

Bringing About Systems of Change Through Class-Action Lawsuits

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James A. Tucker, Attorney
Ivor D. Groves, Ph.D., MAPP

The Symposium Has Three Parts:

The legal basis for class-action lawsuits about children; *RC v. Walley* as an example (Tucker)

The impact of system of care principles on shaping lawsuits; the value of policy change in outcome (Groves)

The importance of parents, advocates, and internal support (Behar)

Questions for the Discussants

What questions/thoughts do you have about whether or not a lawsuit is the most effective way to implement change? What other options do you see as effective and what are the positive and negative factors in these options?

What essential elements/key factors would you add, given your experiences with systems of care and sustainability?

Questions for the Discussants

One of the struggles with systems of care projects is making them statewide or "bringing them to scale." Do you see litigation as a way of accelerating this?

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Strategic Choices about Litigation

To Litigate or Not to Litigate?

Arenas for advocacy

Executive

Legislative

Courts

Strategic Choices about Litigation

What Ends Are Sought? (Substance)

Improved lives of children/ families

Improved system performance

Strategic Choices about Litigation

What Means Are Used to Achieve Desired Ends? (Process)

Causes of action:

Constitutional

Statutory

Strategic Choices about Litigation

What Is the Bottom Line?

**Choices by lawyers (both sides)
affect how SOC operates**

**Choices by officials affect how
SOC operates**

Possible Approaches to Litigation

Issues in Child Welfare/Foster Care:

**Family Preservation - abuse/neglect,
i.e., the "front end"**

Foster Care Conditions

**Family Reunification - permanency, i.e.,
the "back end"**

Possible Approaches to Litigation

How to do the Work:

**Geography - statewide (RC) or
metro/county (NYC)**

Issues - all (RC) or limited (EPSDT)

**Combinations - all/some issues for
all/some children and families**

Possible Approaches to Litigation

Considerations:

Substantive principles v. adequate resources

Principles of human services as framework

Collaboration v. adversarial proceedings

Sustainability

Compare *RC v. Wyatt*

Principles v. Conditions/resources

How Does It End? What Outcome?

Litigation

Conclusion of litigation

"Wraparound lawyering"?

Ivor D. Groves PhD, MAPP

Human Systems and Outcomes

Tallahassee FL

SYSTEM OF CARE PRINCIPLES IMPACT ON CLASS ACTION LITIGATION

- Shifted focus of orders and agreements from resources and capacities to practice in accordance with principles of System of Care.
- Shifted focus of measurement to quality and functionality of practice and quantitative indicators of process and outcomes.

SYSTEM OF CARE PRINCIPLES IMPACT ON CLASS ACTION LITIGATION

- Shifted focus to necessity of interagency collaboration.
- Emphasized services in the community.
- Emphasized family participation and preferences in planning and implementation

CLASS ACTION LITIGATION IMPACT ON SYSTEM OF CARE

- Applied System of Care Principles across whole systems and broad range of needs (not just SED or geographically limited projects).
- Created the political will to sustain efforts of implementation over a sustained period of time. Including increased funding.

CLASS ACTION LITIGATION IMPACT ON SYSTEM OF CARE

- Required practical, regular and timely measurement of the quality and consistency of practice using random samples of children served.
- Provided opportunities to refine beyond basic practice, Hawaii-evidence based practice, Alabama - impact of supporting children and families to prevent entry into care.

SYSTEM OF CARE PRINCIPLES IMPACT ON CLASS ACTION LITIGATION

- Mandated interagency collaboration and coordination.
- Provided demonstration that SOC could be implemented statewide and that improvements in practice could be measured and shown to be dramatically improved.

Key Elements for System Transformation

LEADERSHIP: consistent Focus and message that the quality and consistency of practice of SOC principles within and across agencies is the # One Priority.

CLEAR EXPECTATIONS: a SHARED understanding by managers, supervisors and frontline staff of PRACTICE PRINCIPLES And critical practice functions.

TRAINING, MENTORING, & COACHING OF PRACTICE: building and sustaining adequate and consistent, child and family centered practice support and supervision across all practitioners, caseworkers and care coordinators.

