



# Children, Families, Health, and Human Services Interim Committee

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## 59th Montana Legislature

### SENATE MEMBERS

JOHN ESP  
JERRY O'NEIL  
TRUDI SCHMIDT  
DAN WEINBERG

### HOUSE MEMBERS

EMLIE EATON  
EVE FRANKLIN  
DON ROBERTS  
BILL WARDEN

### COMMITTEE STAFF

SUSAN FOX, Lead Staff  
DAVID NISS, Staff Attorney  
FONG HOM, Secretary

# MINUTES

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.**

August 22, 2005

Capitol Building, Room 137  
Helena, Montana

### COMMITTEE MEMBERS PRESENT

SEN. JOHN SEN. ESP  
SEN. JERRY O'NEIL  
SEN. TRUDI SCHMIDT  
SEN. DAN WEINBERG

REP. EMLIE EATON  
REP. EVE REP. FRANKLIN  
REP. DON REP. ROBERTS  
REP. BILL WARDEN

### STAFF PRESENT

SUSAN FOX, Lead Staff  
DAVID NISS, Staff Attorney  
FONG HOM, Secretary

### Visitors and Agenda

Visitors' list ([ATTACHMENT 1](#))  
Agenda ([ATTACHMENT 2](#))

### COMMITTEE ACTION

The Children and Families Interim Committee took the following actions:

- elected SEN. SCHMIDT to serve as Chair and REP. WARDEN to serve as Vice Chair
- formed an ad hoc goal setting subcommittee to meet and set goals with regard to SJR 37 study

- endorsed for a one-day conference for all legislators to participate and hear information from a conference attended by Lois Steinbeck, Sen. Schmidt, Rep. Warden, Rep. Caferro and Rep. Kaufman on helping low income and working families in tough economic times
- adopted the proposed work plan

### **CALL TO ORDER AND ROLL CALL**

SEN. JERRY O'NEIL called the meeting to order at 9:00 a.m. The staff and Legislators introduced themselves and Committee Secretary took roll visually (**ATTACHMENT 3**).

### **ELECTION OF OFFICERS**

REP. EVE FRANKLIN nominated SEN. TRUDI SCHMIDT as chair and REP. BILL WARDEN as vice chair; REP. EMELIE EATON seconded the nominations. The nominations were unanimously approved.

### **MEETING OVERVIEW - Susan Fox, Research Analyst**

SUSAN FOX gave an overview of the Committee's duties and responsibilities:

- administrative rule review of the Department of Public Health and Human Services (DPHHS);
- draft legislation review;
- program evaluation and monitoring functions for the DPHHS and any entity attached for administrative purposes; and
- conducting HJR 37 and SJR 41 interim studies, as assigned by the Legislative Council.

MS. FOX also discussed the agenda, saying that the Committee would address DPHHS administrative rule review and other department issues in the morning and address the study resolutions in the afternoon.

### **ADMINISTRATIVE RULE REVIEW ISSUES - David Niss, Staff Attorney**

DAVID NISS reviewed the document "Rulemaking and Powers of Rule Review Committees and Individual Members" (**EXHIBIT 1**).

### **QUESTIONS**

SEN. ESP asked Mr. Niss to elaborate on 5-11-107, MCA, having the power to hold hearings and conduct investigations. Mr. Niss said that the Committee has express authority outside of Montana Administrative Procedures Act (MAPA) to investigate any matter within the agency's jurisdiction, which is on an agency-by-agency basis. The principle agency which this Committee deals with is the DPHHS. The Committee has the power to hold hearings, to require the

attendance of witnesses, to require that agencies within the Committee's jurisdiction provide the Committee with documents, and to enforce both of its invitations for witnesses and for documents by subpoena.

SEN. SCHMIDT said that the Committee must decide how involved it wishes to be in the rules process. Sen. Schmidt suggested that the Committee be notified about more significant issues and allow Mr. Niss to decide on the importance of smaller issues he thinks may be of concern to the members.

MR. NISS informed the Committee members that if there is a bill or issue of particular interest to them, he would be happy to provide information in greater detail. He noted that the department generates a tremendous amount of rule notices and he didn't think it would be time-efficient to report each of them to the Committee.

REP. FRANKLIN agreed it would be impractical for Mr. Niss to report on each of the rules but asked that the Committee be notified of major policy shifts or other dramatic changes through rulemaking within the department. Mr. Niss agreed to do this.

SUSAN FOX gave an overview of what has been done by the CFHHS in the last three interims, noting that in the last interim, only one administrative rule issue dealing with Child Protective Services came before the Committee in the final meeting. Ms. Fox said, even though the Committee does not have formal authority to change or delay rules, the power of persuasion to bring an issue to light that the attorney or a member of the public or committee member has an issue with, can help direct the department in a different direction. Ms. Fox said this is a very important role and must be taken seriously.

SEN. SCHMIDT said the Committee would proceed as it has in the past and rely on the staff to notify the Committee of significant issues.

**DEPARTMENT OF HEALTH AND HUMAN SERVICES - John Chappuis, Deputy Director**

MR. CHAPPUIS presented a Department of Health and Human Services Organizational Chart (**EXHIBIT 2**), noting that there has been several major changes in the organization. Mr. Chappuis said Joan Miles was recently appointed as Director of DPHHS, Chuck Hunter recently retired, and that Mick Robinson recently submitted his resignation. Mr. Chappuis said he will serve as Deputy Director.

Mr. Chappuis discussed the department's budget (**EXHIBIT 3**). He pointed out that the largest case load growth occurred in Medicaid. I-149 and present law requirements also greatly

affected the budget. The 2005 Legislature increased the overall reimbursement rate to physicians to 96.5% of the Medicare rate and this has been a very positive change. He also summarized:

- federal and general fund changes;
- federal poverty index;
- fiscal year end implications;
- budget issues relating to Montana State Hospital in Warm Springs;
- patient load continues to remain high; and
- staffing remains problematic even with wage increases, use of contract staff is expensive.

MR. CHAPPUIS presented an overview of the Medicaid program (**EXHIBIT 4**):

- has a budget of \$750 million dollars - the biggest and most volatile part of the program and covers about 15% of Montana's population (83,000 to 84,000 people per year);
- 70% match of federal funds based on Montana being 47th for per capita income;
- the Legislature has approved a very broad array of services in statute;
- some access issues, such as dental, need attention;
- updates on other programs within Medicaid, such as CHIP, family, disabled and aged populations in the state; and
- a Summary of Estimated Date of Service (DOS) Payments for Medicaid Program.

MR. CHAPPUIS gave a report regarding DPHHS Data Indicators (**EXHIBIT 5**) on the:

- Addictive and Mental Disorders Division;
- Child Support Enforcement Division;
- Disability Services Division;
- Fiscal Services;
- Human and Community Services Division;
- Health Resources Services Division;
- Medicaid;
- Operations and Technology Division; and
- Quality Assurance Division.

