MINUTES

JOINT COMMITTEE ON CHILDREN'S ISSUES

August 15-16, 2001
United Way Building
Wichita, Kansas

Members Present

Representative Brenda Landwehr, Chair
Senator Sandy Praeger, Vice Chair
Senator David D. Jackson
Senator Janis K. Lee

Members Absent

Senator Paul Feleciano, Jr.
Senator Nick Jordan
Representative Gerry Ray
Representative Sue Storm
Representative Dixie Toelkes
Representative Bob Tomlinson

Staff Present

Emalene Correll, Kansas Legislative Research Department
Hank Avila, Kansas Legislative Research Department
Mike Corrigan, Revisor of Statutes Office
Almira Collier, Committee Secretary

Wednesday, August 15, 2001

The meeting was called to order at 10:15 a.m. by the Chair who stated the primary focus of this meeting was to visit with foster care and adoption contractors and subcontractors to develop an understanding of where we have been, where we are today, and where we need to move tomorrow to serve the best interests of children while maintaining a stability in the system. It was noted that Representatives DeCastro, Boston, Pottorff, and

Bethell, Senator Schodorf, and former Senator Ranson were present and would participate with the Committee in the meeting.

Overview

Jim John, Unsecured Creditors' Committee in the Matter of United Methodist Youthville's Chapter 11 filing, and Administrative Director, Wichita Children's Home, presented written testimony (Attachment 1). Mr. John explained the Unsecured Creditors' Committee represents all creditors to whom United Methodist Youthville owes moneys that are not secured by a claim upon specific Youthville assets. Summarizing the experience of the Wichita Children's Home as an indicator of the experience of the subcontractors, Mr. John noted the contractor's financial problems are an ongoing problem for the subcontractors to a greater or lesser degree. He discussed three major concerns of the Unsecured Creditor's Committee, explaining and emphasizing the importance of the chain of payment that begins at the state level and that sustains the foster care system. The structure is very interwoven and interrelated, with contractors having subcontractors, but also serving as subcontractors for other contractors. For this reason, the prompt flow of cash from the state on down is critical to the well being of the system. Delays in payments can ripple through the system, and very few non-profit providers have sufficient, if any, excess reserves to cope with payment delays. The Unsecured Creditors' Committee is concerned about what seems to be a precarious cash flow and the ongoing implications for Youthville's financial well-being. Other concerns are the large unsecured debt Youthville owes the State of Kansas and the fact that all foster care contractors, including Youthville and the State of Kansas, are currently operating on a three month interim contract that expires September 30, 2001. Specific concerns include: (1) the impact on foster care contracts of discussions relating to mental health service delivery options; (2) the contract provisions that make Youthville responsible for providing uncompensated, on-going services for children who reach permanency but come back into the system within one year; and (3) whether the state may be actively seeking another entity to take over the contract. If the latter happens, Youthville could move from a Chapter 11 reorganization to a Chapter 7 liquidation.

Mr. John then stated his personal and professional observations, including his qualifications to do so. He believes the system is under funded. The state covers only 70-80 percent of the cost of quality care for children which creates a lose-lose proposition for providers and foster care families who are subsidizing the basic costs of beds, food, and clothing. There are not massive amounts of money being wasted by agencies because they are so poorly run. Agencies involved in the system understand improvements can be made and are always looking for ways to improve efficiency and effectiveness. Mr. John emphasized that ultimately the State of Kansas will have to resolve the problem and provide funding to assure quality care for children in the state's custody. The question is how many partners in the not-for-profit sector will be left to help the state provide care.

In answer to a question, Mr. John stated information received to date indicates Youthville's total debt from uninsured creditors is approximately $10.5 million, including $4.8 million identified as the Youthville Foundation and $3.5 million advanced by the state. Providers account for the largest percentage of the remainder. However, the total extent of indebtedness will not be known until after the October 1, 2001 deadline for filing claims with the bankruptcy court.

Mr. John, responding to a question, stated the ideal payment schedule would be 30 days after billing throughout the entire system. It is not happening that fast because so many of the reserves that may have existed in the system four years ago are not there now. Each level of the system is more dependent on current cash flow. Answering a question, Mr. John stated the attorney for the Unsecured Creditor's Committee has asked for information relating to the incidence of adoptees coming back into the system who fall under the 12-month provision and the cost involved. This is a critical issue because it is an expenditure for which the contracting agency receives no revenue. Mr. John deferred the question as to why adoptions fail to someone more directly involved in the program area of the Wichita Children's Home.

Foster Care Contractors

The Chair noted a list of questions to be answered today had been sent to contractors (Attachment 2), subcontractors (Attachment 3), and the Department of Social and Rehabilitation Services (Attachment 4). It was noted the three sets of questions were in the Committee folders.

United Methodist Youthville. Carl Martin, Interim Director, United Methodist Youthville, expressed the hope the testimony given today would trigger some high level collaboration between providers, particularly in Sedgwick County, and the legislative and executive branches of state government to address the difficult issue of providing services for the special needs children of Kansas. The legislative and executive branches need to find a way to move beyond the assumption that there are no more financial resources to address this issue. All parties need to help develop a climate that responds positively to children needing care rather than badgering each other for not being effective or efficient. A society is ultimately judged by what it does to empower children to realize a dream and for those children who have been wounded to have at least minimal basic supports.

Mr. Martin referred to the written answers to the questions submitted by the Committee (Attachment 5) and to information regarding his agency's financial status after four years of a public-private partnership (Attachment 6). He stated during the four years Youthville had approximately 40 percent of Kansas children in need of care under its direction which necessitated increasing the number of employees from 200 to 650 in a few months. Before long, it became clear that continuing to provide services as required by the contract was requiring the use of surplus funds Youthville had accrued as an efficient and effective organization and through the gifts of loyal donors prior to the contract. Basically, all accessible reserves have been depleted and a net loss of $20 million sustained resulting in the filing of a Chapter 11 bankruptcy. The original contract, however well intended, was flawed because of inadequate information on the part of the state agency as to the costs that would be incurred. Every provider has been wounded financially, and the financial condition of Youthville reveals the extent of the wound.

