



## INVESTIGATIVE REPORT

### Ombudsman Complaint A2017-0015

June 22, 2017

#### Redacted Executive Summary

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

## SUMMARY OF THE COMPLAINT

On January 4, 2017, an Arizona man contacted the Ombudsman to complain that the Office of Children's Services (OCS) had, for two-and-one-half years, failed to timely initiate an Interstate Compact on the Placement of Children (ICPC) request packet to assess him for placement of his great-granddaughter. OCS had removed the child from her mother's care and custody in Alaska two-and-a-half years prior and placed her in non-relative foster care. OCS had been informed by the mother early on that the great-grandfather was a potential and willing placement for the child. But OCS never contacted the great-grandfather or initiated the required interstate study of the potential placement despite twice telling the judge later in the case that such a study had been initiated.

At the time of this report, the child, now nearly three years old, remains in the same non-relative foster care home where she has been placed since she was five weeks old.

## ALLEGATIONS

The Ombudsman notified OCS in January 2017 it was investigating the following allegations stated in terms to conform to statutory guidelines for investigations by the ombudsman established in AS 24.55.150:

***Allegation 1: Unreasonable - OCS failed to timely explore and consider a relative for placement of a child in state custody.***

***Allegation 2: Unreasonable - OCS failed to timely initiate an Interstate Compact on the Placement of Children home study request packet to assess the suitability of a relative who resides out-of-state for placement of a child in state custody.***

Assistant Ombudsman Charlsie Huhndorf-Arend investigated this complaint and forwarded her report to the Ombudsman.

## INVESTIGATION

In the investigation of this complaint, the ombudsman investigator reviewed relevant Alaska Statute and Administrative Code and OCS policies and procedures. She also reviewed the OCS Child Protective Services paper case file as well as records in the OCS computerized case management system, Online Resource for Children of Alaska (ORCA), the Child in Need of Aid (CINA) court case file, and audio recordings of CINA hearings. In addition, the ombudsman investigator reviewed the Arizona Department of Child Safety ICPC Preliminary Home Study.

## BACKGROUND

**Ombudsman Note:** In order to keep confidential the identities of the parties in this case, the ombudsman will refer the child in this case as Skye; her mother as Terra; and her grandmother – the Complainant’s daughter – as Coral. We will refer to the complainant as Complainant or great-grandfather.

The Complainant is the maternal great-grandfather of the three-year-old girl, Skye. The three-year-old’s mother, Terra, is the Complainant’s granddaughter. The Complainant and his wife live in Arizona. The baby’s mother and grandmother had history with OCS prior to the case at issue.

OCS removed Skye’s mother, Terra, from her mother’s (Coral) care due to Coral’s substance abuse when Terra was eight years old. OCS placed Terra with the complainant – Terra’s grandfather – and his wife who cared for her under a guardianship until she was 16 years old. At that time, she chose to return to Alaska to live with her mother, Coral.

The Complainant previously worked in the child welfare field and retired after 25 years of service.

Skye, the great-grandchild, was born in September 2014. Shortly before the birth, OCS received a protective services report alleging that the baby’s mother, Terra, who was eight-and-a-half months pregnant, had been admitted to the hospital for drug withdrawal several days earlier. While at the hospital, Terra tested positive for several different categories of illegal drugs.

While she was hospitalized for withdrawal, Terra gave birth to Skye via C-section. The newborn tested positive for methamphetamines and opiates at birth and was soon admitted to the Neonatal Intensive Care Unit (NICU) where she was started on doses of morphine and later clonidine to help with her withdrawal symptoms and taper her off of opioids. The infant remained in the NICU where she received intensive care for withdrawal for several weeks.

OCS first identified the Great-grandfather as a potential relative placement for Skye two days after the child’s birth when an OCS Protective Services Specialist (PSS), met with Terra at the hospital to discuss the fact that OCS would be assuming custody of the infant prior to her hospital release. During this meeting, Terra told OCS that she wanted her mother, Coral, and her step-father to have placement of the infant. If that was not possible, Terra said she wanted Skye placed with her great-grandfather and his wife in Arizona. The meeting was documented in ORCA notes, which also stated that OCS denied placement with Coral and her husband because they also had child protective services history with OCS.

