REPORT IN RESPONSE TO GRAND JURY REFERRAL OF INQUIRY INTO OFFICE OF CHILDREN’S SERVICES, 2017

SEPTEMBER 5, 2017

ALASKA STATE OMBUDSMAN
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INTRODUCTION

The Grand Jury for the Third Judicial District at Anchorage referred the question it had received from Representative Tammie Wilson (North Pole) regarding the Office of Children’s Services “complying with its statutory duties” to the Alaska State Ombudsman on December 22, 2016. While not the usual sort of complaint received, the Ombudsman accepted the matter for review.

The Ombudsman’s role is to objectively review the administrative actions of state agencies to determine whether they were unlawful, unreasonable, unfair, or based on unacceptable grounds. The Ombudsman is not a citizen or consumer advocate. The role of the Ombudsman is to help ensure that state government is serving Alaskans as efficiently, effectively, and equitably as possible.

Usually an ombudsman investigation begins with a complaint from a person directly experiencing a problem with a state agency. In this case, where systemic problems are raised by a policymaker, the customary investigatory process is not possible. In the case of a systems-level complaint, a systems-level response is needed.

In response to the concerns raised by Representative Wilson in her communications to the Grand Jury, as well as those raised by the public during a series of hearings hosted by the representative in 2017, the Ombudsman provides the following:

- Data on all complaints about the Office of Children’s Services investigated since 2010;
- Discussion of the consistent issues presented over time by people with complaints about the Office of Children’s Services;
- An overview of recommendations made since 2010 by the Ombudsman to remedy justified complaints about the Office of Children’s Services, and whether they have been implemented;
- Discussion of how ombudsman recommendations compare to recommendations for system improvements made by other organizations with an interest in the child protection system.

The purpose of this report is two-fold:

1. To acknowledge the complaints raised to the Grand Jury as well as those made by Alaskans about the Office of Children’s Services over time;
2. To provide data and information available from the investigation of ombudsman complaints to leaders and policymakers seeking to improve Alaska’s child protection system.
CONCERNS EXPRESSED TO GRAND JURY

On September 2, 2016, Representative Tammie Wilson provided a list of concerns to the Grand Jury for the Third Judicial District. Representative Wilson’s concerns were based on her review of “over 50 case files.” Of the 15 general concerns listed, most take issue with the purpose and objectives of the child protection system in general, as well as federal requirements placed upon child protection agencies. These issues are better suited for discussion and review by the legislature and executive branch.

Representative Wilson also raised specific concerns about the child protection system which are consistent with issues investigated by the Ombudsman:

- Equating poverty with neglect;
- Disparate impact on Alaska Native families;
- Lack of access to community-based services necessary for reunification;
- Lack of consistency in applying policies and procedures;
- Grandparent rights and roles in Child in Need of Aid (CINA) cases;
- Timeliness and relevance of case plans to reunification of families; and
- Staffing requirements.

CONCERNS EXPRESSED DURING PUBLIC HEARINGS

Representative Wilson convened seven (7) public hearings in 2017. Staff from the Office of the Ombudsman listened to all the hearings, noting the issues raised by Alaskans at each one. In the course of these hearings, participants spoke about their personal experiences with the Office of Children’s Services (OCS). A few participants spoke in support of OCS, but most faulted the agency, citing one or more of the following concerns:

- Discrimination against families living in poverty;
- Discrimination and/or disparate impact on Alaska Native families;
- Lack of access to community-based services necessary for reunification;
- Lack of consistency in applying OCS policies and procedures;
- Grandparent rights and roles in CINA cases;
- Delayed or inadequate case planning;
- Professional qualifications of case workers;
- Poor communication with/from OCS case workers;
- Investigation of reports of harm (now called protective services reports (PSR));
- Case worker attrition resulting in multiple case workers being assigned a case over time;
- Lack of face-to-face contact/home visits by caseworkers with foster children;
- High caseloads and inadequate resources;
- Lack of meaningful response to grievances made to OCS;

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1 See Appendix A.
2 Id.
Lack of access to services or supports that would prevent child abuse or neglect and/or avoid removal of a child from their parent(s);
• Failure to identify and/or pursue relative placement;
• Foster care placement; and
• Frequency and supervision of visitation between children in custody and their families.

Participants in the public hearings also raised concerns about access to effective and zealous legal representation (not just in court but also at team decision making meetings and other conferences with OCS), the actions and effectiveness of guardians ad litem, the judicial process, and the effectiveness of community-based services. These are relevant to the larger child protection system, but are not within the control of OCS.

DATA ON OMBUDSMAN COMPLAINTS

In preparing this report, the Ombudsman reviewed the closing summary of all 538 complaints about OCS investigated by the Office of Ombudsman between January 1, 2010, and June 30, 2017. These complaints involved a wide array of issues and experiences by parents and grandparents, foster parents, guardians ad litem, and others involved in CINA cases.

Ombudsman investigators have found that OCS staff have acted according to law, regulation, policy and/or procedure in more than 54% of complaints investigated since 2010. The majority of investigations that identified a problem with the agency’s actions were resolved through brief assistance and/or informal recommendations to OCS. Very few investigations have resulted in formal reports and recommendations. Those reports have focused on complaints reflecting systemic or long-standing problems experienced by complainants. There were a few occasions where an investigation found that OCS’s actions were unlawful, unreasonable, or otherwise in error but no remedy was available and so no report or recommendation was made.

Ombudsman Investigations of OCS Complaints 2010-2017

![Bar chart showing the distribution of Ombudsman investigations from 2010 to 2017.](chart)

Source: Ombudsman Case Management System
The types of complaints most frequently resolved through brief assistance are related to unreturned phone calls/emails (lack of communication), visitation, and the grievance process. Intake officers and investigators are usually able to facilitate communication between a caseworker or supervisor and a complainant within 1-2 business days. Frequently, a contributing factor is the complainant’s lack of a phone or voice mail, which also hampers communication with ombudsman staff.

Visitation complaints are not quite as easily resolved, but still can be resolved in most cases with brief assistance. Often the complaint is about the frequency (too few or far apart) and the requirement of supervision. Intake officers and investigators can either confirm the visitation schedule by checking OCS’s electronic database ORCA or can speak with OCS staff to resolve issues impeding visitation. However, the fact that visitation is often required to be supervised, and OCS staff resources available to supervise visits are finite, results in limited visitation schedules. In communities where there are non-governmental organizations offering supervision, there are greater opportunities for visitation.

The Ombudsman has paid particular attention to the grievance process at OCS. One reason for that is, when someone contacts the Office of the Ombudsman with a complaint about OCS, they are referred to the grievance process if they have not already attempted to resolve their problem with the agency. Another reason is that complaints about the grievance process have been a consistent portion of all OCS complaints year after year. In 2012, the Ombudsman conducted an extensive investigation and made multiple recommendations for improving the grievance process (discussed later in this report). Even so, the number of complaints about the grievance process received and investigated each year remains steady at an average of 15 per year. In most cases, the intake officers and investigators are able to assist when the grievance has not been reviewed or responded to by simply contacting OCS and encouraging a response by the agency.

Similar to complaints presented at the public hearings, a significant number of complaints presented to the Ombudsman about OCS are actually complaints about the judicial process, Attorney General’s office, or appointed counsel. Intake officers refer these people to the appropriate agency supervisor and the Alaska Bar Association or Alaska Judicial Council.

