

Office of the
Family & Children's
Ombudsman
An Independent Voice for Families and Children

1997 Annual Report



STATE OF WASHINGTON

OFFICE OF THE FAMILY AND CHILDREN'S OMBUDSMAN

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January 1998

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

I am pleased to submit the 1997 report of the Office of the Family and Children's Ombudsman (OFCO).

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

This report provides an account of OFCO's activities from December 16, 1996, when my appointment as ombudsman became effective, through December 1, 1997. It also identifies issues of concern based on our involvement in complaints received by OFCO during this period. In addition, it includes specific recommendations which are supported by a survey conducted by our office and by our review of the Wenatchee petition requesting an investigation of the actions of the Department of Social and Health Services (DSHS) in the 1994-95 child sex abuse investigations. Finally, this report sets forth OFCO's 1998 vision and goals, which were developed with the assistance of our two advisory committees.

This and future annual reports are intended to supplement ongoing reports by OFCO to the Governor and members of the Legislative Children's Oversight Committee.

All of us at OFCO appreciate the opportunity and challenge of serving the families and children of Washington State.

Respectfully submitted,

A handwritten signature in cursive script that reads "Vickie Wallen".

Vickie Wallen
Director Ombudsman



EXECUTIVE SUMMARY

THE OFFICE OF THE FAMILY AND CHILDREN'S OMBUDSMAN (OFCO) was established by the 1996 Legislature to ensure that government agencies respond appropriately to the needs of children in need of state protection, children residing in state care, and children and families under state supervision due to allegations or findings of child abuse or neglect. The office also is intended to promote public awareness about the child protection and welfare system, and to recommend and facilitate broad-based systemic improvements.

As reflected in its authorizing legislation (RCW 43.06A.010), OFCO was given a unique role as an independent advocate for children and families. While OFCO was established organizationally within the Office of the Governor, its decisions to intervene in specific cases or undertake systemic investigations are made independently from the Governor's Office, the Department of Social and Health Services (DSHS), and other state agencies. This report provides an account of OFCO's activities from December 16, 1996, when the director ombudsman's appointment became effective, through December 1, 1997. It also includes recommendations for statutory and administrative changes designed to improve the quality of state services for children and families.

Making OFCO Operational

Efforts during the first half of 1997 focused on setting up and organizing the new office in Tukwila. In addition to hiring a database administrator and purchasing equipment, the director ombudsman spent much of the first three months soliciting input from around the state on hopes and expectations for OFCO. During that time, she met extensively with legislators, family and children's advocates, foster parents and others, and she established the Western Washington Advisory Committee to provide ongoing community input and to assist the office in developing its mission and goals. A second advisory committee, the Central and Eastern Washington Advisory Committee, was established in October and held its first meetings that month in Spokane and Yakima.

By May, all of OFCO's staff had been hired and the office was fully furnished and equipped. Also completed in May were OFCO's internal operating policies and procedures, which were carefully designed to establish its independence from other state agencies and the Governor's Office. In June, OFCO's automated complaint tracking system became operational, its web page was established, and its Guide to Services was produced and disseminated. On June 17, 1997, Governor Gary Locke held a press conference in Olympia to announce OFCO's opening.

Interventions and Investigations

After opening in June 1997, the office focused its efforts on reviewing citizen complaints, while continuing to build its operational structure. From June to December, OFCO received 582 contacts from the public, the majority of which were phone requests for information about OFCO and other matters. Of the 112 complaints received during that period, 96 were requests for OFCO to intervene in an ongoing matter, while 16 were requests for OFCO to investigate a matter that had already occurred.

Complaints most often were filed by parents, relatives, or community professionals/service providers. A majority of complaints involved children who were especially vulnerable due to their young age and/or disability. Over half were age seven or younger and about one child in four was identified as having a mental, developmental, or other disability.

The most frequently identified complaint issue regarded child protection and safety; the next most frequent complaint issue was of unnecessary family separation and failure to reunify, followed by foster placement issues. Complainants most frequently alleged agency conduct that was lawful but which, if true, had resulted in a harmful outcome. However, many complainants alleged conduct which, if true, constituted a violation of law or policy.

Interventions

OFCO intervened in 63 cases for the purpose of preventing or mitigating possible harm resulting from an agency's act or omission. Slightly over half of OFCO's interventions were conducted on an emergent basis, where there was reason to believe that children or families might be in imminent peril without immediate action. Most interventions consisted of OFCO informally contacting an agency front-line worker or supervisor to inquire about the alleged act or omission, provide information, express concerns, explore other possible responses by the agency, and/or advise the agency that OFCO is monitoring the situation. OFCO found it necessary to issue a formal recommendation in two cases.

Although OFCO does not have authority to impose its recommendations directly on an agency, OFCO's interventions resulted in an agency changing its position to address OFCO's concerns in 26, or 53 percent, of the 49 cases that were closed as of December 1. Some changes - including new or more thorough investigations by Child Protective Services (CPS), police child welfare checks, increased family monitoring and support services, and appointment of attorneys or guardians ad litem - have resulted in greater protection for children.

Other changes, which have resulted in greater responsiveness to the needs of families, include allowances for appropriate parental visitation, provision of family reunification services, and change in a child's foster placement to provide closer proximity to the child's mother. In addition, OFCO helped to facilitate reversals of decisions to move children from long-standing foster placements, re-enrollment and development of an appropriate educational plan for a foster child who had been expelled from school, and finalized adoptions of legally-free children. These actions by OFCO have resulted in greater child well-being and permanence.

Systemic Investigations

In October 1997, OFCO accepted for systemic investigation three of 13 complaints included as part of the Wenatchee petition. The petition - submitted to OFCO by a coalition of defense

attorneys, social service organizations and concerned citizens - requested an investigation of the actions taken by the Department of Social and Health Services (DSHS) during the 1994-95 Wenatchee child sex abuse investigations. The three complaints accepted allege that the DSHS Division of Children and Family Services (DCFS) inappropriately assisted law enforcement agencies in: (1) conducting and failing to document its own child interviews; (2) participating in and failing to document joint child interviews with law enforcement officials; and (3) making certain mental health treatment decisions, including decisions to place children in psychiatric hospitals. After announcing it would conduct a targeted review of the Wenatchee investigations, OFCO submitted a supplemental budget request for one-time investigation costs and requested the appointment of independent legal counsel. OFCO expects to issue a report on the Wenatchee investigation with findings and recommendations in late 1998.

Basis for Interventions and Systemic Investigations

OFCO's decisions to intervene in or investigate a case are grounded in its unique role as an independent voice for children and families. Consistent with this role, OFCO acts only on those complaints in which the well-being or interests of children or families appear to be in jeopardy. Moreover, irrespective of the particular outcome sought by the complainant, OFCO's interventions are aimed at preventing or mitigating harm to a child or family. Its systemic investigations are aimed at addressing recurring or system-wide problems that adversely affect children's safety, well-being or permanence, or that affect appropriate family preservation or reunification.

Recommendations and Additional Issues of Concern

In addition to investigating specific complaints, OFCO is charged in statute with developing recommendations for systemic improvements in state services for children and families. Based on its investigative work during the past six months, OFCO is making five recommendations for consideration by agency officials and policy makers. In addition, based on its preliminary experience with complaints received during this time, OFCO has identified five issues of concern that will receive further review and possible investigation in 1998.

Recommendations

The recommendations below are based on OFCO's investigative work during the past six months. Note that all but the last recommendation can be achieved through administrative policy and do not necessarily require a change in state statutes.

- **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 foster placement and a professional involved in the foster child's life.
- **RECOMMENDATION #2:** The Children's Administration should provide parents, foster children age 12 and older, and citizens who have concerns or complaints with concise information that outlines their rights under the department's complaint policy and their right to contact OFCO.
- **RECOMMENDATION #3:** The Children's Administration should ensure that its Office of Constituent Relation (OCR) continues to track client complaints and should begin using this

information as a tool to improve and assure the department's quality of services. Consideration should be given to providing complaint data to the department's risk management unit.

- **RECOMMENDATION #4:** Children's Administration area managers should establish mechanisms for monitoring the volume and nature of complaints received by caseworkers and supervisors and should begin using this information to eliminate the cause of complaints. Moreover, regular client surveys should be conducted at the local office level. Local complaint and survey data should be integrated into the department's overall quality improvement and assurance activities.
- **RECOMMENDATION #5:** OFCO investigative records should be shielded by statute from court subpoena and civil discovery requests.

Additional Issues of Concern

In addition to the recommendations above, OFCO has identified several other issues of concern, which will receive further review and possible investigation in the upcoming year.

- **CONCERN #1:** Child Protective Services (CPS) often does not respond or intervene sufficiently to protect children who are at risk of chronic neglect and about whose situations it has received multiple referrals from multiple referents.
- **CONCERN #2:** Many children who are subject to a legal dependency action (an action to determine whether the child should become a dependent of the state due to alleged caretaker abuse, neglect, abandonment, or inability to care for the child) are represented by neither a guardian ad litem nor an attorney, as required by law.
- **CONCERN #3:** Many service professionals are confused about their duty to report possible child abuse and neglect under the state's mandatory reporting law which has led to the filing of tardy and incomplete reports and, in some cases, failure to make a required report.
- **CONCERN #4:** Many decisions made by the DSHS Children's Administration involving Native American children and their families appear not to be made consistent with the federal Indian Child Welfare Act (ICWA).
- **CONCERN #5:** The Children's Administration appears to provide insufficient training for foster parents who care for children with serious behavioral problems and/or special needs.



SECTION 1

ORGANIZATION, OPERATIONS, AND GOALS

THE OFFICE OF THE FAMILY AND CHILDREN OMBUDSMAN (OFCO) was established by the 1996 Legislature to ensure that government agencies respond appropriately to the needs of children in need of state protection, children residing in state care, and children and families under state supervision due to allegations or findings of child abuse or neglect. The office also is intended to promote public awareness about the child protection and welfare system, and to recommend and facilitate broad-based systemic improvements.

