

Citizen Review Panels:
An Opportunity to Improve Child Protection?

William C. Collins

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*Washington State
Institute for
Public Policy*

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William C. Collins, Attorney at Law
Post Office Box 2316
Olympia, WA 98507
(360) 754-9205

Washington State Institute for Public Policy

110 East Fifth Avenue, Suite 214
Post Office Box 40999
Olympia, Washington 98504-0999
Telephone: (360) 586-2677
Fax: (360) 586-2793
URL: <http://www.wa.gov/wsipp>
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EXECUTIVE SUMMARY

The 1998 Legislature directed this study of citizen review panels for child protection in Sections 14 and 15, Ch. 314, Laws of 1998. The Legislature determined that it is "critically important to the basic nurture, health and safety of children that the state examine a state wide program relating to child abuse and neglect that includes citizen review panels" as required by federal law.

Three tasks were outlined in the legislation:

- Review potential barriers to citizen review panels obtaining access to information necessary for them to meet their obligations.
- Review current Department of Social and Health Services (DSHS) committees relating to children to determine if any should be combined.
- Review issues relating to the creation of review panels.

Information barriers: There do not appear to be significant legal barriers concerning information sharing between DSHS and review panels. Federal law which mandates creation of citizen review panels in the child protection field directs the state child protection agency to share information with the panels, so this mandate may resolve any information barrier problems. Potential barriers regarding access to information can be eliminated through simple legislation mandating that DSHS share information relevant to the work of the citizen review panels, including information from individual case files. Legislation should be adopted addressing the confidentiality responsibilities of panel members and prescribing civil penalties for breach of confidentiality duties. If nothing else, this action is necessary to comply with federal law.

DSHS committees: While DSHS has several committees with tasks relevant to children, there do not appear to be compelling reasons to combine such committees. Some committees work at the state level, others are local or regional. Most have relatively specific missions under law or policy, missions which would be diluted if the committees were combined.

Combining committees could reduce the overall level of citizen participation and oversight in the child welfare area by restricting the total number of positions. Volunteers currently serving on committees with a specific focus also may be less interested in serving on a committee with a broader mission statement.

Coordination of child protection oversight activities: The citizen review panels will become one of several bodies/agencies concerned with overseeing child protective services activities, both at the individual case level as well as a systemic level. These include the Office of the Family and Children's Ombudsman, Child Protective Teams, DSHS internal complaint systems, and a new formal administrative review process available to persons alleged to be perpetrators of child abuse. These various activities appear to be developing largely independently of one another. Some attention should be given to at least fostering communication and cooperation between these various bodies to help assure the highest level of child protective system oversight.

Organization and structure of panels: The direction for this study originated with SSB 6558, a bill that created panels that meet the requirements of federal law, as well as establishing further powers for these groups. Although this bill did not pass in 1998, it is likely to be reintroduced. Thus, the study examines the proposed function and structure with discussion of alternatives.

Language in SSB 6558 indicates a strong commitment for the panels to represent the public at large and not be dominated by professionals or others with special interests. Recognizing this intent, this report discusses barriers the panels could face, with a range of possible solutions. These include:

- Assuring independence of the panels by locating them within an appropriate agency;
- Establishing a clearly understood mission for the panels and the workload which may accompany that mission;
- Defining the process of member selection to ensure panels that represent the community and could be expected to work together;
- Providing training for panel members, especially if most members have little or no previous background in the complex area of child protective services; and
- Providing staffing for the panels.

Excerpts from a relevant publication on citizen review panels are included as an appendix. This document examines the structure and purpose of such organizations, with recommendations to increase the groups' effectiveness.

In addition to discussing the proposed Washington legislation and citizen review or oversight committees generally, the study also discusses a citizen dominated quality assurance process which is being implemented by the State of Alabama and which could be the model for a similar process in this state.

SECTION I: LEGISLATIVE INTEREST

Congress Mandates Citizen Review Panels

One impetus for citizen review boards in child protection comes from recent federal legislation mandating panels. In the Child Abuse Prevention and Treatment Act Amendments of 1996 (42 USC §5101 et seq., especially §5106a, hereafter referred to as CAPTA or the CAPTA amendments), Congress required that states seeking federal money under CAPTA must establish at least three citizen review panels which "will provide new opportunities for citizens to play an integral role in ensuring that States are meeting their goals of protecting children from abuse and neglect."¹

Under the CAPTA amendments, the review panels are charged with responsibility for

(A) In general- Each panel established pursuant to paragraph (1) shall, by examining the policies and procedures of State and local agencies and where appropriate, specific cases, evaluate the extent to which the agencies are effectively discharging their child protection responsibilities in accordance with -

(i) the State plan under subsection (b) of this section;

(ii) the child protection standards set forth in subsection (b) of this section; and

(iii) any other criteria that the panel considers important to ensure the protection of children, including -

(I) a review of the extent to which the State child protective services system is coordinated with the foster care and adoption programs established under part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.); and

(II) a review of child fatalities and near fatalities (as defined in subsection (b)(4) of this section).

Panels must be in place no later than June 30, 1999. The federal statute does not address whether the panels should be located inside or outside the principle state agency (DSHS) that enforces child abuse and neglect laws. The statute directs "the state" to create the panels and provide access to information and necessary staff assistance. However, penalties for failing to comply with the federal requirements would fall on DSHS because CAPTA funding goes to DSHS.

The federal law creates three tasks for review:

- The first, and by far the largest, is to evaluate whether DSHS is effectively discharging its child protection responsibilities under federal law.
- Second, panels must review the extent to which the state's child protective services (CPS) system is coordinated with its foster care and adoption systems.
- Third, the panels must review child fatalities and near fatalities.

¹ Congressional Record, House (September 25, 1996) 1149.

According to interpretation from the federal Department of Health and Human Services, each panel must perform all three tasks, although the law does not specify the detail to which a particular panel must perform a particular task. Thus, for instance, one panel could examine one issue in depth and other panels could review and comment on its findings.²

1998 Washington Legislative Actions on Review Panels

The impetus for review panels also originates from actions of the 1998 Legislature. Senate Bill 6558, introduced by Senators Zarelli, Hargrove, Long, and Stevens, called for citizen review panels intended to meet the requirements of the federal law but which would have gone considerably further than the CAPTA amendments in specifying the numbers of panels, membership, structure, and powers. Senate Bill 6558, which eventually became Substitute Senate Bill 6558 did not pass. What did pass was §15 of Ch. 314, Laws of 1998, which mandated this study and proposed panels with somewhat narrower powers than proposed in SSB 6558.

This study assumes that legislation substantially similar to SSB 6558 will be proposed in 1999 to again address citizen review panels. Accordingly, SSB 6558 is used in this document as a model for comparison with the federal requirements and for discussion generally.

Other Child Protection Oversight in Washington

Citizen review panels are intended to improve the quality of child protective services and increase accountability of DSHS, the state Child Protective Services agency. Under the CAPTA amendments, the citizen review panels have fairly specific program evaluation duties.

In examining the role for the panels, it must be noted that they would not be alone in an oversight role. Several other systems, both in and out of DSHS, both volunteer and permanently staffed, have some form of oversight responsibilities regarding child abuse and neglect. These other systems generally focus on individual cases. While not dominated by citizens, they do focus external eyes on the operations of Washington's child protective services system. These systems include discretionary citizen advisory reviews of individual cases as well as various systems intended to respond to complaints.

Child Protective Teams exist across the state and, at DSHS request, review numerous individual cases over the course of a year. While not asked to perform evaluations of the system as a whole, their work on individual cases may make Child Protection Teams a valuable source of information regarding system issues.

The Office of the Family and Children's Ombudsman, created by Ch. 43.06A RCW, has responsibilities most similar to those envisioned for the child review panels. The Ombudsman has the authority to examine both individual cases and systems issues, but staffing limitations restrict the numbers of individual complaints it can consider.

DSHS maintains two internal complaint systems that are expected to respond to all complaints, regardless of source. These systems work relatively informally, and their success appears

² HHS Administration for Children's Services Program Instruction Log No. ACYF-PI-CB-98-01 (ACS).

largely dependent on caseworkers and local office supervisors. DSHS is also in the process of implementing a legislatively mandated administrative appeals process, which will allow contested adversary hearings which culminate in court review to review "founded reports" of child abuse and neglect. The next sections describe each of these systems in some detail.

Child Protective Teams

Child Protection Teams (CPT) currently exist in each DSHS region in the state, with several teams typically functioning in a single region.³

CPTs review specific child protection cases. The procedural manual directs involvement in "any case in which there is serious professional disagreement, including disagreement by the foster parent(s), regarding risk of death, serious injury, out-of-home placement of a child, or the child's return home as a result of a decision to leave a child in the home or to return the child to the home."⁴

Hundreds of citizens participate in these teams. For instance, in response to a request made in conjunction with this study, DSHS Region 2 identified CPTs in Ellensburg, Cle Elum, Clarkston, Pomeroy, Toppenish, and four in Walla Walla, with over 90 people involved. Region 6 reported nearly 100 people involved with its CPTs.

Teams usually meet monthly and are comprised primarily of professionals. Team members in one community include a school counselor and principals, representatives from law enforcement, a retired judge, various mental health practitioners, and various health providers. While the "average citizen" may not be represented directly on Child Protection Teams, these groups still provide a very large pool of citizens from outside DSHS which works directly with child abuse and neglect cases.

CPTs are advisory, and their recommendations are not binding on DSHS. However, when the DSHS social worker disagrees with a CPT recommendation on a child's placement, the social worker, supervisor, and area manager must consult the Regional Administrator, who must approve overruling the recommendation of the CPT. The CPT may appeal decisions of the Regional Administrator to the Assistant Secretary.⁵

CPTs focus only on individual cases—they are not charged with reviewing or commenting on policy or practice issues, although periodically committees do offer such comments, especially regarding local office procedures. No system-level tracking of substantive CPT actions now occurs, except recording of numbers of cases considered, etc.

³ Created pursuant to RCW 74.14B.030 and Executive Order, 95-04.

⁴ Children's Administration Practices and Procedures Guide, (1996) Olympia, WA: Department of Social and Health Services. §2562 A 2 b i.

⁵ Ibid., §2562 C 6.

