

HOUSE COMMITTEE ON
GENERAL GOVERNMENT AND REGULATORY REFORM

February 22, 1995 Hearing Room 357
1:00 PM Tapes 44 - 47

MEMBERS PRESENT:

Rep. Bob Tiernan, Chair
Rep. Mike Lehman, Vice Chair
Rep. Ron Adams
Rep. Jerry Grisham
Rep. Cedric Hayden (Arrival: 1:50 pm)
Rep. Bryan Johnston
Rep. Bill Markham
Rep. John Meek (Visiting Member)
Re. Lonnie Roberts
Rep. Barbara Ross
Rep. Charles Starr
Rep. Ken Strobeck
Rep. Sharon Wylie

STAFF PRESENT:

Anne Tweedt, Committee Counsel
Kay C. Shaw, Committee Assistant

MEASURES HEARD:

Government Efficiency
 Informational Hearing
 Children's Services Division

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks

report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

TAPE 44, A

007 CHAIR TIERNAN: Calls meeting to order at 1:05 pm. Gives introductory comments about the purpose of the informational hearing. Announces that the issue of removing legislators from PERS may be changed to Thursday due to time constraints. Discusses process and background information. REP. CEDRIC HAYDEN IS ABSENT.

049 CHAIR TIERNAN: Continues providing background information.

088 REP. LEHMAN: Presents opposition to holding the informational hearing.

Remarks that the hearing is poorly timed; its "grandstanding on some of the participants that are setting this hearing"; and the Children's Services

Division, justice system and all parties involved should be allowed to let the system work its way out. Comments that the Children's Services Division will be unable to tell their side of it, because of confidentiality requirements in the statute and releases will not be signed

by people complaining about Children's Services Division so the full story will not be known. Suggests that when the situation is resolved, then the committee can review all the facts.

112 CHAIR TIERNAN: Declares that the hearing will proceed.

GOVERNMENT EFFICIENCY - PUBLIC HEARING

Witnesses:

Kay Toran, Children's Services Division
Diana Roberts, Children's Services Division
Bart Wilson, Washington County Branch Manager
Mary Alice Ford
Sen. Bill Dwyer (D - District 21):

145 KAY TORAN, Administrator, Children's Services Division: Introductory comments and introduction of Bart Wilson, Branch Manager of the Washington County Branch Office. Outlines the questions that will be answered: (1) What steps did the branch take before they submitted petition to the Juvenile Court on the Whitehead case? (2) Why was there a decision to pick

up the kids at the school? (3) What was the agency's response to questions

from Mr. Whitehead in a telephone conversation with supervisor Connie Pollard at the branch at 4:30 on Friday afternoon? Describes an agreement as a result of two family unit meetings with the Whiteheads to not discuss the Whitehead case in public; therefore, requests that the answer to the third question be provided privately. Submits (EXHIBIT A). Introduces Diana Roberts, Assistant Administrator for Field who will discuss policies/procedures regarding child protective services investigations.

179 CHAIR TIERNAN: Remarks about the lack of response by CSD to questions prior to the hearing.

MS. TORAN: Explains the circumstances around the preliminary hearing at the Juvenile Court, the family unity meeting with the family after the hearing and inability to respond to the questions until after the hearing.

188 CHAIR TIERNAN: When did that hearing get done?

BART WILSON, Washington County Office Branch Manager: Says it started about 2:05 and ended either at or shortly after 3:00 pm yesterday.

199 CHAIR TIERNAN: Why did CSD take the kids from school?

201 BART WILSON: Explains the practice of moving quickly when there is an order from a circuit court judge to make a protective custody hold and, since that generally occurs during the day, and to meet with law enforcement at a school.

CHAIR TIERNAN: Why were the police called to the school?

CHAIR TIERNAN: Says the practice and agreement in Washington County is that when there is a court order pick up, CSD acts as supportive staff to law enforcement.

219 CHAIR TIERNAN: Refers to CSD's policy of taking custody of children whereby there is the least possible harm to the children or their mental state and creating the least commotion. Asks why CSD picked up the children at school and created a "stir" v. waiting an hour or two?

