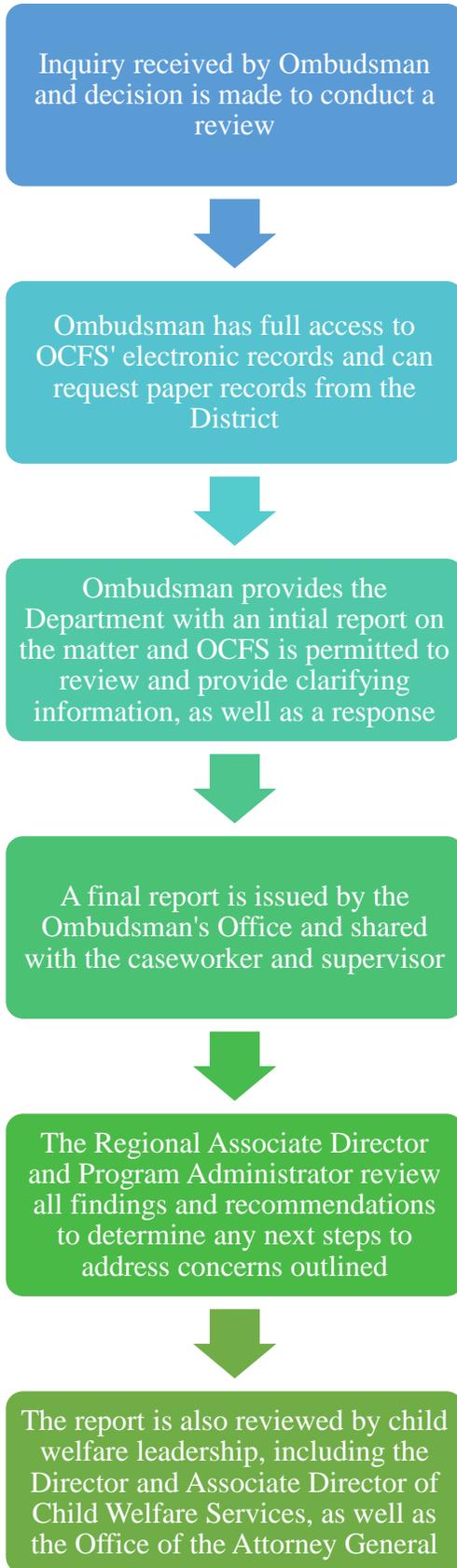




Response to the Maine Child Welfare Ombudsman's 2021 Annual Report

December 30, 2021

Maine Department of Health and Human Services
Office of Child and Family Services



The Office of Child and Family Services (OCFS) offers this response to the Maine Child Welfare Ombudsman’s annual report for fiscal year 2021. OCFS begins by thanking the Ombudsman for her careful assessment of the 84 cases reviewed this year. While OCFS staff handled nearly 12,000 investigations and child welfare cases in this time period, the information this portion of reviews has provided to the Ombudsman and the feedback that the Ombudsman has subsequently provided to OCFS has been beneficial in many ways.

OCFS thanks the Ombudsman for her acknowledgment of the pressure frontline staff have faced in the last year, often exacerbated by the COVID-19 pandemic. OCFS staff care deeply about the safety and wellbeing of children. They have dedicated themselves to careers that are tremendously challenging in many ways, and they come to work every day committed to improving the lives of those they work with.

For those unfamiliar with the Ombudsman’s relationship to the Department, the graphic to the left depicts the standard process for a case review conducted by the Ombudsman. Rather than a random sample, a case review begins with self-selected inquiries and is often complaint driven.

After a case review is complete and the initial report is received by the Department, District office staff review the information and recommendations and draft a response to the Ombudsman’s report. Child welfare leadership also reviews each report to identify themes or trends related to practice that may need to be addressed through efforts to improve policy, strengthen training, or provide additional guidance to staff.