MR. CHAPPUIS said the data provides valuable management information to department administrators and that the data indicators will be updated monthly on the department website.

#### COMMITTEE QUESTIONS

REP. ROBERTS referred to Exhibit 4, page 1, and asked if the new purchasing policy of the Department has been effective in holding down the purchasing price of drugs. Mr. Chappuis

said the impact of the Preferred Drug List (PDL) shows up quite clearly, having decreased from 17% to 10% growth and that the rebates have not yet been factored in. Mr. Chappuis explained that Montana is in partnership with several other states regarding the PDL, which essentially acts as a purchasing pool for prescription drugs.

REP. ROBERTS referred to line 18, EXHIBIT 4, and pointed out that home health costs appear to have decreased. He asked if more was being done in-house, while decreasing the amount of money being spent. Mr. Chappuis said a number of factors contributed to the decrease in home health costs, such as a decrease in matching Medicare rates.

In reference to SB 154, REP. ROBERTS said that in order to help CHIP, the decision was made to cap administrative costs and the reserve account. He asked if the changes were proving to be beneficial. Mr. Chappuis said he thought it too soon to tell and asked Chuck Hunter to comment.

**CHUCK HUNTER, Health Resources Division, DPHHS**, agreed that it is too soon to know the impact of SB 154 and that the Department won't have the ability to take advantage of SB 154 until after September 30, 2005, when the existing contract with Blue Cross Blue Shield ends.

REP. ROBERTS asked if the increase in TANF funding has been effective. Mr. Chappuis said he has not heard personally from any TANF recipients but that he thought the difference would have been noticeable to the recipients. However, due to seasonal jobs and several other factors, the TANF case load has not yet noticeably increased.

REP. FRANKLIN asked for statistics regarding trending and policy, specifically about the transitional Medicaid process. She asked if there is data to indicate if people are actually moving off the transitional program and on to receiving their health care through another source. Mr. Chappuis said he believes it does help and has reports to that effect, but that hard statistics are not available. He said Mike Billings has compiled some statistics which may contain some of the data that Rep. Franklin is looking for.

REP. FRANKLIN asked how much energy the department is spending analyzing the impact of policies and if the policies are yielding the desired effects. She said it is important to not only look at the numbers, but also must understand what the numbers mean and what some of the variables are. Mr. Chappuis said a new Policy and Planning Office has been established in the Director's office to do exactly that but at this point in time, has not had ample time to gather and analyze the information. This new position should give the indicators of the success or failure of the different programs administered by the department.

REP. FRANKLIN asked if the Policy Division would move towards improved research design. She noted that in the past, follow-up data on programs and policies has been difficult to obtain from the Department. She said she would like the department to focus on establishing a strong data base for purposes of analyzing and evaluating its policies and programs. Mr. Chappuis said that several people are already at work in the Policy and Planning Office. He said he anticipates that their work will focus on determining the results of policy changes and what is happening to the populations being served by the department. Many divisions also have their own policy units as well to analyze their individual programs.

REP. FRANKLIN commented, for the record, that the lack of data is an identified deficit of the department. She requested that the department make sure that it has people who have the background and ability to analyze research design, saying it is a very specific skill and one that the Department is in great need of. She asked that the department focus on improving this in the next two years.

REP. EATON referred to EXHIBIT 4, page 2, item 23, and asked for an explanation of summary of payments for rural health care. She noted that there has been a dramatic decrease and commented that it appeared to her that the rural population is not being served well. Mr. Chappuis said line 23 represents rural health case management, which has been consolidated into line 22, and that the consolidation accounts for the decrease. The payments have not gone away, they were simply combined with another line item.

SEN. O'NEIL stated that the Medicaid rate has been reduced and asked how that has affected home healthcare services. Mr. Chappuis said home healthcare has been affected and explained that Medicaid, in an attempt to limit abuse of an overuse of services, has clamped down on several programs, one of which is home healthcare. There may be other reasons such as an increase in private nursing or personal care services that may have contributed to the decrease as well. Home community waivers have increased also, which also has had an impact and are not included in the numbers.

SEN. SCHMIDT asked if the department's new Office of Planning, Coordination, and Analysis is equipped to work in the area of research and if that is the intent of the program. Mr. Chappuis said that the office is in its infancy, but has two research positions that are statistically based and that there are also policy specialists. He said the office will evolve over time and that in two years, the Department will be much better informed and prepared to answer policy questions that the Legislature asks.

**JEFF BUSKA, Senior Medicaid Policy Analyst, DPHHS**, discussed the proposed Medicaid 1115 demonstration waiver (HIFA waiver) (**EXHIBIT 6**) and the implementation of the Medicare Modernization Act that will happen in January of 2006. His presentation included information on:

- HIFA waivers;
- important features of the proposed Medicaid waiver for Montana;
- eligibility and coverage for new groups;
- projected fiscal and human impacts of the proposed waiver;
- services and eligibility groups included in the waiver;
- budget caps, and
- other important features of Montana's waiver proposal.

Mr. Buska said he would provide copies of the proposed waiver and that public comment on the waiver proposal will be taken for 60 days. He said that meetings will be held with tribes and other interested stakeholders to explain the waiver proposal.

REP. ROBERTS asked Mr. Buska if HB 667, as written, allows state agencies to join the pool. Mr. Buska said state agencies may not join the pool.

REP. FRANKLIN asked, regarding MCHA premium assistance, if specific slots are assisted or the general ability of MCHA to provide affordable rates. Mr. Buska said the premium assistance is for specific slots and the individuals who are included in the premium assistance program. It doesn't impact the rest of the MCHA program, just the individuals who receive premium assistance.

SEN. WEINBERG noted that much of the discussion is dependent on the health of Medicaid and asked for an update on the status of Medicaid. Mr. Chappuis said the impact on Montana would be huge and that the viability of Medicaid was better than expected. He said that the bulk of the cuts are in the pharmaceutical program.

MR. BUSKA presented information about Medicare Prescription Drug Coverage (**EXHIBIT 7**) and Changes in Medicare, a new Prescription Drug Benefit (**EXHIBIT 8**). He noted that there is a coverage benefit for any Medicare beneficiary but individuals who have low income and or modest resources can get extra help with paying their premiums.

MR. CHAPPUIS introduced **JOAN MILES, newly appointed Director of the Department of Public Health and Human Services**. Ms. Miles said she is looking forward to working with the Committee and is very appreciative of the of positive response she has received to being

appointed Director of the department. She said the department needs to be the support system for what happens at the community level in order to efficiently and responsibly serve the people of Montana.

**KARLENE GROSSBERG, Bureau Chief of Public Assistance Bureau**, updated the Committee on the TANF caseload (**EXHIBIT 9**). She noted that SB 29 (public assist eligibility exemption) and HB 529 (child support pass through) have both been enacted and have impacted the families on caseload. Ms. Grossberg also explained the impact of the October 1, 2005 benefit increase, as approved by the 2005 Legislature.