Skye’s father was not a placement option.

Five weeks after Skye was born, she was released from the hospital and placed in a non-relative foster home with a long-time OCS foster parent.

Although Terra identified the great-grandfather as her preferred choice for placement shortly after birth, OCS did not document him in ORCA under the Relatives Tab, contact him to inquire if he was interested in placement, or notify him of his right to request placement after the agency took custody of the infant.

Over the next two years, the OCS records reflect 27 events that identified the great-grandfather as a potential placement or reminded the caseworker to send out the necessary paperwork to see if the great-grandfather would be a good placement for the child. Included in those events were directions from OCS placement personnel and OCS Quality Assurance personnel to the caseworker directing that she send an ICPC packet to the agency that would review the great-grandfather as a potential placement. Investigation also found two instances where the caseworker reported to the presiding judge in the CINA case that the ICPC paperwork had been sent or was being sent when the caseworker had not in fact sent the paperwork.

After the great-grandfather filed his complaint with the ombudsman in January 2017, the ombudsman investigator contacted OCS seven times over five weeks until the ICPC paperwork was sent to the child protective services agency in the great-grandfather's home state. During that time, the caseworker's supervisor made this case a priority and set repeated deadlines for completion of the ICPC, but the caseworker did not meet them. Then, after the ICPC paperwork was sent to the OCS central office to be forwarded to the receiving state, the ICPC office found that two significant required reports had not been attached, delaying the process further.

Worth noting, as of the writing of this report, OCS has not yet entered the great-grandfather as a relative in the section of its online caseload database under the Relatives Tab, or documented his request for placement in ORCA under the Placement Request Page.

The caseworker was unable to explain to her staff manager why she had not sent out the paperwork.

The staff manager attributed the delays in part to the caseworker's excessive caseload which had exceeded 50 cases. The staff manager said that the heavy caseload for his office caseworkers was the result of high worker turnover and unfilled vacant positions.

### **Status of the Complainant and his Great-Granddaughter**

As of this writing, OCS has facilitated a visit between the great-grandfather and his great-granddaughter. A second visit is planned for the end of June and a team-decision-making meeting is scheduled to discuss placement.

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

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

The Interstate Compact on the Placement of Children (ICPC) is an agreement between all 50 states, the District of Columbia, and the Virgin Islands that governs the out-of-state placement of children in foster care or for adoption. It establishes procedures to ensure that children placed across state lines for foster care or adoption are placed with persons who are safe, suitable, and able to provide proper care. It also establishes legal and financial responsibility for supervision and the provision of services for the child. In Alaska this agreement is codified at AS 47.70.

The ICPC process entails a complete home study conducted by the receiving state. 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. If the receiving state's recommendation is positive and the ICPC Compact

Administrator determines that all requirements of the receiving state's laws have been met, and the placement is not contrary to the child's best interests, the placement will be approved. Then, it is up to the sending state to determine if the child will be placed with the prospective placement in the receiving state.

Once the child is placed out-of-state, the receiving state becomes responsible for ongoing supervision of the placement and for providing support services to the family. However, 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.

**OCS Policy 3.4, Placement Options**, states in part the first option to be considered in any out-of-home placement is a relative or extended family member's home. Family members can help a child retain ties to their culture and family. If a relative requests to care for the child and has been adequately assessed and approved for placement, the child will be placed with relatives, even if the parents or Indian custodian object. Relatives or extended family members may be licensed or unlicensed.

**OCS Policy 3.5.1, Assessment of Unlicensed Homes**, states in part that if a child in OCS custody needs to be placed in out-of-home care and a relative by blood or marriage requests placement of the child in the relative's home, that relative will be given priority consideration as a placement resource. This consideration will be given unless it is determined that placement of the child with the relative is not in the child's best interest.

**OCS Policy 3.5.4, Searching for Relatives, Identifying Placement Preferences and Processing Requests for Placement** [effective 6/18/2015 – 12/11/2016], states in part that the Division should conduct searches for relative placement and send ICPC paperwork in a timely manner.

## **ANALYSIS AND FINDINGS OF RECORD**

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.