In 2021, child welfare leadership implemented a system to track each Ombudsman report reviewed and determine whether the Department was in general agreement with the Ombudsman’s conclusion(s). This included both cases where the Ombudsman supported the Department’s actions and those where the Ombudsman was critical of the Department’s actions or had concerns about child safety. In approximately half of the cases, the Department agreed with the Ombudsman and in

those cases, where the Ombudsman disagreed with the Department’s decisions, action was taken to

address the concerns if the family still had an open investigation or case. The Department also used feedback from the Ombudsman's reports to consider wider systemic changes that may improve practice in the future.

A source of disagreement for a number of reports relates to the Ombudsman's finding or recommendation that involves bringing children into State care or keeping them in care for a longer period of time. While OCFS recognizes the perception that children are safer when removed, the evidence overwhelmingly shows that removing a child from their home has the potential to inflict harm or trauma. In addition, there is little research to support the belief that, in general, children who enter state custody are safer than they would be if they had remained in the home with efforts undertaken to address safety concerns. There are numerous scholarly articles regarding the potential harm of removal¹.

While there will always be circumstances that require removal, OCFS is dedicated to ongoing efforts to ensure children and families have the resources they need to prevent and rectify child safety concerns whenever possible. In the last year, OCFS implemented its Family First Prevention Services Plan which includes providing evidence-based prevention services to families whose children are at imminent risk of entering state custody. Implementation of this plan will allow Maine the opportunity to leverage over \$2 million a year in additional federal reimbursement for these services.

When children are removed from the home, it is OCFS' goal (in keeping with state and federal statutes) to make every attempt to reunify children and parents in a manner that ensures safety and wellbeing. In Federal Fiscal Year (FFY) 2021, 50% of all exits from state custody were to reunification. National data for this same time period is not yet available. The most recent data available from the Children's Bureau is from FFY 2019 when nationally 55% of children who exited care achieved permanency through reunification. In that same year Maine's reunification rate was 57%.

In the Ombudsman's report, three primary areas of concern were identified: Investigations, Ongoing Assessment of Reunification, and Older Youth and Resources.

Investigations

The Ombudsman's report identified issues related to collecting and analyzing information in child welfare investigations. The Ombudsman specifically identified the transfer of high-risk cases to the Alternative Response Program (ARP) and practice confusion over safety planning as areas of concern.

OCFS is in agreement that there are situations where staff face challenges in gathering necessary information to make fully informed decisions regarding child safety. This difficulty coordinating with providers to share information was identified as a concern in the recent review conducted by Collaborative Safety and Casey Family Programs. In response, OCFS is working on initiatives to ensure effective communication among the various components of the child welfare system. In addition, OCFS

¹ These include:

Trivedi, S. (2019). "The Harm of Child Removal." *New York University Review of Law & Social Change* 43, 523.
Shankaran, V., Church, C. and Mitchell, M. (2019). "A Cure Worse Than the Disease? The Impact of Removal on Children and Their Families." *Marq. L. Rev.* 102(4), 1163-94.

Mitchell, M. and Kuczynski, L. (2019). "Does anyone know what is going on? Examining children's lived experience of the transition into foster care." *Children and Youth Services Review* 32(3), 437-444.

Wall-Wieler, E., Roos, L., Bolton, J., Brownell, M., Nickel, N. and Chateau, D. (2017). "Maternal health and social outcomes after having a child taken into care: population-based longitudinal cohort study using linkable administrative data." *Journal of Epidemiology and Community Health* 71(12), 1145-1151.

Shankaran, V. and Church, C. (2016). "Easy Come, Easy Go: The Plight of Children who Spend Less than Thirty Days in Foster Care." *University of Pennsylvania Journal of Law and Social Change* 19(3), 207.

will closely examine both the current investigation timeframe and the required investigation activities to implement best practices and remove redundancy, while gathering information to make factually supported decisions related to child safety. OCFS plans to include the Ombudsman and her staff in these efforts.



