

ALASKA STATE LEGISLATURE
SENATE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

February 26, 2018

1:30 p.m.

MEMBERS PRESENT

Senator David Wilson, Chair
Senator Natasha von Imhof, Vice Chair
Senator Cathy Giessel
Senator Peter Micciche
Senator Tom Begich

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CITIZEN REVIEW PANEL PRESENTATION ON THE DEPARTMENT OF HEALTH
AND SOCIAL SERVICES OFFICE OF CHILDREN'S SERVICES

- HEARD

SENATE BILL NO. 122

"An Act repealing the authority for a child abuse or neglect
citizen review panel in the Department of Health and Social
Services; and establishing the Child Protection Citizen Review
Panel in the office of the ombudsman."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 122

SHORT TITLE: OCS CITIZEN REVIEW PANEL

SPONSOR(s): SENATOR(s) COGHILL

05/17/17	(S)	READ THE FIRST TIME - REFERRALS
05/17/17	(S)	HSS, JUD, FIN
02/26/18	(S)	HSS AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

DIWAKAR VADAPALLI, Ph.D., Chair
Alaska Citizen Review Panel (CRP);

Assistant Professor of Public Policy
Institute of Social and Economic Research (ISER)
University of Alaska Anchorage
Anchorage, Alaska

POSITION STATEMENT: Presented Alaska Citizen Review Panel.

RYNNIEVA MOSS, Staff
Senator John Coghill
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented SB 122 on behalf of the sponsor.

KATE BURKHART
State Ombudsman
Alaska Office of the Ombudsman
Juneau, Alaska

POSITION STATEMENT: Commented on SB 122.

ACTION NARRATIVE

[1:30:29 PM](#)

CHAIR DAVID WILSON called the Senate Health and Social Services Standing Committee meeting to order at 1:30 p.m. Present at the call to order were Senators Giessel, Begich, von Imhoff, and Chair Wilson. Senator Micciche arrived soon thereafter.

CITIZEN REVIEW PANEL PRESENTATION ON THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES OFFICE OF CHILDREN'S SERVICES

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CHAIR WILSON announced the business before the committee would be a presentation from the Citizen Review Panel.

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DIWAKAR VADAPALLI, Ph.D., Chair, Alaska Citizen Review Panel (CRP) and Assistant Professor of Public Policy, Institute of Social and Economic Research (ISER), University of Alaska Anchorage, presented Alaska Citizen Review Panel. He noted that this is his fifth year as chair of the panel.

He gave the presentation outline.

- Goals and recommendations from 2016-2017
- Goals for 2017-2018
- Recent attempts to improve CRP-OCS collaboration
- Way forward

DR. VADAPALLI said this was the second presentation in the 15 years of the panel's existence. In his presentation, he will focus on challenges that led to SB 122. In a letter last week, Alaska's ombudsman expressed support for the potential move of the Citizen Review Panel (CRP) as intended by SB 122. He will try to present his views on the work of the CRP in a way that complements the bill.

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DR. VADAPALLI presented Goals 2015-2016.

- **GOAL 1:** Explore the evolving relationships between Tribal organizations and OCS.
- **GOAL 2:** Review the implementation of the OCS grievance policy
- **GOAL 3:** Develop and disseminate public awareness materials on OCS' intake and IA processes
- **GOAL 4:** Evaluate the efficacy and effectiveness of the new administrative review process

The CRP annual work plan is available at crpalaska.org. The goals were pursued through policy review, data analysis, discussions with more than 100 individuals in key positions, and OCS leadership. The next slides will present recommendations that came from these goals.

He presented OCS-Tribal Relationships.

Recommendation 1: Consider assigning the CRP a significant role in implementing various priority areas of "Transforming Child Welfare Outcomes for Alaska Native Children: Strategic Plan 2016-2020". With its statutory authority, CRP will be an asset for OCS in implementing this strategic plan.

