



State of Michigan

*Office of
Children's
Ombudsman*

October 2002 - September 2003
Annual Report

Office of Children's Ombudsman

Annual Report 2002-2003

Mission Statement

The mission of the Office of the Children's Ombudsman is to assure the safety and well-being of Michigan's children in need of foster care, adoption, and protective services and to promote public confidence in the child welfare system. This will be accomplished through independently investigating complaints, advocating for children, and recommending changes to improve law, policy, and practice for the benefit of current and future generations.

Investigate Complaints

Advocate for Abused and Neglected Children

Recommend Changes in Law, Policy and Practice

Improve the Child Welfare System



STATE OF MICHIGAN
OFFICE OF CHILDREN'S OMBUDSMAN
LANSING

JENNIFER M. GRANHOLM
GOVERNOR

LYNNE MARTINEZ
DIRECTOR

October 2004

The Honorable Jennifer Granholm, Governor
State Of Michigan

Ms. Marianne Udow, Director
Family Independence Agency

Honorable Members of the Michigan Legislature

I am pleased to submit the 2002-2003 Annual Report of the Children's Ombudsman as provided in "The Children's Ombudsman Act" (1994 Public Act 204). Specifically, section 10(5) states, "*The Ombudsman shall submit to the governor, the director of the department, and the legislature an annual report on the conduct of the Ombudsman, including any recommendations regarding the need for legislation or for change in rules or policies.*"

The purpose of this annual report is to provide an overview of the activities of the Office of Children's Ombudsman from October 1, 2002 to September 30, 2003. It provides an analysis of the complaints that were received by the OCO. It also identifies recommendations for changes in the child welfare system that the OCO developed as a result of case investigations. We remain committed to our Mission Statement and its charge to investigate complaints, advocate for abused and neglected children and recommend changes in law, policy and practice with the goal of improving Michigan's child welfare system.

The staff of the Office of Children's Ombudsman appreciates the partnership of Governor Granholm, the Family Independence Agency, the Michigan Legislature and the Michigan Supreme Court in working toward this goal. We thank you for the opportunity to serve the children of Michigan, and for your support of our mission.

Respectfully submitted,

Lynne Martinez
Children's Ombudsman

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Office of Children's Ombudsman

This eighth annual report discusses the work of the Office of Children's Ombudsman (OCO) during the twelve-month period from October 1, 2002 through September 30, 2003. The report consists of four sections: Conduct of the Office; Complaint Analysis; Complaint Process and Investigations; and Recommendations.

Ombudsman: 1. A government official appointed to receive and investigate complaints made by individuals against abuses.... 2. One that investigates reported complaints, reports findings, and helps to achieve equitable settlements.

Merriam-Webster's Collegiate Dictionary

Conduct of the Office

Legal Authority

The Office of Children's Ombudsman (OCO) was established by the Children's Ombudsman Act, 1994 Public Act 204, MCL 722.921, *et seq*¹. The OCO is an independent state agency with responsibility to monitor and ensure compliance with law, rules and policies regarding children's protective services and the placement, treatment and supervision of children in foster care and adoptive homes. The OCO has authority to investigate complaints about children under the supervision of the Family Independence Agency (FIA) and private child-placing agencies.

Budget

The final adjusted appropriation for the fiscal year 2002-2003 was \$1,160,800.

The majority of the OCO's budget supports 12 full-time employees, including a Director, a Chief Investigator, 8 Investigators and 2 administrative staff. The OCO has offices in Lansing and Detroit.

Multi-Disciplinary Team

The investigative staff of the OCO has over 160 years of combined experience and knowledge in a variety of disciplines related to the area of child welfare. In addition, many of our Investigators have advanced degrees and all are committed to continuing education.

¹ Effective January 1, 1995.

Collaboration among OCO, FIA, private child placing agencies and other child welfare stakeholders

The OCO meets regularly with the FIA Family Advocate and with FIA Central Office administrative staff as necessary to discuss FIA policy, practice or individual cases. The FIA seeks OCO input on proposed changes to policy.

The Ombudsman and OCO staff also met with representatives of the State Court Administrative Office regarding the Court Improvement Program and Supreme Court efforts to improve permanency outcomes for children.

The Ombudsman and OCO Investigators serve on many boards and committees: The Governor's Children's Action Network; FIA Program Improvement Plan Committees; FIA Public Private Partnership Initiative Committees; Foster Care Review Boards; the Child Death Review State Advisory Committee and Child Support Leadership Council.