The Ombudsman’s concerns include the use of ARP for certain cases. While OCFS understands this point and shares some of this concern, OCFS has addressed this as the ARP contracts are scheduled to end on 6/30/2022. This decision was made after careful consideration by OCFS regarding its statutory duty to investigate all reports. Based on this work, OCFS concluded that referring appropriate reports (even those of low to moderate severity, which were the only reports referred to ARP) was not in keeping with OCFS’ charge. The decision not to renew the ARP contracts was announced in 2021 and OCFS sought and was granted 15 new caseworker positions (10 effective 1/1/22 with the remaining 5 effective 7/1/22) in the budget. The request for staff was based on a careful analysis of the work required to ensure every report of alleged abuse and/or neglect received by OCFS will be assessed by a child welfare caseworker. Currently OCFS is referring very few low to moderate severity reports to ARP contractors as they have struggled to hire and maintain staff and given that the service will end within the next year. ARP providers are currently reporting a staff vacancy rate over 70%, significantly limiting their capacity.

The Ombudsman further identified safety planning as an area of particular concern in investigations. Safety plans involve the voluntary, temporary placement of a child outside his or her home while parents address immediate safety concerns or further investigation activities are completed. OCFS is currently finalizing an update to its Child Protection Investigation Policy which provides guidance to staff on criteria for entering into a safety plan, components of the safety planning process, expectations for monitoring the plan, and determining when it is appropriate to develop a short-term alternative care plan. Included in this is the expectation that a Family Team Meeting (FTM) is required as part of the process to engage with families and their supports to develop and monitor the plan. Plans cannot be in effect for longer than 30 days. Once the updates to this policy are finalized, staff will be provided with implementation support as part of the policy finalization process.

To ensure child safety and practice consistency while the Investigation Policy is in the process of being thoroughly updated, the Associate Director of Child Welfare Services provided additional guidance to staff on July 1, 2021 (see Appendix A), which outlines expectations for supervisory and management coaching and oversight related to the current Child Protection Investigation Policy, which includes safety planning.

OCFS also recently implemented an updated [policy on FTMs](#) that is expected to improve the safety planning process. This policy provides additional guidance to staff on criteria for convening, facilitating, and documenting FTMs in a manner that best supports child safety. OCFS worked for several months with the Cutler Institute at the University of Southern Maine to update this policy and as with any new or revised policy, input was gathered from the Maine Child Welfare Advisory Panel (which includes the Child Welfare Ombudsman) and OCFS staff.

There are additional challenges to ensuring an in-depth understanding of child safety that are likely to persist. The most significant of these challenges is that OCFS may not compel family members to participate in an investigation absent information regarding child abuse and/or neglect that is sufficient to seek a Court finding regarding child safety. Despite these challenges, OCFS expects that the efforts undertaken over the last few months, as well as those currently underway in response to Collaborative Safety's work, will result in positive momentum within the investigation process, including the ability of staff to make ongoing improvements in gathering and synthesizing information that may impact child safety.

Ongoing Assessment of Reunification

While investigation and reunification reflect opposite ends of the spectrum of child welfare involvement, OCFS noted the significant overlap in these two concerns identified by the Ombudsman. The concerns with investigations and reunification both center around the ability of staff to gather information and analyze that information appropriately. OCFS believes that current efforts underway to work with providers, including behavioral health providers, hospital staff, and law enforcement will help to ensure OCFS staff have the fullest possible picture as they are making decisions in cases. This includes decisions on reunification, termination of parental rights, and permanency.

OCFS notes the significant role that other stakeholders not mentioned in the Ombudsman's report play in the reunification process, particularly the Courts, parents' attorneys, and Guardians ad Litem (GAL). The Courts play a vital role in the child protective system, protecting the rights of parents and seeking outcomes that are in the best interests of children. Decisions regarding reunification and termination of parental rights in a Protective Custody case cannot be made without approval of the Court. Furthermore, there is an inherent and natural tension between parents' attorneys and the Department. Maine families benefit from a dedicated and knowledgeable parents' bar, but concerns can arise when the ultimate goal

of safety and wellbeing for children and families is lost in the process. OCFS continues to work to collaborate with all stakeholders to improve the child welfare system. This includes ongoing work with staff from the Family Division of the Courts to collaborate on system improvements and regular meetings with parents' attorneys and GALs to discuss systemic issues.

