

HCR

15

HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES



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STATEMENT ON HCR 15 by the HOUSE HESS COMMITTEE

House Concurrent Resolution 15, "relating to citizen review boards", was introduced as one of a package of measures proposed or supported by the House HESS Committee, as a result of the Committee's interim comprehensive review of the state's child protection and foster care systems. This bill responds to testimony presented at hearings in the fall of 1988 regarding the effectiveness of the state's foster care system.

HCR 15 would continue for an additional year the demonstration citizen review panel which has recently been started in Anchorage. Seed monies for this project were provided through a grant from the National Association of Foster Care Reviewers and the Edna McConnell Clark Foundation. The funding ends in June of 1989 and will not be continued.

The information resulting from this demonstration project, and from a similar demonstration project in Ketchikan, will be used to implement a permanent citizen system such as the one proposed in House Bill 19. These two pieces of legislation are complementary and together offer a phased-in approach to citizen review panels.

For further information on the demonstration project, please refer to the enclosed information from the Office of Public Advocacy and the Department of Health and Social Services.

HOUSE CONCURRENT RESOLUTION NO. 15

Relating to citizen review boards for the foster care system.

The Division of Family and Youth Services (DFYS) within the Department of Health and Social Services has responsibility to develop, implement, and administer services for children who cannot remain in their own homes due to problems of abuse and neglect. One of the primary services needed by these children is foster care to provide a nurturing environment through a family setting. Providing quality services to children, their natural family, and their foster family is of the greatest concern not only to state agencies mandated to provide service, but is also of the greatest concern to the broader "community" of each city and village in Alaska. The quality of service provided to children is indicative of the quality of life in a community. Developing Citizen Review Boards is one way for community members to be directly and positively involved in providing and improving the quality of service available to children and their families.

DFYS is in support of HCR No. 15, and has signed an agreement with the Anchorage and Ketchikan Demonstration projects to coordinate efforts in exploring different methods for reviewing the needs of children in foster care. Each of these projects has goals to improve the care of individual children as well as goals for improving the systems which determine program and service availability to children and families.

In Anchorage the purpose of the project is to provide an early review of children in foster care by examining the efforts of the professionals regarding family preservation and reunification. The project will specifically consider the "reasonable efforts" requirements of P.L. 96-272 in its review of each child's case. The project will also provide a vehicle for substantive research regarding the strengths and limitations of the present child protection services system.

The review panel makes recommendations regarding what the Division can do to assure early reunification; what the Division could have done to prevent the initial removal of the child from the home; and what services need to be available to accomplish the recommendations. This project also reviews the work completed by the attorneys involved in the case; the guardian-ad-litem; the court; and other aspects of services which would be relevant to the child's welfare.

In addition to providing oversight and concrete recommendations for individual children, the project will also be collecting information which will be extremely useful for human service agencies in planning. By documenting what

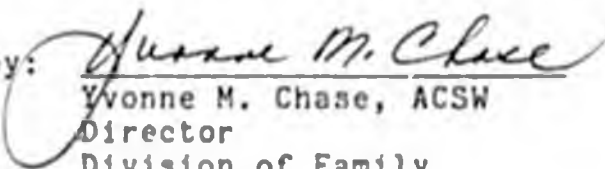
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services are available and what services need to be available for a child to remain safely in their home, the project will be able to provide the service community, the public, and the various governmental agencies with the data needed for planning and directing human service growth and improvements in Anchorage.

The purpose of the Ketchikan project is more closely related to the planning for the individual child. The project goal is to facilitate a permanent home for every child reviewed by the project panel. The panel will make specific recommendations with time frames for completion of each task necessary for implementing the permanent plan for an individual child. Reviews will be conducted once every six months for those children who have resided in foster care for more than six months. The purpose of the review will be to determine what efforts have been made by the Division and any other related agents or agencies to carry out a plan for the permanent placement of each child.

The Division's current review system is comprised of panels in each field office location which meet the requirements of P.L. 96-272. These projects in Anchorage and Ketchikan will demonstrate the pros and cons of external review as compared to the current internal administrative review system. The projects will provide critical information for the continued development of the case review system. Most importantly, these two projects are providing invaluable information and planning for individual children and for the service communities.


Recommended by:


Yvonne M. Chase, ACSW
Director
Division of Family
and Youth Services

Date:

2/7/89

Approved by:


Myra M. Munson
Commissioner
Department of Health
and Social Services

Date:

March 7, 1989

ANCHORAGE FOSTER CARE REVIEW BOARDOVERVIEW

March 4, 1989

In early 1988, the Office of Public Advocacy received a \$24,200.00 grant from the National Association of Foster Care Reviewers and the Edna McConnell Clark Foundation to implement an early Foster Care Review project. Along with three other sites in the country, the Anchorage Foster Care Review Board (FCRB) was funded to demonstrate the impact of very early review of children in foster care.

Traditionally, case reviews have occurred, at the earliest, at 6 months after the child's case has been opened. In Anchorage a random selection of new Child In Need of Aid (CINA) cases are reviewed one month, and again at three months, after the children have entered foster care. The focus of these reviews is on the efforts of the social worker, guardian ad litem, and Court to both prevent the foster home placement and to promote family reunification and/or an alternate permanent home for the child.

