



**Children's  
Ombudsman**

**Annual Report  
1997-1998**

*John Engler, Governor*  
State of Michigan

**Office of  
Children's  
Ombudsman**

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JOHN ENGLER, Governor

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February 5, 1999

The Honorable John Engler, Governor  
Honorable Members of the Michigan Legislature  
Ms. Marva Livingston Hammons, Director, Family Independence Agency

We are pleased to submit the 1997-98 Annual Report of the Children's Ombudsman pursuant to Public Act 204 of 1994, "The Children's Ombudsman Act."

Section 10(5) of the Act 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.*" Section 6(e) also states the Ombudsman may "*make recommendations to the Governor and Legislature concerning the need for protective services, adoption, or foster care legislation.*"

This report gives an accounting of the Ombudsman's conduct from July 1, 1997 to June 30, 1998. It identifies specific recommendations which are supported by investigations of complaints received during this reporting period, in addition to building upon case experience and knowledge gained during prior report periods. This report was prepared in large part by the Ombudsman of the reporting period, Richard S. Bearup.

Thank you for the opportunity, privilege, and challenge of serving the children of Michigan.

Respectfully Submitted,

Karen R. Quinn,  
Acting Children's Ombudsman

# Children's Ombudsman Annual Report 1997-1998

## Executive Summary

After nearly four years of operation, the Office of Children's Ombudsman (OCO) submits its third Annual Report. Signed into law by Governor John Engler on June 20, 1994, the Children's Ombudsman Act (*Public Act 204 of 1994, MCA 27.3178 (557.1) et seq; MCLA 722.921 et seq*) established an autonomous office charged with investigating complaints about children being served by protective services (abuse and neglect), foster care, and adoption agencies, and making recommendations for changes in child welfare laws, rules, and policies.

To meet these statutory responsibilities, a complaint process was established according to PA 204, which requires the Ombudsman to monitor and ensure compliance with laws, rules, and policies governing the Family Independence Agency (FIA) and child placing agencies. The OCO also investigates "administrative acts" of public and private agencies to determine whether their actions are "*contrary to law, rule, or policy, imposed without an adequate statement of reason, or based on irrelevant, immaterial, or erroneous grounds.*"

This Annual Report outlines the work of the OCO covering the twelve-month period between July 1, 1997 and June 30, 1998, in which 533 complaints were documented involving 1,063 children. Of these complaints, 283 were fully investigated, 179 received preliminary investigations, and 71 inquiries and referrals were handled in this reporting period. The Goals, Budget, Operations and Special Projects of the OCO are highlighted in this Executive Summary. The Conduct Section of this report consists of a statistical overview of the OCO during the 42 months the office has been in existence. In addition, five recommendations for changes in FIA policy are found in the Recommendations Section. The final section, the Appendices, covers acknowledgments, areas mentioned in last year's report, progress regarding recommendations made to FIA and the legislature in the two previous Annual Reports, and other operational aspects of the OCO.

## Goals

The Children's Ombudsman established three goals based upon the objectives established in PA 204. They are to: (1) make a direct impact on the lives of children about whom complaints are received through case investigation; (2) make serious and specific recommendations to the Governor, Legislature, and Department arising out of investigations; and (3) help ensure the effective and efficient delivery of child welfare services by public and private agencies in Michigan.

Progress toward achieving these goals is measured by evaluating: (1) the impact on each child served; (2) compliance with the Children's Ombudsman Act; and (3) implementation of any recommendations presented in both case investigations and Annual Reports.

## Budget

Section 4(1) of PA 204 states: "The Ombudsman shall establish procedures for budgeting, expending funds, and employing personnel." For this fiscal year, the OCO was appropriated \$1.157 million, including 14 FTE (full-time equivalent) positions. Principal expenses continue to be for investigative staff, expenses relating to site investigations, court appearances, case management, and investigator training.

## Operations

The operational areas in which the OCO fulfills its statutory requirements are:

- **OCO Performance Review.** The OCO hired a Michigan consulting firm to conduct a systematic review of our reporting requirements pursuant to Public Act 204, and of OCO operations and procedures. Health Management Associates' Institute for Human Services (IHSR) Research is a firm which conducts performance reviews of organizations involved in the area of human services. The objectives of the performance review were twofold: (1) to review OCO internal controls, accountability measures, management and action plans, reporting, record keeping, evaluation, the Policy and Procedures Manual and the Investigators Guide; and (2) to determine whether the OCO is operating in compliance with State statutory requirements contained in Public Act 204 of 1994 and best practices related to the OCO's mission of protecting and safeguarding Michigan children. A thirty-eight page report was completed by IHSR in which 33 recommendations, many of which were implemented as preliminary recommendations, were made in the areas of policy and external relations; data collection and assessment; organizational structure/personnel; internal functions; and training. The IHSR report was published and transmitted to the Governor and Legislature in November 1998.
- **Multi-Disciplinary Investigative Team.** Continuing the practice of hiring investigators with various backgrounds and experience to become part of the diverse, multi-disciplinary team, two investigators were added to the OCO this fiscal year: a former educator and counselor with experience in prevention services with a private social services agency, and a registered nurse with clinical experience in child abuse and neglect working with children in community health, hospital and school settings. A more detailed description of the investigative staff can be found in Appendix E.
- **Collaborations.** The OCO continues to collaborate with FIA, private agencies, courts and mandated reporters to better serve children at risk, working together where possible and setting mutually acceptable standards where professional disagreement occurs. As reported in last year's Annual Report, the OCO continues to actively support FIA and private agencies when the independent findings of an OCO investigation warrants backing their case position. Such efforts often occur at the request of FIA and private agencies, and are carried out in many ways, such as, by OCO investigator appearances in court or participation in case conferences at the request of an agency. The pool of knowledge and resources from these coordinated efforts often has a direct and positive impact on the protection and permanency of children. Additional areas of collaboration include:

*Child Death Review Team (CDRT).* A new statute placed the Children's Ombudsman on a statewide committee created to establish standards and protocol for Child Death Review Teams in Michigan. The purpose of the local CDRTs is to review cases in which a child dies

to determine what can be learned from the case and how to apply those lessons learned to future cases where various agencies and professions are involved. All but three Michigan counties now have CDRTs.

*Front-Line Workers.* The OCO has maintained a professional working relationship with front-line workers in all three jurisdictional areas; protective services, foster care, and adoption. The OCO team approach is one of mutual respect and cooperation in the best interests of the children who are the subject of an OCO investigation. We are keenly aware that FIA and private agencies are faced with the difficult task of ensuring protection, providing services, and finding permanent homes for children who have been abused and neglected. These committed and concerned professionals have to be skillful and resourceful in identifying and providing services to children. Given the fact that numerous changes in FIA policy and child welfare law have recently been added to the already abundant laws and policies currently in effect, front-line workers continue to do their very best for the children of Michigan and we commend them for their efforts.

- **Case Management.** Following consultation with IHSR, the OCO rewrote its Policies and Procedures Manual and Investigator's Guide this fiscal year. Both are discussed in more detail in Appendix D.
- **Accountability.** Accountability for OCO recommendations to policy makers is determined by several factors that arose in the previous two reporting periods and continue into the present: (1) consistently favorable post-investigation responses from complainants and interested parties; (2) positive letters and calls from constituents to their state Legislators, as reported to the OCO by Legislators; (3) cooperative and productive meetings with judges, prosecutors, and mandated reporters; and (4) the formal administrative and legislative responses to the recommendations of the Children's Ombudsman's first and second Annual Reports. A table depicting each of the 80 recommendations made in the first and second Annual Reports, along with FIA and legislative responses, is included in Appendix B.

## Special Projects

- The OCO responded to several legislative committees to discuss legislation based upon OCO recommendations made in previous Annual Reports. One important piece of legislation dealt with live-together partners (LTPs). Both PA 530 and PA 531 hold LTPs accountable for abuse or neglect of a child in their household, regardless whether the LTP is the biological parent of the child or not.
- The OCO co-hosted the United States Ombudsman Association (USOA) annual conference in Detroit September 9-12, 1998, with the purpose of sharing experiences, difficulties, and providing a forum to discuss ways in which the ombudsman's job can be more effectively performed. It was attended by over one hundred national and international ombudsmen.
- OCO also hosted two ombudsmen from Costa Rica and Croatia this reporting period. Their visits were arranged by a federal government program in which the ombudsmen visited several ombudsman offices across the U.S. The visits provided an opportunity for exchange of ideas and better understanding of the different roles of ombudsman in other countries.
- The Ombudsman served on the Court Improvement Planning Advisory Committee within the State Court Administrative Office which was created to review ways in which Michigan's court system could better serve children.

- The Ombudsman also served as a member of the Seminar Advisory Committee of the Prosecuting Attorneys Association. The purpose of the committee is to recommend and review the various statewide training seminars provided to attorneys, judges, and child welfare professionals.
- The OCO acted upon a preliminary recommendation from IHSR regarding specialized training for OCO investigative staff that would result in investigator certification. Two investigators successfully completed administrative investigator training at a three-and-one-half day seminar provided by the Council on Licensure, Enforcement, and Regulation (CLEAR). Both investigators received certification as investigators, after the results of a written test. The OCO plans to train and certify additional OCO investigators in similar programs in the future.

