



2005 Interim
June 14, 15, 16, 2005

LCR 1 & 2
State Capitol
Pierre, South Dakota

Tuesday, June 14, 2005

The fourth meeting of the Government Operations and Audit Committee for the 2005 interim was called to order by Chair Representative Ted Klaudt at 8:15 a.m. (CT), June 14, 2005, in Legislative Conference Rooms 1 and 2 of the State Capitol in Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators William Earley, Jason Gant, and John Koskan; and Representatives Michael Buckingham, Ted Klaudt, Gerald Lange, and Deb Peters. Senator Garry Moore was excused. Senator Jerry Apa and Representative Margaret Gillespie joined the group later in the day.

Staff members present included Sue Cichos, Senior Fiscal Analyst; Reuben D. Bezpaletz, Chief of Research and Legal Services; Marty Guindon, Auditor General; Gary Hoscheid and Robert Christianson, State Government Audit Managers for the Department of Legislative Audit (DLA); Sarah Herricks, Secretary for DLA; and Teri Retrum, Senior Legislative Secretary.

(**NOTE:** For sake of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents are on file with the Master Minutes.)

Approval of Minutes

REPRESENTATIVE BUCKINGHAM MOVED, SECONDED BY SENATOR GANT, THAT THE MINUTES OF THE THIRD MEETING (MAY 18, 2005) BE APPROVED. THE MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

FY 2004 Encumbrances

A handout was provided by DLA (**Document #1**). **Mr. Gary Hoscheid** gave the committee an update on the FY 2004 General Fund encumbrances.

State Fund Cash Balances

A handout was provided by DLA (**Document #2**). **Mr. Bob Christianson** gave the committee an overview of state fund cash balances. The committee asked questions concerning various state funds. A handout was provided by the DLA (**Document #3**). The committee was informed that the DLA is in the process of reviewing matters surrounding the Aeronautics funds and will report to the committee at a later date.

REPRESENTATIVE PETERS MOVED, SECONDED BY REPRESENTATIVE BUCKINGHAM, THAT CONDITION STATEMENTS BE OBTAINED FOR COMPANIES 3044, 3015, 3032, AND 3043. THE MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

Department of Agriculture Contracts

A handout was provided by DLA (**Document #4**). Mr. Hoscheid reviewed the Department of Agriculture contracts and responded to committee questions. The **Department of Agriculture Secretary Larry Gabriel** and **Mr. Ken Anderson** were available and responded to questions raised by the committee concerning departmental contracts.

Public Safety Contracts

A handout was provided by DLA (**Document #5**). Mr. Hoscheid reviewed the Department of Public Safety contracts and responded to committee questions.

Homeland Security Issues - Cameras at Springfield

Mr. John Berheim, Director of Homeland Security, updated the committee on the purchase of security cameras at the Springfield prison and answered committee questions.

Department of Corrections - Follow-up on Questions Raised by the Committee

A handout was provided by DLA (**Document #6**). Mr. Christianson gave an overview of the handout. **Mr. Doug Weber**, Interim Secretary for the Department of Corrections and **Mr. Scott Bollinger** were present to answer committee questions. The committee requested that the Department of Corrections provide a list of television stations available on the cable system that is accessible by the prisoners.

Overview of Single Audit Report

A handout was provided by DLA (**Document #7**). Mr. Christianson gave an overview of the South Dakota Statewide Single Audit for FY 2004.

The committee then reviewed the Audit Findings, Questioned Costs and Corrective Action Plans sections of the report.

The committee expressed concerns regarding the findings relating to the Department of Social Services. **Ms. Darla Mayer**, Division of Management Services Director, **Ms. Sharon Sonnenschein**, Division of Economic Assistance Director, and **Mr. Wayne Schaeffbauer**, Director of Energy Assistance for the Department of Social Services, answered committee questions concerning the Low Income Home Energy Assistance Program. Also discussed was the finding related to the Department of Social Services, Violence Against Women Formula Grant. The committee requested that the Department of Social Services provide the committee with a copy of a BIT work order related to the Energy Assistance Program and a written report containing the department's corrective action already taken to resolve the issues presented in the audit report.

