



COMMISSION TO ELIMINATE CHILD ABUSE AND NEGLECT FATALITIES

COMMISSION MEETING - TELEPHONIC

FEBRUARY 15, 2016

Attendance:

- Chairman David Sanders
- Commissioner Amy Ayoub
- Commissioner Theresa Covington
- Commissioner Bud Cramer
- Commissioner Susan Dreyfus
- Commissioner Wade Horn
- Commissioner Patricia Martin
- Commissioner Michael Petit
- Commissioner Jennifer Rodriguez
- Commissioner David Rubin
- Commissioner Cassie Statuto Bevan
- Acting Executive Director, Amy Templeman

CHAIRMAN SANDERS: I know Commissioner Cramer's on, so we can go ahead and get started. We have a packed agenda. You'll have to continue from last night's agenda and I had talked about starting with Chapter 7, but actually I want to start with Chapter 2 and then we'll go to Chapter 7, then we'll run through the remainder of the agenda items. And as we did yesterday with Chapter 6, we will ultimately vote recommendation by recommendation on the call today.

The reason I wanted to start with Chapter 2 is because at the end of the meeting yesterday, for those of you who weren't able to participate, Commissioner Bevan expressed her inability to support the document as is. And so we worked on some ideas subsequent to that conversation yesterday and have a set of recommendations specific to Chapter 2 that would get us to the point where her support would be assured. And part of the issue is that all along we've talked about the importance of a consensus document, so I want to make sure that we take every chance possible to make sure that we can reach that.

The other is the idea that we want our efforts to be actionable and that means they need to be bipartisan. And I think what I heard yesterday from Commissioner Bevan is some concern about where we are with that right now, so I want to at least talk about the ideas that came up and look for where we can find agreement. The concerns expressed last night included the fact that the current funding doesn't work, particularly siloed funding, and that if we

perpetuate silo funding we'll get the same result and that we probably don't go far enough to address some of the funding issues. And secondly, we don't know where all of the money is and so we may not be using it effectively.

And then the second piece was that we aren't using what we know and what we don't know. So there are some changes. I'll just talk at a high level, and then Amy sent out a document that includes a specific proposal for recommendation 2.1 that as we go through this recommendation 1 and 2, consider those five areas that are being proposed.

So I think that a starting point is a recognition which we have recognized as a Commission that children need to be seen and that we have 1.4 million children who -- actually investigation referrals that have been made, that include at least one child, that aren't being seen right now and that that will cost extra dollars, but that we should look to Congress to find the dollars to support that.

That, secondly, we should prioritize youth, birth to 5. Third, give states funding flexibility to test a complete redesign and overhaul of child protection aimed at reducing child abuse and neglect fatalities, and that we should use the FFRDC model to advance the use of data. And I think the bottom line in the set of recommendations is that as immediately there should be no new dollars, but that there may need to be dollars later.

So, if all you would have gotten the recommendations for Chapter 2 under Recommendation 2.1 just in the last 15 minutes or so, and I can -- well, go ahead, if everybody has it, I think it probably makes sense to open up discussion. And I don't know if there's anything that Commissioner Bevan wants to say, in addition.

COMMISSIONER PETIT: David, can you just repeat yourself? This is Michael. You said something about no new money now and money later. What was that again, please?

CHAIRMAN SANDERS: That for now no new money, but as we learn more, it's quite possible that money would be needed.

COMMISSIONER PETIT: No new money for anything now?

COMMISSIONER STATUTO BEVAN: No.

COMMISSIONER PETIT: All right. So are we going to have a discussion on that now or are we going to wait?

CHAIRMAN SANDERS: No, I think this is -- I wanted to see if Dr. Bevan had anything additional to add and then, yes, that's the --

COMMISSIONER STATUTO BEVAN: What we want to do is restructure both title IV-B and CAPTA. I mean, the whole thing needs to be overhauled because for 30 years we haven't been able to get the system to work, and we don't want to incentivize placement over service. We know we need services, but we also know that we have not canvassed the entire government to see where service money is, where prosecution money is, where investigation money is. Though what we would want to do first is ask the MITRE with FFRDC to do what you want them to do, which was to review kids 0 to 3 or 0 to 5 over the past five years and see what we could learn. And then we would hope that we can also, at the same time, learn something about kids already in placement or not in placement. But just identify children, feed it

through Plans of Safe Care or kids who are abandoned or wherever -- in ERs, wherever we find them -- we want to identify young kids.

And we would want to pay for the services; part of it's 0 to 5. We want to turn Hatch-Wyden on its head. Instead of starting at 16 to open up IV-E for one year, we want to start with 0 to 5. That's IV-E. And we would also like to see if we could get a call for a new set of waivers for IV-E that would focus on fatalities for 0 to 5.

You know, depending on how all of that goes, I really do believe that if more money needs to be forthcoming, we're not going to touch the entitlement of IV-E. That, we're not touching, just touching the open-ended -- the Hatch only as far as Hatch does. So we're not talking about a billion per capita right now, and I know that that's a sticking point for the rest of you or many of you. I'm hoping this is an alternative.

COMMISSIONER DREYFUS: Commissioner Bevan, this is Susan. On the Hatch-Wyden bill, I know it hangs in the balance because of scoring and I'm assuming that if this got moved to 0 to 5, we're looking at a whole new scoring that is going to significantly increase the cost of that bill.

COMMISSIONER STATUTO BEVAN: I don't know if that would significantly increase the cost. We don't know that. We don't know what the cost is.

COMMISSIONER DREYFUS: This is something with Lauren Becky (phonetic) I would sure want to test and understand because this could significantly change the scoring of that bill.

COMMISSIONER CRAMER: Commissioner Bevan and Commissioner Sanders, this is Bud Cramer. Let me see if I understand where we are. Commissioner Bevan, your recommendations with regard to funding and testing the existing funding flows, is that to be accomplished, this recommendation, in 2.1?

COMMISSIONER STATUTO BEVAN: Yes, it's to replace 2.1.

COMMISSIONER CRAMER: So the wording we're looking at that we got a bit ago, recommendation 2.1 is to accomplish just what you said?

COMMISSIONER STATUTO BEVAN: Yes.

COMMISSIONER CRAMER: Is that your wording? Our wording? How did we get that wording?

COMMISSIONER STATUTO BEVAN: It's my wording, our wording. David --

CHAIRMAN SANDERS: We worked together on this because I wanted --

COMMISSIONER CRAMER: Pardon?

COMMISSIONER STATUTO BEVAN: We worked together. We --

COMMISSIONER CRAMER: When you say this would take no more than 90 days, you're stating a position that we, the Commission, believe that establishing an FFRDC would take no more than 90 days, is that what you mean by that?

COMMISSIONER STATUTO BEVAN: No. No, and we can take that part out, but -- no, we were talking about the review because I thought the review from the 0 to 5 would take a lot

longer, but David assured me that the data's there. It's historical review and that it wouldn't take as long as I thought, but we could take that out.

CHAIRMAN SANDERS: And I think part of it is to emphasize the urgency.

COMMISSIONER RUBIN: Hey, guys, I'm on the road. I don't have a computer in front of me. Can you just read the new recommendation?

CHAIRMAN SANDERS: Sure.

COMMISSIONER STATUTO BEVAN: Sure. It's, "Federally Funded Research and Development Centers have been created by the federal government to address problems of considerable complexity and provide innovative and cost-effective solutions." Remember, we did hear from them and they did apply their current methodology to child abuse and neglect and they did feel that they could do this by creating universal definitions and not trying to work with 52 different definitions.

So we would use the FFRDC, which has been in existence for 70 years -- which I didn't know -- to develop a methodology that has states reviewing a child death from child abuse or neglect over the past five years in children 0 to 5. And I'm going to drop the, "This should take no more than 90 days." That was sort of a note that it wasn't going to take years.

"The purpose of the review is to determine the circumstances surrounding these deaths and the services offered and see what went wrong. The outcome would detail a new path from screening to services to placement, and it would also drive the funding." So, at the same time, the multidisciplinary teams we've talked about, that would sort of arise from our direction that we want reports of this -- we want to identify children of this age. And we want to make sure that that is widely known, that these kids are at highest risk and that they are the newest and the largest entrance of kids into foster care.

So we want them identified wherever we can find them. Hopefully, we will find kids that have not been previously identified or maybe we'll find them at the hospital or in the ER. And then come up with a child protection block grant, and that would be very focused on both services and on current investigations. IV-B now has current investigations listed in there, but I don't know how much of that is done. There are investigations under VOCA that we could probably do the set aside, but I don't know where all these funding streams are, but I do know that they exist. And so one of the things that we'd want to do is have GAO or somebody identify them as quickly as possible.

But the point is that right now I don't think we would need new money to do these two things, especially if we add in prioritizing 0 to 5 under Hatch-Wyden. And that opens up IV-E for one year for services.

And then we'd also, fifth, we'd want to call for a new set of cost-neutral waivers. Waivers have ended and we would like to see these waivers not test innovations and evidence-based practices, but test approaches to get more favorable outcomes for children 0 to 5. So we'd want cost-neutral waivers, as we've had in the past, for IV-E.

COMMISSIONER PETIT: David and Cassie, are you saying you replaced 2.1 right now, which is the surge to protect abused children?

COMMISSIONER STATUTO BEVAN: Yes.

COMMISSIONER PETIT: Okay. And, really, what you're trying to do is get a better handle on how current dollars are spent and trying to test what better outcomes could be produced under different models for testing.

COMMISSIONER STATUTO BEVAN: Yes, and we're also trying to address the concern of children now, where they are now, and see if we can get more attention placed in terms of investigating on a report that's made of a child between the ages of 0 to 5.

COMMISSIONER PETIT: David, I will just say -- this is Michael -- I would just say that a lot of what Cassie is talking about should be done and should have been dealt with far earlier in this process than the final 4 or 5 or 10 hours that we've got going into this. To think that we would have spent two years, gathered the testimony that we gathered, seen all of the accounts in state after state after state where there is insufficient resources to do basic child protective services, much less provide for all the services; to think that we would step forward and say, we are making a series of administrative proposals, studies, reviews, field testing. We're not proposing any new money, with 3,000 kids here being killed; I just think, for me, not a chance.

I mean, we have seen and heard and read again and again and again issues around training, issues around staffing size, the availability of services. I think that this could be parallel. What Cassie is talking about is, this could be something we are recommending that the federal government address; that there be a revitalized, reinvigorated, stronger federal presence and these are the kinds of things that they should do. But to hold in abeyance the kinds of interventions we've been talking about, held to this developing, unfolding over some period of time does no good for any children that are at high risk right now.

So, certainly, Commissioner Bevan's (inaudible) could be a supporter of both, as we all are, but for me this is a definite no.

COMMISSIONER RUBIN: Hey, Cassie, this is Dave. I've been intrigued by your policy paper since it came out, right, about this idea of folding CAPTA into IV-E to give it the weight that it needed. But I had always assumed that that included fundamental sort of fixing IV-E to the extent particularly around the look-back. You know, every year we're losing more money to IV-E because of a 1996 look-back. And so, my thoughts as I kind of considered your idea was that fixing a look-back and tethering the additional new funding that would come in by fixing the look-back --

COMMISSIONER STATUTO BEVAN: Uh-huh.

COMMISSIONER RUBIN: -- to this issue of fatalities could be that infusion of new dollars, but under a restructured IV-E that actually included the CAPTA prioritization. So I saw the potential of the new money coming in from the fixing the look-back and prioritizing it for this issue, but particularly as you gain flexibility. Is that not how -- doesn't fixing the look-back add new funds?

COMMISSIONER STATUTO BEVAN: No, the look-back limits the funding because the further we get away from 1996, the less children are eligible for IV-E placement.

CHAIRMAN SANDERS: But it does depend on what the proposal would be as it relates to the look-back. For example, if it eliminated and the match stays the same, that would be an infusion of dollars. If it is eliminated and the match is lowered, then it could be cost-neutral. So it depends.

COMMISSIONER RUBIN: Yeah, because I thought it was like if you actually -- because you're pegging IV-E dollars to, basically, poverty levels from 1996. If you suddenly pegged them for poverty levels from today, all right, I imagine that would be new money to IV-E, no?

COMMISSIONER STATUTO BEVAN: Right, but we're not touching that part of IV-E. What we're doing is touching the open-ended -- using IV-E for services, as does Hatch.

COMMISSIONER CRAMER: Cassie, this --

COMMISSIONER STATUTO BEVAN: The IV-E look-back is stupid, but we try and take -- if we try and get ahold of IV-E and the look-back, we're going to end up with a funding formula fight because of the way that IV-E is financed. It's financed through a formula and that's winners and losers and it just would be very difficult.

COMMISSIONER DREYFUS: Yeah, but Hatch-Wyden does deal with the look-back as it relates to the kids who are deemed to be candidates for foster care. So there is some look-back fix there with the opening of the entitlement for those kids, regardless of financial eligibility. Isn't that correct, David?

CHAIRMAN SANDERS: Yes. There is no look-back for prevention services, correct.

COMMISSIONER COVINGTON: This is Commissioner Covington. I have to say, I'm a little astounded. I mean, (unintelligible) as users today, I see they're supposed to vote on the --

COMMISSIONER CRAMER: I'm sorry, I can barely hear you.

COMMISSIONER DREYFUS: We can't hear you.

COMMISSIONER COVINGTON: Can you hear me better now? Hello?

COMMISSIONER CRAMER: There's a lot of background noise.

COMMISSIONER COVINGTON: Can you hear me better now?

COMMISSIONER CRAMER: I think so.

COMMISSIONER STATUTO BEVAN: A little bit.

COMMISSIONER COVINGTON: Is that better? I'm trying to adjust the phone.

COMMISSIONER CRAMER: Yes, yes.

COMMISSIONER RUBIN: Yes, Dave's just rejoined. I got dropped from the call.

COMMISSIONER COVINGTON: So I'm just a little bit astounded right now because we have four hours that we were supposed to spend four hours going through on all of the recommendations from before and we get this massive proposal thrown to us that's truly beyond my comprehension without having a lot of time to think about it or to explore it.

We're talking about making some significant recommendations around funding, the discussion of a block grant for child welfare changes to IV-E. I'm just a little bit overwhelmed with it. I will tell you right now, I don't feel that I'll be able to make an informed vote on this right now at all.

COMMISSIONER RUBIN: Hey, guys, what happened to the -- I thought we were moving in a direction of conceding some level of disagreement about the path forward. There was one group saying we didn't need new additional funding now, and another saying that we could accomplish this through a staged mechanism, and another saying that there was a sense of urgency to -- like, was that compromise not acceptable to folks?

CHAIRMAN SANDERS: Commissioner Rubin on the call last night, Commissioner Bevan indicated that she could not support the report. And I have committed to at least a priority being to assure consensus, if we can reach it, and so we talked about what it would take to get to consensus and this is -- so the idea is to put this in front of all of us to see where we are. And I think the responses are helpful in that context. So that was not sufficient to reach consensus on. We did not have consensus on that, Commissioner Rubin.

COMMISSIONER RUBIN: Okay.

COMMISSIONER PETIT: David, I'll just weigh in on this again and I'm hoping that others -- how many of us are on the call?

CHAIRMAN SANDERS: I have the list here. At least seven.

COMMISSIONER PETIT: Let me say --

CHAIRMAN SANDERS: It's supposed to be everybody, but Commissioner Rodriguez -- well, Commissioner Rodriguez is going to try and join for a while, so all should be on at some point.

COMMISSIONER PETIT: Yeah. One of the easy throwaway lines in this hearing over the last few months, over the last few days, that CPS isn't working. And I think we need to be careful about how we end up doing that. CPS is working in many instances. In other instances it's not working and the question is why or why it isn't working? And I look at other major areas of presence by our federal government, whether it's in defense, whether it's in agriculture, in numerous areas there's imperfection galore. It's the nature of the beast. It's the nature of us as people, it's the nature of us as a country, et cetera.

That doesn't stop funding for the Defense Department or for Agriculture or for anything else, because there are imperfections in our defense, in our Department of Justice, in our growing of food. That same thinking should apply to this thinking. There are problems and imperfections in this, but we can't put on hold yet more study, yet more research, while children are being harmed.

I think what we do is we go back to the original plan if we're ever going to move these things forward. And I would be happy to say, as an appendage to all these things, adopt the exact kinds of things that Commissioner Bevan is talking about and get those done. Make that condition of some of the other kinds of things that are going on, but I think we need to put the things we've said on the front burner. We need to fund them.

And the studies that she's talking about, the reviews, that could have been done 24 months ago, 52 months ago, 3 months ago it wasn't. So we are where we are. And I agree with Commissioner Covington's point, it's way too much to handle at this late date. And if we have some divisions, a non-consensus report, so be it. But we can't deny the fact that the states have suffered on this, the families are suffering. They need more resources put into the table and they need it now.

COMMISSIONER DREYFUS: This is Susan. I want to ask Commissioner Bevan a question here. So, one of the things in our current recommendation -- 2.1, not this revised one, but the current one -- is that through the process that we are describing as the surge, that we stop, as we have been doing -- in fact, you articulated yesterday all the past reports from these past commissions, why nothing has happened, and I'll tell you just from my own experience of leading two child welfare systems, I think a big part of that is because we believe the beginning, middle, and end of the answer is child protective services alone. And I think what our subcommittee was trying to say, consistent with the Centers for Disease Control and many others, is that it just takes a much larger public health approach and CPS is a critical, necessary piece of this. Don't get me wrong, it's central, but it takes a much larger -- what we're calling this 21st century child welfare system approach.

Help me understand how, if we replaced our current 2.1 with what you're advising, what gets us in the direction of the 21st century child welfare system that is far more multidimensional than just a fixation on the child protection agency alone? What in this process gets us there, as is envisioned under our current 2.1?

COMMISSIONER STATUTO BEVAN: Well, I think that when the FFRDC looks at the circumstances, I think we're going to look and see -- they will also be looking at the circumstances and what happened and, clearly, will have been noticed that we can't have CPS by itself. That it is overburdened.

And I think between that and a cost neutral waivers, that we would learn more about -- I mean, we can encourage it now and it's already in statute now, but it's a multidisciplinary teams but it doesn't happen.

And you asked me about the look-back. The look-back is phased in, as is everything else in Hatch-Wyden, so it doesn't come all together.

COMMISSIONER DREYFUS: Right. I understand that.

COMMISSIONER STATUTO BEVAN: I'm just trying to make something doable. I mean, I understand what everybody's saying and I do think that I agree with you that it's a bit late. I just don't think that -- Susan, you've been up on the Hill. Have you talked to anybody about a billion dollar surge and putting money into CAPTA?

COMMISSIONER DREYFUS: Well, I do believe that regardless of what -- I appreciate the conversation on the Hill, but I also think that we were asked to give Congress a plan for what would it take to actually eliminate the fatalities of children by abuse and neglect. And we heard from both Republicans and Democrats and members of Congress, I believe that was in Michigan, that told us we should not hold back from telling them what it's going to take. We as a nation have done nothing.

COMMISSIONER STATUTO BEVAN: Right. So I don't think --

COMMISSIONER DREYFUS: So we have yet to invest in child protection, nor have we really -- when you look at what we're spending in child protection as a country, from a federal perspective, I am just hard-pressed to tell Congress, yeah, we can eliminate child fatalities, but you can just -- don't worry, we don't need any more money, we just have to spend the money we all have smarter. We've been saying that for 25 years.

COMMISSIONER STATUTO BEVAN: I don't think we even know where all that money is, but (unintelligible) up the Hill is that you brought up Hatch-Wyden and you thought it would slow it down. I don't think it would because we don't have a score and we don't have anybody in the House ready to introduce it, so I'm not worried about that.

COMMISSIONER DREYFUS: Yep.

COMMISSIONER STATUTO BEVAN: As you were saying, I don't think we know where all the money is. I know we don't.

COMMISSIONER DREYFUS: Right.

COMMISSIONER STATUTO BEVAN: Officially we haven't looked at it, we haven't looked for our program score and we haven't looked at the dollar. And we have no idea if the billion dollars is too much or too little or anything.

COMMISSIONER DREYFUS: Okay.

COMMISSIONER STATUTO BEVAN: It's not calibrated to anything.

COMMISSIONER PETIT: David, I'm concerned about the same point that Theresa Covington raised about just how much time we have left to spend on all of this stuff. And I appreciate the fact that there can be irreconcilable differences between people and among the Commission with respecting each other's points of view, but at this point we are very far down the road.

We've crafted stuff over a period of months that still has controversial elements within it, but to deal with what Cassie is talking about right now, I think, is just way too much at this late date and I'm going to propose that we not. I'm not going to agree to what is being presented as a compromise. I think that we should decide whether there's support for this or not among the commissioners who are on the phone. And if a majority think there is, then so be it. It'll be -- that's what we're going to recommend.

And if there's a majority that think it should not be accepted, let's just push it off the table and plow forward with the remaining four or five hours that we've got today, which I'll be astonished if we're able to get through a very full agenda in the next four or five hours.

So I think we should, right now, at -- people know what the elements are that Cassie and you have proposed. I think we know what the elements are, broadly speaking, and I'm saying that they be added as an appendage to this report in terms of this is what needs to be done while we go forward with these other things. I think we should just vote on it. I don't think a give-and-take over the next hour is going to fundamentally alter what our thinking is. We either agree with it or not.

CHAIRMAN SANDERS: Let me just point out that in the agenda, this was -- by focusing on Chapter 2 this was actually the first item and the fourth item, so this isn't off our agenda. I would suggest -- I heard that Commissioner Cramer was going to say something and then I think we can see if there are -- this is essentially a recommendation to replace what's in 2.1 and we can see what is for that.