# Conduct of the Office: A Statistical Review

In this third Annual Report of the Office of Children’s Ombudsman, the opportunity presents itself to examine the trends that have developed in the first 42 months of the office’s existence. Data from the previous two reporting periods has been included as a comparison to data from this reporting period.

## Activity Levels

As previously stated, a total of 533 complaints were made to the OCO between July 1, 1997 and June 30, 1998 involving 1,063 children from 44 of Michigan’s 83 counties. This is substantially equivalent to the previous reporting period. Further, the *Average Number of Children per Case* has remained remarkably stable through the years. Complaints were received on behalf of children of all ages; however, younger, more vulnerable children, those aged 0-5, were served by the OCO more often than were older children. The average age of a child who was the subject of an OCO complaint this reporting period was 3.7 years.

	<b>Report 1</b> January 1, 1995- June 30, 1996	<b>Report 2</b> July 1, 1996- June 30, 1997	<b>Report 3</b> July 1, 1997- June 30, 1998	<b>Averages</b> <b>for All</b> <b>Three</b> <b>Reports</b>	<b>Totals for</b> <b>All Three</b> <b>Reports</b>
<i># of Months in Reporting Period:</i>	18	12	12	N/A	42
<i># of Complaints:</i>	443	564	533	N/A	1,540
<i>Complaints per Month:</i>	24.6	47.0	44.4	36.7	N/A
<i># of Children:</i>	872	1,121	1,063	N/A	3,056
<i>Children per Month:</i>	48.4	93.4	88.6	72.8	N/A
<i>Average Number of Children per Case:</i>	1.97	1.99	1.99	1.98	N/A

## Investigations

Of the 533 complaints received by the Ombudsman in this reporting period, 283 (53%) resulted in investigations. The number of investigations was 8% higher than the previous year, during which 254 of 564 (45%) complaints resulted in investigations. Investigations that were closed resulted in OCO writing a formal Report of Findings and Recommendations or an affirmation of agency action. The remainder of cases were subject to preliminary investigations, referrals and inquiries.



As of June 30, 1998, there had been 984 investigations opened by the OCO in its 42 months of operation; 652 of these investigations had been closed, and 332 remained under investigation. With an investigator staff of 9 on June 30, 1998, this works out to an average caseload of 37.

## Complainants

The OCO complaint process and resulting recommendations are described in detail in Appendix C.

More than three-quarters of all complaints (346 of 533, or 65%) were initiated by a family member (birth parents, adoptive parents, step-parents, grandparents, or other relatives).

	Report 1		Report 2		Report 3		Totals	
<i>Adoptive Parent:</i>	25	6%	35	6%	20	4%	<b>80</b>	5%
<i>Attorney:</i>	15	3%	13	2%	14	3%	<b>42</b>	3%
<i>Birth Parent:</i>	142	32%	182	32%	182	34%	<b>506</b>	33%
<i>Child:</i>	10	2%	2	0%	6	1%	<b>18</b>	1%
<i>Foster Parent:</i>	60	14%	75	13%	63	12%	<b>198</b>	13%
<i>Grandparent:</i>	5	1%	4	1%	65	12%	<b>74</b>	5%
<i>Guardian:</i>	6	1%	2	0%	4	1%	<b>12</b>	1%
<i>Legislator:</i>	18	4%	4	1%	4	1%	<b>26</b>	2%
<i>Ombudsman:</i>	55	12%	97	17%	96	18%	<b>248</b>	16%
<i>Other Relative:</i>	105	24%	149	26%	66	12%	<b>320</b>	21%
<i>Step-Parent:</i>	2	0%	1	0%	13	2%	<b>16</b>	1%
	<b>443</b>		<b>564</b>		<b>533</b>		<b>1,540</b>	

It is important to note that the Ombudsman can initiate complaints on behalf of persons who are not eligible to bring a complaint under PA 204, such as mandated reporters as defined under MCL 722.623 (“The Child Protection Act”), as well as judges, referees, prosecutors, and others. Ombudsman-initiated complaints accounted for 18% of the total complaints received this reporting period.

The majority of the public's interaction with the Ombudsman comes via telephone. This pattern has remained consistent over the three reporting periods.

	<b>Report 1</b>	<b>Report 2</b>	<b>Report 3</b>	<b>Totals</b>
<i>Telephone:</i>	414 93%	496 88%	484 91%	<b>1,394 91%</b>
<i>Mail:</i>	29 7%	68 12%	49 9%	<b>146 9%</b>
	<b>443</b>	<b>564</b>	<b>533</b>	<b>1,540</b>

## Case Type

The OCO is charged with investigating cases involving Protective Services, Foster Care and Adoptive Services. The most common case type handled by the office deals with Protective Services issues.

	<b>Report 1</b>	<b>Report 2</b>	<b>Report 3</b>	<b>Total</b>
<i>Protective Services:</i>	258 58%	256 45%	234 44%	<b>748 49%</b>
<i>Foster Care:</i>	59 13%	99 18%	107 20%	<b>265 17%</b>
<i>Adoption Services:</i>	31 7%	54 10%	29 5%	<b>114 7%</b>
<i>* Combination:</i>	95 21%	155 27%	163 31%	<b>413 27%</b>
	<b>443</b>	<b>564</b>	<b>533</b>	<b>1540</b>

\* *Combination* refers to those cases which cannot be categorized specifically as either *Protective Services*, *Foster Care*, or *Adoption Services*; these cases have elements of two or three of the case types.

## Cases Accepted for Investigation

The rate of complaints being accepted for investigation rose by 8% from the previous year. While efforts are always made to refer complainants to existing remedies or avenues of redress, there are still an increasing number of complaints over which the Ombudsman determines PA 204 jurisdictional requirements have been met.<sup>1</sup>

	<b>Report 2</b>	<b>Report 3</b>
<i>Inquiries and Referrals:</i>	56 10%	71 13%
<i>Preliminary Investigations:</i>	254 45%	179 34%
<i>Investigations:</i>	254 45%	283 53%
	<b>564</b>	<b>533</b>

<sup>1</sup>For a definition of the terms, Inquiries, Preliminary Investigations, and Investigations, see Appendix C.

## **Investigative Issues**

The prevalence of certain investigative issues the OCO has encountered is important to note for the insight provided into what influences and factors tend to place children at risk. Despite similar caseloads over the last two reporting periods, the office noticed increases in several risk factors, including dangerous or unhealthy home environments and substance abuse.

### ***Dangerous or Unhealthy Home Environment***

- Of the 533 complaints brought before the Ombudsman during this reporting period, more than half (266) of the families had prior Protective Services involvement.
- 37% (196 of 533) of the complaints included domestic violence as a component.
- The number of cases where a Live-Together Partner (LTP) perpetrated domestic violence increased from 4 cases in the previous reporting period to 28 in the current period. Last year's Annual Report included a recommendation regarding LTPs. For a review of legislative change or FIA policy change regarding this recommendation, see Appendix B.

### ***Substance Abuse***

- Cases involving cocaine (or crack cocaine) rose from 26 instances last year to 53 this year.
- Cases involving alcohol rose from 39 instances last year to 64 this year.
- Cases involving marijuana rose from 18 instances last year to 43 this year.

# Recommendations

During the past 42 months of operations, a total of 80 recommendations have been made by the OCO. A total of 56 recommendations have been implemented in law or changes in policy. The progress-to-date on these recommendations, detailing FIA's response and any legislative response, is discussed in detail in Appendix B. The method by which recommendations arise remains constant: (1) categorizing all complaints accepted for investigation into children's protective services, foster care, adoption, or a combination; (2) pooling the specific recommendations made on each case by all investigators; (3) cross-matching all cases with every recommendation; and (4) tabulating the occurrence of each recommendation with each investigation opened during the reporting period.

There are a total of five recommendations for this reporting period, three involving protective services, one involving foster care, and a combination recommendation involving protective services and foster care.

## Protective Services

- 1. Recommendation: It is recommended that when a caseworker becomes aware that services being provided are not appropriate for the purpose(s) intended, the caseworker shall provide other services tailored to meet the needs of the parent and/or child.***

*Rationale:* The OCO has investigated cases where a caseworker determines that services to assist the family in overcoming their problems are needed. However, there are instances in which these identified services are not provided. For example, a caseworker might suspect or may have proof that a parent has a substance abuse problem, but substance abuse treatment (drug screens, requiring substance abuse counseling, etc.) is not included as part of the services required. There are also instances where a parenting class, for example, is needed to assist a parent in learning to appropriately handle behavioral changes in her child; however, the class is focusing on teenagers, yet the mother has only a toddler in the home. This problem of excluded or misapplied services may stem from a number of factors: a caseworker's lack of training as to what services a parent may need in order for the child to live safely in the home; a lack of appropriate services in a particular area either because they do not exist; or a lack of readily available services because of waiting lists. However, the results of OCO investigations into the 75 applicable cases involving inappropriate services reveal:

- In 32 of the cases, services were not included or misapplied
- In 14 of these cases, the caseworker was aware of the insufficient services, but no alternatives were offered to the parent(s) or recommended to the court

- 2. Recommendation: It is recommended that when a referral is submitted to CPS by a mandated reporter concerning a child aged 5 years or younger, the case shall be assigned for investigation.***

