



1999 Annual Report

Vickie Wallen
Director Ombudsman

THE WASHINGTON STATE



1999 Annual Report

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January 2000

The Honorable Gary Locke
Honorable Members of the Legislative
Children's Oversight Committee

I am pleased to submit the 1999 report of the Office of the Family and Children's Ombudsman (OFCO).

Pursuant to RCW 43.06A.030(6), OFCO is to submit annually to the Governor and members of the Legislative Children's Oversight Committee a report analyzing the work of the office, including recommendations for changes in state law and administrative policy and procedure.

This report provides an account of OFCO's activities through December 1999. Specifically, the report sets forth OFCO's established role, structure and complaint review process. It also describes the inquiries and complaints received by OFCO from September 1998 through August 1999, as well as the interventions, and systemic investigations that OFCO conducted during this period. The report also identifies three major issues of concern involving the child protection and child welfare system that OFCO has identified in the course of reviewing complaints from 1997, when OFCO became operational, through 1999. Finally, the report describes the response of state policy makers and agency officials to OFCO's previous recommendations for changes in law, policy and procedure.

All of us at OFCO appreciate the opportunity to serve the families and children of Washington State, and your continued support of our mission.

Respectfully submitted,

A handwritten signature in black ink that reads "Vickie Wallen".

Vickie Wallen
Director Ombudsman



EXECUTIVE SUMMARY

THE OFFICE OF THE FAMILY AND CHILDREN'S OMBUDSMAN (OFCO) was established to work independently on behalf of children in need of state protection and on behalf of families and children who are involved with the state because of child abuse and neglect issues. As an independent office within the Office of the Governor, it is OFCO's mission to protect children and parents from potentially harmful action or inaction by governmental agencies. It is also OFCO's mission to identify problems and recommend improvements in the child protection and welfare system.

Pursuant to RCW 43.06A.030(6), OFCO is to submit annually to the Governor and the members of the Legislative Children's Oversight Committee a report analyzing the work of the office, including recommendations for changes in state law and administrative policy and procedure.

This report provides an account of OFCO's activities through December 1999. Specifically, the report sets forth OFCO's established role, structure and complaint review process. It also describes the inquiries and complaints received by OFCO from September 1998 through August 1999, as well as the interventions and systemic investigations that OFCO conducted during this period. Further, the report identifies three major issues of concern involving the child protection and child welfare system that OFCO has identified in the course of reviewing complaints from 1997, when OFCO became operational, through 1999. Finally, the report describes the response of state policy makers and agency officials to OFCO's previous recommendations for changes in law, policy and procedure.

OFCO Role and Structure

OFCO fulfills its mission by intervening in ongoing matters, and by conducting administrative and systemic investigations.

Interventions. OFCO intervenes in ongoing matters for the purpose of preventing or mitigating harm to a child or parent resulting from an agency's action or inaction.

Administrative investigations. OFCO conducts administrative investigations of past agency conduct for the purpose of assessing compliance with applicable law, policy or procedure.

Systemic investigations. OFCO conducts systemic investigations for the purpose of identifying system-wide problems that adversely affect children and parents, and recommending

improvements. OFCO's interventions and administrative and systemic investigations may be initiated upon receipt of a complaint or upon OFCO's own initiative.

It is OFCO's role to identify and facilitate the correction of harmful agency action or inaction, and systemic issues. OFCO therefore approaches its duties as a neutral fact finder rather than as an advocate. It is not OFCO's role to advocate for a complainant, or to advocate for what a complainant or an ombudsman perceives to be in a child's best interest.

OFCO has six full-time employees and an annual budget of about \$476,000 (State General Fund). OFCO's staff consists of the director ombudsman, three investigator ombudsmen, a database administrator, and an information and referral specialist. The Legislative Children's Oversight Committee monitors OFCO's activities by reviewing OFCO's actions, reports, recommendations and budget. OFCO has established citizen advisory committees, which are comprised of diverse individuals with expertise or direct experience regarding child protection and child welfare issues. The committees advise the office on organizational, and child protection and child welfare system issues. OFCO does not consult with committee members on specific cases or issues under investigation.

OFCO Complaint Review Process

OFCO has established standard procedures for receiving and addressing complaints against government agencies. These procedures permit anyone to file a complaint with OFCO that is concerned about the action or inaction of a government agency affecting a child that may be at risk of child abuse or neglect, or other harm; or a child or parent that is involved with government agencies due to child abuse or neglect issues. OFCO encourages – but does not require – that individuals pursue their complaint with the agency before filing a complaint with OFCO.

Individuals who wish to file a complaint with OFCO are required to complete a written complaint form, although this requirement is waived under certain circumstances. Complaints to OFCO are handled confidentially. OFCO will not disclose the identity of complainants or witnesses without their consent. Standard information from each complaint is entered into OFCO's automated database. This confidential database allows OFCO to track the characteristics of complainants, complaint trends and patterns, and the results of OFCO's interventions and investigations.

Every complaint to OFCO is subjected to a comprehensive review process. This process consists of an investigation by a lead ombudsman, a review by the office's multidisciplinary ombudsman team, and a decision by the director ombudsman as to whether specified criteria have been met to warrant further action by OFCO. When OFCO determines that the criteria have not been met, the complainant is promptly notified, provided with an explanation of OFCO's decision, and directed to other resources that might be of assistance. When OFCO decides to take further action on a complaint, the complainant is promptly notified and provided with periodic updates on the progress of OFCO's intervention, or administrative or systemic investigation. When the intervention or investigation is completed, the complainant is notified and provided with a description of the outcome. OFCO does not disclose confidential information to complainants and witnesses.

1999 Inquiry and Complaint Profile

A major responsibility of OFCO is to receive and address inquiries and complaints from citizens about the child protection and child welfare system. OFCO responds to inquiries about OFCO's services and the laws, policies and procedures for providing child protection and child welfare services, while referring other inquiries to the appropriate agency. OFCO responds to complaints by investigating and analyzing each one to determine whether it meets specified criteria for taking further action. From September 1998 through August 1999, OFCO received 1,499 contacts (i.e., inquiries and complaints) from the public.

Inquiries

Of the 1,499 contacts received by OFCO during the reporting period, 1,237 (82 percent of all contacts) were inquiries about government services or state laws. Of these, 59 percent were requests for OFCO information and complaint forms, while about 21 percent were requests for information about the child protection and child welfare system. About 20 percent were inquiries or requests for assistance on issues outside of OFCO's jurisdiction. OFCO received inquiries at an average rate of about 24 per week.

Complaints

Of the 1,499 contacts, 248 (18 percent of all contacts) were complaints. Of these, 90 percent were requests to intervene in an ongoing matter. One-fifth of these requests identified the matter as an emergency, and sought OFCO's immediate assistance. Ten percent of all complaints received by OFCO were requests to conduct an administrative investigation or an investigation of a potential systemic issue.

Complaints to OFCO were most often filed by parents (41 percent), grandparents (14 percent), and other relatives (13 percent). A majority of complaints involved children who were age seven or younger. Most complaints (91 percent) were directed at the DSHS Children's Administration. Of these, the vast majority (96 percent) were directed at the Division of Children and Family Services. The most frequently identified complaint issue was of inappropriate family separation and failure to reunify; the next most frequent complaint issue regarded the safety, health, and well being of children in the state's custody.

1999 Intervention and Investigation Summary

OFCO conducts interventions, and administrative and systemic investigations in response to a complaint when OFCO's complaint review process indicates that specified criteria have been met. On occasion, OFCO conducts interventions and investigations on its own initiative.

OFCO completed its review process and disposed of 248 complaints during the reporting period. Complaints that received a disposition received on average of over six hours of investigation and evaluation. Of the 248 complaints that received a disposition during the reporting period:

- OFCO identified 13 complaints as non-jurisdictional. These complaints raised concerns relating to the action or inaction of court personnel and attorneys in the course of a legal

proceeding; tribal service agencies; and other government agency personnel that did not involve child abuse or neglect issues.

- Twenty-five complaints were resolved to the complainant's satisfaction during the course of OFCO's review process, while four complaints were withdrawn by the complainant. In several situations, resolution occurred even before OFCO initiated an investigation. In other cases, OFCO deferred a decision pending the agency's final decision or action.
- One hundred eighty-two complaints received a decision as to whether the specified criteria had been met to warrant an intervention. Of these, 44 decisions were in response to complaints requesting that OFCO conduct an emergency intervention, while 138 decisions were in response to complaints that were non-emergent. OFCO intervened in nearly one-third of the complaints requesting an emergency intervention, and in nearly five percent of the non-emergent complaints requesting an intervention.
- Twenty-four complaints received a decision as to whether the specified criteria had been met to warrant an administrative or systemic investigation. Of these, 21 decisions were in response to complaints requesting that OFCO conduct an administrative investigation, while three decisions were in response to complaints requesting a systemic investigation. OFCO determined that none of the complaints requesting an administrative or systemic investigation warranted further action at this time.

Interventions

OFCO intervened in 13 of the 44 complaints requesting an emergency intervention during the reporting period. OFCO intervened in seven of the 138 non-emergent complaints requesting an intervention that received a decision during the reporting period. OFCO intervened most often in situations involving the safety, health and well being of children in the state's custody, followed by matters relating to child protection. OFCO intervened most frequently in situations identified in complaints from community professionals and service providers, followed by complaints from parents and relatives. OFCO intervened in one matter on its own initiative during the reporting period.

Of the 31 emergency complaints in which OFCO declined to intervene, seven were subsequently re-filed with the office as non-emergent complaints. In most cases, OFCO's decision not to conduct an emergency intervention was based upon its determination that the alleged action or inaction did not clearly present a risk of imminent harm to a child or parent.

OFCO's decision not to intervene in the 131 non-emergency complaints was most frequently based upon its determination that the agency action or inaction was consistent with law, policy, procedure, or standard practice, was reasonably appropriate and fair under the circumstances, and/or was not clearly harmful to a child or parent. Moreover, in 26 cases, OFCO found that the alleged action or inaction did not occur.

OFCO decided that an intervention was not warranted most often in complaints involving family separation and reunification issues, followed by issues regarding the safety, health, and well

being of a child in state custody. A majority of these complaints was filed by parents, grandparents, and other relatives.

Intervention Results

OFCO completed 32 interventions during the reporting period. OFCO's interventions consisted of working with the agency to prompt a change in its position to prevent or mitigate the harm to a child or parent. Most of OFCO's interventions during the reporting period consisted of contacts with the DSHS Children's Administration. In most cases it was not necessary to contact anyone in the Children's Administration above the supervisory level.

Although OFCO does not have authority to compel an agency to act, OFCO's interventions resulted in an agency changing its course of action so as to prevent or mitigate harm to a child or parent in 27 of the 32 completed interventions. For example, on nine occasions, OFCO successfully prompted the Division of Children and Family Services (DCFS)/CPS to investigate reports of child abuse and neglect that had been screened out without an investigation. Three of these investigations resulted in a child's out-of-home placement. On five occasions, OFCO successfully facilitated an appropriate placement for a child with special needs and/or severe behavioral issues. OFCO also worked successfully in several instances to ensure the safety, health and well being of children in the state's custody, and to facilitate appropriate family contact and child permanency.

OFCO's interventions were occasionally unsuccessful. For example, despite OFCO's prompting, CPS refused to investigate the situation of a Washington State youth that had been placed in an overseas facility by his parents. The youth left the facility before OFCO could take further action. In another case, OFCO unsuccessfully prompted DCFS to complete the transition of a one-year old child from her foster placement to her relatives in a timely manner. Although department administrators eventually initiated steps to place the child with her relatives, department social workers testified in court against the placement change. Through these cases, OFCO identified potential systemic and practice issues that it will work on with agency officials and state policy makers.

Administrative and Systemic Investigations

OFCO did not conduct an administrative investigation in response to any of the 21 complaints requesting such an investigation that received a decision during the reporting period. OFCO's decision not to conduct an administrative investigation was most frequently based upon its determination that the agency action or inaction was consistent with law, policy, procedure, or standard practice, was reasonably appropriate and fair under the circumstances, and/or was not clearly harmful to a child or parent.

OFCO did not conduct a systemic investigation in response to any of the three complaints requesting such an investigation that received a decision during the reporting period. This is because OFCO determined that each issue was not one that was clearly chronic, or was already being addressed.

Investigation Results

OFCO completed three systemic investigations during the reporting period. These include: (1) Review of the Wenatchee Child Sexual Abuse Investigations; (2) Review of Guardian Ad Litem Representation of Children in Child Abuse and Neglect Proceedings; and (3) Review of School Districts' Child Abuse and Neglect Reporting Policies. These investigations resulted in findings and recommendations that are summarized in Section 6.

Issues of Concern 1997-1999

OFCO has identified three major issues of concern based on analysis of complaint data, and additional information gathered while conducting interventions and systemic investigations. With one exception, the issues of concern are those that OFCO identified most frequently from 1997 through 1999. The exception – professionals' failure to report child abuse and neglect – is included because it has been documented by OFCO on several occasions, and poses severe safety risks for children. The issues of concern include the following:

1. **Lack of timely and appropriate intervention in situations involving chronic child neglect.** OFCO has reviewed dozens of cases involving chronic child neglect since becoming operational in June 1997. In virtually all of these cases, OFCO found that CPS did not take assertive action to assist the family or protect the children until after it had received multiple reports of suspected child maltreatment. By the time CPS took assertive protection action in many of these cases, the children were already showing signs of developmental and/or physical harm.
2. **Professionals' failure to make mandated reports of child abuse and neglect.** OFCO has encountered several situations in which a community professional has apparently failed to report suspected child abuse or neglect, or has failed to cause a report to be made, to law enforcement officials or CPS as required by state law. These situations involved teachers, physicians, and a dentist. The failure to report by these professionals has resulted both in potential and actual harm to children.
3. **Lack of sufficient and appropriate state-licensed foster and group care placements.** OFCO has encountered dozens of situations in which the lack of available or appropriate foster or group home placements has placed children at risk of harm. These situations involved children at risk of abuse and neglect, as well as children with special needs and severe behavioral issues for which their parents were unable to provide appropriate care.

OFCO proposes that state policymakers and agency officials consider taking the following steps to address these issues:

1. **Chronic neglect.** Consideration should be given to convening a series of high level summits on the difficult question of how to prevent and effectively respond to chronic child neglect. The purpose of the summit would be to begin collecting information and sharing relevant data, framing the issues, and developing steps for coordinated action. In the meantime, officials from the Children's Administration, Office of the Attorney General, and

Office of the Administrator for the Courts should consider implementing certain steps for immediate action.

2. **Failure to report child abuse and neglect.** State policymakers and agency officials should support the efforts of the Children’s Justice Interdisciplinary Task Force to develop training requirements and opportunities for mandated reporters. Moreover, consideration should be given to providing additional funding if necessary to expand training opportunities for mandated reporters.
3. **Lack of sufficient and appropriate foster care.** Consideration should be given to conducting a comprehensive and independent assessment of the unmet placement needs of children who cannot safely live at home.

Response to OFCO’s Systemic Recommendations 1997-1999

Since becoming operational in June 1997, OFCO has developed 13 recommendations for changes in state law and administrative policy. Most of OFCO’s recommendations have received a favorable response from the DSHS Children’s Administration, the Washington State School Directors’ Association, the Washington State Legislature, and the Governor. For example, in response to OFCO’s recommendations, statutory and administrative changes have occurred in the following areas:

- **Foster care information for children.** The Children’s Administration has developed *Surviving Foster Care: A Handbook for Youth Entering Foster Care*. The handbook, which was developed in collaboration with adolescent foster children, includes information about foster care, including a “Foster Care Bill of Rights,” and a list of helpful agencies and phone numbers that includes OFCO.
- **Child interview documentation in sexual abuse investigations.** Legislation was enacted in 1999 that requires CPS to document and preserve, in a near verbatim format, any questions and answers posed when interviewing children about alleged sexual abuse. The legislation also directs the Children’s Administration to establish three pilot sites that rely on different methods and techniques for conducting and preserving interviews of alleged child sexual abuse victims.
- **Specialized training for child sexual abuse investigators.** The 1999 legislation requires that all persons responsible for investigating child sexual abuse allegations, including police, prosecutors, and CPS workers, be provided with ongoing specialized training. The Legislature appropriated additional training funds as well.
- **Protocols for child sexual abuse investigations.** The 1999 legislation requires each county to develop a written protocol for handling criminal child sexual abuse investigations. The protocols must be in place by July 1, 2000, and are to be consistent with state guidelines.
- **Additional volunteer CASA/GAL representation for children.** The 1999 Legislature appropriated \$1 million for the FY 1999-01 biennium for additional volunteer court-

appointed special advocate (CASA)/guardian ad litem (GAL) representation. This appropriation represents the state's first major expenditure for volunteer CASA/GALs for children.

- **School districts' mandated reporting policies.** The Washington State School Directors' Association (WSSDA) published OFCO's findings and recommendations on school districts' mandated reporting policies in the WSSDA *Policy News* for school board members, and advised school districts to modify problematic policies. The WSSDA also provided school district superintendents with a copy of the WSSDA model reporting policy and procedure that OFCO recommended for adoption.

A few of OFCO's administrative recommendations have received a less than favorable response from the Children's Administration. For example, in response to OFCO's recommendations:

- **Conflict of interest policy for foster parents.** The Children's Administration has developed a draft policy that requires social workers, who are in the process of considering whether to place a child with a licensed foster parent who is also a professional involved in the child's life, to discuss the placement with their supervisor and the professional's supervisor. However, the policy does not specifically or adequately address situations in which the professional may have a conflict of interest due to his or her professional involvement in the child's life.
- **Children's Administration complaint procedure brochure and poster.** The Children's Administration has disseminated a new complaint brochure and poster that are intended to describe the administration's internal complaint resolution process. However, the new brochure and poster do not inform citizens that they have the right to file a complaint, nor do they clearly outline the administration's complaint procedures or the rights of citizens in that process.
- **Complaint procedure training.** The Children's Administration advised OFCO in early 1999 that it would add training on its complaint procedures to the administration's basic training curriculum. However, in December 1999, the Children's Administration advised OFCO that the Academy's curriculum is full and cannot accommodate additional topics.
- **Monitoring complaints received by local offices.** The Children's Office of Constituent Relations has begun to provide regional administrators with quarterly statewide reports on the complaints that it has received. However, the reports do not identify the local offices that were the subject of complaints. Moreover, after advising OFCO in early 1999 that the Quality Steering Committee would consider this year whether to initiate a project aimed at developing procedures for monitoring complaints received by local offices, the administration advised OFCO in December 1999 that the Committee will decide whether to address this issue "at a later date."
- **Specialized sexual abuse training for therapists.** In January 1999, the Assistant Secretary testified before the State Legislature that the Children's Administration would examine its current contract requirements for therapists who conduct child sexual abuse evaluations or

treat sexually abused children. In December 1999, the Children's Administration advised OFCO that it had not yet acted on this issue.

OFCO will continue to work on these issues with the Children's Administration.



SECTION 1

OFCO ROLE AND STRUCTURE

THE OFFICE OF THE FAMILY AND CHILDREN'S OMBUDSMAN (OFCO) was established by the 1996 Legislature as an independent office within the Office of the Governor. The director ombudsman was appointed to serve a three-year term in December 1996. The office became operational in June 1997. The director ombudsman was re-appointed to a three-year term in December 1999. The appointment is subject to confirmation by the Washington State Senate.

