

# READY FOR THE BIG ONE?

By Ned Crosby  
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With any luck, some significant new opportunity for using a deliberative method will arise within the next few years. Will those of us who care about deliberative democracy be able to pool our resources and do the best job possible of running a high quality deliberative project?

In this brief essay I lay out my concerns about our not being ready enough. A fuller piece than this deserves to be written, but for now I wanted to present my concerns for those attending the *When Citizens Decide* conference. Although I am poorly informed about a variety of efforts underway in Canada, my concerns are sufficient to lead me to write this now.

Assume that some powerful official or person decides to commission a deliberative event on a significant topic. It might be the premier of a province, a governor of a state or a billionaire who has suddenly developed a desire to reinvigorate democracy. It might even be a head of state. Also assume something more difficult: that the potential sponsor really wants to empower the views of an informed microcosm of the public – the agenda will not be biased one way or another and the results will receive a powerful backing.

Such a sponsor is likely to do a careful review of the organizations and consultants prepared to conduct deliberative methods. Can we be confident that our house is well-enough in order so that the official will decide to go ahead with a major project? I'm not sure. On the surface we do fairly well. There is the Deliberative Democracy Consortium and a number of conferences where those engaged in deliberative democracy discuss different methods in a civil manner.

My view, however, is that we have chosen to be collaborative and have given a lower priority to the tough job of truth-telling and transparency. My experience has been that there are many “insiders” in the deliberative democracy arena who have complaints about how some important deliberative projects have been run, yet they act like insiders in most professions and do not to share these views with outsiders. But the promise of deliberative democracy demands more. If we are to get the public to trust new methods in the political arena, we must be able to show that we are not acting in typical ways. We must find some objective way to be open about our mistakes or we will never get the public trust that our methods deserve.

## WARNING SIGNS

Let me give a few examples to indicate why I believe we need to set higher standards for truth-telling and transparency. Some of these examples go back to the beginning of my work with the Citizens Jury process and some are more recent.

- Normal organizational behavior. I read Max Weber and the sociology of organizations too long ago to remember much about what has been written on truth-telling in organizations. What little I remember indicates that there are a variety of pressures that incline an organization to be poor about truth-telling and transparency unless a major, conscious effort is made to insure it.

But I have had enough experience serving on the boards of non-profit organizations to know that transparency and truth-telling are difficult to achieve. Even when the organization was small and doing good work, I could see the influences of staff bias and how difficult it was to be sure that we were operating properly (eg: Minneapolis Legal Aid Society, one of the best groups in the country delivering legal services to the poor, where I was on the board for four years).

- In the fall of 1995 I attended a conference at Whistler put on by IAP3 (this was before it became IAP2). There I attended a workshop conducted by Lucy Moore, entitled “Dark Side of Public Participation”. The room was filled to overflowing. She pointed out how tempting it is for a public participation professional to engage in a project even when it is fairly clear that the sponsoring entity wants things to be tilted so as to achieve a specific desired outcome. Her advice: be very careful in assessing whether the sponsor wants real public participation, or whether they want a public relations effort in which citizens are led to pre-determined conclusions. What she said then rings very true to me today.
- About five years ago I spoke with a man who was familiar with the Planungszelle projects in Germany (the German version of the Citizens Jury). I said I was referring my American colleagues to the Planungszelle conducted in 2000 in Regensburg (see <http://www.planungszelle-regensburg.de/>) as an example of how the Germans conduct really good projects. The report on the project runs over 100 pages, describing how nine separate citizens juries were run to help lay out a vision for the future of Regensburg. The man immediately told me that I should pick some other example, given that that project had not been run in a very professional way. I have looked at the report and not found anything that indicates any problems in the way it was conducted.
- A person who works as an organizational consultant told me an interesting story about her professional association. Although she has asked me not to name her group, the story is relevant enough to our situation that it bears telling.

A decade or two ago in the U.S., there was an emerging group of people doing organizational consulting with a particular clientele. They decided to form an association to share their experiences and promote their work. At one of the first meetings the suggestion was made that it would be helpful to acknowledge that they not only were collaborators, but also competitors. No one picked up on this suggestion.

In the judgment of the person relating the story, this reluctance to put something obvious on the table was in line with their general reluctance to share mistakes and faults. There was a new field and clients were not easy to find. The collaborative spirit of the new association felt good and they were not inclined to surface things that might shine a questioning spotlight on their beliefs and practices, thus possibly raising some concern about their competence or skills. Also this would likely have made it more difficult to secure engagements in what at the time was a limited pool of potential clients. My source believes that this reluctance was detrimental to the field, given that they were not learning from each other's mistakes and were not learning about how to do a collaborative evaluation of the work that was being done in an emerging professional field.