Of the $3.5 million advance the agency received from the Department of Social and Rehabilitation Services in 2000, $1.5 million was interpreted as a part of the transition resulting from the state agency deciding to award the contract for Region IV to another contractor. The debt became a part of the bankruptcy. In addition, $2.5 million is owed to providers. The remaining assets, properties including the campus in Newton and the campus in Dodge City, are currently being appraised for the purpose, hopefully, of their use as equity to leverage operational loans. Under the current contract, which is based on more adequate cost information developed by the state agency, Youthville basically is breaking even, with a slight loss resulting from interest on the indebtedness incurred during the first four years. There have been significant staff cuts and management steps taken to reach this point. It is important to remember that reorganization under the Chapter 11 bankruptcy will require coming up with $6 million through revenue enhancement, cuts, or both. If there could be a special grant, that could go to settle accounts with subcontractors, Youthville could make it under the new contract. Steps have been taken and continue to be taken to correct mistakes made by Youthville. The Committee asked that a snapshot of the internal structure of the agency, what has been done to cut expenses, and what further plans there are to cut expenses, be provided the Committee.

In response to a question, Mr. Martin stated during the first four-year period, Youthville had to expend approximately $6 million received in contributions from donors. The non-profit sector has been, and continues to be, willing to contribute a portion of the cost of providing services, but there is a limit to what the non-profit sector can do. Figures for a year and a half ago indicate most non-profits were contributing 20 to 30 percent of the cost of providing care for children in state custody. For Youthville, the donor base of $1.3 million has remained constant during the contract period, but there is concern about the impact the current situation will have. Some donors are beginning to question why they should be subsidizing the basic care of children for whom the state is legally responsible. Another factor that should be noted is that Youthville, as a subcontracting provider for other contractors, has accounts receivable of approximately $1 to $1.2 million.

In answer to a question, Mr. Martin stated approximately 50 percent of the services are provided by Youthville staff. Mr. Martin, responding to a further question, said the whole fabric of the care system in Sedgwick County would be seriously wounded if the providers his agency owes are reimbursed only a percentage of their receivables as happened in the Lutheran Social Services' case last year. Responding to a Committee member, the conferee said the cost per child includes everything needed for serving a child placed out of his home that is covered by the contract and can vary considerably depending on the needs of the individual child. Medical costs are covered primarily by Medicaid. The school district provides education, with some exceptions. Further responding to questions, Mr. Martin stated vulnerability under the new contract is in two areas. First, the percentage of high-need, high-cost children being assigned is increasing due, in part, to the success of family preservation and similar services. Help is needed to meet the costs of serving these children. The second area deals with providing aftercare services for children placed in homes and providing services indefinitely for children who are returned to Youthville because the placement was not successful, both without reimbursement. According to a recent report, Youthville is providing services for about 20 children who have been returned from a placement.

It was pointed out the current system is not a true privatization system. An entity, usually the court, determines who is sent to the contractor, when and where a child is placed, and when a child is returned to the contractor.

St. Francis. Dr. John Cosco from The St. Francis Academy, which currently has the Foster Care-Reintegration Contract for Region IV, presented written answers to the questions submitted by the Committee (Attachment 7). In answer to a question, a St. Francis fiscal staff member stated the Academy has approximately 60 subcontractors, but only those primarily being used were included in the answer to question 3.

Kaw Valley. B. Wayne Sims, President and CEO, Kaw Valley Center, Inc., presented written answers to the questions submitted by the Committee (Attachment 8). Mr. Sims stated Kaw Valley originally served Regions 1 and 2 which have about 43 percent of the state's population, but currently serves only Region 2. The Center has a business plan which is approved by the Board of Directors and reviewed by Social and Rehabilitation Services. Approximately 55 subcontracting agencies are involved in providing services.

The business plan, Mr. Sims stated in answer to a question, is not required by the contract, but is a good model to develop and follow. The plan used by Kaw Valley includes agency goals and goals developed by each department. Responding to further questions, the conferee stated the agency has an Executive Board that is involved in policy and decision making and an advisory board that is comprised of representatives from the various communities. The boards are a blending of financial, management, and professional people. He said that in 1997, Social and Rehabilitation Services awarded the bid price. However, since there was very little accurate information available on which to base bids, almost all bidders underestimated the cost. The current contract, based on a negotiated price less than the original bid, resulted in cutbacks basically in services Kaw Valley believes would be helpful but not necessary. Mr. Sims stated both a focus on permanency and safety and a focus on fixed and variable costs is needed on the part of the contractor. Answering a question, the conferee said Kaw Valley depleted its financial reserves under the first contract, but is working to replace them. Services are now being provided within the capitated rate. Additional money raised is used for enhancements to care, *i.e.*,things not covered by the medical card. Dollars are routinely added to the amount provided in the contract. Whether mental health services are provided by a subcontractor or by staff is dependent, to some extent, on services available in each county. Continuing to respond to questions, Mr. Sims stated if a child reenters the foster care system, the contractor does not receive additional money from the state. Each contractor had to calculate a dollar amount needed to provide aftercare for 12 months after a child reached permanency in developing a bid.

The Farm. Dale Bell, Senior Vice President, CEO, and General Counsel, The Farm, Inc., presented written testimony, including answers to the questions submitted by the Committee, outcomes achieved during the first year as a Reintegration-Foster Care Contractor for Region I, and comments from the James Bell audit dated March 15, 2001 (Attachment 9). Mr. Bell stated, during the first four years, The Farm was a subcontractor to several other agencies. Expanding on the written answers, he noted The Farm accepted the 32 percent fixed costs, which was lower than actual fixed costs, calculated by Social and

Rehabilitation Services for all contractors. Administrative costs in the permanency section are 10.48 percent which is lower than for the total contract.