Role of Ombudsman

The term "ombudsman" is a Scandinavian word applied to a public official appointed to serve as an independent voice for citizens who believe they have been treated wrongly or unfairly by a government agency. It is the role of an ombudsman to receive and address – in a confidential manner – complaints and inquiries from citizens concerning the administrative acts or omissions of a government agency. Based either on such complaints or inquiries or on the ombudsman's own initiative, the ombudsman may:

1. Investigate or otherwise examine the matter; and
2. Take appropriate action to aid in the resolution of the specific issue or a broader, underlying systemic problem.

An ombudsman is not authorized to make, change, or set aside a law, policy or administrative decision. It is the role of an ombudsman to carry out his or her duties with independence and impartiality. Additional information on the role of public sector ombudsman is available from the United States Ombudsman Association (USOA).¹

Role of OFCO

The Office of the Family and Children's Ombudsman was established in chapter 43.06A RCW to ensure that government agencies respond appropriately both to children in need of state protection, and children and parents who are involved with government agencies because of child abuse and neglect issues. It is OFCO's mission to:

- Protect children and parents from harmful agency action or inaction;

¹ The USOA may be contacted by telephone at (608) 661-0402, or by e-mail at usoa@usombudsman.org. The USOA Web page is: www.usombudsman.org.

- Ensure that agency officials and state policy makers are aware of chronic and serious problems in the child protection and child welfare system so they can improve services.

OFCO fulfills its mission by intervening in specific situations, and by conducting administrative and systemic investigations.

Interventions: OFCO intervenes in specific situations for the purpose of preventing or mitigating harm to a child or parent resulting from an agency's action or inaction. OFCO intervenes by contacting agency officials to express concerns, provide information, and explore or recommend alternative courses of action. OFCO's interventions are summarized in annual reports to the Governor and the Legislature.

Administrative Investigations: OFCO investigates past agency action or inaction for the purpose of assessing compliance with applicable law, policy or procedure. OFCO conducts administrative investigations when the matter clearly involves agency conduct that is chronic and/or seriously harmful to children and parents. Administrative investigations result in written reports that are made public.

Systemic Investigations: The purpose of OFCO's systemic investigations is two-fold: First, to identify and analyze system-wide problems that adversely affect children and parents; and second, to recommend steps that agency officials and state policy makers can take to address these problems. OFCO's systemic investigations result in written reports that are made public.

Neutrality v. Advocacy

It is OFCO's role to identify and facilitate the correction of harmful agency action or inaction and systemic issues. OFCO therefore approaches its duties as a neutral fact finder rather than as an advocate. It is not OFCO's role to advocate for a complainant, nor to advocate for what a complainant or an ombudsman perceives to be in the child's best interest. When an OFCO investigation reveals that harmful action or inaction by an agency has occurred, OFCO works to facilitate an alternative course of action that will prevent or mitigate the harm. Similarly, when OFCO has identified a systemic issue that adversely children and parents, the office works to facilitate resolution of the issue.

Independence

OFCO's organizational structure and operating procedures are designed to ensure its independence from the Department of Social and Health Services (DSHS) and other state agencies, as well as the Governor's Office which has allowed OFCO to operate independently. OFCO's independence allows it to freely identify and take action on agency errors and systemic issues.

OFCO's operations, activities, and records are conducted and maintained independently from the Governor's Office, DSHS, and other state agencies. (For example, this report and others prepared by OFCO are not subject to outside approval prior to their release.) The director ombudsman reports directly to the Governor. The director ombudsman is appointed to a three-

year term, so that he or she does not serve at the Governor's pleasure as do other members of the Governor's staff. The Governor may remove the director ombudsman only for cause.

Access to Information

State law provides OFCO with access to all information in the possession or control of DSHS that the ombudsman considers necessary in an investigation. Specifically, OFCO has been granted unrestricted on-line access to CAMIS (the DSHS Children’s Administration’s automated Case and Management Information System), physical access to confidential records and documents, and physical access to state institutions and state-licensed facilities and residences. OFCO is also entitled to communicate privately with children in the department’s custody. In addition, state law authorizes other agencies to release confidential records to OFCO, including DSHS contracting agencies, the Attorney General's Office, guardians ad litem, law enforcement agencies, and schools.

Confidentiality

OFCO's investigative records are by law confidential and exempt from public disclosure requirements. In addition, most investigation-related information, including the identities of complainants and witnesses, is not subject to civil discovery, nor judicial or administrative subpoena. Moreover, such information is not admissible as evidence in a judicial or administrative proceeding. Further, OFCO is required to maintain the confidentiality of all information that is by law confidential or privileged, and may not further disclose or disseminate such information.²

Staff and Budget

OFCO has six full-time employees and an annual budget of about \$476,000 (State General Fund). OFCO's staff consists of the director ombudsman, three investigator ombudsmen, a database administrator, and an information and referral specialist. The office is located in Tukwila.

Legislative Children’s Oversight Committee

The Legislative Children’s Oversight Committee was established at the same time as OFCO and serves as an administrative oversight committee for the purpose of monitoring OFCO’s activities.³ In fulfilling this function, the Oversight Committee reviews OFCO’s actions, reports, recommendations, and budget. The members of the 1999 Oversight Committee consisted of the following legislators:

Senator Jim Hargrove, Chair	24 th District
Senator Jeanine Long	44 th District
Senator Joseph Zarelli	18 th District

² These confidentiality provisions do not affect OFCO’s duty to report abuse or neglect under RCW 26.44.030.

³ The Legislative Children’s Oversight Committee is codified at RCW 44.04.220.

Representative Duane Sommers	6 th District
Representative Kip Tokuda	37 th District
Representative Marc Boldt	17 th District
Representative Ruth Kagi	32 nd District

OFCO Advisory Committees

OFCO has established citizen advisory committees that assist the office in various ways. The advisory committees are made up of diverse individuals with expertise or direct experience in child protection and child welfare issues. Committee members attend quarterly meetings for which they receive no state reimbursement for their time or travel expenses.

Committee members play several important roles. First, they serve as liaisons between OFCO and their geographical, racial, ethnic and/or professional communities. In this role, they provide OFCO with continuous input on community needs, expectations and criteria for success. They also assist in broadening awareness of OFCO in their communities and provide feed back on community perceptions of OFCO. Second, the committees serve as an information resource on broad issues of interest to OFCO. Finally, they provide input and feed back on OFCO's organizational vision and goals. OFCO does not consult with advisory committee members on specific cases or issues under investigation. Meetings of OFCO's advisory committees are open to the public. Information on meeting schedules and locations is available from OFCO and at OFCO's Web page at www.governor.wa.gov/ofco/ofcohome.htm.



SECTION 2

OFCO COMPLAINT REVIEW PROCESS

OFCO HAS ESTABLISHED standard procedures for receiving and addressing complaints against government agencies. These procedures are summarized in this section.

Who May File a Complaint with OFCO?

Anyone may file a complaint with OFCO who is concerned about the action or inaction of a government agency affecting: (1) a child that may be at risk of child abuse or neglect, or other harm; or (2) a child or parent that is involved with government agencies due to allegations or findings of child abuse or neglect.

OFCO encourages -- but does not require -- individuals to pursue their complaint with the agency before filing a complaint with OFCO.

OFCO often receives complaints from parents, relatives, foster parents, community professionals, service providers, juvenile court personnel, employees of the Department of Social and Health Services (DSHS), and children.

How a Complaint is Filed

Individuals who wish to file a complaint with OFCO are required to complete a written complaint form. The form may be mailed, faxed, or hand delivered to OFCO. The information requested in the form assists OFCO in efficiently handling the complaint and in identifying complaint trends and patterns.

OFCO complaint forms may be obtained by contacting OFCO at (206) 439-3870, (800) 571-7321, or (206) 439-3789/TTY. They are available in English, Spanish, Russian, Vietnamese, and Braille. Forms are also available at OFCO's Web page at: www.governor.wa.gov/ofco/ofcohome.htm.

The following are exceptions to the complaint form requirement:

- ***Individuals Requiring Assistance:*** Individuals who are unable to complete the form, and those needing disability accommodation or interpreter services, may contact OFCO directly for assistance.

- ***Imminent Risk of Harm:*** Individuals who believe that a child or family is at risk of imminent harm due to an agency's action or inaction are not required to complete a complaint form, and may contact OFCO directly for immediate assistance.

Confidentiality

Complaints to OFCO are handled confidentially. OFCO will not disclose the identity of complainants or witnesses without their consent. Complaints to OFCO, as well as OFCO's investigative records are confidential by law, and exempt from public records disclosure requirements. Moreover, most investigation-related information -- including the identities of complainants and witnesses -- is not subject to civil discovery, nor judicial or administrative subpoena.

Automated Database

Standard information from each complaint is entered into OFCO's automated database. This confidential database allows OFCO to track the characteristics of OFCO complainants, complaint trends and patterns, and the results of OFCO's interventions or investigations. This information is included in OFCO's annual reports to the Governor and the Legislature. In addition, the database enhances OFCO's ability to monitor the progress of each complaint through OFCO's complaint review process.

Complaint Review Process

Every complaint to OFCO is investigated and evaluated by the office's multi-disciplinary ombudsman team. This process is described below.¹

Complaint Investigation: When a complaint is received by OFCO, the director ombudsman assigns it to a lead ombudsman for investigation. The lead ombudsman is expected to initiate an investigation within 15 working days of the date the complaint was received by OFCO. The investigation includes review both of the materials provided by the complainant and information available on the DSHS automated Case and Management Information System (CAMIS), as well as interviews of the complainant, agency workers, and others as appropriate. It may also include a review of DSHS and/or other agency records. When the investigation is completed, the lead ombudsman prepares an internal written report that describes his or her findings and evaluates whether specific criteria have been met to warrant further action by OFCO.

Team Review: At the same time it is assigned to a lead ombudsman for investigation, each complaint to OFCO is also assigned a team review date. The lead ombudsman is expected to complete his or her investigation and the internal written report by that date. Team review meetings are held three times each month for the purpose of reviewing new complaints and receiving updates on complaints in which OFCO has become involved. The team consists of the director ombudsman and the office's three-person ombudsman staff. OFCO's ombudsman staff

¹ This review process is modified for complaints requesting an immediate response due to a perceived risk of imminent harm to a child or parent. These complaints are investigated immediately to determine whether a child or parent is in fact at risk of imminent harm.

includes both attorneys and social workers that have diverse expertise, experience, and perspectives.

Decision: After a team staffing, it is the role of the director ombudsman to determine whether the following criteria have been met to warrant further action by OFCO:

- The alleged agency action or inaction did in fact occur;
- The agency action or inaction appeared to constitute a violation of law, policy, procedure or standard practice;
- The agency action or inaction was inappropriate or unreasonable under the circumstances; and/or
- The agency action or inaction was harmful to a child's interest in safety, health, well being or permanency, or to a child or parent's interest in appropriate family autonomy, contact or reunification.

After making this determination, the director ombudsman decides what, if any, further action OFCO will take. Specifically, the director ombudsman may:

- Decide not to take further action because he or she has determined that the complaint does not meet the specified criteria.
- Decide to take further action because he or she has determined that the complaint meets the specified criteria.
- Defer a decision on whether OFCO action is appropriate pending further investigation, or to await an agency's final decision or the results of an internal agency review.
- Decide to end OFCO's involvement in a previous complaint because he or she has determined that OFCO's concern has received a reasonable response by the agency.

Decisions Not to Take Further Action

When OFCO has decided not to take further action on a complaint, the lead ombudsman promptly phones the complainant about the decision. Without disclosing information that is by law confidential, the lead ombudsman explains why the office has determined that the complaint does not meet OFCO's criteria for further action. This phone call is followed up with a letter to the complainant documenting OFCO's decision, and directing the complainant to other resources that might be of assistance. OFCO does not release its internal investigative report to the complainant.

Decisions to Take Further Action

Once the director ombudsman has determined that the criteria have been met, OFCO may take the following action:

- Intervene in a situation to prevent or mitigate harm to a child or parent by prompting the agency to alter its course of action. OFCO may recommend, but not direct, a particular

course of action. If necessary, OFCO may pursue its recommendations up the agency's chain of command.

- Initiate an administrative investigation of past agency action or inaction if it resulted in serious harm to a child or parent to assess compliance with applicable law, policy, or procedure. These investigative findings are included in a public report.
- Initiate a systemic investigation of a potentially chronic, system-wide issue to determine whether changes in law, policy, procedure or practice are necessary. These investigative findings and recommendations are included in a public report.

When OFCO has decided to take further action on a complaint, the lead ombudsman promptly notifies the complainant about the decision. If the decision is to intervene in a situation, the lead ombudsman describes the outcome that OFCO is seeking to accomplish. This is done without disclosing confidential information that the complainant is not entitled to receive. If the decision is to initiate an administrative or systemic investigation, the lead ombudsman describes what its focus will be.

The lead ombudsman provides the complainant with periodic updates on his or her progress as appropriate. When the intervention or investigation is completed, the lead ombudsman phones the complainant to describe the outcome and explain the office's rationale for closing the case. This phone call is followed up with a letter documenting OFCO's decision.

While OFCO does not release its internal investigative reports to complainants, the findings and recommendations resulting from an administrative or systemic investigation are included in a public report. Moreover, OFCO's interventions are summarized in annual reports to the Governor and the Legislature.



SECTION 3

1999 INQUIRY AND COMPLAINT PROFILE

A MAJOR RESPONSIBILITY of the Office of the Family and Children's Ombudsman (OFCO) is to receive and address inquiries and complaints from citizens concerning the child protection and child welfare system. OFCO therefore dedicates most of its efforts toward these activities. These efforts are organized as follows:

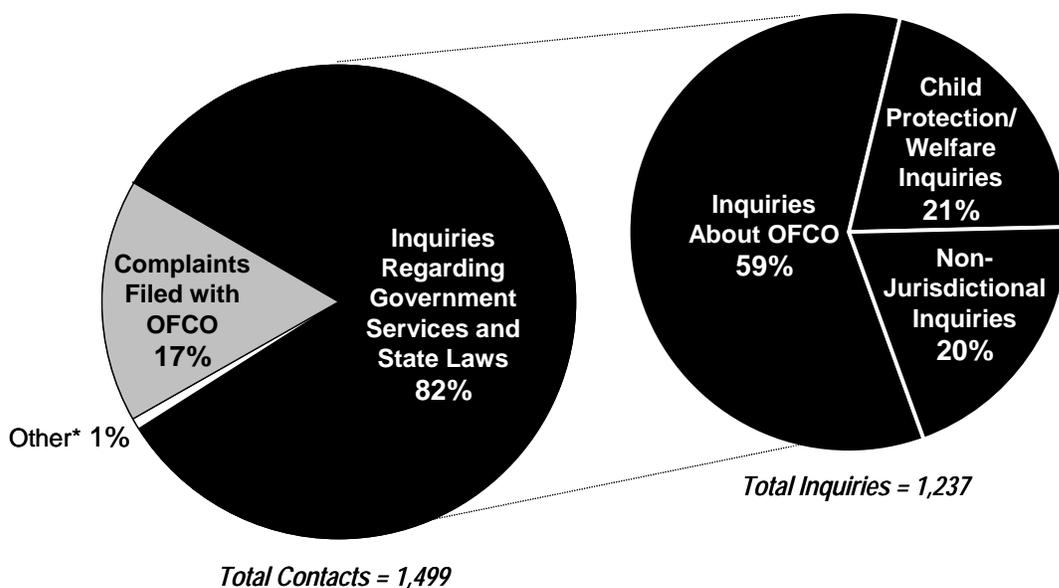
Information and Referral: OFCO responds to inquiries about OFCO's services and the laws, policies, and procedures for providing child protection and child welfare services, and refers other inquiries to the appropriate agency.

Complaint Review: OFCO investigates and analyzes every complaint that it receives. OFCO investigates complaints to determine whether the specified criteria have been met to warrant further action.

This section provides a profile of the inquiries and complaints received by OFCO during the period from September 1, 1998 to August 31, 1999. It describes the kind of inquiries OFCO received, as well as those who filed a complaint with OFCO, children affected by an agency's action or inaction, and the nature of complaints received. Section 4 will summarize OFCO's complaint decisions made during the reporting period, as well as the results of its interventions and systemic investigations. Section 5 will examine issues of concern that OFCO has identified based on analysis of the complaint data, and additional information gathered while conducting interventions and systemic investigations.

Contacts to OFCO

September 1, 1998 to August 31, 1999



* Other includes information provided to OFCO with no request for further action.

Office of the Family and Children's Ombudsman

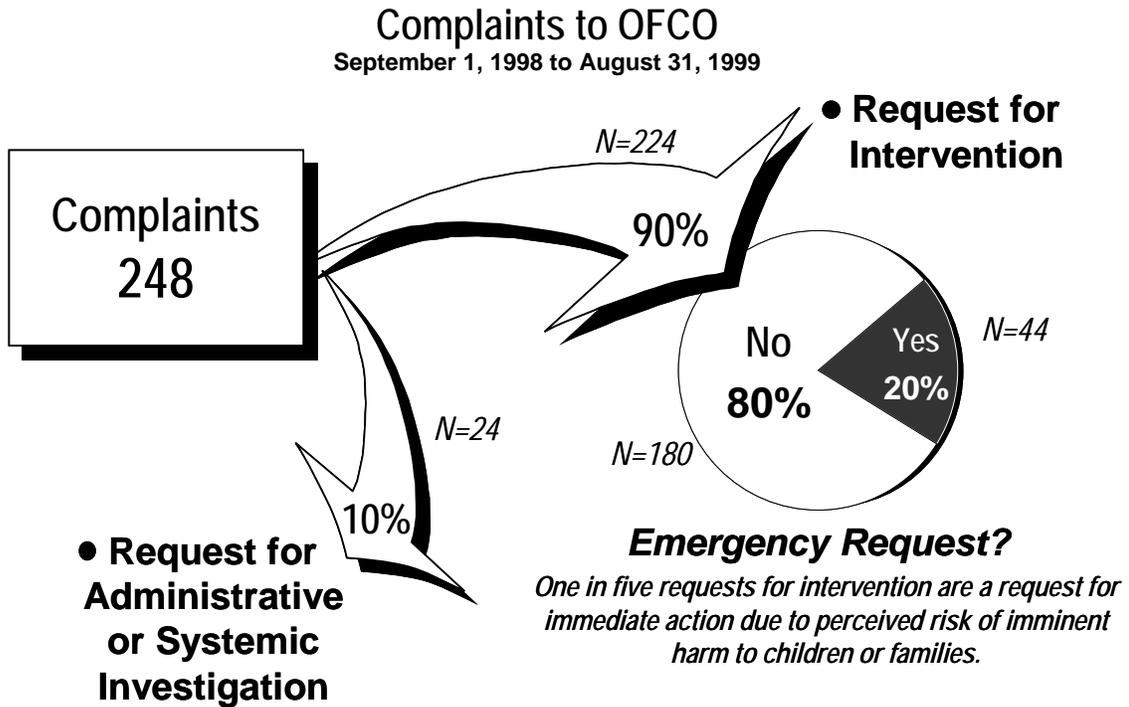
December 1999

Inquiries

OFCO received 1,499 contacts during the reporting period. Of these, 1,237 (82 percent of all contacts) were inquiries regarding government services and state laws. OFCO received inquiries at an average rate of about 24 per week. Of the total number of inquiries:

- Fifty-nine percent were requests for OFCO information and complaint forms. OFCO provided these contacts with information about OFCO's function, how the office might assist with their concern, and the procedures for filing a complaint. If their complaint involved the DSHS Children's Administration, contacts were also informed about their right to contact the administration's Office of Constituent Relations.
- About 21 percent were requests for information about the child protection and child welfare system. OFCO provided these contacts with information about the laws, policies, procedures and services relating to the child protection and child welfare system, and explained their legal rights and responsibilities.¹
- About 20 percent were inquiries or requests for assistance on issues outside OFCO's jurisdiction. After taking pertinent information from these contacts, OFCO contacted other agencies to verify their appropriateness and ability to address the issue, and then referred contacts to these agencies for assistance.