In response to a question from REP. FRANKLIN about transitional Medicaid, Ms. Grossberg said the department has statistics on families that are moving off of transitional Medicaid onto other health insurance but that is far as the projections have gone. She said that the employment training providers have been asked to pay special attention to placing people in jobs with insurance and to collect information on those jobs. The department doesn't require that records be kept so any information is anecdotal.

Regarding REP. FRANKLIN's earlier request for research and documentation on Department programs, Ms. Grossberg said a new TANF Advisory Group has been established in order to gather and substantiate data on the TANF program.

REP. FRANKLIN asked Ms. Grossberg to explain her reference to costs possibly caused by SB 29 and asked if there is data to support her statement. Ms. Grossberg said the system does not track why the disqualification was removed from a family receiving TANF benefits but additional families will be eligible.

REP. ROBERTS said he would like to know how many drug felons now eligible for TANF benefits as a result of SB 29 are able to retain their eligibility for benefits. He said he would also like to know the reasons why a drug felon loses eligibility. Ms. Grossberg said the Department of Corrections is monitoring compliance and will be updating the department on that status of each felon receiving TANF benefits so statistics will be available.

SEN. SCHMIDT asked for a list of TANF Advisory Group members. Ms. Grossberg said she would provide a list to the Committee.

SEN. ESP asked the department to track the drug felons who become disqualified to receive TANF benefits to see if they are able to get back into the program. Ms. Grossberg agreed to do this.



SEN. SCHMIDT thanked CHUCK HUNTER for his years of service to the DPHHS and his willingness and openness to communicate with the Committee about department programs and activities. She said the Committee appreciated his fine work.

MR. HUNTER gave an update on the Medicaid Preferred Drug List (PDL) and reported that:

- the expenditures for the last fiscal year were \$104 million;
- the PDL is now fully implemented and all of the drug classes were chosen after careful review by the Drug Utilization Review (DUR) Board, which included hearing expert testimony and public testimony;
- the phase-in has been remarkably smooth and an 85% compliance rate with physicians prescribing from the PDL list was the original goal but currently, the compliance rate is about 95%;
- the choices made by the DUR Board made good choices and the provider community has done a great job in picking up the information and making it work in practice;
- a 5% savings was projected and so far, is on target, so the model is working;
- January 1, 2006, may bring changes when Part D is implemented, because a large chunk of expenditures will roll over to Medicare, instead of staying with Medicaid. It is unclear if the 5% savings will continue at that point;
- mental health prescription drug concerns are being addressed through a company called Comprehensive Neuro Science (CNS). This company develops expert panel consensus on how those mental health prescription drugs should be prescribed. Physicians working with the mentally ill will be able to use CNS as a resource to help them prescribe the proper prescription drug for their mentally ill patients.

MR. HUNTER also discussed SB 324, the prescription drug program passed by the 2005 Legislature. Mr. Hunter explained:

- that the Medicare Part D wrap-around program, named Big Sky RX, is to support premium payments for individuals who enroll in Part D and are up to 200% of the federal poverty level;
- that enrollment will begin on November 15, 2005, and approximately 19,000 individuals will be served;
- that an Advisory Council made up of key stakeholders and advocacy groups will meet with the Department in September to help write the rules and guidelines of operation;
- that the program will be staffed by nine full-time employees, including an education and outreach program to make information more available to the public and to providers about prescription drug issues; and
- that a discount drug program for people up to 250% of the federal poverty level was also established as a result of SB 324.

MR. HUNTER updated the Committee on the status of the State Children's Health Insurance Program (CHIP):

- The 2005 Legislature authorized funding for an additional 3,000 children to be enrolled in CHIP (I-149 funding). The department is still waiting to hear what the final appropriation will be but has begun enrolling new children.
- 1,300 new children have been enrolled since the first of July, most of whom came from the waiting list. Current enrollment is about 11,350. Outreach efforts are being made to get eligible children enrolled.
- The current contract with Blue Cross Blue Shield expires on September 30, 2005. Discussions will be held soon to begin work on the next contract. This is when the effect of SB 154 will be seen, which set a 12% cap on the administrative fees for an insurance contract.
- The department will also be moving forward on thoroughly investigating insurance products versus self-administration versus third party administrators. All methods will be compared in a formal process and a decision will be made by the first of the next year.

REP. FRANKLIN asked for clarification of the numbers of children enrolled in CHIP. Mr. Hunter said that in July 2005, there were 10,656 children enrolled. There are now 11,350 enrolled. The full amount of 3,000 children cannot be added to the program until it is known what the tobacco tax funding will be. The Office of Budget and Program Planning (OBPP) has been cautious about allowing the full 3,000 being enrolled right away because there is not yet a firm projection of what the tobacco tax collections will be. However, CHIP has other funding sources, which is why the approximately 700 new children have been added.

REP. FRANKLIN asked about the CHIP waiting list. Mr. Hunter said all of the children on the waiting list have been enrolled in the CHIP program.

REP. FRANKLIN asked if I-149 money is maintenance money or expansion money. Mr. Hunter said it is expansion money. Rep. Franklin asked Mr. Hunter to clarify that much of the I-149 money has not yet been used. Mr. Hunter said the I-149 money cannot be used until the tobacco tax revenue is collected, but that the general fund and tobacco settlement funds are available for use now. He said program expansion will continue when the I-149/tobacco tax funds are received.

REP. FRANKLIN said there appears to be a dynamic tension between the 12% cap on administrative fees and how much the third-party administrator might project costs. She asked what the State can do to assure some transparency between the 12% growth figure and what

the third-party administrator projects the premium increases to be, because that directly affects how many children can be covered. Mr. Hunter said the best way to do that is to have contract costs broken down into two areas: (1) predicted claims costs and claims history, and (2) what the insurer charges to administer the claims. That will be detailed in the insurer proposal to the CHIP program. There will be a lot of good information on which to base the administrative rate.

REP. FRANKLIN asked how the public and the legislators can access the OBPP budget figures. Mr. Hunter said that information is a matter of public record. He said as the CHIP program gets information from Blue Cross Blue Shield, the department would make that information available to the Committee.

REP. ROBERTS asked for further discussion of administration costs, whether or not a reserve has been established. Mr. Hunter said in the insurance concept (the 12% cap), that those costs are purely administrative. The reserves would be developed, if there is one, from the claims side of the premium. If there are excess dollars left over after all the claims are paid, then there is a discussion about what happens with those dollars. There is an arrangement for reserves in the current contract but this issue will have to be negotiated for upcoming years. The 5% or 6% that Rep. Roberts referred to applies if the program goes to a third party administrator, who assumes no risk.

REP. ROBERTS said Mr. Hunter to describe whether he is pleased, displeased, or neutral about the tobacco tax funding. Mr. Hunter said he personally is pleased because the money has enabled the department to provide a lot of services that people need. It is fair to say that the programs that are being expanded and are so important are the result of the tobacco tax funding.