*Rationale:* Children aged 5 and younger are, in the OCO's investigative experience, the most vulnerable to abuse and/or neglect. Most likely, they are not attending school all day nor are they

in a day care setting where people other than their parent(s) see them on a regular basis. They are also the victims who, most often, cannot defend themselves or explain to others the abuse they may have suffered. Therefore, when a mandated reporter, someone who must, by law, report suspected or reported abuse or neglect, notifies CPS that a young child is suspected of being harmed, a higher presumption of probable cause should exist. The results of OCO investigations into the 56 applicable cases involving children aged 5 and younger reveal:

- 40 of the cases included at least one report from a mandated reporter
- 17 were not assigned for investigation by CPS

**3. *Recommendation: The OCO recommends that FIA clarify the term “harm” as it is used to define the effects a child might experience as a result of exposure to long-term domestic violence.***

*Rationale:* Current manual terms such as “resulting observable behavioral changes,” imminent risk,” and “sustained harm” do not adequately reflect the impact domestic violence has on a child’s emotional well-being. Exposure to domestic violence alone may warrant substantiation of parent(s). The presence of domestic violence in the home requires a preliminary investigation to determine whether there is suspected abuse and/or neglect, including but not limited to emotional harm. The results of investigations into the 40 applicable cases where domestic violence was a component reveal:

- In 34 of the cases, children were exposed to domestic violence in their home which could have resulted in a substantiation of both parents

## **Protective Services and Foster Care**

**4. *Recommendation: It is recommended that psychological evaluations be authorized at the onset of each CPS/foster care case in which the caseworker has concerns about the parent’s seemingly significant intellectual limitations and/or psychological impairments. These factors influence a parent’s insight and ability to benefit from services and a service plan should be tailored accordingly.***

*Rationale:* Psychological evaluations are a valuable tool used to gauge a parent’s potential to benefit from services and his/her possible chances of success in reaching goals as outlined in a services plan. In OCO investigations, it was noted that there were instances in which a psychological evaluation was ordered for parents after several months of FIA involvement, when it may have been more cost-effective and beneficial for FIA to have had the evaluations completed earlier in the process. Oftentimes, it is discovered during a psychological evaluation that a parent’s chance of success in changing behaviors or benefiting from services is “guarded,” meaning success may not be able to be achieved. If this is known at the onset of a CPS and/or foster care case, safety and permanency for children could possibly be achieved much sooner. The results of investigations into the 71 applicable cases involving the need for earlier psychological evaluations reveal:

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<sup>2</sup>OCO agrees with FIA’s definition of domestic violence as defined in its CPS Policy Best Practices Guidelines: “Domestic Violence is a pattern of assaultive and coercive behaviors, including physical, sexual and psychological attacks as well as economic coercion, that adults or adolescents use against their intimate partners.”

- In 43 of the cases, a psychological evaluation was not recommended, however, given the problems the parent(s) had to overcome in order for their children to live safely in their home, an evaluation would have been beneficial to the service plan

## Foster Care

5. ***Recommendation: It is recommended that Parent Agency Agreements (PAAs) include measurable behaviors that reflect parenting skills commensurate with a child's protection and best interests.***

*Rationale:* A parent's ability to provide for the child's basic needs for clothing, food, sleep, supervision, safety and nurturing should always be included in a PAA. Consistent and positive parenting behaviors, and to some extent attitudes, must be evident before children are allowed to remain in an at-risk environment or before reunification can occur. Participation in required services, remediation of at-risk behaviors, and consistently demonstrated competence in exhibiting desired behaviors must be proven by the parent. The results of our investigations into the 44 applicable cases involving competence of a parent to provide for the child's basic needs reveal:

- In 29 of the cases, competence of the parent(s) and the motivation to change were not measured by the caseworker from one reporting period to the next
- In 27 of the 29 cases, children were returned home and based upon the lack of measurable progress in the PAA, the return might not have been in the best interest of the children

# Appendices

## Appendix A Acknowledgments

The OCO wishes to thank Governor John Engler for the opportunity of serving many of the state's most vulnerable children. OCO would also like to thank Lieutenant Governor Connie Binsfeld for her legacy of commitment in her relentless pursuit to improve the child welfare system. The new legislation that resulted from her Children's Commission has resulted in positive and profound changes in the lives of Michigan's children.

The OCO wishes to thank the Michigan State Senate and the House of Representatives for their continued encouragement and support of the Office of Children's Ombudsman. Their ongoing commitment to and support of this office has been instrumental in its success.

The OCO is indebted to numerous state officials for their dedicated contributions of time, energy, insight and vision which resulted in this report. Special thanks go to:

Senator Joel Gougeon  
Marva Livingston Hammons, FIA Director  
Representative Edward LaForge  
Bill Long, Executive Director, Michigan Federation of Private Child  
and Family Agencies  
Tom Quasarano, Assistant Attorney General  
Colonel Michael Robinson, Director, Michigan State Police  
Kathy Wilbur, Director, Department of Consumer and Industry Services

It is impossible to acknowledge all of the people who played a critical role in the origins, development and continuing work of the Office of Children's Ombudsman. We are grateful to the numerous individuals who have been available and accessible for consultation and expert advice. We wish to acknowledge the outstanding professionals who compose the Children's Ombudsman team. Their dedication to assisting children in need is exceptional.

Finally, we owe a great debt to the children, their families, the foster and adoptive families and all the professionals who shared with our office very private matters and who looked to us to listen to their concerns. It is our sincere hope that we have served them well, and as a result, the process of child welfare has improved.



## Appendix B

### Progress on Annual Report Recommendations: 1995-1997

What follows is an update as to the progress made on OCO recommendations issued in its previous two Annual Reports, including the administrative responses of the Family Independence Agency (FIA) and the Department of Consumer and Industry Services (CIS) to the recommendations. Also included are references to any Senate or House bills sponsored to date that address these recommendations.

Taken together, 56 (70%) of the 80 recommendations issued by the OCO have either been implemented into state law or FIA policy, or incorporated in bills currently being considered.

RECOMMENDATION	PROGRESS
<p><b>1 Adoptions:</b> The Ombudsman recommends that payment incentives for adoption agencies shall be revised to encourage proper incentives to improve permanent placement prospects for special needs children.</p>	<p>FIA agreed with this recommendation. Payment incentives are offered to private agencies for placing children in adoption homes according to specific time tables.</p>
<p><b>2 Confidentiality:</b>The Ombudsman recommends that state law change confidentiality requirements governing child protection cases in order to increase public accountability and improve child protection. Such case file information shall ultimately be subject to the provisions of the Freedom of Information Act (FOIA).</p>	<p>FIA partially agreed with this recommendation. CIS agreed with this recommendation.</p>
<p><b>3 Foster Care:</b> The Ombudsman recommends that CPS shall promptly transmit all available, pertinent information about a child to foster care providers and parents. FIA shall also re-examine the process by which this information is transmitted.</p>	<p>FIA agreed with these recommendations. CIS agreed with these recommendations. P.A. 163 allows foster parents access to all current and prior reports filed with the court on a child. Implementation of the Lieutenant Governor’s “medical passports” also facilitates sharing of a child’s medical history with foster care providers.</p>
<p><b>4 Relative Placement:</b> The Ombudsman recommends that the definition of suitable relative placements be expanded to explain what degree of relationship is acceptable and desirable when considering placement for a child. The option of placing a child with a friend of the family who has “relative status” shall also be provided, building upon the work already begun by FIA’s Kinship Care program.</p>	<p>FIA agreed with these recommendations. CIS agreed with these recommendations.</p>
<p><b>5 Termination:</b> The Ombudsman recommends that when children are removed from the home for a second time, the presentation of a petition to terminate parental rights at the initial disposition hearing shall occur.</p>	<p>FIA disagreed with this recommendation indicating that decisions to terminate parental rights must be made on a case-by-case basis by the FIA and local prosecutor’s office.</p>

<p><b>6 Supervision:</b> 1.) The Ombudsman recommends that CPS supervisors shall exercise improved interactive case supervision and management of line worker investigations. FIA shall review existing case supervision practices and consult with workers, supervisors, and mandated reporters for suggested improvements.</p> <p>2.) The Ombudsman recommends that FIA shall improve supervision of private foster care agencies and their agreements, recommendations, decisions and actions for a children in placement.</p>	<p>FIA agreed with these recommendations and described plans to improve monitoring of private agencies. FIA has undertaken a department-wide “re-engineering” effort. P.A. 172 requires FIA to publish an annual report card for each private agency, as well as each FIA county office, regarding their achievements of permanency for children.</p> <p>CIS agreed with the second part of this recommendation.</p>
<p><b>7 Expediting Permanency:</b> The Ombudsman recommends that state law and policy shall allow for greater discretionary and expedited termination of parental rights.</p>	<p>FIA agreed with this recommendation and stated that “additional changes to expedite the process (<i>of termination</i>) in serious abuse will be sought.” P.A. 172 makes it the responsibility of the “supervising agency” to strive to achieve a permanent placement for each child no more than 12 months after the original petition is filed.</p>
<p><b>8 Monitoring:</b> The Ombudsman recommends that extended leaves of absence from a county by a family with an active CPS case shall be systematically monitored using the new SWSS (Service Worker Support System) case management system.</p>	<p>FIA agreed with this recommendation and implemented policy providing guidelines to CPS workers outlining actions that must be taken when a family with an open or closed CPS case visits or moves to another county.</p>
<p><b>9 Parental/Caregiver Instability:</b> The Ombudsman recommends that parental willingness and capacity to change receive greater prominence in child abuse and neglect prevention and intervention efforts, including decisions to terminate parental rights.</p>	<p>FIA agreed with this recommendation.</p>
<p><b>10 Parental/Caregiver Non-Compliance:</b> The Ombudsman recommends that parents and LTPs shall be required to comply with conditions of a service plan in child abuse and neglect cases, with appropriate consequences if they do not. Parents or caregivers whose non-compliance consists of unavailability for home visits shall be reported to the court. Parents or caregivers who substantially fail to comply with the PAA shall be held accountable by the filing of a petition to terminate parental rights.</p>	<p>FIA agreed with these recommendations. P.A. 530 and 531 of 1998 define a nonparent adult as a person responsible for a child’s health or welfare, allow the court to take jurisdiction over nonparent adults in abuse/neglect cases, and require them to comply with case service plans.</p>
<p><b>11 Parents in Prison:</b> The Ombudsman recommends that the probate court shall be petitioned for termination of parental rights when a parent is to be incarcerated for more than one year and has not arranged for the legal and custodial care of their child(ren).</p>	<p>FIA agreed to review this recommendation.</p>