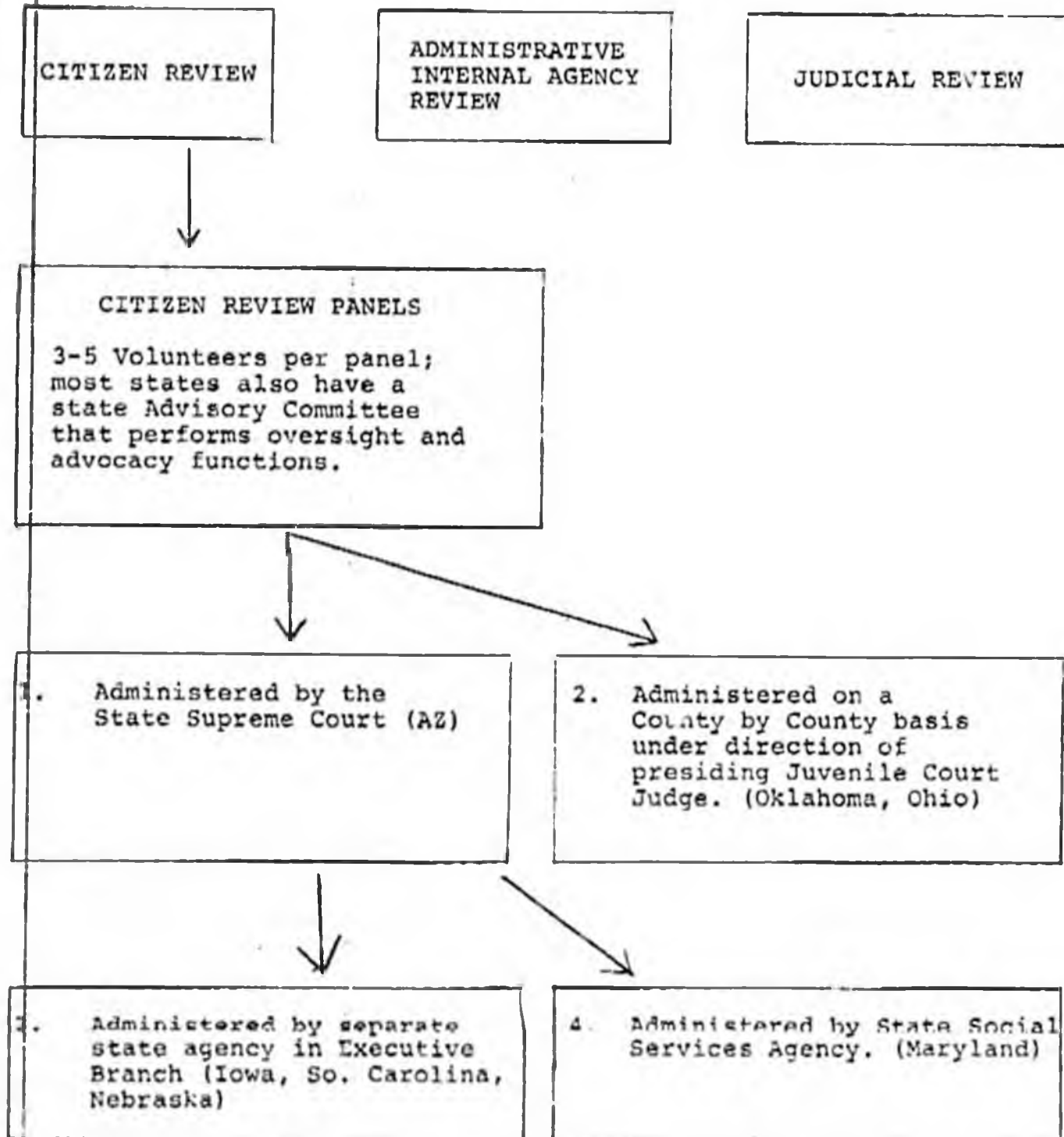
The Anchorage FCRB is guided by a Task Force consisting of staff from the Court, the Office of Public Advocacy (OPA), the Division of Family and Youth Services (DFYS), the Attorney General's Office, the Municipality of Anchorage, and the private human services and legal community. This Task Force has developed policies and procedures, assisted in the training of Board volunteers which were drawn from the Court Appointed Special Advocate (CASA) program at the Office of Public Advocacy, and continues to revise and develop the project.

Presently, the Board meets monthly to review cases. Complete case histories, written by staff following a thorough analysis of the child's Court, OPA, and DFYS files, are distributed to the Board members prior to the meeting. The Board members review approximately ten cases per month. They discuss the case in depth and formulate a report of their concerns and recommendations. This report is subsequently distributed to the parties in the case.

Since August 1988, 65 children's cases have been reviewed by the Board in Anchorage. This represents approximately one-third of all new CINA cases opened in Anchorage during this time period. In addition to making case-specific reports, the Anchorage FCRB is collecting data to identify strengths and limitations of the Anchorage child welfare system.

The grant for this demonstration project ends June 10, 1989. Neither the Clark Foundation or the National Association of Foster Care Reviewers will be providing continuation funding. Other sources of revenue have not been found for the project. HCR 15 will allow for the continuation and partial expansion of the Anchorage FCRB so that in FY 91 the project will be able to review approximately half of the children in foster care in this community.

MODELS OF FOSTER CARE REVIEW





Alaska Foster Parents Association

P. O. BOX 140651 • ANCHORAGE, ALASKA 99508



**POSITION PAPER
HCR 15
CITIZEN REVIEW BOARD
DEMONSTRATION PROJECTS**

The Alaska Foster Parent Association supports this measure only in lieu of passage of HB 19, Foster Care Review Boards.

The demonstration project in Ketchikan was funded by legislative appropriation in 1985. It has yet to hear its first review. The reason appears to be that impediments were implaced by an agency of the administration. In the meantime, an extremely valuable system of oversight has been denied to the client population receiving services from Health and Social Services.

It is our position that the greatest lesson we will learn from the pilot projects in Anchorage and Ketchikan is that we should have created a system of citizen review far earlier and that, since we have not, now is the time to do it.

