

Info~national Meeting SENATE COMMITTEE ON THE JUDICIARY

January 21, 1991                   Hearing Room C MEMBERS PRESENT: SEN. JOYCE COHEN, CHAIR SEN. PETER BROCKMAN SEN. JIM BUNN SEN. JEANNETTE HAMBY SEN. DICK SPRINGER MEMBERS EXCUSED: SEN. JIM HILL, VICE CHAIR SEN. BOB SHOEMAKER VISITING MEMBERS: SEN. RON GRENSKY SEN. MAE YIH HOUSE JUDICIARY MEMBERS PRESENT: REP. RANDY MILLER, CHAIR REP. TOM MASON, VICE CHAIR REP. RAY BAUM REP. JUDY BAUI FAN REP. MARIE BELL REP. TOM BRIAN REP. KELLY CLARK REP. JIM EDMUNSON REP. ROD JOHNSON REP. KEVIN MANNIX REP. DEL PARKS REP. RON SUNSERI

STAFF PRESENT: INGRID SWENSON, COMMITTEE COUNSEL BILL TAYLOR, COMMITTEE COUNSEL MARK THORBURN, COMMITTEE ASSISTANT WITNESSES: DENNIS MALONEY, VICE CHAIR, OREGON COMMUNITY CHILDREN AND YOUTH SERVICES COMMISSION AND CHAIR, JUVENILE JUSTICE COALITION LEROY BEN] IAM, CHAIR, OREGON COMMUNITY CHILDREN AND YOUTH SERVICES COMMISSION Senate Judiciary Committee January 21, 1991- Page 2

JOHN BALL, EXECUTIVE DIRECTOR, OREGON COMMUNITY CHILDREN AND YOUTH SERVICES COMMISSION JAMES SEYMOUR, CATHOLIC COMMUNITY SERVICES PAUL SNIDER, ASSOCIATION OF OREGON COUNTIES MURIEL GOLDMAN, MENTAL HEALTH ASSOCIATION OF OREGON HERMAN LESSARD, DIRECTOR FOR EDUCATION AND CAREER DEVELOPMENT, URBAN LEAGUE OF PORTLAND GINGER BAGGETT, EXECUTIVE DIRECTOR, NORTHWEST NETWORK OF RUNAWAY AND YOUTH SERVICES, INC. LINDA MENG, CHAIR, LEGISLATIVE COMMITTEE OF GOVERNOR'S TASK FORCE ON PREGNANCY AND SUBSTANCE ABUSE RICHARD LOWENSOHN, M.D., OREGON HEALTH SCIENCES UNIVERSITY JUDGE ANN AIKEN, GOVERNOR'S TASK FORCE ON PREGNANCY AND SUBSTANCE ABUSE JUDGE ELIZABETH WELCH, GOVERNOR'S TASK FORCE ON PREGNANCY AND SUBSTANCE ABUSE DALE PENN, MARION COUNTY DISTRICT ATTORNEY AND CHAIR OF OREGON DISTRICT

These minutes contain teriala which par phrase and/or surrnranze stJ ements made during this session Only text enclosed in quotation marks report · speaker's exact words For complete contents of the proceedings, please refer to the tapes Senate Judiciary Co iittee January 21, 1991 Page 3

ATTORNEYS ASSOCIATION

JEFFREY KUSHNER, DIRECTOR, OFFICE OF ALCOHOL AND DRUG ABUSE, DEPARTMENT OF HUMAN RESOURCES

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 3, SIDE A

001 CHAIR COHEN: Calls meeting to order at 1:15 pm. Introduces members of House Judiciary Committee. Subjects today are the work of the Task Force on Pregnancy and Substance Abuse and juvenile issues.