Some persons consulted during this study offered observations as to possible weaknesses in the CPT system. These unverified concerns included:

- Discretionary referral of cases with DSHS.
- The staffings conducted by the teams are based on summaries of material prepared by DSHS staff, so teams may not have as complete a picture as they might otherwise.
- Case reviews may also be limited by the length of meetings, usually an hour.

Assuming these asserted shortcomings to be true, CPTs still provide many members of the public with a broader, deeper look into the workings of the child protective system than any other mechanism. Realistically, CPTs cumulatively will examine many more child protective cases in a year than will CAPTA citizen review panels. While CAPTA panels may be able to probe more deeply than the CPTs into a small number of cases, CPTs statewide will see more cases in total than the CAPTA teams.

While CPT teams see many cases and presumably develop opinions about the functioning of the child abuse system as a result of those individual case reviews, there currently does not appear to be any mechanism whereby these teams are asked to comment on systems' issues nor a mechanism to obtain the cumulative observations of CPT teams on a statewide basis.

CPTs should not be overlooked as a citizen-based resource with very extensive knowledge of how child protective cases are handled.

The Office of the Family and Children's Ombudsman

Created by the Legislature in 1996, the Office of the Family and Children's Ombudsman (OFCO) opened its doors to the public in June 1997. The Ombudsman reports to the Governor and is independent of DSHS.

According to its "Citizen's Guide to Our Services," OFCO was created "to help prevent state-supervised families and children from suffering harm through agency error, bureaucratic inattention, or the lack of access to appropriate services . . . [and] to improve the system that serves families and children by ensuring that their needs are understood by agency officials, the Governor, the Legislature, and the citizens of Washington State."⁶ OFCO works on two levels, the first responding to individual complaints and the second addressing systemic issues identified by complaints or OFCO staff.

Two advisory committees assist the agency, one with 18 members representing western Washington and the other with 11 members serving central and eastern Washington. Membership in the two advisory committees is predominately professionals with experience in children's issues. Members are not involved in assessment of specific cases.

OFCO's professional staff includes a director and three ombudsmen with substantial experience in Washington's child protective system. OFCO also employs a database administrator. The staffing levels and workloads of OFCO may be instructive in estimating the staffing needs of the panels, given the similarities in tasks.

⁶ *Citizen's Guide to Our Services*, Office of the Family and Children's Ombudsman, 2.

Because OFCO cannot investigate every complaint it receives, staff prioritize complaints that credibly suggest a risk of harm to a family or child as a result of an agency act or omission or where there appears to be a recurrent problem or system-wide issue. All complaints are logged and tracked, even if not actually investigated, thus permitting identification of trends. OFCO received a total of 582 contacts during the approximately six months of 1997 it received contacts from the public. Nearly 75 percent of these were general requests for program information. About 20 percent were requests for intervention or investigation. A few others were categorized as "unrelated inquiries." OFCO intervened in a total of 63 cases and initiated system-focused investigations in three cases, all of which arose from the Wenatchee situation.⁷

Based on its 1997 work, OFCO made five recommendations for system changes and identified five other "issues of concern" as part of its Annual Report. DSHS responded to these recommendations and is at least studying, if not implementing, four of the five formal recommendations (the fifth involves legislative change). DSHS agreed in principle with some of the issues of concern and asked for additional information on others.

To some degree, OFCO will review cases that have been processed through CPTs. Particularly with its investigations of recurring problems and systemic issues, the work of OFCO substantially overlaps the mission of the citizen review panels envisioned by CAPTA and SSB 6558, that is to identify ongoing issues of concern in dealing with children and families. Perhaps the major difference is that the panels are expected to undertake comprehensive evaluations ("examine the policies and procedures of state agencies and, where appropriate, specific cases, to evaluate the extent to which the agencies are effectively discharging their child protection responsibilities according to state law and the state plan required under 42 USC §5106a."⁸) while under its implementing legislation, OFCO has the discretion to focus on specific areas or issues of concern.⁹

Senate Bill 6558 originally called for review panels to be located in OFCO, but OFCO requested this placement be deferred, as the office was getting established and needed more time before assuming additional responsibilities. SSB 6558 calls for panels to locate within OFCO in 2001.

Commentators consistently note two keys to the success of advisory or oversight committees: (1) the independence of the oversight body, and (2) the commitment of the sponsoring agency to the success of the oversight function.¹⁰ OFCO meets both these criteria: it is a free standing agency totally independent of DSHS with a primary legislative mandate of oversight over the child abuse and neglect system. In light of these circumstances, placing the panels under the aegis of OFCO is an option which should be revisited. If administering citizen review panels somehow compromises the mission of OFCO, which is still establishing its own identity, oversight of the panels should go elsewhere.

⁷ 1997 Annual Report, Office of the Family and Children's Ombudsman, 11, 18.

⁸ Sec. 15, Ch. 314, Laws of 1998.

⁹ RCW 43.06A.030.

¹⁰ Scott, Steven and Bruner, Charles (1996) *Supporting Effective Citizen Involvement in Child Protective Services – A Guide for State and Local Officials*, Child and Family Policy Center. This monograph will be referred to frequently in this paper. It contains a strong argument for citizen review panels, drawing much of its message from the experience of foster care citizen review boards. It is as close to a "cookbook" on setting up effective review panels as probably exists anywhere. National Institute of Mental Health (1984) *Citizen Evaluation in Practice: A Casebook on Citizen Evaluation of Mental Health and Other Services* Washington, DC, 99. Teitel, L. (1994) *The Advisory Committee: Creating an Effective Strategy for Programming Improvement*, Washington, DC: The George Washington University, 54. Scott, 19.

If the citizen review panels were located outside OFCO, coordination between the panels and this organization would be important to avoid unnecessary duplication of effort.

Department of Social and Health Services

DSHS has two somewhat parallel systems for receiving and responding to complaints involving child protection matters. The formal complaint policy envisions a complaint beginning with the supervisor of the unit handling the case involving a complaint. Complaints can be initiated by anyone. If the complaint is not resolved to the satisfaction of the complainant, it moves up the chain of command, through multiple layers of DSHS administration, to a meeting with a specially-convened regional review panel which makes recommendations ultimately acted upon by the Assistant Secretary.

This process, if it moved as rapidly as possible and met every time limit, would take approximately 40 days from beginning to end, with review at six different levels. The complainant would directly participate at four of these levels, with the final two being paper reviews. Relatively few complaints reach the higher review levels; most tend to be handled relatively informally. Because the agency does not monitor its complaint process, it is impossible to know why so few cases are appealed through the administrative structure.¹¹ One explanation could be that complaints are satisfactorily resolved at the local office level. Another, equally plausible explanation could be that complaints are not satisfactorily resolved, but the combination of a daunting, six-level appeal process combined with an assumption by the complainant that any internal appeal process will endorse the decision of the caseworker deters most persons from pursuing appeals beyond the first or second levels.

In addition to the formal complaint process, the Children's Administration of DSHS maintains an Office of Constituent Review (OCR). This office receives notice of formal complaints when they reach the regional panel level (a relatively rare occurrence). However, OCR will also accept complaints directly and work with the complainant to facilitate a resolution. OCR does become involved with complaints about substantive issues and has the ability to move a complaint through the same levels of review contained in the formal complaint process. While the OCR does not have the authority to direct a particular result in a case, staff make suggestions to line staff and supervisors.

Because no department-level tracking monitors complaints initiated at the local office level, it is difficult to identify issues related to policy, general practices in a local office, or other system issues which might be identified in these complaints. OFCO's 1997 Annual Report recommended that DSHS establish such a tracking system for complaints. This recommendation was not accepted by DSHS.

Formal Administrative Review

Under 1998 Washington legislation (still in the implementation process), DSHS will have new rights to administrative, and eventually judicial, review of persons named as alleged perpetrators

¹¹ See Ombudsman Annual Report (1998) Recommendation 4, page 23, for a discussion of the complaint system and the lack of monitoring the volume or nature of the complaints received.

of child abuse and for whom a "founded report" is made.¹² A founded report is one which concludes, based upon available evidence, it is more likely than not that child abuse or neglect occurred.

Section 9 of the 1998 law permits individuals to request that DSHS review its finding. The first review is at the management level and appears to be a review of file material. Following this review, the person may request an adjudicative hearing to contest the finding conducted under the provisions of the Administrative Procedures Act.¹³ This adversary hearing will be conducted before an administrative law judge, whose decision may be appealed to the courts.

The formal administrative review process will only examine circumstances in individual cases, and only at the request of an alleged perpetrator of child abuse or neglect, after DSHS's initial investigation results in a founded report. It does not provide a forum for persons claiming an unfounded report was incorrect or that DSHS did not act strongly enough to protect the child, nor does it provide a forum for anyone to contest other DSHS decisions.

In the adversary proceedings, which will be conducted under the new formal administrative review process, no advocate will speak directly and solely for the child. While lawyers for DSHS will be defending the agency's decision, this perspective may not necessarily reflect what an advocate for the child would present. A potential imbalance could be created by an administrative review process which hears appeals from alleged perpetrators of child abuse, but never alleged victims, and which apparently gives the victims only an indirect participatory role (through DSHS).

Other Citizen Input: Foster Care Review Boards

Foster care review boards provide another means of obtaining citizen oversight and review of the child welfare system. Comprised of both professional and lay volunteers, boards typically review all foster care cases at specific time intervals, making recommendations as to case handling. The review boards, like the CPTs, are directly involved in the processing of cases. Foster care review boards exist in at least 25 states.¹⁴ Washington used to have three counties with these review boards. Snohomish is the only county now operating a foster care review board; the county funds the board.

Several potential advantages of review boards have been identified in research literature, including the independence and objectivity of board members; cost effectiveness because of volunteers; the addition of a wide range of points of view and professional expertise along with thoroughness of deliberations;¹⁵ establishing an additional incentive for agency compliance with rules and policies;¹⁶ and fostering community involvement.

In addition, potential drawbacks have been identified. Boards are advisory only, sometimes leading to a "lame duck" feeling when the agency chooses not to accept the group's

¹² Sec. 9, Ch. 314, Laws of 1998. RCW 26 44.125, *et seq.*

¹³ Ch. 34.05 RCW.

¹⁴ Scott, 7.

¹⁵ Hardin, M. (1985) "A Comparison of Administrative, Citizen, and Judicial Review," *Children and Youth Services Review* 7:161-172.

