



## INVESTIGATIVE REPORT

### Ombudsman Complaint A2016-0923

Redacted Executive Summary per AS 24.55.200

June 22, 2017

*This investigative report has been edited and redacted to remove information made confidential by Alaska Statute and to protect individual privacy rights.*

#### SUMMARY OF THE COMPLAINT

In May 2016, a Lower 48 man contacted the Ombudsman to complain that the Office of Children's Services (OCS) failed to initiate placement of his biological child with him in a timely manner under the Interstate Compact on the Placement of Children (ICPC). The father's nine-year-old biological child, was removed from her mother's custody in Alaska over a year before he filed his complaint to the ombudsman.

During the pendency of this complaint, Dawn<sup>1</sup> was removed from her foster home due to concerns that she had been sexually abused by her foster father. The foster father was subsequently charged with nine counts of sexual abuse of a minor and is awaiting trial as of this writing. The complainant alleged that, had OCS completed the ICPC in a timely manner, his daughter would not have suffered sexual abuse at the hands of a foster provider who was supposed to keep her safe.

At the time of this report, the child remains in non-relative foster care. However, OCS is currently evaluating whether to begin a trial home visit between Dawn and her mother.

The ombudsman opened an investigation of the following allegation:

***Allegation 1: Unreasonable: OCS failed to timely initiate a home study under the Interstate Compact for the Placement of Children for a biological father who lives out-of-state.***

During the investigation the ombudsman added the following allegations per AS 24.55.120 which authorizes the ombudsman to investigate a matter on her own motion.

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<sup>1</sup> **Ombudsman note:** Per AS 24.55.160, and AS 24.55.190, and to protect privacy interests, the ombudsman will refer to the child as Dawn, which is not her real name.

***Allegation 2: Unreasonable: OCS failed to provide other case-planning services to the biological father, including failing to initiate in-person visitation and failing to arrange for a psychological evaluation within a reasonable amount of time.***

***Allegation 3: Performed inefficiently: OCS delayed disposition in a child-in-need-of-aid case by failing to file its required report on time.***

***Allegation 4: Unreasonable: OCS failed to adequately monitor a child in an out-of-home placement.***

***Allegation 5: Contrary to law: OCS failed to properly respond to the complainant's grievances.***

Assistant Ombudsman Kate Higgins investigated this complaint and forwarded her report to the ombudsman.

## **BACKGROUND**

OCS took emergency custody of Dawn in late April 2015 because of concerns that she was being neglected, primarily due to her mother's substance abuse. Dawn's father has lived out-of-state since Dawn was an infant and does not have legal or primary physical custody of her. This was not the first time that OCS has taken custody of Dawn.

Dawn was previously in custody from November 2011 to April 2013, also due to her mother's substance abuse. While she was in custody the first time, the Father requested placement and OCS initiated an ICPC request for him. However, his living situation changed and OCS subsequently began a new ICPC request for the Father's parents. By the time that ICPC was approved, however, OCS was already looking at returning Dawn to her mother. OCS subsequently began a trial home visit in September 2012 and released custody of Dawn to her mother in April 2013.

In April 2014, Dawn's mother, Ruby<sup>2</sup>, was granted sole legal and primary physical custody of Dawn in a civil custody case. The court noted that the Father had not been a stable person in Dawn's life. The court also noted that the Father had been convicted of fourth degree assault against Ruby when Dawn was an infant. Although the Father had completed an anger management class while on probation, he had also had subsequent encounters with law enforcement. Further, the Father had not provided a family violence evaluation that had been requested of him during the 2011-2013 CINA case. As such, the court was unable to determine whether there were ongoing concerns about domestic violence.

After OCS took custody of Dawn in late April 2015, the records show that the Father was in almost immediate contact with the initial assessment worker for OCS. By early June 2015, the Father had made arrangements for a psychological assessment with his own funds and his assessor made contact with OCS for guidance on what type of assessment the agency was seeking.

In mid-June 2015, the case was transferred to a family services worker (Worker). The transfer memo indicates that the "next step" for the Father was to complete an ICPC request. The case plan, completed by the Worker several weeks later, indicates that the Father was supposed to get

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<sup>2</sup> Per AS 24.55.160 and AS 24.55.190, and to protect privacy interests, the report will refer to the mother as Ruby.

a psychological assessment, a domestic violence perpetrator assessment, and attend parenting classes.

In July 2015, Dawn was moved into a new foster home because of concerns that she was acting out sexually with other children in the home. Also in July, OCS received the Father's psychological assessment, which noted that OCS did not respond to the assessor's requests for information. OCS claimed that the assessment was invalid due to the lack of collateral information. However, the Department did not make arrangements for the Father to have an assessment done by the provider of OCS's choice until December 2016. Further, the second assessor took six months to supply OCS with her report, delaying the Father's ability to complete his case plan even more.

In mid-August 2015, the Worker told the Father that she had begun work on the ICPC paperwork. In September 2015, the Father's attorney asked the Worker for a status update on the ICPC, inquiring about the psychological evaluation, and confirming that the Father wanted to schedule an in-person visit with his daughter. In October 2015, the Father's attorney sent the Worker another email following up on the concerns she raised in her previous email. It is unclear whether the Worker responded to either of these emails.

Beginning in November 2015, OCS began receiving reports from individuals concerned about Dawn's foster care placement. Reports came in from the court appointed special advocate (CASA), Dawn's teacher, and her counselor. The reports ranged from concern about Dawn's lack of appropriate clothing, her level of hygiene, the foster parent's negative perception of Dawn, and the fact that the foster provider would not invite the CASA into his home. The CASA documented her concerns in her February 2016 report to the court.

In mid-November 2015, the court attempted to hold a permanency hearing in the case but it had to be continued several times because OCS had not filed its required report. Also at that hearing, the Father's attorney inquired about the status of the ICPC for the Father. The court ordered OCS to respond within the week but OCS failed to comply.

In mid-December 2015, the Father had his first visit with his daughter since she came in to state custody seven months earlier. The Father also began a second psychological evaluation but the assessor was unable to complete it.

In mid-January 2016, the Father's attorney sent another inquiry about the status of the ICPC. It is unclear whether the Worker responded to this inquiry. Also in January, Dawn's counselor raised concerns about the foster parent's refusal to bring Dawn to counseling. These concerns went unaddressed by the Worker until March 2016, at which point Dawn had missed about six weeks of sessions.

In early February 2016, the Father had his second visit with Dawn and completed the psychological assessment. Around the same time, the Worker filed her permanency report in the case, stating that she had started but not completed the ICPC request.

The Father finished parenting classes at the end of March 2016 and traveled to Alaska for a visit in early April. This visit was unsupervised and included overnights with Dawn.