Responding to questions raised earlier by Committee members, Mr. Bell stated the bid amount per month per child was $1,967 and the negotiated rate under the contract is $1,958. The Farm has a governing board that sets policy, reviews financial data, and approves budgets and major contracts. There are board committees in various areas that meet monthly and make recommendations to the board. In addition, there are advisory boards in the communities where The Farm has offices to provide feedback on the needs of each community and whether or not the approaches to those needs are appropriate. Mr. Bell, in answer to a question, stated The Farm is also a subcontractor. Money is owed by St. Frances and United Methodist Youthville, but moneys have been received on both accounts. He said the July 2000 rebid contract did include mental health services in the aftercare portion of the program.

Mr. Bell and representatives of other contractors, in response to a question, confirmed their boards are indemnified.

Kansas Children's Service League. Robert Hartman, President and CEO, Kansas Children's Service League, the Reintegration and/Foster Care Contractor for Region III and statewide Adoption Contractor, presented a packet with the following materials: written testimony, including a brief overview of the agency and its mission; answers to the questions submitted by the Committee; recommendations, concerns, and conclusions (<u>Attachment 10</u>); a news release relating to the privatized system for child welfare services (<u>Attachment 11</u>); and "A Kansas Children's Service League Snapshot" on foster care and on adoption (<u>Attachments 12 and 13</u>). Mr. Hartman also distributed copies of the League's 2000 Annual Report and of an issue of the *KCSL News.* Mr. Hartman stated the League was a home and community based social services agency rather than a residential care environment prior to privatization, so the agency's experience and approach have been somewhat different from other contractors. He noted agencies face many challenges in a complex service environment with multiple decision makers. The Department of Social and Rehabilitation Services is to be complimented for system improvements and the support provided in the contracting environment.

In additional remarks, Mr. Hartman stated all the mental health services for Kansas Children's Service League assigned children are coordinated and managed through an established relationship with the Mental Health Consortium. One payment per month is made to the Consortium, simplifying payment for these services. The former quality management group has been organized into a separate entity with which the League now contracts for services. If the latter contract were included in administrative costs, the percentage for administrative services would increase to 14 percent. The Kansas Children's Service League looks to the donor contribution base as support for child abuse prevention, early intervention services, and for additional things such as birthday and holiday gifts. From the beginning, the League has felt the state contract should cover the costs of basic services, and League bids were prepared on this basis. (Copies are available from the Kansas Children's Service League.) Mr. Hartman stated public policies, fiscal decision-making, and systemic changes in the child welfare system must ultimately reflect the unique and varied needs of children and families throughout the state. Improvements in this system will only happen with a commitment to and pursuit of a solution-focused approach to the barriers and challenges that are inherent in the system. He noted, in light of recent speculation about the League's financial viability, the agency uses appropriate accounting and control systems and procedures that are continuously reviewed and audited by appropriate third parties, including third-party revenue providers. In the most recent audit and financial statement, the League received the highest level of audit assurance. Financial statements are reviewed monthly with the Board of Directors' Executive Committee and quarterly by the full Board. The agency has a business plan and a sophisticated information system capable of producing data from which the agency can determine where it should be in terms of placements and how to reach placement goals through quality management.

Key challenges for the League have been the drop in the referral base, the high level of mental health service needs, the increased demand on placement resources, the uncertainty of state funding levels, the extension of contract negotiations, and a scrutinizing public environment created in part by media reports. Because of the interconnectedness of the system, the temporary setbacks or problems of one contractor produces a ripple effect among the other providers. The League is learning from experience how to improve financial performance.

In response to a question, Mr. Hartman stated permanencies exceeded referrals which hurt financially, but the League is still focusing on permanencies. This problem was addressed directly in negotiations with Social and Rehabilitation Services resulting in a fixed cost payment that is to be provided each month, with an additional variable amount for a case rate. The latter will vary from month to month depending on the number of children served. The major factor in adoptions was the transition from one contract to another but the transition has been achieved. In further response to questions, the conferee stated the extraordinary cost of services for Levels V and VI children had been a problem. Until July 1, the contractors were responsible for mental health services for both Level VI and children needing these services on an outpatient basis. Subsequent to July 1, Medicaid is responsible for these costs. Between July and October, the League will pay The Mental Health Consortium for services; the state will reimburse the League; and the state will bill for the federal share. This is to allow the time needed for the state agency to develop an internal system necessary to provide mental health services through a Medicaid card.

Don Jordan, Director of Operations, Children and Family Policy, Department of Social and Rehabilitation Services, stated putting Level VI children in the contract was seen as providing an incentive for contractors to utilize outpatient rather than inpatient care where possible. Some staff felt uncomfortable putting these services under the medical card without adequate utilization review systems in place.

In summary, Mr. Hartman stated the League feels, with the new contract and some of the controls that have been put in place, the agency will be in good shape this year. However, it will still require a lot of effort to make the League's placement goals fit with their business plan.

The Committee asked all contractors to provide the following information:

- The percentage of children in residential care and the percentage in foster care;
- The bid amount versus the negotiated bid;
- The average cost per child; and
- Staffing before privatization, after privatization was implemented, and currently.

Subcontractors

Wichita Children's Home. Sarah Robinson, Wichita Children's Home, presented written answers to the questions submitted by the Committee along with a program report for July 1, 2000 through June 30, 2001 (Attachment 14). Ms. Robinson stated the Wichita Children's Home is a large emergency shelter, working primarily with United Methodist Youthville, but available to provide services for other agencies in the state, especially for those children needing care on weekends and holidays or in emergency situations. The Home provides family foster care for children 0 to 5 and residential care for those 6 and above who are just coming into the system. Law enforcement brings a child in, the situation is investigated by Social and Rehabilitation Services workers and the District Attorney, and within 72 hours a decision is made about the child entering custody. United Methodist Youthville then has four hours to start further assessments or to move the child to an appropriate setting. The Home serves children who are not placed in foster care homes, whose placement is being investigated, who need respite from their foster home or group setting, or who are disruptive in their placement and need intensive services. In addition, the Home has an independent living program, provides visitation supervision, and provides voluntary care for children in an attempt to keep them out of custody.