**ISSUES PRESENTED IN COMPLAINTS OVER TIME**

People come to the Ombudsman with a wide variety of complaints about OCS. Most complainants are parents, grandparents, or other family members, though the Ombudsman also receives complaints from foster parents, guardians ad litem, mandatory reporters, service providers, and others. The major issues presented in complaints to the Ombudsman since 2010 echo those presented by Representative Wilson and people participating in the public hearings.

While some complaints were about a single issue or problem, many complaints raised multiple issues. These include:

- Lack of communication by OCS caseworkers;
- Notice of hearings, case conferences, decision making meetings, etc.;
- Visitation;
- Grandparents rights and roles in CINA cases;

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- Relative placement;
- Timeliness and effectiveness of the OCS grievance process;
- Investigation of reports of harm/PSRs;
- Compliance with the Indian Child Welfare Act;
- Case planning deficiencies;
- Foster care licensing and reimbursement;
- Background checks and barriers to placement or licensure;
- Timely use of the Interstate Compact on the Placement of Children; and
- Access to community-based services.

**Source:** Ombudsman Case Management System

Because the issues presented in complaints vary from year to year, it is important to look at complaints over time as well as year by year. Since 2010:

- 35% of complaints investigated included problems related to relative and foster placement decisions, including Indian Child Welfare Act placements;
- 30% of complaints investigated included problems related to visitation;
- 16% of complaints investigated included issues of investigation, or lack of investigation, of reports of child abuse and/or neglect; and
10% of complaints investigated were from people who said they had not received notice of a hearing, case conference, right to appeal, decision regarding placement, etc.  

**FORMAL OMBUDSMAN RECOMMENDATIONS**

Ombudsman Linda Lord-Jenkins issued 8 formal reports between January 1, 2010, and June 30, 2017. The reports included recommendations for how OCS could address complaints found to be justified after an investigation.

**Notification of Grandparents**

In 2010, the Ombudsman issued a report on complaints raised by a grandparent about failure to receive notice about or opportunity to participate in a CINA action. The Ombudsman found that OCS had failed to provide notice of court hearings, as well as case conferences, to interested grandparents as required by law. The Ombudsman also found that OCS had not communicated to the court the grandparent’s request to participate in CINA proceedings telephonically.

The Ombudsman made five recommendations, which were accepted by OCS:

- OCS should conduct additional training for all staff regarding relevant statutes, regulations, policy and procedures on notice requirements, and should add to its training program a component on statutory notice requirements;
- OCS should review the relevant sections of its policies and procedures manual with the Attorney General’s office regarding grandparent notice and revise it to accurately reflect the procedures that OCS staff must follow when serving written notice of court hearings, case conferences, and other related meetings to grandparents;
- The Department of Law should be responsible for sending written notice of all CINA hearings to grandparents and other persons entitled to notice; and OCS should continue with current policy and procedure requiring written notice of OCS conferences to parties, relatives and other persons entitled to notice;
- OCS should reinforce with caseworkers that the electronic case management system ORCA is not only a records-keeping tool but a tool to help save time in routine tasks - such as drafting notice letters to case parties. Now that OCS has had the ORCA system for a while, caseworkers should be reminded and perhaps retrained in using the ORCA labor saving functions.
- The Department of Law and OCS should collaborate with members of the Alaska Court System CINA Court Improvement Committee and the Alaska Legislature on proposed changes to the Alaska Rules of Court and Alaska statutes to ensure there are clearer and consistent procedures in place for the telephonic participation of non-parties in CINA proceedings.

The Ombudsman followed up with OCS in 2016 about progress toward automating notices for grandparents using ORCA. OCS responded that, while some enhancements had been made to ORCA regarding relative documentation and placement, “due to competing priorities and fiscal

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4 A large proportion of complaints received are about more than one problem or concern. These figures indicate the frequency that these issues are raised by complainants, not the number of complaints.

“constraints” the modification to automate notices to grandparents had not been implemented. When asked in March 2017, OCS reported to the Ombudsman that the modification to ORCA would cost $30,000.

The issue of telephonic participation in CINA proceedings is somewhat resolved by the administrative order of the presiding judges of the four judicial districts that became effective on July 1, 2016. Pursuant to that order, “any case participants, including out-of-home care providers, grandparents, tribes, parties, counsel, witnesses, or the judge, who are not physically present at the court location may participate telephonically in any CINA hearing without court approval or prior notice.” Of course, this only provides the opportunity to participate telephonically in proceedings about which a grandparent (or other relative or party) has actual notice.

**Case Management**

In 2011, the Ombudsman issued a report on complaint A2010-1040, which included six allegations that OCS had acted inefficiently or unreasonably in the management of a CINA case regarding two children taken into custody in 2009. Based on the investigation, the Ombudsman found five of the allegations in the complaint justified:

- OCS failed to maintain minimum contact standards with the parents and children involved in a Child-In-Need-of-Aid case;
- OCS failed to timely refer a parent for random urinalysis testing to check sobriety;
- OCS failed to timely complete paperwork necessary for children in state custody to be assessed for Fetal Alcohol Spectrum Disorder (FASD) and mental health evaluations;
- OCS allowed the foster parent and father of two children in state custody to deviate from the visitation plan and failed to complete a background check on a nanny hired by the father prior to the start of a trial home visit; and
- OCS failed to provide the Guardian ad Litem with timely information, specifically written reports for substance abuse and mental health assessments and evidence of the parent’s substance abuse treatment compliance and/or completion.

During the investigation, due in large part to the father’s initiative to complete services needed to achieve reunification, the children were returned to their father’s custody. The caseworker at issue left OCS before the investigation was initiated. Thus, the Ombudsman made recommendations focused on preventing this type of situation in the future.

The Ombudsman recommended “OCS should conduct supervisory case reviews in accordance with OCS Child Protective Services Policy 6.8.3.” Weekly supervisory meetings can help keep a case on track, identify and remedy any delays or errors, and provide support to case workers. In that complaint, there were not more than three supervisory meetings over the 18 months the children were in OCS custody. OCS accepted the recommendation, with the explanation that:

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6 December 16, 2016, Letter from Christy Lawton, Director of OCS to Linda Lord-Jenkins, Alaska State Ombudsman.


8 Id. at 1.


10 Id. at 11.
OCS policy 6.8.3 A does not require weekly supervision of every case. The intent of weekly supervision is to provide the supervisor and employee structured time to review all necessary case issues, generally based upon priority. Identifying the proper priorities is a task to be led by the supervisor, but accomplished by the supervisor and worker in tandem.\(^\text{11}\)

OCS noted that the case in question was a “permanency case” which “requires a review ‘at least every six months (prior to Child and Family Six Month Conference) and at closure’” — acknowledging that standard had not been met either.\(^\text{12}\) OCS proposed an action plan to implement the Ombudsman’s recommendation. OCS agreed to “provide a refresher course for all current supervisors on policy 6.8.3 A and B” and to offer “specific individualized coaching and mentoring” to supervisors “based upon their track record of identifying and addressing priorities appropriately.”\(^\text{13}\)

**Forensic Interviews and Examinations**

Later in 2011, the Ombudsman issued a report on complaint A2010-1326, in which a father complained about OCS conducting forensic interviews and examinations of his children. During the investigation, the Ombudsman added allegations related to the grounds for OCS actions and the assignment of investigations of a protective services report. The Ombudsman found three allegations justified:

- OCS required the complainant’s children to undergo forensic exams and interviews without a sufficient basis for requiring such an invasive evaluation;
- OCS’s plan to reunify the complainant’s children with their biological mother is based on an incorrect assumption about the proven length of the mother’s sobriety; and
- OCS assigned a protective services report for investigation to the worker who made the report.\(^\text{14}\)

OCS did not concur with the findings related to the allegations. However, OCS did accept the two recommendations made by the Ombudsman:

- OCS should establish guidance for caseworkers addressing intake and initial assessments involving families where one or more parent is a sex offender, and
- OCS should assess whether three weeks of partially demonstrated sobriety is sufficient to support its decision to begin a trial home visit between the children and their mother in preparation for reunification.\(^\text{15}\)

OCS proposed to provide refresher training for all current caseworkers regarding OCS policy and procedure when a parent is an alleged, previously convicted, “founded” and/or untreated sex offender who has immediate access to the child. OCS expressed intent to clarify that the policy is to consider assigning a priority one rating to an investigation where one or more parent is alleged, previously convicted, “founded” and/or untreated sex offender who has immediate access to the

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\(^{11}\) *Id.*

\(^{12}\) *Id.*

\(^{13}\) *Id.* at 12.