While the Father was in Alaska, the court held the permanency hearing. In her report to the court, the Worker wrote that she anticipated submitting the Father's ICPC request by the end of the month.

In late April, the CASA relayed both her concerns and Dawn's teachers' concerns with Dawn's level of hygiene. She indicated that Dawn had been wearing the same clothes for weeks and that she was unkempt. The Worker subsequently visited with Dawn at school but was unable to verify the CASA's concerns about Dawn's appearance.

At the end of May 2016, OCS brought the Father to Alaska for another visit. This visit included unsupervised overnights. Two days after the Father left Alaska, Dawn was removed from her foster placement on an emergency basis. The removal occurred after the Worker conducted an unannounced home visit and basically caught the foster father sexually abusing Dawn.

In early June 2016, the Father's attorney requested a status hearing in the CINA case due to suspicions that the ICPC had not been submitted yet. Several days later, the Father filed a request for a placement review hearing after learning about the circumstances prompting Dawn's removal from her foster home. On June 20, the court set a hearing for July 1.

In early July 2016, the court had several evidentiary hearings on the Father's request for placement. After hearing testimony from the Worker and Dawn's counselor, the court denied immediate placement with the Father because he did not have the necessary therapeutic supports in place for Dawn at that time.

OCS records show that the ICPC request was finally sent to South Dakota in early July 2016, more than a year after the department had identified it as the "next step" for the Father.

In August 2016, OCS received the Father's psychological report. The report contained a disclosure that, as a child, the Father had been sexually abused by an older brother and had, in turn, sexually abused his younger brother. Although the report contained multiple recommendations, the assessor did not recommend a sex offender evaluation. However, after reading the report, OCS decided that such an evaluation was required. The Father did not believe that he needed such an assessment as the incidents had occurred many years earlier in his childhood and were not indicative of his behavior now. It was clear from the report that OCS had not updated the assessor with any information about how the case had progressed since the assessment took place six months earlier.

In October 2016, the Lower 48 state Child Protective Services agency determined that the ICPC with the Father could not occur "at this time." The agency had many questions about the current status of the case and how the Father was doing. The ombudsman investigator contacted the Lower 48 state worker and learned that she had tried contacting the Alaska Worker at least eight times to get current information about the case. Due to lack of response by the Worker, the ICPC request was denied. There is no documentation that Alaska OCS ever followed-up with the other state to provide the necessary information to allow the other state to reevaluate the ICPC request.

OCS failed to arrange an in-person visit between Dawn and her Father between early July and early November 2016. In November, the Father came to Alaska to visit with Dawn and also meet with OCS to discuss the recommendations from the August 2016 psychological report, his case plan, and address his concerns about the Worker's non-responsiveness. After the meeting, the parties remained in disagreement over whether the Father needed to submit to a sex offender evaluation. Further, OCS appears to have taken the position that, rather than make referrals for the Father so that he could fulfill the recommendations from the August assessment, that the Father was responsible for seeking out the necessary services himself.

OCS failed to set up a visit for the Father for December 2016 or January 2017. OCS arranged a visit for February 2017 but the Father was unable to attend after OCS changed the dates at the last minute and he had a medical procedure that conflicted with the new dates.

In early March 2017 OCS documented that it was considering a trial home visit between Dawn and her mother, despite the fact that the mother had not completed a psychological assessment. At this point, it appears that the Father began to disengage from the case. OCS scheduled a visit in mid-March to overlap with Dawn's birthday, but the Father cancelled the visit several days beforehand stating that he wasn't able to make arrangements. He asked for the visit to be rescheduled for late April 2017. It is unclear whether OCS scheduled travel for late April prior to receiving an email from the Father in mid-April agreeing to take the sex offender assessment and requesting that OCS book travel for the later part of May. OCS made the May travel arrangements but the Father failed to show up or notify OCS in advance that he would be unable to make the trip.

In late May, OCS decided to begin overnight visits between Dawn and her mother once a week. The plan is to meet at the end of June to evaluate how visits have gone and determine whether to move forward with a trial home visit.

During the pendency of the case, the Father also filed two grievances with OCS about the handling of the case. OCS failed to respond to either of his grievances in accordance with policy and state regulation.

#### **STANDARDS: STATUTES, REGULATIONS, POLICY & PROCEDURE,**

During the investigation of this complaint, the ombudsman investigator reviewed the following:

- AS 47.10, which governs Children In Need of Aid
- AS 47.70, Alaska's codification of the Interstate Compact on the Placement of Children
- OCS's Child Protective Services Manual

#### **Child in Need of Aid Proceedings**

Alaska law allows the Office of Children's Services to initiate child-in-need-of-aid (CINA) proceedings in the event that parents fall below the threshold of their legal duties to care for their children. OCS may take custody in situations involving neglect, abandonment, physical abuse, and substance abuse, among other reasons laid out in statute.

CINA proceedings are a civil judicial process, and parents are appointed attorneys if they cannot afford one. Throughout the process, there is judicial oversight and opportunity for judicial review of OCS's administrative decisions in a CINA case.

#### **Interstate Compact on the Placement of Children**

The Interstate Compact on the Placement of Children, or ICPC, is an agreement between all 50 states that governs the out-of-state placement of children in foster care or for adoption. In Alaska this agreement is codified at AS 47.70.

Before a child who is in state custody can be placed in a foster or adoptive home out-of-state, there must be an approved home study for the prospective placement completed by the state where the child will be placed. Once the child is placed out-of-state, the



receiving state becomes responsible for conducting home visits to check on the child, but the sending state retains jurisdiction over the child and remains financially responsible for any foster payments or adoption subsidies.

It generally takes several months from the time the sending state initiates a request for the home study to be completed until such placement is either approved or denied.

The following statutes and OCS policies are relevant to this complaint:

**AS 47.10.080(p)** requires OCS to provide reasonable visitation between parents and children in state custody, taking into account “the nature and quality of the relationship that existed between the child and the family member” before the state took custody.

**AS 47.10.086** requires OCS to make reasonable efforts to provide family support services to “enable the safe return of the child to the family home,” including identifying and referring the parents for community-based services.

**OCS Policy 3.5.4** requires OCS to initiate an ICPC request in a “timely manner.”

**OCS Policy 3.2.1** requires caseworkers to have face-to-face contact with children at least once a month, “with the majority of the visits being in the home in which the child resides.” Additionally, workers are required to document their visits in ORCA within seven days.

**OCS Policy 2.9.1 states that, as a desired outcome:**

- b. Children in out of home care will not be abused or neglected while in care. There will not be a substantiated report of abuse or neglect.

The same policy also lists permanency goals, including:

- a. Children will be returned to their parent’s care within one year or placed in a permanent home within one year.
- b. Children will experience no more than two placement changes prior to placement in their permanent home.

