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WAYS AND MEANS COMMITTEE'S SUBCOMMITTEE ON HUMAN RESOURCES  
HEARING ON ESTABLISHING A COMMISSION TO DEVELOP RECOMMENDATIONS FOR  
REDUCING CHILD DEATHS DUE TO MALTREATMENT; DECEMBER 12, 2012

Mr. Chairman and Members of the Subcommittee:

My name is Bill Frenzel. I am a Guest Scholar at the Brookings Institution, but my testimony today is mine only and has nothing to do with Brookings.

I have been advised by your fine staff to concentrate my remarks on the commission, its structure, its outlook, and possible results. I have served on several commissions: (1) the National Economic Commission in 1988, appointed by the President and Congressional leaders; (2) The President's Advisory Commission on Social Security in 2001 and 2002; (3) The President's Advisory Commission on Tax Reform 2005; (4) the President's Advisory Commission on Trade Policy and Negotiations from 2001 to date; and (5) several private commissions, most notably the Pew Commission on Children in Foster Care, from 2003 to 2007.

The first three of the above were colossal failures. The Pew Commission was judged successful, even though some of its most important recommendations were enacted long after it had disbanded. I have some opinions on how best to structure and manage a government (or private) commission. Mostly they depend on what the commission is intended to do. Some of them follow.

**Appointing Authority** Presidentially appointed commissions, and those appointed jointly by the President and Congressional leaders carry substantial prestige, and few potential appointees have nerve enough to decline them. They, however, are more appropriate for frontline issues, and they labor in the national spotlight. None have been successful in my memory except the Social Security Commission in 1982 and 1983, and a couple of base closing commissions.

If you want it to be on the six o'clock news, have the President appoint the commission. If you want results, you may want to choose another appointing authority.

Presidential problems abound. Presidents like to stack commissions with people to whom they owe something. You will get good people, but they may not exactly be the

qualified people you want. You may not get geographical distribution you want. You may not get other balances you seek.

Worst of all, Presidents are too busy. If recommendations are not a slam dunk, or important enough, they lie there and die. I believe that is what happened to President George Bush's Tax Reform Commission in 2005, or more recently to President Obama's Fiscal (Bowles-Simpson) Commission.

If the commission's sponsors can advise the legislative leaders on appointments (I presume they can), it will be much easier to get the skills and experience, the regional balance, and such other balances as are thought necessary, through Congressional appointment. Here I assume that child mistreatment is not a subject that will engender partisan problems, and that House and Senate sponsors themselves can agree on commission member selection.

Net, net, I believe that Congressional appointment is more likely to produce a better distribution, and better talent, and a better outcome, than if the President is involved.

**Size** Less than a dozen members won't give you the geographical nor the experience spread you will need. More than 20 is likely to cause difficulties of less than orderly process. The draft bill of Congressmen Doggett and Camp has it about right, although I believe 15 to 18 is optimal, particularly if you choose leaders as described below.

You will also have to have a method for replacing members who are obliged, for reasons of health, family, etc., to leave the commission.

**Qualifications** This subject is not my strong suit, but, in general, the draft bill covers the waterfront well. It also describes millions of people, and you want the very best. Your staff will have to call in the best advisors it can locate to identify the best of the best, both in talent and temperament. And don't eliminate all lobbyists. They can't taint this kind of commission.

I hate to mention the phrase, but bi-partisan cooperation will produce the best commission. One of my Pew Commission's greatest strengths was that if anyone knew anybody else's party leanings, they were never mentioned. Members could have been all Democrats, or all Republicans. What mattered was their experience and their unrelenting desire to help children.

Because that also matters in this case, the House and Senate sponsors of this commission should be able to agree on a slate and to convince the leadership appointers to ratify it.

**Regionality** The kind of people you choose for the commission will mostly be nationally known, and will know others of national renown in their fields. But America is

pretty big, and communities, states and regions are different, even when pursuing the same goals. You need wide geographical and cultural distribution on your commission.

The locals will know all the other good locals, and they will be helped by the local peers who seek the same outcomes the commission seeks. You can never cover all the bases, nor get perfect representation, but you need to make a good try.

However, I believe it would be unwise to write distribution requirements into the bill. They would be long and confining. I believe that the sponsors, aided by the Subcommittee staffs will understand their responsibility to take geography into careful account.

**Congressional membership** This is for you to determine. My own feeling is that members of Congress ought to be committed to other duties, and are too busy to be dependable members of such a commission. If you put one member of Congress on the commission, with two houses and two parties you will have to have at least four members of Congress, and that may make it impossible to include the other experiences and talents you want on the commission. I would not preclude members of Congress, but neither would I appoint any to this kind of commission.