This section of OFCO's first annual report describes the organizational structure, general operations, and goals established for the office for the years ahead.

Mission Statement

In October 1997, OFCO adopted a mission statement, which reflects the responsibilities established for the office in its authorizing legislation (RCW 43.06A.010). The mission statement, which reads as follows, was approved by OFCO's Western Washington Advisory Committee and its Central and Eastern Washington Advisory Committee, which meet quarterly to provide policy direction for the office.

Through independent investigation, education and monitoring, the Office of the Family and Children's Ombudsman (OFCO) works to ensure that government agencies respond appropriately to the needs of:

- **Children in need of state protection;**
- **Children residing in state care; and**
- **Families and children under state supervision due to allegations or findings of child abuse or neglect.**

OFCO also promotes public awareness about the child protection and welfare system and recommends and facilitates broad-based systemic improvements.

Case Study #1

A complainant called OFCO alleging that two foster children were being endangered by their foster mother. The complainant said the foster mother permitted her boyfriend to use methamphetamine in the girls' presence, allowed the boyfriend to transport the girls in his car while he was intoxicated, and that the children were made to wait in the car outside a tavern while he was inside.

The complainant stated that the caseworker ignored this information and allowed for continued placement of the girls in the foster mother's home. When she contacted the Office of Constituent Relations (OCR) at the Department of Social and Health Services with her concern, she was told that the information had been received by the caseworker and that the placement was continuing.

The complainant also reported new information to OFCO that the foster mother had physically abused one of the girls while visiting in the home of another foster family. Finally, she reported that a different caseworker had removed two different foster children from the home already, and the complainant wondered why two were left in the home.

OFCO interviewed the second caseworker and discovered two other children had in fact been slated for placement in that home, but were never placed there because of the caseworker's suspicions about activity in that home.

As mandated by law, OFCO reported the alleged child abuse to Child Protective Services (CPS), and further advised CPS of all the other information that OFCO had learned. CPS agreed with OFCO that a complete investigation was necessary to ensure the children's safety.

Upon visiting the foster home, CPS discovered bruises on one of the girls in the foster mother's care and immediately removed both children from the home.

The Division of Licensed Resources (DLR) subsequently instituted a license review.

Case Study #2

A 10-year-old boy, who has no parents and is in foster care, was expelled from school for poking other children with a pair of tweezers. When efforts to get him re-enrolled stalled, his DSHS caseworker called OFCO to complain that school personnel were dragging their feet in finding a school with appropriate programs for the boy.

The caseworker said she had found the school district to be unresponsive to the needs of foster children simply because there was no parent to advocate for the child.

OFCO inquired into the matter and learned that several problems were blocking progress: first, there were several miscommunications; second, the school principal would not return the caseworker's calls; and third, the school psychologist was refusing to share test results with administrators or the caseworker because she believed that the tests were illegally administered because the caseworker did not have legal authority to consent to the tests on the boy's behalf.

OFCO provided information to the parties, acted as mediator, and facilitated a dialogue between the Attorney General's Office and the school district's attorney. As a result, the communications were clarified, the test results were validated, and the parties worked together to complete testing for the child (including medical testing).

A review was also conducted of the child's medication schedule, and extra support was provided to his teacher along with weekly tutoring. In short order, an educational plan was implemented in a new school providing an appropriate program for the boy.

Independence

The organizational structure and operating procedures of OFCO are designed to ensure its independence from the Department of Social and Health Services (DSHS) and other state agencies, including the Governor's Office.

OFCO is located organizationally within the Office of the Governor and the director ombudsman reports directly to the Governor. However, 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 is appointed to a three-year term, so that she does not serve at the Governor's pleasure as does a typical member of the Governor's staff. The Governor may remove the director ombudsman only for cause. OFCO is located geographically in Tukwila.

Confidentiality

OFCO is designated in statute as a "juvenile justice or care agency" which authorizes (but doesn't require) other agencies, including DSHS and its contracting agencies, the Attorney General's Office, law enforcement agencies, schools, and the courts, to release confidential records to OFCO. Consistent with the provisions of this statute, OFCO and DSHS are developing an interagency agreement in which DSHS agrees to provide OFCO with on-line access to CAMIS (Case and Management Information System) and physical access to confidential case records in the possession or control of the department.

OFCO is required to maintain the confidentiality of all confidential or privileged information that it receives as provided by federal and state law. OFCO is required to treat all matters under investigation, including the identities of service recipients, complainants, and witnesses, as confidential, except so far as disclosures may be necessary to support any recommendations resulting from an investigation. OFCO's investigative records are confidential and exempt from public disclosure requirements.

Staff and Budget

OFCO has five full-time employees and an annual budget of \$407,500 General Fund-State. OFCO's staff consists of the director ombudsman, three investigator ombudsmen, and a database administrator. OFCO submitted a 1998 supplemental budget request to fund one full-time support staff, increased travel costs, and one-time costs associated with OFCO's targeted review of the Wenatchee child sex abuse investigations.

Automated Complaint Tracking System

With the assistance of the Office of Financial Management (OFM), OFCO has developed an automated complaint tracking system. This system allows OFCO to track the following:

- Complainants (by geographical location and other characteristics).
- Subjects of complaints (by person, local office and agency).
- Complaint substance (by complained of actions and issues).
- Families and children affected by complained of actions (by various characteristics).

When fully developed, the system will also track OFCO complaint responses and the results of its interventions or investigations.

- The automated system is designed to enable OFCO to achieve the following objectives:
- Target visibility and outreach activities to geographic areas and populations underrepresented among OFCO's complainants.
- Target investigative activities on recurrent and/or systemic problems.
- Provide the Governor, legislators and agency officials with regular reports on complaint trends and patterns.
- Assess the characteristics of families and children affected by complained of actions.
- Analyze OFCO's complaint responses.
- Assess OFCO's performance.

Complaint Procedure

OFCO processes two types of complaints: (1) requests to intervene in an ongoing matter for the purpose of achieving a particular outcome, and (2) requests to investigate a matter that has already occurred.

General Complaint Intake

To request an OFCO intervention or investigation, complainants must submit a completed complaint form. However, OFCO will accept complaints by telephone or other means when OFCO determines the complaint involves imminent risk of serious harm to a child or family, or if the complainant is unable to complete the form or otherwise requires special accommodation.

OFCO informs complainants that they will be told within 15 working days of OFCO's receipt of their complaint form what, if any, action OFCO will take. Complainants are also advised that unless it is contrary to the best interests of a family or child, they must attempt to resolve their complaint directly with the agency before OFCO will act on it.

Each complaint may refer to only one subject (person, office and/or agency) and one action. Information from each complaint received is entered by an ombudsman into OFCO's automated complaint tracking system. The complained of action and complaint issues are coded consistent with OFCO's action and issues list.

Emergent Intake

When a complainant indicates that a complaint may involve imminent risk of serious harm to a child or family, the complainant is referred immediately to an ombudsman. The ombudsman collects information from the complainant and other sources sufficient to perform a risk assessment. This assessment assists the office in determining whether immediate intervention is necessary. OFCO's assessment is designed to evaluate the likelihood, seriousness and imminence of physical or emotional harm to a child or the child's parents that may result from an agency's alleged act or omission. OFCO's assessment is therefore different from that undertaken by DSHS Child Protective Services (CPS) which utilizes a specialized tool for assessing risk of child abuse and neglect.

If the ombudsman determines the risk to be clearly non-imminent, then he or she advises complainants that they must complete a complaint form and one is immediately sent. If the ombudsman determines the risk to be imminent, potentially imminent, or unclear, then he or she staffs the case with the director ombudsman and together they make a formal risk designation. If the risk designation is moderate or high, then OFCO will intervene immediately for the purpose of preventing or mitigating the harm.

The ombudsman then enters the complaint information into the tracking system and provides a case overview and status report at the next weekly team review meeting.

Non-Emergent Intake

The director ombudsman reviews every incoming complaint form and assigns each to a lead ombudsman. The lead ombudsman enters the complaint information into the tracking system and prepares the complaint for team review on a specified date. If, at any point, the director ombudsman or lead ombudsman determine that the complaint appears to involve risk of imminent harm, it is handled on an emergent basis as described above.

In preparation for the team review, the lead ombudsman conducts a preliminary investigation that may include contacting the complainant and other witnesses, reviewing documents, accessing CAMIS and/or contacting agency personnel. The lead ombudsman also completes a checklist and distributes it among the other ombudsman for review in advance of the team review meeting.

Team Reviews

Team review meetings are held weekly for the purpose of reviewing new complaints and providing updates on matters in which OFCO has intervened. New complaints are presented to the team in these meetings by the lead ombudsman, who also provides a preliminary risk designation, the results of his or her preliminary investigation and a recommendation on how OFCO should respond. After discussing these issues, the team collectively designates the risk level and decides what OFCO's response will be. These reviews are strengthened by the team's diverse backgrounds, experiences, and perspectives. When necessary, the team may also consult on an issue or case with outside experts.

OFCO Response

After reviewing a complaint, the team may decide to do one or more of the following:

- 1. Defer deciding on whether or how to respond pending further inquiry.**
- 2. Intervene to prevent or mitigate possible harm by:**
 - Informally contacting DSHS or another agency to inquire about the alleged act or omission, provide information, express concerns, explore other possible responses by the agency, and/or to advise the agency that OFCO is monitoring the situation.
 - Helping to mediate a resolution.
 - Presenting DSHS or another agency with a formal recommendation on how it should proceed in the matter.
- 3. Accept the request to investigate a matter because it:**

- Represents a recurrent problem associated with a particular person, office or agency that adversely affects children's safety, well-being and permanence or appropriate family preservation or reunification.
- Potentially raises a system-wide issue that adversely affects child safety, well-being or permanence or appropriate family preservation or reunification.

