

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672
2718 SCOMM 122: COMMISSION ON PRIVATIZATION... , 1999

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and Delivery of Government Services

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Senator Jerry Ward

August 9, 1999

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Representative Tom Brice
Tom Fink
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Helvi Sandvik
Kathryn Thomas
Don Valesko
George Wuerch

RE: A PEEK AT THE STATE CHECKBOOK

Attached are two documents which are a detailed listing of all "checks" (money) issued by the Department.

The first, smaller, document is a list of the department's accounts showing a cumulative total of money spent for each account for fiscal years 1994 thru 1999.

The second, larger, document is a list of all vendors within each account to whom checks totaling more than \$250 were written.

Whether this information is useful for privatization or not is up to you. To some extent the checks are an indicator of privatization already occurring, and perhaps privatization that could be extended.

Marco Pignalberi



and Delivery of Government Services

*Marco,
This is what I sent to
Jerry. Thanks.
Debbie*

To: All Legislators

From: Senator Jerry Ward and Representative John Cowdery, Co-Chairs
Commission on Privatization and Delivery of Government Services

You are invited to attend a briefing on Competitive Sourcing & Privatization in the Federal Government, the privatization process being used by US Army Alaska. The briefing will be held with the Joint Armed Services Committee and the House Special Committee on Military and Veteran Affairs on Thursday, September 23rd beginning at 10:30am in the Butrovich Room. Making the presentation are:

Colonel Michael L. Sandberg

Deputy Chief of Staff for Logistics, US Army Alaska

Major Bryan C. Hilferty

Public Affairs Officer, US Army Alaska

Mr. John Toenes

Deputy Director, Directorate of Public Works

Mr. Gregory C. Endsley

Deputy Director, Directorate of Logistics

Mr. Mark S. Bryant

Chief, Management Services Division, Deputy Chief of Staff for Resource Management, Competitive Sourcing and Privatization Program Manager



and Delivery of Government Services

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July 30, 1999

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Senator Drue Pearce

Alaska State Senate

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Anchorage, AK 99501

Representative Brian Porter

Alaska State House of Representatives

716 W. Fourth Avenue

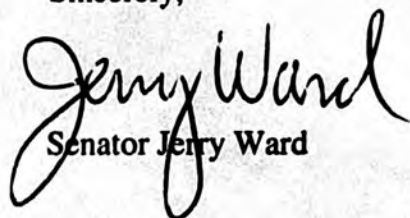
Anchorage, AK 99501

Dear Senator Pearce and Representative Porter:

As you may already know, the Commission on Privatization and Delivery of Government Services is officially under way and the work is ever increasing. Our offices have exerted great effort in supporting the commission, but now we have come to a crossroads. Andy Clary, Senator Ward's staff, is leaving the state and will not be able to serve in the same capacity. He designed an excellent website (<http://www.privatizealaska.org>) which is used to communicate with 200 subcommittee members involved in this effort, in addition to being available to the public at large. He has offered to maintain our website remotely as well as provide whatever staffing support he can.

We are asking for your support in this endeavor by providing \$3000 each for Andy to continue his duties. This would enable him to support the commission through the end of October in the critical task of distributing our message through the website.

Sincerely,


Senator Jerry Ward


Representative John Cowdery

716 W. 4th Ave. Anchorage, AK 99501

Senator Jerry Ward: 907-269-0107 Fax 907-269-0109

Representative John Cowdery: 907-269-0222 Fax 907-269-0223

<http://www.privatizealaska.org>

SCOMM

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Audit Report

**DEPARTMENT OF HEALTH
AND SOCIAL SERVICES
DIVISION OF FAMILY AND
YOUTH SERVICES
FOLLOW-UP**

January 26, 1999



Audit Control Number:

06-4595-99

Division of Legislative Audit

P.O. Box 113300, Juneau, Alaska 99811-3300

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

DIVISION OF LEGISLATIVE AUDIT

The Legislative Budget and Audit Committee is a permanent interim committee of the Alaska Legislature. The committee is made up of five senators and five representatives, with one alternate from each legislative chamber. The chairmanship of the committee alternates between the two chambers every legislature.

The committee is responsible for providing the legislature with audits of state government agencies. The programs and activities of state government now cost more than \$5 billion a year. As legislators and administrators try increasingly to allocate state revenues effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by the Division of Legislative Audit helps provide that information.

As a guide to all their work, the Division of Legislative Audit complies with generally accepted auditing standards established by the American Institute of Certified Public Accountants and with government auditing standards established by the U.S. General Accounting Office.

Audits are performed at the direction of the Legislative Budget and Audit Committee. Individual legislators or committees can submit requests for audits of specific programs or agencies to the committee for consideration. Copies of all completed audits are available from the Division of Legislative Audit's offices in either Juneau, Anchorage, or our web site <http://www.legis.state.ak.us/legaud/web/default.htm>.

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January 26, 1999

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF HEALTH AND SOCIAL SERVICES DIVISION OF FAMILY AND YOUTH SERVICES FOLLOW-UP AUDIT

January 26, 1999

Audit Control Number

06-4595-99

In April 1998 we issued an audit report that discussed various aspects of the operations of the Division of Family and Youth Services (DFYS). In that report we discussed many of the problems faced by DFYS, which contributed to the agency not being able to respond to all of the reports of harm (ROHs) received regarding the abuse and neglect of children. This report is a follow-up review of the current status of the recommendations made in the prior report.

Our central conclusion is that at this time, it is too early to see significant impacts on either number of cases worked, or on how the cases are worked by DFYS. So far in FY 99 (through October 1998) the agency is investigating fewer reports of abuse and neglect than it had for the same months in each of the prior two years. It again appears management decisions have contributed to the agency not making any progress towards investigating all ROHs it receives. We also discuss in the report improvements such as better recruitment and more timely hiring of social workers as well as better training provided to the newly-hired social workers.

The audit was conducted in accordance with generally accepted government auditing standards. Fieldwork procedures utilized in developing the conclusions and recommendations presented in this report are discussed in the Objective, Scope and Methodology section.

A handwritten signature in cursive script that reads "Pat Davidson".

Pat Davidson, CPA
Legislative Auditor

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OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Title 24 of the Alaska Statutes and a special request by the Legislative Budget and Audit Committee, we conducted a review of various aspects of management and casework related to the child protective services function within the Division of Family and Youth Services (DFYS). The agency is organizationally located in the Department of Health and Social Services (DHSS). Our audit was designed to review the issues previously identified in a prior DFYS audit (Audit Control No. 06-4586-98) released in April, 1998.

Objectives

Specifically, the objectives of our follow-up review are as follows:

1. To evaluate how effectively DFYS management has utilized FY 99 personal services appropriations in maintaining agency-staffing levels to adequately address and respond to reports of child abuse and neglect received by the agency.
2. To identify the factors and circumstances, if any, which inhibit the agency's readiness to effectively respond to reports of child abuse and neglect.
3. To identify the degree to which DFYS is unable to respond to reports of harm and how the agency deals with such reports.
4. To assess the impact of recent changes in federal and state law on the State's child protection system.
5. To determine the status and effectiveness of the newly established Family Services Training Academy.

Scope

Our audit focused primarily on determining the current status of recommendations from our prior audit. Data analyzed was primarily from the first four months of FY 99, with comparisons to the same four months in prior years. As of the date of this review, comprehensive statistics past October 1998 were not available.

Methodology

In carrying out our follow-up audit we:

1. Interviewed DFYS child protection staff across the State including investigators, supervisors, and regional children services managers.
2. Reviewed reports from the agency's case management system, known as PROBER.

3. Reviewed other child protection system reports including various publications from the Child Welfare League of America.
4. Analyzed expenditures for DFYS personal services in FY 98 and FY 99 using agency budgets and state payroll information.
5. Performed a review of various aspects of the legal system and its affects on the State's child protection system. Our review included obtaining an understanding of current state and federal laws, the impact of recent Alaska Supreme Court decisions, and recent changes to federal law (the Adoption and Safe Families Act of 1997). We also attended training that discussed the impact of the new state and federal laws on the way cases are worked.
6. Attended a multi-agency meeting regarding the impact on services to children of the new federal and state laws.
7. Attended a meeting of regional children services managers.
8. Interviewed the coordinator for the DFYS/University of Alaska-Anchorage Training Academy.
9. Reviewed course evaluations completed by individuals receiving the training offered.

ORGANIZATION AND FUNCTION

Title 47 of the Alaska Statutes charges the Department of Health and Social Services with responsibility for providing a range of services designed to remedy or prevent abuse, neglect, and exploitation of children and youth. To meet these statutory responsibilities, the department created the Division of Family and Youth Services (DFYS) in 1980 by combining the Division of Social Services with the youth section of the Division of Corrections.

The Family Services section of DFYS is responsible for providing child protection and welfare services, licensing of child care facilities, and the recruitment, selection, and training of foster parents. The other major section of DFYS, Youth Corrections or Youth Services is responsible for supervising adjudicated youth offenders. In FY 99, the agency budgetarily separated family services functions from youth corrections activities.

The focus of this audit was Family Services. Specifically, the audit concentrated on child protective services (CPS). The goal of CPS is to identify, treat, and prevent child abuse and neglect, as well as to ensure reasonable efforts are made to protect and maintain children in their own homes. DFYS provides protective services for children by investigating reports of harm, referring families to community resources, initiating legal intervention if children are unable to remain safely in their own homes, and providing out-of-home placements and permanency planning when necessary.

When children are taken into physical custody they are placed either in foster care or in an emergency shelter facility. DFYS also contracts with residential care facilities to provide assorted levels of care and treatment of youth.

Each provider is subjected to licensure and periodic review to assure children are provided with reasonable care in a safe environment. Responding to complaints of abuse and neglect for children in out-of-home care is also the responsibility of DFYS social workers.

In 1991, the Hickel administration comprehensively reorganized DFYS. The Family Services section was scaled down (from five) to three regions: Southeast, Southcentral, and Northern. The Southcentral region has recently been divided into two regions: Anchorage and the rest of Southcentral. The administrator for each region headquartered in Juneau, Anchorage, and Fairbanks, respectively, currently reports directly to the division director.