Ms. Robinson expressed appreciation for the quality services provided by Youthville, noting the agency has turned what was basically a 40-hour a week system into a "24-7-365" system and has been responsive in helping with payroll in certain situations. Another positive step provided by the new system is the ability to negotiate rates, in contrast to having rates set through the budget process.

Responding to questions, Ms. Robinson stated most of the children are on medication to manage behavior, and it is not unusual for children to be on three to five medications of this type. There is a licensed professional nurse and a licensed practical nurse on staff to make sure medications are administered properly under the oversight of a psychiatrist. The group of children being served by shelters such as the Wichita Children's Home is different from the group served five years ago. It is an appropriate group to serve although it is more expensive to meet their needs. Ms. Robinson responded that the difference between the cost per child per day and the reimbursement from contractors is made up through United Way moneys and the community fund raising efforts of the agency's Board. The Board's preference would be to use donor money for prevention, for extras such as cheerleader uniforms, sports equipment, and basic clothing needed to keep up with the children's growth.

Mr. Jordan stated the standard policy in reimbursing for residential care is to pay for the day the child entered, but not for the day the child left which works for 30 to 90-day stays in residential care. However, in an emergency shelter, where the child stays for only three to five days, this policy meant that from 25 to 30 percent of bed days were not covered. Based on 2001 legislation, the state will now pay for all days in an emergency shelter if the stay is five days or less.

Lutheran Social Services. Bernice Karstensen, Chief Executive Officer, Lutheran Social Services, presented written testimony, including answers to the questions submitted by the Committee (Attachment 15). Ms. Karstensen noted the estimated number of children going into the statewide adoption system was higher than the actual number received for a variety of reasons, which meant the agency had hired staff for 80 more children than materialized thereby creating a rather severe problem.

Kansas has a good start, Ms. Karstensen noted, toward serving children and families through the public-private partnership. There is a unique opportunity to focus efforts on solutions, systemic changes, and positive efforts rather than on society's more traditional mind set of assigning blame. Suggested areas for further attention are a focus on preserving family resources for the child; allocation of sufficient state resources for primary prevention; long-term focus on community strategy to support families in crisis; a multi-disciplinary task force to analyze the true cost of services, including administrative costs; and the state holding contractors accountable to meet outcomes for children.

Responding to a question, Ms. Karstensen stated Lutheran Social Services has received moneys from various religious and secular foundations and from the federal government for research and demonstration projects and believes in fund raising for needed projects. However, donors are beginning to say that services under the partnership with government have already been paid for by taxes and donated money should go for services outside of the contract. The private sector cannot afford to fund joint support for basic services for children and families covered by the contract. Many of the agencies in the foster care and adoption services programs have had to utilize cash reserves and property assets to fulfill their responsibilities under the contracts. Lines of credit are supported either by a foundation or by stocks. Dollars allocated for the public-private program are not sufficient to support achieving the expected outcomes.

Rainbows United. Lorie Angelo, a staff member of Rainbows United, Inc., presented written testimony in response to the questions submitted by the Committee (Attachment 16). Ms. Angelo stated Rainbows fills a special niche for foster care in the Sedgwick County area and south-central Kansas by providing services for medically fragile children and for children with significant or multiple developmental disabilities. Turnover is lower than for other agencies due to the type of child served. Adoption services are not provided, but many children will move toward adoption because returning to the parent's home is not a viable option. Last September, Youthville implemented a three-tier rate for reimbursement, applicable to children deemed special medical or behavior children and based on the assessed level of care needed for each child. Documentation is submitted each quarter to establish the appropriate care level.

Charlie Applegate, Director of Finances, Rainbows United, indicated there were significant delays in receipt of payments from Youthville earlier in the year, but there has been steady improvement, with the last payment received within 30 days. There have also been problems with some of the other contractors. The number served has been very close to projections although there has been a slight decrease in the last two months. Currently, Rainbows is losing approximately $30,000 a year. A reduction in reimbursement from a contractor had to be passed on as a reduction to foster parents from approximately $38.00 to $29.00 a day. Last September, Youthville implemented a three-tier rate system, based on severe, moderate, and mild service needs that is applicable to children deemed special needs medical or behavior children. Placement on a tier is based on a checklist of specific needs developed for each type of child. Prior to implementation of this system, Rainbows received $55.00 a day for each child and was at a break-even point. Under the tier system, the rates are $55.00, $48.00, and $38.00 resulting in a loss. Implemented as a cost saving mechanism, the tier system has meant less money in some cases for Rainbows and for foster care families.

Continuing his testimony, Mr. Applegate stated Rainbows has a lot of expertise in serving both the 0 to 5 year-old population and the 5 to 18 year-old special needs population. Approximately 200 children are served in other services provided by Rainbows. The agency wants to continue serving children in the contract program, but questions whether this can be done with a loss that could jeopardize other agency programs. Mr. Applegate, answering a question, stated the agency has fund raising activities and also receives assistance from other sources such as special education. However, the surplus which had been built up is evaporating. There is a very real potential that Rainbows will have to consider withdrawing from the partnership.

Prairie View Mental Health Center. Melvin Goering, CEO, Prairie View, presented written testimony giving an overview of services provided, responding to the questions submitted by the Committee, and making some observations (Attachment 17). Mr. Goering stated Prairie View is a subcontractor for foster care and adoption and also has a contract with the Consortium to provide services as a subcontractor. Contracts are not capitated. Referring to the information in the written testimony regarding amounts owed by contractors, Mr. Goering stated two checks for $58,000, which would change the figures, had just been received. There have also been some payment delays from the Consortium due to their late receipt of contract payments. The payment issue involves a failure to respond to billing statements, difficulty in identifying the contractor responsible for some children, difficulty in getting timely authorization for services, and the periodic shift in state policy on the services to be covered by the contractors and those to be covered by the medical card. No single policy decision has created more confusion and impeded quality mental health services more than the decision to have contractors responsible for the mental health needs of the children. Contract difficulties flow from foster care and adoption systems that are fragmented structurally with multiple providers, separate geographical regions, and a different set of processes and structure for each contractor.

