



Children, Families, Health, and Human Services Interim Committee

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59th Montana Legislature

SENATE MEMBERS

TRUDI SCHMIDT--Chair
JOHN ESP
JERRY O'NEIL
DAN WEINBERG

HOUSE MEMBERS

BILL WARDEN--Vice Chair
EMELIE EATON
EVE FRANKLIN
DON ROBERTS

COMMITTEE STAFF

SUSAN FOX, Lead Staff
DAVID NISS, Staff Attorney
FONG HOM, Secretary

MINUTES

Please note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.**

March 30, 2006

Capitol Building, Room 137
Helena, Montana

COMMITTEE MEMBERS PRESENT

SEN. TRUDI SCHMIDT, Chair
REP. BILL WARDEN, Vice Chair

SEN. JOHN ESP
SEN. JERRY O'NEIL
SEN. DAN WEINBERG

REP. EMELIE EATON
REP. EVE FRANKLIN
REP. DON ROBERTS

STAFF PRESENT

SUSAN FOX, Lead Staff
DAVID NISS, Staff Attorney
FONG HOM, Secretary

Visitors

Visitors' list, [Attachment #1](#).

TAPE 1A

CALL TO ORDER AND ROLL CALL

SEN. SCHMIDT called the meeting to order at 8:04 a.m. Secretary took roll visually. Sen. Schmidt gave opening remarks.

CHILD AND FAMILY SERVICES REVIEW

Bruce Deitle, Program Bureau Chief
Michelle Seboyna

BRUCE DEITLE, Program Bureau Chief, Child and Family Services, and Michelle Seboyna, gave an update on the Program Improvement Plan (**EXHIBIT 1**). Mr. Dietle said that they have completed all the items of the Plan in January, 2006. He said that the real focus of the Plan was on systematic review and change. The bulk of the changes that Family Services Division made were in documentation practices, trying to more accurately capture the work that was being done.

QUESTIONS

REP. ROBERTS asked Mr. Dietle why this was not in computers before. MR. DEITLE said that CAPS is what they were using but they expanded on that system to include entire case narrative notes, which were handwritten and weren't getting into the system, and it was more comprehensive to be able to include everything in the system. REP. ROBERTS asked if Montana was working with families involved with drugs, which after a certain period of time, realized that perhaps a child should be in an adoptive situation. MR. DEITLE said that that was an area which they are looking at, realizing that those parents who are involved in meth are taking longer to rehabilitate.

SEN. O'NEIL asked, regarding Child and Family Involvement in case planning, if the percent could be brought up before they are done. MR. DEITLE said that during their 3rd and 4th review, that percentage did increase, and he would like to attribute that to the family group decision making process where they offer every family an opportunity to be part of that process. SEN. ONEIL asked why some family would not participate in that. MR. DEITLE said that the reasons varied, but one of the primary reasons might be that the parents who are in a drug situation can't deal with own needs, let alone with their children.

REP. FRANKLIN asked for clarification on permanency planning being affected by the nature of meth, that the whole process engaging in treatment takes longer. She asked what is the focus of the Department, if they are changing the permanency time line to respond to the reality of the drug, or are they keeping the permanency time line to respond to the needs of the child for permanency; which is driving which. MR. DEITLE said that it is his understanding is nationally they are looking at this. He said that the federal requirement for that one year period is greatly affected by this. He said that if the parent has no desire to go through that process, the

Department's position is that they are going to try and work with that family the best they can, but also realizing that they have federal constraints that make it difficult. REP. FRANKLIN said that from what he is saying, it is not clear what the direction of the Department is in response to that. MR. DEITLE said that the Department's primary objective is certainly to have that child reunited with his parents. REP. FRANKLIN asked if there are unusually extended periods where children end up in limbo for years because methamphetamines are so debilitating. She said that her question is because of her concern that the nature of the drug will drive permanency and therefore, very few children will achieve permanency. The nature of methamphetamines is so debilitating that the Department will spend years and years waiting for some families to achieve permanency and by that time the child has passed puberty and the child gets no opportunity for permanency. MR. DEITLE said that he didn't think that that is the case. They look at kinship placements, they look at guardianships and other alternatives if it looks like it is going to be an extended period of time.

SEN. WEINBERG said that he noticed that on some of those, subjective criteria are used for objective data, for example, Well Being Item Nos. 19 and 20 ([EXHIBIT #1](#)), worker visits with parents are purposeful. He asked how you measure "purposeful", which seems objective to him. He said that he is curious whether that type of criteria is federal or state. MS. SEBOYNA said that the language was cited by the federal government. She said that the purposeful piece becomes in moving families through reunification processes. They needed to better demonstrate in their case narratives and documentation that they were actually working with families to meet their treatment plan goals, to move them through the system.

SEN. WEINBERG asked how to measure "purposeful". MS. SEBOYNA said the purpose is to have reunification of families or the purpose is to prevent removal of. What is outlined in their treatment that they come up with together in the family group decision making meetings, they identify who their support system is and bring them into the meeting and the purpose is then stated in those treatment plans. SEN. WEINBERG asked if there was a line that if you are above the line, it satisfied the purpose and below the line it does not satisfy the purpose. He said that he is wondering how you measure this. MR. DEITLE said that how that would be determined is the federal expert reviewer comes in and reviews that particular child's chart and looking at that information and making that judgment call.

SEN. WEINBERG asked how, on Well Being Item No. 23, the mental health of the child needs are assessed, who assesses the mental health needs, and what are their qualifications. MR. DEITLE said that would be based on the child's behavior after they in their care, or previously known behavior. He said that it could be a psychologist, it could be a psychiatrist, strictly based on the needs of that child. SEN. WEINBERG asked if it is a real mental health assessment or simply observation of how the child was acting at the time. MR. DEITLE said that it would depend on the degree of the behavior of the child, where they would go with that assessment.

REP. EATON asked what is the time line for returning a child to permanency. MR. DEITLE said the time line is one year. SUSAN FOX said that the critical time line in state law is that they are required to have a permanency plan hearing in that 12 months, but the requirement to go to termination is if the child is in foster care for 15 out of 22 months.

REP. EATON asked for clarification on the statistics that showed that 65% of parents have children who end up in foster care; 58% of those are meth abusers. She asked if that was national or state statistics. MR. DEITLE said those are state statistics. He said that they surveyed 1500 with around 300 not responding to date and that percentage was based on the numbered surveyed. He said that the drug use included alcohol, marijuana, hard drugs and separately, methamphetamine. The number of meth cases included marijuana leading up to meth use.

REP. EATON said that the Department wanted 35 more staff, 29 of those being direct field staff. Rep. Eaton asked if they want those in a particular area. MR. DEITLE said that it would be based on the needs across the state.

SEN. WILLIAMS asked why they are not still tracking cases on permanency, foster care replacement, and educational needs of the child. MS. SEBOYNA said that those items that passed are no longer tracked, but they will resume tracking those in their base line. She said that they are still waiting for the new case review tool from the federal government that they will utilize when they come for the secondary review.

SEN. WILLIAMS said it seems to her that the tracking of the educational well being of the child cannot be something that they put off because they will need data if they are to do something in the next legislative session. She said that when they said they needed 29 more staff if that included any new assistance for foster families who feel that they do not have enough training and resources and some feel they are not being paid enough. MR. DEITLE said that that would have an impact in that area just by the nature of the fact that it would free up social worker's time in the home with the foster parents working with the children and helping take care of their needs. He said that the case loads are so high and social workers are spread thin that it is difficult to afford the type of time that foster parents need assistance.