The OCO hosts the bimonthly meetings of the Michigan chapter of the American Professional Society on the Abuse of Children, and its Medical Advisory Committee. The Ombudsman and OCO Investigators also participated in a variety of trainings and conferences related to the child welfare system.

Complaint Analysis

Complaints Received

As provided in the Children's Ombudsman Act, the primary responsibility of the Office of Children's Ombudsman is to receive and investigate complaints from individuals concerning children involved in children's protective services, foster care, or adoption cases because of abuse and neglect.

During the reporting period October 1, 2002 through September 30, 2003:

- **The OCO received 949 complaints involving 1,673 children²**
- **The OCO investigated 172 complaints from 77 of Michigan's 83 counties**

Complaint Sources

Section 5 of the Children's Ombudsman Act outlines the individuals who can legally file a complaint with the OCO. They include:

- A child who is able to articulate a complaint.
- The child's biological parent.
- A foster parent.
- An adoptive or prospective adoptive parent.

² In comparison, the OCO received 821 complaints involving 1,350 children during the previous report period.

- A legal guardian of the child.
- A Guardian Ad Litem of the child.
- An adult related within the fifth degree by blood, marriage, or adoption.
- A Michigan Legislator.
- An attorney for any of the above.
- The Children’s Ombudsman.

Although other individuals are not statutory complainants, the Ombudsman has the discretionary authority to open their complaint for an investigation. In these instances, the Ombudsman would be listed as the complainant. Because the person is not identified as a statutory complainant, s/he would not receive the Ombudsman’s report of the recommendations made by the OCO regarding the complaint and the actions taken by OCO and the involved agency.

During this reporting period:

- **The majority of OCO’s complainants were birth parents (40 percent), followed by grandparents (17 percent) and other relatives (12 percent).**
- **The Ombudsman initiated complaints on 89 cases during this report period.**

Complaint Process and Investigations

Confidentiality

The identity of all complainants who contact the OCO is kept confidential unless the complainant provides permission to reveal his/her identity. The OCO’s investigative records are confidential by law. They are exempt from disclosure under the Freedom of Information Act (FOIA) and are not subject to court subpoena.

Complaint Intake

The OCO is committed to providing assistance to each person who contacts the office to file a complaint. The Children’s Ombudsman Act gives the Ombudsman authority to decide in its discretion whether to investigate a complaint. The Ombudsman may also advise a complainant to pursue all administrative remedies or channel of complaint before pursuing a complaint with the OCO.

Complaints received by the OCO generally fall into one of three categories: Inquiries, Referrals, and Valid Complaints. The OCO responses to the various complaint types are described below.

During this reporting period, 150 calls received by the OCO were classified as Inquiries. An ***“Inquiry”*** can be a general question about the child welfare system, or a concern about an

issue over which the OCO does not have jurisdiction to investigate, such as: custody matters, child support, school issues, or juvenile delinquency.

A complaint is classified as a “**Referral**” if the complaint is about the case of a child involved in protective services, foster care or adoption, but the specific complaint does not involve FIA or a private child placing agency. These complaints often involve the actions of an agency the OCO is not authorized to investigate, such as the court, prosecutor’s office, or law enforcement. A total of 108 calls that were received by the OCO during this reporting year were classified as Referrals.

Though a complaint that is an Inquiry or a Referral would not be investigated, the OCO attempts to assist the complainant by providing information that will be helpful in resolving his/her concerns. Information may be provided verbally via phone, by e-mail, fax, or a written communication from the Ombudsman.

During this fiscal year, 474 calls were processed as “**Valid Complaint-Not Opened.**” A complaint may directly involve Children’s Protective Services, Foster Care, or Adoption Services and not be opened for investigation if it does not meet criteria established by the OCO. The most common reasons why the OCO would decide not to open a case regarding a valid complaint are that the complainant has not exhausted available administrative remedies; or an investigation by the OCO would not have any impact on the child’s well-being or the child welfare system.

Analysis of OCO Investigations

Each year the OCO opens a number of cases involving valid complaints for a full investigation of the actions of the FIA or private child placing agency. An analysis of the cases opened for investigation is provided in this section.

Opened Investigations

- 34 cases were opened for preliminary investigation.³
- 183 cases were opened for full investigation.
- Of the cases opened for full investigation, the majority involved Children’s Protective Services (99), followed by Foster Care (33) and Adoption Services (6). An additional 45 cases involved some combination of the three.