DR. VADAPALLI said everyone is aware that there has been a lot of activity around providing a better structure of OCS-tribal relationships and recognizing the inherent ability of Alaska Native tribes to address endemic challenges of child maltreatment within their communities. CRP has long been focused with OCS-tribal relationships. Specific recommendations in past years have addressed the structure of OCS-tribal relationships and the relationships on the front lines between OCS workers and tribal ICWA [Indian Child Welfare Act] workers. CRP has been surveying ICWA workers every year about their relationships with OCS workers. Although CRP was not party to the conversations in preparation of Transforming Child Welfare Outcomes for Alaska

Native Children: Strategic Plan 2016-2020, the panel was invited as a stakeholder to participate in work groups to implement plans in the six priority areas. That was a welcome development, but this invitation to participate in the work group activities implies that CRP is a stakeholder group like any other group or individual interested in OCS. On the contrary, CRP is not a stakeholder group. It cannot dial in whenever it is interested. It has a statutory responsibility. It is a mechanism to facilitate public participation in OCS policy and practice.

DR. VADAPALLI said currently CRP has been engaged in the community engagement work group, one of the six work groups. The work group identified two specific projects, a joint effort to survey all the ICWA workers and a townhall meeting with stakeholders as part of the CRP site visits. These are developing, collaborative projects between CRP and OCS. It is accurate to say that CRP identified these two projects, persuaded OCS, and is leading the effort to make them happen.

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He presented the OCS Grievance Policy.

Recommendation 2: Speed up the process and implement the new tracking system by December 2017

Recommendation 3: Establish adequate connection between a case file and any related grievances, with necessary protection for worker identity.

Recommendation 4: Publish monthly aggregate data on number of grievances received, nature of those grievances, and time to resolution of those grievances online.

He said OCS grievance policy continues to be under the microscope since the 2012 ombudsman's report calling for a complete overhaul. CRP continues to hear from stakeholders that the new policy is no more effective than the old. That led them to examine the policy and implementation in 2016. CRP found grievances are not being tracked from beginning to end, as was intended. None of information collected around grievances is public. OCS is waiting for a software update to track the grievances and their resolutions. CRP recommended that there be a link between a case file and any associated grievances with adequate protections for worker identity. The logic is that if new workers take over a case, they need to know the grievance history. Not knowing any grievance history can be detrimental to

a new worker's effectiveness. Aggregate data on grievances should be available to the public.

DR. VADAPALLI said grievances are often considered confidential and most of it is not available for public view. There is a general perception that all OCS data is confidential. There are ways to ensure confidentiality through aggregate data--masking anything lower than 20 (or another number) while publishing aggregate data. In research masking numbers lower than 20 is common practice.

He said current legislation specifies certain data indicators that OCS must publish. The focus of that legislation seems to be forcing OCS to release certain data. Instead, if OCS is required to publish all data while protecting individual privacy, that would allow more public awareness and knowledge of what OCS is working with, the challenges associated with their work, and how anyone can help them resolve those challenges.

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DR. VADAPALLI presented CRP Structure and Functions.

Recommendation 5: OCS should work with CRP to strengthen CRP's ability as a robust mechanism for public participation, and rely on it to improve public awareness of the nature and content of OCS work.

Recommendation 6: OCS should continue to work with CRP to identify a clear working relationship under the participatory evaluation framework.

He said these two recommendations bring them to SB 122. CRP and OCS have had a rocky relationship due to multiple factors. An overwhelming factor is the lack of oversight about this relationship. CRP existed for several years without any regulation, evolving as its members saw fit with a budget that was stuck at \$100,000 a year. While Alaska CRP has enjoyed the attention of top leadership at OCS and the legislature (no other CRP has garnered such attention consistently across the country), it has been hard to establish the impact of CRP in Alaska. The purpose of CRP and its relationship to OCS has been unclear and haphazard. Neither the federal nor state statutes provide any specifics on that issue. No one ever questioned the lack of regulation of CRP despite a clear legislative mandate for such regulation.