\(^{15}\) *See id.* at 19-20.
child. The initial assessment would include and consider that information when determining child safety.  

OCS re-assessed the case and decided that three weeks of partially demonstrated sobriety was not sufficient to support a decision to start a trial home visit between the mother and the children. The caseworker and supervisor were to continue to encourage and monitor the mother’s sobriety and develop a team of community support services, with an in-home safety plan, to operate during the upcoming planned transition.  

Identifying Parents and Creating Case Plans

The Ombudsman issued a report on a complaint (A2011-0026) in 2011 about failure to identify and provide notice to a parent of a child in custody, and delayed creation of a case plan for that parent once notified. The Ombudsman found that OCS did not follow agency policy or procedure, unreasonably failing to conduct a diligent search for the parent and unreasonably failing to engage in case planning with the parent in a timely fashion. The child had been in OCS custody 13 months before the caseworker identified or notified the parent. A cursory case plan was created 7 months later (18 months beyond the timeframe established by OCS policy). OCS concurred with the findings.

The Ombudsman made four recommendations, which OCS accepted:

- OCS should conduct additional training for all agency staff regarding the requirements for identifying and locating absent parents of children in state custody. This training should emphasize the importance of initiating timely upfront and ongoing diligent searches for absent parents.
- OCS should improve its oversight to ensure workers are conducting timely and thorough diligent searches for absent parents.
- OCS should conduct additional training for all agency staff regarding case planning requirements for parents. The training should emphasize the importance of initiating timely case planning for parents.
- OCS should improve its oversight to ensure workers are initiating timely case planning for parents.

OCS proposed an action plan for each recommendation on April 21, 2011, with many of the actions taking place almost immediately. OCS agree to implement:

- refresher training on identifying and locating “absent parents” along with a new on-the-job training program on the topic to supplement initial worker training (expected to have been in place by May 31, 2011);

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16 See id.
17 See id.
19 See id. at 7.
20 See id. at 4.
21 See id.
22 See id. at 8.
23 See id. at 8-9.
training for all Administrative Review Facilitators to screen family service cases at the first review for notification to all parents, as well as timely case planning (scheduled for June 1-3, 2011); and

“as part of a program improvement plan,” a complete makeover of parent engagement, protective capacity assessment, and case planning practices with the anticipated training to emphasize “the importance of timely and comprehensive planning with parents” (pilot of the training occurred in May 2011, extending statewide after that).24

**OCS Grievance Procedure**

In 2012, the Ombudsman issued a report of an ombudsman-initiated investigation of OCS’s grievance procedure.25 Based on a steady flow of complaints about the grievance procedure, former Ombudsman Linda Lord-Jenkins initiated investigation of whether:

- the OCS grievance process had been carried out in a fair and efficient manner;
- citizens had been adequately notified of the OCS grievance process;
- OCS personnel had responded consistently to grievances filed by citizens; and
- OCS had responded to grievances in a timely or adequate manner.26

Based on that investigation, the Ombudsman determined that the answer to these questions was “no:”

This investigation reveals that while most personnel of OCS generally make efforts to promote fairness and efficiency in the handling of complaints, the structure of the OCS grievance procedure is so cumbersome and inherently difficult to administer that the process frequently fails to provide a fair and reasonable method of recourse to aggrieved individuals. The ombudsman provides recommendations for a thorough top-down overhaul of the system that includes re-writing applicable regulations to be easier to understand and follow, re-writing applicable policies and procedures to be clearer and to conform to the regulations, and training OCS employees at all levels.

The grievance process as it currently exists is ineffective. While it is true that in a number of cases grievances are properly heard and disposed of, the handling of grievances is inconsistent and erratic across the agency. In many cases the system is not applied at all. Complainants are often unaware of the procedure, and when formal grievances are filed, they are likely to be handled in inconsistent ways, depending on which office or even which employee they are submitted to. The process is not tracked on an agency-wide basis. There is no way for the agency as a whole to know how grievances have been handled, or even how many have been filed. Upper management is aware of these problems and very interested in resolving them, but there appears to be a sense of frustration at the size of the problem and the difficulty of formulating an effective method to solve it across the entire agency.

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24 Id. at 8-9.
26 See id. at 4.
The problems with the grievance process are, for the most part, not traceable to error, neglect or malfeasance on the part of current OCS personnel. To the contrary, personnel at all levels of the agency appear to be doing their best to make the system work, and have at least given thought to possible improvements. Efforts have occasionally been made to unify and reform the system in recent years, but these have never succeeded. Efforts at system-wide reform are hampered by OCS’s high turnover rate, constrained resources, and the constant press of other more urgent business. Nevertheless, at all levels of the agency there is a desire for improvement in the system and for additional training. Institutional resistance to change does not appear to be a problem in this case.

The root of all problems with the OCS grievance process is the governing regulation. Since being amended in 2006, this regulation has been defective on its face. The regulation does not provide for a true complaint resolution and decision making process. The regulation is cumbersome, convoluted, and extremely difficult to apply.

While there are also problems in the Policy and Procedure Manual and in the practical implementation of the process, these problems can all be traced to the regulation, and are not likely to be effectively solved until the regulation is amended or, better yet, replaced entirely. With no workable structure to build on, current sincere efforts to improve and reform the process are likely to end in frustration, or at best result in temporary improvements that will last only as long as current personnel remain with the agency.\(^{27}\) (emphasis added)

The Ombudsman recommended a complete overhaul of the regulations governing OCS’s grievance procedure.\(^{28}\) Adopting a simple, intuitive, uniform process was recommended. Complete separation of the OCS and juvenile justice grievance procedures was also recommended. OCS expressed intention “to begin the process of drafting the new regulation in July 2012.”\(^{29}\) The Ombudsman recommended updating the policies and procedures to reflect the new regulations, once adopted, and OCS concurred.\(^{30}\) OCS engaged in the regulatory process as they had agreed, adopting new regulations for the grievance procedure on September 7, 2013.\(^{31}\) The new regulations (7 AAC 54.255 et seq.) provide a separate grievance procedure for OCS, as recommended.

The Ombudsman recommended that OCS adopt a “uniform agency-wide computerized tracking system to maintain a record of every grievance filed.”\(^{32}\) OCS was “in full agreement” that such a tracking system “is a desired tool” and committed to “exploring available options and allocating resources to accomplish this goal.”\(^{33}\) OCS has reported to the Ombudsman that it investigated modification of the electronic case management system (ORCA), but found that to be too difficult. A separate system has been developed to track grievances as well as critical security incidents and is expected to launch in FY18.