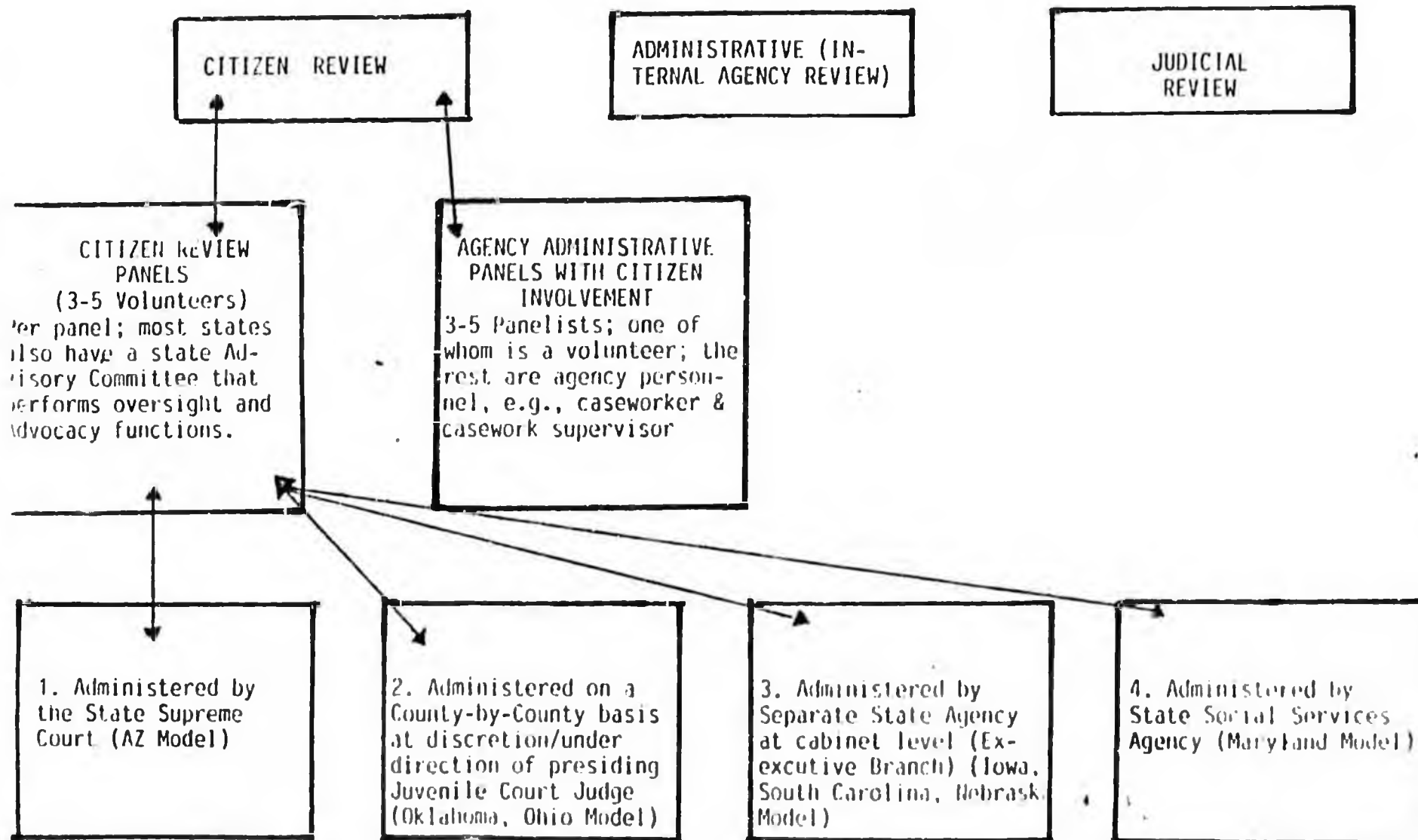
We urge the passage of HB 19. Failing that, we will support this measure to keep the pilot projects alive while we continue to work toward a state-wide system of citizen foster care review, which provides quality assurance in the activities of the state dealing with children in state custody.

Miriam Sumner
President

Frank H. Wasmer
Vice President

MODELS OF FOSTER CARE REVIEW

NOTE: These 3 basic models are not mutually exclusive. Some states use some version of all three, or two out of three.



- * 2. (County-by-County Model) may also include a state advisory committee under Supreme Court that coordinates among counties.

fcrb.sta

PRELIMINARY DATA FROM ANCHORAGE FCRB

AUGUST 1988 THROUGH DECEMBER 1988

NUMBER OF CASES/FAMILIES REVIEWED: 38

NUMBER OF CHILDREN REVIEWED: 56 MALE: 35 FEMALE: 21

AGES: 20--birth to two years 27--three to twelve years
9--thirteen to eighteen years

RACE: 27--white 17--black 5--hispanic 23--native
(children who are bi-racial are counted for each race)

NUMBER OF PRIOR DFYS CONTACTS WITH FAMILY: 13 had no priors
10 had one prior 5 had two priors 7 had three priors
1 had four priors 2 had five or more priors

DEYS CASEPLAN FORM FOUND IN THE DFYS FILE: 1 case

WRITTEN NOTES FOUND IN THE DFYS FILE OF CASEPLAN AGREEMENTS: 9 cases

WRITTEN VISITATION PLAN AND SCHEDULE FOUND IN THE DFYS FILE: 8 cases

REASONABLE EFFORTS FINDING MADE BY THE COURT: 34 cases

REASONS FOR REMOVAL OF CHILD FROM PARENTAL HOME:

3 sexual abuse	19 neglect
16 physical abuse	1 child's medical needs
5 parental refusal to care	4 abandonment
19 parental substance abuse	1 parent's medical needs
1 financial inability	1 child's mental health needs
2 parent's mental health needs	3 other
6 runaway teen	

**Child may have been removed from home for more than one reason.

N=38

STATE OF ALASKA

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N=38

FORB RECCOMENDED SERVICES

	available	unavailable
intensive in-home therapy.....	0	11*
parent aide.....	6	
daycare.....	3	
Intermission.....	6	
public s assistance.....	5	
medical care.....	9	
counseling.....	16	
job training.....	5	
substance abuse treatment.....	16	4**
parent education.....	14	
food.....	1	
housing.....	2	
residential treatment.....	1	
homemaker.....	7	
public health nurse.....	4	
other.....	4	

Prevented
removal
29%

* Intensive in-home therapy is Homebuilders model.