Closed Investigations

The OCO closes an investigation in one of four ways:

- **Affirmation** – The OCO concludes that the agency’s actions were in compliance with law, rule, and policy.
- **Report of Findings and Recommendations (F&R)** – The OCO concludes one or more of the following: the agency’s actions violated law, rule, and/or policy; changes in policy are warranted; new policy should be created; decision making was not consistent with the case facts or the child’s best interest.

³ A database enhancement completed 3/2003 gave the OCO the ability to track Preliminary Investigations. This number represents 7 months of data.

- **Administrative Resolution** – The OCO determines that the actions of the FIA or private child placing agency violated law, policy or good practice and result in risk to a child. In such cases the OCO requests that the agency take immediate action to address the OCO’s concern and child safety. If the agency completes the requested action and the OCO determines that there are no additional matters that require attention, or if the agency initiates corrective action, the case is closed as an administrative resolution.
- **Exceptional Closing** – One or more of the following occur: the complainant withdraws their complaint and requests that the investigation be terminated; the agency addressed the complaint issue prior to or during the OCO investigation; changes in FIA policy or law relative to the complainant’s issue occurred during the course of the OCO’s investigation; continued involvement by the OCO would have no effect on the outcome of the case; the issues in the case have been previously investigated by the OCO and addressed in either an F&R or previous annual report.

Completed Investigations

During the reporting period from October 1, 2002 to September 30, 2003:

- **The OCO completed 172 investigations involving 425 children.⁴**
- **77 counties were investigated at least once during the reporting year.**

County specific data regarding children’s protective services and OCO investigations is provided in the table following this section.

The completed investigations were concluded as:

- 61 investigations were closed affirming agency actions.
- 65 investigations resulted in the OCO issuing a report of findings and recommendations.
- 16 investigations were closed as administrative resolutions.
- 30 investigations resulted in exceptional closings.

Investigative Findings

Sixty-five Reports of Findings and Recommendations were issued to FIA and/or private child-placing agencies during this reporting period. The reports included a total of 254 individual findings. Findings made in F&R Reports may fall into one of four main categories:

- **Non-compliance with law or policy. (173 Findings)**
Over the past four years, this has continued to be the most prevalent finding.
- **Poor practice/decision making. (72 Findings)**
- **Current policy/law is inadequate. (3 Findings)**
- **Systems problems. (6 Findings)**
Recommendations focus on improving the relationship between the individuals and entities involved in the case or requesting that legislative changes be considered. Issues such as lack of legal representation for FIA and court problems are some examples.

⁴ An investigation is complete when the OCO Report of Findings and Recommendations or other closing has been sent to the complainant and the FIA or private child placing agency.

Child Population, CPS Investigations,

County	Child Population 2002 ⁵	Number of CPS Complaints/Referrals (FY 2003)	Number of CPS Investigations (FY 2003)	Number of OCO Investigations (FY 2003)
Alcona	2,048	230	53	0
Alger	1,868	126	65	0
Allegan	30,124	1,524	506	4
Alpena	6,984	631	178	1
Antrim	5,538	774	448	1
Arenac	3,743	337	175	1
Baraga	1,929	76	55	0
Barry	15,079	964	507	1
Bay	26,076	1,351	682	2
Benzie	16,113	339	100	0
Berrien	41,098	2,646	1,276	3
Branch	11,200	1,097	485	1
Calhoun	35,401	3,344	1,423	2
Cass	12,517	1,121	493	0
Charlevoix	6,568	499	212	0
Cheboygan	6,096	687	272	1
Chippewa	8,030	749	221	1
Clare	7,520	755	217	2
Clinton	17,655	817	462	2
Crawford	3,362	410	184	1
Delta	8,612	952	319	1
Dickinson	6,450	491	207	0
Eaton	26,422	1,622	712	4
Emmett	7,762	646	255	1
Genesee	119,273	8,155	5,496	18
Gladwin	6,015	527	270	1
Gogebic	3,228	444	101	0
Grand Traverse	19,538	1,423	380	0
Gratiot	9,687	744	259	0
Hillsdale	11,850	1,107	464	2
Houghton	7,580	271	175	0
Huron	8,201	412	162	1
Ingham	65,637	4,564	2,825	9
Ionia	16,113	1,301	612	5
Iosco	5,803	563	173	2
Iron	2,410	159	126	0
Isabella	12,586	1,086	575	2
Jackson	40,406	3,685	1,856	7
Kalamazoo	57,562	4,830	2,032	8
Kalkaska	4,226	597	321	1
Kent	164,225	9,536	3,842	7