Every year since 2002 OCS and CRP religiously submitted their reports on time. The question that was seldom posed was, "So what?" Recommendations 5 and 6 are a result of posing the question. Alaska's CRP had one of the most significant impacts that any CRP could have had, creation of the Western Region, but not a single document acknowledges it or a single action that built on that momentum. One of the basic principles of community action is to ride such momentum toward greater impact. It appears that each opportunity is let go and OCS notes that it cannot burden the CRP system further because it is already lacking in capacity.

He described that reasoning as convoluted. The state should invest in mechanisms that have a proven record of success. It is counterintuitive to back away from success.

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DR. VADAPALLI said the CRP recommendations over the years fall into five categories:

- Quality Assurance
- Management
- Practice
- Public participation
- CRP's role and functions

He said CRP, in addition to the goals, digs into things people bring to their attention.

Other Work 2016-2017

- Backlog of IAs
- CRP reorientation and reorganization
 - Is CRP a stakeholder?
 - Is the current location most appropriate?
 - Is the contract mechanism most meaningful?
- Organized and hosted the 2017 National CRP Conference
- Grand Jury Investigation

He said in addition to the review function, CRP has a substantial outreach function and presents to many different groups.

Sometimes they outline what CRP does and sometimes they reach out to a specific group. For example, when they present to the Alaska Court Improvement Project, they try to impress upon that

group, which consists of a lot of judges, that the courts can ask CRP to examine a specific policy that they see as a challenge.

Work During 2016-2017: Outreach

- Attended the two-day Casey Family Permanency Work organized by OCS
- Presentation to:
 - Resource Family Advisory Board
 - Children's Justice Act Task Force
 - OCS senior leadership on reorienting Alaska CRP
 - BIA Providers Conference
 - Alaska Health Summit
 - Day-long workshop on CRP for ICWA workers
 - Alaska Court Improvement Project

He said that when he presented to the Court Improvement Project, it was clear that judges are not aware of the CRP and its role and potential.

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DR. VADAPALLI presented the Goals for 2017-2018.

- **GOAL 1:** Examine the effectiveness of the current administrative review process (retained).
- **GOAL 2:** Examine if 'family reunification' is prioritized as a goal for children in out-of-home placement, and OCS' efforts in pursuit of 'family reunification.'
- **GOAL 3:** Examine OCS' efforts in finding relatives for placement of children in foster care.
- **GOAL 4:** Expand Public Outreach in collaboration with efforts under the Tribal-State strategic plan.
- **GOAL 5:** Strengthen the panel through aggressive recruitment of new members, enhanced website, and tools to reach diverse groups of stakeholders.

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DR. VADAPALLI presented Continual Challenges.

- CRP's unclear role and responsibilities
- Minimal capacity to perform its statutory functions
- Unclear accountability

He said the current coordinator has been proactive and has gotten 11 members on the panel. Last year when he presented it barely had four. He's happy to see the numbers increase, but they are all volunteers and they cannot count on that number as definite capacity for the panel, so staff capacity is very important. The budget has been \$100,000 for several years. He said SB 122 addresses the accountability issue of who is responsible for overseeing the CRP and its relationship with OCS.

He presented Functions-Mandates. He noted that Alaska does not have local child protection agencies, although some ICWA offices function as that. That may change with tribal compacts with OCS.

Federal Mandate (42 U.S.C. § 5106a.(c)):

- Examine the policies, procedures, and practices of state and local child protection agencies and evaluate the extent to which these agencies are effectively discharging their child protection responsibilities
- Conduct public outreach both to assess the impact of current policies and procedures, and to solicit public comment on the panel's recommendations.

State Mandate (AS 47.14.205):

"The CRP shall examine the policies, procedures, and practices of State and local agencies and where appropriate, specific cases, to evaluate the extent to which State and local child protection system agencies are effectively discharging their protection responsibilities."