**Inpatient alcohol treatment for parents that allows children to live-in with parents.

N=38

SERVICES FOR THE FAMILY

	referrals made		services begun	
	prior	after	prior	after
intensive in-home				
therapy.....	1	0	1	0
parent aide.....	1	1	0	0
daycare.....	0	3	1	1
respite (Intermission).....	0	4	1	1
public s asst.....	4	7	9	4
medical care.....	1	6	1	1
counseling.....	2	13	3	1
substance abuse				
treatment.....	3	12	1	0
education.....	4	0	0	0
parent education.....	2	8	2	0
food.....	2	0	0	0
transportation.....	0	1	0	1
housing.....	0	1	0	1
residential treatment.....	0	1	0	0
public health nurse.....	3	3	4	1
homemaker.....	1	4	2	0
domestic violence				
counseling.....	0	2	0	1

24

65

25

12

The following materials are excerpted from:

"An Overview of Citizen Involvement in Foster Care Review"

- by -

Susan Carter, J.D.

August, 1987

National Association of Foster Care Reviewers

Phoenix, Arizona

Chapter II. PURPOSE, PHILOSOPHY AND ROLE OF FOSTER CARE REVIEW SYSTEMS

As noted in Chapter 1, the underlying goal of all case review, including citizen review, is to assure that children do not linger unnecessarily in foster care, but rather receive the support, benefits and joys of a permanent home. In the case of citizen review, this goal is accomplished through recommendations to the legislature, social service agencies and courts, based upon its reviews of the cases of children in care. This chapter examines the specific ways in which foster care review systems work to accomplish the goal of permanency.

A. ADVOCACY

"You are the eyes and ears of the court, a part of the Court's conscience. You are also the eyes and ears of society, and part of its conscience. Reviewers are one of the few institutions where the problems of the family, the efforts of the state, and the work of the judiciary meet. You are able to see what is working and what is wrong."

Honorable Robert N. Wilentz
Chief Justice, NJ Supreme Court

In citizen review systems, reviewers serve as advocates for the best interest of children. Generally speaking, reviewers carry out their role as advocates in two ways:

1. Through individual case review of children in foster care.

2. Through the making of findings and recommendations regarding foster care system problems which come to light through the case review.

In acting as advocates for children, reviewers usually follow the following guidelines in individual case reviews.

1. consider the necessity and appropriateness of the current placement;
2. determine the progress toward alleviating the cause of the placement;
3. determine the compliance and level of participation in the case plan of all appropriate interested parties;
4. project a likely date for the child's return home or for placement in another permanent home.¹

The panel usually transmits its findings and recommendations regarding these areas to the court and/or child welfare agency within a short period of time following the review. When there is disagreement between a panel and the agencies or interested parties in a case, the panel will outline the disagreement in the findings and recommendations, along with a plan of action the panel feels should be taken in order to carry out a permanent plan that is in the best interest of the child. (See further discussion in Chapter IV.)

However, the advocacy role of reviewers is not limited to making case recommendations to the judge and social

service agency. Individual panel members may be able to identify resources in the community which would be of assistance to the child and family, but of which the service provider may not be aware.²

Citizen review boards also serve as systems advocates: over time, state review boards will come to recognize general problems in the child welfare system itself. State Boards make recommendations to the courts, agencies and legislature designed to address such problems, and may bring the problems to the attention of the media. Indeed, many review systems are encouraged or mandated by law to make such recommendations. (For a further discussion, see Chapter III - C.) As long as confidentiality requirements are met and problems are reported in an aggregate manner, (see Chapter III), such actions are appropriate.

In fact, it may be that citizen review systems have their largest, most positive impact through such a systems advocacy approach. Volunteer reviewers can create a broad base of community support for foster care issues and often serve as catalysts for system reform.

B. AUTHORITY

In order to perform their role, review panel members must have the authority to perform their duties as fact finders. Care must be taken, however, not to misconstrue the authority to conduct fact-finding reviews with the authority to change case plans. In general, the findings

and recommendations of review boards are advisory only.³ Review board statutes and regulations in some states are careful to point out that their provisions "should not be construed as limiting or delaying actions by agencies or (institutions) to arrange for adoptions, foster care, termination of parental rights or other related matters on their own initiative, nor do (provisions) in an manner alter or restrict the duties and authority of such agencies... in those matters".⁴

C. DATA COLLECTION/REGISTRY

Foster care review systems often serve an important data collection and information registry function. Most statewide review board systems have collected information and generated statistics regarding the status of children in foster care. This information is generally gathered through the use of automated operational systems, in which data is automatically entered into a central computer data base at the time of the first review. Systems with such automated procedures include Arizona, Kentucky, Maryland, Nebraska, Iowa, and South Carolina.⁵ (See Appendix D for an example of a data entry sheet.)

In Nebraska, the enabling legislation establishing citizen review is unique in that it mandates the Foster Care Review Board to serve as the official statewide registry for statistical information on children in substitute care.⁶ Information is sent to the Board on each

child at the time he or she enters care. Prior to the establishment of the Board in Nebraska in 1982 there was no way of gathering reliable information on the numbers of foster children in that state.⁷

Data systems record such information as the child's name, birthday, gender, legal status, type of placement, services provided and visitation patterns. This data enable boards to track information such as numbers of initial placements, numbers of children in care, reasons children enter care, characteristics of foster children, length of stay in care, which children are more likely to be returned home or placed in alternate permanent families, and much more.⁸ The information gathered can be very useful to review systems in evaluation, advocacy and case review efforts.⁹ In Nebraska, for example, data from the registry has been used to conduct independent evaluations of the review system in 1985 and 1986. These evaluations indicated the effectiveness of the review system in moving children to adoption, and concluded that the system was quite cost-effective.¹⁰

D. ANNUAL REPORT

Many states have legislative mandates requiring that state citizen review systems provide annual reports to the governor, legislature or the supreme court.