¹ However, OFCO does not provide legal advice.



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Complaints

Complaints arrived at OFCO at an average rate of about five per week. Of the 248 complaints received by OFCO during the reporting period, 90 percent were requests to intervene in an ongoing matter to prevent or mitigate perceived harm to a child or parent resulting from government action or inaction. One-fifth of these requests identified the matter as an emergency and sought OFCO's immediate assistance. Ten percent of all complaints received by OFCO were requests to conduct an administrative investigation of past agency conduct, or an investigation of a potential systemic issue. Complaints were fairly balanced with the state population as a whole; 78 percent of the state's population resides in western Washington, and 67 percent of the contacts were from western regions.²

Source of Complaints

Complaints arriving at OFCO were made mostly by parents (41 percent), or by grandparents (14 percent) and other relatives (13 percent). Foster parents accounted for 10 percent of complaints, while community professionals/service providers accounted for nine percent. OFCO asks each complainant to identify how they heard about the office. Complainants who identified a source most frequently identified DSHS.

² The 248 complaints received by OFCO in the reporting period were filed by 230 individuals. Eleven of these individuals had also filed complaints with OFCO in a previous reporting period.

Source of Complaints

September 1, 1998 to August 31, 1999

**Persons Who Filed
A Complaint with OFCO**
Total Complaints = 248

**How Complainants
Heard About OFCO**
Total Complaints = 248

Child	2%
DSHS Employee	2%
CASA/GAL	2%
Other*	7%
Community Professional/ Service Provider	9%
Foster Parent	10%
Other Relative	13%
Grandparent	14%
Parent	41%

Attorney General's Office	4%
CASA/GAL	4%
Media	4%
Public Defender/Defense Counsel	5%
Advocacy and Referral Agency	7%
Community Professional/ Service Provider	8%
Governor or Legislator's Office	9%
Friend	9%
Internet/Website	9%
Other*	13%
Unknown**	14%
DSHS	14%

* Other includes family friend, public defender/defense counsel, and civil attorney.

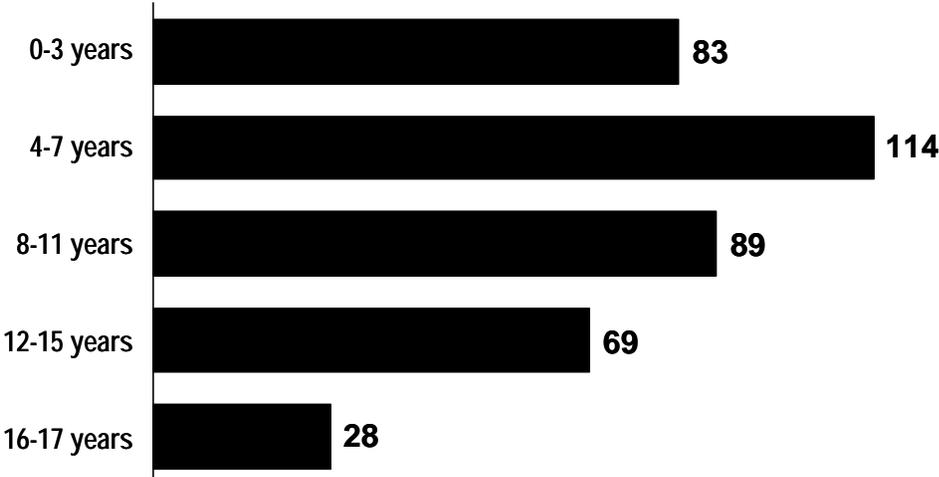
* Other includes local government officials and agencies, court personnel, relatives, foster parents, and telephone directory.

** Complainant did not identify source.

Affected Children

Complaints received by OFCO involved 386 children.³ These children were typically young, just over half were age seven or younger. About one child in three was from a racial minority group, and about one child in 10 was Hispanic.

Number of Children by Age Group
September 1, 1998 to August 31, 1999

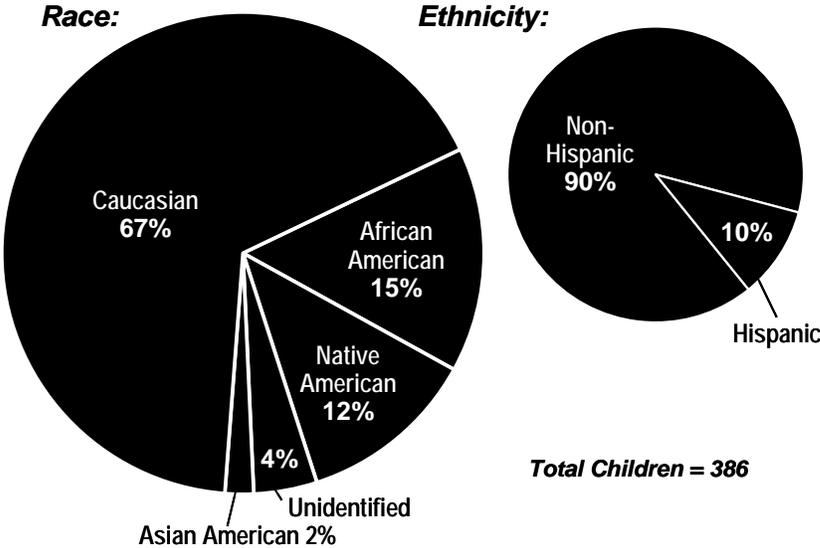


* The ages of 3 children are unknown.

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Race, Ethnicity of Children
September 1, 1998 to August 31, 1999



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³ Although some children are named in more than one complaint, for reporting purposes no child is counted more than once.

Issues Identified by Complainants

The most frequently identified issue reported by complainants during this period regarded unnecessary family separation and failure to reunify; the next most frequent complaint issue involved the safety, health, and well being of children in the state's custody, followed by child protection and permanency issues.

Most Frequently Identified Issues in Complaints to OFCO

September 1, 1998 to August 31, 1999

(Number of Complaints*)

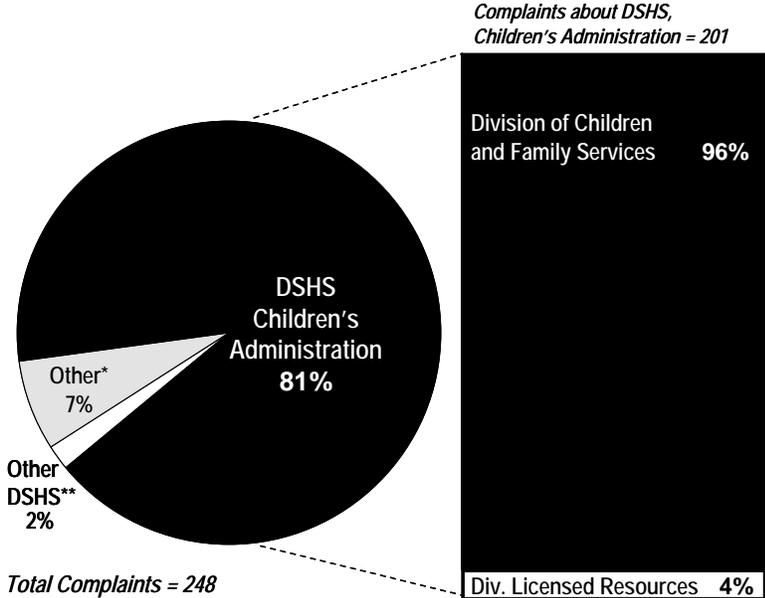
FAMILY SEPARATION AND Reunification (69)	Dependent Child Safety, Health, and Well-Being (56)	Child in Need of State Protection (45)	PERMANENCY AND ADOPTION (21)
<ul style="list-style-type: none"> • Inappropriate removal of child from parent (18) • Failure to make reasonable efforts to reunify family (17) • Failure to place child with relative (11) • Failure to provide appropriate contact between family and child (10) • Other family separation and reunification issues (13) 	<ul style="list-style-type: none"> • Inappropriate change of dependent child's placement (24) • Safety concerns relating to dependent child's foster placement (11) • Inappropriate or inadequate services for dependent child (11) • Safety concerns relating to dependent child's contact/reunification with family (8) • Other dependent child safety, health and well being issues (2) 	<ul style="list-style-type: none"> • Failure to protect child from physical abuse (13) • Failure to protect child from neglect (12) • Failure to assist parent incapable of providing appropriate care for child with special needs and/or severe behavioral issues (7) • Failure to protect child from sexual abuse (6) • Other child protection issues (7) 	<ul style="list-style-type: none"> • Inappropriate delay or opposition to adoption by relative or foster parent (9) • Untimely, inadequate, or inappropriate permanency plan for child (7) • Other permanency and adoption issues (5)

* Some complaints raised more than one issue.

Where Complaints Were Directed

The DSHS Children’s Administration was the subject of 91 percent of complaints received by OFCO. Of these, the vast majority, 96 percent, were directed at the Division of Children and Family Services (DCFS, which includes Child Protective Services, Child Welfare Services, and Adoption Services), while four percent were directed at the Division of Licensed Resources (DLR, which licenses and/or investigates foster homes, state institutions, and other residential facilities for children). The information on the next page shows the distribution of complaints across the state.

Where Complaints Were Directed
September 1, 1998 to August 31, 1999



*Other agency includes Attorney General's Office, juvenile or family court, schools, tribal or other governmental service agencies.
**Other DSHS includes Economic Services Administration, Health and Rehabilitative Services Administration, Medical Assistance Administration.

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DSHS Regions



Children's Administration Complaints by Region, Office
September 1, 1998 to August 31, 1999

	DCFS*	DLR*		DCFS	DLR
Region 1	33	2	Region 4	47	0
Regional Office-Spokane	14	1	Seattle South	16	
Wenatchee	7		Regional Office-Seattle	11	
Colville	4		Kent/King South	10	
Republic	3		Seattle North	5	
Moses Lake	3		Seattle Central	4	
Newport	2		Bellevue/King Eastside	1	
Omak		1			
Region 2	29	1	Region 5	27	1
Richland/Tri-Cities	17		Regional Office-Tacoma	15	1
Clarkston	4		Bremerton/Kitsap	12	
Yakima	4				
Ellensburg	2		Region 6	34	3
Toppenish	1	1	Centralia	8	
Walla Walla	1		Vancouver	6	3
			Tumwater	4	
Region 3	48	1	Kelso	3	
Arlington/Smokey Point	13		Port Angeles	3	
Everett	8		Regional Office-Lacey/Olympia	3	
Alderwood/Lynnwood	7		Shelton	2	
Bellingham	5		Aberdeen	2	
Oak Harbor	4		Port Townsend	2	
Regional Office-Everett	4	1	Long Beach	1	
Monroe/Sky Valley	4				
Mount Vernon	3		Total Complaints	218	8

* DCFS = Division of Children and Family Services

DLR = Division of Licensed Resources



SECTION 4

1999 INTERVENTION AND INVESTIGATION SUMMARY

OFCO INTERVENTIONS, AND administrative and systemic investigations are usually triggered by a complaint. OFCO conducts interventions and investigations in response to a complaint when OFCO's complaint review process indicates that specified criteria have been met.¹ On occasion, OFCO conducts interventions and investigations on its own initiative. This occurs when a situation has otherwise come to OFCO's attention and the office has determined, upon investigation, that the specified criteria have been met.

OFCO's intervention and investigation activities are organized as follows:

Interventions: OFCO intervenes in situations to prevent or mitigate harmful agency action or inaction.

Administrative Investigations: OFCO conducts administrative investigations of past agency action or inaction to assess compliance with applicable law, policy or procedure.

Systemic Investigations: OFCO conducts systemic investigations of potentially chronic, system-wide issues to determine whether changes in law, policy, procedure or practice are necessary.

This section summarizes OFCO's intervention and investigation activities during the period from September 1, 1998 to August 31, 1999. It describes the decisions OFCO made in response to citizen complaints requesting the office to intervene in or investigate a matter, as well as decisions to conduct an intervention or investigation on OFCO's own initiative. It also describes the results of OFCO's interventions and investigations that were completed during the reporting period.

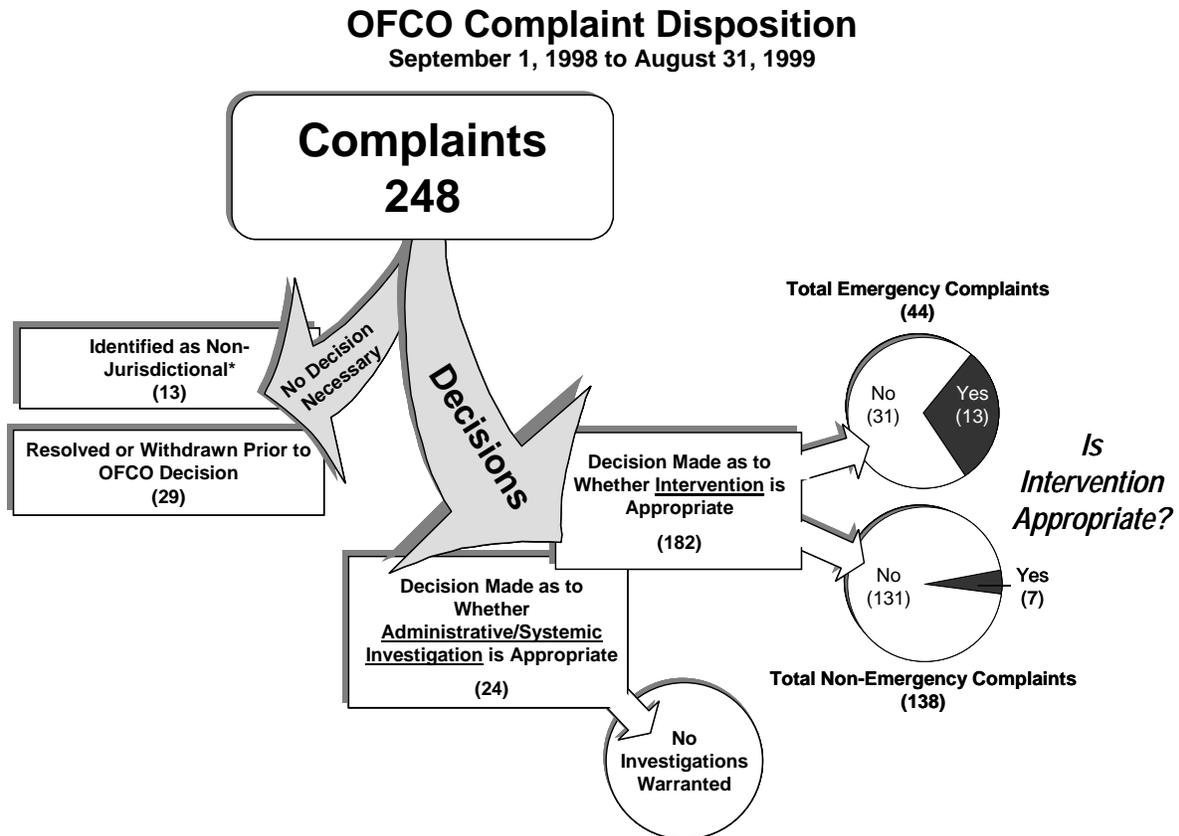
Complaint Disposition Process

Every complaint to OFCO receives the same type of thorough review. Complaints that received a disposition during the reporting period received on average over six hours of investigation and evaluation.² OFCO's rigorous complaint review process often encompasses the entire history of a child or parent's involvement with government agencies, as opposed to focusing solely on the circumstances surrounding the complaint issue. This is because, in addition to helping the office

¹ See Section 2 for a description of OFCO's complaint review process.

² The most review hours expended on a complaint during the reporting period was 60, while the fewest hours expended was one.

to determine whether an intervention or administrative or systemic investigation is appropriate, the complaint review process is intended to facilitate identification of systemic issues. OFCO views complaints as a critical tool for system improvement. They provide a window through which the office is able to monitor the functioning of the child protection and child welfare system. Section Five of this report contains the issues of concern that OFCO has identified to date based on analysis of complaint data, and additional information gathered while conducting interventions and systemic investigations.



* Referred to appropriate resource for assistance.

Complaint Disposition Summary

OFCO completed its review process and disposed of 248 complaints during the reporting period. Of these, 214 complaints were received by OFCO during the current reporting period, while 34 complaints had been received during the previous reporting period. OFCO had not completed its review process of 34 complaints received during the current reporting period. These 34 complaints were open at the end of the period and awaiting disposition.

Non-Jurisdictional Complaints: OFCO identified 13 complaints as non-jurisdictional. These complaints raised concerns relating to the action or inaction of: court personnel and attorneys in the course of a legal proceeding; tribal service agencies; and other government

agency personnel that did not involve child abuse or neglect issues. OFCO referred these complainants to other appropriate resources, including the Governor's Office and State Legislators, for assistance.

Resolved or Withdrawn Complaints: Twenty-five complaints were resolved to the complainant's satisfaction during the course of OFCO's complaint review process, while four complaints were withdrawn by the complainant. In several situations, resolution occurred even before OFCO initiated a complaint investigation. Several complainants told OFCO that the agency began to satisfactorily address their concern once it learned that a complaint had been filed with OFCO. In other cases, resolution occurred during OFCO's review process. In several of these cases, OFCO deferred a disposition decision pending the agency's final decision or action. In these situations, OFCO maintained contact with the agency, monitored the situation, and also worked to facilitate communication and information sharing.

Complaints that Received an Intervention Decision: One hundred eighty-two complaints received a decision as to whether the specified criteria had been met to warrant an intervention. Of these, 44 decisions were in response to requests that OFCO conduct an emergency intervention, while 138 decisions were in response to complaints that were non-emergent. OFCO intervened in nearly one-third of the complaints requesting an emergency intervention, and in nearly five percent of the non-emergent complaints requesting an intervention.

Complaints that Received an Administrative or Systemic Investigation Decision: Twenty-four complaints received a decision as to whether the specified criteria had been met to warrant an administrative or systemic investigation. Of these, 21 decisions were in response to requests for an administrative investigation, while three decisions were in response to requests for a systemic investigation. OFCO determined that none of the complaints requesting an administrative or systemic investigation warranted further action at this time.

Interventions

OFCO intervenes in a matter only when, after an investigation, the office has determined that an agency's action or inaction:

- has, in fact, occurred;
- appears to constitute a violation of law, policy, procedure, or standard practice, or is inappropriate or unreasonable under the circumstance; and/or
- places the interests or well being of a child or parent at risk of harm.

OFCO conducts emergency interventions when, upon investigation, the office determines that the above criteria are met, and the risk of harm is imminent. OFCO intervenes by working with the agency to prompt a change in its position so as to prevent or mitigate the harm to the child or parent.