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SYNOPSIS OF PRIOR REPORT CONCLUSIONS

As discussed in the Objectives, Scope and Methodology section, the objective of this review is to assess the current status of the findings from our previous Division of Family and Youth Services (DFYS) audit released in April 1998. In this section we summarize conclusions from that report. In that audit we also presented recommendations that addressed such case management topics as workload prioritization, personnel utilization, personnel training, and new child protective services legislation. These are summarized in the Findings and Recommendations section.

Personnel and caseload

A central issue of our prior review was the utilization of personnel resources. Up until the time of the previous audit, DFYS had faced a growing caseload. Although the workload has leveled off over the past year, the agency reports cases are becoming more complex. The growth in caseload and its increasing complexity limited the agency's ability to carry out investigations effectively and efficiently. Not all reports of harm (ROHs) involving abuse or neglect of children can be investigated. Of those reports that are assigned, many investigations were delayed. Though DFYS was unable to effectively carry out much of its work, the agency attempted to address the most serious problems through a system of prioritization of ROHs. By doing so, the agency tried to identify and address the needs of children most at risk.

In this context, we reported in our previous audit the following conclusions:

1. In FY 97 DFYS could not investigate more than 3,700 ROHs that were within the agency's jurisdiction. DFYS is required, by statute, to take and investigate all ROHs of suspected child abuse and neglect. For the last complete fiscal year at the time of our prior audit, the agency was unable to meet this statutory responsibility.
2. The agency's triage response to ROHs is risk based but leaves some children at risk. As discussed previously, to manage an increasing workload, DFYS has developed an informal policy to delay or never investigate ROHs determined to be lower risk. The use of this practice, referred to as workload adjusting, varies between district offices. Some agency offices workload adjusted as many as two-thirds of the ROHs received. Though it appeared to us DFYS was generally triaging ROHs in ways consistent with a risk-based approach, we remained concerned that the agency's inability to investigate many cases leaves some children at risk.¹

¹ The agency's Child Protective Services (CPS) manual, which provides guidance for prioritizing ROHs, comments that children younger than 6-years-old are more vulnerable to harm than older children. Of the workload adjusted reports we reviewed, 56 (19%) involved children under the age of 6. This vulnerable group represents children that are the least able to care for or protect themselves. These children are also more likely to be isolated from public view and mandatory reporters than children of school age.

3. Most ROH investigations that are started are completed within two months. In our prior review we discussed the length of time it took DFYS to investigate ROHs. As measured by the first report of contact compared to the last report of contact, we determined that while the average case took about 35 days to investigate, most (83%) were completed within 60 days. We also noted, the cases that were ultimately substantiated typically were investigated longer than cases determined to be unconfirmed or invalid. In a review of 412 cases, we found that on average, substantiated cases took nearly 45 days to investigate, while unconfirmed cases took only 29 days.²
4. DFYS was unable to consistently provide ongoing services to some children and families. Whenever a decision is made to continue with a case beyond the investigation phase, DFYS policy requires ongoing services to be provided to the family. The minimum casework service to be provided to the child and family are determined by an agency risk assessment which consists of evaluating several factors. In general, the higher the assessed risk to the child, the more contact is required by the DFYS social worker.

The Southcentral Region developed and implemented an internal supervisory review process for ongoing cases. The reviews were carried out over the last nine months of calendar year 1997. These reviews, in total have indicated that in the Southcentral Region about two-thirds (67.5%) of the ongoing cases did not meet the required contact standards.

5. DFYS did not fully utilize appropriation funding for personnel during FY 97. A standard practice in most executive branch agencies is to leave some authorized, funded positions vacant in order to be sure operational expenditures are within established budgets. Although DFYS received a relatively small reduction in the requested funding for staff, agency managers left 21 positions vacant for all of FY 97. Of these, ten were case carrying social worker positions, one was a social worker supervisory position, while six others provided support, both administrative and programmatic, to line social workers.

Our analysis indicates that child protective services, particularly in-the-field social worker positions, absorbed a disproportionately greater number of these empty positions, ostensibly kept vacant to cover the agency's imposed vacancy and turnover, or V&T, factor. This practice was particularly pronounced in the agency's Northern Region (NRO). Of the ten case-carrying social workers positions kept vacant statewide, five were in NRO.

The combination of the positions left vacant (or forced vacancy factor), combined with the other positions that went vacant for shorter periods time (the natural vacancy rate

²Lack of timely and thorough investigations can actually increase the risk of abusive or neglectful behavior. According to a 1990 report issued by the U.S. Advisory Board on Child Abuse and Neglect, unresolved investigations create and sustain uncertainty in the family about the future. This uncertainty causes anxiety within families, and may stall children's development. Further, mandated reporters (i.e. teachers, doctors, etc.) may begin to doubt the system and fail to continue to report suspected cases of abuse, thus placing children at greater risk of continued abuse or neglect. The risk is even greater for families who are not offered or do not accept services following an investigation.

generated by employee turnover), allowed DFYS to come in well under (just over \$1 million) the agency's FY 97 personal services budget. DFYS utilized this funding to cover retirement incentive program costs not only for staff within the agency's appropriation, but for other agencies within the Department of Health and Social Services.

Most of the excess authorization funding (just over \$880,000) was used to fund a reimbursable services agreement (RSA) with the Division of Retirement and Benefits for retirement incentive program (RIP) costs. The RSA essentially prepaid RIP costs for FY 98, FY 99, FY 00, and FY 01. In addition, the RSA funds were used not only to cover the RIP costs for DFYS employees, but also for some of the RIP costs of participating staff of the Alaska Psychiatric Institute.

Other Issues

In addition to the personnel and caseload issues discussed in the previous report we also discussed other issues that had an impact on the operations of DFYS. These other issues discussed in the report included:

1. Child protection statutes. State law also affects the functioning of the agency, and how it is interpreted and applied by the courts. We concluded that a lack of specificity in the statutes as they existed, limited the agency's authority to terminate parental rights.³
2. DFYS staff training efforts have suffered from lack of coordination, consistency, and funding. In the previous audit we discussed how DFYS training had been reduced in past years, primarily due to changes in administration, decisions by management, and/or use of available funding. This has resulted in untimely "CORE" training which provides child protection orientation to new employees. Prior to February 1998, CORE training had not been held since early 1995.

Discussion of prior report conclusions in current report

These various conclusions were reflected, to varying degrees, in the Findings and Recommendations presented in the previous report. We used those Findings and Recommendations as a basis for setting the scope of this follow-up audit. Accordingly, the current situation, practices, and our perspective on the issues summarized in this section are reflected in the Findings and Recommendations of this report.

³We often saw cases where parents repeatedly failed to take appropriate action or change their personal conduct to alleviate the living conditions that posed a threat to the safety of their children. Included in the cases we selected for review were two cases where DFYS moved to terminate parental rights. In both instances there were numerous children involved and the parents had an extensive history of failure in complying with the case plan developed by DFYS. The case plan attempted to reunify the children in state custody with their parents while providing some assurance of safety and care. The children's case files involved sequential case plans, filled out over numerous years, which called for the parents to enter substance abuse treatment. The parent(s) involved were given multiple opportunities to make minimal changes needed to forestall termination of parental rights, but their efforts were repeatedly insufficient to fully resolve the problems involved.

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BACKGROUND INFORMATION

The following brief description of new federal and state laws is intended to provide the reader with a better understanding of some of the more significant technical changes in those laws.

New federal law promotes limiting time children may be kept in out-of-home care

On November 19, 1997 the president signed into law the Adoption and Safe Families Act of 1997. The primary focus of this law is to improve the safety of children, promote adoption and other permanent homes for children who need them, and support families. The new law made numerous changes and clarified a wide range of federal policies that had been in place since the 1980 Adoption Assistance and Child Welfare Act. The new law provides for the following:

1. **Set-aside funding is provided for continuing support of the Court Improvement Project.** The Alaska Court System (ACS) continues its efforts at streamlining and promoting consistency in the adjudication of child-in-need-of-aid (CINA) cases. ACS has received federal funding under the 1997 act to assist in this effort. ACS is in the process of formally reviewing how the system handles CINA hearings in various jurisdictions and has issued a 1996 report that identified many significant areas of differences and made numerous recommendations for improvement.
2. **Adoption incentive payments provided for states.** The legislation provides \$20 million in federal fiscal years 1999 through 2003 for payments to eligible states which exceed the average number of adoptions the State completed between 1995 and 1997. Essentially the program provides for paying states a bonus for each foster child adopted.
3. **New time line and basis for filing for termination of parental rights.** Previously, under federal law the length of time a child spent in out-of-home care was not necessarily a singular factor for states to initiate termination of parental rights. Under the new law, states must file a petition to terminate parental rights on behalf of any child, regardless of age, who has been in foster care for 15 out of the most recent 22 months. For children already in foster care, states are required to phase in the filing of termination petitions beginning with children for whom the permanency plan is adoption or have been in care the longest.
4. **New, shorter time frame for permanency hearings.** The prior federal law required a disposition hearing within 18 months of a child's placement into out-of-home care. The new law establishes a permanency planning hearing for children in care to occur within 12 months of a child's entry into care. At the hearing, the law requires a determination be made whether and when: (1) the child will be returned home; (2) the child will be placed for adoption and a termination of parental rights filed; (3) the child will be referred for legal guardianship; or, (4) another planned permanent living arrangement is made if other options are not appropriate.

5. Further definition of "reasonable efforts" to reunite families. As required by the 1980 law, states must continue to make reasonable efforts to preserve and reunify families. However, currently the "reasonable efforts" requirement does not specifically apply to cases in which a court has found:
 - The parent has subjected the child to an "aggravated circumstance" as defined in state law (including, but not limited to abandonment, torture, chronic abuse, and sexual abuse).
 - The parent has committed murder or voluntary manslaughter or aided or abetted, attempted, conspired or solicited to commit such a murder or manslaughter of another child of the parent.
 - The parent has committed felony assault that results in serious bodily injury to the child or another one of their children.
 - The parental rights of the parent to a sibling have been involuntarily terminated.
6. Foster parents, pre-adoptive parents, and caretaking relatives are allowed access to court reviews and are allowed to speak at judicial proceedings. Under the new law a foster parent, any pre-adoptive parent, or relative caring for a child must be given notice of and an opportunity to be heard in any review or hearing involving the child.
7. Established outcome measures. The U.S. Department of Health and Human Services will develop, in consultation with governors, state legislatures, state and local public officials, and child welfare advocates, a set of outcome measures to be used to assess the performance of states in operating child protection and child welfare programs. Also to be developed is a system for rating the performance of states with respect to the outcome measures.