DR. VADAPALLI said these mandates do not mention advocacy, but it is clear that CRP has an advocacy role.

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DR. VADAPALLI said to sum up Primary Functions, this is what the panel is supposed to do:

Central focus

- Policies, procedures, and practices of OCS

Review/Evaluate (from statute):

- States' CAPTA Plan
- Child protection standards
- And any other criteria that the Panel considers important

Conduct public outreach (from statute):

- Assess the impact of OCS policies, procedures, and practices on children and families
- This assessment should inform its review function

Advocate for (from congressional record):

- Relevant changes based on its review

He presented Central Purpose.

- Congress created CRPs to help child protection systems be more responsive to community needs.
- A CRP is a mechanism for public participation in child protection.
- It should facilitate robust and meaningful participation by citizens in diverse roles.
- Those diverse roles will be performing the three functions.

DR. VADAPALLI said that the role of CRPs to help child protection systems is often lost in contention between CRPs and child protection agencies.

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CHAIR WILSON noted the presence of Senator Micciche.

CHAIR WILSON asked, considering the federal mandates for policies and procedures for state and local child protection agencies, whether CRP has looked at expanding that role with OCS, considering the tribal compact agreements give that role and authority to local tribes.

DR. VADAPALLI said CRP was not party to any of those conversations for the current memorandum of agreement. They were aware of those conversations, but CRP was not invited to the discussion, so he cannot address how CRP might be involved.

CHAIR WILSON said the question around federal mandates might be a question for the department. He said the federal mandate refers to state and local child protection agencies (CPA). In other states there are county-based child protection agencies, such as in North Carolina. Alaska has no state-authorized child protection agencies. To the extent that tribes work with OCS in

performing these functions, CRP has a role, but it is not clearly defined or discussed yet to operationalize it. CRP meets with tribal partners to ask about CPA practices. They do not oversee or examine what the tribal offices do.

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DR. VADAPALLI presented Functions--What CRP Does Not Do. He said it is often easier to present on what CRP does not do than on what it does.

- Comment on proposed or pending legislation
- Get involved in individual cases, contract, or situations
- Micromanage OCS operations
- Program evaluation
- Lobby

He presented Ecosystem of CRP. CRP connects with the court system, state administration, and legislature. He said CRP is located somewhere between the CPS [child protective services] agency and the community because it is not quite a community agency. Its responsibility is to create a forum that is a safe space where all parties can engage. OCS is not the focus of review but party to that review conversation. The focus is the CPS enterprise as a whole, with everyone with their own roles. CRP brings all the parties together for a constructive conversation to resolve challenges involving all parties. It is often misunderstood that CRP is overseeing OCS. This is a slight mischaracterization of what CRP should be doing. He said the illustration of three wheels is an easy way to understand what CRP does. CRP's job is to check that the three wheels of policy, practice, and needs of children and families are turning as expected. The questions to ask are these: What is supposed to be done? What is actually done? What is needed?

He gave an example of the CRP ecosystem from last year when Representative Tammie Wilson of North Pole called for a grand jury investigation of OCS. The grand jury had two recommendations after going through the documentation she submitted. One was for the Ombudsman's Office to take on the relevant review and the other was for CRP to pick up the review process that Representative Wilson was requesting. The Ombudsman's Office has the authority, CRP has the responsibility. They asked the grand jury corresponding attorney if this language was by choice or accident. It was clearly by choice. CRP has statutory role that it needs to perform. CRP

took the documentation that Representative Wilson took to the grand jury and identified five basic topics that CRP could be looking at.

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DR. VADAPALLI said as a result of the grand jury recommendation, CRP has Goal 2, Examine if 'family reunification' is prioritized as a goal for children in out-of-home placement, and OCS' efforts in pursuit of 'family reunification' and Goal 3, Examine OCS' efforts in finding relatives for placement of children in foster care. These are well within the scope of CRP. That is an illustration of how CRP can fit in with the court process or other investigative mechanisms.