The committee expressed concerns regarding the finding relating to the Department of Agriculture concerning the Cooperative Forestry Assistance Program. The committee requested that **Mr. Ray Sowers**, Division of Resource Conservation and Forestry Director appear before the committee on June 15, 2005, to answer committee member questions.

The committee expressed concerns regarding the findings relating to the Department of Military and Veterans Affairs. The committee requested that the Department of Military and Veterans Affairs provide the committee with a written report within thirty (30) days detailing the status of actions taken to implement the audit recommendations.

The committee requested that follow-up letters be sent to all other departments with written audit findings encouraging the implementation of the audit recommendations.

The committee recessed at 4:10 p.m. and reconvened at 7:30 a.m. on Wednesday, June 15, 2005.

Wednesday, June 15, 2005

Department of Agriculture—2004 Contracts (Continued)

Officials from the Department of Agriculture addressed committee concerns about the Department of Agriculture's audit report regarding the state's share of the department's indirect charges.

Mr. Ray Sowers, Department of Agriculture, testified that the audit findings in question relate to:

- Indirect charges;
- Overmatch that the department is allowed to claim on federal grants; and
- The seven-month time gap when the department is able to reimburse the federal grants that it has spent.

Mr. Sowers explained that the department needs to carry a reserve in case there is an unforeseen action on behalf of the federal government and the department does not receive a grant allocation. He said that the department spends federal funds that have not yet been awarded for almost 7/12 of the year because federal fiscal years overlap two state fiscal years. Mr. Sowers said that the department agrees that it should modify its accounting practices; however, it wants to take some time to review its records to accurately determine how much should be returned. Mr. Sowers noted that the department will be able to revert \$267,745 of indirect charges to the state's general fund this year. He said that the department currently is spending federal grant money before it knows how much the department will receive because those federal grants are projected almost two years into the future.

Mr. Larry Gabriel, Secretary, Department of Agriculture, testified that he instructed Mr. Sowers to be as aggressive as possible in getting federal grants because it is a very competitive process. Mr. Gabriel particularly noted that the Black Hills Fire Suppression Unit

is one result of that aggression. He expressed his opinion that the department should continue to carry a reserve so that it will not be in a deficit posture in the event federal dollars do not come to fruition. Mr. Gabriel said that questions to be addressed are whether the department should carry a reserve; if so, how much should be carried. He said that the department agrees that it should not have an unlimited reserve but believes that it is prudent to have a reserve nonetheless.

Representative Buckingham said that he sympathizes with the department's issues and asked what the Legislature can do to protect the department and, at the same time, get the audit corrected.

Senator William Earley asked how the Legislature can fix the problem and questioned if the issue is unique to the Department of Agriculture. He said that the problem has to be resolved.

Mr. Christianson said that he not seen this situation in other agencies.

Mr. Sowers reiterated that the department is willing to turn the indirect charges into the general funds.

Representative Deb Peters said that she understands the predicament but does not understand why the department cannot do what other agencies do and operate with a negative balance until it receives the federal funds.

Mr. Gabriel said that he is very concerned that negative balances are mentioned as a remedy, because there is no guarantee that the department will receive the federal money. He said that he does not like the idea of spending money that the department does not have. Mr. Gabriel said that he cannot speak for other agencies, but the department has to deal with the United States Forest Service and that money can be withheld from the state.

Mr. Sowers said that the money is discretionary money from Congress; the department might or might not receive the funding to cover a negative balance.

Representative Peters said that 7/12 is a lot of money to hold "just in case."

Mr. Christianson said that it comes down to how the department records it in the state's accounting system.

