

Human services delivery systems are undergoing reform. Over the years, state and local human service agencies have grown compartmentalized, yet have overlapping roles and responsibilities. No single agency is able to serve the needs of the whole child, the whole family or the whole community. In recent years, states have tried various methods to reform their systems to achieve better outcomes for children, youth and families while improving cost effectiveness. Improving operations requires change—change in procedures, practices and performance. Achieving this kind of systems reform requires collaboration among state and local actors.

Here is an example of states making significant strides towards reforming their human services systems.

Mediating Child Protective Service Cases In Texas

Problem

Child Protective Services (CPS) litigation in Texas had a history of being emotional, hostile, time-consuming, and costly. Cases involved difficult issues like the removal of a child from a home, the determination of conservatorship, and placement in foster care. Many children spent four to five years in foster care and may have experienced as many as six placements before their adoption was finalized. In the mid-1990s, court dockets were overcrowded and CPS was struggling to find workable solutions for these extremely difficult cases.

New state legislation in 1997 put time limits on temporary foster care in an attempt to streamline the judicial process and handle child custody cases more quickly. In response, a statewide Task Force made up of a multi-disciplinary group of professionals involved in the child protection system recommended that counties use mediation for custody cases. Mediation, they believed, could provide a faster, less expensive, and more humane alternative for neglect and abuse cases.

Process

The Department of Protective and Regulatory Services (DPRS) launched a mediation pilot project and contacted the University of Texas Center for Public Policy Dispute Resolution to help design and evaluate the project. The pilot design included training and technical assistance for judges, mediators, court administrators, attorneys, and child advocates, and incorporated evaluation mechanisms. Six counties

volunteered to be a part of the pilot project to develop court-based mediation programs. Because Texas is a large state, and because of differences in the way each county court operates, the individual projects developed their own unique implementation strategies.

All sites reported initial resistance to mediation. CPS workers suspected that mediation would be a waste of time. Some felt their professionalism was being challenged. Others were concerned that the mediator would be making decisions, and CPS would be undermined. Parents worried that prosecutors might use mediation to get information that could be used against them if their case subsequently went to litigation. Some prosecutors were concerned that settlements would not be binding and that parents would refuse to come to mediation.

However, this resistance was short lived. Once they tried mediation, most caseworkers and attorneys supported the process. The mediation brought a combination of relatives, service providers, legal representatives, court volunteers, and law enforcement officials to the table. Relatives and potential caretakers, who would not ordinarily have been involved with a court hearing, attended the mediations. They contributed important information about what was in the child's best interest. With the increased information sharing, mediation meant fewer contested court hearings and more effective treatment plans.

Caseworkers noted that in court, the agency often becomes "the enemy." In mediation, the more informal setting and the absence of a judge seemed to open up channels of communication. "Mediation provides a forum

for discussion versus hard-line confrontation,” said one district attorney. “I have an opportunity to say, ‘I don’t want your kids; we don’t have enough room in the county for them and it is not in their best interests anyway.’ That is something the D.A. cannot say in the courtroom. The D.A. can’t even talk to the defendants except on the witness stand.”

Each county’s court system uses a different approach and mediates cases at various stages of the CPS case timeline. Mediations have produced settlements at all stages in case processing, although it appears that the earlier the mediation occurs, the more likely it is to reach agreement.

Results

At the conclusion of the pilot, the Center for Public Policy Dispute Resolution’s evaluation identified factors that contributed to the pilot projects success. For example, with mediation, parents indicated they had an opportunity to be heard and to understand what was expected of them. In a court hearing, attorneys often fail to take the time to answer questions and ensure that clients fully understand the situation.

Mediation also turned out to be more efficient and cost effective. Ninety percent of the pilot mediations were completed in less than three hours, and nine percent in four to six hours. Professionals involved in the cases saw that mediation produced cost savings. Galveston County estimated that its pilot project saved \$4 million in litigation costs.

The pilots were so successful that CPS extended the use of mediation to a number of additional counties. DPRS provided training for all involved court and agency personnel on

how to initiate a mediation program. The training incorporated evaluation findings about successful practices that were identified during the pilot phase.

Lessons Learned

- Pilot projects are an effective way to introduce mediation on a system-wide basis. Evaluating the pilot helps identify the factors that will lead to successful implementation.
- Government employees can be resistant to using new procedures. Yet once they experience the benefits of a successful mediated process, they often prefer to work collaboratively.

For more information on this case contact:

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Robert Duncan
Texas Senator

“Mediation has been proven effective in resolving a variety of disputes in the legal system. Now Texas is making important strides in incorporating mediated approaches to resolving public policy issues. And this case illustrates how we are using mediation to make government services more effective.”