¹⁶ Murray, L. (1981) "How Child Welfare Workers in New Jersey Perceive Independent Case Review," *Child Welfare* 60(5): 331-341.

recommendations;¹⁷ they create the potential for conflict with case workers who may see boards as adversaries and meddlers;¹⁸ boards may be costly to create and maintain,¹⁹ there may be a lack of expertise requiring preparatory and on-going training,²⁰ or they may be redundant.²¹

The research on foster care review boards is decidedly mixed. Some studies maintain boards contribute to reduction in the time children spend in foster care, enhance the accountability of child welfare agencies, improve case outcomes, and make the child welfare system more responsive to the needs of children and families.²² Other studies do not report such benefits.²³

In March 1994, DSHS released a study entitled *A Comparison of Outcomes and Costs for Children Receiving Court vs. Citizen Review Panels in Snohomish County*.²⁴ As the title suggests, the study attempted to evaluate the "differential effectiveness of the judicial and citizen review processes in Snohomish County."²⁵ The study found that, especially in non-contested cases, the citizen review process gave "longer, more in-depth, and a more participatory hearing format than the judicial process" but no evidence indicating "these variables positively impact case outcomes."²⁶ The study further found that the judicial review process was more cost effective than citizen review boards.²⁷ These somewhat equivocal results seem consistent with the mixed findings of other studies of citizen review panels in foster care.

Among their other responsibilities, CAPTA citizen review boards must conduct a "review of the extent to which the State child protective services system is coordinated with the foster care and adoption programs . . ."²⁸ Foster care review boards, were they to exist statewide in Washington, could provide a substantial resource for citizen observations of the workings of the foster care system and how it functions (or does not function) in coordination with the child protective services system.

Summary

Oversight of the child protective system currently exists in several forms. In considering the various systems of oversight and review described above, it appears there may be less need for a new mechanism for oversight over Washington's system as there is a need for better coordination among the present multiple systems. Apparently no one asks CPTs for their

¹⁷ Jorden, C. and Franklin, C. (1994) *Have External Review Systems Improved the Quality of Care for Children?* In Gambrill and Stein, *Controversial Issues in Child Welfare*, Boston, MA: Allyn & Bacon. 136-149.

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Ibid.

²¹ Murray (1981).

²² Backus T. (1978) "Foster Care Review: An Ohio Example," *Child Welfare* 57(3): 156-164. Claburn, W., Magura, S. and Resnick, W. (1976) "Periodic Review of Foster Care: A Brief National Assessment." *Child Welfare* 55(6): 395-405. Hardin, M. (1983) "Court Review: Making It Work," *Child Welfare* 62(4): 367-371. Miller et al. (1984) "Overcoming Barriers to Permanency Planning." *Child Welfare* 63: 45-55.

²³ Lindsey, E. and Wodarski, J. (1986) "Foster Family Care Review by Judicial-Citizen Panels: An Evaluation," *Child Welfare* 63(3): 211-230. Jennings, M. A., et al., (1996) "Early Citizen Review: Does It Make A Difference?" *Social Work* 41(2): 224-231.

²⁴ Office of Children's Administration (March 1994).

²⁵ Ibid., 2.

²⁶ Ibid.

²⁷ Ibid.

²⁸ 42 USC §5106a(c)(4)(A)(iii) (I).

opinions regarding the system. DSHS does not attempt to collect or evaluate substantive information about complaints it receives about its child protective system. The formal administrative review process will increase court oversight over the system to some degree. The full power and impact of OFCO is yet to be realized, given the relative youth of the agency.

It would appear that CAPTA review panels might examine existing citizen review and complaint systems as a resource for fulfilling the review panels' responsibilities; the panels could also encourage ways to develop the cumulative knowledge of these groups.

SECTION II: ACCESS TO INFORMATION

The study shall include an examination of the barriers to broad access to information, whether the panels should have access to the information and specific recommendations on how the panels can obtain access to such information from the department of social and health services, criminal justice agencies, law enforcement, schools, and medical providers, and other sources that have relevant information, including reports and records made and maintained by the department and its contracting agencies, while preserving the confidentiality of the records. Sec. 15, Ch. 314, Laws of 1998.

Determining the extent of DSHS's compliance with its child protection responsibilities under state and federal law requires review of individual cases. Proper policies, procedures, and other administrative guidelines or directions to caseworkers are a beginning, but unless one can determine that such guidelines are being met in practice, the extent of compliance with legal mandates cannot be determined.

Recognizing the importance of access to information, the CAPTA amendments address disclosure of information from the agency to the panels:

(5) State assistance

Each State that establishes a panel pursuant to paragraph (1) -

(A) shall provide the panel access to information on cases that the panel desires to review if such information is necessary for the panel to carry out its functions under paragraph (4) 42 USC §5106(c)(5).

Federal interpretation of the "such information is necessary" clause indicates that necessity is based on the judgment of the review panel, not the judgment of the agency holding the information.²⁹

Meeting the requirement of the federal law and resolving access barriers for panels can be accomplished in Washington State. Indeed, the mandate from CAPTA alone may suffice. For panels to fulfill their responsibilities, they need access to all the information used by DSHS in a given case, as well as access to more general information possessed by DSHS which is relevant to the decision. Statutory direction to DSHS to share information about any matter under review by the citizen review panels should suffice to meet this goal.

Should legitimate concerns be identified about a broad information-sharing directive, a proviso creating a process for resolving disputes about particular information could be included. To simplify such dispute resolution, responsibility for decisions could be given to another body in the Executive Branch, such as the Governor's Office or the Office of the Attorney General. An additional statute must clearly indicate that records given to the panels remain confidential. This issue will be addressed in more detail later.

²⁹ ACS, 3.

Panel Access to Information Outside DSHS

This study must address whether citizen panels should have access to information not only from DSHS but also from "*criminal justice agencies, law enforcement, schools, and medical providers, and other sources*" that have relevant information"³⁰ [emphasis added]

If the role of citizen review panels is to oversee the work of DSHS, they need access to information collected and maintained by this agency. Compliance with the CAPTA amendments demand as much. The emphasized portion of §15 appears to go well beyond this category of information to create a right of access from a variety of other public and private agencies or individuals. Assuming DSHS oversight is the mission of the panels, a question arises as to why panels would want or need confidential information from non-departmental sources such as law enforcement agencies or medical providers, etc. Compliance with CAPTA clearly does not demand such broad authority.

Based on a conversation with one of the sponsors of SSB 6558, access to otherwise confidential records from non-DSHS agencies may have been unintentional. If so, simple redrafting of the section to delete references to "criminal justice agencies, law enforcement," etc. could resolve the concerns raised here.

Granting citizen panels access to such confidential information raises very serious policy questions and invites controversy and opposition from the groups whose otherwise confidential records would be open to review by a new group.

To the extent access to generally confidential information from non-DSHS sources may be relevant in a case, panels could obtain access to some information by means of a waiver of confidentiality, assuming that person is the person who might have initiated a complaint with the panel and is in a position legally to grant the panel access, such as a medical record. However, obtaining otherwise confidential information via a waiver would not require a statute with language such as appears in §15 of Ch. 314.

Panels would also have power to obtain information from other government agencies if they are included in the definition of "juvenile justice and care agencies" under RCW 13.50.010, as was proposed in §14(1)(a) of SSB 6558. According to RCW 13.50.010, other "juvenile justice and care agencies" include "police, diversion units, court, prosecuting attorney, defense attorney, detention center, attorney general, the legislative children's oversight committee, the office of family and children's ombudsman, the department of social and health services and its contracting agencies, schools; and, in addition, persons or public or private agencies having children committed to their custody."

RCW 13.50.100 permits a juvenile justice or care agency to release its records to another agency "only when an investigation or case involving the juvenile in question is being pursued by the other participant or when that other participant is assigned the responsibility of supervising the juvenile." Should panels find that access to DSHS information is, for some reason, inadequate in a given case, it is possible that information obtained from other juvenile justice care agencies could be of assistance.

³⁰ Section 15(5), Ch. 314, Laws of 1998.

Summary

The federal laws direct DSHS to provide information to the CAPTA panels. This directive alone may be enough to satisfy the panels' need for access to information. A clear legislative directive that DSHS share information with citizen review panels should resolve any lingering concerns about access to information.

Should problems regarding information access develop, the panels should document these and seek further remedial legislation.

There appears to be no need to give review panels access to information from other agencies, as suggested in §15 of Ch. 314. Such access may not have been the intent of the bill sponsors, and redrafting any new bills similar to Ch.314 could resolve this issue.

SECTION III: CONFIDENTIALITY

Files in a child protective custody case typically include very private information. To protect the privacy interests of persons discussed, anyone with access to such material must hold it in strictest confidence. A necessary corollary, then, to granting citizen review panels access to highly-confidential information, is a requirement that panels continue to treat that information as confidential. This is mandated by CAPTA:

- B) *Confidentiality*
 - (i) *In general- The members and staff of a panel established under paragraph (1) –*
 - (I) *shall not disclose to any person or government official any identifying information about any specific child protection case with respect to which the panel is provided information; and*
 - (II) *shall not make public other information unless authorized by State statute.*
 - (ii) *Civil sanctions- Each State that establishes a panel pursuant to paragraph (1) shall establish civil sanctions for a violation of clause (i)*

CAPTA, Sec. 106(c)(4)(B)(i).

In other words, federal law mandates that panel members hold identifying information about specific cases in strict confidence, but they can disclose other information—such as comments or criticisms about system issues—if permitted by state law. Disclosure of information about a particular case could be made if identifying information were deleted. To comply with CAPTA, the state must adopt provisions for imposition of civil sanctions (monetary penalties) for violations of these requirements.

One narrow, technical question arises under the CAPTA language. Almost undoubtedly, the intent of the language quoted above was to prevent panel members from disclosing highly confidential information to the general public or others who have no need to know the information. But taking the words literally, "shall not disclose to *any* person or government official *any* identifying information about any specific child protection case . . ." (emphasis added), does the statute prevent panels from even disclosing problems in a case to DSHS or to law enforcement officials, since that would amount to disclosing identifying information to a "government official"? Guidance from the federal government should be sought on this question.