037 LINDA MENG, CHAIR, LEGISLATIVE COMMITTEE OF GOVERNOR'S TASK FORCE ON PREGNANCY AND SUBSTANCE ABUSE: Task force appointed to develop plan to produce healthy babies in Oregon. Gives brief history of this task force and previous task forces. Estimates are that between eight and

eleven percent of 40,000 babies born each year are adversely affected by the use of drugs or alcohol during pregnancy. Conclusion reached is that drug and alcohol treatment has to be made available to women in a way that it has never been available before. (Exhibit A) 089RICHARD LOWENSOHN, M.D., OREGON HEALTH SCIENCES UNIVERSITY: In past, substance abuse treatment programs dealt with adult male alcoholics; therapeutically wrong for women. Typical patient is mother with child who lives with substance abuser, has no job skills, no independent job, no independent transportation, no parenting skills, from family where she was abused, and who has no one with whom to leave children. Needs prenatal care, habilitation (not rehabilitation), child care, transportation, drug free housing, and basic social services in addition to substance abuse treatment. If all of these issues not treated at the same time, we're just wasting money and time. - Since last February, seven programs in state created specifically aimed at substance abuse in pregnant women; majority of them in Portland area. 129 MENG: Describes the problems facing the women who've testified before the task force. Also describes lack of treatment for these women. Need continuum of care. Plan of action on page 19 of report. Another task force indicates 75% of women in correctional facilities are drug and alcohol affected; 70% of those on probation; 90% have children. Need to treat these women before they get into criminal justice system. They get into criminal justice system. 193 JUDGE WELCH, GOVERNOR'S TASK FORCE ON PREGNANCY AND Senate Judiciary Committee January 21, 1991 - Page 4

SUBSTANCE ABUSE: Task force initially charged by Governor Goldschmidt to look at drug affected babies. Looked at criminalizing behavior, civil commitment approaches and changes in juvenile code; conclusion was that, due to lack of resources, commitment makes little sense. Growing body of data that children born drug affected are basically lost; cannot be taught or worked with. Severity of damage not always apparent at birth.

- Recognizing need is the first step. Intervention is the next step.

- Task force recommends mandatory universal testing of pregnant women. Data from other states is that drug abuse among pregnant women is not a phenomenon of any particular segment of community or society; every social, cultural, economic, and racial group. Unless there are mandatory rules that cut across all lines, we will continue to identify only the most obvious situations and the rest will continue to use drugs during pregnancy.

- Also recommends reporting positive findings to the Health Division who'd contact the woman, discuss problem, and advise her of the programs that we will have developed. No punitive elements involved; purely voluntary.

295 REP. BAUMAN: Did you discuss problem of women avoiding prenatal care out of fear of the program you're promoting?

302 WELCH: No.

312 REP. BAUMAN: Do we have data about "at risk" population of mothers?

316 WELCH: Yes.

331 MENG: Issue of scaring people away was a big issue for the task force; that's why we had it reported to the public health system because of the high risk tracking network already in place with well trained public health nurses who are best at intervention and least threatening

and have the skills. We cannot afford the services that would be required in a mandatory treatment process.

346 WELCH: Notes there is a specific provision in the task force bills prohibiting the use of test information for purposes of prosecution. 352

JUDGE ANN ADKEN, GOVERNOR'S TASK FORCE ON PREGNANCY AND SUBSTANCE ABUSE: This is attempt to arrive at a balance; women are driven from health care system by punitive measures. Want to identify women while their pregnant and get them in hoping to create atmosphere that this not a threat but a promise of treatment to help them.

368 MENG: We have window of opportunity; all the women who test)fied told us they want healthy babies.

376 CHAIR COHEN: Interested in Task Force's discussions with Minnesota and their measures that are mandatory. - Senate Judkury Committee January 21, 1991- Page 5

385 REP. MANNIX: Can we identify the mothers of drug affected children before they become pregnant?

399 LOWENSOHN: The women most likely to be identified are those women who are already socially identified as being at risk, i.e., women who are poor, minorities, unwed, those who show up late for prenatal care, things that obviously make people think of drug abuse. But in fact, if you do anonymous drug testing, find that drug use is the same across the population. Risk factors are actually only our assumptions and prejudices as to what are risk factors.

427 SEN. HAMBY: What about the private physician?

449 MENG: We want to avoid having physicians act as police; universal testing with no prosecutions will not interfere with relationship with patient and treat problem as health care issue.