In many respects it is this new federal law, in addition to the recent Alaska Supreme Court decisions, and recent casework setbacks, which have contributed to the administration seeking a substantial revision to the State's CINA statutes. As with much federal legislation, the State has both "stick" and "carrot" incentives to conform with the law. Perhaps most significant is the prospect of losing federal funding used to support various aspects of child protection services in the State.

REPORT CONCLUSIONS

Our prior audit identified several areas needing improvement in the case management process followed by the Division of Family and Youth Services (DFYS). A central aspect of our prior review involved the agency's capability and capacity to investigate all the reports of harm (ROHs) made to DFYS concerning the abuse and neglect of children. Although to a degree, the insufficiency of staff was a problem of the agency's own making, we recommended DFYS receive funding for additional social worker positions. The legislature responded with funding to hire 28 more positions.

As discussed in the Findings and Recommendations section, the division has, over the last eight months since the audit report was issued, made efforts to resolve some of the problems set out in the previous report. The effects of these efforts, however, have not yet been fully realized in the short time period between that audit and this review.

Two key management decisions have contributed to a decrease in investigated ROHs

DFYS made two key management decisions during the first four months of FY 99 (July-October of 1998) that contributed to a drop in the number of ROHs the agency assigned for investigation. As shown by figure 1 on the top of the following page, there was a 4% drop, statewide in the rate of investigated ROHs over the first four months of FY 99 compared to the same four months in FY 98.

The two decisions made by DFYS officials that contributed to a curtailing of agency activity, as measured by assigned ROHs, were:

1. **Managerial decisions related to promotions and transfers contributed to an inexperienced staff manning the Anchorage intake units.** The new positions DFYS received set off a chain reaction within the agency. The establishment of new positions along with both regular turnover and a new agency policy not to keep any positions intentionally vacant, provided opportunities for promotion and transfer within the agency. DFYS allowed such transfers and promotions to take place, even though it may have had a negative impact on the agency's short-term readiness to respond to ROHs.

DFYS management reports that new hires typically require at least 70 to 90 days of orientation before they are able to carry full intake caseloads. The combination of new employees, regular turnover, and internal promotion resulted in an increasingly inexperienced intake unit⁴ that reduced the division's ability to effectively maintain its readiness to respond to ROHs despite addition of front line workers. Presumably, this is a short-run factor, which will lessen in impact on ROH investigations as new workers gain work experience.

⁴ One DFYS report shows that, beginning in May 1998, only 1 intake worker out of 20 in the Anchorage intake units was tenured beyond their probationary period. Turnover statistics in Fairbanks are similar.

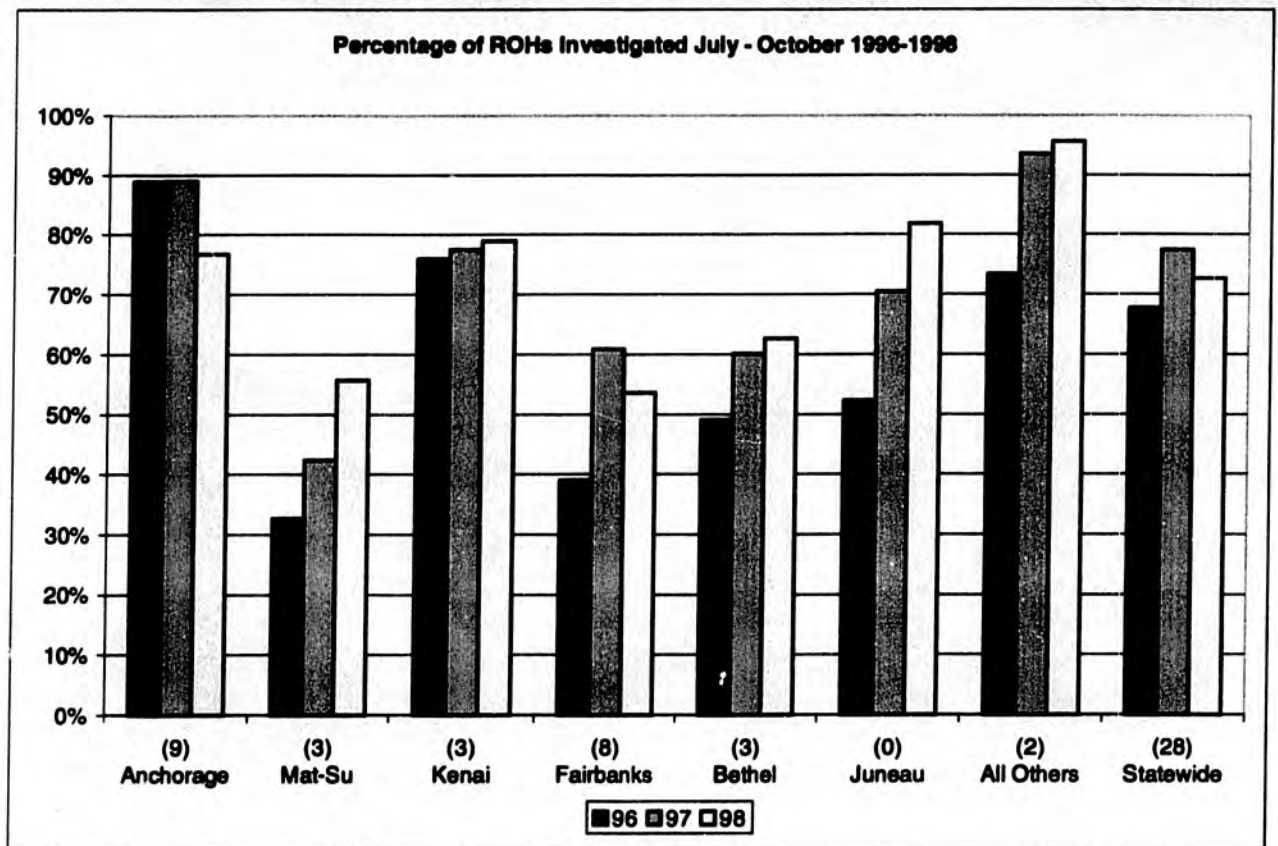


Figure 1.

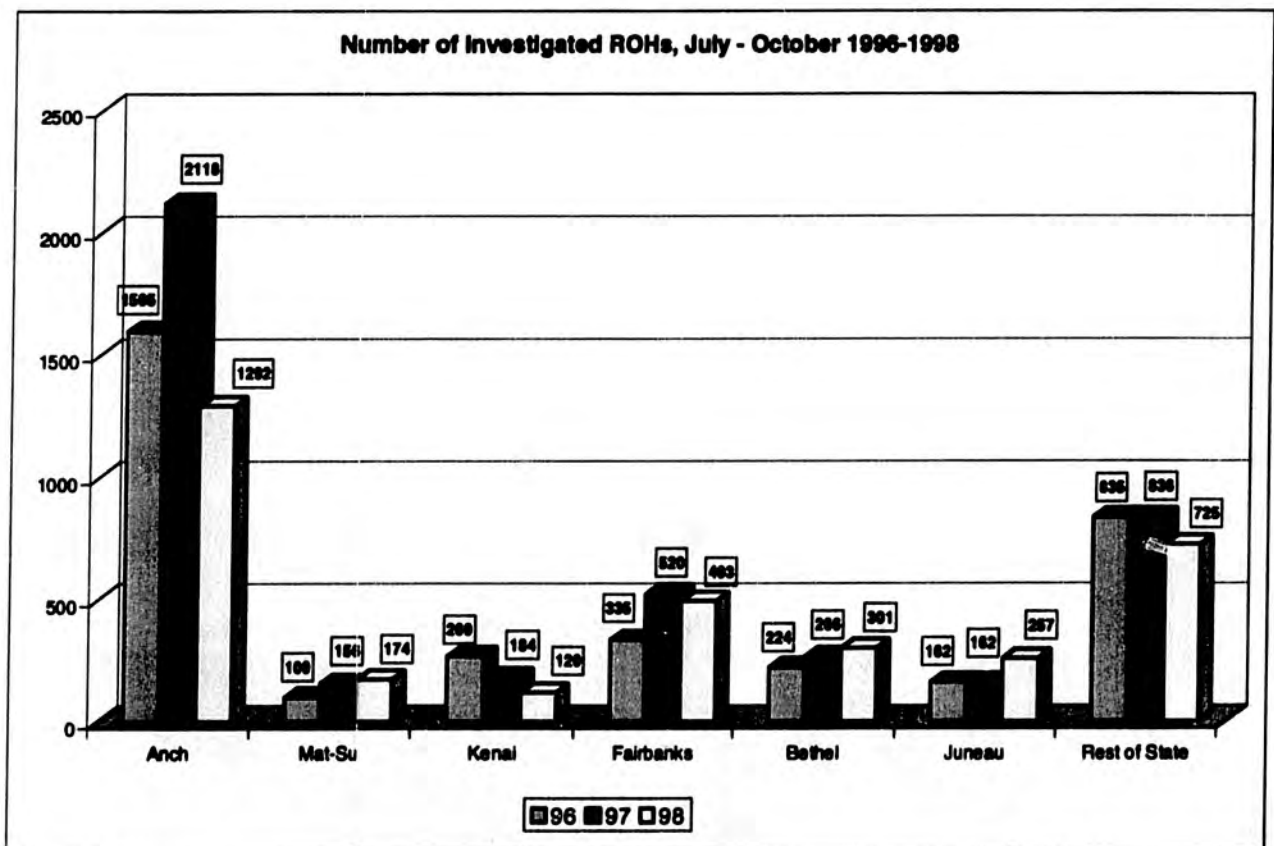


Figure 2.

2. More aggressive use of workload adjusting in Anchorage intake units. Besides the start-up and employee dislocation factors faced by DFYS in the first few months of FY 99, the agency also made a significant change in the way the Anchorage intake unit operated. Previously, the Anchorage intake unit investigated over 85% of the ROHs it received, and "workload adjusted" relatively few.⁵

In the early part of FY 99, the policy followed by Fairbanks and many other DFYS offices essentially was fully adopted in Anchorage. With the explicit approval of DFYS management, Anchorage began workload adjusting significantly more ROHs than the intake units previously had done. According to DFYS management this was done to improve the investigative casework that the agency did do – while at the same time it lessened the stress on relatively inexperienced social worker staff beginning work in the intake units. As a result, because the Anchorage intake unit accounts for over a third of all ROHs statewide, this change in policy resulted in a decrease in the overall number of ROHs assigned for investigation.