Decisions to Intervene

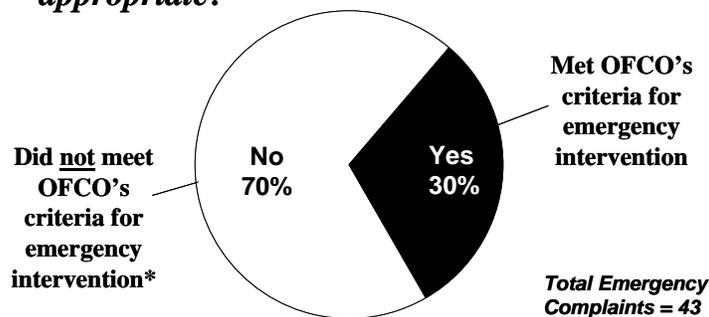
OFCO intervened in 13 of the 44 complaints requesting an emergency intervention during the reporting period. OFCO intervened in seven of the 138 non-emergent complaints requesting an intervention that received a decision during the reporting period. Complaints in which OFCO intervened received on average over eight hours of investigation and analysis.

OFCO Decisions to Intervene

September 1, 1998 to August 31, 1999

A: Requests for Emergency Intervention

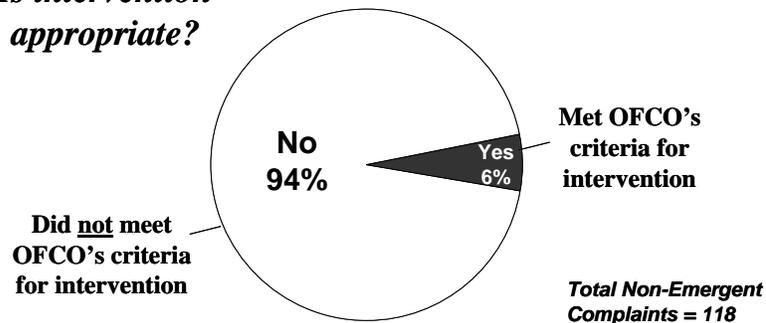
Is immediate intervention appropriate?



*Intervention was not possible in two cases because the child or parent lost contact with OFCO or DSHS.

B: Requests for Non-Emergent Intervention

Is intervention appropriate?



Issues and Complainants Prompting an Intervention

OFCO intervened most often in situations involving the safety, health and well being of children in the state's custody, followed by matters relating to child protection. OFCO intervened most frequently in situations identified in complaints received from community professionals and service providers, followed by complaints from parents and relatives.

Complaints that Received a Decision to Intervene
-By Issue-

September 1, 1998 to August 31, 1999
Total Complaints = 20

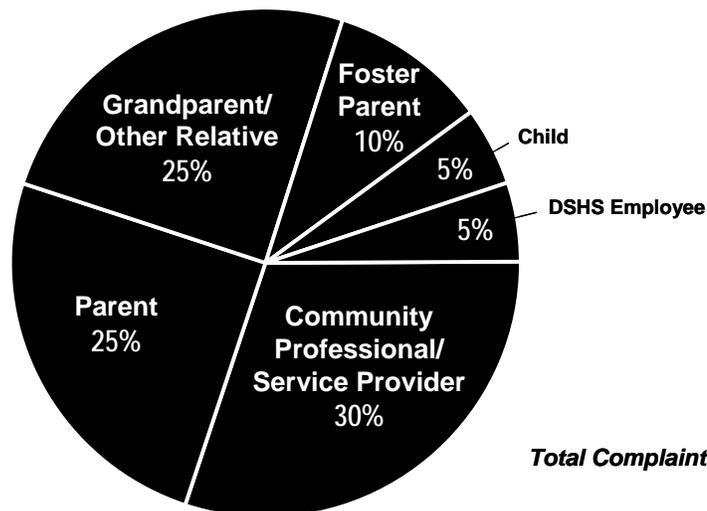
Dependent Child's Safety, Health, and Well-Being (9)	Child in Need of State Protection (8)	Family Separation and Reunification (2)	Child Permanency and Adoption (1)
<ul style="list-style-type: none"> • Safety concerns relating to dependent child's contact/reunification with parent (4) • Inappropriate change in dependent child's foster placement (3) • Safety concerns relating to dependent child's foster placement (1) • Safety concerns due to lack of foster placement (children sleeping in DSHS office building) (1) 	<ul style="list-style-type: none"> • Failure to assist parent incapable of providing appropriate care to a child with special needs and/or severe behavioral issues (4) • Failure to protect child from physical abuse (2) • Failure to protect child from neglect (1) • Failure to protect child from sexual abuse (1) 	<ul style="list-style-type: none"> • Failure to provide appropriate contact between child and family (1) • Failure to make reasonable efforts to reunify family (1) 	<ul style="list-style-type: none"> • Delay in finalizing adoption (1)

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Complaints that Received a Decision to Intervene
-By Complainant Type-

September 1, 1998 to August 31, 1999



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OFCO-Initiated Intervention

OFCO intervened in one matter on its own initiative during the reporting period. This case is described below:

OFCO Initiated Intervention Case Study

In the course of investigating a complaint about a different issue, OFCO discovered that the Division of Children and Family Services/Child Protective Services (CPS) had not sought a skeletal examination on a two-year old child. The examination had been recommended by a physician in the course of a forensic medical evaluation involving the child's younger sibling. (The younger sibling had, over the course of a few months, twice suffered a broken arm.) The two-year old child was still living at home with her parent, while her younger sibling had been moved to the home of a relative. Upon further investigation of the family's history, which included a previous child death, and in light of the concerning injuries to the child's younger sibling, OFCO determined that the department's inaction had left the two-year old child at risk of serious harm. Accordingly, OFCO intervened for the purpose of ensuring that all reasonable steps would be taken to assess the risk to the child, and protective action initiated if appropriate.

As a result of OFCO's intervention, CPS re-convened a Child Protection Team (CPT) to evaluate the situation (based on the family's complete history) and assess the safety risk to the child. At the CPT's recommendation, CPS initiated an investigation to determine whether the two-year old was at risk. (The department determined that it lacked legal authority to obtain the skeletal examination recommended by the physician because the younger sibling's dependency had since been dismissed.) The investigation did not produce any new information to indicate that the two-year old was currently at risk. Concluding that all reasonable steps had now been taken to assess the child's safety, OFCO closed the case.

Decisions Not To Intervene

OFCO responded both to emergency and non-emergency requests for an intervention.

Emergency Requests: Of the 31 emergency complaints in which OFCO declined to intervene, seven were subsequently re-filed with the office as non-emergent complaints. Where OFCO decided not to conduct an emergency intervention, it was because OFCO:

- Determined that the alleged action or inaction did not clearly present a risk of imminent harm. (29 complaints)
- Determined that an intervention was not possible because the child or parent was no longer in contact with OFCO or DSHS. (2 complaints)

Non-Emergent Requests: OFCO concluded that an intervention was not warranted in 131 complaints that requested an intervention. Where OFCO decided not to intervene, it was because OFCO:

- Determined that the agency action or inaction was consistent with law, policy, procedure, or standard practice, was reasonably appropriate and fair under the circumstances, and/or was not harmful to a child or parent.³ (103 complaints)

Example: OFCO determined that CPS decisions or recommendations to remove children from their parents or foster parents, and Child Welfare Services (CWS) efforts to reunify families, were generally consistent with applicable law, policy, and procedure, and appropriate and reasonable under the circumstances.

- Found that the alleged agency action or inaction did not occur. (26 complaints)

Example: In several instances complainants alleged that CPS had failed to investigate a report of abuse. OFCO found, however, that investigations had in fact occurred. Complainants had not been informed of these investigations.

- Found that the issue had become moot, or that the complainant was seeking legal assistance rather than assistance with a complaint. (2 complaints)

Example: OFCO found that CPS's alleged delay in returning a parent's child after she revoked a voluntary placement agreement could no longer provide a basis for an OFCO intervention because the agency had subsequently filed a dependency petition and received authorization by the court to take custody of the child.

Even complaints that did not result in an OFCO intervention received a thorough review. For example, each non-emergent complaint in which OFCO declined to intervene received on average over five hours of investigation and evaluation. Moreover, each complaint was reviewed by OFCO for potential issues of concern, and the information from each was entered into OFCO's automated complaint tracking system to help identify trends and patterns. Finally, in those cases where the office did not intervene on the issue of concern to the complainant, OFCO occasionally took other action to assist a child or parent. For example, in two complaints that did not receive an intervention, OFCO facilitated the appointment of a guardian ad litem for the child.

Profile of Decisions Not to Intervene: OFCO decided that an intervention was not appropriate most often in complaints involving family separation and reunification issues, followed by issues regarding the safety, health and well-being of a dependent child. A majority of these complaints were filed by parents, grandparents and other relatives.

³ In a few cases, OFCO determined that the agency's current action or inaction was not clearly harmful to a child or parent, although the agency's previous conduct, which led to the current situation, may have been problematic. For example, OFCO was unable to conclude that CWS decisions to favor adoption by a child's long-term foster parents over the child's relatives were clearly harmful in light of the child's attachment to his or her foster parents. However, OFCO was concerned in these cases that CWS had earlier failed to timely locate or pursue the relatives as a permanent placement resource, and this failure was now precluding the possibility of an appropriate relative adoption. This is a practice issue that OFCO has brought to the attention of agency officials.

Complaints That Received A Decision Not to Intervene

-By Issue*-

September 1, 1998 to August 31, 1999

Total Complaints= 162

Family Separation and Reunification (61)	Dependent Child Safety, Health, and Well-Being (53)	Child in Need Of State Protection (24)	Child Permanency and Adoption (13)
<ul style="list-style-type: none"> • Unnecessary placement of child (16) • Child not placed with relative (15) • Failure to make reasonable efforts to reunite family or inappropriate termination of parental rights (13) • Failure to provide appropriate contact between child and family (11) • Other family separation and reunification issues (6) 	<ul style="list-style-type: none"> • Inappropriate change in child's foster or relative placement (31**) • Safety concerns relating to child's foster or relative placement (5) • Safety concerns relating to child's contact/reunification with parent (5) • Failure to provide appropriate services (4) • Concerns relating to child's educational needs (3) • Inappropriate type of foster placement (2) • Other dependent child safety, health and well-being issues (3) 	<ul style="list-style-type: none"> • Failure to protect child from physical abuse (9) • Failure to protect child from neglect (8) • Failure to protect child from sexual abuse (4) • Failure to assist parent incapable of providing appropriate care for a child with special needs and/or severe behavioral issues (3) 	<ul style="list-style-type: none"> • Refusal to consider or consent to adoption by foster parent (6) • Refusal to consider or consent to adoption by relative (6) • Inappropriate permanency plan (1)

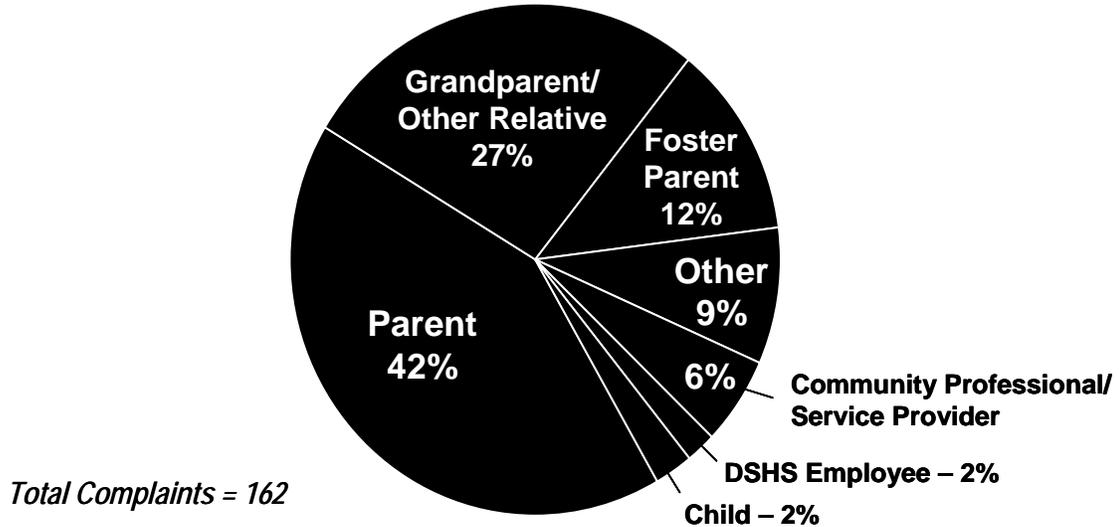
**Eleven complaints raised issues unrelated to these categories.*

*** Thirteen complaints involved the same matter. Of the 19 non-related complaints, eight involved the temporary or permanent removal of a child from a foster-adopt placement, while seven involved removal from a non-relative foster placement and four involved removal from a relative placement.*

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Complaints That Received a Decision Not to Intervene
 -By Complainant Type-
 September 1, 1998 to August 31, 1999



**Other includes friend, CASA/GAL, attorney, and foster grandparent.*

Office of the Family and Children's Ombudsman

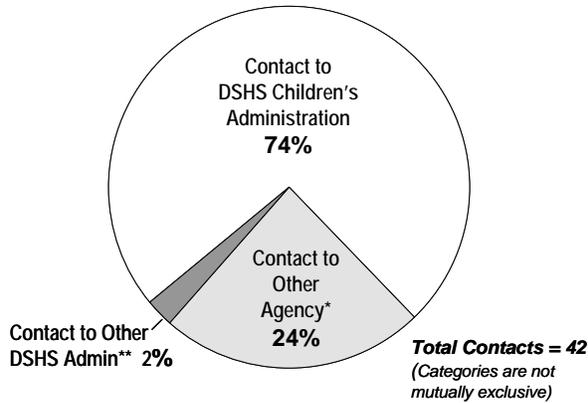
December 1999

Intervention Results

OFCO completed 32 interventions during the reporting period. Most of the interventions were initiated during the reporting period, while several had been initiated in the previous reporting period. OFCO's interventions primarily consisted of contacts with the DSHS Children's Administration. In most cases, it was not necessary for OFCO to contact anyone in the Children's Administration above the supervisory level. Although OFCO does not have authority to compel an agency to act, OFCO's interventions resulted in an agency changing its course of action so as to prevent or mitigate harm to a child or family in 27 of the 32 completed interventions.

OFCO Agency Contacts

September 1, 1998 to August 31, 1999

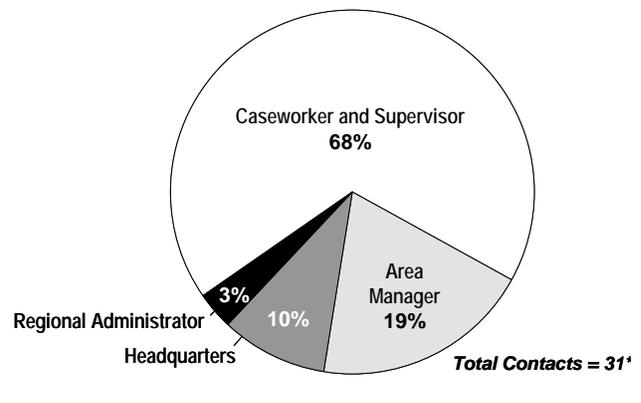


* Includes CASA/GAL program, the Attorney General's office, public health nurse, residential treatment facility.

** Health and Rehabilitative Services Administration (Division of Developmental Disabilities).

Highest Level of Contact to DSHS Children's Administration

September 1, 1998 to August 31, 1999



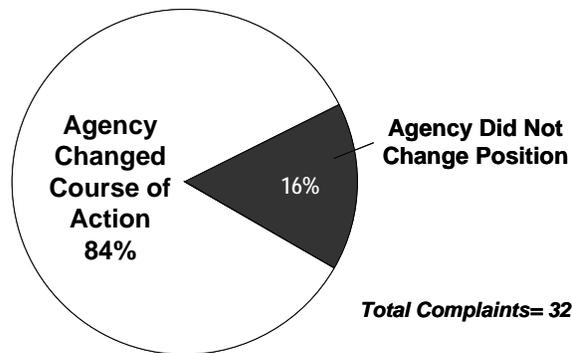
* One contact was made to an agency other than DSHS.

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Agency Response to OFCO Intervention

September 1, 1998 to August 31, 1999



Office of the Family and Children's Ombudsman

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Successful Interventions: On nine occasions OFCO successfully prompted the Division of Children and Family Services/Child Protective Services (CPS) to investigate reports of child abuse and neglect that had been screened out without an investigation. Three of these investigations resulted in a child's out-of-home placement. On five occasions, OFCO successfully facilitated an appropriate placement for a mentally ill, developmentally disabled and/or violent child. OFCO also worked successfully in several instances to ensure the safety and well being of children in the state's custody, and to facilitate appropriate family contact and child permanency. The following table summarizes the 27 interventions in which OFCO was successful in altering an agency's position on behalf of a child or parent.

Successful Intervention Results

September 1, 1998 to August 31, 1999

Total Complaints = 27

<p>Child Protection Issues (15)</p>	<ul style="list-style-type: none"> • Child Protective Services (CPS) investigated reports of child abuse or neglect that had been screened out without an investigation* (8) • Agency offered and/or provided appropriate residential placement for a child with special needs and/or severe behavioral issues (5) • CPS offered family support services and agreed to convene a Community Protection Team (CPT) to assess possible need for out-of-home placement (2)
<p>Dependent Child's Safety, Health and Well-Being Issues (9)</p>	<ul style="list-style-type: none"> • DSHS Division of Children and Family Services (DCFS)/Native American Unit ended unsupervised, overnight visits between 3-month old infant and her parent (1) • DCFS/CPS investigated a report of child abuse against a relative foster care provider that had not been previously investigated (1) • DCFS/CPS developed an appropriate safety plan for court-ordered unsupervised overnight visits between a 3-year old and her parents (1) • DCFS initiated appropriate steps to support a petition for termination of parental rights (1) • DCFS reversed decision to change a child's foster placement (3) • DSHS Division of Licensed Resources (DLR), Office of Foster Care Licensing (OFCL), reversed decision that would have disrupted child's long-standing relative foster-adopt placement (1) • DSHS Division of Developmental Disabilities and DCFS provided dependent youth with appropriate services (1)
<p>Family Separation and Reunification Issues (2)</p>	<ul style="list-style-type: none"> • DCFS and the Attorney General's Office sought appointment of an attorney to represent an 11-year old child who opposed the termination of her mother's parental rights (1) • DCFS placed child with relative, rather than in foster care (1)
<p>Child Permanency and Adoption Issues (1)</p>	<ul style="list-style-type: none"> • DCFS proceeded with finalizing adoption that had been delayed (1)

* Three investigations resulted in a child's out-of-home placement. Two placements involved adolescent children with physical disabilities.

Unsuccessful Interventions: OFCO's interventions were occasionally unsuccessful. For example, despite OFCO's prompting, CPS refused to investigate the situation of a Washington State youth that had been placed in an overseas facility by his parents. OFCO sought a determination by CPS as to whether the youth was in need of state protection due to child abuse and neglect. OFCO received a number of credible allegations regarding the youth's treatment at the facility which, if true and known by the youth's parents, appeared to constitute child abuse or

neglect under Washington State law. OFCO brought this issue to the attention of the Assistant Secretary for the Children's Administration, who declined to act. The Assistant Secretary believed that the agency lacked sufficient legal authority and an adequate factual basis upon which to conduct or request an investigation of the matter. The youth left the facility before OFCO could take further action.

