsistent or delayed application of the model across the agency (BOP 2008d) especially in terms of conducting timely Family Team Decision Meetings (FTDM), a critical component at the field level for case management, service provisions, and placement stability for children placed in out-of-home care (BOP 2009b).

New Jersey. Training on the Case Practice Model (CPM) developed collaboratively by DCF and the plaintiffs (CSSP 2008a, 9) began in November 2007 (CSSP 2008a, 21). Poor
training capacity and support of the new model system-wide resulted in failure to meet critical performance standards (e.g., family team meetings and case planning) (CSSP 2008b, 5; 2011a, 7, 11). Local agency office leaders were responsible for field-level training and support; however, inconsistent application of the CPM among local leaders and field level staff demonstrated continued lack of competency in CPM use (CSSP 2008b, 5; 2009a, 35, 51; 2009b, 68).

A significant challenge for DCF to create an integrated service delivery system structure was diffusion of the principles and values of the CPM throughout the extended child welfare system and among, judges, attorneys, and service providers (CSSP 2008b, 5, 44; 2009b, 69; 2010a, 69; NJCWP 2005a, 7). As a result, due to inconsistent application of the CPM among external entities, DCF experienced ongoing problems meeting outcome targets related to some of the case practice standards (CSSP 2008b, 5; 2009a, 51; 2010, 7, 69, 74).

To facilitate competency and consistency in application of the CPM, an immersion training program was implemented with an emphasis on modeling use of CPM techniques (CSSP 2009a, 49, 51). By 2011, case management improvements key areas (e.g., training, reduced caseloads, sibling placements, resource family recruitment, and medical/mental health care) provided evidence that the CPM had diffused throughout DCF (CSSP 2009b, 4-5; 2011b, 3).

Managing Performance Based Contracts

**Washington.** State legislation required CA use performance-based contracting (PBC), most notably for medical and mental health care (BOP 2009d; 2010a; 2010b; 2010c; 2012b). Children’s Administration incorporated federal, state, and *Braam* requirements in the RFP process (BOP 2010b) and worked collaboratively with master contractors to develop the initial service plan with ongoing planning completed through family team decision meetings (BOP 2010b; 2010d). The challenge for CA was to ensure fidelity to the SBC model among contracted providers (BOP 2005b; 2007d). While the SBC approach was well received, CA experienced suboptimal service quality by PBC’s, especially mental health service providers (BOP 2005; 2008c). To improve use of the SBC and service quality, CA implemented private agency staff training for expanded front-end and preventive services (BOP 2010b).

To improve consistency and quality of PBC services, CA converted and consolidated the number of contracts issued and managed (BOP 2010b). Following 2012 state legislation requiring use of PBC for case management by December 1, 2013, CA experienced ongoing difficulty finding PBCs willing to take full case management responsibility (BOP 2009a; 2012c).

**New Jersey.** The implementation of PBC between 2007 and 2010 resulted in challenges providing ongoing in-service training for staff and resource families (CSSP 2008b, 44; 2010b, 88-89). During Phase I of the MSA in the fall of 2009, DCF appointed a Contract System Administrator (CSA) to serve as a single point of entry and facilitator of care for children accessing behavioral and mental health services from DCF (CSSP 2008b, 71; 2009a, 8). The modification of the CSA role was a massive undertaking that required time and effort to manage the transition to the new referral system (CSSP 2008b, 71). The Department of Children and Families experienced ongoing problems with functionality, access to information, and clients waiting long period to get authorization for care and access to services (CSSP 2010a, 10). Over time, the PBC referral process improved communication.
and service provision across a variety of agency offices (CSSP 2008b, 45).

Changes in the Agency and Leadership Structure

Washington. Frequent changes in the executive leadership composition and structure resulted in a loss of institutional knowledge, disruptions of stakeholder networks and relationships, and institutional angst (BOP 2009a). Between 2005 and 2009 there were three DSHS Secretaries, two CA Secretaries, and numerous other high level leadership changes (BOP 2009b; 2011c, 6, 4; 2012c). To cut costs, improve communication, and facilitate service consistency across state regions, DSHS in 2011 consolidated six regions into three with changes in regional director and staff roles and responsibilities for these larger regions (BOP 2009d; 2011b; 2011c). Amid structural changes, the relative stability in regional director leadership provided a level of continuity in institutional knowledge, norms, and culture (BOP 2009c).