*Keweenaw CPS cases are handled by Houghton County

⁵ Zehnder-Merrill, Jayne. Kids Count Michigan Data Book 2003. Michigan League for Human Services, Lansing, Michigan 2003.

and OCO Investigations by County

County	Child Population 2002 ⁵	Number of CPS Complaints/Referrals (FY 2003)	Number of CPS Investigations (FY 2003)	Number of OCO Investigations (FY 2003)
Keweenaw	453	*	*	0
Lake	2,560	305	125	1
Lapeer	23,972	1,131	481	1
Leelanau	5,020	52	11	0
Lenawee	24,926	1,296	389	3
Livingston	45,718	1,250	619	1
Luce	1,444	248	58	0
Mackinac	2,396	198	81	0
Macomb	192,508	7,087	4,337	6
Manistee	5,436	631	279	0
Marquette	12,950	753	285	3
Mason	6,806	450	186	1
Mecosta	9,137	596	272	8
Menominee	5,670	460	133	0
Midland	21,769	1,437	626	1
Missaukee	3,849	**	**	0
Monroe	38,929	1,536	616	8
Montcalm	16,271	1,182	378	5
Montmorency	2,061	169	79	0
Muskegon	46,182	3,291	1,209	5
Newago	13,674	1,224	571	3
Oakland	298,548	8,726	5,832	11
Oceana	7,378	608	299	1
Ogemaw	4,886	538	242	2
Ontonagan	1,438	122	48	0
Osceola	6,012	641	143	0
Oscoda	2,095	180	75	0
Otsego	6,190	574	291	1
Ottawa	68,333	2,847	1,280	2
Presque Isle	2,820	257	69	1
Roscommon	4,951	618	230	1
Saginaw	54,720	2,718	2,200	2
St. Clair	43,365	3,481	1,790	3
St. Joseph	16,788	1,727	582	4
Sanilac	11,492	779	390	0
Schoolcraft	1,907	162	68	0
Shiawassee	18,654	1,582	976	5
Tuscola	14,850	1,083	532	2
Van Buren	20,935	2,011	690	2
Washtenaw	73,515	2,607	1,143	3
Wayne	571,570	19,243	17,374	35
Wexford	7,789	1,211	369	1

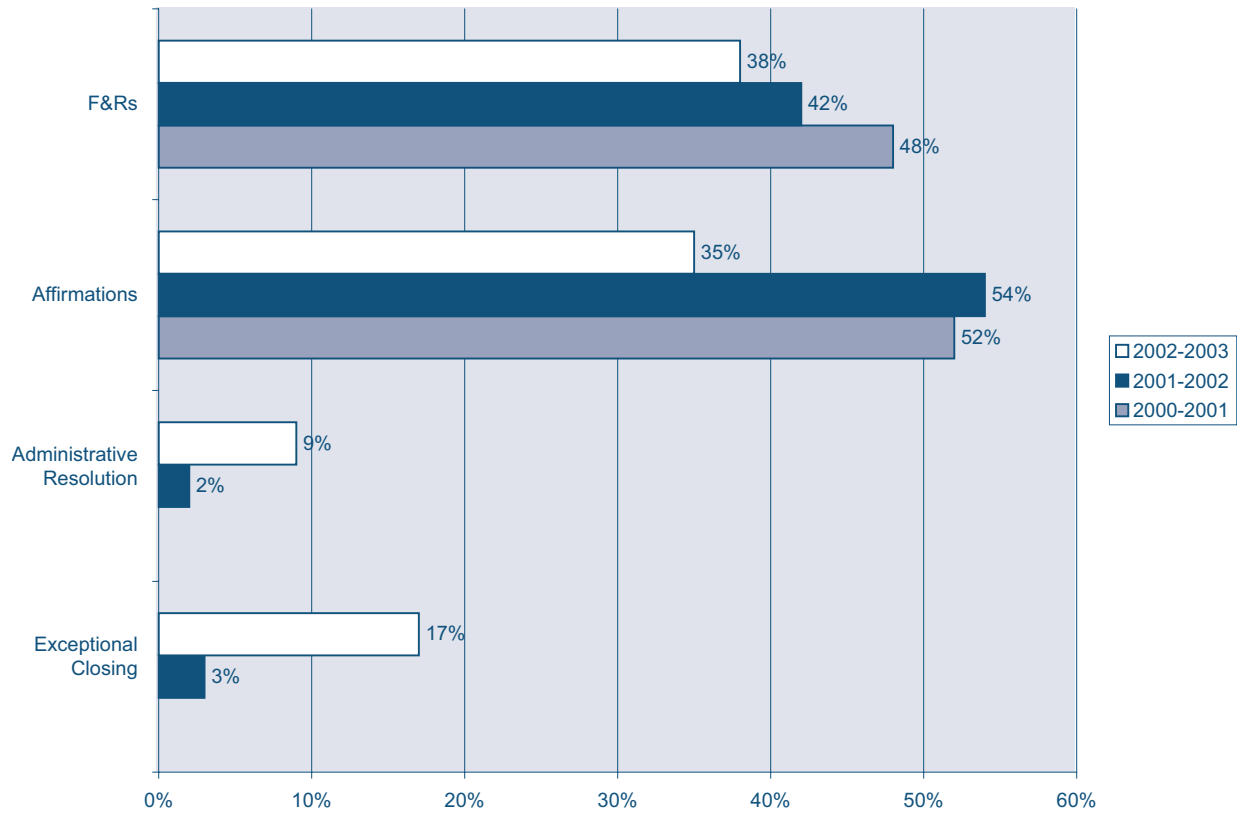
Total	2,582,502	136,603	74,534	214⁶
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**Missaukee and Wexford Counties share one FIA office. All data reported as Wexford County data.