The Ombudsman specifically recommended the need for additional training and support for supervisors as they guide the work of caseworkers. After hearing these concerns and recognizing similar concerns through internal quality improvement efforts, OCFS has undertaken the development of a supervision framework in partnership with the Cutler Institute that includes the Supervisor Academy training curriculum, and additional guidance meant to support the work of supervisors as they navigate policy and practice expectations. OCFS is continuing work with the Cutler Institute and expects this initiative to be completed and implemented in 2022.

As with investigations, OCFS has availed itself of the Ombudsman's case-specific reviews to address concerns and gather additional information that will inform decision-making.

Older Youth and Resources

OCFS appreciates the Ombudsman's inclusion of concerns regarding mental health resources for all segments of the population. In addition to child welfare, OCFS oversees Maine's children's behavioral health system and the Department includes the Office of Behavioral Health. The year 2021 has seen significant ongoing challenges within the behavioral health system as providers struggle to hire and retain staff and address the additional stress that many Mainers feel as a result of the pandemic. Maine is not alone in these challenges as both the U.S. Surgeon General and the American Academy of Pediatrics have recently issued significant warnings about the state of youth mental health in this country. Federal resources from the American Rescue Plan are being used to support pandemic response and crisis services, including intensified response to the significant increase in substance use disorders and drug overdoses in 2021.

OCFS continues to work collaboratively with stakeholders to develop resources to meet the needs of youth, including those in state custody or those requiring the support of child welfare. In 2021, OCFS implemented a new Resource Parent training that has received overwhelmingly positive feedback and includes information specific to parenting youth. OCFS continues to focus on recruitment efforts for Resource Parents, particularly those interested in caring for older children and teens.

Ombudsman's Specific Recommendations

The Ombudsman's report included four specific recommendations. Below are OCFS's responses:

- *Ensure frontline staff have their voices heard and their experiences and opinions considered in child welfare reforms, as well as collaborating with stakeholders*
 - Over the last few years, OCFS has increased its prioritization of transparency and engagement. OCFS staff now have the opportunity to comment on and suggest edits to each new and updated policy in the Child and Family Policy Manual before it is finalized and implemented. Frontline staff have been heavily involved in the development of OCFS' soon to be launched child welfare computer system, known as Katahdin. OCFS has convened regular meetings of both caseworker and supervisor advisory groups that have provided invaluable feedback on the experiences of staff within each District. As OCFS has considered methods to improve the system of afterhours coverage, the input of staff has been paramount.

- In addition to being reviewed by OCFS staff, all new and updated policies are reviewed by the Maine Child Welfare Advisory Panel (MCWAP) which is made up of providers, individuals with lived experience in the child welfare system, the Ombudsman, staff of the Office of the Attorney General, and others. MCWAP members provide edits and input that help to further improve and refine policy to meet the needs of staff, providers, and families. This Panel is staffed by OCFS, including the Associate Director of Child Welfare Services, who hears directly from Panel members in and beyond meetings.
- *Maine should consider the implementation of Safety Science in child welfare*
 - OCFS strongly agrees with this recommendation and is in the process of implementing Safety Science critical incident reviews within child welfare through continued work with Collaborative Safety and Casey Family Programs. Safety Science has been successfully used in other safety-critical industries, including healthcare, aviation, and nuclear power to understand how decisions, initiatives, resources, and other factors impacted the critical incident. These reviews are intended to determine where systemic improvements can be made to increase the quality of practice in the future rather than simply to assign blame. OCFS is committed to including staff from the Ombudsman’s office in these critical incident reviews as the process provides valuable feedback and information.
- *Recognize the critical role of prevention services*
 - OCFS strongly agrees and is continuing work to fully implement Maine’s Family First Prevention Services Plan under which evidence-based prevention services are provided to families where the children are at imminent risk of entering state custody. One of the guiding tenets of OCFS’ work is that children do best when they can remain safely with their parents. This prevents the trauma of removal and allows families to develop the skills and relationships necessary to ensure safety. OCFS will continue this work in 2022.
- *Training for staff and supervisors should be aligned with national best practices and supervisor training and support should be prioritized.*
 - OCFS agrees and is currently engaged in work with the Cutler Institute to improve training opportunities for staff. This includes not just the number of trainings, but the information provided within them (such as inclusion of the voice of parents with lived experience in the child welfare system), the logistics of making trainings accessible and engaging, and the manner of training necessary to maximize retention of information. OCFS will continue these efforts in 2022 and has already seen the benefits of this work with its New Worker Training which was updated by the OCFS Policy and Training Team and Cutler staff in 2021.
 - OCFS also agrees that additional emphasis is needed on guidance for supervisors and, as previously mentioned, is in the process of developing additional training and guidance for supervisors as they oversee the work of caseworkers.

