

## **CHAPTER FOUR**

### **Privatization In Kansas: Where We Were and What Is Our Future?**

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#### **Why Kansas Changed the System**

There is no question the system in Kansas needed changing. The state agency responsible for child welfare in Kansas, the Department of Social and Rehabilitation Services (SRS), had traditionally run the system. Judges, attorneys representing parents and children, schools and private providers had historically been dissatisfied with the level of service provided. Things reached a new low in 1990 when the American Civil Liberties Union (ACLU) filed a class action lawsuit alleging poor child welfare practices. This lawsuit resulted in a Settlement Agreement with the ACLU in 1993, requiring the State to focus on critical areas that would be monitored, particularly the improvement of child protective services. Kansas, at the time, had one of the lowest confirmation rates of abuse or neglect in the nation at 11%.

Into this environment, a new legislature arrived in Topeka in 1995 with a new Republican governor, Bill Graves, (a new adoptive parent of a baby girl). Graves announced that he intended to recreate child welfare in Kansas. There was bipartisan support for change as the old welfare system came under new scrutiny. SRS was accused of allowing children to languish or age out of the system, not providing services equally across the state, and being too large and bureaucratic to look at results instead of the process. SRS often focused on crisis situations while allowing “chronic” families to flow in and out the system without addressing their long-term problems. Many judges and lawyers representing children and

parents lost faith in the state's ability to protect the children and often chose not to remove children from the home.

In fairness, the challenges SRS faced were the same as those faced by any traditional child welfare system at the time. Referrals and caseloads remained high, staff turnover continued and the problems of children coming into the system were changing. SRS experienced placement dilemmas and service gaps and had difficulty coordinating those needed services statewide. While SRS certainly wanted children to attain permanency, there was a primary concern for safety that overrode any emphasis on timely permanency. Some children stayed in for years and aged out of the system. These difficult challenges were exacerbated by inadequate support, resources and funding from the legislature. One can understand how the system breakdown was inevitable.

### **The Path to Privatization**

With the impetus from Governor Graves, the legislature recommended SRS move toward "privatization" in 1995, but did not directly mandate the move. The governor appointed Rochelle Chronister, a 17-year veteran of the Kansas House of Representatives, as the new Secretary of SRS. She placed child welfare at the top of her agenda and brought in Teresa Markowitz as the new Commissioner of Children and Family Services to spearhead the organization of a new system. The executive branch of the state drove the reform and initiated the changes without waiting for specific directives from the legislature beyond its recommendation.

SRS was given a short time frame in which to revamp the system. Critics later point to this as one of the major problems of implementation, but SRS defended its position by stating that involving too many stakeholders would have created delays to the point where no

change would have occurred. SRS eventually designed a plan to divide the state into five regions, awarding each region to a “lead agency” and its subcontractors to provide family preservation, foster care or adoption services. SRS would administer the contracts while maintaining ultimate responsibility of each child in the system. This system focused on outcome based service delivery. SRS also set up extensive monitoring mechanisms for all the contractors. The plan freed SRS workers to spend more time on investigating charges of abuse and neglect. The change helped SRS to increase the number of investigative workers and to meet settlement requirements with the ACLU monitoring group.

SRS used a competitive bid process, choosing to use only nonprofit agencies that were already fee-for-service providers and familiar with Kansas child welfare. Private agencies bid in more than one region; it was decided that there was to be one contractor for the adoption contract statewide. The bids were based on a capitated rate per child (See Fact Sheet: Reintegration\*). Kaw Valley Center (KVC) was one of five contractors awarded a bid for family preservation services in January 1996. In November of 1996 KVC received the contract for foster care/reintegration services for Regions 1 and 2. The other three regions were assigned to two other agencies in the state of Kansas. Notification came in November 1996 and expected start-up was February 1, 1997.

### **Implementation of Outcome Based Delivery System**

At the beginning of the foster care contract, 1497 children were transferred to KVC from SRS over a period of three months. To accommodate the huge influx of children, KVC’s staff expanded over a 10-month period from 250 to 1100. KVC located, leased and

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\* Note estimated cost by SRS and contractors was below the actual cost by \$15,000 per child. SRS had little or no actual data on which to base an estimate.

equipped twelve offices across eastern Kansas. The agency hired and trained staff, organized the provision of particular services and established networks of subcontractors. [Governing, July 2000]. The SRS contracts contained new requirements for private contractors, such as 24-7 staffing, 4-hour response time to place a child, a year of aftercare when the child is released from state custody, and the creation of a management information system. SRS employees, removed from direct service delivery, were placed in the role of monitors, which sometimes led to strained relations between SRS and private contractors.