- But it is not just among new practitioners that mistakes can be made. I pride myself that the Jefferson Center, established in 1974, has an excellent record of running projects that are fair and unbiased. In spite of this I managed to make some significant mistakes in setting the agenda in our most recent project, the Citizens Jury on Early Childhood Education, conducted in April, 2008. This project was run as part of a graduate seminar conducted by me and Prof. John Sullivan at the University of Minnesota. In every Citizens Jury conducted by the Jefferson Center, the jurors are given the opportunity to rate the staff on how well they did in running a fair and unbiased project. This Citizens Jury received the worst ratings since the evaluation was instituted in 1981 (see the chart on page 7 below).

It would be nice if I could explain this by saying that it was a class exercise in which the students were given considerable control and they did not do the best job. Instead, to my regret, my decisions about the agenda were at the heart of what went wrong. For example:

- I have been saying for over a decade that on any kind of complicated issue, a project using randomly selected citizens should be run for at least five days. Yet in this project, I thought it would be possible to pose two different questions to the jurors: (1) Should the state of Minnesota spend more, less or about the same on intensive preschool education? (2) Should something like a Citizens Jury be used to make important decisions about early childhood education and childcare? Only the first three days were devoted to the first question. It turned out not to be enough, given that the jurors were rushed into considering intensive preschool education (along the lines of what is being done in New Jersey or Oklahoma) before they were convinced that there was a problem to be solved.
- No one should sponsor a Citizens Jury project with the expectation that the jurors will support the favorite approach of the sponsors. Often there have been major attitude changes in projects that were not foreseen by either staff or sponsors. At times this has resulted in considerable

disappointment on the part of the sponsors. In spite of this, it seemed obvious to me that Minnesota (ranked 37<sup>th</sup> among states in terms of access for 4-year olds to quality preschool projects) was in great need for more to be spent on such preschool projects. This was why I limited the time given to the jurors to consider whether any problems existed. Without such a discussion jurors may feel they are being forced to agree with sponsors that there is a problem. I should have known better than to assume that this corner could be cut, especially because students in the class challenged me on this point.

- If there is any indication that sponsors are hoping for a particular result, then the staff of the project should be sure that there is what lawyers call a “firewall” separating those who are sponsoring the project from those who are designing the charge and the agenda. Perhaps because this was a class exercise, I ignored this. After all, the aim was to demonstrate the Citizens Jury process to students in a graduate seminar, while allowing me and the Jefferson Center to pursue topics that interested us.

This is not to say that the project was completely biased. There were aspects of it that were well done. One of the ironies of the project was that we chose such a powerful witness to speak in opposition to quality preschool education that the jurors thought the moderate witnesses, intended to create balance in the testimony, were all biased in favor of quality preschool education. There were many interesting lessons learned from this project that will be discussed in the full report, which will be posted on the Jefferson Center website sometime in May.

- California Speaks project on health care. In August, 2007 America Speaks convened a 21<sup>st</sup> Century Town Meeting to discuss health care in California (see <http://www.californiaspeaks.org/>). The project cost about \$4 million. In the day-long event, they covered various aspects of health care in California, but did not include consideration of the single payer approach in their agenda. This was explained by America Speaks by saying that they were looking only at the health care proposals that stood a good chance of passing in the current legislative session. The problem with this answer was that single payer had been given serious consideration in that legislative session and that at least one of the major funders of the project was opposed to the single payer system.

It might be claimed that this was a mistake in public relations, but not real bias. After all, the single payer approach was indeed unlikely to pass the legislature. When I spoke to several people in the deliberative community about the project, they justified leaving out single payer on two grounds: (1) America Speaks probably would not have gotten the project had they insisted on including the single payer approach, and (2) at this point in the development of deliberative methods it is better to run prominent demonstration projects to gather public support than to not run any projects at all unless they are perfect.

It should also be noted that this project, unlike the project in Regensburg, did not require that one be an insider in order to know that there were challenges to the way the project was run. A progressive site, the California Progress Report (see [http://www.californiaprogressreport.com/2007/08/california\\_spea\\_2.html](http://www.californiaprogressreport.com/2007/08/california_spea_2.html)), is easily found on-line. They point out that "...health care foundations (including Blue Shield Foundation, Kaiser Family Foundation and the California Endowment) spent over \$4 million on an event originally spun as an exercise in "deliberative democracy", but in reality was carefully structured to control discussion, in order to ask randomly selected participants to discuss and "vote" on their preferences for healthcare reform.

The agenda appears not to have been the only problem with the project. When I asked questions of those who observed the project first-hand, I discovered that there were more problems with the project than those easily identified on-line. The strongest complaints, by some very close to the project, were told to me only if I swore not to tell others what I had learned. Again, it is possible to dismiss such things. In the political realm there is always gossip about who did what wrong. The only way to avoid such claims is to run no projects at all.

