

House Committee on Agency Reorganization and Reform February 26, 1991 -
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proceedings, please refer to the tapes.

HOUSE COMMITTEE ON AGENCY REORGANIZATION AND REFORM

February 26, 1991Hearing Room D 3:30 p.m.Tapes 29 - 30

MEMBERS PRESENT:Rep. Clarno, Chair Rep. Katz Rep. Jones Rep. Derfler
Rep. Clark

MEMBERS EXCUSED:Rep. Brian

MEMBERS ABSENT: Rep. Hugo, Vice-Chair

VISITING MEMBER:Rep. Cease

STAFF PRESENT: Susan Browning, Committee Administrator Scott
Kaden, Committee Assistant

MEASURES CONSIDERED:None - Informational Meeting Only

WITNESSES:Bill Linden, State Court Administrator Nancy ASB ury, State
Administrator, Citizen Review Board (CRB) Ruth Davidson, CRB Member,
Multnomah County David Harding, DHRBranch Manager for Crook County Jan
Brown, Former Caseworker for Bend Branch of CSD Chad Chariel,
Administrator of Office of Health Policy

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proceedings, please refer to the tapes.

TAPE 29, SIDE A

006 CHAIRPERSON CLARNO: Calls the meeting to order at 3:34 p.m..
Introduces Nancy ASB ury and Bill Linden.

013 BILL LINDEN, STATE COURT ADMINISTRATOR: Provides a historical
overview of the Citizen's Review Board. In 1985, the Committee for
Oregon Families promoted the concept of Citizen's Review Board. I was a
reluctant participant at the outset. This Board deals with issues which
are difficult for the courts to address. I became a supporter of this
concept during the 198 5 Session. This program has been funded on a
tight budget ever since its inception. Outside Oregon, we have built
quite a reputation as a quality, effective, and economical system. - At

this point, I would like to turn over the presentation to Ms. ASB ury.

110 NANCY ASB URY, STATE ADMINISTRATOR, CITIZEN REVIEW BOARD: Summary and general overview. Please see EXHIBIT A (Fact Sheet), EXHIBIT B (CRB Staff), EXHIBIT C (Organizational Chart), EXHIBIT D (Budget Comparison Chart), EXHIBIT E (specifically page 2 - "The Process").

180 CHAIRPERSON CLARNO: Refers to Exhibit D, fourth column - Number of Boards. What does that mean exactly?

182 ASB URY: That is the number of CRBs located in each state. Every county has boards, some counties have more than one board.

190 CHAIRPERSON CLARNO: So we don't necessarily have one board per county?

191 ASB URY: No, in Multnomah County we have sixteen boards alone. Each county has a different number of boards depending on the number of children which are in substitute care. Many counties have one, Clackamas has three and Lane has four or five Boards.

198 CHAIRPERSON CLARNO: Are there any other questions?

199 REP. JONES: I have a friend, who I recommended for a position on a Board, who keeps me informed of the process.

201 REP. DERFLER: I was on one of the very first Boards. We started the program in Marion County.

207 RUTH DAVIDSON, CRB MEMBER, MULTNOMAH COUNTY (GRESHAM): See EXHIBIT F for verbatim written testimony.

294 CHAIRPERSON CLARNO: We held this hearing because of the numerous calls from the constituents concerned with the CRB's. We have to know what these programs are doing and not doing. We thank you for your time and written testimony.

313 REP. JONES: With regard to those concerns which have been voiced to us, do you think the parents and the child have a better process because of your (CRB's) involvement?

320 DAVIDSON: Yes, because parents now have a chance to express their feelings. Before, the parents harbored much anger for CSD. A lot of information, which comes out in the reviews, is very beneficial. Things move faster with the present system.

337 LINDEN: We recently surveyed five of our counties in order to see how these reviews were being received. Of the natural and foster parents, 90% thought reviews were conducted fairly, and more than two-thirds thought the review would have a positive impact on their case. 88% found the Board's recommendations were reasonable.