REP. FRANKLIN asked for a date when the tobacco tax projections will be available and how many children will be provided CHIP coverage. Mr. Hunter said the department expects to hear from the OBPP in October or November of 2005. The department will know, as the contract negotiations with Blue Cross Blue Shield move forward, what the premium is going to be set at. If there is a premium increase this year, fewer children will be covered with the dollars available. The department will likely have this information by mid-September and will update its projections at that time.

### **PUBLIC COMMENT**

**JUDY SMITH, WORD, Missoula, and HomeWORD, Billings,** thanked the Committee for its work on improving TANF benefits. She said her organization will be watching very closely in

October to see what impact the improved benefit will have on Montana's low income citizens and that she will serve on the TANF Advisory Committee. She asked that the Department's new Policy and Planning Office allow the advocacy community to be involved in evaluating the effectiveness of programs.

**MITZI ANDERSON, past President of National Association for the Mentally Ill (NAMI),** provided information on the research she personally compiled examining the education of social workers, including those with a Masters (MSW) level of education (**EXHIBIT 10**). She said social worker are very unprepared to deal with the mentally ill and that there is a real need to educate them on this issue. Ms. Anderson also addressed the issue of a shortage of psychiatric nurses. She provided information on the education requirements for Nurse Practitioners, including information on providing scholarships and tuition breaks for nurse practitioner students, in exchange for two years of service after completion of their degree.

REP. FRANKLIN said this is an area of interest and depends on what incentives there are to make this available. Ms. Anderson suggested that providing an incentive for nurses to pursue a psychiatric degree would ease the shortage of care providers for the mentally ill. She said mobile units should be considered in order to provide services to isolated rural areas.

**MARY CAFERRO, Working for Equality and Economic Liberation (WEEL),** said the 2005 Legislature passed some of the best healthcare policy in the nation. She explained the history of WEEL and I-149 funding, saying that the top priority of WEEL was to expand the funding of CHIP. She stressed that the legislation passed contained wording that called for the "expansion" of CHIP caseload, not "maintained". The Governor's caseload calls for expansion, as does HB 2. It is important to ensure that I-149 funding is used for true expansion of the caseload, as supported by voters.

**CLAUDIA CLIFFORD, American Association of Retired Persons (AARP) Montana,** underscored all of the activities happening under the new Medicare Part D drug benefit. Over 140,000 Montanans will be affected by this program. It will be confusing and a big decision for many people. She said AARP has a great deal of material available and offered assistance from the AARP in explaining the program to Montana citizens. She suggested that the Committee, as legislators, identify senior citizen counseling services available in their areas, in order to direct their constituents to needed resources. Ms. Clifford also commented that the Medicaid waiver sounds complicated and that the AARP will provide comment after it has had a chance to review the proposed waiver.

**ERIN McGOWAN FINCHEN, State Auditor's Office (SAO)**, addressed the Committee regarding the implementation of HB 667 - the small business health insurance proposal. The SAO is working to implement the program and would be happy to provide information to the Committee on that issue. She said the SAO would begin accepting registration forms on October 1. A Board of Directors has been established by the Auditor and the Governor, and the SAO is working closely with the Governor's Office and the Board to get the program operational by the January 1, 2006, start date for actual benefits.

## **BREAK FOR LUNCH**

SUSAN FOX outlined the afternoon activities regarding the two study resolutions assigned to the Children and Families Interim Committee.

## **SJR 41 - Development of Community Mental Health Crisis Response Systems**

**JOYCE DeCUNZO, Administrator, Addictive and Mental Disorders Division (AMDD)**, explained that some of the material she planned to discuss with the Committee was also covered in the METNET held last week. She said it is her goal to set a baseline of why the study is necessary and what it is intended to accomplish. She provided three documents to review:

- Crisis Resources Available in Montana (**EXHIBIT 11**);
- Crisis Response System (**EXHIBIT 12**); and
- a color chart depicting the responsibility of who the AMDD serves (**EXHIBIT 13**).

MS. DECUNZO reported that:

- she spent several weeks traveling around Montana visiting about the mental health issue with over 200 people in many Montana communities;
- each community has its own unique needs but all of them need a better crisis response for people in a crisis situation;
- while not everyone agrees on the method needed to solve the issue, there is agreement on what the goal is;
- the patient load and services delivered at the State Hospital are very intertwined with the development of an effective crisis response system;
- there are two main pieces that must be addressed: determining the most appropriate setting for care and treatment; and determining the most cost efficient way to provide for those needs;
- each community must develop services that will allow people to stay close to home and receive their services rapidly and in a quality manner; and

- state government must take a role in:
  - ▶ making some decisions or suggestions or providing guidelines for what is to be conceived of as an adequate level of care or service;
  - ▶ the development of those services in terms of the number of people who are eligible for public funds for those services, and
  - ▶ in whatever services affects the public health, the quality of those services, and how to assure that people are getting quality services.

Ms. Decunzo pointed out that several communities in Montana, such as Billings, Bozeman, and Helena, have taken the initiative in developing strong models of mental health crisis care for their communities. AMDD is anxious to partner with communities to help determine what the needs of that particular community is, and what help that community may need from the State to develop and maintain services. Ms. Decunzo said all those involved must realize that not every solution will be available in every community and the goal should be to provide for some basic standards, consistency of some services, and base levels of quality assurance and monitoring for those services. She said the department is anxious to have the Committee's input and plans to move as quickly as possible. AMDD would like to begin working with the OBPP very soon in anticipation of the 2007 legislative session in order to maximize funding opportunities.

Ms. Decunzo said that a recent Comp Data report received from Bob Olson at the Montana Hospital Association presented very interesting statistics: in 2004, 18,000 adult inpatients discharged with a principal or secondary diagnosis of mental illness, which was 20.4% of all adult patients. That follows the national data of 1 in 5 adults suffering from mental illness. In a three-year period (2001-2004), Montana had a 13.4% increase of individuals presenting to hospitals with that diagnosis. This clearly indicates that the problem is not going away and that the number will continue to grow. The more quickly solutions are found, the better off Montana citizens will be.

MR. HUNTER commented on the children's mental health system (**EXHIBIT 13a**) :

- most of the discussion has taken place around the adult mental health system;
- children's mental health crisis are usually less acute than adult crisis but do exist and there is a need to address the crisis need of children in families;
- the nature and circumstances of children are often different than that of adults dealing with issues of emotional disturbances:
  - ▶ the children's system deals primarily with issues of emotional disturbance, as opposed to more serious and disabling crisis that adults experience,
  - ▶ children typically have parents who attempt to respond to the crisis within the context of that family unit,

- ▶ there is no state hospital for children and there is no set system to deal with them, so many families handle the crisis themselves;
- Families with existing relationships with mental health providers often use those providers to help resolve the crisis. When acute crisis do emerge, a hospital is often the site for intervention.
- Hospitals have issues of liability and concerns when adolescents, in particular, are brought in for crisis services; since a majority of the children experiencing crisis are the "high-end kids" who have already been in and out of the system repeatedly.
- System of Care really is an attempt to build, at the local community level, a collaborative effort between the many players who are involved in children's services: the state agencies and local agencies who deal with children, and the provider network, to come up with a community-wide system on how to handle children in crisis. Involve developing the agencies called "kids management authorities" (KMAs) to develop an inventory of services and an inventory of service gaps;
- have asked the KMAs to specifically address crisis response as they do that inventory

Mr. Hunter said that grants have been awarded over the last year to communities to help them become a full-fledged KMA. Currently there are grants out to Roosevelt, Glacier, Fergus, and Hill counties, and in the Bozeman, Miles City, Great Falls, and Helena areas. The department is in the process of letting five large grants (\$180,000 each) to develop KMAs. Letters of interest have been received by Helena, Billings, Missoula, Kalispell, Great Falls, Butte, and Miles City. The Crow Nation will also be involved in the efforts.