459 SEN. HAMBY: Can questioning by a physician substitute for testing?

TAPE 4, SIDE A

(000 THROUGH 125 IDENTICAL TO 000 THROUGH 125 ON TAPE 3, SIDE A)

150 MENG: We're trying to take physician out of role of policing.

164 AIKEN: Alcohol is extremely difficult issue; no accurate test available. Agree that health care professionals need to be trained to be able to identify women across all ranges of society who are using drugs or alcohol; alcohol is as damaging or more damaging than many illegal drugs. Testing for illegal drugs is attempt to get an across the board approach that we can put into place now. Maybe it can be superseded after the health care professionals are trained.

179 SEN. HAMBY: Is it a prenatal test?

180 AIKEN: Yes.

186 REP. CLARK: Don't women know the effects of drug use or are they helpless to do anything about it?

195 WELCH: Some don't know the effects. Motivation plays a role as does

lack of transportation, child care, and things like that.

204 REP. CLARK: Are any of the funding requests in the governor's budget? Senate Judiciary Committee January 21, 1991- Page 6

209 JEFFREY KUSHNER, DIRECTOR, OFFICE OF ALCOHOL AND DRUG ABUSE, DEPARTMENT OF HUMAN RESOURCES: One-third of capacity needed to treat this population was funded by the Emergency Board in July. \$7 million is needed for the remaining two-thirds, none of which is in Governor Roberts' budget. 220 REP. CLARK: What can be done to motivate,

activate, or empower the private sector residential treatment programs? Assume there are more beds, but not available for people without resources. Are those providers aware of the problem but not able to do anything about it? 235 MENG: Most programs probably funded by the government and are corrections driven programs designed for men.

242 KUSHNER: Private for-profit programs are in bind right now and consolidating. Private insurers are much more careful now about what their funding. The private non profits have waiting lists for variety of populations and need more capacity. Really a matter of more money.

259 DALE PENN, MARION COUNTY DISTRICT ATTORNEY AND CHAIR OF OREGON DISTRICT ATTORNEYS ASSOCIATION: Refers to one page synopsis. (Exhibit B) ODAA endorses the ideas presented by the Task Force. Criminal enforcement should be not part of the program nor should doctors be mandated to report test results. There are ways of enforcement independent of the Task Force's package. The ODAA has a couple of bills before legislature: - To allow the court to mandate urine testing for all offenders. 70% of people on probation are using illegal narcotics, but only those convicted of narcotic offenses can be tested. - To permit the prosecution of possession by consumption of controlled substances.

296 SEN. BUNN: Referring to Task Force's report, would it be the policy of the state to prevent the birth of the child with whom the woman is pregnant? 307 AIKEN: Not the goal of the Task Force to mandate any option; want to make the most options available.

318 MENG: The women we encountered don't have contraception means available. Differs with Judge Welch; there are programs out there that work with drug affected children and we do have success and a chance with some of them. 338 REP. MASON: 13% of middle class are abusing drugs? 342 LOWENSOHN: That figure is from one county in Florida;

13.5% among white middle class and 16% among black middle class. Can't tell what the percentages are in Oregon. Birth certificate data in Oregon shows that roughly 2% of births are reported as drug affected, birth certificate survey done in 1989 showed 5.1 % were reported as associated with drug abuse, and other studies in this state have gone as high as 17%.

Ibae minutes contain materials which paraphrase cod/or summarize atatements made during thia session. Only text enclosed in quotation marks report a spealcer's exact words. For complete contents of the proceed ~gs, please refer to the tapes. Senate Judiciary Committee January 21, 1991 - Page 7

357 REP. MASON: Would you like to rephrase earlier observation? 367

MENG: The evidence is that many of the children born drug affected are lost, their circumstances can't be made better, that some of these children won't be normal. 377 REP. MASON: Didn't mean all children? 378

MENG: No. 385 CHAIR COHEN: "Let's just say for the record that we have lost as a society; we've lost productivity, we've lost any number of ways that taxpayers' dollars go into the educational system, the rehabilitation system, and, let's, for the record, leave it at that and