COMMISSIONER CRAMER: Thanks. Commissioner Sanders, this is Bud Cramer. I think very good comments have been made. I still don't quite completely understand the suggested rewording of Section 2.1.

Cassie, you're calling for the creation of this FFRDC and there's a note or language in there that it was thought that this would cost \$60 million. Did I read that right?

COMMISSIONER STATUTO BEVAN: Oh, no, that was David's estimate of the review, right, David?

CHAIRMAN SANDERS: Yeah. Actually, Amy did the estimate projecting from the reviews that had been done in Hillsborough County. And, in fact, it's in the report right now.

COMMISSIONER CRAMER: Okay. All right. I'd have to say I agree with Michael Petit. I think including some of this language or suggestions in some part of the report would be appropriate, but I couldn't agree that we should have this substituted section.

COMMISSIONER RUBIN: Hey, David, can I say something? Because I think this is important. I'm not ready to kind of vote on this yet. This is Dave Rubin. I mean, because this idea of whether we can achieve consensus, I think, is important. And for me, I changed my way of thinking about this report.

From my perspective, it's not our job to create policies in Congress. Ultimately, they're going to have to do that themselves. I think the reason why I liked your idea about offering what the majority of the Commission thought was an appropriate urgent step that needed to be taken, but then others actually expressed concern that the ability to move that in a timely way through Congress, was that we need to also offer other alternatives that would recognize the political environment that we currently are in and, therefore, provided another option.

Not everyone agrees to this, but the idea of coming to -- like this is going to be the one we go beyond because this is what Congress will do. I don't think that's our job. You know, I think it's okay to recognize it. But that's why, Cass, I was wondering if the wording that expressed the underlying reason for your opposition to the other approach were there -- you know, if Congress was going to take this report and decide what they have an appetite for. So I kind of like offering them a couple of options.

CHAIRMAN SANDERS: It sounds like several are proposing that this be identified someplace as an alternative.

COMMISSIONER PETIT: I don't think it's an alternative. I think it's work that needs to be done while the rest of what of we have proposed goes forward. I think that David Rubin is right on this one, as others have expressed it. Our job is to tell the Congress what we think needs to be done, not perhaps something that we think they'll accept. We'd like it if the two were hand-in-glove, but there are a lot of people looking forward to this report and it can't be we need more study, we need more testing, we need more demonstrations because this is an

urgent issue right now facing these kids. We need to act on that now and challenge the Congress to deal with it.

CHAIRMAN SANDERS: Any other comments?

COMMISSIONER DREYFUS: Yeah, I don't think that all of 2.1 though, Michael -- again, I don't think it should be presented as an alternative. I believe that if Commissioner Bevan wants to put that in her minority report, if she thinks it should happen, that's certainly within her prerogative to do so. I do think there are a couple of things in here that are valid that I would ask my fellow commissioners to think about: the idea of a new set of cost-neutral waivers in the area of 0 to 5, the prioritizing of Hatch-Wyden to 0 to 5. I mean, that certainly is consistent with everything we've heard and why it would be a sound thing for Congress to do.

The one thing that I will say to my commissioners I have had a little bit of heartburn over, when we talk about this "surge" and "billion dollars," we talk about the ability for states to use those dollars for services. And I worry a little bit about that, just because all of a sudden you really start creating the dependency on these additional dollars that are going to be very time-limited. And I worry a little bit about the opening up of the dollars, not just the conduct of the surge and the learning community that it creates, but also the ability to use those dollars for services. So I'll just go on the record saying that.

I do think -- I don't know that these things all fit together, but I think you could pull some of these out and they go in some of the other sections of our report and are pretty solid.

COMMISSIONER CRAMER: I agree with that.

COMMISSIONER RUBIN: And I also think, I was intrigued by Cassie's idea. You know, I think the fundamental conclusion I made about CAPTA during the testimony -- and I think a lot of us did -- was that I think the number was like \$27 million to enforce, you know, for CAPTA. It made absolutely no sense to me. It was completely unenforceable. The idea of collapsing CAPTA into IV-E, making it real that way and then granting a lot of IV-E flexibility, and then potentially fixing the way in which IV-E funds are determined was a way to -- potentially another way to accomplish this and let Congress score what that would mean from a financial perspective.

But then, ultimately, you could then go after state plans related to CAPTA, related to fatalities, so I do think there's some stuff there that Cassie was suggesting, I think, that in the long run could be more sustainable than just a block grant for a few years or renovation fund that goes away.

COMMISSIONER DREYFUS: I think, though, that you've got to put some money on the table for what it's going to cost states to "do the surge," and to create those learning environments that we want that moves us into this 21st century child welfare system. But I do think that some of this stuff related around these changes in these financing streams -- the waivers; the Hatch-Wyden; putting CAPTA into IV-E and allowing flexibility where IV-E is now, just as Hatch-Wyden now looks at IV-E as being more frontend and preventative than just backend and responsive -- it's consistent with the direction of what the feds have been learning from the waivers already. And that is a more frontend preventative system is better, and that's part of CAPTA, right? Child protection.

So that would make sense to me, but you're still going to need some dollars for the funding of the ability to conduct the "surge."

CHAIRMAN SANDERS: So it sounds like, at this point, there is not consensus on the direction to go, which we will continue to -- I'm sure, as the day goes on, but at this point I'm going to move on to the other items that are identified for Chapter 2, and then we'll go to disproportionality recommendations. And then we'll do the remainder of the agenda.

Commissioner Covington, you had a couple of points. You suggested two years instead of one and, also, the lead title for the recommendation.

COMMISSIONER COVINGTON: Two years instead of one. I'm not sure what that refers to.

CHAIRMAN SANDERS: That's the -- these were the comments that you made about the surge and the review of cases.

COMMISSIONER COVINGTON: Oh, yeah. I don't really feel the states could be up and at it and done in a year. I think that that's actually too much. It's going to take quite a bit, I think, with my own experience on that, but a year is just too soon, just too quick to have happen.

The other pieces, I just have a fundamental problem with how do we get this whole chapter, our lead chapter -- I think the fact that it is upfront, it's enough, it implies enough that we put some import to it. But I've never, in my own heart, felt that this is the most important recommendation from my perspective. I don't know where others are at, at it and I would just like to take out the words "lead recommendation" and just basically call it a recommendation.

I don't think we've ever as a committee made this our priority recommendation or voted on the fact that this is the recommendation. I know some of you do think it's the most immediate, but in terms of it being "lead," I'm just not comfortable using that terminology when we call it (inaudible).

CHAIRMAN SANDERS: Anybody opposed to either of those?

COMMISSIONER DREYFUS: What about anything related to pivotal or something that says -- because I do think there's a lot of our other recommendations that come out of this being done. So if it's not "lead," but I do think it's more than just another recommendation.

COMMISSIONER COVINGTON: Could the word -- using the term "immediate" or something? "Immediate action?" Because I know that this is something that people have really been pushing for to happen on this first play.

COMMISSIONER HORN: So this is Wade. So I'm not sure that the report as it is currently drafted fulfills this notion, but when this idea was first put forward, the idea was that it would be the recommendation that would drive the fundamental reforms that are necessary, that we believe as the Commission are necessary in order to significantly raise the number of kids who die because of abuse and neglect. And the idea was not that it was going to be just a standalone recommendation that could live and die on its own, but really would be central to the report because it would be the mechanism by which the rest of the reforms that are highlighted within the report are connected and driven.

I'm not sure the report has fulfilled that notion, but it really was -- at least in my mind -- it was seen as a mechanism for driving reform and driving us towards the 21st century child welfare system that Commissioner Dreyfus has so eloquently spoken about for many, many months. And the idea was to connect that, connect the review of the cases, connect learning from that, all of that getting connected to fundamental reform of the child welfare system, as a whole.

If that has not been achieved and it just really is just one of many recommendations, then I understand the point that you're making. But I just wanted to be clear that the notion at the beginning was that this would be the mechanism that would drive the other reforms that are found throughout the rest of the report.

COMMISSIONER COVINGTON: This is Commissioner Covington again. When I read the report and I read from Chapter 2 through, I never get the sense, or just as a new reader, that that is the intent (inaudible) the surge or whatever we're going to call it. The surge is designed to drive all the other work in the report. I don't get that sense. All I get is that I don't get the sense that the surge is going to drive fundamental reforms other than really identifying kids at risk and getting and improving response at (inaudible) level 2, though. I don't get the sense, reading about the surge, that it will be the answer to the (inaudible).

COMMISSIONER HORN: Yeah, and I don't dispute that you don't get the sense. I'm not sure I get the full sense of that either. I just wanted to restate why it emerged, with this notion of being a proposed lead recommendation. If that goal has not been achieved, then the goal has not been achieved.

COMMISSIONER DREYFUS: That is a problem, right? Because I know for me personally -- this is Susan. For me personally, the surge in and of itself, just for going out and looking at the kids today and make sure they're safe was not enough to get my support. When it was that it became part of this larger national learning community, connected to the federal government, that led us to this 21st idea of multidisciplinary, frontend preventative, child welfare in America, it started to make a lot more sense to me.

So a lot of my comments can (inaudible) throughout and my edits echoed what you just said. I always looked at the surge as being this core recommendation that an awful lot else that we felt needed to happen started to cascade from.

COMMISSIONER HORN: Yeah, I did, too.

COMMISSIONER PETIT: So, Susan, doesn't that still hold? I agree with everything you just said. There isn't any one thing, Teri, there's a lot of different things. We haven't talked much yet about eventuality in terms of the press. We haven't talked about national standards, but they're all in there. Look at totality of what we're recommending is an awful lot of positive steps that over time would produce a much stronger system, a 21st century system.

COMMISSIONER COVINGTON: I think maybe that's the intent, but I don't think it's captured in the way the report is written. I don't think it, as you read it, it doesn't -- Susan was just talking about. I think you guys know what that is, but I don't think the writing in the report draws the reader there at all on it. But also I think it makes the case and what it might need is some further writing to make that case because right now I think -- when I read about the surge, I mostly see it as an opportunity to go and make sure kids that are currently in the

system are safe. That's pretty much where I see it going. I don't see it doing more than that and that may simply be the way that we haven't built the case strong enough for it.

CHAIRMAN SANDERS: So then it sounds like there's no opposition to changing the lead title with the surge recommendation? And the two years has already been proposed in the latest draft.

COMMISSIONER PETIT: But what would be the change in the title? Did you say there is or isn't opposition to the title?

CHAIRMAN SANDERS: The lead title, the identification of this recommendation as the lead recommendation wouldn't be referred to as the lead recommendation.

COMMISSIONER PETIT: Okay.

CHAIRMAN SANDERS: That's at least my understanding of what Commissioner Covington is proposing.

COMMISSIONER PETIT: Fine. You know, you're talking about eliminate the word "lead?"

CHAIRMAN SANDERS: Right, correct.

COMMISSIONER PETIT: So we just redirect from Recommendation 2.1, surge to protect children or surge to protect abused children?

COMMISSIONER COVINGTON: But I think we also should go and I guess -- and I've been listening to the calls and I've been part of this and you know I wasn't supportive of the surge at the beginning. If, in fact, it's going to do more than lead to greater understanding, then I think we need to say that in the report. That's what I'm trying to say.

COMMISSIONER DREYFUS: I totally agree with that and I think it's critical. I think it's critical that the surge, or whatever we call it, gets connected to the experience that states are going to have in seeing and implementing many of the things that we're talking about in this report. They need to happen.

COMMISSIONER PETIT: Right. You don't see that now, Susan? One of the concerns that I have, David, is that this document, the core document, is about 120 pages long. I generally believe that the document could be half that long and contain all of the points that we've got in there.

Part of the difficulty here is that in different chapters we raise the same issues. The surge is covered in more than just Chapter 2, it's referenced in other ways elsewhere. So it's not as tight as it could be, so I think it contributes to the confusion or the understanding of the full scope of it because part of it is divided up. I don't know what we can do with that at this late date.

But, Susan, all the things that you and Teri have just said, I've seen in writing somewhere before. Are they not in this document? You know, this is the learning stuff.

COMMISSIONER DREYFUS: I think if it's the question of it hanging together, it's the question of a reader not looking at -- understanding how the surge creates, from my perspective, this mechanism for both the experience through knowledge gain and the implementation of these

recommendations where they start realizing that they start envisioning a very different approach to child welfare overall.

So maybe it's more about framing. And then maybe the rest of the recommendations do start hanging in, but right now, the way it's starting to sound like to me -- and I agree with Commissioner Horn and Covington, it really starts sounding like it's -- and especially if we don't give it -- if all we say is, here's another recommendation. If we don't call it "lead" -- I get "lead" -- but it should be somehow that it's viewed as a pivotal or anchor recommendation of this report. I worry about just calling it another recommendation.

CHAIRMAN SANDERS: Let me check with Amy Templeman. Do you think you have enough on what the issue is with this? Or are there questions that you have or staff have?

AMY TEMPLEMAN: I think we have enough. If you look at page 31, the three introductory paragraphs that set up this recommendation, they've been edited by 10 different commissioners, so they may have lost some of the urgency and the clear link to the 21st century approach that we had in there in the beginning. But I think it's that last sentence on page 31, before the recommendation is introduced, where it says, "The process can serve as a foundational step in the knowledge development we'll need as a nation if we were to implement the rest of the Commission's recommendations to fundamentally reform the country's child welfare system," I think it's that sentence that I'm hearing we need more of - - maybe more description about --

COMMISSIONER COVINGTON: I would agree and that's a strong statement, but I think we need to tie it back to Chapter 2 and talk about what we're expecting the states to learn from this and how to move ahead.

CHAIRMAN SANDERS: Okay, a couple of other things on this. Commissioner Bevan opposes the opting out of the CFSR, which I had actually put in there. I'm fine with that being taken out. The point was that there are case review processes already in place and perhaps we can consider rolling this into the CFSR, but I think to consider removing a quality assurance mechanism that's in place right now is not the message that we want to give.

COMMISSIONER DREYFUS: Agreed.

CHAIRMAN SANDERS: Commissioner Dreyfus asked if it was necessary to mention due process, Commissioner Dreyfus?

COMMISSIONER DREYFUS: I'm sorry, I'm -- where did I bring that up?

AMY TEMPLEMAN: 2.1(f), that's on page 36, where it says it's, "a removal that's determined to be necessary. Parents will be given a due process hearing before the removal occurs."

COMMISSIONER DREYFUS: Oh, yeah. So I guess this is where I'm not the lawyer, but I just want to ask, why is this necessary? All states have laws about what the state must do in removing a child from their home.

COMMISSIONER COVINGTON: I can tell you where I think that came from because Commissioner Martin, I don't know if she's on the phone now, I know she was just flying into Chicago when we started our call, but she was really concerned that a reader would look at what we were proposing here and it seems like this multidisciplinary group would have

powers that weren't related to current practice or current due process procedures of the state, and that they would have this sudden new ability to be able to make decisions about removal without going through due process. Now, I actually --

COMMISSIONER DREYFUS: I get that it goes back to the state, right? States have laws about what they must do in order to remove a child from their home, so I was just curious why we would say this. I guess I'd like to ask Commissioner Petit or others who have more direct system experience, why would this be necessary?

COMMISSIONER PETIT: I don't think that there's any permanent action to be taken without courts jumping in. And there's supposed to be legal counsel for everyone involved in the process.

COMMISSIONER DREYFUS: Right. It's state law determined and every state is a little bit different. And I'm just going to make a proposal and everybody can go up or not, I recommend deleting that.

COMMISSIONER HORN: Where -- I'm totally lost. Where are we?

COMMISSIONER COVINGTON: I agree.

AMY TEMPLEMAN: 2.1, page 36, 2.1(f), it's the second paragraph.

COMMISSIONER DREYFUS: And it ends, Wade, with, "If removal is determined to be necessary, parents will be given a due process hearing before the removal occurs."

COMMISSIONER HORN: Well, they have to.

COMMISSIONER DREYFUS: Exactly. That's my point. That's all determined by state laws, the process that any jurisdiction goes through in the removal of a child.

CHAIRMAN SANDERS: We have a proposal to delete. Are there others who --

COMMISSIONER STATUTO BEVAN: I agree. Cassie.

COMMISSIONER HORN: I agree.

COMMISSIONER COVINGTON: I would keep it, only because I think the reader may imply that we've created some new authority with these committees.

CHAIRMAN SANDERS: Okay, that's -- I heard four in agreement.

COMMISSIONER PETIT: I'm in agreement. It's not necessary. It doesn't harm anything, but it's not necessary.

CHAIRMAN SANDERS: Yeah, I'll agree. All right, the next then -- oh, so we have a set of recommendations now then that are currently under 2.1 and similar to what we did yesterday, we should vote on those recommendations, at least as a block to determine if there are any that commissioners would propose to be deleted until we have --

COMMISSIONER STATUTO BEVAN: Are we proposing to delete now or --

CHAIRMAN SANDERS: Yes.

COMMISSIONER STATUTO BEVAN: Okay, because 2.1(h), doesn't the surge take care of this? Aren't we already paying for this?

COMMISSIONER HORN: Are we doing one by one or jumping around wherever we want to go in the chapter? I'm just really getting --

CHAIRMAN SANDERS: Let me back up. So we are in 2.1 and the idea is that if we can go by section and just have people identify if there's something to be deleted, then we can talk about each one. If it turns out that there are a number, then we can judge one by one, but for 2.1 --

(Background noise interruption.)

CHAIRMAN SANDERS: Yeah, (h) is --

COMMISSIONER HORN: But 2.1 includes -- 2.1 on page 32 and 2.1 on page 35, because we have two 2.1s. So which 2.1 are we talking about?

CHAIRMAN SANDERS: I was looking at page 35.

COMMISSIONER HORN: So it's the second 2.1.

COMMISSIONER STATUTO BEVAN: There really is background noise here.

CHAIRMAN SANDERS: Right, page 35, which is the details and recommendations 2.1(a) through (h), I believe.

COMMISSIONER HORN: First of all, I do think you have to clear up that we can't have two different 2.1 recommendations. They need to be reordered so that it makes sense.

CHAIRMAN SANDERS: Well, 2.1(a) and then 2.1(h).

COMMISSIONER PETIT: David, relative to that section, 32/33, there's very specific language about learning more about what contributes to child fatalities. The twofold benefits, the recommendation is twofold benefits: saving children's lives and the learning more.

I'm just wondering, Susan, if that doesn't respond to your question or concern about both aspects of this being emphasized. They're both in here. Are they just not strong enough or clear enough? They seem to be spelling it out pretty well.

COMMISSIONER DREYFUS: And I appreciate that and I'd just say to my fellow commissioners, those were some suggested edits that were incorporated in some time ago and I think what we're also saying, though, is it's stated there. I think the question now is, does the whole report continue in that frame?

COMMISSIONER PETIT: Right, but for what we have right in front of us, this section that as I reread this, it actually sounds pretty good. It gets us at this learning experience both within the states and at the federal government. That's all. I'm just commenting on this seems to capture a lot of it.

David, one thing I would say with this section, and I'll say it later on, on the Kansas section, and later on, on Maricopa County, but with this Hillsborough County stuff, I think there's

more detail here than is needed. It makes for a heavy, ponderous kind of reading. There's, I think, three or four or five pages devoted to Hillsborough County, that model.

CHAIRMAN SANDERS: Thanks, I think any of that feedback is very helpful. I want to make sure that we have commented specifically on the recommendations because I'd like to be able to feel that we have the recommendations set. And so we have a proposal to delete 2.1(h) and I want to go to Commissioner Bevan after we hear -- are there any others under this section?

COMMISSIONER DREYFUS: What does 2.1(a), when it talks about to conduct the five-year reviews? What five-year reviews?

COMMISSIONER STATUTO BEVAN: I thought that was the surge.

COMMISSIONER DREYFUS: That's what I mean because it says to conduct the five-year reviews.

COMMISSIONER STATUTO BEVAN: I don't know. I don't know and I don't know how that relates to multidisciplinary teams, which you brought up before?

COMMISSIONER DREYFUS: Right, I don't either.

CHAIRMAN SANDERS: The five years is the length of time going back to review child fatalities.

COMMISSIONER PETIT: Yes, that's right.

COMMISSIONER HORN: And I agree with -- I see Cassie's side note on that whole second paragraph under 2.1(a). "At its discretion, HHS might consider allowing states to opt out of the federal review, the CFSRs." CFSRs are broader than the reviews that we're talking about here.

CHAIRMAN SANDERS: I've already said that I have raised that and I'm in agreement that should be removed.

COMMISSIONER HORN: So have we decided to take that out?

CHAIRMAN SANDERS: We did earlier, but there was no --

COMMISSIONER HORN: It's still in the draft I have, so I can only deal with what I have in front of me. Sorry.

CHAIRMAN SANDERS: Oh, okay. So, Commissioner Bevan, 2.1(h)?

COMMISSIONER PETIT: What about --

COMMISSIONER STATUTO BEVAN: What do we do with 2.1(a)? Did we answer the questions here?

CHAIRMAN SANDERS: Commissioner --

COMMISSIONER HORN: That whole paragraph is out, David just said.

CHAIRMAN SANDERS: No, no.

COMMISSIONER STATUTO BEVAN: No, no, just the opt out of CFSR is out. The rest of it is in, but I don't know what it is.

COMMISSIONER DREYFUS: I think it's --

COMMISSIONER STATUTO BEVAN: Is it the surge?

COMMISSIONER DREYFUS: You're saying, that's the review of cases.

CHAIRMAN SANDERS: Right. It's the review --

COMMISSIONER STATUTO BEVAN: That's the surge, right?

CHAIRMAN SANDERS: Right, exactly.

