



## COMMISSION TO ELIMINATE CHILD ABUSE AND NEGLECT FATALITIES

### TELEPHONIC COMMISSION MEETING TRANSCRIPT

November 12, 2015

#### In Attendance:

- Chairman, David Sanders
- Commissioner Amy Ayoub
- Commissioner Bud Cramer
- Commissioner Susan Dreyfus
- Commissioner Patricia Martin
- Commissioner Michael Petit
- Commissioner Jennifer Rodriguez
- Acting Executive Director, Amy Templeman
- Child Welfare Practice Lead, Tom Morton

**CHAIRMAN SANDERS:** Thank you. So we have a discussion of the vision, and I'll spend a little time introducing that. We want to talk about the recommendations. We have the draft outlines for both American Indian children and disproportionality that we want to go over.

And so we'll spend most of the time, I believe, on making sure that the vision is reflective of the thinking of the Commission and also that we're beginning to hone in on the right set of recommendations. And then I think we'll get a higher level overview of the disproportionality and American Indian children, and I am guessing we'll have more time to discuss that on the next call on December 3rd.

So we received a vision statement, and part of the reason for that was concerns expressed in the last meeting that we had -- well, that we had put together a great introduction but that it seemed to fall short after that and that it didn't really capture as much of the collective will of the Commission. Commissioner Petit.

**COMMISSIONER PETIT:** David, I just want to know who's here already. Who's on the line?

**CHAIRMAN SANDERS:** Sorry about that, I meant to say. So we have you, Commissioner Martin, Commissioner Ayoub, Commissioner Dreyfus, and me right now.

**COMMISSIONER PETIT:** Okay. Thank you.

**CHAIRMAN SANDERS:** So there were concerns expressed that we didn't capture accurately and adequately the overall will of the Commission, and so the idea is that this is intended to

better capture the thinking and will of the Commission and that it would be incorporated throughout the report, if this is accurate. Commissioner Dreyfus.

**COMMISSIONER DREYFUS:** Hi, everybody. First of all, I think it's all making great progress and just kudos to the staff, and I can't imagine how difficult this task is right now for them, and I think it's really making great gains.

I have one overall observation, and that is that we have talked a lot about that this 21st century system is a multifaceted system, that there is a larger sense of shared responsibility on this issue and that we can't just be so fixated on only a very important thing. Don't get me wrong, I'm not trying to swing a pendulum here -- about the importance of our appropriate interventions with families. We also understand that we're trying to also not make that fundamental attribution error where we recognize that the context within which families live their lives every day also concurrently has to be focused in on to start reducing risk in our communities.

So the language is what I sometimes have a problem with. When I hear "reaching the right families with the right services at the right time," we're back to a very what I would say the old way of being a very transactional frame, this family, this service, this time, and yet concurrent with that is a collective capacity, that's got to be building in communities a larger sense of not just the transactional services that people need at the right time, not everything is always about a service.

So I just get a little bit concerned that what we've said philosophically we want to achieve, sometimes the language we're using sounds more transactional, very much about just what CPS or an agency needs to do to get -- you know, identify the family, get the right services in place, and yet that's what we know in isolation doesn't work.

So I just wanted to throw that out there, and it isn't that I -- it's just I find that as I'm reviewing things that we seem to bounce back and forth.

**CHAIRMAN SANDERS:** Yeah, and I think that -- let me just go through a couple of things because I think that's the kind of thing that we want to make sure staff hear because they need to also take our thinking and translate it into the document. And I think, Susan, you're exactly right. Some of this are areas that we'll need to continue to have a conversation about. And thank you for providing the feedback that you've provided because I think it spoke to that issue around language.

I think that what this vision does help us with is to better contract the current system and what the future might look like and also allows us to break into the short- and long-term recommendations that we wanted to -- that seemed to come across clearly last time, that we need to think short term and long term. I think what we want to convey are five or six things. One is that we can save lives. Two, that there's an urgency, and I think that, that a lot of the concern with that didn't come through in the original document, that there's an urgency today, not 6 months from now or a year from now, but an urgency today, and there are things that we can and must do today. That a picture of the current system and what its strengths and weaknesses are. Fourth, why the current system falls short in achieving the goal of zero fatalities. The next steps, which I think also we hadn't described as clearly the last time, and so what are the steps headed towards this long-term vision? And then I think be as clear as possible about the long-term vision.

And so that's the hope, in that if we get that piece, that gives staff the direction to put together the content and scope more reflective of the will of the Commission. So that's really the purpose of the vision, and I think that we now have a quorum, as Bud Cramer has joined us. So thank you, Bud. Welcome.

So I think that's basically it. We want to make sure that we have some conversation about the vision, that it actually better captures the kind of will of the Commission. And then this is the tone that would be set throughout the report. That sense of current urgency that we have to address, but at the same time we have a long-term vision that really is different than the current system and includes some of the elements that we've talked about. So what specifically would we need to do next?

And I think I would just say that the staff -- and, Susan, I echo what you said -- that staff has done a really remarkable job of continuing to listen to what we're saying and to try and capture it because we clearly have a diverse set of opinions. And I think that what they put together in the vision is at least to this point is accurate as it relates to the things that we've said. And so it's holding a mirror up to us, and where do we need to go next? Commissioner Petit.

**COMMISSIONER PETIT:** David, at the risk of sounding like I disagree with Commissioner Dreyfus, let me just say that I think that as it's written now, the amount of attention that's given to CPS is too small. I believe it should be the lead issue in terms of, we need to do something right now. And I think it's this look-back at cases, starting with that, and there are some other things as well, but I think that the CPS agency, as we have discussed it -- and, you know, we held forums in 11 states, and I've got to say in all 11 states my takeaway was we listened to a lot of competent people at the state level in and out of the child protective services agency, in and out of the child protective services system, and I think we were all of us impressed, I thought, with the competency that we saw and the struggle that they were all having.

So for my part, much of what's wrong with CPS is that it is too small a system given the magnitude of the problem it's facing, and I don't think we're paying enough attention in the way we're looking at this in beefing up the current capacity of the agencies that are charged with doing this.

**CHAIRMAN SANDERS:** Yeah, Commissioner Petit, I probably should have also started with being much clearer about that what we wanted to make sure that it's kind of captured in the vision document, and that's the heading that Susan read, "Reaching the Right Families with the Right Services at the Right Time."

So my question would be -- it's actually the first paragraph in this document says, "The Commission has arrived at the conclusion that immediate, significant changes to our existing child protection services agencies will be necessary to reduce the number of fatalities." So do you think that that's not an adequate statement? I'm just not clear of what you were referring to.

**COMMISSIONER PETIT:** Well, David, it's implied in there, you know, in terms of the changes. In some of the cases, it may not be changes are needed, it just may be resources are needed. Staff have caseloads of 30, they should have caseloads of 15. Supervisors have caseloads of

10, they should have caseloads of 5. I mean, some of the stuff isn't just changing the system, it's beefing up stuff that we know that has worked.

The other problem is that I still don't think we have a strong problem statement. I don't know if what you just stated is meant to be the problem statement, but someplace we need to say what's happening, who it's happening to, who does it, what's happening to these children. I think that the language, as it's written right now, if it's not put in the context of this major problem -- 10 children a day maybe is what it could be, it could be as high as that -- we're failing to convey just what a horrific situation this is.

I mean, I haven't seen yet in the various documents that we received the framing of what exactly this problem is, and I think that CPS right now, if you did nothing else but beef that up, it would have some immediate benefits. It doesn't deal with the longer term question, why so many families enter into these systems in the first place. And that has to do with a lot of factors, including the public health model in the 21st century, but also with economics and teen pregnancy and -- you know, which we haven't really -- which we really haven't spoken to or developed.

So, no, I don't think it's a strong enough piece, David, if it's taken out of context. People are going to scratch their heads and say, "What are they talking about? What's the magnitude of the problem? What is it that they're trying to fix?"

**CHAIRMAN SANDERS:** Right. But let me back up again. So we have the report that's been shared, the first four chapters, and there has been feedback provided, and those will contain many of the pieces that you're mentioning. I think what we're trying to make sure is that stepping back that we have, as a Commission, agreement on the short-term and long-term vision. And so it really is what's in the vision statement. And so are you thinking that there is insufficient focus on what has to happen today in child protection specifically in the vision statement or --

**COMMISSIONER PETIT:** Yes. Yes. The answer is yes. And here's what might help with it, is that in addition to short term and long term, we probably ought to add a category of immediate, and there's an immediate need. And right now if you take a look at these reports that we keep getting from state after state after state after state, day in, day out, day in, day out, what you keep hearing is that there is a significant issue around resources, staff training, and development.

It's imperative that there be over a longer term, a deeper inclusion of the community at large, but right now what we've got, the team that we've got is ill-equipped to do the job. And I think that has got to come through right from the beginning, and for me that creates an immediate request to Congress for the resources to beef up the current system. Can some things be done more efficiently? Of course. Can we save money doing this? Yes. But is there a need for an additional significant financing by the Congress to the states on this? I think we need to convey that strongly, and it needs to have a dollar amount associated with it.

**CHAIRMAN SANDERS:** So I think what we would add is after reaching the right families and changing the language that I think, consistent with what Susan talked about, being careful about the language, what we start with is the heading about our current approach to preventing fatalities is fundamentally flawed. Under that we might include immediate needs to address this, for example.