The ombudsman investigated the following allegations:

***Allegation 1: Unreasonable - OCS failed to timely explore and consider a relative for placement of a child in state custody.***

***Allegation 2: Unreasonable - OCS failed to timely initiate an Interstate Compact on the Placement of Children home study request packet to assess the suitability of a relative who resides out-of-state for placement of a child in state custody.***

OCS policy is clear that when a child is removed from a parent's home, it is in the child's best interest to be placed "with a relative, adult family member, family friend, or in another placement that has a connection to the child's family." Under Alaska law and OCS policy, relatives by blood, adoption, marriage, or Tribal custom are the first option to be considered in any out-of-home placement.

OCS policy requires that diligent efforts be made to identify, evaluate, and consider relatives for placement and that these efforts be documented in ORCA. This entails calling and/or writing to all of the relatives identified to inquire if they are interested in placement of the child. The efforts that caseworkers must take to explore and consider relatives for placement are outlined in policy.

OCS policy also requires the agency to notify relatives within 30 days of a child's removal and of the relatives' rights to be considered for placement. Policy states, "All requests or other inquiries regarding placement should be processed in a timely manner with OCS informing relatives and adult family members of their rights."

Additionally, OCS policy states that the agency will initiate an ICPC request in a "timely manner" if an individual requesting placement resides in another state.

In this case, the great-grandfather was identified as a potential relative placement within days of Skye's birth in September 2014. OCS had all of his contact information but failed then to notify him when it took custody of his great-granddaughter, failed to inquire if he was interested in placement, and failed to advise him of his right to be considered for placement, as required by policy.

Over the next two years, the OCS case records reflect that the agency caseworker made no efforts to explore and consider the great-grandfather for placement of the child. It was not that the great-grandfather had fallen off OCS's radar in that 24-month period. In fact, OCS specifically and repeatedly – 29 times to be exact - identified him as a potential relative placement and discussed the need to assess him for placement through the ICPC process during several administrative case reviews and a supervisory case staffing during that time period.

After learning that OCS was moving to terminate the baby's mother's parental rights, the great-grandfather sent an e-mail to the caseworker requesting placement of the child. The Complainant said the caseworker did not respond to this e-mail or several subsequent phone calls that he made to her.

The caseworker submitted a Report for Permanency to the court in October 2016, stating, "The Department is currently working on paperwork to initiate the ICPC" for the great-grandfather. However, the OCS case records reflect that the caseworker had not yet started preparing the ICPC request packet for him. In fact, based on review of all the available records, the caseworker had never even contacted or spoken with the grandfather as of that date. Thus, the caseworker misrepresented to the court that she was working on an ICPC for the great-grandfather when she was not.

In late October 2016, when the court inquired about the status of the ICPC request for the great-grandfather, the OCS caseworker stated that she was working on it. Again, the available records reflect that the caseworker had never contacted or spoken with the great-grandfather and had not started work on the ICPC for him as of this date. The ombudsman finds it extremely troubling

that OCS provided misleading information to the court about the status of the ICPC for the great-grandfather on two occasions.

It was only after ombudsman involvement and several weeks of constant shepherding by the ombudsman investigator that OCS finally sent the ICPC request to Arizona requesting a relative home study and placement decision. This was two years and five months after Skye was placed in foster care. It was six months after the great-grandfather had contacted OCS and formally requested placement, and after OCS had told the case parties during an administrative case review that it intended to file and was moving forward with the ICPC for him.

At the time this report was finalized, the Great-grandfather had received a positive home study report from his home state recommending that he be approved for placement of the child. He has plans to travel to Alaska in late June 2017 for visits with his great-granddaughter and to attend a meeting with OCS to determine if the agency will place her in his care.

A stated goal of OCS is to achieve timely permanency for children in custody. CINA cases are, by law, time-sensitive. The ICPC process itself is lengthy and can take several months to complete. When a relative placement is not timely explored and considered early in a foster care case, it can delay permanency for the child.

The ombudsman investigation revealed that OCS delayed nearly two years after Skye's birth and the Great-grandfather was first identified as a potential relative placement. OCS then delayed another six months after the great-grandfather formally requested placement to initiate an ICPC request for him to Arizona. These delays were excessive and failed to meet the standards established in policy and the tenets of good child welfare practice. Further, it is indisputable that these delays have resulted in delayed permanency for the child.