My view on this is that deliberative democracy cannot advance simply by running projects that meet the standards accepted in the current political culture. We must be able to demonstrate to the public that we indeed are doing something trustworthy in an arena where precious little trustworthy work is being done. The public doubts and private complaints about the California Speaks project were, in my mind, strong enough to make a future, high-minded sponsor have significant doubts about the quality of work that had been done.

It also shows the challenge we face. If there is an etiquette that we do not evaluate each other publicly in a tough, but fair way, then how are we to gain the support of the major sponsors we will need in the future? We cannot continue to trade confidential stories about which organization ran what project in a sloppy way. We must take the difficult step of evaluating each other's projects in a public way that inspires confidence among future sponsors and with the public as a whole.

#### FOUR PROPOSALS

Here are four suggestions for how to deal with the above problems.

##### 1. Structure the Project to Minimize Agenda Problems

One way to deal with agenda setting problems is to institutionalize the process so that it becomes routine. This is the goal of Healthy Democracy Oregon, a group that is working to get the Citizens Initiative Review (CIR) adopted in Oregon. The purpose of the CIR is to give voters trustworthy information on ballot initiatives, doing this through the voters pamphlet that is issued by the Office of the Secretary of State. The evaluation

of an initiative will be done by a “citizens panel”, the generic version of the Citizens Jury process, as conducted by the Jefferson Center.

The goal of Healthy Democracy Oregon is to have the CIR adopted through state law, so that the results can be placed in the voters pamphlet and the project funded with state money. In the past Oregon has over ten initiatives on the statewide ballot in a single election. It goes without saying that this can be very confusing to voters. There is growing support for the CIR in Oregon. But, as with any reform, it is not easy to get the political system to do things in a new way. This fall Healthy Democracy Oregon will be conducting a demonstration project on a specific initiative. Their goal is to gather the names of over 25,000 supporters, who will then vote in July as to which initiative they want to have reviewed.

There are a number of advantages that the CIR should bring to the problems of agenda setting and bias:

1. Extensive guidelines are being created so that each citizens panel is run in the same way.
2. Careful training will be given to staff to insure that they understand the guidelines and will run the citizens panels in a professional manner.
3. There is no need for staff to be concerned about how to frame the issue under consideration, given that the language of the ballot initiative is set by the time it qualifies to be on the ballot.
4. There will be a board of directors under citizen control. Details on this can be found in Appendix A.
5. The selection of witnesses is done in two ways: Most of the witnesses will be selected by the pro and con advocacy teams. These two teams will present the basic pro and con arguments and then call witnesses to back up their case. The second way witnesses will be called is by the panelists themselves. They will be given an opportunity to choose from about 20 “background” witnesses that have been identified by the “resource staff”. More about the resource staff is found in point #3 below.

These advantages of the CIR could be achieved by any deliberative process that is institutionalized. For example, a Citizens’ Assembly could be institutionalized as a way for a parliament or a state government to tackle major issues facing a province or a state. See Appendix B for an example of this. Other ways of institutionalizing Citizens’ Assemblies and Citizens Juries are conceivable. The problem lies not in imagining possible ways to do this, but in getting any legislature or parliament to try one.

## 2. Participants Should Evaluate Staff Biases

All projects should use a standard rating method in order to allow the participants to evaluate whether the project was conducted in a fair and unbiased way. Starting in 1981, the Jefferson Center has used a standard question to allow jurors to indicate how

satisfied they were with the job done by staff to run a fair and unbiased project. With slight variations over the years, the question has been:

One of our aims is to have the Jefferson Center staff conduct the project in an unbiased way. How satisfied are you with their performance in this regard? Very satisfied, Satisfied, Neutral, Dissatisfied, or Very dissatisfied?

This question has been posed in almost every Citizens Jury project conducted by the Jefferson Center since then. The results are as follows:

