

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON HUMAN SERVICES & AGING

Call to Order: By **CHAIRMAN BILL BOHARSKI**, on April 2, 1993, at
3:00 p.m.

ROLL CALL

Members Present:

Rep. Bill Boharski, Chairman (R)
Rep. Bruce Simon, Vice Chairman (R)
Rep. Stella Jean Hansen, Vice Chair (D)
Rep. Beverly Barnhart (D)
Rep. Ellen Bergman (R)
Rep. John Bohlinger (R)
Rep. Duane Grimes (R)
Rep. Brad Molnar (R)
Rep. Tom Nelson (R)
Rep. Sheila Rice (D)
Rep. Angela Russell (D)
Rep. Tim Sayles (R)
Rep. Liz Smith (R)
Rep. Carolyn Squires (D)
Rep. Bill Strizich (D)

Members Excused: Rep. Dowell

Members Absent: None

Staff Present: David Niss, Legislative Council
Alyce Rice, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 271
Executive Action: None

HEARING ON SB 271

Opening Statement by Sponsor:

SEN. JUDY JACOBSON, said SB 271 is an act establishing local citizen review boards for foster care placements. The foster care system seems to be growing out of control. According to the Department of Family Services (DFS), child abuse and neglect rose from 11,000 cases in 1988 to approximately 17,000 cases in 1992.

The general fund expense has risen 206%. Children are lingering in the system longer than they should. This bill would create a more lasting solution to problems in the foster care system. The bill would establish a board with three to five volunteer citizens in judicial districts, appointed by the Chief Justice of the Montana Supreme Court, to review foster care cases and complaints. The board would have access to all appropriate records, and would be under the same confidentiality requirements as DFS personnel. Children who grow up in foster care, or remain in the foster care system unnecessarily, represent a huge loss in both and human terms. Research has shown a direct correlation between child abuse and neglect, and later juvenile delinquency and adult criminality. Placement of children in foster care is intended to be a short term solution to an emergency situation. Some children become lost in the system because of heavy workloads of the caseworkers.

Review boards can act as checks and balances on behalf of children with direct benefits to DFS. The review boards can free caseworkers currently responsible for conducting the reviews, to do their casework and provide services to families. The function of the review board would be to examine all cases where children have been removed from their homes for reasons of delinquency, abuse or neglect and not returned within six months. In those situations, DFS is required by law to have a case plan outlining a program to be followed. Too often the case plans are inadequate, or become stalled in futile controversy between the parents and the agency. Twenty-two states have a panel of trained citizens which has proven to be successful, with dramatic fiscal savings. In Montana review boards are conducted by DFS. An independent review board, under the direction of the court system, would have the same dramatic results as other states have had under the same system. For example, New Jersey's Citizen Review Board was started in 1979. There were 13,000 children in foster care at that time. Within four years, the caseload dropped to 6,800. Nebraska's comparative studies over a period of three years, have confirmed that children are twice as likely to be adopted if reviewed by a Citizen Review Board.

The fiscal note is a little over \$1,000.000 to begin the plan. The State of Iowa has refinanced with the federal government and is now paying 50% of the cost of the Citizen Review Board, over and above what is paid to DFS. The same could be done here. Within two to three years the program could be self-sustaining by cost savings from reducing caseloads and by refinancing with the federal government.

Proponents' Testimony:

SEN. JIM BURNETT, Senate District 42, Luther, said he supports the concept of SB 271. SEN. BURNETT presented amendments that would make the county commissioners the appointing officers. He said the Citizen Review Board should not be under DFS or the Supreme Court. It should be a grass roots organization under the

direction of the county commissioners and the district courts.
EXHIBIT 1.

Kathy Marshall, Initiator, SB 271, Butte, said her interest in a Citizen Review Board began when she tried to advocate for twins who were 2 1/2 years old and had been in foster care since they were 2 months old. They were going into their sixth foster home. It became obvious that a system was needed to make caseworkers accountable for what they did and said. Further research led **Ms. Marshall** to the Citizen Review Board in Oregon. That board finds out why the children were taken out of their homes, what is going to be done with them, where they are going to be housed, when they will return home, or when they will have permanent placement.

In Oregon, 350 volunteers worked 65,000 hours in two years. That is over \$1,000,000 in volunteer time spent on foster care children. It is easier for overworked caseworkers to leave children in the foster care system, because they don't have to send the children home, rehabilitate the parents, or deal with the court system for adoption. Studies show that children who are allowed to float through the foster care system end up in the criminal system, at taxpayers' expense.

Ms. Marshall told the committee it should support SB 271 because it is the right thing to do. **EXHIBIT 2.**

Jean Cauthorn, Portland, Oregon. Written testimony. **EXHIBIT 3.**

Sheila K. Jenkins, Director, Citizen Review Board, Montgomery County Juvenile Court, Dayton, Ohio. Written testimony. **EXHIBIT 4.**

Corinne Driver, Executive Director, National Association of Foster Care Reviewers. Written testimony **EXHIBIT 5.**

Lisa Powers-Shelton, Project Coordinator, Superior Court of the State of Washington for Snohomish County. Written testimony. **EXHIBIT 6.**

Siobhan M. McNally, M.D., Butte, Montana. Written testimony. **EXHIBIT 7.**

Nancy Burket Miller, Administrator, Oregon Citizen Review Board. Written testimony. **EXHIBIT 8.**

Marylyn Jenkins, Guardian, Court System, Ronan, told the committee about two abused brothers who were finally put in foster care homes in 1985. The brothers, now 13 and 14 years old, are still in the foster care system, and it has cost taxpayers \$50,000 a year. They have been moved from home to home. In Lake County, caseworkers are overburdened. A Citizen Review Board is needed.

Jim Smith, Montana Juvenile Probation Officers' Association, said that in his opinion, the child welfare system is the worst. The state takes care of people with mental illnesses much better than it takes care of abused and neglected children. These children don't have much in the way of rights. The association's support of SB 271 is contingent upon the availability of the funding the bill calls for. The problems in the child welfare system aren't the fault of probation officers or caseworkers. The association worked with Department of Family Services from 1989 to 1991 to determine what needed to be done to improve the standards of care for these children. The 1991 legislative session was given evidence showing the Department of Family Services needed an additional 108 social workers to meet minimum standards. The department ended up with eight additional social workers, and they were sacrificed during the special sessions in January and July of 1992. There has to be a change; if it means involving more citizens and making them more aware of what is going on in the welfare system, the association is in full support.