<p><b>12 Services:</b> The Ombudsman recommends that once a petition for termination of parental rights is filed, the door shall be closed to services for the parents or caregivers until the petition is adjudicated or unless otherwise ordered by the probate court.</p>	<p>FIA agreed with this recommendation. P.A. 163 prohibits “parenting time” after the initial hearing on a termination of parental rights, unless it is not in the child’s best interests.</p>
<p><b>13 Substantial Abuse and Neglect:</b> The Ombudsman recommends that state law shall establish a presumption to petition for termination of parental rights in cases of substantial abuse or neglect.</p>	<p>FIA agreed with this recommendation. P.A. 169 defines the situations in which FIA would be mandated to file a petition with probate court for termination of parental rights.</p>
<p><b>14 Family Preservation:</b> The Ombudsman recommends that state policy shall require that family preservation programs not be used in cases involving child sexual abuse or serious physical abuse.</p>	<p>FIA agreed with this recommendation. Since the recommendation was made, FIA clarified this restriction on family preservation funds in an annual agency bulletin. There is still a need to restrict family preservation programs in cases of serious physical abuse.</p>
<p><b>15 Substance Abuse:</b> The Ombudsman recommends that FIA and the Department of Community Health (DCH) shall develop coordinated policy and practice outcomes relative to the detection and treatment of parental and caregiver substance abuse in cases involving child abuse and neglect.</p>	<p>FIA agreed with this recommendation. P.A. 164 gives priority for substance abuse services to a parent whose child has been removed from the home or is in danger of being removed, because of the parent’s substance abuse. FIA implemented policy to reflect this recommendation.</p>
<p><b>16 Fact Finding:</b> The Ombudsman recommends that CPS shall require and sustain, through clear policy and improved training, that strong investigative techniques shall complement applied social work in CPS investigations.</p>	<p>FIA agreed with this recommendation and implemented policy.</p>
<p><b>17 History of Abuse and Neglect:</b> 1. The Ombudsman recommends: (1) that the law change to include the child, siblings of the child or other children living in the household, in order to account for the abuse of children in the home of “blended families;” (2) that a statutory provision be added to provide for termination in cases where a parent has been convicted of physically or sexually abusing any child in their care; and (3) that state law and rule shall be amended to allow for the termination of parental rights in situations where a parent or LTP has physically or sexually abused any child living in the same household or otherwise subject to that person’s care.</p> <p>2. The Ombudsman recommends that CPS shall be required to determine if a given family has been previously involved with CPS in other counties, using the new SWSS system.</p>	<p>FIA agreed with these recommendations. P.A. 168 allows for termination of parental rights in certain egregious cases, and when a parent’s rights to another child were terminated or voluntarily released. FIA implemented policy which addresses the second part of this recommendation.</p>

<p><b>18 “Indicated” Abuse and Neglect:</b> The Ombudsman recommends that CPS shall be authorized to reach one of three investigative decisions: substantiated, unsubstantiated and a recommended new category called “indicated.”</p>	<p>FIA agreed to review this recommendation. P.A. 484 of 1998 created five categories of case disposition and corresponding action.</p>
<p><b>19 Perpetrator Unknown Standard:</b> The Ombudsman recommends that CPS shall more frequently employ the “substantiated-perpetrator unknown” standard when a preponderance of evidence shows child abuse has occurred, but the perpetrator’s identity is not known, to provide on-going protection and treatment for the at-risk child(ren).</p>	<p>FIA agreed with this recommendation, which is reflected in FIA policy.</p>
<p><b>20 Polygraphs:</b> The Ombudsman recommends that polygraph test results shall not serve as exclusive grounds to close out a CPS investigation.</p>	<p>FIA agreed and implemented policy to reflect this recommendation.</p>
<p><b>21 Protocol for Investigation:</b> The Ombudsman recommends that county child protection officials shall formally implement the requirements for coordinated investigations of child abuse and neglect, according to the protocol developed by the Governor’s Task Force on Children’s Justice.</p>	<p>FIA agreed with this recommendation. CIS will review this recommendation and incorporate protocol where applicable. P.A. 166 requires the implementation of the Lieutenant Governor’s Task Force on Children’s Justice’s “A Model Child Abuse Protocol,” which calls for coordinated CPS investigations.</p>
<p><b>22 Quality Assurance Reviews:</b> The Ombudsman recommends that in addition to current existing supervisory review, FIA shall provide for additional quality assurance performance reviews of all CPS cases — whether substantiated, unsubstantiated or “indicated” — using random sample techniques.</p>	<p>FIA agreed with this recommendation and implemented the Child Protection Assessment project in 1997, which will review 600 randomly selected CPS cases from across Michigan. CIS agreed with this recommendation.</p>
<p><b>23 Referrals to Law Enforcement:</b> The Ombudsman recommends that CPS shall comply with its legal obligations to refer reported child sexual abuse allegations to law enforcement within 24 hours of a complaint. State law shall provide for a consistent legal definition and standard of practice between CPS and law enforcement concerning this reporting obligation. FIA shall provide appropriate education and training to its workers to help ensure compliance and consistency of standards and practice.</p>	<p>FIA agreed with this recommendation and implemented policy detailing the actions to be taken by CPS workers when coordinating investigations with law enforcement.</p>

<p><b>24 Related Criminal Investigations:</b> The Ombudsman recommends that CPS shall not close their investigation based exclusively on police decisions to close out a related criminal investigation. CPS shall emphasize through training and supervision that two very different and separate standards of evidence exist between what the police must prove in a criminal case and what CPS must prove in a child abuse and neglect case.</p>	<p>FIA and CIS agreed with these recommendations.</p>
<p><b>25 Uniform Thresholds of Abuse and Neglect:</b> The Ombudsman recommends that a comprehensive and uniform threshold shall be established to govern what all CPS offices do and do not accept for investigation. Using the Task Force on Children’s Justice protocol for coordinated investigations, FIA shall review models of improved risk assessment tools for child abuse and neglect to improve investigative decisions and implement corresponding pilot programs in a cross-section of counties.</p>	<p>FIA and CIS agreed with these recommendations. FIA implemented (and clarified) policy governing intake and case assignment procedures. P.A. 166 also requires FIA to adopt standard child abuse and neglect investigation protocols.</p>
<p><b>26 Face-to-Face Contacts:</b> The Ombudsman recommends that CPS shall make face-to-face contact with parents, caregivers, LTPs, and alleged victims prior to closing investigations.</p>	<p>FIA agreed with this recommendation and issued policy outlining the requirements for making face-to-face contact during a CPS investigation. FIA policy also outlines the procedure to be followed when a face-to-face contact with a child cannot be made.</p>
<p><b>27 Interviewing Children:</b> The Ombudsman recommends that CPS consistently interview children out of the presence of an alleged perpetrator and be given the statutory authority to do so.</p>	<p>FIA agreed and implemented policy which reflects this recommendation. CIS stated that their practices are consistent with this recommendation. P.A. 168, also adopts this recommendation.</p>
<p><b>28 Maintaining Records:</b> The Ombudsman recommends that CPS file information, specifically screened out referrals and unsubstantiated allegations, shall be retained for at least five years from the date of the most recent referral. This retained information shall not constitute a registry, as with retained substantiations, but rather serve as a subsequent investigative case record only.</p>	<p>FIA agreed with this recommendation and implemented policy requiring all CPS case information be retained for 10 years from the date of receipt of the complaint, consolidated together, and maintained in the county office where the family resides.</p>
<p><b>29 Maximum Attempted Contacts:</b> The Ombudsman recommends that CPS shall establish a maximum attempted contacts policy for investigations, including corresponding consequences and actions to be taken, by either filing a petition and/or alerting law enforcement.</p>	<p>FIA agreed with this recommendation and developed policy.</p>