4. Decline to intervene because:

- The complained of action doesn't raise a clear risk of harm to a child or family.
- OFCO can't achieve the outcome requested by the complainant (e.g., restoration of parental rights).
- The issue was resolved during OFCO's review of the complaint.
- The complaint is too vague.

5. Decline the request to investigate because the matter doesn't meet the criteria set forth above and/or the requested investigation is not feasible. However, OFCO may elect to investigate the matter in the future if it later appears the matter represents a recurring or system-wide problem.

6. Designate the complaint as non-OFCO because it doesn't involve a:

- Child in need of state protection due to risk of abuse or neglect.
- Child residing in a state institution or state-operated or -licensed facility.
- Family or child under state supervision due to allegations or findings of child abuse or neglect.

In these non-OFCO cases, OFCO attempts to provide the complainant with a referral to the appropriate agency to handle their complaint.

Systemic Investigations

OFCO's systemic investigations are aimed at identifying and addressing underlying causes of recurrent or system-wide problems that adversely affect children and families. Systemic investigations are conducted by ombudsmen and may consist of independent research, surveys, and investigations of specific cases. OFCO's investigations of specific cases generally consist of independent case record reviews and interviews. At the end of a systemic investigation, OFCO develops findings and conclusions. These may be shared with a group of experts and community members convened to assist the office in developing recommendations. When finalized, OFCO's findings, conclusions and recommendations are included in a public report.

In light of OFCO's limited resources, it is not possible to address all of the recurrent or system-wide problems that adversely affect children and families. Accordingly, OFCO is developing criteria that will enable it to target its investigative activities by helping it to prioritize among recurrent or system-wide problems. In developing the investigative criteria, OFCO will seek input from its advisory committees, a children's advisory panel, the legislative children's oversight committee, the Governor's Office, and others.

Results

OFCO determines the results of its actions by tracking whether or not there was a change in the agency's position following an OFCO intervention or systemic investigation. Where there was no change in the agency's position after OFCO intervened, OFCO distinguishes between those in which the agency's action appeared to be appropriate, and those cases in which the agency's action appeared to be consistent with current law/policy, but where the result was problematic.

OFCO Advisory Committees

OFCO's Western Washington and Central and Eastern Washington Advisory Committees are made up of diverse individuals with expertise and/or direct experience in child protection and 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 their geographic, racial and ethnic and/or professional communities and OFCO. Through this role, they provide OFCO with ongoing input on community needs, expectations and criteria for success. Second, members serve as informal consultants whom OFCO may call upon for direction on how to approach a specific case or issue and for input in developing recommendations for statutory or administrative changes. Finally, committee members are responsible for helping OFCO develop its yearly vision statement, goals, and strategies.

Vision Statements

In consultation with its advisory committees, OFCO has established vision statements for each of the next two years, reflecting the continuing development of the Office and its role in Washington State. These vision statements form the basis for establishing specific Office goals.

1998 VISION STATEMENT

By December 1998, the Office of the Family and Children's Ombudsman (OFCO) will be seen as an effective, accessible and credible organization by diverse communities statewide and by agency officials and state policy makers who respond to OFCO's findings and recommendations.

1999 VISION STATEMENT (DRAFT)

By December 1999, the Office of the Family and Children's Ombudsman (OFCO) has demonstrated success in pursuing its mission which has resulted in increased confidence in the performance and accountability of the child protection and welfare system.

Goals for 1998

The following four goals are intended to help OFCO realize its vision statement for 1998. The goals are accompanied by strategies for achieving them.

GOAL #1: Establish internal operations and external activities that support OFCO's commitment to being responsive to clients' needs and to performing its work effectively and efficiently.

- Establish the expectation and carefully train staff to be highly attentive and responsive to clients' needs and concerns.
- Establish clear policies and procedures for processing complaints, and inform clients on these up-front.

- Develop a database that allows the office to track complainants and complaint trends and patterns and that also includes case management capability.
- Develop criteria for prioritizing the recurrent and/or systemic issues affecting families and children that OFCO should address.
- Require full-time investigative staff to complete a certified investigator training program.
- Invite an external ombudsman to review and evaluate OFCO's internal operations.
- Solicit continuous client feedback on OFCO's responsiveness and performance.
- Maintain advisory committees to provide OFCO with input on community needs, expectations and criteria for success.
- Establish a children's advisory panel to include children who are or have been in the foster care system to provide input on their needs, expectations and criteria for success.

GOAL #2: Establish a statewide presence through public education and awareness activities.

- Establish regular contact with community leaders and organizations across the state, with special emphasis on face-to-face meetings in central and eastern Washington.
- Use advisory committee members to promote awareness of OFCO in their communities.
- Use advisory committees help identify and recruit local volunteers to serve on OFCO's speaker's bureau.
- Actively seek opportunities to promote OFCO through state and local media.
- Ensure that OFCO informational materials are widely available to the general public and thoroughly disseminated among "players" in the system.
- Ensure visibility at statewide conferences and other events.

GOAL #3: Establish trust and credibility among diverse communities across the state.

- Ensure that OFCO is sensitive to all forms of diversity - race, ethnicity, language, religion, culture, economic status, etc.
- Identify communities that are traditionally hard to reach or feel disenfranchised and develop outreach strategies.
- Develop strong relationships with Tribal governments.

GOAL #4: Establish regular lines of communication with agency officials and state policy makers and provide them with objective and credible information.

- Establish regular meetings with the Governor, top agency officials, and members of the legislative children's oversight committee.



SECTION 2

INQUIRY AND COMPLAINT SUMMARY

A CENTRAL FUNCTION of the Office of the Family and Children's Ombudsman (OFCO) is to assure that government agencies fulfill their obligations to children and families in an appropriate and timely manner. Because the state's response to children in need of protection and to families who are the subject of allegations or findings of child abuse or neglect is so critical, OFCO dedicates most of its efforts toward activities that result in a state agency's direct and immediate response to their needs. This section provides a summary of OFCO's activities from June 17 to December 1, 1997. It describes those who initiated contact with OFCO, children affected by an agency's act or omission, the nature of complaints received, and OFCO's efforts to assist children and families through case-specific interventions and systemic investigations.

Initial Contacts

OFCO received 152 contacts during the reporting period, the majority (84 percent) by telephone. Of the 152 contacts, 73 percent were:

- Requests for information on laws, policies, or procedures affecting children in need of state protection, children who reside in state facilities, or families and children under state supervision due to allegations or findings of child abuse or neglect;
- Inquiries about OFCO and how to access services; or
- Requests for complaint forms.

The remaining 27 percent of contacts were either:

- Complaints requesting either an intervention or investigation (19 percent of all contacts); or
- Inquiries regarding issues outside OFCO's jurisdiction (8 percent).

OFCO responded directly to inquiries and complaints and referred all non-related inquiries to other agencies. Significantly, complaints requesting an intervention or investigation arrived at the rate of about one per day. These complaints provide the mechanism through which OFCO is able to identify children and families at risk of harm and in need of assistance due to an agency's act or omission, and to pinpoint recurring and systemic problems that adversely affect children and families. The following chart shows OFCO's screening process.

Case Study #3

Three young foster children were returned to their mother after 32 months in the same foster home. Within two months, the mother began to abuse drugs again, and the children were returned to their foster mother, who had an unblemished 23-year record as a foster parent and wished to adopt the children if they became available.

However, during the two months the DSHS Division of Licensed Resources (DLR) had determined that the foster mother should only be licensed for one child, not three, due to the number of other children residing in her home.

Although the renewed license for this foster parent was so restricted, the children's caseworker returned the children to the foster mother under a waiver she wrote with her supervisor's approval, which - if approved by DLR - would permit the children to remain in their long-time placement despite the restriction.

However, the DLR licenser refused the waiver, and his supervisor concurred.

Because a change in placement was imminent, OFCO responded immediately to the complaint it received, and an investigation quickly ensued. Following the investigation, OFCO suggested that DLR re-evaluate its refusal in light of the clear harm that would result from not allowing the children to remain in their long-time, stable foster home and the lack of any identified risk of harm resulting from their continued placement there. However, DLR continued to refuse the waiver.

Strongly believing that DLR's decision was harmful to the children's best interests, OFCO contacted the director of DLR, and formally recommended that the children be allowed to remain in their current placement.

The DLR director inquired into the matter and granted the waiver with the approval of the Assistant Secretary for the Children's Administration.

Case Study #4

A 14-year-old foster child called OFCO to complain that the DSHS Division of Children and Family Services (DCFS) was not providing enough counseling and other services to her and her mother under the terms of a voluntary foster placement agreement.

She wanted to be reunited with her mother, but understood that counseling was necessary before that could safely occur.

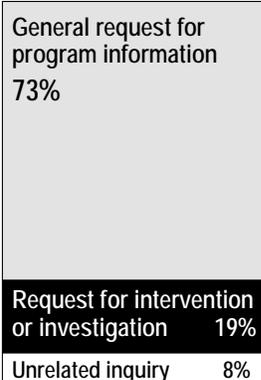
The girl told OFCO she felt her caseworker was not listening to her or seriously considering her request for increased services.

OFCO contacted the caseworker and supervisor to advise them of the girl's frustration and suggest that services be increased as she had requested. As a result, the caseworker became more attentive to the girl and reunification services were increased.