**COMMISSIONER PETIT:** David, I don't know if the words "fundamentally --

**CHAIRMAN SANDERS:** Because we really focus on the longer term.

**COMMISSIONER PETIT:** I don't know if "fundamentally flawed" is the language because that says that the approach that we're taking doesn't work, and what we know is that in a lot of cases it does work. We know that in a lot of cases if you beefed it up, it would work better, and, yes, there are some cases that it doesn't work with. But to say that it's fundamentally flawed when we know that there are wide variations among the states, some children are much better protected in some jurisdictions than others, it might not be working well, but that doesn't mean that it's fundamentally flawed. You might have the right set of laws and interventions and practices, but if it's not driven by the resources necessary to support that, you're right, it won't work, but that doesn't mean that intellectually or from an approach of problem-solving that it's fundamentally flawed. I think that's too strong a language with the states and it's going to put them on the defensive immediately.

**CHAIRMAN SANDERS:** So it goes back, though, to the issue that we've talked about -- and I'm going to get to I believe it's Commissioner Martin next -- but we said we have the task of making a recommendation to get to zero fatalities. I haven't heard anything in the testimony that we have had over -- through the 11 site visits and over the last couple of years that says we can get to zero fatalities by doing more of what we've been doing, and I think we've come to that conclusion.

**COMMISSIONER PETIT:** Right. Right.

**CHAIRMAN SANDERS:** That seems to suggest that there are -- that the structure of how we're approaching this, regardless of how much money there would be, is not adequate to get to zero fatalities.

**COMMISSIONER PETIT:** It's not. You're absolutely right. It is not structured to get at every single case, and that does speak to a longer way of, you know, kinder, gentler America, the way it treats its families and its children. That is a big task, it's a longer term task, and all I'm saying is that there is an immediate capacity that we do have out there right now. They could do more, they could do better, they could do bigger with additional resources. They just don't have the core resources that they need to do the job. And some do much better than others on that, as we know, and I think one of the things we need to do is show this with the numbers, David. I haven't seen yet the numbers that our staff are planning to insert in here that support the kinds of things that we're talking about. Like in this particular instance, the wide variance among the states and the need for the federal government to play a strong oversight role, there are some states that are just not doing a good job and they don't intend to do a good job.

**CHAIRMAN SANDERS:** Commissioner Martin?

**COMMISSIONER MARTIN:** Good afternoon, everyone. There is a lot that I agree with that has just been said by my fellow Commissioners, Dreyfus and Petit and Chairman Sanders, but I think, Pat Martin thinks, that what Commissioner Sanders said, the last statement, is contrary to what Commissioner Petit said earlier.

If I can summarize these into thumbnail, you know, nutshell sentences. If I understand what Mike is saying, Petit, that if in fact we put and staff CPS to the max, we give them the resources they need, give them the number of workers they need, give them the number of investigators they need, give them the number of supervisors they need, give them the number of direct services available that they think they need, that we would have a system that would work. I think everything we've heard is contrary to that. I have not heard that just beef up and maximize the resources with CPS is the answer. I've heard that fundamentally our system, the structure of the way we've been doing stuff ever since they started in Illinois 200-some years ago is flawed. And part of that is, and the direct testimony we received about these multidisciplinary systems. The reason CPS doesn't have the resources isn't because they have inadequate supervisors or inadequate workers always. It's impossible to expect one worker to have the expertise necessary to figure out how to best address the needs of the family and assess those needs.

And so I think we are saying that the system is fundamentally flawed. Before I stop, I'm not saying that Mike Petit is wrong. We do need to beef up and give resources to CPS, but that in and of itself will not work. That in and of itself will not reduce the number of fatalities we see, it's the expertise in our state agencies that needs to be expanded, and that can't just be from training. As good as training will do to help expand the expertise of our workers that is not going to give us the necessary detail that we need to eliminate and minimize the fatalities.

I agree with Mike Petit, at some point in this report I do think it may be helpful for the reader to understand what we understand about the numbers. I disagree about putting in and projecting numbers that we don't have factual basis in which to show. So we have factual information to show that at least, at a bare minimum, four kids are dying a day. I didn't see the evidence that we have any literature or any evidence that suggest that up to 10 kids are dying a day. It may be 20 kids are dying a day. We have absolutely no idea, and that justifies and gives support to our argument about the need for data, not only the need for data but the need for data that is relevant to the fatalities that we're seeing, but also the need for all communities to support data updates and the importance of data.

And so I guess, you know, until we recognize this fundamental difference within the Commission, it is an absolute true statement to say that the way the system is structured today it is flawed. We need to change the structure of the system if we're going to hope to have any impact on reducing the fatalities of our children.

But I also agree with Mike Petit. I think at some point we have to talk about the numbers. I don't want to put in our report any numbers we can't justify. Thank you.

**CHAIRMAN SANDERS:** Commissioner Petit.

**COMMISSIONER PETIT:** I appreciate what Commissioner Martin just said. Just two quick things and then a longer thing. One quick thing is, Patricia, we do have some numbers that are published in peer-reviewed journals by researchers that have been done over the last few years, and I thought they had been distributed to the Commission, that speak to this under-ascertainment of the numbers and that we have used, I have used, in some of the research that I have drawn from on this thing, that the number is upwards of 2,500. We believe it is at least 2,500, but the researchers that did this, the Ph.D.'s, the doctors, the Masters in Public

Health, for the Journal of American Medicine, for the Pediatrics Journal, and for the Public Health Journal, all said that it appears that it's at least 50 percent understated, it could be 100 percent understated or more. So I think there is something there on it.

With regards to the numbers in terms of the budget, I think you're absolutely right, it needs to be tied back to some numbers, and there are numbers around issues like standards and caseloads and resources that people need on this thing, and so I think the only way we would want to project a number is what it would actually buy, what it is that you would actually do.

On this question of beefing up CPS and this longer-term issue, I don't think that they're mutually exclusive. I do think that there are states that do a better job than others, and if you beefed up their capacity to do the work, they would reduce the number of child fatalities. Do I think that that's the only thing or the most -- it's the only thing that would work? No.

And in the states right now that are doing this the best -- and we've heard from some of them -- but around the country -- and this isn't anything new -- there are multidisciplinary efforts going on in many jurisdictions, including many of the places that we talk to.

That still by itself hasn't reduced the number of kids dying, and I don't think by itself it can, so you could have all the multidisciplinary teams you want. Unless there is a fixed responsibility where somebody is keeping track of what's going on, measuring gains and progress and so forth, I don't think we're going to reduce deaths very much by a longer public health model.

I think there's a short-term public safety issue in which we have plenty of reason to believe that a kid who is living in harm's way because of the history of violence in the household, of substance abuse, of mental illness, or whatever it is. And I'm saying that what we come out with on our report is that we absolutely declare that children in need of protection who are in a crisis situation, the agencies that are meant to address that are in a crisis situation and it needs immediate response by the Congress, by the administration, in helping the states to deal with this thing.

That does not exclude, preclude, anything else that Susan or Patricia are saying, I'm just saying in the order of importance and the order of priority that gets presented, the first issue is the public safety issue.

**CHAIRMAN SANDERS:** Commissioner Dreyfus.

**COMMISSIONER DREYFUS:** Thank you. First I want to go back to the vision document, and I think what Commissioner Sanders, Chairman Sanders, laid out in terms of the five kind of guideposts here, we can save lives, there is urgency today and things we can do now, picture of the current system, why it falls short, and the long-term vision are absolutely right. So I just want to say back to what we're -- about the vision document, I think those are the right five guideposts for this.

I also want to say -- and I just really want to echo Commissioner Martin here a little bit, and Michael, also to your point -- we've got to be really clear here that a strong and vital child protective function is critical in this nation's child welfare system, but it is not in and of itself the system. And I can tell you just from when I sat down with a group of child protective

services workers in Milwaukee County in a confidential meeting before I started my work on this Commission, I did not have them telling me about their caseloads and that -- what I had them talking about is they didn't have resources in the community for it to get families the help they needed. We could have put all the right supervisory ratios and everything around there, and they would have said, "My problem isn't that. My problem is I've got to have the resources that I can immediately put together to get these families what they need when they need it."

So I get a little bit feeling like if the Commission is going to start saying that the child protective services function is the be-all, end-all of child fatalities in this country and if we just simply beef that up, we'll end fatalities, we need to have another several meetings of the Commission because I have not heard anything over the last year plus that told me that that's where this Commission was headed or thinking.

Now, that being said, we keep using this term "public health." I just want to reiterate for my fellow Commissioners, our committee has not been talking about turning child protection over to public health. We've been talking about science-based public health approaches that need to get embedded into child protection in our communities. So I am all for, as a former child welfare director, as Commissioner Petit is, I am all for making sure that the CPS function has the skills and the resources and the capacities that it needs to do its part. But we could do all of that tomorrow and we will still not have eliminated fatalities and abuse and neglect, and I wouldn't even go so far as to say to have immediately protected children because what I've heard from folks is that that alone is not enough.

So I just want to stop and say I agree with these five guideposts for the vision. I think they're right. I don't think we today on this phone can all of a sudden make such a radical shift that we're going to start talking about this from a sense of urgency, and the only urgency today is about the CPS function itself being beefed up. I think that needs a much fuller Commission in-person conversation because I think that would be a pretty swift departure from where I thought we were going.

That being said, I'm fine with talking about things that can be done today where CPS does need critical resources today but not if it's not within the context of this multidisciplinary view and some of these immediate capacities that these CPS workers with the best of intentions don't have around them that they need for these families. So I'll stop there.

