

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

- DATE:** Monday, February 27, 2017
- TIME:** 3:00 P.M.
- PLACE:** Room WW54
- MEMBERS PRESENT:** Chairman Heider, Vice Chairman Souza, Senators Martin, Lee, Harris, Anthon, Agenbroad, Foreman, and Jordan
- ABSENT/ EXCUSED:** None
- NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.
- CONVENED:** **Chairman Heider** called the meeting of the Senate Health and Welfare Committee (Committee) to order at 3:12 p.m.
- PRESENTATION:** **Child Welfare System Report. Rakesh Mohan**, Director of the Office of Performance Evaluations (OPE), was recognized to present the OPE report. (See Attachments 1, 2, and 3 for report and presentation.) **Mr. Mohan** thanked the social workers, foster parents, and Department of Health and Welfare (Department) staff who were so helpful in preparing the report. **Mr. Mohan** especially recognized Miren Unsworth for her assistance.
- Mr. Mohan** explained there are not many charts and graphs in the report because it is very qualitative in nature. The report includes three new concepts. First, the report discusses a systems approach, and child welfare issues have not been addressed from this perspective in the past. Second, OPE made a strong recommendation for State oversight, possibly through a joint legislative standing committee. It was the first time OPE made this recommendation on an issue and it was a difficult recommendation to make based on the topic, issues, and problems. The recommendation would provide for accountability through policy-making authority, visibility to the public about the issues, and accessibility to all stakeholders. Third, Appendix E includes evidence-based preventive measures developed by a consultant from Yale University based on research of practices across the U.S.
- Mr. Mohan** reported the same consultant is working on one additional component, to be completed in June 2017, a paper defining "the best interest of the child". OPE will inform the Committee when this piece has been completed.
- Vice Chairman Souza** asked for a brief overview of what is contained in Appendix E. **Mr. Mohan** answered that is a tough question, and he will let the team answer it.
- Senator Lee** thanked Mr. Mohan for his steadfast leadership in getting the report completed so quickly. She asked whether Mr. Mohan has previously made such a bold recommendation to institute a joint legislative standing committee. **Mr. Mohan** answered OPE has never made such a recommendation in the past. He agonized over the decision but ultimately felt it was the right thing to do. In 2005, prior to the establishment of the Office of Drug Policy, OPE made a recommendation for an interagency committee to coordinate substance abuse prevention programs. This is a much stronger recommendation that he discussed at length with Lance McCleve. It was the best solution to provide needed interdisciplinary and interjurisdictional oversight. Twenty-one other states have a similar type of committee in place.

Lance McCleve of the OPE introduced himself to the Committee to present his work on the Child Welfare System report. Throughout the evaluation, OPE found critical gaps that have led to program inconsistency, lack of program fidelity, and minimal system accountability. These gaps prevent the system from consistently achieving the high level goals set through policy and the program design process. Closing the gaps will require work from the Department and all players in the Child Welfare System.

Mr. McCleve said the evaluation came to OPE in 2016 after concerns were expressed in Joint Health and Welfare Committee hearing testimony about foster care legislation. OPE found very quickly that the problems were not new and were not unique to Idaho. The first major finding is a critical shortage of foster parents that critically undermines the system's ability to perform as designed. There are other issues with short-term placements that prevent consistent quality placements and make placements difficult. Second, workload is an issue that goes back a while. The Department has made efforts to address workload, but the evaluation showed more can be done. The issue is not simply that the work doesn't get done, but workload problems lead to compromised performance and a persistent expectation gap within the program. Third, there is a culture of compromise in the program in which poor performance is explainable, excusable, and expected. That condition critically undermines meaningful accountability and affects how staff actually implement policies. Finally, there is a need for a systems approach to address problems in order to consistently achieve outcomes.

Mr. McCleve explained these problems are difficult to solve because they are persistent in child protective systems. Most issues will not be solved but can be managed over time, especially as multiple players in the system change. The child protective system (CPS) consists of all agencies and groups who work together on child welfare issues.

Vice Chairman Souza mentioned Mr. McCleve's statement that the problem issues are not really solvable, and she asked whether they are not solvable with the current State situation, or not solvable at all, even if necessary changes are made.

