



Trends in state budgets and child outcomes during and post child welfare class action litigation



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ABSTRACT

Litigation is the most prevalent mechanism for comprehensive child welfare system reform. Litigation has resulted in increased funding to child welfare systems. This study assesses the impact of litigation on budgets during and after litigation and the budgets correlation with child outcomes. This mixed methods study analyzes 7 years post-litigation data in 4 state case studies. Individual interviews were conducted with key stakeholders (N = 17) in the lawsuits to determine what impact the lawsuit had on budgets and outcomes. Findings indicate that litigation likely impacts outcomes at least partially through increased financial investments (decreased reunification impacting decreased reentry after reunification and rate served); however, the impact of these outcomes is mitigated because financial investment in child welfare is not sustained.

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1. Introduction

Child welfare systems in the United States continue to be a source of great controversy and consternation (Gelles & Spigner, 2008). Efforts to address child maltreatment are exasperated by structural factors, such as poverty, and racial disparities (Cohen, 2005). Further, limited resources tax the systems' ability to address both child safety and family preservation needs. Commonly limited resources have resulted in reforms focused on placing children in "better" homes once they are in the system rather than preventing child removal (Cohen, 2005).

In addition to challenges at the point of intervention, child welfare systems face multiple challenges once a child has entered care. Many children involved in state child welfare systems experience multiple moves, abuse, and years spent waiting for permanency (U.S. Department of Health and Human Services [USDHHS], 2012).

In response to these system challenges, advocates have called for major child welfare systems reform and litigation is a prevalent mechanism used to force states to engage in reform. The use of litigation as a mechanism for reform has resulted in increased funding to child welfare systems. Despite increased funding, improvements in child outcomes appear to be minimal. Little research has examined the role of litigation on state child welfare budgets and the connection between budgets and child welfare outcomes.

1.1. Attempts at reform

Several types of reforms have been enacted to address the many challenges child welfare systems face, and the federal child welfare system has developed evaluation tools to clarify the current state of child welfare systems. Although each state has its own unique child welfare system, the federal government provides some guidance to states in terms of definitions of abuse and how to help children once abuse is reported.

Although some of the child welfare issues faced by states are universal, each state is charged with addressing its problems individually. Given individual state responsibility, it is difficult to implement sweeping national reform. Reform usually occurs in small increments at the state level, as is generally the case in policy change (Sabatier, 2007).

1.2. Funding

State based child welfare systems result in dramatically varying state budgets. The various child welfare funding mechanisms result in a complex financing system that can change significantly from year to year based on shifting priorities and/or major events; however, foster care continues to receive the majority of child welfare funding.

Detailed child welfare state spending data were first collected in 1996 and continue to be collected each biennium. Total spending has increased each year since 1996 when data collection began. In fiscal year 2006, child welfare spending totaled \$25.7 billion in federal (\$12.4 billion), state (\$10.7 billion), and local (\$2.6 billion) funds. Overall, this is a 9% increase from 2004 and a 55% increase from 1996 after adjusting for inflation. While this represents an average increase for all states

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combined, 37 states reported an increase and 10 states reported a decrease in inflation-adjusted expenditures (DeVooght, Allen, & Geen, 2008).

The federal government provides approximately half of the funds states spend on child welfare, with slight variance among states. This federal funding includes requirements and spending restrictions for the state child welfare system (Burstain, 2012). Federal child welfare funding is made up of funds from Titles IV-E and IV-B of the Social Security Act with minimal additional funding from Medicaid, the Temporary Assistance for Needy Families (TANF) program, the Child Care Development Block Grant (CCDBG), Social Services Block Grant (SSBG), and Supplemental Security Insurance (SSI) program. Of these additional sources, SSBG and Medicaid account for the greatest funding increases, while TANF funds have decreased (DeVooght et al., 2008). Although funding has increased, problems in child welfare systems are far from being fully remedied and reform efforts continue.

1.3. Litigation

Clearly, the child welfare system is complex. The “patchwork” approach that is currently in place is primarily challenged/reformed through litigation. A Child Welfare League of America report identifies child welfare class action lawsuits in 32 states between 1995 and 2005, with settlements reached in 30 of these. These single issue suits have addressed many issues including protective services, service provision, out of home placement, caseworkers, planning, adoption, judicial system reform, and data and evaluation (Child Welfare League of America, 2005).

