

MINUTES
(Subject to Approval by the Committee)
Foster Care Study Committee
Monday, October 16, 2017
9:00 A.M.
Room EW 42
Boise, Idaho

Co-chair Perry called the meeting to order at 9:03 a.m., and a silent roll call was taken. Members present: Co-chair Senator Abby Lee and Co-chair Representative Christy Perry; Senators Mary Souza, Kelly Anthon, and Cherie Buckner-Webb; and Representatives Lynn Luker and Melissa Wintrow. Absent and excused: Senator Todd Lakey; and Representatives Mike Moyle and Jason Monks. Legislative Services Office (LSO) staff present: Ryan Bush, Jared Tatro, and Ana Lara.

Other attendees: Deputy Director Lori Wolff, Michelle Weir, Miren Unsworth, Roxanne Printz, Gracie O'Brien, and Misty Myatt - Dept. of Health and Welfare; Midge Fisher and Gene Lund - Idaho Citizens Review Panel; Randy Magen, Kimberly Brown, and Lisa Ulrich - Boise State University; Judge Bryan Murray - Bannock County; Debra Alsaker-Burke, Sara Thomas, and Taunya Jones - Idaho Supreme Court; Delmar Stone - National Association of Social Workers Idaho Chapter; and Roger Sherman - Idaho Children's Trust Fund.

Note: Presentations and handouts provided by presenters/speakers are posted on the Idaho Legislature website: www.legislature.idaho.gov and copies of those items are on file at the Legislative Services Office located in the State Capitol.

Co-chair Perry called for the approval of the minutes September 22, 2017. **Senator Buckner-Webb made a motion to accept the September 22, 2017 minutes. The motion passed unanimously.**

Co-chair Perry addressed the committee's agenda for the meeting. Co-chair Lee commented that the co-chairs had discussed the Office of Performance Evaluations' (OPE) recommendation to form an oversight committee for the State's child welfare system. The meeting's focus of discussion should include what programs are currently in place in Idaho and how the various groups of stakeholders function. There could be some discussion in the future with respect to how other states address the child welfare system concerns.

Discussion of the Court's Child Protection Committee - The Honorable Bryan Murray, Bannock County; and Debra Alsaker-Burke, Idaho Supreme Court

Co-chair Perry called upon the Honorable Judge Byran Murray to present regarding the Idaho Child Protection Committee and its history. Judge Murray stated that, to ensure the welfare of children, the federal government had three primary goals:

- Safety of children;
- Permanency; and
- Well-being of children.

The federal government mandated a collaboration guided by the objective of improving the outcomes of children with respect to the three goals it had set. The State Court Improvement Process started in 1993, but Idaho did not join the process at that time. In 1997, the Adoptions and Safe Families Act (ASFA) was adopted and created a significant shift in the practice of child protection; the federal mandates directed court involvement at a much higher level. The ASFA emphasized the courts' critical role in achieving outcomes for children. Small grants were authorized to each U.S. state and territory to help change the role of the courts. The courts' role converted from being a state jurisdiction-finder to a quality-insurance part of the process; this was not a traditional role for the courts.

To implement the ASFA, Chief Justice Linda Copple Trout directed the Idaho Supreme Court's Administrative Director to include the process in Idaho and request the federal grant money designated for it. Judge Murray was asked to chair the committee, and the court hired Ms. Alsaker-Burke to be the child protection manager. The committee included a judge from each Idaho judicial district, as well as several different stakeholders, such as: CASA workers, foster parents, private attorneys, deputies from the Office of the Attorney General, Health and Welfare employees, and public defenders. The committee's charge and mandate was to create a committee that would focus on court processes. The committee included a variety of stakeholders in an effort to improve the cohesion and function of the child welfare system as a whole. He emphasized that the courts needed to maintain a level of independence due to its fact-finding and decision-making responsibilities. Over the years there had been many changes to the committee's representative makeup, including the addition of a juvenile corrections representative. The court had also met with some advisory groups, including the youth advisory group, in an effort to collaborate and become better informed.