New Jersey. The location of DCF within DHS hampered the reform process (NJCWP 2005b, 7-8). Agency leaders spent considerable time and effort navigating the highly centralized management structure of the DHS bureaucracy (NJCWP 2005b, 10, 78). This led to overlapping or unclear levels of authority that contributed to delays in decision-making (NJCWP 2005a, 7). Local managers expressed frustration with the lack of executive leadership and failure to respond to concerns or recommendations made at the regional or field level (NJCWP 2005b, 10).

With DCF’s failure to meet required performance benchmarks under the existing agency structure, the plaintiffs and oversight panel pushed to make DCF independent from DHS with its own decision-making authority and structure (NJCWP 2005a, 75). In response to continued poor progress and to improve service coordination, the governor made DCF a cabinet level agency in July 2006 unifying various divisions into the one agency (CSSP 2007, 15; 2009a, 2).

Between 2006 and 2008, DCF focused on strengthening the infrastructure to support the implementation of the reform plan and changes in direct practice (CSSP 2009a, 5; NJCWP 2005a, 7), most notably, decentralizing DCF operations to local offices (NJCWP 2005b, 21). Infrastructure changes resulted in clarity of roles and responsibilities that reduced task ambiguity, improved communication between the central office and field offices, and better information sharing between department leaders and external partners that improved coordination of services (CSSP 2007, 16, 40). With the infrastructure strengthened, DCF placed greater emphasis on system-wide changes to improve performance outcomes (CSSP 2008b, 3; CSSP 2009a, 2, 8).

Between 2004 and 2012, DCF experienced significant leadership change and organizational restructuring. Frequent high level leadership changes in the New Jersey social services and child welfare agencies included several changes to DHS and DCF commissioners, DYFS directors, program administrators, and the addition of new positions (CSSP 2008a, 7; 2009a, 38; 2009b, 55; 2010a, 8, 60; CSSP 2010b, 6; CSSP 2011b, 3; NJCWP 2004, 4). In 2010, area offices were consolidated from 12 to 10 to decrease operating costs and improve efficiency (CSSP 2010b, 7). Loss of leadership continuity from frequent periods with vacant offices or leaders shifting to other positions placed increased stress on structural capacity (CSSP 2010a, 62). The result was slowed progress on some performance benchmarks as the agency acclimated to changing system dynamics (CSSP 2009a, 38; 2009b, 7, 55; 2010a, 60).
In July 2012, state legislation restructured DCF into four divisions with new divisional program and service responsibilities (CSSP 2012a, 182; 2012b, 3, 113, 126). In addition, substantial reductions in DCF FY2012 and FY2013 budgets resulted in insufficient funding support for the new organizational structure and added responsibilities resulting from realignment of the agency (CSSP 2012a, 182; 2012b, 161). The agency experienced declines in performance following the structural realignment and budget reductions (CSSP 2012a, 11, 182).

**Structural Capacity: Planning and Development**

**Washington.** Children’s Administration attempted to implement multiple system-wide changes without having in place the internal and external infrastructure to support extensive system reform. Four years into the reform process, workers and leaders continued to express frustration with the pace of change and the number of external measures being imposed simultaneously (BOP 2008b). With the proliferation of *Braam* and other governmental requirements, workers and leaders struggled for clarity on how to balance multiple and changing performance requirements (BOP 2008a; 2008b). A failure by the executive leadership to develop a shared understanding of the reform process and purpose of action steps contributed to this frustration and resulted in wide regional variations in outcome performance due to differing definition of performance expectations (BOP 2010b).

The loss of institutional knowledge through frequent leadership change and staff turnover hampered DSHS/CA executive leaders’ ability to develop compliance plans that accurately reflected agency norms, culture, history, and agency capacity for change (BOP 2009b). As a result, early compliance plans were ineffective because strategies failed to reflect understanding of the factors contributing to poor organizational performance (BOP 2006a; 2007c).