In an effort to create an outcome-based delivery system, Kansas set outcome goals in three major areas: Family Preservation, Adoption and Foster Care (referred to as Reintegration/Foster Care as of January 2000). After a few changes mid-contract, current outcome expectations are:

**Family Preservation:**

1. 97% of all families referred shall be engaged in the treatment process.
2. 90% of families will not have a substantiated abuse or neglect report during program participation.
3. 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.
4. 80% of families will not have a child placed outside the home during program participation.
5. 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.

6. Participants (parents and youth (ages 14-21) living in the home will report 80% satisfaction as measured by the *Client Satisfaction with SRS Service Survey* 30 days from the start of the program.

### **Adoption**

1. 55% of children will be placed with adoptive families within 180 days of the referral for adoption.
2. 70% of children will be placed with adoptive families within 365 days of the receipt of the referral for adoption.
3. 90% of adoptive placements shall be finalized within 12 months.
4. 90% of adoptive children shall continue to have adoptive parents as their legal guardians 18 months after finalization.
5. 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.
6. 65% of children will be placed with at least one sibling.
7. 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.
8. 95% of children in the care and supervision of the contractor will not experience confirmed abuse/neglect prior to finalization.

### **Foster/Group Care**

1. 98% of children in the care and supervision of the contractor will not experience substantiated abuse/neglect while in placement.
2. 80% of children will not experience substantiated abuse/neglect within 12 months of reintegration.

3. 70% of children referred to the contractor will have no more than three moves subsequent to referral.
4. 70% of all children will be placed with at least one sibling.
5. 70% of children referred are placed within their home county or contiguous county.
6. 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.
7. 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.
8. 80% of children who are reintegrated do not re-enter out-of-home placement within one year of reintegration.
9. 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.
10. Participants (parents and youth ages 16-21 years) will report 80% satisfaction as measured by the *Client Satisfaction with Family Reunification Services Survey* 180 days after referral or at case closure.

### **From Theory to Practice: Changing the System**

With outcome guidelines in place, Kansas developed a new system within a compressed time frame. These important and valuable changes in the system did not occur without costs, on both financial and human levels, for the first several years of the contracts.

The newly hired social workers had little or no experience. The number of children coming into the system increased with fewer children than expected going home or exiting the system. Detractors claimed that the capitated rate would encourage contractors to send

children home before it was safe to do so. In fact, the contrary was true and children stayed out of home longer than needed because social workers were less experienced and erred on the side of caution. The first two years, staff turnover was high and judges and families complained that a child was assigned a new caseworker as often as every month, in some cases. Staff turnover continues to be a problem for everyone in the low-paying social welfare arena.

Costs skyrocketed much higher than the prediction of SRS. In the new competitive arena subcontractors (freed from the low fees SRS had paid in the past) now negotiated higher rates. Competition between SRS, contractors and subcontractors drove up staff salaries. Foster families requested higher reimbursement rates and the initial lack of foster families increased the number of children in costly residential placements. The contractors realized belatedly that they had bid costs for the length of stay for a child (based on SRS estimates of average lengths of stay), when in fact they had no control on the front door with children entering the system or the back door when judges decided when children went home, were released from custody or were adopted. The bids were woefully lower than the actual cost of care.

Troubleshooting multiple challenges, contractors modified their plans for delivery of service, developed new business plans, and offered new and better training for staff. They developed relationships on a local level with judges, prosecutors and SRS staff, and focused on reducing the length of stay for a child and reducing the number of children in residential placements.

By the end of the initial contract in June 2000, KVC had achieved seven of the ten outcomes in Region 1 and six in Region 2, outperforming the other contractors. The agency

is especially proud that it was able to reduce the length of time in out-of-home care to an average of twelve (12) months agency wide with three of our twelve offices as low as nine (9) months. According to the US Department of Health and Human Services (The AFCARS Report, 1999), the national average is thirty-three (33) months.

KVS went from 35% residential usage for children in April of 1999 to 11% agency wide today. Kansas's residential usage is at approximately 12%, far below the national average cited by the Child Welfare League of America, of 25%.

### **Comparison of the Old and New System**

One can understand better the changes in the system by comparing foster care services before and after March of 1997.

<b>Pre 1997</b>	<b>1997-June 30, 2000</b>
State social workers available 8 to 5.	Contractor staff available 24/7.
No responsibility after child is released from custody.	Contractor responsible for one year of aftercare. If child comes back into custody within that year, no new payment.
Fee for service.	Set case rates with set dollar amount paid per child and tied to achieving outcomes.
State social workers provide case management.	State social workers monitor Contractors and free others to work on child protective services.