## **ANALYSIS AND FINDINGS**

The ombudsman evaluates evidence relating to a complaint against a state agency to determine whether criticism of the agency’s actions is valid, and then makes a finding that the complaint is *justified*, *partially justified*, *not supported*, or *indeterminate*. A complaint is *justified* if, on the basis of the evidence obtained during investigation, the ombudsman determines that the complainant’s criticism of the administrative act is valid. Conversely, a complaint is *not supported* if the evidence shows that the administrative act was appropriate. If the ombudsman finds both that a complaint is *justified* and that the complainant’s action or inaction materially affected the agency’s action, the complaint may be found *partially justified*. A complaint is *indeterminate* if the evidence is insufficient “to determine conclusively” whether criticism of the administrative act is valid.

The standard used to evaluate all Ombudsman complaints is the preponderance of the evidence. If the preponderance of the evidence indicates that it is more likely than not that the administrative act took place and the complainant’s criticism of it is valid, the allegation is found justified.

***Allegation 1: Unreasonable: OCS failed to timely initiate a home study under the Interstate Compact for the Placement of Children for a biological father who lives out-of-state.***

The Office of the Ombudsman's Policies and Procedures Manual at 4040 defines the standards for evaluating ombudsman complaints.

"Unreasonable" means:

- (A) the agency adopted and followed a procedure in managing a program that was inconsistent with, or failed to achieve, the purposes of the program,
- (B) the agency adopted and followed a procedure that defeated the complainant's valid application for a right or program benefit, or
- (C) the agency's act was inconsistent with agency policy and thereby placed the complainant at a disadvantage relative to all others.

OCS Policy 3.5.4 states that a case worker must initiate the ICPC request "in a timely manner" upon a request from an out-of-state relative. According to the Father, he requested placement at the beginning of this case, in May 2015. OCS records show that an ICPC was the "next step" for the Father as early as mid-June 2015.

OCS did not forward an ICPC packet to the Father's home state until July 2016, more than a year later, and 14 months after taking Dawn into state custody. Given that OCS policy 2.9.1 sets the goal of permanency for a child at one year (12 months), it appears on its face unreasonable for OCS not to request an out-of-state home study of the father until the child had been in foster care for over a year. Such a long delay could have been explained if the parent had been out of contact with OCS or unwilling to participate in services to address OCS concerns, but neither of these factors appears to have been present in this case.

The following chronology shows how long it took OCS to send the ICPC to the father's home state:

- Late April 2015: Dawn, 7, entered state custody due to her mother's substance abuse.
- Mid-June 2015: Dawn's case was transferred to the Worker; the case transfer note indicated that the "next step" for the Father was an ICPC.
- Late June 2015: notes from the first case planning meeting stated that "The Department is looking at an ICPC."
- Mid-August 2015: ORCA note by the Worker stated that she is "filling out packet for ICPC."
- Mid-November 2015: in court, the judge ordered OCS to update the Father on the status of the ICPC by November 20, 2015. OCS did not comply.
- November – December 2015: Dawn expressed fear of her father; Dawn's therapist recommended OCS stop phone visits and closely supervise the first in-person visit. The in-person visits proceeded smoothly.
- Early February 2016: the Worker asked the foster parent to take Dawn to a physical examination needed for the ICPC, which "should be completed soon."

- Early February 2016: OCS's disposition report to the court stated, "The ICPC has been started, but is not completed at this time."
- Mid-February 2016: OCS's attorney wrote to the Father's attorney that "the department doesn't believe the ICPC is warranted at this time" because of "serious concerns" about Dawn's response to contact with the Father. These concerns apparently referred to fear and stress expressed by Dawn in November and December of 2015, and prior to in-person visits between Dawn and the Father.
- Early April 2016: The Worker, in the permanency recommendations filed with the court, represented that she anticipated submitting the ICPC to the state coordinator in Juneau by the end of April 2016. This was not done.
- Mid-June 2016: The ICPC coordinator received an incomplete ICPC packet from the Worker.
- Early July 2016: the ICPC packet was forwarded to South Dakota after OCS received the additional materials from the Worker to complete the packet.
- Early August 2016: OCS received the psychological evaluation of the Father by OCS's chosen provider.
- Early October 2016: The Father's home state denied the ICPC after the Father's home state case worker made multiple unsuccessful attempts to contact the Worker to obtain information in her possession.

During several court hearings and in communications with the ombudsman investigator, the Worker said that the Department had concerns about whether Dawn would be safe with the Father and about his lack of a prior relationship with Dawn. However, as the Assistant Attorney General argued at the July 2016 placement hearing, the ICPC is not a commitment to place a child, just a request for an investigation to see if the placement might be appropriate.

It is unclear to the ombudsman why the caseworker did not initiate the ICPC home study request for almost a year after it had been identified as the "next step" for the Father. The Ombudsman acknowledges that the Father did not have a well-formed relationship with his daughter at the time she was taken into custody and can understand why OCS would want him to focus on building that relationship before approving placement of the child with him.

However, considering that the ICPC process usually takes months to complete, we cannot understand why the caseworker would not initiate the process at the same time she was trying to facilitate the relationship-building process between the Father and Dawn. CINA cases are, by law, time-sensitive, and it appears that the Worker had no good reason for putting off the ICPC process for so long. In a companion case with similar facts, the Worker was asked why she delayed the ICPC request and she said she did not know. Furthermore, the chronology is filled with statements that the ICPC was being worked on, leaving both the court and the Father with the clear impression that OCS was actually initiating the ICPC, which was not the case until Dawn had been in custody for over a year.

Finally, one can compare this CINA case with the previous one for Dawn. In the previous case, OCS submitted an ICPC request for the Father five months after the case was initiated, and two months after he requested placement. In this case, it took 14 months. Presumably, the Father's relationship with Dawn was even less formed in 2012, when OCS submitted the request, than it



was when OCS assumed custody again in 2015. We can discern no good reason why this case would be treated differently than the earlier case.

In early October 2016, the Father's home state denied the placement request but included recommendations for Alaska to resubmit the request with additional information. Much of the information sought by the other state appears to be information that the Alaska worker would have been easily able to provide, like a current visitation schedule and whether the Father had continued to engage in family therapy. The ombudsman has no reason to disbelieve the other state worker who said that she made repeated attempts over the course of a month to contact the Alaska Worker for additional information before denying the ICPC. Such a delay fits a pattern of delays in this case. In short, not only was initiation of the ICPC delayed for over a year, but Dawn's caseworker then failed to timely provide requested information to the Father's home state, contributing to further delay. Further, it does not appear that the Alaska Worker ever followed-up with the other state worker to provide the information necessary for that state to reevaluate the placement request.