Project	Very Satisfied	Satisfied	Neutral	Dis-satisfied	Very Dis-satisfied
1981, "Peacemaking"	33%	67%	-0-	-0-	-0-
1984, Agriculture/Water Quality	40%	60%	-0-	-0-	-0-
1988, School-based Clinics	88%	12%	-0-	-0-	-0-
1989, St. Paul Mayoral Election	96%	4%	-0-	-0-	-0-
1990, Minnesota Governor's Race	94%	6%	-0-	-0-	-0-
1991, Hennepin County Budget (1)	55%	10%	30%	5%	-0-
1992, Pennsylvania Senate	82%	15%	3%	-0-	-0-
1993, Federal Budget (2)	92%	4%	-0-	-0-	-0-
1993, Clinton Health Care Plan	83%	12%	-0-	4%	-0-
1994, At-risk Children, Conn. (3)	75%	8%	8%	8%	-0-
1994, Welfare System, Rep. Penny	78%	22%	-0-	-0-	-0-
1994, Penn. Gubernatorial Election	88%	12%	-0-	-0-	-0-
1995, Traffic Congestion	46%	29%	12.5%	12.5%	-0-
1995, Hog Farming, Minn. (6)	67%	8%	8%	-0-	-0-
1996, Minnesota State Budget (4)	84%	4%	4%	-0-	-0-
1996, Comparing Environmental Risks	55%	45%	-0-	-0-	-0-
1997, Electricity Future, Minn.	81%	13%	6%	-0-	-0-
1997, K-12 Education, Minn.	67%	25%	8%	-0-	-0-
1997, Dakota County, Planning (5)	71%	25%	4%	-0-	-0-
1998, School Bond, Orono, Minn.	88%	4%	4%	4%	-0-
1998, Assisted Suicide, Minn.	67%	33%	-0-	-0-	-0-
1999, Property Tax Reform, Minn.	22%	50%	11%	11%	-0-
1999, Chatfield School, Minn. (5)	61%	28%	11%	-0-	-0-
2001, Citizens Initiative Review	71%	25%	4%	-0-	-0-
2001, Metro Solid Waste	83%	17%	-0-	-0-	-0-
2002, Global Climate Change	89%	11%	-0-	-0-	-0-
2005, Community Engagement, Australia	81%	19%	-0-	-0-	-0-
2008, Early Childhood Education	18%	47%	12%	24%	-0-

(1) Project not run by Jefferson Center

(2) One juror did not vote.

(3) One juror did not vote because taken ill

(4) Two jurors absent at end, due to medical emergency

(5) One juror did not vote because of withdrawing from the project.

(6) Two jurors did not vote, for reasons not recorded by the college students in charge of the project.

Note: The average "very satisfied" rating for all of the above projects was 70%, not including the 2008 project.

Of course, the Jefferson Center is proud of these ratings. Not only are they high, but they are unique in terms of an organization allowing participants to rate projects over a period of several decades. But the high scores are less significant than the variation among scores. After all, the high ratings may be influenced by the fact that the jurors had participated in a project where they were relatively well paid and fed, and staff were eager to please. What is more significant is the variation in scores. Excepting the first two projects in the 1980s, where staff was getting the process set up properly, there was no instance in which the “very satisfied” ratings fell significantly below 70% where staff did not agree that something had not been done properly in the project.

When a project receives as poor a rating as the 2008 project, then that is a clear indication that something went wrong. In this particular case it shows how someone who has a long track record of creating fair and unbiased projects can make mistakes when insufficient care is exercised.

### 3. Gather Witnesses in a Transparent Way

One of the most difficult tasks faced by any deliberative method such as the Citizens Jury or the Citizens’ Assembly is gathering a balanced group of witnesses. Imagine that a project (either Citizens Jury or Citizens’ Assembly) is conducted on the question of global climate change, as the Jefferson Center did in 2002 for the U.S. Environmental Protection Agency. What is a balanced set of witnesses?

If the project were to be conducted in 2008, it is clear that the vast majority of scientists with a specialty in climate change believe that global warming is taking place and that it is human caused. There may be less consensus on the rate of change and what actions can and should be taken to alleviate it.

If the same project had been conducted in 1968, the range of opinions surely would have been different. The majority of scientists probably would have been unsure about evidence on global warming, while the number of skeptics might have been greater than the number of believers.

How should one then “balance” the witnesses? Assuming that there were sufficient staff, it might be possible to categorize scientists on a Likert scale regarding how sure they are about global warming, from certain that it is happening to certain that it is not.

Table 1 Imaginary distribution of scientists on whether or not global warming exists and is human caused:

	Convinced Yes	Probably Yes	Don’t Know	Probably No	Convinced No
1968	15%	15%	40%	15%	15%
2008	85%	8%	3%	2%	2%



What is fair? It seems obvious that it would be wrong to create a “balance” by choosing three witnesses from each of the five categories. But if there are to be 15 witnesses in 2008, should there be 13 who are “convinced yes”, 1 who is “probably yes” and 1 from one of the other three categories?

Also, it should not be assumed that the witnesses should be chosen only in light of expert opinion. What if there is some topic on which the large majority of experts hold one view, but a small majority of the public holds the opposite view? If the experts are selected to reflect where their views fall on a continuum, then it might well lead the participants in a deliberative event to assume that the witnesses were chosen in a biased way – namely in a way that reflects elite views rather than the views of the citizens.

This discussion so far has ignored the differences between values and facts. There may be a majority of experts on one side of a question regarding the facts, but they may be much more diverse about what actions should be taken in light of the facts. For example, there may be a high consensus regarding the extinction of some species, but little consensus regarding how bad this is.

I propose that the way out of this dilemma is to give the participants in the deliberative method their choice over some of the witnesses. The Citizens Initiative Review is designed to give the jurors their choice of background witnesses on Days 3 and 4 of the five-day hearings. The reason for not doing this until Day 3 is to give the proponents and opponents of the initiative under consideration ample time to present their points of view. But in a Citizens’ Assembly, where the agenda may request the creation of a solution to a problem rather than a yes or no vote on a proposal already on the table, and where more time is available, it might well be the case that the majority of the witnesses would be selected by the participants.