Judge Murray explained that the reason there were no legislators on the committee was primarily due to its federally-mandated inception through federal funding. The federal government had not directed or suggested the inclusion of legislators on the committee due to the court being a separate branch of government. The committee did not make decisions in and of itself, but did make proposals to justices and the Administrative Office of the Courts (AOC); the committee's narrow focus was the child protection process in courts. The AOC took the proposals into account when it requested changes to legislation, considered changes to the courts' core processes, and created court rules.

The first committee meeting was held in October 1998, and it met quarterly for a period of time to implement ASFA and other processes quickly. Currently, the committee meets twice a year, but there are subcommittees that meet in between meetings regarding different projects (i.e., support materials, policies, rules, etc.). There had been over 36 pieces of federal legislation since the inception of ASFA; each provided an additional change or mandate and it was the committee's responsibility to review those legislations and determine how the courts would best adopt them into their processes.

Judge Murray explained that, in addition to the original grant for ASFA, the courts also received a \$200,000 grant as a leading state in the nation in developing a data collection system. The courts created a court data tracking system and it had proven to be very beneficial. The courts also received enhancement grants in a couple of areas. Some of the grant money was spent on training judges and providing cross-training for judges and other stakeholders.

The Child Protection Committee received another grant through working with the AOC to begin and enhance drug courts to provide substance abuse treatment to the many parents who have substance abuse issues. The federal government also provided some technical support at no cost. All 50 U.S. states and territories participated in the process. When the committee first started, the courts believed it would only be needed for two years, but it remained ongoing and received federal funding each year.

The committee added an additional advisory group - the Judicial Advisory Committee - that consisted of two judges from each judicial district. The Judicial Advisory Committee met twice a year to discuss the issues in each judicial district. It also collaborated with other agencies in an effort to address any issues.

Discussion:

Senator Souza inquired about how the judicial system worked to incorporate its own level of success into the Dept. of Health and Welfare (DHW). Judge Murray explained that when the new system was created, it also created some friction between foster parents and the DHW. In addition to this issue, the DHW had an extremely high turnover with respect to caseworkers, which could affect the long-term relationships with foster parents. He described the new authority provided to the courts to

have some review process as beneficial to child placement contested cases. The DHW had also made a commitment to be more transparent about their decision-making process in terms of placement.

Senator Souza inquired about any beneficial changes that would allow more interaction between the substance abuse courts and the DHW in the decision-making of children whose parents have substance abuse issues. Judge Murray explained that not every jurisdiction had a family treatment drug course. While some cases did not start as substance abuse issues, it was often an underlying issue. The courts were studying ways that assessments can be done and used to help these individuals - not used against them in their criminal cases or child protection cases. He emphasized the importance for these individuals to be assessed quickly so they can receive treatment quicker, and at some point, be reunited with their children in a safe environment. The courts were also looking at funding sources for substance abuse treatment services.

Co-chair Lee inquired whether there was anything in the [order for the appointment of the Child Protection Committee](#) that prevented legislators from serving on the committee. She also asked about the process for assigning individuals to the committee. Judge Murray responded that the AOC asks the committee for recommendations regarding who should serve on the committee; sometimes the committee seeks individuals with specific expertise.

Ms. Alsaker-Burke explained that the committee makes every effort to include representatives from each geographical area as well as key stakeholders. The committee also has state-level representation including: DHW, law school professor, tribal judge, etc. The process to fill a vacancy on the committee:

- The committee requests recommendations from the district with a vacancy on the committee;
- Judge Murray prepares a recommendation;
- The recommendation is provided to the Administrative Director;
- The recommendation then proceeds to the justices; and
- The justices appoint the members to the committee.

Co-chair Lee asked how the legislature could help the courts in addressing any issues of concern. She also inquired whether there were ways to combine efforts. Judge Murray explained that it was a fine balance in the sense that the Child Protection Committee was focused on improving court processes. The committee looks at the Legislature's policies, as well as the federal government mandates, and implements those policies in the courts. The courts do not wish to substitute the Legislature in its policy-making role.