Conflict Between Federal Confidentiality Law and Proposed Panels

The CAPTA provisions concerning disclosure of identifying information are clear. However, they create a possible conflict with a proposed power of the panels that is included in the legislature's directive regarding this study (Ch. 314, Laws of 1998). Section 15 identifies one role as follows:

- (5) *Examine whether, if the panel finds possible civil infractions, whether the findings should be turned over to the aggrieved individual, if the conditions set forth in RCW 74.13.500 through 74.13.525 are met [these provisions allow the Secretary of the Department or his/her designee to disclose information regarding abuse or neglect of a child in certain circumstances, assuming such disclosure is consistent with federal law] . . .*

Federal law simply may not permit such disclosures. The specific provisions of CAPTA do not appear to authorize panels to disclose otherwise confidential information in the manner proposed, unless perhaps they somehow could be construed as "designees" of the Secretary. It is beyond the scope of this study to resolve this issue as resolution rests with officials of the federal Department of Health and Human Services. It is noted here only to highlight an issue which panels will need to address or which drafters of the 1999 version of SSB 6558 may wish to consider.

On the issue of confidentiality and disclosure, contrast the approach proposed in Ch. 314 quoted above, with recent additions to OFCO statute which appear now in RCW 43.06A.060 - 080. These sections essentially exempt information collected by OFCO from "discovery, judicial or administrative subpoena, or other method of legal compulsion, and are not admissible in evidence in a judicial or administrative proceeding."³¹ There are some exceptions to the policy of confidentiality of OFCO's records, but voluntary disclosure for potential use in civil litigation is not one of them. Should a disclosure policy such as proposed in Ch. 314 be adopted, information collected by one agency about a child abuse case might have to be disclosed to an "aggrieved party" while information collected by another agency about the same case would be exempt from discovery in a civil case. This potential policy disparity should be considered and addressed in subsequent legislative proposals on the question of disclosure of information.

Possible Statutory Language Regarding Confidentiality

A confidentiality statute for citizen panels could read:

Neither staff nor members of any citizen's review panel may disclose any identifying information about any specific child protection case with respect to which the panel is provided information to any person or government official.

Comment: this language directly quotes CAPTA.

Panels may not disclose information regarding child abuse and neglect cases and practices of the Department other than as authorized by federal and state law.

A violation of this section is a civil infraction punishable by a fine not to exceed five thousand dollars per violation.

Comment: this civil infraction provision is taken from SSB 6558, §9.

Regardless of what form such legislation might take, compliance with the CAPTA amendments would appear to require some state legislative action to establish a mechanism of imposing civil penalties in cases involving improper disclosure of information as required by Sec. 106(c)(4)(B)(i) of CAPTA.

³¹ RCW 43.06A.060.

SECTION IV: COMBINING CURRENT DSHS COMMITTEES

*The study shall also include a review of the department of social and health services current committees and teams that have citizen membership and participation, to determine whether any of these committees and teams should be consolidated.
Sec. 15, Ch. 314, Laws of 1998.*

DSHS has several committees or teams involving citizen members with responsibilities relating to child protection. While some have general responsibilities (a statewide general advisory committee, regional oversight committees), typically a committee or team is organized around a specific issue.

Committees maintained by DSHS, or somehow linked with DSHS and connected to children, are listed on Table 1 and 2 (pages 22 – 24).

Table 1
DSHS Groups With Focus on Children

Title/Source	Functions	Citizen Membership	Comments
Children, Youth and Family Services Advisory Committee (DSHS) RCW 74.13.031(9)	Very broad charge: ". . . assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, licensing of child care agencies, adoption, and services related thereto."	Neither size nor membership specified in statute, except that "at least one member shall represent the adoption community." By department policy, membership is of 18 child advocates. All appear to be professionals; some nationally recognized leaders. No lay members. Membership in 7/98 was 17, if two DSHS staff are included. Otherwise 15.	Minutes from 1997 meetings suggest the department sets the agendas for these meetings, with members providing advice to the Secretary.
Multidisciplinary Teams (Child Protections Teams) RCW 74.14B.030 (1987)	Available for consultation in child abuse/neglect cases where risk of serious harm exists and where there is dispute whether out-of-home placement is appropriate. Multiple teams in each region.	At least four professionals, selected by DSHS; given the relatively large number of teams, the number of persons involved can be substantial. Example: Region 6 (SW WA) has nine teams, with about 100 community persons involved.	Directly involved with child abuse and neglect cases. DSHS policy defines what cases are reviewed. With some change in what triggers review duty, could become similar to foster care review teams. Scope of case review limited by time and because DSHS controls the material presented to the team.
Child Care Coordinating Committee (DSHS) RCW 74.13.090 (1988)	Coordinate state agencies responsible for child care and early childhood education.	17 to 33 members from state agencies, schools, child care providers, limited citizen membership (parents receiving or in need of child care).	
Child Fatality Review Teams Ch. 204, Laws of 1995	Review circumstances surrounding death of child under or recently under DSHS supervision. Operates at regional level. Often convened on ad hoc basis.	Ad hoc committee, mostly professionals, some lay members.	Conduct very detailed reviews. Will suggest operating, policy, and legislative changes based on findings. Different from Child Mortality Reviews, conducted by local health departments under RCW 70.05.170.

Substitute Care Citizen Review Boards (Foster Care Review Teams) Ch 13.70 RCW	Review foster care placements at six month intervals. Local level, work with Juvenile Court. Snohomish County is only county currently with team.	Citizens. 16 hours initial training required plus eight hours annually thereafter. Could include review of cases involving abuse and neglect recommendations regarding case and system.	No state funding has been provided for several years. Exist in many other states. Research on effectiveness is mixed, but does inject strong citizen input/participation in foster care decision making. Resurrection of boards could substantially increase citizen input in significant fashion.
Local Indian Child Welfare Policy Advisory Committee (LICWAC) Statewide committee plus committees at regional level.	Part of ensuring that the DSHS complies with the Indian Child Welfare Act of 1978, 25 USC 1901 et seq. Regional groups may be involved in case specific consultation, service plan development, administrative consultation, and program development around Native American issues and concerns.	Native American/Native Alaskan people familiar with special needs of Indian children. Appointed by regional administrator from persons designated by tribal government and urban Indian organizations.	Example of highly-focused committee. By DSHS policy, training includes DCFS programs and process, federal and state Indian Child Welfare Acts, other requirements of federal law, risk assessment, and child abuse reporting law, among other topics.
Child Sexual Assault and Sexually Aggressive Youth Staffing Teams	Case review and eligibility determination for specialized funding and treatment for children considered sexually aggressive youth. Operate at regional level.	Community participation included on some teams.	
Regional Oversight Committees RCW 43.20A.360	Statute mandates appointment of regional advisory committees but does not specify their missions.		
• Region 1	None		
• Region 2	Oversight	Professionals, agency representatives, law enforcement.	
• Region 3	Oversight	Mostly community agencies and providers. One parent, two community volunteers who are involved with many committees associated with children.	
• Region 4	None		
• Region 5	Being "reanimated" by new regional director.	Apparently has been inactive for some period of time.	
• Region 6	None. Starting one may be fall project.		
Other regional committees Several ad hoc committees exist in regions	Multi-cultural consultation—Region 1, 2. Community team. Facilitates inter-system planning, integrating services for DCFS children and youth. Region 3.		

Table 2
Non-DSHS Groups With Focus on Children

Title/Source	Functions	Citizen Membership	Comments
Family and Children's Ombudsman RCW 43.06A.010 (1996)	Investigate, upon request or own initiative, performance of DSHS in family and children's area. Oversight powers not limited to child abuse and neglect.	Two citizen advisory committees: one representing western Washington, the other central and eastern Washington with a total of 29 members. Members generally have extensive experience with children's issues.	Oversight and comment powers virtually identical to proposed citizen review panels. Has statutory access to records.
Council for the Prevention of Child Abuse and Neglect Ch. 43.121 RCW (1982)	Develop educational and service programs to reduce child abuse and neglect, enhance parenting skills, teach positive methods of discipline, etc. Facilitate exchange of information among concerned groups. Consult with agencies, others regarding effectiveness, fiscal soundness, need for educational programs regarding child abuse and neglect. Contract for services.	Chair and 13 members, six with interest and expertise in child abuse, at least four not government-affiliated. Geographic diversity. Four non-voting legislators.	Mission is primarily educational. Has no general oversight powers.
Family Policy Council Ch. 70.90 RCW (1994)	53 community networks. Prevention and family support at local level, improve coordination and flexibility of family and children's services. Award grants regarding readiness to learn strategies and violence prevention.	13 citizens, 10 professionals in each network.	May recommend consolidating services, functions of existing councils, commissions, etc. RCW 70.190.020.

In examining these committees, it does not appear that consolidation would necessarily have positive benefits. In some cases, consolidation could make it more difficult for committees to accomplish their specific goals. Ironically, consolidation could also work against the goals of more citizen oversight by decreasing the total number of citizens asked to participate in some sort of advisory role. Citizens currently participating on a committee because of their interest in a focused committee may be unwilling to participate on a committee with a broader, more diverse mission.

While numerous committees with citizen participation advise DSHS about children's issues, the many differences among the committees also make combining them difficult.

The Children, Youth and Family Services Committee serves a statewide advisory function. Other committees, such as the child protective teams or the Local Indian Child Welfare Advisory Committees serve locally.

Some committees, such as Children, Youth and Family Services or the Regional Oversight Committees (where they exist) serve a general advisory role. Other groups have much more focused, specific tasks, with sometimes very specialized membership. For example, the Indian Child Welfare Committees, with their focus on Native American issues and Native American/Native Alaskan membership; or the Child Protective Teams or fatality review teams with their focus on individual cases and predominantly professional membership. The Child Care Coordinating Committee (RCW 74.13.090) is primarily made up of representatives from government agencies or defined types of private organizations or constituent groups ("one representative of early childhood development experts . . . one representative of a citizen group concerned with child care," etc.). It is focused on improving coordination and cooperation among state agencies responsible for child care and early childhood education services.

The child protective teams and the foster care review board (in Snohomish County) exist specifically to review individual cases, not to provide general oversight or advice to DSHS (although nothing prevents them from doing so).

Other groups with citizen involvement are located outside DSHS. For example, the Family Policy Council established pursuant to Ch. 70.190 RCW and the 53 Public Health and Safety Networks established under its aegis. Each network includes 23 members, with 13 citizens and 10 professionals.