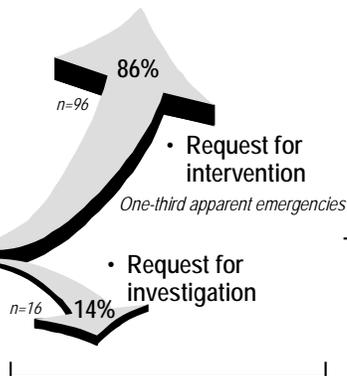
OFCO's Screening Process

OFCO Contacts

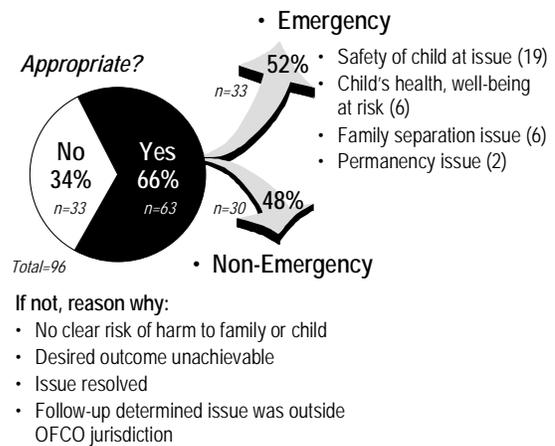
TOTAL = 582 (84% by telephone)



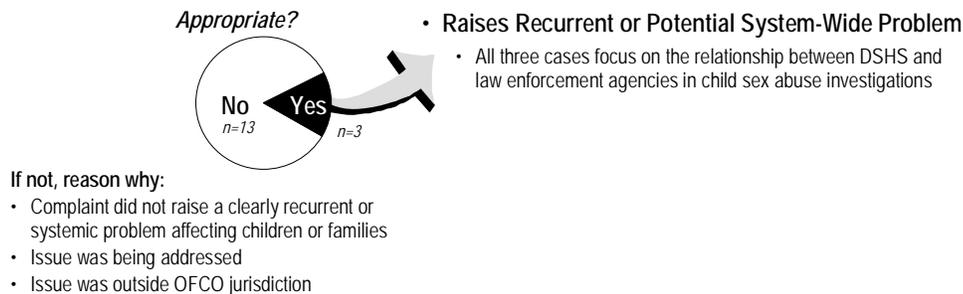
One in five contacts results in assistance



Decision to Intervene



Decision to Investigate



Office of Family and Children's Ombudsman

January 1998

Source of Complaints

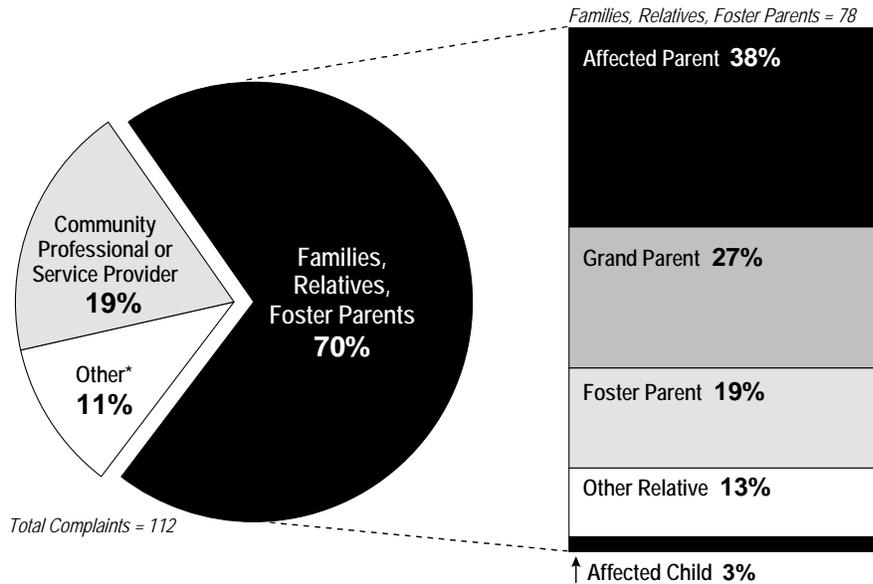
Complaints arriving at OFCO were made mostly by parents who were directly affected by an agency's act or omission, or by family, relatives, or foster parents. Contacts made by community professionals or service providers accounted for 19 percent of complaints.

Complaints were evenly balanced with the state population as a whole; 78 percent of the state's population resides in western Washington, and - coincidentally - 78 percent of the contacts were from western regions. All of those contacting OFCO spoke English as their primary language.

The profile of OFCO's clientele is provided in the following tables and charts.

Persons Who Contacted OFCO

June 17 to December 1, 1997



*Other includes friend, neighbor, DSHS employee, concerned citizen, CASA/Guardian ad Litem.

Office of Family and Children's Ombudsman

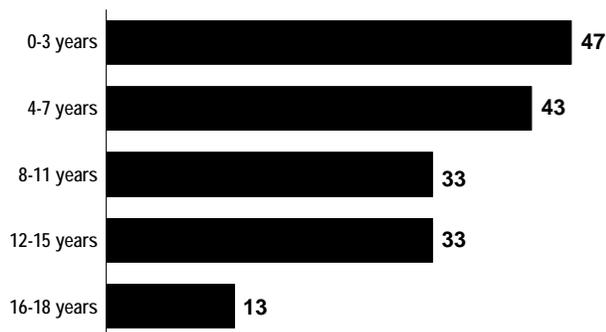
January 1998

Affected Children

Complaints received by OFCO involved 176 children. Children were typically young, over half were age seven or younger. About one child in four was from an ethnic or racial minority group. One in four also had some type of physical, mental, developmental, and/or other disability.

Number of Children by Age Group

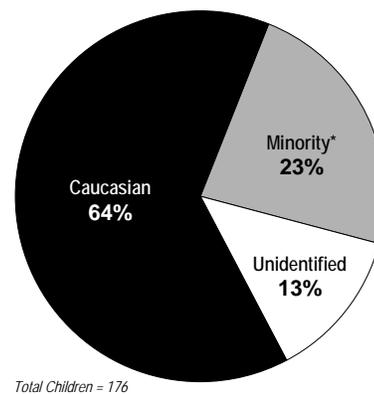
June 17 to December 1, 1997



TOTAL = 176 (7 unknown)

Race, Ethnicity of Children

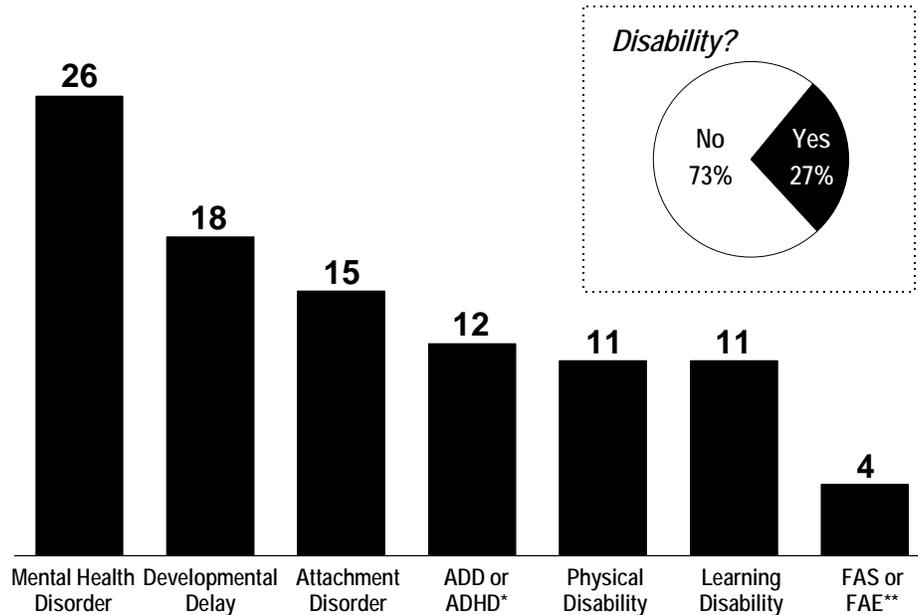
June 17 to December 1, 1997



* African American (16), Native American (10), Asian American (7), or Hispanic (7). Office of the Family and Children's Ombudsman January 1998

Types of Disabilities Among Children

Total Children = 176, Disabled = 47 (NOTE: Some children had multiple disabilities)



*ADD = Attention Deficit Disorder, ADHD = Attention Deficit Hyperactive Disorder **FAS = Fetal Alcohol Syndrome, FAE = Fetal Alcohol Effect

Office of the Family and Children's Ombudsman

January 1998

Issues Identified by Those Who Contacted OFCO

The most frequently identified complaint issue regarded child protection and safety; the next most frequent complaint issue was of unnecessary family separation and failure to reunify, followed by issues relating to children's foster placements.

Frequently Identified Issues

Number of complaints that raised the issue*

Issue	Number of complaints that raised the issue*
Child Protection and Safety	36
Child in need of protection due to suspected sexual abuse	10
Child in need of protection due to suspected physical abuse	8
Child safety at risk due to recommendation to return home	8
Child in need of protection due to suspected neglect	6
Foster child at risk of abuse or neglect	4
Family Separation and Reunification	35
Child unnecessarily removed from the home	14
Child not placed with a relative	9
Failure to provide appropriate family-child contact	6
Failure to make reasonable efforts to reunify family	6
Foster Placement Issues	20
Child's foster placement changed unnecessarily	11
Child's medical, dental, mental health needs not met	9
Adoption Issues	9
Foster parent adoption	5
Relative adoption	4

*Some complaints raised more than one issue.