**CHAIRMAN SANDERS:** Commissioner Petit?

**COMMISSIONER PETIT:** (Bad phone connection) Susan, obviously because of the way I've framed this, you know, think I'm saying the end-all and be-all are the only -- I don't think that at all. I think that the business of community resources is a critical, critical factor. Resources are not available in most jurisdictions, it's available in some jurisdictions, some of the ones that we talk to. But I do think that the immediate relief for children is going to be found in the existing network of child protective services that we have right now, and that is what needs to be beefed up right away. The other is going to take longer to do. We've got it identified as longer term because some of the immediate stuff that we could do right now would involve other disciplines, as they already in many jurisdictions do involve other jurisdictions, but, you know, depending, Susan, as you know, where you go. Because we have something like 3,000 offices where child protective services is formally conducted and

hundreds and hundreds of jurisdictions that oversee it, it's not possible for us to conclude what any particular jurisdiction needs, you know, on the strength of a meeting with staff. In that jurisdiction, I don't doubt that's what the case was, but I've been in other jurisdictions where, "I've got 40 caseloads," "I've got 40 cases," "I've got 50 cases," "I've only got a few hours a week." I mean, so I think both are needed. But before we get into the full systemic change thing, is there something we can do right now coming out of the chute? And I think there are some pieces that we could do right now, and it's only going to happen if there is a sense of urgency created about this, and I think that as many as 10 kids a day being killed should create that sense of urgency.

**CHAIRMAN SANDERS:** So let me go back and make sure because I think, from what I'm hearing, that we could do some things to the vision statement that would better capture the will of the full Commission, and that would be -- and I still go back to the -- and the issue of getting -- our approach to preventing fatalities, not the child protection work, but preventing fatalities is fundamentally flawed. I think we've heard that throughout the 2 years that we've been hearing testimony --

**COMMISSIONER PETIT:** Right.

**CHAIRMAN SANDERS:** -- but there could be disagreement with that. But that under that we would focus more on some of what the current infrastructure as it relates to keeping kids safe, and that does include a network of services and supports led by child protection that needs to be strengthened today. And so we would talk about why our approach is ultimately not going to achieve zero fatalities, but we would also talk about but it is important in assuring the safety for many children and that children's lives are saved by the current system and to make sure that we're taking action immediately. If we include that, does that better capture what you have expressed as missing, Commissioner Petit?

(Bad phone connection.)

**CHAIRMAN SANDERS:** Mr. Petit?

**COMMISSIONER PETIT:** Are you there, David?

**CHAIRMAN SANDERS:** Yep.

**COMMISSIONER PETIT:** Oh, I'm getting invalid entry.

Yes, David, that -- yes, that sounds more like it, but would you just restate that piece again just so I can just hear the language again?

**CHAIRMAN SANDERS:** Yeah. So under the heading, "Our Current Approach to Preventing Fatalities Is Fundamentally Flawed," we jump right into reasons why the current system is not effective. What we would rather -- what we could more effectively -- potentially more effectively start with is the importance of the safety net that we have in place right now, why it in fact does work for a number of children, and we want to make sure that there is a sense of urgency to strengthen that system while at the same time recognizing the shortcomings that make achieving our goal impossible, achieving the goal of zero fatalities, with the current structure. But that we can build up what's in place now in order to improve safety for children immediately, which is what we want to convey and which I think was conveyed in the first paragraph of the vision statement.

**COMMISSIONER PETIT:** I think so, David. I guess I would have to see how it plays out in writing. I think that the first thing for me is that there is a public safety issue here. We know that every day there are so many people killed. We know that so many children in our system right now that CPS has at home with their families, we know that hundreds of those children are going to be dead at the end of the year, and they're already known to us. Part of that is just an inability of the system to stay with that family. Whether it's a public health nurse or whether it's a mental health worker or whether it's a CPS worker, that's something that needs to be determined by a group of people who say this is the best intervention, or we can't think of what the correct intervention would be in this case, we need to have the child away from the family.

I think that in terms of where we stand right now, if we said tomorrow we want to start reducing these deaths, what is it that we could do starting right away? How long would it take to gear up? What additional capacity would you need? I think we need to be specific about what we think that looks like. That's what people have asked us to do, is to recommend how to start that, and I think we have to frame it as a way that if we had this right now, here's what we could do right now.

And so I think --

**CHAIRMAN SANDERS:** I go back to so we have a set of recommendations that we will talk about in just a minute, but the idea of this was to make sure the correct tone is there throughout, that it didn't seem to be -- we didn't seem to be capturing kind of the will of the Commission in the first draft. There were gaps that were expressed by many Commissioners, and so this is trying to say big picture, is this what we want to say to the country? And it sounds like this is closer than where we were with the initial document because this will allow staff then to put pen to paper or whatever, however they do it these days, and actually then translate what we're saying into the report by understanding the general direction we're going, and that's really the point of the vision.

**COMMISSIONER PETIT:** Yeah. I would just say in closing on that, let me just say my last sense on it is that whether it's 1,500 children killed, which is the official number or closer to three or four thousand, which many researchers believe, I think that constitutes a crisis, and that needs to be conveyed to the public in terms of how old these kids are, what they're dying from, and that there is a need to beef up our current capacity right now with those cases that we know about, that they're in front of us. We need to do better by those.

By the way, there is an additional thing that needs to be done, which is a longer term, broader, more encompassing kind of thing, but I don't think that those are mutually exclusive, additional community resources, greater capacity by CPS to protect kids that are in dangerous situations. I mean, clearly we need to do both, but I'm saying the first dollars spent has to be one that has somebody out there helping kids directly immediately in a dangerous situation.

**CHAIRMAN SANDERS:** Commissioner Martin.

Commissioner Rodriguez has also joined us.

We lost Commissioner Martin.

So, Amy, is there more related to the vision statement that you think would be helpful? Because it doesn't appear that there -- it does appear that we, with some amendments, that we can get pretty close to the consensus at least of the Commissioners on the call.

**AMY TEMPLEMAN:** Yes. I think it sounds like we're really close, and I think the instruction to add in a greater focus on the current infrastructure about keeping kids safe right now, those kids who are known to CPS, and ways to strengthen that system immediately will probably be the first change that we'll make, and then we'll come back to you all with a revised version.

**CHAIRMAN SANDERS:** Commissioner Martin, we got you back.

**COMMISSIONER MARTIN:** I apologize. Somehow I got disconnected. But this is why I started my first comments, was I think that we have a difference of opinion on the body of the Commission. I do not agree with the statement, David, you made that summarized your last points. I do not think the first step to do is strengthen the CPS element of the child welfare system. I do not think that that is the first step towards eliminating deaths of our children. I think the first step is making certain that we redefine what we mean by "child welfare system," and the child welfare agency is one part. It may be the center of that spoke, but that is only one element of the overall child welfare system. If we fail to get the public to understand and agree with us that the system now has the responsibility for our children and we need to look to the system to make certain our children don't die, we've lost people on the first page.

And so I think that the first step, the first immediate step, is to make certain people understand that the agency may be the spoke of that wheel, but the wheel will collapse and will continue to collapse if we don't expand it out and let the spokes help keep our kids safe from dying. So that's why I agree with the -- disagree with the statement you made, David, as a conclusionary remark.

I think that there are Commissioners that have a difference of opinion about the statement I just made, and I think we need to clarify that. I think one thing that would help us clarify that is if we had a directory of terms. What does this Commission mean by "child welfare agency"? What does this Commission mean by "child welfare system"? What does this Commission mean by "public health system"? If we don't all agree to what those terms mean, we are still speaking past each other, and until we can get to the fundamental agreement about what we're talking about, we will continue to have these what I call foundational disagreements at every segment of our deliberation.

And so I would suggest that we start putting together a definitional key and somehow that has to be included in our report. I don't know if it's a glossary at the end or if it's in the footnotes, but we ourselves have to agree what these terms mean and then agree what the first step in our approach is. I do not agree strengthening the CPS center of that wheel is the answer. I think the answer is making certain we understand that the wheel is the social welfare system that's required to keep our kids safe from dying.

My next point --

**CHAIRMAN SANDERS:** Commissioner Martin, I may not have been as precise with my language because I wasn't thinking about actually translating it into a document. When you put it that way, if what I said suggested that the first step is actually to have resources to the child

protection system, I actually would have said that the first step is for the Commission to have a clear vision of what it will take to get to zero fatalities and that I think that's laid out much more clearly in the vision statement than what had been the case before.

I think that within that then, what are the next -- what can be done immediately to make sure we aren't waiting for 3 years until we have all of the pieces in place? I actually don't disagree with you at all. I think it's much more complex than adding child protection workers. That may or may not be one element of it. I actually think it has to be within the context of the broader vision, which is about a stronger system that's far beyond the child welfare agency, child protection agency, but I don't disagree, and I think it was more the precision with the language that was not present.

But I think, too, that your idea of the terms and the glossary makes a lot of sense, and I think by either the face-to-face meeting or maybe even conceivably our next meeting we can have some of those terms defined. So I'm not sure I would be in disagreement with what you just said.

**COMMISSIONER MARTIN:** And then my last point right now for the moment is that there may be a lot of literature out there suggesting numbers about how many kids die a day. If in fact there are individual Commissioners who are asking for those numbers to be the numbers that we base this report on, I would ask that those Commissioners get that literature to the staff so it gets to the other Commissioners because I am not comfortable just putting out other numbers like 25 kids die a day if we don't have some groundwork in which to base our assumptions on.