Representative Gillespie requested the Department of Agriculture to provide the committee with a summary of how its reserve has fluctuated over the last ten years.

Mr. Anderson said that the department will work with Legislative Audit to provide that information.

Senator Jerry Apa said that he understands the Department of Agriculture is a reactive agency; other agencies, such as the Department of Social Services, have everything laid out by the federal government; other agencies are more passive, and the Department of Agriculture is more reactive in this regard.

Mr. Christianson agreed that the Department of Agriculture is more at risk of not receiving federal money that has been allocated.

Mr. Gabriel said that the department agrees that it has too much money in reserve; however, he believes that it is prudent to have some money in reserve. Mr. Gabriel stated that he believes that the department should be run as a business. He said that if he has erred in that belief, the department will negative spend.

Representative Gerald Lange said that he wholeheartedly agrees with Mr. Gabriel's position not to negative spend.

Representative Peters asked if the department could spend its current reserve to get back in synch with its audit. She questioned why that reserve is sitting in a federal account when it should be in the state general fund.

Mr. Christianson said that it probably should have been in the state general fund.

Further responding to Representative Peters, Mr. Christianson said that it would be an option to move the money into a special revenue fund.

Mr. Sowers said that the department agrees that these are state funds and is willing to turn them back to the state.

However, Mr. Gabriel stated that he will continue to argue that it is better to have money in reserve then to go into deficit spending.

Co-Chair Ted Klaudt said that the reserve should be put into a separate account because the state needs that money to manage the forest in the Black Hills. He said that a special fund can be discussed when the department reverts its \$267,000. Co-Chair Klaudt said that it is important to clear the department's audit finding.

The committee recessed at 8:30 a.m. and reconvened at 8:45 a.m.

Comments from the Department of Social Services (DSS) Regarding Policies and Procedures of the Child Protection Division

Ms. Deb Bowman, Secretary, DSS, distributed copies of the department's PowerPoint presentation along with copies of South Dakota and federal statutes/regulations related to child protection services (CPS) (**Document #8**).

Ms. Bowman began her remarks by stating that child protection services is a complex responsibility. She said that social workers want families to stay together; however, they do need to make difficult decisions in crisis situations. Ms. Bowman said that the department is open to suggestions and is willing to listen and learn from the expected testimony. She said that her concern is to make sure that the department errs on the side of safety and protection for children.

Ms. Bowman read the mission statement for child protection services:

Child Protection Services strives to assure the safety, permanency, and well-being of all children served by the division.

Ms. Bowman said that 249 FTEs work to carry out this mission throughout the state.

In reviewing the department's guiding principles, Ms. Bowman said that the focus is on the safety of the children the department serves. She said that the department attempts not to make value judgments, but the primary concern is to determine the safety of the children. Ms. Bowman explained that CPS tries to work on a timely permanency plan for children so that they do not have to linger in foster care.

Ms. Bowman explained that CPS was identified as having some problems in its Child and Family Services Review. She introduced **Mr. Merlin Weyer**, CPS, who deals with the program improvement plan.

Mr. Weyer said that the state was rated as needing some improvements; however, it was not a pass/fail situation; rather, the review is rated on a strength/needs improvement basis. He said that all fifty states have to complete a program improvement plan.

Seven systemic factors are noted in the review:

- Information system;
- Case review;
- Quality assurance systems;
- Staff training;
- Service array;
- Agency responsiveness to the community; and
- Foster and adoptive parent recruitment, licensing, and retention.

Ms. Bowman said that the federal government is impressed with the department's improvement plan, and it is not required to have another review until 2008.

Co-Chairs Gant and Klautdt asked for a copy of the review. Ms. Bowman said that the department will provide copies of the review.