<p><b>30 Preparing Court Testimony:</b> The Ombudsman recommends that public and private child welfare agencies strengthen worker training in preparing for court testimony.</p>	<p>FIA agreed with this recommendation.</p>
<p><b>31 Unannounced Home Visits:</b> The Ombudsman recommends continued unannounced home calls during any CPS cases where the child is not removed. FIA shall review requiring such home visits for all open, active CPS cases.</p>	<p>FIA agreed to review this recommendation and implemented policy to reflect this recommendation.</p>
<p><b>32 Victim's Statements:</b> The Ombudsman recommends: (1) that a child's denial of abuse shall not be the exclusive reason for closing a CPS investigation, especially in cases involving repeat injuries; and (2) that CPS be required to obtain a child's explanation of an injury and accord weight to such explanations, particularly when they do not coincide with that of the parent or caregiver.</p>	<p>FIA agreed with these recommendations and stated that it is current practice. Further, FIA issued policy clarifying the guidelines for investigations in cases where children deny abuse.</p>
<p><b>33 Injury Recognition:</b> The Ombudsman recommends that CPS workers shall participate in entry-level and in-service training by medical professionals in child injury recognition and identification. It is also recommended that the Michigan State Medical Society and the American Academy of Pediatrics — Michigan Chapter be approached to help develop the curriculum and training involving repeat injuries; and (2) that CPS be required to obtain a child's explanation of an injury and accord weight to such explanations, particularly when they do not coincide with that of the parent or caregiver.</p>	<p>FIA agreed with these recommendations and stated that it is involving workers in continuous training.</p>
<p><b>34 Medical Exams for Young Children:</b> The Ombudsman recommends that FIA shall expand the use of standardized medical examinations for young children, particularly age 5 and younger, for whom a report of abuse has been received.</p>	<p>FIA agreed with this recommendation and implemented policy to reflect this recommendation.</p>
<p><b>35 Medical History:</b> The Ombudsman recommends that a child's medical history, to the extent available, shall accompany him/her into foster care at the time of placement and be shared with the foster parents.</p>	<p>FIA agreed with this recommendation. P.A. 172 adopts this recommendation, and FIA reflected the requirement in policy</p>
<p><b>36 Neo-Natal Drug Screens:</b> The Ombudsman recommends that state law require neo-natal drug screening when a medical professional has reasonable suspicion that the infant has been exposed to illicit drugs during pregnancy and shall be required to notify CPS should a positive drug screen result.</p>	<p>FIA implemented policy to reflect this recommendation. P.A. 581 amended the CPL to require mandated reporters to make a referral to CPS in these cases.</p>

<p><b>37 Required Medical Exams:</b> The Ombudsman recommends that foster care providers shall ensure compliance by caregivers for court-ordered, or otherwise required, medical check-ups for children.</p>	<p>FIA implemented policy to reflect this recommendation.</p>
<p><b>38 Accelerated Appellate Process:</b> The Ombudsman recommends that the appellate process for termination of parental rights shall be accelerated.</p>	<p>FIA agreed with this recommendation. P.A. 169 requires the court to render its decision on a petition for termination of parental rights within 70 days after the commencement of the initial termination hearing on the petition.</p>
<p><b>39 Children’s Attorneys:</b> The Ombudsman recommends that court-appointed attorneys shall be held more accountable to current legal and professional standards of representation in child welfare proceedings.</p>	<p>FIA agreed with this recommendation. P.A. 169 requires the child’s attorney to be present at all hearings and prohibits the substitution of counsel unless the court approves. The Act also states that the court may not discharge the attorney until permanency for the child has been achieved (i.e., child is adopted, has a permanent guardian, etc.)</p>
<p><b>40 Collaboration:</b> The Ombudsman recommends that CPS and FOC collaborate in their investigations and coordinate their respective recommendations involving the same children.</p>	<p>FIA agreed to review this recommendation and acknowledged the need for greater collaboration with Friend of the Court. FIA implemented policy to reflect this recommendation.</p>
<p><b>41 Mandated Reporters:</b> The Ombudsman recommends that state law and rule shall be amended to permit and, upon request, require confidential feedback and progress reports from CPS to mandated reporters thereby improving mutual lines of communication in the best interests of children.</p>	<p>FIA implemented policy which requires caseworkers to inform the reporting person of the disposition of the investigation (i.e., whether the report has been substantiated and the rationale.) This recommendation was also adopted in P.A. 168.</p>
<p><b>42 Reasonable Efforts:</b> The Ombudsman recommends: (1) that the State Court Administrator’s Office work with FIA and other interested parties and institutions to develop a consistent, working definition of “reasonable efforts;” (2) FIA shall continue to review child outcomes and conduct more detailed research to determine the effectiveness of all prevention, intervention and treatment child welfare programs; (3) in measuring effectiveness, how the goal of family preservation is being interpreted at the line workers level shall be examined; and (4) other outcomes shall be measured, including the number and mix of prior CPS referrals on the family (if any) received since their completion and compliance with other services provided to the family.</p>	<p>FIA agreed with these recommendations. P.L. 105-89 “The Adoption and Safe Families Act” of 1997 defined situations in which “reasonable efforts” to prevent removal or reunify a child are not necessary.</p>

## 1996-97 Annual Report Recommendations

RECOMMENDATION	PROGRESS
<p><b>1 Aid to Dependent Children:</b> It is recommended that public and private child welfare workers shall communicate with Family Independence Agency Specialists to verify that a parent who is receiving public assistance (ADC) but has had their child(ren) removed from their home, is either attending school or gainfully employed.</p>	FIA agreed with this recommendation.
<p><b>2 Background Checks:</b> It is recommended that CPS investigations shall document whether background information exists indicating any violent behavior by a parent(s) or caregiver that might place a child at risk (e.g., CPS history, central registry, sex- offenders registry, criminal history).</p>	FIA agreed with this recommendation and implemented policy requiring CPS workers complete a LEIN check on all adults living in the household for all sexual abuse, serious physical abuse and domestic violence allegations. All information is to be documented in the case file. FIA also developed an Investigation Checklist to assist CPS workers in completing all required elements of their investigation.
<p><b>3 Central Registry:</b> It is recommended that substantiated abuse and neglect data entered into the Central Registry shall state why a perpetrator is on the Registry. Data shall also be consistent as to the specific nature of the offense (i.e., physical abuse, sexual abuse, physical neglect, medical neglect).</p>	FIA agreed with this recommendation and indicated they are working to allow more detailed information to be recorded on the Central Registry.
<p><b>4 Child Medical Exams:</b> It is recommended that FIA policy shall be modified to require public and private agencies to ensure every child entering foster care receives a medical examination within 72 hours, utilizing the Early Periodic Screening Diagnosis and Treatment (EPSDT) program.</p>	FIA disagreed with the timing element of this recommendation.
<p><b>5 CPS Investigations:</b> It is recommended that CPS shall be authorized to prioritize investigations because the existing 21-day rule (policy item 712 "Time Frame for Completion of Investigation" page 26) does not allow adequate time to complete all abuse and neglect investigations.</p>	FIA agreed with this recommendation.
<p><b>6 Drug Exposed Infants:</b> It is recommended that when a newborn infant tests positive for illicit drugs or alcohol and a subsequent child is born to the same parent, and that child also tests positive for illicit drugs or alcohol, the child(ren) shall be removed and a petition for termination of parental rights shall be filed.</p>	FIA agreed with this recommendation. On 1/09/98 FIA indicated "In cases where a second child has been prenately injured through the mother's alcohol abuse or a second child has been injured due to cocaine exposure, a petition for termination of parental rights shall be filed." However, FIA has not issued policy to implement their position.



<p><b>7 FIA Legal Representation:</b> It is recommended that state law and rule shall establish legal representation of FIA in all child protection proceedings.</p>	<p>FIA agreed to review this recommendation and indicated their intent to complete a pilot program to determine if additional legal representation improves the protection and permanency provided to children.</p>
<p><b>8 Friend of the Court Records:</b> It is recommended that Friend of the Court reports shall be allowed into evidence in child protection proceedings.</p>	<p>FIA agreed with this recommendation.</p>
<p><b>9 Inconsistent Explanations for Injuries:</b> It is recommended that policy governing CPS investigations shall more heavily weigh inconsistent explanations of a child's injuries as a major risk factor in investigative decisions.</p>	<p>FIA agreed with this recommendation and implemented policy providing CPS guidelines in these cases.</p>
<p><b>10 Legal Representation of Children:</b> It is recommended that: (1) public and private agency caseworkers shall inform the court when they learn that a child's attorney's legal duty to "observe and interview" the child and consult with foster parents and the caseworker (as required by MCL 712A.17c) has not been met; and (2) judges inquire at each review, disposition, and permanency hearing whether pursuant to MCR 5.915(B)(2), the child's attorney has consulted with the child(ren)'s foster parent(s) and caseworker before each hearing.</p>	<p>FIA disagreed with the first part of this recommendation and agreed with the second part.</p>
<p><b>11 Live-Together-Partners:</b> It is recommended that state law shall be changed to require live-together-partners (LTP's) to participate in parent/agency agreements.</p>	<p>FIA agreed in part with this recommendation, but indicated disagreement with the need to enact a state law.</p>
<p><b>12 Medical Evidence of Abuse:</b> It is recommended that CPS shall document and/or report all medical evidence concerning a child abuse or neglect allegation, even when the caseworker does not personally observe the injury.</p>	<p>FIA agreed and implemented policy to reflect this recommendation.</p>
<p><b>13 Parent Agency Agreements:</b> It is recommended that: (1) Parent Agency Agreements (PAA) shall be made part of court orders following each review hearing; (2) public and private agencies shall report to the court each documented sign of parental non-compliance with court-ordered PAAs; and (3) the legal standard of parental compliance necessary</p>	<p>FIA disagreed with the first part of this recommendation, and agreed with the second and third parts citing the implementation of the foster care Structured Decision Making as a tool for better assessing parental compliance and safety issues for the children.</p>