Reassessing structural capacity based on performance outcome data, revised compliance plans were more comprehensive with stronger strategies for system-wide changes specifically tied to systemic problems identified and not just performance benchmarks (BOP 2010a). The revised strategies included incremental changes that connected actions steps to CAs ongoing strategic plans (BOP 2009b), created a support structure for change (e.g. clear expectations, emphasis on teamwork, problem-solving support networks at the regional level), and made annual increases in performance benchmark requirements to provide time for structural capacity to acclimate to the changes (BOP 2006a; 2006b; 2010a). Children’s Administration spent two years transitioning from activities focused on defining professional standards and measurement strategies before assessing performance outcomes against required performance benchmarks (BOP 2006b). As a result, the strategic plan was more effective in improving performance over time (BOP 2010a).

**New Jersey.** The DCF leadership was slow and inconsistent in developing a comprehensive reform plan (NJCWP 2004, 4; NJCWP 2005b, 44-45). The organizational structure inhibited the effectiveness of action steps because responses to decision recommendations at the regional level were delayed due to the multilayered organizations structure of DCF within DHS (NJCWP 2005a, 14). This distance between service providers and the decision-making authority impeded decision-making at the field level and the ability to make timely adjustments to reform plan strategies (NJCWP 2005b, 11). In addition, DCF overemphasized the “enforceables” of the SA without strong implementation strategies that fit the structural capacity to support change (NJCWP 2005a, 7-8). System-wide changes were implemented simultaneously without having in place the internal and external infrastructure
to support the reform process (NJCWP 2005b, 7-8). The initial implementation plan included policy changes in field operations and child welfare assessment guidelines that failed to produce the desired levels of practice improvements (NJCWP 2005b, 36). Failure to routinize new policies and procedures of the CPM throughout DCF contributed to lack the lack of improvement (NJCWP 2004, 13; NJCWP 2005b, 7-8).

Discussion

The analysis of public court documents, panel meeting minutes, and monitoring reports related to class action litigated settlement agreements to reform the Washington State and New Jersey child welfare agencies revealed structural capacity issues that increase the understanding of factors affecting successful agency reform and the ability to achieve litigated performance benchmarks and outcome requirements. Both state child welfare agencies experienced similar challenges implementing systemic changes to achieve performance requirements for exit from litigated settlement agreements.

Overall, the performance goals of the Washington State and New Jersey child welfare lawsuits were largely unmet with ongoing problems meeting compliance targets. Over twelve monitoring periods between 2006 and 2012, CA compliance rates ranged between 0%-10% for four monitoring periods, 11%-30% for six periods, and 31%-57% for three periods. The last monitoring report showed compliance for only twelve of twenty-one (57%) performance outcomes. After seven years, the primary goal of the lawsuit, namely the reduction in multiple placements, had not been achieved.

New Jersey’s DHS/DCF failed to reach many of its performance targets. At the end of 2012, DCF achieved compliance on twenty-one of fifty-four (38.9%) Phase II performance outcomes and continued to fall short meeting performance benchmarks in fundamental areas. During the first five monitored periods, outcome performance compliance increased from 39% to 82%. However, performance declined from 69% to 52% compliance between 2009 and 2011 with a significant drop to 29% by late 2012. After seven years, DCF had chronically failed to sustain performance improvements.

Relationships and Networks

Organizational structural capacity is highly interconnected to the extent the agency can engage and receive support from key stakeholders. Prior to the lawsuits, Washington and New Jersey child welfare agencies had weak relationship networks with key internal and external stakeholders that resulted in disengaged, disconnected, and poor quality services and lack of understanding of the support network needed to assist children and families in the foster care system. Both CA and DCF developed more inclusive, cooperative, and collaborative relationships with foster parents, other governmental agencies (e.g., school and health), advocacy groups, members of the court system and external organizations that provided programs and services used by the agency. Increased opportunities for bi-directional input improved agency support and the ability to assess, change, and improve program and service provision.