218 MR. WILSON: Explains the response to the court's direction of making an immediate pick up, (i.e., working with the school teacher/counselor, the child and the process of taking into protective custody).

CHAIR TIERNAN: Would you again pick the kids up from school?

MR. WILSON: In hindsight, with the mother there and knowing that it erupted into such a volatile/unfortunate situation, it would have been better to be in a different setting.

263 CHAIR TIERNAN: Discusses information provided from a teacher that the process at the school was extremely disruptive and everyone at the school understands what had taken place.

MR. WILSON: Suggests that in a span of cases in which there is a court order to make a protective custody, collaborative hold and achieve it at school, the majority of children at school do not have parents around.

289 CHAIR TIERNAN: Was Ms. Whitehead's reaction unusual to you?

MR. WILSON: Says reaction wasn't unexpected.

CHAIR TIERNAN: Why wasn't the father given opportunity to take the children?

MR. WILSON: Says the circumstances and time frames resulted in CSD not knowing the father was available.

CHAIR TIERNAN: What independent investigation did you do from the time of the police report at 8:15 Friday morning until CSD went to the judge?

MR. WILSON: Explains process, mandatory requirements and sheriff office's indication the case needed further investigation/assessment.

336 CHAIR TIERNAN: Requests clarification about whether Mr. Whitehead had a past history with the agency?

337 MR. WILSON: Declines to answer because of agreement with Whiteheads to not go into detail about the case.

345 CHAIR TIERNAN: Provides information that the Whiteheads nor the family have any previous history with the agency. Inquires about the investigation and whether or not the judge was provided with sufficient information to make a determination.

383 MR. WILSON: Explains what the judge was provided before signing a protective order.

410 CHAIR TIERNAN: Explains about Mr. Whitehead's return from active duty, attempt to take the children and the agency's response.

MR. WILSON: Describes the agency's response.

TAPE 45, A

006 CHAIR TIERNAN: Inquires why no independent investigation was done to evaluate the home situation, to contact the wife, or to check up on the police report for valid concerns?

MR. WILSON: Explains the two levels of cases (i.e., immediate response cases and non-urgent response cases).

020 CHAIR TIERNAN: Why was there no effort to reunite the children with the father when the father was found (i.e., between 4:30 and 11 pm) until yesterday at 1 pm?

MR. WILSON: Reflects about a series of events and the rationale for the agency's actions.

092 CHAIR TIERNAN: Concludes that after reading all the information and talking with people at the scene, there is nothing out of the ordinary that would result in a different reaction. Why were the children taken?

MR. WILSON: Cites state statute, agency policy and responsibility as a child welfare agency to respond and protect children in abusive situations.

124 CHAIR TIERNAN: Asks whether any photos were taken of the scene inside the house and whether the rope/belt were seized

MR. WILSON: No photos were taken and unable to respond about whether or not rope/belt were seized.

135 CHAIR TIERNAN: Inquires why the officer didn't call CSD or remove the children if there was an immediate danger in the house? Why didn't the officer remove the children, particularly if there was immediate danger?

MR. WILSON: Suggests gathering that information from the law enforcement officer?

155 CHAIR TIERNAN: Inasmuch as the allegations involved only one child, why were the other five children taken?

MR. WILSON: Explains the process is to ascertain the breadth of risk (i.e., is there risk to more than just the identified person).

167 CHAIR TIERNAN: Asks whether the police report was the source of all the information?

MR. WILSON: No. Explains that the police report is a precipitating document; however, there was behavior at the school, a subsequent phone conversation and an evaluation of the pattern of the family.

198 REP. MEEK: Are you saying that how a family responds to your agency taking children is a consideration in how CSD determines that family is at further risk?

MR. WILSON: Yes. Explains that CSD looks at the range of reactions by parents unless there is a complaint call from the community or someone has identified a child is the subject of injury/abuse.