Given the time constraints of our follow-up review, we could not evaluate if the ROH investigations being carried out by the Anchorage intake unit, were qualitatively better than those done prior years. It may be that children, in the aggregate, are better protected by having DFYS conduct investigations that consistently meet an established minimum standard for more serious ROHs rather than doing more investigations, but in a less comprehensive way. However, such an approach is not consistent with claims the agency has historically made and leaves children, who are the subject of uninvestigated ROHs, at risk.

From our perspective, such decisions and the accompanying results, seemingly send a contradictory message to state policymakers. In testimony before the legislature and materials made available to the public, DFYS has pointed to the large number of uninvestigated ROHs as being indicative of the agency's need for more staff. After receiving funds for more staff, the agency adopted policies and made decisions that resulted, at least in the short run, in fewer ROHs being investigated. DFYS representatives established the percentage of ROHs investigated as a critical measure of agency operations. Accordingly, the agency should carefully consider what impact its decisions will have on that measure in order to maintain its credibility with the public and state lawmakers.

Additionally, in our view it is too early to see the impact of the staff hired into the newly authorized positions. While DFYS has made reasonable attempts to fill these positions in a timely manner, most were not filled until September or October. New hires typically require at least 70 to 90 days of orientation before they are able to carry full caseloads. As a result the impact of these new positions is not reflected in the July - October 1998 data included in this report.

⁵ By comparison, in recent years, the intake unit in Fairbanks utilized a distinctly different policy which resulted in only 54-61% of its ROHs being investigated, due to low priority or lack of staff availability. Other offices in the State also workload adjusted many of the ROHs received, for example the Mat-Su set-aside referred over 58% of the ROHs it received in FY 98. The Anchorage unit was the exception rather than the rule in the number of ROHs that it assigned for investigation, when compared to other DFYS offices.

New legislation strengthened child protection statutes, but impact so far on casework is minimal

In May 1998, the legislature passed a new child protective services statute, described by some as one of the most aggressive in the nation. Some petitions have been amended to reflect both old and new statutory criteria. However, social workers have been backlogged with old cases and new statutory requirements have effected few cases that predate the new statute. For the cases to date that have been affected by the new law, the most significant impact has been on social workers that now face additional paperwork as they file amended adjudication petitions.

In response to provisions of the federal Adoption and Safe Families Act and similar provisions in the new statute, DFYS has begun to research alternative methods to move children through state custody. As discussed in the Background Information section, one of the primary provisions of both the federal and the state legislation was to force the agency to more promptly develop permanency plans for children in out-of-home care more promptly. The legislation focuses specifically on children that have been in out-of-home situations for the longest periods of time with emphasis on those that have been in state custody at least 15 of the most recent 22 months.

On November 17, 1997 when the federal Adoption and Safe Families Act became effective, DFYS had identified more than 600 children that had been in out-of-home care for 15 of the most recent 22 months. The list of these children, referred to as the transition list, has now been reviewed and worked. The result of this review has been the identification as of December 15, 1998 of just over 300 children for whom the State still needs to take action. Most of the children pending removal from the list are currently scheduled for termination proceedings, adoptions, or guardianships. Though some of the children initially on the transition list have now returned home, it is possible that many of the children still on the list will never be reunited with their parents. The size of the list has forced DFYS to consider options for permanently placing these children more quickly.

Placement with relatives, guardianships, and adoptions are all possible permanent resolutions. Permanency can be achieved through a variety of routes including voluntary relinquishment of parental rights, negotiations with parents, or, the most extreme and time-consuming method, termination of parental rights (TPR). Obtaining a TPR requires more preparation and court time than other methods and generally results in these cases taking much longer to complete. Because permanency plans that are negotiated and agreed to with the parents are more expedient than termination proceedings, DFYS prefers to pursue these options when possible.

To help DFYS avoid protracted termination proceedings, the division is currently in the process of establishing a pilot mediation program to help reconcile the objectives of the agency and the wishes of the parents so that children can be permanently placed without the delays typically associated with TPR hearings. Typically, the objective of negotiations will be that parents will voluntarily relinquish their parental rights or permit their children to be placed with legal guardians.

Management information systems still need improvement

To date, the division has not repaired or replaced its case management system, PROBER. The system continues to reflect more than 5,000 investigations open longer than 90 days. The research analyst responsible for the data believes these open cases primarily reflect data problems rather than actual open cases. It does appear, however, that the agency has, for data entry purposes, more consistently defined ROHs that are not being assigned for investigation. Problems previously identified with uninvestigated Child Protective Service's reports being inconsistently labeled on PROBER appear, based on system data available (for the first four months of FY 99), to be more consistently entered as workload adjusted reports.

The DFYS workload measurement model has not been improved since the last audit. As a result, the actual case workload remains understated and the model is rarely used for caseload management decisions.

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FINDINGS AND RECOMMENDATIONS

This review of the Division of Family and Youth Services (DFYS) was designed as a follow-up of a previous audit (Audit Control No. 06-4586-98) released in April, 1998. Each of the recommendations addressed below reflects our evaluation of the current status of the prior recommendations made in that report.

Prior Recommendation Nos. 1 and 2

1. **The legislature should consider authorizing and funding additional social worker positions in order for the Division of Family and Youth Services within the Department of Health and Social Services (DHSS) to better meet the agency's statutory mandates.**
2. **If the legislature appropriates additional funding for child protection services for FY 99, the commissioner of DHSS should report the effects of those increases to the legislature.**

In our previous audit, we recommended that the legislature consider authorizing funding for additional social worker positions. We concluded more positions would improve the agency's ability to investigate reports of harm (ROHs) and meet contact standards for children taken into and remaining in state custody. In the prior audit we also noted that because of previous management philosophy in one region and bureaucratic barriers to hiring, the division had not effectively used the personal services funding it had received in the past. To promote accountability for any funding increase, we suggested that DFYS report to the legislature how increased staffing was being utilized to help the agency carry out its statutory responsibilities.

Current status of prior recommendations: The legislature authorized 28 new social worker positions⁶ for FY 99. Funding for these positions was staggered, with some funded for a full 12 months beginning July 1, 1998, while others were funded for only 9 months.

At the time the new social worker positions were authorized, non-supervisory social workers were hired from state personnel registers only. Reportedly, the registers for social workers contained few viable candidates. In response, the agency embarked on several recruitment efforts to expand the pool of potential applicants for the new positions. One of the more successful of these efforts was a job fair conducted at the end of August, during which DFYS personnel spoke to applicants and helped them complete state employment applications. This effort resulted in expanding the register by as many as 40 prospective social worker candidates.

Though DFYS hired social workers in a timely fashion, the increase in the number of social workers has not yet been reflected in casework statistics. In large part, the lack of impact on agency statistics is presumably a function of time. Because most of the social workers were hired in September 1998 and will spend their first 70 to 90 days in orientation, the full effect of these additional resources will not be reflected in the casework statistics presented in this report.

⁶ The positions authorized included social workers, social services associates, community care specialists, and administrative positions.

It is probably too soon to determine how the additional positions will eventually affect case management.

On a statewide level, DFYS data shows that, though available staff has increased, fewer cases were assigned for investigation during the first four months of FY 99, compared to the same time frame in previous years (see Figure 2 on page 12). For Anchorage, which receives more than a third of all reports of harm, at least two factors have impacted the ability of the agency to investigate reports of harm (see discussion in the Report Conclusions section):

1. High personnel turnover in the social worker ranks. Both newly created positions and turnover in existing positions resulted in most intake workers in the Anchorage and Fairbanks offices being relatively inexperienced. Internal position juggling intensified generally high levels of turnover typical in social work as new positions provided social workers opportunities to transfer or seek promotion.
2. A revised managerial philosophy for workload adjusting reports. In an attempt to better manage caseloads, DFYS decided to delay investigation on a number of lower priority cases in Anchorage. As discussed in the Report Conclusions section, in the first few months of FY 99, DFYS expanded the use of workload adjusting in the Anchorage intake units.

In addition to investigating fewer reports, caseworkers in the permanency planning unit also report that they are consistently unable to meet contact standards for children in state custody. As of November 1998, the State had custody of more children than at any point over the last 12 months. Though the division's child protective services manual nearly always requires at least one face-to-face contact every three months with each child in state custody, some workers carry caseloads that include 70 to 80 children and admit that they have not seen some of the children under their supervision in more than nine months.

The Division of Legislative Audit's current position on prior recommendations: DFYS has investigated fewer reports of harm in the first four months of FY 99 even with an increase in funding for social worker positions. When this is considered along with the increase in Child-in-Need-of-Aid (CINA) petitions we are concerned that the agency is still not able to consistently meet its various statutory mandates and casework policy requirements.

The expanded use of workload adjusting in Anchorage seems to be more of a reactive, perhaps short-term measure, rather than part of an overall strategy to efficiently and effectively address reports of abuse and neglect. Additionally, when considering workload adjust policy, we believe DFYS should be mindful of public policy pronouncements of "zero tolerance" and be sure that whatever policy is adopted can be reconciled to such stated policy. While workload adjusting has merit, we continue to believe it should be coupled with a valid workload measurement device (see discussion under Prior Audit Recommendation Nos. 5 and 8).

DFYS made reasonable efforts to hire for the newly authorized positions in a timely manner. Accordingly, most of the positions authorized in July were filled before October. However,

promotional and transfer opportunities provided by these positions may have temporarily reduced the agency's ability to respond to reports of harm, as staff turnover increased significantly. We recognize that as the new positions were only authorized in July and most new personnel have been employed with the agency for a maximum of two or three months, it is still very early to attempt to evaluate the effect of the new hires on casework statistics. In light of the division's apparent reduced capacity to respond to reports of harm however, we believe DFYS, in making future hiring and promotion decisions, should evaluate the overall effect such decisions will have on the division's ability to respond to ROHs.

Prior Recommendation No. 3

The legislature should consider amending relevant child protection statutes in order to provide a basis for better and more consistent casework.