Mr. Hunter listed some of his observations regarding children's mental health crisis response needs in Montana:

- While the adult system and the children's system are not the same and have been put in two different locations, they shouldn't be developed in two vacuums.
- The crisis response system needs to be integrated at the front end for families, so they know up front which system to access.
- Adult needs and children's needs are commonly different in terms of crisis and specialty providers also differ between for adult needs and children's needs. That must be recognized and yet, in terms of crisis response, there are some foundational skills that cross over.
- The goal should be to serve children and families in their homes and communities. Other states with more developed systems are able to serve high percentages of children in their homes without the need of outside placement.
- Children already in the system who are already being served by Medicaid and the CHIP program have better access to mental health services than those who are not.

- An emerging issue that must be dealt with is who pays for children whose family insurance coverage runs out.
- The department and the Division has the ability to work with many of the key players in the crisis response system. Hospitals are a key players and must become more integrated with the department on the mental health side, such a crafting a new niche or payment system that would work better within what already exists.

SEN. SCHMIDT asked Mr. Hunter to provide copies of his observations to the Committee. She also asked Ms. DeCunzo to provide copies of the MHA report from Bob Olson that was referenced in her presentation.

### **PUBLIC COMMENT**

**BILL KENNEDY, Yellowstone County Commissioner, President of Montana Association of Counties (MACo)**, said that while HB 395 (pre-commitment costs) was passed, certain areas of the bill were cut that dealt with the continuation of the system and streamlining a full system to best deal with the needs in the communities. Mr. Kennedy said he was glad to hear that Ms. DeCunzo is looking at working with the full continuum. Mr. Kennedy agreed with Ms. DeCunzo's statement that the State Hospital caseload must be addressed and reported that when the hospital closed its doors last week, Yellowstone County had five commitments that were in need of placement. The state did pay for the cost of the five people in Yellowstone County but who pays in a crisis situation? Who is going to pay the bill? Mr. Kennedy also discussed the Behavioral Health Inpatient Facilities (BHIFs) that were allocated for two sessions ago and have never been implemented. He said that community-based care is continually discussed and that counties need to know who is going to be held responsible for the care and expense of that type of service. The recidivism rate is very high because by the time the person gets back to the community, no one is tracking them. These patients must have follow through in order to help reduce the recidivism rate. County costs have increased from \$80,000 per year to over \$300,000 per year. Those are big expenses for the counties to bear and important to address. Mr. Kennedy said that the counties are anxious and willing to work on this issue.

**ANDREE DELIGDISCH, Clinical Social Worker, Great Falls**, said she has observed over time that some communities have high admissions to the State Hospital, while other communities have very low admissions. She asked if the Hospital could be given the legal authority to refuse patients when at capacity, and if the communities with high admission rates would be forced to examine local resources and services, in order to care for these referrals. She suggested that the Committee take this issue under consideration.



**MIGNON WATERMAN, Chair, Mental Health Oversight Advisory Council**, offered the Council's assistance to the Committee, should it be needed. She said the Council has identified three areas that it will focus on for the next year: crisis services, the criminal justice and the correction system, and peer services and consumer-run services.

MS. WATERMAN then shared her personal observations, saying she serves on a local advisory committee which is working on a business plan in Helena to try to develop a crisis facility. She said that the Committee must not shoulder all of the responsibility and that communities must partner with the State in determining who is responsible for certain services. Every county and community should have a plan with the local, county, and state responsibilities clearly defined.

**JEANETTE DAY HEBERLE, licensed psychologist, Great Falls**, said she has observed in her practice that there is not an adequate system in place to help families in crisis. Many times children in crisis are not suffering from their own issues, but from their parents' issues, such as drug abuse or severe mental illness. There is no system in place to help these children.

**GENE HAIRE, Executive Director, Mental Disability of Board of Visitors**, passed out a memo regarding the development of community mental health crisis services across the state and underlying issues that have prevented crisis services from being developed (**EXHIBIT 14**).

**JANI McCALL, Deaconess Billings Clinic, Yellowstone Boys and Girls Ranch, and Montana Children's Initiative (MCI) Provider Association**, thanked the Committee for efforts in passing the health policies passed by the 2005 Legislature. She stated that MCI spearheaded efforts beginning in 2001 to establish a children's system of care. The Legislature has continued to support this children's system of care, as discussed by Mr. Hunter. The large SAMHSA grant has allowed development of the Kids Management Authorities or KMAs in the state. Ms. McCall said the associations she represents are hopeful that the Committee will look at the children's system of care as a collaborative system and not look at these issues in silos. There has to be a joint effort at the community level and at the state level, from the ground up. Billings has placed a great emphasis on the development of a community crisis center, which has evolved mainly around adult services to date. Billings is now working to develop a children's component to its crisis center and will include the KMAs in Billings. Ms. McCall said this is a tremendous opportunity but must be done systemically with the long term in mind.

#### **QUESTIONS FROM COMMITTEE**

REP. EATON asked Ms. DeCunzo and Ms. Waterman to state their opinions on whether crisis services are intended to reduce the number of mental health patients who are going without services or if they are meant to be a way to reduce the number of commitments that the

counties have to pay for. Ms. DeCunzo said she both of those things and others as well. There are many goals to reach for. Building a good set of services in the community that can serve people at all levels is key to eliminating some of the problems in this issue.

Ms. Waterman said if the issue is simply addressed as one of who is paying, who should pay, and what the cost is, it will be a missed opportunity to figure out how to keep people in the community. Ms. Waterman related her experience with a young man's need for care which turned into the driving force for developing the children's system of care. The work must focus on how to identify and serve people earlier for a better outcome. This early intervention will prevent people from ending up in crisis or in hospitals. Ms. Waterman said it is her opinion that the high suicide rate in Montana is directly correlated to the mental health needs and must also be considered.

REP. ROBERTS asked how long has the patient load at the State Hospital be limited at 189. Ms. DeCunzo said she didn't know how long the limit has been 189 patients but that it has been for quite some time.