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\(^{27}\) *Id.* at 4-5.
\(^{28}\) See *id.* at 40-42.
\(^{29}\) *Id.* at 41.
\(^{30}\) See *id.* at 44.
\(^{32}\) *Id.* at 42.
\(^{33}\) *Id.* at 43.
The Ombudsman recommended that OCS implement training on the new process, once the new regulations and policies and procedures were adopted.\(^{34}\) OCS agreed with the recommendation.\(^{35}\) The policies and procedures were revised subsequent to the adoption of 7 AAC 54. 255 \textit{et seq.} \(^{36}\)

After this report was issued and the new regulations were enacted and the policies and procedures adopted, there was a brief decrease in the complaints received about grievances in 2014. However, the number of complaints soon increased and has remained steady since 2015. This may be due, in part, to the increasing number of families engaged with OCS during the same period. It is worth noting, however, that the primary issue presented by complainants about the grievance procedure is the lack of timely response by OCS (rather than complaints about the complexity or accessibility of the process). This reinforces the importance of the recommendation for a tracking system, as well as the recommendations from previous reports for consistent supervision and oversight of cases, to help ensure that grievances are addressed in a timely and meaningful way.

\textbf{Background Check Program and Barriers}

In 2013, the Ombudsman initiated an investigation of the Department of Health and Social Services (DHSS) Background Check Program (BCP) and how barrier offenses were considered in child protection cases.\(^ {37}\) The investigation was based on more than a dozen complaints about the BCP received between 2012 and 2015. The Ombudsman issued the \textit{report on the BCP investigation in 2016.}\(^{38}\)

The Ombudsman investigated five (5) allegations:

- DHSS failed to establish and maintain a Background Check Program Centralized Registry, as required by AS 47.05.330, of individuals who have been investigated and found by a state agency to have committed abuse, neglect, or exploitation of a child or vulnerable adult, or medical assistance fraud.
- DHSS failed to consistently apply statutes, regulations, standards, and processes in administering the BCP.
- DHSS regards all barrier conditions arising from civil cases as a permanent bar to employment, while conviction of a barrier crime for more serious conduct may prevent employment for only limited periods of time.
- By regarding probable cause findings in Child In Need Of Aid cases as barrier conditions, DHSS violates 7 AAC 10.955(n) which established the correct standard as “preponderance of the evidence.”
- OCS regulations at 7 AAC 54.050 - .060 prohibit the release of child protection case records used by the Department in making a barrier condition determination to an affected individual seeking to review and challenge that decision.\(^ {38}\)

The Ombudsman found all the allegations justified, and made twelve (12) recommendations:

- DHSS should take immediate action to create the centralized registry as required by AS 47.05.330 and 7 AAC 10.955;

\(^{34}\) See \textit{id.} at 44.
\(^{35}\) See \textit{id.} at 45.
\(^{38}\) Id. at 8.
▪ DHSS should immediately stop using AS 47.05.310(c)(1) as a means of barring prospective employees from taking employment where they will have contact with vulnerable children and adults;
▪ DHSS should conduct a survey of covered entities to see how aware they are of their mandatory reporting duties and, if necessary, implement training for those entities as part of the licensure process;\(^{39}\)
▪ DHSS should notify all those who failed a background check solely because of an OCS-substantiated finding of abuse or neglect that they may reapply for a new background check under the current standard; alternatively, the Department should issue redeterminations for all of the applicants barred under the pre-March 2012 standard;
▪ DHSS should notify individuals who were wrongfully denied access to the reconsideration process of their right to reapply for reconsideration under the new standard;
▪ DHSS should include a relevancy assessment during the barrier determination review process to ensure that the conduct causing the potential barrier is relevant to the safety of the population that the applicant intends to serve.
▪ DHSS should begin screening individuals through Adult Protective Services, the Long-Term Care Ombudsman, and the Medicaid Fraud Unit to ensure that applicants with adverse findings involving vulnerable adults are prohibited from working, just as it does for those individuals with adverse child protection findings.
▪ OCS should further modify the Perpetrator Closing Letter to include a more detailed explanation of the potential adverse consequences of being placed on the Central Registry;
▪ DHSS should use the same 10-year limit when permanently disqualifying individuals from employment for CINA findings as it does for civil misconduct;\(^{40}\)
▪ DHSS should eliminate the permanent disqualification period for a barrier condition and consider implementing a tiered response system in which the length of the barrier disqualification period varies depending on the nature and severity of the offense;\(^{41}\)
▪ DHSS should use adjudication findings, rather than probable cause findings, from CINA cases because, at that phase of the case, the judge must find by a preponderance of the evidence that the child is a Child in Need of Aid;\(^{42}\) and
▪ DHSS should amend regulations to provide the release of child protection case records to an individual seeking to challenge a BCP barrier condition determination without a court order.\(^{43}\)

DHSS did not agree with any of the findings, specifically affirming the department’s interpretation of the statute related to a centralized registry and disagreeing with the recommendations related to interpretation of AS 47.05.330 and AS 47.05.310(c)(1). Even so, DHSS accepted some of the recommendations for review or implementation.

DHSS stated that the recommendations to modify the letter OCS sent to people found to have perpetrated child abuse or neglect and to amend regulations to allow release of child protection case records to someone seeking to challenge a barrier condition “have been implemented and been in place since 2012.” However, the letter in use after June 2015 did not include information

\(^{39}\) Id. at 16.
\(^{40}\) Id. at 24.
\(^{41}\) Id. at 27.
\(^{42}\) Id. at 31.
\(^{43}\) Id. at 34.
about the potential consequences of being placed on DHSS’s registry, as recommended by the Ombudsman. The regulations related to release of OCS records (7 AAC 54.050-060) had not been revised since 2005, so it remained impossible for someone attempting to dispute a substantiated finding as a barrier condition to access the records about that substantiated finding.

DHSS agreed to implement the recommendations to notify everyone who failed a background check solely because of a substantiated finding of abuse or neglect that they may reapply for a new background check under the current standard and to notify people wrongfully denied access to the reconsideration process of their right to reapply for reconsideration under the new standard.\(^{44}\)

DHSS suggested that implementing the recommendation to screen individuals through Adult Protective Services, the Long-Term Care Ombudsman, and the Medicaid Fraud Unit would require a statutory change:

> We believe that Recommendation 7 also requires a statutory fix. Specifically, it is our opinion that the way the statute is drafted, DHSS is limited in what it can review.

For example, the statute limits findings to those who have abused, neglected or exploited under AS 47.10, AS 47.26 or AS 47.62. . . . unlike a CINA proceeding there are no “perpetrators” in actions taken by APS or the LTCO and therefore findings of abuse or neglect in [sic] under those statutory references. Thus, absent statutory change, these types of review are now possible.\(^{45}\)

During the ombudsman investigation of the BCP, DHSS developed new regulations for the program. Those regulations were published for public comment on January 14, 2016 (the day before DHSS provided its response to the preliminary report of the investigation).\(^{46}\) The Administration also transmitted a bill related to the BCP to the Legislature on January 18, 2016.

Both the regulations and bill referred to a “centralized registry” — though DHSS had clearly argued against the recommendation to establish such a centralized registry in its response to the Ombudsman.\(^{47}\) The bill proposed would have changed the standards for determining a barrier condition, including codifying a substantiated finding by OCS as grounds for finding a barrier condition. The bill would have also afforded people for whom a barrier condition was found the opportunity to seek a variance.