Our previous review recommended the legislature consider amending child protection statutes to provide a basis for better and more consistent casework. In that recommendation we noted two areas where court interpretations of the current statute had weakened the statute significantly. Additionally, the Kempe Children's Center, a nationally recognized organization in the child protection field, commented that Alaska Statutes were among the weakest child protection statutes in the country.

Current status of prior recommendation: An amended child protective services (CPS) statute became effective on September 14, 1998. The new statute changes some of the requirements for finding a child in need of aid and provides timelines under which social workers should consider terminating parental rights. At this early date, the new statute appears to have had only a minimal impact on actual casework. Some social workers report they have prepared amended CINA petitions for children in state custody and sometimes draft new petitions to include criteria under both the new and old law.

We noted two provisions of the prior statute in our last review that were particularly weak: one for abandonment and one for neglect. For a child to be found in need of aid before the change in statute, the child had to be "...habitually absent from home or refusing to accept available care, or having no parent, guardian, custodian, or relative caring or willing to provide care."

Under the prior statute, the ability to provide care was not examined nor was inability to care for a child a factor in determining if a child warranted a CINA determination. This weakness appears to be remedied by new statutory language that defines abandonment as "...a conscious disregard of parental responsibilities toward the child by failing to provide reasonable support, maintain regular contact, or provide normal supervision, considering the child's age and need for care by an adult." The improved specificity of the statute for a CINA determination will potentially allow for earlier intervention from DFYS through better identification of parental behaviors that constitute neglect.

The previous statute related to child neglect required the child to have suffered or be at imminent and substantial risk of suffering physical harm before the child could be declared in need of aid. The amended statute allows the court to find neglect if:

the parent, guardian, or custodian fails to provide the child adequate food, clothing, shelter, education, medical attention, or other care and control necessary for the child's physical and mental development, though financially able to do so or offered financial or other reasonable means to do so.

In part, the Knowles administration proposed statutory changes to promote compliance with the requirements of new federal laws. Under the federal Adoption and Safe Families Act of 1997, states must file a petition to terminate parental rights and concurrently, identify, recruit, process, and approve a qualified adoptive family on behalf of any child, regardless of age, that has been in foster care for 15 out of the most recent 22 months. Though there are some specific exceptions to this requirement, the amended state law also discusses termination of parental rights for children in custody for 15 of the last 22 months.

At the inception of the federal law in November 1997, DFYS had identified more than 600 children that had been in custody for more than 15 of the most recent 22 months. Since that time, the list has been updated to reflect changes in each child's status. The latest estimate is that just over 300 children remain in this long-term out-of-home-status. In addition to the children on the transition list when the federal law became effective, more children have been added to the long-term out-of-home-care category over the last 14 months.

One of the changes precipitated by new state and federal laws is concurrent case planning. To be prepared to more rapidly move children into permanent care, social workers must now plan both for the success and the failure of the family in reunification efforts. While encouraging parents to seek treatment and overcome whatever situation caused their children to be removed from the home, social workers must also develop a permanency plan for the child that includes alternatives to returning home. Though northern region offices had been practicing concurrent planning prior to the new legislation, this practice was not as formalized in other regions of the State.

When children cannot be returned to their parents, the most permanent and extreme alternative permanency plan is termination of parental rights. As of the date of this report, no termination of parental rights has been attempted under the new law. The public defender has warned, however, that cases begun under the old law and carried to termination proceedings under the new law will be appealed. In the view of the public defender's office, the attempt by the Department of Law to retroactively apply state laws as they pertain to termination proceedings may be unconstitutional.

At this time, DFYS staff estimates there are only a small number of previous cases that could be brought to termination only under the new law. In part, this is because social workers have been so busy with backlogged cases, that they have not yet had time to identify old cases that could not have gone to termination under the former law.

The agency's compliance with the law requiring earlier permanency plans for children in state custody may be hindered by factors beyond the control of DFYS. Social workers are most concerned about the time limits imposed by the new law because their caseloads do not seem conducive to meeting the timelines. Other agencies are reportedly equally overburdened. The Attorney General's Office is responsible for representing the agency in court whenever termination of parental rights is sought, guardians ad litem are responsible for representing the children, and public defenders are often responsible for representing the rights of the parents. Each of these agencies, however, has expressed concerns about not having the staff to handle a large influx of cases.

In addition to the backlogs in state agencies, private agencies offering treatment programs for substance abusing parents typically have waiting lists for admission. Consequently, children linger in state custody while their parents wait for limited slots in treatment programs. If the parents subsequently fail in one treatment program, the waiting period for both parent and child may begin all over again. The timeline requirements of the new law make each one of these treatment failures even more critical.

In recognition of some of the systematic problems associated with terminating parental rights, DFYS is developing a pilot mediation program to work with families that can not be reunited. One purpose of mediation is to provide the agency and the parents an opportunity to avoid protracted termination hearings while still acting in the best interests of the children involved. DFYS hopes that much less time will be spent in mediation than would be spent in termination hearings.

The Division of Legislative Audit's current position on prior recommendation: In our view, the amendment strengthens the statute by describing parental behaviors that may be considered abandonment or neglect rather than requiring the social worker to determine whether the child is in imminent danger of substantial physical harm. Social workers, however, comment that the new statute seems to have little effect on emergency custody decisions, but pertains more to adjudication hearings.

Though we recognize the value of statutory time limits for children in state custody, we are also aware that there are certain system-wide factors that may impede the agency's compliance with the statute. We encourage DFYS to continue creative efforts to reduce the length of time children spend in non-permanent settings.

Prior Recommendation No. 4

The DHSS director of administrative services should ensure expenditures for the retirement incentive program (RIP) are made in accordance with legislative appropriations.

Our previous audit noted that DHSS utilized \$880,000 of authorized DFYS personal services funding to fund other divisions as well as the agency's RIP costs for three years. We have found no large dollar transactions for FY 98 or 99 to suggest that similar funding transfers have been

made in the previous fiscal year or so far in FY 99. Our analysis to date indicates that virtually all personal services funding has been used in payroll related costs.

Prior Recommendation Nos. 5 and 8

5. The director of DFYS should develop and implement a clear and consistent policy regarding when ROHs can be left uninvestigated.
8. The director of DFYS should develop an updated, accurate, and relevant workload measurement model.

In the past, DFYS had a policy of workload adjusting reports of harm based on certain workload measurement criteria. Because the workload measurement model that was used to make these decisions is severely flawed, it was disregarded by agency managers as a method to regulate assigned or workload adjusted cases. Previously, we recommended that DFYS refine or replace the workload measurement model and develop a clear and consistent policy for workload adjusting ROHs.

Current status of prior year recommendation: The issue of the workload measurement model has not been addressed. Additionally, no clear workload adjusting policy has been established. The availability of community resources and each local DFYS office's working relationship with these agencies has been cited as a critical factor that has an impact on workload adjusting ROHs. DFYS has encountered some difficulties with the establishment of a uniform policy on a statewide basis as both types of cases and available resources vary greatly from community to community.

Some of these differences were highlighted by a review of Anchorage workload adjusted ROHs performed by the Mat-Su office manager. Because the Mat-Su office workload adjusts many of the ROHs it receives, the manager was asked by Anchorage managers to review a small sample of ROHs received by the Anchorage office to provide feedback on the Anchorage office's workload adjusting practices compared to those of the Mat-Su office. His review found that most cases he reviewed in Anchorage should not be workload adjusted.

In large part, his assessment was based not so much on the severity of the cases involved, but rather on the lack of suitable alternative community resources in Anchorage. The availability and working relationship with community resources are only one factor limiting the uniformity of workload adjusted reports. Additionally, there are some philosophical differences between managers related to workload adjusting. Some managers reject the idea that workload adjusting will remain a necessity and strive to investigate all CPS related ROHs, while other managers recognize workload adjusting as necessary and prefer not to investigate a case unless there is enough time to do the work adequately.

The Division of Legislative Audit's current position on prior recommendations: Because DFYS finds that it is still unable to investigate each report of harm and the resultant need to allocate available resources responsibly, we continue to recommend that DFYS develop a

usable and reliable workload measurement system. While we understand that community resources vary significantly, we continue to believe that DFYS should strive for more consistency in report prioritization and the resultant assignment of cases.

In addition, any expansion or further implementation of an agency-wide, consistently applied workload adjusting methodology should be coupled with a valid workload measurement device. The expanded use of workload adjusting in Anchorage seems to be more of a reactive, perhaps short-term measure, rather than part of an overall strategy to efficiently and effectively address reports of abuse and neglect.

Prior Recommendation No. 6

The director of DFYS should continue efforts to develop an integrated professional development and training program in conjunction with the University of Alaska and pursue Title IV-E funding.

In our prior audit we discussed the need for, and the recent events involving, an ongoing training program for DFYS social workers. As we discussed in the prior recommendation, a well-trained workforce is essential for the effective functioning of a child welfare program. Effective, ongoing training is also a way to combat high turnover rates among DFYS social workers. We noted that DFYS was pursuing federal training funds that were available, and we encouraged the agency to seek the federal funding necessary to upgrade its training program.

Current status of prior recommendation: Previously, we recommended that DFYS develop an integrated professional training program in conjunction with the University of Alaska. The agency has made progress in the development of such training. Since that audit, the agency, in conjunction with the University of Alaska - Anchorage, has begun teaching CORE classes to new social workers and has established an ambitious schedule of more advanced CORE classes. The first of these classes, offered at the beginning of November 1998, received very positive evaluations from the class participants. In addition, a class for new supervisors, generally more tenured social workers, was scheduled for mid-January 1999.

Additionally, DFYS has offered stipends to students currently in the social work bachelor's program and to some current employees seeking master's degrees in social work. The conditions of the stipend are that recipients are committed to work for the agency for at least a year after their education is completed. At this point, the agency has about ten bachelor degree students and four master degree students in the stipend program.

The Division of Legislative Audit's current position on prior recommendation: DFYS has made significant progress in its efforts to establish consistent and well-funded training. We encourage the agency to continue these efforts and to aggressively pursue federal funding sources to maximize and ensure the stability of the agency's training efforts.

Prior Recommendation No. 7

The director of the Division of Family and Youth Services should ensure accurate and timely entry of child protection case information into its management information system.

During our last review, we identified several deficiencies in the agency's case management system. PROBER and recommended that the agency take action to remedy these problems.