In answer to a question, Mr. Goering stated the contractor referred to on page 2 of the written testimony (Attachment 17) as absorbing more time securing authorization for services and reaching agreement on responsibility for services, is St. Francis. Mr. Goering was asked to provide the Committee with specific information about the amount owed by each contractor and the time since billing. The conferee stated certain Medicaid payments given to those providing service as a community mental health center in a specific catchment area are not available to private providers. Prairie View can receive payments for services given within their catchment area, but not for services provided in their offices outside the catchment area since these offices are considered private offices.

Mr. Jordan, answering a question, stated if you are in social services in Kansas, you are dealing with multiple entities whose catchment areas differ. There are 11 Social and Rehabilitation Services management area offices, 29 community mental health center catchment areas, 2 state hospital catchment areas, 5 foster care regions, and 31 judicial districts which is an issue in continuity being addressed in the mental health reforms under consideration. Mental health services will be managed through the Mental Health Consortium. The contractor, after determining a child needs mental health services, will make a referral to the Consortium which will assign the child to the appropriate community mental health center. Emphasis will be on continuity of service as a child moves from one location to another. The plan includes a process to manage disputes between mental health centers and contractors. Also, contracts, as of 2000, require that 70 percent of the children served must be in their home county or a contiguous county.

The meeting was recessed until 9:00 a.m., August 16, 2001.

Thursday, August 16, 2001

The Chair reconvened the meeting at 9:15 a.m.

Subcontractors Continued

Jennifer Chapman, Hannah House, Lawrence, presented written testimony (Attachment 18) with responses to the questions submitted by the Committee and including comments about her concerns. Ms. Chapman stated Hannah House is a group home, licensed by the Department of Health and Environment, which has subcontracts based on a capitated rate with several contractors and the Juvenile Justice Authority to provide services to pregnant and parenting teenagers throughout the state. The estimated cost per day-per client is $190 for youth and $250 for a youth and her infant. The daily fee received for clients varies, depending on the contractor, from $55 to $70 per day and from $0 to $35 per day for infants. Because the agency is a small agency, chronically late and undependable payments have caused great financial stress to the agency and make providing services more and more difficult.

The greatest concerns, Ms. Chapman stated, are the issues of administrative and/or financial reliability and that client services be viewed and evaluated separately. For example, one agency which usually pays on time has demonstrated deplorable client services and has failed to return calls and respond to complaints of improper care. The agency which is least dependable financially offers some of the best extensive and reliable client care with a staff that is responsive and caring. Also of great concern is the current opinion that foster home placements will better serve a child than a residential care facility. There is a perception that children are being placed in foster homes that already have too many children and that foster homes are being awarded “exemptions” to be over capacity on a regular basis. While residential facilities are not ideal, they are designed to deal with a large number of children at one time with a revolving staff instead of one overworked set of parents. While this may be a lot of “hearsay,” it is a point about which the Committee needs to be aware.

Ms. Chapman concluded by noting the overall foster care system is working; services to children have greatly improved; the indications are they will continue to improve; and, if financial and administrative shortcomings of the contractors can be resolved, the children of Kansas will continue to benefit from a strong and caring system.

In answer to questions, Ms. Chapman stated the agency charges a daily rate. The agency receives approximately 50 percent of its budget from fees received from contractors, approximately 25 percent from grants, and approximately 25 percent from private donors. The agency has not experienced a decrease in private donations. The agency has an established line of credit.

Salvation Army, Wichita. Major Dallas Raby, Salvation Army, Wichita, presented written testimony providing answers to the questions submitted by the Committee (Attachment 19). Major Raby stated the basic problem is the depletion of cash reserves. Continuation of services was and is dependent on receiving payments in a timely manner which has not occurred for some time. When the amount owed by Youthville was approaching $1 million, the Salvation Army was faced with the inability to pay the staff and foster parents. The Department of Social and Rehabilitation Services was made aware of the situation and the affect it could have on the Salvation Army’s ability to continue providing services. Major Raby distributed a chart showing the debt growth (Attachment 21). Questions were raised later as to whether or not the chart depicted an accurate picture. Major Raby stated, if the current payment due is not received by the 18th or 20th of the month, consideration will have to be given to notifying foster parents that payment cannot be made to them because money owed to the Salvation Army has not been received. If payment is not made, and there is no guarantee it will be, the Salvation Army will be faced with making a decision as to whether services can be continued. This is not an easy decision since the Salvation Army Board feels an ethical responsibility to provide services for children in need. Also, according to the license to provide services, such services would have to be provided for 30 days after any such decision is made.

In response to questions, Major Raby said when the Salvation Army was faced with a similar situation as a subcontractor with Lutheran Social Services, some legislators indicated the state should provide a guarantee of payment. However, the Department of Social and Rehabilitation Services lobbied against such legislation and it was defeated. As a result, the Salvation Army received only approximately $.74 on the $1.00. This scenario indicates the Department of Social and Rehabilitation Services' posture is the agencies providing the services should bear the risk and be willing to lose significant sums of money in order to provide services. The Salvation Army does not agree. Major Raby stated the Salvation Army probably received the direct payment of $500,000 from the Department of Social and Rehabilitation Services because they were the largest provider of family-based foster care, were in a difficult financial situation, and the state agency realized a discontinuation of services would be a loss to the state. The Salvation Army has asked that the Department make payments directly to them since it appears that the contractor receives payment from the state based on billing submitted, but, in this case, is not forwarding the money to the subcontractor. Of the $29 a day received for foster care, $20 goes to the foster parent, $.09 goes for administrative costs, and the rest goes for staff providing direct services, *i.e.*, case managers.