Neither the bills filed in 2016 nor the regulations package became effective. New bills and a new regulation package were developed in 2017. The regulations have been adopted, while the bills are still awaiting action by the legislature.

\(^{44}\) See id. at 35-36.

\(^{45}\) Id. at 36.


\(^{47}\) See id. at 38. See also HB 270 “An Act relating to criminal and civil history requirements for individuals and entities licensed or certified by the Department of Health and Social Services; relating to the centralized registry for certain individuals or entities that are licensed or certified by the Department of Health and Social Services or are eligible to receive payment from certain programs of the department; and providing for an effective date” introduced January 20, 2016 (available online at http://www.legis.state.ak.us/PDF/29/Bills/HB0270A.PDF). See also SB 151, the companion bill introduced January 21, 2016 (online at http://www.legis.state.ak.us/PDF/29/Bills/SB0151A.PDF).
In January 2017, DHSS published another regulation package for public comment. The regulations were adopted on May 30, 2017. The new regulations eliminate the reference to a “centralized” registry, limit the barrier time for most types of child protective services findings to ten years (although termination of parental rights is still a permanent barrier), and allows applicants (rather than their prospective employer) to request a background check and a variance, if necessary. The regulations did not address the recommendation that DHSS make available to individuals seeking a variance the child protection case records relevant to the finding of a barrier.  

In March 2017, the Administration transmitted HB 162 and SB 81: “an Act relating to criminal and civil history requirements and a registry regarding certain licenses, certifications, appeals, and authorizations by the Department of Health and Social Services; and providing for an effective date.” These bills would change AS 44.62.330(a)(41) from referencing a “centralized registry” to a “civil registry.” The bills would limit the “child protection registry” to investigation reports including “substantiated findings under AS 47.10 or AS 47.17” — deleting the language from the current statute that excludes reports of harm from the registry. The bills do add a requirement of notice to the individual with opportunity to appeal a substantiated finding prior to it being included in the registry. The bills would lower the threshold for finding a barrier condition in child protective services cases to those instances where a caseworker has substantiated a report of harm (even if the agency takes no further intervention with the family). The bills do not address the Ombudsman’s recommendation to consider findings of abuse or neglect made by Adult Protective Services or the Long Term Care Ombudsman when making barrier condition determinations.

Caseworker Communications, Relative Placement, & Case Management

In 2017, the Ombudsman published two reports related to case worker communications, relative placement, the Interstate Compact for the Placement of Children (ICPC), and the general management of child protection cases. In one case, a non-offending out-of-state father waited over a year for OCS to complete the ICPC process, during which time his child was allegedly sexually abused by the foster father. That parent also alleged extreme difficulty reaching the caseworker, lack of a case plan or visitation schedule, and lack of a proper response to his grievances.

In the other case, an out-of-state great-grandfather waited over two years for OCS to complete the ICPC process.

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48 See Memorandum from the Office of the Lieutenant Governor re: Filed Permanent Regulations: DHSS Regulation re: Centralized Facilities Licensure, Barrier Crimes and Conditions, and Background Checks for Barrier Crimes and Conditions (June 1, 2017).
49 HB 162, sponsored by House Rules Committee by Request of the Governor (March 8, 2017) (available online at http://www.legis.state.ak.us/PDF/30/Bills/HB0162A.PDF); see also SB 81, sponsored by Senate Rules Committee by Request of the Governor (March 8, 2017) (available online at http://www.legis.state.ak.us/PDF/30/Bills/SB0081A.PDF).
50 HB 162 at 1; SB 81 at 1.
51 HB 162 at 8; SB at 8.
52 HB 162 at 9; SB 81 at 9.
54 See id. at 1-2.
The Ombudsman found all the allegations made by the out-of-state father justified and made seven (7) recommendations. In addition to recommending review of this case by OCS’s quality assurance team, the Ombudsman made recommendations related to how OCS requires, obtains, and pays for psychological assessments.\textsuperscript{56}

OCS declined to implement the two recommendations for quality assurance team review, citing staff limitations.\textsuperscript{57} OCS also stated that supervisors, regional managers, and assistant attorneys general are best suited to provide guidance and direction to the caseworker at issue. OCS commented that the delays in securing a psychological assessment and subsequent report are a statewide problem, due to limited professional workforce. OCS reported that it is working toward establishing provider agreements with professionals that would have guidelines for timeliness.\textsuperscript{58}

In the complaint made by the out-of-state great-grandfather, the Ombudsman investigated two allegations related to relative placement and delayed ICPC processes. Both allegations were found justified\textsuperscript{59} and the Ombudsman made seven recommendations.\textsuperscript{60} In addition to recommendations for quality assurance team review, the Ombudsman recommended reassignment of the case to a new caseworker and supervisor to ensure the great-grandfather “receives prompt and fair consideration.”\textsuperscript{61} OCS declined to implement these recommendations.\textsuperscript{62}

The Ombudsman also recommended improved oversight to ensure timely identification and consideration of relatives for placement, as well as timely completion of the ICPC process for out-of-state relatives seeking placement.\textsuperscript{63} OCS recognized the need for improvement, commenting that high caseloads make it difficult for caseworkers to keep up with these responsibilities.\textsuperscript{64}

\section*{INFORMAL OMBUDSMAN RECOMMENDATIONS}

Ombudsman investigators seek to find remedies to citizens’ problems when investigations bear them out. This often results resolving individual complaints as well as identifying solutions to larger process problems through informal consultation with the agency.

As discussed above, the majority of complaints about lack of returned calls or communications are resolved by ombudsman staff contacting the case worker or supervisor and prompting a response. Complaints about visitation often come down to the capacity, whether at OCS, in the family, or in the community, to supervise visits safely and appropriately. Brief ombudsman intervention can usually solve the immediate issue for the complainant, but does not get to the heart of the issue — OCS staff capacity.

Complaints about the frequency and supervision of visitation are also usually resolved through brief assistance by ombudsman staff. Often the resolution is simply explaining to the complainant (usually a parent or grandparent) that the requirement of supervision is within the power of OCS to impose and appears reasonable given the facts — and then explaining that the frequency of

\footnotesize
\begin{itemize}
\item \textsuperscript{56} Supra n. 44 at 16-18.
\item \textsuperscript{57} See id. at 19.
\item \textsuperscript{58} See id. at 20.
\item \textsuperscript{59} Supra n. 46 at 6.
\item \textsuperscript{60} See id. at 7-9.
\item \textsuperscript{61} Id. at 8-9.
\item \textsuperscript{62} See id.
\item \textsuperscript{63} See id. at 7-8.
\item \textsuperscript{64} See id.
visitation is limited by the availability of OCS staff to supervise the visits. In a few communities, there are local organizations available to supervise visits, which helps address the issue somewhat. In other complaints, the brief assistance involves communicating with the agency to set up a visitation schedule for the complainant. Again, these brief interventions may assist the individual complainant but not get to the larger issue of OCS capacity.