Current status of prior recommendation: Among the problems we discussed previously was lack of consistent practice with regard to case closure within the system. As of December 1, 1998 PROBER showed more than 5,000 investigations open longer than 90 days. According to the agency's data analyst, many of these cases reflect data problems rather than actual open investigations.

Additional problems we noted with PROBER were related to specific inconsistencies in how data was recorded. Though a review of statistical data provided by DFYS suggests that some of these problems have been resolved, DFYS supervisors continue to comment that the system is neither user friendly nor totally dependable.

The Division of Legislative Audit's current position on prior recommendation: We continue to recommend that DFYS correct, upgrade, or replace the current case management system.

DEPT. OF HEALTH AND SOCIAL SERVICES

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March 8, 1999

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LEGISLATIVE AUDIT

Pat Davidson, Legislative Auditor
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P.O. Box 113300
Juneau, Alaska 99811-3300

RE: Legislative Audit Control Number 06-4595-99
Follow Up Audit on Division of Family and Youth Services (DFYS)

Dear Ms. Davidson:

Thank you for the opportunity to comment on findings of your recent review conducted in follow-up to the audit of the Division of Family and Youth Services (DFYS) released last year.

That report, released April 2, 1998, contained two critical findings: 1) that changes were needed in Alaska's child protection laws; and 2) that without additional staff, DFYS could not meet the mandates of either existing or proposed child protection laws. It was clear that changes were needed in Alaska's laws to allow earlier, more effective intervention to protect children and to speed the process of placing abused children in safe, permanent homes. It was equally clear that DFYS could not improve its ability to carry out these mandates without additional staff.

In responding to that report, I cautioned that the real effects could be measured in a meaningful way only in the long term. Your follow-up review reflects the difficulty and limits of such an early assessment of broad-scale system change. Drawing meaningful conclusions about the impact of new staff is difficult to accomplish while those staff are being hired and trained and while workload continues to fuel staff turnover. Similarly, few meaningful conclusions can be reached by assessing the impact of such a sweeping new law at such an early date.

While I believe it is far too soon to draw definitive conclusions about the many recent changes to Alaska's child protection system, I also understand the keen interest and responsibility you and I have in assessing these changes. With this in mind, a few general comments are appropriate in response to some conclusions emphasized in your report.

Staffing

A key finding of your current report is that DFYS remains unable to meet its statutory mandates and casework policy requirements. This finding is, unfortunately, only too predictable. In seeking

achieve "zero tolerance" – a full response to all credible and legitimate reports of harm and the ability to implement appropriate interventions when warranted. The Legislature authorized an even smaller number. It was clear that we would not achieve the "zero tolerance" mandate.

In assessing the impact of new staff, your report focuses primarily on the number of reports of harm investigated. This is certainly a critical measure – if a report is not investigated, children are left at risk and many will be harmed as has been amply demonstrated by those cases discussed publicly and in prior audits. However, the agency must not only investigate reports of harm, but also intervene effectively when necessary and provide services to the child and family to achieve a permanent positive outcome for the child. Doing this does not allow us to focus on a single measure of performance, however important. Focusing solely on increasing the number of investigations conducted would, as your report suggests, have been politically expedient in quickly demonstrating the impact of additional staff. It would not, however, have been responsible in meeting our other statutory obligations to children and families with whom we have intervened.

Auditors noted that the past year has seen an increase in the number of cases resulting in formal intervention and agency custody – something your recent review of DFYS custody decisions indicated was warranted. Because of this, the number of children in agency custody has increased by 400 from January 1998 – January 1999 and is now at an all time high. Responding to cases involving formal intervention, conducting thorough investigations, and implementing appropriate services in these more complex cases requires substantially greater amounts of time than responding to reports of harm where formal intervention is not required. Coping with the workload related to these additional formal intervention cases means less time is available to respond to other reports of harm. Because of this the number of investigations that can be assigned and completed has been reduced. This factor alone precludes precise comparisons of the impact of new staff with staff efforts in prior years.

As your report notes, our concerted efforts have been successful in recruiting and hiring new social work staff and fully utilizing funding for personnel. The new positions authorized for FY 99 were established in July, far in advance of normal timelines, and largely filled by September. However, again following prior recommendations of auditors, we have been careful not to overwhelm new staff by assigning full and complex caseloads before they are trained and experienced. New staff cannot be expected to carry full caseloads and function at the journey level for approximately six months after being hired. This prudent and necessary practice also contributes to reductions in the number of investigations that can be conducted.

We agree that the impact of turnover in existing positions has also affected overall agency capacity. When experienced staff are lost, there is inevitably a reduction in work capacity while new staff are recruited, hired, trained and gain experience. As noted in your report, the division has been experiencing an "high personnel turnover" in social work positions in some offices or units. While there has been some predictable impact from promotions associated with the five new supervisory and other new social worker positions, the primary impact of turnover has been loss of experienced staff to other employment opportunities, something not controllable by agency

managers. This has occurred primarily in the intake and investigation units of the two largest offices where the workload continues to be greatest and where there is greater competition with private organizations for qualified staff. These units experienced almost a complete turnover. High and stressful caseloads led most of these workers to leave the agency while some transferred to other units.

Improved administrative action made it possible to assign and investigate more reports of harm in FY 98 than in FY 97. In FY 98, the division assigned 1,400 more reports of harm than were assigned the previous year, a fact that is not mentioned in the narrative of your report. (Furthermore, the fact that the agency assigned a record number of cases in FY 98 should be taken into account when drawing comparisons to the current fiscal year.)

The division was able to respond to an increased number of cases in FY 98 by better utilizing existing positions and aggressively assigning investigations. However, this accomplishment came at a cost – we lost many experienced staff.

We know from experience and from responses to surveys of staff that the two best ways to deal with turnover are to improve training and reduce workloads to manageable levels. The results of two job satisfaction surveys recently conducted by DFYS – one of current social workers and another of social workers who left the agency during the past six months – clearly explain these important factors affecting turnover. Over 60 percent of the workers responding to the survey indicated that their workload is unmanageable. Lack of sufficient and specialized training also contributes greatly to stress and turnover.

The need for training is being addressed directly through orientation and "core" training of all new workers at the Family Services Training Academy developed in partnership with the University of Alaska. The Academy has begun a full schedule of social worker training and all new social workers have been attending training sessions. Though the training reduces the initial capacity of newly authorized staff, they will ultimately be better prepared to perform work at a higher level.

We remain concerned about staff turnover and vacancy rates for obvious reasons. Staff vacancies are tracked weekly, hiring managers have been directed to fill all social worker vacancies as quickly as possible, and with the assistance of special initiatives the division has lowered the vacancy rate significantly. We anticipate increases in the level of response to reports of harm throughout this fiscal year as new staff complete training and gain experience. Our most recent data, unavailable at the time auditors completed their report, indicates that we are, in fact, beginning to realize the benefit of the new positions as the real work capacity of new staff reaches journey level. The overall response to reports of harm is beginning to reflect that increased capacity.

What seems clear is that, although the Legislature approved 28 of the 30-40 new positions recommended by auditors last year, these positions alone cannot reduce caseloads to manageable levels or enable the agency to fully meet its statutory obligations. We cannot resolve the overall workload problem, which may be the most significant factor affecting staff turnover, without

increased staffing to bring down caseloads. We have developed a model to project staffing needs to achieve "zero tolerance" by moving toward national caseload standards over a several year period. We have based our request for an additional 26 positions in the Governor's FY 00 budget on the basis of that model.

Child Protection Law Changes

Changes in Alaska's child protection laws passed by the last Legislature strengthen protection for children by: 1) making the health and safety of children paramount in child protection decisions; 2) establishing clear timelines requiring prompt action by agencies, courts, and parents in resolving child protection matters; and 3) establishing greater accountability for agencies and parents to act in the best interests of children. The new law also provides improved guidance by better defining actions and circumstances that constitute child abuse and neglect. Finally, the new law does much to promote coordination and teamwork on behalf of children and families.

We believe, as we think you do, that a true assessment of the impacts of our new law can only be accomplished over the long term, certainly not within a few months of its effective date. However, recognizing the constraints inherent in assessing the impact at this early date, we believe several notable changes have occurred.

First, massive efforts were made by all agencies involved in the child protection system to train staff in preparation for implementing the law. From June through September, all DFYS social workers and staff from partner agencies attended training sessions at more than 15 different training locations throughout the state. DFYS' Child Protection Services Manual was also rewritten to reflect changes required by the new law.

Second, our courts are enforcing the new 120-day timelines for adjudication in child in need of aid (CINA) cases. This means that children taken into state custody are no longer routinely experiencing lengthy delays before critical decisions are made and parents are prompted to address the issues that place children at risk. Judges must consider the effects of delays on the children and the result has been strict limits on delays. Earlier adjudications are prompting quicker action on permanent plans for children – permanency hearings are being scheduled at the time of adjudication. This increases the demands on all parts of the child protection system, but may ultimately prove beneficial once existing case backlogs are resolved.

Third, foster parents and relatives are attending court hearings. Judges hear first-hand from caretakers who are with the children every day and this assists them in making decisions that are in the best interests of the children.

Fourth, actions have been filed in some cases that would not have been possible under the old law – CINA adjudication and termination actions not possible under the old law are now proceeding to resolution.

Another important result of Alaska's new law and the federal Adoption and Safe Families Act is the enormous effort to move a backlog of longstanding cases to permanency while simultaneously adhering to the new deadlines for action imposed by HB 375. Alaska has 631 children who must be moved to permanency within 18 months of the date the federal law was enacted (November 19, 1997.) High caseloads for DFYS and our partner agencies has and will impede our ability to accomplish this as well as meet the requirements as additional children reach this threshold. The full impact of the new law will not be realized until no backlog of cases exists and certainly cannot be measured within four months of its effective date.

To meet its responsibilities, DFYS has begun training of social work staff to implement concurrent planning, which is specifically authorized under our new law. Concurrent planning provides for family support services to strengthen or treat the conditions that led to the child being removed while simultaneously developing an alternative plan, in case it is needed.

Together with the Alaska Court System, Office of Public Advocacy, Public Defender Agency, and the Department of Law, DFYS is also working to develop voluntary mediation services to assist in resolving some of the longstanding cases. Obviously, it is too early to assess even the short-term impact of this effort, as it is with the new law.