Responding to further questions the conferee noted Youthville was two months behind in payments (February and March) when the Salvation Army sent a letter of appeal on April 10, 2001, to the Department of Social and Rehabilitation Services and enclosed a copy in a letter to United Methodist Youthville (Attachment 22). Another letter was sent to the Department on April 20, 2001, which included steps the Salvation Army would take if payment was not received by April 24, 2001 (see Attachment 22). The steps to be taken included notification to foster parents about non-payment, a press conference to explain the situation with Youthville, and the need to protect the children of Kansas. The state agency notified the Salvation Army on April 24 that payment would be sent, and a check for $500,000 was received on April 25. Also in April, Youthville delivered a check for approximately one month of service. If Youthville "goes under," the Salvation Army will be at risk for approximately $1 million which includes the amount owed but not paid and the 30 days of service which must be provided after a decision to discontinue services is made. The Department of Social and Rehabilitation Services has indicated that Youthville does have the assets to pay off their debts, but the contractor states a need for $6 million to accomplish this. The risk level for subcontractors has been and is being underestimated. A guarantee of payments to subcontractors from the state is needed.

In response to a question, Major Raby stated the Salvation Army has historically subsidized residential and foster care services at 25 percent. This percentage has dropped because of the increased cost of services. The expectation is to continue subsidization of these services to some extent. Major Raby was asked to provide the Committee with figures relative to the subsidy amounts actually paid by the Salvation Army.

East Ridge Family and Community Services. Michael Hinton, East Ridge Family and Community Services, Winfield, presented testimony including answers to the questions submitted by the Committee, an overview of the agency, including the services offered, and information about the youth served (Attachment 22). Mr. Hinton stated that East Ridge, which is one-year old, provides services for youth 10-18 years of age, including temporary shelter services and a non-secure residential setting for Level V youth. The agency is at risk because of the way payments are made and the new regulations promulgated by the Department of Social and Rehabilitation Services for Level V services. Although the agency basically supports the new standards which focus on needed care, providing the services at the current rate is a challenge. Hopefully the cost issue will be addressed in the near future.

Responding to a question, Mr. Hinton stated Level V includes youth who have a psychiatric diagnosis; may have been in foster care for years in multiple foster homes, or in a Level VI placement; have serious behavioral problems that may include violent tendencies; and may be suicidal. Although the required staffing is 1 to 7 during the day and 1 to 10 at night, the agency tries to staff at a 1 to 5 ratio, based on the feeling the required staffing ratios of 1 to 7 during the day and 1 to 10 at night are too high for these youth. The average stay for Level V youth is 130 days. The temporary shelter is short term.

In answer to questions, Mr. Hinton noted the youth served are adjudicated youth the court has placed in the custody of the Secretary of the Department of Social and Rehabilitation Services who turns them over to a contractor. East Ridge makes recommendations, which may or may not be followed, for placement at the time of discharge and when the youth should be discharged. Time of discharge is based on an assessment tool given to the provider. Youth, at time of discharge, may go home, to therapeutic foster care, a group home, or a drug treatment facility. In a crisis situation, the youth may be placed in a Level VI facility which is hospitalization. Jerry Payner, bookkeeper for East Ridge, stated the agency has a $150,000 line of credit. The deficit this year for services provided is approximately $50,000 and interest on loans approximately $12,000. The contract does not provide for charging interest to the contractor for late payments. Mr. Payner stated a quicker and more reliable turn-around time for payments is needed. Since the agency is currently a for-profit organization fund raising is not an option. However, the agency is applying for not-for-profit status.

The Shelter. Judith Culley, Director, The Shelter, Inc., presented written testimony relating to the questions submitted by the Committee and the positive and negative aspects of the privatization of services (Attachment 23). Ms. Culley stated The Shelter is a medium size agency with a $2 million budget, providing emergency and temporary shelter care primarily for foster care and adoption contractors. The Shelter also sells these services to the state for children in Juvenile Justice Authority custody and children placed through law enforcement, as well as taking some private placements. Service is provided on a per child, per day fee-for-service basis. Approximately 75 percent of the usage is by contractors and approximately 25 percent by the state directly. A small amount of family foster care is also provided for contractors on a per day, per child basis. The case management responsibility remains with the contractors for children in the emergency shelter and family foster care programs. In answer to a question, Ms. Culley stated administrative costs for The Shelter are about 12 percent. The Shelter, Ms. Culley noted, also provides adoption services with outstanding outcomes. The initial contract provided for payments on an outcomes basis, but current payments are on a capitated rate per child per month. Under the latter system, a large number of high-needs children requiring residential treatment can be financially hazardous.

A great deal in the privatized system is working well, Ms. Culley noted. In general, children are getting significantly better services than when privatization began and are frequently getting better services than before privatization. The problems that remain appear to be financial and need to be thought of separately from service delivery in order that the financial issues can be addressed without disrupting the strides which have been made for children. Financial problems have included inaccurate and unpredictable numbers of children to be served, inadequate financial management systems within agencies, slow payments, and the domino effect of any one financial catastrophe. There are mixed messages about the contractor and subcontractor's financial responsibility, with one message being that agencies should be operating with business principles and the other message being that agencies should operate as a charity. It has been made clear that the state will not be involved in the day-to-day business operations with subcontractors making the subcontractors responsible for collection of payments, the risk involved, and the losses experienced. Contractors can go to the state for protection due to temporary low referrals, etc. In theory, subcontractors can go to contractors for similar protection. However, this has not been very successful because of the financial problems contractors have had. This leaves subcontractors as the most unprotected part of the system. Another aspect of the problem, Ms. Culley stated is that emergency shelter services are also purchased by the state for Juvenile Justice Authority and law enforcement based on a non-negotiable rate that has not been changed since 1994. The hope is that the state will take steps to protect the system of community-based services for children and families in these volatile financial times.