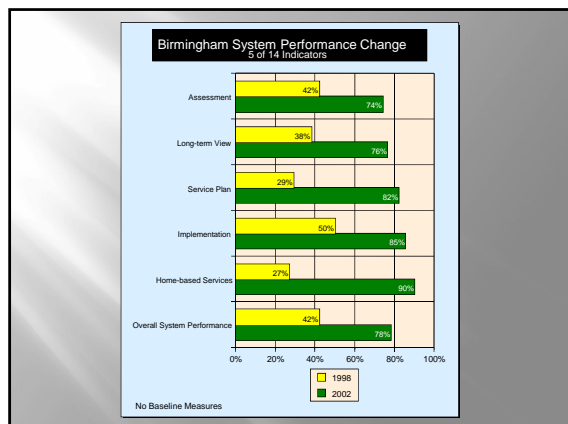
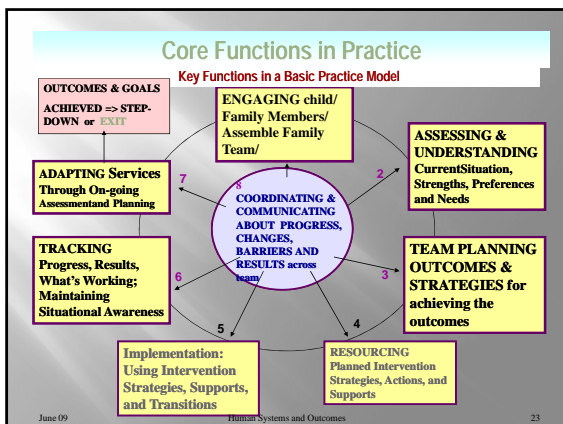
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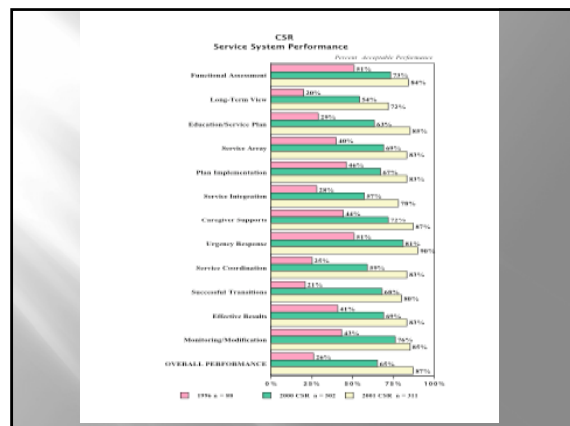
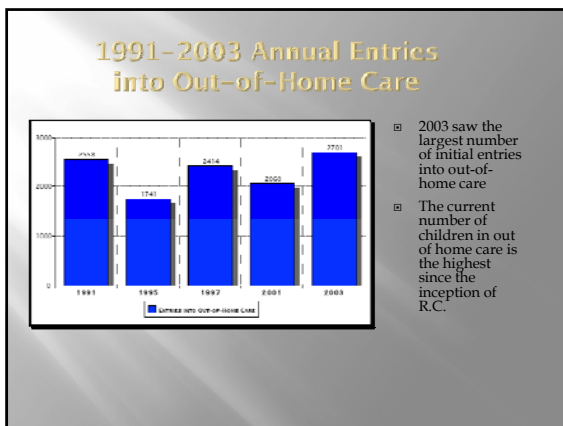
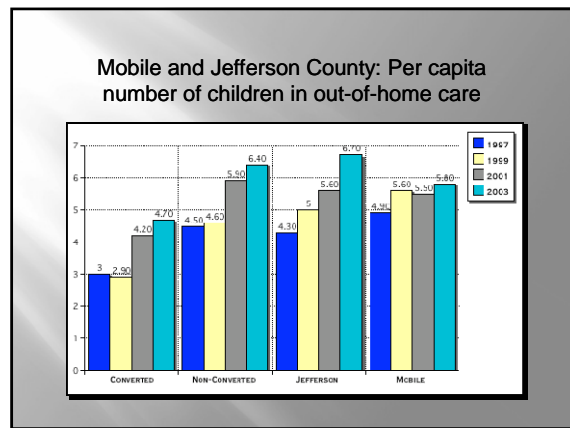
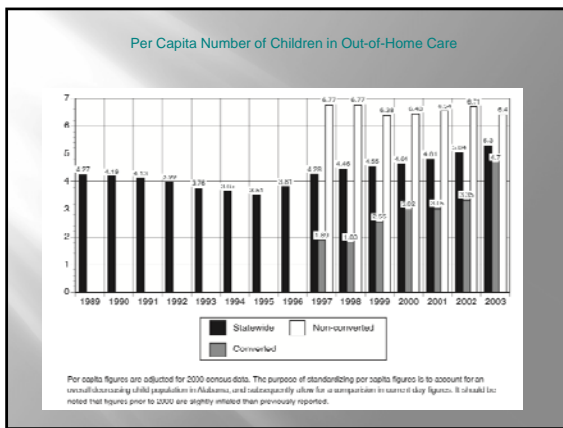
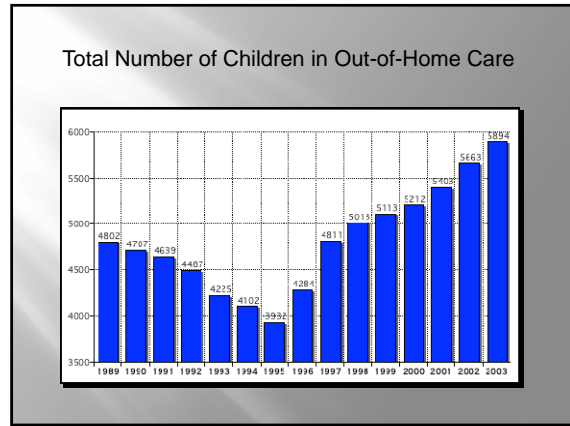
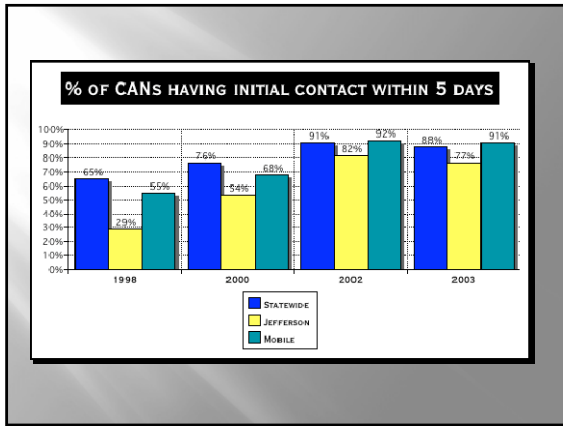
