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Research Brief

TO: Senator Robert Myers
FROM: Chuck Burnham, Research Manager
DATE: June 16, 2023
RE: History of the Alaska State Citizen Review Panel
LRS Report 23-187

You asked for a history of the Alaska State Citizen Review Panel.

Briefly, the Citizens' Review Panel for Permanency Planning was created in 1990, and renamed in 1997, as the Citizens' Foster Care Review Board. The Review Board expired in 2000 when the sunset date was not extended. In 2005, it was reestablished in its current form, albeit with a somewhat different function, as the State Citizen Review Panel.

In 1990, the Alaska Legislature created the Citizens' Review Panel for Permanency Planning in the Department of Administration in order to establish a citizens' review process for children under state care in out-of-home placements (ch 117 SLA 1990). Legislators, public officials, and members of the public were concerned that children should not languish in out-of-home placements but should receive the benefits of a permanent home as soon as possible. The stated goal of the review process was to reunite children with their families when appropriate and in those cases where reunification was not in the best interest of the child, expeditiously place the child in a secure, permanent home. The legislation, HB 19, created a state panel as well as local panels for each judicial district. The state panel was responsible for overseeing the local panels and providing training for local panel members. The local panels were responsible for reviewing the case plan for each child in foster care or out-of-home placement.

According to the measure's sponsor, Representative Virginia Collins, 22 states had foster care citizen review boards, which had successfully reduced the number of children in custody, as well as the cost of case work services.¹ She noted that the state's internal review system had been strongly criticized "for lack of objectivity, lack of accountability, and lack of taking a more comprehensive approach."² In addition, in order to receive federal funds, the federal Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272) required a review of each child in foster care at least every six months by either a court or administrative review.³ Apparently, the Division of Family and Youth Services (DFYS) had been conducting some internal reviews to meet federal requirements; however, federal funds had been lost because the department was not entirely in compliance. According to Representative Collins, once the panels were meeting federal requirements, the DFYS internal reviews would be abolished.

We found only one mention in HB 19 committee minutes and bill files of a specific child-in-need situation. In the March 8, 1989, House Committee on Health, Education and Social Services meeting, Louise Howerter of Justice for Children, a national advocacy group, testifying in support of HB 19, cited a case in Alaska in which abuse of an 18-month old child had been detected but not acted upon, resulting later in the death of the child. Most testimony, however, referenced the inadequacies of the current system in general and the amount of time some children spent in out of home placements.

¹ Committee Minutes, March 8, 1989, House Committee on Health, Education and Social Services, <http://www.legis.state.ak.us/basis/folio.asp>.

² "Sponsor Statement of HB 19," House Committee on Health, Education and Social Services bill file for HB 19, Legislative Reference Library.

³ Each child's case was to be reviewed to evaluate the continuing necessity and appropriateness of the child's placement, the extent of the compliance with the child's case plan, and the extent of progress that had been made toward mitigating the causes that necessitated placement in foster care.

Several people testified on the importance of placing the review panels in the Governor's office or an agency separate from the Department of Health and Social Services, since part of the review process was to critique the system.⁴ Others testified that housing the panels in the Department of Administration could lead to potential conflict of interest because the Office of Public Advocacy and Public Defender's Office were also located there. Mike Nizich, Director of the Division of Administrative Services, testified that the Governor thought the panels should be under the purview of the Court System. Ultimately, lawmakers decided on the Department of Administration.⁵

A 1993 Legislative Audit of the Citizens' Review Panel for Permanency Planning cited Representative Collins explaining the reason for the panels as follows:

[T]here had been growing concern in the legislature about the lack of real oversight in children's welfare. There did not seem to be a mechanism in place to monitor a child's progress through the system. An early foster care review demonstration project was conducted in Anchorage in 1988 and funded by the Edna McConnell Clark Foundation. The project highlighted some systemic problems at the Department of Health and Social Services (DHSS), Division of Family and Youth Services (DYFS) which included a high turnover of social workers in DYFS, children had multiple foster care placements, and DYFS often had a large number of previous reports of abuse and neglect [of an individual child] before taking any action.⁶

In actuality, the panels were never implemented as intended. According to the audit report, Governor Steve Cowper began the process of appointing people to the state and local panels and the state panel held two meetings in December of 1990. In 1991, the new DOA commissioner under Governor Wally Hickel, looking to eliminate duplication in program services, surmised that the Citizens' Review Panel for Permanency Planning was not necessary if DHSS was doing its job. According to the DOA commissioner, he and the DHSS commissioner had reached an agreement that the panels would not be implemented and DHSS would handle foster care reviews internally. Accordingly, the panels were told they could not spend any additional funds. In 1992, the Legislature reappropriated the unexpended and unobligated balance from 1991 to fund the panels. The governor, however, vetoed the funding and additional funds were not requested in 1993. Because of the lack of funding, there were no meetings or case reviews held from January 1991 through June 1993.⁷

The 1990 act that created the Citizens' Review Panel for Permanency Planning called for a sunset date of June 30, 1994.⁸ The audit recommended the sunset date be extended until June 30, 1997, because DOA had received funds in FY 1994 to establish a pilot project in Anchorage with possibly three local panels but no funds to convene the state panel.⁹ In 1995, lawmakers passed HB 92 to extend the date of the review panels until June 30, 1997, in order to allow the Anchorage pilot panel to

⁴ For example, Corrine Radergrahm, from a foster care review board in Ketchikan, testified on March 8, 1989, in the House HESS Committee that the panel should be in the Governor's office.