The list of witnesses should be gathered by a “resource staff” that spends time reading and networking among those who might be interested in the issue. The task of the resource staff would be not only to find people willing to appear as witnesses, but also to provide an overview of what they find through their search. They would try to identify what kinds of people take what stands on the issue and why. They will talk with the advocates on both sides of the question and ask them for a few witnesses who share their views. These will be interviewed and asked for further recommendations about those whose views might be potentially interesting for the jurors.

Once the background witness names have been assembled, the jurors will be given the opportunity to vote upon whom they would like to hear. This will be done by weighted voting in order to insure that the witnesses selected are not all chosen by the majority. This will give a strong minority the opportunity to choose a few of the background witnesses.

Note that this still gives staff the opportunity to call the initial witnesses, choosing either from the two sides of a controversy or from a range of views, such as that imagined

in Table 1 above. But some will surely complain that this is an excess of democracy. On the question of global climate change, for example, if the project had been conducted in the 1980s or 1990s, wouldn't it have been the duty of staff to bring in more scientists to testify about the dangers of global warming than industry apologists who denied its existence? If the participants had been subject to a major propaganda campaign that denied the existence of global warming, should they be allowed to select witnesses who support their initial prejudices? The reason why I do not go along with such an appeal is twofold: First, there have been fads among scientists which later have been proven wrong. Second, there is the danger of making the participants believe that the staff is trying to force them to change their minds. My long experience with Citizens Juries has shown that the best projects were those where the jurors were given a true chance to explore and learn so that they feel that they had a significant opportunity to become enlightened on an issue.

#### 4. Establish an Independent Rating System

Finally, we should establish a method for creating an outside team that will evaluate deliberative projects both in their planning and implementation stages. I can see three steps for setting this up.

1. Establish a set of criteria for a properly run deliberative event. This needs to be broad enough so that it covers several deliberative methods. For example, it should be applicable to both the Citizens Jury process and the Deliberative Poll, even though Jim Fishkin continues to insist that several hundred people are needed to make a deliberative event valid, while I believe that in some circumstances, such as the Citizens Initiative Review, a 24-person microcosm of the public suffices.

It will take some work to establish these criteria, but this should be possible, especially if the goal is to agree upon the most obvious ones and leave some of the more controversial criteria to be decided once the method has been applied a few times.

2. Train people to apply these criteria in an objective way. It should be possible to train a group of students and other interested people to apply these in a fair way. This training would serve a couple of purposes besides that of having an evaluation team ready to insure the integrity of major projects. It would give us the opportunity to learn how workable our criteria are. Those being trained should be given various past projects to review and evaluate. Some of these "case studies" could be concocted so that we don't get stuck relying on historical instances where many of the facts are not clear. What degree of agreement is there between evaluators when they examine one of these instances? There is no reason to move ahead with the application of criteria unless there is high agreement among those trained as to how to apply the criteria.

The other thing this would do is to get people interested in staffing deliberative events and teaching them how to run them. Certainly something like training facilitators would require more training than a few days being trained to apply criteria, but it would enable a number of people to understand the basics of what a high quality project looks like.

3. Perform the evaluation. Having such trained people available should put us in the position of running high quality projects when the opportunity arises. Of course, it is possible that those running a major project will not want to be evaluated by such a team. If they are invited by a governor or a premier to conduct a high-profile deliberative project, the last thing that group may want is to have the bother of balancing the idealism of the evaluative team with the pragmatic needs of the head of the government.

I submit that not having an evaluative team poses much greater risks for us than going through the effort of training people for the evaluation and then not having them used. If we allow consultants or organizations to compete for the plumb projects, the temptation will be very high to cut corners in order to win the contract. Those of us who care about deliberative democracy need to take a careful look at whether our goals are advanced by the kinds of citizens juries that Gordon Brown has been running in Britain for the last year or the kind of project that America Speaks ran in California in 2007. Unless some careful study proves otherwise, I will hold to my view that they do more harm than good. The public learns that some new democratic process exists, but they also learn that it smacks of politics as usual. If this is the case, it is something that the deliberative democracy movement cannot afford.

## CONCLUSIONS

1. There are not high enough standards within our profession as to whether a particular project was conducted in a high quality way or not.
2. This should be expected given the rather strong sociological pressures not to be transparent in our operations. We should not assume that simply because our goals are honorable, we are going to find it easier than other professions to be conduct our work in a transparent way that meets the highest standards.
3. This paper has four suggestions about how to improve on this situation. Other approaches certainly exist. This paper will be successful if it stimulates others to propose methods to improve the quality of our work and we can somehow come together to implement some of them.