**Commission Leadership** When you assemble an all-star line-up of commissioners, with experience and ability, you may find among them a natural leader who can manage the work plan, handle the schedules, instill a sense of practicality, keep the commissioners happy and engaged, and maintain regular communication with this Subcommittee and its staff. That is possible, but it's also highly unlikely.

If my Pew experience is any guide, it is a good idea to go outside the fields of endeavor for leadership. I believe I was chosen as Chair precisely because I had no experience in foster care. The same may a little less true of the Co-Chair, former Congressman Bill Gray. Having multiple leaders, a Democrat and a Republican, was for optics. In practice, either of us could have done, and did, the same job.

My highly subjective recommendation is that you pick a former member of Congress, or two, for the chair.

She/he might, or might not, have experience in the field (from this subcommittee, for instance). More than keeping the program on the move in businesslike manner, the chair has to remind, constantly, the real enthusiasts on the commission that perfection

in recommendations is not always possible in a contentious and budget-restricted Congress, and that a consensus report multiplies its impact.

**Consensus** Unanimity is contrary to human nature, but commission reports have far greater impact if they represent a consensus of the full commission. Minority or

dissenting remarks may often be appropriate, and they may make the objectors feel better, but they really weaken the thrust of the report. In a child maltreatment commission, every effort must be made to have a unanimous set of recommendations.

Consensus seeking is a duty of leadership. It's one more reason in favor of appointing some kind of professional chair, or chairs, who can encourage commission members to hang together.

**Congressional Approval** When the commission reports, its recommendations may include requests for Congressional actions of some sort. It is highly desirable that this subcommittee react to those recommendations as swiftly as possible. The Pew Commission on Children in Foster Care referred to earlier, reported in 2005, had part of its recommendations enacted that year, but some not until 2008.

The Report will also include recommendations for state and local government units in all branches, and for private organizations, too. Those units can move without federal approval, but the federal blessing will nurture far more enthusiasm.

**Honoraria** First-class people will fight to get on this commission. You should pay their necessary expenses of travel, etc., but it is not necessary to award them honoraria. After you hire a first staff and pay commissioners' expenses, there won't be much money left anyway.

**Staff** \$2 million won't buy a large staff, but you won't need many people, because plenty of resources, private and governmental, national and local will be available to the commission. The staff should be competent, but lean, less than 10. It does not have to do the research. It just has to sort it out. Spare no expense on a first-rate staff director. She/he will save you a bundle in the long run.

Your staff, and the Senate's, ought to help the commission and its staff director identify and recruit the staff, but the commission needs to maintain its independence.

**Operations, Hearings, etc.** Other things being equal, the commission should do its business here in Washington. Its staff should be here, in close contact with your own staff and with other federal agencies. Hearings in other locations sound like wonderful

ideas, and sometimes are, but field hearings usually turn out to be mostly for show. It is usually cheaper to bring commissioners to Washington than to New York, LA, or Chicago. It will be hard to find child mistreatment in the boondocks. I believe that you will find witnesses happy to come to Washington to testify about their local conditions.

However, the commission may find it necessary and helpful to travel to national meetings of court personnel, and governmental or private organizations. There is a cost, but to learn and to inspire, such meetings may be needed.

**Term** I believe the draft bill has the term limits thing right. Two years is plenty. More time means the idea will get stale. However, depending on the date of creation, please be sure the final Report due date does not occur in an election year.

**Budget** I lack experience and information to analyze the budget. It appears adequate if you don't pay commission members. A lean staff alone, as I have described it, depending on quality and experience, might cost as much as half your budget annually. I don't suggest raising the budget (you will have trouble enough with \$2 million), but I do suggest consulting a HR specialist in some of the fields described so that you will have an idea of the costs. If you can arrange to use federal facilities (one advantage of Presidential appointment), you could save a bundle on rental costs.

**Purpose** The commission is intended, I believe, to shine a light on an important problem, to inspire citizens, organizations, and various governmental units to combat it, and to develop recommendations for them to make substantial reductions in child mistreatment and fatalities. It will have recommendations for every person and agency involved, and it is likely to recommend changes in national policies.

The draft bill's instructions to federal agencies to report to Congress in 6 months is a great idea. In addition the commission ought to report recommended changes in law directly to this Subcommittee and its Senate counterpart. As noted above, if Congress does not take the commission seriously, nobody else will either.

I request unanimous consent that this written testimony be made a part of the record. I will answer questions as best as I am able.