In the course of legislative hearings on HB 151 in 2017, OCS provided average caseloads by office as of March 1, 2017. At that time, caseload by worker ranged from 10 (in Sitka) to 43 (in Wasilla) in all but the Valdez and Gakona offices (averages of 5 and 7 cases per worker, respectively). When the Ombudsman met with staff from the Mat-Su Regional Office on July 21, 2017, they reported that, on that day, the average caseload size for employees with one year of experience (or more) was 67 children, 52 mothers, and 51 fathers in the Mat-Su Family Services Unit. They reported that this is the largest caseload in the state, three times that in Juneau, twice that in Fairbanks, and one and a half times as many cases as in Anchorage. It is not always possible to meet the in-person contact requirements of this size of caseload in the usual 37.5 hour week. Thus, while not a reasonable or acceptable practice, it is not surprising that additional calls and emails from parents and interested parties are not always returned right away (or at all).

The lack of capacity at OCS is a long-standing issue. It has been cited by OCS in most of its responses to recommendations, formal and informal, by the Ombudsman. “Overall reduction in workloads” was the primary strategy identified by OCS staff surveyed in 2014 for improving staff retention. It is important to note that the Legislature appropriated an additional $3,663,600 in funding for frontline social workers in the FY18 operating budget to help address this issue.

OTHER RECOMMENDATIONS

The Ombudsman is not the only entity with responsibility for making recommendations to OCS about how to remedy problems and improve services. DHSS has also engaged in an extensive effort to improve services for Alaska Native children and families engaged with the child protection system. These efforts are relevant to the issues communicated to the Department of Law and the Grand Jury by Representative Wilson and by the public in 2017.

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66 See id.

67 Ombudsman meeting with Mat-Su Regional Office supervisors, July 21, 2017.

68 Id.

69 Caseworkers are, by OCS Policy 3.2.1, required to see each child on their caseload at least once a month in the home where the child lives and are required to see each parent monthly in the home where the parent lives. That works out to visiting three children and five parents each working day.

70 See 2014 Staff Survey, Office of Children Services, at 18.

71 See FY18 Enacted Budget, Department of Health and Social Services Component Summary (June 20, 2017) at 1 (available online at https://www.omb.alaska.gov/ombfiles/18_budget/HSS/Enacted/18compsummary_hss.pdf). See also 2017 Session Operating Budget Amendment Proposal, offered by Representative Les Gara in the House Finance Subcommittee, which includes the explanation that funds would be “reallocated to OCS/Front Line Social Workers, to reduce excessive caseloads of new workers in training, and provide adequate training and mentorship. . . Current new worker caseloads exceed federal caseload recommendations for new case workers in training . . . and impair the ability of OCS to protect children and families.” (Available online at http://www.akleg.gov/basis/get_documents.asp?session=30&docid=17742.)
Child in Need of Aid Court Improvement Project

The CINA Court Improvement Program (CIP)\(^{72}\) has operated for several years. It includes representatives from the courts, legal community, OCS, Alaska Native Tribes, foster parents, children who have been in foster care, and the behavioral health system. Over the years, the CIP has reviewed and proposed changes to CINA Court Rules, developed and/or revised checklists for judges to use in CINA cases, developed a comprehensive multi-disciplinary curriculum, responded to changes in CINA statutes as they occurred, explored emerging and evidence-based models for providing services to families in the child protection system, and other systems improvement efforts.

The CIP recently adopted a strategic plan for federal FY17-21 to guide its efforts to “improve the CINA process and outcomes for all participants.”\(^{73}\) The CIP has three priority areas, each of which involves “theories of change” or strategies for achieving the goal.

The first priority area is to “continuously improve the quality of CINA court proceedings in Alaska, including hearings and reviews, to ensure due process for all parties, provide for proper judicial oversight, and meaningful engagement by all parties.”\(^{74}\) CIP proposes to achieve this priority by increasing “overall baseline skills, knowledge and competency of all CINA practitioners (including judges).”\(^{75}\) This strategy echoes previous ombudsman recommendations for initial and continuing training and increased supervision.

The CIP’s second priority area is to reduce the length of time children are in out-of-home care and minimize barriers or delays in permanency for children in state custody.\(^{76}\) Initial CIP theories of change/strategies are focused on “enhanced judicial oversight” as well as “additional focus by CINA practitioners on this specific cohort of children in care.”\(^{77}\) It is worth noting that timely referral and access to community-based services (behavioral health care, housing, employment, parenting, domestic violence prevention, etc.) for parents and children engaged in the child protection system are issues raised in the information presented to the Grand Jury as well as in subsequent public hearings. This is an issue often encountered in investigations of complaints to the Ombudsman, too. Engaging the non-governmental organizations that provide these services would enhance the effort to reduce the time children are in foster care and the barriers to permanency.

The third CIP priority area is to “enhance the quality of parent representation in Alaska and the meaningful engagement of parents in the child welfare system as a whole.”\(^{78}\) As discussed above, many complaints to the Ombudsman about OCS are actually about court-appointed representation. CIP’s initial theory of change involves hosting trainings for attorneys and developing a parent

\(^{72}\) An overview of the CIP’s work since 2011 is available online at [http://www.courts.alaska.gov/cip/](http://www.courts.alaska.gov/cip/).

\(^{73}\) CINA Court Improvement Program Basic Grant Strategic Plan FFY’s 2017 – 2021, Alaska Court System (revised January 30, 2017) at 1 (available online at [http://www.courttrecords.alaska.gov/webdocs/cip/docs/cinaproj-plan1-17.pdf](http://www.courttrecords.alaska.gov/webdocs/cip/docs/cinaproj-plan1-17.pdf)).

\(^{74}\) Id.

\(^{75}\) Id.

\(^{76}\) Id. at 2.

\(^{77}\) Id.

\(^{78}\) See id. at 3.
mentor program, to increase the ability of both attorneys and clients to effectively participate in CINA proceedings.\(^{79}\)

**Transforming Child Welfare Outcomes for Alaska Native Children, Strategic Plan 2016-2020**

The issue of disparate treatment on the basis of race and/or economic status arises with some frequency in complaints to the Ombudsman. Some participants in the public hearings earlier this year reported being discriminated against in the child protection system, and Representative Wilson raised the issue in her communications to the Grand Jury. DHSS adopted a plan for reducing the disparate impacts of the child protection system on Alaska Native families in April 2016.

*Transforming Child Welfare Outcomes for Alaska Native Children* includes strategies specifically designed to address the issues of racism raised to the Grand Jury and in public hearings. It is founded on “the understanding that Tribes know best what is best for their children”\(^{80}\) and was created in close collaboration and partnership with Alaska Native leaders.

This plan includes six (6) priorities and goals relevant to solving the problems raised to the Grand Jury and in public hearings:

2. Self-Governance. Tribes self-govern the welfare of their children, and have the resources to do so.
3. Embrace and implement the spirit of the Indian Child Welfare Act (ICWA). Embrace the spirit and values of ICWA to ensure Alaska Native children are with their families and community.
4. State Government Alignment. Ensure state government systems are aligned and services provided based on the values and spirit of ICWA.
5. Community Engagement. Alaska’s child welfare system operates as a partnership among the community, Tribes, State and Federal governments to keep Alaska Native children with their family and culture.
6. Culturally Specific Services and Supports. Provide a continuum of culturally specific supports that ensure the safety, permanency and well-being of Alaska Native children.\(^ {81}\)

There are 26 objectives identified under these goals. These most notably include a commitment to ending institutional racism in Alaska’s child protection system.\(^ {82}\) Recognizing that policies and practices can reflect conscious and unconscious bias, resulting in disparate adverse effects on people of color and systemic discrimination, is an important step toward resolving the issues that parents, grandparents, and families often raise with the Ombudsman, as well as policymakers and

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\(^{79}\) See id. at 4.