⁵ Committee Minutes from the April 28, 1989 and January 23, 1990, meetings of the House Committee on Health, Education and Social Services, <http://www.legis.state.ak.us/basis/folio.asp>.

⁶ Legislative Audit, Department of Administration Citizens' Review Panel for Permanency Planning, September 1, 1993, p. 11. We include the audit report as Attachment A.

⁷ 1993 Legislative Audit, p. 13.

⁸ Sec. 3 ch 117 SLA 1990. Under AS 44.66.010(b), programs or boards that expire may continue to operate until June 30 of the next year to conclude their business.

⁹ 1993 Legislative Audit, p. 9.

proceed. The bill's sponsor, Representative Cynthia Toohey, explained that this extension would allow time for DOA to gather data on the pilot panel and determine its effectiveness.¹⁰

In 1996, the Legislature enacted a major revision of the juvenile code (ch 59 SLA 1996). As a result, a new Chapter 14 was created for juvenile programs and institutions. The enabling statutes for the Citizens' Review Panel for Permanency Planning were moved to the new Chapter 14 and renumbered accordingly as AS 47.14.200 – AS 47.14.299. The panel remained in the Department of Administration. The following year, the panel was renamed the Citizens' Foster Care Review Board and the sunset date was set as June 30, 2000 (ch 94 SLA 1997). The Citizens' Foster Care Review Board expired on June 30, 2000. In 2003, the review board's enabling statutes were repealed in a revisor's bill (ch 35 SLA 2003).

In 2005, as part of a Children's Services Omnibus bill (ch 64 SLA 2005), the Legislature reestablished the earlier state citizen and foster care review panels as the State Citizen Review Panel in accordance with federal law—the Child Abuse Prevention and Treatment Act (CAPTA) and Keeping Children and Families Safe Act of 2003.¹¹ The State Citizen Review Panel was placed in DHSS and the local review panels were eliminated.¹² The duties of the State Citizen Review Panel are somewhat different than the earlier panels in that the state panel is charged with reviewing and evaluating the practices and procedures of the Office of Children's Services (OCS) and making recommendations based on its findings (AS 47.14.215). In addition, the state panel conducts public outreach and gathers public comment on current OCS procedures and practices involving children and family services. The panel is required to meet every three months (AS 47.14.205).¹³ No statutes relevant to the Citizen Review Panel have been substantively added or amended since 2005.

We hope this is helpful. If you have questions or need additional information, please let us know.

¹⁰ Ch 5 SLA 1995. More information on HB 92 can be accessed at http://www.legis.state.ak.us/basis/get_bill.asp?session=19&bill=HB92.

¹¹ The Omnibus Bill that passed, HB 53, merged three bills that had been introduced dealing with children-in-need-of-aid. The CAPTA was originally signed into law in 1974 (P.L. 93-247). It was reauthorized in 2003 under P.L. 108-36.

¹² Legal Services Memorandum from Jean Mischel to then-Representative John Coghill, February 25, 2005. Bill File for HB 53, Legislative Reference Library.

¹³ More information on the State Citizens Review Panel can be accessed in its 2014 Annual Report, which is available at http://dhss.alaska.gov/ocs/Documents/Publications/pdf/2014_crp.pdf.

Audit Report

DEPARTMENT OF ADMINISTRATION
CITIZENS' REVIEW PANEL
FOR PERMANENCY PLANNING

September 1, 1993



Audit Control Number:

02-1420-93

Division of Legislative Audit

P.O. Box 113300, Juneau, Alaska 99811-3300

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September 1, 1993

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF ADMINISTRATION CITIZENS' REVIEW PANEL FOR PERMANENCY PLANNING

September 1, 1993

Audit Control Number

02-1420-93

The audit reports on whether the Citizens' Review Panel for Permanency Planning (the panel) should continue its existence. Currently AS 44.66.010 has the panel scheduled for termination on June 30, 1994 and provides the panel with a year in which to conclude its affairs. We recommend that the legislature extend the panel's termination date to June 30, 1997 with the provision that sufficient funds be appropriated to allow the pilot project in Anchorage to perform reviews that can be used to evaluate the economic feasibility and rate of success for citizens' reviews.

The audit was conducted in accordance with generally accepted government auditing standards. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are discussed in the Objectives, Scope, and Methodology section of this report.