In another case, OFCO unsuccessfully prompted DCFS to complete the transition of a one-year old child from her foster placement to her relatives in a timely manner. After working unsuccessfully with DCFS for several months, OFCO brought the situation to the attention of the Assistant Secretary. A month later, DCFS initiated steps to place the child with her relatives. However, the court denied the department's request to change the child's placement. This case is described in more detail on the next page.

Through these cases, OFCO has identified potential systemic and practice issues. For example, OFCO is concerned that the state lacks clear policies and procedures for responding to credible allegations of child maltreatment involving Washington State youths that have been placed in foreign facilities by their parents. In addition, OFCO is concerned that CWS at times fails to timely locate or pursue relatives as placement resources, and this failure often results in appropriate relatives later being precluded from adopting.

The following table summarizes the five interventions in which OFCO was unsuccessful in altering an agency's position on behalf of a child or parent.

Unsuccessful Intervention Results
September 1, 1998 to August 31, 1999
Total Complaints = 5

Child Protection Issues (2)	<ul style="list-style-type: none"> • CPS refused to conduct or request an investigation of child maltreatment allegations involving a Washington State youth in an overseas facility where he had been placed by his parents (1) • CPS refused to keep open a case involving an 8-year old child (who was placed with her aunt through an informal agreement with her mother) while the child's aunt sought legal custody (1)
Child Permanency and Adoption Issues (2)	<ul style="list-style-type: none"> • DCFS did not complete a timely transition of a one-year-old child from her foster placement to the care of her relatives as recommended by the DCFS Multicultural Advisory Committee (1) • DCFS Child Welfare Services (CWS) did not accept OFCO's offer to mediate conflicting views on the department's permanency plan which opposed adoption by the children's extended family (1)
Family Separation and Reunification Issues (1)	<ul style="list-style-type: none"> • DCFS/CWS failed to ensure that a holiday/birthday visit between a developmentally disabled parent and his 10-month old child occurred as previously agreed (1)

Successful Intervention Case Study

The mother of a 16-year-old youth with cerebral palsy left him at a relative's home, saying that she could no longer take care of him. The mother was homeless and abusing drugs and alcohol. Unable to provide for long-term care of the youth, whose special needs require constant attention, the relatives contacted CPS to report that the youth's mother had abandoned him. CPS refused to take action, saying that the mother's actions did not constitute abandonment under the law. CPS referred the relatives to a Family Reconciliation Services (FRS) worker, who told them that the referral to FRS was not appropriate in this situation. The relatives then contacted OFCO, which, upon completion of its review, concluded that CPS's actions were unreasonable and placed the youth at risk of harm. OFCO intervened to prompt a CPS assessment of the youth's situation and an appropriate placement and supervision if necessary.

As a result of OFCO's intervention, CPS opened an investigation and entered into a voluntary service agreement with the mother. The agreement required the mother to complete a drug/alcohol evaluation and participate in recommended services, which among other things, would help her locate housing. The agreement also provided for a developmental disability assessment of the youth. When the mother later failed to comply with the agreement, CPS filed a dependency petition and the youth was placed in foster care while the agency conducted a search for an appropriate relative placement.

Unsuccessful Intervention Case Study

Three months after the birth of a child who would shortly be free for adoption, the DCFS Multi-Cultural Advisory Committee recommended that DCFS explore maternal relatives as a potential placement resource. Shortly afterward, the child's maternal grandparents (who had not been contacted by DCFS) contacted the department and expressed their desire to adopt the child. (The child at this time was living with her foster parents, with whom she had been initially placed temporarily, and who had since become interested in adopting her.) Two months later, the Advisory Committee recommended that the then six-month-old child be placed with these relatives within 30 days. Despite this recommendation, DCFS did not place the child and, instead, developed a multi-phased plan to transition the child from her foster placement to placement with her grandparents. Six months later, DCFS was still implementing phase one of the transition plan. This phase consisted of visits between the grandparents and the now one-year-old child three days a week at a motel.

While the DCFS Regional Administrator continued to assure OFCO that DCFS intended to implement the Advisory Committee's recommendation, it had become clear to OFCO that the DCFS supervisor and caseworker strongly opposed placing the child with her grandparents, and were not working effectively toward this objective. Concerned about the difficulty and uncertainty that this intra-agency conflict and inertia was creating for the child, and unable to obtain resolution of the matter within the region, OFCO brought the issue to the attention of the Assistant Secretary. One month later, DCFS initiated steps to place the child with her relatives. However, the court refused to approve the change of placement. At the hearing, the DCFS Regional Administrator testified in support of placement with the relatives, while the DCFS caseworker and supervisor, who had been subpoenaed by the guardian ad litem, testified in favor of placement with the foster parents.

Administrative/Systemic Investigations

In addition to intervening in particular matters, OFCO conducts administrative and systemic investigations. Administrative investigations are aimed at assessing agency compliance with law, policy, procedure, or practice in a particular matter. Systemic investigations are broader inquiries that are intended to produce information that will enable OFCO to identify systemic issues and recommend appropriate changes in law, policy, procedure or practice. OFCO may initiate a preliminary administrative or systemic investigation upon receipt of a complaint, or upon its own initiative.

Administrative Investigations: An administrative investigation may be initiated only when, after a preliminary investigation, OFCO has determined that an administrative action or inaction was seriously harmful to a child or parent, and:

- Constituted a violation of law, policy, procedure or practice; or
- Was clearly inappropriate or unreasonable under the circumstances.

Systemic Investigations: A systemic investigation may be initiated only when, after a preliminary investigation, OFCO has determined that a chronic and/or system-wide administrative practice appears to exist that adversely affects children and/or their parents. Moreover, the issue must meet the criteria that OFCO has developed for selecting issues for systemic investigations.⁴

Investigation Decisions

Administrative Investigations: Upon completion of its review process, OFCO determined that the specified criteria had not been met in any of the 21 complaints requesting an administrative investigation that received a decision during the reporting period. Where OFCO decided not to conduct an administrative investigation, it was because OFCO:

- Determined that the alleged action or inaction was neither a violation of law, policy, procedure, or standard practice, nor inappropriate or unreasonable, and/or was not seriously harmful to a child or parent. (14 complaints)
- Determined that the alleged action did not occur. (4 complaints)
- Found that the agency had already acknowledged the concern and taken appropriate steps to address it.⁵ (2 complaints)
- Determined that it would be appropriate first to refer OFCO's concern to the Children's Administration, which then took adequate steps to address it.⁶ (1 complaint)

⁴ See Appendix A. These criteria were developed in consultation with OFCO's advisory committees.

⁵ For example, in the course of conducting a complaint investigation, OFCO found that DCFS was in the process of conducting an internal review of the situation of concern. OFCO deferred its decision pending completion of the department's review. When the review was completed, OFCO determined that the department's findings and recommendations supported and adequately addressed the complainants' concerns. DCFS agreed to share the results of the review with OFCO's complainants. OFCO therefore decided that a separate administrative investigation was not necessary.

Systemic Investigations: Of the three complaints requesting a systemic investigation that received a decision during the reporting period, OFCO decided that none warranted a systemic investigation at this time. This is because OFCO determined that the issue either was not one that is clearly a chronic or system-wide, or was already being addressed. For example, in the course of conducting a preliminary investigation of one request, OFCO found that the Children's Administration was already in the process of modifying its decision-making process for removing children from foster homes that are under investigation by the Division of Licensed Resources.

Investigation Results

OFCO completed three systemic investigations during the reporting period. These include OFCO's: (1) Review of the Wenatchee Child Sexual Abuse Investigations; (2) Review of Guardian Ad Litem Representation of Children in Child Abuse and Neglect Proceedings; and (3) Review of School Districts' Child Abuse and Neglect Reporting Policies. The findings and recommendations resulting from these investigations are summarized below. The responses to OFCO's findings and recommendations are described in Section 6.

Wenatchee Child Sexual Abuse Investigations: In December 1998, OFCO completed its review of the involvement of DSHS social workers in the 1994-95 Wenatchee child sexual abuse investigations. OFCO's review was prompted by a petition received in June 1997, within days after the office had become operational. OFCO's review represents the first full-scale independent review of the Wenatchee investigations by a government agency.

The Wenatchee child sexual abuse investigations were conducted jointly by local law enforcement officials and DSHS Child Protective Services workers. These investigations involved allegations against more than 80 adults, and led to the prosecution of 38 people in 1994 and 1995. The techniques allegedly employed by law enforcement and Child Protective Services investigators in eliciting statements from suspects and alleged child victims have been the focus of intense and enduring controversy.

OFCO set forth its investigative findings and recommendations in a report that was released in December 1998.⁷ In the report, OFCO found that the 1994 and 1995 Wenatchee child sexual abuse investigations present a progression of common to uncommon allegations with regard to child sexual abuse. Because the Child Protective Services investigations were not well enough documented, OFCO could not determine whether the uncommon allegations occurred as alleged, or something went wrong in the investigative process resulting in factual distortions.

⁶ In the course of conducting a complaint investigation, OFCO developed concerns about a DLR worker's apparent pattern of aggressive behavior toward families and community professionals. OFCO forwarded these concerns to DLR administrators, who initiated an internal conduct review. While not substantiating any improprieties regarding the worker's conduct, the review acknowledged that the worker's "communication style can, at times, be perceived as aggressive in nature." A DLR administrator addressed this issue with the worker, who "was receptive to the feedback offered and indicated a willingness to make some adjustments in [the worker's] style." Accordingly, OFCO decided not to conduct its own administrative investigation.

⁷ This report, titled *1998 Review of the Wenatchee Child Sexual Abuse Investigations*, can be obtained by contacting OFCO, or by accessing OFCO's Web page at www.governor.wa.gov/ofco/ofcohome.htm.

Nonetheless, OFCO review produced findings and recommendations relating to: 1) CPS interview documentation; 2) child interview techniques; and 3) cross-discipline collaboration in child abuse investigations. In addition to these findings and recommendations, OFCO's report includes a description of documented and alleged events in Wenatchee that are illustrative of investigative errors that experts agree can increase the possibility of factual distortion.

Guardian ad Litem Representation: In January 1999, OFCO released a report on the issue of children's representation by guardians ad litem (GAL) in child abuse and neglect proceedings.⁸ OFCO's investigation into this issue was prompted by a pattern of complaints received by the office in which a significant number of affected children were reported as having no one to represent their best interests in court.

The federal Child Abuse Prevention and Treatment Act (CAPTA) requires states receiving CAPTA grants to certify that the state has in effect – and is enforcing – a state law that a GAL be appointed to represent the child's best interests in judicial proceedings involving issues of abuse or neglect. Although Washington State receives approximately \$1.25 million per biennium in CAPTA grants, and has made the required certification, OFCO found that approximately one-third of Washington children who are involved in child abuse and neglect proceedings do not have a GAL to represent their best interests. Over one-half of the children involved in proceedings in King, Snohomish and Spokane counties did not have a GAL during the time period of the OFCO survey. OFCO also found that children in three counties are served by professional GALs with individual caseloads ranging from 90 to 400 children.

Based on these findings, OFCO recommended that: 1) the number of GALs be increased to a level that is sufficient to ensure appointment for all children who are involved in child abuse and neglect proceedings; 2) state law be amended to make clear that a GAL shall be appointed to represent the best interests of every child who is the subject of a child abuse and neglect proceeding; and 3) county officials review and take appropriate steps to reduce high caseloads of professional and attorney GALs in their jurisdictions.

School Districts' Reporting Policies: In its 1998 annual report, OFCO released the results of an informal survey that it conducted of school districts' child abuse and neglect reporting policies and procedures. OFCO's investigation of this issue was prompted by the confusion it occasionally encountered during complaint investigations among professional school personnel about their duty to report possible child abuse and neglect under the state's mandated reporting law.

Under Washington law, professional school personnel who have reasonable cause to believe that a child has suffered abuse or neglect are required to report the incident, or to cause a report to be made, to law enforcement officials or CPS. Failure to make a mandated report is a criminal offense.

OFCO found that 30 of the 130 school districts surveyed have a policy that requires school personnel to report suspected child abuse or neglect to the principal or other school official, who

⁸ This report, titled *Report on Guardian ad Litem Representation of Children in Child Abuse and Neglect Proceedings*, can be obtained by contacting OFCO, or by accessing OFCO's Web page.

is authorized to determine whether a report should then be made to the police or CPS. OFCO concluded that policies that place the reporting decision with the principal or other school official are clearly inconsistent with the state's reporting law, and may subject school personnel to criminal liability if a mandated report isn't made. OFCO also found that the policies of 17 school districts surveyed direct the principal or principal's designee to interview the child about abuse-related concerns raised by school personnel, and require that a report be made to police or CPS only if there is "reasonable likelihood" of abuse or neglect. OFCO concluded that these policies violate the intent of the mandated reporting law which is to ensure that there will be professional involvement (i.e., police or CPS) to determine whether child abuse or neglect has occurred.

Based on these findings, OFCO recommended that local school districts review their reporting policies to ensure that they are in compliance with the requirements and intent of the state's mandatory reporting law. OFCO further recommended that school districts that have not adopted the model reporting policy and procedure developed by the Washington State School Directors' Association consider doing so.



SECTION 5

ISSUES OF CONCERN 1997-1999

OFCO DOCUMENTS ISSUES of concern that it identifies in the course of reviewing complaints, and while conducting interventions and administrative/systemic investigations. Issues of concern are agency acts, omissions, or practices observed by OFCO that appear to adversely affect children and parents, who are -- or should be -- involved in the child protection and child welfare system. Issues of concern may be the same as, different from, or in addition to the issues identified in complaints to OFCO. OFCO documents issues of concern because it helps to reveal system-wide practices that negatively affect children and parents.

With one exception, the issues of concern set forth in this section are those that OFCO identified most frequently from 1997 through 1999. The exception – professionals’ failure to report child abuse and neglect – is included in this section because it has been documented by OFCO on several occasions, and poses severe safety risks for children. Because of their harmful impact on children and parents, OFCO believes these issues warrant further scrutiny and/or action.

OFCO will decide what, if any, additional scrutiny or action to undertake on these issues in 2000. In making this decision, OFCO will use the criteria that it has developed for selecting issues for systemic investigations.¹ In the meantime, OFCO will bring these issues to the attention of agency officials, state policy makers and others that are in a position to address them.

The issues of concern described in this section are as follows:

- **Lack of timely and appropriate intervention in situations involving chronic child neglect:** OFCO has reviewed dozens of cases involving chronic child neglect since becoming operational in June 1997. In virtually all of these cases, OFCO found that CPS did not take assertive action to assist the family or protect the children until after it had received multiple reports of suspected child maltreatment. At that point, CPS took coercive action by filing a petition in court to remove the children and/or compel parental participation in treatment services. By the time CPS took coercive action in many of these cases, the children were already showing signs of developmental or physical harm.

¹ See Appendix A.

- **Professionals' failure to make mandated reports of child abuse and neglect:** OFCO has encountered several situations in which a community professional has apparently failed to report suspected child abuse or neglect, or failed to cause a report to be made, to law enforcement officials or CPS as required by state law.² These situations involved teachers, physicians and a dentist. The failure to report by these professionals has resulted both in potential and actual harm to children.
- **Lack of sufficient and appropriate state-licensed foster and group care placements:** OFCO has encountered dozens of situations in which the lack of available or appropriate foster or group home placements has placed children at risk of harm.

These issues are described in more detail in this section.

Lack of Timely and Appropriate Intervention in Chronic Child Neglect Cases

OFCO first identified the lack of timely intervention in chronic child neglect cases as an issue of concern in its first annual report. Since becoming operational in June 1997, OFCO has reviewed dozens of cases involving chronic child neglect.³ In virtually all of these cases, OFCO found that CPS did not take any assertive action to assist the family or protect the children until after it had received multiple reports of suspected child maltreatment. At that point, CPS took coercive action by filing a petition in court to remove the children and/or compel parental participation in treatment services.

In one case, for example, CPS obtained a court order to remove two children ages seven and eight, from their mother in January 1999. Their mother had been the subject of 17 neglect-related reports to CPS during the preceding six-and-a-half years.⁴ During that time, CPS periodically offered the family short-term support services. In another case, CPS filed a petition to take protective custody of three children in September 1999. Their mother had been the subject of nine neglect-related CPS reports in the preceding seven-and-a-half years.⁵ CPS did not take any action concerning this family until May 1999, after receiving a report from a hospital indicating that the mother had tested positive for controlled substances while she was pregnant. At that point, the mother agreed to voluntarily place her infant in foster care for a short period. Despite this history, and a June 1999 report to CPS that the children's father had died of an accidental drug overdose while they were at home, CPS did not take assertive action until September 1999 after a domestic violence incident. Cases such as these are not uncommon.⁶

² RCW 26.44.030.

³ Chronic child neglect refers to the ongoing and serious deprivation of a child's basic physical, developmental and/or emotional needs. It also includes the chronic lack of supervision.

⁴ These referrals are in addition to four reports received by CPS during the period that involved physical abuse and domestic violence.

⁵ These referrals are in addition to seven reports received by CPS during the period that involved physical abuse and domestic violence.

⁶ According to the Office of Children's Administration Research (OCAR), CPS received 40,796 child abuse and neglect reports in 1998 that were accepted for investigation or referred to a voluntary service program (i.e., alternative response system). Of these, 23 percent of the reports had six to 10 prior CPS reports, while 24 percent of the reports had more than 10 prior CPS reports.

By the time CPS took coercive action in several of the cases reviewed by OFCO, the children were already showing signs of developmental and/or physical harm. In one case, for example, two children, ages four and five, were completely non-verbal when CPS obtained a court order to remove them from home in September 1998. Their mother had been the subject of seven neglect-related reports to CPS during the preceding three years. One of the earlier reports expressed concern about the children's speech delays. Serious developmental and/or physical harm is not uncommon in cases involving chronic child neglect.⁷

Although the chronic neglect cases reviewed by OFCO differed in many respects, there were clear similarities. The major similarities identified by OFCO involved the parents' characteristics and their prior involvement with CPS, as well as CPS's response. Specifically:

- These cases involved parents who were struggling with chronic substance abuse, domestic violence, and/or mental health issues. A significant number of parents had cognitive impairments.
- These cases often involved parents with infants or young children in their care, whose parental rights on their older children had previously been terminated and/or their older children had previously been made dependents of the state and placed in foster care.
- In these cases, CPS responded to child neglect reports by asking the family to voluntarily participate in short-term support services when, in view of the parent's characteristics, prior involvement with CPS, and/or history of child maltreatment reports to CPS, a more assertive intervention seemed necessary to prevent ongoing or future harm to the child.⁸
- In cases involving parents who agreed to voluntarily participate in support services, CPS usually did not monitor the family's participation directly. Moreover, CPS often closed these cases without first verifying the family's compliance with services, assessing the appropriateness or effectiveness of the services provided, or conducting a child safety check. Consequently, some children were left at risk of serious harm.
- In these cases, CPS did not take assertive action until after it had received multiple neglect-related reports concerning the family or a particular child, and the child or children were already showing signs of developmental and/or physical harm. At that point, CPS usually took coercive action by filing a petition in court to remove the children and/or compel parental participation in treatment services.