250 CHAIR TIERNAN: Refers to the police report. Asks confirmation that no photos, belts, ropes or other items were taken from the home and that if a police officer, concluding the situation was one of child-abuse/neglect,

would have seized items and taken pictures.

MR. WILSON: Agrees in theory.

248 CHAIR TIERNAN: Reads FAX cover sheet sent to CSD from the sheriff's office: "These kids need to be checked on. If you want us to go with your investigator, please contact me through dispatch. . . No further action. Send copy to CSD." What caused the agency to proceed based on that conclusion?

MR. WILSON: Comments about a phone conversation between someone in the CSD office and the sheriff's office that encouraged involvement.

274 CHAIR TIERNAN: Assumes that after reviewing the police report and because no items were seized or people taken into custody, there was no eminent danger. Says CSD's decision was apparently made independently without further investigation. Is that correct?

MR. WILSON: Responds that CSD made a different decision.

CHAIR TIERNAN: Recounts showing the report to a Multnomah County police officer with 15 years experience in this area who characterizes this as a "routine police investigation on alleged over discipline. That he would not have acted upon this nor his department have acted upon this police report." What are your comments about that independent review of this police report?

MR. WILSON: Defers. Says the officer is entitled to that opinion and judgment.

CHAIR TIERNAN: You stated "that you would not have changed anything that happened on Friday." Is that still your opinion?

MR. WILSON: Says the response was appropriate; however, reflectively perhaps there might have been other things that could have been done.

339 CHAIR TIERNAN: What do you do when your agency makes mistakes?

DIANA ROBERTS, Assistant Administrator for Field Operations, Children's Services Division: Explains that CSD does admit when mistakes are made and that procedures are in place to investigate as well as routinely evaluate policies, practices, and training.

363 REP. MEEK: In hindsight, was a mistake made?

MS. ROBERTS: Explains the difficulty of the situation, that CSD is still working with the family in order to look thoughtfully at what happened and that CSD will deal with any mistakes made.

398 REP. MEEK: What discretion does the agency practice upon receiving a court petition to pick up children?

TAPE 44, B

003 MR. WILSON: Says there is no discretion. Explains that in Washington County the protective order is issued to the sheriff's office to carry out and that through communication it is determined when is the best time to carry out the order.

REP. HAYDEN arrives at 1:50 pm.

REP. MEEK: What discussions did the Washington County CSD have that lead up to the determination that CSD felt it necessary to go to court and seize the children?

026 MR. WILSON: Explains about the office staffing; acknowledges that the factual material in the police report was used; and describes the alleged risk situation.

061 CHAIR TIERNAN: Inquires about the phone conversation and any contacts with the police.

MR. WILSON: Unaware of any documentation about the phone conversation or the specific police officer contacted.

070 CHAIR TIERNAN: Isn't it true, that as of 9 pm last night, CSD has not investigated nor talked to Mr. or Mrs. Whitehead as to what has taken place?

MR. WILSON: Describes the contact with the Whiteheads' legal representative on Monday?

CHAIR TIERNAN: States that as of 9 pm last night, Mrs. Whitehead has never been asked what happened. Suggests the supervisor involved in the discussion attend when facts are needed.

104 REP. MEEK: Refers to testimony about the general practice of placing children temporarily with family members or relatives. Did that happen here?

MR. WILSON: Refers to the time frame from the protective service order to taking custody of the children as being very "tight" and "No, there was not any ability to look for other family resources."

129 REP. MEEK: Was the fact it was Friday, CSD is closed on weekends and there was a holiday on Monday, the determining factors for the discussion and seeking the petition to remove the children?

MR. WILSON: Suggests that it would be of concern if CSD had reached the threshold that the children were at risk/vulnerable to abuse and it was necessary to move quickly per statute.

136 REP. MEEK: Was the boy ever examined by a physician?

MR. WILSON: No. Explains the law enforcement officer examined the boy's back and the youngsters in care over the next three days were managed/observed by the foster parents.

141 REP. HAYDEN: Refers to testimony that the foster parents were dressing/undressing, bathing and observing the children. Inasmuch as the boy spanked was 11 years old, wouldn't this be an intrusion of the child's privacy?