\(^{81}\) Id. at 6.

\(^{82}\) Id. at 10.
other authorities like the Grand Jury. DHSS proposes to take the following actions, based on that recognition:

- Educate child welfare partners and the general public about institutional racism;
- Identify and leverage resources to assist with education efforts;
- Create engaged dialogue leading to implementation and responsibility;
- Train staff of OCS and child welfare partners to better assess institutional racism at the individual and institutional level; and
- Recognize the impact of the conflicting value systems of Western and Tribal cultures.  

DHSS also has expressed a commitment to provide culturally specific supports, expanding the meaning of “services” to include informal community resources and tribal elders. DHSS also plans to “improve efforts to recruit Alaska Native employees to OCS.”

**Alaska Citizen Review Panel**

The Citizen Review Panel (CRP) is established by law to review and evaluate child protection system practice, policy, and procedure, and to collect public comment. The CRP reports annually and makes multiple recommendations each year. Recent recommendations that address the issues raised in this context are provided below.

**Investigation of Reports of Child Abuse or Neglect:** In 2013-2014, the CRP made recommendations related to the OCS intake policies. These are the policies that govern how OCS reviews and screens reports of child abuse and neglect. In June 2016, OCS hired a statewide intake manager, who began the process of centralizing intake and implementing strategies for increasing consistency in how reports are reviewed and screened. Centralized intake began statewide in August 2017.

In 2015, the CRP recommended that “OCS should address the root cause of the Initial Assessment (IA) backlog” — specifically “excessive workload.” Initial assessments are the second step OCS takes when a report of child abuse or neglect is received and “screened in” for investigation by the intake staff. The CRP’s recommendation was based on the following observation:

OCS seems to have periodic challenges in completing IAs in a timely manner, even after considering delays due to valid reasons. A small number of the IAs remain open as many as 60, 90, or 120 days after assignment. Accumulation of delayed IAs has reached alarming numbers in a regular manner over the last several years. The first such instance that the Panel is aware of was in 2004, when more than 4,000 IAs were incomplete. A similar situation with comparable numbers occurred in 2008 and again in 2012.

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83 *Id.*
84 *Id.* at 13.
85 *Id.*
86 The Child Abuse Prevention and Treatment Act (42 USC 5101 *et seq.* and 42 USC 5116 *et seq.*) requires each state to have a citizen review panel. AS 47.14.205 *et seq.* authorizes the Alaska Citizen Review Panel.
OCS’ response to the most recent backlog in 2012 included an infusion of experienced workers from across the state into IA units in various field offices to clear pending IAs. While the IAs were cleared efficiently, the Panel was concerned about the safety of the children represented by the cases cleared so rapidly. The Panel was unsuccessful in obtaining any data on the IAs that were cleared through this expedited process. The Panel’s 2014 annual report detailed several OCS’ efforts to prevent another such backlog. The Panel has since been following the number of past due IAs.

Despite all the efforts in preventing another backlog of 2012 proportions, the most recent data show that the volume of past due IAs is slowly increasing, and is close to the levels in 2008 and 2012. This trend may be indicative of many things. IA process is very tedious, involving several steps of information gathering, risk assessment, home visits, court dates, and judgements. It involves coordinating with various service providers associated with the family and the child. The IA units across the state are overburdened, and the Panel gathered during site visits that these units are the least preferred by frontline workers. Workers in at least two IA units across the state have more than 40 cases on their work load at one time. This coupled with high turnover in IA units can cause severe disruption in workflow, and cases of lower priority may be set aside to be examined later.88

When meeting with the Ombudsman in July 2017, Mat-Su Regional Office staff reported that often investigations of reports of child abuse or neglect remain “open” after being found unsubstantiated because IA staff immediately move to the next report for investigation. In that office, IA staff had an average of 19.7 cases to investigate each month (nearly twice the caseload of Anchorage IA staff).89 It is not unexpected that staff would prioritize investigating incoming reports over closing unsubstantiated reports. However, for parents and caregivers waiting to learn whether a report of abuse or neglect has been substantiated, the delay in closing the investigation remains a significant problem.

**Staff Training:** The Ombudsman has frequently made recommendations related to staff training, continuing education, and on-the-job training as strategies for preventing recurrence of problems identified in the course of an investigation. Based on the 2016 OCS Staff Survey, the CRP remarked:

> There seems to be considerable gap between the training offered to frontline workers and the skills they need to perform their duties. It is not clear from the data we collected if this gap can be bridged through a modified curriculum or through additional training opportunities post SKILS.90

This gap between training they receive and the skills they need to perform their duties can be bridged in multiple ways. While continuing to work on strengthening the curriculum may be necessary, structural opportunities to support learning on the job are important. Supervisors play a very important role as one of these structural

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89 Ombudsman meeting with Mat-Su Regional Office supervisors, July 21, 2017.
90 SKILS is the mandatory five-week training course that all front-line workers take upon hire. The training is conducted by the Child Welfare Academy within the University of Alaska Anchorage.
supports. Given the positive impressions regarding supervisors, workers may already rely heavily on them for learning the necessary skills.91

As a result of what was gleaned from the survey, the CRP recommended that OCS build on the survey by:

▪ viewing training of frontline workers as a longer enterprise that extends beyond SKILS, and evaluate the entire enterprise for effectiveness;
▪ including special sections in the annual staff survey, focusing on a topic of interest, and repeating this periodically every two or three years; and
▪ identifying other similar survey efforts that OCS conducts, and leveraging resources from external entities such as CRP to conduct them.92

Alaska Children’s Trust

The Alaska Children’s Trust is a non-profit organization (born of a state agency that operated from 1996-2012) focused on the goal of preventing child abuse and neglect. In its 2016 Annual Report, ACT adopted six strategies for preventing child abuse and neglect:

▪ foster data;
▪ advocacy;
▪ community investment;
▪ strengthen economic supports for families;
▪ education and life skills; and
▪ norms and value.93

Alaska Children’s Justice Act Task Force

The Children’s Justice Act Task Force was created to perform “a comprehensive review and evaluation of law, policy and the investigative, administrative and judicial handling of cases of child abuse and neglect and to make training and policy recommendations to identify areas for improvement in Alaska’s response to child maltreatment, make recommendations, and take actions to improve the child protection system.”94 It is a multidisciplinary group that includes advocates for parents and children, as well as representatives from the systems involved in investigating, prosecuting, and responding to reports of child abuse.

In 2010, the Task Force issued Guidelines for the Multidisciplinary Response to Child Abuse in Alaska.95 These guidelines touch on, but do not provide specific recommendations for, the issues raised to the Grand Jury or in the public hearings.

92 Supra n. 66 at 4.
94 Children’s Justice Act Fact Sheet, Department of Health and Social Services (available online at http://dhss.alaska.gov/ocs/Pages/childrensjustice/childrensjusticeactgrantfactsheet.aspx). Like the Citizen’s Review Panel, the Children’s Justice Act Task Force is authorized by the federal Child Abuse Prevention and Treatment Act.
PERFORMANCE IMPROVEMENT

A comprehensive review of OCS’s performances as it relates to federal standards is prepared every year. The 2018 review and progress report includes a review of performance since 2015. While OCS is not currently subject to a Program Improvement Plan (a PIP is a performance improvement plan imposed by the federal Administration for Children and Families), “it is expected that a PIP will be developed based on the findings” of the Statewide Assessment (March 2017) and the Child and Family Services Review (May 2017). OCS has convened stakeholders on September 6, 2017, to begin collaboration on preparing a comprehensive PIP to submit to the Administration for Children and Families.