we have lost as a society in all sorts of productive ways." 391 REP. BELL: What is the cost of a treatment bed? 402 KUSHNER: We've just funded 80 beds in a residential setting out of new Federal AntiDrug Act and the rate was \$27 per day. Transportation available and trying to make child care available. Health Division working with us to provide health care. It will be \$28 or \$29 a day starting July 1 of next biennium. 426 REP. BELL: What is cost of keeping an inmate in prison? 427 AIKEN: \$100 a day. 429 KUSHNER: Renting them at Ontario for \$77 a day. 434 SEN. HAMBY: In Minnesota and other states, not uncommon for figure for basic school support to come in at \$100,000 a year. 444 REP. JOHNSON: Report refers to long term birth control method that you hope will be approved by Food and Drug Administration by end of this year. Will that be a panacea for repeat offenders so that once we identify a woman whose likely to have drug affected baby we can put into place program that will require her to maintain this kind of long term program? 460 AIKEN: The Norplant was approved by the FDA and is going to become available. We recommend that a pilot program be developed by the Health Division and Planned Parenthood to make it available. Cost is \$500 for the implantation for device that will last five years. Pilot project should determine effectiveness. No recommendations about requiring anyone to use any kind of contraception. 482 REP. BAUMAN: What about pre-high school and high school drug education? TAPE 3, SIDE B 031 AIKEN: Nothing in report about drug education because its a significant issue and the Task Force did not have time to develop a contribution. There is required drug

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education from legislation passed last session.

040 KUSHNER: Talked with Education Department and determined that it would not be difficult to put module together around drug affected babies and pregnancy and use small amount of the drug free school funds to do that. They're agreed that it should be done and are willing to do that.

048 REP. MANNIX: Have you considered tying this into concept of educating young people about parenting so it includes drug education and child abuse education?

051 AIKEN: No, but it's a good idea.

053 REP. BELL: On budget proposal, what are your intentions about state-wide versus pilot program?

056 AIKEN: The prevention dollars are for our pilot program on the Norplant. The treatment dollars are based on figures from Alcohol and Drug Abuse programs.

059 KUSHNER: Our estimate is that this would cover all of the women statewide that would come in for treatment under this program.

061 CHAIR COHEN: Thanks witnesses and introduces witnesses on juvenile issues.

(Tape recorder 075 - 079 off while witnesses leave and new witnesses

approach stand.)

079 CHAIR COHEN: Introduces John Ball.

082 JOHN BALL, EXECUTIVE DIRECTOR, OREGON COMMUNITY CHILDREN AND YOUTH SERVICES COMMISSION: Gives brief history and overview of his agency. Introduces LeRoy Benham. 098 LEROY BENHAM, CHAIR, OREGON COMMUNITY CHILDREN AND YOUTH SERVICES COMMISSION: Gives overview of what the commission is and what it's doing. Introduces Dennis Maloney.

149 DENNIS MALONEY, VICE CHAIR, OREGON COMMUNITY CHILDREN AND YOUTH SERVICES COMMISSION, AND CHAIR, JUVENILE JUSTICE COALITION: Gives background of the Juvenile Justice Coalition. Coalition began year ago to shape agenda of juvenile justice issues for this legislative session. Policy should not be set by Measure 5 and many of coalition's proposals without budgetary additions. (Exhibit C) - First priority is clarification of what the mission of the juvenile justice system was. Describes loss of confidence in other states in the juvenile system. Coalition has arrived at set of principles we call the "balanced approach. (Exhibit D) which acknowledges that the juvenile justice system exists for three reasons: - Protect the citizens from crime.

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- Hold juvenile offenders accountable for their behavior.
- See that offenders leave system more capable of making it in society than when they came in.
- All three need to be carried out in balance so none overshadow the other two.
- Describes benefits of proposed community juvenile justice act:
  - Cost savings.
  - Reduction in recidivism.
  - Need to focus activities on the family. If they cannot carry out responsibility, then first line of defense should be the extended family, then the neigHB orhood, the county, the region, and finally a state custody situation. Currently, the frontline of defense is the state and we do not rely on the extended family, neigHB orhoods, counties, and regions. Most exciting things happening are at the family and community level. Mentions examples.
- Implications of current system:
  - The more kids in state custody, the larger the number of kids who'll end up with more problems.
  - Have budget process that starts with the state; incentive to place children in state custody; community not in process.
  - Key is how can we enhance the continuum of services for families, extended families, neigHB orhoods, counties, and regions.

349 SEN. YIH: Wants copy of research. Also, asks what is the appropriate ratio between juvenile counsellors and the juveniles they supervise.