## APPENDIX A

### BOARD STRUCTURE OF THE CITIZENS INITIATIVE REVIEW

The Citizens Initiative Review (CIR) (introduced on pp5 and 6) is designed with a unique board structure. What follows is taken from the “Basics of the Citizens Initiative Review”, a long document being written to outline how the CIR will work.

#### Board of Commissioners

A primary goal of those who support the CIR is to create an independent program, insulated from politics, within state government. The intent is to have the CIR free from the normal political influences that would undermine the credibility of the citizens panels or the resulting information. In this way the CIR should be able to meet its goal of providing clear, trustworthy and balanced information to voters about each statewide initiative on the ballot in a general election.

The carefully designed structure for the CIR will succeed only if there is a board of commissioners overseeing the process that is committed to making it work as intended. This sets a very high standard for the board to meet. This section covers the board of commissioners, who serves on it, and how it is intended to function.

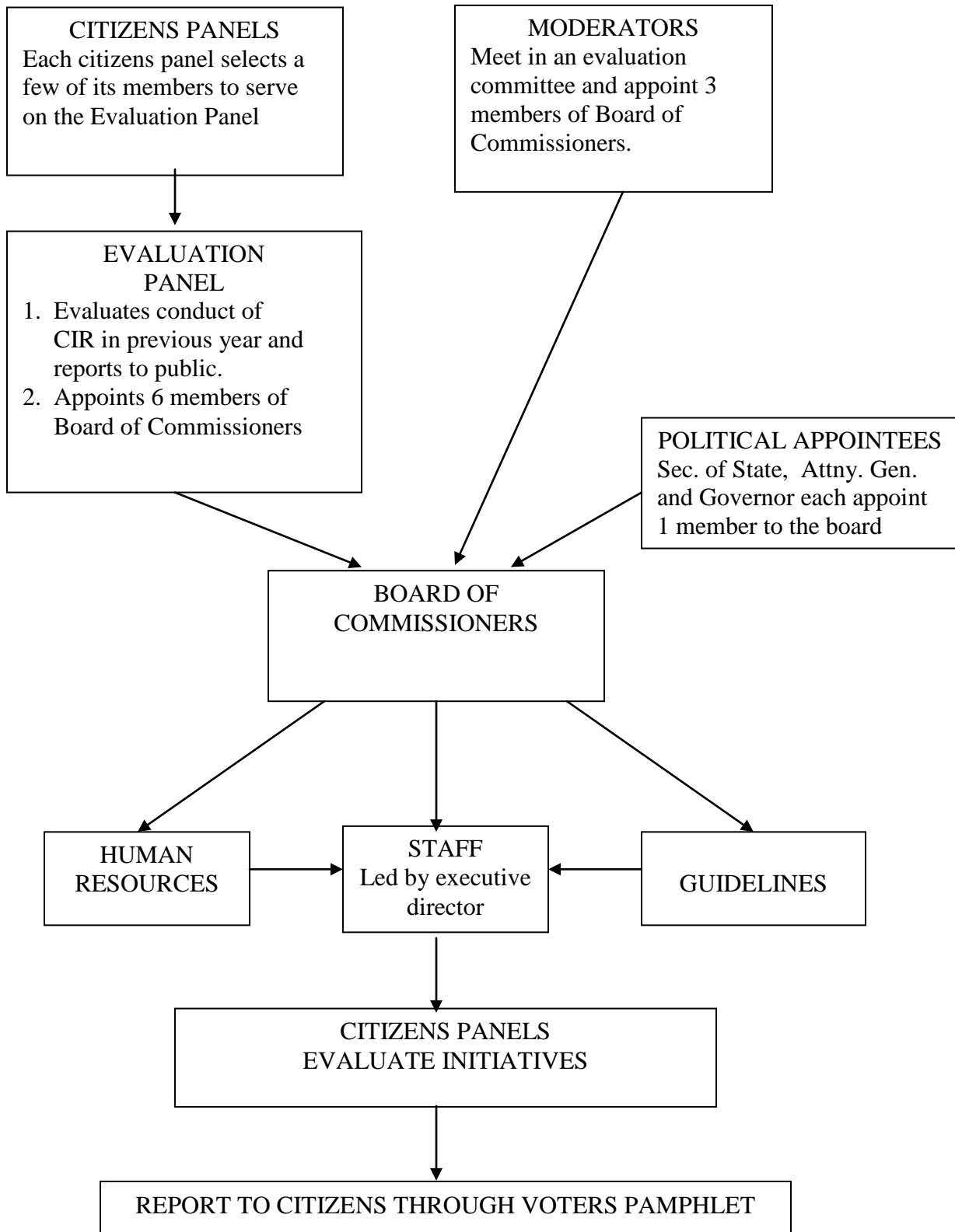
On the next page is a chart that shows the main elements of the board of commissioners. Its members are appointed in three different ways: by former panelists, by moderators and by political officials. The exact number of appointees from these three sources will vary by state. The chart reflects the proposal for Washington – more will be said below about the board that is proposed for Oregon, the other state besides Washington for which a specific proposal has been drawn up. Let us examine the three sources of appointees.