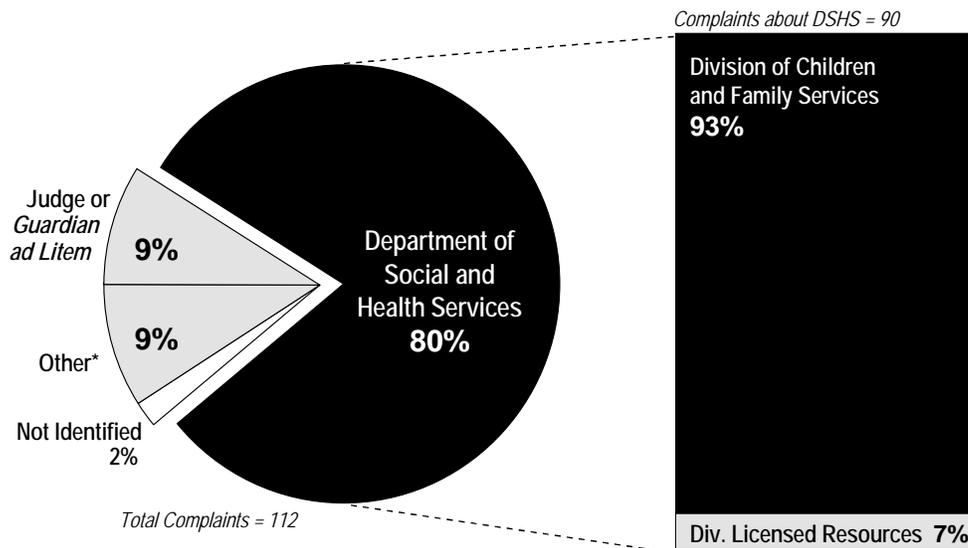
Complainants most frequently alleged agency conduct that was lawfully within the agency's discretion, but which, if true, had resulted in a harmful outcome. However, many complainants alleged conduct which, if true, constituted a violation of law or policy.

Allegations

	Number of complaints that made the allegation
Alleged Harmful Outcomes	48
Agency act, decision, or recommendation was consistent with law, policy or procedure, but led to harmful result	25
Agency conducted an inadequate or incomplete investigation	12
Agency failed to investigate a child abuse or neglect referral	6
Agency act, decision, or recommendation was allegedly too slow	5
Alleged Conduct Violations	36
Agency act, decision, or recommendation was contrary to law, policy or procedure	19
Agency failed to act, decide or recommend as required by law, policy or procedure	13
Agency's investigation was contrary to law, policy or procedure	4
Other Acts or Omissions	17
Non-OFCO Agency Actions	11

Where Complaints Were Directed

June 17 to December 1, 1997



* Other includes school administrator, attorney, county juvenile detention official, private agency.

DSHS Complaints by Region, Office

The Department of Social and Health Services (DSHS) was the subject of 80 percent of complaints received by OFCO. Of these, the vast majority, 93 percent, were directed at the Division of Children and Family Services (DCFS, which includes Child Protective Services), while seven percent were directed at the newly established Division of Licensed Resources (DLR). The information below shows the distribution of complaints across the state.

Children's Administration Headquarters	1	Region 4	25
Region 1	22	King South DCFS	8
Spokane DCFS	10	King Eastside DCFS	1
Wenatchee DCFS	8	Seattle Central DCFS	10
Moses Lake DCFS	3	Seattle South DCFS	1
Spokane DLR	1	Seattle North DCFS	3
Region 2	6	Seattle Central DLR	1
Tri-Cities DCFS	3	Seattle North DLR	1
Yakima DCFS	2	Region 5	12
Yakima DLR	1	Tacoma DCFS	8
Region 3	14	Kitsap DCFS	3
Everett DCFS	3	Tacoma DLR	1
Sky Valley DCFS	3	Region 6	10
Lynnwood DCFS	3	Kelso DCFS	3
Bellingham DCFS	2	Centralia DCFS	2
Smokey Point DCFS	1	Olympia DCFS	2
Mt. Vernon DCFS	1	Vancouver DCFS	2
Everett DLR	1	Aberdeen DCFS	1
		TOTAL COMPLAINTS	90

DCFS = Division of Children and Family Services
DLR = Division of Licensed Resources

DSHS Regions



OFCO's Response

OFCO's decisions to intervene in or investigate a case are grounded in its unique role as an independent voice for children and families. Consistent with this role, OFCO acts only on those complaints in which the well-being or interests of children or families appear to be in jeopardy. Moreover, irrespective of the particular outcome sought by the complainant, OFCO's interventions are aimed at preventing or mitigating harm to a child or family. Its investigations are aimed at addressing recurring or system-wide problems that adversely affect children's safety, well-being or permanence, or that affect appropriate family preservation or reunification.

Interventions

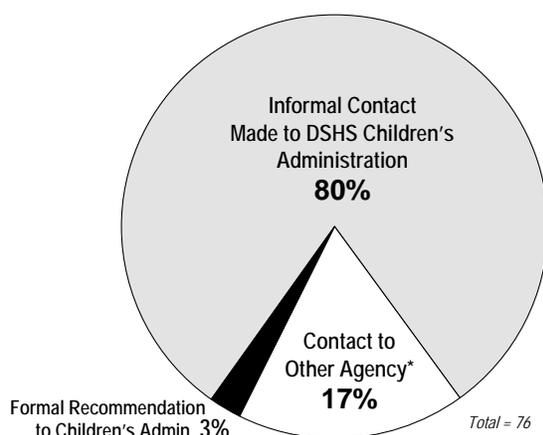
OFCO intervened in 63 cases for the purpose of preventing or mitigating possible harm resulting from an agency's act or omission. Slightly over half of OFCO's interventions were conducted on an emergent basis, where there was reason to believe that children or families might be in imminent peril without immediate action. Most interventions consisted of OFCO informally contacting an agency front-line worker or supervisor to inquire about the alleged act or omission, provide information, express concerns, explore other possible responses by the agency, and/or advise the agency that OFCO is monitoring the situation.

OFCO found it necessary to issue a formal recommendation to DSHS Children's Administration in two cases. These included:

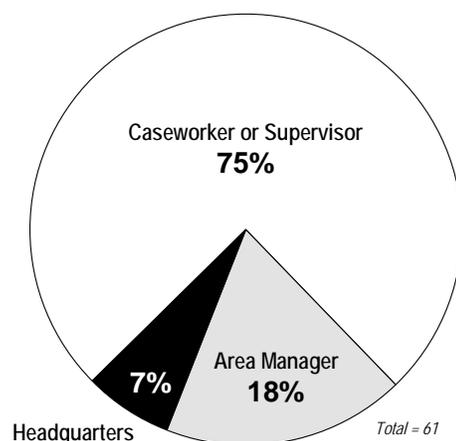
- A recommendation to an area manager that CPS conduct face-to-face interviews with children who were possible abuse victims.
- A recommendation to an area manager that the department reconvene a community child protection team to ensure child safety issues are thoroughly addressed before the department recommends dismissal of dependency petition.

OFCO Intervention Type

Categories not mutually exclusive



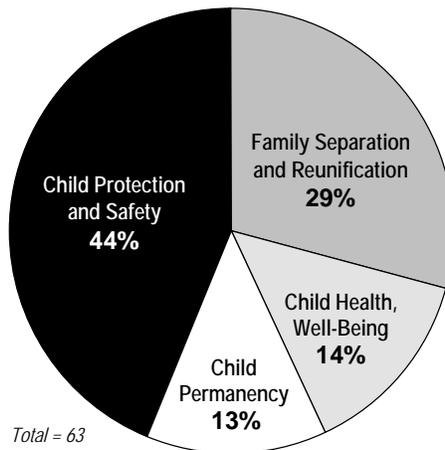
Highest Level of DSHS Contact



* Court Appointed Special Advocate, Guardian ad Litem, Assistant Attorney General, local law enforcement, hospital, public school administrator.

Issues that Prompted an Intervention

June 17 to December 1, 1997



Office of the Family and Children's Ombudsman

January 1998

Results of Interventions

Although OFCO does not have authority to impose its recommendations directly on an agency, OFCO's interventions resulted in an agency changing its position to address OFCO's concerns in 26, or 53 percent, of the 49 cases that were closed as of December 1. Over half of the issues OFCO gets involved in result in changes in an agency's position.

Some changes - including new or more thorough investigations by CPS, police child welfare checks, increased family monitoring and support services, and appointment of attorneys or *guardians ad litem* - have resulted in greater protection for children. Other changes, which have resulted in greater responsiveness to the needs of families, include allowances for appropriate parental visitation, provision of family reunification services and change in a child's foster placement to provide closer proximity to the child's mother.

In addition, OFCO helped to facilitate reversals of decisions to move children from long-standing foster placements, re-enrollment and development of an appropriate educational plan for a foster child who had been expelled from school, and finalized adoptions of legally-free children. These actions have resulted in greater child well-being and permanence.

In the 23 instances where the agency did not change its position, OFCO concluded that the agency's initial position was appropriate in 18 cases, and in five cases the agency's position was consistent with existing law or policy, but the result was nevertheless problematic.

Declines

In cases where OFCO declined an intervention, it was because OFCO found:

- No clear evidence that a family or child was at risk of harm (12 cases);
- Follow-up determined issue was outside OFCO jurisdiction (9 cases);
- OFCO could not achieve the requested outcome (6 cases);
- The issue was either too vague, or was resolved (6 cases).

Investigations

OFCO received 16 complaints requesting it to investigate a matter that had already occurred. Of these, 13 requests were included as part of the Wenatchee petition. The petition - submitted to OFCO by a coalition of defense attorneys, social service organizations and concerned citizens - requested an investigation of the actions taken by the Department of Social and Health Services (DSHS) during the 1994-95 Wenatchee child sex abuse investigations. In October 1997, OFCO accepted for investigation three of the Wenatchee-related complaints, because OFCO decided they indicated a possible system-wide problem of DSHS establishing an inappropriate relationship with law enforcement agencies during child sexual abuse investigations.

The three complaints accepted for investigation allege that the DSHS Division of Children and Family Services (DCFS) inappropriately assisted law enforcement agencies in:

- Conducting and failing to document its own child interviews.
- Participating in and failing to document joint child interviews with law enforcement officials.
- Making certain mental health treatment decisions, including decisions to place children in psychiatric hospitals.