Any litigation based reform must take into consideration the current political, legislative and budgetary environment. Forming positive working partnerships with the governor and the legislature were integral to building and sustaining structural capacity. Strategic plans to build structural capacity succeeded only in conjunction with reliable political and legislative support. For CA and DCF, the legislature played a significant role in removing barriers preventing completion of agency tasks by maintaining sufficient funding.
for programs and services and passing legislation that supported agency operations. In Washington and New Jersey, the relationship between the agency and the legislature was changed when a litigated reform plan came into play. Settlement agreement provisions empowered the agency leaders to implement changes in policy, gave the agency budgetary leverage, and provided the court with the authority to require increased appropriations for programs directly affected by the litigated remedy.

Infrastructure and Process Capacity

The ability of an organization to develop structures and processes that support the utilization of available resources and strategic aims is integral to sustained reform (Boigey and Cumenal 2011, 7). Infrastructure and process capacity of Washington’s CA and New Jersey’s DCF was overwhelmed by frequent leadership change, problems integrating and managing information technology, implementing a new professional practice model, and use of performance based contracting.

Agency leadership plays an integral role in the level of structural capacity and leader or leadership structure changes can shift agency preferences and reform strategies related to performance outcome compliance (Bertelli 2004, 34). Through commitment to the reform process and bi-directional communication, leaders serve an important role in creating a shared vision for the agency that is diffused throughout the system in its norms and culture (Romzek 2000, 427). A shared vision serves as the backbone to building capacity for change among front-line workers and supervisors (Shackelford et al. 2007, 121).

Frequent high-level leadership change creates organizational uncertainty and anxiety over the strategic focus on how to achieve the mission and goals tied to the agency’s vision (Romzek 2000, 427). Leadership transitions require rebuilding of relationships with internal members, external stakeholders, government leaders, and the legislature. Following a leadership change, not only is institutional knowledge, understanding, and experience with the reform process lost, but time and productivity is lost as well as a new leader develops trust and confidence in workers, becomes acclimated to the agency’s structure and culture, and develops an understanding of organizational capacity to handle change. Declines in performance during and after leadership change for Washington and New Jersey child welfare agencies demonstrated the importance of stabilizing leadership structures before and throughout the reform process.

State child welfare agencies must manage information across a variety of service and performance domains. The extent that information is timely, accurate, accessible, and reliable affects the level of data fidelity to provide a true reflection of organizational capacity. When data depicts the actual level of structural capacity, decision-making and strategic plans for reform are more likely to lead to positive change without overwhelming system capacity during the process. Foundational to structural capacity is having in place information technology networks that support day-to-day operations and long-term strategic planning. Any attempts at structural capacity building must begin with an assessment of the strength of organizational information systems (Hall et al. 2003, 6). Lack of expertise and support in using information technology, technical problems, ongoing upgrades and maintenance of database information systems are the most frequently cited problems that negatively impact infrastructure and process capacity (Hall et al. 2003, 40). This was the case in the Washington and New Jersey child welfare systems. Both agencies entered litigated reform during conversion to an upgraded SACWIS case management system that required a significant expenditure of time and resources to transfer data, debug problems, and train to competency.
leaders, managers, and field level workers.

The ability to derive data in a form that provides relevant information for accurately assessing client needs, performance, or decision-making is crucial to reform (Kloby 2012, 31). Both CA and DCF experienced ongoing information technology management problems with workers struggling to navigate the SACWIS system, filtering massive amounts of data, keeping current with data input requirements, and utilizing information for decision-making. Failure by leaders to accommodate in strategic plans problems with system conversion, training, support and diffusion of technology throughout the child welfare system led to decreased perform due to loss of information continuity, inability to maintain quality assurance programs, and lack of knowledge management competency and decision-making at the supervisory and field-levels.

A well-diffused professional practice model is essential to developing and maintaining strong infrastructure and process capacity to support institutional tasks. Within child welfare agencies, worker competency is influenced by the extent the organizational structure supports a model with specified standards of practice and quality assurance mechanism that promote model fidelity in daily operations (Vincent 2012, 9). Washington and New Jersey leaders struggled to support mid- and field-level supervisors’ efforts to understand the principles and values of the model and then train agency workers to competency levels in its use. Lack of understanding of the model among attorneys, judges, and other external agencies or service providers inhibited the ability of the agency to provide services at performance target levels. The experience of CA and DCF highlight the importance of having a well-defined pre-service and in-service training program with accessible support networks and spot checks for competency maintenance.