He said they are working on how CRP can better relate to OCS with three parallel approaches.

- Legislative approach
 - SB 122
- Agency approach:
 - Instituting regulations
 - Identifying a framework for better working relationship

SENATOR BEGICH asked if CRP makes an exception to not lobbying or commenting on legislation when it comes to defining their future role, since that is part of the legislative approach.

DR. VADAPALLI acknowledged that it is a contradictory issue when they say they don't comment on legislation but are commenting on this. The reason is that there is no authority better able to comment than the authority performing the function, if not to influence then to inform.

He said the key feature of SB 122 is to move the CRP out of OCS into the Ombudsman's Office. While that may help, other challenges need to be addressed. The Ombudsman's Office is a review or evaluation mechanism. It does not have the outreach or advocacy function that CRP has. If SB 122 passes, those details of how those can be performed by CRP need to be worked out. Although there are some concerns about undue influence of OCS on CRP processes, CRP does enjoy autonomy that many CRPs do not have. Alaska is better off for it and that autonomy should be preserved and enhanced. The most important challenge is that the path that led to SB 122 is the lack of oversight over this enterprise. There has been no consistent oversight over CRP and its relationship to OCS. If the CRP is moved to the Ombudsman's

Office, he asked how will oversight be ensured and who will ask the "so what" questions.

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At ease.

SB 122-OCS CITIZEN REVIEW PANEL

[2:03:19 PM](#)

CHAIR WILSON reconvened the meeting and announced the consideration of SB 122.

[2:03:43 PM](#)

RYNNIEVA MOSS, Staff, Senator John Coghill, Alaska State Legislature, presented SB 122 on behalf of the sponsor. It is An Act repealing the authority for a child abuse or neglect review panel in DHSS and establishing the Child Protection Citizen Review Panel in the office of the ombudsman.

Section 1:

AS 24.55.400. Establishes the Citizen Review Panel in the legislative branch of state government under the office of the ombudsman and instructs the panel to emphasize public participation in the panel's work and to bring all the stake holders on the panel.

The panel will meet at least every three months and it will establish guidelines for its operation.

Gives the panel the authority to investigate individual cases if it deems necessary.

AS 24.55.405. Requires the panel to reviews policies and procedures of OCS on an annual basis and review reports submitted annually to the federal government. The panel is given statutory authority to recommend and advocate for changes to the department's child protection services.

It requires OCS to provide the CRP the following state plans submitted to the federal government annually:

State plan for grants for child abuse or neglect prevention and treatment programs. (42 U.S.C. 5106a(b))
State plan for delivery of child welfare services prepared jointly by the state and the Secretary of Health and Human Services. (42 U.S.C. 621 - 629m)

AS 24.55.410. Mandates that OCS SHALL consult with the CRP and assist the panel in carrying out its duties, including providing case-specific information to the panel.

AS 24.55.415. Makes information delivered at a CRP meeting confidential and the CRP must follow the Open Meetings Act giving public notice and restricting the CRP members from meeting privately.

AS 24.55.420. Provides for public outreach and public comment.

AS 24.55.425. Provides for the CRP to prepare an annual report to be available to the governor, legislature and public. Requires OCS to submit a written response to the report within six months of its release. Requires the panel and the department to prepare a joint report to the governor, legislature and public every three years.

AS 24.55.430. Sets a penalty of up to \$2,500 for each violation of confidentiality a person is convicted of.

AS 24.55.435. Provides immunity for panel members from liability in panel actions.

AS 24.55.440. Definitions.

Department is the DHSS.

Panel is the Citizens Review Panel

Section 2: Gives the CRP access to confidential documents regarding child protection cases.

Section 3: Repeals the Alaska Statutes that put the CRP under the jurisdiction of DHSS.

Section 4: Requires DHSS to do a two-year review of existing processes for reviewing and overseeing the work of OCS and outline a plan to reduce duplication and improved coordination amongst agencies involved in child protection. The report will be delivered to the senate secretary, house chief clerk, the governor and the general public.