Hank Hudson, Director, Department of Family Services (DFS), said when the department first looked at SB 271, it was concerned and a little ambivalent. Some of the concerns were the cost and being in jeopardy of losing federal funding if federal standards aren't met. The department could see the benefits of involving more people, and providing the people involved in the system with a prospective from outside of the department. The current system has citizen review boards appointed by judges. The department is not sure what would be gained by attaching the boards to the Supreme Court, other than the fact that additional funding would mean more staff people. The department supports SB 271 if it is fully funded.

Opponents' Testimony:

None

Informational Testimony:

None

Questions From Committee Members and Responses:

REP. GRIMES asked SEN. JACOBSON if the citizen review boards will be privy to all the confidential information available to caseworkers. SEN. JACOBSON said the members of the boards will have the same access to records, be subject to the same penalties, and will have to swear to keep confidentiality.

REP. MOLNAR asked SEN. JACOBSON if parents would be allowed to testify at board hearings for their children. SEN. JACOBSON said the board can bring in anyone involved for the hearing, including parents. REP. MOLNAR said he noticed Montana's caseload was 70% of Oregon's, yet their population is higher. REP. MOLNAR asked SEN. JACOBSON to explain why Montana's per capita caseload was

higher. **SEN. JACOBSON** said Oregon has the program in place and it seems to be checking the growth caseloads.

CHAIRMAN BOHARSKI asked **SEN. JACOBSON** why section 11 (2) states that the board may require the presence of specific employees of the department or other agencies at a board meeting but doesn't address anyone else. **SEN. JACOBSON** said the board doesn't have to require a parent to attend, but could ask a parent or anyone else that may be involved to be there. **CHAIRMAN BOHARSKI** asked **SEN. JACOBSON** if a situation could ever come up where the board would want to require a parent to be at the meeting. **SEN. JACOBSON** said she couldn't imagine why a parent would refuse to come before a review board because it would be in the parent's best interest. It's the same system being used at present.

REP. GRIMES asked **SEN. JACOBSON** if she anticipated any current review boards being eliminated as a result of the bill. **SEN. JACOBSON** said SB 271 repeals the present boards.

REP. SIMON asked **David Niss, Legal Counsel**, if the Supreme Court needed any rule making authority to set up the program. **Mr. Niss** said the Montana Administrative Procedures Act does not apply to the judicial branch of government. The rule making would probably have to be court ordered.

REP. SIMON asked **SEN. JACOBSON** what other appointments the Chief Justice of the Supreme Court make that would be similar to the board appointments. **SEN. JACOBSON** said the district courts would still be making the recommendations and the appointments would have to be made from the recommendations. **Ms. Marshall** said in Oregon the coordinators are making the recommendations.

REP. SIMON said section 9, (9), page 10, states that the local citizen review board may disclose to parents and their attorneys, foster parents, mature children and their attorneys, and other persons authorized by the board to participate in the case review, the records disclosed to the board. **REP. SIMON** asked **Hank Hudson** what happens if the children have been taken away from the parents because of an abusive situation and the board doesn't want the parents to know the children's whereabouts. **Mr. Hudson** said the bill provides for the same consideration in place at present. **Mr. Hudson** said the best interest of the child is taken into consideration before any information is given out about them.

REP. SIMON told **SEN. JACOBSON** she had been very well served by the advocates for the bill, **Kathy Marshall** and **Marylyn Jenkins**. **SEN. JACOBSON** said **Kathy Marshall** is a real asset to the State of Montana. **Ms. Marshall** has spent hundreds of hours of her time and her own money to travel to Oregon to do research in order to bring this bill before the State of Montana. That's the kind of citizen involvement everyone likes to see.

Closing by Sponsor:

SEN. JACOBSON asked the committee to support SB 271 because it is something positive that can be done for the children in the state of Montana.

ADJOURNMENT

Adjournment: The hearing adjourned at 5:14 p.m.

Wm E Boharski

WILLIAM BOHARSKI, Chair

Alyce Rice

ALYCE RICE, Secretary

WB/ar

HOUSE OF REPRESENTATIVES

HUMAN SERVICES AND AGING

COMMITTEE

ROLL CALL

DATE

4-2-93

NAME	PRESENT	ABSENT	EXCUSED
REP. BILL BOHARSKI, CHAIRMAN	✓		
REP. BRUCE SIMON, VICE CHAIRMAN	✓		
REP. STELLA JEAN HANSEN, V. CHAIR	✓		
REP. BEVERLY BARNHART	✓		
REP. ELLEN BERGMAN	✓		
REP. JOHN BOHLINGER	✓		
REP. TIM DOWELL			✓
REP. DUANE GRIMES	✓		
REP. BRAD MOLNAR	✓		
REP. TOM NELSON	✓		
REP. SHEILA RICE	✓		
REP. ANGELA RUSSELL	✓		
REP. TIM SAYLES	✓		
REP. LIZ SMITH	✓		
REP. CAROLYN SQUIRES	✓		
REP. BILL STRIZICH	✓		

Amendments to Senate Bill No. 271
Third Reading Copy

Requested by Senator Burnett
For the Committee on Human Services

Prepared by Greg Petesch
March 29, 1993

1. Page 1, line 20.
Strike: "supreme court"
Insert: "board of county commissioners"
2. Page 1, line 21.
Strike: "judicial district"
Insert: "county"
3. Page 2, line 2.
Strike: "chief justice of the supreme court"
Insert: "board of county commissioners"
4. Page 2, line 5.
Strike: "chief justice of the supreme court"
Insert: "board of county commissioners"
5. Page 2, line 6.
Following: "appoint"
Insert: "a"
Strike: "boards"
Insert: "board"
6. Page 2, line 24.
Strike: "presiding judge of the youth court"
Insert: "board of county commissioners"
7. Page 3, lines 2 and 3.
Following: "resident of" on line 2
Strike: remainder of line 2 through "serve" on line 3
Insert: "the county"
8. Page 3, lines 8 and 9
Strike: line 8 through "court," on line 9.
Insert: "board of county commissioners"
9. Page 3, line 11.
Following: "of"
Insert: "the"
Strike: "boards"
Insert: "board"
10. Page 3, line 14.
Following: "to"
Insert: "the"