Mr. McCleve answered there is a lot of room for improvement in the system and it could operate much better than it does. In this case, the term "solution" is not definite, like two plus two always equals four. In the context of the CPS, problems can be explained in multiple ways. Individual values influence how child protective services work, what is focused on, and the decisions made. There are other pieces of the system like courts and foster parents with different foci who will explain the same facts with a different approach. These matters affect the ability to solve a problem, because it can't definitively be said to be solved if someone else can see it another way and suddenly it's a problem again. There are also significant consequences for failure. When trying to work through problems, experiments can't be conducted, because every case involves a child. There is no single solution like adding more social workers. All solutions will improve the system, but constant review of the program will be required.

Mr. McCleve advised the system is comprised of multiple groups: courts, law enforcement, schools, Children and Family Services, other divisions of the Department, and federal partners. All pieces interact strongly and there are some closely-knit relationships. For example, the court and the Department each have to carry out the program, and changes in the Department can affect the court and vice versa. Scheduling times for court was a challenge for the Department. The result was social workers were standing around waiting for court times. Some teleconferencing was implemented to save social worker time. There are different sets of guidance for different partners. The most important thing is ongoing, open collaboration and accountability for each partner as well as system-wide accountability. Every outcome is the result of the behavior and actions of some combination of system components. No outcome is isolated to any one group.

Mr. McCleve said the partners see the need for collaboration and are working in that direction. The Department has put together a Child Welfare Steering Committee that now includes some legislative representation. Federal accountability comes in the form of Child and Family Service reviews, which hold the Department accountable to seven outcomes and systemic factors that address CPS program expected outcomes. The Department just completed its third round of reviews, and it is a fairly comprehensive but high-level process. If the Department is not in substantial compliance, it must develop a performance improvement plan. Judicial oversight is done by making decisions on a case-by-case basis. Removing children from homes and returning them to their homes can only be done by law enforcement or order of the court. Guardians ad litem have a unique role as special advocates to represent the interests of children and provide additional information to the courts that is independent of what the Department provides. Idaho citizen review panels were established throughout the State to observe the actions of CPS and make recommendations to the Department in an annual report.

Mr. McCleve advised there have been improvements and positive changes to the CPS. However, there are two important shortcomings at the system level. First, there is a lack of accessibility and visibility that can lead to people feeling ostracized or shut out or deliberately pushed away. Second, the CPS lacks system-wide oversight. Failing to look at the system as a whole results in unclear, fragmented, or diffused responsibility for child protection outcomes, which makes it difficult for the system to function as efficiently as possible.

Mr. McCleve reported the shortcomings became apparent as a result of the OPE review, interviews, and surveys. OPE discussed the fact that other states have worked to address the same shortcomings using different approaches, such as dedicated ombudsmen, non-legislative committees, and legislative committees. The OPE recommendation is that some entity be formed to bring all the players together, have a consistent system-wide view, and manage the issues long-term to continuously improve the system. All but one of the preventive measures in Appendix E would be administered through other groups besides the Department.

Mr. McCleve mentioned the "best interest of the child" material will be published in a supplemental document in June 2017. There will be no recommendations or findings, just useful information. Two areas for possible future study are community services and the Court Appointed Special Advocate (CASA) program. Community services can be difficult to access, and those that can be accessed are not always most appropriate to meet needs of children and families. CASA was mentioned several times during the study, but it was not part of this OPE evaluation.

Chairman Heider commented there are so many groups having input and they are all run by different organizations. He asked how those things could be coordinated for the benefit of the child. **Mr. McCleve** answered the study felt like a little thread on a sweater that when it was pulled, it kept coming out and pretty soon there was a big pile of yarn. It is a serious challenge for the CPS in general, and it is a complex undertaking. A significant number of cases go through the system and work out as well as possible. The biggest challenge in collaboration involves the courts and the Department, as well as other different branches and levels of government. Currently, good will allows work to get done, but good will might not always be there. It also takes strong leadership and lot of effort. With the oversight recommendation, there will be a more formally established process. The CPS program has a dedicated identity that doesn't exist with other groups

Chairman Heider asked if a part of the system is working such as CASA, does that group take the lead, or is the Department always in charge. **Mr. McCleve** responded there are some clearly defined boundaries and responsibilities but there are also gray areas where discussion is needed. There is no formal way to handle the gray areas at this time; the groups work out those issues among themselves.