No aggregate data available on costs, Services, length of stay, length of stay In residential care, mental health costs.	Detailed information available on Services and costs with a business Plan submitted to SRS.
Limited financial accountability because of inadequate data.	Monitoring of contractors by SRS day to day and monthly, external evaluator reviews information quarterly and business plan submitted to SRS.
No system-wide objectives.	Outcome goals set by contract and Monitored by SRS and outside Monitor.
Fiscal Year 1997 – 2,071 foster Families. (Source – Kansas Dept. of Health and Environment).	Fiscal Year 2000 – 2,675 foster Families. (Source – Kansas Dept. of Health And Environment).
State foster care budget - \$58 Million (FY 1995)	State foster care budget - \$83.5 Million (FY 2000)

### Old and New Contracts

In November 1999, SRS started the process for another set of four-year contracts. SRS no longer refers to system changes as privatization; rather, the system is now called a

“public-private” partnership. During the first contractual period, SRS was forced to go to the legislature for supplementary allocations to cover losses by the contractors, whose original bids were too low because of inadequate information. For the new contracts, SRS changed the payment method. Providers are paid an amount per-case, month-by-month instead of the capitated rate. They are paid only as long as the child remains out of home. Once the child returns home, payments cease. The contractor will still have the responsibility for aftercare for one year. SRS hopes this will help reduce the risk taken on by the lead agencies in the first four years. Some fear this new payment method removes any incentive to achieve timely permanency; in fact, the financial incentive is to keep children in the system. In all likelihood, the agencies will continue to show a dedication to place the welfare of the child above any financial incentive for the agency.

SRS also decided to follow the original geographic divisions of five regions, but on July 1, 2000 started the new contract year with several new agencies. Despite all five of the previous contractors meeting every outcome set under family preservation, one agency received a contract for four of the five regions.

In adoption, SRS changed agencies amid controversy. The previous agency did excellent work but experienced severe financial problems and faced possible bankruptcy. In August 2000, SRS forgave a \$3 million debt to the agency and paid more money in addition. During the previous four years, SRS watched contractors struggle with cash flow problems in the foster care and adoption contracts. This time, SRS did not award any agency more than one region in foster care. Kaw Valley Center is now the provider of foster care in Region 2. The new contract puts much more stringent monitoring on fiscal reporting. KVC is currently

three months into the new contracts and has little information so far on results other than the agency's own outcomes.

### **Lessons Learned**

1) Include all stakeholders from the beginning.

- Judges drive the system and leaving them out at the beginning of the change process was an error. SRS did have two informational meetings but it was not enough. The difference in attitude of the judges in KVC's region between 1997 and today is remarkable.
- Schools need to be part of the process since they see these same children every day.
- Foster parents are crucial because the system cannot operate without them.

2) Outcomes and a strong management information system to track those outcome goals allow everyone to stay fiscally responsible.

- Everyone, whether a governmental entity or a provider, needs to remember there is a finite amount of resources. Some agencies resist such an approach and say repeatedly that these are children, not numbers. The fact is they are both and as we become more sophisticated with our information, providers can give better services and can insure each child receives the proper services in the most effective manner.

3) Outcomes and a strong management information system improve opportunities for funding.

- Before privatization, child advocates requested more funding in the same manner as they had for thirty years. Advocates would report the worst story of

mistreatment or an egregious mistake by a state social worker to the legislature and ask for increased funding. They would vilify the agency and then demand more money to fix the problem.

- With the information system now in Kansas, concrete data show what is working and what is not. It brings credibility to the system that had not been there.

4) Providers and governmental entities must work together to develop and support community-based family resources for children, birth families, foster families and adoptive families.

- These services are vital to keep children in their homes and in their communities. They must be accessible and available in every community, or children will be removed from home for the mere fact they were born in the wrong community without such resources.

5) Promote creativity and innovation in delivery design.

- Governmental entities need to seek out providers who can adapt to this new world and find different and better ways of serving children and families.
- Change sometimes requires abandoning a system that has served everyone well for years. KVC prided itself on its residential services and a continuum of care for children and built a new center in 1986. While almost all advocates of child welfare know home or a foster home is the better place for a child, not a group home or residential center, SRS did not focus or push for timely permanency. The new contracts changed SRS's perspective.
- KVC, in the midst of the first four years recognized the need for change. Residential usage for children in out-of-home care went from 35% in April 1999

to 11% September 2000, well below the national average. This is a sign of an agency looking to the future.

6) Transition time should be extended.

- Many of the problems Kansas's providers and SRS suffered could have been avoided with a longer planning time. It would have allowed more players in the system to become part of it.

### **Is Kansas better than before privatization?**

There are several obvious improvements. Children are safer and staying out-of-home for shorter periods than before this experiment. Many more children are staying in their home communities and siblings are staying together. This did not happen under the old system.

The partnerships that have been created give each party a greater understanding of one another's work and roles in the system. The information at our fingertips gives us an opportunity we have never had to improve services along with fiscal accountability.

Outcomes have forced agencies to develop business skills not usually found in child welfare agencies. There are still many areas in need of work and we will continue to be a part of it.

Still, Kansas has made enormous progress. Children in Kansas are better off because of these efforts. The most important lesson learned is that one can focus on timely permanency for children without sacrificing safety, good child welfare practices and fiscal responsibility.