SEN. WEINBERG said methamphetamine use is rampant and must be considered as part of the mental health crisis. He said it is his perception that law enforcement and the DPHHS are not effectively communicating on this issue. Ms. DeCunzo said in some instances she would agree with that assessment. The department is working to make changes in that area, such as prioritizing collaboration with the Department of Corrections on the shared population. The DPHHS and DOC has established a group called "Building Bridges" and is working to develop a job description for a position who could coordinate services and programs between the departments in order to ensure that the shared populations receive the care and services appropriate for their situation.

REP. WARDEN asked if any rural areas have established mental health care or crisis programs and if the model being used in larger communities would work in the smaller towns or rural areas. Ms. DeCunzo said that there is not much information on what the smaller communities are doing. She thought local hospitals could pair with local law enforcement effectively in any size community on these issues. She said she has received a proposal from a small community suggesting that local motel rooms be equipped to handle people experiencing a mental health crisis and have a local person trained in keeping them safe within the confines of that room until the appropriate service or level of care could be determined. Dealing with people who are experiencing mental health issues due to drug abuse, mainly methamphetamine, is becoming a bigger and bigger issue. Sometimes all a person needs is someone to sit with them and keep

them calm for a day or two, sometimes a person needs much more aggressive care, so there is a wide range of needs.

SEN. SCHMIDT referred back to the question asked by Andree Deligdisch regarding if the State hospital is legally required to take patients committed by the Court. Ms. DeCunzo said she believed that is correct, that the department does not have a means of saying "no" to individuals who are committed to the Hospital. In the 2005 Legislature, there was a bill introduced to provide for an initial screening process but it was not approved. The department is reviewing the MCA to determine if it does have that authority.

SEN. SCHMIDT asked if there is a plan to proceed with the information and comments received at the METNET. Ms. DeCunzo said the comments are being considered and has already implemented a survey developed by the Butte local advisory council. The survey is general in nature and is intended for consumers to tell the department when they needed help, where they found it, what could they have used that was not available, etc. Another survey is being developed by the Central Service Area Authority (SAA) which is much more specific in nature. She said that results from those surveys should be available by the time the Committee meets again in October. She asked for direction from the Committee on how it would like her to proceed on the study. She said that the inventory on consumer need and the provider inventory would be done and that the department would be working very closely with all of the stakeholders.

### **SJR 41 - Study of the Development of Community Mental Health Crisis Response Systems**

SUSAN FOX presented the study plan for SJR 41 (**EXHIBIT 15**) and said the work would concentrate on three questions:

- who is served,
- what services are rendered, and
- how are they rendered, by whom, and who pays.

MS. FOX said the study plan contains the substantial history of this issue and recommendation that the Committee take the time to fully familiarize themselves with the issue of mental health crisis in Montana. She explained the complexities of the mental health system and how it impacts many other programs and issues. She also reviewed the timeline for the study of SJR 41.

### **SJR 37 - Child Protective Services**

SEN. SCHMIDT said she would appoint four Children and Families Interim Committee members to work on SJR 37 as a part of a subcommittee with four Law and Justice Interim Committee members.

SEN. SCHMIDT asked that public comment be kept brief and that the subcommittee would be taking testimony in more detail at it's meetings.

**SHIRLEY BROWN, Division Administrator, Child and Family Services (CFS) Division, DPHHS**, provided an overview of the duties and activities of the Child and Family Services Division (**EXHIBIT 16**):

- intake,
- investigation,
- in-home services,
- foster care, and
- adoption/permanency.

Ms. Brown also provided the latest status report on Child and Family Services Division case review data (**EXHIBIT 17**). Written testimony on SJR 37 and Centralized Intake from Clark Kelly was submitted (**EXHIBIT 18**).

**LEGISLATIVE AUDIT DIVISION (LAD) - Kent Wilcox and Joe Murray** presented reports on the Child Protective Services Performance Audits completed within the last several years. Mr. Murray discussed the Child Protective Services performance audit requested by the 2001 Legislature in HJR 32. Mr. Murray said the audit focused on:

- uniformity of Child Protective Services;
- compliance with state and federal law; and
- application of the Indian Child Welfare Act.

He said the audit resulted in 17 recommendations with 30 recommended actions for improvement. Mr. Murray briefly reviewed each aspect of the audit (**EXHIBIT 19**).

Mr. Wilcox discussed the objectives of the 2004 Foster Parent Program audit and LAD's conclusions (**EXHIBIT 20**). The audit reviewed the recruitment, training, and retention of foster parents. He reported that CFS has begun to address some of the recommendations made by the LAD such as addressing consistency in the curriculum and implementing a new and improved website for use by foster parents.

REP. ROBERTS asked how Montana compares to adjacent states who have conducted similar audits. Mr. Wilcox said he has not looked specifically at other states' programs.

REP. FRANKLIN said she is glad to hear that CFS is beginning to track methamphetamine use and its impact on child abuse and neglect, and the special problems faced by drug endangered children. She asked Ms. Brown if she anticipates caseworkers needing special skills to work with those types of children. Ms. Brown said CFS is working with the Drug Endangered Children's Task Force established in November 2004 to develop protocol on how to work with law enforcement and how to respond to those kinds of cases. Ms. Brown said CFS does not currently have the capability to pull staff out to deal with this issue only but hopes to be able to do that eventually.

SEN. O'NEIL asked if it would be possible for CFS to track other addictive behaviors such as gambling or alcohol addictions while tracking a methamphetamine user. Ms. Brown said CFS is focusing on tracking drug addiction, whether it is illegal or prescription drugs, or alcohol addiction.

SEN. WEINBERG asked to what extent does CFS receive input from other states or consultants on how others are dealing with these same problems. Ms. Brown said CFS sponsors an annual conference to bring in nationally-recognized experts on various issues to train staff. The Division also has access to certain national resource centers as training days through the Children's Bureau and takes advantage of any other training opportunities that may arise.

REP. WARDEN said the flip side of saying that CFS has a substantiation rate of 14% is that 86% of the claims are unsubstantiated for one reason or another. He asked if those numbers are similar to other states' substantiation rates. Ms. Brown said that would depend on what the other states' definition of "substantiated" or "unsubstantiated" is. She explained that Montana changed its definition four years ago from "reasonable cause" to "preponderance of the evidence", which significantly decreased the substantiation rate because a higher level of substantiation was now required. This makes it difficult to compare Montana to other states without knowing what that other state's definition of substantiation is.

REP. WARDEN asked if data is available regarding unsubstantiated claims that were ultimately substantiated and what effects that could have on a child. Ms. Brown said the staff tries very hard to know what the definitions are within which they have to operate and that CFS provides as much training as possible on conducting investigations. Ms. Brown said it is possible that things get missed in areas where case load is high, but if there is not a preponderance of the evidence, the only recourse for CFS is to work with the family on a voluntary basis.

MS. FOX commented further on the SJR 37 charge, which is to look at the process and the definition of substantiated and unsubstantiated evidence when triggered by an investigation to help discern some of those areas of concern.