Representative Luker referenced Section 16-1619(7), Idaho Code, and explained that the court had authority to review the specific issue of sibling placement. He inquired about the ability to keep siblings together. Judge Murray stated that it was an area of focus for the DHW. He added that, for the most part, the DHW was able to keep siblings together. However, this was dependent on the number of foster families available and their geographic locations. Judge Murray commented that it was also difficult to keep foster children in their same schools due to shortage of foster parents in some geographic areas.

Representative Luker referred to [draft MPN015](#), which attempted to codify a part of Rule 43 with respect to motions for placement review. He asked for Judge Murray's thoughts about the draft, including the best interest of the child standard, and some of the considerations from the domestic relations area in child custody found in Section 32-717, Idaho Code. Judge Murray stated that a significant issue around the country was how to define 'best interest of the child' and states define the term differently. He explained that as the Legislature attempts to explain the term, it provides more guidance to the courts regarding what factors to consider when applying the term.

Representative Luker inquired about the parties that bring motions forward to contest foster care placements. Judge Murray responded that he's had very few contested case hearings with respect to the DHW's placement decisions. He stated that the DHW had been much more transparent about its

decision-making process. He added that motions had been filed by parties who were upset at not being selected for placement - not due to a perceived poor placement decision on the DHW's part.

Representative Wintrow asked if there were enough resources to address this concern across the state and what areas needed to be focused on. Judge Murray responded that more resources were needed, but that it was also important to determine how to use resources more effectively.

Co-chair Lee asked how the Legislature could be more helpful to the Child Protection Committee with respect to its findings regarding system inefficiencies, resources, etc. Co-chair Lee also inquired why Idaho had not implemented its Citizens Review Board under the jurisdiction of the courts as other states had done. Judge Murray stated his appreciation towards the Legislature for the assistance it had given the courts. He explained that the Child Protection Committee was open to sharing its findings with the Legislature in the manner the Legislature thought best. Judge Murray explained that the courts were never involved in the process of the creation of the Citizens Review Board and had no further information with respect to its genesis.

Co-chair Perry inquired how to address the underlying problem of substance abuse for parents in a manner that would not necessarily necessitate criminal charges. Judge Murray explained that it was an area where the courts could make recommendations, and even work across jurisdictions with the public defenders office, for example, to help its clients without subjecting them to more punishment.

Senator Souza inquired about deferment programs for individuals to obtain treatment services and have charges removed from their criminal records. Judge Murray explained that the process exists in Idaho through the drug court program. The State also has a withheld judgement process as well. Senator Souza inquired whether the courts use these programs and processes with parents who have substance abuse issues. Judge Murray responded that drug courts were far more effective than the standard processes and procedures. He explained that the recidivism rate was lower for drug court participants and the participants were usually more successful.

Discussion of Dept. of Health and Welfare's Citizens Review Panel - Miren Unsworth, Dept. of Health and Welfare; and Gene Lund and Midge Fisher, Citizens Review Panel

Co-chair Perry called upon Ms. Fisher, Mr. Lund, and Ms. Unsworth to begin their presentation regarding the Citizens Review Panel. Ms. Fisher began the presentation by explaining that the Citizens Review Panel strives to improve the safety, well-being, education, and family experiences for children. She explained that the Citizens Review Panel was an independent body that worked to communicate to the DHW the issues, concerns, and experiences from their respective communities. The Citizens Review Panel meets twice a year. In the Fall of each year, it provides recommendations to the DHW regarding the issues brought forth by the communities. She emphasized that the Citizens Review Panel not only works with the DHW, but with the communities to ensure a good quality of life for each child. The panel was mandated by federal law in 1996, but Idaho had already created a similar group two years prior.

The Citizens Review Panel reviews cases, and has the ability to communicate directly with the DHW, courts, and CASA programs. In Idaho, there are seven citizens review panels and they are all different, depending on the issues affecting each region. The panel is made up volunteer citizens who live and work in their respective communities.