Ms. Bowman noted that CPS received 20,373 referrals during 2004; 3,730 of the referrals did not involve allegations of abuse and neglect; 16,643 did involve allegations of abuse and neglect; of the 16,643, 70 percent did not meet the definition of abuse and neglect and did not warrant intervention. During the Federal Fiscal Year, 81 percent (574) of all children who were reunited with their parents or caretaker were reunited in less than 12 months from the time of removal. Ms. Bowman said that figure represents how hard CPS tries to reunite children with their families.

Ms. Darla Mayer, DSS, reviewed the department's financing regarding the Division of Child Protection Services. Ms. Mayer said that 88 percent of the overall budget is controlled by federal funding and that 79 percent of the funding is utilized to fund services to children.

Ms. Virgena Wieseler, CPS, discussed the referral process. She explained that an initial family assessment begins with an intervention to determine the safety of and the risk to children and to determine whether there is a need for safety intervention. Safety interventions are provided to families with children in the home and to children placed outside the home and include services to their families.

Ms. Wieseler listed the following as alternative care for children who are placed outside the home:

- Kinship;
- Foster care;
- Group care;
- Residential treatment;
- Psychiatric treatment;
- Independent living; and
- Recruitment of placement resources for children.

Ms. Wieseler said that CPS is also responsible for adoptive services and intensive family services.

Regarding intensive family services, Ms. Wieseler explained that CPS has a partnership with the Department of Corrections (DOC) and the Department of Human Services (DHS) to assess and service families of DOC youth placed outside the home and to make a recommendation regarding returning the youth home. CPS is also the mandated agency to provide or contract for statewide parenting education.

Ms. Wieseler said that CPS has a contract with the Sisseton-Wahpeton Oyate Tribe; and licensing agreements with the Crow Creek Sioux Tribe, Standing Rock Sioux Tribe, and Flandreau Santee Sioux Tribe. She said that CPS is working on state-tribal collaboration; technical assistance for contracting with the Oglala Sioux Tribe and the Rosebud Sioux Tribe. According to Ms. Wieseler the division is also working on ICWA Initiatives.

Responding to Representative Peters, Ms. Wieseler said that it has been a focus of the department secretary for the entire department to work together as a team to educate and to work toward the best interests of the child and the families. Ms. Wieseler said that she has seen good progress in this area.

Further responding to committee questions, Ms. Wieseler said that the division is mandated by statute to maintain a central registry for substantiated reports of child abuse and neglect. Ms. Wieseler stated that access to the central registry is severely limited.

Responding to **Senator John Koskan**, Ms. Wieseler said that unsubstantiated reports are kept in the registry for three years, then removed.

Co-Chair Gant asked who does have access to the registry. Ms. Wieseler said that an agency can submit a name to CPS for information but cannot have access to the entire

registry. She said that the registry only deals with parents, guardians, or custodians. Ms. Wieseler said that if it is not a criminal rape or sex crime or an adjudicated matter, there is a process by which an individual can ask to have a review in seven years. There is a process for removing the names of certain individuals who have undergone life-changing experiences from the registry.

Mr. Weyer explained the social worker certification process.

Mr. Weyer also addressed the intake process. Mr. Weyer listed the referral types as follows:

- Abuse and neglect;
- Information and referral;
- Licensing concerns;
- Courtesy interviews; and
- Voluntary placements.

Mr. Weyer noted the following related statutes regarding the intake procedures:

- SDCL 26-7A-12—Temporary custody by law enforcement;
- SDCL 26-7A-13—Court-ordered temporary custody; and
- SDCL 26-7A-13.1—Hearing by an intake officer.

Regarding emergency referrals, Mr. Weyer said that such a referral is made to CPS or law enforcement when it is indicated that a child is in immediate danger. Referrals may be made during the day or after hours; law enforcement may or may not take custody. A social worker begins an Initial Family Assessment. Included in the information collection are collateral contacts (schools, law enforcement, medical, etc.).

Co-Chair Klaudt asked if a person can object to the contacts. He said that a parent should be notified before a report goes any further. Co-Chair Klaudt also said that there should be a distinction between criminal acts and abuse or neglect. He said that in small towns, the entire town knows about an inquiry before the parents know and that he has a problem with that.