Annual reports, particularly when coupled with data collection efforts, are effective tools in providing

documentation to illustrate the cost effectiveness of review boards. For example, Delaware's annual reports have shown a dramatic increase in government savings since the implementation of its board through a post-review decrease in the number of children in foster care.¹¹

These annual reports also serve as effective advocacy tools. Reports are issued to the media and the public, as well as to the branches of government, and generally contain the state board's recommendations for improvements in the foster care system.¹² The reports include information on review policy, procedures, budget information, and proposed recommendations and legislative changes.

Arizona's is an example of a complex and comprehensive annual report. Arizona incorporates into its report information on the justice system, social service system, educational system, foster care review board system, and several appendices.

E. ADVANTAGES OF CITIZEN REVIEW

Citizen review boards have several advantages not only for the children in foster care, but for the court system, social services system and taxpayers.

By engaging in interdisciplinary cooperative efforts, citizen review systems can make tremendous advances in the delivery of foster care services including the following:

1. enabling changes in the legislature regarding foster care statutes;
2. reducing the number of children in placement, thereby saving tremendous amounts of government dollars;
3. serving an investigative function to aid in appropriate case planning;
4. encouraging and aiding in the recruitment of foster homes;
5. increasing the awareness of the community to the plight of children in care;
6. serving a "check and balance" function to assure that all aspects of the child welfare system are functioning correctly and appropriately;
7. increasing cooperation and communication between various agencies serving children;
8. freeing case workers who might otherwise be conducting reviews to do casework and actually provide services to families;
9. developing new policies, procedures and resources for children in care.

Chapter II. Footnotes

1. see e.g. Arizona Supreme Court Foster Care Review Board, Training Manual (rev. March 1986) p.18.
2. observations of the author based upon attendance at citizen review panel meetings in Arizona and New Jersey in 1986 and 1987.
3. *ibid.*, Arizona Training Manual, at p.3.
4. section 20-7-2397 (1986); South Carolina Children's Code.
5. based upon survey of author.
6. "And How Are The Children?", State of Nebraska Foster Care Review Board, First Annual Report (Dec. 1983) p.21.
7. *ibid*, p.1.
8. see e.g., data entry sheet, Appendix D.
9. e.g., *ibid*, Nebraska Annual Report.
10. Coyne, Ann, Ph.D., and Medlin, Nadine, An Evaluation of the Nebraska State Foster Care Review Board published in "Children, What Has Changed", Third Annual Report of the Nebraska State Foster Care Review Board (Dec. 1985) at p.75.
11. see State of Delaware Foster Care Review Board Fifth Annual Report, July 1985.
12. see e.g., Arizona Foster Care Review Board 1987 Report and Recommendations (Jan. 87).

CHAPTER IV. REVIEW BOARD PROCESS

A. PRE-REVIEW

1. Types of cases reviewed

In nearly all review systems, the cases selected for review are those of abused and neglected children who have been placed in foster or substitute care. Some systems also review the cases of children who have been placed in foster care because of delinquency or incorrigibility. (See Appendix B).

However, state laws and regulations do vary as to the definition of "foster care" for the purpose of determining the types of cases to be reviewed. For example, in some citizen systems, such as Kentucky, the cases of all children who have been adjudicated dependent by the juvenile court, whether or not they are in foster care, are reviewed. Under other systems, only the cases of children who have been placed out-of-home are reviewed.¹

The systems also vary in whether or not reviews are conducted of voluntary foster care placements. Montana's guidelines cover voluntary placements as do New Jersey's.² Arizona's legislation, however, provides only for the review of cases of children involuntarily placed in foster care following a determination of dependency by the Juvenile Court.³ Georgia's and Iowa's guidelines also exclude review of children voluntarily placed in foster care through agreement between the parents and the Department.

Exclusion of voluntary placements would appear to unduly

eliminate many cases from the review process in some states. For instance, in New Jersey, voluntary placements account for 80% of the children in foster care.⁴

Ideally, foster care case reviews are conducted for each child in foster care or adjudicated dependent. Unfortunately, financial or statutory limitations in some states prevent Board reviews of all cases in which children are placed in care.

In Nebraska, for example, due to funding constraints, the Board reviews approximately fifty percent of all placements, using a random selection process, even though the Nebraska statute mandates review of all cases of children in foster care.⁵

In all of the above states, once a child's case is selected, his case continues to be reviewed at the required intervals as long as placement continues. (See Appendix B for a chart summarizing review procedures in various states.)

2. Frequency of Review

Regular and sensitive case review is crucial to the well-being of each child harbored within the U.S. foster care system. Children operate under a different perception of time than adults; a two-year old child in foster care for six months has lived a fourth of his life without a permanent family.

The necessity for frequent review is recognized by P.L. 96-272, which provides that states, to be eligible for continued federal matching funds to pay for foster placements, must establish a system for external review of each child's

status at least every six months.⁶ Accordingly, most systems require board reviews at six-month intervals.

Initial reviews are required for children in foster care after five or six months in substitute placement, with subsequent reviews every six months as long as the child remains in placement, in South Carolina, Montana, Michigan, Maryland, Georgia, Tennessee, and Arizona.⁷

In Mississippi, an internal administrative review is conducted six months after the child initially enters foster care, with the first review by the Foster Care Review Board conducted one year after placement. Although a judicial review is to be held at 18 months in Mississippi, many Judges assign that review to a Foster Care Review Board. Subsequent reviews are held annually.⁸

Only a handful of systems currently conduct initial reviews prior to six months in placement. In New Jersey, the initial review board hearing takes place 45 days after the child is placed outside the home. This review is followed by an internal placement conference six months later. The placement conference is conducted by the agency and may be attended by a member of the review board. At seven months, the review boards examine the results of the placement conference at a paper review conducted without interested party participation. At twelve months, a second full review by the board is conducted. Agency and full external reviews continue to alternate as long as the child is in care.⁹ However, if the citizen board is in disagreement with the recommendations of the agency it can order a full case review

at any time.