MR. WILSON: Apologizes for misspeaking. Explains that the situation involved a range of children from two to eleven and the testimony referred to the younger children. Explains the 11-year old was careful of his

privacy and didn't wish the foster parents to look at his back or body; however, all the children had unblemished skin?

166 CHAIR TIERNAN: Quotes a CSD report that the boy had marks on his back and buttocks; however, that was not confirmed by the police report. Refers

to the police report that says "only on the back and that the boy stated that he had none anywhere else."

173 REP. JOHNSTON: Would it be fair to say that a lot of CSD's practices are experience driven (i.e., respond to the situations as they are encountered in the field)?

MS. TORAN: Yes

REP. JOHNSTON: Generally, most of CSD's work goes without this type of attention?

MS. TORAN: Yes. Explains there are 25,000 child abuse reports made to CSD yearly that are investigated. About 8,000 cases are validated as children who are victims of abuse, about 75% of those children are maintained in their homes, and about 25% are taken into protective custody.

REP. JOHNSTON: When this type of attention comes your way, is it more frequently as a result of actions not taken by CSD than actions such as this where one is taken by CSD?

184 MS. TORAN: Responds that it happens both ways. Says it is a small percentage of cases that CSD is questioned about and it is better to "error on the side of being overprotective than leave a child in a situation where they get hurt."

208 CHAIR TIERNAN: Announces that PERS hearing will not be held -- it will be reset for tomorrow. The invited testimony will not be held today; Rep. Meek will assume the taking of more testimony tomorrow at 8:30.

215 REP. JOHNSTON: Asks whether CSD designed checks and balances into the system to avoid making mistakes. Summarizes that CSD's actions started with the report and the source and credibility of the report is of some significance. Would a police report be weighed more heavily than a report from neighB or due to what credibility is given to the report?

MS. TORAN: Yes. Emphasizes that police officers are assumed to have a certain amount of training/expertise, because they look at bad situations, have the ability to make an on-scene assessment, gather evidence and report.

230 REP. JOHNSTON: Refers to CSD policy that states "If you are given a report, you have no choice but to make a decision/assessment of that report" and requests confirmation.

MS. TORAN: Yes, the law requires assessment of reports where reasonable cause exists that a child may be abused or neglected.

234 REP. JOHNSTON: What constitutes a "staffing" in CSD?

MR. WILSON: Describes "staffing" as involving screening staff,

management/supervisory staff, and potentially the treatment staff.

REP. JOHNSTON: Do you know how many individuals were involved in the staffing of this case?

MR. WILSON: Says there was another case worker, a supervisor and a screener (i.e., three staff professionals).

245 REP. JOHNSTON: Sequentially, was it after this report was initially reviewed that a telephone call was made to gain more information?

MR. WILSON: Yes.

REP. JOHNSTON: Requests confirmation of and discusses CSD's various options, including taking a case to the court, and that the judge could and does act independently (i.e., request more information).

MR. WILSON: Confirms that CSD has various options, that taking the case to court was the option chosen and the judge could/does request more information regularly.

256 REP. JOHNSTON: Summarizes that the judge, acting as an independent check and balance, reached the same opinion that CSD was advocating.

MR. WILSON: Agrees with the summary and adds that the judge was provided with the police report as CSD's reason for seeking court intervention.

262 REP JOHNSTON: Talks about the standard procedure of relying upon the trained police officer's report and CSD's conclusion the officer made a mistake by not picking up the children that night.

MR. WILSON: Agrees.

276 REP STROBECK: Generally, is it CSD's position that parents have the ultimate authority within the home?

MS. TORAN: Yes. Says that society's position is that parents have the ultimate authority within the home together with responsibility to assure the children are safe, educated, nurtured, etc.

276 REP STROBECK: Is it the position of CSD that any physical punishment is abusive?

MS. TORAN: Explains that CSD relies on Oregon statute for the definition of child abuse (i.e., nonaccidental, physical injury as bruises, bites, rope marks, internal and head injuries, etc.).