Mr. Lund continued the presentation by explaining that the genesis of the panel went back nearly 30 years when the DHW regional managers proposed creating links to the community in order to obtain feedback regarding its agency. In 1992, informal committee meetings were regularly held, and after federal regulation was introduced, the meetings became more formal. As Idaho volunteers, the members of the panel work at no cost. The members of the panel are asked to commit to 85 hours of voluntary services each year, which include attending meetings on a regular basis. In those meetings, the members are able to:

- Hear and review cases;

- Obtain input from the community; and
- Correspond with partners.

The members serve in their respective communities and have direct contact with various community groups. He explained that, while the panel wishes to look at individual cases, its purpose is to review operations and systems. The panel does not look to correct a particular situation, but rather to produce recommendations and goals for the DHW. The recommendations fall into two categories:

1. Issues of concern that need resolve; and
2. Recommended goals or directions.

He stated that the number of recommended goals far exceeded the number of occasional problems to address. He explained that the panel's general experience with the DHW was that it operated well and was amenable to change and requests for transparency. The panel had complete access to what it needed to perform its functions effectively from both the DHW and its partnerships in the communities. From these various sources, the panel gathered information that was critical to its process. The Idaho Falls regional panel met eight to ten times a year, and the combined panels met twice a year in Boise to bring forth information from their respective regions. The recommendations provided to the DHW were produced from one of the two combined panel meetings.

Mr. Lund suggested that the foster care parent role was a very difficult one. Foster parents were asked to bring children into their homes and help minimize trauma, and immediately be prepared, if it's in the best interest of the children, to step aside for either adoption or reunification. He expressed his gratitude toward foster parents.

Co-chair Perry called upon Ms. Unsworth, Administrator for the Division of Family and Community Services at the DHW, to continue the presentation. Ms. Unsworth explained that the panel was a long-standing entity that had helped shape a variety of program practices and policies over the years. Its role was to review and assess the system and various issues from a community perspective and provide the DHW with various recommendations based on its assessment. The panels met collectively each year to discuss issues and bring recommendations forward to the DHW. Ms. Unsworth suggested that the panel met its mission in a variety of ways. The panel's assessment and recommendations challenged the DHW to look for opportunities and improvements that it might not have otherwise identified or considered. With each of the panel's recommendations, it provided a thorough analysis of how it determined an area of need. The DHW spent six months reviewing the recommendations and providing follow-up information. Each April, the DHW provided the panel with its responses and progress made thus far on its recommendations. The panel could then make additional inquiries and provide additional recommendations; the report was then finalized the following October.

The panel members had the opportunity to review and make recommendations on any program or process. The panel members:

- Attended child fatality reviews;
- Participated in quality-assurance reviews;
- Participated in child placement selection committees;
- Reviewed cases; and
- Received presentations and feedback from a variety of stakeholders.

The panel's effectiveness could in many ways be measured by the impact it had on program and system improvements. The panels also had strong voices in communities and often acted as both an advocate and educator to other community members, which helped broaden the communities' understanding of the child welfare system.

Discussion:

Co-chair Lee explained that the concern regarding emergency moves became known due to hours of public testimony and phone calls from many constituents. Co-chair Lee inquired about what recommendations were brought forth directly to the DHW from the Citizens Review Panel with respect to emergency moves. Ms. Unsworth responded that she could not recall a specific recommendation made by the Citizens Review Panel with respect to emergency moves. Co-chair Lee requested a list of recommendations made by the Citizens Review Panel.

Co-chair Lee shared her concern that all seven areas of the Citizens Review Panel did not find the issue of emergency moves as a formal, emergent recommendation, especially considering the Office of Performance Evaluations' reported recommendations. Ms. Unsworth stated that, while she could not speak to why the issue of emergency moves never came forward as a recommendation, she assured the committee that the panel had a unique place in the system and provided a unique perspective to the DHW. She suggested that a potential oversight committee would benefit from including stakeholders from diverse, multidisciplinary backgrounds. She opined that the citizen volunteers could bring another perspective to the table.