The Father deserved to have OCS consider him for placement of his daughter in a timely manner, as required by policy. Instead, the Worker failed to forward the request packet to the statewide ICPC coordinator for a year. And then she failed to respond to the receiving state's requests for additional information, which led to the denial of the request. Her actions effectively defeated the Father's request for placement.

The caseworker's reason for waiting to submit the ICPC was that the Father needed to work on his relationship with his daughter first. But her justification is belied by the fact that she failed to arrange for an in-person visit between the Father and his daughter until seven months into the case. But, by failing to initiate the ICPC, the Worker was effectively denying the Father's placement request without notifying him. This had the effect of denying the Father his right to formally appeal the placement "denial." Instead, she just did nothing. This is insidious.

By delaying the ICPC, the Worker also frustrated the agency's goal of finding permanency for Dawn. As of this writing, Dawn is still in a foster placement although it appears that OCS is now considering a trial home visit with her mother despite the mother's failure to complete a major element of her case plan.

The ombudsman proposes to find the Father's allegation that OCS unreasonably delayed the ICPC process *justified*.

***Allegation 2: Unreasonable: OCS failed to provide other case-planning services to the biological father, including failing to initiate in-person visitation and failing to arrange for a psychological evaluation in a reasonable amount of time.***

Alaska law requires that OCS make "timely, reasonable efforts" to identify services needed for the parent to remedy the conditions that brought their child into state custody, and that OCS then make referrals to facilitate the parent obtaining those services. AS 47.10.086.

OCS delayed in referring the Father for a psychological evaluation. The case plan, from late June 2015, stated that he must get a psychological evaluation with a domestic violence perpetrator assessment and then follow-through with any recommendations. This requirement remained unchanged when OCS updated his plan in mid-December 2015.

On his own, the Father sought out an evaluation almost immediately after OCS took custody of his daughter in late April 2015. By early June 2015, ORCA documented that both he and his

provider had contacted the initial assessment worker. In fact, the Father had already met with his doctor three times for his assessment by the time the case plan was created in late June 2015.

The provider contacted OCS at the beginning of June 2015. The initial assessment worker documented that she called him back and left a message about “an interest in a general mental health assessment with emphasis on his ability to safely parent his children and any possible history or current use of drugs/alcohol.” After OCS transferred Dawn’s case to the Worker, the provider contacted OCS again. The Worker testified at the 2016 placement review hearing, that she received “one or two” voicemails from him, requesting collateral information. She said that when she called back she was told that the provider had already completed the report. None of these calls were documented in ORCA.

The report was completed in mid-July 2015, and noted OCS’s failure to provide collateral information. Based on information provided by the Father, the provider recommended that the Father take a parenting class, which he completed in March 2016.

OCS determined that the first psychological evaluation of the Father was insufficient because OCS had not provided collateral information for the assessment. In mid-August 2015, the Worker entered an ORCA note that she left a voicemail for the Father indicating that she had been “working on his case regarding psych eval. with doctor and what will need to be done; explain it is nothing he can take care of at this time.”

But it wasn’t until December 2015 that the Worker arranged for the Father to begin a second evaluation, this time with a provider in Alaska. The Worker testified at the July 2016 hearing that OCS could not pay a psychologist in the Father’s home state, or anywhere else outside Alaska, and therefore the Father could not receive an approved psychological evaluation until he visited Alaska. Because the evaluation was not completed during the Father’s December visit, he had to have another appointment when he came back to Alaska in early February 2016 for another in-person visit with Dawn.

The ombudsman investigator contacted OCS to discuss the mechanics of paying specialists outside of Alaska who provide professional services to the State of Alaska. OCS Director Christy Lawton said that the process should be fairly simple and they can coordinate with out of state providers directly. Ms. Lawton said OCS would need to verify that the service is on the person’s case plan, that the provider is legitimate, that the service is included in their spending matrix and then they can get the provider set up in ORCA to receive payments. She added OCS would need an Income Tax ID number from the provider.

She said that caseworkers often get confused about this so they are telling workers to just refer the provider to the provider payments section to get it set up. The Worker apparently did not know to refer the Father to the provider payments section.

To compound the problem, OCS did not receive the Alaska assessor’s report until early August 2016, about six months after the Father completed his scheduled appointments with the psychologist, and 15 months after OCS took custody of Dawn. This evaluation contained multiple recommendations including: individual and family psychotherapy, parenting classes with a long-term support program, anger management classes focused on domestic violence, and establishing a pool of resources including case management.

Further, the second report also contained new and admittedly concerning information that the Father had been both a victim and a perpetrator of sibling sexual abuse as a child. However, even

with that disclosure from the Father, the report did not recommend that the Father receive a sex offender evaluation.

If the Worker had simply returned the other state assessor's calls in 2015 and provided the necessary collateral information in time, the second evaluation – at state expense – might not have been necessary. Additionally, the Father would have had the results and recommendations much earlier, thus giving him more time to follow through with any recommendations. By the time the second assessment came back with recommendations for services for the Father to engage in, the case had already been open for 15 months. Then, as discussed in the following section, the Worker failed to make any referrals for the Father so that he could follow through on the recommendations, other than attempting to arrange a sex offender evaluation which was not recommended by either assessor.

OCS received the second report on August 1, 2016, which recommended:

- individual and family psychotherapy
- parenting classes with a long-term support program
- anger management classes focused on domestic violence, and
- establishing a pool of resources including case management

As of the end of October 2016, the Worker had made no attempts to refer the Father for any of the services recommended by the Therapist. When asked why she had not made any referrals for the Father, the Worker stated that she had not made any referrals because the Father did not agree with the recommendations and because he had told her that he would not speak to her without his attorney present, a claim that the Father denied. The ombudsman notes that even if the Father had insisted on his attorney being available during conversations with OCS that would not actually explain three months of failing to offer any referrals whatsoever. Exercising the right to counsel is not supposed to lead to a parent being cut off from services needed for reunification with their child.

On November 7, 2016, the Father met with the Worker and her supervisors at the OCS office to discuss the recommendations and move forward with referrals. By that date, over three months had elapsed between the time OCS received the completed evaluation and the first discussion between OCS and the Father about how to follow the Therapist's recommendations.

Additionally, there was confusion after the November 7 meeting about whether OCS or the Father would be responsible for locating service providers of anger management classes in his area. After intervention by the ombudsman investigator, OCS agreed in December 2016 to locate a provider. However, it is unclear whether the Worker followed through on this referral. It is also unclear how OCS would pay for out-of-state anger management classes after the Worker asserted that OCS could not pay for out-of-state therapists to provide assessments.

In short, it does not appear that OCS has made any attempts to refer the Father for any of the services recommended by the Therapist in August 2016.