Workload Adjusting and Workload Measurement

The issue of workload measurement model has, in essence, been resolved. DFYS replaced the workload accounting system of the 1980s by adopting the Child Welfare League of America recommended caseload standards to measure workload. Like many other states, the division has elected to use the CWLA recommended caseload standards to measure workload and to plan, organize, and administer services, and as goals for continuing improvement of services. The ratios of client to staff offer guidance based upon the study and consensus of national experts determining what constitutes best practice. The standards, simplified, are below.

**Child Welfare League of America's
Recommended Caseload/Workload Standards**

Intake Investigation	12 active cases per month, per 1 social worker
On-going Cases	17 active families per 1 social worker, and no more than 1 new case assigned for every 6 open cases
Family Foster Care	12-15 children per 1 social worker
Combined Investigation and On-going	10 active on-going cases and 4 active investigations per 1 social worker
Supervision	1 supervisor per 5 social workers

We agree that a new policy based on the CWLA caseload standard is needed to guide managers in different offices and circumstances to appropriately allocate limited staff resources and best protect children. Risk assessment must remain a central element of this policy as it is in all aspects of child protection casework. Clearly, expertise from outside DFYS will be necessary to develop a new risk-based system for prioritizing reports of harm and appropriately allocating staff time to achieve the best outcomes. We have been unable to seek the necessary assistance of national experts this fiscal year because of insufficient funds. Basic program operating costs such as office leases and client-related travel must take priority over even important program development this year. We had to postpone this purposely but hope to proceed with this project next fiscal year.

Staff Training

We have, as your report notes made substantial progress in developing an integrated training and professional development program in partnership with the University of Alaska. We are continuing to aggressively pursue federal funding to extend this program.

Management Information

We concur with your recommendation that DFYS correct, upgrade, and ultimately replace the current management information system. We are pursuing improvements through all these approaches – training staff and changing processes to improve data quality in the existing system, upgrading to wide area network connections to maintain functionality in the face of technology obsolescence. The bottom line, we need approximately \$7 million to completely replace the system with improved technology. All these actions are necessary to assure vital information is available to support daily casework activities and to support effective management and policy decisions.

Much has been done to change Alaska's child protection system since the release of your audit report last April. While it is far too early to draw definitive conclusions about the full impact of these changes, it seems clear that legislative action taken last year has improved protections for Alaska's children. Much remains to be done in the future.

I appreciate your efforts and those of your staff to objectively review these critical issues.

Sincerely,



Karen Perdue
Commissioner

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

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March 9, 1999

Members of the Legislative Budget and Audit Committee:

We have reviewed the response of the Department of Health and Social Services to our audit report. We have the following comments regarding the department's discussion regarding how we assessed the impact of new social worker positions on agency performance.

The department notes that our report focuses primarily on the number of reports of harm (ROH) investigated by the Division of Family and Youth Services (DFYS). The department also states that there are other important aspects of child protection which DFYS must focus on, possibly at the expense of ROH investigation statistics.

We agree that investigation statistics alone, while significant, do not completely reflect the full scope of DFYS child protection responsibilities. We would encourage the agency to identify and report on additional performance measures that reflect other qualitative aspects of child protection. These measures would enhance an evaluation of the agency's operations.

A handwritten signature in cursive script that reads "Pat Davidson".

Pat Davidson, CPA
Legislative Auditor

Audit Report

F 10

**DEPARTMENT OF HEALTH AND
SOCIAL SERVICES
DIVISION OF FAMILY AND YOUTH SERVICES
CHILD PROTECTIVE SERVICES
CUSTODY AND TERMINATION DECISIONS
FOR SELECTED CASES**

August 11 , 1998



Audit Control Number:

06-4573-98

Division of Legislative Audit

P.O. Box 113300, Juneau, Alaska 99811-3300

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

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The committee is responsible for providing the legislature with audits of state government agencies. The programs and activities of state government now cost more than \$5 billion a year. As legislators and administrators try increasingly to allocate state revenues effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by the Division of Legislative Audit helps provide that information.

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August 11, 1998

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF FAMILY AND YOUTH SERVICES
CHILD PROTECTIVE SERVICES
CUSTODY AND TERMINATION DECISIONS FOR SELECTED CASES

August 11, 1998

Audit Control Number

06-4573-98

This audit reviews casework practices, emergency custody decision making, and the procedures followed and considered when the State seeks termination of parental rights. In the report we discuss the broad discretion exercised by state social workers in taking children into state custody, the nature and extent of judicial reviews, and how certain, selected cases were handled by the Division of Family and Youth Services and the Department of Law.

The audit was conducted in accordance with generally accepted government auditing standards. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are discussed in the Objectives, Scope, and Methodology section.

A handwritten signature in cursive script that reads "Pat Davidson".

Pat Davidson, CPA
Legislative Auditor

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OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with a Legislative Budget and Audit Committee request and Title 24 of the Alaska Statutes, we conducted a review of casework related to Division of Family and Youth Services (DFYS) custody decisions. DFYS is organizationally located in the Department of Health and Social Services.

Objectives

The specific objectives of our review were as follows:

1. For selected cases, we assessed the reasonableness and legal basis of the agency's child custody decisions. In making our assessment we wanted to develop a better understanding of how DFYS applies the child-in-need-of-aid (CINA) statutes in carrying out day-to-day case work.
2. For selected cases, we assessed if DFYS made reasonable efforts to prevent removal of children from the home as required under the CINA statutes.
3. For selected cases, we reviewed case files to better understand how the agency made and documented reasonable efforts to reunite parents and children.
4. For selected reports of harm (ROHs), where DFYS did not take custody we reviewed the circumstances involved. This was done to better understand the factors that distinguish ROHs where the agency took emergency custody from situations where custody was not sought. We compared the various situations in order to assess the reasonableness and consistency of casework decisions. In addition, from this review, we evaluated the actions taken by the agency to provide appropriate services to protect children from further harm in circumstances where custody was not taken.

Scope and Methodology

To understand and evaluate circumstances involved in which DFYS takes custody of children from those in which the agency does not seek custody, we reviewed 72 case files. We selected these 72 cases three ways. Most were from a sample of substantiated ROHs received by DFYS between July 1, 1997 and March 15, 1998. Additionally, we reviewed a variety of cases brought to our attention by advocacy groups and legislators responding to specific constituent concerns. Some of these cases involved ROHs that pre-dated July 1, 1997 .

In addition to reviewing agency files, we also discussed some of the cases with various involved parties such as social workers, social worker supervisors, guardians ad litem,¹ grandparents, and the parents involved. We also reviewed DFYS policy and procedures, Alaska Statutes, and

¹ The guardian ad litem (GAL) serves in court as an advocate for the child in a child-in-need-of-aid case. The GAL is generally appointed as soon as a child is adjudicated CINA.

CINA court rules to develop a better understanding of the basis for casework decisions and adjudications related to children in need of aid.

We reviewed the Kempe Children's Center Report on five selected cases and a report issued by the Alaska Judicial Council addressing what was termed the Court Improvement Project Report as related to CINA proceedings. To obtain an overview of the custody decision-making process, we attended several meetings, including permanency planning meetings and a court hearing.

In addition we reviewed amendments to the CINA statutes made by the 1998 legislature, in order to develop a better understanding of how the statutes were applied by the courts and prospective impact the new legislation may have on case work decisions. We also reviewed the recent state Supreme Court Decision, *In the Matter of J.A.* issued August 7, 1998.

Included in the cases selected on the basis of legislative referral, were numerous cases involving the Kenai and Homer field offices. For these particular cases, we reviewed both the DFYS files and interviewed the parent(s), and sometimes the grandparent(s), of the children involved. Such interviews were arranged for us by the Guardians of Family Rights, an advocacy group that supports and advises parents that become involved with DFYS. From our interviews and review of case files we developed specific questions for the agency in order to understand the basis for its custody decisions.

ORGANIZATION AND FUNCTION

Title 47 of the Alaska Statutes charges the Department of Health and Social Services with responsibility for providing a range of services designed to remedy or prevent abuse, neglect, and exploitation of children and youth. To meet these statutory responsibilities, the department created the Division of Family and Youth Services (DFYS) in 1980 by combining the Division of Social Services with the youth section of the Division of Corrections.

The Family Services section of DFYS is responsible for providing child protection and welfare services, licensing of child care facilities, and the recruitment, selection, and training of foster parents. The other major section of DFYS, Youth Corrections or Youth Services is responsible for supervising adjudicated youth offenders.

The focus of this audit was Family Services. Specifically the audit concentrated on child protective services (CPS) and the decision making process related to custody of children. The goals of CPS are twofold: (1) to identify, treat, and reduce child abuse and neglect; (2) to ensure reasonable efforts are made to protect and maintain children in their own homes. DFYS provides protective services for children by: (1) investigating reports of harm; (2) referring families to community resources; (3) initiating legal intervention if children are unable to remain safely in their own homes; and, (4) providing out-of-home placements and permanency planning when necessary.

When a child is taken into physical custody they are placed either in foster care, or perhaps in an emergency shelter facility. DFYS also contracts with residential care facilities to provide assorted levels of care and treatment of youth.

Each provider is subjected to licensure and periodic review to assure children are provided with reasonable care in a safe environment. Responding to complaints of abuse and neglect for children in out-of-home care is also the responsibility of DFYS social and licensing workers.

According to the agency's FY 99 budget documents, the three DFYS regions had 328 permanent, full-time authorized positions during FY 97. Including Central Office and Youth Facility Services, DFYS had 570 permanent, full-time authorized positions. During that same period, DFYS' three regions had a combined operating appropriation in excess of \$22 million. The total DFYS operating appropriation was \$69.8 million. Included in the appropriation was funding for three regional offices, Central Office, Purchased Services, and Youth Facility Services.

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BACKGROUND INFORMATION

As discussed in the Organization and Function section of this report, the Division of Family and Youth Services (DFYS) is charged with protecting children from neglect and abuse. To assist social workers in meeting this mandate, the agency has developed procedures to manage caseloads through screening and prioritizing reports of harm (ROH). DFYS has also developed procedures to assess, record, and mitigate the risks of continued child abuse and neglect. Central to these procedures are a risk assessment tool, a case assessment form, and, for ongoing cases, a case plan.