REP STROBECK: Remarks that in the process of investigating a circumstance in the home, CSD doesn't check whether or not it was discipline or an out-of-control parent?

MS. TORAN: Describes putting together two pieces of a large puzzle in doing a risk assessment.

306 REP STROBECK: Refers to previous testimony that CSD investigates or seizes children when CSD suspects or there is evidence of physical, sexual, mental, or emotional abuse or threat of harm and the circumstances around this incident. Comments that perhaps people will now wonder if they will

be the next one to "have the police knock on my door and have my kids taken away. Particularly if you seize children on the very first time you go to make a visit to a home."

342 CHAIR TIERNAN: Asks about CSD's rules/interpretation of the rules about spanking a child.

MS. TORAN: Explains parents are entitled to spank a child; however, there are different definitions for "spanking."

MR. WILSON: Explains that parents have the right to discipline a child according to that family's values and as long as it is not an injurious result or outcome of the discipline.

380 REP. ROSS: Inquires about similar cases and what techniques are used to assure the safety of the children after they are returned?

MS. TORAN: Explains about family unity/decision meetings, including family/marriage therapy, drug/alcohol evaluation/treatment, regular home visits by the caseworker, reuniting of children in foster care with families, and possible adoption.

REP. ROSS: Asks how the responsibility for collecting data is divided between CSD and law enforcement in serious abuse cases?

TAPE 45, B

MS. TORAN: Responds that CSD works with law enforcement where evidence is being gathered to pursue a criminal investigation and CSD is gathering evidence to pursue a risk assessment.

014 REP. ROSS: In similar situations is it normal for law enforcement officers to take pictures of injuries if there are bruises?

MS. TORAN: Yes, in situations of physical abuse and neglect.

REP. ROSS: Is it normal for CSD to immediately ask for a physician to see the child?

MS. TORAN: Says that depends on the extent of injury. It is normal in many situations for CSD to seek medical care, but no medical evaluation is sought if there does not appear to be an immediate need.

026 REP. STARR: Does CSD talk about what might have been the circumstances in the home preceding an occurrence?

MR. WILSON: "I would hope that it was discussed in the morning staffing of this case that there probably was some stressors and issues." Explains that CSD focused too narrowly at the risk issues for the child.

046 CHAIR TIERNAN: Delves into perceived inconsistencies about whether or not CSD knew a father was there or that he was gone for two weeks.

MR. WILSON: Says they didn't have that information.

060 REP. GRISHAM: What percentage of complaints received are false and what procedures does CSD have in place to screen out retribution, retaliation and vindictiveness v. real complaints of abuse?

MS. TORAN: Explains the percentage for filing of false reports is very small. CSD does have a recordkeeping system to handle false reports and does help families gather enough information to file harassment charges when reports are false.

REP. GRISHAM: If the results of an investigation determine there was an error in judgment on the part of the caseworker (i.e., the responsible party with CSD), are there procedures to ensure accountability? What are your disciplinary procedures?

MS. TORAN: Talks about the process when there are errors in judgment, errors for not following policy or procedures and progressive discipline.

109 REP. MEEK: Requests information for next hearing (i.e., about the conversation between CSD and the sheriff's office, whether or not the police officer who wrote the report was present when CSD made the petition before the judge, and Washington County CSD Branch Office's discussion that resulted in the petition to the court).

145 CHAIR TIERNAN: Reads from the police report. Asks how CSD would know what the statement "she then grabbed him by the arm and tripped him . . . took her belt off and started hitting him with her belt" meant without further investigation?

162 MR. WILSON: Explains that the statement creates a picture of behavior and the statement is part of other statements/behaviors.

202 REP. MEEK: Requests an explanation about testimony of taking each statement in isolation.

MR. WILSON: Can't explain, but can portray a response of linking the behaviors together.

REP. MEEK: Refers to testimony that "corporal punishment is fine and acceptable." Asks for explanation and description of corporal punishment?