11. Page 3, line 15.
Strike: "boards"
Insert: "board"
12. Page 3, line 17.
Strike: "boards"
Insert: "board"
13. Page 3, line 18.
Strike: "office of the supreme court administrator"
Insert: "board of county commissioners"
14. Page 3, lines 19 and 20.
Following: "provide" on line 19
Strike: remainder of line 19 through "court," on line 20
15. Page 3, line 25.
Following: "of"
Insert: "the"
Strike: "boards"
Insert: "board"
16. Page 4, line 4.
Strike: "supreme court"
Insert: "board of county commissioners"
17. Page 4, line 7.
Following: "of"
Insert: "the"
18. Page 4, line 8.
Strike: "boards"
Insert: "board"
19. Page 5, line 4.
Following: "which"
Insert: "the"
Strike: "boards"
Insert: "board"
20. Page 5, lines 13 through 15.
Following: "in a" on line 13
Strike: remainder of line 13 through "located" on line 15
Insert: "different county"
21. Page 11, line 10.
Following: ", "
Insert: "a"
Strike: "boards"
Insert: "board"
22. Page 22, line 20.

Strike: "THE FOLLOWING APPROPRIATIONS"

Insert: "an appropriation"

23. Page 22, lines 22 and 23.

Following: "BIENNIUM" on line 22

Strike: remainder of line 22 through "APPROPRIATED" on line 23

24. Page 22, line 24.

Following: "SERVICES"

Insert: "of"

25. Page 23, lines 1 through 11.

Following: "." on line 1

Strike: remainder of line 1 through "." on line 11

Kathy Marshall
710 Green Acres Drive
Butte, MT 59701
(406) 494-8444

Initiator, SB 271

FOSTER CARE REVIEW

"You are the eyes and ears of the court, a part of the Court's conscience. You are also the eyes and ears of society, and part of its conscience. Reviewers are one of the few institutions where the problems of the family, the efforts of the state, and the work of the judiciary meet. You are able to see what is working and what is wrong."

Honorable Robert N. Wilentz
Chief Justice, NJ Supreme Court

Reviewers carry out their role as advocates in many ways:

1. Promoting the individual case review of all children in foster care;
2. Asserting the rights of children to have permanent families;
3. Mediating between parties involved in children's cases to facilitate actions necessary for permanence;
4. Informing parents of their rights to treatment services appropriate to reunite families;
5. Educating the public as to the needs of foster children;
6. Making findings and recommendations regarding foster care system problems which come to light through the case review;
7. Promoting the requirements of the reasonable efforts provision of PL 96-272 as well as the other provisions of this legislation;
8. Informing foster parents of their rights of involvement with children placed in their home;
9. Providing child welfare training to judges, attorneys, child welfare professionals and other volunteers; and
10. Lobbying for legislative changes which benefit children, especially foster children.

As advocates for children, reviewers usually follow the guidelines listed below in individual case reviews:

1. Reviewers consider the necessity and appropriateness of the current placement;
2. Reviewers ascertain whether reasonable efforts have been made either to prevent initial placement in foster care or to reunite families;
3. Reviewers determine the progress toward alleviating the cause of the placement;
4. Reviewers determine the compliance and level of participation in the case plan of all appropriate interested parties;
5. Reviewers monitor and/or project the likely date for the child's return home or for placement in another permanent home.

ADVANTAGES OF FOSTER CARE REVIEW

Foster care review boards have several advantages not only for the children in foster care, but for the court system, social services system and taxpayers. By engaging in interdisciplinary cooperative efforts, citizen review systems can make tremendous advances in the delivery of foster care services including the following:

1. Reducing the number of children in placement, thereby improving the quality of life for these children and saving tremendous amounts of government dollars;
2. Increasing the awareness of the community to the plight of children in care;
3. Serving a "check and balance" function to assure that all aspects of the child welfare system are functioning correctly and appropriately;
4. Enabling changes in the legislature regarding foster care statutes;
5. Serving an investigative function to aid in appropriate case planning;
6. Encourage and aiding in the recruitment of foster homes;
7. Freeing case workers who might otherwise be conducting reviews to do casework and provide services to families;
8. Increasing cooperation and communication between various agencies serving children;
9. Developing new policies, procedures and resources for children in care;
10. Monitoring child welfare agency compliance with the requirements of federal law.

Fact Sheet
SENATE BILL NO. 271

TO ESTABLISH LOCAL CITIZEN REVIEW BOARDS
FOR FOSTER CARE PLACEMENTS

Sponsor: Senator Judy Jacobson

IMPORTANCE OF FOSTER CARE REVIEW LEGISLATION

Children need the stability and support of a permanent home and family in order to grow and flourish; they need the sense of lifelong belonging and continuity that only a permanent home can provide. Children who grow up or linger unnecessarily long in foster care represent a huge potential loss in both human and financial terms.

The placement of a child in foster care is intended to be a short-term solution to an emergency situation of abuse or neglect. In the past, however, all too often foster care placement resulted in the child being destined to obscurity within the child welfare system. The ideal of assuring a permanent home for every child fell by the wayside while the child was set adrift among different foster families and group homes. The child's vital developmental years were lost, since he or she was neither free to return home to the natural parents nor eligible to be adopted by a permanent family.

Throughout the 1970s, judges, social workers, child advocacy groups, and attorneys began to recognize that the United States foster care system was failing to respond to the needs of many abused and neglected children and their families. Many children were lost or adrift in the system with no regular or timely review of their placements.

Crowded court calendars and understaffed child welfare agencies were contributing to an increase in the number of children entering the system and to the length of time these children spent in foster or substitute care. Increased societal pressures and changing family structures also were factors increasing the number of foster care placements.

Concern for children lingering unnecessarily in foster care continued to mount throughout the decade. Among solutions proposed by child advocacy organizations were the comprehensive implementation of permanency planning case work and foster care placement monitoring through regular case reviews. A new resource was also identified to help monitor foster children and to advocate on their behalf: *citizen volunteers*.

In response to the idea of citizen involvement in the foster care system, a new citizen volunteer program emerged. The use of volunteers to periodically review children in foster care was called Foster Care Review Systems. Most initial Citizen Foster Care Review Systems were structured on a regional or statewide basis to allow citizen panels or boards to collectively monitor, through case reviews, the status of abused or neglected children in foster care and to advocate for all foster children and their families.