SEN. WEINBERG asked if he is correct that on the far right hand of the column those are the federal measures of success, and what does it mean if you take Well Being Item No. 22 on page 3, does the 17% mean that that is the federal standard of success. MS. SEBOYNA said that it did not. She said that the 17% is negotiated as a 2% increase from baseline because they were concerned with their performance and all of the citations that they were given. In negotiating percentages of improvement, this was what was agreed upon, initially they were at 15% and they felt that they could make the 17%. SEN. WEINBERG asked Ms. Seboyna what the federal standard of success is. MS. SEBOYNA said that it was 90% for this review and they

will raise it to 95% for the next review.

REP. WARDEN asked Mr. Deitle to elaborate on seeing a 21% decrease in children leaving foster care, if foster care was outside the purview of family members, and if Mr. Deitle had a cost figure on what they were looking at regarding the 35 FTEs. MR. DEITLE said that they are attributing the decrease in children leaving foster care directly to the meth situation. He said that the children cannot be reunited back with their families in a timely fashion because it takes so long for those families to rehabilitate, to be able to parent their children again. He said that foster care is outside the purview of family members and that he did not have a cost figure on the 35 FTES.

MS. SEBOYNA said that she wanted to elaborate on Sen. Weinberg's concern of about the subjective nature of their scoring and their percentages. She said that they duplicated what the federal government did when they came to review, it is pass/fail. If that child, at any time, during the life of the case, came in with special needs or there had been sexual abuse allegations, a number of things could happen with that child in that case. They fail if they did not identify the need and did not show where they addressed the need. If they didn't set up the counseling appointments and insure that that child was assessed and there was continued follow up based on the recommendations of that licensed professional, then they failed that item. It is subjective but there are a lot of incremental measurements that they have and they have to document those clearly on the tools.

SEN. WILLIAMS said that one of the things that they heard at subsequent meetings are the enormous amount of paperwork that is coming to social workers and staff. She asked if most are requirements of the federal government and have they thought about any mechanisms that would keep you the right information that you need to make decisions, but yet try to get the paperwork trimmed down so that they have more face time with clients. MS. SEBOYNA said that they have and part of what they did with the case narrative electronic capacity is the workers just plug in a code, type what they need to type, put in that data, and then they can do their work to sort, capture, and report back on that. What they have also done is the individual safety assessment forms which help guide workers in feeling more secure in assessing threats, child vulnerabilities, and parenting capacities.

WORKFORCE AND TRAINING ISSUES

Mick Leary, Program Analyst
Dr. Myles Edwards, Consultant

MICK LEARY, Management Analyst for Child and Family Services, DPHHS, said that an audit was done by Legislative Auditors in 2001, looking at the entire department's ability to look at their resources, and systematically within each division, decide how they were going to allocate the resource needs of each division. When the audit was completed, Child and Family Services made recommendations for a better way of doing business.

Mr. Leary said that they used information from the 1999 Hornby Zeller Report, in documenting their need for staffing. The auditors did not find any difficulty in how that assessment was done or the methodology behind it, but what they questioned was that it was a one-time snap shot and didn't provide an ongoing process to keep tabs on how the needs of the division were being met or what were the needs of the division. Mr. Leary was asked to develop that sort of a system. They contacted a national resource center, which provides a certain number of training days free of charge to states, to do a preliminary time study, develop a time study tool to be used on an ongoing basis. This took approximately one year, from start to finish, in terms of getting the system up and running before they could look at the information and utilize it. He said that the data is preliminary, but shows that there is a gap between the amount of time it takes to do what is needed for children and families and the amount of staff that we have to provide those services.

TAPE 1B

DR. MYLES EDWARDS, Director of Research at American Humane Association, said that he works primarily with children services. He said that the workload he has is a continuation of a program that has been in place with child welfare and child protective services for almost 20 years. He had seen what they were doing in looking at workload in mental health and cost findings. They developed models for how to look at child protection and child welfare services and how to compile data sets to say that this is a sound management science approach to study something that is elusive. What is work? The approach they had is consistent with what Mr. Leary described in terms of the services families received. It is a subtle shift from focusing on what people do to looking at what is the product of what they did, that is the services received. While we need to ask people to complete time studies to describe their work, we look at their work in relation to the families that they provide services for. Rather than saying how many hours a week does a caseworker provide face to face contact with the family, he would say for a family with a child in foster care, how many hours of face to face contact do they receive? Taking that approach they can say how many hours does it take, typically, as it is occurring now that a family is receiving services. You can start to see the differences in times. Also there is the issue of time available for services. Once we understand that time available for work and how much time a family would need is a straightforward division, then we can talk about how many cases that could be addressed. That is a thumbnail on our approach to workload. The approaches taken historically to study workload and what's been done in Montana, he believes are consistent. He said that he has been impressed with the number of

people who have shown up for the training sessions. The response rate to the workload measurement preliminary study that was done was excellent and the participation that they had going around the state, looking at best practice, was excellent.

Dr. Edwards said that the auditor's report addressed the need for ongoing assessment of workload. Whenever you study workload, you are studying a snapshot of time. One thing that occurs is that a particular time period is always special in some way so that over a particular time you could look at different times across the year to get different measurement points and ask how consistent is our workload results from these different measurements. What they want to see is that a band of results over time and the plans that the Department has in place are consistent with producing those types of results. The other issue that they have that is important is trying to get to some expectation of workload that is dependent on the cases that are presented at different times. He said that the judiciary is not to be minimized in terms of how important judicial requirements in child welfare are. Those differences around the state are what the intent is to look at in terms of the effect on workload.

QUESTIONS

REP. FRANKLIN asked if Dr. Edwards could talk about his level of involvement and what he has actually done with the Department. DR. EDWARDS said that his involvement with the Department is through the National Resource Center on Organizational Improvement on Child Welfare, a federally funded program at the University of Southern Maine. He said that they are charged with providing technical assistance to states in support of the Child and Family Services Review process. Because they have been performing workload studies for a long time and had done a number of major state studies, the National Resource Center engaged them in addressing workload issues as they might come up. Montana approached the National Resource Center for assistance under the days each state is allotted for technical assistance in the area of workload. He said that their work is to not perform the study so much as provide resources and guidance.

REP. FRANKLIN asked Dr. Edwards how long has he been involved with the Department and how much time has he spent in the field or with administrators. DR. EDWARDS said that he has been involved since July or August of last year when he participated in a series of teleconferences, and in Helena for a meeting with some regional administrators, supervisors, workers to introduce the time data collector. He said that he met with Ms. Brown at a national meeting on work load in New Mexico and had extended discussions with her; and in February, there were a series of meetings around that state with supervisors and workers talking about a best practice situation. REP. FRANKLIN asked how long he anticipated being involved or is there a time line for use of his services. DR. EDWARDS said that the current time line is to move forward with this process and to built capacity in the Department. He said there is not a strict deadline for exit at this point in time. They installed a number of pieces that he believes are able to be continued here but he does not have a concrete answer to her question.

SEN. O'NEIL asked if Dr. Edwards' work is related to the Department wanting 35 more staff.

DR. EDWARDS said that the work they do addresses the number of workers needed to provide services to families. He said that the preliminary numbers are considerably higher than 35. He said it is related in trying to determine what types of services need to be addressed and this is what they will come up with from this study.

SEN. O'NEIL asked Dr. Edwards if part of his function was to help confirm the Department's request for more workers? DR. EDWARDS said that his work is more to help the Department with how they assemble their information to make that decision.

SEN. SCHMIDT asked how is the Hornby Zeller Study different compared to what was done in 1999. MR. LEARY said that the Hornby Zeller was a contracted agency that was brought in to look at caseload and workload issues within the state. They did interviews with the study, did a time study similar to the time study that they assembled, and based on that, Hornby Zeller came up with estimates for the need for staffing. He said that he reviewed that document and talked to the Legislative Analysts. Their issue wasn't with the information contained in Hornby Zeller, but that it was essentially a one-time snapshot; they didn't develop anything within the infrastructure to do an ongoing assessment of our needs in terms of our workload and how we distribute staff in order to meet the needs of families and children across the state. Because the study was done in 1999, the data was beginning to be dated and so there was a need for current data. Mr. Leary said that they were trying to create a system that they could do ongoing and look at workload and services across the state.