<p><b>14 Parental Rights:</b> If a parent(s) has a CPS history and voluntarily relinquishes parental rights in lieu of having rights involuntarily terminated, it is recommended that FIA policy item 712 “Referral from FC to CPS” page 71 shall be revised to require CPS to consider the history and circumstances of the voluntary relinquishment when conducting an investigation on future children of the same parent(s), to reunify children with their parent(s) shall include substantial completion of the tasks and expectations outlined in the PAA and court orders.</p>	<p>FIA agreed with this recommendation. P.A. 168 addresses this recommendation.</p>
<p><b>15 Prevention Services:</b> It is recommended that CPS shall be required to make a prevention services referral within 5 days if an allegation of child abuse or neglect is unsubstantiated, but in which prevention or support services are recommended by the investigating worker.</p>	<p>FIA agreed to review this recommendation.</p>
<p><b>16 Relative Placements:</b> It is recommended that when a child is to be placed in foster care, the worker shall attempt to examine relative placements within 45 days (or within 48 hours in cases where a relative comes forward), to determine if the relative is capable of providing care for the child.</p>	<p>FIA disagreed with this recommendation indicating that 48 hours does not allow them feasible time in which to complete criminal records and history checks.</p>
<p><b>17 Sibling on Sibling Abuse:</b> It is recommended that FIA policy item 712 “investigation by the Agency” page 6 shall be clarified to require substantiation of parental failure to protect in cases of “sibling on sibling” abuse when the abuse is known by a parent(s) who did not act to protect the child victim.</p>	<p>FIA agreed and implemented policy to reflect this recommendation.</p>
<p><b>18 Supervising Contracted Services:</b> It is recommended that: 1) stronger supervision of contractual services shall occur between public and private agencies to improve mutual accountability; and 2) the supervising agency shall monitor and document progress and performance in each child’s case file; noting any agreement or disagreement, including efforts to resolve any disagreements.</p>	<p>FIA agreed with this recommendation. FIA policy provides additional guidelines that must be followed to ensure compliance by the purchase of service agency. P.A. 172 requires FIA publish an annual report evaluating the achievements of the purchase of service agencies in obtaining permanency for children.</p>
<p><b>19 Transmitting Child Information:</b> It is recommended that all relevant history and case information shall be provided to private agencies when a child is placed with such agencies so as to improve the basis for treatment plans and disclose any problems that may occur or recur during placement.</p>	<p>FIA agreed with this recommendation. P.A. 172 provides requirements for transmitting medical information when a child is placed into foster care.</p>

# Appendix C

## Complaint Process

### Process

**Complaint Validity:** To understand that the OCO is a complaint office is crucial to understanding its investigative role and the resulting recommendations it makes, both in individual child cases and in this Annual Report. Each complaint about each child(ren) received by the OCO is unique and the importance of each child served cannot be underestimated. Each complaint is valued because it sends a message about the quality of state services and about what is, and is not, working.

For the 1996-97 Annual Report, the OCO engaged Sharon Dodson, Ph.D. to review the processes it uses for complaints and recommendations and their respective validity. Dr. Dodson is an expert in continuous improvement and program evaluation.<sup>3</sup> What follows is Dr. Dodson's critique of the Ombudsman's complaint process and resulting recommendations:

**Consumer Complaints:** Much has been learned about the use of consumer complaints in the last twenty years as a result of the quality movement in service and manufacturing organizations. From the framework of continuous improvement efforts, consumer feedback is a vital part of the information system. Complaints are seen to provide the broadest evaluation of the product or service and are used to identify system failures. The strength of complaint information is due to it being direct, unfiltered feedback from the people who are using the product or service and who are directly affected by a system.

Service organizations have learned the importance of listening and responding to consumer complaints as a means to maintain customers in a highly competitive market. Although the child welfare system does not share the private sector's concern about "losing customers," much can be learned and used from the private sector's development of internal systems to intake, evaluate, respond appropriately to complaints, and use that information to eliminate the cause of the complaints.

**Use of Complaint Data:** There are some limitations to consumer complaint data, the most obvious being that not everyone who experiences a problem will complain. Market analysts have estimated the proportion of people who will complain about a common service problem to be 1 in 27, but acknowledge that whether a person complains about a problem varies with many factors including the severity of the problem (in the eyes of the complainant) and their disposition and ability to take the complaint to action. Thus, complaints cannot typically be used to estimate problem occurrence across customers. Another limitation is that complaints are often distanced from the actual processes, which can complicate the process of identifying the root causes. Complaints are most successfully used in: (1) identifying the system problems that require further investigation and articulation; and (2) prioritizing those problems that are identified.

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<sup>3</sup>Dr. Dodson was a Research Associate at Western Michigan University. She earned her Masters degree in Applied Statistics and her Ph.D. in Measurement Research and Evaluation. Dr. Dodson has worked with numerous businesses and organizations over the past 15 years, including W.K. Kellogg Foundation, Kellogg Company, United Way, and James River Corporation to implement data driven continuous improvement efforts that assist in the collection, analysis, and use of information for systemic change.

**OCO Complaints:** Both identification and prioritization of problems are relevant to the work of the Office of Children’s Ombudsman. The OCO has implemented an investigative process for complaint handling to strengthen its ability to describe and analyze complaint data.

A number of variables were input and tracked for complaints received, including numerical information (number and ages of children involved, ages of parents, number of previous contacts), category data (complainant, county of child, type of complaint) and text (log entries relevant to the case, copies of letters). Each complaint received between July 1997 and June 1998 was analyzed to determine the substance of the complaint and the implied system issues.

Categories of system issues were generated from the complaint data for each of the three systems monitored by the OCO (protective services, foster care, and adoption services). Each case was reviewed and system issues identified. Whether or not each system issue occurred in the case was entered into the case data file. Trained and specialized OCO investigators from diverse academic, experiential, and professional backgrounds performed each case assessment. System issues were indexed to each complaint to indicate their reported frequency. Although these tallies do not represent the frequency of the problem in general cases (but are about the complaints actually received), they do provide an important and useful indicator of the extent of problems.

It is important to recognize that analysis of complaint data is one part — albeit an important one — of a quality information system. In the child welfare system setting, monitoring of ongoing functions and activities, internal complaints, and analysis of interacting systems (justice system, law enforcement system, education system) also provide information that must be used in combination with the complaint information to make sense of the overall quality of the system.

**Complaint Procedure:** Each complaint made to the Children’s Ombudsman is initially referred to as an intake. An Intake Investigator collects background information, including, but not limited to: the names of children involved, dates of birth, current living status of the children, agencies involved, the nature and detail of the complaint, and specific actions requested by the complainant. Intakes are presented individually to the Ombudsman. The Ombudsman determines if jurisdiction exists and what course of action, if any, can or should be taken using the scope of authority and discretion permitted under PA 204. A complaint involving more than one child is counted as one case. A determination is made into which of three categories the complaint will be placed: Inquiry, Preliminary Investigation or Investigation.<sup>4</sup>

**Complaint Standards:** The OCO investigates complaints according to four statutory provisions within PA 204: *Section 2(a)*, *Section 3(1)*, *Section 4(2)*, and *Section 6(a)*. (See Appendix F for the text of these sections).

Given the Ombudsman’s discretion to investigate complaints, and the statutory authorization to establish complaint and investigative procedures, five additional administrative standards are used to help decide if complaints should be investigated: (1) the complainant could reasonably be expected to use another remedy or channel; (2) the complaint is historic in nature and does not justify present examination; (3) other complaints take precedence according to urgency, risk or complexity; (4) resources are insufficient for adequate investigation; and (5) the complaint is apparently trivial or not made in good faith.

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<sup>4</sup>Inquiries: Inquiries are handled within 72 hours by answering the complainant’s question by telephone and are then followed by a letter ensuring the accuracy and usefulness of the information requested.

**Investigative Process:** Complaints accepted by the Ombudsman for investigation are governed by *Sections 5 and 6* of PA 204. *Section 5* lists the persons who may bring complaints to the Children’s Ombudsman as: (a) the child; (b) a biological parent of the child; (c) a foster parent; (d) an adoption parent or prospective adoption parent of the child; (e) a legally appointed guardian of the child; (f) a guardian ad litem for the child; (g) an adult who is related to the child as defined in *MCL 710.22*; (h) a Michigan Legislator; and (i) an attorney for any individual described in (a-g). *Section 6* further allows the Ombudsman to open an investigation upon his/her own initiative.

**Procedure:** Several developments follow the opening of a case for investigation. Priority status is assigned to each case. The complainant is notified by letter that an investigation is underway. Case files from public and private agencies are ordered. An Investigator is assigned to the case and meets with the Intake Investigator to transition case information, insights, and investigative goals. The Ombudsman and Supervising Investigator receive weekly progress reports on each open case. The Supervising Investigator meets with each Investigator at least twice monthly to discuss case developments, challenges, and to review progress towards investigative goals. The entire investigative team meets at least twice monthly to present and discuss select cases and review alternative investigative approaches and techniques. Outside clinical experts from medicine, psychology, social work, and law enforcement are approached for analysis and interpretation of investigated facts. Investigations include an array of actions, such as: case records review, interviews, site visits, case conferences, court appearances, expert consultations, analyzing investigated facts, interpreting findings, and reporting results.