PURPOSE, PHILOSOPHY, AND ROLE OF FOSTER CARE REVIEW SYSTEMS

The underlying goal of all case review is to assure that children do not linger unnecessarily in foster care, but rather receive the support and benefits of a permanent home. In the case of citizen review, this goal is accomplished through recommendations to the legislature, social service agencies, and courts based upon citizens' review of the cases of children in care.

Reviewers in the citizen review process serve as advocates for the best interest of children who cannot speak for themselves. Reviewers use the case review process and the recommendations issued on each case to promote the goal of a permanent home for each child.

Generally, reviewers carry out their role as advocates in many ways, including:

1. Promoting the individual case review of all children in foster care;
2. Asserting the rights of children to have permanent families;
3. Mediating between parties involved in children's cases to facilitate actions necessary for permanence;
4. Informing parents of their rights to treatment services appropriate to reunite families;
5. Educating the public of the needs of foster children;
6. Making findings and recommendations regarding foster care system problems which come to light through the case review;
7. Informing foster parents of their rights of involvement with children placed in their home;
8. Lobbying for legislative changes which benefit children, especially foster children.

As advocates for children, reviewers usually follow these guidelines in individual case reviews:

1. Reviewers consider the necessity and appropriateness of the current placement;
2. Reviewers ascertain whether reasonable efforts have been made either to prevent initial placement in foster care or to reunite families;
3. Reviewers determine the progress toward alleviating the cause of the placement;
4. Reviewers determine the compliance and level of participation in the case plan of all appropriate interested parties;
5. Reviewers monitor and/or project the likely date for the child's return home or for placement in another permanent home.

The advocacy role of reviewers is not limited to making case recommendations to the court and social service agency . Individual panel members may be able to identify resources in the community which would be of assistance to the child and family, but of which the service provider may not be aware.

Citizen review boards may also serve as systems advocates. Over time, state review boards will recognize general problems in the child welfare system itself, and address such problems to the courts, agencies, and the legislature. In this process, confidentiality requirements must be met and problems must be reported in an aggregate manner.

Citizen review systems may have their greatest, most positive impact through a systems advocacy approach. Volunteer reviewers can create a broad base of community support for foster care issues and serve as catalysts for system reform.

ADVANTAGES OF CITIZEN REVIEW

Citizen review boards have several advantages not only for the children in foster care, but for the court system, social services system, and taxpayers. By engaging in interdisciplinary cooperative efforts, citizen review systems can make tremendous advances in the delivery of foster care services including:

1. Reducing the number of children in placement, thereby improving the quality of life for these children and saving tremendous amounts of government dollars;
2. Increasing the awareness of the community to the plight of children in care;
3. Serving a check and balance function to assure that all aspects of the child welfare system are functioning correctly and appropriately;
4. Enabling changes in the legislature regarding foster care statutes;
5. Serving an investigative function to aid in appropriate case planning;
6. Encouraging and aiding in the recruitment of foster homes;
7. Freeing case workers who might otherwise be conducting reviews to do casework and provide services to families;
8. Increasing cooperation and communication between various agencies serving children.
9. Developing new policies, procedures, and resources for children in care;
10. Monitoring child welfare agency compliance with the requirements of federal law.

Source: Bowling, Susan B., and Susan Carter, J.D. *An Overview of Citizen Involvement in Foster Care Review*. Baltimore: National Association of Foster Care Reviewers, 1992.

CHILDREN IN NEED: THE QUIET CRISIS

The Law

Montana Statute charges the Department of Family Services with the provision of "...protective services to ensure the health, welfare, and safety of children...who are in danger of abuse, neglect, or exploitation within communities," and, "Provide for the care, protection, and mental and physical development of youth alleged to be youth in need of supervision or delinquent youth who are referred or committed to the department..." (52-1-101(1)(2) MCA) Children who have been alleged to have been abused and neglected are the responsibility of the Department of Family Services through their Child Protective Services.

The Children

There has been a dramatic increase in the number of children involved in child abuse and neglect investigations. In 1985 there were 7,328 children involved, while in 1990 that number had increased to 10,256. Over the past five years, there has been a 7.2% average yearly increase in the number of children involved in child abuse and neglect investigations. If that average holds, there will be approximately 14,520 children involved in child abuse and neglect investigations in 1995.

In 1990, there were 12,532 child abuse and neglect incidents alleged. There were more incidents reported than the number of children involved due to repeated incidents. Of those alleged incidents, 4,972, or about 40% of them were substantiated. If the percentage increase of 7.2% holds for the number of substantiated child abuse and neglect cases then there will be 7,040 cases in 1995.

The Reality

The Department of Family Services child protective staff has remained about the same size over the past seven years. What the above figures do not attest to is the change in the nature of the cases for which they are charged to investigate and provide services. Most social workers maintain that the children and families they are involved with have problems that are tougher to treat than ever before. Homelessness, fetal alcohol and drug syndrome, sexual abuse, multiple handicaps, and severe emotional disturbance are new problems that the traditional child welfare system was not designed to handle.

In a study done for the 1991 Legislature, Child Protective Service workers said that they inadequately served over one third of the 10,256 children who were involved with child abuse and neglect complaints. That translates into approximately 3,500 children who did not receive adequate child abuse and neglect protective services. Using nationally recognized standards, the Department needs an additional 121 child protection workers and 35 supervisors to meet present caseload demands.

The Need

A number of the children that have been found to be abused and neglected need to be placed outside of their own homes to assure their continued safety, at a minimum. In 1990, there were 3,125 children placed in some form of out-of-home care. Most of these children were placed in family foster homes, while others needed additional services that were provided by therapeutic foster homes, group homes, intermediate treatment programs, and residential treatment programs.

The number of children placed in out-of-home care resources has not grown as dramatically as the number of children involved in child abuse and neglect situations. From 1985 to 1990 the number of children in out-of-home care placements grew 24%. The number of children involved with child abuse and neglect investigations over those same years increased by 29%. Attention and receiving homes, those homes that work with children in crisis, increased by 35%. At the same time while the number of children served by in-state residential treatment programs for seriously emotionally disturbed children declined by 14%, the number of seriously emotionally disturbed children served by out-of-state programs increased by 33%.