Mr. Mohan explained the Chairman's comment about coordination is the reason OPE made the recommendation for a joint oversight committee. The legislature has authority or persuasive power, which will be helpful, and the Legislature is a very people-centered body. **Chairman Heider** stated the Legislature has the least authority in the Child Welfare System. When it comes to CASA, foster parents, or law enforcement, they all have their own responsibilities, and it gets back to the question of who will be charge of the child. All groups need to coordinate their opinions and get behind what is best for the child. **Mr. Mohan** agreed no one body can oversee all entities, but the Legislature is in a position to do more than other entities.

Amanda Bartlett of the OPE introduced herself to the Committee to continue the presentation. **Ms. Bartlett** said early in the review process, staff asked themselves what should be accomplished for the children. Everyone can agree children should be safe and have stability and a life where they can flourish and grow. It is challenging because a child's needs are constantly changing, and there are generally two parents who have a say in the child's life. When the State determines a child's safety is threatened to the extend the child can no longer remain in the home, then the State becomes the guardian. At that point, there are many entities trying to do the best they can with available resources to achieve desired outcomes. Central to the process is Child and Family Services, that is entrusted with the authority to manage the cases, make placement decisions, perform assessments, and provide resources for the family.

Ms. Bartlett said there are many branches that need coordinated efforts, but there are also gaps within the Department. First, there is a gap in placement services, including foster parent recruitment, retention, relationships, and placement support. Second, there are gaps in program capacity, including high work loads, challenges in streamlining redundant or difficult work flow processes, and retention of good social workers. Finally, OPE found a gap within the culture itself. Faced with challenges and lack of available resources to address challenges, there is a belief that social workers cannot consistently provide quality social work and meet all the necessary requirements.

Senator Martin asked if OPE has identified a solution to foster parent issues. **Ms. Bartlett** replied part of the solution is in recognizing that all problems are interconnected. OPE made a number of recommendations, but the Department will have to make a multifaceted effort to see improvement, starting with placement services. OPE found the number of foster parents is decreasing and because of that, there is a threat to the fidelity of the program. When a child comes into care, the first task is to find a place for the child to stay. The child has specific needs, and the goal is to keep siblings together, maintain children in their communities and cultural communities, and keep the child close to their parents. A child may have mental health or medical needs and there must be appropriate services available. Ideally, there will be a placement that is well suited to meet all of a child's needs. Now, with a declining number of foster parents, there are not enough choices. Instead of a needs-based placement, it becomes an availability placement. This is a problem within social work because there is a sense of anxiety that comes over a social worker when having to make placement decisions.

Vice Chairman Souza asked if it is key for the Committee to understand why there is a decrease in foster parents. **Ms. Bartlett** responded that is important. OPE thinks the Department already has a recruitment plan and it should be continued. The recruitment plan identifies multiple strategies for recruiting more foster parents, but the plan did not include a goal of how many foster parents are needed in a region or city to provide adequate placement options. The next question would be what resources are needed to meet that goal. The current recruitment plan assumes it will operate within existing resources, and OPE suggested finding out if more resources will be needed. The Department also needs a robust retention plan, and that plan should include ways to support foster parents and understanding why there is so much turnover. Currently, there are as many foster parents leaving the program as there are becoming newly licensed. In the foster parent survey, some of the issues identified by foster parents involved relationship issues with the Department. For example, one question asked whether or not the Department understood foster parents' needs, and only 17 percent answered yes. There were mixed results on whether or not financial supports were sufficient. It is estimated that the cost of room and board exceeds what foster parents receive, and foster parents are paying money out of pocket. This limits the pool of people who could potentially be a foster parent. There is more specific detail on this issue in the full report.