347 CHAIRPERSON CLARNO: That was both foster and natural parents?

348 LINDEN: Yes, natural and foster parents. - Based on that research, there is some level of satisfaction.

352 REP. KATZ: When you review all the records you have, personally, are you concerned about how long it takes for the disposition of a case? Many times it takes two to three years before the child is placed in

foster care. As you go through your cases, do you find many examples of what I have just described?

366 DAVIDSON: I haven't in the last two or three years. I certainly did before that time.

367 REP. KATZ: What do you think changed?

368 DAVIDSON: I think we have challenged CSD. We have made CSD more accountable.

379 REP. KATZ: Once a year I spend some time with a team of caseworkers and go through a set of files of reported abuse. We would see cases hanging in there. Before anyone became interested in the child, long periods of time had expired and the harm to the child was terrible.

398 DAVIDSON: I think we are listening to children a little bit better. I am a substitute teacher and can say that schools are doing a better job of listening and of observing children.

411 REP. KATZ: I hope you are right. The cases that I saw were very serious cases. I would be very concerned if the children were to stay just ONE extra night in those homes.

418 DAVIDSON: I find that extended family members are more willing to come forward and protest. That hasn't always happened in the past.

424 CHAIRPERSON CLARNO: Are there any further questions? Thank you for your time and testimony. I have also invited David Harding to testify. Introduction of David Harding.

435 REP. KATZ: Excuse me, Madame Chair, you have mentioned that these CRB's are controversial. In what sense are they controversial?

437 CHAIRPERSON CLARNO: They are controversial in the sense that many people feel they are not operating as they should in all counties.

443 REP. JONES: Is this particular county controversial? I am just trying find out what we have in front of us.

445 CHAIRPERSON CLARNO: I don't know. I have invited Dave here to give us his perspective and input.

454 REP. JONES: Maybe we can have him comment on why there is a difference of opinion. What circumstances are creating the question of whether CRBs are valuable or not?

466 DAVID HARDING, DHRBRANCH MANAGER, CROOK COUNTY: Thanks the Chair for the opportunity to address the committee. See EXHIBIT G for further detail.

TAPE 30, SIDE A

093 CHAIRPERSON CLARNO: Could you elaborate on your comments concerning your volume of paperwork?

096 HARDING: Yes, we have large amounts of paperwork. If we have several service providers and the child is in substitute care, we have large amounts of paperwork. Depending on how that is coordinated, which is critical, the clerical burden may be substantial.

112 CHAIRPERSON CLARNO: You're talking about the paperwork that is mailed out, correct?

113 HARDING: Yes.

114 CHAIRPERSON CLARNO: Is that mailed back or does the CRB bring it back with them when they attend the meeting?

115 HARDING: They bring it with them when they come to the meeting, and I am assuming they keep their own paperwork or turn it into their coordinator.

116 REP. JONES: How do they handle the issue of confidentiality? I don't think I have heard anyone express how that is handled, and I think that is an issue which ought to be addressed.

118 HARDING: I can't answer your question specifically because the Board members are appointed by the court. I can answer with an assumption, though. When they are appointed by the court, the judge must instruct them about confidentiality. They are probably instructed that they are dealing with confidential, very sensitive issues. That is not an educated answer though.

126 REP. JONES: That is how I understood it.

128 REP. DERFLER: That is true. That was my experience.

129 REP. CLARK: You mentioned conflict of interest a while ago. My law partner was the Chair for a Multnomah County Board for a while and his concern was not so much technical conflicts of interest, but how close a working relationship do you want the Board to have with the local branch. How close is too close? Some agencies become captive and don't really do the job they are supposed to. Should there be some inherent tension between the Board and the local branch?

142 HARDING: I think there should be an inherent, guarded relationship so that the welfare of the child is not hindered.

157 REP. CLARK: I guess I am asking more of an institutional question. Where along the spectrum (of suspicion) is the proper relationship between the Board and CSD?