The 50th Legislature did allow rate increases to the providers of these out-of-home services. But the legislature did not allow for an increase in the number of children and youth served. Therefore, the Department has virtually been on a "one in, one out" placement basis for those children requiring residential treatment. There is simply not the budget to accommodate these additional children who are in crisis.

The Questions

So, where are these children going? As a starting point, the consensus among every provider of out-of-home care services in the state has recognized that the system for this type of care has always been seriously underfunded. We have seen far too many children "fail" their way through inadequate placement resources until they find themselves in a state of real crisis where they end up in a children's psychiatric hospital, and in and out of a succession of foster and group homes.

It is frankly no mystery to any of us working with these "quiet" victims that Pine Hills and Mountain View are not only filled way past their effective capacities, but are also holding seriously emotionally disturbed boys and girls, a situation that is antithetical to the philosophy of a correctional institution. Not only is this a completely inappropriate setting for these types of youth, it profoundly affects the youth that are there for correctional reasons. It is also no mystery that Deer Lodge State Prison continues to need additional beds. Once the children we have been describing move quickly through their childhood

Children in Need: The Quiet Crisis
Page 3

years into adulthood, these former victims become victimizers. Does anyone doubt anymore the inescapable correlation between childhood abuse and subsequent criminal activity?

Perhaps our greatest frustration lies in not being able to describe to you with some precision the quiet crisis these children have been experiencing. The state has been charged by statute to protect these children who are the victims of child abuse and neglect, and many of their stories would shock and deeply disturb nearly any adult. Yet, over the years, there has not been even a rudimentary data base in place to count and describe these children. It is safe, but tragic, to say that this state could far better describe its population of deer and elk than the children who have been, and continue to be, abused and neglected.

Discussion Paper on the Issue of a Lawsuit on Behalf of Montana's Neglected and Abused Children

Prepared by
The Montana Residential Child Care Association

The Problem:

Neglected and Abused Children in Montana are being denied the protection, care and treatment guaranteed to them by the laws of the State of Montana and by the laws of the Federal Government.

Sustained, repeated attempts to resolve this problem, and the numerous specific issues associated with it, through the Legislative and Executive branches of government have failed.

It is time to consider seriously the Judicial branch of Government as the last and only avenue of recourse.

The Proposal:

That Montana Residential Child Care Association, together with any number of other individuals and organizations representing the Class of Individuals known as the Neglected and Abused Children of Montana, bring legal action against the State of Montana for failure to comply with its own law, and with applicable federal laws:

Federal Laws.

- The Due Process Clause of the Fifth Amendment to the United States Constitution.
- The Due Process Clause of the Fourteenth Amendment to the United States Constitution.
- The Child Abuse Prevention and Treatment Act.
- The Federal Adoption Assistance and Child Welfare Act of 1980.

State Laws and Department of Family Services Regulations.

- MCA 41-3-101(1)(a) --Policy of the State of Montana
- MCA 41-3-201(1)(2) --Duty to Report Neglect & Abuse
- MCA 41-3-202(1)(2)(3) --Action on Reporting
- MCA 41-3-301 --Emergency Protective Services
- MCA 41-3-302(1)(2) --Responsibility for Providing Protective Services

- Administrative Rules of Montana
- DFS Policy Manuals

Such an Action could be brought in either a Montana District Court or a Federal Court.

Any cause for Action must be based only on what we believe are violations of existing state and/or federal laws.

The Principles:

In an Action of the kind under consideration, MRCCA will be guided by, and remain loyal to, a few fundamental Principles:

- The welfare of Montana's Neglected and Abused Children are our first, primary, and sole concern. Our discussions, decisions and actions will be motivated and guided by our firm beliefs about what is right for these children.
- The perceived or potential impacts upon Montana Residential Child Care agencies, positive or negative, shall have no place in the decisions made regarding this issue.
- MRCCA recognizes at the outset that this Action, if taken, will be long and costly, with no certain outcome. MRCCA agencies are willing to see this Action through to its ultimate conclusion; and are willing to commit its resources and reputation toward that end.
- MRCCA recognizes that there are other interests, individuals and organizations with a stake in this problem. MRCCA will reach out to these, and attempt to forge a Coalition of Plaintiffs to bring this Action against the State of Montana.
- MRCCA is committed to working as an equal partner in a professional, collegial, collaborative manner with any other Plaintiffs who may join in this Action.
- MRCCA will restrict itself to the legal issues at stake in this Action.

The Potential Plaintiffs and Partners:

The following organizations and individuals have expressed an interest in, or been informed of, the Action under consideration:

- The Montana Protection and Advocacy Program
- The National Youth Law Center
- The Montana Foster Parent Association
- Individual Family Foster Parents: Bobbie Curtis, Rick and Colleen Thompson, Mike and Sherry Steele
- The Montana Public Employees Association/Social Workers
- The Montana Juvenile Probation Officers Association
- The Montana Legal Services Association
- Prevent Child Abuse/Montana Council on Families
-
-
-

The Plan:

A Plan for the Action must be prepared. The following elements, at a minimum, will be necessary :

- An inventory of existing resources that can be mobilized for this effort.
- An assessment of what this action will cost, and how long it might take to bring it to a conclusion.
- Coordination and consultation with any and all potential Plaintiffs and Partners.
- Research into State and Federal Law, Regulation and Policies.
- Development of an extensive set of instances in which current law is being or has been violated. Examples might include:

Failure to make monthly visits to children in foster care.

Failure to comply with reasonable professional standards.

Failure to initiate timely investigations into reports of abuse and/or neglect.

Failure to provide services to families that prevent placement into foster care.

Failure to place those children who may not remain safely at their home into appropriate foster homes or residential facilities.

Failure to develop Case Plans for children in foster care.

Failure to implement Case Plans where they exist.

Failure to move children into a situation of permanency.

Failure to provide the treatment recommended by professionals or called for in Case Plans.

Failure to comply with other particular things called for in State Law, Regulation or DFS Internal Policies.

- Match specific children to specific violations of the law(s). Ultimately, the children whose rights are being violated in any of the above ways will represent a Class of Citizens entitled to relief.

- Seek Legal Counsel.

Conclusion:

The Montana Residential Child Care Association will distribute this discussion paper to other interested parties and gather the information necessary to go forward with legal action against the State of Montana.