COMMISSIONER DREYFUS: But 2.1(a) is part of the surge. It connects to the surge; it's conditional to being able to do the surge. You've got to do this review of cases.

COMMISSIONER HORN: Without that piece of that paragraph taken out, the rest of the paragraph is completely redundant with the recommendation above it. There's nothing in that paragraph after, where if you take out the "might allow state data, federal review, or portion of CFSR," there is nothing in the rest of that paragraph that is not redundant with what's above it.

CHAIRMAN SANDERS: So you would suggest removing the --

COMMISSIONER HORN: The entire paragraph.

COMMISSIONER DREYFUS: I would support that as long as it's clear that -- because it talks later about the five-year review. I guess the only thing we'd be missing, and I guess I have Commissioner Horn, is the technical assistance to help states in doing those reviews. Is that necessary? Is that needed? Is there a role for the federal government to play before states start doing their reviews?

COMMISSIONER HORN: Absolutely, but that paragraph doesn't say that. That paragraph says nothing about technical assistance.

COMMISSIONER DREYFUS: It does, at the top.

COMMISSIONER HORN: Where?

COMMISSIONER STATUTO BEVAN: Where?

COMMISSIONER DREYFUS: It says at the very top, "used to conduct the five-year reviews and technical assistance to help states identify and review -- "

COMMISSIONER HORN: Yeah. No, no, no, I'd keep that whole paragraph in. It's the paragraph underneath it.

COMMISSIONER DREYFUS: Oh, oh, oh.

COMMISSIONER HORN: The added discretion. Once you take out the HHS -- that entire paragraph at the bottom makes no sense. It's all redundant with the top. That's all my point.

COMMISSIONER DREYFUS: I agree.

COMMISSIONER CRAMER: I agree. I agree with that, too.

CHAIRMAN SANDERS: Agreed. 2.1(h), Commissioner Bevan?

COMMISSIONER STATUTO BEVAN: I agree with taking out “added discretion,” yeah. That paragraph?

CHAIRMAN SANDERS: No, 2.1(h). Didn’t you --

COMMISSIONER STATUTO BEVAN: Oh, sorry. I’m still trying to figure out 2.1(h) because I didn’t see multidisciplinary in the other paragraph either. And I don’t know whether I get it. Okay. Oh, I don’t see why are we establishing this when we’ve already done it. I’m a little confused with this and what we did in 2.1(a).

COMMISSIONER PETIT: We’ve already done what, Cassie, with 2.1(a)?

COMMISSIONER STATUTO BEVAN: We’ve already looked at the cases, so what are we asking FF -- whatever this group is -- to collect data from the states and share it?

COMMISSIONER PETIT: Should that be within 2.1(a)?

COMMISSIONER STATUTO BEVAN: Well, isn’t that what we’re doing? I thought that was part of the learning, knowledge base, informing, no?

COMMISSIONER DREYFUS: The way I read that went from our experience with MITRE and that was my comment. Why are we talking about FFRDC versus why are we just talking straight about MITRE as an FFRDC? Isn’t that the way that works?

But it seems to me that after these reviews are done, what we’re sitting on -- at least what we saw at MITRE -- was the opportunity to really start looking at some of these latest (unintelligible) and big data techniques to create a national ongoing learning laboratory, just like the airline industry now has every time a plane goes down. It’s a sentinel event, let’s learn from it, let’s understand it, let’s go deep, and share that knowledge broadly. That’s what I was thinking this was getting at. I’m not sure.

COMMISSIONER HORN: I agree that’s where it’s getting at, but it’s not clear in what it’s writing. In other words, what you’re saying is, after the reviews are all done and after all the data’s collected by the states and all of that, then there should be some function or something that collects all of that across all of the states, synthesizes it and then promulgates best practices, lessons learned, out nationally?

COMMISSIONER DREYFUS: And keeps collecting it over time.

COMMISSIONER HORN: That’s right. So, it just doesn’t say that here, but I agree with you that would be a good thing.

COMMISSIONER STATUTO BEVAN: But in 2.1(f) I thought it stated it?

COMMISSIONER RUBIN: Aren’t we being a little too prescriptive? Isn’t that the responsibility of the Office of Child Safety that you kind of propose to figure out how they’re going to collect and disseminate? I’m a little bit worried about placing too much weight on the FFRDC, like I don’t know if you’re going to talk about Dick Wexler’s comments and I know Dick can be

a difficult personality, but the idea -- I think that for folks who haven't been in a room with us the last two years, the idea of proposing more reviews, more research could fall on --

COMMISSIONER STATUTO BEVAN: Right.

COMMISSIONER RUBIN: -- could elicit a pretty harsh response from folks out there. And I guess to me that's why this was all in the context of linking that to service plans that would change the way systems work together. But I'm just worried about getting into too much detail about another review.

CHAIRMAN SANDERS: So is the proposal to delete 2.1(h)?

COMMISSIONER HORN: If we believe that it is covered elsewhere, there's no reason to be redundant. But if it's not covered in some other chapter so that -- to Susan's point, and I agree with it -- if the states do all this work and there's nothing, no entity, that is charged with - - or feels that it is responsible for collating and collecting that information, and continue to collect information regarding this issue on an ongoing basis, it seems to me that should be somewhere in the report. But if it's already in the recommendations related to the Office of Child Safety, that's fine and we can leave it there then.

COMMISSIONER DREYFUS: I don't think that's specifically in there and I would just like to propose -- I'm fine with deleting it from this section, but, Commissioner Sanders, I would like to see it under the Office of Child Safety and maybe not so explicitly stated like this, like exactly how to do it, but that this needs to be created, not how they do it, but that's it's important to be created.

COMMISSIONER PETIT: It would be one of the functions of that office.

COMMISSIONER DREYFUS: Yeah, I'd be fine with that.

COMMISSIONER HORN: Yeah, so would I.

CHAIRMAN SANDERS: Others?

COMMISSIONER COVINGTON: I would be fine with it, too.

CHAIRMAN SANDERS: I would be fine with it.

COMMISSIONER CRAMER: Yeah, I'm good that.

COMMISSIONER HORN: I'm fine with it. Can I go to 2.1(f)?

CHAIRMAN SANDERS: Yes.

COMMISSIONER HORN: So, I'm a little concerned without any qualification of what is now the last sentence in that. "If children living at home with their families are found to be unsafe, services should be provided in order to insure they are safe in their home."

Without there being something in there, because we've now taken out that last sentence, which I agree with that perhaps we should take that out, but I'm now concerned that with a period added, what we're saying is that the only option that that should ever happen is if a child is found to be living in a home where it is unsafe is to provide them services. I agree

that that's the vast majority of cases, but it seems to me that that seems a little too absolute.

COMMISSIONER PETIT: I agree. Michael.

CHAIRMAN SANDERS: So, Amy, these haven't (inaudible) sense of what should happen there with the language? Are there any questions?

AMY TEMPLEMAN: We had a different sentence in the previous version that we can go back to. The change to the sentence that includes due process was the suggestion from Commissioner Martin.

COMMISSIONER PETIT: Right, but the removal needs to stay in there, so they can be safe in their homes except when it's determined that their removal is necessary. And the removal can take foster care, kinship care, any kind of care.

COMMISSIONER HORN: Yeah, I think the recommendation in bold is sufficient. We're not writing law here and so we're not trying to -- it says, "One purpose of this is to determine whether the children are safe and whether families need different or additional support services or intervention," period. I think that covered everything.

CHAIRMAN SANDERS: The last part of Chapter 2 then is the additional language regarding funding and I believe, Commissioner Rubin, you had a suggested change with that, from three categories to two?

COMMISSIONER RUBIN: Are you talking to me, David?

CHAIRMAN SANDERS: Yes.

COMMISSIONER RUBIN: Well, yeah, for me I was trying to acknowledge that I thought that there were two directions here, one that recognized the new appropriation, the linkage of these reviews, to newly crafted and individualized state plans to better address prevention of fatalities. That's really more principled about integration of different funding streams and greater flexibility and better enforceability, like CAPTA.

So I thought this is true. I think the less options, the better because it's already hard to follow our logic. That's all I was saying.

COMMISSIONER HORN: I think there is a group that believes in B.

COMMISSIONER RUBIN: Yeah.

COMMISSIONER HORN: I don't. I'm not in that group, but I think there's a group of commissioners who want to see an increase in spending, but doesn't want to say the dollar amount.

COMMISSIONER RUBIN: That's correct, yeah. Oh, I see what you're saying. I actually linked those two, Commissioner Horn. I just said that there's a group that has stated a \$1 billion or an amount to be determined, like to me that's the only differentiation between A and B. They're pretty much the same approach. One provides a dollar amount, the other one doesn't, but I thought I could link those in a single explanation, you know?

COMMISSIONER HORN: Yeah,

COMMISSIONER COVINGTON: This is Commissioner Covington. I'm in the group that doesn't feel we should give a dollar amount. I just think a billion sounds good, but I'm certainly almost in agreement with Cassie because, while she doesn't want anything, but I think we need to say money is needed, but I'm just a little bit leery about coming up with a dollar amount when we haven't truly talked about that.

COMMISSIONER HORN: Okay.

COMMISSIONER STATUTO BEVAN: It's not that I don't want any. I wanted a reinvestment of what we currently were using. It's not that I don't want any.

COMMISSIONER HORN: I understand.

COMMISSIONER STATUTO BEVAN: I wanted to know what we had.

COMMISSIONER PETIT: Do we need to vote on that language, David?

CHAIRMAN SANDERS: No, not unless somebody's proposing to delete it and we didn't. And, David, you said --

COMMISSIONER RUBIN: Well, I just heard something from Cassie there, which is basically that we all -- Cassie, do you agree with the fundamental direction of linking and review then to subsequent service delivery? Because then, really, the three options are -- we all agree on the general approach, we had three groups.

One that said they thought we needed to make an immediate deep infusion of \$1 billion. A second group that acknowledged that we needed more funding but felt like further analysis was needed, determine that number. And a third group that thought this could be accomplished with reinvestment of current dollars and greater flexibility of the team.

COMMISSIONER STATUTO BEVAN: I think we need an overhaul of the structure. I don't want to just put money into the current federal structure, which is what it reads now. I don't want that. I want recognition that the federal funding structure doesn't work and the services don't work. That's what I want recognized.

COMMISSIONER RUBIN: Yeah, I was just trying to simplify the writing because --

COMMISSIONER STATUTO BEVAN: Yeah, I know, and thank you, David.

COMMISSIONER RUBIN: Yeah.

COMMISSIONER RODRIGUEZ: I'm sorry, this is Jennifer. I just joined the call and I'm sorry that I missed a call yesterday, and I'm only able to be on for a short time today, but I'm also just curious. I don't have an objection to the \$1 billion infusion, but I do have a strong objection to the language that allocates the \$786 million of that to be towards investigations, because I feel like that makes a pretty strong policy statement. That we feel like investigations are worthy of the majority of this money and that we don't need services.

Where I'm just concerned we could have excellent investigations, uncover that family's need, a bunch of additional service in order to keep children safe, and then we don't have the funding to provide those services. So was there some agreement reached about keeping that language that specified how that \$1 billion would be spent or not?

COMMISSIONER HORN: Commissioner Rodriguez, I completely agree with you. I was about to make a suggestion because I don't believe that -- I'm in Group 1, okay? There's no question about that. I do not agree with including any of that stuff about "the following assumptions" because I just don't. I don't think it's necessary. I think it gives the wrong impression about where this money's going to go and what it's going to do and the suggestion I would make is that there are three groups. People can self-identify which group they're in. You've got to be in one of those three because I can't think of a --

COMMISSIONER STATUTO BEVAN: I'm not identified with the third group, but I also agree that we should be taking out any of this allocation of money after "the following assumptions."

COMMISSIONER HORN: If I could just finish my recommendation?

COMMISSIONER STATUTO BEVAN: You know, we're supposed to have \$184 million for the services.

COMMISSIONER HORN: If I could finish my recommendation. Which is that we self-identify into those three groups, those three groups come up with their own language that they agree with. So I'm not going to edit a word of Commissioner Bevan's language. I'm not going edit of group two's language. But I don't want Commissioner Bevan to edit group one's language either. And so, rather than trying to get consensus on each of these three languages, why don't the three groups write what they -- because they know what they mean?

COMMISSIONER RUBIN: That makes sense, Commissioner, on this matter, but my thing was just we're playing inside baseball a little bit. So I felt like I wanted to make it clear in the report, did we achieve consensus on the general approach of a review linked to a restructuring of the way that people deliver services? Where we differ are the approaches of how we would get there. And then do exactly what you said.

But I just wanted to make sure because I felt that when I read that section it just felt like, what's going on here? Are these three different plans now? No, there's one plan. The disagreement was how we might get there.

COMMISSIONER HORN: Yes.

CHAIRMAN SANDERS: Okay, so we have a proposal to --

COMMISSIONER DREYFUS: David, I have a quick question for Commissioner Horn. So, under Group 1, which is where I am at, so, under Group 1, this \$1 billion as an increase to CAPTA, one of the things I am concerned about is the clarification of the use of these dollars for services. Is this because this is one-time service money for the cases that are identified at risk today? Typically CAPTA does not fund services, and it starts to make what Commissioner Bevan is talking about in terms of this complicated funding stream even more complicated?

So I get a little bit concerned about how we're talking about the funding of the surge and how we're talking about the funding of services needed by families as all being part of this CAPTA investment. Does that make any sense?

COMMISSIONER HORN: Yeah, and I think that -- I'm going to let Michael respond because Commissioner Petit is the one who is ambivalent about it and has also proposed the idea that

there should be the ability for CPS to direct purchase of services, to provide those services to the family. And I'm ambivalent about it for maybe a slightly different reason than Commissioner Dreyfus, which is that it worries me that it will become -- people will start to see it as that's the only pot of money for services as opposed to some flexibility use of the services. Because I've seen that so often in the federal government where some group gets their funding stream and then it becomes that's your funding stream, don't come over to my funding stream because my funding stream's for my stuff and your funding stream's for your stuff. Which would ultimately actually limit the ability of CPS to garner the types of services that families may need in order to keep their -- in order to make sure their children are safe.

COMMISSIONER PETIT: Wade, can I say one --

COMMISSIONER HORN: But I'm ambivalent enough about it that I can live with it either way, but I'm going to let Michael talk about it.

COMMISSIONER PETIT: Yeah, let me speak to it, please. There are two things we're talking about. One is the ability of CPS and those that are in its orbit and can intervene in cases, and I will say that if a caseworker has a 60-to-1 caseload ratio, that they're not going to be able to do this surge review without bringing their caseloads down to manageable levels. So we know the states need some help both with training, supervision, staff, as well as those who are in their orbit.

The purchase of services, even though the federal funding streams come out of Congress with a strict boundary, in many cases, the states -- and I've seen this repeatedly and I used to do it myself when I was a commissioner, we blended funds all the time. Social Services block grant with EPSDT, with Medicaid, with Behavioral Health, with title IV-A, with title IV-E. I mean, the states put those bundles together. They typically run through a Department of Health and Social Services, so almost everything is under the direct control of the commissioner there.

There are a handful of states that have a specific children's unit, independent of the larger social services, but we used to blend food stamps, all of it, childcare monies. The department could basically assign and allocate those resources. They might be underfunded, they might do it differently from state to state, but the state has a lot of discretion in how it mixes and matches these resources.

So, Susan, the issue is to me, a billion isn't enough to do what we're talking about, but it's a good down payment. And I think what we need to do is show some success, show some promise on this, show that we've learned some things, and at that point if additional resources are necessary and the Congress can say this is deserving of more resource.

But in a first instance, are we going to be able to review every case that needs to be reviewed? Are we going to be able to provide services for every case? No. It's just -- the magnitude of children and families is too great. But a billion speaks to a serious, earnest effort to put a dent in that.

COMMISSIONER RUBIN: But, Michael, the discussion -- this is David. In the discussion that Jennifer initiated about the prescriptiveness around the investment of that \$1 billion, I actually see that your argument to the reason why we need to give the states flexibility is they have to propose how they would do these reviews, link them to services if they found immediate safety issues in the home, right?

COMMISSIONER PETIT: Right.

COMMISSIONER RUBIN: And allow them to figure out how they're going to blend and braid. To me, ultimately, that's one area that I want us to be really cautious. In uncertainty, we have to let the states figure out a plan that's responsive to their local environments, and so that has to come through somehow.

And I agree with Jennifer, I did not like the prescriptiveness of the language for that purpose.

COMMISSIONER PETIT: Let me add one little thing.

CHAIRMAN SANDERS: Can I jump in? Commissioner Horn, you had a proposal, I believe. Did we address that?

COMMISSIONER HORN: I think -- my sense is that some people were trying with the discussion to determine which group they wanted to sort into.

COMMISSIONER COVINGTON: Can I ask -- this is Commissioner Covington. So I'm still confused about what the billion dollars will pay for. Is this a one-time-only investment to allow states to conduct its comprehensive reviews and to develop their state plans? Is that all that it's being used for?

COMMISSIONER PETIT: No. I think it's the down payment that we say beefs up child protection, child welfare, and those partners that are in this thing, it's an infusion of new money. A portion of it is around a very specific issue that we know there are just hundreds of children who are in government custody right now, who are going to be dead at the end of the year. That's one immediate, direct, hands-on effort to try and help children, help families. The other is a learning aspect of this, but I don't think the \$1 billion is a one-year appropriation that puts these things in place and if it proves worthy of solving these problems, then it will grow.

COMMISSIONER HORN: Just one piece of clarification. I'm looking at the CAPTA legislation right now. When we talk about CAPTA we -- at least I do -- I'm referring to the entire piece of legislation. There is an entire section called Section --

COMMISSIONER MARTIN: While you're doing that, I just wanted to let you know that I've gotten on to the phone, Pat Martin.

COMMISSIONER HORN: So there's an entire section that talks about grants to states for prevention and treatment programs, so we act -- it's Section 106, Grants to States for Child Abuse, Neglect, Prevention and Treatment Programs.

COMMISSIONER PETIT: Right.

COMMISSIONER HORN: So when we talk about CAPTA, we are not just talking about investigations. CAPTA covers a much broader range of services within child welfare than just an investigation. There's a whole section, as I say, that talks about case management, providing prevention services, there's a whole big section that has a whole bunch of stuff that's in it. So when we talk about CAPTA, I'll leave it to Congress to decide. Take the billion and split it up this way to prevention and this way there. I'm talking about the statute, which is tied to CPS, but CPS through CAPTA is already authorized to provide more than just investigations.

CHAIRMAN SANDERS: So we're at a point where --

COMMISSIONER RODRIGUEZ: In my remark to Amy earlier explaining what my thinking was on this, I mean, I imagine there's a number of children that could be safe in their home, for example, if they were provided with subsidized, high-quality childcare. So you didn't have to leave them in the care of somebody who is not a safe person.

Or if there were spaces available in parent-child substance abuse treatment or mental health treatment that currently don't exist; or if we were able to fund in-home, 24-hour parent support coaches who could be there to help out and ensure safety. Those are all kids who wouldn't have to be removed, but we don't currently -- there are many of those things don't exist right now. We don't have a funding stream.

So I would like to see it -- right now, if we did the best possible investigations and found out that there are children who are not safe, to me, the burden comes back on us. Well, what can we do to create services so that a majority of them are safe? There will be those children who will have to be removed, but I think, to me, that would be a perfect example of the type of upstart in creation that you could fund.

COMMISSIONER PETIT: Absolutely.

CHAIRMAN SANDERS: So our conversation has broadened considerably. We have the language that includes three groups and Commissioner Horn was simply proposing that each of us self-identify into a group and include that language as the description of the group. Is that where we want to go with the language in Chapter 2?

COMMISSIONER DREYFUS: Yeah, but I thought he was saying take out those things that say that this much go to this and this much goes to that.

CHAIRMAN SANDERS: Right, no. We already agreed to that. That we've agreed to.

COMMISSIONER DREYFUS: Okay.

COMMISSIONER RUBIN: No, I had a point of clarification for Michael because I don't know if I got this right. Because I do agree, David, that's what we want to do, but I just want to -- understanding which group I fit into. I assume that the \$1 million (sic) was a sort of we're actually going to fund CAPTA. We're going to set it, at least to start, at \$1 billion a year. The first year would be used to finance these reviews, to help set up state plans, and then the states would propose their plans to receive their CAPTA funding in subsequent years. That's what I thought the plan was. Was I wrong on that?

COMMISSIONER PETIT: No, David, I think that something like what you just said, a vehicle that defines all of this. But I want to just go back to what Jennifer said in relation to what you've talked about.

Jennifer, there are departments right now at a local level and a state level that do exactly what you described. Some do it a 100 percent level, some can only achieve it at a 50 percent level. But there are also some states, because they spend one-tenth per capita as other states that are reaching 5 percent of the kids or no percent of the kids with those services. This would be an infusion of money that would allow the states that are at 100 percent to beef up staff ratios, but the states who are at 10 percent of home visiting or 20 percent of what's

needed for family coaching, 24 hours a day, or the use of mental health, whatever, it would allow that to be purchased.

The department would basically be able to say, we will buy from our partners in the community, the nonprofit organizations, whoever they are, we're going to ask them to deliver these services, and we'll be able to pay for it. So, to me, these two are inseparable. Quality investigations are the key in terms of not overreaching or under-reaching within a family and what flows from those investigations, multidisciplinary teams, et cetera. What flows from those investigations then is the quality of decision-making about what's necessary. Can this family achieve stability and function, et cetera?

CHAIRMAN SANDERS: So, I would suggest --

COMMISSIONER PEITI: But, David, they submit what I've just said.