**Findings:** Most typically, three findings arise from an investigation. First, the public or private agency’s actions may be affirmed. Second, it may be determined that the public or private agency acted “*contrary to law, rule or policy, or without adequate statement of reason, or based upon irrelevant, immaterial or erroneous grounds*” (*Section 6*). Third, *Section 10* of PA 204 requires the Ombudsman to report findings and make recommendations if at least one of four conditions appear: (1) *a matter should be further considered by the public or private agency*; (2) *an administrative act should be modified or canceled*; (3) *reasons should be given for an administrative act*; and (4) *other action should be taken by the public or private agency*.

Reports of Findings and Recommendations (F&Rs) are written whenever a violation of FIA policy or procedure is found. Our Annual Report recommendations for improvements in the system occur either from F&Rs or as the result of case investigations where there may not have been a violation of policy or procedure, but the Ombudsman determines that changes or improvements in the system should be made. Results of an investigation are communicated and applied according to statutory requirements and procedures established by the Ombudsman. Detailed letters are sometimes used to communicate findings, although such communication may occur through phone contacts or site meetings if such approaches are in the best interest of the children involved. More formal F&Rs are used in certain cases, albeit infrequently, due to their extensive scope and intensive preparation.

**Closure:** Cases may be closed if the public or private agency is affirmed or affirmed in part with a closing letter or contact identifying any concerns and recommendations. Cases may be closed if court decisions move the case beyond the scope of PA 204 or if the complainant fails to provide requested additional information important to the investigation. Cases may also be closed with the acceptance by a public or private agency of an OCO recommendation(s). Finally, cases may be

closed if a formal report was issued or if a referral to a more appropriate agency occurred after the preliminary investigation indicated that the Ombudsman either lacked continuing jurisdiction or if it was found that the complaint would be better handled elsewhere. Cases may be reopened if compelling new information arises or the child's interests or circumstances deteriorate. In addition, Section 7(3) states "*the Ombudsman may conduct further investigations of any complaint upon the request of the complainant or upon the Ombudsman's own initiative.*" The ten statutory tools available to the Ombudsman to conduct investigations are:

1. Authority to investigate "administrative acts" (defined by *Section 2(a)* as an "action, omission, decision, recommendation, practice or other procedure of the department [FIA], an adoption attorney, or a child placing agency").
2. Discretion to investigate or review a complaint [*Section 6(b)*].
3. Authority to hold informal hearings [*Section 6(d)*].
4. Right to petition a Probate Court to either take jurisdiction, or terminate parental rights, with the corresponding responsibility to offer the court evidence supporting such petitions. (Petitioning is contingent on the actions/decisions of protective services, prosecutor, and child's attorney [*Section 7(5)*].)
5. Access to confidential records of all children in protective services, foster care, and adoption [*Section 8*].
6. Exemption from court subpoena and the Freedom of Information Act [*Section 9*].
7. Ability to disclose confidential information only where "disclosures may be necessary to enable the Ombudsman to perform the duties of the office and to support any recommendations resulting from an investigation" [*Section 9*].
8. Report findings and recommendations of specific case investigations [*Section 10(1)*] according to procedures established by the Ombudsman.
9. Report recommendations for reform to the Governor, Legislature, and FIA Director. [*Section 10(5), Section 6(e)*].
10. Retaliation and sanctions against persons cooperating with the Ombudsman is expressly prohibited by law. The law further states that no one may hinder the lawful work of the Ombudsman or his/her office [*Section 11*].

In addition, the Ombudsman must refer suspected criminal conduct to the Attorney General or county prosecutor [*Section 7(2)*]. Suspected adoption attorney misconduct must be reported to the State Bar Grievance Commission [*Section 7(2)*].

## Appendix D

### Administrative Accomplishments

- **Developed and utilized a focus group to independently review and suggest needed revisions to our Reports of Findings and Recommendations.** The decision to undertake a review of our reporting format occurred as the OCO June 30, 1998 reporting period drew to a close. With the OCO closing out its fourth year, it was felt it would be helpful and important to review various practices and procedures for continued improvement and efficiency. Such a review was also among the annual goals our office had established for the year. The focus group consisted of thirteen (13) professionals from areas such as Ombudsman offices in the U.S.; our Assistant Attorney General; the judiciary; medical personnel; social service agency representatives, and FIA. Each member of the group was asked to review several written reports resulting from investigations where we found a violation of FIA policy and/or procedure. The review involved developing 233 possible ratings in the following categories: report readability; fairness; confidentiality; level of detail; professionalism, and consistency. Of the 233 responses, 155 (66.5%) reflected the highest possible rating; another 22.3% rated the report features as “acceptable”, and 11.2% of the responses indicated a need for improvement. Based on these responses, our commitment to continuous improvement and our desire for maximum efficiency, certain changes were incorporated into our reporting format. The Reports of Findings and Recommendations are streamlined, concise, and more manageable for the investigative staff to complete.
- **Completed a comprehensive revision of the OCO’s internal Policies and Procedures Manual and Investigator’s Guide.** OCO staff participated in several work groups created to revise and edit the original manual. The final product is a culmination of two years of work on its structure and content, with input from IHSR. The manual outlines in detail the responsibilities and duties of each member of the OCO Team, and includes standardized methods of operation.
- **Established a procedure in conjunction with the Attorney General’s Office whereby legal counsel could be obtained to represent the OCO in court or provide advice on specific cases.** These attorneys are recommended and appointed by the Attorney General’s office as Special Assistant Attorneys General. They are selected from a list compiled by the Attorney General’s office for each individual county or group of counties in which a child’s case is being considered. PA 204 Section 7(5) states, “[t]he Ombudsman may file a petition on behalf of a child requesting the court to take jurisdiction . . . or a petition for termination of parental rights. . . .” There have been two instances during this reporting period where the OCO utilized a Special Assistant Attorney General to determine the feasibility of filing jurisdictional petitions on behalf of children.
- **Opened a satellite office in Detroit in December 1997.** This office provides an important community-based service of the OCO and underscores our commitment to provide quality and responsive service to the children of southeast Michigan who are involved with child protective services, foster care and adoption. Approximately one-third of OCO’s current open case investigations involve children residing in Wayne, Oakland, and Macomb counties. Complaints will continue to be handled at intake from our Lansing office. Heading the Detroit office is an OCO investigator who has served the Detroit Police Department for the past 25 years as an investigator, the last 13 years in the Department’s Child Abuse Unit.

## Appendix E

### Multi-Disciplinary Investigative Team

The OCO employs a multi-disciplinary team composed of investigators, many with advanced degrees, who carry an average caseload of 37 and have an average of 14 years of professional experience. Position descriptions have been established for two additional investigators. Currently, the OCO Investigative Team consists of professionals with experience in such diverse fields as:

- **Chief Investigator** — retired as an enlisted officer in the Michigan State Police, served for 6 years as an internal affairs investigator, worked in supervisory positions and performed undercover investigative duties.
- **Supervising Investigator** — currently vacant.
- **Senior Investigator** — retired as Police Investigator from the Detroit Police Department after serving over 25 years, including 13 years as investigator of criminal child maltreatment cases in the child abuse unit.
- **Investigator** — a former elementary teacher, served as staff assistant for State Senator Binsfeld and Special Projects Coordinator for Lt. Governor Binsfeld.
- **Investigator** — a former assistant prosecuting attorney for child sex abuse cases with experience as a law clerk and legal researcher.
- **Investigator** — a former behavioral health counselor at a locked children’s psychiatric hospital who specializes in intake processing and investigation.
- **Investigator** — a former CPS worker with Indian Child Welfare experience, former program manager and group social worker for emergency shelter home and residential treatment facilities.
- **Investigator** — a former educator and counselor with experience in prevention services with a private social services agency.
- **Investigator** — a registered nurse with clinical experience in child abuse and neglect working with children in community health, hospital and school settings.
- **Investigator** — retired as an officer in the Michigan State Police after serving 36 years, the last 12 years as a supervisor in the Investigative Services Division.
- **Investigator** — former FIA foster care caseworker with additional experience in foster care licensing.



**Appendix F**  
**Public Act 204 of 1994**  
**(“The Children’s Ombudsman Act”)**

Act No. 204  
Public Acts of 1994  
Approved by the Governor  
June 20, 1994  
Filed with the Secretary of State  
June 21, 1994

STATE OF MICHIGAN  
87TH LEGISLATURE  
REGULAR SESSION OF 1994

Introduced by Senators Welborn, Dingell, Geake, Cisky, Dillingham, Gougeon, McManus, Wartner, Bouchard, DeGrow, Pridnia, Honigman, Gast, Hoffman, Arthurhultz, and Hart

**ENROLLED SENATE BILL No. 723**

AN ACT to create a children’s ombudsman; to prescribe the powers and duties of the children’s ombudsman, certain state departments and officers, and certain county and private agencies serving children; and to provide remedies from certain administrative acts.