I do think that it's very clear that the numbers are underreported and I am perfectly prepared to state that. I don't know if that number is -- if I'm ready to go and jump to the fact that it's more than 25 a day.

And so if there is additional literature that people find very reliable, highly reliable, and they want other Commissioners to see it, I would ask that they get -- I would strongly suggest that they send that to the staff so the staff can get that out to all Commissioners and we can take our time to read it and see whether or not we likewise agree.

**CHAIRMAN SANDERS:** Let me, before you go, Commissioner Martin, I want to be as clear as possible. So to me -- and I think that's the purpose of putting together the vision document -- the first step is we have to agree and convey to the country a vision for how to get to zero fatalities.

**COMMISSIONER MARTIN:** I agree.

**CHAIRMAN SANDERS:** And I think that there is consensus that our current approach will not get to zero fatalities, and so we need to change our current approach. However, there are activities today that do impact children, keep children safer, and that we need to look at those and responding where appropriate to those immediately.

And so do you see that kind of attempt to capture that in the vision statement, do you disagree with that?

**COMMISSIONER MARTIN:** No, but I don't -- with all due respect, I'm not sure if that says anything. I mean, yeah, we all know -- and I apologize, maybe I was too summarily cute. I

think that it's true that we know that our system doesn't work because we have kids dying every day. I mean, that to me is obvious. So I think that's a true statement.

I just worry about our vision statement restating what we already know, which is that even if you gave me every resource my CPS agency needed and nothing else, the fundamental numbers that I have are not going to change very much, and that to me would be a shame. Because if in fact I can't get Cook County to understand that we're all in this together and that we have to fundamentally look at the way we do our work today, then I don't -- I think I've missed the boat.

And so maybe I'm using different words to say the same thing you're saying, but what it sounds like to me, you're restating the obvious, which doesn't help me. Does that make sense what I'm --

**CHAIRMAN SANDERS:** That it is the responsibility, multisystem responsibility, for child safety, which I actually don't think there is evidence that that's obvious because we would be practicing that much more effectively than we have historically. So, I mean --

**COMMISSIONER MARTIN:** But with all due - -

**CHAIRMAN SANDERS:** -- center of our vision.

**COMMISSIONER MARTIN:** But with all due respect, strengthening what we've been doing for the last 200-plus years hasn't helped us either. There are some jurisdictions that are better equipped, that have better, you know, supervisor ratios to workers, there are some systems that have better workers ratios to kids, and they still are having deaths, they are still having safety issues with our kids. I mean, it goes back to this whole issue about needing the expertise that we don't necessarily possess in our CPS agency. And making certain -- if you don't -- if you have a great agency, but you don't have a court working with you, if you have a great agency, but you don't have pediatricians working with you, you're still not going to get the numbers we need. We know that for a fact because we have jurisdictions doing that.

So, yes, what I'm suggesting hasn't been proven, but what we've done has been proven that it doesn't work.

**CHAIRMAN SANDERS:** So again I'm not sure that we're saying something different.

**COMMISSIONER MARTIN:** Okay. Okay.

**CHAIRMAN SANDERS:** And that's what I'm trying to get at.

**COMMISSIONER MARTIN:** Okay. Then I apologize.

**CHAIRMAN SANDERS:** It's that the work that we have to do immediately does not necessarily to me mean it's about more child protection workers.

**COMMISSIONER MARTIN:** Okay. I agree with that.

**CHAIRMAN SANDERS:** It seems that it has to be consistent with our vision, and our vision is one that reflects a much broader response than is currently the case.

**COMMISSIONER MARTIN:** Right.

**CHAIRMAN SANDERS:** And so as we think about next steps, it could conceivably be bringing more expertise from a physician to the actual work of keeping children safe, or it could be adding a greater capacity to address domestic violence or maternal depression. I mean, I think there are a variety of things that could be part of that, but that it's not necessarily additional child protection workers, it is more what's consistent with our vision and what are the steps that can be taken immediately that would be building up the longer term vision that we're laying out.

**COMMISSIONER MARTIN:** I would agree with that statement, yes.

**CHAIRMAN SANDERS:** And because I think what you raised earlier, this is -- if we -- we have to get -- we have to either agree that this is the direction we're going as a Commission or agree to disagree because it seems that if we don't have consensus on this, you're absolutely right, the recommendations and everything after that will not be -- will simply not be effective.

**COMMISSIONER MARTIN:** I agree with the statements that you've just made, and I think that is the -- that's what I thought our vision was, what you just stated. It's not just, one, bringing on pediatricians or bringing on a court or bringing on psychiatrists, it's making certain that we bring the system, that overall system, to bear on the safety and preventing deaths of our children. Yes.

**CHAIRMAN SANDERS:** Commissioner Petit. Okay, great. Commissioner Petit?

**COMMISSIONER PETIT:** I think that the question of beefing up CPS capability includes pediatricians, it includes psychiatrists, it includes domestic violence people. Right now we have numerous channels of spending, whether it's at a state level or a federal level that comes into a jurisdiction. I don't see a situation where you have Washington saying, "We're going to fund domestic violence, domestic violence people apply; we're going to fund psychiatrists, psychiatrists may apply." You beef up CPS and CPS buys the services that they need including working through the creation of a multidisciplinary team approach, and some of that is already in place, we have all these child advocacy centers across the country.

One of the recommendations I think would be every community should have those, but many departments, Patricia, as you know, many departments around the country do have good working relationships with pediatricians and with others. Some don't. And part of this is going to be addressed by their putting together a plan for intervening on this. But when you've got workers that can see families, all of their entire caseload, they've only got 10 hours a week because the other 30 hours a week are tied up in court or preparing documents and so forth, and they're only seeing families once a month for an hour a day and they're not able to purchase services to go into those families, that's a real problem. If the worker isn't getting any training before they start on the job, that's a real problem.

So I think all those other systems are now all involved in one way or another to different degrees across the country, it's just not necessarily tightly woven together with a good process, a good system, in place that is able to make decisions about where it goes. But somebody is going to have to make the final call on these in terms of intervening, and at this point, that's CPS. Some of these make the final call on whether the kids stay with their families or not, that's up to judges, and other people have legal responsibilities on this as well.

But I think to say that because children are dying the system is fundamentally flawed or isn't working, it may be that the system simply is not geared up in terms of the total resources that it needs both in-house CPS and with the services that it buys in the community.

And so I don't think there is a huge gap between those two things, the problem right now is that you have real diversity of how the states do this. Some do it much better than others, and I think that's part of what this is about, is the ones that aren't doing very well, need a lot of beefing up, and those that are doing well but just don't have the resources, that's another question. But I think the resource piece is a big one.

Let me just end on the surge thing that we talked about where we do a look-back and we go back, which is what happened in Hillsborough County in Florida. It seems to me that that would immediately bring in other systems to bear on cases that we already know, that there would be people in systems who would be pulled into that process by taking a look-back.

And, Patricia, the issue of the number of children killed, that information has been distributed several times to staff from the beginning of this process, so we'll just replenish it. We'll do it again, and the 25 a day was not a number that I was using, I was saying upwards of 2,500 children a year, not 25 per day, which would be an even larger number, but I think the number right now is about 1,500 or 1,600, but the peer-reviewed journals on this topic that I've looked at say it's at least 50 percent higher, hence, the 2,500 figure. But at some point I think we do need to come up with a number or a range that says we think it's about this many kids, somewhere between here and there, but none of us know for sure.

**CHAIRMAN SANDERS:** Commissioner Dreyfus.

**COMMISSIONER DREYFUS:** I'm going to be really short. Thanks, Chairman Sanders. I'll be really short. I do want to say I think we've had many examples of where folks have quote-unquote really beefed up CPS, gone out and done exactly everything Commissioner Petit is talking about and actually created more of a mess when it was just this singular thing that was being done, like looking back. And I do think what they did in Hillsborough was a little bit different in the context within which that work was done, and that's another bigger conversation.

But I think it's important that we not swing pendulums here so far that we can end up quote-unquote really beefing up CPS -- right? -- so that, you know, you get that out there only to find out that it literally collapses the rest of the system, and we've all had examples of that.

But that being said, just so we can continue on because we've got other pieces to cover, it does seem to me that the idea that we've always -- I think the Commission, at least in the meeting I've been at it, I think my fellow Commissioners all understand that a strong vital consistent quality child protective service function is critical in this nation's child welfare system. But it in and of itself is not the system, it is a function within the system.

That being said, I would have no problem talking about the kinds of resources that are absolutely needed if it was based upon the outcomes that these systems are to -- these functions are to be able to achieve. Going back to saying what supervisory ratios ought to be or caseload ratios ought to be, I look at my public child welfare colleagues today and the National Association of Public Child Welfare Administrators, and when I looked at their input

to us, that is not the kind of stuff they were telling us that they felt was needed. And they're all out there today running CPS as we're on the phone here today.

So I'm fine if part of the Commission's recommendation for what needs to be done now is some immediate things that are needed in CPS, but not just the old thing of these are the supervisor ratios, these are the caseload ratios. But more what are the results that they need to be achieving? And so that those resource allocations are consistent with what we're trying to achieve, not just the old way of saying what a caseload ratio or supervisor ratio ought to be and that somehow that's going to fix it. And that's all I wanted to say. Thank you.

**CHAIRMAN SANDERS:** Thank you, Susan. And I actually think that we have enough to put together language again in the vision, and I think to Pat's point, want to make sure that it's very precise because we could be using different terms in different ways, but I think we at least have enough to put something together, and ultimately the full Commission is going to have to agree to the tone and content of the report, so it will be reflected in that.