Senator Anthon inquired whether Ms. Fisher received feedback regarding emergency moves in her role, and if so, was it relayed to the DHW. Ms. Fisher responded that, a few years ago, the panel in her area performed a review of some of the children in the child welfare system, ages 12 and older. In that review, the panel heard that the children did not like being moved and were concerned about being away from their siblings, schools, and churches. She stated that they had received some feedback regarding placement changes, but not nearly the amount of feedback received by the Legislature. Ms. Fisher invited the committee members to present to the panels regarding emergency moves and assured the committee that it was a concern the panels planned to review and provide recommendations to the DHW.

Representative Wintrow inquired about the process of selecting and reviewing cases. Mr. Lund explained that the review process was conducted on the basis of three levels:

1. Cases that may be of general interest to the panel, chosen by a DHW liaison, based on the panels goals and recommendations;
2. Cases that the panel wishes to investigate, on a random basis; and
3. Long-term cases where follow-up is necessary.

Representative Wintrow asked if members of the public ever approached the panel with specific complaints. Mr. Lund responded in the affirmative. He explained that it could be difficult to explain to the public that the role of the panel was to review the DHW's long-term operations and system as a whole, rather than one specific, individual case. Mr. Lund explained that, if a concern was relayed to a member of the panel, the panel member had direct access to the DHW's regional head and could inform the regional head of the issue. If it was a pressing issue with respect to safety, the panel member could make a referral to law enforcement.

Representative Wintrow inquired about the systems in place for someone with a complaint or concern about a DHW worker. Ms. Unsworth explained that at the last committee meeting she had presented data regarding the newly revamped foster parent problem resolution and grievance process in place for foster parents.

Representative Luker asked whether foster parents were aware of the Citizens Review Panel and what accessibility the foster parents had to the panel to voice concerns. Ms. Unsworth responded that informing the public of the Citizens Review Panel existence was an area of opportunity for the DHW; the Citizens Review Panel's information was located on the website and staff were aware of its existence. She stated that some foster parents had specifically requested to speak with the Citizens Review Panel and accessibility to the panel was provided. Co-chair Lee inquired about how panel members were chosen. Ms. Unsworth responded that the panels performed their own recruiting activities and had very specific interviewing processes as well.

Co-chair Perry inquired whether the Citizens Review Panel was mandated by federal code, and if so, what code provided for its enactment. Ms. Unsworth responded that a 1996 amendment to the Child Abuse Prevention and Treatment Act mandated all states to implement a Citizens Review Panel by the year 1999. Co-chair Perry inquired whether there had been any structural revisions to the Citizens Review Panel. Ms. Unsworth suggested that there had not been any changes to the structure. Co-chair Perry asked if the panel's structure was described in IDAPA. Ms. Unsworth responded in the negative.

Co-chair Perry requested a description of the panel's structure, including the panel members' contact information. She also requested the Citizens Review Panel's recommendations from the last five years and the DHW's response to each recommendation.

Senator Souza inquired about the panel members' length of service. Ms. Unsworth responded that she would gather the information and provide it to the committee at a later date.

Co-chair Perry thanked both Ms. Fisher and Mr. Lund for their time and presentations.

Discussion of Draft Legislation

Co-chair Lee referred to [draft RCB020](#) and explained that the objective of the draft was to incorporate the courts in the written notice requirement for both planned and unplanned placement changes. Representative Luker opined that the draft provided a simple and straightforward change that would benefit the courts. Co-chair Lee expressed her interest for all stakeholders to be made aware of placement changes. She also requested feedback from the DHW in the future regarding whether there would be any challenges or difficulties in immediately notifying the courts when an unplanned placement change was made, rather than the seven-day notification guideline outlined in the draft.

The committee then proceeded to page 3, lines 23-45 of [draft MPN015](#). Co-chair Lee voiced her appreciation for Representative Luker's comments and welcomed any input from the court with respect to the draft. She emphasized that the draft was specific to contested cases and assured the public that the committee still recognized the DHW's role in determining placement. Co-chair Lee explained that the draft's objective was to provide clarification to the judiciary in the event that there was a conflict and to clarify that the court's standard was not an abuse of discretion.