After announcing it would conduct a targeted review of the Wenatchee investigations for the purpose of evaluating the need for new statewide policies and protocols designed to protect children, OFCO submitted a supplemental budget request for one-time investigation costs and requested the appointment of independent legal counsel. OFCO expects to issue a report with findings and recommendations in late 1998.



SECTION 3

RECOMMENDATIONS AND CONCERNS

IN ADDITION to investigating specific complaints, OFCO is charged in statute with developing recommendations for systemic improvements in state services for children and families. Based on its investigative work during the past six months, OFCO is making five recommendations for consideration by agency officials and policy makers and has also identified several additional concerns for further review.

Recommendations

The five recommendations below are based on OFCO's investigative work during the past six months. Note that all but the last recommendation can be achieved through administrative policy and do not necessarily require a change in state statutes.

Placement Resource Conflict of Interest Policy

RECOMMENDATION #1: The Children's Administration within the Department of Social and Health Services (DSHS) 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 should be overcome should be determined solely by the child's best interests. In determining the child's best interest, it would be appropriate for the Department to consider the person's willingness to participate in a plan that addresses and sufficiently mitigates the potential harm the conflict may cause. 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 reviewing the Department's actions during the 1994-95 Wenatchee child sex abuse investigation, OFCO found the placement of two girls in the home of the police detective who was investigating sexual abuse allegations against their parents 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, with 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.

DISCUSSION: This recommendation is intended to ensure that the Department's placement recommendations are consistent with children's best interest. It does so by defining and discouraging inappropriate placements. This recommendation is in no way intended to limit the range of appropriate placement options for children. It does not constitute an absolute prohibition against departmental recommendations in favor of professionals who are involved with children needing placement (i.e., the Department could still recommend a school teacher as a placement resource for a child in his or her class). This recommendation simply aims to ensure that conflicts are identified and addressed in a way that ensures the Department is acting in the best interests of children.

Client and Citizen Complaints

RECOMMENDATION #2: The DSHS Children's Administration should provide parents with whom Child Protective Services (CPS) comes into contact 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 and/or alternative strategies for advising them on their rights and what they can expect while in foster care. Parents should receive this information at the time of initial contact with CPS and children should receive it when they enter an out-of-home placement. 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. This information should be provided by departmental employees whenever they are contacted with a concern or complaint.

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 assure that clients are informed 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. OFCO recently conducted a phone survey of selected OFCO complainants and local Department managers to assess the Children's Administration complaint policy. Selected complainants included parents, children, relatives, and concerned citizens. The survey was responded to by 20 complainants and 21 of 22 area managers in the Division of Children and Family Services (DCFS). The survey revealed that complainants are rarely provided with the Department's written complaint policy and that, until complainants learned otherwise 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.

DSHS's written complaint policy provides complainants with the right to pursue their complaint up the Department's chain of command. Specifically, complainants have the right to: (1) have their complaint reviewed and responded to within a specified time period by a supervisor, area

manager, and regional administrator; (2) file a complaint with the Office of Constituent Relations (OCR) in Olympia; and (3) request a panel review of their complaint.

OFCO's survey findings include the following:

- Local offices rarely provide complainants with the Department's written complaint policy, although some offices make the policy and a complaint form available in reception areas. Other offices provide the policy upon request. The informal practice in most offices is to advise complainants that they may contact a supervisor.
- Most managers agreed that caseworkers in their area receive no formal or regular training on the complaint policy. Supervisors may periodically review the policy with caseworkers at unit meetings, but most caseworkers learn about the policy informally while on the job. Noting the high turnover among caseworker staff, one manager acknowledged that new caseworkers often don't know about the policy.
- All area managers agreed that panel reviews have been convened only rarely in recent years.
- Sixteen of 20 complainants did not know about the Department's complaint policy. Of the four who were aware of the policy, three had been advised of it by an entity other than the Department.
- Eight complainants knew to contact a supervisor with their complaint. Of these, four knew about the policy, while four knew to do so because they had been told by a caseworker or because doing so was "common sense."
- Eleven complainants knew to contact OCR with their complaint. Of these, six were advised of the option to do so by an entity other than the Department.
- Four complainants who knew about the policy knew to contact an area manager or regional administrator with their complaint. Of these, three had been advised of the policy by an entity other than the Department.
- All complainants agreed the Department should provide complainants with notice of the policy. One complainant noted that unless clients are notified of their right to pursue a complaint up the chain of command, caseworkers and supervisors have all the power. Another stated that because citizens aren't given adequate information, those with legitimate complaints don't know where to go. He added that he was a police officer for 20 years, but was still "stumped" on how to pursue his complaint with the Department.

DISCUSSION: This recommendation is intended to give effect to the statutory mandate requiring the Department to ensure that clients are informed of its complaint resolution policy and how to access it. It is also intended to promote children's safety, well-being and permanency and parents' fair treatment by ensuring that parents, children, relatives and others in the community know they can take their concerns or grievances up the Department's chain of command and, if necessary, to OFCO. Providing parents and children with notice of the Department's policy and information about OFCO will help reduce the power imbalance in their relationship with front-line workers. Providing notice to relatives, community professionals, service providers and concerned citizens will help reduce their frustration by making the process clear and eliminating the need to "call around" in order to figure out how to pursue their complaint.

Complaint Tracking and Client Satisfaction

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 semiannual reports containing this data to the Legislature. Although the Department has produced the required reports, OFCO has found that it has not ever used this or other complaint data to help identify and eliminate the cause of complaints. Now the Department is proposing legislation that would eliminate the mandate to submit the semiannual reports to the Legislature.

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 CPS 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.

DISCUSSION: Whether or not the legislative report mandate is eliminated, the Department should continue tracking the volume and nature of complaints received by OCR. The Department should also begin using OCR complaint data as part of its ongoing quality improvement and quality assurance activities. Client feedback is a vital part of the information system for continuous improvement. Complaints provide the broadest evaluation of a service and help identify system failures. The strength of complaint information is due to it being direct, unfiltered feedback from the people who are using the service and who are directly affected by the system. Although OFCO also tracks complaints against DSHS, it is the Department's responsibility to track client complaint information on its own as part of its internal quality improvement and quality assurance systems. It is OFCO's role to independently track complaints against DSHS to help identify when the Department's quality assurance system has broken down.

In light of the Department's increased scope of liability in recent years, it should consider providing complaint data to the risk management unit to help identify and avoid potential tort litigation.

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.

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 (the Department's semiannual report to the Legislature does not include complaint data from local offices). Moreover, OFCO found that most area managers do not monitor the volume, type, or resolution of complaints that do not reach their level.

While acknowledging they don't monitor how front-line caseworkers and supervisors process complaints, most area managers stated the vast majority of complaints received by front-line staff are resolved there. One area manager said she had received only one complaint in the past six months. Another 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.

In addition, OFCO has found that the Department last conducted a 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." In its area manager survey, OFCO found that few, if any, client surveys have been conducted since 1995.

DISCUSSION: This recommendation is intended to reduce the number of recurring complaints in local offices by ensuring that their underlying causes are identified and addressed. In addition to working to resolve complaints that arise to their level, area managers should play an active role in ensuring that local offices are responding appropriately to complaints and are using complaint information to eliminate their cause. Client surveys are a vital tool that Department managers should begin using regularly to identify problems and assess performance at the local office level. Local complaint and survey data should be integrated into the Department's overall quality improvement and assurance activities.

OFCO Shield Law

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.

DISCUSSION: There are several reasons why OFCO's investigative records should be shielded. First, the ombudsman function fulfills all four of the traditional criteria for protected, or privileged, communication: (1) the communication to the ombudsman originates in the belief it will not be disclosed; (2) the inviolability of that confidence is essential to achieve the purpose of the relationship; (3) the relationship is one society should foster; and (4) the expected injury to the relationship due to fear of later disclosures is greater than the expected benefit to justice in obtaining evidence later. In addition, OFCO's offer of confidentiality encourages individuals to

come forward and report problems they would otherwise be reluctant to reveal for fear of retaliation or retribution. Moreover, the public's confidence in OFCO's impartiality could be jeopardized if it were drawn into adversarial processes. Further, because OFCO is not a direct participant in the litigation, it not necessary to achieving justice; information is discoverable from sources with direct knowledge. Finally, each attempt to resist the subpoenaing of records or testimony would cost time and money and disrupt OFCO's ability to conduct its work.

Additional Issues of Concern

In addition to the recommendations above, OFCO has identified several other issues of concern, which will receive further review and possible investigation in the upcoming year.

- **CONCERN #1:** Child Protective Services (CPS) often does not respond or intervene sufficiently to protect children who are at risk of chronic neglect and about whose situations its has received multiple referrals from multiple referents. Children who are the victims of chronic neglect often suffer serious long-term effects, including delayed growth, increased illness, attachment problems, and neurological impairments. Chronic neglect also places children at greater risk of injury and death from preventable accidents.
- **CONCERN #2:** Many children who are subject to a legal dependency action (an action to determine whether the child should become a dependent of the state due to alleged caretaker abuse, neglect, abandonment, or inability to care for the child) are represented by neither a guardian ad litem nor an attorney, as required by RCW 13.34.100. Children who are denied representation are left without a voice in court proceedings whose decisions may dramatically affect their lives. Moreover, the court is left to proceed with incomplete information in deciding whether the department's placement, service, treatment, and permanency recommendations are in the child's best interest and/or, if the child is 12 or older, consistent with his or her wishes.
- **CONCERN #3:** There appears to be confusion among service professionals about their duty to report possible child abuse and neglect under the state's mandatory reporting law, RCW 26.44.030. This confusion has led to the filing of tardy and incomplete reports and, in some cases, had led to the failure to make a required report. The failure to report and the filing of delayed or incomplete reports could seriously undermine the state's efforts to protect children.
- **CONCERN #4:** Many decisions made by the DSHS Children's Administration involving Native American children and their families appear not to be made consistent with the federal Indian Child Welfare Act (ICWA). Through ICWA, Congress intended to end a nationwide history of family and cultural breakdown caused by the unwarranted removal of Native American children from their families and subsequent placement in culturally inappropriate homes. Non-compliance with ICWA may place Native American children at risk of emotional and social problems and injure Native American families.
- **CONCERN #5:** The Children's Administration appears to provide insufficient training for foster parents who care for children with serious behavioral problems and/or special needs. The lack of appropriate training for foster parents who care for these children undermines the state's ability to ensure their safety, health and well-being while in foster care.