Section 5: Gives the office of the ombudsman regulatory authority.

Section 6: Transition language that allows existing panel members to serve out their term on the panel even though it has been moved from the department.

The bill does not have an effective date.

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MS. MOSS said this bill is not pointing fingers at anyone saying they are not doing their job. It is saying that CRP is underutilized and misunderstood and needs to be utilized better. In 2005, when Senator Coghill carried House Bill 53, it was a direct result of working with the Murkowski administration and CRP to take an objective look at OCS to see what was working and what was not working. It is because of CRP they been able to do some reforms with OCS and the child protection system.

SENATOR GIESSEL asked if the panel falls under Boards and Commission and if the members are governor appointed.

MS. MOSS answered no and yes.

SENATOR GIESSEL said the membership of boards and commissions is generally well defined to provide diversity. She suggested it might lend more credibility and force if the membership had more definition.`

MS. MOSS said that is a good point. She added that she was not sure whether the governor appoints panel members.

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KATE BURKHART, State Ombudsman, Alaska Office of the Ombudsman, commented on SB 122. She said she has spoken to Dr. Vadapalli and the leadership at OCS to see how this would work. Prior to her appointment as ombudsman, she was executive director of three autonomous, co-located state planning councils. She is familiar with how co-location can work without jeopardizing the autonomy of the organizations. She has plenty of comments on SB 122. At the start of the conversation, understanding the benefits and pitfalls of co-location is important.

MS. BURKHART said co-location requires alignment of missions, which is set by the legislature in this case. The missions of the Ombudsman's Office and CRP are in many ways aligned, but not always. It requires a commitment of the membership and a commitment to shared values. It requires rigorous management and adequate resources. SB 122 hopefully will include clear guidance on how the Ombudsman's Office can provide management assistance

and not just be a fiscal agent. She sees this perhaps managed as a separate RDU in the budget so there is a clear accountability on the use of funds with no comingling of funds. That speaks to the accountability and "so what" questions that Dr. Vadapalli talked about. It does require staff and management. While the Ombudsman's Office does not have staff to dedicate, there is a way to manage in partnership with CRP, such as with the state council on behavioral health.

She said she does not know that the Ombudsman's Office is the only place to house the CRP, but it is one place. If SB 122 were to pass, her office could promulgate regulation within a fiscal year. The Ombudsman's Office operates with regulations and would want to do that with the CRP also.

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SENATOR BEGICH asked if OCS does not complete the task of writing regulations, which it has not done since 2015, whether her office would have the ability to rapidly complete the regulatory writing process.

MS. BURKHART said it would take a full fiscal year. Her office has multiple people with legal backgrounds and experience with a recent comprehensive regulatory overwrite of their office.

CHAIR WILSON asked which areas of DHSS have received an increased number of complaints.

MS. BURKHART said within DHSS, the most complaints have been received about OCS and the Division of Public Assistance. She did not have the report with her, but thought there were about 200 some complaints for each of the divisions.

CHAIR WILSON said he could see people saying that her office is trying to influence CRP through investigations on that department.

MS. BURKHART said the ombudsman has rigorous confidentiality standards and any complaints about OCS remain confidential. If SB 122 were to pass and a CRP staff member is in the office, that person would not have access to that information. That person would have the same access to aggregate data available in reports. She has talked with Information Services at the Legislative Affairs Agency about separate hosting, so CRP staff would not have access to their servers and case management system. She is used to the idea of a strong wall to prevent

conflict. They would create infrastructure and processes to make sure CRP staff person was not privy to that information.

2:19:01 PM

CHAIR WILSON said the committee looked forward to getting the fiscal note. He held SB 122 in committee.

2:19:56 PM

There being no further business to come before the committee, Chair Wilson adjourned the Senate Health and Social Services Standing Committee at 2:19 p.m.