*The People of the State of Michigan enact:*

Sec. 1. This act shall be known and may be cited as “the children’s ombudsman act.”

Sec. 2. As used in this act:

(a) “Administrative act” includes an action, omission, decision, recommendation, practice, or other procedure of the department of social services, an adoption attorney, or a child placing agency with respect to a particular child related to adoption, foster care, or protective services.

(b) “Adoption attorney” means that term as defined in section 22 of the adoption code, being section 710.22 of the Michigan Compiled Laws.

(c) “Adoption code” means chapter X of Act No. 288 of the Public Acts of 1939, being sections 710.21 to 710.70 of the Michigan Compiled Laws.

(d) “Child placing agency” means an organization licensed or approved by the department of social services under Act No. 116 of the Public Acts of 1973, being sections 722.111 to 722.128 of the Michigan Compiled Laws, to receive children for placement in private family homes for foster care or adoption and to provide services related to adoption.

(e) “Child” means an individual under the age of 18.

(f) “Complainant” means an individual who makes a complaint as provided in section 5.

(g) “Department” means the department of social services.

(h) "Foster parent" means an individual licensed by the department of social services under Act No. 116 of the Public Acts of 1973 to provide foster care to children.

(i) "Official" means an official or employee of the department or a child placing agency.

(j) "Ombudsman" means the children's ombudsman created in section 3.

Sec. 3. (1) As a means of monitoring and ensuring compliance with relevant statutes, rules, and policies pertaining to children's protective services and the placement, supervision, and treatment of children in foster care and adoptive homes, the children's ombudsman is created as an autonomous entity in the department of management and budget. The ombudsman shall exercise its powers and duties, including the functions of budgeting and procurement and other management-related functions, independently of the director of the department of management and budget.

(2) The ombudsman shall be appointed by the Governor and shall serve at the pleasure of the Governor.

Sec. 4. (1) The ombudsman shall establish procedures for budgeting, expending funds, and employing personnel. Subject to annual appropriations, the ombudsman shall employ sufficient personnel to carry out the duties and powers prescribed by this act.

(2) The ombudsman shall establish procedures for receiving and processing complaints from complainants, conducting investigations, holding hearings, and reporting findings resulting from investigations.

Sec. 5. All of the following individuals may make a complaint to the ombudsman with respect to a particular child, alleging that an administrative act is contrary to law, rule, or policy, imposed without an adequate statement of reason, or based on irrelevant, immaterial, or erroneous grounds:

(a) The child, if he or she is able to articulate a complaint.

(b) A biological parent of the child.

(c) A foster parent of the child.

(d) An adoptive parent or a prospective adoptive parent of the child.

(e) A legally appointed guardian of the child.

(f) A guardian ad litem of the child.

(g) An adult who is related to the child within the fifth degree by marriage, blood, or adoption, as defined in section 22 of the adoption code, being section 710.22 of the Michigan Compiled Laws.

(h) A Michigan Legislator.

(i) An attorney for any individual described in subparagraphs (a) to (g).

Sec. 6. The ombudsman may do all of the following:

(a) Upon its own initiative or upon receipt of a complaint from a complainant, investigate an administrative act that is alleged to be contrary to law or rule, or contrary to policy of the department or a child placing agency, imposed without an adequate statement of reason, or based on irrelevant, immaterial, or erroneous grounds.

(b) Decide, in its discretion, whether to investigate a complaint.

(c) Upon its own initiative or upon receipt of a complaint from a complainant, conduct a preliminary investigation to determine whether an adoption attorney may have committed an administrative act that is alleged to be contrary to law, rule, or the Michigan rules of professional conduct adopted by the Michigan supreme court.

(d) Hold informal hearings and request that individuals appear before the ombudsman and give testimony or produce documentary or other evidence that the ombudsman considers relevant to a matter under investigation.

(e) Make recommendations to the Governor and the legislature concerning the need for protective services, adoption, or foster care legislation.

Sec. 7. (1) Upon rendering a decision to investigate a complaint from a complainant, the ombudsman shall notify the complainant of the decision to investigate and shall notify the department, adoption attorney, or child placing agency of the intention to investigate. If the ombudsman declines to investigate a complaint or continue an investigation, the ombudsman shall notify the complainant and the department, adoption attorney, or child placing agency of the decision and of the reasons for the ombudsman's action.

(2) If the preliminary investigation described in section 6 leads the ombudsman to believe that the matter may involve misconduct by an adoption attorney, the ombudsman shall immediately refer the complaint to the attorney grievance commission of the state bar of Michigan.

(3) The ombudsman may advise a complainant to pursue all administrative remedies or channels of complaint open to the complainant before pursuing a complaint with the ombudsman. Subsequent to the administrative process-

ing of a complaint, the ombudsman may conduct further investigations of any complaint upon the request of the complainant or upon the ombudsman's own initiative.

(4) If the ombudsman finds in the course of an investigation that an individual's action is in violation of state or federal criminal law, the ombudsman shall immediately report that fact to the county prosecutor or the attorney general. If the complaint is against a child placing agency, the ombudsman shall refer the matter to the department of social services for further action with respect to licensing.

(5) The ombudsman may file a petition on behalf of a child requesting the court to take jurisdiction under section 2(b) of chapter XIII A of Act No. 288 of the Public Acts of 1939, being section 712A.2 of the Michigan Compiled Laws, or a petition for termination of parental rights under section 19b of chapter XIII A of Act No. 288 of the Public Acts of 1939, being section 712A.19b of the Michigan Compiled Laws, if the ombudsman is satisfied that the complainant has contacted the department, the prosecuting attorney, the child's attorney, and the child's guardian ad litem, if any, and that none of these persons intend to file a petition as described in this subsection.

Sec. 8 (1) The department and a child placing agency shall do all of the following:

(a) Upon the ombudsman's request, grant the ombudsman or its designee access to all relevant information, records, and documents in the possession of the department or child placing agency that the ombudsman considers necessary in an investigation.

(b) Assist the ombudsman to obtain the necessary releases of those documents that are specifically restricted.

(c) Provide the ombudsman upon request with progress reports concerning the administrative processing of a complaint.

(2) The department, an adoption attorney, and a child placing agency shall provide information to a biological parent, prospective adoptive parent, or foster parent regarding the provisions of this act.

Sec. 9. The ombudsman shall treat all matters under investigation, including the identities of recipients or individuals from whom information is acquired, as confidential, except so far as disclosures may be necessary to enable the ombudsman to perform the duties of the office and to support any recommendations resulting from an investigation. A record of the office of the ombudsman is confidential, shall be used only for purposes set forth in this act, and is not subject to court subpoena. A record of the office of the ombudsman is exempt from disclosure under the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

Sec. 10. (1) The ombudsman shall prepare a report of the findings of an investigation and make recommendations to the department or child placing agency if the ombudsman finds 1 or more of the following:

(a) A matter should be further considered by the department or child placing agency.

(b) An administrative act should be modified or canceled.

(c) Reasons should be given for an administrative act.

(d) Other action should be taken by the department or child placing agency.

(2) Before announcing a conclusion or recommendation that expressly or by implication criticizes an individual, the department, or a child placing agency, the ombudsman shall consult with that individual, the department, or the child placing agency. When publishing an opinion adverse to the department or child placing agency, the ombudsman shall include in the publication any statement of reasonable length made to the ombudsman by the department or child placing agency in defense or mitigation of the action. The ombudsman may request to be notified by the department or child placing agency, within a specified time, of any action taken on any recommendation presented.

(3) The ombudsman shall notify the complainant of the actions taken by the ombudsman and by the department or child placing agency.

(4) The ombudsman shall provide the complainant with a copy of its recommendations on a complaint.

(5) 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.

Sec. 11. (1) An official, the department, or a child placing agency shall not penalize any person for filing a complaint or cooperating with the ombudsman in investigating a complaint.

(2) An individual, the department, an adoption attorney, or a child placing agency shall not hinder the lawful actions of the ombudsman or employees of the ombudsman.

Sec. 12. The authority granted the ombudsman under this act is in addition to the authority granted under the provisions of any other act or rule under which the remedy or right of appeal or objection is provided for a person, or any procedure provided for the inquiry into or investigation of any matter. The authority granted the ombudsman does not limit or affect the remedy or right of appeal or objection and is not an exclusive remedy or procedure.

Sec. 13. The ombudsman shall maintain a registry of adoption attorneys who provide services described in the adoption code. The ombudsman shall remove an adoption attorney from the registry under any of the following circumstances:

- (a) The attorney requests that his or her name be removed from the registry.
- (b) The attorney fails to register as provided in section 5 of the foster care and adoption services act.
- (c) The ombudsman receives notice that the attorney's license to practice law is suspended or revoked.

Sec. 14. This act shall take effect January 1, 1995.

Sec. 15. This act shall not take effect unless all of the following bills of the 87th Legislature are enacted into law:

- (a) Senate Bill No. 299.
- (b) Senate Bill No. 721.
- (c) Senate Bill No. 722.
- (d) Senate Bill No. 724.
- (e) Senate Bill No. 725.
- (f) House Bill No. 4201.
- (g) House Bill No. 4428.
- (h) House Bill No. 4614.
- (i) House Bill No. 4638.

This act is ordered to take immediate effect.

# **Children's Ombudsman**

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