A handwritten signature in cursive script, appearing to read "Randy S. Welker".

Randy S. Welker, CPA
Legislative Auditor

TABLE OF CONTENTS

	<u>Page</u>
Objectives, Scope, and Methodology	1
Organization and Function	3
Report Conclusions	7
Findings and Recommendations	9
Analysis of Public Need	11
Agency Responses:	
Department of Administration	17
Department of Health and Social Services	19

OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Citizens' Review Panel for Permanency Planning (the panel) to determine if it should continue in existence.

Objectives

As required by legislative intent, this report shall be considered during the legislative oversight function in determining whether the panel should be reestablished. The law currently specifies that the panel will terminate on June 30, 1994.

Scope

Since the panel was never implemented (see Report Conclusions on page 7) it has not been given an opportunity to demonstrate how it could operate in the public interest. However, continuing public support for the concept of citizens' reviews has led to a pilot panel project being started in Anchorage in fiscal year 1994. We have limited our review and report conclusions to addressing plans for the pilot project in Anchorage. We have limited our review of Department of Health and Social Services, Division of Family and Youth Services' (DFYS') internal case reviews to those being conducted in their Anchorage office for the southcentral region.

Methodology

During the course of our examination, we reviewed and evaluated the following:

1. Titles IV-B and IV-E of the Social Security Act.
2. Alaska Statute 47.10, Article 5.
3. Applicable sections of DFYS policies and procedures manual.
4. Budget documents.
5. DFYS case files at southcentral region.
6. Office of Management and Budget, *Foster Care Review Report No. 06-56*, January 1992.
7. National Association of Foster Care Reviewers, *An Overview of Early Foster Care Review*
8. National Association of Foster Care Reviewers, *An Overview of Citizen Involvement in Foster Care Review*

9. Office of the Ombudsman closed case file.
10. Minutes of panel meetings.
11. Interviews with people appointed to the panel.
12. Interviews with Department of Administration personnel.
13. Interviews with DFYS personnel.
14. Interviews with guardians ad litem.
15. Interview with a Master of the Children's Court.

ORGANIZATION AND FUNCTION

The law establishing the Citizens' Review Panel for Permanency Planning (the panel) was signed by Governor Cowper on June 14, 1990. The purpose of the act was to establish a citizens' review process in order to ensure that children do not linger in out-of-home placements, but receive the benefits of a permanent home. The goal of the act was to reunite children with their families. But in those cases where reunification was not in the best interest of the child, the process would expeditiously place the child in a secure, permanent home.

Duties of state and local panels

The panels, which were to be effective on July 1, 1990, were created in the Department of Administration. The panels would include both a state panel and several local panels. The state panel's statutory responsibilities include the following:

1. Adopting policies and procedures to carry out its duties and governing the performance of the duties of the local panels.
2. Ensuring that local panel members receive the minimum level of training necessary to effectively carry out their duties.
3. Coordinating and reviewing the activities of the local panels and making recommendations to the governor on appointments to the local panels.
4. Annually reporting (see sidebar for reporting requirements) to the legislature by the 10th day of each regular session, concerning the activities of the state and local panels during the previous fiscal year.

ANNUAL REPORT REQUIREMENTS

Each annual report must include the following information:

- a. the number of cases reviewed by each local panel;
 - b. a description of the characteristics of the children whose cases were reviewed by the panels;
 - c. the number of children reunited with their families;
 - d. the number of children placed in other permanent homes;
 - e. recommendations and justifications for program improvement, including recommendations relating to state agencies and to the panel review system; and
 - f. the report may contain other information on the experience of the local panels.
-

The local panels' statutory responsibilities include the following:

1. Reviewing the case plan of each child in the custody of the department who is in a placement other than the child's own home if the case is under the jurisdiction of a court in the judicial district served by the panel.

2. Reviewing a case as required under federal law [42 U.S.C. 671 - 675 (P.L. 96-272)] within 180 days after the day the child is initially removed from the child's home and every six months thereafter.
3. Providing, at least 30 days before it begins a review, written notice to designated persons that a review will be conducted and that each person notified may participate.
4. Considering the case plan, progress reports, and other relevant information including interviews with designated persons about the child and the child's family when reviewing a case.
5. Submitting a written report, which must make advisory recommendations based on the best interests of the child, to designated persons within 30 days after reviewing the case.
6. Providing information to the state panel for inclusion in the annual legislative report.

During their reviews a local panel must determine whether a child has a case plan designed to achieve placement in the least restrictive, most family-like setting available in close proximity to the home of the child's parents that is consistent with the best interests, special needs, and circumstances of the child. The local panel must evaluate the continuing necessity and appropriateness of the child's placement, the extent of the compliance with the child's case plan, and the extent of progress that has been made toward mitigating the causes that necessitated placement away from the child's parents. The local panel must ascertain the date by which it is likely the child may be returned to the home or placed for adoption or legal guardianship. The local panel must determine whether there has been compliance with applicable state and federal laws, court review requirements, and the Indian Child Welfare Act.