The information OCFS has received from the Ombudsman this year, both through case-specific reports and the mid-year and annual reports, has helped to inform improvements and emphasized the importance of work already underway. OCFS thanks the Ombudsman and her staff for their continued partnership with OCFS as we work together towards a stronger child welfare system. While 2021 has seen many challenges for the child welfare system, OCFS believes that strong collaboration among dedicated stakeholders, including the Ombudsman, will benefit Maine children and families in 2022 and beyond.

Appendix A

From: Landry, Heidi on behalf of Johnson, Bobbi
Cc: Landry, Todd A; Johnson, Bobbi; Sosnoff, Nora
Subject: Child Welfare Policy and Practice Updates
Date: Thursday, July 01, 2021 2:07:34 PM
Importance: High

Good afternoon –

As part of our ongoing work to ensure best practices, I wanted to share the following expectations which are being reinforced to ensure staff have coaching and support regarding our policies and practices.

- IV.D. Child Protection Investigation Policy
 - Caseworkers and supervisors will use the SDM Safety and Risk Assessment tools to guide case decision-making.
 - Supervisors will listen to one (1) fact finding forensic interview for each CPS caseworker per month and provide feedback to the caseworker regarding strengths and challenges. This will be documented in supervision notes. We realize this may be 6 hours or more of time commitment, but it is essential for supervisors to review the interviews to provide timely and accurate feedback to caseworkers.
 - Supervisors will use the Investigation Checklist for approval of all investigations and provide them to the PA/APA.
 - PA/APAs will review one (1) investigation per CPS unit per month ensuring that the checklists have been completed and practice standards are being met.
- V.D.1. Child Assessment and Plan: Monthly Caseworker Contacts
 - Monthly caseworker contacts with parents, children and resource parents will be conducted in person. With the end of the state's state of civil emergency, screening questions will be discontinued effective July 1. PPE remains available for staff who wish to use it.
 - Caseworkers will see all children in custody and service cases monthly, including children and parents who are out of the home.
 - Documentation will be completed within 10 days of the contact, as outlined in XIII.C. OCFS Child Welfare Documentation policy.
 - Supervisors will review two (2) narrative log entries of monthly caseworker contacts for each caseworker per month and provide feedback to the caseworker regarding strengths and challenges. This will be documented in supervision notes.
 - PA/APAs will review monthly caseworker contact data reports, which include the Worker Workload report and Face to Face Contact reports. They will also discuss the observations of the supervisors from their narrative log reviews each month.
- VII.E. Trial Home Placement Policy
 - Caseworkers will see the children and parents at the frequency outlined in policy.
 - Collateral contacts will be completed to gather information about family needs, strengths, and challenges.
 - Supervisors will enter a narrative log documenting the factors that support trial home placement for the child guided by the SDM Reunification Assessment Tool.

- Supervisors will review documentation for all trial home placement cases on a monthly basis.
- PA/APA will review the status of all trial home placement cases monthly.

If you have questions about any information in this memo, please share those with your supervisor. There will be a statewide supervisors meeting in the very near future and part of that time will be spent addressing any questions.

As Commissioner Lambrew and Director Landry indicated in their recent emails, you are appreciated as our state's child welfare professionals. I share this appreciation and, recognizing the inherent challenges of our work, want to ensure you have the support you need.

Thank you,

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