174 HARDING: I think part of the answer lies in making sure that the Board represents a good cross-section of the community. You have to look at the socio-economic, racial and cultural classes. You have to look at the actual makeup of the board. That is very important. We could guard against conflicts by doing a better job of maintaining well balanced boards.

186 REP. DERFLER: Having served on a board for some time, the judge really encouraged and appreciated what we had to say. It was nice for them to get more information than just from CSD. The biggest frustration I found was to hear why people hadn't taken care of their own lives.

190 CHAIRPERSON CLARNO: Which explains why they are undergoing this process in the first place. Thank you for your time and comments, Mr. Harding. Introduction of Jan Brown, former caseworker for the Bend, Oregon CSD branch.

226 JAN BROWN, FORMER CASEWORKER FOR THE BEND CSD BRANCH: Thank you for your time. See EXHIBIT H for written testimony.

314 REP. KATZ: Isn't it the responsibility of CSD to lobby for additional staff and resources?

315 BROWN: I really don't know.

316 REP. KATZ: Yes, it is your responsibility as a caseworker to make that information known to your supervisor, who then makes that information known to the regional manager, who in turn passes it on.

319 BROWN: Right, I agree. Returns to her written testimony.

335 CHAIRPERSON CLARNO: You were actually in CSD as a caseworker before we enacted the CRBs? You have seen it both ways?

337 BROWN: Yes, I have seen it change from strictly an in-house review to the system in which we invited the Health Department, Juvenile representatives and family members. Then, in 1986, the law came into effect which gave CRB's total control over who was going to review the cases.

346 CHAIRPERSON CLARNO: One other question. Under the second listed alternative to CRBs, you have mentioned "147 forms." Is that a form number or 147 forms?

350 BROWN: I am sorry. That is a standard form number. That is the form we use to meet the public law.

356 REP. DERFLER: You object to the control of the CRBs? You just mentioned that we should hire people from the outside. What would be the difference between hiring and having volunteers?

362 BROWN: I don't know. I am trying to look at alternatives, so we will still be reviewed by an outside party.

364 REP. DERFLER: But why would it bother you to have volunteers there rather than paid staff?

366 BROWN: My concern is based on what I have observed with the Review Board, especially the number of people and the level of training.

369 REP. DERFLER: As I recall, all we did was review your plan that you have for the person, perhaps add some advice or thoughts from another direction. But you found that intimidating?

373 BROWN: I felt it was intimidating for the families. I sensed that the families felt like it seemed like just another hearing. I think we already had an appropriate check and balance.

381 REP. DERFLER: Would you agree that perhaps the biggest problem that, at least what I saw, was getting the parents to do things that the court or the caseworker had asked them to do? It might be intimidating, but maybe these people need a little bit more jarring.

386 BROWN: I found the children to be very hardened. We (the state) were pretty sure that we were going to end up raising the child. The family dysfunction had graduated to such a place that we were not

enforcing (inaudible).

392 REP. DERFLER: I found that children, who went through long-term care with the state, were probably the biggest disaster of all. When the state raised the child, you really had problems.

397 BROWN: Right. I agree.

398 CHAIRPERSON CLARNO: Are there any other questions? We really appreciate your time. Next we have invited testimony from Chad Charriel - the Office of Health Policy.

422 CHAD CHARIEL, ASSISTANT DIRECTOR, DEPARTMENT OF HUMAN RESOURCES: Introduces himself as Assistant Director for the Department of Human Resources. Provides a general overview of the organization - see EXHIBIT I.

472 REP. JONES: The number you gave for Oregonians who have no health insurance, \$400,000, is that really known? Do we know in certain terms that it is actually \$400,000?

481 CHARIEL: In 1986, a survey was done in Oregon. The State Health Planning and Development Agency took part in the survey along with a number of other organizations in the state. That is the last solid set of numbers that we have.