Thus, the ombudsman finds the allegations that OCS unreasonably delayed in exploring and considering the grandfather for placement of his great-granddaughter and initiating the ICPC process for him *justified*.

### **OCS Director Christy Lawton Responded on Behalf of the Division**

Referring to the *justified* finding in both allegations, Ms. Lawton stated:

We appreciate the thoroughness by which you and your staff researched, reviewed and provided thoughtful recommendations as outlined in the report dated April 20, 2017. In regards to the two allegations, OCS does not agree that there were total failures in case management or supervision in general, but does recognize it may have not 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 Wasilla office is the highest in the state and averages 43 cases per worker. Without a reduction to caseload's [sic] 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.

**Ombudsman Reply:** The Ombudsman is well aware that OCS has experienced huge increases in caseloads and faces chronic staff shortages but that doesn't mean that the problems complained about didn't happen. Nor did OCS provide the ombudsman any argument to the contrary. OCS's response does not convince the Ombudsman to change her findings for Allegations 1 and 2. As such, these allegations will stand as *justified*.

## RECOMMENDATIONS

***Recommendation 1: OCS should improve oversight to ensure caseworkers are timely exploring and considering relatives for placement.***

Failure to timely explore and consider relatives for placement can delay permanency for a child, result in multiple placement moves, and is a barrier to continued family contact.

OCS should improve oversight to ensure caseworkers are timely exploring and considering relatives for placement so that children can be placed promptly within their family network when appropriate.

**OCS Response:** OCS recognizes that timely relative searches can and should be approved. However, OCS also believes that our ability to do [so] requires lower caseloads that allow caseworkers to do the job they are asked to do. As it stands now, caseloads are extremely high and while there is some relief in sight with a possible increase to the budget for new workers in a proposed House amendment and/or via the passage of HB [151] neither are short term fixes. OCS policies and training are clear and make relative searches a priority. There are no additional existing resources that can be leveraged to increase oversight as things stand today.

***Recommendation 2: OCS should improve oversight to ensure caseworkers are timely completing ICPC request packets and take immediate action to clear up the backlog of cases awaiting ICPC request packets in the Wasilla Office.***

The Protective Services Manager told the ombudsman investigator that his office overall was experiencing delays in processing ICPC request packets. Thus, this case was not an isolated incident. He attributed these delays to the onerous amount of paperwork involved, which is a disincentive to overworked caseworkers who are already having difficulty in keeping up with their soaring caseloads and balancing higher priority tasks. Completing an ICPC request packet is a several-step process that involves filling out forms, requesting the child's educational and medical records, providing a copy of the most recent court order indicating the child's legal status, creating a summary of the child's social history, developing a medical and financial plan, providing a current case plan, interviewing the individual who is being considered for placement, and assembling and forwarding the packet to Central Office.

The manager said that he has discussed this problem with his office management staff and they strategized ways to get the ICPC request packets out the door more quickly and the backlog cleared up. Ideas they considered were having the caseworkers delegate more of the ICPC paperwork and document gathering tasks to office support staff; have a slotted position(s) just to process ICPCs; or, hiring someone under contract to process ICPCs. The ombudsman believes these are good ideas that deserve further consideration.

The delay in the ICPC process as seen in this case suggests that OCS does not have an effective system in place to monitor ICPC activity in cases and ensure the prompt completion of ICPC request packets. It also reveals the need for enhanced supervisory and managerial oversight of

caseworker performance in this area. Effective oversight must be provided to increase accountability.

OCS should improve oversight to ensure caseworkers are timely completing ICPC request packets and take immediate action to clear up the backlog of cases awaiting ICPC request packets in the Office.

**OCS Response:** OCS recognizes the importance of completing ICPC packets that initiate inquiries in other states as it relates to meeting the placement needs of foster children. Timeliness of the completion of all day to day case management issues remains a challenge for all staff statewide due to the significant caseloads that staff are managing. Without further resources that would allow us to reduce caseloads to a level that allows for quality and timely case management to occur we will continue to have many tasks done less timely than it should be. Given the workload across the board there is no easy solution. Supervisors do recognize the importance of ICPS [sic] and will continue to work with their staff to ensure timelines to the degree possible.