Ms. Bartlett explained the foster parent shortage is directly related to the second gap of program capacity. The OPE survey asked whether or not social workers think a problem often arises because of insufficient time, and 88 percent answered yes. The survey asked similar questions of judges, foster parents, and CASA volunteers, and all agreed time is precious and scarce. Social workers estimated they are carrying 38 percent more cases than they can effectively serve. The Department recently did a workload study and estimated that the average social worker carries 13.5 cases, and those cases involve an average of 20 children. These numbers represent 28 to 38 percent more than what social workers and their managers think can be adequately handled. There are no magic staffing numbers, and the issue is not about getting to a specific number of cases but also determining the behavior of the children in their case loads. The more challenging the case, the fewer cases can be handled. The newer and less experienced the staff, the fewer cases a social worker can handle. Social worker travel also is a factor, depending on whether the case is in a rural area requiring significant travel time. The Department is constantly working to understand this number better. When there are social workers with scarce time, there are real consequences, and that includes inability to meet practice requirements, difficulty engaging families, and decreased quality of services.

Ms. Bartlett reported one social worker described the situation as having to settle for C-grade work with an expectation of A-grade results. OPE received a comment from a judge who said he believes most Department workers want to do a good job and are good people, but their case loads are too big and their resources are too small. He would give them a grade of "C" if he was a teacher.

Ms. Bartlett stated that OPE recommends continuing staff retention efforts, especially involving professional ladders and professional development. The Department should identify staffing shortages and create a plan to enhance external processes. The work load issue must be addressed, either by increasing resources or workers, or decreasing the work load by incorporating more efficient work processes and systems. For example, efforts such as using teleconferencing for court appearances should be continued. The staffing issue and the foster parent shortage are chronic issues that have been worked on for more than 10 years. While some progress has been made, the problems persist. OPE encourages the Department to continue and strengthen efforts, and to ask for additional resources if needed.

Ms. Bartlett commented both the foster parent and social worker issues contribute to the cultural gap. The OPE survey results showed 94.8 percent of social workers are committed to improving the situation for children and families on their case loads. However, there are strained relationships. Department staff has concerns they are under constant scrutiny and criticism, and they feel defensive. When making big decisions for children, there are lots of different opinions, and that problem can only be managed, not solved. There is also a detrimental cycle of priority and compromise. Every day children come into care with urgent critical safety needs that must be addressed today. When there are urgent needs, other important needs like building relationships with foster parents are deprioritized or less time is spent on those needs. One social worker commented there is a lack of realistic expectations. Best practices won't matter if the work force can't implement them due to work load issues.

Ms. Bartlett said OPE recommends an ongoing assessment of the culture. There are practice standards, policies, and law, but when someone is in the field making decisions and it is unrealistic to meet all considerations, then the social worker must decide which of the considerations is the most important. Some accountability is lost as a result because there is a belief the expectations are unrealistic and compromises are understandable. It is important to make sure the culture improves as resources improve.

Ms. Bartlett mentioned there were similar problems identified in many other states. The issues are compounded when there is mismanagement, but the consistency of the problems from state to state demonstrates the difficulty of achieving desired outcomes. OPE referenced a report from a federal commission to eliminate child abuse and neglect, which found there must be an integrated and cross-program monitoring and evaluation approach, and recognizing the outcomes for children and families are the product of multiple programs. One social worker told OPE that working in child welfare and social work feels like the engineers who worked on the Apollo 13 mission. They were told to find a way to fit a square peg in a round hole rapidly, using only random items in a box, and they just had to make it work. The problems faced in the Child Welfare System are complex and high stakes. Many times people achieve good results with limited supplies through creativity, resourcefulness, and commitment. There will always be another issue to address, but it is important to have a system where the parties have better tools in the box to work with.

Senator Lee referred to the responses from the Department and the Governor's office in the full report. One was the assertion that if the Department had party status in courts, it would make a difference. **Senator Lee** inquired whether that issue came up during the OPE research. **Mr. McCleve** responded OPE did not look into it directly because it was not part of the evaluation. The matter was brought up, and in talking to social workers, it seemed to be a regional issue. Social workers felt they could do their jobs better if they just didn't have to go to court because it is beyond their expertise and challenging to present their work in an effective way. This issue was absent from some of the other states' reports, but OPE did come across mentions of party status. A number of CPS agencies in other states are considered parties to the case.

ADJOURNED: There being no further business at this time, **Chairman Heider** adjourned the meeting at 4:26 p.m.

Senator Heider
Chair

Jeanne Jackson-Heim
Secretary