OCS has attempted to arrange for the Father to receive a sex offender evaluation but, notably, this was not a recommendation offered by the Therapist's report. At this point, ten-and-a-half months have elapsed since OCS has received the report, it is patently unreasonable that the

agency has not offered any referrals, other than a sex offender evaluation, to the Father so that he may attempt to follow through on the recommendations.

Finally, OCS's failure to provide information about whether the Father was following the recommendations was at least part of the reason that the Father's state denied the ICPC request, thus further frustrating the possibility of Dawn being placed with her father.

Alaska law requires that when a child is removed from the home, OCS must ensure reasonable visitation between the child and her parents, taking into consideration the relationship that existed prior to the state assuming custody. AS 47.10.080(p).

In this case, the Father began having telephonic visitation with his daughter very soon after OCS assumed custody in April 2015. It appears that this went well while Dawn was in her initial placement, but broke down to some extent after she was moved into her second placement in July 2015.

While Dawn was living at the second foster placement, the Father claimed that he was unable to reach his daughter on many occasions. He provided telephone records that support this claim. The foster father reported that the Father's contacts were, at times, inconsistent, which is also borne out by the phone records.

The foster father also reported to OCS that Dawn did not want to talk to her father at times and felt that his calls were threatening. This issue seems to have been quickly resolved, however, after the Father's in-person visit in December 2015. Hindsight is 20-20, but the ombudsman wonders if the foster father fabricated the report of friction between Dawn and her father to drive a wedge between the Father and his daughter, who would later be sexually assaulted in the foster home.

The Worker did not make arrangements for the Father to have an in-person visit with his daughter until December 2015. At that time, the case had been open for a little over seven months. But a few months earlier, on September 23, 2015, the Father's attorney sent an email to the Worker asking her to arrange visitation for him. The attorney followed-up on that request with another email on October 20, 2015. Yet, it took the Worker almost two months from that communication to make the visit happen or even to respond to the request.

While we can understand that the Department's measured approach of moving from telephonic to in-person visits, as contemplated by AS 47.10.080(p), seven months is too long to wait before setting up a face-to-face visit. Indeed, as the Worker testified in July 2016, in-person visitation was very important to Dawn.

Then, in late September 2016, the ombudsman investigator learned from the Father that OCS had not arranged a visit for him since early July. OCS subsequently arranged for the Father to come to Alaska in early November 2016, four months after his most recent visit. After consistently scheduling visits about every six weeks for about seven months, the Department inexplicably stopped for four months. Further, it appears that the November visit only occurred because of ombudsman intervention. Further, the November 2016 visit was the last visit that the Father has had with his daughter. Blame for this appears to be attributable to both OCS and the Father. The recent gap in visits can only serve to further harm the child, who in this case has documented attachment issues.

First, OCS failed to set up in-person visits for the Father for seven months. Some, although not all, of this delay can be explained by the Father's lack of an established relationship with his

daughter. Then in July 2016, OCS stopped scheduling visits, despite the therapist's recommendation that Dawn was most likely to succeed while living with the Father. He was able to have a visit in November 2016 after the ombudsman investigator assisted the complainant in getting a visit scheduled. A visit in February 2017 was cancelled after the Father was given different dates that, at the last minute, he could not accommodate. Although OCS offered visits in March and May, which the Father failed to follow-through on, that does not excuse the gaps that occurred prior. The least harsh description of this is "unreasonable."

For the reasons stated above, the ombudsman proposes to find *justified* the allegation that OCS failed to reasonably provide case planning services to the Father in a timely manner.

***Allegation 3: Performed inefficiently: OCS delayed disposition in a child-in-need-of-aid case by failing to file its required report on time.***

The Office of the Ombudsman's Policies and Procedures Manual at 4040 defines "performed inefficiently," in relevant part as:

- (A) The timeliness of an administrative act is sometimes an issue. An agency performed inefficiently when an administrative act exceeded:
- (a) a limit established by law (statute, regulation, or similar enacted source) or
  - (b) a limit or balance established by custom, good judgment, sound administrative practice, or decent regard for the rights or interests of the person complaining or of the general public.

Disposition in the CINA case was originally scheduled for mid-November 2015. The court had to delay, however, because both the Worker and the GAL failed to file a disposition report (the GAL's report being contingent on the caseworker's). At the November hearing the Worker told the judge that she would have the report completed within a week.

The court held a second disposition hearing in early December 2015 and, again, it had to be postponed because the Worker had not submitted her report. She told the court that she was "three-fourths" complete and the report could be done as early as the following day or the following week, "at the latest." Due to scheduling conflicts between the parties and the court, disposition was rescheduled for early February 2016.

Two days before the February hearing date, the Worker submitted her report and disposition was finally heard, three months after the original hearing date. The 12-week delay appears to be directly attributable to the Worker's failure, on two occasions, to have her report filed timely.

CINA Court Rule 16 addresses pre-disposition reports and requires that OCS file its report 15 days in advance of the disposition hearing, unless otherwise ordered by the court. The Worker failed to comply with this court rule on three separate occasions and her failure caused a serious delay in disposition in this case. The ombudsman can identify no good reason for this delay.

The ombudsman proposes to find this allegation *justified*.

***Allegation 4: Unreasonable: OCS failed to adequately monitor a child in an out-of-home placement.***

OCS Policy 2.9.1 states, as a desired outcome, that



Children in out of home care will not be abused or neglected while in care. There will not be a substantiated report of abuse or neglect.

Dawn was removed from her third foster placement on May 31, 2016, due to concerns that she was being sexually abused by her foster father. The foster parent has since been charged with felony child sexual abuse and is awaiting trial. In this case, OCS failed to meet its policy goal.

OCS Policy 3.2.1 also requires the caseworker to have face-to-face contacts with children, at least monthly **“with the majority of the visits being in the home in which the child resides.”** OCS failed to meet its requirement in this case, as well. ORCA shows the following face-to-face contacts with Dawn:

- Mid-June 2015 – scheduled home visit.
- Early-July 2015 – scheduled home visit. At this visit, Dawn’s foster parent shared concerns regarding Dawn’s behavior, and she was moved to a new foster home, where she would be later removed due to concerns of sexual abuse.
- Late September 2015 – caseworker met with Dawn at school. Dawn stated that she wanted to move to another foster placement and that, although she felt safe at the foster home, she did not feel comfortable.
- Late October 2015 – home visit with Dawn. This was the first documented home visit at the foster home since Dawn was placed there in July 2015. At that visit, Dawn stated that she did not want to move.
- Early December 2015 – home visit with Dawn by caseworker and CASA.
- Early February 2016 – caseworker met with Dawn at the OCS office. Caseworker also had a coworker observe Dawn’s appearance for hygiene concerns.
- Late March 2016 – caseworker supervised a visit between Dawn and her mother.
- Late April 2016 – caseworker met with Dawn at school.
- Late May 2016 – caseworker conducted unannounced home visit, found evidence of sexual abuse, and immediately removed Dawn from the home.
- Late June 2016 – another OCS worker conducted a home visit with Dawn in her current placement.