SEN. ESP asked Dr. Edwards if he has data from other states on the number of children removed from homes. DR. EDWARDS said no, but he is currently working on a study with Idaho where they want to specifically look at that question.

SEN. WILLIAMS asked if the Department got staff from the Legislature as a result of that 1999 report. MR. LEARY said that the focus at that time was looking at ways that they could essentially work smarter to try and cover that gap.

SEN. WEINBERG asked Dr. Edwards that if the preliminary numbers are substantially higher than 35, what do you think those numbers are, and are we talking double that? DR. EDWARDS said that you are probably looking at 50% higher in the investigative area, and in the ongoing area, 100% or more higher. SEN. WEINBERG asked what Dr. Edwards meant when he said judicial requirements are not to be minimized as far as the time that they demand. DR. EDWARDS said that it means the requirements for attendance of social workers in court, the requirements for documentation that different courts might have, and orders from the bench that dictate practice. SEN. WEINBERG asked if he was suggesting that some of the requirements by the judiciary go beyond what you think is necessary to dispose of these cases? DR. EDWARDS said that he believes court improvement efforts in Child Protection and Child

Welfare have been ongoing for a number of years and there are best practices around the country. The National Association of Juvenile and Family Court Judges have a whole resource center of their own that they address. He said that however efficient the process might be, there still will be a certain amount of documentation and assessment and attention that is designed primarily to fulfill the needs of court. MR. LEARY said that they are not assessing the courts. They would like to get information, break it down by judicial districts, and see if there are areas that seem to be getting children into permanent places more quickly, working more smoothly, and looking to see if they can replicate the system which they have in place in other places, or that they have fewer kids in care to contend with and that makes the job easier. He said that they are looking at how to work with the courts, how to interact with the courts.

REP. WARDEN asked if Dr. Edwards would talk about the Department in terms of efficiency of process and working smart. DR. EDWARDS said that paperwork, documentation issues, travel and how that is set up, and as these results become available, the Department will have a view of its own performance that will lead to some implications for themselves. He said that as the topic of work gets opened up, it could become a productive conversation in terms of people doing the work will have ideas on how to do it better; that this would give them a forum to express those things resulting in supporting or denying different assertions.

SEN. SCHMIDT asked when the Committee could expect a final report. MR. LEARY said that they are anticipating conducting a second time study in May to look at the results of the preliminary report. After that study, they will have a better idea of a time frame and be able to look at a clear answer in terms of workload issues and staffing, perhaps at the end of July. He said that they anticipate doing another time study on how time is being spent running which services. It will take time to run all the numbers, do a report 60 days from May, do another study in October, then report 60 days from that. Because it is ongoing, they will be able to put out reports as they do the time studies. He said that twice a year would be the most that you would see it done, but that is something that management will have to decide. He said that the report could be ready for the next legislative session.

SEN. WEINBERG said that he would request that the Department look at this process, get some real time lines that they understand so that we know when we are going to get results, and the results should not be ambiguous. He said that if the results were as ambiguous as some of the testimony we have heard, we are not going to be able to use it. He believes in the process of looking at time studies, looking at the way people work, looking at whether or not people are working smart or not, but if we get something late or incomplete or ambiguous, then it is a big waste of time. SEN. ESP said that the other thing these studies can be used for is the Executive Branch's effort at improving their system, so the timeliness may be more important to us than it is to them because they could use ways to improve at any point in the system than we can. REP. EATON said that she wanted to emphasize that while these studies are going on, there are children coming into and going out of the foster care program and she believes that is

what the Committee is here to review, how effective the foster care program is for the children.

TAPE 2A

FOSTER CARE PARENTS RECRUITMENT AND RETENTION

Cory Costello, Regional Director, North Central Region

Eric Barnosky, Regional Administrator, Eastern Region

MS. CORY COSTELLO discussed the recruitment and retention efforts in foster care. She said that the audit that was done by the Legislative Audit Division in July of 2004 provided a platform for discussion with respect to how do we proceed in child and family services with the efforts of recruitment and retention in foster care. Those recommendations were then built into a corrective action plan and that plan was something that the Child and Family Services Division has been working towards completing. She discussed some of the recommendations contained in the Audit Report (**EXHIBIT 2**) and what they have done so far:

- 1-866-9FOSTER call number.
- Improving website.
- Developing public service announcement.
- Data development in terms of recruitment and retention of foster parents.
- Developed, printed, distributed brochures incorporating statewide theme.
- A Finder's fee of \$100 to encourage foster parents and adoptive parents to participate in recruiting future foster parents.
- Developing a statewide PSA library at Helena for anyone who wants to do radio announcements.
- Presentation tool kit for people who want to go out and talk about the foster parent program.
- One church/one child concept.
- The importance of local recruitment and retention efforts.
- Look at web based application, facilitated support chat groups.
- Look at private funding to co-sponsor PSA spots.

QUESTIONS

SEN. O'NEIL asked Ms. Costello to expand on the one church/one child concept, how is it implemented, what is Montana doing to implement it to make it happen. MS. COSTELLO said that the concept is one that they heard about through another recruitment source. She said that the idea behind it is the recognition that a foster parent needs a surrounding support system, whether that is a church or civic organization. The concept is one of saying that when you choose to become a foster parent is to engage a community around you to support you in that process. Ms. Costello said that local committees have been reaching out to different civic and church groups sending out letters out informing people that they would like to come and present to them what foster parenting is, what they need, and how the groups would be involved. She said that several areas have been making efforts in terms of getting out there.

SEN. ESP asked if the training for foster parents included information on how to interact with "real" dad and mom and how to be sensitive on that. MS. COSTELLO said that it addressed the importance of understanding that abused and neglected children who come into the system are connected to their family. She said that foster parenting is a transition time in which they are supporting that child with the ultimate goal that the child would return home. She said that as a foster parent, they have to be cognizant of and respect the birth family, have to understand that that child has a connection to those roots and origin and that should never be disparaged in any way. Ms. Costello said that those discussions occur in the training, as well as grief and loss which the child is going to be experiencing as a result of being removed from a home and placed in a setting outside of that home, and how do they feel in recognizing that is because they feel a sense of loss from being removed from their home.

REP. EATON asked if Ms. Costello had any information on why the number of foster parents declined between fiscal years 2001 and 2004. MS. COSTELLO said that she didn't have any data and that they are hoping that the Montana ROM can give them specific data. She said that in terms of the decline, it is not infrequent that when the parents' rights are terminated that the child is adopted by the foster parent. When that occurs, there is a waiting period before they will continue to place foster children in that home so that the family has an opportunity to gel and be established and that child has a sense of stability without children coming in and out of the home. She said that one of the struggles that is happening in terms of foster parent recruitment and retention is that the need for foster parents is increasing because children are remaining in care longer and that is directly attributable to meth use. She said that it is taking longer for those parents who are affected by meth to get through the treatment process and kids remain longer and do not exist in care as quickly and so as more kids enter, there is a need for additional homes.

REP. EATON asked if recruitment, keeping child informed, and other areas are actually being implemented or is that something that needs to be addressed at some future time. MS. COSTELLO said that they are actively addressing the retention needs for foster parents and they are doing that in several ways; providing critical information on the child being placed in the home and supporting foster parents if the foster child has issues before it gets out of hand.

REP. WARDEN asked Ms. Costello to speak to the availability of the immediate families stepping up to the plate on some of these issues, what proportion of family members are getting involved in this process versus non-family members in terms of foster care. MS. COSTELLO said that their preference is that they place with kinship. She said that the family group conferencing process allows for identification of that family and that process happens at the front end of the case. In that process, the extended family participates in identifying their availability to provide foster parenting in the interim period while the parent is working on their treatment plan. She said that her experience has been that there are a lot of parents who have stepped up to the plate and most families want to help, but there are some who can't for certain

reasons.