#### *The CIR evaluation panel*

The purpose of the CIR evaluation panel is to provide a forum for a few panelists to meet after the citizens panel hearings are over so that they can compare their experiences in the different hearings, evaluate what went on and then appoint a few people to the board of commissioners. The CIR evaluation panel will consist of no fewer than eight nor more than 16 members. These will be selected by the participants in the citizens panels on Day 5 of the hearings, choosing from among their own members a number sufficient to create

## STRUCTURE OF THE CITIZENS INITIATIVE REVIEW

(As proposed for Washington state)



a CIR evaluation panel of appropriate size (the more citizens panels there are in any given year, the fewer panelists are selected from each one to serve on the evaluation panel). The evaluation panel will convene in late fall of each year for two days in a facilitated session to evaluate the hearings, using information such as the evaluations made by the panelists during and after the hearings, evaluations done by the witnesses and advocates, and a survey of voters after the election asking how useful the CIR reports were in voting on initiatives. Also, they will compare their own experiences from the different citizens panels on which they served. They will then do two things:

- Issue a report commenting on what they have found and making recommendations to the board if they believe anything needs to be changed.
- Select two of their members to serve on the board of commissioners, each for a three year term.

The purpose of the CIR evaluation panel is to give everyday people the opportunity to control a political reform that is intended to serve them. At the same time, it is designed to maintain a balance of power between former panelists, moderators and political appointees. Those who have served on the citizens panels of the CIR are likely to care a great deal that they continue to be run properly. Still, it is wise to bring other talents to the board as well. That is why the other half are appointed in a different way. (The full document from which this appendix was taken has many “design notes”.. Design Note #28 contains some of the thinking behind the CIR evaluation panel.)

#### *Moderators’ Panel*

The moderators’ panel will consist of all those who moderated a citizens panel in any given year. Like the CIR evaluation panel, the moderators’ panel will convene in the late fall. Their task is also similar to what the panelists on the CIR evaluation panel do: they review the hearings that took place that year, using data gathered at the hearings and their own observations. At the end of their two-day meeting, they write up a report for the board of commissioners and select one of their members to go on the board for a three-year term.

It is expected that the moderators will be more skilled in evaluative techniques than the panelists on the CIR evaluation panel. Conversely, the moderators have a possible self-interest in the results of their evaluations. The panelists will never serve again on a citizens panel of the CIR, unless by some remote chance of random selection they are chosen again. But the moderators may well be chosen to serve again by the staff of the CIR. This being the case, there is the chance that recommendations they make for how the CIR should be run would enhance their own power in the future. It is good to have some moderators serving on the board of directors, but it would not be good if they could dominate the panelists who also serve on the board. This is one of the reasons why there are six board members chosen from the CIR evaluation panel and only three board members chosen by the moderators’ panel.

### *Politically Appointed Board Members*

The other three members of the board of commissioners are appointed by those who hold elective office: the Secretary of State, the Governor and the Attorney General. It is hoped that the CIR will be seen in a positive enough light by these officials that they will appoint people who care about the CIR and not just political allies or those suggested by the most powerful interest groups. These appointees are intended to bring some political realism to the board. No matter how hard one tries to insulate the CIR from normal political influences, it is impossible to do so completely.

Even if these appointees are not initially as enthusiastic about the CIR as the other board members, it is hoped that they will come to like the CIR and serve as a link between it and the rest of government. Even if these board members turn out not to be very supportive, they are in a distinct minority on the board and should not be able to do much harm, so long as the rest of the board can work with some harmony to see that things go well.

One potential weak point for the CIR is continued funding at a level that can ensure a quality process. Legislatures tend to fund those things which are promoted by large interest groups. Idealistic reforms often lack the political clout to get the funding they need. The political appointees on the board could serve an important positive function if they help the board maintain good relations with other branches of government. An idealistic group of people can sometimes erode their political support by acting as though they are more pure than most government officials. High-mindedness can shade into arrogance, real or perceived, something that the CIR cannot afford. The political appointees, if they come to see the virtues of the CIR, can help the board to keep its political fences well-mended.

### *What the Board of Commissioners Does*

Those who know something about governmental innovation know how often the best conceived reforms go awry. What follows is a description of what the board does once it is up and running. The details of how to set up the initial board are somewhat complex and not included here. They are found, however, in the legislation that has been drafted for Washington state and Oregon. (For Washington, see <http://apps.leg.wa.gov/documents/billdocs/2007-08/Pdf/Bills/House%20Bills/1696.pdf>)

When we assume that the CIR has been running properly, then it means that the different parts of the system have been working well enough to support each other. These are:

- The Guidelines have been implemented in a satisfactory way and most of the kinks have been worked out.
- The executive director has learned the job reasonably well and knows how to select the staff of moderators, site coordinators and resource staff, most of whom will have some experience in their jobs.