With regard to CPS's response to chronic neglect cases, OFCO has made the following observations:

- Inadequate risk assessment: In their risk assessments, social workers often appear not to consider key risk factors associated with the cumulative harm that frequently results from chronic neglect. These factors include: parental impairments, parental substance abuse, parental history of abuse or neglect as a child, family history of domestic violence, and prior

⁷ See Gaudin, Jr., J.M., Child Neglect: Short-Term and Long-Term Outcomes. In H. Dubowitz (Ed.), *Neglected Children: Research, Practice and Policy* (pp. 89-108). Thousand Oaks: Sage Publications (1999).

⁸ Several of these cases involved infants who tested positive at birth for controlled substances.

history of reports to CPS. This may be because CPS's risk assessment tool has not prioritized these as risk factors. As a result, neglect-related reports involving families with key risk factors are often screened out without even an investigation, or are assessed as low risk.⁹

- Perceived lack of legal authority to intervene: Even in cases involving children that they have determined are at high risk of harm due to chronic neglect, social workers often perceive that they lack a sufficient basis to invoke a legal intervention to protect the child. Many social workers from around the state have told OFCO that their legal counsel (assistant attorneys general or prosecuting attorneys) have advised them that clear evidence of neglectful behavior and/or imminent harm is required to justify the filing of a petition in court to remove children and/or compel parental participation in services. Consequently, these social workers say they feel that until they have such evidence, they have no option but to pursue less aggressive interventions.¹⁰
- Inability to provide appropriate and integrated treatment services: Social workers often lack access to comprehensive and integrated treatment services with which to assist families. Chronically neglectful families often require integrated treatment services from substance abuse, mental health, domestic violence, economic assistance and child welfare programs. Frequently, they need long term treatment services (i.e., six months or longer). Yet, a comprehensive or integrated set of these services is not readily available or accessible in most areas. Moreover, it is not clear that there currently is adequate funding to develop and provide this level of service to chronically neglecting families. As a result, some social workers say they lack the tools that would allow them to intervene more effectively at an earlier point -- before it is necessary to seek removal of a child.

⁹ According to OCAR, families with these characteristics are more likely than other families to have future reports of abuse or neglect that are accepted by CPS for investigation and/or to have future incidents of abuse or neglect that are substantiated by a CPS investigation. See English, D.J., Marshall, D.B., Brummel, S.C. and Coghlan, L.K., *Decision-Making in Child Protective Services: A Study of Effectiveness. Final Report, Phase I: Quantitative Analysis*. State of Washington Department of Social and Health Services, Office of Children's Administration Research (1998)

¹⁰ This issue was highlighted in a March 1999 program review of the Ellensburg DCFS/CPS Office by the Children's Administration Office of Quality Assurance and Training (Quality Assurance Program Review: Ellensburg Division of Children and Family Services Child Protective Services, March 1999). The program review was requested by the Region 2 Administrator to address concerns raised by the Kittitas County CASA/GAL program regarding the extremely low rate of dependency filings (three percent) by the Ellensburg CPS office. During the course of this review, both CPS social workers and members of the community Child Protection Team (CPT) expressed their belief that the threshold for filing dependencies, particularly on cumulative harm cases, is "quite high" in the Kittitas County Prosecutor's Office and with the court. The report recommended that local CPS administrators "initiate discussions with the Prosecutor's Office about establishing guidelines about what is needed legally to file a dependency in a 'cumulative harm' case." The report also recommended that CPS social workers be advised that they "should not assume that the prosecutor's office or the court will disagree when their social work judgment is that a child is at enough risk of future harm to warrant filing a dependency. In those cases, staff should follow their own judgment." In response to the latter recommendation, the Regional Administrator reported in November 1999 that CPS social workers "have been given clear direction that our legal counsel provides us with opinions only. It is ultimately up to DCFS to make the decision as to whether or not to proceed with a dependency action. The opinion of legal counsel will no longer be presented to the CPT team during the case presentation phase of the staffing . . . There has definitely been a culture established in this office which lent the decision making regarding the filing of dependency petitions to the Prosecutor's Office."

Recent Efforts to Address Chronic Neglect: The issue of chronic neglect has received relatively little attention from state policy makers. In an effort to facilitate earlier interventions in child abuse and neglect cases, the 1997 Legislature established and funded “alternative response systems” through which contracted voluntary family support services were to be provided to families that CPS determined were at low risk for abuse or neglect.¹¹ However, these services appear do not appear to be appropriate or effective for families at risk of chronic neglect. The 1997 legislation also required that CPS investigations include an assessment of whether the use of alcohol or controlled substances was a contributing factor to the alleged abuse or neglect.

The Children’s Administration has acknowledged to OFCO that chronic child neglect presents a “significant challenge” to social workers, and that the state’s response “needs improvement.” The administration points out that public child welfare agencies across the country are struggling with the question of how to address this complex issue. The Children’s Administration has taken several steps to address chronic neglect. The administration recently modified the CPS risk assessment tool to ensure that it incorporates the key risk factors associated with chronic neglect. The new risk tool is scheduled for implementation in early- to mid-2000. In addition, each region has implemented at least one local improvement project on chronic neglect issues. The administration indicates that, because the projects are relatively new, there is not yet sufficient data to assess their effectiveness. Further, the Children’s Administration recently commissioned a statewide work group on chronic neglect, which has developed a draft report that includes recommendations for changes in practice.¹² However, as of December 1999, the Children’s Administration had not yet decided whether to implement any of the recommendations “[a]s many of the recommendations are good practice, but costly.”

Proposed Next Steps: Chronic child neglect is a complex social issue that is in need of sustained attention and coordinated action by state policy makers, government and private agencies, schools, the courts, and the public. Child neglect cases constitute the majority of cases within Washington State’s child protective service system. Research clearly indicates that children who are chronically neglected often experience lasting adverse affects on their physical, emotional and cognitive development. These developmental effects include language deficits, academic problems, poor social relationships, low self-esteem, physical problems such as neurological impairments, chronic illness, delayed growth, poor attachment, and oppositional behavior.¹³ For these reasons, it is imperative that focused and coordinated efforts be initiated that address both chronic child neglect prevention, and timely and effective interventions when it is necessary to protect children.¹⁴

How to prevent and effectively respond to chronic child neglect is an extraordinarily difficult question. The question involves a variety of disciplines -- including social services, public health, health care, mental health, education, law enforcement, and the judiciary -- and raises challenging public policy and resource issues. One policy issue, for example, is whether the

¹¹ Chapter 386, Laws of 1997.

¹² As of December 1999, the draft report had not been made available for review.

¹³ See Gaudin, Jr., J.M., *supra*.

¹⁴ The need for effective prevention is especially important. OCAR estimates that about 20 percent of the 4,225 children who were placed in foster care at least once in fiscal year 1999 involved children ages 0-24 months. A clear majority of these children were placed for neglect-related reasons.

state's legal authority to intervene in families should be expanded with regard to families at high risk of chronic neglect. A significant resource issue concerns the level of service the state is willing to provide to chronically neglecting families before removing their children and/or terminating parental rights. In addition to raising challenging issues, the question presents new opportunities for innovation with respect to public-private partnerships and organizational collaboration. Because of its difficult and multifaceted nature, the question of how to prevent and effectively respond to chronic neglect is not one that the Children's Administration can reasonably be expected to answer on its own.

Consideration should therefore be given to convening a series of high level summits on this crucial public policy issue. These summits should be jointly sponsored by and include state policy makers and leaders from the appropriate disciplines. They should also include front-line workers, families and community leaders. The purpose of the summits would be to begin collecting and sharing relevant data, framing the issues, and developing steps for coordinated action.

In the meantime, the following six steps should be considered for immediate implementation:

1. The Children's Administration should take steps to ensure that all CPS investigations include assessments of the risk factors associated with the cumulative harm caused by chronic neglect. This effort would complement the 1997 legislation requiring substance abuse assessments. Families who are assessed at significant risk of chronic neglect should receive a more assertive intervention than the provision of voluntary support services.
2. The Children's Administration should consider conducting developmental assessments of preschool children who are at significant risk of cumulative harm due to chronic neglect. Children with identified developmental harm should be provided with appropriate services to help them overcome identified delays or behavioral problems.
3. The Children's Administration should consider requiring CPS social workers to verify families' compliance with voluntary support services, assess the effectiveness of the services provided, and conduct a final child safety check prior to closing their investigation.
4. The Children's Administration and the Attorney General's Office should establish written guidelines for social workers and attorneys describing what is needed legally to file a dependency petition in cases involving cumulative harm to children due to chronic neglect.
5. The Children's Administration and the Attorney General's Office should provide joint training to social workers, assistant attorney generals and prosecuting attorneys on their respective roles in determining whether a dependency petition should be filed. The training should also address the role of assistant attorneys general and prosecuting attorneys regarding their participation in a Child Protection Team (CPT) staffing.
6. The Office of the Administrator for the Courts, in collaboration and coordination with the Children's Administration and the Attorney General's Office, should consider making training available to juvenile court judges and commissioners on cumulative harm and chronic neglect.

Professionals' Failure to Report Child Abuse and Neglect

Since becoming operational, OFCO has encountered several situations in which a community professional has apparently failed to report suspected child abuse or neglect, or failed to cause a report to be made, to law enforcement officials or CPS, as required by state law.¹⁵ These situations involved teachers, physicians and a dentist. In one case, for example, a teacher reported her suspicions of physical abuse by the child's custodial parent to the child's non-custodial parent. No report was ever made to CPS or law enforcement. In another case, a dentist failed to make a report after being told by an 11-year-old child that her chipped tooth was the result of being hit in the mouth by her stepparent. One case involved a pregnant 14-year-old who entered a hospital to deliver her baby. Notwithstanding the girl's age, the lack of prenatal care, and her inability to speak English, and despite the fact that she did not identify any adults as residing with her, her physicians did not make a report on either the girl or her newborn. Five weeks after they had been released from the hospital, the infant was re-admitted due to malnourishment, failure to thrive, and stomach ulcers.

Recent Efforts: This issue is receiving increasing attention at the state level. For example, the Children's Justice Interdisciplinary Task Force has initiated a statewide project aimed at developing training requirements, model training curricula and training opportunities for mandatory reporters. As of December 1999, the Task Force was completing a survey of the training currently being provided to mandatory reporters. In addition, OFCO reported in its 1998 annual report that many school district reporting policies were inconsistent with state law, and recommended that school districts adopt the model reporting policy developed by the Washington State School Directors' Association (WSSDA). In response, the WSSDA provided school district superintendents with OFCO's recommendation and a copy of the WSSDA model policy. OFCO plans to survey school districts on their reporting policies in 2001.

On the local level, the DCFS East King Office and the Children's Response Center have established a mandatory reporter training initiative. After analyzing CPS data, these agencies concluded that health care professionals were underreporting, and that educators had the most questions and difficulty with reporting. These groups were prioritized for training. The training covered: incidence and prevalence of child abuse, common definitions, indicators and recognition of abuse and neglect, how to make a report, how CPS responds, and agency and community resources. Training began in late 1997 and continues to the present. Since the training began, the project reports that there has been a 30 percent increase in the number of CPS reports from health care professionals, and a 21 percent increase in the number of CPS reports from educators. Moreover, 44 percent of the health care professionals report that they are now more likely to make a report when they suspect child maltreatment, while 90 percent of the educators report that they are now more likely to make a report.

Next Steps: State policy makers and agency officials should support the efforts of the Children's Justice Interdisciplinary Task Force to develop training requirements, model curricula, and opportunities for mandated reporters. Moreover, consideration should be given to providing additional funding if necessary to expand training opportunities for mandated reporters. In

¹⁵ RCW 26.44.030.

addition, the local training initiative developed in East King County should be replicated in other locations if possible. OFCO will continue to document and highlight this issue.

Lack of Sufficient and Appropriate State-Licensed Foster and Group Care Placements

Children are placed in state-licensed care for several reasons. Most children enter care due to abuse, neglect or abandonment. They may have been abused or neglected, or the risk may be extremely high due to parental conditions such as substance abuse, mental illness or physical illness. These children tend to have more emotional and/or health related problems than other children due to the abuse they suffered, complications from prenatal drug and alcohol exposure, or genetic predisposition to mental illness.

Some children may also be placed in state care due to serious physical problems for which their families are unable to provide appropriate or adequate care. These problems include developmental disabilities, severe behavioral problems, and mental illness.

OFCCO first identified the lack of available and appropriate state-licensed foster and group care placements in its 1998 annual report. OFCCO has encountered dozens of situations in which the lack of available and appropriate placements has placed children at risk of harm. These situations include the following:

- Children who have been left in unsafe situations at home (especially adolescents at risk of abuse or neglect, children at risk of chronic neglect, and children of all ages with severe behavioral problems or mental illness that their parents cannot address).
- Children who have been released to their parents by inpatient mental health facilities although professionals have determined they require a more structured environment.
- Children who have been housed overnight in state office buildings (including young children who have been removed from their families, and adolescents who have run away from another foster placement) while a placement is being located.
- Dependent youth who have committed an offense and have been kept or placed by the court in juvenile detention facilities because of the lack of an available and appropriate placement.
- Children of all ages who have been placed in several different emergency over night foster homes while a regular placement is being located.
- Children who have been placed with foster parents who are not adequately trained or equipped to handle the child's special needs and/or behavioral problems (including children with developmental disabilities, children who have been diagnosed with fetal alcohol syndrome/effect (FAS/E), sexually aggressive children, and children with serious mental health issues who are awaiting placement in the Children's Long-Term Inpatient Program¹⁶).

¹⁶ The Children's Long Term Inpatient Program (CLIP) refers to state funded psychiatric residential care that is provided at five facilities throughout the state. A regional CLIP Certification Team must approve admissions to the CLIP program. Only children who meet Medicaid criteria for medical necessity may be admitted. There is a statewide waiting list for CLIP beds both for children who have been involuntarily committed to 180 days of

- Foster homes that have been allowed to maintain their licenses and continue receiving children despite having extensive histories of inappropriate discipline (i.e., hitting, slapping, using a belt) and lack of supervision.¹⁷

The Children's Administration has provided OFCO with inconsistent information concerning the magnitude of the foster and group care shortage. However, the administration acknowledges that the number of licensed foster and group home placements has declined over the past five years, while the number of children in state care has increased.

This issue is of great concern to social workers.¹⁸ Earlier this year, for example, the Children's Administration sponsored a series of regional focus groups, comprised of DCFS social workers, to discuss system improvements in foster care. A summary prepared by the administration described the "general theme" of social workers' comments as follows:

Our system is stretched to the seams. The children we place have increasingly more challenging behaviors. We are not attracting families to foster care who can adequately meet those children's needs without additional supports and interventions. Foster parents, social workers and our system, in general, is [sic] overwhelmed. The community expects DCFS to be able to meet every need and we, in turn, lay those expectations on our foster parents.

inpatient treatment pursuant to RCW 71.34, and children whose application for admission is voluntary. According to the CLIP Committee, nearly 80 percent of the involuntary applicants in 1998 were admitted to a CLIP facility four or more weeks after the date of their commitment order. Moreover, 24 percent of the voluntary applicants in 1998 were admitted to a CLIP facility eight or more weeks after their completed application was received by the statewide CLIP Administration. This period does not include the time it took to complete the voluntary application process. According to the CLIP Administration, children's voluntary applications are "comprehensive and include records from a child's inpatient and outpatient mental health episodes, placements involvement with child serving agencies and school. Family members and/or involved professionals may be contacted for further information during the certification process. A summary is written based on the compiled information and the CLIP Certification team determines whether an individual applicant meets the admission criteria." Children whose voluntary applications are approved for admission are placed on the statewide waiting list in the order that their completed applications were submitted to the CLIP Administration. The lengthy application process and waiting period together have resulted in risk and actual harm to children. For example, OFCO has observed youth who are the subject of an involuntary commitment order being placed in juvenile detention facilities while awaiting placement in a CLIP facility. In one situation, it was necessary for the detention facility to place the youth on suicide watch for several days. In addition, in several instances OFCO has observed foster children with diagnosed mental health issues who have demonstrated a clear risk of harm to themselves or others (but who do not require involuntary commitment) having to wait at least three months for a placement in a CLIP facility, and some foster children having to wait six to nine months.

¹⁷ A related concern is the amount of time that it takes the Children's Administration Division of Licensed Resources (DLR) to complete investigations of reports involving foster homes. Children's Administration policy states that these investigations should be completed within 45 days. However, OFCO has observed numerous situations in 1998 and 1999 in which DLR has taken three to six months to complete an investigation, while in several cases it has taken more than one year. This situation may leave foster children at risk of harm; at a minimum, it leaves children uncertain about the stability of their foster placement.

¹⁸ The Ellensburg CPS program review that was referred to earlier revealed that CPS social workers in that office believed that the lack of available foster homes in that area was "at a near crisis level." Quality Assurance Program Review, *supra*, at p. 17.

According to the summary, the issue most often mentioned by social workers who participated in the focus groups was: "Children are not appropriately matched to homes because of lack of placement options."¹⁹

Recent Efforts: The lack of sufficient and appropriate placement options for children has been an issue of long-standing concern. A 1993 report of The Child Welfare Citizen Advisory Board recommended that the Children's Administration review its foster care resources to develop a range of placement options sufficient and appropriate to the needs of children needing placement. However, according to the Children's Administration, this review was never undertaken. In 1997, the Legislature directed the Children's Administration to increase the number of foster and adoptive homes by establishing a statewide adoptive and foster parent recruitment coordination office. It is unclear whether the number of adoptive and foster homes has increased since the passage of this legislation. The 1999 Legislature established and funded 75 shelter beds where adolescents can stay while looking for longer-term housing. The legislation also established and funded a long-term housing and independent living skills program for up to 75 youth ages 16 to 18 years old.

In 1999, the Children's Administration established a Foster Care Task Force. The goal of the Task Force was to "configure Children's Administration foster care program and policy to achieve the necessary performance for optimum results within available resources over the next two biennia." The Task Force addressed four topic areas: (1) recruitment and retention of foster parents; (2) placement issues; (3) exceptional cost rates; and (4) education supports. In December 1999, the Children's Administration issued a final report on the Task Force's recommendations.²⁰ The Task Force identified four priorities for immediate action:

1. Utilize a contractor to analyze the rate structure of Washington State, compare it to similar states and make recommendations for improvements;
2. By the end of 30 days in placement, conduct a team assessment of the child and family which will identify their needs so that resources and ongoing placement can be better matched;
3. Develop a statewide public and private recruitment strategy for foster and adoptive homes; and,
4. Change DCFS culture to embrace the social worker and foster parent relationship.

Proposed Next Steps: OFCO is concerned that state policy makers and agency officials are moving ahead on this issue without accurate data on the magnitude and nature of children's unmet placement needs. Such data is a necessary first step in the development of a coordinated, efficient, and long-term strategy for meeting the needs of children who cannot live safely at home. Accordingly, consideration should be given to conducting a comprehensive and independent assessment of children's unmet placement needs. The assessment should determine the magnitude of unmet need and also explore the types of service needs among (1) infants and

¹⁹ The Harborview Center for Sexual Assault and Traumatic Stress also identified this issue in an April 1999 report on the state-funded Foster Care Assessment Program. According to the report, concerns about caretakers' ability to meet the needs of long-term foster children were found to be a barrier to a permanent placement in almost half of the 75 completed assessments of long-term foster children. Harborview Center for Sexual Assault and Traumatic Stress, *Foster Care Assessment Program: Annual Report to the Washington State Department of Social and Health Services Children's Administration* (April 1999), at p. 8.