CHAIRMAN SANDERS: -- people can self- identify that they need to define --

COMMISSIONER PETIT: Right.

CHAIRMAN SANDERS: -- then what each category would suggest.

COMMISSIONER PETIT: Right.

CHAIRMAN SANDERS: I don't that we need to continue to talk further about it because that was the proposal from Commissioner Horn. Is there opposition to that proposal, to keeping the three groups and then each group self-define what their description is?

COMMISSIONER MARTIN: I am so sorry to be difficult, but can someone summarize those three groups, so when it gets to my turn I can know what we're talking about? This is Pat.

CHAIRMAN SANDERS: Amy, can you quickly walk through that?

AMY TEMPLEMAN: Sure. Commissioner Martin, the three groups are: one group that would like to propose a billion dollars in order to support -- well, the language in here might change, but it would be a \$1 billion increase to CAPTA and incentivize flexible funding to support everything that's in this chapter.

The second group would have also recommended increased funding, but they are not interested in identifying a dollar amount.

And then the third group opposes an increase in federal funding and recommends that the approach be cost-neutral and implemented using reinvestment dollars. I think the language of the third group might also change.

COMMISSIONER MARTIN: And the thing that follows is the surge that was sent out to us before we started the meeting today in that email?

I apologize. I don't want to go back. Let me just go forward. I'll listen and see if I can catch up.

COMMISSIONER STATUTO BEVAN: Don't worry, Commissioner Martin, the email on that, which I was hoping to propose, is out. So you don't have to worry about it anymore.

COMMISSIONER MARTIN: Oh. Okay. All right, thank you.

COMMISSIONER PETIT: David, one question I have. On page 26 and page 37 the language is exact. I presume that, Amy, you guys have got that covered, right, in whatever you're producing next?

AMY TEMPLEMAN: You said 36 and 37?

COMMISSIONER PETIT: No, 26 and 37. My version, the pages are identical. They're in different sections of the report, but they're identical. And I found a few others like that, so I figured that's just a --

AMY TEMPLEMAN: Oh, page 26 is within Chapter 1.

COMMISSIONER PETIT: Right.

AMY TEMPLEMAN: Now, what we did was, for the top 10 recommendations, we summarized them in the first chapter and they are laid out in more detail throughout the report.

COMMISSIONER PETIT: Well, the two pages are identical, so -- that's fine. David, proceed, please, whatever is the next step?

COMMISSIONER AYOUB: Commissioner Cramer, could you tell me, with your background in Congress, the difference that you see it making if we do use, say, the billion dollars or we just leave it up to the Congress?

(No response.)

COMMISSIONER AYOUB: Is Commissioner Cramer still on? Okay.

CHAIRMAN SANDERS: I believe he's still on. I think I heard him in the background maybe talking on (unintelligible). We'll make sure we come back to that.

So, anything else for Chapter 2? We have --

COMMISSIONER COVINGTON: The only thing I have -- can I just add on this last discussion we had? Is it necessary for us to put our names to these or can we lay them out as three options that were recommended by different commissioners?

CHAIRMAN SANDERS: It's up to us.

COMMISSIONER COVINGTON: I don't know why we want to put our names to it. I just think we lay them out, unless people feel -- do we vote and decide that six commissioners agreed with this, four agreed this, et cetera? I think it may be better just to put them out as options.

COMMISSIONER AYOUB: And personally if we strongly oppose something -- I'm not sure we strongly oppose this, that we all strongly (phone distortion).

COMMISSIONER RUBIN: I think there's value to all three approaches. I would agree, we don't -- I don't neatly fit into any one of those categories. There are things that I like about all of the approaches.

COMMISSIONER AYOUB: Exactly, me, too.

COMMISSIONER COVINGTON: I guess me, too. That's why I asked the question.

COMMISSIONER AYOUB: Thanks.

COMMISSIONER MARTIN: And since I wasn't on the call, I don't know what the current surge looks like now, but so long as it still has the due process, it has the interest on services to make the home safe for the family and the child, and it has the emphasis on working with families to keep that child in the home, I'm okay with it. But if it's taken any of that language out, then I would not be okay with it.

And so, then, for CAPTA, I would not be for any money in CAPTA. But I don't know where we are.

CHAIRMAN SANDERS: What I was going to do is suggest that we take a 10-minute break and maybe Commissioner Martin and Amy Templeman can summarize where we are, as well as, I think, Commissioner Rodriguez, if you'd like a similar summary?

COMMISSIONER RODRIGUEZ: Absolutely, yes. Thank you.

CHAIRMAN SANDERS: And then we can reconvene in 10 minutes and we will go to Chapter 7.

COMMISSIONER DREYFUS: Is this line staying open or do we have to dial back in?

AMY TEMPLEMAN: It stays open and the public still has access to it.

(Whereupon, at 5:36 p.m. the meeting recessed and reconvened at 5:49 p.m.)

CHAIRMAN SANDERS: Commissioners, we need to get started again. It sounds like there is a revisiting of an issue in Chapter 2. Let me suggest that we -- and I heard Commissioner (inaudible) on the chapter on disproportionality.

We had some resolution for the chapter yesterday, but we started the process of going recommendation by recommendation. If there are any things that need to be deleted, and we just went through that with Chapter 2, let's do that for Chapter 7 and then we'll revisit this issue briefly around the due process.

So Chapter 7, we have agreed that we will shorten the chapter and incorporate recommendations throughout the body of the document, other additional recommendations or some of the recommendations throughout the body of the document. And what we wanted to do is to go through, and I think we can do it section by section. Are there deletions of any of the recommendations that we would suggest from the body of the document? And then we will vote to see if there are any to be deleted.

COMMISSIONER MARTIN: Well, just before we start that, Commissioner Sanders was gracious enough to let staff update me on what happened prior to me getting on the call and I just want to let, for the record, I object to deleting any sentences that afford parents due process and specifically articulate that parents have due process rights for a hearing when and if it's determined to remove their kid after the surge or in the middle of the surge.

CHAIRMAN SANDERS: Commissioner, I had suggested that we revisit that right after we finish Chapter 7, so we will actually open that up since you weren't here. You had made the initial proposal, so we will take a few minutes to go back to that item to give you a chance to talk further about and to give us all us a chance to talk further about it.

COMMISSIONER MARTIN: My understanding is -- and, unfortunately, I'm in a cab, so I don't have the document in front of me, but my understanding is 2.6, I believe it is, there is

language in there that talks about during the process of the surge a multidisciplinary team not only doing service, but --

CHAIRMAN SANDERS: Oh, Commissioner, I wanted to do it right after we finished Chapter 7.

COMMISSIONER MARTIN: Oh, I apologize. Okay, I'm sorry. I misunderstood you. I'm so sorry, I apologize.

CHAIRMAN SANDERS: So as soon as we finish Chapter 7, we will come back --

COMMISSIONER MARTIN: Thank you. I'm sorry.

CHAIRMAN SANDERS: -- to this and hopefully by then you'll actually be stationary.

COMMISSIONER MARTIN: Thank you. I'm sorry.

CHAIRMAN SANDERS: Not a problem.

COMMISSIONER PETIT: Where are we, David?

CHAIRMAN SANDERS: In Chapter 7. Amy Templeman, can you say what page the recommendations starts on?

AMY TEMPLEMAN: Page 97.

CHAIRMAN SANDERS: And my computer just went blank. So, Amy Templeman, can you read the lead recommendation while I try and figure out how my computer's going to get this?

AMY TEMPLEMAN: Sure. Recommendation 7.1 is Screening Improvement and Bias Reducing Initiative. And then there's 7.1(a) through (d). 7.1(a) says, "Congress should mandate and/or incentivize the use of SDMs where disproportionate amount of child abuse and neglect fatalities have been documented."

COMMISSIONER PETIT: Okay, so can we discuss this now, David?

CHAIRMAN SANDERS: Do you want to go one-by-one or by section?

COMMISSIONER PETIT: The context for all of this is 7.1 through 7.1(d) are tied to the second line about the scheme which routinely produces negative family unit results from medical care, a systematic scheme. If that's true, first I'd like to see what information we have which shows a systematic scheme. If there is a systematic scheme, it deserves a look by the Department of Justice because that certainly strikes me as being a civil rights issue. But absent any information that says that (inaudible), I think we need to drop that language entirely. And 7.1(a) and 7.1(d), they are all related back to that notion.

CHAIRMAN SANDERS: So, Commissioner, are you recommending then to delete 7.1(a) through (d)?

COMMISSIONER PETIT: No, I think a lot of this stuff belongs in there, but I don't think it should be a positive as a response to a systematic scheme which routinely produces negative family unit results.

CHAIRMAN SANDERS: Okay, so you're not recommending a change in the recommendations then? You're not proposing --

COMMISSIONER DREYFUS: So this is Susan. I appreciate what we're trying to say about structured decision-making, but why is this all on Congress versus the administration versus through regulation? Why is this again Congress going in and mandating how states are to do this work, telling states what they can and can't override, or how? Is this really the role of Congress in the implementation of structured decision-making in states? Or is this something where HHS has to put out guidance on the effective use of the structured decision-making, so to reduce disproportionality in the system?

COMMISSIONER HORN: I completely agree with Commissioner Dreyfus. Congress generally doesn't get to this kind of level of specificity around, for example, regulating specific algorithmic compositions. This is something that -- I could support many of these. I don't support the one about putting people in prison, though, but I could support the first three if it was more around legislation -- around the administration providing guidance and developing best practices in these areas, but I don't think this is the roll of Congress.

COMMISSIONER CRAMER: This is Bud Cramer. I strongly agree with Commissioner Dreyfus. This should not be directed at Congress.

CHAIRMAN SANDERS: So we could then, because yesterday we did agree that in part we would make some changes to the administration for 1, 2, and 3?

COMMISSIONER CRAMER: Yeah.

CHAIRMAN SANDERS: And potentially the Office of Child Safety?

COMMISSIONER HORN: Yeah, although I think softening it, too. It has to be done to the regulatory process which allows for public input and all those kinds of things. The administration just can't mandate things willy-nilly, so I think there needs to be some more nuanced presentation of these recommendations.

CHAIRMAN SANDERS: And we have the language in (d) which no longer includes imprisonment. So, are you proposing the deletion of (d), Commissioner Horn?

COMMISSIONER HORN: Okay, so I'm looking at separate documents.

CHAIRMAN SANDERS: "Congress should mandate that any manipulation -- "

COMMISSIONER HORN: Again, I can't imagine Congress passing a law to say that. If the administration wants to promulgate guidance to states and best practices regarding the use of SDMs and central to that being that the notion that -- and I don't like the word "manipulation" because manipulation -- I don't like manipulation. I think that the point here is if -- I'm just going to make something up.

Let's say the SDM has a scale of 0 to 100. If 51 means you take the kid out of the home and 50 means leave him in the home, and I think there should be some level of discretion to a caseworker who says, this kid's got a 52. But I think that with the right services that kid could actually be safe in the home, so I'm going to not use this 52 score because it's just on the borderline and I'm going to instead use discretion and provide that family with services. That's not manipulation. To me that is using good clinical judgment.

And I would hate to give the impression that somehow anyone who says, ah, it's a borderline score and I'm going to use my critical judgment to provide services to keep the kid in the home is somehow manipulating an SDM.

COMMISSIONER DREYFUS: I totally agree. You cannot take away worker discretion and the unique situation that's sitting in front of them. The idea that we're just going to turn this over to a computer algorithm, I --

CHAIRMAN SANDERS: So do we have proposals for what to do?

COMMISSIONER MARTIN: So, what I -- this is Pat Martin. I would like to propose then, if we could -- the issue is to try to make certain that these discretionary decisions to (inaudible) the rules and regulations offer our kids safety and still protect our kids. And so it seems to me then that if we can have a narrative that's written off by the supervisor, that affords the worker, after consultation, an opportunity to go beyond the written rule and reg, that's fine.

But if the worker fails to do the narrative and have it written off or signed off by the supervisor, it seems to me that there ought to be some reconciliation about the fact that they violated the rule and regulation about whether it's five kids or six kids in the home. And so, I would recommend then to amend the language such that it requires a narrative that's signed off by the supervisor for an override. And a failure to get that narrative and a signoff by the supervisor results in negating or voiding that narrative so that that worker then has violated her rules and regulations of her agency, or him.

COMMISSIONER DREYFUS: If that's what comes through to HHS doing the processes that they put around when they develop guidance for states in the correct use of best practices SDM, and that happens to come out through that process, I'm fine with it. But I can't support the federal government mandating to states exactly how they are to implement SDM down to that specific nuance.

It's best practice, and I think states want to know what best practices are if they want to reduce disproportionality, but it's not the role of the federal government to mandate that. But I would be all about HHS putting out the processes that they always use when they put guidance -- issuing guidance on the effective use of SDM in the reduction of disproportionality in child welfare.

COMMISSIONER PETIT: I'd like to propose and see if there's any support for this. I want to write that --

CHAIRMAN SANDERS: I'm sorry, Commissioner, say that again?

COMMISSIONER PETIT: That language in the second sentence, (inaudible) "may be due to a systematic scheme which routinely produces negative family unit results." This (inaudible) scheme applies to something that's rigged or a willing action, and if there's evidence to this I'd to (inaudible) it. If there's no evidence, we ought to strike it. And if there is evidence, it ought to be brought to the attention of the Department of Justice. So that language should not stay in there.

COMMISSIONER MARTIN: I think I said -- I'm sorry, it's difficult for me to hear, so I apologize if I cut someone off. I think I offered yesterday that I was (inaudible), one of those goes

directly to Commissioner Rubin when he was talking about severe head injury. But we are talking about the recommendation, I thought.

It's difficult to jump back and forth, particularly when I don't have the document in front of me. So we're talking about the recommendations, let me respond to that.

CHAIRMAN SANDERS: We are talking about the recommendation, and we have a recommendation for all four, that they be directed towards the administration. And we heard enough people supporting this that we would make that change.

The other is that we have specific concerns that this language is too strong and overreaching. Again, we could direct staff to soften the language, but I need to hear from people if they're supportive of that or not.

COMMISSIONER RODRIGUEZ: I wonder, in addition to the language being directed at the administration, could the language also be directed at the states in the form of asking the federal agency to figure out how this gets included in the CFSRs? Some measure of this or review?

CHAIRMAN SANDERS: You can suggest whatever anybody wants proposed.

COMMISSIONER COVINGTON: How does disproportionality come out in the CFSRs today? Is that something that is looked at in the CFSRs?

COMMISSIONER MARTIN: I don't think disproportionality is an indicator currently in the CFSRs, but I could be wrong.

COMMISSIONER STATUTO BEVAN: Commissioner Horn, do you know?

COMMISSIONER HORN: It's not an indicator, but it's in the descriptive -- when one reviews the statewide data, at least when I was there, you would describe the racial composition, for example, of kids in foster care and so forth, as well as age. And I'm sure some reports would speak to it, where some would not. If one of the recommendations we want to make is that the issue of disproportionality should be incorporated within the CFSRs and examined to help ensure that, whatever, that would be fine with me.

CHAIRMAN SANDERS: So do we have support to change this to the administration versus Congress?

COMMISSIONER COVINGTON: You're saying provide guidance, correct? Issue guidance?

CHAIRMAN SANDERS: I'm just trying to get clarity. Do we have enough support to change from administration to Congress at this point?

COMMISSIONER AYOUB: I agree.

COMMISSIONER HORN: Yeah, I agree.

COMMISSIONER: I agree.

COMMISSIONER PETIT: David, what precedes it is -- are we also speaking now on this systematic scheme? That is a strong mandatory --

CHAIRMAN SANDERS: I'm trying on these recommendations. I'm trying to get where we are with the recommendations.

COMMISSIONER RODRIGUEZ: I'm not sure where these recommendations came from, so if whoever put these recommendations together could say why they thought Congress would be a better place rather than the administration, that would be helpful for me deciding one way or the other.

COMMISSIONER MARTIN: This is Pat Martin, and I was trying to make them as strong as possible, noting that entire sections in our report, specifically Chapter 2 that staff just read to me a few minutes ago, they're very detailed about Congress and HHS. So I didn't understand why it matters here so much and why it's different here. But, nevertheless, if the rest of my colleagues feel it is more effective to go through the administration, then okay. I just want to make certain that we have the opportunity to get it done for kids.

CHAIRMAN SANDERS: It does not sound like we have a majority who want to move this from Congress to the administration, so at this point it --

COMMISSIONER HORN: I don't think that's true, David. I'd like to do a little call.

COMMISSIONER CRAMER: Yeah, I would like to weigh in.

COMMISSIONER AYOUB: This is Amy. Maybe if you do it like you did yesterday. It seemed to work, that this thing was proposed --

CHAIRMAN SANDERS: Yeah.

COMMISSIONER AYOUB: -- and then you ask if anybody opposed it. And if they didn't oppose it or if there was just one or two people, it went majority.

COMMISSIONER PETIT: We do oppose Congress (inaudible) --

COMMISSIONER AYOUB: I'm saying about changing it. If everybody agrees to change --

COMMISSIONER PETIT: Yes.

COMMISSIONER AYOUB: If the thought there is to change it to administration, he disagrees with changing it to administration (phone distortion) --

CHAIRMAN SANDERS: I think I did it the other way yesterday, but maybe not.

COMMISSIONER AYOUB: Okay.

CHAIRMAN SANDERS: Either way, is there opposition to changing this to the administration?

COMMISSIONER PETIT: No.

CHAIRMAN SANDERS: Okay. And so then we have a proposal to soften the language from mandates to direction, I believe, or mandates to providing direction on best practices.

COMMISSIONER RODRIGUEZ: The language already says mandate and/or incentivize.

COMMISSIONER DREYFUS: That's an issue, too. This is just a more fundamental issue for everybody, it was fundamental, too, in the earlier report in Chapter 2. We weren't talking about Congress mandating a child welfare practice at the state level to this degree. There's a

big difference. And so I don't think it's about mandate or incentivize. I think HHS should use the processes they use to look at the use of SDM as a validated tool -- I'm assuming it must be -- for reducing disproportionality in the system and providing states with guidance.

I really liked where Commissioner Rodriguez went, though, in adding the addition of disproportionality to the CFSR. That to me, those two things, really strengthens.

CHAIRMAN SANDERS: So we have a proposal to change to guidance around best practice and incorporate it into the CFSRs. Commissioner Dreyfus, is that for all?

COMMISSIONER DREYFUS: It would be for HHS to issue, as it typically does, the processes that it uses as engagement around issuing policy guidance on the use -- (phone distortion) -- disproportionality in the child welfare system. And in some language I can't think of right now that would add the issue of disproportionality to the CFSR process in a much more rigorous way.

COMMISSIONER STATUTO BEVAN: Excuse me, but don't we want to know if there is disproportionality and why? I mean I don't just want to use this term. Disproportionality used to just mean it was in foster care and now we're talking about it in a new way in child abuse reports or in child abuse placements as opposed to (inaudible) cases, I'm not sure which one of these. But don't we want to do more?

COMMISSIONER PETIT: As the paragraph ends above it, it says, "Thus there are fears of professional bias." That's what this is all about, is fear of professional -- for a while it was implicit bias, and that is, in turn, supposed to be preceded by a sentence that says there's a systematic scheme that could introduce professional bias into this thing. I don't think we can support that, and I'd like to have our group say, yes, leave "systematic scheme" in there or drop it. But I think we need an action on it, David, because it is what is defining the rest of all this.

CHAIRMAN SANDERS: We can propose to delete all of the recommendations, for example, under 7.1.

COMMISSIONER PETIT: No, I think that there is professional bias. I don't think there's a systematic scheme by agencies that say, here comes a black family, let's systematically scheme negative family unit results because it's a black family. So there's bias, conscious or not, but this implies willful bias against the family. So let's just --

CHAIRMAN SANDERS: I want to make sure that we decide what we're going to do with these recommendations, and it doesn't sound like we've yet decided. So, as a proposal to incorporate it into the CFSRs and soften the language, is there opposition to that?

COMMISSIONER STATUTO BEVAN: I'm not sure what's in the CFSRs. I'm looking at it now.

COMMISSIONER HORN: I don't think it's knowing the outcome indicators.

COMMISSIONER DREYFUS: I don't remember anything in the CFSRs when I've done them where we had to create a baseline of our -- using something that would help us to see where disproportionality was in our system as compared to the overall population in our state, some measure of disproportionality.

And that sure makes it transparent and if HHS is putting out guidance on ways to reduce disproportionality in systems and states are under a performance improvement plan to reduce in that area --

COMMISSIONER HORN: Have we ever thought about something like HHS should incorporate into CFRs an indicator reflecting the degree to which disproportionality may find itself within the various aspects of the child welfare system, or something like that?

COMMISSIONER STATUTO BEVAN: Why don't you just call bias "bias?" I don't know what disproportionality is supposed to mean, especially if there are higher rates of maltreatment in these African American kids. Then the fact there are higher rates of death shouldn't be the surprise. But we have to figure out why.

COMMISSIONER RUBIN: This is David Rubin. And my major concern is just the surge itself is going to lead to a response that was not our intention, which is to make further decisions related to special bias that would actually potentially harm some families disproportionately.

And so, my concern with -- we're trying to be very, very prescriptive of how we're going to prevent that. I would make that a charge of the Office of Child Safety. One of their responsibilities is to determine the process by which they're going to ensure that disproportionality is both monitored and that states respond to it. I just worry about us kind of trying to act like we know the exact way that that has to be done.

COMMISSIONER HORN: I would support that.

COMMISSIONER COVINGTON: I just am concerned about putting all of our eggs into the Office of Child Safety. In the event that that never happens, then there's no place else for this to be.

