

Testimony to be presented

Jack Carpenter, Chair of the State Advisory Committee

December 5, 2014

Mr. Chair, members of the committee I want to thank you for the opportunity to come and testify before you concerning the New Mexico Child Abuse and Neglect Citizen Review Board project. I will reference this project as CRB. The project came into being following the late 1970's "In Limbo" study on children languishing in state custody after removal from their homes and families. A lawsuit followed the study with the state substitute care system under court review for many years. One result of the study and lawsuit was enactment of a statute regarding review by citizens of children in substitute care in New Mexico. The statute has modified and is known as New Mexico Citizen Substitute Care Review Act, Article 8 of the New Mexico Children's Code, NMSA 1978. The CRB was formed after enactment of the statute and resultant funding from the legislature.

The focus of the review process is to report back to the legislature on ways to improve the substitute care system and present to the respective courts an independent review of children in the substitute care system. In fact the vision of the citizen review project in 2003 was "a comprehensive child welfare system that protects children, creates permanency, and maximizes well-being, in which children receive the best possible services and live in loving, nurturing, permanent homes as quickly as possible." The vision was modified in 2006 and 2009 to say "a comprehensive child welfare system that protects children, creates permanency, and maximizes well-being; a system in which children receive the best possible services and are promptly placed in loving, nurturing, permanent homes." In 2010 the vision was further modified to state "New Mexico Citizen Review Board is a visionary advocate for the safety, permanency and well being of individual children in foster care and for statewide improvement of the child welfare system." Each of those vision statements notes protection or safety, well being and permanency for the children in the substitute care system. Each one implies the need to review and improve the statewide substitute care system. I believe the citizen review process and looking to the future can help New Mexico move its substitute care system toward the best in the United States.

The New Mexico Child Abuse and Neglect Citizen Review Board project is basically a two tiered system. There are local substitute care review boards made up of volunteers throughout the state; the second tier is the state advisory committee made up of representatives from the local boards and three public members. The duty of the local board is to review and present a report to the respective courts concerning children's planned outcomes. The duty of the State Advisory Committee (SAC) is to provide an annual report to the legislature containing a summary of information gathered at the local board level, make recommendations to the legislature on

improvements to the substitute care system, and to provide general operating procedures for the local boards.

Membership of the State Advisory Committee is governed by section 32A-8-4, NMSA 1978 State Advisory Committee; members; compensation; responsibilities. “Each local board shall select its representative to the state advisory committee in accordance with procedures established by that committee.” In short, the SAC is a self appointing committee. Three public members are appointed by the secretary of finance and administration department. The membership of the SAC can and has varied from the current 11 to approximately 42 with 39 local board members. The former contractor operated with approximately 33 boards; the current contract calls for 26 local boards across the state of New Mexico.

The SAC under subsection D of 32A-8-4 NMSA 1978 is to make recommendations to the department, the courts and legislature, on or before January 1 of each year, regarding statutes, policies and procedures relating to substitute care. Annual reports have been forwarded to these respective bodies annually since establishment of the CRB. Following enactment of federal legislation amending the Child Abuse and Prevention Treatment Act (CAPTA) in 1996, the annual SAC report has been accepted by the federal government as compliance for New Mexico. The annual report has and continues to use information generated during local substitute care board reviews.

The local substitute care review boards are established following section 32A-8-5 Local Boards; appointments; exclusion; terms; training; compensation; meetings. Subsection A states “the contractor, selected by the department of finance and administration pursuant to the provisions of Section 32A-8-3 NMSA 1978 shall establish and maintain local substitute care review boards.” This subsection goes on to give guidelines related to membership of the local substitute care review boards. Subsection B states “Criteria for membership and tenure on local substitute care review boards shall be determined by the state advisory committee, after consultation with the department of finance and administration and the contractor.” The SAC promulgated by-laws in September 13, 1997. These by-laws have been amended eight times with the by-laws last amended on January 12, 2013. These by-laws contain criteria for membership and tenure on the local substitute care review boards and the SAC itself.

Currently the local substitute care review boards have an agreement rate with the children, youth and families department (CYFD) of 80%. In short the local boards concur with the decisions, treatment plans, and progress in every 4 of 5 cases. This means the local substitute care review boards do not agree with the decisions, treatment plans and progress in 1 of 5 cases or in 20% of the cases. The first inclination is to praise CYFD for its work in providing stability for the child in 80% of its cases. The question becomes what are the overriding aspects of those 20% of cases where there is disagreement. Isolating these cases for further study would be beneficial in providing necessary information for policy and procedure changes and possibly statute changes. SAC is the body tasked by the legislature to provide recommendation for these changes.

SAC is proposing legislative changes in the upcoming session. The SAC in its August 2014 meeting discussed proposed legislation in depth. During its November 2014 meeting comments and suggestions for improvements were discussed. The SAC did vote to approve the proposal without the comments and suggestions which are included at the end of the proposal. The proposal is attached to this testimony. The SAC believes the proposal does strengthen the current statute; enables the state to move forward in local substitute care review, and will enable the state legislature to be informed concerning substitute care in New Mexico.

One item in the proposal is a focus on selecting representative cases instead of trying to review each case. Using an approximate number of children in custody (I don't have an exact number as it fluctuates almost daily) of 2,700 children which corresponds to approximately 1,350 to 1,930 active cases. A review prior to each court hearing, twice a year each hearing 6 months apart, would result in approximately 2,700 to 3,500 reports and to be forwarded to the respective courts. Since the local boards currently agree with CYFD on 80% of the cases continued review of many cases would be redundant for both the review process and CYFD. However, multiple reviews of the cases where there is disagreement, the other 20%, could benefit the child/children/their families and provide information on deficiencies in the substitute care system. These more difficult cases would be approximately 270 to 390 a more manageable number. Adding a selection of cases where there is agreement would permit a better picture.

As chair of SAC I am looking to the future. A smaller committee of approximately 20 (a member from each judicial district who comes from the local substitute care review boards, three public members, and representation (non-voting) from the involved state agencies will make a stronger SAC. SAC will be able to use the locally developed data from the local substitute care board reviews, search out new research, seek input from experts in the field here in New Mexico and elsewhere, and distill the information for the courts, legislature and CYFD via an annual report. Many in the state bemoan the fact New Mexico ranks low in national child care rankings. I see it as a call to move New Mexico into the top if not number 1 in the national. New Mexico has strength in its diverse population, strength in its history, and strength in its volunteers. The SAC can begin in the new year to harness the strength of the volunteers throughout the CRB and the strengths of the contractor.

Thank you for your time and I appreciate the opportunity to come before this committee.