²⁰ DSHS Children's Administration. *Foster Care Task Force Final Report* (Dec. 1999).

younger children; (2) adolescents; (3) children with developmental disabilities; and (4) children with severe behavioral issues and/or special needs. Consideration should also be given to addressing the impact of other systems, such as the inpatient mental health system, on children's placement needs. The assessment should include an estimate of the cost associated with meeting the unmet needs that are identified and a projection of future unmet placement needs. The assessment should be independent to ensure that it is child-focused. A comprehensive and independent assessment will assist state policy makers and the Children's Administration in their effort to ensure that the state is adequately meeting the needs of all children who cannot live safely at home.



SECTION 6

RESPONSE TO OFCO'S SYSTEMIC RECOMMENDATIONS 1997-1999

IN ADDITION TO responding to specific complaints, OFCO is statutorily charged with developing recommendations for improving the state child protection and child welfare system. Since becoming operational in June 1997, OFCO has developed 13 recommendations for changes in state law and administrative policy. These recommendations are contained in OFCO's: 1) 1997 Annual Report; 2) Review of the Wenatchee Child Sexual Abuse Investigations; 3) Report on Guardian Ad Litem Representation of Children in Child Abuse and Neglect Proceedings; and 4) 1998 Annual Report.¹

Overview

Most of OFCO's recommendations have received a favorable response from the DSHS Children's Administration, the Washington State School Directors' Association, the Washington State Legislature, and the Governor. For example, in response to OFCO's recommendations, statutory and administrative policy changes have occurred in the following areas:

- **Foster care information for children:** The Children's Administration has developed *Surviving Foster Care: A Handbook for Youth Entering Foster Care*. The handbook, which was developed in collaboration with adolescent foster children, includes information about foster care, including a "Foster Care Bill of Rights," and a list of helpful agencies and phone numbers that includes OFCO. The handbook will be distributed statewide to youth through DCFS offices and various youth services programs.
- **Child interview documentation in sexual abuse investigations:** Legislation was enacted in 1999 that requires Child Protective Services (CPS) to document and preserve, in a near verbatim format, any questions and answers posed when interviewing children about alleged sexual abuse.² The legislation also directs the Children's Administration to establish three pilot sites that rely on different methods and techniques for conducting and preserving interviews of alleged child sexual abuse victims.
- **Specialized training for child sexual abuse investigators:** The 1999 legislation requires that all persons responsible for investigating child sexual abuse allegations, including police,

¹ These reports are available by contacting OFCO, or by accessing OFCO's Web page at: www.governor.wa.gov/ofco/ofcohome.htm.

² Chapter 389, Laws of Washington, 1999.

prosecutors, and CPS workers, be provided with ongoing specialized training. The Legislature appropriated additional training funds as well.

- **Protocols for child sexual abuse investigations:** The 1999 legislation requires each county to develop a written protocol for handling criminal child sexual abuse investigations. The protocols must be in place by July 1, 2000, and are to be consistent with state guidelines.
- **Additional guardian ad litem (GAL) representation for children:** The 1999 Legislature appropriated \$1 million for the FY 1999-01 biennium for additional volunteer CASA/GALs. This appropriation represented the state's first major expenditure for volunteer CASA/GALs for children.
- **School districts' mandated reporting policies:** The Washington State School Directors' Association (WSSDA) published OFCO's findings and recommendations on school districts' mandated reporting policies in the WSSDA *Policy News* for school board members, and advised school districts to modify problematic policies. The WSSDA also provided school district superintendents with a copy of the WSSDA model reporting policy and procedure that OFCO recommended for adoption.

However, a few of OFCO's administrative policy recommendations have received a less than adequate response from the Children's Administration. For example, in response to OFCO's recommendations:

- **Conflict of interest policy for foster parents:** The Children's Administration has developed a draft policy that requires social workers, who are in the process of considering whether to place a child with a licensed foster parent who is also a professional involved in the child's life, to discuss the placement with their supervisor and the professional's supervisor. However, the policy does not specifically or adequately address situations in which the professional may have a conflict of interest due to his or her professional involvement in the child's life.³
- **Children's Administration complaint procedure information:** The Children's Administration has disseminated a new complaint brochure and poster that are intended to describe the administration's internal complaint resolution process. However, the new brochure and poster do not inform citizens that they have a right to file a complaint, nor do they clearly outline the administration's complaint procedures or the rights of citizens in that process.
- **Complaint procedure training:** The Children's Administration advised OFCO in early 1999 that it would add training on its complaint procedures to the Children's Administration Academy's basic training curriculum. However, in December 1999, the Children's Administration advised OFCO that the Academy's curriculum is full and cannot accommodate additional topics.
- **Monitoring complaints received by local offices:** The Children's Administration Office of Constituent Relations has begun to provide regional administrators with quarterly statewide

³ However, consistent with the provisions included in the legislation that was enacted in 1999, the Children's Administration has adopted a policy that requires social workers to remove children from foster placements with law enforcement officers who are investigating the children's alleged abuse or neglect. See Children's Administration *Practices and Procedures Guide*, Chapter 2000, section 2576 (revised 12/27/99).

reports on the complaints that it has received. However, the reports do not identify the local offices that were the subject of complaints. Moreover, after advising OFCO in early 1999 that the Quality Steering Committee would consider this year whether to initiate a project aimed at developing procedures for monitoring complaints received by local offices, the administration advised OFCO in December 1999 that the Committee will decide whether to address this issue "at a later date".

- **Specialized sexual abuse training for therapists:** In January 1999, the Assistant Secretary testified before the State Legislature that the Children's Administration would examine its current contract requirements for therapists who conduct child sexual abuse evaluations or treat sexually abused children. In December 1999, the Children's Administration advised OFCO that it had not yet acted on this issue.

This section provides a detailed summary of OFCO's recommendations and the responses they have received to date.

1997 Annual Report

OFCO's 1997 annual report set forth five recommendations. These recommendations were based on the office's investigative work during the first year of operation. Four of the five recommendations in 1997 were achievable through changes in administrative policy; one required a change in state law.

Placement Resource Conflict of Interest Policy

1997 RECOMMENDATION #1: The DSHS Children's Administration should adopt a policy that creates a presumption against recommending placement with a person who has a conflict of interest as a result of his or her dual role as a placement resource and a professional involved in the child's life. A conflict of interest should be deemed to exist in situations where the person's dual role may now or in the future place a child's best interests in jeopardy. Whether the presumption against placement is overcome should be determined solely by the child's best interests. A panel consisting of community professionals and others should be used to assist the department in determining whether a conflict exists and/or the presumption against placement has been overcome.

BASIS: In 1997, OFCO conducted a preliminary review of DSHS' actions during the 1994-95 Wenatchee child sexual abuse investigations. OFCO perceived the placement of two girls in the home of the police detective who was investigating their sexual abuse allegations against their parents and others to be detrimental to the girls' best interests. At a minimum, the placement clearly affected perceptions of the girls' credibility with regard to their disclosures of abuse by their parents and, later, by others. OFCO is aware of other conflict-of-interest situations that have arisen with placement resources who are employed by DSHS, school personnel, and even lawyers and law offices involved in the prosecution or defense of a child's custody or dependency case, or the criminal case of the child's parent.

Response to 1997 Recommendation #1

In 1998, the Children's Administration informed OFCO that it would develop guidelines for addressing potential conflicts of interest in out-of-home placements. In December 1999, the Children's Administration developed a draft policy that requires social workers, who are in the process of considering whether to place a child with a licensed foster parent who is also a

professional involved in the child's life, to discuss the placement with the social worker's supervisor and the community professional's supervisor. The discussion is to focus on whether the placement is appropriate and in the child's best interest. As of December 1999, the draft policy was awaiting approval by the Assistant Secretary.⁴

OFCO is concerned that the draft policy does not specifically or adequately address situations in which the community professional may have a conflict of interest due to his or her dual role as a licensed foster parent and professional involved in the child's life. Specifically, the policy lacks a definition of what constitutes a conflict of interest. A definition would help social workers identify conflict-of-interest situations. In addition, the policy provides inadequate procedures for how social workers should address conflicts of interest. Such procedures should, at a minimum, include consultation with individuals from outside the agency who are not directly involved in the child's case. Outside consultation would help to ensure a more objective assessment of whether a conflict of interest exists and whether, despite a conflict of interest, placement with the professional remains in the child's best interest.

It is unlikely that the administration's proposed policy would have prevented the recent placement of a 17-year old foster child in respite foster care with the police officer whom the earlier child alleged had coerced her into accusing her parents of sexual abuse. The girl later recanted her allegations against the officer. Both the police officer and foster child were potential witnesses in ongoing civil litigation involving the officer's investigation techniques. This incident reinforced OFCO's strong belief in the need for a policy that establishes a presumption against conflict-of-interest placements that can be waived based on the recommendation of individuals from outside the agency.

Complaint Procedure Information

1997 RECOMMENDATION #2: The DSHS Children's Administration should provide parents contacted by Child Protective Services, and foster children age 12 and older, with concise written information that outlines their rights under the department's complaint policy, and their right to contact OFCO. With regard to foster children, the department should consider developing a *Child's Guide to Foster Care* to advise them of their rights and what they can expect while in foster care. The department should also begin training caseworkers on the complaint policy. In addition, relatives, community professionals, service providers, and concerned citizens should be advised on how to obtain information about their rights under the department's complaint policy and their right to contact OFCO. Consideration should be given to establishing a toll-free number with a recorded message where client or citizen complainants may be referred for information about their rights.

BASIS: DSHS is required by RCW 74.13.045 to develop procedures to inform clients of the department's complaint-resolution process and how to access it. Moreover, information regarding the complaint resolution process is to be incorporated into training for caseworkers. Despite these requirements, complainants often tell OFCO they do not know how to pursue their complaints with the department. In 1997, OFCO conducted a survey which revealed that complainants are rarely provided with the department's written complaint policy and that, until complainants learned otherwise

⁴ The draft policy is in addition to the policy adopted by the Children's Administration that requires social workers to remove children from foster placements with police officers who are investigating the children's alleged abuse or neglect. See Children's Administration, *Practices and Procedures Guide*, Chapter 2000, section 2576 (revised 12/27/99). This policy is consistent with the provisions of legislation enacted in 1999. See Chapter 389, Laws of Washington, 1999.

from entities outside the department, most were unaware they could complain to anyone other than a supervisor. The survey also revealed that caseworkers receive no formal or regular training on the complaint policy.

Response to 1997 Recommendation #2

Complaint Information: In 1998, the Children's Administration informed OFCO that it was developing a new complaint brochure and a "Client's Rights" poster that describe the department's internal complaint process, as well as how to contact OFCO. In November 1999, the Children's Administration advised OFCO that the brochures and posters had been sent to each regional office for dissemination to all field offices.⁵ In an accompanying letter to staff, the Assistant Secretary directed that the brochures be made "available for clients at the reception desk" and the posters "be placed in waiting areas and throughout the office where clients may have interaction with staff."

Although pleased that the Children's Administration is attempting to provide clients and concerned citizens with information about the department's complaint procedures, OFCO has the following concerns about the new brochures and posters:

- Neither the brochure nor the poster (entitled "Tell Us") provide clear notice that clients and concerned citizens have a right to pursue a complaint through established departmental procedures. Instead, they express the department's desire to respond to the "misunderstanding and confusion" that can occur while a family is involved with the department. While it is important that individuals are aware of the department's commitment to resolving difficulties, it is equally important that they know of their right to file and seek resolution of a complaint through established procedures. The often enormous power imbalance that characterizes the department's relationship with clients and concerned citizens is somewhat mitigated when they are made aware of their right to register a concern, seek resolution of a dispute and/or seek accountability for inappropriate acts and omissions.
- Neither the brochure nor poster clearly outlines the department's complaint procedures, or the rights of individuals in that process. The brochure includes a vague outline of "steps to resolving a complaint with Children's Administration." The steps simply depict the bureaucratic chain of command (e.g., "Licensor → Licensor Supervisor → Regional Manager") under an acronym (e.g., "DLR/OCCP/OFCL"). They do not provide information on precisely how or with whom a complaint may be filed, what an individual may or has the right to expect during the complaint process, or the procedural timelines.⁶ The Children's Administration should provide individuals with a clear and useful outline of the agency's complaint procedures including procedural timelines, and the rights of individuals in that process. This information would help facilitate the Children's Administration's responsiveness to the concerns of clients and citizens, and prevent the frustration that can result when they attempt, without adequate guidance, to interact with the agency's complex bureaucracy.

⁵ A copy of the brochure is included in Appendix B.

⁶ In contrast, the brochure includes a section soliciting "compliments regarding Children's Administration Services" that can be torn off and mailed directly to the pre-printed address of the Children's Administration Office of Constituent Relations.

Child's Guide to Foster Care: With the assistance of a group of adolescent foster children, the Children's Administration in 1998 began developing a brochure for older children in foster care. The department advised OFCO in early 1999 that the brochure would be completed by June 1999, and disseminated to children age 12 and older. In December 1999, the Children's Administration provided OFCO with a copy of *Surviving Foster Care: A Handbook for Youth Entering Foster Care*. The handbook includes information about foster care, including a "Foster Care Bill of Rights," and a list of helpful agencies and phone numbers that includes OFCO. The handbook will be distributed statewide to DCFS offices and various youth services programs.

Guide to Child Protective Services: In 1998, the Children's Administration advised OFCO that it was updating the information in its Child Protective Services (CPS) brochures for clients, relatives, and foster parents. In December 1999, the Children's Administration advised OFCO that the CPS brochure for parents was in production and would be disseminated in several languages by March 2000. The administration also advised that it plans to review the current guides for relatives and foster parents, "but [have] no definite date when this will happen."

DSHS Internet Site: In 1998, the Children's Administration advised OFCO that the department's new brochures would be linked to the Children's Administration "overview" page so they can be accessed through the Internet. As of December 1999, the complaint and information brochures had not yet been linked to the Children's Administration overview page.

Toll-Free Complaint Information Number: In 1998, the Children's Administration advised OFCO that it would not establish a toll-free complaint information number at this time, but would wait to see if dissemination of the new complaint brochures was sufficient to inform individuals about the department's complaint process.

Training: In early 1999, the Children's Administration advised OFCO that it would add training on the department's complaint procedures to the Children's Administration Academy's basic training curriculum. However, in December 1999, the Children's Administration informed OFCO that the Academy's curriculum is full and cannot accommodate additional topics. The administration pointed out that information on the department's complaint procedures is "interspersed throughout the basic Academy training course," e.g., in the shared decision making and case management sections. OFCO strongly believes that social workers should be provided with specific training on the administration's expectations and procedures for responding to complaints from clients and concerned citizens. If it is not feasible or effective to provide this training through the Academy, then the administration should identify alternative training forums. OFCO will continue working on this issue with the department.

Complaint Tracking and Client Satisfaction

1997 RECOMMENDATION #3: The Children's Administration within DSHS should ensure that the Office of Constituent Relations (OCR) continues to track the volume and nature of complaints it receives and should use this information as a tool to continuously improve and assure the department's quality of services. Moreover, consideration should be given to providing complaint data to the department's Risk Management Unit for review.

BASIS: The Children's Administration currently is required by RCW 74.13.045 to compile complaint-resolution data, including the nature of the complaint and the outcome of the process. The department is also required to submit semi-annual reports containing this data to the Legislature. Although the department has produced the required reports, OFCO has found that it has used neither this nor other complaint data to identify and eliminate the cause of complaints. According to the Attorney General's Office (AGO), tort lawsuits against the Children's Administration have significantly increased in recent years, particularly with respect to wrongful adoption cases, children injured in foster care, and Child Protective Services worker cases (both for illegally taking children from their homes and for failing to remove them from abusive homes.) The AGO believes this increase reflects the tendency toward increased liability generally, plus the effects of several court decisions in the past five years, which have specifically increased the scope of the department's liability.

Response to 1997 Recommendation #3

In 1998, the Children's Administration advised OFCO that the Office of Constituent Relations (OCR) would continue to track the complaints it receives. Starting with the first quarter of 1999, OCR would begin providing each regional administrator with a quarterly statewide report that includes the following information: 1) the number and nature of complaints received by OCR; 2) the local offices and program units that were the subject of complaints; 3) how the complaints were resolved; and 4) identified concerns or trends. By December 1999, the Children's Administration Office of Constituent Relations had published three quarterly reports (ending September 30, 1999), which were provided to regional administrators. The reports included most of the information described above, except that they did not identify local offices that were the subject of complaints. Moreover, they did not include any data analysis. If the reports are intended to help the administration to continuously improve and assure its quality of services, then it is essential that they include analysis of the complaint data.

In 1998, the Children's Administration advised OFCO that it would not share complaint information with the department's Risk Management Unit as recommended by OFCO. The Assistant Secretary was concerned that child welfare policy and practice would be driven inappropriately by liability concerns.⁷

1997 RECOMMENDATION #4: Area managers should establish formal or informal mechanisms for monitoring the volume and nature of complaints received by caseworkers and supervisors, and should begin using this information to help identify and eliminate the cause of complaints. Moreover, regular surveys should be conducted at the local office level to assess the satisfaction of clients (parents and children) with the services provided. Local complaint and survey information should be integrated into the department's overall quality improvement and assurance activities.

⁷The Children's Administration pointed out that the 1998 Legislature directed the Administration and the Attorney General's Office to develop statutory proposals for reducing or limiting the state's increased liability for damages in child welfare cases. A proviso to the 1998 supplemental budget for DSHS directed the agencies to jointly make recommendations "to reduce or limit the state's liability for damages in child welfare cases, including shelter care and dependency proceedings." The recommendations were to be submitted to the Legislature by December 1, 1998. *1998 Laws of Washington, Ch. 454, sec. 202 (17) (uncodified)*. The department and the Attorney General's Office developed seven recommendations aimed at clarifying state law to ensure that DSHS "is treated in the same manner as any other potential defendant in a civil case rather than being subjected to the broader, unique liability exposures recently imposed by our appellate courts." *Proposals for Reducing or Limiting Liability for Damages in Child Welfare Cases*, p. 4. As of December 1999, no further action on these recommendations had been taken.

BASIS: The department's complaint policy states that each region shall submit a monthly statistical report on the number and type of complaints, and the level at which resolution occurred. Through its area manager survey, OFCO found that complaints are rarely tracked in local offices because they object to the increased workload associated with this activity. Moreover, OFCO found that most area managers do not monitor the volume, type, or resolution of complaints that do not reach their level. One area manager stated that, because the department's policy is to work a complaint up the chain of command until it is resolved, he assumes problems have been resolved if they don't reach him. OFCO has also found that the department last conducted a Child Protective Services client survey in 1995. One of the findings in this statewide survey stated that future surveys might be more useful if the feedback was focused at the office level, so that supervisors were provided with "the information they need to make changes and/or appreciate their successes."

Response to 1997 Recommendation #4

Local Complaint Monitoring: In early 1999, the Children's Administration advised OFCO that it would not require area managers to establish mechanisms for monitoring complaints to local offices as recommended by OFCO. However, OFCO was informed that the Quality Steering Committee would consider by the end of 1999 whether to initiate a project aimed at developing a new local complaint monitoring procedure. In December 1999, however, the Children's Administration advised OFCO that the Committee instead plans to review the new complaint brochures and will decide "at a later date" whether to charter a Continuous Quality Improvement team to address local complaint monitoring procedures.