Combining groups means combining and merging functions. Merging committees which currently have very focused tasks into larger advisory groups is not likely to be successful. Local groups obviously are not well suited for merger into statewide groups. While merging statewide groups seems more likely to succeed, the two most obvious statewide groups under the aegis of DSHS are the Children, Youth and Family Services Advisory Committee and the Child Care Coordinating Committee. While their differing functions could be combined, the result would be a large committee with a substantial percentage of its membership primarily concerned with one topic—child care.

Many existing groups are mandated by federal law, which also complicates possible mergers.

Reasonable Expectations for Volunteers

For any citizen advisory group, maintaining the active participation of individuals and the group requires dedication. Some of the groups discussed above have very clearly defined responsibilities, notably the CPTs. They are convened to review specific cases, so their mission is clearly defined and their agendas set virtually automatically. However, other groups operate under much broader and more general charges, notably the committees with general advisory or oversight duties such as the statewide Children, Youth and Family Services Advisory Committees or the Regional Oversight Committees.

Where a citizens' review committee is formed around a specific issue, it can be expected to work with some diligence and leadership on that issue. But as that single issue or problem ceases to be the main *raison d'être* for a group, more and more of the committee's agenda tends to be set by the agency it is created to advise or oversee. As this happens, the agency tends to get advice only on issues it raises. For example, a review of minutes from six meetings of the statewide DSHS Children, Youth and Family Services Advisory Committee in 1997 shows that most meetings consisted of progress reports from DSHS staff on various agency activities. Legislative issues were discussed, the Children's Administration presented its budget, and in one meeting, the Assistant Secretary for DSHS asked for suggestions about a particular case.

These minutes do not record members requesting agency action or initiating a project or raising questions about an issue. During the timeframe covered by the minutes, DSHS received a major consultant's report, the Management Improvement Project. This significant project would seem to have been of direct concern to the Committee, yet the minutes reviewed make only one brief, passing mention of the report, suggesting it scarcely came to the Advisory Committee's attention.

The experiences of Regional Oversight Committees is also instructive. In a "Boards and Commissions Reporting Form" prepared in development of the 1995-1997 biennial budget, DSHS recommended continuation of Regional Oversight Committees, indicating the committees provide "a forum for exchanging information and ideas on how to best meet the needs of our clients, solicit community and vendor input, and provide a community advocacy base for children and families." The committees were expected to address the following tasks:

- Identify duplication and gaps in service delivery;
- Identify problems and suggest solutions;
- Provide a permanent mechanism to suggest change;
- Engage in planning processes to address the unmet needs of families;
- Ensure that policy and procedures are followed;
- Conduct at least one public hearing per year;
- Liaison, education, and advocacy within community; and
- Facilitate regions' input into DCFS statewide advisory committee.

Within three years of making these statements about the Regional Oversight Committees, it appears that committees continue to function in only two of six DSHS regions. Although this

review did not examine these two committees' operations in any detail, there is no evidence that their role has achieved the expectations outlined in the budget document.

What are reasonable expectations for a largely volunteer advisory committee? If convened around a particular case, or set of cases, members can read a file, hear a briefing, and apply their knowledge to the immediate problem before them. But as tasks expand to system-wide questions as envisioned by CAPTA and SSB 6558, potential impediments need to be addressed:

- There are limits to how frequently an advisory committee can meet, especially when it is composed of volunteers who must take time away from their regular occupations. Members who work for other social service agencies whose missions are complementary to DSHS may be able to justify attending these meetings as part of their normal job. "Pure" citizen volunteers, who participate solely out of an interest in the topic, do not have this luxury.
- Not all committee members can or will attend every meeting, making it difficult to maintain continuity.
- As a committee's topics become larger and more complex, so grows the homework load faced by members. While members may be willing to contribute extra time for short periods, ongoing heavy demands may be unrealistic.
- A member who joins because of an interest in a special issue or project may lack enthusiasm for other work on the committee's agenda.

These issues arise in all citizen advisory groups. Certainly some organizations have successfully resolved them, so they are not insurmountable. It is, however, helpful to strategize ways that these barriers can be overcome for the citizen review panels under discussion.

Summary

Combining existing DSHS committees does not appear warranted nor beneficial. Most citizen involvement occurs at the regional level, where people can conveniently participate and influence decisions in their community. Indeed, combining committees could have the unintended result of reducing the amount of citizen participation in this area. The effectiveness of these committees is not uniform, and the agency may wish to examine the characteristics of the most successful groups to see if lessons can be learned to help the weaker groups.

SECTION V: THE CHALLENGE OF MEANINGFUL INVOLVEMENT

Commentators, drawing on the experience of foster care review boards, have called for creation of citizen review panels in child protection for many years, long before passage of the 1996 CAPTA amendments.

Citizen review in this topic area examines a system that must make difficult decisions involving two of our country's most cherished principles: the well-being and safety of our children and the rights of families to raise children according to their own, rather than the state's, beliefs.

Several roles for review panels are possible:

- To review *specific, individual cases* and ensure *corrective action* if any of the cases are not being addressed in the manner required by law and policy;
- To foster *greater compliance with law and policy* on a prospective basis, as workers know that any case might be subject to review;
- To *recommend changes in the overall system* when individual case reviews show patterns of actions that require a systemic, as opposed to individual, case response; and
- To ensure *public credibility for the accountability* of the child protective service system.³²

The value of citizen oversight in this area has been championed in the halls of Congress, leading to the CAPTA amendments. The successor of SSB 6558 further expands the roles of citizen oversight in child abuse and neglect.

Citizen review panels will be established in some form in Washington State in the near future. Thus, there is value in identifying factors in their creation, organization, and structure which may contribute to their success. Such factors apply to a broad range of citizen review panels and are generally independent of the particular mission of the review panel. This section of the report examines these factors.

Independence

If panels are to achieve oversight or direct input into agency decisions, they must be removed from the agency's normal chain of command.³³ Scott advocates placing the reviewing body completely outside the agency whose actions are being reviewed, although the article acknowledges that internal review programs can function successfully in the proper structure.³⁴

CAPTA does not specify a location for its panels. SSB 6558 called for six panels corresponding with DSHS service delivery regions and located in the Department of Community, Trade and

³² Scott, 7.

³³ Ross, R. Ross, R., Reif, and Farie, J. (1987) "An Administrative Intercase Review System That Works." *Child Welfare* 66(5): 472. Scott, 9-10.

³⁴ Scott, 20.

Economic Development with administration by a private nonprofit organization. Section 15 of Ch. 314 assume the panels would be "located independent of DSHS."

Based on limited information, it appears that virtually all states are currently working to place their CAPTA citizen review panels in the CAPTA agency. While this threatens to compromise the independence of the bodies, there are other reasons, including staffing and ease of accessing information, which favor the agency location. Since the penalty for failing to have proper panels, or for the panels not meeting the expectations of federal law, could be reduction of funding to the primary CAPTA state agency (DSHS in Washington State), that agency has a strong claim on having the panels within its administrative control.

States with children's ombudsmans' offices may be including the office as part of the CAPTA review process but not designating the ombudsman as to the agency overseeing the CAPTA reviews. Michigan, for instance, plans to use three existing boards to meet the CAPTA requirements and will include its ombudsman's office as part of its state child death review team board.³⁵ Arizona's ombudsman receives complaints regarding child protection issues but is not exclusively a children's ombudsman. While staff from the state's child advocacy program may be included on a CAPTA panel, no decisions had been made as of mid-November as to the structure the final panels might take.³⁶

Summary. Should the 1999 Legislature pass a bill similar to SSB 6558, the question of independence will be settled.

Should such a bill *not* pass, the citizen review panels will, by default, remain in DSHS. Depending on the agency's planning process, it may be possible for the current legislature to monitor how DSHS expects to organize and empower citizen review panels that comply with CAPTA. Since the review panels will not become operative until the summer of 1999, after the Legislative session has ended, monitoring of the panels and their relative degree of independence under DSHS will be an ongoing task.

Agency Commitment to the Panel's Goals

The agency that a citizen group oversees or advises needs to be committed to the group's success. A commentator notes that in the absence of administration commitment, resources for the group may be lacking and/or the agency may ignore any findings or recommendations coming from the oversight body. Cooperation may come in half-hearted ways, particularly at the local office level, as responses to requests for information may be slow in coming or incomplete. Agency staff may be unwilling to spend time with the oversight body.³⁷ Cooperation from line level staff and first level supervisors, whose work the panels may be most closely overseeing, can depend in part on the trust, confidence, and respect those staff have for the work of the panels. If agency staff perceive the panels as not approaching their responsibilities in a professional manner or making judgments based on less than adequate information, knowledge or training, their cooperation is likely to be minimal.

³⁵ Letter from Michigan Family Independence Agency to William C. Collins, November 5, 1998.

³⁶ Letter from Carolyn M. Rice, Arizona Dept. of Economic Security to William C. Collins, November 18, 1998.

³⁷ Ross.

A lack of agency commitment, combined with uncertain duties and roles may contribute to the lack of vitality observed among the state's Regional Oversight Committees, of which only two of six are functioning.

Summary. A legislative mandate cannot assure an agency's commitment to a particular program, or in this case, a citizen review panel. An agency director's commitment to support the process may not always translate into support at the local office level. To some extent, agency support for oversight groups comes as a by-product of the respect that agency staff have for the group. Lack of adequate financing may prevent an agency from carrying out its commitment to a program.

Criteria for Review

If an oversight body is to monitor an agency, it needs clear criteria. Commentators frequently address this point. "Clear, preferably written expectations" are important for advisory committees.³⁸ "For [the foster care review board] review process to work as intended . . . the process requires a clear set of standards against which the case plans and casework actions that are being reviewed can be judged."³⁹

In broad terms, CAPTA defines the criteria its citizen review panels must use.

(A) In general- Each panel . . . shall, by examining the policies and procedures of State . . . agencies and where appropriate, specific cases, evaluate the extent to which the agencies are effectively discharging their child protection responsibilities in accordance with -

(i) the State plan under subsection (b) of this section;

(ii) the child protection standards set forth in subsection (b) of this section; and

(iii) any other criteria that the panel considers important to ensure the protection of children, including -

(I) a review of the extent to which the State child protective services system is coordinated with the foster care and adoption programs . . . and

(II) a review of child fatalities and near fatalities

Each year, panels must address each of the three major elements listed above: child protection responsibilities, coordination between foster care and child protective services, and child fatality review.