ATTACHMENTS

PRESS RELEASE

LOCKE ANNOUNCES FAMILY AND CHILDREN'S OMBUDSMAN OFFICE OPENS
JULY 17, 1997

PRESS RELEASE

INDEPENDENT OMBUDSMAN'S OFFICE TO CONDUCT TARGETED REVIEW
OF WENATCHEE CHILD SEX ABUSE INVESTIGATIONS
OCTOBER 23, 1997

BIOGRAPHIES

WESTERN WASHINGTON ADVISORY COMMITTEE

BIOGRAPHIES

CENTRAL AND EASTERN WASHINGTON ADVISORY COMMITTEE

BIOGRAPHIES

OFFICE OF THE FAMILY AND CHILDREN'S OMBUDSMAN STAFF MEMBERS

TIMELINE

OFFICE OF THE FAMILY AND CHILDREN'S OMBUDSMAN ACTIVITY SUMMARY

Office of Governor Gary Locke

FOR IMMEDIATE RELEASE - June 17, 1997

Contact: Governor's Communications Office, 360-902-4136

Locke announces children and family ombudsman office opens

OLYMPIA - Gov. Gary Locke announced today that a new office designed to ensure that agencies respond to abused or neglected children in need of state protection and to better serve families under state supervision is now open for business. The Office of the Family and Children's Ombudsman was created last year to serve as a watchdog on behalf of children and families who may need state help.

The ombudsman's office is independent of the Department of Social and Health Services, which is responsible for handling many issues of child welfare and family preservation. The new office will investigate complaints alleging risk of harm to a family or child and prompt agencies to reassess their decisions in some cases.

"Families and children will be better served by having an independent voice in their corner," Locke said. "The ombudsman's office will also play a critical role in pinpointing recurring problems so new laws, policies or procedures can be created to improve assistance to children and families."

Though the ombudsman will be located administratively within the Governor's office, their work will be independent of the governor as well. Washington is now one of just six states with an independent office charged with acting on complaints about state agency services to families and children who are under state supervision due to allegations or findings of child abuse or neglect. The ombudsman's office will issue reports on the overall child welfare system.

The law creating the ombudsman was an outgrowth of previous complaints about the OK Boys Ranch and the 1995 death of 4-year-old Lauria Grace. To register a complaint with the Office of the Family and Children's Ombudsman, call (206) 439-3870 or 1-(800)-571-7321.

FOR IMMEDIATE RELEASE – OCTOBER 23, 1997

Independent Ombudsman's office to conduct targeted review of Wenatchee child sex abuse investigations

TUKWILA – The director of the independent Office of the Family and Children's Ombudsman (OFCO) announced today that her office will conduct a targeted review of the 1994-95 Wenatchee child sex abuse investigations. The review will help the office to evaluate the need for new statewide policies and protocols designed to protect children who are the focus of such investigations.

A petition was filed with the new state office when it opened in June requesting that OFCO review the actions of the state Department of Social and Health Services (DSHS) in serving Wenatchee-area children and families who were under police investigation for suspected child sexual abuse. The petition asserted that the department inappropriately assisted the police investigation in various ways.

Specifically the ombudsman's office will review how the joint law enforcement/DSHS interviews of suspected child sex abuse victims were conducted and documented by local police officials and state child protective services workers to determine whether the protocols and policies in place then and now are adequate to protect the interests and well-being of child interviewees. The office will also review mental health treatment decisions made by DSHS, including decisions to place children in psychiatric hospitals, to evaluate the need for stronger policies and protocols to ensure that mental health treatment decisions are based solely on a child's needs.

"Our independent review will focus on these specific issues because they raise potential system-wide problems that may affect the safety and well-being of children and undermine perceptions of children's credibility," said OFCO director Vickie Wallen. "Children need an investigative process that acknowledges the distinct roles of law enforcement and child protective services and ensures that children's interests are protected," she said.

In addition to reviewing these issues, Wallen stated that her office will begin working to develop recommendations for a new statewide policy to address situations where there may be a conflict between a foster parent's role as a foster parent and his or her role as a professional. The need for such a policy was highlighted in the Wenatchee investigation where the foster parent of two suspected child sex abuse victims was also the lead police investigator.

Wallen said that before making today's announcement, her office carefully reviewed The Wenatchee Report and over 3600 pages of supporting documentation provided by Report author, Kathryn Lyon. The office also reviewed several internal reviews provided by DSHS. "My staff and I have spent literally hundreds of hours reviewing the information presented to us before making the decision to proceed with a targeted review," Wallen said.

Wallen estimated that the targeted review will take several months to complete and that the final report would likely be available by mid- to late 1998. "We will fit this activity with our other responsibilities and priorities; consequently, it will take several months to complete," she said.

She also stated that she will submit a supplemental budget request to the governor and the legislature to cover anticipated costs associated with the targeted review. The office has three full-time investigators and an annual budget of \$407,500.

The petition was accompanied by letters of support from defense attorneys and an array of social service organizations, as well as by thousands of signatures of Wenatchee-area residents calling for an independent review of the investigation.

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Contact: Vickie Wallen, Office of the Family and Children's Ombudsman, 206-439-3870

OFFICE OF THE FAMILY AND CHILDREN'S OMBUDSMAN

Western Washington Advisory Committee

Corrine Anderson-Ketchmark is coordinator of the Washougal School District Learning Center/Day Treatment program. She is the past president of the Washington Association of School Social Workers, and was a child protective services caseworker in Vancouver from 1973 to 1985.

Peter Berliner is the executive director of The Children's Alliance, a state-wide children's policy advocacy organization. He also serves on the boards of the Seattle Youth Involvement Network and the National Association of Child Advocates. Prior to joining the staff of the Children's Alliance, Peter was the executive director of Youth Eastside Services in Bellevue.

Shirley Caldwell is a senior clinical consultant and trainer with Therapeutic Health Services in Seattle. Prior to her current position, she served as clinical director and supervisor at Central Area Mental Health. From 1975 through 1990, she was the senior social worker for Children's Hospital and Medical Center at the Odessa Brown Children's Clinic, where she specialized in special needs issues for families of color. Shirley was the 1995 recipient of the Governor's Child Abuse Prevention Award.

Seth Dawson is the executive director of Deaconess Children's Services. He also serves as president of the Board of Trustees for the Snohomish County YMCA and as a member of the Snohomish County Children's Commission. Prior to joining Deaconess, Seth served as the Prosecuting Attorney for Snohomish County from 1983 to 1994.

Christine Evans is a family resource coordinator for the S.W. Public Health Department, where she assists families who have young children with special needs. She is a member of the King County Parents Coalition and the parent of two children with special needs, including a child who is in a voluntary dependency. Christine lives in Renton.

Lori Garvin is the founding member of Parents Coping With CPS, an advocacy and support group for parents involved with Child Protective Services. Her group includes members from Pierce, King, Snohomish and Kitsap counties. In addition, Lori was a member of the CPS Symposium Work Group, a group convened to make recommendations to Governor Lowry following the 1996 symposium that was sponsored by the governor, the president of the senate, and the speaker of the house. Lori lives in Tacoma.

Jack Hill is the director of the Pierce County Department of Assigned Counsel which provides mandated legal services to indigent parents involved in juvenile court dependency and termination proceedings. He also serves on the Sexual Offender Treatment Provider Advisory Committee and was a member of the CPS Symposium Work Group.

Marie Jamieson is the director of the Washington Families for Kids (FFK) Initiative, a public-private-tribal partnership which seeks to reform the state's foster and adoptive care system. Prior to her work for FFK, Marie was the northwest area director for Lutheran Social Services of Washington and Idaho from 1988 to 1995. The FFK Initiative is based at Children's Home Society in Seattle.

Ruth Kagi is a public policy consultant in Seattle who serves as chair of the Washington Council for the Prevention of Child Abuse and Neglect (WCPCAN). She is also a member of the King County Children and Family Commission and board president for the Center for Human Services. Ruth served as co-chair of the Lauria Grace Independent Fatality Review Team and previously served as vice-president of the League of Women Voters of Washington.

Karil Klingbeil is the director of social work at Harborview Medical Center in Seattle. She is also an associate professor at the University of Washington's School of Social Work and a board member of Childhaven, a provider of therapeutic child care services. Karil has presented and written extensively on family violence issues.

Robert Lipke is the director of the Lummi Nation Child Protection Project in Bellingham. In this position, he acts as liaison to organizations and institutions that work in the area of Indian Child Welfare.

Lorna Mike is the chairperson of the Lower Elwah Klallam Tribe in Port Angeles.

Elizabeth Mueller is the Social Services director for the Jamestown S'Klallam Tribe in Sequim. In this position, she oversees all of the tribe's social services and activities. Elizabeth also serves as the chair of the DSHS Indian Policy Advisory Committee (IPAC).

John Neff, M.D., is the vice-president and medical director of Children's Hospital in Seattle. He also serves as a professor in the Department of Pediatrics at the University of Washington School of Medicine.