***Recommendation 3: OCS should improve oversight to ensure that caseworkers are following up on findings and implementing recommendations made by the Quality Assurance Unit in the administrative case review process.***

Administrative case reviews (ACR) are federally mandated every six months for children in state custody and placed in out-of-home care. A function of the Quality Assurance Unit is to conduct ACRs and make findings and recommendations. During an ACR, five required elements are examined including the continued need for and appropriateness of the child's placement.

OCS held administrative reviews in this case five times from February 2015 to March 2017. In each of these reviews, the case reviewer identified the need to continue exploring and considering relatives for placement, and specifically the great-grandfather, and/or recommended initiating an ICPC for the great-grandfather. However, in between reviews, the caseworkers assigned to the case repeatedly failed to follow through and OCS, through its caseworker, "misrepresented" her progress on the ICPC to the court.

The lack of follow-through in completing outstanding actions identified and implementing recommendations made during the administrative case review process suggests OCS does not have an effective system in place to monitor and ensure caseworker compliance with ACR findings and recommendations. It is also indicative of the need for enhanced supervisory and managerial oversight of caseworker performance to increase accountability and compliance.

OCS should improve oversight to ensure that caseworkers are following up on findings and implementing recommendations made by the Quality Assurance Unit in the administrative case review process.

**OCS Response:** Currently it is the role of the supervisor and regional manager to monitor and ensure compliance with the recommendations stemming from case reviews completed by the Quality Assurance Unit. These processes are less effective when caseloads exceed normal parameters such as they [have] done for the last several years. When caseloads are reduced the current processes will function appropriately. Without additional new resources there is no feasible way to increase oversight or add additional processes to ensure 100% compliance. We will continue to make every effort to be responsive in the meantime.

***Recommendation 4: OCS should reassign this case to another caseworker and supervisor so that the great-grandfather receives prompt and fair consideration of the ICPC home study and long-term plan for his great-granddaughter.***

In Ombudsman Investigation A2016-0923, the ombudsman investigated a similar complaint filed against this caseworker and found similar problems relating to ICPCs and misrepresentations about the ICPC process.

**OCS Response:** At this point, OCS believes it would be counterproductive to change caseworkers. While there were communication issues in the past, the father [sic] and caseworker are now working well together and changing workers would only likely cause further delay's [sic] and frustration by the father [sic] and other parties.

***Recommendation 5: The OCS Quality Assurance Unit should review the caseworker'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 Wasilla OCS 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 are in the best position to give additional guidance and direction to [the caseworker's] case practice as needed.

***Recommendation 6: The OCS Quality Assurance Unit should review whether the caseworker has received adequate supervision of her cases by her superiors.***

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

***Recommendation 7: OCS should apologize to the great-grandfather for the delay in initiating the ICPC process and for the misrepresentations made by the caseworker to him and the court about the progress of the ICPC.***

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

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### **Ombudsman Comment on OCS's Answer to Ombudsman Recommendations**

In her responses to **Recommendations 1, 2, 3, 5, and 6**, OCS Director Lawton essentially acknowledged that there were problems in the case management and supervision of this case but she also said in various ways, the agency can't fix the problem because caseworkers are too busy with an unreasonably high caseload.

OCS agreed to implement **Recommendation 7** and will apologize to the great-grandfather for the excessive delay in initiating the ICPC process and for the caseworker's misrepresentation to him and the court.

In answer to **Recommendation 3**, Ms. Lawton said things will get better when the caseworker-family ratio improves.

In answer to **Recommendation 4**, she also said OCS doesn't need to reassign the case to a different worker because she and the complainant are doing fine now.

The ombudsman would point out that relative placement preference is the law in Alaska.

Alaska Administrative Code at 7 AAC 56.360(e)(1), addresses the requirements for relative placement:

(e) Unless prohibited by state or federal law, or unless not in the child's best interest, **when placing a child in foster or residential care, the agency shall**

**(1) place a child in the least restrictive setting appropriate to meet the child's needs, which, in order of preference, means**

**(A) placement with relatives;**

7 AAC 50.990. Definitions defines "relative" as an individual who is related to another by blood, adoption, marriage, or tribal custom.