Mr. Weyer said that an assessment begins with talking to the child and collateral contacts so that all the information is gathered before discussing those findings with the parents.

Co-Chair Gant said that he is concerned about the parents not being contacted at the initiation of an assessment.

Mr. Weyer said that the information is gathered first to determine whether it is even justified to continue investigation.

Further responding to Co-Chair Gant, Mr. Weyer said that this is the procedure followed in most states.

Representative Margaret Gillespie asked what percentage of parents does not even know they are being investigated.

Ms. Wieseler said that of the 16,643 of referrals that involved abuse or neglect, 70 percent did not warrant intervention.

Responding to Senator Apa, Ms. Wieseler said that an unsubstantiated report is not permanently retained in the central registry. She said that if a name is in the central registry it means that a report on that person has been substantiated. If a report is determined to be given with malicious intent, the person making the report can be turned over to the state's attorney for disposition.

Responding to Co-Chair Gant, Ms. Bowman said that if a report comes in, CPS will check to see if the name has been reported before.

Co-Chair Klaudt asked why a name would even be in the central registry if a report or referral did not warrant further action.

Ms. Wieseler said that if a person was reported before, CPS looks at whether there is an escalation of discipline, whether the situation is progressing to possibly enter into a concern for the safety of a child. If there are no subsequent reports, a report is destroyed after three years.

Ms. Pamela Bennett, DSS, reviewed the initial family assessment which she said serves three purposes:

- Risk management determination;
- Ongoing child safety determination; and
- Findings regarding allegations.

Responding to Co-Chair Klaudt, Ms. Bennett said that the initial family assessment is the first contact with the parents. A determination is made on the risk of the child's safety—low risk, moderate risk, significant risk, and high risk. A safety evaluation is an on-going process. Disposition of a case is based on a risk and safety determination. Ms. Bennett said that CPS does not have the authority to remove children from their homes—this is the role of law enforcement, the circuit court, or tribal judges.

The committee recessed at 10:20 a.m. and reconvened at 10:45 a.m.

Ms. Bennett explained services to families with children in their home and services to families with children placed out of their home.

Responding to Senator Apa, Ms. Bennett said that kinship placement refers to possible placement with other relatives. Ms. Bennett said that an effort is made to keep siblings together and, if that is not possible, an effort is made to keep siblings in contact with each other.

Ms. Wieseler said that a significant amount of money is spent on transportation costs so that siblings do not lose contact with each other. She said that they try to do it as effectively as

possible because it is important for families to remain in contact. In determining transportation, CPS considers the parents, resources, information, development, and education (PRIDE). She said that the state has contracted with Children's Home Society to conduct the kinship application process.

Another significant part of CPS' duties is to license foster homes and to approve adoptive families.

Ms. Bennett reviewed how decisions are made about returning children to their homes.

Ms. Kim Malsam-Rysdon, DSS, discussed some of the misconceptions concerning CPS, including:

CPS can take custody of children;
CPS decides when children go home from foster care;
CPS will take custody if a parent spans their child;
CPS receives \$7,000 for every child that is adopted.

Ms. Malsam-Rysdon said that none of the above is true.

The following social workers related personal experiences working on certain cases: **Ms. Sarah Trimble** and **Ms. Wendy Cummings**.

Responding to Chair Klaudt, Ms. Bowman said that a social worker's policy manual will be provided to the committee.

The committee recessed at 12:05 p.m. and reconvened at 1:07 p.m.

Public Testimony

At the request of the Co-Chairs, **Mr. Reuben D. Bezpaletz**, Chief of Research and Legal Services, discussed the procedure of the public testimony and the circumstances when testimony should be given in executive session. He noted that, in particular circumstances, a person testifying in executive session would have to sign a waiver for DSS to discuss any issues with or about the person testifying.