One approach the panels could take would be to evaluate the extent to which DSHS is complying with formal Assurances it must make to the federal government. These Assurances are a condition to receiving federal grants for its child abuse and neglect prevention and treatment programs (42 USC §5106a(b)(2)(A)). There are currently 16 such Assurances, dealing with such topics as:

- Procedures for the immediate screening, safety assessment, and prompt investigation of reports of child abuse or neglect; and

³⁸ Teitel, 54.

³⁹ Ross, 471.

- The cooperation of state law enforcement officials, courts of competent jurisdiction, and appropriate state agencies providing human services in the investigation, assessment, prosecution, and treatment of child abuse or neglect.

The Assurances verify that a particular program or procedure is or will be in place. They do not purport to evaluate if DSHS is "effectively discharging" its responsibilities under a particular Assurance. A fair reading of the CAPTA amendments suggests citizen review panels should attempt such evaluations. Without going into further detail about the contents of a state plan, federal child protection standards, DSHS policies and procedures, or specific cases, asking volunteer citizen review panels to evaluate all the major elements in the those major categories creates a potentially huge, very complicated task for the panels.

SSB 6558 fleshed out the general CAPTA requirements by indicating that in conducting the CAPTA-mandated evaluations, panels could review any of 13 different issues, including such topics as:

- The extent to which the state agencies and community-based programs have developed the capacity to integrate shared leadership strategies between parents and professionals to prevent and treat child abuse and neglect at the neighborhood level. §5(a);
- Legal preparation and representation of both children and families. §5(d);
- Information, education programs, and training programs to improve the provision of service to infants with chronic disabilities or life-threatening conditions. §5 (k).

How might a citizen review panel determine that DSHS is "effectively discharging" child protection responsibilities against the very general standards from CAPTA? How should "specific cases" be selected for review to facilitate "effectively discharging" determinations? How will a panel systematically review the sorts of complex issues identified in §5 of SSB 6558?

One factor which may turn a nearly impossible task into one of realistic proportions will be if the federal government's interpretation of CAPTA allows review panels to concentrate on particular elements of, for instance, a state's child protection program, instead of requiring annual evaluations of the entire program.

One of the first tasks facing panels and their support staff will be to decide how they are going to approach their evaluative tasks: what must a panel evaluate, what sorts of priorities can it set, can or should three or more regional panels attempt to coordinate with one another? These and other start-up tasks will require an understanding of the child abuse and neglect system (or systems, given the number of different agencies which become involved in child abuse cases, including DSHS, law enforcement, the courts, etc.) and defining a process for discharging their responsibilities.

With six regional panels (the expectation of SSB 6558), coordination on common criteria and priorities will be important among the panels and between the panels and DSHS. Confusion, controversy, and lack of credibility are likely products if different panels adopt different criteria. If the panels disagree with DSHS, controversy may ensue over whose process and criteria are more valid. How many specific cases should a panel evaluate before it can fairly say that DSHS

is or is not complying with one or more of its obligations under the law? Public confidence in the panel process could be at stake in such controversies.

Summary. Development of criteria for the panels to use in their program evaluation duties under the CAPTA amendments, or whatever responsibilities the legislature may add, will be very important. Attention should be given to coordinating panel efforts on evaluative criteria and methods so panels work consistently with one another and DSHS is judged under common expectations.

Selection and Experience of the Panels

What background and experience, if any, should members bring to the table? Does simply an interest in the area qualify? Should prospective volunteers be screened by an oversight body or largely allowed to select themselves?

SSB 6558 called for panels with no more than seven members "who broadly represent the region in which each panel is established."⁴⁰ Three members "shall have professional or academic expertise in the prevention or treatment of child abuse and neglect."⁴¹ The other four members are to be from the "public at large with no fiduciary interest in publicly funded social services."⁴²

Under CAPTA, panel members must be "broadly representative of the community" and include "members who have expertise in the prevention and treatment of child abuse."

The U.S. Department of Health and Human Services Program Instruction recommends that "panelists have the necessary qualifications to review the complex issues presented by child maltreatment. It is recommended that panel membership include a balance among children's attorneys, child advocates, CASA volunteers, parent/consumer representatives, and health/mental health professionals who are familiar with the intricacies of the Child Protective Service system."⁴³

Subject to relatively minor mandatory qualifications, §2 of SSB 6558 suggests panel members would be selected based on the order in which persons apply to serve on review panels. Among those persons who otherwise meet the general qualifications, the first to apply is the first selected. If this interpretation is correct, it may be difficult even to assure that panel members are broadly representative of their region or that they possess any of the skills necessary for a review panel.

The literature on citizen review panels indicates more care should be given to member selection. One author, Scott, cautions against allowing professionals to dominate a panel and notes that some agencies favor recruiting volunteers with no prior connection with child welfare issues,⁴⁴ a position which is consistent with that of SSB 6558. However, professional backgrounds aside, there are "generic" qualities which are important to the success of citizen

⁴⁰ SSB 6558, §6.

⁴¹ Ibid.

⁴² Ibid.

⁴³ ACS, 2.

⁴⁴ Scott, 12.

volunteer groups. Scott recommends that the recruitment process incorporate the following values:

- Promote the importance of a commitment to children and families with an ability to see many perspectives.
- Stress the value of board diversity.
- Reach out to groups that otherwise would be under-represented.
- Maintain a strong law representation and value community involvement.⁴⁵

Scott also qualifies his position on non-professional panel members by recommending substantial pre-service and ongoing training.⁴⁶ He suggests that when evaluating state-level policy changes, it can be important to have volunteers who can "think systemically and strategically . . . [who have] political savvy with knowledge of the child protective system, government operations, and the political process."⁴⁷

Inexperience of citizens involved in program evaluation and monitoring can contribute to the inefficiency of the process, making training important.⁴⁸

Including panel members with no background in child welfare can bring a fresh perspective to panel deliberations. New ways of looking at issues can be identified. "Old boy" networks and ways of thinking can be pushed aside in favor of new paradigms.

SSB 6558 goes further than the federal requirement for four of seven panel members to be from "the public at large."⁴⁹ By creating a first come, first served self-selection process, in which very few factors could disqualify an applicant, potential problems may be created. In failing to allow consideration of the generic factors such as those alluded to above as part of the selection process, panels become open to persons with grudges, takeover by special interest groups without a demonstrated commitment to children and families but only to a single issue, such as rescuing "kids in trouble" or "tee[ing] off on [the] human service agency staff whenever there appears to be a problem."⁵⁰

The goal of drawing volunteers from outside the existing child protection community and reaching volunteers from "the public at large" can be realized without eliminating control over the selection process. Yet irreparable damage could be done to the oversight aspirations of the panels if a panel (or panels) becomes the captive of a single issue, special interest group, or because of personality traits of members who find themselves unable to communicate even with one another. A review panel which turns into a hung jury because of personality conflicts serves no one's interests.

⁴⁵ Ibid., 14. See also Teitel, 66-67.

⁴⁶ Ibid., 13-14.

⁴⁷ Ibid., 13.

⁴⁸ NIMH, 159.

⁴⁹ SSB 6558, §6.

⁵⁰ Scott, 11.

In examining the research articles on citizen oversight and advisory panels in a variety of contexts, consistent emphasis is found on selection of members as a very important factor in the group's success or failure. Some expertise and/or knowledge of the "system" is important for a panel to start with, or obtain over time, but perhaps even more important are the generic factors relating to the personalities of the panel members: can they hear both sides of an issue, can they think critically, can they work with other volunteers in a panel format?

Summary. The sponsors of SSB 6558 have a strong desire that citizens rather than professionals dominate the review panels. The proposed selection process, however, opens the door for panels not representative of the community, dominated by persons with very specific interests and goals who will not assure that panels fairly go about their business.

Greater control over the selection process should be considered. Such increased control could still allow a diversity of backgrounds and interests by members, but also bring the broad citizen input consistent with the goals of SSB 6558. The original bill (SB 6558) gave appointing authority to OFCO (Section 4); other options are possible.

Workload

Citizen volunteers should come to a task with both motivation and commitment. Assuming they are well selected and trained, and assuming their tasks are clearly spelled out, the stage should be set for a successful effort. The next issue to address is workload. Volunteers are, by definition, volunteers. How many meetings can they attend? How long can a meeting last? How much work outside formal meetings can be expected of panelists?

Volunteers take time away from jobs, families, and other competing interests. Asking too much of committee members may exclude some persons altogether, drive others away, and/or lead to poor work product.⁵¹ If members drop out because they cannot keep up with the workload, the expectations will only rise for new members and slow the panel's efforts with the need to find and train replacement members.

As noted earlier, the CAPTA amendments alone outline a substantial workload for citizen review panels. SSB 6558, if anything, expands that workload. Work will perhaps be at its peak in the first year or so of the panels' existence, as members struggle to decide their tasks and priorities and how to conduct the expected evaluations.

Summary. Workload demands could cripple review panels. The expectations the federal government develops regarding panel accomplishments will define much of the workload. Such expectations have not yet been articulated in any detail and hopefully will be realistic for volunteer organizations.

Legislators, in considering a successor to SSB 6558, also should be sensitive to the workload issue.

⁵¹ Cochran L., et al., (1980) *Advisory Committees in Action*, Boston, MA: Allyn and Bacon, Inc., 270.

Training

To be effective, panel members must become knowledgeable about child abuse and neglect. This field is complex, in part because multiple organizations are involved with child protection issues, including legal and social service organizations.

Additionally, child protective services involves human dynamics of the most complicated sort. Where should lines be drawn, how should judgment be exercised in a case in which a parent may have involvement with the criminal justice and/or mental health systems, where substance abuse issues may exist, where a child is encountering problems in school and may have various learning disabilities, where the "facts" about the abuse or neglect are ambiguous, and where the interests of a child's safety must be weighed against interests of the parents and the family? These are some of the issues which may be presented to the child protective service worker and, in turn, to the review panels.

Some panel members may bring knowledge of child protective issues with them. Others will not. This disparity can be addressed by assessing the knowledge level of panel members and establishing appropriate types of pre-service and continuing training. South Carolina, for instance, requires that members of its foster care review boards participate in a two-day training session as a condition of granting such members immunity from lawsuit.⁵²

Some states not only require training of foster care board members, but consider it part of the qualification process and drop prospective members if they fail to show abilities to listen to others and participate in group processes or fail to show an understanding of basic review procedures.⁵³

When the primary task of a panel is program evaluation, members need a minimal understanding of evaluative techniques.⁵⁴ Panel credibility may suffer in the eyes of the public and the child protection community if its findings are seen as unsupported by evidence. While disagreements between review panels and DSHS are to be expected, the effectiveness of the panels in being able to make findings and recommendations which lead to positive change will be influenced by their credibility. Failure to understand and follow published and accepted methods of evaluation will erode that credibility and erode the groups' effectiveness.