Why don't we move to the recommendations? And so there is a document that Amy sent out, "Short Term and Long Term Recommendations." And there really are just a handful of questions, and then I'll open it up. One is, are there recommendations in here that you can't live with? Two, is there something that's missing? And three, are they accurate? Have we actually captured the recommendations?

Where these came from were either the work of the subcommittees or recommendations that had been made by presenters, and so there could be things that are missed because this -- there was a lot of concern expressed early on that there were too many recommendations, so staff has made an attempt to combine them where appropriate and to prioritize them, but we have, as you saw from the documents that Sarah (ph) put together, a number of recommendations that have been provided to us, and so I think we really want to capture these as a priority, and I think they are both questions about, are there things on here you can't live with? is there something on here that's missing? and are they accurate?

And clearly changes will be made as we get to the writing because it has to flow differently, but wanted to make sure that we had enough direction for staff that they could start with, "Okay, this is really where the Commission is."

So any feedback on the recommendations or, Amy, anything that you would add?

Actually let's start, Amy, anything you would add?

**AMY TEMPLEMAN:** No, well, the only other thing I would add quickly is just that this is the first time we've tried grouping the recommendation specifically by audience. So when you're thinking about inaccuracies, if there's a different audience that we should be focusing on for the recommendations, that's also helpful feedback.

**CHAIRMAN SANDERS:** Commissioner Dreyfus.

**COMMISSIONER DREYFUS:** Yes. To connect to the earlier conversation, one of the -- and I was thinking of this before the call, but now that we had the earlier conversation, I think it's a good time to say it just to connect it over, is on C1, on Short- Term Recommendations, "Through legislation, Congress should direct states to develop and implement a coordinated, integrated, and comprehensive state plan," one of the things that we really could make sure

is in there is the capacity of the child protection function, and that could be more clearly stated there.

The other thing that I just wanted to say because this one made me think of it, but I thought of it as I went through the rest of it as well, is I know that we're always hesitant to talk about new resources, but I don't see us in here, you know, talking about what really is just the inadequacy of CAPTA funding to the task, the need to modernize CAPTA, to look at it in a broader way in terms of what it needs to be achieving, but I just was -- that would be one comment I have.

And just, second, as a question to staff, is there anything in here where we're making a clear connection where there is a lack of financial resources to carry out what we're envisioning Congress needs to do? Because one thing I don't want to do is have Congress tell states what they ought to do without funding.

**CHAIRMAN SANDERS:** Susan, actually to the point that you just made, there was a comment that I had. And let me weigh in on that, and that is with C4, because I think that what we're talking about is investigating all calls for either children under a certain age or conceivably all children. And that's both, at least if you look historically at the number of calls that come into agencies, that's quantifiable and it does say "increase CPS resources," but I think that's something that would have to be -- we would have to have some sense of what that means.

The other thing is that I don't think the language is quite accurate because "suspected cases of abuse and neglect," that's generally how states approach it now. Because it is what's in state statutes in terms of defining abuse and neglect that determines whether a call is screened in or out, and I think we're talking about calls, not just the filter of suspected cases of abuse or neglect.

But I think it speaks to the point that you made, there are several of those here that will require extra resources if the Commission makes a recommendation, and I think it's important that we make sure that it not just end up as an unfunded mandate.

**COMMISSIONER DREYFUS:** Yeah, can you still hear me?

**CHAIRMAN SANDERS:** Yes.

**COMMISSIONER DREYFUS:** Okay. So I would just add to that, though, David, we've all seen many federal reports like this, and I have to tell you, I did read C4. I did not read it to just simply be a fast-forward implication, what we were seeking was additional federal dollars. You know, "to substantially increase CPS resources" could simply be what they want states to do. So I didn't read it that way, I think it's got to be explicitly stated.

The other thing -- and I just read that very narrowly, as you did -- I think we've got to be talking about a modernization of the CPS function, which is about, you know, screening, yes, investigation assessment, but also response. And so I viewed C4 in a very narrow way and I didn't view it as necessarily inferring federal dollars.

**CHAIRMAN SANDERS:** Good. That's a really good point. Thanks.

Commissioner Petit?

**COMMISSIONER PETIT:** Yeah, I agree with all the points that Susan just made, and just to add a dimension to them, I do think that where it says "Congress," we should add "immediate" so that there is something that says this is something we should do right now. It is very much tied to increased federal funding, and that increase in federal funding should be directly related to C1, that the states develop and implement a coordinated plan so that there is federal oversight and these plans are consistent with what the national goals are on it.

So there would be, commit resources, develop a plan, and put states on notice that there are resources available to close the gaps that they may be experiencing.

On C4, I agree completely, that everything except the most trivial and loony kind of referrals somebody ought to go out on. And I go back to our analogy that we talked about before, which is the fire department response, they go out on everything because the consequences of being wrong are so great. I think the same thing with CPS.

And I agree with Susan, that on this case, to say "investigated and assessed" is just the beginning. It's investigated, assessed, and resources provided to the family and to the child. So that is a huge number on this, and fortunately a bunch of this stuff is included in ACA, the home visiting stuff, the mental health stuff, substance abuse stuff. So that isn't directly referred to in there, but I would do it there.

On C2, I want -- I would like some clarification as to what you mean with IV-E. It's mentioned in the first paragraph in C2 and it's mentioned in the second paragraph in C2, and I'm just hoping that none of this is meant to suggest that IV-E is less an entitlement or becomes a block grant, that that's not what's behind this, and I would like to just hear something related to that.

And the last thing is that if CAPTA isn't the vehicle -- and I think it's a very good vehicle, it's just been one that's under-resourced and not able to be used in a serious way -- you know, what's the alternative to CAPTA? So I think CAPTA just needs -- you know, we've gotten a lot of recommendations on that.

And then the last thing on this first page I would mention is on the public disclosure of child abuse fatalities, we need more than issuing clarifying language. We need to say ourselves that the default position on these fatalities is a transparent public right to know, and when there are reasons why it shouldn't be transparent with a public right to know, then somebody needs to decide on that. Whether it's a department or whether it's a court or whether it's somebody, but the goal should be more transparency and understanding why all this happens and not less on this one.

That's it.

**CHAIRMAN SANDERS:** My sense is that from previous discussions, we do not have consensus on that statement.

Commissioner --

**COMMISSIONER PETIT:** So let's debate it. Yeah.

**CHAIRMAN SANDERS:** Yes --

**COMMISSIONER PETIT:** I mean, let's debate it, whether it's here or whether it's at 7th and 8yj, but, I mean, we're going to need to reach a position on it and, you know, let's frame it so that we can say yes or no to something or we can construct something that works for all of us. That's part of the reason why --

**COMMISSIONER MARTIN:** Thank you very much. Yes, this is an issue that we don't have consensus around, and it's not -- I shouldn't start off that way.

I do agree that there should be transparency, but I don't agree that it should be at the stake and on the backs of my kids. And so transparency without divulging the identity of my children is fine with me, but I do have concerns about my children and their siblings, and I don't know how to resolve that. I know a lot of it is fact by fact, but I think when questions do arise, I agree with Commissioner Petit, that there ought to be an arbitrator, and it should be the court probably because the court is charged with the responsibility of making objective decisions. But that's just my personal impression. But I do think that it's transparency without harming children.

**CHAIRMAN SANDERS:** So we do not have to go page-by-page with this. I think the big questions about things that either are included that you can't live with -- and I want to go back to C3 for just a second -- but also are there things that are missing?

is specific to the entire document.

Commissioner Martin, I don't know if this messes everything up because you haven't requested the floor, but I wanted to make sure about C3. The language in there now is Congress would clarify CAPTA. Is that language that you disagree with or is it more the way that the proposal was stated by Commissioner Petit?

**COMMISSIONER MARTIN:** I think it's more the proposal. I do think that there is some clarification that we can deal with CAPTA. I have an overall fundamental groundbreaking concern, though. I don't know if our enacting legislation geared us towards focusing on revamping CAPTA, and, you know, finance reform in general, and so I want us to be careful, and I'll just mention that, but I don't have a problem with the clarifying language that is listed or identified in C3. You know, it's just my understanding of what our Commissioners mean by that, some of our Commissioners mean by that.

**CHAIRMAN SANDERS:** So we should have a fairly short discussion on the recommendations because I see nobody else requesting the floor. Is there --

**COMMISSIONER MARTIN:** The only -- David, can I just add one other thing?

**CHAIRMAN SANDERS:** Yes.

**COMMISSIONER MARTIN:** When we go up to C2 and the three bullet points or the four bullet points underneath the paragraph, we haven't done a lot of work, in my estimate, on confidentiality laws, and I do think that we need to be clear what we, as a Commission, are asking about confidentiality laws. So I hope that at some point we are going to identify -- we've done a lot of work on data collection and sharing, but I don't think we've done a lot of work on confidentiality laws, and I'm wondering if we're going to take some time to flesh that out as a Commission, or are we going to just leave the bullets in like that in our report?

**CHAIRMAN SANDERS:** Do you have a preference actually? Let me ask.

**COMMISSIONER MARTIN:** Well, I think one of the things that I'm beginning to see is that a lot of people make assumptions about confidentiality laws, and I'm wondering whether or not we can make a -- I think we should make a strong recommendation to the feds that there should be some clarifying points on HIPAA, some clarifying points about children's educational records, to make certain that we're giving good guidance to entities within the child welfare system about how to utilize those laws when it's necessary, but what those laws do not say is equally important.

