



# Washington State Supreme Court Commission on Children in Foster Care

## Report to the Washington State Supreme Court 2017 Commission Activities February 2018

With the belief that all children need safe, permanent families that love, nurture, protect and guide them, it is the mission of the Washington State Supreme Court Commission on Children in Foster Care to provide all children in foster care with safe, permanent families in which their physical, emotional, intellectual, and social needs are met. The Commission works to achieve its mission by monitoring child welfare programs, broadening public awareness and support, and improving collaboration between the courts, child welfare partners and the education system. The purpose of this report is to summarize the activities of the Commission during 2017.

### Commission Membership

**Washington State Supreme Court, Co-Chair:** Justice Bobbe J. Bridge (ret.)

**Acting Assistant Secretary DSHS/Children's Administration, Co-Chair:** Connie Lambert-Eckel

**Washington State Office of Civil Legal Aid:** Director Jim Bamberger

**Washington State Office of Civil Legal Aid:** Jill Malat

**Co-Chairs, Foster Parents Association of Washington State:** Beth Canfield, Mike Canfield

**President of the Superior Court Judges' Association (SCJA):** Judge Michael Downes

**President of the Superior Court Judges Association:** Judge Kitty–Ann van Doorninck (for Judge Michael Downes)

**Superintendent of Public Instruction:** Chris Reykdal

**Washington State Office of Superintendent of Public Instruction:** Martin Mueller (for Superintendent Chris Reykdal)

**Attorney General of the State of Washington:** Bob Ferguson

**Washington State Attorney General:** Assistant Attorney General Carrie Wayno (for Attorney general Bob Ferguson)

**NW Intertribal Court System Representative:** Kristy Healing

**Foster Youth Representative:** Sabian Hart

**Chair of the Early Learning and Children's Services Committee, WA State House of Representatives:** Representative Ruth Kagi

**Chair of the WA State Senate Human Services and Corrections Committee:** Senator Steve O'Ban

**Foster Youth Alumni Representative:** Jeannie Kee

**Director of the Office of Public Defense:** Joanne Moore

**Parent Advocate Representative:** Tonia Morrison

**Washington State CASA:** Executive Director Ryan Murrey

### Staff

**University of Washington/Evans School of Public Policy and Governance:** Melanie Nadon (2017), Andie Uomoto (beginning September 2017)

**Administrative Office of the Courts:** Nichole Kloepfer

## **Commission Workgroups**

### **Normalcy Workgroup**

The Normalcy Workgroup was formed in May of 2012 from a need identified by advocates, foster youth and alumni of care. The Workgroup's charter is to develop policies and practices that will provide children and youth in foster care with opportunities to participate in age appropriate extra-curricular, enrichment, school and social activities, ensuring "normal life" experiences. Work group members include youth from Passion to Action and the Mockingbird Society, a foster parent, and representatives from the Office of Superintendent of Public Instruction (OSPI), Office of Civil Legal Aid's Children's Representation Program, Children's Administration (CA), Division of Licensed Resources (DLR) and King County Superior Court. The group is chaired by an alumna of care, Jeannie Kee.

In 2017, the Normalcy Workgroup began working with the Mockingbird Society on one of their 2016 policy objectives: to prevent sexually transmitted infections and unwanted pregnancies by working to ensure foster youth receive comprehensive, medically accurate information about sexual health and relationships. This proposal was presented to the Commission at the 2016 Foster Youth and Alumni Leadership Summit. The Mockingbird youth asked for the Commission to provide insight and recommendations on potential models and practices that would best achieve this goal. The Commission agreed that the issue fell within the bounds of the Normalcy Workgroup and the Workgroup was tasked with collaborating with OSPI and other interested parties to provide recommendations to the Mockingbird Society and the Commission. Due to staffing changes at OSPI, the work has been delayed but will recommence in 2018.

### **Reinventing Foster Care**

During the 2017 legislative session, Commission member Representative Ruth Kagi compiled a package of bills intended to improve foster care administration and experiences, known as "Reinventing Foster Care". The final package of bills covered a wide range of issues that broadly impact foster care, including education issues, child care funding, and foster parent support. The hope of this broad range of priorities was to mobilize support from a number of different legislators with wide-ranging interests. The Commission on Children in Foster Care heard presentations and commentary on many of the Reinventing Foster Care bills throughout Commission meetings in 2017 and provided support and advice on the legislation and the initiative priorities.

A Reinventing Foster Care rally was held in Olympia on March 10th, 2017, in support of the initiative. Attendees from various stakeholder and supporting groups rallied to gain backing for the initiative and sought to mobilize legislators by distributing bags containing information on the goals of the initiative and a list of the priorities of each of the bills in the Reinventing Foster Care package. Multiple Commission members attended this rally to advocate for the initiative.