In Oklahoma, initial reviews are conducted after 45 days in placement.¹⁰ In Kentucky, the initial board review is conducted within thirty days after placement, with subsequent reviews every six months thereafter.¹¹ In South Carolina initial reviews for publicly placed children are conducted after four months in placement.

3. Parties

In some states, including Nebraska and Kentucky, citizen reviews are conducted of case files, sometimes with input from the caseworker or casework supervisor. In most states, however, interested parties do participate in the reviews.

The state systems have differing requirements in regards to the parties to the review procedure. These requirements are usually delineated by statute, although in some states, the designation of interested parties is left to the review board. Nearly all systems leave room for the exercise of board discretion in individual cases. For example, the Arizona Rules of Procedure state that:

"a review board may agree to hear any person who formally requests to be heard at the child's case review, as long as the person has some connection with or knowledge of the child or family situation."¹²

The birth parents are interested parties to the review hearing. This requirement is reflected in P.L. 96-272, which requires notice and opportunity to participate to the birth parents in any review procedure adopted in accordance with the Act. It is highly preferable to include the parents in any review proceeding because of the serious liberty rights affected¹³ and to ensure that they understand and have the means to comply with any case plan requirements for reunification.¹⁴

Most states consider the child to be a crucial interested party; however, the extent to which the child is included in the actual review process is generally left up to the discretion of the review board. Some systems only require notice to the child if he or she has reached an age considered mature enough to understand the proceedings. In South Carolina, for example, children ten years of age or older are encouraged to attend reviews.¹⁵ Iowa requires notice to children 14 years of age or older.¹⁶ Delaware law requires notice to the child "where appropriate." In Kansas, training materials note that boards may want to interview the child separately from other parties.¹⁷ Mississippi provides that all children age six or older must be invited in language they can understand, and allowed to attend "unless the case record documents that attendance at the conference would cause the child extreme anxiety".¹⁸

In Arizona, notice is required to twelve years of age and older. However, caregivers and caseworkers often bring younger children and even infants to review. Board members report that it is a positive and enlightening experience to actually see the children being reviewed.¹⁹

In addition to attendance by the birth parents, (unless parental rights have been severed), virtually all systems require some type of attendance or input by the Social Welfare Agency responsible for the child's care. In many instances the caseworkers are required to present either a written report to the board or to present the circumstances of the case at the review.

Occasionally, the agency will be reluctant to participate in panel meetings, particularly during the early stages of a citizen review system. In New Jersey, for example, some offices of the DYFS in the past discouraged caseworker attendance, although the trend is towards increased attendance.²⁰ In some of the larger, more populated New Jersey counties DYFS has assigned a staff person to attend every review as a liaison to the agency. This person also is usually a member of the administrative review panel.

Foster parents and caregivers are often involved because of their involvement in the day-to-day care for the child (as well as to ease any tensions between them and the natural parents). Foster parents frequently provide first-hand information about the child's daily behavior, reaction to visitation by parents, and need for any additional casework services. Caregivers are a vital part of the treatment team:

their input is invaluable in the development and implementation of the foster care case plan.

Other interested parties often included in review hearings are attorneys for the parents and child, Court Appointed Special Advocates or Guardian ad Litem, representatives of the service provider if the child is in institutional care, relatives of the child, teachers, and others with special knowledge of the child's situation.

Arizona has begun a program to seek written input from teachers, counselors, and principals at the foster child's school about the child's progress prior to the review. This program, which was implemented first on a pilot basis in two counties, has proved so successful that it is now being implemented statewide.²¹

4. Notice

Once the appropriate parties to a review proceeding are determined, notice of the review is sent to those parties. Most states properly require written notice to the interested parties to ensure their participation in the review process. Some panels (e.g., Arizona) will include a statement in their findings and recommendations of the date and adequacy of the notice given to interested parties. The policies for timeliness of notice to parties varies among the review programs.

Michigan requires written notice to parties on working days prior to the hearing, and specifies that at a minimum, the notice should include the child's name, the date, time and location of the review; a brief statement of the purpose of

the review; and a statement regarding the recipient's rights and objectives to attend and participate.²²

Notice in Georgia must be completed at least two weeks prior to the hearing, and is required to include an advisement to the birth parents and the child of their right to bring a representative.²³

Delaware law requires written notice of a review thirty days prior to the scheduled review, to be sent to the placement agency, the child "where appropriate", the parents, foster parents, child's attorney, and an person or agency interested in or having knowledge about the child.²⁴

In some instances, responsibility for sending the notice to other parties rests with the Department after it is notified of a hearing date; in other cases all notices are handled by board staff. Often the Department will be notified in advance of other parties.

For example, in Arizona the Department receives notice thirty days prior to the hearing; other parties are notified two weeks in advance.²⁵

Several states require that notice to the child is to be written so that the child can understand it. (See Appendix G giving a sample notice to a child.)

Some review programs place the date of the next review on their advisory findings and recommendations, which allows all the parties that review them a form of notification of the next review several months in advance.

B. AT THE REVIEW

1. Presentation of Case

There are three basic models for the presentation of cases at panel hearings:

1. a review of case reports and other written materials;²⁶
2. a review of case reports and written materials within the child's caseworker or placement agency;²⁷
3. a full review hearing with some or all interested parties and other witnesses present.²⁸

All states follow one of these basic models, with the full review procedure being the most common.