Membership on panels

The state panel consists of five voting members appointed by the governor from among present members of local panels with at least one voting state panel member from each judicial district. A person may not serve who has committed a felony or has contributed to the delinquency of a minor. Nonvoting members of the state panel include the commissioner of the Department of Health and Social Services, the director of the Office of Public Advocacy, the attorney general, the public defender, the chief justice of the Alaska Supreme Court, or their designees. The voting members serve staggered three year terms at the pleasure of the governor. A chair is elected by the voting members from among themselves. A quorum for the purpose of transacting business is established if three voting members are present and it takes an affirmative vote of at least three members to take any official action. The state panel must meet twice annually and members are entitled to reimbursement for actual expenses necessary to perform their duties as state panel members, which may not exceed the amount of per diem and expenses authorized for boards and commissions.

Local citizens' out-of-home care review panels are appointed by the governor for each judicial district. They are composed of five members and two alternates who are residents

of that judicial district. Members shall serve staggered three year terms. Members of local panels must have training, experience, special knowledge, or a demonstrated interest in the welfare of children. However, foster care providers; relatives providing care; and employees of the court system, the Department of Health and Social Services, the Office of Public Advocacy, the Public Defender Agency, or the Department of Law may not serve as members or alternates to local panels. A person may not serve who has committed a felony or has contributed to the delinquency of a minor. Local panels must be reasonably representative of the various social, economic, racial, ethnic, and cultural groups of the district.

The governor may create additional local panels because of number and complexity of caseloads or dissolve local panels because of reduced caseload, but the governor may not reduce the number of panels in each judicial district to fewer than one.

A chair is elected by the local members from among themselves. A quorum for the purpose of transacting business is established if a majority of members are present and it takes an affirmative vote of at least three members to take any official action. The local panels conduct their meetings in the judicial district in which the members reside and are not eligible for travel expenses unless the state panel requires a local member to travel to attend a meeting. In that situation the member is entitled to reimbursement for actual expenses, which may not exceed the amount of per diem and expenses authorized for boards and commissions.

State panel program coordinator and staff

The state panel may employ a program coordinator who shall serve at the pleasure of the state panel. The program coordinator shall employ staff as necessary to carry out the program coordinator's duties under state panel directives and to provide clerical assistance to local panels.

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REPORT CONCLUSIONS

The current executive administration campaigned on a philosophy of streamlining government. One aspect of streamlining government was to eliminate any duplication in program services. The former commissioner of the Department of Administration (DOA) chose to ignore legislative mandate and not implement the panels because he saw them as a duplication of the Department of Health and Social Services (DHSS), Division of Family and Youth Services' (DFYS') internal reviews. The commissioner's decision was supported when the governor vetoed funding for the panels the following fiscal year. However, the intent of the legislation that created the panels was that the duplicate efforts would only be temporary. Per the prime sponsor of the original legislation, once the panels were firmly established and had proven their ability to meet federal requirements, the DFYS internal reviews would be abolished.

Both DFYS' policies and procedures and statutes for the panels were written to meet the federal requirements in Title IV-B and IV-E of the Social Security Act. These sections of the act require that each child be reviewed at least once every six months to determine the continuing necessity and appropriateness of the placement, the extent of the compliance with the case plan, and the extent of progress made toward alleviating the causes necessitating the placement in foster care. The panels have an additional objective as stated in the findings and purpose of the originating legislation. The bill stated, "*The purpose of this Act is to establish a citizens' review process in order to ensure that children do not linger unnecessarily in out-of-home placements, but rather that they receive the support and benefits of a permanent home.*"

While in fiscal year 1993 DFYS passed a federal IV-B audit for the first time which indicates compliance with the federal requirements, our review of case files in the southcentral region indicate that one federal requirement is not being met. We found that it is rare for the review panel to project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship. Also, we did not find DFYS' internal reviews fulfilling the entire objectives of the State's statutes. State statutes specifically call for a "citizen review process." DFYS tries to get one community member on its review team of three, but in 29% of the southcentral cases we reviewed, all the case team members were DFYS employees.

In spite of a stated commitment to creating the panels, this administration has been slow to provide adequate funding for DOA to comply with its statutory duty (see Analysis of Public Need page 11). In a January 1992 Office of Management and Budget audit on Foster Care Review, both DOA and DHSS agreed to work together to coordinate and implement the foster care review panels. In their response to the audit, DOA stated, "*that Alaska Statute 47.10.400 obligates DOA to establish external review panels. While final decisions have not been made on the method of implementation, DOA will go forward with the review panels.*" In their response, DHSS stressed the importance of a foster care review system that made recommendations on improving services to children and did not just become a vocal critic of DHSS. DHSS agreed to work together with DOA in coordinating the foster care

case review process and agreed, *"that review panels can improve the quality of support the agency provides to foster children, improve placement accountability, and enhance community awareness."*

For fiscal year 1994 DOA has received \$125,000 to establish a pilot project in Anchorage with possibly three local panels. The pilot project is to demonstrate the feasibility of external reviews and to provide sufficient data to determine what impact the panels would have on permanency planning. It is the goal of the pilot project to get the most number of reviews done as possible while still meeting the objectives of a meaningful involvement of all interested parties. This pilot project should also provide the financial data necessary to determine how much is sufficient to adequately comply with the law.