CHAIRMAN SANDERS: And I think we talked yesterday about it being ultimately an HHS responsibility for any of these things, but that we should make it clear when we're speaking of the Office of Child Safety that it is directed to HHS.

And we did talk about that yesterday, and part of this is that you've agreed that some of this needs to be in the body of the report, and some of it needs to be in a special section on disproportionality. And the practice issues, some of these practice issues will be as part of that section on disproportionality, but some of it may very well be throughout the report. So we're trying to decide, are these recommendations that should be in the body of the report in one place or the other?

COMMISSIONER HORN: And I've just got to say, I think there's a lot more confidence in structured decision-making tools than I think may be warranted. I'm old enough to remember the days when there were a lot of implicit bias in things like I.Q. tests and achievement tests and so forth. And we worked really hard to try to get rid of those. Just because something comes up with a score doesn't mean that there isn't bias underneath it.

And so this whole section worries me a lot because it seems to suggest that structured decision-making tools are immune from bias, whereas human beings are not. I agree that human beings are not. I'm not so sure structured decision-making tools are.

CHAIRMAN SANDERS: I'm going to suggest that we go through the rest of the sections, and then we can come back to this. I know we've changed the Congress to the administration and, I believe, that there was not opposition to softening the language and incorporating it into CFRs, but we'll come back.

COMMISSIONER PETIT: David, I'd like to ask, am I the only person who's concerned about the systematic scheme? If I am, that's fine. I just want to note it. Otherwise, I'd like to see if the group wants to leave it in there or not. Systematic scheme implies willful harm, and I don't believe that that is happening. But if people believe it, then I'd like to see the evidence on it.

Do we keep it in or not? I say strike the language.

COMMISSIONER STATUTO BEVAN: I'm willing to strike. This is Cassie.

COMMISSIONER DREYFUS: I'd like to see it stricken, as well. This is Susan.

COMMISSIONER HORN: Unless it can be referenced with empirical evidence that there is a systematic scheme, then it should be stricken. But if there is evidence of that, then I'm very happy to keep it in.

COMMISSIONER RUBIN: Yes, the testimony for us was about innate bias and subconscious bias, not a systematic scheme. I would be comfortable with dropping the language and just recognize that we did hear fairly persuasive, I thought, testimony about innate bias, and we have to factor that into the way we think about, you know, not doing harm in the context of a well-intended measure.

COMMISSIONER PETIT: I'm okay with that. Myself, I think that there is bias, conscious or not. The issue is whether it's a systematic scheme, which is intentional.

COMMISSIONER RUBIN: I agree. I agree.

COMMISSIONER HORN: Well, what if we were to substitute or make the change, "may be due to inherent biases, which routinely produces negative family unit results"?

COMMISSIONER PETIT: That would be satisfactory for me.

COMMISSIONER DREYFUS: Fine with me.

CHAIRMAN SANDERS: Opposition to that?

COMMISSIONER STATUTO BEVAN: That's fine.

CHAIRMAN SANDERS: Okay. Section 7.2, Interdisciplinary and Cross-Sector Community-Based Intervention Initiatives and Research. And we have 7.2(a) to 7.2(d). Any recommendation to delete any of those four recommendations?

COMMISSIONER PETIT: My concern was, was there any data regarding fatalities in Sacramento County and Michigan, and I couldn't find it in the report. So we talked positively about the two programs, but did it have any actual --

(Background noise interruption.)

COMMISSIONER PETIT: I don't know. I'm just asking. Did we ever get that? I never saw it.

CHAIRMAN SANDERS: I don't believe it was provided in either of the presentations--

COMMISSIONER RODRIGUEZ: But regardless of whether or not there was data provided, I mean, what this is saying is approaches -- it's not putting any further endorsement on the approaches. It's saying balanced data, informed community-driven response, which I think everybody is on board with.

CHAIRMAN SANDERS: Yes, there's no opposition it sounds like, so we vote to keep those.

Section 7.3, 21st Century Approaches to Child Protection Decision-Making. We have three recommendations, a through c.

COMMISSIONER PETIT: Which one, David?

CHAIRMAN SANDERS: 7.3(a) through (c). "Congress should encourage states to promote examples, such as the National Council of Juvenile Court Judges' Bench Card to expose practitioners to decision-making tools. Congress should incentivize states where disproportionality is pervasive to train and develop the child welfare workforce, et cetera. Congress should require racial equity impact assessment."

COMMISSIONER DREYFUS: I don't know that all of them are Congress, like requiring racial equity impact assessment. I don't know that that rises to the level of Congress again.

But I do think 7.3(a), we clearly heard that in testimony, the bench card and the importance of increasing the use of the bench card. In 7.3(b), I suppose it would be something for -- I don't know how much of this is Congress, Wade, as much as HHS in looking at training, the training dollars and how there maybe is an incentive or a higher percent of FFP [federal financial participation] for this type of training. That isn't Congress.

COMMISSIONER HORN: Yeah. I'm not sure how Congress would incentivize it, but --

COMMISSIONER DREYFUS: HHS does when they do it like FFP. You know, like you're going to get 75 percent enhanced funding or whatever --

COMMISSIONER HORN: Right.

COMMISSIONER DREYFUS: -- for this, that, and the other thing.

COMMISSIONER HORN: And another way to say it is that the administration should prioritize the training of the child welfare workforce partners, blah, blah, blah.

COMMISSIONER CRAMER: I think there's a much better way to word this. I think if --

COMMISSIONER DREYFUS: I like that.

COMMISSIONER CRAMER: If you leave it with any sort of congressional oversight, that's just going to confuse everybody over that.

CHAIRMAN SANDERS: So we will change that to the administration. Is there opposition to that?

COMMISSIONER STATUTO BEVAN: (Inaudible) administration. They're already doing training on cultural competence and other things.

COMMISSIONER HORN: Yeah, but the administration should prioritize the training of child welfare for its partners, and then the rest of that. I mean --

COMMISSIONER DREYFUS: And you say where disproportionality is pervasive.

COMMISSIONER HORN: Yeah, that's fine, yep. Including the words "disproportionately pervasive," absolutely.

CHAIRMAN SANDERS: So we're changing to administration?

COMMISSIONER DREYFUS: All three of them, correct?

CHAIRMAN SANDERS: With no opposition?

(No response.)

CHAIRMAN SANDERS: 7.4(a) through (d). "Congress should incentivize the establishment of the family preservation and," I believe it's, "intact Family Court demonstration projects that feature multidisciplinary teams."

COMMISSIONER STATUTO BEVAN: I oppose this one. Child safety is paramount. If you want to put a child -- if we want to go back to family preservation, this is going to take us back.

COMMISSIONER PETIT: Dave, the other question that I would raise is the war on poverty language. We know that child abuse and neglect are related to poverty, you know, that there's a correlation. But to have a report coming out that says we launch a war on poverty through a Family Court -- that's a reach, I think. The court can do a lot of things. I don't know about waging a war on poverty, certainly not on a policy basis.

COMMISSIONER DREYFUS: Well, and also, the use of capital-driven and based corrective modality.

COMMISSIONER PETIT: I don't know what that means.

COMMISSIONER DREYFUS: That's what I asked in my comments, but.

COMMISSIONER PETIT: What is a capital- driven and base -- is it base or bias? Base?

COMMISSIONER DREYFUS: It says, "A system-wide attitude leaning towards removal of children of color to be placed in a capital- driven and base-corrective modality is regularly the outcome for families of color encountering CPS."

COMMISSIONER AYOUB: Is Commissioner Martin still on the call? Or anybody that was on that committee?

COMMISSIONER RODRIGUEZ: I was on the committee, but I don't -- I can't give any explanation for this sentence. I actually don't understand what the sentence means either.

COMMISSIONER DREYFUS: Can you give us an understanding of why the war on poverty? Because it actually says, "The courts have the positioning to clearly initiate a war on poverty." Are we really going to say that?

COMMISSIONER PETIT: No.

COMMISSIONER DREYFUS: I hope not.

COMMISSIONER RODRIGUEZ: No, I think that this drafting happened after the committee had met and was an attempt to sort of put in writing the general ideas that the committee came up with. And I know I would like to hear a little bit more about -- just even what some of the sentences mean. They're a little bit above my head.

COMMISSIONER DREYFUS: I do agree with Commissioner Bevan, though, this really takes the issue away from our paramount responsibility to child safety. And I just think the Commissioners need to be really careful in their reading of each of these recommendations as it relates to the softening of that paramount responsibility to safety.

CHAIRMAN SANDERS: So let me make sure we're staying as focused as we can on the recommendations. I realize some of this other language -- (inaudible) -- interest, but we have a lot of recommendations to go through. So 7.4(a) to (d), is there --

COMMISSIONER RODRIGUEZ: I have some objections to 7.4(c) and 7.4(d) around "suitable kin" and the definition for that.

COMMISSIONER DREYFUS: Agreed.

COMMISSIONER RODRIGUEZ: So I don't know, folks, I could put my -- I did send in writing, but my specific issues are that, "Congress mandates that reviews of temporary and permanent kinship care placement cases be conducted in favor of prioritizing placement of children with suitable kin, including relatives in and out of immediate jurisdiction and verifiable family friends if the family seems suitable for placement." And then the subsequent language in 7.4(d) that then defines "suitable" as, "At a minimum, suitability shall be determined by a successful CIJS background check devoid of any convictions."

So my concern is that this -- I'm not clear what the difference between sort of this and our current statute is, which is giving relatives placement anytime they meet all relevant child protective standards. And also, the standards sound really, really, really low to me that we would say that a relative has preference as long as they don't have a background check. I'm concerned that that doesn't give us the ability to look to see whether or not that relative is actually able to meet the needs of the children in their care.

So I don't know if that was what was intended by this recommendation or if it's just the language is missing the mark of what the intent was, but it's definitely reading very problematic to me right now.

COMMISSIONER PETIT: And the recommendation is about war on poverty. Recommendation 7.4 reads, "War on Poverty - Family Preservation Court and/or Intact Family Court." I don't see how the recommendation relates back to war on poverty and I think we need to modify that language.

I think the points that Jennifer just raised are all good ones. I don't know what they have to do with the war on poverty, which is that --

CHAIRMAN SANDERS: So are we proposing deletion of these recommendations?

COMMISSIONER RODRIGUEZ: Is there anybody on the call who can explain what the intent of these recommendations was so that I can figure out whether it needs to just be redrafted to make that intent clear?

COMMISSIONER RUBIN: I don't know the intent, Jennifer, but I also have concerns the other way.

COMMISSIONER RODRIGUEZ: I also have concerns the other way. Yes, it could go one way or it could actually increase bias against families of color.

COMMISSIONER RUBIN: Yes, yeah. Well, I think the other concern I have, I think you're right to say that suitability -- like we're kind of wading into an area I would favor not having as part of this document. I mean, I think the kinship regulations are a separate discussion.

But I also worry about the linking around conviction because, you know, that has historically prevented placement with kin with folks who have prior drug convictions that are not shaky risks to the child. And so that's been problematic because of that hard standard.

CHAIRMAN SANDERS: Did we hear testimony on all this? I mean, did we have a hearing on kinship care? Did we --

COMMISSIONER RUBIN: No.

CHAIRMAN SANDERS: I just don't think that this whole section is reflective upon the testimony that we heard or the hearings that we had. It just seems to be an overreach that maybe -- I'm not saying these are not wonderful things to do and they may be wonderful things to do. But absent an examination of kinship care, the pros and cons of kinship care, the ways that kinship care can be used well or poorly, I just worry about this whole section.

COMMISSIONER RODRIGUEZ: I mean, if the goal is -- and again, I'm guessing as to what the goal might be because I don't know where this came from, but if the goal of this is to examine whether or not existing state and federal statutes and regulations around kinship care are further contributing to issues around different treatment of children of color in the system, then I think we could say that, that we would like some examination of that. And that could be folded up into the CFSR work. It could be a directive for the administration to evaluate at the federal level if we think that there are ways in which our existing statutes and regulations are not fully supporting kinship care.

I mean, this is an issue that I think really does impact children of color. I just don't know what the goal of this was.

CHAIRMAN SANDERS: And so I had proposed yesterday that we have essentially two recommendations in this section. One is conducting a pilot study of place-based Intake Family Courts and then the other was to look at the role that the -- ensure that quality services are available to all children and that it actually be under primarily the Executive Branch and HHS.

And I think there was agreement with the narrower inclusion of those recommendations as part of the disproportionality section and then interspersing some of these other recommendations throughout the report.

I would suggest that we delete those recommendations that don't pertain directly to child abuse and neglect fatalities, which are the (b), (c), and (d) in this section, and we move on.

COMMISSIONER RUBIN: Well, David, I would say, I agree to a point. I do think we need to acknowledge a monitoring responsibility to ensure we haven't swung too far the other way. But I also think that not everything has to be an explicit recommendation. I think we can, in

this chapter, acknowledge that efforts to reduce disproportionality have been successful when there has been a focus on kinship care, in other words, without having waded into explicit recommendations because that's not our charge here.

COMMISSIONER PETIT: But the whole introduction to these recommendations is pivoting around the war on poverty piece. I'd like to know how the recommendations relate back to the introduction and specifically this launching of a war on poverty, which connotes certain things. Does that stay in there? How did that get linked in?

CHAIRMAN SANDERS: It sounds like at this point it's not and that we don't have anybody who's defended it on the phone. Is there --

COMMISSIONER DREYFUS: Is there going to be some editing of all that introductory remarks that are made? I mean, could Commissioner Rodriguez help staff with Commissioner Martin? Because I do think there's a lot of problematic words in there. I tried to highlight them in my comments, but just looking at it now I see even more. So I hope that that really gets worked on.

CHAIRMAN SANDERS: Amy, I'm --

AMY TEMPLEMAN: Yes.

CHAIRMAN SANDERS: We absolutely will, yes.

COMMISSIONER PETIT: And I just want to --

AMY TEMPLEMAN: Can I ask for a clarification?

COMMISSIONER HORN: I just want to just reiterate that, and this is going to sound harsh and I don't mean it to sound harsh, but I don't know any other way to say it, this is the Commission to Eliminate Child Abuse and Neglect Fatalities. That is our charge. And it's not the commission to cure cancer or the commission to cure poverty or the commission to all sorts of wonderful things. All those things are wonderful things to do.

If we want to make mention of the impact that poverty has as a factor that can cause a great deal of stress on families, I have no problem with that. We should absolutely say that. But when it gets to the specific recommendations of this Commission, it seems to me we have to constantly be asking ourselves, is this recommendation essential to the charge this Commission has or have we gotten too broad? And I think this section has just gotten too broad.

CHAIRMAN SANDERS: (Inaudible.)

COMMISSIONER RODRIGUEZ: Well, and I would like to say I do think --

CHAIRMAN SANDERS: -- 7.IV-B, (c), and (d). So we really need to decide if there's opposition to that, then is there opposition to deleting those recommendations, or do we want to keep them in? Any opposition to deleting them?

COMMISSIONERS: No.

COMMISSIONER RODRIGUEZ: I just wanted to respond to that last comment and to say that I do think, though, we were also charged with thinking about prevention. And I do think that

kinship -- relatives are an important as a pre-system involvement piece of prevention. They're natural support systems, not paid support systems. But to me where relatives should really be thought about and where it needs to be worked into this report is the extent to which we can build support systems even before we're talking about placement of a child.

COMMISSIONER HORN: I have no disagreement with what you just said.

CHAIRMAN SANDERS: All right, 7.5.

COMMISSIONER STATUTO BEVAN: Can I add one thing to clarify you on the terms of the CFRs?

CHAIRMAN SANDERS: Yes.

COMMISSIONER STATUTO BEVAN: Okay. The CFRs do look at race, and they have looked (inaudible) at what Commissioner Martin is referring to by disproportionality are the numbers where in terms of percentages and the number, white is 42.8 percent of what were sampled in the CFRs, but black African American was 28.6 percent. And given that we know African Americans are about 15 percent population, then that is double.

So, I mean, I don't know what else we can do in terms of the CFRs. There seems to be a lot of analysis here in terms of permanency and safety and kin care. We can ask HHS to review and see if there's something else we can maybe get some reasons why they came into care.

COMMISSIONER RUBIN: Is Judge Martin still on the line?

COMMISSIONER: No, I think she's going from her house --

COMMISSIONER RUBIN: Yeah, so here's the thing. I think there's some broad agreement here about this chapter kind of getting a little far afield and some ways to pull it back, but I don't think we can make final decisions about it without involving Judge Martin. So I would be careful here.

CHAIRMAN SANDERS: So what we decided yesterday was that we would adopt for this section the two recommendations that I had proposed that I mentioned earlier, that we would intersperse some of the other recommendations throughout the body of the report to the extent that they were relevant to the reduction of child abuse and neglect fatalities. And so we wanted to walk through to make sure that as a Commission we have spoken to the recommendations that were included -- that should be included in the body of the report. But this would be restructured so that there are two main recommendations for the chapter: the conducting pilot studies of place-based Intact Family Court, and I may have to change the name given the --

COMMISSIONER STATUTO BEVAN: Are you keeping the Family Preservation Court?

CHAIRMAN SANDERS: No, I think what you said earlier, we need to look at (unintelligible). And then the other is that we're directing the administration to provide -- to assure that quality services are available and families are treated equitably, but the practice pieces would fall under the administration.

And so, Commissioner Rubin, and that was what we had agreed to yesterday, so this is just going back over to make sure that we have walked through all of the recommendations.

COMMISSIONER RUBIN: Okay.

COMMISSIONER STATUTO BEVAN: That's all the yellow in the report, right, that you sent us?

CHAIRMAN SANDERS: Correct, yes.

COMMISSIONER RODRIGUEZ: So if we're on Section 7.5, I also have concerns about 7.5(c).

CHAIRMAN SANDERS: I'd recommend deleting all of them because I don't think there's a connection to child abuse and neglect fatalities. That's my thought.

COMMISSIONER RODRIGUEZ: Okay.

CHAIRMAN SANDERS: Is there opposition to that?

COMMISSIONER STATUTO BEVAN: Did Commissioner Martin work with staff last night on this chapter?

CHAIRMAN SANDERS: Amy?

AMY TEMPLEMAN: We did not work on this chapter. We worked on Chapter 6.

COMMISSIONER STATUTO BEVAN: Oh.

COMMISSIONER HORN: Yeah, because we didn't get through all the recommendations in this chapter. So I support what Chairman Sanders just recommended.

CHAIRMAN SANDERS: So it sounds like there's no opposition. Okay. And why don't we get started with the next couple of pieces and then we'll take a break?

And this is from the agenda yesterday, Immediate Recommendation 3, Accountability of Other Providers. And I believe, Commissioner Rubin, there are several in here that you wanted to make sure you were a part of. This may have been one of them.

Amy, can you point to the page that Immediate Recommendation 3 is on?

AMY TEMPLEMAN: Sure, it's in Chapter 1.

COMMISSIONER RUBIN: What page?

AMY TEMPLEMAN: I'm getting to it. It is on page 23 and into 24, number 3.

CHAIRMAN SANDERS: And this is where Commissioner Covington had expressed concern that it's not a title V responsibility unless the public health surveillance effort is developed and even then we're not sure it's a title V role.

COMMISSIONER RUBIN: Well, you know, I understood, I think that the way the report has developed -- I sent this on a note to Teri about this, we're probably not as far apart on this. I think the way it's developed, I think -- Teri, correct me if I'm wrong. Were you concerned about singling out the NCHP funding among the other funding streams in terms of flexibility and accountability?

COMMISSIONER COVINGTON: I was. And some of this was just I don't see it functioning under title V at all.

COMMISSIONER RUBIN: Yeah. Yeah, I don't -- it's not that I don't see it involving title V because it does, in my opinion, to the extent that they're involved with efforts to prevent infant mortality. But I did agree after reading the report that we can't single out then in excess of Medicaid or IV-E. To me the state plan -- if the states are developing their plans I think the federal guidance would be that you'd want them to be involving their multiple systems, including their title V, you know, their public health departments in developing the approach that they're going to pursue around fatalities. And I don't think we have to be so pejorative around it specifically.

That had started with sort of like we're going to enforce accountability by tethering NCHP funding the way they do in (unintelligible) and I don't think we need that the way the report is developed.

CHAIRMAN SANDERS: Are you in concurrence on this section?

COMMISSIONER RUBIN: I think so. I mean, I think the idea was that CAPTA would become enforceable either because it would have an appropriation or it would be folded into -- there would be a restructuring so that the states would be forced -- ultimately, the issue about the title V was about making sure that the states would respond. Right now the problem with CAPTA is states ignore it because the financial penalty's not worth it, right? So to me I think this is addressed by the way we built our recommendations.

CHAIRMAN SANDERS: Commissioner Covington, does that address your concerns?

COMMISSIONER COVINGTON: Yes.

CHAIRMAN SANDERS: Immediate Recommendation Number 5 is --

COMMISSIONER AYOUB: Can you tell us where we are in the report? I was looking up the chapters. I was stuck in Chapter 6, so I've been a little bit confused about where we are.

CHAIRMAN SANDERS: Yeah. Amy, can you tell us what page we're on? It's Chapter 1, I know, and I think my paging might be different.

AMY TEMPLEMAN: We're on page 24 at the top, number -- we're about to go to number 5.

CHAIRMAN SANDERS: Immediate Recommendation Number 5, Reviewing Life-Threatening Injuries. And Commissioner Horn, you had the concern about you agree with the recommendation, but how would federal policy incentivize states to do this? And we need (inaudible).

COMMISSIONER HORN: Yeah, I totally agree that we should, but I'm not exactly sure how they would do it. What do we talk about?