CAPTA does not address training. SSB 6558 does, but in a minimal way. "Basic training" is to be provided "as requested" by panels.⁵⁵ Depending upon budget allocations, even "requested training" could be minimal.

Summary. Panel members will require training which need not be "indoctrination" into any particular way of thinking about child abuse and neglect. Any successor bill to SSB 6558 should re-examine its expectations regarding training. New legislative proposals may wish to re-examine the question of training, setting higher expectations for training quality and quantity, and consider whether successful completion of training should become a condition for panel membership.

⁵² Scott, 13.

⁵³ Ibid., 34.

⁵⁴ NIMH, 159.

⁵⁵ SSB 6558, §2(5)

Length of Service for Members

Discussion of member skills and training raises the question of how long panel members should serve. Panel members' effectiveness will grow with their knowledge and understanding of the system they are reviewing. Some of this knowledge can be acquired through training, but much, perhaps most, will come from experience, especially for persons who come to panel membership without previous exposure to the child protective system.

How long does it take panel members to acquire the knowledge and understanding of the child protective system to be able to perform optimally? How much does continuity of membership affect a panel's ability to successfully carry through an evaluative process which may take months or more to complete?

A study of a mental health site visitation committee found that despite its core of highly dedicated volunteers, attrition among committee members limited the success of the committee.⁵⁶ Authors on this topic note the value of retaining volunteers.⁵⁷

Under SSB 6558, volunteers would be limited to 18-month terms, with approximately one-third of a panel turning over every six months.⁵⁸ A panel member could not be re-appointed for five years after an initial term.⁵⁹ If panels meet only quarterly, the minimum required by the proposed statute,⁶⁰ much of the time approximately one-third of a panel would have essentially no experience while another one-third would have only two meetings under their belts. This sort of inexperience and lack of knowledge can lead to panels over-relying on staff for guidance on judgments which are properly the province of the panel or overlooking issues more experience might show to be important.

Evaluation projects undertaken by panels may extend for some time. Carrying through with those projects may be prejudiced if panel members with a strong interest in the project leave the panel and are replaced by new members who may not understand the importance of a project, or who may have other priorities.

Limiting terms to 18 months raises several questions:

- Can a sufficient number of volunteers be recruited at the rate necessary to maintain panel membership?
- Will panel members have sufficient time to learn enough about child protective issues during their terms to be effective?
- What effect on the continuity of projects will the proposed rate of turnover have? Will a constant stream of new members effectively shorten the attention span of panels and erode their ability to dig deeply into an issue?

⁵⁶ NIMH, 99.

⁵⁷ Scott, 14.

⁵⁸ SSB 6558, §2(4).

⁵⁹ *Ibid.*, §6.

⁶⁰ *Ibid.*, §2(8).

Summary. While maintaining a steady stream of new members can be important to the continuing vitality of any organization, the 18-month term limit proposed in SSB 6558 may make it very difficult for panels to develop the skills to perform the tasks with which they are charged.

Staffing

Volunteer citizen panels cannot run without support. Staff are needed for fundamental logistical matters: scheduling meetings, contacting members, compiling information at the direction of panels, copying, mailing, etc.

For these panels, staff are likely to play a more significant role. They may be involved in training. They may have to interact with DSHS or other governmental agencies. They may be asked for their guidance on program evaluative techniques or a variety of other issues. Panels are likely to reach consensus on ideas or proposals that will need to be researched or developed outside the meeting. Staff will undoubtedly be expected to take the lead in writing major reports from panels.

All volunteer citizen review groups face the same risk in their relationship to the government "system," whether it be a CAPTA citizen review panel, a school board, other governmental advisory or policy setting boards, or even a legislative body. That risk is over-dependency on agency staff, causing the group eventually to cede its substantive role. In the worst case example of staff control, staff set the agenda, tell the group what to think, and become the sole source of background material for the panel. The panel gradually becomes a rubber stamp of its staff.

For panel members with no background in the field, the risk is even greater that they will unconsciously become captured by staff and take the view that "staff are the professionals. They know about the system. I need to learn from somebody . . ." Avoiding a staff-dominated panel depends in part on staff clearly understanding and adhering to their role as staff, not ad hoc panel chair, and panel members being alert to maintaining their proper role.

Summary. Both CAPTA and SSB 6558 are silent on numbers or expertise of staff, data systems, definition of staff roles, and loyalty of the director. It is not surprising that this sort of detail is not addressed in statute, although it will have to be addressed as part of determining the size of the appropriation which would have to accompany passage of a successor to SSB 6558.

SECTION VI: ALABAMA: CITIZEN COMMITTEES AND QUALITY ASSURANCE

A model of quality assurance worth examining is under development in Alabama. While perhaps more ambitious in scope than plans to date in Washington, Alabama's approach still has many elements which may be worth emulating. At the very least, the Alabama approach reflects a comprehensive quality assurance program which places great emphasis on citizen participation.

Alabama's efforts are driven in part by a consent decree in federal court litigation filed on behalf of foster children in Alabama.⁶¹ The following descriptions are drawn from the Guide referenced in the preceding footnote, and may not reflect the final form of the quality assurance process.

The goal of Alabama's quality assurance program is to go beyond an audit function, and to evaluate components of the child welfare system and recommend corrective actions.

Citizen committees are at the heart of this system. A state level committee is created along with committees in every county. The committees remain within the Department of Human Resources, a location which arguably could compromise their independence, but the state committee is administratively located in a Division of Quality Management. At the county level, committees will work with a quality assurance coordinator. The Department of Human Resources is expected to supply other forms of staffing assistance. A court monitor exists under the consent decree, a factor which also should help assure that both state and local committees work diligently and independently.

The state committee will be comprised of 12 to 20 members with 15 to 20 members in each local committee, although this number may vary with the size of the county which the committee serves.

The membership of Alabama's citizen quality assurance committee is more structured than the direction proposed in SSB 6558. Both the state and local committees are to include "representatives of service consumers, service providers, public and private agencies, community stakeholders, advocacy organization, and the courts."⁶² While the Department of Human Resources appoints the committee members, the Guide notes that the appointing authority is to avoid conflicts of interest (differences of opinion are specifically not considered conflicts of interest⁶³) and is admonished to appoint persons with a "balance of interest and concern for the agency's programs with the potential for objectivity in fulfilling their roles."⁶⁴ Local committees are also expected to represent the demographic diversity of their communities.

The workload of the committees, especially the local committees, is daunting and challenging. Members of local committees are expected to conduct intensive reviews of individual cases through lengthy structured interviews with children, parents, foster parents, teachers, providers, and caseworkers.⁶⁵ Committee members will be trained in conducting such interviews, each of which is expected to take an hour. Interviews will be performed on a randomly selected sample of cases, ranging from eight per year in smaller counties to 24 per year in larger counties.⁶⁶

⁶¹ *Draft Quality Assurance Guide*, Division of Quality Management, Alabama Department of Human Resources, 1998, p. 4. Hereafter, Guide.

⁶² Guide, p. 12, 13.

⁶³ *Ibid.*, p. 13.

⁶⁴ *Ibid.*

⁶⁵ Groves, Ivor D. *Creating a New System of Care: Building a Stronger Child and Family Partnership*, Assessment Process, R.C. Monitoring Protocol Version 4.1. Tallahassee, FL: Human Services and Outcomes, Inc.

⁶⁶ Guide, p. 31.

The information gleaned from these interviews will provide much of the raw material for the work of both the local and state committees. The committees will make recommendations to the county department based on the interviews. The department is required to respond to the recommendations in a timely way, including explaining why the department might choose not to implement a particular recommendation.⁶⁷

In addition to the case specific interviews and recommendations, the committees are expected to monitor systemic issues through such means as general interviews with community stakeholders. Both local and state committees may also initiate special studies on topics they select. The committees will also consider data developed by the Department of Human Resources regarding three “domains” for children served by the Department: safety; permanency and stability; and educational success. Several key indicators will be examined for each domain.

Summary

Alabama provides a model for a strong citizen review process. While the committees are not located outside the department whose work they monitor, the intent clearly is for their independent identity. By having clearly stated expectations and procedures, they will not be as apt to become dependent on the Department to set their agendas. The oversight of the court monitor for the first few years of the committees’ existence should also help establish their independence.

Perhaps the most noteworthy aspect of the Alabama process is the case evaluation method which will be conducted by committee members. Training a diverse group of citizens to conduct and record formal structured interviews may prove challenging. However, if the interview method succeeds, it should provide substantial credible information applicable both to individual cases and to the overall operation of the state’s child welfare system.

⁶⁷ Guide, p. 32.

SECTION VII: CONCLUSION

Citizen review panels face a daunting, complex responsibility with profound implications for public policy regarding child abuse and neglect. Increasing citizen oversight is intended to increase government accountability by opening what traditionally has been a relatively closed system to greater public scrutiny. To be most effective, this citizen oversight must examine what takes place at the front-line level of the child protective system.

Congress has mandated the creation of citizen review panels and given them relatively general, but very wide-reaching, oversight responsibilities. State legislation in Washington has been proposed and almost certainly will be proposed again, which is intended to meet the mandate of Congress but also to go further by creating more panels than Congress requires, making the panels citizen dominated, demanding that they be independent of DSHS, and setting greater oversight expectations for the panels.

To some extent, citizen review boards in Washington State will overlap with the Office of the Family and Children's Ombudsman (OFCO) in that both are expected to evaluate the quality of the child protection efforts of the Department of Social and Health Services. As last proposed, the citizen review panels and OFCO would remain separate agencies, with no legislative direction for cooperation or coordination until 2001, when the panels would come under the aegis of OFCO.

Citizen review, oversight, and advisory boards are common in many fields. Appointing a board of citizens does not necessarily assure the board will be able to effectively accomplish its intended goals. Successful boards depend on a variety of other factors, some tangible, some more intangible, and include such things as financing, board membership, training, staff support, and agency commitment.