Currently AS 44.66.010 has the panel scheduled for termination on June 30, 1994 and provides the panel with a year in which to conclude its affairs. We recommend that the legislature consider legislation that extends the panel's termination date to June 30, 1997 with the provision that sufficient funds be appropriated to allow the pilot project in Anchorage to perform reviews that can be used to evaluate the economic feasibility and rate of success for citizens' reviews (see Recommendation No. 1). We believe that three years worth of data should be sufficient to determine whether the panels can meet federal requirements and achieve real permanency planning for children.

If the data from the pilot project shows that citizens' review panels are effective both in cost savings and reducing the length of time children remain in foster care, then decisions need to be made on whether and how to expand the panels to other regions in Alaska. Each area will have its own unique logistical and program problems to overcome. Also, if the citizens' reviews prove to meet federal requirements, DFYS will be able to stop their internal review process and concentrate their resources on case management.

As discussed in Recommendation No. 2, either DOA will have to purchase and implement its own database to track the placement of children to determine the feasibility of the panels or DHSS' existing case database will need to be modified to provide the necessary tracking information. It is our opinion that it would make more sense for DHSS' existing database to be modified as this should be more cost effective.

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The legislature should extend the Citizens' Review Panel for Permanency Planning's (the panel's) termination date to June 30, 1997 with the provision that sufficient funds be appropriated to allow the pilot project in Anchorage to perform reviews that can be used to evaluate the economic feasibility and rate of success for citizens' reviews.

Although the enabling legislation for the establishment of citizens' review panels was passed in 1990, the Department of Administration (DOA) originally made a decision to not implement the panels. It has only been in fiscal year 1994, the year the panels are scheduled to sunset, that DOA is implementing pilot panels in one Alaskan city, Anchorage. Because the panels were never established, there are no activities to analyze to determine the panels' effectiveness.

The Department of Health and Social Services (DHSS), Division of Family and Youth Services (DFYS) has been performing permanency planning reviews to meet federal requirements. However, as explained in the Analysis of Public Need section of this report, we do not find DFYS' internal reviews fulfilling the entire objectives of the State's statutes, which establish an external review process. Alaska Statute 47.10, Article 5 specifically creates a Citizens' Review Panel for Permanency Planning and prescribes the duties, appointments, and reporting requirements of the panels.

There also remains a perception among foster care providers, guardians ad litem, court system personnel, and the general public that DFYS' internal reviews do not achieve real permanency planning for children and there continues to be widespread support for citizens' review panels. Because of this perceived need, we believe that the Anchorage pilot project in citizens' panels should be continued until June 1997 to gather data to determine the panels' effectiveness. The pilot project needs to implement a system that meets federal requirements and achieves real permanency planning for children. Effectiveness can be measured by the length of time children remain in foster care and by savings associated with children no longer being part of the foster care system.

If the data from the pilot project shows that citizens' review panels are effective, then decisions need to be made on whether and how to expand the panels to other regions in Alaska. Also, if the citizens' reviews prove to meet federal requirements, DFYS will be able to stop their internal review process and concentrate their resources on case management. DOA should pursue the possibility of receiving federal funding for the activities of the citizens' panels.

Recommendation No. 2

DOA and DFYS should work together to create a reliable database and software program that provides management reports that can be used to track individual cases in an efficient manner and be used to determine the effectiveness of case reviews for permanency planning.

Regardless of whether case reviews for permanency planning are done internally by DFYS or externally by citizens' review panels, it is important that the effectiveness of the case reviews be determined. There needs to be a computer system either in DOA or in DFYS to track information about how long children have been out-of-home, the number of cases reviewed, and the eventual placement of the children.

While DFYS has a database on which information on its cases is kept, this database has not been used as a management tool for permanency planning case review. The database is set up by families rather than by child so it is not easy to generate reports that provide information on a child's placement and length of time in each placement situation. DFYS refers to its finally passing a Title IV-B of the Social Security Act audit as evidence of the effectiveness of its internal review system. The DFYS system, however, does not provide all the necessary information to demonstrate an effective internal review. The database does not provide information on the number of children who have been permanently placed as a result of a review or in cost savings generated by children who are no longer in foster care.