Mr. Jordan stated the Juvenile Justice Authority statute says the state rate, which is the Medicaid rate, must be used. A committee is looking at this issue, but the problem is that any rate change in this area impacts other areas.

The need for a standardized chart of accounts defining administrative costs, service costs, and a standardization of fixed and variable costs was noted by a member of the Committee.

Marillac. R. Michael Bowen, LSCW, President and CEO, Marillac, presented written testimony with answers to the questions submitted by the Committee (Attachment 24). Mr. Bowen stated Marillac, a Level VI children's psychiatric center in Kansas City, Missouri, has subcontracts with two contractors, with Juvenile Justice Authority, and with private referrals making up the remaining Level VI admissions. There are no capitated contracts, but special arrangements are made with several customers for prepaid beds. The working relationship between The Farm and the Kansas Children's Service League is key to the successful return of children to their communities. Medicaid is the only payer that presents a problem. A check just received from Medicaid for $50,000 lowers the amount in accounts receivable over 120 days shown in the written testimony to $40,000. As a part of Cornerstones of Care, a merger of five agencies, Marillac has the potential, Mr. Bowen noted, to step down youngsters more quickly. However, reimbursement rates for Level V and below means it is not feasible for the other agencies in the merger to provide services for these children.

Mr. Bowen noted there is a problem concerning reimbursement for education of Kansas children. Educational services must be provided from treatment dollars since there is no mechanism to access educational funding or public school education for Kansas children because the agency is located outside of Kansas. Prior to privatization, Social and Rehabilitation Services had a separate fund to pay for education for children placed in Kansas City, Missouri, but the fund has vanished, and the private contractors do not have the means to pay these educational costs. Responding to a question, Mr. Bowen stated children are returned to their home or placed in foster care after an average stay of 120 days.

Foster Parent. Laurel Janssen, a foster care parent, presented testimony regarding Reno County foster parents' views, stating it is important to keep children and siblings in their community to foster integration with their parents. Yet the contractor is placing children in foster homes 65 to 100 miles away. There is also a lack of services to birth families due, in part, to the poor quality of the contractor's workers. There are great expectations of the birth family with little help provided. As the contracts are written, the contractor is neither required to provide these services or see that they are provided, nor required to help families with costs for things such as the psychological and parenting evaluations required for children coming through custody. In Reno County, these evaluations are approximately $315 and $210, respectively. Another concern is the lack of communication in the system, Ms. Janssen stated. There are too many layers and too many case managers for efficient and effective communication. The question becomes, "Who knows what?" Information is not being accurately transmitted by the contractor to the state agency or from foster parents through the contractor to the state agency. Ms. Janssen noted another view is that Social and Rehabilitation Services needs more control. One solution, although costly, would be to turn all case management back to the agency. A more cost effective solution might be to leave the privatized system as it is, with case managers provided through the private agencies and giving the state agency the personnel to oversee private agencies directly and the enforcement capability to assure contracts are enforced and services are being performed adequately. (See Attachment 25 for an outline of Ms. Janssen's testimony.)

In response to a question, Ms. Janssen said information received by foster parents prior to privatization was better than that received at the beginning of privatization, but was still not adequate. It is understood that in some cases full disclosure is not possible. Information coming through the contractors is usually a cover sheet giving the reason the child was brought into custody and any information the contractor may have at the time the child is placed in foster care.

Sedgwick County Initiatives

The Chair noted representatives from programs initiated in Sedgwick County had been invited to share with the Committee during the lunch hour. The hallmark of these programs is that providers are working in concert with one another to impact what happens to children and youth in the community. Attachments 26 through 29 are the written material provided to the Committee.

Social and Rehabilitation Services

Following lunch and the Sedgwick County presentations, Mr. Jordan presented written testimony that includes: a summary of activities developed to monitor and oversee those services for the protection and nurturing of children in child welfare that are contracted and answers to the questions submitted by the Committee (Attachment 30). Mr. Jordan stated the agency takes its responsibility for the protection of children in custody seriously and appreciates the dedication of the contractors and subcontractors. Improvements have been made in the data collection systems allowing better tracking of clients, detection and resolution of problems, and monitoring of outcomes. Kansas is considered a leader in developing outcomes to track what is happening in foster care, adoption, and family preservation services. The public-private partnership has been a process of evolution in which both the state and providers have learned and are continuing to learn how to make the system more efficient and effective.

Mr. Jordan said the requests for bids sent out in 1999 included an extensive list of questions and required the submission of a four-year budget plan; a four-year plan showing estimated percentage of children in each level of care, along with the anticipated cost of care for each level; a four-year cash flow analysis; income statements; and financial reports. An independent contractor was hired to assist the state agency in the review of the financial information submitted with the bids. The goal was to get the best fair price for services required in the contract. Bidders were told to be sure the bid, and later the negotiated price, were a figure they could live with. The required financial reporting put in place toward the end of the first four years evolved over those first four years and has continually become more sophisticated. Currently, the monthly financial reporting system includes submission of a monthly and year-to-date report of revenues and expenditures and monthly and year-to-date budgets allowing a comparison of operations to revenues, expenditures, and budgets to be made. A monthly balance sheet and cash flow analysis are also required. These reports are reviewed each month by the fiscal staff of Children and Family Policy and the agency's budget director's staff and are shared with the State Director of Budget's staff.

Mr. Jordan noted advances were given to contractors at the beginning of the new contracts because of changes in contract requirements, the fact new contractors were entering the system, and to eliminate contractors paying interest on loans. It was anticipated all advances would be paid back in the first year of the contract. However, due to the cash situation of some contractors, the Department of Administration agreed to defer payments to years three and four of the contract. (See the chart in Attachment 30 for specific figures, noting the dates in the first column starting with Kaw Valley-Foster Care through St. Francis-Foster Care should read 2000, not 2001.)