COMMISSIONER COVINGTON: Well, this is Commissioner Covington. My concern is we currently don't even incentivize states to do the fatalities, so adding in near fatalities, they've both got to be incentivized. And these are fatality reviews that would happen in addition to the ones that we're talking about as the surge.

COMMISSIONER RUBIN: Well, we have Act 33 in Philadelphia. I agree with you, Teri. I mean, do we explicitly state how we're going to organize the structure of these fatality teams and near fatality reviews?

CHAIRMAN SANDERS: I believe we use Act 33 as a model.

COMMISSIONER COVINGTON: We mention it, David, but I had concerns that that's not - - there's problems using that just as a model in addition to it because there's already review processes going on in states. And I think one of the problems Pennsylvania has is they created a -- they've got a two-tier system of reviews that are going on at the same time as our others. And I think they need to all be integrated into one review process in the state.

CHAIRMAN SANDERS: And I think that's why we included Wyoming and Oklahoma in here, too, for --

COMMISSIONER RUBIN: But how are they paid for? I thought that was an original problem, Teri. Like how are the actual --

COMMISSIONER COVINGTON: It's a huge problem.

COMMISSIONER RUBIN: It's not a ton of money, but it's a huge problem. And to me this is like --

COMMISSIONER COVINGTON: Well, they're paid for -- currently, about half of the states are using title V money. Some states are using CJA and CAPTA dollars. Some states are using state-direct funds. Some states have no money. They're just devoting staff to the process. And when that's happening, you're not getting as high a quality with the process.

COMMISSIONER HORN: Like I said, this is an example of where I would suggest that the CAPTA recommendation actually be tied to this. So one of the reasons you want to put more money in CAPTA is because, as Commissioner Rubin pointed out earlier in this call, that there's so little cost to a state to ignore what's in CAPTA because there's only \$27 million spread across all the states. It's not a lot of money. So I think this should be stronger is what I was trying to get at here.

So here's what I would suggest is that, in order to incentivize states doing child death reviews that incorporate both deaths and life-threatening injuries, that states draw down and CAPTA funds be contingent upon them doing that. And if you put a billion dollars in CAPTA, now there's a lot of money at stake. Now they're going to do it and they can use CAPTA funds to fund it.

So that's where I see this -- again, I'm a broken record, I'm sorry, but that's where I see the spine, is this money in CAPTA that you then use to incentivize all this other stuff that we want to have happen. And here's one specific area where it could work.

COMMISSIONER RUBIN: Yeah, so I agree with you there, Wade. I think it's sort of like federal guidance as part of the development of state plans should include how they're going to draw down CAPTA funds to support these teams.

The other thing I want to make sure that the near fatality teams in particular, and I think the fatality teams as well, we had a long discussion about transparency. Has that found its way and its resonance in the report about -- I was concerned about there's so many reviews that happen, we make recommendations and there's no public accountability. We talked about a 30-day report back to the public on the nature of the findings, states having to report on

what they did with the recommendations. Did we have some of that language find its way into the report?

CHAIRMAN SANDERS: Yes, we do. Perhaps Amy could point it out. We certainly (inaudible) the public websites, things like that.

COMMISSIONER RUBIN: Okay, okay.

AMY TEMPLEMAN: It's on page 50, and it's a recommendation that Commissioner Petit suggested.

COMMISSIONER RUBIN: Okay, good. That's it, all right.

CHAIRMAN SANDERS: So, Commissioner Covington, for Chapter 5 -- and, Amy, if you can point us to the page for that -- Commissioner Covington raised the concern that Chapter 5, that you were hoping the major focus is going to be on early prevention and support and cross-systems collaboration, but everything in this section is heavily CPS focused. And others have commented that it doesn't include enough recommendations for CPS practice and management. So maybe we can hear your concerns and see where others are on that.

COMMISSIONER COVINGTON: Okay.

CHAIRMAN SANDERS: Amy Templeman?

AMY TEMPLEMAN: Yes, that comment is on page 78, which is Chapter 5.

CHAIRMAN SANDERS: Commissioner Covington, are you --

COMMISSIONER COVINGTON: I'm here.

COMMISSIONER MARTIN: Hi, this is Patricia Martin.

COMMISSIONER COVINGTON: I'm just trying to get to that page.

COMMISSIONER MARTIN: This is Pat Martin. I got disconnected. I just got back on.

CHAIRMAN SANDERS: Oh, glad you're back on.

COMMISSIONER COVINGTON: Oh, my goodness, where are we? This is Chapter 5?

AMY TEMPLEMAN: Chapter 5.

COMMISSIONER COVINGTON: I'm trying to find out where I made (unintelligible) at this top -

CHAIRMAN SANDERS: Let's go to the next one. It's pretty straightforward and then we'll come back to Chapter 5.

COMMISSIONER COVINGTON: All right.

CHAIRMAN SANDERS: And that's on flexible funding. And Commissioner Horn had, I think, a pretty straightforward question. Don't we also support re-implementing waiver authority under title IV-E that is also included in the Hatch-Wyden legislation? But it's actually not included in the legislation, if I'm not mistaken.

COMMISSIONER DREYFUS: It's not in the legislation.

CHAIRMAN SANDERS: But the question about re-implementing the waiver authority.

COMMISSIONER DREYFUS: Yes, the whole assumption of Hatch-Wyden is that the waivers go away in 2019.

COMMISSIONER HORN: In fact, there's more than just -- Hatch-Wyden does certain things, but the waiver authority is supposed to be broader than that. The waiver authority is not for a specific thing. It's for any -- it's for experimentation on lots of different things within child welfare.

CHAIRMAN SANDERS: Right, and that's why I suggested that we -- I mean, that is the focus, I believe, of your question of support.

COMMISSIONER HORN: Yeah, exactly.

CHAIRMAN SANDERS: Yeah.

COMMISSIONER DREYFUS: What do you think about specifically Commissioner Bevan's recommendation about specifically the extension of waiver 0 to 5? One of the things I worry about, Wade, is that if we talk about continuing the waivers, we're never going to get to actual refinancing. And there seems to be some connection with the idea that these waivers created a learning experience for a lot of states and a lot of knowledge got developed and that's why it's important now for IV-E to move to be more frontend and preventative than just backend and reactive. And what about if the waiver authority that we talked about, the extension to be specifically around 0 to 5 and reduction in fatalities?

COMMISSIONER HORN: I understand the concern. And my view on waivers may be different than -- well, actually I think it's consistent with the way (unintelligible) supposed to do which it's not supposed to waive things you don't like. It's supposed to be a mechanism for experimenting to find new knowledge that then can be fed back into the political process and the public policymaking process and the legislative process to make changes to the law.

So too often waivers have become, you know, if we don't like this piece of law, so let's waive it as opposed to -- which is the wrong way to think about waiver authority. The right way to think about it is, how do we get better knowledge in order to feed it into policymaking?

So what if today we're concerned about 0 to 5, but somebody's got this really interesting idea about doing something with kids who are aging out of foster care, but they can't do it under current law, but it's a really interesting idea and lots of kids would be so much better off because they were able to transition out of foster care into productive lives if we did something different? But we don't have the authority under the statute to waive it, so we could experiment with that. That's why I think the waiver authority is different than something specific that we're trying to accomplish in the law.

COMMISSIONER DREYFUS: But if it could get implemented the way you just said, I'd be all for it. I just think it just becomes a crutch by which we never end up actually making changes at a policy and regulatory and fiscal level because we just (unintelligible).

COMMISSIONER HORN: And you will remember, just indulge me for two minutes (inaudible), Commissioner Dreyfus, you'll remember that I took a stand against the waiver for a child support pass-through in the state of Wisconsin, not because I was against pass-through and

child support, but because I said we've learned it works. Change the statute. I'm not just going to continue to waiver because that will give the Congress the excuse not to change the law. And guess what. We changed the law and pass-through became something, thanks to your senator, (unintelligible).

So we just need people that stand up and say, hey, wait a minute, we've already learned enough about this. We're not going to continue to do waivers. We now have the information. Change the law now. And that's the response to people who say don't let waiver authority be in IV-E because that will stop us from doing funding reform. Well, no, we know what to do, but let's change the law. But don't throw out the possibility of other kinds of experiments that you might do that only waiver authority would give you the ability to accomplish.

COMMISSIONER DREYFUS: And can we clearly state in what you're proposing exactly that, that this, what do you call it, reauthorizing of IV-E waiver authority around new knowledge, everything you just talked about, right? But I worry if we just say it the way it's worded right now, it'll just be what we're doing today. And you and I both know it's not been used in ways that have actually changed the law and changed how we financed child welfare.

COMMISSIONER HORN: And I totally agree. In fact, I think we worked on that language.

COMMISSIONER AYOUB: Where are we? I just left and came back.

CHAIRMAN SANDERS: This is -- Amy, can you say what page?

COMMISSIONER HORN: I think Wade is on his soapbox.

(Laughter.)

AMY TEMPLEMAN: Page 79.

CHAIRMAN SANDERS: Page 79, and this is about flexible funding where we express support for the Hatch-Wyden, but Commissioner Horn raises the question don't we also support the re-implementing wavier authority.

COMMISSIONER STATUTO BEVAN: Hey, we had that as an (unintelligible). You all didn't like it. That's going in my minority view.

COMMISSIONER DREYFUS: I think you were talking about specifically 0 to 5, though, correct?

COMMISSIONER STATUTO BEVAN: Yeah. Oh, you're not? Okay.

CHAIRMAN SANDERS: Well, I believe we have some ideas that Commissioner Horn can develop further, but is there opposition to supporting the reimplementation of waiver authority under title IV-E?

COMMISSIONER STATUTO BEVAN: No, I think it's a great idea, Wade. Wish I had thought of it.

CHAIRMAN SANDERS: Commissioner Covington, were you able to find --

COMMISSIONER COVINGTON: I am. So what I wanted to do is I felt that we were sort of giving short shrift to that one section on page 79, not that I want to do anything to delete it or anything, but I would like to move it up a little further in the chapter. That's all I wanted to

do. And I would like to do some more writing around the whole piece in that one section on page 79.

I mean, I thought we heard some pretty remarkable stuff in Oregon, and I don't think that we've called that out well at all. So all I would like to do is -- to me, the whole concept of cross-system collaboration is a huge thing that we learned about over and over and over. The other places that we heard about it is in El Paso, Colorado, El Paso County. And I was thinking, where is that story? Because we don't have that story in here either. So all I wanted to do is enrich Challenge 4.

I think the recommendations are good, but I just -- I thought (unintelligible) or some of the stuff we found in Oregon was pretty remarkable. And I really thought we gave it short shrift. So that's -- and I would love to actually move the process of collaboration further up in the chapter is all I'd like to do because I think that, to me, it's one of the most important things in this report, from my perspective.

And, of course, that's my soapbox because it's a public health approach.

COMMISSIONER PETIT: I agree with Teri on that. This is Michael. And I have just reread that entire chapter, including all the recommendations. I say the 90 percent level there is a very heavy emphasis on prevention, as there should be. So, I mean, in reading it specifically I don't think it loses anything from the headline. It's strong multidiscipline; it's strong prevention.

CHAIRMAN SANDERS: Any opposed to the proposal that Commissioner Covington just made?

Well, Commissioner Covington, there's a couple of others here, and then we'll take a break, that you have. One is in Chapter 5, that multidisciplinary support for family surveillance and using another word, "screening and assessment" or "monitoring" instead of "surveillance" you had proposed.

COMMISSIONER COVINGTON: Yeah, only because it's such a loaded word.

It's a small comment, but surveillance gets all tied up, whether you're talking law enforcement or what have you, it just gets convoluted with people. And I think people have a hard time reading it, depending on where you're coming from. I mean, I get it from a public health perspective, but other people think of it as big government in your home or law enforcement doing their work. So I just would use different language, that's all.

I can't even find it where I said something about it. Is it really page 72?

AMY TEMPLEMAN: It is. I think your comment might have been in the middle of the text, so Jill pulled it out into the margins.

COMMISSIONER COVINGTON: I can't even see it. That's all I would -- that's the only reason I put it in there. It's not a big deal.

CHAIRMAN SANDERS: All right. So why don't we take a break and then come back and we will likely go through a couple of chapters, hopefully where there's some agreement on the vote. We'll come back in 10 minutes at 4:10.

(Whereupon, at 6:57 p.m., the meeting recessed and reconvened at 7:09 p.m.)

CHAIRMAN SANDERS: Why don't we get started? Commissioner Martin, you had been absent for the conversation on Chapter 2 and specifically on due process. Would you like --

COMMISSIONER MARTIN: My understanding is the one sentence about due process was recommended to be dropped, and if I understood the arguments from yesterday or the last time we talked about it as a group, one of the arguments was that's already the law, and I suggest to you that if it's the law, there's no hurt in reiterating it to make certain that people who read this report know that, even though we're recommending a new agency or recommending a brand new process, that we are cognizant of the fact that families have the right to due process, and we are clear that it is important and we want to reemphasize it.

It seems to me that every time we talk about taking a child out of a home, we need to talk about due process, knowing that parents have a right to raise their children and only under very limited circumstances would the state have a right to interfere with that.

It seems to me that if we do this surge the way that we've outlined it, it seems that the parents -- off the top of my head, a case can come or a kid can be at home in two different ways. One is the court puts them in in a court order, supervision order, or it's before the court -- it's a case that isn't in court and is not in the system, and DCFS or something one has voluntarily left the kid in that home knowing the kid may be at risk.

I agree that any worker, even after a court puts a kid back in their home, if they go out and do a home visit and determine that child is immediately at risk, they can take that child out, but there's still due process afforded, there is still a motion to violate or vacate the supervision order.

Every arresting agency and the state agency has a right to take protective custody, they have to bring that child and that case before a magistrate within a certain period of time.

It seems to me that we would reemphasize that so the reader understands that we understand that and we're not denying the parents that right.

COMMISSIONER RODRIGUEZ: My recommendation would be to say-- that all existing due process procedures, both federal and state, remain in place.

COMMISSIONER MARTIN: I don't understand why we would take that out.

CHAIRMAN SANDERS: I would like to get Susan's comments, and then we should just decide. Susan?

COMMISSIONER DREYFUS: The way in which Commissioner Rodriguez just stated it, it basically is saying this is the law, there are laws on the books today in states, and I think it's a reiteration of it versus a statement the way it's worded now, so it's probably more of a wording issue for me, Commissioner Sanders, but I think the way Commissioner Rodriguez stated it is acceptable.

CHAIRMAN SANDERS: Is anyone concerned about the way Commissioner Rodriguez stated it?

COMMISSIONER: No.

COMMISSIONER: No.

CHAIRMAN SANDERS: Amy Templeman, did you get that?

AMY TEMPLEMAN: Got it. Thanks.

CHAIRMAN SANDERS: Okay. That will be the language that we include. I want to see if we can get through a couple of the chapters. This is number 16 on the agenda, recommendation 3.3(e). Amy, sorry to skip around a little bit.

COMMISSIONER PETIT: What page is that?

CHAIRMAN SANDERS: I was just going to ask Amy to tell us what page.

AMY TEMPLEMAN: It is on page 50. This is Commissioner Petit's recommendation around confidentiality.

CHAIRMAN SANDERS: Commissioner Petit, "Modify confidentiality to include children not known to child welfare," can you speak to that?

COMMISSIONER PETIT: I'm just trying to find the page. 50? Hold on.

AMY TEMPLEMAN: The comment and question was from Commissioner Dreyfus about modifying it to include children not known to CPS.

COMMISSIONER PETIT: Okay.

COMMISSIONER COVINGTON: To save us time in terms of searching for it, could you read it aloud, please?

AMY TEMPLEMAN: "Modify confidentiality. Transparency is necessary to build public will to prevent child abuse and neglect fatalities. CAPTA should be amended to clarify and require that all information, including what is specified in CAPTA, must be released following a death or life threatening injury, and must be posted on the state's website no later than 48 hours after receipt of the report, excepting any information that might otherwise compromise an ongoing criminal investigation.

CAPTA should be further amended to require the critical incident reviews to review child abuse or neglect deaths involving children whose families had prior history of a CPS agency, and that the reports issued by the critical incident review team be published in full on the state's website within 12 months of the child's death."

These reviews should be coordinated with the state's child death and life threatening/serious injury review programs."

The comment from Commissioner Dreyfus was "I could support this recommendation but I don't understand why it is always the children known to CPS and not all children who die from abuse or neglect. As we have said, they were known to someone, likely mandated reporter."

COMMISSIONER PETIT: I agree completely with Commissioner Dreyfus' comment.

COMMISSIONER MARTIN: I guess my comment is are we really sure that's what we want? Do we want the mental health records of siblings revealed and published and put on a website, they had nothing to do with the death. They are still living and have lives still to lead.

COMMISSIONER PETIT: There is an ability, I think, to protect that. What we're talking about is to unveil this shroud that hangs over child protection services all across the country which allows the public to see only a glimpse, which is typically bad parent behavior, and everybody is angry at the parent and wants to fire a social worker.

I would argue that of all the recommendations that we're making, none is more important than a public understanding of what child protection and child welfare is all about. I think the press is critical. It is a common complaint all around the country that they are denied access to information, and some states have opened it up. I think it is a benefit.

CHAIRMAN SANDERS: Commissioner Petit, you're not proposing, as I read this, anything beyond, in terms of release, the information to be released beyond what CAPTA currently states? Unless I misread this.

COMMISSIONER PETIT: Basically, that's right, except they just need to promulgate regulations, I guess, or whatever needs to happen to open this whole process up. Right now, it's not opened up, and what we are reinforcing with this recommendation is that this be moved high up on the agenda, not just ours but child protection.

CHAIRMAN SANDERS: Again, it's not expanding what's already in statute, in federal statute?

COMMISSIONER PETIT: Okay.

CHAIRMAN SANDERS: It's saying to actually implement that and to release the information --

COMMISSIONER PETIT: And they've been sitting on this for years-- in terms of promulgating regulations and acting on it and so forth. Now I guess they are in the process again of promoting this. This is an issue that alienates the public deeply from helping the system.

COMMISSIONER MARTIN: Just so people are clear, I open up my courts and I open up my records to the press all the time. I'm just asking about mental health records for families. Are we saying we don't have a problem opening those up?

COMMISSIONER PETIT: Commissioner Martin, that's one of the reasons it is trying to state that this is what's currently in statute. The proposal is not to expand anything beyond what's currently allowed in federal statute, what's currently required in federal statute.

COMMISSIONER MARTIN: Okay. All right. I just wanted to make it clear. Thank you.

COMMISSIONER COVINGTON: My concern is that HHS is going to turn around and tell us that they did clarify this through the guidance that they wrote last year. Is there a way to strengthen this so that won't happen? I found it to be a little nebulous. Actually, I found it to be very nebulous.

My concern is Congress and the White House will be told this is already done.

Michael, what do you think? You read what it says.

COMMISSIONER PETIT: I think that what we need to do is provide information -- the political process has got to be what this all ends in, right, in terms of making determinations about what's important, what's not, what gets money, what doesn't, what receives attention, what doesn't, et cetera.

One of the things that helps move the political process forward is not just facts and figures but also public sentiment, which is good. Public sentiment doesn't get focused unless it understand what the issues are.

So, I think this one needs to be juiced up, and we need to say whatever is on the books right now is not being sufficiently implemented and promoted, because nobody in our culture wants what we're dealing with to happen, and yet everybody is frustrated and puzzled by what to do about it, and part of it is because we don't let light in on this to inform the process.

So, I think the way that we juice it up is we hope that we have members of Congress, and I'm sure that we do, and whoever is going to be in the next administration and in this one, who will be prompted to open this up when they hear what we think.

CHAIRMAN SANDERS: I actually think the language you have in here, and that's -- the language is already in our draft, so the issue was the question from Commissioner Dreyfus, which would expand it potentially to children not known to child welfare but who died due to child abuse and neglect.

COMMISSIONER PETIT: I would say yes.

CHAIRMAN SANDERS: That's the proposal.

COMMISSIONER PETIT: I would certainly say yes, I agree with that completely. Every kid who dies under these kinds of circumstances needs to be respected in terms of what happened so it doesn't happen again. I don't see any down side to it.

COMMISSIONER STATUTO BEVAN: Have we skipped 3(a)?

COMMISSIONER COVINGTON: I didn't understand what you said, Cassie.

COMMISSIONER STATUTO BEVAN: Did we skip --

CHAIRMAN SANDERS: We're going to go through Chapter 3. This is one where there was a specific amendment suggested by Commissioner Dreyfus, but we're going to go through Chapter 3 right after we finish this, and go through each of the recommendations.

COMMISSIONER PETIT: I'm all set.

CHAIRMAN SANDERS: I'm not clear. Commissioner Horn, maybe you can help. This language is not currently required? It's not currently required that fatalities due to abuse and neglect not known to the child welfare agency are covered under CAPTA?

COMMISSIONER HORN: I'm not sure I know the answer to that question.

CHAIRMAN SANDERS: Do you know, Commissioner Dreyfus?

COMMISSIONER COVINGTON: I think that states read this as kids under their care (inaudible). I can read through this. I've got it on my laptop.

CHAIRMAN SANDERS: Why don't we go back and walk through the recommendations in Chapter 3, and do the same thing we've done, see if there are any that we want to delete from this chapter. That's the one that we had that we wanted to have some conversation

about, but certainly anybody can identify those they would like deleted or changed dramatically.

Amy, what page does Chapter 3 start on?

COMMISSIONER STATUTO BEVAN: The recommendations? Page 50.

CHAIRMAN SANDERS: We have recommendation 3.3, strengthen accountability --

AMY TEMPLEMAN: Actually, I have page 47.