TAPE 29, SIDE B

030 REP. JONES: No further information has been gathered other than the study that was done in 1986?

031 CHARIEL: That is correct. - Returns to written testimony (reference to Exhibit I).

049 REP. DERFLER: Has there been any work done to discover what the costs of health care would be if we had a different tort system?

052 CHARIEL: I have not done such a study. There was a recent study in the New England Journal of Medicine, which made a comparative assessment of Canadian and US health care systems. One of the conclusions was that Canadians spend a lot less on issues of liability and tort law.

057 REP. DERFLER: So we have never done a study to determine how much that would reduce our health costs?

058 CHARIEL: I have not seen one.

059 REP. DERFLER: I would suspect it would reduce it a great deal.

060 CHARIEL: I used to show a slide (in my presentations) which addressed per capita physicians, number of admissions per 1000, etc. With all due respect to the members of the bar who are also legislators, I have seen studies which show a potential correlation between number of lawyers and malpractice claims. I do not know how valid that study is, and that might be off the topic.

069 REP. JONES: You mean there is a direct relationship between the cost of health care and the number of attorneys?

073 CHARIEL: Returns to Exhibit I, page 7 (Admissions to Oregon

hospitals).

087 REP. DERFLER: What is the relationship between hospital costs and overall costs? What part of the medical cost is directly related to hospitals?

090 CHARIEL: Approximately 40% of the overall health care costs are directly related to hospital services. - Reference to page 8, Exhibit I.

The cost of excess capacity, on the average, for one year, is somewhere between 35 - 60 million dollars in Oregon. That is the cost of past mistakes with regard to allowing institutions to over build, in terms of hospital beds.

112 REP. JONES: During this time, were we not requiring an assessment of need to determine if we needed additional beds?

116 CHARIEL: We did have, throughout the 1970's and 1980's, a Certificate of Need (CN) program. For a whole set of reasons, the CN process has not controlled the expansion of existing facilities. We haven't had additional facilities, but existing facilities have expanded, rebuilt and modernized. Much of the existing excess of capacity we have today results from the building boom we had during the 1960's and early 1970's.

128 REP. DERFLER: If we hadn't over built, what would be the overall costs? What affect does it have on the overall cost of a hospital?

132 CHARIEL: The cost of building a single bed in this state in the 1970's and 1980's ranged from \$150,000 - \$200,000 per bed. We have close to 4000 beds in this state that are not being used any given day. Not all of those are excess. Some of those will be needed to account for future growth. A person could argue that two to three thousand of those are in fact excess. These were built during a times when average lengths of stay were considerably longer. Part of the excess capacity is due to change in practice styles which has taken place in the hospital community.

156 REP. JONES: Were they not required to get a Certificate of need to expand during the 1970's and 1980's?

160 CHARIEL: Yes, they were required to go through the processes, but that has not worked effectively to control the rate of growth.

163 REP. JONES: Why?

164 CHARIEL: It was a public process which included an appeal process. Need calculations which were done often conflicted and invariably most of the institutions won at the end of the process.

174 REP. JONES: Does it matter where in the state these beds are located, in terms of the excess?

179 CHARIEL: There are excesses throughout the state, from the rural communities to the urban centers. There are 2000 excess beds in Portland alone.

183 REP. KATZ: I don't think you could say the Certificate of Need process was a total failure because you don't know the extent of deterrence value. The Legislature kept weakening the Certificate of

Need process because the hospital special interest groups urged us to do so. If we really wanted a good CN process, then we would have tightened up the system, but that was not the will of the body.

192 CHARIEL: Thank you for that statement. That is clearly the case. I have materials prepared which will show how the legislative body weakened the effectiveness of the program each and every session, up to 1989. At that time, they decided to terminate the most effective remaining component. The CN program is scheduled to sunset by June 30, 1991. The only prohibitions which will remain will address the building of new institutions in the state and CN programs with regards to the nursing home industry. Legislation was passed last session which will sunset all other components.