### **PUBLIC COMMENT**

SEN. DIANE RICE explained why Law and Justice is included in SJR 37 study. She strongly supports the idea of a subcommittee.

FRED VAN VALKENBURG, President Montana County Attorneys Association, said that one of the areas that is of extreme importance is the role that the county attorneys play in the Child Protective Services system and the issues revolving around this. The county attorney is one of the gatekeepers in terms of a check and balance on the system that has become increasingly complex in the last decade and one that may not have sufficient resources in it to deal with the legal issues involved. The association will attempt to have a member present at all meetings and will be happy to assist in any way.

JEANETTE HEBERLE, Montana Psychological Association, would suggest that the professionals; i.e., physicians, psychologists, clinical social workers, and home health aides, have proper certification and credentials to provide those supervision and clinical services.

PASTOR DAVID COOK believes that the Department of Family Services should just be a service agency for the people of the State of Montana.

BRIAN NOLL AND DEBORAH NOLL, Powell County, (**EXHIBIT 21**) said officers took their children away without proper paper work or search papers.

KANDI MATTHEW-JENKINS stated how she thinks that this committee has limited public comment from the public and that's not right. Ms. Matthew-Jenkins commented on her disgust of how much she has to pay to have these people abused and used by this system and have their children taken away. She thought the citizens of this state should pull the plug on the tax dollars when it comes to this and she also talked about IV-E, Social Security Funding and Eligibility (**EXHIBIT 22**).

DAVID NISS, Staff Attorney, said that the rules of public comment as contained in the Legislative Council Rules for Interim Committees are the same as for standing committees, which allows the chair of the particular committee to control public testimony.

PAM CASSADY, North Carolina, stated that she has not been able to get her grandchildren because they have been adopted and their names have been changed.

LYNETTE SCHLINGER had her children taken away and wanted to know how the department had the right and proof to take her children away. **(EXHIBIT 23)**

BRENDA NAY, who was institutionalized, is now fighting for her two sons who were removed.

JOHN JENKINS, Missoula, Montana, stated that the rights of parents to their children supersedes any authority that the state might have to interfere with their children.

ROXY WEAVER, submitted a brief that she filed **(EXHIBIT 24)** and stated her desire that judges in her case be removed, the professionals in her case be stripped of their authority and charged with crimes against her family.

MELISSA WORTHAN, stated her belief that all should be ashamed of this woman and that she has fear for her life, fear for her children because her children were taken away on April 28, 2003, and she hasn't seen them since.

**OVERVIEW OF COMMITTEE'S STUDY PLAN (EXHIBIT 25) - SUSAN FOX, Research Analyst**

SUSAN FOX said that she had been in communication with Ms. Jenkins regarding the absence of parental rights in the study plan. The bulk of legislation that was passed last session was for parental rights: better access to the system by parents, better presentation for the parents, and developing kinship placements and if kinship care is not chosen, explain why. Sen. Esp went forward with an ombudsman bill passed by the Legislature to add responsibilities to the mental health ombudsman for Child Family Services. Research on a complaint system should be added to the study.

Last interim, the Children and Families Committee recommended to the Law and Justice Committee that indigent defense be appointed for parents at the earliest point of the process. That recommendation was successfully integrated into the public defender system. This committee could be watching how the Public defender Commission will implement training for the various public defenders, and how the Public Defenders are appraised of all laws and regulations that are involved with CPS. Another area is training for the social workers who are not licensed at the Department of Public Health and Human Services. This may be an issue and could have ramifications budgetary.

The federal government and the Legislative Audit Division have looked at this system many times. The study plan is built around taking all the plans, the audits, the federal services

review, the workload study that is going on, and looking at it in a broader level. Currently, there are seven categories identified: legal authority, process documentation, supervision, policies, training, workload and budget.

In October, the study plan has a list of potential panel members to take you through the system from beginning to end to understand what happens in a case.

In March, the Committee will hear from the department on the program improvement plan report to the Federal government.

Ms. Fox concluded that, after reviewing all this information and having looked at CPS system, there is far more expertise and resources out there that the Committee should know about, as well as additional information that is needed from parents.

Ms. Fox discussed the need for a subcommittee. She said that is the Committee's decision to make. The Legislative Council requested that CFHHS work with Law and Justice on issues that may fall within that committee's subject matter jurisdiction, which includes county attorneys. The county attorneys are county officials, half of their salary is paid for by the state. There is county legal services through the Department of Justice that is monitored by the Law and Justice Committee; there is a Court Assessment Program that lies within the Supreme Court's area. It is doing a review parallel to the Child and Family Services Review and it deals with court issues that are under jurisdiction of Law and Justice Committee. The county attorneys are involved in SJR 40. Since the Public Defender System will become uniform and implemented statewide, the county attorneys are wondering how they will fit into that system. There are many county attorneys who want to get rid of prosecution of CPS and APS.

The work plan deals with the entire committee.(EXHIBIT 26) Time set aside for a subcommittee takes away staff time and will affect the regular meeting schedule.

REP. ROBERTS stated that he liked the ideas for a joint committee because much of what we are looking at is an institutional problem. Montana is very strong on protection as noticed within its constitution. Most of the complaints we had were addressed by a bill that Rep. Wagman brought where relatives were not allowed to know why they could not adopt the children. Rep. Roberts said that if we have enough information from the audits then we can coalesce a solution. He was in favor of having two meeting where we have a subcommittee and then have a joint meeting with the rest of it.

SEN. ESP said that he agreed that somehow we need parent input into this. He also told Shirley Brown that when you do your job, you hope that you are doing it well and some people might not think so, and sometimes they are more personal in their thoughts than they could have been. He did not like that part of what occurred today.



SUSAN FOX described the work plan with Administrative Rule review and department monitoring, including the issues of the HIFA waiver required to be reviewed by the committee, the Public Health law, and other topics to be covered. Ms. Fox said that this committee only has six meetings (nine meeting days) due to limited budgeting. A work plan is a direction so staff will know what to do at each meeting. If we go down the wrong path, or if we find something else more interesting, we can change the work plan. If the committee wanted to only adopt October, we can go that far and get the next meeting adopted.

SEN. SCHMIDT asked the committee what they wanted to do with the process of SJR 37. Did the committee want a subcommittee with four members and equal representation to come forward with recommendations to the full committee? We need to decide if we want to be involved on the ground floor and hear all testimony and issues. Sen. Schmidt asked the two Law and Justice members present, Sen. Shockley and Rep. Rice, to give their thoughts about what they are envisioning with a subcommittee and what was expected that the subcommittee would accomplish.

SEN. RICE responded by saying that it was the direction of the Law and Justice Interim Committee to have a joint subcommittee because of their full agenda, staff time and limited resources. SEN. SHOCKLEY thought that the subcommittee should hear those people out, investigate the allegations and find out whether they are true or not, and if they are proven true, modify the law to address the problems. Sen. Shockley thought that the subcommittee could be comprised of two or three members from each committee. He also thought that since the Legislative Council suggested that both committees work on this study, that they should give them the money to do it right.