Dawn has been in state custody since April 29, 2015. During the 11 months that she was placed with the foster father who likely abused her, only three visits were conducted in the foster parents’ home, including the visit that prompted the emergency removal. What is particularly disturbing is that the Worker did not conduct a single home visit for seven months – between December 2015, and May 2016 – during Dawn’s placement in the offending household. The Worker did have face-to-face time with Dawn more or less monthly, but not a home visit, despite concerns being raised repeatedly by the CASA, the child’s therapist, and the child’s teachers about the foster placement in January, February, and April 2016.

During Dawn’s placement in the foster home, ORCA shows at least eight contacts from individuals concerned about the placement, beginning about three months after the placement began in July 2015:

- Mid-October 2015 – Dawn’s teacher is concerned about her homework assignments not being completed and whether Dawn is receiving enough food in her foster placement.
- Mid-November 2015 – the CASA contacted the Worker about conducting a joint visit to the foster placement. The CASA was concerned that the foster placement was not providing adequate clothing for Dawn. She also raised concerns about foster father not inviting her in the home and lack of interaction with the foster mother.
- Mid-November 2015 – Dawn’s therapist reports conflict between Dawn and her foster father.
- Mid-November 2015 – the CASA reported having a disturbing conversation with the foster father in which he referred to Dawn in extremely negative terms.
- Late November 2015 – the CASA contacted the Worker about her concerns and that both Dawn’s teacher and principal have contacted her.
- Late January 2016 – Dawn’s therapist reported concerns with the placement and the foster father’s refusal to accommodate the counseling schedule.
- Early February 2016 – the CASA’s disposition report raises concern about the suitability of the placement.
- Late April 2016 – the CASA relays a report from Dawn’s teacher that she has been wearing the same clothes for two weeks. The CASA also reported her observations of Dawn’s declining hygiene. However, the Worker said she was unable to corroborate the CASA’s observations when she conducted a face-to-face visit with Dawn several days later, on April 27.

In short, it appears to be pure luck that the Worker conducted an unannounced home visit when she did and discovered signs that something was not right. To the Worker’s credit, she removed Dawn immediately and prevented any further harm, but only after at least six months of receiving and ignoring reports of concerns about the placement. The purpose of requiring monthly visits with children in out-of-home care is to ensure that they are safe. Had the Worker followed policy, OCS might have been alerted to the fact that the placement was unhealthy.

In this case, OCS ignored numerous indicators of problems while Dawn was being sexually abused in a state placement and while in the state’s custody. OCS’s mission is to protect children from abuse and neglect. It failed miserably. When that failure results from workers not following the agency’s own policies; that is unreasonable. The ombudsman proposes to find this allegation *justified*.

The Ombudsman Policy and Procedures manual at 4040(1) defines “contrary to law,” in relevant part, as “failure to comply with statutory or regulatory requirements.”

7 Alaska Administrative Code 54.260 sets a three-step process for OCS grievances. At the first level, a supervisor is supposed to meet the grievant to discuss the complaint. After the meeting the supervisor is supposed to provide a written response. If the grievant is dissatisfied with the supervisor’s response, he may appeal to the regional manager. The regional manager is supposed to meet with the grievant and then provide a written response. At the final level of the process, the field administrator is supposed to meet with the grievant and then issue a proposed decision

for the OCS director. The director can accept, modify, or reject the recommendation and her decision is the final agency action for purposes of appeal to superior court.

The Father filed two grievances with OCS regarding the handling of his daughter's case. The ORCA database contains no entries reflecting how either of the Father's grievances were resolved. An ombudsman investigator reviewing OCS grievance responses inquired of OCS grievance coordinator Scott Heaton about the Father's grievances and was told:

[T]he Father has submitted two separate level one grievances . . . . The two grievances were received were separated by about 4 months. In follow up conversations with the Father he indicated that his initial grievance had been addressed by the . . . Protective Services Manager (PSM) . . . however, after initial improvements in his interactions with the caseworker, he indicated he again had become dissatisfied with her responsiveness to his request regarding his case and filed a second grievance. **Upon request the Protective Services Manager . . . was unable to locate copies of the formal response.** [Emphasis added]

It is unclear when the PSM met with the Father regarding his initial grievance because no such meeting was documented in ORCA. The ombudsman assumes that the November 7, 2016 meeting was held, in part, to discuss the Father's October grievance.

However, in neither instance did OCS follow up – as required by regulation – with a formal written response. Without a formal written response, the Father was left unable to appeal his grievance to the next level in the process if he was dissatisfied with the agency's response. A grievance policy or procedure is only effective if the agency is actually willing to use it as a tool to resolve differences between it and the public it serves. In this case, it appears that the process was a farce.

The ombudsman understands that OCS workers have been terribly overworked. In some cases, the ombudsman can understand a manager resolving a minor grievance with an undocumented conversation. But this was not a run-of-the-mill, "I left a message 20 minutes ago and my caseworker didn't call me back" grievance. The Father submitted a well thought out, detailed list of his serious concerns about how the Worker failed repeatedly to try to reunify him with his daughter; how she failed to return his calls and his therapists calls and his attorney's calls; how she repeatedly failed to listen to the concerns of those important collateral contacts who actually *saw* Dawn; and failed to protect this child from being sexually victimized by the man who the state placed her with.

That requires a written response. That demands more than a written response. That demands action. And it certainly demands that a subsequent, nearly identical set of complaints not be lost.

OCS's failure to provide the Father with written response to his grievances was a clear violation of law and especially egregious considering the serious nature of the Father's grievances. The Ombudsman proposes to find this allegation *justified*.

## RECOMMENDATIONS

***Recommendation 1: The OCS quality assurance team should review the Worker's other cases to determine if she has been meeting the Department's requirements for reasonable or active efforts, as the case demands, and for regular visitation with children.***

At the end of October 2016, the ombudsman investigator learned that the Worker was carrying just over 50 cases on her caseload. This is an enormous work load for a relatively new worker and the Worker may simply be too overwhelmed to effectively manage her cases. OCS should evaluate all of the Worker's cases and triage them as necessary.