OCS policy at 3.5.4 mirrors the definition of relative at 7 AAC 50.990. "Relative" means an individual who is related to another by blood, adoption, marriage, or tribal custom.

Thus, OCS regulation and policy prioritizes placement with relatives.

Before the child was born, OCS had the name of a potential relative placement – the Complainant – but OCS simply never contacted him and the caseworker's actions in this case give all the appearances of actively thwarting the Great-grandfather's efforts to keep the child in the family. She didn't return his phone calls; she didn't start ICPC paperwork when directed to three times by an OCS auditor; she didn't start ICPC paperwork when her supervisor and staff manager repeatedly told her to; she twice misled the court and her Assistant Attorney General when the judge asked about the status of the ICPC; she failed to mention the great-grandfather's request when she repeatedly spoke about termination of parental rights,; and she repeatedly allowed her supervisors to unknowingly misrepresent the ICPC status to the Complainant.

By failing to initiate the ICPC, the caseworker was effectively denying the great- grandfather's placement request without notifying him and while moving toward placement with the foster family. This had the tacit effect of denying him the right to formally appeal the placement "denial." Instead, she just did nothing. This is insidious.

The ombudsman doesn't understand why OCS will not conduct a thorough review of a caseworker who repeatedly ignored directions from her supervisors and Quality Assurance *and* misled the AAG *and* the court *and* the OCS Quality Assurance Unit. This caseworker is carrying 40 other cases on her caseload. The Ombudsman has just investigated two complaints that showed serious problems. In the complaint at hand, a child has been effectively removed from her family when she could have been quickly placed with family if the caseworker had done her work.

In companion case A2016-0923, this caseworker's failure to respond to repeated warnings about a child in custody eventually led to the child being sexually abused by her foster father. The foster father is currently facing criminal charges.

Again, in that case the same caseworker ignored the reminders and cautions of OCS and other professional mandatory reporters as well as 130 telephone messages from the child's biological father trying to take steps to get placement of his daughter.

The child in this case is still in foster placement.

This office has two more pending complaints on our caseload involving this caseworker and her potential misrepresentation, at least to ombudsman investigators. All told, since 2015, the ombudsman has received eight complaints about this caseworker, some with similar allegations. Loyalty to one's staff is admirable but the ombudsman wonders what it takes for OCS to determine if these problem cases are an anomaly or the tip of the iceberg and to ask Quality Assurance to review her work. But OCS has rejected that option.

### **OCS Responses Regarding Resources and Division Caseload**

Ms. Lawton identified staff workload as the source of all problems identified in this report as though that excuses OCS's duty to make reasonable or active efforts to reunify children with their families. The ombudsman acknowledges the significant challenges this agency is facing – rising numbers of children being taken into custody coupled with falling 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, the ombudsman's review of the Governor's budget for Fiscal Year 2018 indicates that OCS did not request 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. This leads the ombudsman to question the Department for not requesting additional staff in the Governor's budget.

However, Ms. Lawton also stated in her response that a House amendment to the OCS budget potentially could help reduce the individual caseload of caseworkers but she acknowledged that is a long-term fix at best.

Review of the legislative on-line information showed that the FY18 budget amendment passed in the House and will 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 15, 2017, and the fate of the additional allocation is not settled.

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

Sponsored by House Rep. Les Gara, HB 151 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), HB 151 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.

The proposal, 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.

HB 151 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; \$15,600 for office supplies; and \$49,600 for one-time commodities of desk, chair, phone and computer. The remainder was for personal services.

If it passes next legislative session, HB 151 will add more caseworkers, which can't hurt this agency. However, throwing money at the agency won't solve all the problems OCS faces. The ombudsman again urges OCS to reconsider the ombudsman's recommendation that Quality Assurance review all of the caseworker's cases.

Adding workers without demanding accountability from them will certainly not help OCS provide quality services to Alaska's at-risk children.

#### **FINDING OF RECORD AND CLOSURE**

The ombudsman closed this investigation with the finding that the allegations were *justified* and, at this time, *not rectified*.

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