Washington and New Jersey child welfare agency leaders were mandated to use performance-based contracting (PBC) which required managing multiple performance outcomes without complete control over the internal policies, procedures, and quality assurance mechanism PBC agencies used to carry out provider tasks. As a result, CA and DCF experienced difficulty managing how PBCs defined and measured service provision related to settlement agreement performance outcome and benchmark targets. When PBCs failed to meet performance standards, few replacement alternatives capable of providing agency services were available. State governments increasingly are turning to privatization of services.

Planning and Development

Initial failure at agency reform in Washington and New Jersey demonstrated the importance of developing an internal structural capacity to support change. Pressure to make quick fixes was felt acutely by leadership, management, and front-line workers who struggled with the pace of change. Both Washington and New Jersey leaders initially focused on meeting the enforced provisions of the settlement agreement. This led to compliance plans with weak strategies that failed to incorporate knowledge about current policies, procedures, norms, relationship networks, and overall system capacity for change. Leaders failed on two fronts: not building capacity of the lower-level management structure to handle change and introducing too many changes simultaneously that overwhelmed the agency’s structural capacity for change.

Developing an implementation plan that phased in changes helped leaders maintain structural capacity to handle reform measures by providing opportunities for the system to
adapt to change over time and allowing leaders to make adjustments during the process before the system became overwhelmed. For both CA and DCF, an incremental reform approach in later plans resulted in greater performance improvement gains.

Institutional knowledge plays a key role in decision-making and development and implementation of strategic plans. Loss of institutional knowledge caused disruptions in care due to lost productivity, lack of familiarity navigating the bureaucratic organizational structure, time needed to build working relationships with internal organizational members, external service providers, and other stakeholders. Institutional knowledge develops over time and experience within the agency and provides an understanding of the inner workings of the organization within a real-world day-to-day context. Frequent leader changes and high worker turnover resulted in a loss of institutional knowledge continuity about the capacity of the agency’s organizational structure, processes, norms, and culture to accommodate organizational change.

Conclusion

The ability of a state child welfare agency to fulfill its mission and goals of providing for the safety, permanency, and well-being of the children and families served by the agency is highly dependent on the strength of the organizational structural capacity to support agency tasks. Insufficient structural capacity led to long-term chronic failures of the Washington State and New Jersey child welfare systems to provide appropriate and competent levels of care and safeguard of the children and clients served by the agency. Three significant structural capacity weaknesses played an integral role in the overall failure of both Washington and New Jersey to achieve and sustain performance improvements within the context of litigated reform and court enforced settlement agreement provisions. These weaknesses included; (a) failure to diffuse the new professional practice model; (b) state mandated privatization of primary agency functions through performance based contracting; and (c) inconsistent executive leadership.

First, the diffusion of the principles of a new professional practice model throughout the agency system was integral to improvement on performance measures related to direct fieldwork that included caseworker monthly visitation, case assessment, planning, implementation, and team meetings to coordinate client care. In terms of training and support, there was a lack of structural capacity for training, coaching, and mentoring to facilitate diffusion of the practice model principles. Outmoded and inconsistent training and support of the practice model led to inadequate knowledge acquisition and skill development that contributed to poor performance in key areas related to direct services to clients. Supervisors and caseworkers consistently failed to translate what they learned in the classroom to agency tasks. The diffusion process was inhibited further by insufficient attention given to routinizing new policies and procedures that translated the principles of the practice model into real world actions. The poor diffusion was exacerbated by a failure of the agency leadership to link the principles of the practice model to the settlement agreement performance outcome measures. In addition, incomplete diffusion of the practice model was evident in ongoing difficulty of external partners and stakeholders within the larger child welfare system understanding and incorporating model principles. Key structural capacity weaknesses that contributed to failure to meet performance measures related to the new practice model included time to practice and obtain feedback on use of model principles, insufficient supervisory support, problems imputing and accessing current and reliable information from the SACWIS data system, and
the consistent application of the model principles throughout the entire child welfare system.