Ms. Gwen Caldwell, Founder and Executive Director of Voice of Women, distributed copies of her prepared remarks (**Document #9**).

Ms. Caldwell said that she believes that everyone testifying today has what is best for children uppermost in their minds. However, Ms. Caldwell claimed that, after compiling data, the organization found practices that are illegal. She also said that it is her belief that children are being removed from their homes needlessly when most of those families could have been provided services which would leave the children in the home and the families together. In many instances, a family was not provided a state court-appointed attorney. Ms. Caldwell said that all of the parties involved in taking a child out of a home are employees of the state, which she believes represents an unfavorable position for the parents.

Ms. Caldwell said that poverty too often is confused with neglect. She said that parents are coerced into signing a family case plan without any input. Ms. Caldwell said that she is not aware of one case where parents participated in formulating their plan.

Senator Apa interjected that any of those types of services would be provided by a county public defender so the costs would be borne by the county.

Regarding DSS, Ms. Caldwell said that the system lacks oversight, has no compassion, and does not provide services to keep families together.

Responding to Senator Koskan, Ms. Caldwell said that Voice of Women was founded in November 2004 to provide support and resources to women who have children.

Mr. Jim and Mrs. Mary Jackson, Voice of Parents, spoke regarding a personal situation with their son being notified that he was an absentee parent when their son has always paid his child support and has been involved in his son's life since the day he was born. Mr. and Mrs. Jackson's grandson was placed with his maternal grandmother, to whom they do not object because she is a good and caring person; however, they do not understand why he was not placed with his father. The Jackson's said that they have seen their grandson during this time. Mr. and Mrs. Jackson said that their grandson's parents were never married. They also said that their son or themselves were never clear on the meaning of absentee parent. The Jackson's said that, if it is the goal of DSS to reunite families, they question their grandson's placement.

Senator Apa said that he wants to see the DSS' policy regarding an unsubstantiated report.

Ms. Roanna Garland and Ms. Becky Scott, Foster Care Providers and Adoptive Parents, testified about their very positive experiences with providing foster care to children and adopting children. Each said that it has been rewarding for their families to open their homes to children. They both commented that their dealings with DSS have been very good. Ms. Garland and Ms. Scott said that their goals are to provide a safe, caring, and loving environment, and permanency to children coming into their care, whether that is accomplished through foster care, adoption, or return of the child to its home.

Mr. Jim and Mrs. Jane Schmidt, Corona, South Dakota, addressed the committee as concerned grandparents and citizens. They distributed a letter that they sent to DSS regarding their concerns (**Document #10**).

The Schmidt's deferred their testimony until June 16, 2005. (Their testimony was given in executive session on June 16, 2005.)

Mr. Luke Yellow Robe, representing Children's Home, said that he also serves as an Indian Child Welfare Act (ICWA) representative and that Children's Home serves 75 to 80 percent of the Native American population. Mr. Yellow Robe said that Children's Home keeps detailed records of everyone in their care. He said that there is every effort to work as a team with the

judge, the court system, CASA, court-appointed special advocates, and others to provide the best possible care to children.

Ms. Kathleen Pomani, Crow Creek Sioux Tribe, spoke regarding her family's negative personal experiences with a caseworker in Chamberlain. Ms. Pomani said that her family was not allowed into a hearing concerning her grandchildren; they did not know that their name was on the central registry; and her grandchildren were taken out of school for questioning. Ms. Pomani said that she wants her grandchildren back with her daughter.

Mr. Mike Schreiber, Youth Services, Incorporated, addressed issues concerning residential treatment. He said that for every story told today, he could come up with probably three stories about the horrible environments some children have had to endure. He said that Youth Services tries to give a child a safe and better environment in which to live. Mr. Schreiber said that Youth Services has had excellent involvement with DSS.

An e-mail from **Mr. Steve Green** concerning a Youth Services, Inc., facility run by Mr. Green in Springfield, South Dakota was noted (**Document #11**).