The model of review procedure followed may vary among different review panels within a particular state, depending upon the perceptions and philosophies of the board members regarding the importance of attendance by interested parties.⁴

Where hearings are conducted, they are generally informal and non-adversarial in nature. The formal rules of evidence do not apply and attempts are made to avoid legal terminology that might be intimidating to lay participants. It is generally felt that a relaxed atmosphere encourages information and generates additional information useful to the review.²⁹

Even though the meetings are relatively informal, minutes are kept by a staff person or panel member and the meetings are sometimes tape-recorded.³⁰

In a few states, panel members have an opportunity to review written materials prior to the actual review hearing. For example, in Arizona, review board staff members mail case packets to be reviewed several days in advance. These packets contain copies of the initial permanence plan, a progress

report, and the board's latest recommendations.³¹ Board members in New Jersey receive a packet of written materials, from the Division of Youth and Family Services, including the placement plan, one week prior to the review hearing.³²

Board Members in Michigan receive a complete package ten working days prior to the review hearing, containing the initial social study and case record face sheet, the two most recent quarterly reports, a copy of the applicable court orders, the child's placement record, and any other information the case worker thinks is appropriate.³³

Provision of information in advance is preferable, both in allowing for better preparation, and in terms of avoiding delays by allowing panel members time to request additional information deemed necessary. While reviewers generally do not have subpoena powers equivalent to those of a court, many review board statutes provide a mechanism for a panel to petition the court for an order that materials be made available to them.³⁴

There are times, however, when information on a particular child's case is not available until the review hearing. Largely for this reason, most reviews begin with an oral or written summary of the case for panel members, usually presented by the caseworker or placement agency and sometimes by review board staff, or the panel chairperson. In a number of states one member of the panel is designated as a presenter to outline the case prior to the review. In at least one state, Kansas, the presenter and a co-presenter receive detailed packets of information, including medical and psychological evaluations.

school reports and other materials not contained in the packets distributed to other board members.³⁵

2. Questioning Parties

Following a summary presentation of the case by staff, the agency representative or the caseworker, the review board members generally question the parties present. Often the chairperson begins with an explanation for the parties of the purposes and objectives of the review hearing. Next, questions are asked to generate additional information. Questions are most often asked by board members and occasionally by staff.³⁶

In some states, all parties will be present during the questioning process and in others parties will be brought in to the hearing individually. In this regard, it appears important to allow the parents in particular to be present during any department or caseworker presentation, to allow them an opportunity to respond to any issues raised.

The attendance of all interested parties together, for at least the initial stages of the review, also serves to create a feeling of satisfaction where their attendance and views are deemed to be important. The validity of the review process is enhanced in the view of those parties, who are thus more likely to attend and contribute at subsequent reviews. Often, these reviews are the first time many of the parties are together in one place. Thus the reviews may take on some of the aspects of a staffing or negotiation session.³⁷

There are times, however, when the panel may wish to talk with different parties individually. The questioning of a child, in some instances, may best be accomplished when the

child appears alone, or with someone she/he trusts, such as a CASA or guardian ad litem. Another technique used by some panels involves one or two members being assigned to talk with the child separately.

When confidential information is presented that certain interested parties do not need or have a right to know, the board may wish to exclude them from that portion of the case review. Additionally, under certain circumstances a panel may wish to hear the interested parties separately, where a confrontation might be detrimental to the participation of others.

In some states, guidelines provide for an opportunity for parties to make statements to the panel whether or not board members have any questions.³⁸

Questions by the boards focus on the permanent plan for the child, progress toward implementation of the plan, and any barriers to implementation. In many states, panel staff have developed suggested guidelines to aid members in questioning the parties. (See Appendix F).

3. Debriefing/Discussion/Decision-making

Following presentation of the case and any questions, panel members will deliberate regarding the appropriate placement plan for the child. In coming to a decision review panels consider the following factors:

- *whether adequate visitation is being allowed and whether visitation is occurring;

- *length of time in placement;

- *whether reasonable efforts are being made to return the child where reunification is the goal;

- *placement options;

- * barriers to implementation.

In some states, factors to be considered by the boards are specifically outlined by statute.

Deliberations often take place in executive session.

Whether to conduct deliberations in private or not is sometimes left to the discretion of the particular board.

4. Formulating Recommendations

In virtually all jurisdictions, the recommendations of local review panels are advisory only.³⁹ It is very important to point out, however, that even an advisory recommendation can be very valuable to the court and agency in determining the appropriate placement plan for the child.

Although written recommendations are prepared (see discussion under Section C below) most panels will also verbally summarize their recommendations for parents and other interested parties present at the review.⁴⁰

Some systems set forth specific requirements for the

content of panel recommendations. These requirements sometimes include a placement priority system to be followed by the board or a list of alternative board findings. For example, Maryland law provides that if the panel is not in agreement with the DSS plan, it must make its own specific recommendations. Maryland also requires that the recommendations "include an assessment of the appropriateness of the current placement in terms of the requirements of the federal law".⁴¹

In New Jersey, the statute and board guidelines require that one of the following findings be made, with supporting reasons:

- * that continued placement is not in the child's best interest and that the child should be returned home, and that services should be provided as necessary;

- * that continued placement is in the child's best interests and that the placement plan is appropriate to that end on a temporary basis until one of several delineated long-term goals is achieved;

- * that continued placement on a temporary basis is in the child's best interests but that further information about the case is needed, and;

- * if the board requests that the court order the agency to provide the needed information.⁴²

In Nebraska, the state board developed a priority classification system to use in making placement recommendations, with return home having the highest priority and long-term foster care and or institutional care ranking the lowest.

Following deliberation, the panel will formulate its findings and recommendations, often with staff assistance. In Arizona, for example, findings and recommendations are read back to the panel by staff after deliberation and a final decision as to the wording is made prior to the end of the review meeting.