Gary Preble is a private attorney in Olympia whose practice includes representation of parents who are involved with child protective services. Gary has served on the Rules and Procedures Committee of the Washington State Bar Association, and has also served on the CPS Symposium Work Group and Governor Booth Gardner's Task Force on Foster Care.

Linda Selsor is the director of the Seattle/North King County Family Center for Catholic Community Services of King County. Prior to her current position, Linda worked for Children's Home Society as a managed care manager, the western region finance manager, and as the northwest region director of planning and operations.

Gwendolyn Townsend is executive director of One Church, One Child of Washington State. She also serves as vice-president of the Foster Parents Association of Washington State (FPAWS) and as a board member of the Pediatric Interim Care Center. Gwendolyn was recently selected by American Mothers, Inc., the official sponsor of Mother's Day, as Washington State Mother of the Year for 1997.

Louise Vecchio serves as a volunteer guardian ad litem (GAL) for Snohomish County Superior Court. Having served as a volunteer since 1991, Louise is an experienced GAL who provides training to new volunteers and also serves as a mentor.

OFFICE OF THE FAMILY AND CHILDREN'S OMBUDSMAN

Central and Eastern Washington Advisory Committee

Shayleen Allen is a staff attorney for the Spokane Tribe of Indians. In this position, she frequently works on Indian child welfare issues.

Greg Casey is a private attorney in Spokane whose practice includes representation of families who are involved in with child protective services. Greg is former president and special counsel for Western Center for Law and Religious Freedom.

Michelle Cutlip is the program coordinator for the Whitman County Court-Appointed Special Advocates (CASA) program in Colfax. Michelle has served in this position for four years. Prior to working at CASA, Michelle worked at Ogden Hall, a shelter for women and children.

Carlos Diaz is the executive director of the Washington State Migrant Council in Sunnyside. The Migrant Council is a non-profit organization that provides services for migrant farm workers and their families.

Judy Hutton is a registered nurse and public health nurse with the Northeast Tri-County Health District. She currently serves as the nursing supervisor in the Ferry County office in Republic. In this position, Judy works with families who are involved with child protective services, as well as with children with special health care needs.

Scott Mason is the supervisor of the juvenile division of the Spokane County Public Defenders. Scott's office provides mandated legal services to indigent persons involved in juvenile court dependency and termination proceedings.

Susan Mason is a mental health planner for Walla Walla County Department of Human Services. In this position, Susan assists in developing and coordinating the county's mental health services. She performs these same duties for the county's Birth to Three program which serves infants and toddlers with developmental delays or disabilities.

Sen. John Moyer is the former state senator from Washington's Third District. Since leaving the legislature in 1996, Sen. Moyer has continued working as an obstetrician in Spokane. While in the legislature, Sen. Moyer served on the Human Services and Corrections Committee and on the Health and Long-Term Care Committee.

Patty Orona is a foster parent who lives in Kennewick. She has been a foster parent for 17 years. Patty serves on the board of directors for the Foster Parents Association of Washington State (FPAWS) and also conducts training for foster parents. For over 18 years, Patty has provided direct services to families with special needs children through the DSHS Division of Developmental Disabilities.

Shannon Selland is a child care provider in Spokane. She also serves as the public policy chair for the Eastern Washington Family Child Care Association and for the Washington Association for the Education of Young Children.

Mary Ann Warren is the manager of the resource and referral program for Catholic Family and Child Service in Wenatchee. In this position, she works closely with child care providers, families and the community to promote the availability of quality child care. Mary Ann also served as president of the Washington State Child Care Resource and Referral Network.

OFFICE OF THE FAMILY AND CHILDREN'S OMBUDSMAN

Staff Members

DIRECTOR-OMBUDSMAN

Vickie Wallen is an attorney with experience as a citizen's advocate, and has also worked extensively on state policy issues affecting families and children. Prior to her appointment, Vickie served as Governor Mike Lowry's senior policy coordinator for human services. Before joining the governor's executive policy office, Vickie worked for the Washington State Court of Appeals and on the staff of the Washington Lawyer's Committee for Civil Rights Under Law in Washington, D.C., where she advocated for parents on child-care and school-related issues. Vickie is a graduate of Princeton University and received her law degree from the Washington College of Law at the American University.

OMBUDSMEN

Dennis Ichikawa is an attorney with extensive experience representing parents and some children in the dependency system. He also has experience training in the area of child welfare law. Prior to joining the Office of the Family and Children's Ombudsman (OFCO), Dennis worked in the dependency unit at the Society of Counsel Representing Accused Persons (SCRAP) in King County from 1983. In 1995, Dennis became the first Kellogg Foundation Fellow in Child Welfare Law, and spent a semester at the Child Advocacy Law Clinic at the University of Michigan Law School. He currently serves as co-chair of the Children's Justice Advisory Board and as a member of the Washington State Bar Association (WSBA) Family Law Executive Committee. Dennis is a graduate of the University of Washington and received his law degree from the Willamette University College of Law.

Jim Handley is an attorney with extensive experience representing the best interests of children in the dependency system. Prior to joining OFCO, Jim served for about two and one-half years as the attorney guardian ad litem (GAL) for the Thurston County Superior Court, where he investigated hundreds of cases while maintaining a successful private law practice. He also served for six years as a public defender in Western Montana, where his duties included representing juvenile offenders, children in dependency proceedings, and others in guardianship proceedings. Jim is a graduate of Dartmouth College and received a Masters degree in Counseling from Montana State University and his law degree from the University of Montana School of Law.

Mary Meinig is a social worker with extensive experience working with families and victims affected by sexual abuse. Prior to joining OFCO, Mary maintained a successful clinical and consulting practice that focused on issues of victimization, family reunification and family resolution. She also worked as an associate for Northwest Treatment Associates for five years where she developed a treatment protocol for reintegrating treated sex offenders into the family. Prior to her work at Northwest Treatment Associates, Mary worked as a residential unit supervisor at the Luther Child Center in Everett. She is a graduate of Central Washington State College and received her Master of Social Work degree from the University of Washington.

DATABASE ADMINISTRATOR

Susan Bauer has broad experience working with data management systems. Prior to joining OFCO, Susan worked on policy, training and compliance issues in the University of Washington's Equal Opportunity Office from 1985. During this time, she directed the development of the university's new Americans with Disabilities Act (ADA) Office.

Office of Family and Children's Ombudsman ACTIVITY SUMMARY

December 1996	<ul style="list-style-type: none"> ▪ Director Ombudsman's three-year appointment effective.
January 1997	<ul style="list-style-type: none"> ▪ Director Ombudsman begins meetings around the state with legislators, family and children's advocates, foster parents, and others regarding hopes and expectations for OFCO.
February 1997	<ul style="list-style-type: none"> ▪ Database administrator hired; furniture and equipment needs identified.
March 1997	<ul style="list-style-type: none"> ▪ Development of automated complaint tracking system begins.
April 1997	<ul style="list-style-type: none"> ▪ Western Washington Advisory Committee meets for first time in Seattle ▪ Governor's Office approves OFCO's administrative and operational autonomy. ▪ Development of internal operating policies and procedures begins. ▪ Two of three Ombudsmen hired.
May 1997	<ul style="list-style-type: none"> ▪ Third of three ombudsmen hired. ▪ Office fully furnished and equipped. ▪ Interagency protocol with DSHS/Children's Administration developed. ▪ Staff given overview on investigative planning and techniques by Washington State Patrol. ▪ Staff trained on CAMIS (DSHS case and management information system).
June 1997	<ul style="list-style-type: none"> ▪ Automated complaint tracking system operational. ▪ OFCO web page operational OFCO "Guide to Services" and complaint form produced. ▪ Operating policies and procedures finalized. ▪ Emergency rules adopted. ▪ Governor Locke announces OFCO's opening. ▪ OFCO receives Wenatchee petition. ▪ OFCO begins reviewing complaints. ▪ Community forum held in Spokane. ▪ OFCO receives 84 contacts this month.
July 1997	<ul style="list-style-type: none"> ▪ OFCO receives 96 contacts this month.
August 1997	<ul style="list-style-type: none"> ▪ OFCO receives 85 contacts this month. ▪ Western Washington Advisory Committee meets for second time in Tacoma. ▪ OFCO meets with juvenile court judges and commissioners in Seattle.
September 1997	<ul style="list-style-type: none"> ▪ OFCO receives 97 contacts this month. ▪ Permanent rules adopted. ▪ OFCO keynotes annual United Grandparents Raising Grandchildren conference in Seattle. ▪ OFCO conducts workshop at annual Foster Parents of Washington State (FPAWS) conference in Yakima. ▪ OFCO attends DSHS/Children's Administration All Supervisors Conference in Seattle. ▪ Western Washington Advisory Committee meets for third time in Olympia.

<p>October 1997</p>	<ul style="list-style-type: none"> ▪ OFCO receives 127 contacts this month. ▪ Central and Eastern Washington Advisory Committee meets for the first and second times in Spokane and Yakima, respectively. ▪ Western Washington Advisory Committee meets for fourth time in Renton. ▪ OFCO meets with Kitsap County Bar Family Law Section in Port Orchard. ▪ OFCO presents at Court Appointed Special Advocate (CASA) annual conference in Yakima. ▪ Staff trained on Children Protection Services risk assessment tool. ▪ Decision to conduct targeted review of Wenatchee child sex abuse investigations announced.
<p>November 1997</p>	<ul style="list-style-type: none"> ▪ OFCO receives 96 contacts this month. ▪ OFCO meets with Juvenile Rehabilitation Administration regarding development of interagency protocol. ▪ OFCO presents at Reasonable Efforts Symposium in Richland. ▪ OFCO presents at South West Agency on Aging/Parents Again Conference in Vancouver. ▪ OFCO makes informal visits to Juvenile Rehabilitation Administration contracted group homes in Tacoma, Seattle, Renton, Everett, and Spokane.