The Anchorage pilot project in citizens' review panels will need to determine its effectiveness by the number of children who are permanently placed and any resulting cost savings by the children no longer being in foster care. Ideally, rather than DOA having the expense of developing their own database to generate this information, DFYS' database could be updated so that management reports on review effectiveness could be available. It would also be of great value to compare recommendations made by DFYS' internal review to permanency planning recommendations made by Anchorage's pilot panels and see which form of oversight results in more effective and timely permanent placement for children.

ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analyses of board activities relate to the public need factors defined in the "sunset" law, Alaska Statute 44.66.050. These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

The extent to which the board, commission, or program has operated in the public interest.

The Citizens' Review Panel for Permanency Planning (the panel) has never had an opportunity to demonstrate how it could operate in the public interest, because the program has never been fully implemented. However, there was widespread legislative support for the panel at the time of the bill passage and there continues to be both legislative and public interest in the need for the panel.

The bill, which was introduced in the house, had wide bi-partisan support. In addition to the prime sponsor who was republican, there were 11 co-sponsors with members from both the democratic and republican parties. The bill passed the house with a vote of 34 in favor, 3 excused, and 3 absences. The bill passed the senate with 16 in favor and 4 absences. One of the co-sponsors stated that it is rare to get that kind of consensus on an issue like child foster care that is so explosive.

The prime sponsor of the bill explained that there had been growing concern in the legislature about the lack of real oversight in children's welfare. There did not seem to be a mechanism in place to monitor a child's progress through the system. An early foster care review demonstration project was conducted in Anchorage in 1988 and funded by the Edna McConnell Clark Foundation. The project highlighted some systemic problems at the Department of Health and Social Services (DHSS), Division of Family and Youth Services (DFYS) which included a high turnover of social workers in DFYS, children had multiple foster care placements, and DFYS often had a large number of previous reports of abuse and neglect before taking any action.

The National Association of Foster Care Reviewers reports in *An Overview of Citizen Involvement in Foster Care Review* that other states who had the same problems created Foster Care Review Boards and felt that they had seen obvious benefits. Those states reported that case plans were being written, children were not languishing in the system but were being placed or returned to families sooner, and there was an overall savings to the system as more children were no longer in state custody.

The prime sponsor said that there is a fragile system to assist children. Cases are sealed by the court to protect the confidentiality of children and parents which results in a cloak of

confidentiality. Although there are many layers to assist children, the cloak of confidentiality causes fragmentation and lack of communication between the various elements. She did not want to scuttle everything and start over, but wanted instead to connect the existing elements. She saw the panels as a means to bring all the parties involved in the child's welfare together.

As explained in following sections, the panels were never implemented to the extent that external case reviews were held. Instead, DFYS has continued to conduct internal case reviews. Guardians ad litem who have had recent experience with DFYS' internal reviews report that they are superficial paperwork reviews rather than achieving real permanency planning for children. This perception seems accurate as DFYS has not had adequate resources to devote to case review. DFYS has not provided a clerical staff to handle sending out case review notices to interested parties. The lack of a clerical staff means that already overworked social workers have to send notice. These parties complain that they either do not receive notice or receive it too late to attend the meeting. When interested parties do attend, two hours may be necessary to achieve real dialogue and understanding on everyone's part but each review is limited to half an hour. In addition, DFYS' computer database does not provide information that can be used as management tools for case reviews.

There continues to be widespread support for citizens' review panels. Foster care providers, members of the court system, and guardians ad litem all express a need for external reviews conducted by community members. The guardians ad litem, who are appointed by the court to represent the best interest of the child, offered their perspective on how external panels could improve the case review system. Suggested benefits include:

- ◆ It would raise community awareness and education on what happens to children in state custody.
- ◆ Community members who have an understanding of the issues could document and lobby for needed changes and funding.
- ◆ The case reviews need to be more coordinated with the court; sometimes the two seem completely divorced.
- ◆ The citizens' reviews would have to eventually take over the DFYS review function and this would free up social workers so that they could do better case management.

A Master of the Children's Court offered additional perspective on how external panels could improve the case review system. He explained that courts do not have as much power as people think. Courts can make DFYS accountable to follow its case plans, but the court cannot order DFYS to make certain placements. Courts are limited by the rules of evidence; the court can only hear what is presented and DFYS' internal reviews do not become part of what the court hears. However, citizens' reviews could be entered into the court package by the guardians ad litem. The external panels can ask the type of probing questions that the court cannot. The citizens' reports could become important in that they will highlight any breakdown in the process to assist the child.

The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters.

As stated previously, the panel was never fully implemented. After the bill was signed into law, Governor Cowper began the process of appointing people to the state and local panels. By December of 1990 the state panel had been formed and the first meeting of the panel was held in Anchorage. The two-day meeting included discussion on hiring an executive director, training needs for the panels, and the design of the review process. A second meeting was held later in the same month by teleconference. At this second meeting, the past president of the National Association of Foster Care Reviewers offered advice for establishing Alaska's panel system based on the experience of her state of Nebraska. The third meeting of the panel which had been scheduled for January 1991 was never held.