Mr. Jay Van Hunnik, Rapid City, South Dakota, gave his perspective of child care as the director of Wellspring in Rapid City. Mr. Van Hunnik said that he is also the President of the South Dakota Association of Residential Care Providers. He said that he has worked in the child care field for about 26 years. Their referrals are from DSS, court services, and DOC. Mr. Van Hunnik said that his wife is the Western District Supervisor for DSS in Rapid City so he knows that DSS first looks for relatives with which to place children. Also, Mr. Van Hunnik said that every effort is made to place sibling groups together. He said that some of the children placed in out-of-home care have experienced multiple bone fractures, beating-induced coma, sexual trauma, and other traumas and that social workers understand very well the importance of their jobs.

Ms. Hazel Bonner, Associate Professor of Human Services at Oglala Lakota College, distributed two documents written by her:

- How and When Does a Parent's Name Get Placed on the Central Registry List of Abusive and/or Neglectful Parents in South Dakota (**Document #12**); and
- When Child Protection Services Protects the Perpetrator (**Document #13**).

Ms. Bonner stated that she is concerned about labeling parents as abusive or neglectful and the placement of names on the central registry. In her testimony, Ms. Bonner related several negative experiences with CPS of which she is aware. She said that CPS needs to be restructured to better serve children and their families. Ms. Bonner said that it costs less to try to keep children in their homes rather than out-of-home placement. She commented that home studies are not done well and are not truthful. Ms. Bonner also emphasized that investigations need to be much more thorough. In that regard, Ms. Bonner said that there needs to be more Indian-licensed foster homes and suggested that the procedure could be done through Oglala Lakota College.

SENATOR APA MOVED, SECONDED BY REPRESENTATIVE PETERS, THAT THE COMMITTEE GO INTO EXECUTIVE SESSION TO HEAR TESTIMONY FROM THE FOLLOWING INDIVIDUAL:

MS. PATTI GOFF.

THE MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

The committee went into Executive Session at 4:35 p.m. and came out of Executive Session at 6:00 p.m.

The committee recessed at 6:00 p.m. and reconvened at 8:15 a.m. on Thursday, June 16, 2005.

Thursday, June 16, 2005

Public Testimony (Continued)

As requested by the Co-Chairs, Mr. Bezpaletz restated the procedures of the public testimony and the circumstances when testimony should be given in executive session.

Ms. Kitty Werthmann, Pierre, South Dakota, testified that, in her opinion, in dealing with children and families, families are considered guilty and have to prove themselves innocent, instead of innocent until proved guilty. Ms. Werthmann said that children should be with their families and thanked the committee for helping families get back their children.

Mr. Terry Dosch, South Dakota Council of Mental Health Centers, said that mental health centers provide services to disturbed children. Mr. Dosch said that he agrees that the very best place for children is at home with their families and that out-of-home placement should be as brief as possible; however, the issue is very complex. In a policy context, Mr. Dosch said that he would like to promote looking at the entity as a whole, rather than individual domains, with system-wide coordination and collaboration. He commented that he believes that all groups dealing with this issue need to balance child safety concerns with family rights. Mr. Dosch said that the Council has a very good working relationship with UJS and CPS.

Ms. Deb Phillips, representing herself, distributed a document titled "National Advisory Organized Crime Operating in the Child Protection System June 29, 2004 Release" by James Roger Brown, Director of the Sociology Center (**Document #14**). Ms. Phillips said that she is an advocate and activist for the Parents Who Care Coalition. She said that the Coalition works to bring about positive changes and policies in DSS. Ms. Phillips said that it would be helpful for DSS to have training in constructive issues regarding children and families. Along with the Coalition, Ms. Phillips is the President of the ACLU Board in South Dakota. Ms. Phillips expressed dissatisfaction with young and untrained social workers. She also said that CASA workers have a conflict of interest because many are former social workers and related her personal experience when she tried to become a CASA volunteer. Ms. Phillips said that, even though she is helping parents, welfare of the children is uppermost in her mind. She said that there should be a complete and full audit of DSS to make sure that there are not

phrases which are indicators of organized crime in child protection services as noted on page #2 of Document #14.

