

**MINUTES OF THE
CHILD WELFARE LEGISLATIVE OVERSIGHT PANEL**

May 18, 1999 -- 9:00 a.m. -- Room 416 State Capitol

Members Present:

Sen. Lyle W. Hillyard, Senate Chair
Rep. Nora B. Stephens, House Chair
Sen. Gene Davis
Rep. Trisha Beck
Rep. Matt Throckmorton

Staff Present:

Mr. Mark D. Andrews,
Research Analyst
Mr. R. Chet Loftis
Associate General Counsel
Ms. Tracey Fredman
Legislative Secretary

Note: A list of others present and a copy of materials distributed in the meeting are on file in the Office of Legislative Research and General Counsel.

Chair Hillyard called the meeting to order at 9:05 a.m.

1. Approval of April 22, 1999 Minutes

MOTION: Rep. Throckmorton moved that the minutes of the April 22, 1999 meeting be approved as printed. The motion passed unanimously.

2. Update on *The Performance Milestone Plan* – Ms. Caren Frost and Mr. Richard Anderson explained that final comments from the National Center for Youth Law are expected this week. Those comments will be incorporated into the finalization of the Performance Milestone Plan which will be distributed when completed. DCFS has already begun to implement the Plan, regardless of the court's action. The court has no deadline for responding to the Plan. Chair Stephens indicated that she hoped the Panel would receive direction from either DCFS or the court on how the Panel can be helpful.

3. Review of Child Welfare Measures – Mr. Mark Andrews, Research Analyst, distributed to the panel charted documentation regarding the number of children in the custody of the Division of Child and Family Services (DCFS) by permanency status and offered a brief explanation of each chart.

4. Reports on Visits to Juvenile Court Hearings – Rep. Trisha Beck reported on her day-long visit to juvenile court shelter hearings. She said the experience raised her awareness of the problems being dealt with and the way in which they are being handled. Her impressions of the caseworkers and court procedures were positive. The committee discussed the possibility of future site visits but no official action was taken.

5. Intake Procedures in Western Region – Mr. Paul Curtis, Western Region Director, DCFS, distributed a packet of materials relative to the Western Region's intake procedures. The Western Region includes Wasatch, Utah, Juab, and Millard counties. He gave a brief overview of the development of procedures which evolved from two pilot projects conducted simultaneously

in Utah County – the Family Preservation Study by Brigham Young University and the Youth Reclamation Project.

Mr. Curtis discussed the Western Region's Monday morning review meetings attended by representatives from the Guardian Ad Litem's and Attorney General's offices, an intake worker, a domestic violence worker from the Region's staff, a Region administrator, and a person from the Children's Justice Center. During each meeting, cases not accepted by intake workers during the previous week are discussed.

Mr. Ron Wilkinson, Guardian Ad Litem's Office, expressed concern about the new intake process. He expressed particular concern that unaccepted calls to intake do not show up later as "unsubstantiated" if they are handled outside the normal investigation process.

There followed a discussion about how substantiations are made and why referrals are sometimes unaccepted.

Mr. David Carlson, Attorney General's Office, distributed a document with child abuse and neglect reporting requirements from statute. He said the Attorney General's office is concerned about the intake procedures used in Provo. He said they are not opposed to innovation nor to early intervention for children. Their concern is focused narrowly on application of the law. The position of the Attorney General's Office is that the law would need to be changed to allow the type of intake used in Provo.

Mr. Carlson explained further that there is a constitutional concern. One of the highest protected rights is the right of privacy. "When there is reasonable cause to suspect a situation of abuse, neglect,..." (Section 62A-4a-409 (1)) is the exception that allows government to intrude on that privacy. If a report doesn't rise to that level, then government doesn't have authority to create that intrusion.

Mr. Carlson also said that the idea of using a kind, gentle, helpful approach may be seductive because it avoids getting to the heart of the problem. Over 70% of the people with which DCFS is involved have substance abuse problems. Use of the government's coercive power may actually be the best thing for them to get court-ordered substance abuse treatment.

Mr. Carlson also said that use of a thorough investigation cuts both ways – it allows the state to remove children that should be removed and not remove those that shouldn't.

Mary Noonan, Attorney General's Office, distributed Policy #202A, *Protective Investigation*, which in part states "The Division of Child and Family Services shall investigate an allegation of child abuse, neglect, or dependency which falls into one of the following categories

when the allegation, if found valid at the conclusion of the investigation, would result in substantiation." She has recommended to the Board of Child and Family Services that the language of this policy be made consistent with the statute (Section 62A-4a-409).

Mr. Scott Clark, Chair, Board of Child and Family Services, said that he will look into matters concerning Policy #202A. Mr. Clark continued by stating that the board's first concern is for children and whether the intake program puts them at risk. Since the Monday morning screening process was put in place, there is little to suggest that children are being put at risk; rather, the screening process is a good innovation which shows governmental entities working cooperatively. Mr. Clark said that the state should not "freeze" the child welfare system in the David C. v. Leavitt aftermath, the committee should review the BYU study on providing intensive services to families, trust needs to be placed in trained intake workers, and DCFS should be prohibited from "rationalizing" services.

Ms. Robin Arnold-Williams, Executive Director, Department of Human Services, indicated she would like a statutory change clarifying the use Western Region's intake procedures.

Mr. Carlson said that the statutory authority for a two-track intake approach (services vs. investigation) is unclear, that there is a lack of criteria for determining which track a referral should take, and that it's unclear what is a family assessment.

Mr. Richard Anderson, DCFS, raised the question of whether DCFS has the authority to offer services to a family on its way to abuse or neglect. He said that the law used to refer to "potential harm" or "threat of harm."

MOTION: Sen. Hillyard moved that staff work with the various parties involved with the Western Region intake process and develop a statute or rule for the Panel to review at its next meeting. Senator Davis added that he would like staff to also look at the issue of potential or threatened abuse and whether that should be addressed. The motion passed unanimously.

6. Adoption – The Role of Non-governmental Entities – Mr. LeRoy Franke, DCFS, distributed information to be considered at the Panel's next meeting. The issue was not considered today due to lack of time.

7. Other business – The Panel scheduled future meetings. The next meeting will be Thursday, June 17, 1999, at 10:00 a.m.

8. Adjourn – The meeting was adjourned at 11:15 a.m.