**CHAIRMAN SANDERS:** Amy, do you have any --

Oh, go ahead.

**COMMISSIONER MARTIN:** I just wanted to be clear what the problems with confidentiality laws are.

**CHAIRMAN SANDERS:** Amy, do you have any reaction, I mean, what staff have been working on related to that?

**AMY TEMPLEMAN:** Well, I think it's a really good question. We tried to address some of those confidentiality concerns or perceived barriers to information sharing in C5 --

**COMMISSIONER MARTIN:** Right.

**AMY TEMPLEMAN:** -- to where we have a reference to FERPA and HIPAA and making sure that they are allowing people to share the information at least during the investigative phase of a child welfare case the information that they need, but if we need to go beyond that or say something more specific, I think we could either include it in C5 or we could add it back into C2 or even have a separate recommendation.

**COMMISSIONER MARTIN:** So I guess off the top of my head my recommendation is that I saw what was in C6 -- C5, and I like what's in C5, I guess I'm just not sure it's strong enough is my point.

**CHAIRMAN SANDERS:** So it does seem when -- that that certainly gives direction for staff, and they can either keep it as is and then when we are working on kind of finalizing the language in the recommendations, work to strengthen it, or if you have written suggestions or any other Commissioner has written suggestions on that recommendation, then it would be great to provide them so that staff can consider those in the next draft.

**COMMISSIONER MARTIN:** And so I will. I will think and sit down and see if I can draft something and send it to staff, but just off the top of my head, the last two bullets on page 2 under C5, clarify legislation that allows protective services to get access to crime information, I would strengthen that and require.

So how this works is in Cook County, I don't get access to FBI sheets and to leads unless I have a probation employee being lent to my division. So if I don't agree to have probation actually do the leads for me, I don't get leads checks. And so, you know, having -- and maybe that's just jurisdictional, but I think it's stronger if we require the feds to allow CPS and so I can actually send one of my employees to get the leads training and I don't have to go through probation.

On the last bullet point, "Require states to share CPS information across states, allowing CPS and law enforcement to check records," I would suggest that we should require it. If we're going to say that the system includes law enforcement, law enforcement has to have the training sufficient to keep that information confidential and only use it for the purposes of that particular investigation, we should require it, and we should -- and instead of allowing, we should require them to share and utilize that information. Does that make sense? But I will, I will take your suggestion, David, and look at it closer and then send any particular recommendations to staff.

**CHAIRMAN SANDERS:** But I think what you just provided is helpful because staff can take it and also incorporate it into a next draft.

Let me just read from our enabling legislation a couple of brief things because I think your initial question about the purview of the Commission and specifically CAPTA.

So under "Matters Studied," it does say the fifth is methods of prioritizing child abuse and neglect prevention within such services for families and children with the highest need and such services includes the primarily title IV and title XX.

**COMMISSIONER MARTIN:** Right.

**CHAIRMAN SANDERS:** And then under the -- under our report, it talks about the national strategy and prioritizing prevention. And so it does seem that we are -- that it's something that we will ultimately need to debate to decide, is this within our purview or not. Because it doesn't seem that the language is perfectly clear in directing it one way or the other.

**COMMISSIONER MARTIN:** And this is just my personal opinion. I think that we have to make certain that we stay within the scope that Congress has given us. Our failure to do that -- in my humble opinion, our failure to do that gives Congress more reason or a reason to ignore our recommendations. It seems to me that if we don't follow their directive, then, you know, publicly - - and I don't know the politics with a small "p" - - but to me publicly it gives them all the armor they need in which to ignore our recommendations.

And so my suggestion would be that we utilize the language that we've been given and look at title IV and title XX and do as much reform as we can get through there, and then maybe one of our recommendations is that Congress give some look at CAPTA and leave it very general, but I don't think that we should get into the weeds of CAPTA if our enacting legislation has not told us to look at it. And that's my personal opinion.

**CHAIRMAN SANDERS:** Thanks.

Commissioner Dreyfus?

**COMMISSIONER DREYFUS:** First of all, I'm not sitting here with the enabling legislation here in front of me, but I think we talked about this quite some time ago, and I do believe that the legislation gives us that ability to be looking at CAPTA. I also think that when we had our Members of Congress with us in Michigan, they were really clear. We want to know what needs to go on, what really needs to happen. I would feel actually really ethically challenged myself knowing as a child welfare director how critically important CAPTA is on all of this, to be silent on it. That to me would be an abdication of what I think is my responsibility as a Commissioner.

So I appreciate what Commissioner Martin is saying, and if there is clarification that's needed, I would ask that, David, you personally with congressional staffers get that clarification, but any of the meetings I've been in with congressional staffers, they seem to know full well that CAPTA is a critical part of this conversation. I mean, it is how Congress directs and funds and sets policy on child protection, so I just would have a hard time believing that the scope of the legislation does not allow for that, but if I am wrong, I am willing to be wrong, but I just would like to know that that was more looked at.

I want to get back to the recommendations in the Executive Branch section. Is that okay?

**CHAIRMAN SANDERS:** Yep.

**COMMISSIONER DREYFUS:** Okay. So there are two things that I thought about when I read this. The first was the Commission being careful that with a quest for short-term gain that we don't get long-term change. And I worry a little bit about asking the Executive Branch to establish the Children's Bureau as a Cabinet level department when we all know that if they do that, that means that a next Congress, a next President, could absolutely just ignore that executive order. And it obviously requires more than just moving, you know, checkers around. Congress has got to honor that that is indeed what's happening.

So I think we should step back a little bit here before we just fast-forward to what we know the Executive Branch does have the authority to do, but ask ourselves, because we're in this for the long term, is that the best way to go about doing something as significant as the Children's Bureau being established as a Cabinet level department? I felt that way in several of these, and I don't have the ability right now to go through them one-by-one. I would be happy to do that in editing, but it seemed to me that some of these indeed could be done, but are we really sure that's the right way to do it?

And then the last comment I have is starting with E2, I just see a number of these, that the list required to get these done is pretty immense. And we've got an administration coming to an end, and if were sitting at the beginning of an administration, halfway through an administration, I would feel differently, but I'm hard-pressed to think that some of these, like establishing national standards, is something that the administration could indeed complete, successfully complete, before the end of this administration. So for me it was let us be careful about not just getting short-term immediate gain when long term it might not be the best approach, and then being realistic about what is and is not possible for the Executive Branch to actually execute with quality in such a short duration of time. And are there some of these that need to shift to Congress?

**CHAIRMAN SANDERS:** Thank you.

Tom Morton?

**TOM MORTON:** Thank you, Chairman Sanders. I just wanted to clarify something about CAPTA and confidentiality for the Commissioners. There is an age-old axiom in public administration that if law doesn't say you can, then you can't, and that is the conundrum that we sort of face with CAPTA. CAPTA specifies what agencies are required to release, but it does not specifically say what they can release, and as a consequence of this, a number of agencies say they can't release things because of federal law when in fact CAPTA doesn't say you can't release it.

There are a number of examples around the country, one of which, for example, is Kentucky where two news media outlets have sued the state, the court has ruled in favor of the media outlets regarding the release of the entire redacted case record, to somewhat address Commissioner Martin's questions. Florida, in many respects, releases the entire case file but also in a redacted form.

So the issue really around CAPTA is that many states basically use the rationale that they can't release case record information in cases involving children who had prior involvement with the CPS system because CAPTA prohibits it. The language in CAPTA doesn't specifically prohibit it, but it doesn't specifically allow it either.

I hope that helps.

**CHAIRMAN SANDERS:** Commissioner Petit.

**COMMISSIONER PETIT:** David, first I agree with Commissioner Dreyfus about the incoming administration, outgoing administration, et cetera, and I think if we make the recommendation that whichever, it needs to be addressed. Congress needs to ask for it and that kind of work put together.

Can I also suggest that we go through this page-by-page that going back and forth with the recommendations to me at least is a little distracting. So if we could, you know, are we done with page 1? Are we done with page 2? Are we done with page 3?

With respect to Commissioner Martin's point about confidentiality, you know, one is I think on anything that has to do with individual sharing of information among the agencies that are protecting children, whether it's police or whether it's hospitals or whether it's CPS, that information should be freely available. And I agree with Commissioner Martin, that it should be required, not requested.

So, for instance, in the case of a conflict between a child and an adult, there is a child living in a potentially dangerous situation, the potentially dangerous person to the child has a mental health problem, and as long as they're taking medication, they do just fine. If they don't take the medication, they don't do very fine. The ability to contact a mental health agency and say, "Is your client taking medication or not?" is an important need for somebody making a decision about whether to leave a child in that home or not. So I think at the ground level where everybody is working on the case, there should be maximum allowing of the sharing.

Now, the confidentiality piece broader question of the public's right to know on these cases, I would just argue that one of the reasons we're in this situation and that we don't have a long-term safety net, we don't have a lot of the other things that we want, is the public has been shielded from knowing just what these families look like, what's going on. There is not a good understanding of why all this happens in the first place and I think that opening up the law on confidentiality would help that.

With regards to the C2, if you would comment or somebody would comment on the IV-E question and the question I had about the entitlement aspects of it.

