

JOINT PERFORMANCE REVIEW COMMITTEE

OCTOBER 1, 2015

MINUTES

The Joint Performance Review Committee met Thursday, October 1, 2015 in Room A, Mac Building, Little Rock, Arkansas.

Committee members present were Senators Alan Clark, Co-Chair, Linda Collins-Smith, John Cooper, Jane English, Missy Irvin, Terry Rice, and Gary Stubblefield, and Representatives Kim Hammer, Co-Chair, Scott Baltz, Lance Eads, Kenneth Ferguson, Charlene Fite, Mickey Gates, Michelle Gray, Mary "Prissy" Hickerson, Josh Miller, Dan Sullivan, Dwight Tosh, Clarke Tucker, Dave Wallace, and Richard Womack.

Other legislators present were Senators Cecile Bledsoe, Stephanie Flowers, Greg Standridge, and Eddie Joe Williams, and Representatives Charles Armstrong, Bob Ballinger, Karilyn Brown, Donnie Copeland, Jim Dotson, Charlotte Douglas, Dan Douglas, Les Eaves, Jon Eubanks, Lanny Fite, Joe Farrer, David Fielding, David Hillman, Mike Holcomb, Douglas House, Joe Jett, Ron McNair, David Meeks, Stephen Meeks, Betty Overbey, John Payton, Mathew Pitsch, James Ratliff, Marcus Richmond, Laurie Rushing, James Sorvillo, Nelda Speaks, James Sturch, John Vines, and Marshall Wright.

Call to Order

Senator Clark called the meeting to order.

Comments by Senator Alan Clark and Representative Hammer, Co-Chairs, JPR Committee

Senator Clark provided background for the meeting's discussion regarding laws and procedures the Arkansas Department of Human Services (DHS) follows in its investigations of child maltreatment cases. He believes the procedures that accompany child abuse reports, maltreatment and neglect cases in Arkansas are very complicated. He said testimony will be presented by families who believe they have been negatively and wrongly affected by the system. He asked legislators to be mindful of the following three questions:

- Are there problems with the way the state of Arkansas handles child abuse and maltreatment cases?
- Are there problems with privacy laws used for the protection of families, parents and children?
- Are constitutional protections for families being upheld?

Approval of Minutes – September 9 & 10, 2015 and September 16, 2015

Minutes of the September 9 and 10, 2015, and September 16, 2015 committee meetings were approved by acclamation.

Continuation of the Review of Procedures Used by the AR Department of Human Services to Remove Children From the Home, and the Child Maltreatment Registry (Arkansas Child Maltreatment Act A.C.A. §12-18-101-1202 [Exhibit D-Definitions]

The following presenters were sworn in under oath by Senator Clark:

- Joseph Churchwell, attorney at law
- Hal Stanley
- Dr. William C. Viser

Senator Clark recognized Joe Churchwell. Mr. Churchwell said he will introduce his clients who will describe their personal stories, beginning with Hal Stanley.

Senator Clark recognized Mr. Hal Stanley. Mr. Stanley gave a detailed account of the removal of his children by the Arkansas Department of Human Services (DHS) in January, 2014 which involved:

- A DHS investigator served Mr. and Mrs. Stanley with a warrant at their home
- Mr. Stanley asked to be allowed to contact his attorney, but his request was refused
- Representatives from the local sheriff's department, the coroner's office, an ambulance, and a large number of armed officials surrounded the Stanley's home
- Mr. and Mrs. Stanley were questioned for more than five hours during which time his seven children were given physical examinations without the presence of either parent
- The seven children were taken from their home at approximately 9:00 p.m.
- Mr. and Mrs. Stanley were told the children were being taken for a 72 hour hold
- Five of the seven children removed by DHS were returned for a 60-day trial period
- The two oldest Stanley children were returned after a four month period
- The Stanley's currently have custody of all seven children

Mr. Stanley said an appeal is currently pending before the Office of Appeals. He believes his situation illustrates what is wrong with the current DHS system in its investigations of child maltreatment.

Mr. Stanley was asked if DHS investigators presented their credentials to identify themselves when the children were removed. Mr. Stanley said no identification was provided.

Senator Clark recognized Dr. William Viser. Dr. Viser told legislators he has been involved in a large number of child custody matters in his private practice as a professional family counselor. He described a variety of factors that impact children who are removed from their homes, including

- Psychological and neurobiological effects associated with disrupted attachment to biological parents
- Emotional disruption for all family members
- The challenge to adjust to the foster care environment

Dr. Viser said individuals who take advantage of false reporting to the Child Abuse Hotline do so for many reasons, primarily to gain custody of a child from the accused parent and to punish the accused parent. False reporting of these types of allegations are so great in number they have been labeled as the SAID syndrome, Sexual Allegations In Divorce. Data has shown that 45% of all true findings by DHS are reversed upon appeal.

Mr. Alex White was sworn in under oath by Senator Clark. Mr. White read a prepared statement concerning child abuse allegations made against him which resulted in the loss of his job with the Developmental Disabilities Services (DDS). He described specific

allegations of physical abuse made against him by his ex-wife. He subsequently made statements to DCFS investigators in both Grant and Saline Counties. Conflicting information was provided from the two county offices. The allegations are pending an appeal.