240 MR. WILSON: Reiterates agreement between CSD and the Whiteheads not to go into details about the case.

CHAIR TIERNAN: Excuses Rep. Hayden.

REP. LEHMAN: Asks whether or not the Committee has all the available information that CSD operated on?

MR. WILSON: Responds that the Committee has "bits and pieces."

CHAIR TIERNAN: Asks what pieces are missing?

272 MR. WILSON: Says that due to the agreement between CSD and the Whiteheads there are boundaries about what can be divulged.

CHAIR TIERNAN: Who asked for the agreement between CSD and the Whiteheads?

MR. WILSON: He approached the Whiteheads on behalf of the agency.

REP. MEEK: Why doesn't the Committee have all the information that led CSD to conclude it was necessary to get a petition to the court?

315 MR. WILSON: Believes the puzzle isn't whole until all the pieces are interlocked and interlinked. CSD has not fully evaluated the decision-making process in this case.

346 MARY ALICE FORD: Provides background as an Oregon legislator (i.e., a member or chair of a committee related to human services for seven of eight terms). Comments that CSD has a very difficult job, families are deteriorating and children are abused.

TAPE 46, A

001 MS. FORD: Continues testifying. Identifies problems with inconsistency of training among agencies (i.e., the court, police and CSD workers).

048 MS. FORD: Continues testifying. Recommends a look into how CSD is functioning, because CSD is the final authority in law about removing children from families and returning children home. Suggests a process of appeal from CSD, that equal money and training be provided to judges in Family Law, and the avoidance of picking up children at school unless it is a "last resort."

130 CHAIR TIERNAN: Asks what is CSD's policy about picking up children at school?

MS. FORD: Says children have been taken from school. Explains that it is the Legislature's responsibility to determine the CSD policy and giving direction to CSD about notifying any family member who could care for the children in order to ensure placement in the least disruptive environment.

163 MS. FORD: Continues testifying. Suggests intense support therapy for a very traumatized family and who pays to put the family back together.

178 MS. FORD: Continues testifying. Says CSD should be accountable to someone and that it is necessary to change CSD's policy. Comments that CSD offices should be open seven days a week and that in-house reviews of sensitive cases be handled more fairly.

288 CHAIR TIERNAN: Do you agree with the statement of not changing anything that happened on Friday?

MS. FORD: Says many things could have been done differently. Expresses concern about CSD removing kids when they shouldn't be removed and leaving them in families when kids should be removed.

308 REP. LEHMAN: Discusses sensational cases. How do you create a balance of need to protect children when they need to be protected and the need to not get involved when families don't need it?

MS. FORD: Explains the problem is multi-faceted (i.e., CSD, the court, qualifications and training of the judge to make an independent decision,

and law enforcement training/understanding/sensitivity) and the need to work as a team.

REP. MEEK: Refers to her experience reviewing such cases and the testimony about this case. Asks if this is a normal CSD case?

349 MS. FORD: Says every CSD case is different; however, this is typical of a mishandled case.

367 SEN. BILL DWYER (D - District 21, Springfield): Remarks that of all the constituency work within his district, the leading complaints involve CSD.

Illustrates a personal experience. Says that CSD seems to embrace a false presumption that the whole family is abusive if there is an abuser in the family and CSD treats people with counsel differently than poor people.

TAPE 47, A

003 SEN. DWYER: Continues testifying. Expresses concern about CSD sending a wrong message to children regarding discipline and of those instances when CSD made an error in judgment.

069 CHAIR TIERNAN: Asks how long ago the incident occurred?

SEN. DWYER: Two years ago. States it is dangerous when people become "statistics to a bureaucrat."

101 CHAIR TIERNAN: Announces the continuation of the informational hearing by Rep. Meek's committee.

CHAIR TIERNAN: Declares the meeting adjourned at 3:35 pm.

Submitted by, Reviewed by,

Kay C. Shaw Anne Tweedt
Committee Assistant Committee Counsel

EXHIBIT SUMMARY:

A - Prepared Testimony on Government Efficiency -- Kay Toran -- 98 pages