Additionally, many Commission members were involved with the passage of House Bill 1661 that created the Department of Children, Youth and Families (DCYF). The Department of Children, Youth and Families will incorporate the duties of the Department of Early Learning (DEL), and the Children's Administration (CA) and Juvenile Rehabilitation from the Department of Social and Health Services. DCYF will restructure how the state serves at-risk children and youth with the goal of producing better outcomes in all Washington communities. The new agency will undergo a yearlong transition period. Starting July 1, 2018 DCYF will take over all functions of DEL and CA. Juvenile Rehabilitation will join the new agency in July 2019. DCYF Secretary Ross Hunter attended the December 11, 2017 Commission meeting to provide an update on the transition process.

### **Interagency Workgroup on Youth Homelessness**

The Interagency Workgroup on Youth Homelessness was created by Governor Inslee's directive 17-01 signed on January 24, 2017. The Workgroup is administered by the Washington State Office of Homeless Youth, under the Department of Commerce. The primary goal of the Workgroup is to prevent youth from exiting public systems into homelessness. As part of this goal, there are 5 primary issue areas that the workgroup focuses on: stable housing, family reconciliation, permanent connections, education and employment, and social and emotional well-being.

The OHY hopes to include a number of stakeholders in the workgroup, such as agency leaders, service providers, advocates, elected officials, and philanthropy organizations. In March 2017, the Workgroup presented to the Commission to seek member insight on the development of the Workgroup as well as Commission involvement in future Workgroup activities. Commission members provided advice on the initial building of the Workgroup and expressed interest in partnership moving forward.

### **Dependency Timeliness Report Advisory Committee**

The Dependency Timeliness Report Advisory Committee reviews and makes recommendations about the measures of court processes and outcomes. These recommendations are included in the annual report and the continually-updated online Interactive Dependency Timeliness Report (IDTR). Members are selected from the judiciary, the Attorney General's Office, the Office of Public Defense, the Court Improvement Training Academy (CITA), Children's Administration, DSHS Research and Data Analysis Division, the Office of the Superintendent of Public Instruction, Casey Family Programs, the Washington State Racial Disproportionality Advisory Committee, the Commission on Children in Foster Care, and the Washington State Center for Court Research. Each has demonstrated a strong commitment to improving outcomes for children and families. Suggestions from the Advisory Committee have proven beneficial and enhance the usefulness of the Annual Report for future performance improvement efforts.

Permanency outcomes for children in out-of-home care in Washington State are strongly affected if not driven by the actions of the dependency courts and the child welfare system. The Administrative Office of the Courts (AOC) and the DSHS Children's Administration (CA) are cooperating on joint projects to investigate barriers to permanency in both systems, sharing administrative data and meeting regularly to review performance and discuss practice improvements. For example, both CA and AOC have established a variety of metrics that track performance. These metrics, among others, include metrics that track the incidence and recurrence of maltreatment prior to placement, timeliness of permanency, proportion of children reunified. Additionally, a combination of the AOC and CA administrative data enabled analysis of the influence of a wide range of case characteristics. These characteristics include risk and assessment data for child and parent mental illness, substance abuse, criminality, economic stress, homelessness, and domestic violence, as well as basic demographic information.

The 2016 Annual Dependency and Timeliness Report was presented to the Commission in May 2017 and featured extensive analysis of timeliness measures and outcomes across counties. The Report, as well as the Commission's discussion, focused on the relationship between different stages of dependency proceedings, including the relationship between timely termination of parental rights and the timeliness of achieving permanency. The collaborative project between AOC and CA is ongoing, and active research into the court and child welfare process dynamics and outcomes continues.

2017's data will be presented to the Commission in the spring of 2018.

## **Office of the Family and Children’s Ombuds**

The Office of the Family and Children’s Ombuds (OFCO) conducts independent, impartial, and confidential reviews of Department of Social and Human Services actions and/or conduct. As part of this role, the OFCO is empowered to investigate complaints, induce DSHS to change problematic decisions, and to recommend system-wide improvements to the Legislature and the Governor. The OFCO publishes an annual report of their work and findings each year and makes regular presentations to the Commission regarding this report. Commission members provide insight on the systemic issues and recommendations in the report.

According to the 2017 Annual Report, between September 1, 2016 and August 31, 2017, OFCO completed 956 complaint investigations regarding 1,393 children and 873 families. As in previous years, issues involving the separation and reunification of families were by far the most frequently identified complaint issues. The conduct of CA staff and other agency services comprised the next-highest categories of issues identified in complaints.

Systemic issues discussed in the 2016 Annual Report include: strategies to better support foster parents, the use of hotels as emergency placements for children in state care and the need for a continuum of placement resources, the Department’s involvement in family law disputes, and helping families when a child cannot return or safely remain in the home. Some key recommendations for resolving these issues included: provide an adequate supply and range of residential placement options to meet the needs of all children in State care, expand programs that support foster and kinship families and prevent placement disruptions, ensure that children in state care receive appropriate mental health services and recruit, train and compensate “Professional Therapeutic Foster Parents”.