Senator Anthon inquired about the thirty-day timeframe. Co-chair Lee explained that it was adopted from the court's Rule 43 that provided for the thirty-day timeframe. It did not prohibit the court from holding a hearing before the thirty-day timeframe. Co-chair Perry requested input from the courts regarding the drafts. Co-chair Perry agreed with Co-chair Lee's comments that justices were uniquely qualified to make some determinations in the area of child protection, especially given the quality of training provided to them.

Committee Discussion

Co-chair Perry stated the one of her personal goals was to act on OPE's recommendation to establish some type of an ongoing committee, not necessarily an oversight committee, that could measure outcomes of the child welfare system. Co-chair Perry stated that the committee would be excluded from the DHW and would include various stakeholders; it could potentially be housed with the Idaho Children's Trust Fund.

Senator Buckner-Webb commented that, philosophically, the potential committee as described sounded noteworthy. However, she would like input from the various stakeholders to ensure that the proposed committee would not impede or complicate current systemic partnerships; she would also like to know where the committee would potentially fit structurally in the system.

Representative Wintrow inquired whether this potential oversight committee would take on the task of ensuring that OPE's recommendations were being addressed, and if so, with what authority and where would the authority derive from. Co-chair Perry referenced the Criminal Justice Commission as an example; it did not have 'authority,' but did make recommendations to the Legislature.

Representative Luker stated that, while he took no issue with potential information-gathering, he was hesitant to create a new commission or board; he favored incorporating the functions into an existing entity.

Co-chair Lee agreed with Representative Luker's comments. She stated her continued interest in the Citizens Review Panel, especially given its authority and ability to increase accountability. She suggested incorporating the proposed functions into an existing structure, but in a manner that would improve the child welfare system and would not duplicate processes in place. Co-chair Lee also suggested that modifications could be made to existing structures to improve the child welfare system for the children of Idaho. She added that there were also statutory changes the Legislature could make.

Representative Wintrow agreed with Co-chair Perry's comments regarding addressing OPE's recommendations - particularly the recommendation made with respect to organizational culture. She asked if it was the intent of the co-chairs to have the committee members review OPE's report recommendations and bring forward some formal ideas at the following meeting. Co-chair Perry responded in the affirmative.

Senator Souza agreed that the committee should pay a great deal of attention to the OPE report and the recommendations provided. She suggested that, in reference to the presentations provided, neither the Citizens Review Panel or the Child Protection Committee functioned in the manner fitting OPE's description of a potential oversight committee. Senator Souza agreed that she would rather modify an existing structure to perform the functions needed, and not necessarily create a new layer of bureaucracy,

Representative Luker reminded the committee of an area that it was charged with was regarding the input within the system. He referred to Ms. Fisher's earlier comments and stated that during the recession, the Legislature had not funded community resource positions in schools. He noted the role that community resource positions played in schools, particularly in elementary schools, where they could determine issues early in childhood and direct resources to address the issues. He suggested that it was an area that merited review - whether that be a recommendation for a specific study or an action taken within the Education Committee.

Representative Luker commented that the committee was also charged with reviewing some definitions (e.g., 'best interest of a child' and 'neglect'). Another issue the committee had discussed was the safety assessments that occurred at the complaint level.

Co-chair Lee suggested obtaining feedback with respect to the draft legislation. She stated that the language in the drafts both provided clarification to the courts and preserved discretion.

Senator Souza referenced the work the committee had done the year prior with respect to definitions. She thought she remembered that Senator Davis had put forward a formal definition for 'best interest of the child.' She requested that LSO staff review the committee minutes, as well as any notes, to potentially provide the committee with the definition.

Co-chair Perry asked the committee members to review their respective calendars to find a date for the next meeting. After some discussion, the committee selected a meeting date of November 7, 2017.

Senator Souza inquired whether the committee should identify its objectives and discuss what the end project should look like. Co-chair Perry asked the committee members to identify their respective top three concerns for the committee to address.

Co-chair Perry thanked the presenters for their time and participation in the meeting.

The meeting adjourned at 11:59 a.m.