SEN. ESP asked if people who were foster parents and had experience with different issues do training or talk to future foster parents about some of the issues they may face. MS.

COSTELLO said that that is one of the things that many local committees are looking at as a mentoring program.

ERIC BARNOSKY introduced Ann Lee from Scobey, who is a co-trainer and trains with social workers and licensing staff and also mentors many foster families. Accompanying Ms. Lee is her adoptive daughter, Janie Lee.

ANN LEE AND JANIE LEE, Scobey

ANN LEE talked about the problems they face as foster parents. Because they live in a rural area, travel expenses are high and when funding is cut, travel gets cut first. They do not get the same services that are available in urban areas and have to travel for those services. Ms. Lee said that intervention is important when parents can no longer care for their children. She said that she is a mentor and a facilitator and training for that is imperative.

TAPE 2B

JANIE LEE, daughter, 19 years old, told her story. She was rescued by social workers and placed in a foster homes. When she came to Montana to her adoptive family, she felt like she was home. She came to the adoptive family pregnant. She now has graduated from Scobey High School and is enrolled at University of Montana - Northern.

ANN LEE said that teenage children are the hardest to place, but they need all the services available to them. She said that she appreciates everything that this Committee is doing.

QUESTIONS

REP. FRANKLIN asked what they think has been most helpful when needed responses from the social service system to continue to do their work. ANN LEE said she has never had a problem or question that was never answered. She feels that the court system has been at fault for a lot of the problems that are within the Department. She said that if there was one thing that she would change, it would be the rights of the children.

COURT ROUNDTABLE

SHERRI RAFTER, Program Coordinator, Court Assessment Program
Kathleen Jenkins, Assistant Attorney General, Child Protection Unit
Sarah Corbally, Deputy Cascade County Attorney
Hon. Jeffrey Sherlock, District Court Judge, First Judicial District

SHERRI RAFTER, Coordinator, Court Assessment Program, Montana Supreme Court Administrator's Office, referred to three documents in her testimony: Court Assessment Program, Conclusion to the Reassessment of Court Practice in Child Abuse and Neglect Proceeding in Montana Courts, and Critical Time Lines in State Law: A Brief Review of Montana Statutes (**EXHIBIT 3**).

- Conclusion to the Reassessment of Court Practice
Ms. Rafter said that the correlation in the reassessment review was not the initial assessment that correlated with the Child and Family Services Review because that had not been conducted. The assessment was done in October 1, 2003, on every case that had been opened for six months, which is different from the review on DPHHS, which included short-term cases. She said that this was not an overview of what Child and Family Services was doing, but to see if the court was meeting federal time lines and compliance statutes. The problems they saw were: the number of continuances resulting from the location of the parties, trying to get those parties served; 50% of the attorneys who returned the survey said that they had no training in child abuse and neglect issues; inconsistencies in the way the court handled their programs, not only between judicial districts but within a judicial district having more than one judge.
- Court Assessment Program
Ms. Rafter discussed the development of a strategic plan within the Court Assessment Program. She discussed the Summit for the Protection of Children with the theme being "Children Can't Wait".
- She said that Federal Congress had appropriated money through the CAP: \$50M that will pay for Court Management Case Analysis Data Sharing Programs that can be implemented in the court and \$50M for cross training for judges, attorneys and social workers within the agency to make sure that everyone is trained on children's issues. This will start FY2006 to FY2010. She talked about the connection between case management and training money, the Summit recommendations and work plans that will come out of the Summit.
- She said that the Court Assessment Program needs support for matching funds and encouraged attendance at the Summit and for everyone to read Sheri Heffelfinger's article on the Law and Justice Interim Committee's visit to the Yellowstone County Family Drug Court.

KATHLEEN JENKS, Assistant Attorney General, Child Protection Unit, gave a brief overview of the Child Protection Unit:

- They are within the Attorney General's Office; the Prosecutor Services which is designed to go out into the counties and assist them in the prosecution of major cases or of cases which require special expertise, or cases that are conflicts.
- Within the Prosecutor Services, there is the Child Protection Unit.

- The Child Protection Unit takes requests for assistance from county attorneys to help them with their caseload, help with cases needing more expertise.
- They go into rural counties because those county attorneys don't have experience in abuse and neglect cases.
- They provide education and training for county attorneys, guardian ad litem, CASA workers and social workers.
- The Unit consists of 4 attorneys; two based in Missoula covering the western half of the state, and two in Billings covering the eastern half of the state. They have roughly 130 cases between the four attorneys.

Ms. Jenks said that she would like to propose a way to fix the court system, which she feels is broken. She proposed the need to rewrite the current statutes, scrap them and start over; she said that the codes are very difficult to read and inaccessible to the public.

Ms. Jenks discussed whether or not the Department of Justice can or should assume the prosecution of all these cases and relieve the county attorneys of that responsibility. Adequately funded, that would be the solution for a number of reasons: can insure more consistency from county to county; would be able to require training for the prosecutors; would be able to require prosecutors to check the Supreme Court website on a weekly basis for updates on decisions on cases; have accountability to hold prosecutors to that regard.

Ms. Jenks discussed the flow chart (**EXHIBIT 4**), Simplified MCA Abuse and Neglect Timeline for Judicial Hearings.

TAPE 3A

SARAH CORBALLY, Deputy Cascade County Attorney, gave a brief history of her background:

- Undergraduate degree is in Social Work with an emphasis in Child Protection.
- Did an internship for Child Protective Services.
- Worked with Missoula Youth Homes for several years.
- Graduated from the University of Denver Law School.
- Was a legal and social work intern at the Kemp Children Center, and a member of the Child Advocacy Clinic, a year long program run by Rocky Mountain Children's Law Center, Denver, Colorado.
- After law school, she returned to Montana.

Ms. Corbally said that she thinks that the system that we have revictimizes children because of the way it is set up. She said that she believes in training; sees a problem in the current system; and that her ideal system would have judges and attorneys trained in the system. She agreed that they should consider taking this responsibility out of counties for more caseload

consistency. The Chief Justice in Minnesota, Kathleen Blatts, has instituted two progressive items: making proceedings public and getting rid of continuances to improve the system. The Montana Supreme Court has been critical of county attorneys, the Department, social services, and judges, but has placed unrealistic demands on them, given their caseloads. The new filing rule on each child has resulted in 25,000 extra pieces of paper with no more funding or staff. She believes that there is a need for greater attention to children's rights as they are being trampled.

JUDGE JEFFREY SHERLOCK, First Judicial District Court, said that he has been in business for 17 years. He said that most of the work he does is by stipulation and that he rarely has hearings or sees any of the parents because his county attorney is so effective. He said that he just finished a hearing on termination and that is usually when he sees people. He said that his point is that the system varies from judicial district to judicial district depending on the county attorney and the judge. He said that he agrees with the last speaker about the adversarial system in that it sets up a hostility between the parents, the social workers, and the court system that drags these out, but he did not know if you can get away from that. He takes the view that children's interests are paramount, but parents interest are important as well. He said that another problem is that the judges do not go out and look for things to do, so they sit on those cases and generally don't do anything until the county attorney tells them that they have to do this or that. He said that people sometimes expect judges to monitor those cases more than they do. He said that judges cannot be an advocate for anyone in those cases. A judge from Butte offered that doing anything by stipulation should be looked at. Judge Sherlock said that consideration of hearsay exceptions, particularly in cases dealing with young children or sexual matters, should be looked at as criminal law provides for certain exceptions..