CHAIRMAN SANDERS: Recommendation 3.3, strengthen accountability measures to protect children from abuse and neglect fatalities. We have recommendations 3.3(a) through 3.3(e).

COMMISSIONER COVINGTON: What happened to 3.1?

CHAIRMAN SANDERS: I'm sorry.

COMMISSIONER RUBIN: Is that the one where I wanted accountability from mandated reporters?

AMY TEMPLEMAN: 3.1 is about the Office of Child Safety on the bottom of page 47.

CHAIRMAN SANDERS: I apologize. I skipped that one. 3.1 is that. Commissioner Rubin, we had the recommendation about the Domestic Policy Council [DPC].

COMMISSIONER RUBIN: I'm cognizant of two conversations in particular with respect to the Domestic Policy Council. One with Commissioner Horn who gives the history of the Children's Bureau in general, and a second with Bryan Samuels. I know it's administration specific - elevating the position either to the Domestic Policy Council or to OMB related to families, however you want to define it, is an opportunity to potentially (inaudible). HHS, the relationship of different departments around strategic initiatives, one of which can be around reduction of infant mortality.

With the expectation of the White House, you know, even though that may be administration specific, it is an option for an Executive Order at a White House conference. (Inaudible.) Independent of the Office of Child Safety. I thought it was a really nice potential opportunity to recognize how the Children's Bureau can over time try to remedy it.

CHAIRMAN SANDERS: Is there any opposition to that recommendation?

COMMISSIONER HORN: The recommendation is what?

COMMISSIONER STATUTO BEVAN: I'm confused.

COMMISSIONER RUBIN: This is separate from the Office of Child Safety. This is about some of the higher level, going back to the description of the Children's Bureau.

COMMISSIONER COVINGTON: Are you asking for another recommendation? I think that's what we're asking.

COMMISSIONER RUBIN: Yeah, I am.

COMMISSIONER HORN: As opposed to a substitute for.

COMMISSIONER RUBIN: Not a substitute for, in addition. I do think there needs to be someone who is charged around families. That is not a substitute for the Office of Child Safety.

COMMISSIONER HORN: Okay. I don't have a problem with that.

COMMISSIONER MARTIN: Can I ask, how do we anticipate coordinating those efforts? Would there be some delineation of responsibilities and duties or some coordination? I don't have an objection necessarily. I just want to know what the purpose would be and what the delineated roles would be.

COMMISSIONER RUBIN: To me, whether it's the Office of Child Safety, the Administration of Children and Families, the Maternal and Child Health Program, one of the things that they haven't had is a champion in the White House that specifically focuses on a family's role (inaudible).

The Office of Child Safety would be more successful if there were someone in the White House whose job it is to ensure that policies, particularly with respect to the Administration, are elevated and coordinated across different departments.

I'm also mindful in the recommendation that we don't create a new department. When I spoke to Bryan Samuels about this, he felt like the best place -- he thought it would be really important if somebody was in that role, that it would be really helpful perhaps for someone whose job it was to advocate for some of the positions that ACF was taking on, otherwise, it would fall on deaf ears.

CHAIRMAN SANDERS: Is there opposition to that recommendation?

COMMISSIONER PETIT: How would the recommendation again?

COMMISSIONER STATUTO BEVAN: You want physician/M.D.'s in DPC. That's what you want. It's already in there, but you want to identify it.

COMMISSIONER RUBIN: Yeah, I want the president to prioritize the position for families within the DPC family policy.

COMMISSIONER HORN: In addition to creating an Office of Child Safety, you're talking about there being a position specifically created at the DPC that would help to coordinate child welfare policy specifically focusing on reduction of child abuse and neglect fatalities. I think that's fine.

COMMISSIONER RUBIN: No, I will distinguish that. Because of the level of the organization, I think it would coordinate family policy across multiple issues of priority for the administration, one of which would include the reduction of fatalities. I don't think we want to completely silo family policy around child fatalities. I think our policies around child fatalities would be more effective by having higher level organizational leadership on the DPC.

COMMISSIONER HORN: I don't have any inherent problem with that. I think it's beyond our charge, but that's fine.

COMMISSIONER RUBIN: The reason why I brought it up, I offered that, if we do have a White House Conference on Children, that's a very actionable thing that could be announced at that conference.

CHAIRMAN SANDERS: I guess I would at least raise the question, use our recommendation around Office of Child Safety.

COMMISSIONER RUBIN: The other option if we're not putting it in the report but discuss it with the White House and with the Policy Council whether they want to use the publication or the report as an opportunity to acknowledge themselves this is just not needed for child safety.

There are different ways you can handle this issue, but I do think hearing the history from both the Democratic Administration and Republican Administration, it seems to me this is a critical missing element in terms of aligning budgets for children at the White House level.

COMMISSIONER COVINGTON: (Inaudible.) Can we all just agree (inaudible).

COMMISSIONER STATUTO BEVAN: Fine.

CHAIRMAN SANDERS: Okay. All right.

COMMISSIONER STATUTO BEVAN: Can we talk about the Office of Child Safety?

CHAIRMAN SANDERS: Yes, recommendation 3.1(a).

COMMISSIONER STATUTO BEVAN: Right, (a). We thought we were trying to get multidisciplinary buy-in, so why would we keep this at just child safety, it's not just the jurisdiction of HHS. The Attorney General, and it would be Medicaid. I thought we were trying to get a more inclusive multidisciplinary kind of impact.

COMMISSIONER COVINGTON: I was wondering what happened -- maybe I was not on the phone when we were talking about (inaudible).

COMMISSIONER AYOUB: You're fading out.

COMMISSIONER COVINGTON: There is a lot of background noise.

CHAIRMAN SANDERS: Yes, if somebody could mute their phone, if people could mute if they're not speaking.

We have the recommendation here. Is there anybody who is proposing to delete it?

(No response.)

CHAIRMAN SANDERS: The question is some clarification and potential expansion. If I recall correctly, there was consideration of a Cabinet-level recommendation, but that it seemed more appropriate and realistic to look at a report to the HHS Secretary.

COMMISSIONER HORN: I wrote this question in my comments in the report, which is I'm a little unclear how this relates to the Children's Bureau. I never said the Children's Bureau's name got changed, because it didn't, it stayed the same. In fact, I was confirmed with the statutory title of Chief of the Children's Bureau for four years. It still exists.

Is this different from the Children's Bureau? Is this the Children's Bureau renamed? Is this a person that sits in the Secretary's office that is different from the Children's Bureau? I'm a little unclear what this relationship is to the Children's Bureau.

CHAIRMAN SANDERS: I'm not sure it specifies that, but my understanding is it was seen as the Children's Bureau being elevated to that level.

COMMISSIONERS: (Unintelligible.)

COMMISSIONER HORN: Why did we change the name? I think what historically was really bad for kids and child welfare in general was the Maternal and Child Health Bureau used to be in the Children's Bureau, and it was taken out and separated health from child welfare.

I've always been in favor of re-elevating the Children's Bureau, re-emerging the health programs back in. We lost the public health focus in child welfare because we took it out. I would recommend Children's Bureau be elevated to a direct report to the Secretary of HHS and that it be merged, that the Office of Maternal and Child Health be merged back in, so you can have a comprehensive review of children and incorporate the very public health model we have been talking about for two years.

COMMISSIONER DREYFUS: I totally agree with this. This is the first time I heard a description of the Children's Bureau elevated. I don't remember that ever being part of it.

CHAIRMAN SANDERS: That's my recollection. I could be wrong on that.

COMMISSIONER PETIT: I think it has a lot of merit to it, and it would be a big boost for kids' issues if that got elevated. We have talked before as a Commission, but the emergence of the Children's Bureau at the turn of the last century, the role it played in so many areas, and then starting in the 1970s and 1980s, it was diminished, right? This would be a boost. I'd be all for it.

CHAIRMAN SANDERS: Commissioner Martin, does this address your issue?

COMMISSIONER MARTIN: Yes, I think it does address my issues.

CHAIRMAN SANDERS: Commissioner Bevan?

COMMISSIONER STATUTO BEVAN: Yes, this is the Children's Bureau elevated. Are we talking also about adding in MCH?

COMMISSIONER COVINGTON: I think that's a huge stretch for us as the Commission. We haven't even begun to talk about that, and that's not something I would support at all at this point. I don't think it's a bad idea, but I don't think it belongs in this report.

COMMISSIONER DREYFUS: What about instead of recommending that specifically be done, that we describe all that the Children's Bureau should be about, and should consider the movement of other appropriate federal entities into the Children's Bureau? Describe what we think an elevated Children's Bureau would look like in terms of its role and scope.

COMMISSIONER PETIT: I like it.

COMMISSIONER COVINGTON: I think we still have to think about our mission is to prevent child abuse and neglect fatalities. As we have done with many other recommendations in this

report that we haven't included because we think it is stretched too far. I just think we have to be careful.

COMMISSIONER DREYFUS: Just remember what CMS told us, the focus on child abuse and neglect fatalities is cascading across a larger "inoculation" of all children for safety. I do worry a little bit about our fixation on it, whether or not it eliminates child abuse and neglect fatalities just singularly, when the focus of that will have a much broader inoculation of safety of kids in this country far beyond the reduction of abuse and neglect fatalities.

COMMISSIONER COVINGTON: I think that is the larger role of the Children's Bureau.

COMMISSIONER MARTIN: (Inaudible.) We do need to be consistent throughout the report. You know, if you're going to narrow it in on some recommendation, then let's keep it narrow for the entire report. If we're going to expand it for some recommendations, then we must expand it for the whole report. The logic is the same.

COMMISSIONER HORN: I agree with that.

CHAIRMAN SANDERS: The proposal is to move the Children's Bureau to the Secretary level and essentially keep the description in here the same.

COMMISSIONER HORN: Can I just say one last thing? Maybe I'm mistaken and I'm misreading the report, which could be, but it seems to me that an essential recommendation in this report, an essential thread, is to bring more of a public health focus to the issue of child welfare and specifically the reduction of child abuse and neglect fatalities.

Maybe that is not what it says at all, but it seems to me that's a key piece, it's a fact, that the Office of Maternal and Child Health used to be in the Children's Bureau, started in the Children's Bureau, was there for 75 years, and then it was taken out, and then we wonder why we don't have a public health perspective on child welfare. Well, we took it out.

I would just question whether this is a totally tangential recommendation, given the public health focus that we're trying to give this --

COMMISSIONER COVINGTON: Commissioner Horn, we could spend weeks arguing why not just put everything over into the Maternal and Child Health Bureau, to decide you are going to put it under child welfare or vice versa, I don't think that's within the scope of what we can do in this report.

COMMISSIONER RUBIN: I have to agree, I don't think of the Children's Bureau as child welfare. If it works out Welfare and Maternal and Child Health reporting to it, I think it's a restructure. I guess I just need to understand why -- there is probably a back story to why Maternal and Child Health was pulled out of the Children's Bureau to begin with. Does anyone know why?

COMMISSIONER HORN: The Department itself and Human Services. Once you separate it out (Could we ask for a vote on this?

CHAIRMAN SANDERS: Yes, that's what I was just going to suggest. Let's hear those who are opposed to proposing the inclusion of Maternal and Child Health Bureau into the newly constituted Children's Bureau.

COMMISSIONER HORN: I would actually go with Cassie's language and say elevate Children's Bureau and then Congress should consider whether or not the Office of Maternal and Child Health which used to be part of the Children's Bureau should be remerged in. That would actually be my recommendation.

CHAIRMAN SANDERS: Opposing that?

COMMISSIONER COVINGTON: I oppose it at this point. I don't think we have anywhere enough time to discuss this. I don't think we know what the implications are. The Maternal and Child Health Bureau does a whole lot of other things. Their scope of care covers women and children and a whole lot of other things. I really think we're overstepping --

CHAIRMAN SANDERS: Any others opposed?

(No response.)

CHAIRMAN SANDERS: Those in support of that recommendation?

(Chorus of yes.)

COMMISSIONER RODRIGUEZ: Just to be clear, the recommendation as it is stated is to explore the possibility of merging or actually merge?

CHAIRMAN SANDERS: Explore the possibility. That is what I heard. Commissioner Horn?

COMMISSIONER HORN: Yeah, that's right.

AMY TEMPLEMAN: Can I ask a question about that change? Was the name of Office of Child Safety deleted and we are keeping it as Children's Bureau?

CHAIRMAN SANDERS: Yes, Children's Bureau.

COMMISSIONER HORN: Children's Bureau.

CHAIRMAN SANDERS: Okay. Recommendation 3.2. Anybody propose deleting anything under 3.2?

(No response.)

CHAIRMAN SANDERS: 3.3(a)?

COMMISSIONER COVINGTON: Chairman Sanders, can we go back to the Children's Bureau? I don't know where we ended up on that. I only heard a couple of people make a comment. I'm very confused about what we ended up with.

CHAIRMAN SANDERS: I heard I think at least six saying yes. We would recommend the language that Commissioner Horn --

COMMISSIONER COVINGTON: Is that going to be a sub-thought to that or is that the recommendation? I feel if we're talking about consider, is that going to be -- I don't understand it. Are we saying -- elevate the Children's Bureau, et cetera, but then is there a sub-recommendation that says also consider that the -- is in the main text of the recommendation? Those are two different things to me.

CHAIRMAN SANDERS: What was your intent, Commissioner Horn?

COMMISSIONER HORN: I'm not sure I understand sub, what the distinction is.

COMMISSIONER COVINGTON: Can somebody just explain to me what the recommendation is going to read as now? I feel if the recommendation is to establish an office, to elevate the Children's Bureau, whatever it is called, but then you also include within that the concept of exploring a merger with Maternal and Child Health Bureau, I just think those are two different things. Are they separate or is it one recommendation?

COMMISSIONER HORN: It hardly matters to me one way or the other, to be honest. It could be the same or separate.

COMMISSIONER PETIT: (Inaudible.) It's the same. Explore the merger.

COMMISSIONER COVINGTON: I would like to ask that we have two, and the first one is to elevate the Office, and then a second recommendation would be to explore a merger. I just think one is going to get thrown out with the bath water by some folks and then we won't have the elevation at all.

CHAIRMAN SANDERS: It sounds like, Commissioner Horn, you don't have any concern either way.

COMMISSIONER HORN: No. Just consider, you know.

CHAIRMAN SANDERS: We will have two separate recommendations. All right, 3.3. Anybody propose deleting anything?

COMMISSIONER STATUTO BEVAN: I have a problem with this whole little section here about the safe haven. We have up above that it's a good policy, and Emily Putnam-Hornstein thought we should expand it to age 1. Why aren't we doing that? Why in just doing that as opposed to 3.1, and then studying effectiveness again, which I don't want to do because we already said it was effective.

CHAIRMAN SANDERS: You would propose going ahead and expanding safe haven laws?

COMMISSIONER STATUTO BEVAN: Yes, expand it to age 1.

CHAIRMAN SANDERS: Delete what's in 3.3(c) now and propose expanding to age 1?

COMMISSIONER STATUTO BEVAN: Yes.

CHAIRMAN SANDERS: Any opposition to that?

(No response.)

CHAIRMAN SANDERS: Recommendation 3.4.

COMMISSIONER STATUTO BEVAN: Okay, wait. I have a problem with 3.3(b).

CHAIRMAN SANDERS: I'm sorry. Go ahead.

COMMISSIONER STATUTO BEVAN: It's not an issue of GAO or IG studying the statutes. They are in alignment. As a matter of fact, they mirror the federal law. It's the implementation. Reunification bypass. It's not happening. So, there has to be something else then. We already

know it's not being invoked, but we need a study or something of why this federal law is being ignored and not implemented.

CHAIRMAN SANDERS: Who would typically do that?

COMMISSIONER PETIT: What's that, David?

CHAIRMAN SANDERS: Who would typically do that?

COMMISSIONER STATUTO BEVAN: (Inaudible.) We just need to strengthen it and say that states have to use this, the bypass. This is in cases where a parent has murdered another child.

COMMISSIONER COVINGTON: What recommendation are we talking about?

COMMISSIONER STATUTO BEVAN: 3.3(b).

COMMISSIONER COVINGTON: Thank you.

COMMISSIONER MARTIN: Cassie, I don't disagree with what you said, but if I understand correctly, currently states are not following the statute, how do we make it so that rather than just reiterating the statute again, how do we make it stronger or make it more in their interests to follow the bypass statute?

COMMISSIONER PETIT: An enforcement action.

COMMISSIONER STATUTO BEVAN: Technical assistance or --

COMMISSIONER STATUTO BEVAN: How do we do that, Michael?

COMMISSIONER PETIT: It's a broader question, and right now you have it confined to just this bypass, but there is this overall issue of whether or not the 50 states are in compliance with both the intention and the specifics of the law.

COMMISSIONER STATUTO BEVAN: Right.

COMMISSIONER PETIT: We know they have horrible class action litigation all around the country, many states lose in these class action litigations. One of the things I've been talking about from the beginning is creating a Department of Justice type of an intervention when civil rights are violated locally, when law enforcement is out of control locally, when voting rights are being undermined locally.

There is an ability for DOJ to come in, examine the situation, and take specific actions to force a state into compliance. There ought to be the same thing with the 50 state child welfare systems. They are state run operations but they are receiving federal money. They are operating under federal law in many cases. DHHS or DOJ or somebody should have the ability to go in when a state is performing poorly, so an enforcement mechanism, which includes money, which includes other sanctions.

CHAIRMAN SANDERS: It appears we are not at that point. If I'm not mistaken, states -- Commissioner Bevan, are you suggesting this has not been implemented in state statute or that state practices aren't --

COMMISSIONER STATUTO BEVAN: State practices. It has been implemented in state statutes, state statutes mirror the Federal law word for word, but it's not implemented.

COMMISSIONER PETIT: The bottom line is are they Mississippi children first or are they Vermont children first, Texas children first, Oregon.

CHAIRMAN SANDERS: It's my understanding that states then have -- it is an individual case by case decision with direction about which cases meet the criteria for an adoption, for reunification by a parent. It seems the first step would be to potentially strengthen the language. I'm not sure I would support that, but strengthen the language to require a bypass versus getting the judgment.

COMMISSIONER STATUTO BEVAN: Commissioner Martin, could the National Council of Juvenile and Family Court Judges do training on this?

COMMISSIONER MARTIN: Sure. I mean they can do any kind of judicial training, and we can certainly request or ask them to do that.

COMMISSIONER STATUTO BEVAN: Okay. Between that and the court improvement project, two places where we could some training.

It is a case by case basis, and they can't handcuff the judges.

CHAIRMAN SANDERS: You would recommend adding training?

COMMISSIONER STATUTO BEVAN: Uh-huh, technical assistance trained by the National Council of Juvenile and Family Court Judges and the court improvement projects.

COMMISSIONER MARTIN: I would hesitate, you know, I'm a big proponent of the National Council, but I think we should say judicial training, but I'm not sure we should put in a specific organization.

COMMISSIONER STATUTO BEVAN: Okay, you're right. Okay.

CHAIRMAN SANDERS: Anything else on 3.3?

COMMISSIONER STATUTO BEVAN: No, thank you.

CHAIRMAN SANDERS: 3.4, the joint congressional hearings on child safety.

COMMISSIONER COVINGTON: Well, I'm sorry, David. I did want to say something about 3.3(f).

CHAIRMAN SANDERS: Sure.

COMMISSIONER COVINGTON: I think it was said earlier that if we're asking for a study about the effectiveness of --

COMMISSIONER STATUTO BEVAN: I think we deleted that, the study.

COMMISSIONER COVINGTON: We deleted 3.3(c)?

CHAIRMAN STATUTO BEVAN: Yes.

COMMISSIONER COVINGTON: I guess I would rather keep 3.3(c) in and delete 3.3(f), to be honest. I don't think the verdict is out because the data is a little bit quirky.

CHAIRMAN SANDERS: The proposal was to expand it to age 1, and we didn't have any opposition. Are you --

COMMISSIONER COVINGTON: I was confused. I'm sorry. Did we vote to eliminate 3.3(c)?

CHAIRMAN SANDERS: Well, we changed it to implement safe haven laws up to age 1.

COMMISSIONER COVINGTON: 3.3(c) was changed to that?

CHAIRMAN SANDERS: Yes. Amy Templeman, that was the proposal as I understand it.

AMY TEMPLEMAN: What I heard was to add that it would be expanded to age 1. I didn't hear about deleting the sentence that is there, but I might have missed that.

CHAIRMAN SANDERS: We weren't going to commission a study. That was my understanding.

COMMISSIONER STATUTO BEVAN: No, we don't need a study.

COMMISSIONER COVINGTON: I think we do need a study is my point. When you look at the way the data is turning out, I'm not sure they work. When we've done some analysis on data, it's a little bit strange how cases aren't getting counted. There has been a published paper that questions the effectiveness.

I'm not saying I don't support the data laws, but --

COMMISSIONER STATUTO BEVAN: There is more than one paper. I've seen papers in the opposite. I don't see the harm. It's in all the states.

CHAIRMAN SANDERS: Commissioner Covington, are you suggesting opposition to moving it to age 1 or dropping the study part?

COMMISSIONER COVINGTON: I'm opposed to dropping the study part.

CHAIRMAN SANDERS: You would suggest doing a study but also age 1?

COMMISSIONER COVINGTON: Based on findings from the study, yes.

COMMISSIONER STATUTO BEVAN: Okay. I think we should keep them both in because I don't want to spend a lot of time on it.

CHAIRMAN SANDERS: Do we want to --

COMMISSIONER STATUTO BEVAN: I think we should take a vote that we should not eliminate it or we should eliminate it, and expand it to age 1, and I think what Wade's comment is in the corner here about recommending more public education.