The new executive administration that had taken office had campaigned on a philosophy of streamlining government. One aspect of streamlining government was to eliminate any duplication in program services. The newly appointed commissioner of the Department of Administration (DOA) felt that the Citizens' Review Panel for Permanency Planning would not be necessary if DHSS was doing its job adequately. In the early months of 1991, the commissioner of DOA felt that he and the commissioner of DHSS had reached an agreement that the panels would not be implemented and that DHSS would handle child case reviews internally.

The panels, which were housed in DOA, were told that they could not spend any additional funds. An administrative assistant, who had already been hired, continued to draw her salary for a few additional months. There had already been some expenditures for travel and honoraria for the one Anchorage meeting and small expenditures for supplies. By the end of fiscal year 1991, only \$36,500 had been spent against an appropriation of \$570,800.

For fiscal year 1992 the legislature reappropriated the unexpended and unobligated balance of the 1991 appropriation. However, the governor used his power of line item veto to eliminate this funding for the panels. There was no funding requested for the panels in fiscal year 1993. Because of the lack of funding provided for the panels, there were no additional meetings and no case reviews were held from January 1991 through June 1993.

In fiscal year 1994 DOA has received \$125,000 *"to fund partial implementation of external permanency planning of DFYS clients as directed in AS 47.10.400-490."* The deputy commissioner of DOA plans to establish a pilot project in Anchorage with possibly three local panels. For the time being, there will not be a state panel established. The deputy commissioner plans to have her panels receive their primary training by the Office of Public Advocacy. DFYS will also be asked to provide some training and the court will be asked to discuss the court process.

The pilot project is to demonstrate the feasibility of external reviews and to provide sufficient data to determine what impact the panels would have on permanency planning. It is the goal

of the pilot project to get the most number of reviews done as possible while still meeting the objectives of a meaningful involvement of all interested parties. For this reason, the deputy commissioner plans to have the panels meet three days a week and review four cases each day. DFYS internal reviews are held four days a week with each case only scheduled for half an hour.

The extent to which the board, commission, or agency has recommended statutory changes that are generally of benefit to the public interest.

Due to the lack of funding for the panel, there have not been any statutory changes recommended.

The extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service that it has provided.

Due to the lack of funding for the panel, interested persons have not been able to use the panel as a forum to discuss the effect of regulations.

The extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.

The public has not had the opportunity to be involved in making regulations and decisions.

The efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the Office of the Ombudsman have been processed and resolved.

Naturally, since the panels were not established, there have been no complaints filed about its activities. However, eighteen complaints handled by the Office of the Ombudsman regarding DFYS since the date the panels should have been effective were directly related to the involvement of interested parties and communication of results in regards to permanency planning. The statutes establishing the panels were specifically designed to address problems in these areas. These eighteen complaints might have been avoided had the local panels been conducting the case reviews instead of DFYS.

The extent to which the board or commission which regulated entry into an occupation or profession has presented qualified applicants to serve the public.

Given the nature of the panel, this element of the public need analysis is deemed not applicable to the panel's activities.

The extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area of activity or interest.

Given the nature of the panel, this element of the public need analysis is deemed not applicable to the panel's activities.

The extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board, or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

DOA needs sufficient funds appropriated to allow it to gather data from its Anchorage pilot project for three years. The pilot project should provide the financial data necessary to determine how much it could potentially cost to create external local panels throughout the State. We believe that DOA's approach of starting in Anchorage and slowly expanding to other communities is reasonable.

Alaska needs to study the possibility of receiving federal funding for the external panels. If the local panels are eventually established throughout Alaska, we expect the cost of the program may exceed \$1 million. There would need to be money assigned to hire an administrator and a clerical support system to schedule meeting times and places. There needs to be a management information system in either DOA or DFYS to track information about how long children have been out-of-home, the number of cases reviewed, and the eventual placement of the children.

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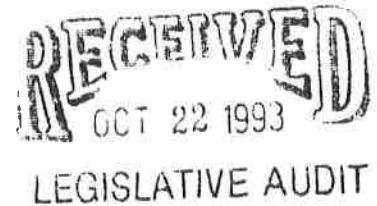
DEPARTMENT OF ADMINISTRATION

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October 22, 1993

Mr. Randy Welker, CPA
Division of Legislative Audit
P.O. Box 113300
Juneau, AK 99811-3300



Dear Mr. Welker:

Thank you for the opportunity to respond to your recommendations concerning the sunset review of the Citizen's Review Panel for Permanency Planning. We appreciate the thorough review by your staff.

Recommendation No. 1

The legislature should extend the Citizens' review Panel for Permanency Planning's (the panel's) termination date to June 30, 1997, with the provision that sufficient funds be appropriated to allow the pilot project in Anchorage to perform reviews that can be used to evaluate the economic feasibility and rate of success for citizens' reviews.