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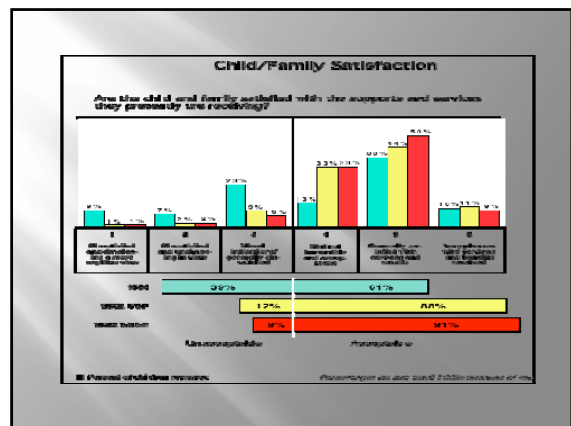
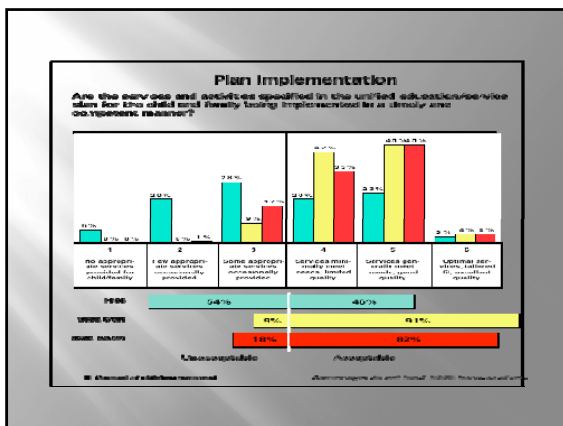
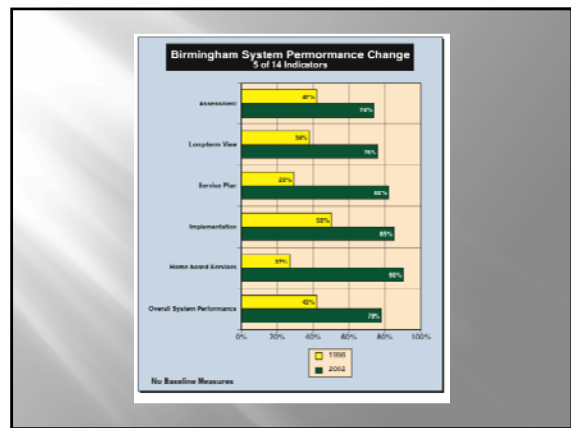
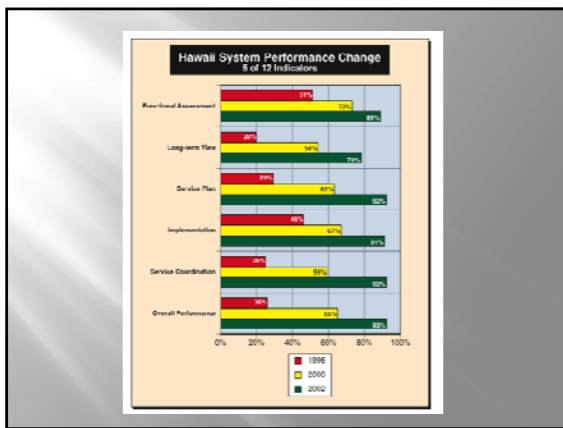
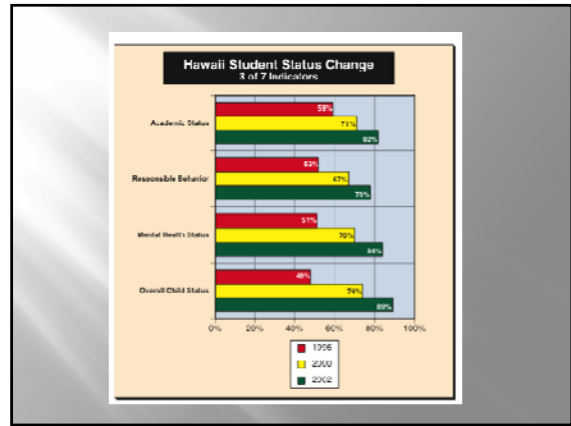
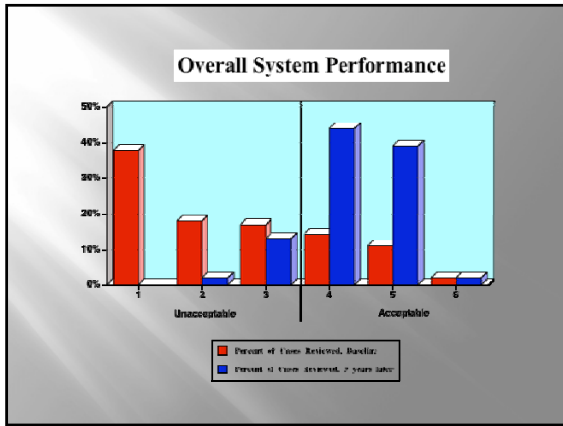
FRONTLINE CAPACITY: building an effective, adequate/stable frontline staff and working conditions for conducting daily practice.