Second, multi-layered bureaucratic organizations are reliant on collaboration and coordination with multiple internal and external program and service providers. Misalignment of protocols can inhibit effective service and lead to poor performance. State mandated use of privatized performance based contractors of primary child welfare agency functions (e.g., case management, provision of medical/mental health services) contributed to a failure to meet performance outcome targets. There was a failure to develop an effective division and coordination of programs and services across the state child welfare, court, and human services systems. Suboptimal quality of services by performance based contractors contributed to a failure to achieve performance outcome requirements related to case planning and management and providing appropriate and consistent medical and mental health evaluations and treatment/care. In addition to the challenges of aligning contracted services with the settlement agreement requirements, agency leaders experienced difficulty monitoring and evaluating contracted services related to performance outcome measures due to the inability to acquire reliable quality assurance data from contracted providers.

Third, inconsistent executive leadership contributed to an inaccurate assessment of the level of agency structural capacity to support the pace and extent of reform and the inability to respond expeditiously to failures to achieve or sustain performance outcome targets. Frequent leadership changes throughout the agency resulted in poor delineation of job roles and responsibilities that created conflict or confusion over decision-making authority and accountability linked to performance measures. Frequent movement of executive leaders within and out of the agency system negatively affected creating and modifying performance outcome definitions, translating performance definitions into actionable policies and procedures, linking implementation actions steps to performance measures, and communicating this information throughout the system. Leaders failed to create a shared vision for change by focusing on the enforceable performance measures rather than using the settlement agreement as an opportunity for deeper systemic reform by connecting the required performance measures more broadly to the mission and goals of the agency.

Both the Washington State and New Jersey child welfare systems engaged in a protracted reform process prompted by class action litigation intended to prompt system changes to improve program and service provision performance. Washington and New Jersey leaders felt considerable pressure both internal and external to the agency to show substantive change in meeting litigated reform requirements within a difficult political and economic environment. As demonstrated by the efforts at reforming these two publicly administered agencies, it is essential when implementing change within such a large complex bureaucratic agency that the focus is first on taking the time and expense of creating organizational structural capacity sufficient to accommodate system-wide changes in policies, procedures, and professional practice.

Finally, there were several challenges and limitations to the study. Data collected was limited to information accessible to the public and was published in aggregate form. The massive amount of data available created analysis challenges in terms of data management. In addition, unpublished meeting minutes as well as interviews of key individuals involved in the litigation and implementation of the provisions of the settlement agreement would have provided greater depth of understanding of issues most relevant to success implementing litigated based reform.

The case study analysis was limited to organizational structural capacity issues while
recognizing that human resource and financial capacity are interrelated factors that affect overall capacity to achieve agency mission and goals. Important factors were not investigated that warrant study in future research. State legislation can affect substantially the alignment of programs and services provided by the child welfare agency. Legislation can weaken or strengthen organizational structural capacity by affecting agency leadership, communication, authority and decision-making structures, resource allocations, and support of litigated settlement agreement provisions. In both states, legislation privatizing agency programs and services through mandated use of performance based contracts directly affected agency performance on several outcome measures by changing the nature of decision-making authority and accountability. The economic environment, budget allocations, and funding of programs and services was also an area not investigated that has serious ramifications on the ability of the agency to meet performance outcome targets. An in-depth analysis of budgetary and funding issues would provide invaluable information about the best allocation of monetary resources to the reform process. It would be informative to understand the links between litigated reform, court authority to force changes in state funding of the child welfare agency, and how state legislatures resolve budgetary constraints and funding conflicts (e.g., services mandated by the settlement agreement but not the state) within the context of litigated settlement agreement performance outcome requirements.

1 The New Jersey child welfare system went through several name changes during the litigated reform. To avoid confusion and for consistency in the discussion, the New Jersey child welfare system is referred to as the Division of Children and Families (DCF) throughout the entire discussion.
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