Response:

External reviews of children in foster care are scheduled to begin under the project the first week of December. While the expectation is that many reviews can be accomplished, that will not be known until the panel members are assembled and a time commitment can be obtained. We agree that there should eventually be no duplication of reviews by DFYS and the external review panels and federal funding should be available to the agency completing the review. This department recommends the continuation of the model project for an additional year. This will provide the opportunity for multiple reviews of some of the same children and given better data for evaluation of the model project for broader implementation, if warranted.

Randy Welker

-2-

October 22, 1993

Recommendation No. 2

DOA and DFYS should work together to create a reliable database and software program that provides management reports that can be used to track individual cases in an efficient manner and be used to determine the effectiveness of case reviews for permanency planning.

Response:

DOA agrees that tracking outcomes is very important.

Sincerely,



Nancy Bear Usera
Commissioner

NBU/nl

cc: Dr. Theodore Mala
Commissioner
Department of Health & Social Services

Roberley Waldron
Deputy Commissioner
Department of Administration

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October 15, 1993

Randy S. Welker
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Legislative Budget and Audit Committee
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RECEIVED
OCT 20 1993
LEGISLATIVE AUDIT

Dear Mr. Welker:

Thank you for your letter of September 21, 1993, requesting this department's response to your preliminary audit report on:

**Department of Administration, Citizens' Review Panel for
Permanency Planning, September 1, 1993.**

This department takes no position regarding your recommendations concerning the Citizen Review Panels within the Department of Administration. However, I do welcome the opportunity to comment on inaccuracies and offer opinions in response to some of the information and recommendations regarding the Division of Family and Youth Services (DFYS).

We agree that the DFYS internal reviews do not fulfill the entire objectives of the State's statutes since they do not utilize a "citizen review process". DFYS reviews were established only to meet the intent and requirements of federal law.

While the federal law only requires that at least one person on the panel cannot be involved in provision of specific case service, all DFYS offices attempt to involve one citizen on each review panel. The Anchorage office conducts these reviews 3.5 to 4 days per week every week at the rate of 7 each day for a total of over 1,200 per year. This large number of reviews makes it difficult to recruit enough volunteers to have a community member at each review. In fact, having a community member present in 71% of the reviews is a sizeable accomplishment.

It is true that the case reviews conducted in Anchorage are, unfortunately, limited in the amount of time allotted to each one. Given the large number cases which must be reviewed each month, DFYS has not been able to schedule more time for each review. The reality is that DFYS has been scheduling and conducting reviews to meet federal requirements without the addition of any additional resources.

Randy S. Welker
October 15, 1993
Page two

We will not dispute your discovery that most of the reviews did not project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship. DFYS will issue a policy clarification and provide training to correct that oversight.

It is unfortunate that your staff did not discuss the capabilities of the division's data system with any of the key staff most knowledgeable about that system. The division's primary management information system, PROBER, does in fact track out-of-home care by individual child by care type. Time or duration in out-of-home care is available from the current system and various management reports that describe out-of-home care are published monthly. In addition, management information and reports are under development that will measure a number of parameters that will provide feedback as we implement a family centered focus. Reports are used at the local office level and provide social workers and supervisors with upcoming case review dates and placement history.

Your report suggests that DFYS alter its current data system to collect information for the current pilot project. The pilot project suggested will require a research approach to data collection if the questions posed are intended to be answered. If time in out-of-home care is one of the effectiveness parameters chosen and the intent is to show a statistical difference between "status quo" and the proposed review panel approach, there will need to be a structured, well-defined research effort implemented. It is from a research project perspective that the most appropriate choice for a database system will be defined. It is, therefore, premature to suggest that changing DFYS's current system is a likely alternative. The division's complex system was carefully developed, and is just as carefully adjusted, to meet a wide variety of needs, including federal reporting requirements. To suggest a costly change in that system to meet the needs of a demonstration project is incomprehensible. A more plausible scenario is the development of a specific information system (database), with linkages to DFYS's information system, that addresses not only the data needs of the research project but the management information needs of the program coordinator as well as the review panel itself.

The research you propose must also take care to account for gains already made by the division's internal review system. The attached chart indicates that foster care has been decreasing as subsidized adoptions and guardianships have increased. In short, the division has already improved efforts at permanency planning, and any research project must adequately account for programs and efforts already in place.

Randy S. Welker
October 15, 1993
Page three

Our major concern, should this project proceed, is one of funding. \$100,000 of the \$125,000 funded for the pilot project was transferred by the legislature from the Division of Family and Youth Services. [REDACTED]

[REDACTED]. As I stated above, DFYS has established and been refining the internal review system with no additional funds but as an additional responsibility of existing staff. Those reviews must continue for compliance with federal law while the Department of Administration undertakes this project. The division simply can not incur the loss of any more funds to this project.

Sincerely,



Theodore A. Mala, MD, MPH
Commissioner

Handwritten note:
10/15/93
Randy Welker

FOSTER CARE FTE HISTORY & PROJECTION