When child advocates identify a state as failing to meet its child welfare duties, an advocacy organization may be mobilized to initiate litigation against the state on behalf of the children affected. Initial court cases were based on violations of children's civil rights while in state custody. As more federal child welfare legislation passed, lawsuits began adding statutory claims based on such legislation. For example, the Adoption Assistance and Child Welfare Act (AACWA) focused on children “languishing” in care and subsequent lawsuits included claims that states were not living up to AACWA mandates (Noonan, 2012).

While litigation has mainly been used to remedy disputes over individual incidents and specific issues such as equal treatment of foster youth in after school sports or ensuring cash assistance to relative caregivers (National Center for Youth Law, 2010), there are presently two organizations that have initiated the vast majority of class action lawsuits for comprehensive reform on behalf of children in care as an oppressed population. One organization is the National Center for Youth Law (NCYL) and the other is Children's Rights. Both are non-profit organizations funded through donations and grants from other child advocacy organizations. In total, since 1995, Children's Rights has sued sixteen states/jurisdictions. The Bazelon Center for Mental Health Law has also filed suit on behalf of one state, Alabama, that is included in this study.

The organization filing the lawsuit (often Children's Rights) helps shape the settlement conditions based on its experiences with the same processes in other states. Once a settlement has been reached, Children's Rights forms a team that aids states in implementing the mandated reforms. Until the case is officially closed and as the system goes about fixing its problems, legal and policy teams remain in place to monitor and guide the system. Due to the comprehensive nature of the reforms, the process is quite lengthy, often lasting ten years or more, and states frequently experience setbacks. Once a state has proven that it has implemented all reforms to the court's satisfaction, the case is closed and the organization is no longer involved (Children's Rights, a).

The majority of the litigation involves policies and policy implementation that affect children's experience in foster care such as length of stay and multiple placements rather than issues directly related to child maltreatment (Children's Rights, b). Most states with a focus on

administrative procedures and data collection were part of the earlier cohort of states involved in litigation. As improvements in these areas have been made, the focus has turned to 1) child and family outcomes such as length of stay in care and timeliness of placements and 2) allowing practitioners and agencies professional discretion to better serve their clients (Noonan, 2012). Some reform outcomes are logically tied to the identified issues (e.g., foster care placements in local area to increase visits with biological family). Others appear to be somewhat unrelated to policy changes originally tied to the lawsuit (e.g., increased legal staff and centralization of CPS in the state) and may demonstrate political agendas and opportunistic actions taken during punctuated change.

Prior research has clearly identified challenges in child welfare systems. Litigation is one method that is being used to force reform. There are no current studies that discuss the impact of litigation on budgets and child outcomes. This study contributes to the current literature by assessing the impact of litigation on budgets during and after litigation and the budgets correlation with child outcomes. This study posited the following research question: What role do state child welfare budgets play in child outcomes during and after litigation?

2. Methodology

2.1. Study Design

A comprehensive picture of outcomes (change in child welfare budget, number in care, maltreatment recurrence, reunification, and re-entry) related to litigation in child welfare was developed by conducting qualitative interviews and supplemented by quantitative descriptive analysis of child outcome and child welfare budget data. Findings from both methods are brought together to inform each other. This method was chosen because it is best suited for research questions that are early in the investigation process and have not previously been thoroughly investigated (Morse, 1991).

The overall study design is exploratory utilizing case study methodology. Research on litigation's impact on child welfare reform is in its infancy and requires analyzing available quantitative measures and qualitative interviews of key stakeholders to explore if litigation has long-term impacts on child outcomes. The quantitative portion of the study is descriptive in nature to longitudinally look for differences in child outcome measures. The study also includes graphical depictions of trends in child welfare budget measures as compared to trends in child outcome measures. The qualitative portion uses semi-structured interviews. The study is based on the following research questions: 1) Do reform interventions/policy changes appear to impact child/system outcomes during and/or post litigation?, 2) What role do state child welfare budgets play in intervention implementation and child/system outcomes?, and 3) Are there differences and/or consistencies across states included in the study related to the above research questions?

2.2. Case study methodology

The use of case studies for theory and hypothesis development in public policy has been well documented as exemplified by policy theorist, John W. Kingdon's qualitative case studies (Kingdon, 1967). As this approach has been successfully used in the policy arena, it is also used in this study. The case study approach is an in-depth data collection on a bounded event through multiple sources and is primarily used to identify details associated with an event that may help explain the events' ultimate outcome (Creswell, 1998).

2.3. Case selection

The cases (states) included were purposefully selected based on their classification as comprehensive class action lawsuits against the

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