The Honorable Judy Jacobson
C/O Kathy Marshall
710 Green Acres
Butte, Montana 59701

February 10, 1993

Dear Senator Jacobson:

It is my understanding that under your sponsorship, SB 271 mandating citizen review of children in substitute care will soon be introduced into the Montana legislature. Oregon passed such a bill in 1985. As an Oregon volunteer who has participated in several thousand reviews in the past 12 years, I have observed great differences between the internal administrative reviews of the child welfare system (Children's Services Division or Child Protective Services) and the reviews conducted by the Citizen Review Board (CRB). Several differences between internal administrative reviews (CSD) and those conducted by CRBs are:

1. Under Children's Services Division's internal administrative reviews, no case material was available to volunteers prior to the reviews. Under citizen reviews (CRB), all pertinent information is received by volunteers at least ten days prior to review. This information includes the Initial Service Plan; client history; psychological evaluations; case plan; medical, educational, and treatment reports; placement histories; and other significant documents. Volunteers come to each review with thorough knowledge of each case.
2. Under internal reviews, not all concerned parties were notified/ invited to the review. Sometimes, no interested party was notified. Under CRBs, all interested parties are notified, invited, and encouraged to attend and participate--parents, children, foster parents, attorneys, treatment personnel, and others who have an interest in the child. This allows an open and complete exchange of information, an objective forum that sometimes serves to defuse hostility between client and caseworker.
3. Under CSD reviews, recommendations remained within CSD and were seldom implemented. Under CRB reviews, recommendations and findings are sent to the court, CSD, parents, and other interested parties when applicable. Judges and referees are strongly supportive of the volunteers' work, depend on CRB reports in their hearings, and have the power to order implementation of the boards' recommendations. Currently, CRB recommendations are fully implemented in 76% of the cases, and partially implemented in 18% of the cases.

Some changes I have seen as a result of CRBs include:

1. Cases are reviewed objectively and independently by trained impartial volunteers from diverse backgrounds reflecting the make-up of the community.
2. Convening on neutral ground encourages an open exchange of information and diminishes negative feelings towards "the system."
3. Consistent follow-up of cases by the same board enables boards to encourage accountability on the part of all responsible parties and agencies.
4. The potential for caseworker judgment error or a case falling through the cracks is greatly reduced.

My experience has convinced me that an agency cannot objectively review itself. I have seen too many horror stories that could have been prevented by citizen reviews. Some simple examples include the cases of teenage children who were legally free for adoption soon after birth, but who were placed in dozens of foster homes and residential treatment centers, never in adoptive homes. Or the six month old baby, in care since birth, who had been in five foster homes during his short life.

Volunteers' recommendations and findings reflect the concern for children in care, the need to provide appropriate services and safe, loving, permanent placements in a timely manner.

Citizen reviews afford communities the opportunity to avail themselves of our democratic governmental system to help ensure the emotional and physical well-being of the nation's children. SB 271 would implement a system like Oregon's CRB in which the checks and balances created by utilizing both the executive and judicial branches of government ensure timely and thorough reviews of all children in the state's custody. The use of citizen volunteers has proven to be a cost-effective mechanism that brings about greater agency compliance with state and federal laws and policies.

The most important benefit of citizen review is the human savings.

I would be happy to provide additional information if you would find it helpful.

Sincerely,



Jean Cauthorn
3160 NE 156th Ave
Portland, Oregon 97230
(503) 253-3321

COMMON PLEAS COURT OF MONTGOMERY COUNTY JUVENILE DIVISION

REIBOLD BUILDING - 8TH FLOOR

14 W. FOURTH STREET - DAYTON, OHIO 45422-4240

TELEPHONE: (513) 496-3185

TELEFAX: (513) 496-3157

EXHIBIT 4

DATE 4-2-93

SB 271

ARTHUR O. FISHER, JUDGE
MICHAEL B. MURPHY, JUDGE
HENRY N. KUNTZ, JR., COURT ADMINISTRATOR

February 11, 1993

Dear Senator Jacobson:

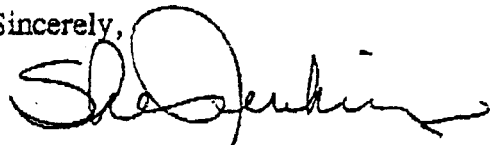
Montgomery County, in the State of Ohio, established a Citizen Review Board in 1978. The purpose and function of this Board was to act as an arm of the Court and to monitor all the children involved with the Children Services Bureau. All children who are adjudicated dependent, neglected or abused have their case plan reviewed bi-monthly. The purpose of the Citizen Review Board is to determine reasonable efforts that include whether appropriate services are being offered to the child and his/her family, by the Children Services Bureau. These services will enable the agency to maintain the child in his/her home, or to facilitate reunification.

Senate Bill 89 became effective January 1, 1989. This Bill allowed the Juvenile Court judges to establish Citizen Review Boards in all counties, if they so desired. This Bill also empowered the Citizen Review Board to conduct the Annual Review Hearings of all children in the Long Term Foster Care or Permanent Custody of Children Services Bureau.

Montgomery County has three Citizen Review Boards, which meet twice a month, with a total of 29 members. These Board members review two hundred to three hundred children a month. These Boards are composed of volunteers and provide an invaluable service as they free our Referees to handle our busy Court dockets, while ensuring that children do not languish in foster care.

We wholeheartedly support the state of Montana in your attempt to establish such a Law.

Sincerely,



Sheila K. Jenkins, LISW
Director, Citizen Review Board
Montgomery County Juvenile Court

SKJ/dmj

FAX TO: SENATOR JACOBSON

FEBRUARY 11, 1993

FROM: CORINNE DRIVER, EXECUTIVE DIRECTOR, THE NATIONAL ASSOCIATION
OF FOSTER CARE REVIEWERS, (NAFCR) 201-226-0235

CONGRATULATIONS FOR YOUR ACTION ON BEHALF OF FOSTER CHILDREN!
REGULAR, PERIODIC CITIZEN REVIEW OF FOSTER CHILDREN, STARTING AT
THE EARLIEST TIME AFTER REMOVAL FROM HOME, HAS PROVEN TO BE
EFFECTIVE IN A NUMBER OF WAYS. SOME EXAMPLES FOLLOW:

NEW JERSEY BEGAN CITIZEN REVIEW IN 1979 WHEN IT WAS ESTIMATED THERE
WERE AT LEAST 13,000 CHILDREN IN FOSTER CARE, (NO ONE WAS QUITE
SURE!) WITHIN FOUR YEARS THE CASELOAD DROPPED TO 6,800 IN AN
ACCURATE COUNT. TODAY, EVEN AFTER DRAMATICALLY INCREASED REPORTS
OF ABUSE AND NEGLECT AND HOMELESSNESS, THERE ARE FEWER THAN 9,000
CHILDREN IN FOSTER CARE. THE EFFECT IS THAT MORE CHILDREN HAVE
HOMES, SPEND LESS TIME IN FOSTER CARE, AND THE STATE IS SAVING
HUNDREDS OF THOUSANDS OF DOLLARS.