Client Surveys: In 1998, the Children's Administration advised OFCO that it had earlier convened six focus groups with children age 11 to 17 who were in foster care. Information gathered during these focus groups formed the basis of a report that was issued by the administration in June 1998. Information from these groups was also used to make revisions to the department's administrative rules that are aimed at providing "normalcy" for children in foster care. The administration also advised that contracted providers of family preservation services (FPS), intensive family preservation services (IFPS), and alternative response system (ARS) services continuously solicit client satisfaction information. The administration further advised OFCO that it planned to conduct another survey of Child Protective Services clients at some point, but had not yet decided when. The survey would collect data by local office.

OFCO Shield Law

1997 RECOMMENDATION #5: OFCO investigative records and testimony should be shielded by statute from court subpoena and civil discovery requests.

BASIS: RCW 43.06A.050 provides that OFCO's investigative records are confidential and exempt from public disclosure requirements. However, these provisions may not provide protection against court subpoena and civil discovery requests. OFCO is concerned that investigative records developed as part of its targeted Wenatchee review may become the subject of discovery requests in any of the several pending civil lawsuits against DSHS. Moreover, OFCO's future investigations may involve matters that may also be the subject of pending or future civil litigation against state agencies. OFCO has found that the records of ombudsmen's offices in other states, including Michigan's Office of the Children's Ombudsman, are protected by statute from court subpoena.

Response to 1997 Recommendation #5

The 1998 Legislature unanimously approved legislation that shields most investigation-related information, including the identities of OFCO complainants and witnesses, from civil discovery and judicial and administrative subpoena. Governor Gary Locke signed the legislation into law on April 2, 1998.⁸

Review of the Wenatchee Child Sexual Abuse Investigations

OFCO's review of the 1994-95 Wenatchee child sexual abuse investigations set forth four recommendations. These recommendations were based on OFCO's six-month review of the Wenatchee investigations.

Interview Documentation

WENATCHEE RECOMMENDATION #1: CPS social workers should be required to document interviews in a verbatim or near-verbatim manner that captures which questions are asked, in what order, and what exact answers are given to the questions. Verbatim or near-verbatim documentation can be accomplished by note taking by an adult participant in the interview or through verbatim transcription, e.g., audio or videotaping. Because OFCO has not independently analyzed the strengths or weaknesses of these approaches, we do not make a recommendation as to the particular method of documentation. However, based on our interviews with agency administrators and social workers, we question whether it is reasonable or desirable to require CPS social workers to take verbatim or near-verbatim notes during interviews. Accordingly, the feasibility of this method should be studied further if state policy makers and agency officials wish to consider mandating this approach. If this method is determined not to be feasible or effective, then OFCO recommends that CPS interview documentation be accomplished through verbatim transcription.

BASIS: OFCO concluded that current law and Children's Administration policies are not sufficient to ensure that child interviews are documented in a manner that allows for meaningful external review. They do not require that child interviews be documented contemporaneously or pursuant to a standard format. Without contemporaneous verbatim documentation of child interviews, it is not possible to assess the presence or absence of improper interviewing techniques, and the corresponding risk of factual distortion in child sexual abuse investigations.

Response to Wenatchee Recommendation #1

The 1999 Washington State Legislature passed, and Governor Gary Locke signed, legislation that requires CPS to document and preserve, in a near verbatim format, any questions and answers posed when interviewing children about alleged sexual abuse.⁹ CPS must retain the original notes of the interview until the interview has been entered into the Children's Administration electronic Case and Management Information System (CAMIS). The legislation requires that the interview be entered into CAMIS within 15 days of the date upon which it was conducted. The Children's Administration has not yet adopted rules or policies to implement this mandate.

⁸ Codified at Chapter 43.06A RCW.

⁹ Chapter 389, Laws of Washington, 1999.

The legislation also directs the Children's Administration to establish three pilot sites that rely on different methods and techniques for conducting and preserving interviews of alleged child sexual abuse victims. Pursuant to the legislation, the Children's Administration has established: 1) a videotaping pilot project (Region 6-Aberdeen); 2) an audio-taping pilot project (Region 6-Olympia); and 3) a team interviewing pilot project in which the interview is documented on a laptop computer immediately following the interview (King County Eastside-Region 4). The Washington State Institute for Public Policy is directed to evaluate the three pilot projects and to provide a report to the Legislature by December 1, 2000.

Investigation and Interview Training

WENATCHEE RECOMMENDATION #2: Specialized and on-going training in child sexual abuse investigative and interview techniques should be required for all CPS workers. Consideration should be given to including the training components and techniques recommended by the Washington State Institute for Public Policy.¹⁰ Moreover, mandatory training of workers should be reinforced with effective, ongoing supervision.

BASIS: Currently there is no statutory requirement that state professionals involved in child abuse investigations, including CPS workers, receive specialized or on-going training in investigative and interviewing techniques. Current Children's Administration training requirements do not include specialized or ongoing child interviewing training for all social workers.

Response to Wenatchee Recommendation #2

In addition to addressing interview documentation, the 1999 legislation required that all child sexual abuse investigators, including police, prosecutors and CPS workers, be provided with ongoing specialized training. The training must include specified components and provide participants with the opportunity to practice interview skills and receive feedback from experts.

The additional training funds appropriated by the 1999 Legislature were about \$535,000 less than the amount the Children's Administration estimated it needed to fulfill the new mandate. As a result, the Children's Administration reduced social worker training in other areas to meet the costs associated with the new training. Governor Locke is submitting a supplemental budget request to the 2000 Legislature that would provide the administration with an additional \$429,000 to help cover the increased training costs more fully.

WENATCHEE RECOMMENDATION #3: The Children's Administration should commission an external review of therapists' reports in DCFS child sexual abuse cases. The purpose of the review would be to ascertain whether the Children's Administration should require contracting therapists to have specialized and/or on-going training about sexual abuse issues. Consideration should be given to establishing a consultation network consisting of a core of skilled and experienced therapists in this area who would be available to consult on difficult cases.

¹⁰ Washington State Institute for Public Policy, *Protocols and Training Standards: Investigating Allegations of Child Sexual Abuse* (1997). According to this report, effective training on child interviewing should cover research about child memory and suggestibility, patterns of disclosure and reporting, and recommended interview techniques. It should also include opportunities for trainees to practice interviewing skills and receive feedback from experts. *Supra*, at p. 50.

BASIS: Currently there is no requirement that therapists with whom the Children's Administration contracts, including those therapists that evaluate child sexual abuse allegations, have specialized or on-going training about sexual abuse issues.

Response to Wenatchee Recommendation #3

In January 1999, the Assistant Secretary testified before the Legislature that the Children's Administration would examine its current contract requirements for provider qualifications. In December 1999, the Children's Administration advised OFCO that it has yet to take action on this issue. The administration also advised that it is "still researching development of the formal consultation network." OFCO will continue to work on these issues with the Children's Administration.

Cross-Discipline Collaborative Protocols

WENATCHEE RECOMMENDATION #4: Local jurisdictions should be required to establish cross-discipline collaboration protocols that include elements that are recognized by researchers and practitioners as being essential for effective collaboration. Mandatory elements to be included in local protocols could be developed by a state-level task force on which key disciplines are represented. In addition, opportunities for training on cross-discipline collaboration should be enhanced for CPS social workers and professionals from other disciplines.

BASIS: CPS social workers are provided with minimal direction or training in effective cross-discipline collaboration. As a result, CPS workers are left to establish and work within collaborative relationships with law enforcement and other disciplines without the benefit of specific guidance or formal training on the goals, expectations and limitations of cross-discipline collaboration.

Response to Wenatchee Recommendation #4

In addition to interview documentation and training, the 1999 legislation also addressed the issue of cross-disciplinary collaboration. Specifically, the legislation requires each county, under the leadership of the county prosecutor, to develop a written protocol for handling criminal child sexual abuse investigations. The prosecutor shall invite participation from each law enforcement agency within the county (including tribal police, military criminal investigators, or federal authorities where appropriate), CPS, assistant attorneys general (in counties where the attorney general represents the state in dependency actions), and the county's victim advocacy program. These protocols must be in place by July 1, 2000.

The legislation also directed that a multidisciplinary work group develop state guidelines on child sexual abuse investigations. These guidelines are to be used by counties in developing local protocols. The legislation designated that work group members include representatives from law enforcement, CPS, and prosecutors. In addition, the group was directed to consult with victim advocates, the judiciary, medical professions, the defense bar, child serving agencies, mental health experts, and advocates for persons with developmental disabilities.

The multidisciplinary work group finalized the state guidelines in December 1999.¹¹ The guidelines specify both minimum state requirements for local protocols, and advisory comments to guide local decision-making. The state guidelines address the following areas:

- Protocol development
- Protocol contents
- Suspect and witness interviews and documentation
- Child interviews and documentation
- Medical evaluations
- Procedures for investigation of complex cases
- Information sharing
- Methods for protecting children during investigation
- Training and qualifications of interviewers

Guardian Ad Litem Representation of Children

OFCO's report on guardian ad litem (GAL) representation of children in child abuse and neglect proceedings set forth three recommendations. These recommendations were based on the office's investigation into children's GAL representation in Washington State.¹²

Increase the Number of GALs

GAL RECOMMENDATION #1: The number of GALs should be increased to a level that is sufficient to ensure appointment for all children who are involved in child abuse and neglect proceedings. State policy makers should consider appropriating funds to establish or expand CASA/GAL volunteer programs.¹³ In 1997, the Office of the Administrator for the Courts issued a report that recommended that the state "encourage the use of CASAs for all [child abuse and neglect] cases by appropriating funds for the establishment of new CASA programs and for the maintenance of existing CASA programs."¹⁴ A recent review by the Washington State Institute for Public Policy of the effectiveness of CASA volunteers in Washington State found that CASA volunteers: (1) consistently fulfill their mandate; (2) enjoy widespread support among community professionals; (3) are overwhelmingly preferred by community professionals over paid GALs; and (4) received an average ranking of 7.9 by community professionals on a scale of 1 to 10, with 10 defined as outstanding.¹⁵ The report also found that CASA programs are cost-effective compared to paying for an attorney or other professional to provide an equivalent level of service in terms of time expended. The average amount of cost per case is about \$500. Currently most funds for GAL programs are provided by counties.

¹¹ The document, *Guidelines for Child Sexual Abuse Investigation Protocols*, is available from the Washington State Institute for Public Policy.

¹² It is the role of a guardian ad litem to provide the court with independent information regarding a child's best interests.

¹³ Court Appointed Special Advocate (CASA) volunteers are lay members of the community who are trained and supervised through county-based CASA programs. As of January 1999, twenty-five of Washington's 39 counties had CASA programs.

¹⁴ Office of the Administrator for the Courts, *OAC/Guardian Ad Litem Project Final Report* (1997), at p. 19.

¹⁵ Washington State Institute for Public Policy, *Court Appointed Special Advocates for Children in Washington State: A Review of Effectiveness* (1998), at pp. 10-11.

¹⁶ Child Abuse Prevention and Treatment Act, 42 USC 5106a et seq.

BASIS: Federal funding requirements require that states receiving CAPTA grants certify that the state has in effect, and is enforcing, a state law that for every case involving an abused or neglected child which results in a judicial proceeding, a GAL be appointed to represent the child's best interest.¹⁶ Washington State receives about \$1.25 million per biennium in CAPTA grants, and has made the required certification. However, OFCO's investigation revealed that one-third of Washington children do not have a GAL to represent them in child abuse and neglect proceedings. Children in child abuse and neglect proceedings suffer when they do not have advocates for their best interests. Research clearly indicates that in cases where children are not represented by a GAL, the case takes longer to resolve, and the children themselves are likely to spend significantly more time in substitute care, compared to cases in which children are represented by a GAL.

Response to GAL Recommendation #1

The 1999 Legislature appropriated \$1 million for the FY 1999-01 biennium to increase the number of children served by volunteer CASA/GALs. This appropriation represents the state's first major expenditure for volunteer CASA/GALs. The funding for FY 2000 was distributed by the Washington Office of Crime Victims Advocacy pursuant to a formula developed in consultation with the Washington State CASA program and the Washington Association of Juvenile Court Administrators. The formula provided each county with a minimum funding level of \$10,000. The remaining funds were distributed proportionally among counties based on the number of children in each county without a volunteer CASA/GAL.

In addition, the 1999 Legislature directed the Office of Public Defense (OPD) to develop a cost proposal to address defense and children's representation costs in dependency and termination cases, and to recommend strategies to ensure an equitable method of paying for these cases. In December 1999, the OPD released its report.¹⁷ The report found:

- Significant disparity among counties regarding county payment for children's GALs and attorneys in child abuse and neglect proceedings. Payment ranged from under \$100 per case per year to \$1200 per case per year.
- Significant disparity in government funding for children's, parents' and state representation in child abuse and neglect proceedings. In 1998, counties spent about \$5.2 million for GAL and attorney representation for children in child abuse and neglect proceedings, and about \$5.1 million in attorney representation for parents, guardians and legal custodians. In contrast, the 1998 budget of the Washington State Office of the Attorney General, which provides attorney representation for the state, was about \$10.3 million for child abuse and neglect cases. The Attorney General's Office received an additional \$1.9 million appropriation from the 1999 Legislature to help the office respond to a 47 percent increase in the number of parental rights termination cases.¹⁸

The OPD concluded that funding for children's and parents' representation in child abuse and neglect proceedings "is in crisis." The OPD recommended that, "[i]n order to correct widespread inequalities of funding for children's representatives and defense attorneys, state funding should

¹⁷ Washington State Office of Public Defense, *Costs of Defense and Children's Representation in Dependency and Termination Cases* (1999).

¹⁸ This increase was the result of recent federal and state law changes, which expedited the termination process for certain cases.

be appropriated for the representation of indigent parents and children.” The OPD further recommended that “[s]tate support of CASA GAL programs should be extended to fully support county programs.”¹⁹

Region 10 of the U.S. Department of Health and Human Services is closely monitoring the state’s efforts to address this issue. OFCO is continuing to monitor the state’s efforts as well.

Remove the “Good Cause” Exception

GAL RECOMMENDATION #2: The statutory good cause exception should be deleted from state law to make clear that it is the state’s policy that a GAL be appointed to represent the best interests of every child who is the subject of a child abuse and neglect proceeding.

BASIS: Washington law requires the court to appoint a GAL for children who are the subject of a child abuse and neglect proceeding. However, Washington law also allows the court to decide *not* to appoint a GAL if it finds for “good cause” that the appointment is unnecessary. Washington State is the only state in the country with a statutory good cause exception. While there is no definition or other guidance in statute or case law as to what constitutes good cause not to appoint, recent Washington case law has clarified that lack of resources is not good cause. Nevertheless, OFCO’s investigation revealed that it is the undisputed practice in several counties not to appoint GALs in certain situations, or for some children. This practice appears to be driven largely by the lack of available resources. The good cause exception also appears to violate CAPTA’s requirement that a GAL be appointed for every child who is the subject of a child abuse and neglect proceeding.

Response to GAL Recommendation #2

The 1999 Legislature did not take action on this recommendation. Some legislators believe that it is not necessary to appoint a GAL for every child in a child abuse and neglect proceeding. Juvenile court judges and juvenile court administrators indicate that it is preferable to appoint a GAL for every child, but that the good cause exception is necessary because there are not enough GALs available to permit the courts to do so. Region 10 of the U.S. Department of Health and Human Services is closely monitoring the state’s efforts to address this issue. OFCO is continuing to monitor the state’s efforts as well.

Review Existing GAL Caseloads

GAL RECOMMENDATION #3: County officials in Pierce, Spokane and Yakima counties should review and take appropriate steps to reduce the caseloads of professional GALs in their jurisdictions to ensure that they have the time necessary to conduct thorough investigations of a child’s circumstances. The caseloads of professional and attorney GALs in other counties should also be reviewed for this purpose.

BASIS: Information obtained during OFCO’s investigation indicated that children in three counties are served by professional GALs with extremely high caseloads. In Pierce County, each professional GAL represented on average about 140 children at one time, while Spokane County reported that at least one professional GAL has a caseload of about 90 children. Yakima County reported that the single, full-time professional GAL represents about 400 children, while a half-time professional GAL represents about 150 children. High caseloads limit the amount of time that a GAL can spend on a case.

¹⁹ Washington State Office of Public Defense, *supra*, at pp. 22-23.

Community professionals agree that GALs are best able to fulfill their role through thorough investigation of the child's circumstances. Thorough investigation generally requires a significant investment of time.

Response to GAL Recommendation #3

OFCO plans to survey county officials in 2000 to collect information on the caseloads of professional GALs in their jurisdictions. Through this survey, OFCO will also review the actions of Pierce, Spokane and Yakima counties, if any, to assess and respond to the reported high caseloads of professional GALs in their jurisdictions.

1998 Annual Report

OFCO's 1998 annual report set forth one recommendation. The recommendation involved school districts' policies and procedures for reporting suspected child abuse and neglect. The recommendation was based on the office's survey of 130 school districts.

School Districts' Reporting Policies and Procedures

RECOMMENDATION: Local school districts should review their policies and procedures relating to mandated reports of suspected child abuse and neglect by professional school personnel to ensure that they are in compliance with the requirements and intent of the state's mandatory reporting law. School districts that have not adopted the model reporting policy and procedure developed by the Washington State School Directors' Association (WSSDA) should consider doing so.

BASIS: Under Washington law, certain professionals – including professional school personnel – who have reasonable cause to believe that a child has suffered abuse or neglect are required to report the incident, or to cause a report to be made, to law enforcement officials or Child Protective Services (CPS). OFCO's investigation revealed that a number of school districts surveyed have a policy that requires school personnel to report suspected child abuse or neglect to the principal or other school official, who is authorized to determine whether a report should then be made to the police or CPS. OFCO concluded that policies that place the reporting decision with the principal or other school official are clearly inconsistent with the state's reporting law, and may subject school personnel to criminal liability if a mandated report isn't made. OFCO also found that the policies of a number of school districts surveyed direct the principal or principal's designee to interview the child about abuse-related concerns raised by school personnel, and require a report to be made to police or CPS only if there is "reasonable likelihood" of abuse or neglect. OFCO concluded that these policies violate the intent of the mandated reporting law which is to ensure that there will be professional involvement (i.e., police or CPS) to determine whether child abuse or neglect has occurred.

Response to 1998 Recommendation:

In June 1999, the Washington State School Directors' Association (WSSDA) published OFCO's findings and recommendation in the WSSDA *Policy News* for school board members. The *Policy News* advised school board members that "[a] policy requiring a report to the building principal instead [of police or CPS] puts staff in an inappropriate dilemma and should not be adopted or retained." The *Policy News* also stated that policy provisions requiring the principal to investigate suspected child abuse before calling CPS or law enforcement "not only create

liability for the district, but, if implemented, they are quite likely to so compromise the official investigation as to further endanger children.”

The WSSDA also provided school district superintendents with a copy of the WSSDA model reporting policy and procedure. In addition, the Washington Council of School Attorneys invited OFCO to present its findings and recommendations at the Council's Fall Workshop. OFCO plans to re-survey school districts on their reporting policies and procedures in 2001.