CHAIRMAN SANDERS: We have the proposal which is to expand it to age 1.

COMMISSIONER STATUTO BEVAN: Eliminate the study.

CHAIRMAN SANDERS: Which we originally agreed to.

COMMISSIONER COVINGTON: I know in the interest of time, but I'm feeling that we're not all agreeing or disagreeing, so I'm having a really hard time with sort of what the roll call is on some of these eliminations.

CHAIRMAN SANDERS: For this one, the language right now is safe haven laws with the extended to age 1, and the proposal is to change that to commission a study, extending safe haven laws to age 1 depending on the study.

COMMISSIONER STATUTO BEVAN: No. My proposal is to delete the study.

CHAIRMAN SANDERS: We're going to hold a vote on it now. I was just stating what the position was that we're voting on. In favor of changing the recommendation to commission a study and extend safe haven laws up to age 1, depending on the results of the study. All in favor of doing that?

COMMISSIONER HORN: This is a vote for Cassie's language?

CHAIRMAN SANDERS: The language that Commissioner Covington proposed, which is change in the language that we had agreed to.

COMMISSIONER MARTIN: I will vote for Covington's language in light of the fact that there is some confusion about what the data is showing us. If we don't know what the data shows us, then I guess we do need a study.

COMMISSIONER PETIT: I support deleting the study.

COMMISSIONER AYOUB: What are we voting on? I'm so sorry. I don't know what we're voting on.

CHAIRMAN SANDERS: The vote is on the proposal that Commissioner Covington has made to once again go back to commissioning a study and implementing safe haven laws up to age 1, depending on the result of the study.

COMMISSIONER STATUTO BEVAN: All right. How many times are we going to go over it? It's defeated. Let's move on.

COMMISSIONER COVINGTON: Excuse me. I'm really confused about how this voting is going right now. Some people --

COMMISSIONER STATUTO BEVAN: You know what, I don't want to confuse -- people who have a vested interest, in particular, agencies, should not be voting at all. They should be recusing themselves.

COMMISSIONER COVINGTON: I have no vested interest in safe haven laws or any agency relating to that. So, my question --

COMMISSIONER STATUTO BEVAN: I'm not talking about safe haven.

COMMISSIONER COVINGTON: When we're talking about -- I'm having a hard time on the voting because some people are saying yes, I agree, and some people are saying yes, I disagree.

CHAIRMAN SANDERS: Yes, if you are voting to commission a study and to expand the safe haven laws to age one, depending on the study.

COMMISSIONER MARTIN: Yes.

COMMISSIONER COVINGTON: Yes.

CHAIRMAN SANDERS: All opposed?

COMMISSIONER PETIT: No study; right?

CHAIRMAN SANDERS: No study. Section 3(e), other than 3.3.

(No response.)

CHAIRMAN SANDERS: 3.4?

COMMISSIONER STATUTO BEVAN: Sorry.

COMMISSIONER PETIT: What is 3.4?

CHAIRMAN SANDERS: Joint congressional hearings on child safety across committee.

COMMISSIONER PETIT: Yes.

CHAIRMAN SANDERS: (Inaudible.) CAPTA and Medicaid.

CHAIRMAN SANDERS: Yes. Anybody propose deleting that?

(No response.)

CHAIRMAN SANDERS: Okay. We are through Chapter 3.

COMMISSIONER HORN: Michael wanted to insert a new recommendation.

COMMISSIONER PETIT: Yes. As David Rubin did a few minutes ago with the Department of Domestic Policy, the Domestic Policy Council, I'd like to propose the same thing in terms of the point I was making earlier about the ability of the federal government to walk into a state that is performing poorly or in any way, whatever it happens to be, they are out of compliance with federal law, that there ought to be an ability to go in and enforce the law.

Whether that's DOJ, HHS, some Inspector General, I don't know what the mechanism would be, but there needs to be an ability to go in and evaluate/audit the situation and take appropriate action to bring a state into compliance.

COMMISSIONER MARTIN: I propose we finish our agenda before we start going to new business. I thought we had said if it wasn't in writing, we weren't going to go over it. It seems to me that unless we finished our agenda that we have for today, and maybe we have, but unless we finished our agenda, I would object to entertaining new issues right now.

COMMISSIONER PETIT: We just did it 15 minutes ago, so keeping with your logic --

CHAIRMAN SANDERS: Commissioner Rubin actually had provided that in writing.

COMMISSIONER MARTIN: I apologize then. I apologize.

CHAIRMAN SANDERS: Commissioner Rubin had proposed in writing the DPC language. Let's go to Chapter 4. We will come back to this if we have time, although we are just about out of time now.

Chapter 4. Let's see if we can walk through it. I know there are two issues that will come up, a proposal from Commissioner Covington, and the other is the opposition to one of the

recommendations from Commissioner Bevan. Amy Templeman, can you tell us what page Chapter 4 begins, the recommendations?

AMY TEMPLEMAN: Sure, page 60, at the bottom of page 60.

CHAIRMAN SANDERS: Amy, do you want to go ahead and read the recommendation? I've got it here.

AMY TEMPLEMAN: Recommendation 4.1 is to enhance the ability of national and local systems to share data, to save children's lives, and support research and practice, and for the Executive Branch, 4.1(a), it is spearhead a special initiative to support state and local entities engaged in protecting children such as law enforcement and CPS, and sharing real time electronic information on children and families.

CHAIRMAN SANDERS: Why don't we take Sections 4.1(a), (b), and (c). Any proposal to delete any of those?

(No response.)

CHAIRMAN SANDERS: Section 4.2. Amy, do you want to read that?

AMY TEMPLEMAN: Sure. 4.2 is to improve collection of data about child abuse and neglect fatalities. This is on page 62. 4.2(a) is to rapidly design and validate a national standardized classification system to include uniform definitions for child abuse and neglect fatalities and life threatening injuries.

CHAIRMAN SANDERS: Commissioner Bevan, you are proposing to delete that?

COMMISSIONER STATUTO BEVAN: (Inaudible.) Said they could work with -- yeah, I am proposing -- it would require changing 52 different state laws.

COMMISSIONER COVINGTON: I saw your comment on that, Commissioner Bevan, and I think the definitions that we're looking at are not definitions that would be used for substantiation of child abuse and neglect, but would be used for a broader counting definition, from a broader kind of public health perspective, and maybe we need to clarify that in this.

I don't think it would be used at all and require any changes in state laws, because it wouldn't be used to substantiate abuse and neglect. It would be used for counting. Maybe we need to clarify that in the definitions.

Maybe in 4.2(a), at the beginning, we could design and validate the classification systems for uniform definitions. That would be used for child maltreatment surveillance.

COMMISSIONER STATUTO BEVAN: Okay. That's fine with me.

CHAIRMAN SANDERS: Any other proposal to delete any of Section 4.2?

(No response.)

CHAIRMAN SANDERS: 4.3? This came up earlier. Amy, do you want to read it?

AMY TEMPLEMAN: 4.3, on page 65. Fatality reviews and life threatening injury reviews should get conducted using the same process and under the same authority.

COMMISSIONER COVINGTON: My only change that I would argue for is it should be under the same authority. It kind of goes to this thing about changing laws. There are 52 states and there are very, very broad differences on where the authorities for the reviews lie, and I don't think the authority makes a difference. (Inaudible.) Right, delete the phrase "requiring the same authority."

CHAIRMAN SANDERS: Any proposal to delete anything else under that section?

COMMISSIONER STATUTO BEVAN : Is that 4.3(a)?

CHAIRMAN SANDERS: It's the heading.

COMMISSIONER: I see; okay.

CHAIRMAN SANDERS: Commissioner Covington, you had a proposal?

COMMISSIONER COVINGTON: Right, where was it?

CHAIRMAN SANDERS: Federal laws to put in data sharing across agencies and between DOD and state agencies.

COMMISSIONER COVINGTON: Oh, yeah, under information sharing, I think we need to add a recommendation specific, and David mentioned this as well in his notes, to require the sharing of child welfare information across both, child protection agencies to the DOD and the DOD to states and local child protection agencies.

CHAIRMAN SANDERS: Anybody else want to speak to that, any opposition to that?

COMMISSIONER STATUTO BEVAN: I agree with it.

CHAIRMAN SANDERS: Okay.

COMMISSIONER COVINGTON: What page are we on right now?

CHAIRMAN SANDERS: We're going to move to Chapter 5 because we went through Chapter 4. Amy Templeman, can you tell us what page we begin the recommendations in Chapter 5?

AMY TEMPLEMAN: Hold on one second. It starts on page 78.

COMMISSIONER PETIT: Amy, can you tell me where is Kansas in that whole thing?

AMY TEMPLEMAN: The story on Wichita?

COMMISSIONER PETIT: Yeah, is that in this chapter?

AMY TEMPLEMAN: I believe we moved it around a few times. Let me see. If anyone else on the staff -- I think it's Chapter 4.

JOANNE EDGAR: This is with the leadership chapter, leadership and accountability, just before that, not with it.

AMY TEMPLEMAN: It starts on page 39.

COMMISSIONER PETIT: Thank you.

CHAIRMAN SANDERS: Recommendation 5.1, ensure access to high quality prevention and intervention services and support for children and families at risk.

COMMISSIONER COVINGTON: I notice that there were comments by Commissioners Horn and Rubin on 1(a) and (b). I think maybe the way to address that is 5.1(b), to actually state what we are really asking for is preemptive billing, or maybe just make it a little bit more explicit what we're asking for there.

CHAIRMAN SANDERS: What does that mean? You said preemptive billing?

COMMISSIONER COVINGTON: Well, Commissioner Rubin, are you still on the call?

COMMISSIONER RUBIN: I am. I'm sorry. Where are we now?

COMMISSIONER COVINGTON: Your recommendation, 5.1(b), and you had a very lengthy paragraph that kind of described what you were trying to say. I'm wondering if we just word it to be more explicit in terms of what we're asking for.

COMMISSIONER RUBIN: What page is it on?

AMY TEMPLEMAN: 78 at the bottom.

COMMISSIONER RUBIN: I'll respond in a second.

COMMISSIONER RODRIGUEZ: I just have a question because I need to get off the line. Process-wise, moving forward, is this call it? What are the next steps? Are they what was sent and outlined in the document?

CHAIRMAN SANDERS: Actually, the plan was to vote tomorrow, but we have voted on the recommendations now. Staff can put together what essentially should be the final document, although I'm sure there will be edits after that. They can put that together with the recommendations that we have now.

COMMISSIONER COVINGTON: Will there be opportunities for us to comment on the report, the actual materials in the report, David?

CHAIRMAN SANDERS: Say that again.

COMMISSIONER COVINGTON: Will there be a final vote on the final report?

CHAIRMAN SANDERS: We anticipate that we will need to do that because the language and how it's all put together is going to make a difference; yes. I need to confer with Amy because we made a number of changes in structure, particularly from yesterday, and I know that's a heavy lift for the staff, so I need to get a sense of how long it will take.

COMMISSIONER STATUTO BEVAN: Will a decision be made about the minority report and how much time (inaudible) --

CHAIRMAN SANDERS: Yeah.

COMMISSIONER RUBIN: I didn't think we had talked about a minority report. I thought we talked about three options for achieving what we were striving for here; right? No?

CHAIRMAN SANDERS: The conversation earlier today.

COMMISSIONER RUBIN: Cassie, you agreed with the framework, that we need to have states develop a more systematic approach, you believe in order to accomplish that, we needed to restructure existing funding streams and not add new funding at this time. I don't call that a minority, I call that option three; right?

COMMISSIONER STATUTO BEVAN: I can't support \$1 billion, I'm sorry, for CAPTA.

COMMISSIONER RUBIN: I don't think you are supporting. You are supporting the fact that we create a report that had an approach but there were three different opinions on how to get there. That means we couldn't agree.

COMMISSIONER MARTIN: Why don't we talk about how to submit a minority report? David was going to tell us as Chair whether or not it was going to be published and what we needed to do to get it published. Let's get that all out and we can go from there.

COMMISSIONER RUBIN: I'm just strongly against a minority report if we can avoid it. I think we're closer in terms of what we talked about. I just think the opposite would be terrible to that.

COMMISSIONER MARTIN: The problem is every Commissioner has a right to make a minority report, so we don't know if Cassie is going to do one or anyone else is going to do one. So, the issue is the information needs to come out, and we need to understand how to do it.

COMMISSIONER RUBIN: I thought we had a proposal to get there, without putting the minority report in.

CHAIRMAN SANDERS: Let's get through Chapter 5, and then we will see if we have any time to talk about the minority report.

COMMISSIONER RUBIN: Nothing good happens after 8:00.

(Laughter.)

The question about Chapter 5 that was brought up, I just don't think we have stated these comments well with a little bit of boundaries as to what we're talking about. Home visiting services—the same way the Hatch-Wyden bill is treating it. I think we wanted some specificity.

I think for states to be able to take advantage of Medicaid to help pay for home visiting for child welfare, parent and youth, right, that would be an explicit request around home visiting services, to acknowledge there needed to be access to different funds.

MIECHV does not work by preferentially selecting child welfare youth. Some places use the MIECHV program, which is maternal and infant early child home visiting program, but mostly they use it to fund voluntary services for parents who might be presenting in the nursery.

We don't want it to create a competition between our priorities and the MIECHV programs. What you want to do is acknowledge that everyone would agree that someone who is in foster care who has a baby probably should be receiving some level of home visitation services.

Unless we go above and beyond a flexibility to Medicaid, which is already happening in a lot of states to reimburse for those services, I don't know how you get there. You can't require MIECHV to provide services for that, because that is not how MIECHV is structured.

That was my only point about 5.1(a), and 5.1(b), we had meetings with CMS. We spoke to Cindy Mann as well as Sue along our deliberations. The idea of intergenerational services and how they would be supported through EPSDT, you know, I was trying to see how we could be as specific as possible, and in the context of what we discussed about what waivers are for, it seems like you're inviting waivers for states, linking parental services under children's EPSDT from the perspective of states.

It works extremely well, and I think if there are those of us who want boundaries to this, I would suggest we do it to support with the court, CMS, accepting waivers to test the strategy where some intergenerational services, particularly mental health and substance abuse treatment received presumptive eligibility under a child's EPSDT when immediate safety is a concern to the child.

That doesn't mean we're going to do it for everyone. States are working on the Medicaid expansion, what it does is it expedites the provision of services, and for those states who don't have a Medicaid expansion, if they wanted to submit a waiver, they can potentially do something like this without having to expand Medicaid.

Again, it would be a state choice. I was just trying to provide -- respond to Wade's comment about trying to create some boundaries, some boundaries around these, recognize where we come out strong, et cetera.

I just didn't think we had the language correct yet on 5.1(a) and 5.1(b).

CHAIRMAN SANDERS: Is there anybody who is proposing to delete anything in Section 5.1?

COMMISSIONER HORN: I'd be very interested in seeing what Commissioner Rubin would -- how he would change 5.1(a) and (b). I am very, very sympathetic to his comments.

COMMISSIONER RUBIN: If you guys want, I'll do some suggested language and share it with the Commissioners. Would that work?

CHAIRMAN SANDERS: Yes. 5.2, leverage opportunities across multiple systems, improve identification of children and families. Does anybody propose deleting anything under Section 5.2?

COMMISSIONER HORN: I think that was good, I have no objection.

CHAIRMAN SANDERS: Section 5.3, strengthen the ability of (inaudible) children most at risk. Any proposal of deleting anything under 5.3?

COMMISSIONER COVINGTON: The only thing I would change, in the interest of time, but 5.3(a), I don't know why we put that in there at the end that says "As mentioned earlier." I think that's not really part of the recommendation. We can put that somewhere else, but I think the recommendation should just be what it is.

COMMISSIONER HORN: I agree with that.

COMMISSIONER DREYFUS: I agree.

CHAIRMAN SANDERS: Amy Templeman, did you get that?

AMY TEMPLEMAN: I got it; yeah. Thanks.

CHAIRMAN SANDERS: 5.4, strengthen system accountability. Any proposed deletions?

(No response.)

CHAIRMAN SANDERS: We have gotten through the recommendations. We have several other--

COMMISSIONER PETIT: David, there was a recommendation that we discussed and we didn't act on it. I'd like to raise it now.

CHAIRMAN SANDERS: Let me finish what I was going to say. We have a set of deleted recommendations or recommendations not included that are proposed to be included. We have comments about the introduction. One of the areas that is a longer conversation is the public health approach and several feeling that we are overselling it, particularly Commissioner Bevan, several responses regarding that, and a couple of other things.

Commissioner Petit, your question, it seems that we're going to need to do two things, and I would suggest we don't have to do them today. One is we do have to get some sense of the recommendations that aren't included, and then the other is we have the issue around dissention and how to address dissention.

I would suggest at this point that staff have the opportunity to make the changes that have been proposed so that we can see a full document with all the recommendations, and then we look at the deleted recommendations.

I'm going to assume that because people can write minority opinions, that it certainly would end up making sense for it to be part of the document, but I'd like at least for everybody to abstain until after we see what the final document looks like.

The other piece is the letters. I assume you will write letters, but I would prefer that we actually have a document so that we can make informed decisions.

We may have to do it through email or we may have to set up another call, but I want to make sure staff has time to work on it.

COMMISSIONER PETIT: In preparing the document, I just have written this several times, citing individual researchers or individual companies, and we have done that in a few places. I don't think we should single out individuals (inaudible). I suggest that we say they can be or not.

The other piece is Wichita, I would just note, it's really oversold. There are big problems in Kansas, and billing something as champions of children, they have been slashing services to kids in a lot of different ways.

COMMISSIONER DREYFUS: I just remind us all again about Wichita. That is not about the state, that's about a local community, similar to El Paso, not one more, that they as a community were going to address child fatalities in their community, and that was the whole

effort. I just remind us all what happened in Wichita should not be judged by what is happening at the state level in Kansas.

COMMISSIONER PETIT: Okay.

COMMISSIONER DREYFUS: It is absolutely a model as is El Paso, as is Hillsborough, to a public health approach. I am really perplexed by the Commissioners' questions on public health approach when everything we have looked at that has indeed shown any glimmer of working had all the features of a public health approach -- if Commissioners don't understand the public health approach, that's one thing, but to say we're overselling it without understanding what sits underneath, aspects of a solid public health approach, and understand it is not about "public health" as we think about public health agencies, but a public health approach in solving complex population level issues.

COMMISSIONER PETIT: Susan, I completely agree. If that response is referring to Kansas, please, I was referring to the fact that Kansas has gotten pounded on kids' services, you helped clarify it by saying Wichita is different, but they have been taking it on the chin in the last two or three years with some of the experimentation. It has nothing to do with public health. I'm all for it.

To the extent that isn't what I was raising, an issue about public health, I just know Kansas had had numerous problems and it's spilling over into places like Wichita. That is more of a political issue than a program or policy issue.

COMMISSIONER DREYFUS: Agreed.

COMMISSIONER MARTIN: I'd like to go back to what Chairman Sanders is talking about, particularly about the vote, and what we need to do from this moment forward. If I understand what you said, David, you were suggesting that staff put together the changes that we recommended yesterday and today so we have a document in front of us, and from that, I didn't understand what you were saying, where we go from there.

CHAIRMAN SANDERS: There are several things that we will still need to do with that document. There will be the decision about the letters and minority report, to me, it would be helpful to actually have a document with our recommendations in it before we decide what to do with dissention.

I'm certainly inclined to suggest it be part of our practice that it be part of our regular submission, say we're not going to do a minority report. At least we should have a document before making a final decision.

COMMISSIONER MARTIN: We're going to vote? I think I'm still confused, and I may be the only one, and if I am, I apologize up front.

We went through all the recommendations, and are we going to vote on the document, the final document that staff is going to try to hurry and put together for us?

CHAIRMAN SANDERS: Yes, I'm assuming we will need to do that. The document that matches the recommendations. I know people have concerns about style and language, so yes.

COMMISSIONER MARTIN: I would recommend, and I don't know if you said this, but are we going to vote by email or by phone?

CHAIRMAN SANDERS: At this point, we would do it by email.

COMMISSIONER MARTIN: I personally think we need to vote by phone, because if I remember correctly, we had asked staff to ask whether or not there had to be a public vote, and we were going to get some information back about that.

CHAIRMAN SANDERS: We can vote by emails, if the emails are from Commissioners directly to me.

COMMISSIONER AYOUB: The timeline had us voting tomorrow. That is obviously going to change. Do you have --

CHAIRMAN SANDERS: I haven't had a chance to talk to Amy about how long it will take to incorporate the recommendations.

COMMISSIONER AYOUB: The timeline said if anybody was incorporating letters, wanted to include letters, that was Thursday. Did that move?

CHAIRMAN SANDERS: What we were suggesting is that it would be two days after the final report, so people could actually receive the report before the commitment to write letters. Much of it is dependent on how long it will take to turn around the report.

COMMISSIONER AYOUB: If the vote is on the phone, obviously some people might not be able to make that phone call, so there would have to be an option.

CHAIRMAN SANDERS: That's why I recommended voting by email. We can do it. Commissioner Martin, does that change your recommendation or do you --

COMMISSIONER MARTIN: I personally want to vote by phone, but you're the Chair. No, I just want to get a final report and I want to get a vote on the final report. That's all I'm interested in.

CHAIRMAN SANDERS: Why don't I plan to get the email out tomorrow, and giving a date with more certainty, after I get a chance to talk to Amy about how long it will take to turn around the report that will include the recommendations that we have agreed to.

All right. Thanks, everybody, a long afternoon. We got through a lot of this. Thank you.

(Whereupon, at 8:27 p.m., the telephonic meeting was concluded.)