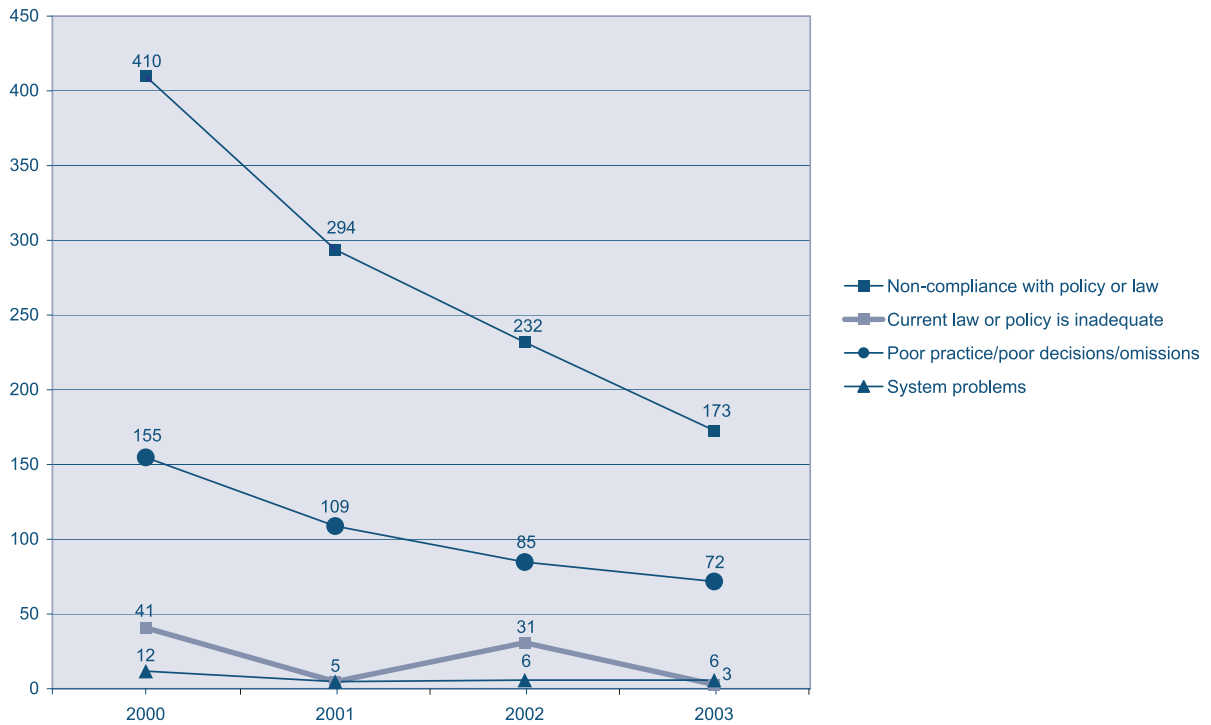
⁵ Zehnder-Merrill, Jayne. Kids Count Michigan Data Book 2003. Michigan League for Human Services, Lansing, Michigan 2003.

⁶ Some Investigations include more than one County.