NEBRASKA CONDUCTED TWO COMPARATIVE STUDIES OVER A PERIOD OF THREE
YEARS. EACH STUDY CONFIRMED THAT CHILDREN ARE TWICE AS LIKELY TO
BE ADOPTED IF REVIEWED BY CITIZEN REVIEW BOARDS.

IOWA HAS DOCUMENTED THAT COMPLETELY WRITTEN CASE PLANS FOR CHILDREN
INCREASED DRAMATICALLY WHEN CITIZEN REVIEW BOARDS WERE ESTABLISHED.
BETTER CASE PLANS CORRELATED WITH A DECREASE IN THE LENGTH OF TIME
CHILDREN REMAINED IN FOSTER CARE AND AN INCREASE IN THE NUMBER OF
CHILDREN FREED FOR ADOPTION.

ALASKA DOCUMENTED A DECREASE IN THE LENGTH OF TIME IN CARE WHEN
CITIZEN REVIEW BOARDS WERE PRESENT. THE DOCUMENTATION INDICATED
ALSO THAT CITIZEN REVIEW BOARDS HELPED TO IDENTIFY AND REMEDIATE
SYSTEMS BARRIERS THAT PROLONGED TIME IN CARE.

KANSAS, IN JULY 1992, ENACTED STATEWIDE CITIZEN REVIEW FOR ALL
CHILDREN IN FOSTER CARE AS THE RESULT OF A ONE YEAR STUDY
WHICH DOCUMENTED THAT THERE WERE THREE TIMES AS MANY COURT
CONTINUANCES WHEN A CITIZEN REVIEW BOARD WAS NOT PRESENT. IT ALSO
DETERMINED THAT, WITH REVIEW BOARDS, CHILDREN WERE TWICE AS LIKELY
TO HAVE A SERVICE AGREEMENT SIGNED BY THE PARENTS AND THEY WERE
TWICE AS LIKELY TO ACTUALLY RECEIVE THE SERVICES THAT WERE PLANNED
FOR IN THE CASE PLAN.

TWENTY TWO STATES HAVE CITIZEN REVIEW AND AT LEAST FOUR ADDITIONAL
STATES ARE ESTABLISHING OR EXPLORING CITIZEN REVIEW PROGRAMS THIS
YEAR.

NAFCR WILL BE GLAD TO ASSIST MONTANA AS IT RECOGNIZES ITS FOSTER
CHILDREN, THE VALUE OF ITS CITIZENS, AND ALSO SAVES DOLLARS.

EXHIBIT 6DATE 4-2-93SE 271

Superior Court of the State of Washington
for Snohomish County

JUDGES

PAUL D. HANSEN
JOHN F. WILSON
GERALD L. KNIGHT
JOSEPH A. THIBODEAU
RICHARD J. THORPE
KATHRYN E. TRUMBULL
JAMES H. ALLENDOERFER
LARRY E. MCKEEMAN
RONALD L. CASTLEBERRY
THOMAS J. WYNNE
DAVID F. HULBERT

JUVENILE COURT DIVISION
FOSTER CARE CITIZEN REVIEW

2731 - 10th Street, Room 205
Everett, Washington 98201-1492
(206) 252-0622

ADMINISTRATIVE JUDGE
JOSEPH A. THIBODEAU

COURT COMMISSIONERS
ARDEN J. NIDLE
LESTER H. STEWART

JUVENILE COURT ADMINISTRATOR
MICHAEL F. SULLIVAN

SUPERIOR COURT ADMINISTRATOR
KEITH WILSON

February 12, 1993

Senator Jacobsen
Montana State Legislature
Fax # - 406-444-4105

RE: Consideration of Citizen Review in Montana

Dear Senator Jacobsen:

I would like to encourage your support in the development of Citizen Review in Montana. We have had legislatively mandated Foster Care Citizen Review in three pilot sights in Washington State since 1989. Our program goal is to provide periodic review of foster children in a manner that complies with case review requirements and time lines imposed by federal laws; to assist in providing improved quality of case review; and to provide the means for community involvement in monitoring cases of children in substitute care. Our focus is to ensure children obtain a permanent placement as quickly as possible, be it a safe return home, adoption, or guardianship. Having children languish in foster care is unacceptable and the utilization of citizen volunteers acts as an oversight mechanism that is a significant safeguard for children. Our reviewers feel Citizen Reviews act as a 'pump' to push cases to a quicker resolution.

Parental participation at reviews has been higher than anticipated indicating parents are very much interested in the opportunity to express themselves and to feel like they are being heard. Citizen Review provides this opportunity in a neutral setting with the hope that we can negotiate and resolve conflicts or misunderstandings in a creative team-approach.

In Washington State, after dependency has been established, Citizen Review can occur 'in lieu of court' at the 6 & 12 month time-frames, as Federal law requires only a 'periodic review', not specifically a court review. Our recommendations are advisory and do not change existing court orders, and if parents contest specific issues, these must be addressed in court. It has been roughly estimated that there is a 46% saving of court time by utilizing Citizen Review based on the number of cases not having to go to court at 6 & 12 months. This then frees the judges to provide additional attention to contested cases coming before them.

Respectfully,

Lisa Powers-Shelton
Lisa Powers-Shelton, Project Coordinator

Siobhan M. McNally, M.D.
332 Basin Creek Road
Butte, Montana 59701
March 29, 1993

Senator Judy Jacobson
Chairperson, Finances and Claims Committee
Montana State Senate
Capitol Station
Helena, Montana 59620

Dear Senator Jacobson,

As a pediatrician and child advocate, I endorse wholeheartedly the passage of Senate Bill 271, which provides for the establishment of a Citizens Review Board for the Department of Family Services.