And then, finally, what I would like to be able to do -- and I think Tom is the right person for me to work with -- I don't see in here in the recommendations -- and I think it belongs in the

immediate category -- is an effort right now in jurisdictions that are interested in participating in drawing down some resources to do a look-back at cases that are open right now, that it's believed the child has been abused and neglected, the child is at home in that open case, I think we should go back and look at those. So we haven't developed that as a paper yet. We've talked about it, but there has not been any real consensus, I don't think, reached on yea or nay, and I would like to have something ready soon with Tom, if I could work with him in preparing a one- pager or a two- pager that describes more what we're talking about.

**CHAIRMAN SANDERS:** If I'm not mistaken, that approach is described in here as one of the recommendations.

**COMMISSIONER PETIT:** I haven't been able to find it, David. I mean, it may be, but it doesn't jump out at me, and I think in my mind it belongs in the immediate status in terms of what can we do right now. So, you know, that's worthy of a debate --

**CHAIRMAN SANDERS:** Yes.

**COMMISSIONER PETIT:** -- but I would like to just frame it, you know, specifics that people can look at it, what it would look like in writing.

**CHAIRMAN SANDERS:** Yeah --

**AMY TEMPLEMAN:** Commissioner Petit, there is a --

**COMMISSIONER PETIT:** There's what?

**AMY TEMPLEMAN:** There is a reference to the look-back recommendation on page 6. It's under what the states can do in the short term, and if you look at recommendation S3, it's the sixth bullet point down. And we're very open to changing that language, changing its position in the document, whatever makes sense.

**COMMISSIONER PETIT:** Yeah, I'm talking about moving this right up to the front. So let me write something on it in terms of how I envision it working, and then you can accept it or reject it as you see fit. But I think that it's something that needs to be right at the beginning that feeds this sense of urgency and immediacy with children who in the time that we've been in operation, you know, several thousand children have died, and several thousand more will die before any of this is implemented.

So I would like to see if the group, the Commission as a whole, will agree in putting something forward that says here's an immediate intervention, drawing from whatever resources in the community you need to draw from, but that the feds would pay for it. So I'm set with leaving it now unless somebody wants to talk about it.

But, David, can you comment on the IV-E piece that I raised? There is nothing implied in here that --

**CHAIRMAN SANDERS:** Yeah, I don't think we've had any discussion about IV-E as a block grant or not. So my guess is that this is reflective of the conversations we've had about the better coordination across funding streams and beginning by reviewing those funding streams. That's what I'm guessing this is reflective of, but I don't think as a Commission we've had any conversation about changing the structure of IV-E.

**COMMISSIONER PETIT:** Yeah. Okay.

**CHAIRMAN SANDERS:** Amy, is that correct, that this is in response to the idea that we need to better coordinate or support coordination of funding streams?

**AMY TEMPLEMAN:** That is correct.

**CHAIRMAN SANDERS:** Commissioner Martin.

**COMMISSIONER MARTIN:** I think when those kinds of incidences occur -- and I'm not saying that I'm opposed to them -- I think those should be brought out to our attention. So if in fact it's not been a recommendation that it's been straight out of the testimony and the literature that we've reviewed or that we've all agreed to, and if we've only agreed to looking at IV-E and looking at whether or not we can be more flexible with IV-E, we should be careful about making specific recommendations about block grants or at least bring that to everyone's attention before we put it into the recommendations in the future.

**CHAIRMAN SANDERS:** Yeah, I don't think -- is there -- unless I'm mistaken, is there a reference to IV-E as a block grant in here?

**COMMISSIONER MARTIN:** I actually didn't see it. I was going by what we were talking about because I didn't --

**CHAIRMAN SANDERS:** Yeah, no, I'm not aware that anybody has had any conversation about that.

**COMMISSIONER MARTIN:** Oh, okay. Okay. Okay. Then my error. I misheard, misunderstood, that. Okay.

**CHAIRMAN SANDERS:** So let's see.

Oh, Commissioner Petit?

**COMMISSIONER PETIT:** David, the reference was simply I just raised a question in terms of if there was anything behind it. You've explained that there is nothing on the table, it's just there to be looked at as a funding stream. I'm fine with it. So I don't have another issue unless it's written about someplace else that we haven't seen. So I'm leaving it.

**CHAIRMAN SANDERS:** And I'll leave you with the floor because I don't know that there are any other comments on the report, on the recommendations. It sounded like you have a few more?

**COMMISSIONER PETIT:** You mean in the rest of the document?

**CHAIRMAN SANDERS:** Yes.

**COMMISSIONER PETIT:** No. I would like to be able to comment on -- nobody else has any comments from page 2 on other than what we discussed?

**CHAIRMAN SANDERS:** It doesn't appear to be the case.

**COMMISSIONER PETIT:** Okay. I can't say that that's the case for me. I'm going to look at it again and I'll just send something to Amy on it or to the rest of you if I have comments on it.

**CHAIRMAN SANDERS:** Okay. Why don't -- Commissioner Martin, obviously we have -- we now see Commissioner Zimmerman with an incredible opportunity, but she, along with you, were doing a lot of the work for the American Indian Subcommittee. Do you want to go over the outline? Is Cheryl going over the outline? Should we move to that? I have a couple of other comments about the recommendations, but given the short period of time, we may want to at least introduce where we are with both disproportionality and American Indian children.

**COMMISSIONER MARTIN:** Sure. So what the Commissioners have received in the e-mail I think that was sent out yesterday by Amy. And first of all, Amy, thank you very much for doing that -- is that there is a draft of the Native American children portion of the testimonies that -- of the outline of the report taken from the testimony and recommendations that have been made to us by the experts that came in, and you will see that we put the references to who made the recommendations and the transcripts so that you can go back and review those if you feel the need to do so. But what we tried to do was take and put in -- to kind of do what Amy did in the full report, which is to look at the key concepts that we've been working with throughout this process and put in some of the overarching themes and some of the responses, the general responses, and then put in the recommendations.

I will tell you off the top of my head that although, you know, the list of recommendations looks very long, we did try to take one stab or an initial stab at trying to pull together recommendations that we thought were similar and trying to coordinate those that we thought were similar and put them in a more concise manner. Sometimes it worked better than others, but I hope that the Commissioners find that this is an accurate rendition of the recommendations that we've received with respect to the Native American children. Likewise, the same process was done with the disproportionality outline, and, you know, they're right before you.

So I'm prepared to entertain any questions that we have. We can either go through them page-by- page, recommendation-by- recommendation, or I trust everyone has had the opportunity to at least preview it once before coming on, and I can just go to any questions that you might have.

**CHAIRMAN SANDERS:** Let me start with a question, Commissioner Martin.

**COMMISSIONER MARTIN:** Sure.

**CHAIRMAN SANDERS:** So would we not make a recommendation as a Commission? In thinking about the sections of the report, would it be to convey what others have said or -- I just wasn't clear about that.

**COMMISSIONER MARTIN:** Sure. So what I was hoping is that we could be -- we, the Subcommittee, could be -- as clear as we could about what the recommendations were made to us, but I think it's within our purview to take those recommendations and build the recommendations that we, as the Commission, want to recommend to the feds. So we could take the recommendations that were done by, you know, Judge Thorne and build on those, or we can just leave Judge Thorne's recommendation, or we can look at Judge Thorne's recommendation and think it's not effective and leave it off. We could take everything that's on these four pages and make one recommendation. I don't know what the Commission wanted to do, but I certainly didn't want to lead the Subcommittee to believe that as a

subcommittee, we could make recommendations for the whole Commission. I didn't want to be that presumption, presumptive -- presumptuous, I'm sorry.

So these are the recommendations that were made to us, and I was hoping that we, as a Commission, would look at those and see whether or not 1, 4, and 8 were valid and we thought we agreed with those and wanted to forward those on as they are or if we wanted to look at those and say that, you know, we only think that that works if we also add 10, 12, and 13 in it, or whatever, but I don't believe that just because an expert came to us and said they recommend this that we have to forward that through exactly the way it is, but I think we have to have some basis in which to make a recommendation. Does that make sense? Does that answer your question?

**CHAIRMAN SANDERS:** Yeah, it does. I'm -- I -- well, I'll see if others have comments.

Commissioner Petit.

**COMMISSIONER PETIT:** A couple of things. I think there's a lot that we do need to say about this. I think we're saying maybe too much about it in the way that all of the individual items are broken down, but as Pat has said, maybe, you know, Pat, you've got the listing and then we need to go through and pick and choose the ones that we have, but there are some that I think are a little -- they probably raise an eyebrow or two, and maybe that's the intention, but something that says we should modify school curriculums in order to do a better job in describing American history, I mean, that's in terms of how people were treated in the past. I mean, that's a pretty big piece, that we're recommending that a school curriculum be modified? We would need to discuss that, I think.

The other piece with both the American Indian/Alaska Natives and the disproportionality of especially black children in the system, is there a problem statement there? Other than are you saying -- can we show that with numbers so that black children make up 6 percent or 8 percent of all children or whatever the number is, and they represent 50 percent of all the children in care? I think we need to show what those numbers look like, which I would note, by the way, in many other sections of the report, we haven't really inserted numbers. Maybe staff is doing that with some of the side column and sidebar pieces that we have, but I think it would be particularly useful, Commissioner Martin, to note what that looks like at the beginning.

**CHAIRMAN SANDERS:** Commissioner Martin?

**COMMISSIONER MARTIN:** I think we can do that. I think there are numbers available that we can do that, and, you know, so -- and we can put that in -- I think we can put that in context with the numbers we were talking about for the general report. So what I mean by that is when we talk about the majority of children who die are up to the age of 3, and the majority of those are under 1, we can probably put in the numbers, the general population of blacks, minority children, in foster care in rough numbers compared to how many kids are dying with those numbers.

