

WHAT HAPPENED TO FINALLY EXIT THE JOSEPH A. CONSENT DECREE?

Angela Adams served in multiple leadership roles at CYFD for decades including Chief Children's Court Attorney and Protective Services Director. Mary Ann Shaening served as a system change consultant and facilitator at CYFD, also for decades. Both were involved with the Joseph A. Consent Decree for most of its duration.

Joseph A. Timeline

- 1980** Case filed with claims centered on failure to create permanency
- 1982** Certified the class
- 1983** Consent Decree – Agreed to requirements in 8 areas
- 1988** Sought dismissal – denied 1991: “defendants did not institutionalize the reforms”
- 1993** Dismissed
- 1994** Appealed and reversed decision - Special Master's report “failed to make specific and clear findings”
- 1998** Stipulated exit plan entered – set exit criteria and milestones
- 2002** Dismissed
- 2002** Appealed but vacated part and directed to focus on revised stipulated exit plan
- 2003** Revised stipulated exit plan focused on system change initiatives mostly for adoption
- 2005** Dismissed

What Happened

- CYFD exited from Joseph A. after two revisions of the original consent decree.
- The original decree as interpreted made exit or compliance virtually impossible. The 2nd revised decree improved the odds of compliance but still made exit practically impossible.
- CYFD made substantial steps in addressing the goal of permanency for children. Children were not languishing in custody as they were at the outset.
- The improvement in practice was coupled with increasing respect of CYFD leadership by Plaintiffs' counsel.
- Practice improvements were demonstrated that were not dictated by the Consent Decree, including a major shift to keep children with their families with safety and support services through Family Preservation programs and In-Home Services funded by the Legislature.
- These services, along with fully staffed Children's Court attorneys, allowed CYFD to stabilize the system and stop the volume of children coming into foster care. Stress was taken off the work force; caseloads went down; and worker turnover decreased.
- The Court Improvement Project of which CYFD was a key member and active player created a number of system and practice reforms that helped – the Children's Law Institute; the Children's Law Center; legal representation and advocacy; permanency initiatives including Children's Code changes; Tribal-State relations; performance measures; guardianship statutes and services; and much more.

- The national center that had directed much of the litigation took a step back and allowed local Plaintiffs' counsel to take the lead. Negotiations were less formal and easier to arrange.
- CYFD made the case that there had been significant improvements that had accomplished the original purpose; the consent decree was now draining CYFD management, staff, and financial resources from children. CYFD argued successfully to Plaintiffs that a move to problem solving mode was necessary.
- CYFD proposed that instead of point-by-point compliance with a decree that had outlived its original purposes, resources should be concentrated on quicker placement in a permanent home with expediting adoption as the priority as this was the area still not in compliance.
- The Revised Stipulated Exit Plan was then written to create laser focus on the most difficult situations related to adoption; children in care for long periods of time, mostly with special needs; and older youth.
- Per this plan Adoption Resource Teams (ART) were created within CYFD whereby an outside expert partnered with the caseworker to review the plan and agree on "next steps" to be accomplished before the next review. If the worker took the steps agreed upon their work was considered compliant; there was no retrospective second guessing.
- ART was later expanded to AART, including adolescents and youth who were emancipating from care with no family/support system.
- The Revised Stipulated Exit Plan also called for concurrent planning as well as an expansion in the types of foster care homes to include concurrent planning homes, potential adoptive homes, pre-adoptive homes, and final adoptive homes.
- CYFD actively engaged in these system reforms and demonstrated sustainability, writing policies and procedures, redirecting resources, developing and delivering training, creating forms and record keeping for ART teams and the other requirements, expanding quality assurance, and carefully monitoring and reporting on all of this.
- The case was dismissed in 2005 without prejudice and in 2006 with prejudice.

Critical Observations and Lessons Learned

Focus: The revised stipulated exit plan would not have been accomplished had not the plan been directed to the ultimate purpose and root causes that that resulted in the original consent decree – expediting and achieving permanency. Crucially, the plan was directed to what was in CYFD's control.

System Change: Eventually it was clear that agreeing to, and trying to accomplish, smaller, disconnected metrics was never going to allow for exit from the decree much less achieve the permanency for children that the parties sought. While not explicitly crafting a Theory of Change or Logic Model, the thinking was the same. System change based on best and promising practice became the driving force.

Relationship and Engagement: The revised stipulated exit plan would not have been agreed to had not the parties moved from an adversarial standoff to acting more collaboratively, focused on what everyone wanted for children and families, and intensely engaging in problem solving. CYFD had demonstrated perseverance and success, establishing good will and trust.