The organization and structure envisioned for the panels in SSB 6558 could be strengthened to increase the panels' potential to meet legislative goals. If the legislature does not pass legislation dealing with citizen review panels, DSHS will continue to implement the citizen review panel requirements of the federal CAPTA amendments in accordance with its judgment and directives from the federal government. The form of this implementation may be the subject of future legislation inquiry.

APPENDIX: CHECKLIST FOR STRUCTURING CITIZEN REVIEW PANELS

The Scott⁶⁸ monograph attempts to identify elements of successful citizen review panels, drawing largely upon the foster care citizen review board experience. The monograph makes recommendations in several categories and offers an effective checklist for structuring successful citizen review panels. The recommendations are quoted in the table which follows, with comments from the author.

Drafters of future legislative proposals for citizen review panels may find this identification of issues helpful. While some relate to operational matters, which are too detailed for legislation, many more raise fundamental issues which SSB 6558 did not address and which may be very important to the ultimate success or failure of independent review panels.

⁶⁸ Scott, Steven and Bruner, Charles (1996) Supporting Effective Citizen Involvement in Child Protective Services – A Guide for State and Local Officials, Child and Family Policy Center.

Authority and Independence: the Enabling Legislation	Author Comment
Is the citizen review program housed in a supportive agency committed to its principles?	Will the Department of Community, Trade and Economic Development (CTED) and a contracted private nonprofit organization be supportive? Agencies which have a common interest in the subject matter include DSHS and OFCO. Panel budget appropriations may define supportiveness by allowing, or not allowing, for sufficient staff support, training, etc.
Is the citizen review program clearly free and independent from the agency or agencies with day-to-day responsibilities for administering the child protective service system?	SSB 6558 would assure independence: absent passage of legislation, the review function will be lodged somewhere in DSHS where independence becomes largely a matter of policy for DSHS.
Does the citizen review program have regular reporting responsibility to the state legislature and the needed resources to do it?	No comment.
Does the citizen review program have access to all needed information upon which to do case reviews and evaluate child protective service policy?	This is addressed in SSB 6558, which may go further than necessary in mandating access to information from agencies other than DSHS.
Are the child protective service officials required to respond to citizen review recommendations?	Neither SSB 6558 nor CAPTA address this issue, but should not DSHS have the obligation of at least responding to findings and recommendations of citizen review panels?
Enlisting Citizen Volunteers	Author Comment
Does the recruitment process:	In general, SSB 6558 sets relatively few minimum qualifications. Aside from these, it appears to offer panel membership on the basis of time of application.
<ul style="list-style-type: none"> Promote the importance of a commitment to children and families with an ability to see many perspectives? 	
<ul style="list-style-type: none"> Stress the value of Board diversity? 	Board members to be "broadly representative" of their communities under SSB 6558, but how would this be assured?
<ul style="list-style-type: none"> Reach out to groups that otherwise would be under-represented? 	Could be done through advertising.
<ul style="list-style-type: none"> Maintain a strong lay representation and value community involvement? 	SSB 6558 requires four of seven panel members to be lay members.
Does the training and selection process:	SSB 6558 speaks only of training being provided to panels "upon request." Substantial training, as Scott advocates, becomes a budget item of concern.
<ul style="list-style-type: none"> Provide pre-service training offering background information on the child welfare and protective system and the role and responsibility of the citizen review process? 	
<ul style="list-style-type: none"> Offer interactive and experiential exercises that can help screen and self-select individuals with needed skills and orientations to do the work? 	No comment.
<ul style="list-style-type: none"> Offer continuing in-service opportunities for skills development? 	No comment.
<ul style="list-style-type: none"> Offer more detailed training for those who will be making policy recommendations? 	No comment.

Does the overall process help retain volunteers through:	SSB 6558 limits volunteer membership on panels to 18 months, anticipating a constant stream of new persons entering panels, with approximately one-third of a panel turning over every six months. Will this level of turnover allow panels to develop necessary levels of expertise and to maintain a continuity of effort?
• Keeping volunteers informed of the results of their work?	No comment.
• Providing recognition for work and service?	No comment.
Staffing Citizen Review	Author Comment
Are staff roles defined as supporting, but not dictating, the work of the citizen review boards?	SSB 6558 provides only that CTED will contract with a private non-profit organization to "serve as administrator and the appointing authority" for the panels (§2). CTED "or its contractor" are to provide administrative coordination and support to the panels and "consultation and basic training . . . as requested." (Ibid.).
Is the director responsible and accountable to a state-level review board and not another agency?	No comment.
Are there sufficient local staff to handle the logistical and administrative functions so that citizen review boards have the materials they need to do their work?	No comment.
Do staff have the expertise (legal and professional) to fulfill their roles?	Defining the roles of staff and their qualifications is left largely to CTED.
Is there a data system and an analytic capacity to track the work of local citizen review, assess their impact, and identify issues that may require a state policy response?	This is clearly a budget item. It also asks for special staff expertise on data processing issues.
Developing a Case Review Process	Author Comment
Does the individual case review process:	
• Ensure that cases reviewed are truly representative of all cases and sufficient in number to identify any variations in practice across local jurisdictions?	Both Scott and CAPTA assume oversight panels review individual cases as part of their evaluation of how the system is working. They do not review cases for the purpose of intervening in the handling of that case, as might OFCO. If it is the intent of SSB 6558 that panels do more with individual cases than review them as part of overall program assessment (note that legislators would be able to refer cases to the panels, but for what purpose? §10(2)), that intent should be expressed more clearly. The merits of such a power should also be examined in light of the work of OFCO, other citizen review panel workloads, and the ability of a volunteer board meeting probably no more than once a month, or less, to conduct such ad hoc reviews in a timely and effective manner.

<ul style="list-style-type: none"> • Include a clear and specific protocol to review cases that volunteers have the expertise to use? 	This suggests a possible training issue.
<ul style="list-style-type: none"> • Include all relevant background information for cases under review? 	No comment.
<ul style="list-style-type: none"> • Provide for an inclusive review process that provides all parties the opportunity to be heard? 	No comment.
<ul style="list-style-type: none"> • Ensure confidentiality to all children and families subject to the review process? 	No comment.
<ul style="list-style-type: none"> • Produce a data system for all cases reviewed that can be analyzed as a basis for understanding an overall child protective service system's strengths and weaknesses? 	Another budget/workload issue.
State Level Policy Reform	Author Comment
Is there a state-level board for using local citizen reviews to make policy recommendations that:	SSB 6558 would create six regional boards, but no board with statewide authority. Each of the regional boards could make policy-level recommendations. Any coordination of tasks, recommendations, etc., between boards would be up to the discretion of the individual boards. Would recommendations of statewide importance carry greater weight with DSHS/the legislature/the public if they came from a board with statewide authority, as opposed to a regional board?
<ul style="list-style-type: none"> • Includes individuals with strong credibility in the state, recognized for their commitment to the safety of children and support of families? 	Note the "self-selection" process for board members, described earlier. Credibility of boards based on the credibility of their members will be left to accident and chance.
<ul style="list-style-type: none"> • Has access to and support from policymakers to ensure that recommendations for statutory and administrative changes receive careful consideration? 	No comment.
<ul style="list-style-type: none"> • Has a deep understanding of and direct experience with local review process? 	No comment.
<ul style="list-style-type: none"> • Has appropriate training and expertise in drawing from individual review to identify needed policy changes, statutory and administrative? 	No comment.

BIBLIOGRAPHY

1997 Annual Report, Office of the Family and Children's Ombudsman, Olympia, WA.

Backus, T. (1978) "Foster Care Review: An Ohio Example." *Child Welfare* 57(3): 156-164.

Claburn, W., Magura, S. and Resnick, W. (1976) "Periodic Review of Foster Care: A Brief National Assessment." *Child Welfare* 55(6): 395-405.

Cochran, L., Phelps, L., and Cochran, L. (1980) *Advisory Committees in Action*, Boston, MA: Allyn & Bacon, Inc.

Children's Administration Practices and Procedures Guide (1996) Olympia, WA: Department of Social and Health Services.

Draft Quality Assurance Guide (1998) Division of Quality Management, Alabama Department of Human Resources,.

Gambrill, E. and Stein, T. (1994) *Controversial Issues in Child Welfare*, Boston, MA: Allyn & Bacon, Inc.

Groves, Ivor D. *Creating a New System of Care: Building a Stronger Child and Family Partnership*, Assessment Process, R.C. Monitoring Protocol Version 4.1 Tallahassee, FL: Human Services and Outcomes, Inc.

Hardin, M. (1983) "Court Review: Making It Work." *Child Welfare* 62(4): 367-371.

Hardin, M. (1985) "A Comparison of Administrative, Citizen, and Judicial Review." *Children and Youth Services Review* 7: 161-172.

Jennings, M.A., McDonald, T., and Henderson, R. (1996) "Early Citizen Review: Does It Make A Difference?" *Social Work* 41(2): 224-231.

Jorden, C. and Franklin, C. (1994) *Have External Review Systems Improved the Quality of Care for Children?* In Gambrill and Stein, *Controversial Issues in Child Welfare*, Boston, MA: Allyn & Bacon. 136-149.

Leashore, B. (1986) "Workers' Perceptions of Foster Care Review in the District of Columbia." *Child Welfare* 65(1): 26-32.

Lindsey, E. and Wodarski, J. (1986) "Foster Family Care Review by Judicial-Citizen Panels: An Evaluation." *Child Welfare* 63(3): 211-230.

Miller, K., Fein, E., Bishop, G., Stilwell, N., and Murray, C. (1984) "Overcoming Barriers to Permanency Planning." *Child Welfare* 63: 45-55.

Murray, L. (1981) "How Child Welfare Workers in New Jersey Perceive Independent Case Review." *Child Welfare* 60(5): 331-341.

National Institute of Mental Health (1984) *Citizen Evaluation in Practice: A Casebook on Citizen Evaluation of Mental Health and Other Services*, Washington D.C.

Ross, R., Reif, and Farie, J. (1987) "An Administrative Intercase Review System That Works." *Child Welfare* 66(5): 467-475.

Scott, S. and Bruner, C. (1996) *Supporting Effective Citizen Involvement in Child Protective Services – A Guide for State and Local Officials*, Child and Family Policy Center.

Teitel, L. (1994) *The Advisory Committee: Creating an Effective Strategy for Programming Improvement*. Washington, DC: The George Washington University.