SHERI HEFFELFINGER stated that Sen. McGee wanted to be present at this meeting as the vice chair of Law and Justice. There is a lot of interest on this issue and the decision of the Law and Justice Committee was to wait and see, come to the CFHHS meeting to see what you wanted to do as your study. Law and Justice Committee did not appoint a subcommittee because SJR 37 is CFHHS' study.

SUSAN FOX explained that the amount of resources for a subcommittee has to come out of another committee somewhere. Having two members on a subcommittee means less of an impact than an entire meeting day. Ms. Fox wanted to know what is meant by investigating allegations. An investigation would require waivers by everybody because of confidentiality rights that need to be protected. If Law and Justice wants to investigate one case, then they could choose which case to study today. If you want staff to help, you need to make some difficult decisions, then go the Legislative Council for additional funds. We need to know what

you want in an investigation, how detailed you want it, and how much expertise you need to lend to that investigation. The study plan was not developed with that in mind.

SEN. SHOCKLEY stated that he had no problem with second guessing professionals. He can hire one on either side of the issue. They have subpoena power and the money is available if Legislative Council gives it to us.

SEN. WEINBERG said that he agreed with Sen. Shockley that mistakes have been made. His concern was that by taking on one case and using that as proof of anything would be a mistake. If we are going to do research, then we have to do research. By just investigating Case A to show us whether mistakes have been made or not, all that tells us is whether or not mistakes were made in Case A. This is not relevant research, this is one case in isolation. Sen. Weinberg wondered if there was some other way of doing this such that there was a representative number of cases so that we are doing valid research.

SEN. SHOCKLEY agreed the point was well-taken. He said Case A, but meant Cases A, B, C, D, E, F. What we planned on doing last interim was to obtain names of people and witnesses involved as if we were going to have a lawsuit and decide which had merit and which were simply an abuse of discretion, put them over here. These people are dealing with important issues. If the allegations are true, then the law was violated.

MIKE WINGER, Legislative Audit Division, stated that when they did a Performance Audit in 2002, they looked at 60 case files, took them apart, page by page, pulled them out, looked at compliance with all applicable statutes, looked at compliance with policies and procedures that were established by Child and Family Services Division, and then reported the information in a report. They also made the point that it is not just whether a social worker does a certain thing within a certain time, there's also the courts and the county attorneys and all the other players involved. Going through and doing an evaluation is not going to gain you any more than what you already have. If you take people that signed that list, pull their cases and go through them on an individual basis, I would estimate that you are looking at three to four to five hours depending on the extent of our review, that expands more than just doing a simple paper review. Again, I'm not certain that's going to give you a comfort factor as to whether somebody broke the law or didn't break the law, every case is different.

REP. FRANKLIN said that she was trying to work it through because she shared Sen. Shockley's concreteness. We want to know what is real and what isn't real. The part that she was struggling with is, will we know? She was not convinced that we would know any further as a result of our level of "investigation", whatever that is. Whether we subpoena people or review

cases, we will have yet another truth, the legislative committee's version of what we think the truth is. Her biggest fear is that we will end up with a bizarre permutation of a kangaroo court. SEN. SHOCKLEY said that the Congress of United States does this all the time and we have the authority to do it. We will never know unless we look. SUSAN FOX stated that we are supposed to look at the system. We may not be able to do anything for the families by looking at individual cases and finding out who did wrong and to whom.

REP. ROBERTS felt that with the audit that has been done, they introduced an idea of looking at the foster parents and that seemed okay, but the one group that seems to be missing from this analysis are the people who are the dissenters. We want to have a fair process and have in place something that can be adhered to and comfortable for those people in the oversight of their children.

SEN. SCHMIDT asked for a motion. REP. FRANKLIN commented that she wasn't ready to make a motion. She has more questions after listening to Sen. Shockley, and realized that she is in a different place and her sense is that we can't make it better.

SEN. RICE stated that the decision to be made is, is there going to be a subcommittee and are we going to get the funding?

SEN. SCHMIDT asked if the Law and Justice Committee would want to come up with a plan and present it to the Council.

SUSAN FOX asked the committee what they thought the purpose of the subcommittee would be. If it's only about this investigation, that is an easy study plan to write out and tack a number to it. If you want to take that to the Legislative Council for additional funding, then it is not appropriate for a staff proposal to go to the Legislative Council without being endorsed by legislators first. SHERI HEFFELFINGER stated to the committee that if you wanted to have a subcommittee to decide your goals, whether it is Sen. Shockley or Rep. Franklin, or whomever you appoint, and then sit down, provide staff support, discuss and agree on goals for the interim, whether it's an investigation or a study or some middle ground, then we could work from that.

SEN. ESP felt that the Governor's Office should be involved in this process, especially in the mental health and in CPS, so that the policy leads to understanding where we are heading and to be as familiar as we are with this issue and what the problems are that we are trying to solve so that when the time comes for us to get together in 2007, we can work together to do

something that benefits both mental health consumers and the families that are impacted by CPS.

**REP. FRANKLIN moved to have an ad hoc goal setting subcommittee of four people from this interim committee with Sen. Esp, Sen. O'Neil, Rep. Franklin, and Sen. Weinberg making up the group of four. This motion passed unanimously.**

#### **OTHER COMMITTEE WORK**

LOIS STEINBECK, LFD, talked about a conference she recently attended on helping low income and working families in tough economic times (**EXHIBIT 27**). Also in attendance was Sen. Schmidt, Rep. Warden, Rep. Caferro, and Rep. Kaufman. The Montana team selected two goals that they wanted to look at: asset creation and financial skill building. NCSL would provide technical assistance where NCSL personnel would come and help educate legislators who couldn't attend this conference about the two goals. The Montana team recommended holding a one-day conference for legislators to learn about the goals, held before the Special Session. SEN. O'NEIL wanted to know the costs and the number of legislators attending. Ms. Steinbeck said she did not know the details of that but wanted to hold the conference with the least amount of costs.

**SEN. SCHMIDT moved to endorse the idea of a one-day conference for all legislators to hear information with an attempt to ensure participation of members of this committee. Motion passed with SEN. ESP opposing.**

SUSAN FOX continued her presentation on the proposed Work Plan. The document is an amended work plan that outlines what will be accomplished at each committee meeting. Ms. Fox wanted to draw their attention to agency and legislation issues that might be of importance; potential areas of interest included unregulated youth behavior programs.

SEN. SCHMIDT asked the Committee members for issues that they were interested in that the committee could be monitoring. Sen. Schmidt stated that she is interested in meth treatment, whether it would be under the AMDD or DOC. REP. FRANKLIN seconded that and said the work done in that area during the last interim should be continued.

**REP. FRANKLIN moved to adopt work plan, seconded by Rep. Warden. Motion carried and passed unanimously.**

#### **ADJOURN**

Meeting was adjourned by Sen. Schmidt at 6:00 p.m. The next meeting will be October 20 and 21, 2005.

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