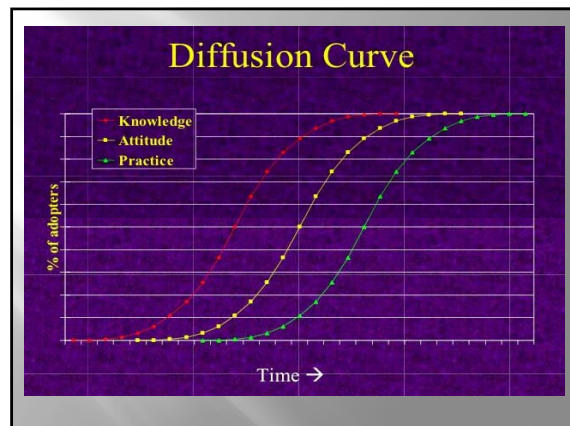
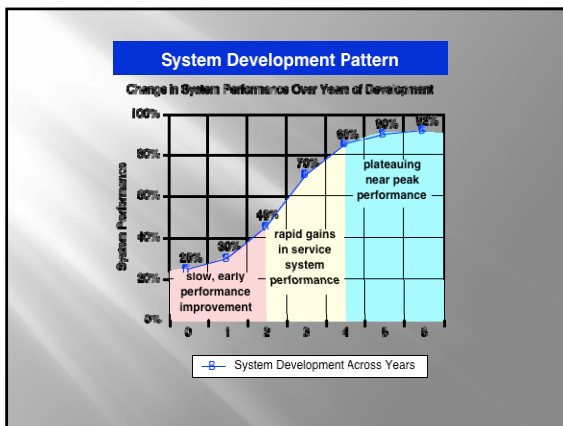
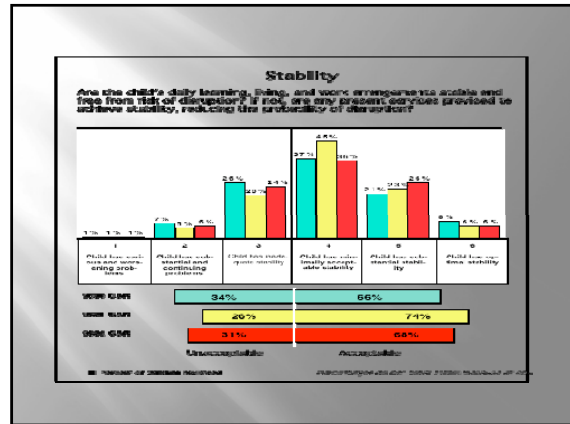
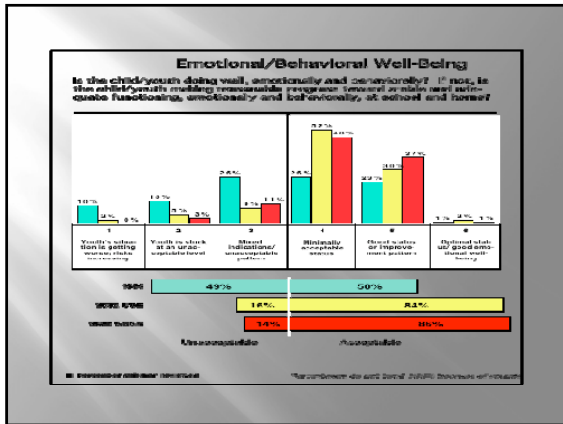
PERFORMANCE MEASUREMENT WITH FEEDBACK LOOPS: providing FREQUENT FEEDBACK about frontline PERFORMANCE Of Practice and RESULTS so practitioners can improve practice and facilitate better results for people receiving services