379 MALONEY: One of tasks of Children and Youth Services Commission is to develop standards. Refers her to the American Probation and Parole Association as one of best sources of information who, for medium risk offenders, recommends 37 children per worker.

- State has been put into untenable situation because it receives everybody that we commit. Attractive for impoverished county to prematurely commit child to the state to get that child some help. Have to turn this around so the state is the last resort.

- The state needs to deal significantly with issues affecting the rate at which we incarcerate minority young people.

- Need to deal with lack of services for girls.

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- State needs to deal with the status offenders.

438 SEN. SPRINGER: The term "status offender" troubles him. Their really victims, but we lock them up. We don't deal with victims as offenders; hopes that we use terms more carefully and find a way to reach out to these children.

459 REP. BAUMAN: Notes that it is nearly impossible to volunteer any kind of part time service to CSD because of result of insurance requirements.

TAPE 4, SIDE B

(000 THROUGH 117 IDENTICAL TO 000 THROUGH 117 ON TAPE 3, SIDE B)

154 JAMES SEYMOUR, CATHOLIC COMMUNITY SERVICES: For children on probation or parole after being adjudicated as delinquent for having committed a crime (stresses not for children who are status offenders), there are three separate case management systems:

- The county juvenile probation officer - counsellor;

- The state's Children Services Division at the local level; and

- Parole officer at state training school.

- All three designed to coordinate services and insure that there is an adequate continuum of care for the children. Problem is that each system is so inundated with problems and children that they've designed a response that they have access to but don't want to let anybody else have access to because it would jeopardize their ability to get the children they're responsible for into this set of services. Cites examples. Points out that every time the child's needs gets greater, it forces the child forward into the system; no way to go back to the community. Cites more examples.

- Proposing new system (Exhibit E) that provides coordination for all services through the local county juvenile department for children who are adjudicated as delinquent and whose primary problem is the delinquency. Not for children with mental problems or those who are dependent and happen to commit crimes. In proposed system, the case manager would always be the county juvenile department counsellor. Even if child has gone through entire system, the caseworker would still have access to community services. Proposed legislation does three things:

- Says that the local communities who want to can choose to have integrated juvenile case management system for the delinquent children in their community.

- Takes away artificial barriers between services. Senate Judiciary Committee January 21, 1991 - Page 11

- Allows state to pass money through to beef up the local services so there's less enticement to pass the children up the system.

266 REP. CLARK: Can you draw a distinction between what you're proposing and the Community Corrections Act that is now in existence for adults.

271 SEYMOUR: Very similar. Despite lack of local support for keeping adult offenders in community, we have the Community Corrections Act. While there is support for trying to work with the children, but we don't have a Community Corrections Act for them. Philosophy for the juvenile system is what's best for the children, not just desserts, but other than that, a lot of similarities.

287 REP. BRIAN: Is this taking the county JFS's one step further creating a local option where you can take funds currently expended by CSD and apply them locally?

297 MALONEY: The Juvenile Services Act was good at bringing resources, but didn't bring the case management. 300 SEYMOUR: Once case management is transferred, planning will follow. Once we can start planning at community level, the resources will follow. 306 REP. BRIAN: CSD was created to provide for standardization from county to county. Under your plan, what will happen when children moved from an Option One county to an Option Two county?

315 SEYMOUR: CSD will continue responsibility to develop, contract for, and license all of out-of-home care. For those counties that choose to participate in program, no longer will have to pass children on to state case manager in order to access those services. Wants CSD to continue providing those relatively low incident high cost services to children across that state that counties can't afford.

335 MALONEY: Supportive of smaller, tougher, state agency. Explains comment.

355 : PAUL SNIDER, ASSOCIATION OF OREGON COUNTIES: Gives out two handouts to committee. (Exhibits F and G) Recommends: - Adoption of funding decision package that had been advanced by the Children and Youth Services Commission.

- Reintroduction and passage of HB 3019 relating to status offender from the 1989 session. There is a discrepancy from the funding decision



package and HB 3019 as relates to local match that's required. We prefer 25%, instead of 50%, local match.