***Recommendation 2: The OCS quality assurance team should review whether the Worker received adequate supervision of her cases by her superiors.***

OCS policy 6.8.3 requires supervisors to “meet weekly with their staff to review cases to ensure workers are receiving support and consultation in their work with families.” Issues discussed during case staffing are supposed to be documented in ORCA. In reviewing ORCA notes on this case, there were only eight supervisory staffing entries in the 100 weeks between April 2015 and March 2017. Out of those entries, only four appeared to be actual meetings regarding issues in the case.

The following supervisory staffing notes were found in ORCA:

- 6/12/15 – case transfer memo
- 5/20/16 – supervisor noted that he attended hearing for assigned worker
- **11/7/16 – documenting meeting between worker, supervisor, and the Father**
- **12/7/16 – appears to be actual case staffing between worker and supervisor**
- **12/30/16 – actual case staffing**
- **1/3/17 – actual case staffing**
- 2/3/17 – note that foster parent was arrested
- 2/6/17 – supervisor staffed travel dates with social services associate

To be fair, it appears that the level of supervision has increased on this case from December 2016 to the present, with an OCS supervisor engaging in activity on the case that one would expect from the assigned caseworker. That, quite frankly, is the least OCS can do. If the case had been more actively supervised from the beginning, it is possible that some of the delays documented in this case may not have occurred.

***Recommendation 3: OCS should develop a mechanism to pay for services from out-of-state providers.***

In this case, the Worker testified that OCS needed a new assessment of the Father by an Alaska provider because the agency “could not pay” his out-of-state provider to revise his assessment to include collateral information. This puts out-of-state parents or relatives at a distinct disadvantage for reunification purposes if, in fact, OCS cannot pay out-of-state providers of required case-planning services.

The ombudsman has learned that out-of-state vendors merely have to fill out a vendor's application on the Department of Administration General Services web site in order to be considered to work for the state. Director Lawton described the steps to follow to set up an out-of-state vendor license but apparently this caseworker was unaware because she told the ombudsman investigator it simply couldn't be done.

***Recommendation 4: OCS should evaluate whether its psychological services providers in general, and this provider in particular, are able to provide psychological assessments within timeframes consistent with those imposed by Alaska Statutes for CINA cases and by OCS policy.***

The Father completed his second psychological assessment in early February 2016, but OCS did not receive the completed evaluation until six months later. This is an unacceptable delay in a time-sensitive CINA case. The ombudsman does not know whether the six-month lag in delivering the report is typical of that assessor or of other providers OCS has hired to conduct psychological assessments; however, the ombudsman noted that OCS records did not indicate alarm at the delay or any particular effort to have the provider deliver the report sooner. If such delay is anything other than rare, many families are likely being detrimentally affected by the lack of timely assessment.

***Recommendation 5: OCS should consult with the American Psychological Association, with the Alaska Board of Psychologist and Psychological Associate Examiners, and with other state child protection agencies about best practices and professional ethics requirements for timely processing of psychological evaluations for child custody cases.***

***Recommendation 6: OCS should apologize to the Father for the delay in sending the ICPC request and for failing to arrange case plan services, such as in-person visitation, referral for a psychological evaluation and follow-up referrals, in a timely manner.***

***Recommendation 7: Last, but far from least, OCS should apologize to the Father and Dawn for the harm done to her in State care.***

\* \*

Redacted Executive Summary



## OCS RESPONSE TO OMBUDSMAN RECOMMENDATIONS

On May 25, 2017, OCS Director Christy Lawton responded to the preliminary report. Although a copy of the report was provided to the Caseworker and she was given an opportunity to respond to the allegations, she did not submit a response.

On behalf of OCS, Ms. Lawton wrote:

Dear Ms. Lord-Jenkins,

Thank you for this detailed report and the opportunity to respond to the concerns outlined. We do appreciate the time you and your staff have spent researching, reviewing and providing thoughtful recommendations as outlined in the report dated April 10, 2017. In regards to the five allegations, OCS does not agree that there were total failures in case management or supervision in general, but does recognize that it may not have been optimal. This letter will specifically respond to the seven recommendations you provided as a result of your investigation.

As you will note when you read through our response, we believe workload is the primary driver behind the concerns you noted. In the past five years the number of children in foster care has grown by almost 50%, while the number of caseworkers has not. The average current caseload of workers in the [ . . . ] office is the highest in the state and averages 43 cases per worker. Without a reduction to caseload's there is no feasible way for any given worker to meet all the demands on their caseloads. We also know when caseloads are high, good customer service diminishes and complaints rise. Despite all of this, myself and my staff continue to strive to meet the needs of those we serve in a timely and professional manner.

**Recommendation 1: The OCS Quality Assurance Unit should review the Worker's other cases to determine if she has been meeting the Department's requirements for reasonable or active efforts, as the case demands, and for regular visitation with children.**

**OCS Response:** The Quality Assurance Unit does not have the capacity at present to undertake this type of review. Furthermore, given the . . . office has the highest caseloads of anywhere else in the State; it is more likely than not that some cases aren't getting the attention they should. The case supervisor and local regional managers in addition to the AAG representing OCS is in the best position to give additional guidance and direction to the Worker's case practice as needed.

**Recommendation 2: The OCS Quality Assurance team should review whether the Worker received adequate supervision of her case by her superiors.**

**OCS Response:** Given the workload of the . . . office the last several years it would be expected that the supervision of staff in general would not be of the quality and frequency we would desire. That being said, [the Worker] is now assigned to a very experienced supervisor and we believe she is receiving adequate supervision

**Recommendation 3: OCS should develop a mechanism to pay for services from out-of-state providers.**

**OCS Response:** The OCS Provider Payment Unit is evaluating our current processes and whether a new policy more specific to “out of state” payments to providers is necessary. After this review, OCS will determine if a revision to policy or training in general is needed.

**Recommendation 4: OCS should evaluate whether its psychological services providers in general and the child’s therapist in particular, are able to provide psychological assessments within timeframes consistent with those imposed by Alaska Statutes for CINA case and by OCS policy.**

**OCS Response:** Failure to provide written test results or evaluations in a timely fashion back to OCS from service providers is problematic statewide. There are too few providers in Alaska, particularly in rural Alaska, and hence many of them have zero competition which we believe lends it’s self (sic) to creating providers who do now (sic) [read not] have the same sense of urgency as we do. However, we do have a new position within OCS that is working towards the establishment of provider agreements that would actually articulate necessary guidelines for responsiveness. OCS is still in the development stage with hopes to implement in early 2018.

**Recommendation 5: OCS should consult with the American Psychological Association, with the Alaska Board of Psychologist and Psychological Associate Examiners, and with other state child protection agencies about best practices and professional ethics requirements for timely processing of psychological evaluations for child custody cases.**

**OCS Response:** OCS has plans to will consult (sic) as needed with any professional organization as part of our work towards establishing provider agreements.