RANDI HOOD, Chief Public Defender, gave a brief overview of the Public Defender Act that was passed and what she has been doing since she got hired as Chief Public Defender. She said that the Public Defender Commission has dedicated itself to providing well-trained and devoted attorneys to the representation of parents. She said that the way they will do that is:

- adopt standards for all public defenders, with particular standards that apply to attorneys who assume this role, these standards will be adopted in mid-April;
- there will be ten full time offices in Montana that will represent mothers in dependent neglect actions;
- father or fathers involved in those cases will be placed with attorneys who are involved in contractual relationships with the Public Defender Office;
- in areas in Montana that are not served by the ten public defender offices, they will enter into contractual relationships with local attorneys to provide services;
- people who are entitled to public defenders will have public defenders as early as possible in a case and will actually see their public defender before they go to court;
- during the month of April, they will speak with attorneys across the state to find out who will be available to them to represent the fathers and mothers in the more rural locations;

- Eric Olson, Chief Public Defender in Cascade County, will develop a training program and will put on a half day training in July on the representation of parents; have trainings on particular issues that are of concern to them in different locations around Montana;
- raise the level of representation for the attorneys who represent parents and try to cut down on continuances;
- try to maintain a good relationship with the social worker if it is in the best interest of the client;
- not seek any delays unless in the best interest of the client.

QUESTIONS

SEN. WEINBERG asked Ms. Jenks if the Attorney General shares her views of rewriting the statutes. MS. JENKS said that she came here with his support and a commitment from the Committee to do whatever they can do to assist in that project if you chose to proceed in that direction. She said that her request would be to please include practitioners and people who are currently working in the trenches. It should not be just prosecutors coming and saying this is what we want, it should be a team that is put together with parents, attorneys, and children's attorneys, and we should get input from chemical dependency and mental health counselors, and it should be a team approach.

SEN. WEINBERG asked Ms. Corbally if there is a legal or ethical requirement in hearings that she could say that she is not fully prepared, or there is not enough time to get it all done, or if she had more resources, it would be helpful. MS. CORBALLY said that she is not aware of anything in terms of ethically saying that she did not have a chance to be better prepared. She said that she would want to defer to Judge Sherlock. JUDGE SHERLOCK said that there is under the Lawyer's Code of Professional Responsibility, an obligation not to do a case if you don't have competence to handle it.

SEN. WEINBERG asked Judge Sherlock if the judges handling family cases receive specialized training in these types of cases. JUDGE SHERLOCK said no.

SEN. WEINBERG asked Ms. Hood to clarify her statement that the public defenders will work with the mothers, and a contracted attorney would work with the dads. MS. HOOD said that in most cases they have had to make the determination that the mother would stay in the public defender office because there is a conflict of interest often with the fathers or some of the fathers. SEN. WEINBERG said that knowing someone state that the way these cases turn out has a lot to do with the competence of the attorneys. So, knowing that the moms and dads get a different level of help, how does that not suggest a built-in bias. MS. HOOD said that if she is understanding his question, he is assuming that the contracted attorneys aren't as well trained. SEN. WEINBERG said that he would have a reason to suggest that. MS. HOOD said that she is going to make their training available to everyone and for those people who engage in specialized cases, the Youth Court cases, the mental commitment cases, we will not enter into

any relationship unless they take the training.

TAPE 3B

SEN. WEINBERG said that he heard her say that sometimes you have to pull these attorneys in from the communities who are reluctant to take on these cases. On the one hand there are people who are passionate about those cases versus those who are reluctant to get involved. He said that he can't believe that they are playing on a level playing field. MS. HOOD said that she thinks that that is a problem but she also sees, based upon her discussions with various attorneys, that there are ways to get them involved, more interested and more willing. She said that part of it is a question of training. Because they also have a statewide system, they have the ability to move people around and there are some people who are doing cases in one location that will have to do cases in a nearby location too. She said that it is a question of using the resources in the best fashion and trying to get people excited to do certain kinds of cases.

REP. ROBERTS asked Ms. Hood if she finds that as a defender, would she rather have an attorney from the state who is well versed versus a county attorney who may not do a lot of these cases. MS. HOOD said that in any case when both sides are very competent and devoted to the role that they are performing, the case comes out better for everybody.

REP. ROBERTS asked Ms. Rafter that when dealing with people who have multiple treatment plans versus one in a county, is the success rate any more when they have three or four treatment plans or does the one get more adversarial and more focused and come out with a more dramatic resolution early on; and is a lot of time wasted trying to make all these different treatment plans successful for some of these individuals. MS. RAFTER said that that is hard to answer because of the time parameters that they have on their cases. She said that most cases around the state would not have had termination proceedings concluded by that time.

REP. ROBERTS said that in his field, some of these kids don't have power of attorney, nobody knows who can sign for them and yet they may need immediate care. He said that a lot of these kids have never had an adult whom they could trust and they don't know the person who has brought them to the office. He said that it is important to have a power of attorney designated.

SEN. O'NEIL asked Ms. Corbally and Judge Sherlock if they would be willing to give them their email and be included in the discussion of getting rid of some of the adversarial nature of those cases and if they thought it would improve the system. MS. CORBALLY said yes, she would.

SEN. ESP said that he heard Judge Sherlock say that as a judge, he can't be an advocate for anybody or any side in a case, and the Legislature has said that you are all working in this

system, and looking out for the children, it is best to keep the families together, so wouldn't that make him an advocate for the family. JUDGE SHERLOCK said yes, and that he didn't think there was any dispute that that is a role that they have been given. He said that what he was referring to was that judges have to be careful that they don't get on one side or the other because a lot of times, when it is presented to them, it is adversarial and he cannot become an advocate to either side.

SEN. ESP asked Ms. Rafter if she saw a need for statutory change in the process as how to deal with cases in locations where they don't have Drug Court or the treatment or resources to treat them. MS. RAFTER said that that isn't being done in places where they don't have the treatment facilities that take in both the moms and the kids. She said that she believes that there are only four or five in the state. In those areas, the reunification is not taking place because there is no secured facility where children's health and safety can be insured if they were unified with parents who are still trying to combat the effects of methamphetamine. She said that they can't handle themselves much less take care of children in that time frame. If you have those facilities like the Michelle House or the Gateway Facility, there are people there who can ensure the child's health and safety.

SEN. ESP asked if there is a proposal to duplicate these places or to fund programs that will help these families who are dealing with the meth issue to be able to keep their children. MS. RAFTER said that as far as she knows, there was a bill that was introduced in the 2001 Legislature by Roland Menna when he was director for AMDD, and he has talked about resurrecting that, but she did not know if he has made the decision yet to secure more funding to provide more of the treatment facilities for mothers and children to be reunited.

REP. FRANKLIN asked if there was an inherent, adversarial relationship when you set limits for the family, especially when there is substance abuse involved, and if there is a model that speaks to that. MS. CORBALLY said that there is a whole wealth of knowledge on how to work with that inherent conflict. She said that she didn't think that all these cases can be resolved without any conflict and there are ways in which you can handle that conflict that don't stall the system and don't stall the process.

SEN. WILLIAMS asked Ms. Jenks if anyone in her department has come up with a fiscal note if the state's attorneys took over these roles. She said that this has come up in the Law and Justice Interim Committee meetings and referred to the document "Update on Law and Justice Interim Committee Activities" (**EXHIBIT 5**). MS. JENKS said that they have not done a fiscal note, although a couple of sessions ago there were fiscal notes prepared, but nothing since.

REP. WARDEN asked Ms. Corbally to give examples of how children's rights are being trampled. MS. CORBALLY said that granting continuances without regard to the fact that a child is waiting for this proceeding to occur; what occurs at their initial hearings and at

termination hearings; older children in the system do not feel included; and the foster care system not providing stable placements; right to representation, like guardian ad litem, who would meet with the children.