Closed Cases & Investigative Findings



Summary of Findings Fiscal Years 2000-2003



2002-2003

Office of Children's Ombudsman

Recommendations with FIA Responses

Children's Protective Services

1. Domestic Violence Recommendation:

The OCO recommends FIA form a CPS/Domestic Violence Task Force to enhance CPS and interagency responses to complaints where domestic violence is a primary factor affecting child safety. The task force would recommend improvements to CPS policy and Child Welfare Institute (CWI) training, and develop guidelines for the creation of an interagency coordinated response within each community.

Rationale: The OCO has reviewed numerous CPS cases where domestic violence was a prominent factor affecting child safety. These case reviews revealed a lack of clear FIA policy as well as gaps in services to parents who are victims of domestic violence. They also indicated a lack of coordination among agencies working to protect children in the home of the protecting parent, and an inadequate understanding on the part of caseworkers regarding the dynamics of domestic violence and the application of appropriate services.

In 1997, FIA developed "best practices" policy, which took effect in January 1998 and guides CPS intervention in cases involving domestic violence. While these guidelines are a positive start, they are not sufficiently specific regarding: assessing a family for domestic violence, safety planning, interagency coordination, and assessing available community resources.

FIA Response to Recommendation 1:

Agree. In 2002, CPS Program Office and the Domestic Violence Treatment and Prevention Office began a series of meetings in which the "Domestic Violence Best Practices (1997)" were reviewed and modified. The intent of this project was to develop policy that would be incorporated into the Children's Protective Services manual. Policy regarding the handling of domestic violence complaints was drafted and submitted to the Governors Task Force on Children's Justice-Domestic Violence subcommittee (GTF-DV). The GTF-DV subcommittee organized a series of focus groups in which field input was gathered from sources such as children's services workers and domestic violence shelter operators. Currently, the CPS and Domestic Violence offices are in the process of working with the changes suggested by the focus groups. CPS Program Office anticipates that this revised policy will be incorporated into policy in May 2005.

2. Threatened Harm Recommendation:

The OCO recommends FIA amend policy to include an operational definition of the term “*threatened harm*.”

Rationale: Currently, the child protection law defines child abuse as “*harm or threatened harm to a child’s health or welfare that occurs through non-accidental physical or mental injury, sexual abuse, sexual exploitation, or maltreatment by a parent...*” While *harm* to a child is usually determined based upon the occurrence of an observable or detectable injury (such as sprain, burn, bruise, welt, fracture), there are no guidelines in policy governing what constitutes *threatened harm* to a child. The OCO has reviewed cases where newborns have been left in the care of parents who recently had parental rights to other children terminated. CPS determined that there was no evidence that the newborn had been abused or neglected. The OCO has asserted that without evidence that the parents rectified concerns that led to prior terminations, there is *threatened harm* to the newborn’s health and welfare, and a basis for protective intervention.

In FIA’s response to the 2002 OCO Annual Report, FIA acknowledged its “*policy does not define threatened harm or provide a consistent framework for understanding the application of the concept of threatened harm.*” Further, “*the problem...is in applying the concept of threatened harm in assessing whether or not a preponderance of evidence currently exists based on historical facts, evidence and parental behavior, in conjunction with a lack of evidence that the parent(s) have taken appropriate steps to rectify conditions that led to the prior termination of parental rights.*” The OCO agrees with FIA regarding the need to define the concept of threatened harm and urges efforts to develop an operational definition of the term in policy.

FIA Response to Recommendation 2:

Agree. CPS Program Office utilized input from the CPS Supervisor Advisory Committee and the field and has developed a proposed operational definition of “*threatened harm*.” This proposed policy must undergo administrative and legal review and the Final Agency Review process prior to being incorporated into CPS policy. It is anticipated that a definition will be integrated into CPS policy by May 2005.

Foster Care

3. Developmental and Mental Health Assessment Recommendation:

The OCO recommends FIA implement policy to require that every child age six and under who enters foster care receive a developmental and mental health assessment, if the child has not received such an assessment within the past 12 months.