**Recommendation 6: OCS should apologize to the Father for the delay in sending the ICPC request and for failing to arrange case plan services such as in-person visitation, referral for a psychological evaluation and follow-up referrals, in a timely manner.**

**OCS Response:** OCS will apologize for the lack of timely case management services by June 30, 2017, if not sooner.

**Recommendation 7: Last, but far from least, OCS should apologize to the Complainant and his daughter for the harm done to her in State care.**

**OCS Response:** We appreciate this recommendation and will evaluate how best to communicate with the family about the care Dawn received while in custody.

#### **OMBUDSMAN COMMENT ON OCS RESPONSE TO FINDING**

The nonchalant tone of Ms. Lawton’s response is disturbing, at best. This case involves a child who has been in state custody for over two years. She has been placed in at least four different foster homes, including one where she was likely sexually abused. Between this case and her previous case, she has been in state custody for 42 ½ months of her nine years – just about a third of her life.

At the outset of this case, her father – who, admittedly, was not a present figure in her life but nonetheless wanted to step up and take responsibility – asked for placement. He went out and got a psychological assessment before OCS had even added it to his case plan. Within his limited resources and abilities, the Father was trying to be proactive and do the things that OCS wanted from him.

But instead of actively working to see if the Father would be suitable placement for his daughter, OCS appears to have done close to nothing to facilitate or even encourage reunification with this parent.

- The worker failed to submit an ICPC request for a year,
- The worker failed to respond to a documented 130 calls from the father concerned about the progress on the ICPC,
- The worker misrepresented to the father, her supervisors, and the court when asked about her progress on seeking the ICPC,
- The worker failed to provide collateral information to the Father’s psychological assessor which rendered the assessment useless,
- The worker failed to facilitate in-person visitation between the Father and his daughter until seven months after she had been taken into custody, and
- After OCS finally received a “valid” psychological assessment for the Father, the worker failed to make any referrals for him.

And to make things worse, the child was then subjected to sexual abuse at the hands of her foster father. By the time Dawn was removed from her abusive foster placement, her teacher, therapist, and the GAL had been raising their concerns about her well-being for months. During that time she exhibited textbook signs of sexual abuse which were reported to the case worker but ignored. That this child suffered additional abuse and trauma while in state care is nothing short of a tragedy.

Ms. Lawton says that the Department’s services in this case “may not have been optimal.” That is a classic example of an understatement. Regarding the findings contained in this report, Ms. Lawton wrote that “OCS does not agree that there were total failures in case management or supervision in general.” However, she did not provide any specific evidence to dispute the findings. Nor did she request that the ombudsman modify her findings. Therefore all of the preliminary findings will remain as justified.

Additionally, Ms. Lawton basically rejected all of the ombudsman’s recommendations. Out of seven recommendations, she only committed OCS to providing an apology to the Father. This is unacceptable.

Particularly perplexing is why Ms. Lawton would refuse to have OCS’s own Quality Assurance unit review all of the Worker’s cases. As of June 7, 2017, the Worker is carrying 44 cases. Our office has formally investigated two of the Worker’s cases including this case and has received at least two other complaints relating to the Worker’s case management. The ombudsman is extremely concerned that there are other cases of hers needing attention to ensure that the children in custody are being properly attended to and that the parents in those cases are given a fair shot at reunifying with their children.

Ms. Lawton identified staff workload as a basic defense to all of the problems identified in this report as though that excuses OCS's duty to make reasonable or active efforts to reunify children with their families. For her part, the ombudsman acknowledges the significant challenges this agency is facing – rising numbers of children being taken into custody coupled with less financial resources and high turnover within the agency. These are big problems with no easy solutions.

If Ms. Lawton is correct that the number of children coming into state custody has increased by 50 percent over the past few years, and we have no reason to doubt her in this, then the agency needs more workers to handle that increase. But, a review of the Governor's budget for Fiscal Year 2018 indicates that OCS has not requested additional funding for front-line workers. OCS is currently funded for 476 front line workers and the agency has requested that same funding carry over to FY 2018. Additionally, the agency has not requested additional funds for training its workers.

However, Ms. Lawton also stated in her response to a companion ombudsman complaint (A2017-0015) that a House amendment to the OCS budget potentially could help reduce the individual caseload of caseworkers but she acknowledged that this is not something that will occur in the short term, even if the bill passes.

Review of the legislative on-line information showed that the FY18 budget amendment passed in the House would reallocate \$3,290,400 in unspent adult public assistance funds from the Division of Public Assistance to OCS. However, the operating budget has not yet passed the Senate as of June 12, 2017, and the fate of the additional allocation is not settled.

Ms. Lawton also referred to a statutory amendment in HB 151 which she said might help overworked caseworkers in the long run.

Sponsored by House Rep. Les Gara, HB151 addresses several challenges facing OCS. As it pertains to caseworker workload, the bill at Section 11 requires that the Division implement workload standards and increase the level of training for new front line caseworkers.

Recommendations for new caseworker workload include:

- No more than six cases are assigned to a new front line worker in the first three months of employment, and
- No more than 12 cases in fourth, fifth and six month of employment.

Additionally, in a proposed amendment to AS 47.14.112(a)(2) HB151 suggests that the Division employ mentors for frontline staff. The Division recommends adding four Protective Service Specialist IIIs, spread across the regions.

Proposed AS 47.14.112(a)(4) recommends that the average statewide caseload not be more than 13 families for each worker. In order to maintain this recommended average, the Division will need an increase in front line worker positions.

According to a fiscal note with the bill, the proposal is based on a workload study completed in 2012 by Hornby, Zeller and Associates, stated the Division needs to add 35 protective Services Specialists:

One Supervisor for every five front line workers

One Social Services Associate for every four front line workers

One Office Assistant for every 3.7 front line workers

The proposed Bill would bring on additional staff over three years, with the addition of 39 positions in FY2018, 17 additional positions in FY2019, and 8 additional positions in 2020.

HB151 passed the House on May 17, 2017, and was transmitted to the Senate. It has not been assigned to a Senate committee and presumably will not be part of the FY18 budget.

Had the bill passed with its House-approved fiscal note, total cost for the 39 new front line workers would be \$3,608,000 of which, \$1,157,400 was projected to come from federal funds. The cost included \$343,200 for lease space, information technology, telecommunications, phones and utilities; and \$15,600 for office supplies; and \$49,600 for one-time commodities of desk, chair, phone and computer. The remainder was for personal services.

The ombudsman recognizes that the state is facing a fiscal crisis but the children who are in state care are facing their own crises. But what is the point of taking a child into protective custody, if the state cannot provide the resources to keep the child safe while in state care, or the resources to try to reunify those children with willing parents?

This complaint will be closed as justified and not rectified.

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