REP. EATON said that she would like Ms. Corbally to follow up on the conflict sometimes between the definition of what is best for the child, and that has been defined as reunification with the parent, and then there is this whole systemic problem not only within DPHHS, but also within the courts that has battled with that definition. MS. CORBALLY asked if Rep. Eaton was asking about the battle between reunification being in the best interest of the child and that doesn't always seem like the attitude of the players. REP. EATON said that reunification is almost its own self-defeating prophecy where this whole court system is set up. MS. CORBALLY said that reunification is in the best interests of the child up until a certain point in time when you can't guarantee that permanent placement is going to happen and there is that waiting period. Another placement is better than waiting for permanency.

SEN. SCHMIDT asked Ms. Jenks if she thinks that recodification could be done before the next session, or would it take an interim study. MS. JENKS said that it would depend on how many people get involved, and how much time they would be willing to spend on it. She said that that would require looking at the statutes in other states and seeing what has worked and what hasn't. It needs to involve comment and input from practitioners, counselors, psychologists, chemical dependency counselors, and judges. It would be difficult to get it done by next session. Ms. Jenks said that it would have to be a study.

SEN. SCHMIDT asked Ms. Hood if she would prefer an adversarial model or a collaborative model. MS. HOOD said that there are many cases that are appropriate for family courts or drug treatment courts, but there are always going to be those cases where the parents do not agree that the initial allegations made are true, and that becomes an adversarial process and it needs to be one. MS. JENKS said that the adversarial system is as bad as some people think. She said that there are always going to be cases that will need to be decided by a judge and even if the judge rules against the parents, it is important that they were heard. When they know that they've been heard, they are better able to accept treatment.

PUBLIC COMMENT

SHIRLEY TIERNAN, Retired, submitted her written comments to the Committee (**EXHIBIT 6**) on Child and Family Services Division and foster care.

TAPE 4A

GYPSY RAY, Executive Director, Mountain Home Montana, Missoula, talked about Mountain Home Montana, which is a home for teenage mothers and the difficulties of placing teenagers in foster care. She also talked about Second Chance Home (**EXHIBIT 7**).

KATHY MCGOWAN, Big Brothers and Big Sisters, said that BB/BS is back in the Governor's budget after having been cut during the special session where everything was slashed. They are at 50% of what their historical budget was and this time what they worked with Child and Family Services to target the \$90,000 per year to high risk children. The Department of BB/BS are working together at the local level to identify the high risk children. She said that what can make a difference to them is some adult in their life that is solid and one whom they can depend on some longer term basis.

PAM BUCY, Assistant Attorney General, said she is at the Committee meeting on behalf of Attorney General McGrath and they support Ms. Jenks' idea and are willing to devote Department resources to a rewrite of the dependent neglect codes. She said that Mr. McGrath encourages an interim study.

KANDI MATTHEW-JENKINS, said that she has to apologize for being here again but she said it was an opportune time to bring her evidence from the families that they are trying to help, who can't be here because they don't ask for money and transportation is not provided for everyone. Ms. Matthew-Jenkins said that the basis of the laws are good but there are problems with those laws and the first problem that they see starts with the caseworkers who are making those opinionated judgments and are not following the law. She said that she and others would like to be included because they are the public that the law is going to be made or changed over; to be included in what those laws actually contain. She said that the main reason she has brought her evidence is because they are not being heard in a justified way, that they can't prove what they are saying. Ms. Matthew-Jenkins showed 1992 - 1994 compilations from parents and people who had come before committees and hearings before 1995 just previous to the committee that was assigned to study the department. She said that they reflect everything that they have been saying for the last five years that have not changed since the early 90s.

DAVID KOKLIN, Victor, talked about abuse of the situation towards families and his case and how it was handled.

COLLEEN MURPHY, Executive Director, Montana Chapter National Association of Social Workers, commented on the idea of the Hornby Zeller Study and what happened legislatively, and the effects of vicarious traumatization. She said that the most current data on child protective service salaries for Montana in 2000 was \$26,900; for Direct Service workers, \$27,500; in Montana, the minimum salary was \$25,975. She is concerned about their title being misused and their efforts to do this is part of the systemic change that betters the delivery of services for Child Protective Services. She wanted to say that the idea of "how long for children" has been debated. Conception of time is abstract for children, how long can they wait until reunification can occur is a concern to her because children are concrete thinkers; this instability is damaging.

PASTOR DAVID COOK, represent a ministry called CADIS. Mr. Cook summarized a document (**EXHIBIT 8**) on Miranda rights. He said that he would like Miranda rights for parents and stronger standards for Child Protective Services.

ANTHONY COLLIN, Victor, said that he was in foster care for three years and they abused him. He wanted to know where his rights are. He said the Department of Family Services should be shut down.

BRENDA NAY, Billings, said that she would like to ask a simple question; she heard from foster children and foster children who are now adults and are being productive. She said that as a foster child, she grew up alone and she has been out on her own and has made a life for herself against all odds. She said that she is non-alcoholic and not a drug addict and yet her children were removed and two weeks ago a judge had ordered termination of her parental rights because the abuse was so bad when she was a child that that has made her unfit and she is unable to get rid of that history of her life.

TAPE 4B

BETH BRENNEMAN, Attorney for the Montana Advocacy Program, said that she disagrees with Ms. Corbally's statement that some children whom we are talking about will end up in psychiatric residential treatment facilities and the state's child abuse and neglect duties end there. She said that is far from the truth but the problem that they have seen after close studies of kids' behavior health facility and oversight of that facility by the state, in the resources and the legislation that provide for the investigation and substantiation of abuse and neglect of children in those facilities, there are three entities that have those responsibilities to a greater or lesser degree, and because of historical and resource factors, they don't work together in a way that one would hope that they would work together. She said that she would offer assistance to the staff and this committee to identify those issues and putting together legislative fixes for the next legislative session.

PAT DAVIS, Psychologist from Great Falls, Member of Montana Psychological Association, said that a number of psychologists in Montana would like the Committee to be aware of the issue of parental capacity examinations that psychologists are called upon to conduct and the lack of psychologists who do this kind of work which results in delays in treatment plans moving forward because the plans are contingent on getting results of their psychological examinations.

SEN. SCHMIDT said that Deb Matteucci, Director of Montana Mental Health Association was unable to attend and sent her testimony (**EXHIBIT 9**) on service needs in Montana.

INTERIM STUDY SJ 41: MENTAL HEALTH CRISIS RESPONSE

VERN BISHOP, Great Falls

JOE MILL, Great Falls
KATHLEEN HARTMAN, Chester
MIKE MCLAUGHLIN, Great Falls
JAMES CLIFTON, Great Falls

VERN BISHOP started the presentation on Medicaid-funded Peer Support Services "Building a Recovery House" (**EXHIBIT 10**).

KATHLEEN HARTMAN, Chester, Montana, and Liberty County, presented her comments (**EXHIBIT 11**) on her mental illness and recovery and the Wellness Recovery Action Plan (WRAP).

JOE MOLL said that he was born with his problems, organic personality disorders. He said that the Medicaid buy in is important for the disabled community and will save money.

MIKE MCLAUGHLIN said that there is a definition of a peer in Exhibit 10 and talked about the accumulated wisdom of states that have developed peer programs. He said that there is supported data that is listed that shows some reduction in hospitalization from studies where people have received peer support. He said that the vision of their group is that mental health consumers will use their recovery skills to assist others. The mission is to utilize urban and rural consumers and other community resources to plan and implement a recovery oriented, Medicaid reimbursable, crisis peer support service that may become a statewide working model.

JAMES CLIFTON said that he works well with people because of the mental health system and the medication that he takes and that he came here to find out more about it and help become part of the Peer Support Program.

VERN BISHOP spoke on the qualifications of consumers for the Peer Support Program. KATHLEEN HARTMAN spoke on the recovery process. She said that a peer is someone who has had a significant life disruption due to mental illness. The heart and soul of Peer Support is consumers working with each other to encourage and benefit from the other person's experience and is a "learning together" program.