Rationale: Early detection and intervention in developmental and/or mental health concerns is cost-effective and will maximize long-term benefits for the child. The American Academy of Pediatrics emphasizes that “*early interventions are key to minimizing the long-term and permanent effects of traumatic events on the child’s brain,*” and recommends that a comprehensive assessment of children should be done and that at a minimum, the evaluation must include assessment of:

- Gross motor skills
- Fine motor skills
- Cognition
- Speech and language function
- Self-help abilities
- Emotional well-being
- Coping skills
- Relationship to persons
- Adequacy of caregiver’s parenting skills
- Behaviors

The federal Keeping Children and Families Safe Act of 2003, authorized in June 2003, supports states’ efforts to enhance *“collaboration among public health agencies, the child protection system, and private community-based programs to provide child abuse and neglect prevention and treatment services and to address the health need, including mental health needs of children identified as abused or neglected, including supporting prompt, comprehensive health and developmental evaluations of children who are the subject of substantiated child maltreatment reports.”* The law further requires states to develop *“provisions and procedures for referral of a child under the age of 3 who is involved in a substantiated case of child abuse or neglect to early intervention services funded under Part C of the Individuals with Disabilities Education Act (IDEA).”*

FIA Response to Recommendation 3:

Agree in part. The Family Independence Agency has worked to improve the Child Assessment of Needs and Strengths that is used by foster care workers in Michigan, who are trained to utilize the assessment tool. Foster care workers will now assess children according to their specific age group to more effectively screen for developmental and mental health issues among others. If the child has an assessed need in one of these areas, the child would be referred for a full evaluation. The Child Assessment of Needs and Strengths is completed for each child on a quarterly basis thereby providing constant monitoring of the child in foster care.

Moreover, CPS is in the process of developing a Child Assessment of Needs and Strengths tool to be used by workers to assess children involved in Category III, II and I cases and to identify their needs early on in the intervention process. Additionally, FIA will continue to use EPSDT (Early Prevention, Screening, Detection and Treatment) screening as well as participation in Early On to assist the children and families that are involved in our CPS and foster care programs.

4. Recruitment and Retention of Foster Parents Recommendation:

The OCO recommends that the FIA renew efforts to coordinate a statewide, public/private initiative to recruit, train, and retain foster and adoptive homes for children.

Rationale: Having an adequate supply of foster and adoptive placements is essential to achieving positive outcomes for children involved in the child welfare system. The number of children needing out-of-home placement continues to increase while efforts to recruit, train, and retain foster and adoptive homes have been largely abandoned.

The FIA Foster Home Development Reengineering Project Report, completed in May 2000, included recommendations for improvements in foster home recruitment, retention and training activities. This report should be reviewed as background for a renewed public/private initiative.

FIA Response to Recommendation 4:

Agree in part. FIA agrees that a renewed effort at recruitment, retention and training of foster and adoptive homes is critical to child welfare in Michigan. However, due to the fact that statewide efforts have not always met the unique geographical needs of some areas, local offices need to have the flexibility to develop their own strategies in this arena, in part through collaboration with private partners. This collaboration with private partners is encouraged for all recruitment, retention, and training activities. Funds for this purpose have been allocated to each of the zones and the zone office will assist the local offices in planning for appropriate use of the funds. Services which may be purchased include: mentoring of prospective foster parents, regional training conferences, support group development and operation, ongoing or specialized training, reimbursement of training costs, educational materials, speaker fees, and recognition events. FIA will ensure that all Zone offices and local county offices are in receipt of the May 2000 Foster Home Development Reengineering Project Report to assist in their planning.

Statutory Amendments

5. Two Parent Adoptions Recommendation:

The OCO recommends the Michigan Adoption Code be amended to permit adoption of a child by two adults who are not married if the court determines it is in the child's best interest.

Rationale: All decisions regarding who should be given consent to legally adopt a child should be based on parental fitness, not on marital status. Currently, two unrelated adults residing in the same household may both be licensed by the state to foster a child. However, the current requirement in the Adoption Code requires that an adoptive parent be either a single person or a married couple. Current statute does not permit two unmarried persons to adopt.

The legal sanction provided by allowing two unmarried adults to adopt a child benefits the child by accomplishing the following:

- Ensures the child's eligibility for health benefits from both parents.
- Provides legal grounds for either parent to provide consent for medical care and to make education, health care, and other important decisions on behalf of the child.

- Creates the basis for financial security for a child in the event of the death of either parent by ensuring eligibility for all appropriate entitlements, such as Social Security survivor's benefits.
- Guarantees the child's rights to legal relationships with both parents should the parents separate, or should one parent die or become incapacitated.
- Establishes the requirement for child support from both parents in the event of the parents' separation.

FIA Response to Recommendation 5:

Neither agree nor disagree. Currently the Michigan Adoption Code only permits a single person or a married couple to file a petition for adoption of a child. In fact, the code requires that if the petitioner is married, their spouse must also file a petition. Because of the changing composition of families in current society, children are often placed in foster homes or with relatives in which the adults who are responsible for maintenance of the household are unmarried. The number of households headed by unmarried couples is increasing. Children who are placed into homes headed by two unmarried adults often enjoy the benefit of being cared for by two parents who are not married to each other.