And I don't disagree with Mike about some of the recommendations, but what we tried to do was put all the recommendations we got and then as a Commission we decide which ones are important enough to forward through. You know, I think personally that the information about curriculums and how we look at American history is vital, it's vital to the self-esteem of our

Indian children, but whether or not that's going to impact the deaths of our children I think is a question for the Commission to decide.

**CHAIRMAN SANDERS:** Commissioner Martin, I think I'm trying to think about this practically and how we do that. So let me see if I can be as clear as possible about it. It seems that the key concepts are an area that we could have conversation about because, as I understand it, that's work that the Subcommittee would have done to take the recommendations, read through them, think about what the presentations were, and identify some of the concepts out of that.

**COMMISSIONER MARTIN:** Yes.

**CHAIRMAN SANDERS:** And that then the question would be, are there recommendations that are supportive of those key concepts? I think for me it's hard with the recommendations in the absence of the key concepts, as the Subcommittee saw them, that would potentially directly address child abuse and neglect fatalities --

**COMMISSIONER MARTIN:** So --

**CHAIRMAN SANDERS:** -- and so -- go ahead.

**COMMISSIONER MARTIN:** So I guess what I'm trying to understand then, is it your understanding or is it your desire that the Subcommittee meet again and take the key concepts that we fashioned and utilize those key concepts and we make recommendations to the Commission about which of the ones that are itemized out below need to be forwarded?

**CHAIRMAN SANDERS:** That would probably be helpful for me, but I'm certainly willing to defer to the will of the Commissioners on that because I think that the recommendations, because of how the presentations came at us, don't -- I mean, they may or may not fit in with what we think of as priorities, and the key concepts hopefully capture that, or within our purview to address. And it seems that the work that you did to identify the key concepts would be a helpful filter to think of the recommendations through, and, I mean, it seems like we heard consistently about the first bullet under the key concepts. And certainly I could look at all the recommendations and try and decide which ones I thought fit into that. So I'm willing to do it another way, but it seems like that would be helpful to have a sense of.

**COMMISSIONER MARTIN:** Well, that's fine if that's what the -- I mean, if that's what you and the Commissioners want us to do, that's fine. I just didn't want to do that without -- because, you know, I think there was a comment -- there was a comment made by one of my fellow Commissioners some time ago that they wanted to be involved in making the recommendations, that they didn't want to just take recommendations from experts and forward those hook, line, and sinker to the feds, and that they, as a Commissioner, felt they had the right to be involved in making the recommendations. And so I didn't want to cross that line, and that's why we presented these the way we did. Now, if there's a different way that we can be helpful, we'll do that, but I certainly was trying to be very careful not to assume the -- and take what I thought my fellow Commissioner was saying was their responsibility by having the right or the input in making and fashioning the recommendations, and so that's why we did it this way. But I'm prepared to do it any way that you think is best for us as a deliberative body.

**CHAIRMAN SANDERS:** Well, we now have over the last couple of minutes I think have dropped off most of the Commissioners who were on. I think there were eight on at one point and now there appear to be three.

So Commissioner Petit.

No, there are four on now. Sorry.

**CHAIRMAN SANDERS:** Go ahead.

**COMMISSIONER PETIT:** Okay. I said I appreciate the judge's inclusivity, and I do think it would be beneficial if the subcommittee went through it and said these just don't belong here. You may not feel that way about anything, you may feel that all of them are in there, but I think if you went through it first and said we had 20 items, now we have 11, and we got rid of 9, and let's agree on these 11, I think that would be entirely appropriate and well received.

David, just before we sign off -- and I don't need to do it right now, we need to finish the discussion on this, but I do have a comment on one of the recommendations that I think is an important one that we can go back to after we have discussed this section of the agenda, if we can.

**CHAIRMAN SANDERS:** Will do. Thanks.

Commissioner Martin?

**COMMISSIONER MARTIN:** So this is one of my issues. The Commissioners seem to be preoccupied when we come to discussing these two issues of disproportionality and Native American Indians. It seems to me that I have been as helpful as I know how to be on other sections of this report, and I would expect, and I do expect, their level of interest and commitment and assistance on these two areas of the report as well.

Now, I do recognize that we're getting short on time, but it seems to me that as much effort as I spend in reviewing the work that's presented by their subcommittees, I should be able to expect that same level of commitment and work on these two subcommittees.

Having said that, I will go back with the committees, the subcommittees, and we will fashion recommendations that we would ask this Commission as a whole to look forward to putting to the feds and including in the final report.

**CHAIRMAN SANDERS:** And I do think that this would be -- since these two we've had much less conversation about, I think for the next call we'll have the kind of solid vision statement and we have the full set of recommendations that there were some changes made but not a large number, this will likely be the start for our next meeting, next call, so hopefully the time will be reflective in -- the time devoted to this will be reflected better because of how we sequence it.

**COMMISSIONER MARTIN:** And then if I could just impose upon you to when you send out the notice to the next meeting, if you can remind Commissioners that if they can review the documents that were given to them today, and if they want to forward any of their suggestions or join in any of our conversations, that they're more than welcome to do so.

**CHAIRMAN SANDERS:** Good idea. So anything else that we need to cover --

Oh, Commissioner Petit, sorry. Go ahead. You had wanted the recommendation to go back, that you wanted to go back to.

**COMMISSIONER PETIT:** David? David, do you hear me? This says I have the floor.

**CHAIRMAN SANDERS:** Yep, yep.

**COMMISSIONER PETIT:** Okay. You know, I agree with Commissioner Martin, that we should just put this right up front on the topics that you've just addressed right up front on the next phone call, and that I would just ask that when the staff notifies us of the agenda that those two attachments be reattached to that document. I mean, that's going to be another few weeks, we would have lost it, have to find it, et cetera, just to simplify it.

David, one comment that I wanted to refer to, it was C2, and -- no, it was C7, and I don't -- if there is agreement on that, I would like to know it. I don't agree with it, that there was a real issue for me in going and limiting it to zero to 3. I have a granddaughter who is 3, she is going to be 4. She is no protection, she is in no situation, condition, to protect herself. I don't think we should limit it to zero to 3, I think that we should be looking at all kids who need to be looked at, and if I was somebody looking at that, the first thing I would raise is, what about 4, 5, 6, 7? I don't think we can say we don't have enough resources to do 4, 5, 6, and 7. We have the resources to deal with all these kids. The question of what are the characteristics of the referral that would prompt us to go out, that's one thing to be debated, but to just do it arbitrarily by an age cutoff I don't think is going to work. And if we need to debate that and bring it to a vote or conclusion at the next teleconference, let's do it, but I don't think, as it's written right now, that it passes scrutiny.

**CHAIRMAN SANDERS:** Commissioner Martin?

**COMMISSIONER MARTIN:** I don't -- I agree with Commissioner Petit that all of our kids, you know, any kid under the age of 18 who dies is a concern. The way I read this and the way I've been thinking about it since working on this Commission is we've identified that zero to 3 is our biggest risk factor for kids dying, and, you know, and before and under 1, and we've kind of focused our attention on those kids, although our enacting legislation says all kids, it doesn't limit the age of the kid, and so I think at some point we have to talk about all kids, but our major focus has been on where the majority of the kids are dying, and so that's why I thought it was written 7C -- 6 -- I'm sorry -- C7 was written as is.

So I don't think any one of us would disagree with Commissioner Petit that we're concerned about all kids, but I do think that if we're going to talk about legislation, we have to talk about where our biggest and our greatest or gravest risk is. But he does bring up a point, that our enacting legislation talks about all kids, and I do think that we have to clarify that somewhere, maybe in our introduction or at some general point, that although we recognize that Congress asked us to look at deaths of all kids, this is why we spent the bulk of our attention on the youngest set of kids.

The only subcommittee that I think that made any kind of recommendation about older kids was the Native American one, and that was related to the suicides, but I do think there has to be some information to the reader as to why we've been focusing on the younger kids.

**CHAIRMAN SANDERS:** Commissioner Petit?

**COMMISSIONER PETIT:** I know our numbers are shrinking here. We're going to hit 3:00 in a minute. I would just say that the protective mantle of the state extends to all people, and while zero to 3 is a priority group that we should target and make extra efforts on, that should not come at the expense of anything that we're doing for our kids that are older, and again I come back to the resource issue. It's an easily affordable thing for the U.S. to do it. Politically it's a different question, but in terms of the cost, it's something that we can afford.

But I don't think we need to do anything for the moment. I mean, I've heard what Commissioner Martin says, and I understand that. I think we need to see what the next iteration of this thing is going to be by the staff. So that may take care of it, but to do it arbitrarily, you know, is a future Supreme Court case.

So that's all I've got.

**CHAIRMAN SANDERS:** All right. Well, I think we've given a lot of information, and the staff again have done an outstanding job capturing it to this point, and I am very confident that they will for our next call. And so our next call will focus on American Indian children, disproportionality. We should have another iteration of the recommendations. And basically we have almost everything necessary for the report except for the full consensus of the Commission, but I think the feedback that's been provided both in writing and on these calls has really been helpful. And I think I can speak for Amy and staff, that they've gotten a lot of direction from this. And so thanks, everybody, and thanks to the staff for the great job they've done.

Talk to you in a couple weeks.

**(Whereupon, the Commission to Eliminate Child Abuse and Neglect Fatalities telephonic meeting was concluded.)**