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- ### In Successful Lawsuits
- Expectations are clear and tools are provided
 - Workplace/employee fit - ability to use strengths
 - Commitment to the mission and sense of belonging
 - Opportunities to discuss progress and grow
 - In human services, "we do what it takes to make a difference with our clients".
 - "My supervisor makes me feel inspired and motivated"

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The Willie M. Lawsuit

Filed in 1979, settled in 1980

Class members were in institutions

Class members were violent, assaultive and had mental health diagnoses

Settlement provided community-based services, well funded

Contributions to System of Care Principles and Practices

Required a continuum of community based services

Provided case managers

Required individualized service plans

Developed wraparound concept

Had a no eject-no reject policy

What Principles Were Missing

Services should be driven by the needs and preferences of the family

Service planning should be strengths based

Plan for services should occur in a multi-agency environment, jointly funded

Services should be integrated into the mental health system and other child systems

More Missing Pieces

Programs should be responsive to the cultural context of families

Families should be the lead partners in planning and implementing the system of care

Costs should be reasonable and appropriate

The Strengths of Willie M. (and Felix and Other Successes)

Plaintiffs' attorneys were vigilant

Court monitor and panel held the state's feet to the fire

Funding was extraordinary

Internal advocates kept pressure on state agencies

Judge was sympathetic and involved

Professionals changed their practices

Class members made progress

How and Why Did It End?

Demonstrated that very difficult youth could be served in communities using case management and wraparound services

Lost ground when compared with/ integrated into other services

The new judge was not sympathetic and lost patience, after 19 years