Representative Peters told Ms. Phillips that an audit of DSS is done annually and questioned Mr. Brown's statements. She said that an audit report is available. Ms. Phillips asked for a copy. A copy was provided.

Senator Apa read some biographical notes on Mr. Brown and said that he wondered whether Mr. Brown's comments should be given much credence.

Senator Earley said that he takes exception with some of the words and characterizations used in reference to the agency. He said that DSS and the committee are conscientious and are working to make lives better for children and families.

Ms. Bowman stated that DSS has absolutely no say, no control, and no decisions in CASA. She said that DSS is willing to listen to and to work on concerns, but CASA is not one of DSS' programs. Ms. Bowman encouraged everyone to work together.

Responding to Co-Chair Klaudt, Ms. Phillips agreed that there is a big difference between DOC and DSS circumstances regarding children and families.

Co-Chair Gant said that the committee received a lot of information during this meeting and that several DSS' policies were identified as needing change. Department officials agreed with those changes. Co-Chair Gant said that the committee looks forward to helping in this regard.

Ms. Naomi Johnson, distributed a letter written by her 11-year old granddaughter after termination from her parents (**Document #15**). Ms. Johnson said that children are not receiving the best benefits and are not receiving their constitutional rights when they are removed from their homes. She requested that DSS redirect resources to keeping families together. Ms. Johnson said that poverty is often seen as neglect and if money were spent on preserving families rather than focusing on taking children out of their homes, it would be money better spent. She said that families are not compensated, but foster care is compensated. Also, Ms. Johnson said that abuse or neglect of children can occur while they are in foster care. She said that children have no rights in residential centers.

Co-Chair Klaudt said that there are several programs under which families receive assistance, such as TANF, fuel assistance, food stamps, day care subsidy, etc.

Ms. Mary Ann Bear Heels McCowan, Rosebud Sioux Tribe, shared a long-ago personal story of her family's experience with DSS and, as a result, Ms. Bear Heels McCowan said that she viewed DSS with skepticism. However, Ms. Bear Heels McCowan said that over the past days of meetings, she has seen that there have been big advancements in the department. Ms. Bear Heels McCowan urged the department to scrutinize very carefully out-of-home placements for children so that children are not abused and neglected in those placements.

The committee recessed at 9:35 a.m. and reconvened at 9:52 a.m.

SENATOR APA MOVED, SECONDED BY REPRESENTATIVE PETERS, THAT THE COMMITTEE GO INTO EXECUTIVE SESSION TO HEAR TESTIMONY FROM THE FOLLOWING INDIVIDUALS:

**MS. NAOMI JOHNSON;
MR. AND MRS. STAN SCHMIDT;
MR. STEVEN PETERSON;
MRS. MARGE TWO HAWK; AND
MS. GWEN CALDWELL.**

THE MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

The committee went into Executive Session at 10:15 a.m. and came out of Executive Session at 3:53 p.m.

Co-Chair Klaudt remarked that the committee and the department made great strides in communication over the course of this meeting. He said that all persons at the meeting have one concern—the best interest of the children.

Co-Chair Gant said that the committee received a lot of information during this meeting and that several DSS' policies were identified as needing change. Department officials agreed with those changes. Co-Chair Gant said that the committee looks forward to helping in this regard.

Next Meeting Date and Adjournment

The committee set July 18 and 19, 2005, as its next meeting date.

SENATOR APA MOVED, SECONDED BY REPRESENTATIVE PETERS, THAT THE COMMITTEE BE ADJOURNED. The motion prevailed on a voice vote.

The committee adjourned at 4:08 p.m.



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