## **Foster Youth and Alumni Leadership Summits**

Each year, the Commission on Children in Foster Care co-sponsors the Foster Youth and Alumni Leadership Summit with the Mockingbird Society. The Mockingbird Society develops an annual policy agenda with goals and priorities to reform child welfare and youth homelessness through changes in practice, policy, and budgets. Once a year, youth ages 14-24 from the Mockingbird Society’s chapters across the state come together at the Foster Youth and Alumni Leadership Summit to refine and present policy objectives for improving the well-being of foster youth and alumni. At the Report Out on the final day of the Summit, youth present their policy recommendations to the Commission.

In 2017, lead legislative items include strengthening Extended Foster Care, expanding Passport to College Scholarship eligibility, and ending youth detention for status offenses.

In addition to strengthening the relationship between child welfare administrators and foster youth, the Summit provides current and former foster youth an opportunity to develop leadership and presentation skills. As co-sponsors of the Summit, the Commission is responsible for documenting, discussing, and supporting implementation of the recommendations made by Summit participants. Summit reports are available on request.

## **National Adoption Day**

National Adoption Day is an annual event bringing courts, government agencies, and communities together to finalize and celebrate the adoption of children from foster care. In November 2005, the Commission sponsored the first statewide celebration of National Adoption Day and has since been instrumental in expanding the number of Superior Courts participating in the event. Each year the number of Superior Courts participating in the event has grown and the number of children adopted increased.

Ms. Lorrie Thompson, Washington State Courts, shared updates from the National Adoption Day celebrations at the December Commission meeting. The celebration involved 20 counties and 169 children were adopted throughout the event. The event was well covered by the media and raised awareness for the need for more foster families.

During the December 2017 Commission meeting, Ms. Joanne Moore and Ms. Thompson expressed interest in leading a steering committee to raise attention for the Reunification Day celebration.

### **Efforts to Support Washington State Court Rules APR 8**

Ms. Kristy Healing of the Northwest Intertribal Council shared with the Commission a proposed change to Washington State Court Rules stemming from shortfalls in protections of the Indian Child Welfare Act (ICWA). The act allows the Indian custodian of the child and the Indian child's tribe to intervene at any point in a State court proceeding for the foster care placement of, or termination of parent rights to, an Indian child. Each tribe typically designates a representative when intervening in these proceedings and the representatives serve a number of roles, sometimes as tribal Chairman, social workers, or in-house attorneys.

However, many of these representatives are being denied their right to intervene due to established law defining "pro se" and "pro hac vice" representation. There is established law that corporations cannot be represented "pro se", or without an attorney. While Tribes are not corporations, some courts have been extending this rule to tribes and have been requiring that they have an attorney, which many tribes cannot afford. There are also issues with pro hac vice requirements that mandate that cases must have a state licensed attorney as the attorney of record on the case. This requirement means that tribal attorneys cannot represent an ICWA case in another state without paying fees to be licensed in that state.

Ms. Healing explained other states largely resolved these two problems, including Nevada, which had a Supreme Court case ruling in favor of the ICWA and tribal rights to intervene, and Oregon, which passed a rule stating that no association with a local attorney is necessary for ICWA representation and that no licensing fee can be charged to an attorney representative.

The Commission wrote a letter of support of the proposed changes. Ms. Healing updated the Commission in December 2017 that the proposed changes to Washington State Court Rules, APR 8, were reviewed by the Supreme Court and were anticipated for publication in January 2018.

### **Emerging Issues**

#### **Foster Parent Bill of Rights**

Ms. Jessica Hanna with a recently formed foster parent advocacy organization called Fostering Change Washington shared her proposal for a Foster Parents Bill of Rights at the May 2017 Commission meeting. Ms. Hanna expressed concerns about the complexity and lengthiness of processes that foster parents must deal with, including termination of rights proceedings, conflicting interests of social workers and foster parents, and foster parent fears of retaliation.

The process for drafting this Bill of Rights began with Ms. Hanna connecting with foster parents on social media to gather feedback on their needs and concerns. She drafted the document, which she shared with the Commission, with support from Representative Dent, and she is working with his office to create proposed legislation for the 2018 session.

### **Child & Family Service Review**

During the December 2017 Commission meeting, Acting Assistant Secretary Lambert-Eckel and Mr. Del Villar gave an update about the upcoming Child & Family Services Review (CFSR) and the Program Improvement Plan (PIP). Washington State was selected to provide a state-run review with federal oversight. This new approach will be a six-month process requiring review of more cases and significant effort.

The goal of the process will be to demonstrate Washington State's commitment to continuous quality improvement and proactively make systemic changes based on data. Washington State is not expected to pass the review on all outcome measures, as most other review sites performed similarly. CA is in communication with the federal government about plans to begin this work. It is likely that the Commission will be once again involved as a community collaborator. A more detailed update will be provided at a future meeting.