In response to a question, Mr. Jordan stated there were no advances during the first four years of the program. Understanding at the beginning that the information provided by Social and Rehabilitation Services was flawed, a shared risk, under which both the state and its private partners would share in covering costs of required services that exceeded the bid, was made a part of the contract. Mechanisms for carrying this out varied during the contract period. For example, reimbursement on a fee-for-service basis for a negotiated number of children each contractor could identify as a high cost child and deficiency payments for children that were in the original conversion and still in the system 24 months later, were implemented. Both the state agency and the private providers put extensive efforts into trying to make the system work during the first four years. There was a genuine belief that the numbers originally promulgated were correct. Only later, as the real experiences of contractors started coming in, did it become obvious estimates were not accurate. Contracts were entered into in good faith, but the information on which bids were made was inadequate in the estimates of the number of children, average number of months a child would stay in the system, and the cost per child. The number of referrals and permanencies were underestimated by 400 to 500 which, at $25,000 per child-per year, is a significant amount. Now, the number of children is re-estimated twice a year. Accuracy of estimates are impacted by social trends and by changes of personnel. For example, in one county the number of children coming into the system changed significantly with a new county attorney who was more aggressive about getting cases filed. Other factors influencing estimates were a part of the change to a public-private partnership. One is that contractors are required to provide for the availability and response of case managers 24 hours a day, seven days a week which is something the state never provided. Another new requirement was that a child must be picked up within 24 hours of receipt of the referral in a no reject, no eject system. These changes were made legitimately to provide better services for children, but the cost of providing them was underestimated. The inadequacy of the cost estimates is obvious when the approximately $14,000 to $15,000 per child-per year in the first contracts is compared to the $24,000 to $26,000 per child-per year in the new contracts that were based on experience data. The original contracts were off by about 65 percent. Mr. Jordan, answering a question, stated the state agency did not limit what a potential contractor could bid. However, by the fourth year they had an idea of what bids should come in at, based on the total contract payments and risk share payments in the first years, the deficit information being received, and a 1999 study commissioned to analyze the cost of the system. Bids were negotiated down from $120 million to approximately $92 to $94 million, but contractors were told not to accept a number they could not live with. Yesterday some contractors, including Youthville, stated they operated in the black on last year's contracted rate and are continuing to operate in the black this year. United Methodist Youthville has a problem because the agency entered the new contract period carrying a significant debt. Factors effecting the agency's ability to manage the debt include less operating gain than anticipated and the fall in the stock market that reduced the amount of available credit. There is confidence, based on what Youthville has learned through experience, the agency will be able to develop a plan to reduce expenditures and put the agency on a firm financial footing. Discussions with the Secretary and Assistant Secretary indicate a willingness to work with Youthville on restructuring the debt to the state and to assist them to develop a manageable plan so the agency is not a victim of the first four years.

In response to questions, it was noted that the first contract was drawn up by the state agency without input from potential bidders, and there was no deviation from this unilateral contract. Bidders could only fill in the bid numbers. The agency tries not to micromanage the system, believing anything related to subcontractors is between the contractor and the subcontractor. However, when they hear a subcontractor is unhappy and is considering leaving the system, which could have an adverse effect on the resources available for the children in that region, discussions are initiated with the contractor relative to their plans to guarantee a provider network will remain in place. A payment of $500,000 was given to a subcontractor under an agreement with the contractor to let the money be diverted. This was money that had been earned by the contractor and owed to the subcontractor. There is a possibility, had the money been paid to the contractor, some of it could have gone to other subcontractors. A case plan, including the case goal for the child, the steps necessary to achieve the goal, and the appropriate placement of the child, is not developed in a vacuum by one contract worker, but involves a wide array of people, Mr. Jordan noted in response to a question. Department of Social and Rehabilitation staff are expected to monitor the case plan and are encouraged to attend case planning conferences. Also, there are specific outcomes related to whether or not case plans are being carried out and if the safety of the child is being protected. If there is a situation in which it is felt the family or child are unsafe, the Social and Rehabilitation Services social worker has the right to intervene.

Responding to a question, Mr. Jordan stated that outcomes have been modified, and some outcomes added, based on experience with the system. Contractors still have trouble meeting the outcomes on permanency. There is a continuing internal discussion over whether the outcomes should be lowered to a level that can be met regularly or whether the state should continue working with the contractors to find ways to meet the current outcome levels. In the rebid contract more emphasis has been placed on family as opposed to residential foster care. The outcome states that 85 percent of the children will reside in some kind of family-based setting, but no financial incentive was linked to this outcome. Providers have developed an expertise in serving difficult children in residential settings. It is hoped this expertise can be transferred into family settings, with resources being used to support the families rather than in running residential facilities. Prior to the annual contract renewal, the agency polls the agency staff and contractors and looks through what various people have said needs to be changed to determine what issues need to be addressed. Then the fiscal impact of implementing proposed policy changes is determined. In the process of making changes there is both an impact and a time lag for contractors.

The Committee asked Mr. Jordan to provide the base amounts paid to each provider during the first contract period, a copy of the outcomes referenced, a copy of the current contract, changes in outcomes and justification for these changes, and information relative to assurance that case workers follow children.

Future Meetings

The Chair noted the list of suggested items for study provided to the Committee (Attachment 31) and asked that members give staff any comments about these items and any additional suggestions for items that should be studied. Committee members were also asked to notify staff of any background information relating to issues being studied it would be helpful to have.

One issue noted for study was what happens when a child is moved from the home county to another county. Is terms of continuity of care, does the case worker follow the child, and what is the fiscal impact on the county to which the child is moved? Staff noted another issue is monitoring the activity of the Children's Cabinet and the grants the Cabinet has made under Smart Start. Assessments of the outcomes of the first round of grants should be available before the end of the interim. By this fall, the grants being made in the next grant cycle should be available.

The meeting was adjourned. The following materials were included in the Committee folders: Map indicating the five foster care regions (Attachment 32); Lawrence Journal World article (Attachment 33); and Wichita Eagle article (Attachment 34).

Prepared by Almira Collier
Edited by Emalene Correll

Approved by Committee on:

October 24, 2001