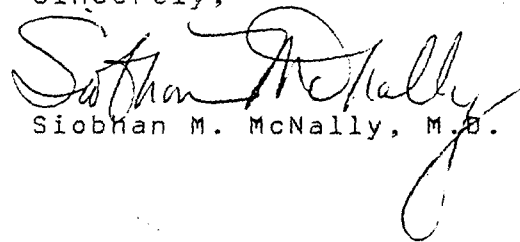
Recent statistics show the Department of Family Services to be confronted with an ever increasing number of families requiring investigation for child abuse or neglect, and possible placement of children into foster care. The evaluation, management, and, most importantly, the follow-up of these families requires a timely, well-coordinated case plan which takes into account not only the complex and often chronic nature of the many problems these families face, e.g. homelessness, drug and alcohol abuse, sexual abuse, unemployment, etc., but also the paramount need for a child to have a safe, trusting, and permanent home. Montana's social workers are extremely devoted and well-trained but the magnitude of this task goes beyond the capabilities of any single case-worker and truly requires the efforts of a multi-disciplinary team. A Citizen's Review Board would be a very cost-effective way to provide this much needed multi-disciplinary team approach.

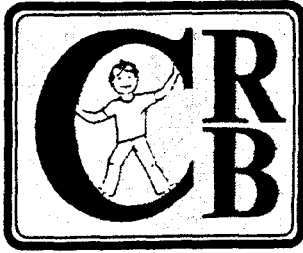
I also feel that the current foster care system lacks any real mechanisms to ensure that children do not get lost in the system. As a physician, I am indebted to the social workers who have responded to my concerns of possible child abuse in a particular family with utmost professionalism. At the same time, however, I have been dismayed with the fact that often, these very same children will spend months to years jumping from one foster home to another, occasionally back to their original family, then back to another foster home. If the specialists in child development have taught me anything, they have taught me this: For a child to develop into a mature and capable adult, he/she requires a safe, trusting, and CONSISTENT environment - a sense of PERMANENCE. In facilitating the timely review of cases, the Citizens' Review Board would be able to minimize the delays that seem so inherent in the current system.

I also feel that we are sorely lacking in statistics to show that our current system is effective. Many, many tax dollars are being appropriated toward foster care and residential treatment. As a taxpayer, I want to know that we are doing the best job possible with these limited funds. A Citizens' Review Board would provide the vehicle by which we could begin to collect this data.

For many years, we allowed our health care system to run without checks and balances; and, we are now paying the price. Are we going to make the same mistake with our social service system? Please show your interests in cost-effective strategies to improve the welfare of our children and vote for Senate Bill 271.

Sincerely,


Siobhan M. McNally, M.D.



OREGON CITIZEN REVIEW BOARD

EXHIBIT 8
DATE 4-2-93
SB BOARD 271

February 11, 1993

Senator Judy Jacobson
Capital Station
Helena, MT 59620

Dear Senator Jacobson and Members of the Senate Judiciary Committee:

I writing to provide you with some information about the Oregon Citizen Review Board program. We have gathered so much information since our creation by the Oregon Legislature in 1985. In attempting to sort out what information would be most helpful, I came to the conclusion the best way to provide you with the data you may need is to forward you our most recent biennial report. It outlines the structure of our program and the accomplishments we have seen over the years.

In Oregon, we have 350 citizens serving on 70 review boards throughout the state. In conducting reviews in 1991, the CRB brought together over 15,000 interested parties to discuss appropriate case planning for our state's foster children and their families. The existence of an unbiased, objective, citizen based review system is a crucial ingredient in developing partnerships to improve services to children and their families.

In times of scarce resources, citizen involvement in government is the wave of the future. Our citizens can aid in both holding government accountable and advocating for needed resources. Educating the citizenry about the problems of our high risk children and families gives the citizens the tools they need to advocate for needed change.

I hope the information contained in the report is helpful to you. Best wishes in your endeavors to bring citizen review to the state of Montana.

Sincerely,

Nancy Burket Miller

Nancy Burket Miller
Citizen Review Board Administrator

503-378-5450

enc.

NBM/jh

P02
EXHIBIT 8
DATE 4/2/93
SB 271

8 P03
EXHIBIT 8
DATE 4/2/93
SB 271

Care Review Board

OF FCRB PROGRAM

regarded as one of the top two or three in the foster care delivery system, it is all too easy to neglect, adoption, and preparation for independent living work pile. Citizen review assures that the program receives the attention. We offer the following:

• **State compliance with federal IV-B mandates**

• **Consistently meet targets for number of reviews**
1992.

• **Nationwide uniformity and adaptability.**

• **Citizen review.** In a recent study of nearly 650 cases, 10% had left placement, had been reviewed by the board for February, 1992.

• **Quality assurance functions improve accuracy and control**

• **Cost per inflation-adjusted dollar) increased by 10% in 1992.**

• **System with a clear focus on permanence.**

• **Initial training plus on-going training.**

• **Setting appropriate permanency goals for each case and those goals.**

• **Placement agencies, and other community organizations address the needs of children and families.**

• **Approximately 20,000 hours per year.**

• **Participation of citizens who know and care about vulnerable children and community support for child welfare programs.**

located statistical analysis available on the annual Report exceeds 1,200 copies.

data on citizen and court reviews,

federal audit and for local DSS files

working relationships with legislators in the program viewed as impartial and believable.

Secretary for CYF, Secretary of the Board, and chairmen and committee members for

of six months on TPR proceedings. In some jurisdictions, the review is done in several jurisdictions.

family preservation, foster care, termination

requests for staff and program. In the program staff. In 1992, we supported SEFC and Foster Care.

and reduced length of stay.

foster care return to parents, are reunification, or are adopted. Re-entry rates from review boards, these statistics

has been reduced from over four years in some circumstances created by increasing substance abuse.

legal procedure and legal reforms, the cost has dropped from an average of \$100,000 in 1992.

month due to weakening of FCRB budget, five times the FCRB budget.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Human Services COMMITTEE BILL NO. SB 271
DATE 4-2-93 SPONSOR(S) Senator Jackson
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<u>Jim Burnett SD#42</u>	<u>Myself</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Kelly Marshall</u>	<u>"</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>MARGLYN JENKINS</u>	<u>"</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Chen Green</u>	<u>✓</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Don Howe</u>	<u>✓</u>	<input type="checkbox"/>	<input type="checkbox"/>

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.