- The board of commissioners will have on it both former panelists and moderators who know how the CIR works and will be alert to fixing anything that does not function properly.
- The evaluation feedback system is in place and brings good information about how the hearings have been conducted and what modifications, if any, may be needed.
- There will be a human resources consultant whom they trust who can come in and take the temperature of the organization on a periodic basis to ensure that all is going smoothly.
- There is a well-organized external support group that stands ready to support the CIR either in the legislature or if some media campaign is mounted against it by some interest group whose initiative received poor ratings in the citizens panel hearings and was defeated.

Under these circumstances, the tasks of the board are not that much different from what most non-profit boards face. They must stay alert to the various ways that any of the above elements can get off track – the executive director who becomes bored with the job, the hearing where a panelist was allegedly bribed, the accusation that the CIR is too liberal (or too conservative) – the list can be extended indefinitely with problems large and small that every organization encounters.

### *The Oregon Board*

The board proposed for Oregon is different from the one in Washington because of an interesting role that exists in the former, but not the latter. In the Oregon voters pamphlet there is an explanatory statement for each initiative that is supposed to be neutral. This is prepared by two people appointed by the group proposing the initiative, two who are opposed to the initiative, and a fifth person who does not take sides on the initiative. This “fifth member” is chosen by the two sides. If they cannot come to an agreement by a specific time, then the Secretary of State appoints the fifth member. This system appears to work quite well.

It was decided, therefore, that these fifth members (other than those appointed by the Secretary of State) would be a good group to have on the board, given that they would be well known within the political system and yet be the kind of people who care about good government. Indeed, it was felt that these people would make good enough board members that there should be four of them on the 12-person board, rather than just three of them, as is the case with political appointees in Washington. This meant that the number of other members would have to be adjusted. The decision was made that the moderator role is important enough that there should be four of them on the board. Assuming that the fifth members play a positive role, there is not as much of a need to have half the board composed of panelists in order to protect the views of everyday people.



## APPENDIX B

### Minnesota Citizens' Assembly

The following is an outline of how the Citizens' Assembly, as invented in British Columbia, might be modified to be used in a state in the U.S. This outline was presented to a Citizens Jury of 17 people conducted in Minnesota in April, 2008. In spite of the poor bias ratings given the project (because of perceived bias on the question of quality preschool education), the jurors liked the idea of a Citizens' Assembly adapted to the needs of Minnesota. The jurors ratings of the proposal are found below.

1. The Minnesota Citizens' Assembly will consist of 67 randomly selected citizens – one from each of Minnesota's Senate Districts. The reason for not having a man and a woman from each district is to lower costs.
  - A microcosm of Minnesota in terms of age, gender, race, education and political affiliation.
  
2. Meet for 10 weekends
  - Weekends 1, 2 and 3: What problems exist, if any?
  - Weekends 4 and 5: Hear different witnesses and choose a few key ones for the further hearings.
  - Weekends 6 and 7: Narrow solutions to three options.
  - Weekends 8, 9 and 10. See if jurors can agree on any solution by 2/3 majority.
  
3. If jurors do agree by 2/3 majority, then either the legislature will adopt the proposal, or they will put it to the voters as a constitutional amendment.
  
4. The board of directors will be made up of citizens, moderators and political appointees.
 

Five political appointees: one by governor and one each by majority and minority leaders of the House and Senate

Five citizens, selected from among those who have served on a Citizens Jury or Citizens' Assembly

Two moderators who chair the meetings, but have no vote
  
5. Every two years a Minnesota Citizens' Assembly will be run so long as at least 7 board members vote in favor of it. It should be useful on infrastructure policy.
  
6. Cost: About \$1.7 million.
  - Use when cost of MCA is 1% or less of the program being considered (\$170 million). Minnesota's annual budget is \$16 billion.
  
7. The Minnesota Citizens' Assembly should be adopted by Constitutional amendment.

The above outline was presented on Day 5 of the Citizens Jury hearings for about 15 minutes by Ned Crosby. Then he took questions for about the same amount of time. Before the presentation, a written questionnaire was presented to the jurors and they were asked to answer the first question right away. Then, after they heard the presentation on the Minnesota Citizens' Assembly, they answered the second question.

*A. How well do you think government is working in Minnesota?*

	# jurors	% jurors
Very well	0	0 %
Well	8	47 %
Medium (I'm unsure)	6	35 %
Not well	3	18 %
Not at all well	0	0 %

*B. What do you think about the Minnesota Citizens' Assembly?*

	# jurors	% jurors
I like it a lot	7	41 %
I like it	8	47 %
I'm neutral (I'm unsure)	1	6 %
I don't like it	1	6 %
I don't like it at all	0	0 %