Mr. Jim Brader, Director, Developmental Disabilities Services (DDS) was sworn in under oath by Senator Clark. Mr. Brader was asked about his knowledge concerning the termination of Mr. Alex White by DDS. Mr. Brader said he could not discuss specific employment issues. He reviewed DDS employment termination policies and said an employee who has an allegation of child abuse or maltreatment made against them is immediately disqualified from employment. The DDS policy does not provide for an internal grievance procedure for the terminated employee.

Lisa MaGee, attorney, Arkansas Department of Human Services, was sworn in under oath by Senator Clark. Ms. MaGee was asked to explain the DDS employee termination policy. She said Statute 21-15-110 requires state agencies to immediately discharge employees when a charge of child maltreatment is brought against an employee.

Ms. Bridgitt Brantley was sworn in under oath by Senator Clark. Ms. Brantley told legislators she believes the DHS system is misused in parental custody matters. She said when she and her husband married she had two children from a previous marriage and her husband had one child from a previous marriage. Mrs. Brantley summarized events her family experienced beginning in December, 2013 when an anonymous call was made to the Child Abuse Hotline:

- An anonymous caller alleged Ms. Brantley's six year-old daughter had sexually abused her five year-old stepson
- Joint custody and visitation rights with her stepson were immediately taken away by DHS
- DHS interviewed all three children at their school without the knowledge of the parents
- Following a court appearance, a protective safety plan was initiated by DHS in the Brantley home
- The safety plan dictated no contact by the six year-old daughter when Ms. Brantley's five year-old step son visited
- A second allegation of sexual abuse against her six year-old daughter was made the day after her stepson visited the Brantley home following implementation of the safety plan
- Mrs. Brantley was never interviewed by DHS

Following court-ordered investigations of all parties, the Judge in the matter gave custody of the stepson to Mr. and Mrs. Brantley and supervised visitation to the child's mother. Mrs. Brantley said her family has incurred over \$15,000 in legal fees. She believes DHS policies should include protections for individuals who are falsely accused.

Dr. Clair Kelley was sworn in under oath by Senator Clark. Dr. Kelley told legislators Mr. Churchwell is the third attorney who has represented her family for over nine years, beginning in 2008. She provided details and a timeline of all of the allegations of child maltreatment made against she and her husband, including:

- July, 2008 a call was made to the Child Abuse Hotline alleging physical abuse of Dr. Kelley's stepson by his father
- Subsequent to interviews by a DHS investigator, the allegation was found untrue
- July, 2010 a second call was made to the Child Abuse Hotline alleging physical abuse of her stepson by Dr. Kelley
- DHS investigators went to the Kelley's home, forced the children to be disrobe and be examined. The charges were found to be untrue
- July, 2014 a call to the Child Abuse Hotline was made alleging physical abuse by both Dr. Kelley and her husband and the charges were again found to be untrue

Dr. Kelley said she and her husband currently have custody of their stepchildren. She believes the system has failed when false allegations continue to be accepted and investigated.

Kanoe Fendley was sworn in under oath by Senator Clark. Ms. Fendley described her personal experience concerning allegations of child abuse and maltreatment made against her through calls placed to the Child Abuse Hotline. She described calls made that included a variety of child maltreatment allegations:

- A allegation was made saying she was unable to financially support her two children
- Following an interview by a DHS investigator, no further contact was made by DHS
- In 2010, an anonymous call to the Child Abuse Hotline alleged Ms. Fendley to be incapacitated from alcohol
- Following an interview at her home at 11:30 p.m., no further contact was made by DHS
- An anonymous call to the Child Abuse Hotline alleged physical abuse of the two children by Ms. Fendley
- Ms. Fendley lost custody of the two children, but has since regained custody following an appeal hearing

Ms. Findley said she has no faith in the system protecting her parental rights.

The following presenters were sworn in under oath by Senator Clark:

- Heather Findley, Garland County DCFs Supervisor
- Cecilla Dyer, Attorney, Office of Chief Council, DHS
- David Sterling, Attorney, DHS

Ms. Findley was asked to discuss her position with DHS and her observations of child maltreatment cases during the previous year. Ms. Findley said she is currently a supervisor with DHS. In her former position as a caseworker, she said her job duties included evaluating families' needs.

Senator Clark recognized David Sterling who asked to address the committee. Mr. Sterling said DHS employees are prohibited by statute from giving testimony on specifics of an investigation involving a child maltreatment case.

Ms. Cecilla Dyer was asked if data is available for child maltreatment cases, in particular those cases that have gone through an appeal process. She was also asked if data is available on a county level. Additionally, she was asked to provide the committee with

data on calls made to the Child Abuse Hotline regarding the number of calls determined to be false allegations.

Lisa MaGee responded to the requests for data from Ms. Dyer and said the data for the number of anonymous reports accepted and the number of calls determined as true can be provided to the legislators. Ms. MaGee said the Department can also collect data concerning information given regarding the right of an individual to appeal.

There being no further business, the meeting adjourned at 5:45 p.m.