If, following termination of parental rights, the plan for the child becomes adoption, it is not possible under current law for the two unmarried adults to adopt the child. One of the caretaker adults would have to be identified as the adopting parent with the ability to establish parental rights to the child. Thus the child might be deprived of the potential benefit of being adopted by two caring adults because they are not married to each other even if they have established a stable household.

In July 2002 the Center for Disease Control (CDC) released a comprehensive report regarding "Cohabitation, Marriage, Divorce, and Remarriage in the United States" that addresses the stability of adult relationships in households with married adults as well as households with unmarried cohabitation. FIA must fully review this report and carefully research this issue before determining whether or not adoption of children by cohabiting adults is in the best interest of children, providing the stability and security they require.

6. Restrict Services for Sexual Perpetrators Recommendation:

The OCO recommends an amendment to the Child Protection Law that would prohibit the FIA from providing services or contracting services to preserve or reunite a family, unless court ordered, if either of the following would result:

- a) A child would be living in the same household with a parent or other adult who has been convicted of criminal sexual conduct against a child.
- b) A child would be living in the same household with a parent or other adult who has been substantiated for sexual abuse of a child.

This amendment should allow services as long as those services are not directed toward preserving or reuniting the family.

Rationale: Similar language has been incorporated for several years in the FIA Appropriations Act, affecting only the use of funds appropriated through that act.

Establishing the prohibition in the Child Protection Law would further limit services funded from other sources.

Maintaining or replacing a child with a known child sexual abuse perpetrator places the child at risk of abuse. The expenditure of state resources should provide for the safety and best interests of children and not expose them to additional risk.

Allowing an exception for court-ordered services provides for a review of this proposed policy as it relates to a particular case.

FIA Response to Recommendation 6:

Disagree. FIA agrees that maintaining or replacing a child with a known sexual abuse perpetrator may place the child at risk of abuse or neglect. However, as noted above, limitations are already placed on expenditure of funds via the FIA Appropriations Act. The creation of additional legislation would essentially be an unnecessary duplication. FIA will clarify current CPS and foster care policy by stating that FIA appropriated funds, including staff time, may not be expended to preserve or reunite a family in situations where a child was sexually abused. To further support this issue, training offered via CWI will be modified to place additional emphasis on restrictions as set forth in the FIA Appropriations Act.

Systems Issues

7. Continuity of Family Court in Adoptions Recommendation:⁷

The OCO recommends the following statutory changes regarding adoption related petitions and motions:

- 1) Following termination of parental rights, any subsequent petition or motion regarding the adoption of a child shall be filed with the court that terminated the parental rights to that child, with a possible change of venue being granted by that court for good reason.
- 2) When a motion is filed pursuant to MCL 710.45, all interested parties shall receive notice of court hearings and an opportunity to be heard. Interested parties should include but are not limited to:
 - a) The petitioner
 - b) The adoptee, if over 14 years of age
 - c) The lawyer guardian ad litem for the adoptee, if one is appointed
 - d) The representatives of the Family Independence Agency or the court
 - e) The parent(s) to whom consent to adopt has been given by the court or Michigan Children's Institute Superintendent

⁷ 1994 Legislation implemented changes per this recommendation.

Rationale: The court that has jurisdiction over a child from the time the child entered the child welfare system should be the court of jurisdiction to handle subsequent motions pertaining to the child's adoption. Petitions and motions filed in multiple jurisdictions can lead to delays in achieving permanency for a child. The OCO supports the recommendation by the Michigan Supreme Court Adoption Work Group, which serves as the basis for this recommended statutory change.

FIA Response to Recommendation 7:

Agree. The Michigan Adoption Code currently permits filing of an adoption petition in the county where the child is found or where the petitioner resides. In situations where the child is placed or the petitioner resides in another county, the court in which the petition for adoption will be filed will be different from the county that had jurisdiction in the child protective proceeding. This may lead to a loss of important historical or background factors pertaining to the children. Amending the Adoption Code to require the filing of an adoption petition in the county court with jurisdiction of the child in a child protective proceeding would provide for improved continuity of judicial determinations.

This would also support more effective legal representation of the child by the Lawyer Guardian ad Litem since that person could continue to represent the child in any litigious adoption proceedings. FIA also supports amending MCL 710.45 to identify as an interested party, any potential adoptive parent to whom consent to adoption has been given by the authorized representative.

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