- If we get the resources in the first two recommendations, will narrow the window for the crisis cases substantially. For those who need services, who, by demonstrated behavior, refuse services and who are at significant risk, should have some catch to impose services on the juvenile and the provider of the care. Will require youth to be detained in secure shelter care; detention will occur only after county certified as having Senate Judiciar, Comdltoe January 21, 1991 - Page 12

the appropriate resources. No commingling of this population with the delinquent population. Adequate funding will be necessary.

460 MURIEL GOLDMAN, MENTAL HEALTH ASSOCIATION OF OREGON: Refers to material passed out to committee. (Exhibits H and I) Position has not changed very much since paper drafted. Talking about youth who, had they been identified earlier, might not have ended up in the juvenile justice system because they would have received appropriate mental health or chemical dependency services and those who need to be in the juvenile justice system who also have the need for mental health services. Calls committee's attention to the materials and volunteers to come back at another time when committee has more time.

TAPE 5, SIDE A

025 - Goldman continues testimony from previous tape. Rapidly goes through issues covered in the materials and previews future testimony.

100 CHAIR COHEN: Introduces Herman Lessard and Ginger Baggett.

113 HERMAN LESSARD, DIRECTOR, EDUCATION AND CAREER DEVELOPMENT FOR THE URBAN LEAGUE OF PORTLAND: We've put together program in lieu of the RFP presented to us by Multnomah County for at-risk members of the Afro-American teen population and the growing number of that population going into institutions. Called the Afro-American Male Connection Program. Have put together seven community based organizations to work with this population. Have identified 30 at-risk gang-related young males who have been referred to juvenile courts and other youth service agencies to set up intensive case management staffing as in the areas of psychological assessment, educational needs, employment needs, career planning, family relations, building self-esteem, positive recreational activities, and positive male role models and mentors.

- Have tried to put together expertise among those seven community based organizations to turn around the attitudes and emotional criteria of the young men in that population. Doing this to set up family life education among the young men and to let them know there's an alternative to the attitudes they've been exhibiting and to help them with drug and alcohol rehabilitation.

- Describes how they picked the 30 youths. Have already identified and are working with 17 young men. First time that community based organizations have come together under 1 RFP to work with this target population. What we wanted to do was to present an in-depth, intense treatment program, and hook them up with adult males as role models. Will set them up with alternative education because these young men cannot go into the regular school system. Have family counselling with them and their parents/ guardians.

- Feels this program can be a model.

225 CHAIR COHEN: Do you have all the pieces put together yet? Having appropriate . . . Senate Judiciary Committee January 21, 1991- Page 13

responsiveness from other community based agencies? If you're not having good response, please let us know.

233 LESSARD: Receiving very good response.

245 CHAIR COHEN: Invites Lessard to get in touch in a month to let committee know if anything needs to come to their attention.

249 GINGER BAGGETT, EXECUTIVE DIRECTOR, NORTHWEST NETWORK OF RUNAWAY AND YOUTH SERVICES, INC.: Offers to defer testimony.

265 CHAIR COHEN: Accepts offer. Adjourns at 3:15 pm.

Submitted by:

Reviewed by:

Mark Thorburn

Ingri Swenson Mark Thorburn

Ingri Swenson Committee Assistant

Committee Counsel

EXHIBIT LOG:

A "A Right Start: Drug-Free Mothers for Healthy Babies;" the Report of the Oregon Task Force on Pregnancy and Substance Abuse - Linda Meng - 26 pages

B - Article "Substance Abused Infants: A Prosecutorial Dilemma" - Dale Penn - 2 pages

C - Information Packet from the Oregon Community Children and Youth Services Commission, including: Draft Legislative Report Comprehensive Planning Guide Comprehensive Planning Model Rules for Counties to Establish Extended Detention Programs Community Update: Court Appointed Special Advocates Ethnic Minority Youth Report

Dennis Maloney - 107 pages D - Vision Statement for Oregon Juvenile Justice System - Dennis Maloney - 3 pages E - Proposed Community Juvenile Justice Legislation - James Seymour - 7 pages F - Status Offender Work Group Report - Paul Snider - 31 pages Senate Judiciary Committee January 21, 1991 - Page 14

G - SB 1065: Revenues and Expenditures - Paul Snider - 4 pages H - Testimony - Muriel Goldman - 16 pages I - "Mental Health Needs of Youth in the Juvenile Justice System" Muriel Goldman - 2 pages