CONCLUSION

The Ombudsman is encouraged by the increased attention to the way Alaska serves children at risk or who have experienced harm and their families — and more importantly, the increased advocacy for adequately resourcing evidence-based prevention, intervention, and treatment strategies to help protect against and heal the traumas arising from abuse and neglect. The Ombudsman also cautions against focusing too narrowly on the Office of Children’s Services. Preventing child abuse and neglect, intervening effectively to address child maltreatment, and strengthening families requires the efforts of not just the child protection system. The Court System, Attorney General’s Office, Public Defender Agency and Office of Public Advocacy are also responsible for what happens in CINA cases. The Divisions of Behavioral Health, Public Health, and Public Assistance all have a critical role in ensuring access to services needed for effective reunification of families. Tribal governments and local communities are also important partners, as are schools and child care providers. The Legislature plays a crucial role as a maker of policy and appropriator of resources. It will take many hands at the wheel to successfully reform the way Alaska prevents child abuse and neglect and addresses the lifelong impacts of adverse childhood experiences.

97 Id. at 5.
APPENDIX A
Summary of OCS Concerns

In review of over 50 case files, I received from OCS, I have come to the following conclusions and have also outlined just a few of the specific violations under AS 47.10:

- The Department of Health and Social Service, Office of Children Services (OCS) has become a protected empire built on taking children and separating families. This is not to say there are not those children who do need to be removed from horrible situations and need protection. I believe children and parents are caught up in legal kidnapping and ineffective politics.

- that poor parents are often targeted to lose their children because they do not have the means to hire lawyers and fight the system. Being poor does not mean you are not a good parent or that you do not love your child, or that your child should be removed and placed with strangers;

- that all parents are capable of making mistakes and that making a mistake does not mean your children are always to be removed from the home. Even if the home is not perfect, it is home; and that’s where a child is the safest and where he or she want to be, with family;

- that parenting classes, anger management classes, counseling referrals, therapy classes and on and on are demanded of parents with no compassion by the system even while they are at work and while their children are separated from them. This can take months or even years and it emotionally devastates both the children and parents. Parents are victimized by “the system” that makes a profit for holding children longer and “bonuses” for not returning the children;

- that case workers and social workers are oftentimes guilty of fraud. They withhold evidence. They fabricate evidence and seek to terminate parental rights. However, when charges are made against them, the charges are ignored.

- that the separation of families is growing as a business because local governments have grown accustomed to having federal dollars to balance their ever-expanding budgets;

- that OCS can hide behind a confidentiality clause in order to protect their decisions and keep the funds flowing. There should be open records and “court watchers”. Look who is being paid! Parents do not realize that social workers are the glue that holds “the system” together that funds the court, the child’s attorney, and the multiple other jobs including the OCS attorney.
that The Adoption and the Safe Families Act, set in motion by President Bill Clinton, offered cash "bonuses" to the states for every child they adopted out of foster care. In order to receive the "adoption incentive bonuses" local child protective services need more children. They must have merchandise (children) that sell and you must have plenty of them so the buyer can choose;

that there is double dipping. The funding continues as long as the child is out of the home. When a child in foster care is placed with a new family then "adoption bonus funds" are available. When a child is placed in a mental health facility – more funds are involved;

that there are limited financial resources and no real drive to unite a family and help keep them together;

that the incentive for social workers to return children to their parents quickly after taking them has disappeared and who in protective services will step up to the plate and say, "This must end!". No one, because they are all in the system together and a system with no leader and no clear policies will always fail the children;

that the "Policy Manual" is considered "the last word" for OCS, however, it is too long, and not consistently followed;

that many parents are told if they want to see their children or grandchildren, they must divorce their spouse. Many, who are under privileged, feeling they have no option, will separate. This is an anti-family policy, but parents will do anything to get their children home.

that state and federal dollars are being used to keep this gigantic system afloat.

that grandparents have called trying to get custody of their grandchildren. OCS claims relatives are contacted, but there are cases that prove differently. Grandparents who lose their grandchildren to strangers have lost their own flesh and blood. The children lose their family heritage and grandparents, and parents too, lose all connection to their heirs.

I have scores of cases of exhausted families on my desk. I cannot turn my back on these suffering, crying and sometimes beaten down individuals. We are mistreating the most vulnerable. No longer is judgment based on what the child needs or who the child wants to be with or what is really best for the whole family; it is some adult or bureaucrat who makes the decisions, based on hearsay.
I have witnessed such injustice and harm brought to these families that I am not sure if I even believe reform of the system is possible. The system cannot be trusted. It does not serve the people. It obliterates families and children simply because it has the power to do so as illustrated below:

- Grandparents were forced to take the Office of Children’s Services to court on the basis of abuse of discretion. Their daughter had passed away and the child’s father had lost his parental rights. They were told by OCS that they were too old to parent their grandchild although they had recently fostered another grandchild from the same family. The worker was found to have utilized hearsay vs facts. The grandparents had plenty of space for the child and their fitness was proven after a home study had finally been conducted. The judge found that the department did not follow statute by placing the child in the least restrictive environment, in a reasonable location from his home, with siblings he was placed with when originally removed from the home and should not be taken away from family members that lived in Fairbanks/North Pole area, amongst other issues. The judge stated OCS was arbitrary, capricious and manifestly unjust in choosing to place the child with the Missouri vs the Alaskan family. It cost the grandparents over $20,000 to win this case.

- A couple had issues with drugs and had their children removed. They went through UAs and intensive counseling and eventually their family was reunited. On the last week, just when OCS was to give custody back to the family they were visited by a caseworker. They were told that their home was not clean enough, they did not have enough back up water and had begun smoking marijuana (although it is now legal in the state of Alaska). The caseworker told the couple they had been warned numerous times about these issues but failed to leave any written document or put a safety plan in place. OCS is now beginning the parental termination process although they have been clean for months and have met the requirements of OCS. In the court hearing, the state brought up all of the past issues vs the reason they had been removed approximately six months ago. It was also overheard that one of the attorneys for the parents stated they would not be calling any experts because of the financial status of the State.

- A grandmother had taken custody of her daughter’s baby because she was unable to care for the child. Unfortunately the mother had a meltdown and came to the grandmother’s apartment and caused a scene. The grandmother removed the children immediately from the apartment and called the police. She then dealt with the crisis and the mother was able to get help. However, a couple of days later OCS steps in and takes not just the baby but the grandmother’s teenage son. The family has still not been reunited.
• An aunt was involved with her sister and her children. She knew her sister had issues when her children were removed by OCS. The aunt told OCS that she wanted the children placed with her if her sister decided to not work her case plan. Since the sister lived in Anchorage and the aunt in Fairbanks the children were placed in a foster home so that the mother could be closer to her children while working toward reunification. The department eventually terminated the parental rights of the parents for one of the children but never told the aunt. The department now wants to allow the foster parent to adopt the child although they were aware of a family member wanting to adopt. Now although a home study has been ordered the department is conducting a Bonding and Attachment Study to find a reason not to move the child. If OCS had followed its own process the children would currently be residing with their Aunt and no longer be in foster care.

I implore you to seek a forensic and thorough review of all aspects of the Office of Children Services. Meet with parents, family members, advocates and providers to rectify the unjust, discriminatory and illegal taking of Alaska children from their parents, family and communities.

Representative Tammie Wilson