QUESTIONS

REP. ROBERTS asked how they envision the Medicaid buy in would work. MIKE MCLAUGHLIN said that what happens is that states look at the Medicaid process and if someone who is currently receiving Medicaid but are anticipating making above that amount for a period of time, that the state could then make that become essentially like an insurance premium and they determine what they believe that the person is likely to be making and what they would need to pay as a premium. Then that person makes a premium like a health insurance premium and basically buys their own Medicaid coverage. This is intended to

balance those costs and costs mutual and that person is then able to be a productive member of society, not only producing income but paying taxes.

SEN. O'NEIL asked if the Crisis Peer Support Planning and Implementation Committee going to be the same as or different than or competing with LAC. MIKE MCLAUGHLIN said that this is intended to be an oversight committee. He said that this would not be competitive with LAC program. KATHLEEN HARTMAN said that they have the support of the Great Falls LAC and many members are on both committees.

MOLLY PRATHERO, President of the Mental Health Association, Debbie Matteucci's representative, said that this would be a subcommittee of LAC. She said that when St. Peter's closed the support unit, she and some of her friends who have mental illnesses became frightened of the aspect of riding to Warm Springs in the back of a squad car with handcuffs on and they decided that they were not going to allow that to happen to the five of them. They formed a support group.

TAPE 5A

REP. WARDEN asked if the rest of the state was on board with creating a statewide model. MR. MCLAUGHLIN said that there has been some discussion among the other community mental health centers and, according to his survey, there is less need for some of the crisis services and facilities and this was an approach that other providers in communities and LACs have been very supportive of and very interested in.

REPRESENTATIVES OF LOCAL EFFORTS

CATHY DUNKS, Western Montana Mental Health Center, Administrator of the Adult Day Treatment Program at Silver House and Gilder House Crisis Home, Butte, said they are currently working on building a new crisis facility. She said there is a large need in the Butte Anaconda, Deer Lodge and Bozeman area for emergency detention beds outside of the hospital, as well as crisis stabilization for social detoxification. Ms. Dunks said that they are wanting to work this Committee and with the state to formulate a new set of regulations and guidance to make it work together.

CHERYL JORDAN talked about the first Gilder House, which was the state pilot project to see if a crisis house would work. She said that there is a need for crisis houses. She said that they now do co-occurring treatment within the crisis house. When they started, they just treated the seriously mentally ill and not those with chemical dependency issues. Now, they can treat the population who are both mentally ill and have chemical dependency issues. MHPs go out and do evaluations see many people who end up in the Montana State Hospital for emergency detention because there is not a secured facility or secured bed within the community to place

them in and keep them safe for 48 - 72 hours. She said that she encourages the Committee to work on developing rules and regulations, what types of things we need to look at, what we need to formulate to make this a positive project.

JOAN DALY, Director of Psychiatric Services, Billings Clinic, gave an update on the Crisis Facility. She said that they have almost completed the building, in the process of hiring staff, and hope to open at the end of April. She said that they plan on working with Deb Matteucci on a grant to do the peer to peer and sees that as an integral part of providing the crisis services in the facility and in the community in collaborating with the Mental Health Center on how that interfaces with their case management programs and all of the services that they currently provide.

QUESTIONS

SEN. WEINBERG asked Ms. Jordan to describe "secure facility". MS. JORDAN said that in the Gilder House there is a program where people come there voluntarily; they sign an agreement to stay there and complete their treatment and work with them to get stabilized. She said that many people who are in severe crisis do not have the ability to make that judgment and that is where the CRTs and the court step in and say that they need a secure facility to help them stay safe and get stabilized. Secure meaning a locked room, the ability to stay safe within your environment, get on medication to help stabilize.

INFORMATION FROM SERVICE AREA AUTHORITIES

JIM FITZGERALD, Executive Director of Intermountain, and Chair of Central SSA, gave an overview of the progress in the development of Service Area Authorities across the state. He said that all three are incorporated and two out of the three have permanent sitting boards; the central region will vote on to seat their board within the next month; they have been involved with the preferred drug list committee; they will have a role in reviewing proposals to the Division's RFP.

DEE HOLLEY, Eastern SAA, said that she is an advocate for families with mental illness. She discussed her son's case where he could not get the help he needed in Montana. She said that the biggest barriers to families is confidentiality where the families are not included on the treatment team. She said that the ESAA has the 17 board members; has written by-laws; has established several committees; financed legislative communications and board development and fundraising; has a functioning website and will be linking to the western and central and to the AMDD websites. The ESAA covers 26 counties and the biggest challenge is communicating with those in the eastern part of Montana who suffer from mental illness.

QUESTIONS

REP. ROBERTS asked Ms. Holley if she found that the regional centers have improved communication among the various parties in mental health. MS. HOLLEY said that she doesn't have any statistics, but communication helps and gets information out. REP. ROBERTS asked if tribes are represented on these regional councils. MS. HOLLEY said that they are in ESAA but more work is needed in that area.

AGENCY UPDATES

JOYCE DECUNZO, Addictive and Mental Disorders Division, Department of Public Health and Human Services, gave an update on DPHHS activities:

- Medicaid buy-in. The Department applied for and received a grant to develop a plan for the Medicaid buy-in to come before the Legislature after the 2007 session.
- Peer Support. High on the list of what people wanted when DPHHS did their listening tour. The Mental Health Oversight and Advisory Council chose the development of peer support services of one of three major initiatives that they are going to be working on.
- Montana State Hospital update. They opened another building on the State Hospital campus in order to increase the capacity to 209 and added 37 FTEs with the help of the Office of Budget and Program Planning to take care of the increased census.
- Home and community based services waiver program for individuals with serious disabling mental illness. The plan was to implement that program in January 2007. A person has been hired on a contract basis to develop a waiver to keep people home and out of nursing homes. **TAPE 5B**
- RFP for crisis response services for adults and services have to be co-occurring and there has to be an endorsement by SAA for any bidder. Proposals due on May 3. Up to \$875,000 is available for that; one-time only fund source; run for 13 months.
- Work with Department of Corrections. It was determined that it would be useful to have an individual work out of DOC and DPHHS who can work on an alignment of treatment modalities between the two department programs.
- EPP process. The requests are in from all the divisions but have not been reviewed by the Director or Deputy Director.

MARY DALTON, Administrator of Health Resource Division, gave an update on the following:

- CHIP program. They have extended a benefit package for children with emotional disturbances. In their respite benefit package, they are experimenting with 144 hours of respite to allow families to take long weekends. For therapeutic group care, family room and board component, as well as therapeutic care, will be paid by CHIP.
- Medicaid budget. They are in the EPP process.
- Looking at a waiver to serve children better in their community rather than in residential treatment in hospitals. It does not look like they will be able to count the residential

treatment costs into the waiver; they will only be able to look at hospital costs which means less money in the children system; then you only look at children served at Billings Deaconess and Shodair rather than those served at KPH or YBGR.

- Discussed the Deficit Reduction Act which allows 10 states to apply for a program that would allow money to be moved from residential treatment centers into community services. This starts in January 2007. They will be discussing this with CMS.
- Refinance foster care. From the Medicaid standpoint, the Deficit Reduction Act decided that Medicaid should not be paying for targeted case management for children in foster care. The federal government would like case management, if the child is in foster care, to be dunned back with the foster care agency. That bill passed effective January 2006 but nothing has come from CMS explaining what it is, how they were going to interpret the act.
- Case Management. *CASE MANAGEMENT DISCUSSION DOCUMENT* was discussed (**EXHIBIT 12**) which outlined the introduction for Children's Mental Health Bureau (CMHB), looking at what the consumer concerns were. Case management's goal should be moving toward providing services in homes, provide more training, help families become as self-sufficient as possible. Talked about utilization review component.
- Kid's Management Authority (KMA). Equivalent to SAA. KMAs are growing and up to 13 across the state to look at managing kid's services. There is a federal grant which allows funding for six KMAs to develop a better management system. There are three sites funded: Missoula, Crow Agency, Billings. An RFP is out to fund three more sites.