210 REP. KATZ: I hope everyone understands the implications of that statement. This means new and expensive equipment, plus the addition of beds.

219 CHARIEL: Reference to page 13. The MRI supposedly replaced X-rays and CAT scanners. It is a very expensive machine and in Oregon alone we have 22 machines. Each one of these machines has incredible revenue potential (\$3 million per machine per year). Soon after the CN process sunsets, between 12 - 14 new machines will be brought into the state.

243 REP. KATZ: Then the hospitals will sue the state because we are not paying the fair share. Then the state will settle outside of the court system, and the state will have to find the resources to pay for these machines. We will pay for this one way or another. Has the governor put in legislation to repeal the sunseting of Certificate of Need process?

250 CHARIEL: Not to my knowledge, although I am working with the Governor's staff to put in place an alternative to the CN process. Due to the effective industry PR campaign, the CN process carries a great deal of negative baggage. It is very difficult for me to defend the CN program, so I have proposed a very effective planning strategy to determine the technology, services and beds that this state really needs.

265 REP. KATZ: I remember legislation that was introduced to create a hospital cost review commission. Do you remember that Mr. Patterson? I am afraid that speaks of old legislation.

273 REP. JONES: It may be that the person you are referring to may have been around some of that in this body.

275 REP. DERFLER: You started out by talking about the Canadian plan. How many MRI machines does Canada have? Do they have the same problem of over staffing?

278 CHARIEL: Canada has either 12 or 18, depending on who you talk to. The hospital industry in Oregon has advised me that they may have 18. But, even this figure is four less than that of the state of Oregon. The Portland area alone has 12 machines. - Refers to page 13, Exhibit I.

296 REP. JONES: As we move forward in various areas of technology, we know that purchasing equipment becomes a very expensive process. How long ago did these MRI machines come into common practice?

303 CHARIEL: This is a fairly new machine - five years at the most.

305 REP. JONES: Before that, what was used in its place?

307 CHARIEL: CAT scanners were very popular.

308 REP. JONES: How long were those in effect?

310 CHARIEL: CAT scanners became a major diagnostic tool during the early 1980's.

313 REP. JONES: They were probably purchased or leased between the 1980 - 1984 time frame. In the last five years, have they become obsolete?

320 CHARIEL: Not entirely. In technology, we have noted that they are all additive. New technology does not replace old technology. CAT scanners are still being used and it is still a very profitable technology.

328 REP. JONES: Not only profitable, but I hope they are effective as well. MRI is used in addition to the CAT scan?

334 CHARIEL: If you look at the aggregate figures, that is what you will find. Nationally prominent researchers and scholars have made claims which basically say that if we had an effective way of managing technology, we could save 25% of the total cost of medical care.

350 CHAIRPERSON CLARNO: Reference to page 3, Exhibit I. Please provide me with information on your mandated publication duties? List those publications and the statutes which mandated the reporting requirement.

385 REP. JONES: I apologize for taking time away from your presentation. I just felt that these were issues that needed to be addressed and this was the opportunity to do so. Thank you for your time.

388 CHAIRPERSON CLARNO: We will make sure that Rep. Brian gets a copy of your background material. He will enjoy your thoroughness. Thank you for your time and information. - The informational meeting is now adjourned (4:55 p.m.).

Submitted by:

Reviewed by:

Scott Kaden

Susan M. Browning

EXHIBIT LOG

Exhibit A - Nancy ASBury - 1 page Exhibit B - Nancy ASBury - 1 page
Exhibit C - Nancy ASBury - 1 page Exhibit D - Nancy ASBury - 2 pages
Exhibit E - Nancy ASBury - 4 pages Exhibit F - Ruth Davidson - 5 pages
Exhibit G - David Harding - 3 pages Exhibit H - Jan Brown - 1 page
Exhibit I - Chad Charial - 13 pages