C. POST-REVIEW

1. Paperwork/Recommendations

As noted, review panels are generally required to prepare written summaries of their findings and recommendations. These are sent to the court, agency and parties. Those states using permanency plan forms mentioned above often provide a portion of the form to be completed at or shortly after the hearing:

The panel's findings and recommendations usually represent a consensus of opinion. Most recommendations will indicate if there has been a difference of opinion among panel members as to the appropriate resolution of the case.

The state systems have different methods of distribution of the recommendations. Generally, distribution of written findings and recommendations is a staff function. In some states, such as Maryland, copies of the recommendations will be sent to the department of social services first for review, and then to the court.⁴³

State systems vary as to the steps to be taken following a contested review, when the review panel's recommendations differ from the departmental plan. As noted, recommendations are advisory only. However, some systems have established formal procedures where there is lack of agreement concerning the appropriate outcome for the child. In Delaware, for example, it is presumed that the agency agrees with the recommendations and will act accordingly unless the agency takes affirmative action to notify the panel to the contrary. Under Delaware law when such notification is made the panel or any party may petition the family court within fifteen days to hold a judicial hearing.⁴⁴

In New Jersey any party can request the judge to hold a summary hearing following the review.⁴⁵

3. Follow-up on Recommendations

After recommendations are formulated and distributed, the review process terminates until the next review. In the interim, however, there may be follow-up by the panel on its recommendations.

Once recommendations are sent to the agency and the court, the court may be called upon to enter an order on the permanency case plan, particularly where the panel and the department disagree as to the appropriate plan. Thus, the recommendations are most useful for the juvenile court judge who must make official decisions regarding the disposition of these cases. The court is able to focus its attention on any problem areas. In issuing appropriate court orders, where consensus on a case plan has been reached at the review

meeting, a significant reduction in the time required for court review can be realized.

In those states with no automatic judicial review, or where court reviews are not scheduled shortly following the panel review, there may sometimes be a lack of follow-up prior to subsequent reviews. A study in Maryland found that while review panel members were comfortable with the advisory status of the panel, they were somewhat concerned that there was no assurance that the court would read and consider their recommendations.⁴⁶

In addition to court reviews of panel placement recommendations, several states provide other mechanisms for panel follow-ups on placement recommendations. For example, section 3814 (b) c" the Delaware act provides that, "the board may petition the family court for a judicial hearing if there has been no documented action toward achievement of a permanency plan during a one-year period."

Chapter IV. Footnotes

1. e.g. S.C. Code Ann. 20-7-2376; and Arizona s8-515.01 et.seq. (1978).
2. New Jersey Child Placement Review Manual (rev. 1985).
3. A.R.S. s8-515.01 et.seq.
4. interview with Corinne Driver, New Jersey Child Placement Advisory Council.
5. interview with Carol Stitt, Nebraska FCRB.
6. 42 U.S.C.A. s670 et.seq.
7. see Appendix B.
8. Mississippi Foster Care Review Boards Training Manual.
9. N.J.R.S., ibid.
10. see Appendix B; interview with Julie Rorie, Oklahoma Administrative Office of the Courts.
11. K.R.S. 208-208.760.
12. Arizona Foster Care Review Board Operational Guidelines, (1981).
13. Dodson, Diane, "Advocating at Periodic Review Proceedings" Foster Children in The Courts, A.B.A., (1983), Mark Hardin, ed. p.105-107.
14. ibid.
15. South Carolina Regulations for Review Board 24-1 (1986).
16. IA Juv. code s237.18.
17. Univ. of Kansas Foster Care Review Training Manual p.62.
18. Mississippi Foster Care Review Board Training Manual p.34.
19. based on interviews and personal observation by author of

- Arizona reviews.
20. interview by author with Corinne Driver, NJ Child Placement Advisory Council.
 21. interview by author with Mary Lou Dominguez, FCRB Program Manager.
 22. Michigan, Handbook, *ibid.*
 23. Georgia, Operational Guidelines, *ibid.*, p.8.
 24. Delaware Code s3803 (1979).
 25. Arizona Supreme Court Foster Care Review Board Operational Guidelines.
 26. e.g. Kentucky Administrative Office of the Courts, Training Manual, p.17.
 27. e.g. Nebraska; see Neb. Code 43-1301-1318.
 28. e.g. Arizona; Michigan; South Carolina, Maryland and others; see Appendix B.
 29. based upon observations of the author at review panel meetings.
 30. e.g. Arizona Foster Care Review Board Operational Guidelines.
 31. *ibid.*
 32. New Jersey Child Placement Advisory Council, Training Manual, p.48.
 33. Michigan State Court Administrative Office Handbook, *ibid.*, p.26.
 34. e.g. O.R.S.419.472 sect.3 (as amended 1987).

35. Kansas Foster Care Review Board Training Manual, Univ. of Kansas, p.26 (1986).
36. based upon the author's observations and interviews with review board and staff in Arizona, Oregon, Michigan, Oklahoma, and New Jersey.
37. "An Examination of Citizen Review in New Jersey: Monitoring Children in Placement", Association for Children in New Jersey (1982) p.103.
38. Michigan SCAO Handbook, *ibid*.
39. see e.g. AZ s8-515.01, et.seq. (1978); O.R.S. 419.472(2) (1987 ad.)
40. South Carolina FCRB Regulations 24-24 (I) (1986 ad.)
41. MD Code Ann. s5-545.
42. N.J.R.S. 30:4C-52 s11 (as amended 1987).
43. MD Code Ann. s5-535 et.seq.
44. Delaware Code Ann. s3801 et.seq. (1979).
45. N.J.R.S. s30:4C-61.1(c) (1987, as amended).
46. Conte, et.al. "A Qualitative Analysis of Citizen Review Boards in Four States", University of Illinois, p.105 (1981).
47. Del. Code Ann. s3814(b).