QUESTIONS

REP. ROBERTS asked if the CHIP's mental health relationship a 4-1 arrangement with the federal government. MS. DALTON said that it was and they are using the CHIP funding for that. As the FMAP moves on Medicaid, it will move on CHIP as well. REP. ROBERTS asked if it would be likely that CHIP will become part of the contract with Blue Cross/Blue Shield. MS. DALTON said that they did that as an extended benefit where they wrote it in such a way, if they needed to come in and cut that back if their projections were wrong, they would go back in and rewrite the state plan.

SEN. ESP asked Ms. DeCunzo if they are going to relocate the Watch Program some place on the Warm Springs campus or somewhere else completely. MS. DECUNZO said that the Department of Corrections has a need and a desire to place people in a higher level of care that have mental illnesses. The Watch Program has been working with their contractor of potentially moving off of the Warm Springs campus so the Doctor Xanthopoulos Building would be freed up to be used for other populations.

SEN. ESP asked Ms. DeCunzo if she anticipated that being a Corrections operation or a joint operation with some of her front people going there. MS. DECUNZO said that they have been

working and has had a few iterations of a memorandum of understanding. She said that if that move came to be, they will have one more place where they could have a line of treatment modalities that would be guided and administered by the State Hospital staff.

PUBLIC COMMENT

TYLER STEINEBACH, Superior, said that he would like to bring to the Committee's attention some problems he has encountered with the mental health care system. He gave a brief description of how his mental health problem built on his problems. He said that he would like a law passed for adolescents under the age of 18 that says everything that they have to give, allow patients to have and do all that stuff and to health facilities, and they broke pretty much everyone of these but there's nothing you can do about it. He would like, and speaking to other adolescents, he is here basically to say that, it needs to be plainly written that adolescents have the right to enforce these because the whole time he has been through all this and others who have been through it, basically you are under 18 so you can't do anything about it and that upsets him. As far as psych nurses go, he is very concerned that psych nurses can prescribe medications without using a psychiatric or psychologist or anybody to make a diagnosis. He thinks psych nurses should be like a physician assistants and have oversight.

PAT DAVIS, Psychologist, Great Falls, said he is here to bring a message from the Montana Psychological Association, that Montana psychologists would like to be of assistance to the Committee in their work by providing consultation or education, information in areas where the kind of information is needed. He talked about the issue of certified mental health professional persons, a particular type of certification which is available to mental health professionals in Montana. He said that something could be done to make the process of certification more accessible for the private practitioner; for psychologists to be considered exempt and designated as a certified mental health professional person, just as physicians are defined as certified in statute. That would make more examiners available on a more emergent basis to provide the type of examinations which are necessary for determinations of the need for or not of civil commitment of people.

TAPE 6A

JOHN WILKINSON, Rocky Mountain Development Council, gave a brief update on the efforts of the Helena, Lewis and Clark County area. He said that they are in the process of preparing an AMDD Request for Proposal. They are trying to develop an interlocal agreement between Lewis and Clark, Jefferson and Broadwater Counties for a development of a mental health crisis response program, including a voluntary facility and a crisis response team. They will be asking for support from county governments and St. Peters Hospital to have an element of peer support groups. They are looking at developing a comprehensive integrated strategic plan for crisis mental health services for the tri-county area inclusive of children and families, and bringing in developmental disabilities into the framework.

COLETTE GRAY, Community Advocate of Opportunities, Inc., Great Falls, said that she is here to voice their support for the proposal that Mike McLaughlin and Golden Triangle brought forth today. She said that Golden Triangle and Opportunities, Inc., share clients in their community and they are always working together to make sure that the connections and referrals are met.

JANI MCCALL, Montana Children's Initiative Provider Association, said that they continue to have a strong relationship and partnership with the Children's Mental Health Bureau and the Health Resources Division of the Department. She said that they have held true to their commitment to bring families and providers to the table, all stakeholders are involved in all aspects of services that they are providing, and they are doing a good job doing that.

BETH BRENNEMAN, Attorney, Montana Advocacy Program, said that it is remarkable the kinds of community programs what have been developed and are being developed to address mental health services. She said that it was interesting to look at that in contrast to the census issues at the Montana State Hospital. Those issues are with restraints, seclusion and conditions within the facility and when census is high, it is more and more difficult for the facility to provide the kinds of services that they would like to provide. They are concerned with budget requests from DPHHS to account for the census issues because those budget requests are going to be competing with budget requests for crisis facilities in communities. She said that her second concern is with suicide hotlines. There is no uniform practice to require that hotline number be with other hotline numbers, such as 9-1-1, Sheriff's access and ambulance. She suggested legislation to require that the suicide and mental health services access hotlines be in telephone books and resources are dedicated for that purpose.

CAMERON VULLES, Superior, member of LAC, talked about easy access to alcohol by the community's children; the mental health problems in his school that need to be addressed; that school authorities do not notice that there are issues important to state and the youth in the state; smaller communities don't have access to proper care and proper supervision by parents; need for counselors to prevent suicides and suicide attempts, alcoholism and substance abuse.

COLLEEN MURPHY, Executive Director of Montana Chapter of NASW, said that she is curious about the implications of the targeted case management that might leave the mental health budget and go to foster care. She thinks that this could benefit foster care. She asked why kids services are not all in one place.

QUESTIONS

SEN. ESP asked Rep. Franklin if psychiatric nurses having the ability to prescribe would be advanced practice nurses and can they prescribe without any oversight by doctors. REP. FRANKLIN said that advance practice registered nurses who have prescriptive authority's oversight are regulated by the Board of Nursing. In addition to being credentialed, they have a peer review process for chart review.

REP. WARDEN asked Mr. Davis when talking about being certified as a mental health professional, does he mean to say that an OB-GYN is automatically certified. MR. DAVIS said yes. REP. WARDEN asked Mr. Davis to elaborate on what impact would there be if they legislated automatic certification for psychologist, what good would that do for the state. MR. DAVIS said that there would be more mental health professionals available to conduct examinations on short notice than is presently the case. He said that one of the things that was suggested by one of the membership of the Montana Psychological Association was that if that change was made to statute, they would want to ensure that in the licensing process for psychologists and the licensing examination, an assessment of their relevant knowledge of the state public mental health system and of the statutes and rules that go into the civil commitment process, were examined as a part of the oral examination for licensure in psychology.

SEN. WEINBERG said that he has a sense that there is a consensus that some of the regulations would be clarified and updated. He asked Susan Fox how that can happen most efficiently if that is what the committee wants to have happen. REP. WARDEN said that he would like Mr. Davis to have input in that.

COMMITTEE WORK SESSION

SUSAN FOX discussed ideas for the Committee:

- doing a methamphetamine session in the June meeting
- discussion of recommendation to support recovery houses like Michelle House
- CASA training at the June meeting
- supporting matching funds for the Court Assessment Program
- rewriting of the statutes as suggested by Kathleen Jents
- David Niss work on a proposal for an interim study to look at statutes
- have a committee member at the May 11-12 Law and Justice meeting to represent CFHHS' interest on the county attorney study
- attend the Summit
- look at parameters of continuances

REP. WARDEN moved for a study commission to look at the issue of continuances, treatment guidelines and limited resources, rewrite statutes so that parents, advocates, attorneys, public defender, and county attorneys can understand. REP. EATON SECONDED, MOTION CARRIED.

TAPE 6B

ADJOURNMENT

SEN. SCHMIDT recessed at 5:10 p.m. to reconvene at 8:00 a.m. on March 31, 2006.

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