DFYS prioritizes response to ROHs based on perceived risk to child

DFYS screens each ROH received to determine whether to initiate an investigation.² Despite being required by statute to respond to all ROHs, DFYS has developed a process that has resulted in some reports not being investigated. DFYS delays responding to some lower priority reports until workload permitted. This process, termed "workload adjusting" was originally intended to delay investigating ROHs until workload permitted. However, workload rarely did, and the ROHs typically went uninvestigated. The screening process involves ascertaining the current status of the child, the potential for immediate and/or future danger, and the location of the child and parents. To accurately assess the degree of risk to the child, the screener elicits additional information about the alleged victim and the family.

Additional information helpful for the screening assessment includes: prior history with child protection, substance use or abuse by parents or caregivers, domestic violence, history of concerns, and family strengths and resources. Although the screener may be able to determine the need and immediacy of intervention on the basis of a brief contact with one reporter, it may also be necessary to contact several collateral sources to acquire the needed information. If the report of harm does not meet the criteria for investigation, the case is closed.

As mentioned, to manage an increasing workload, DFYS has developed an informal policy to delay or defer investigations on ROH determined to be lower risk. The use of this practice, referred to as workload adjusting, varies between district offices, with some offices workload adjusting as many as 67% of their reports of harm.

² AS 47.17.030 (a) requires DFYS to investigate all reports of harm. The statute reads as follows:

If a child, concerning whom a report of harm is made, is believed to reside within the boundaries of a local government exercising health functions for the area in which the child is believed to reside, the department may, upon receipt of the report, refer the matter to the appropriate health or social services agency of that local government. For cases not referred to an agency of a local government, the department shall, for each report received, investigate and take action, in accordance with law, that may be necessary to prevent further harm to the child or to ensure the proper care and protection of the child. [Emphasis added.]

FAMILY ABUSE/NEGLECT ASSESSMENT

Worker _____

Date: _____

Case Name: _____

Case Number: _____

RISK ASSESSMENT

ABUSE		Score	NEGLECT		Score												
A1	Number of prior reports of abuse None (0) One (1) Two (2) Three or more (4)		N1	Number of prior referrals for neglect None (0) One or two (2) Three or more (4)													
A2	Number of prior placements outside of family residence None (0) One or more (1)		N2	Number of prior placements outside of family residence None (0) One or two (1) Three or more (3)													
A3	Number of abuse/neglect types noted in current referral One (0) Two or three (2) Four or more (3)		N3	Either caretaker neglected as a child No (0) Yes (2)													
A4	Number of adults in home (18 yrs of age or older) Two or less (0) Three or more (2)		N4	Single caretaker home at time of referral No (0) Yes (1)													
A5	Number of children in home Two or less (0) Three or more (2)		N5	Caretakers history of drugs/alcohol abuse None (0) One or both caretakers are abusers (3)													
A6	Either caretaker abused as a child No (0) Yes (2)		N6	Age of youngest caretaker at time of referral 26 or older (0) 25 or younger (1)													
A7	Caretakers history of drug/alcohol abuse None (0) One caretaker (1) Both caretakers (3)		N7	Number of children in home Two or less (0) Three or four (1) Five or more (2)													
A8	One or both caretakers previously convicted of a criminal act No (0) Yes (1)		N8	Caretaker(s) primarily involved in negative social relationships No (0) Yes (2)													
A9	Caretaker(s) primarily involved in negative social relationships No (0) Yes (2)		N9	Motivation for change demonstrated by perpetrator(s)/ caretaker(s) Not applicable (0) Motivated & realistic (0) Motivated, not realistic (1) Unmotivated (2)													
A10	Caretakers history of depression None (0) Significant, long-term episodes by either caretaker (1) Episode(s) include a suicide attempt by either caretaker (3)		TOTAL NEGLECT RISK SCORE														
A11	Cooperation with agency demonstrated by perpetrator(s)/ caretaker(s) Not applicable (0) Cooperative (0) Uncooperative (1) Hostile / Threatening (3)		GENERAL INSTRUCTIONS 1) Complete both risk scales (abuse & neglect) on the family during the intake process for all intakes. 2) Calculate the total score for each scale. 3) Assign the family's service level based on the highest score in either scale; use the following chart: <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;">Risk of Abuse Scale</td> <td style="width: 33%; text-align: center;">-2 → 4</td> <td style="width: 33%; text-align: center;">5 → 7</td> <td style="width: 33%; text-align: center;">8 or above</td> </tr> <tr> <td>Service Level</td> <td style="text-align: center;">☐ Low</td> <td style="text-align: center;">☐ Medium</td> <td style="text-align: center;">☐ High</td> </tr> <tr> <td>Risk of Neglect Scale</td> <td style="text-align: center;">0 → 3</td> <td style="text-align: center;">4 → 10</td> <td style="text-align: center;">11 or above</td> </tr> </table>			Risk of Abuse Scale	-2 → 4	5 → 7	8 or above	Service Level	☐ Low	☐ Medium	☐ High	Risk of Neglect Scale	0 → 3	4 → 10	11 or above
Risk of Abuse Scale	-2 → 4	5 → 7				8 or above											
Service Level	☐ Low	☐ Medium	☐ High														
Risk of Neglect Scale	0 → 3	4 → 10	11 or above														
A12	View of abuse by non-perpetrator(s) / caretaker(s) Not applicable (0) More serious than agency (-2) Consistent with agency view (0) Less serious than agency (2)																
TOTAL ABUSE RISK SCORE																	

Risk of Abuse Scale

-2 → 4

5 → 7

8 or above

Service Level

☐ Low

☐ Medium

☐ High

Risk of Neglect Scale

0 → 3

4 → 10

11 or above

OVERRIDES: Note: Override to High. Circle appropriate reason.

- 1) Substantiated sex abuse.
- 2) Child required medical treatment subsequent to abuse or neglect.
- 3) At least one sibling is in DFYS placement
- 4) Suspicious death of sibling.
- 5) Other: _____

FINAL ASSIGNMENT LEVEL _____

Supervisor's Review/Approval _____

Date _____

Risk assessment tool quantifies risk factors for abuse and neglect

In 1989 DFYS contracted with the National Council on Crime and Delinquency (NCCD) to construct a rating procedure, or "instrument," to better assess risk of continued maltreatment of children in certain situations. The instrument, known as the risk assessment tool (RAT) was the product of research by the NCCD and a cross section of DFYS rural and urban social workers.

In addition to assessing the risk of continued harm to children, the tool was designed to also provide guidance as to suggested level of service that should be provided to the families involved. RAT scores are also intended to form the foundation for case planning and action.

The RAT consists of a series of numerically evaluated indicators for abuse and neglect (See prior page for sample of RAT form currently used).

The sum of the RAT indicators dictate required service levels of low, medium, and high. RAT scores can be overridden by supervisors and **must** be overridden in certain situations described in inset at right.

RAT forms are typically completed near the end of an ROH investigation. RAT scores are theoretically used to determine whether a case will be forwarded for continuing service and are central to the case assessment form which summarizes, in a narrative form, the status of the case. Since 1989, the RAT has been neither reevaluated nor revised.

Case assessments used to close cases or forward them to ongoing units

DFYS uses case assessment forms to summarize the findings of an ROH investigation. These forms are designed to support the decision to close or continue a case into the ongoing unit. If the outcome of an investigation results in the state taking custody of a child, DFYS must show that reasonable efforts were made to prevent the removal of the child from the home. The documentation of these efforts on the case assessment form includes summaries of the presenting problem, intervention and progress made, a social summary, recommendations, and an intake determination. A supervisor reviews each case assessment to ensure that the situation supports the investigation determination and the eventual disposition of the case.

Figure 1

Risk Assessment Tool (RAT) Scoring

	Low*	Medium	High
Abuse	-2 to 4	5 to 7	7 or more
Neglect	0 to 3	4 to 10	11 or more

RAT scores must be overridden to show a need for high service levels if any of the following has occurred:

1. Substantiated sex abuse
2. Child required medical treatment subsequent to abuse or neglect.
3. At least one sibling is in DFYS placement.
4. Suspicious death of sibling.

*As shown above, risk scores for abuse as calculated on the RAT can actually sum to a risk level at less than zero. If there are no other risk factors for abuse and the caregiver views the report of abuse more seriously than the agency, a total risk of abuse score could conceivably sum to -2.

Case plans form framework for reunification or termination of parental rights

If a case is transferred to the ongoing services unit, the social worker, in conjunction with the family, develops a case plan to outline necessary corrective measures. Many times these measures include substance abuse assessment and treatment, anger management counseling, and parenting skills instruction. Generally cases transferred to the ongoing unit are for children in state custody. The case plan is designed to address the issues that initially brought the children into state custody. In nearly all cases, the ultimate goal of the case plan is to reunify the child with the parents or the original caregiver.

This goal has both social work and legal ramifications. The case plan must, under social work guidelines, be reasonable in that it addresses the areas that have caused children to be at risk and sets attainable goals for the caregivers. In a legal sense, the agency must document that it has made "reasonable efforts" to reunify the family before termination of parental rights can be considered. Historically, DFYS has interpreted reasonable efforts to include making available to caregivers a wide variety of family support services. Such services have typically included establishing a workable visitation schedule, helping with childcare problems, developing safety plans for children, and assisting caregivers in finding substance abuse assessment and treatment.

Number of parties contribute to complexity of custody cases

Custody decisions are not made by DFYS alone. When DFYS takes emergency custody of a child, the agency is required to show probable cause for its actions at a court hearing within 48 hours. When non-emergency custody is taken, the agency is required to show cause within a "reasonable time." For each case in which temporary custody is granted (the court finds probable cause), the parties to the action include not only the parents and children, but also an assistant attorney general (AAG), a guardian ad litem (GAL)(see footnote on page 1), and the parent's attorney.

Because the Attorney General's Office is charged with representing DFYS in custody cases, the AAG is often involved early in a case by helping the agency determine whether or not legal grounds exist to take custody. The AAG then often participates in determining when custody of the children may be returned to the parents.

If the agency's petition for temporary custody is granted, the court appoints a GAL as a representative for the child. The GAL is charged with representing the best interests of the child in court proceedings and often with reporting to the court before adjudication takes place.

In many cases, attorneys are also party to the case as representatives of the children's parents. In some of these cases, the attorneys are court appointed public defenders.

New federal and state laws will force changes in custody and termination decisions

Under new federal laws, DFYS should generally move for termination of parental rights in cases of children that have been in state custody for the last 15 of the most recent 22 months. New state laws passed during the last legislative session give DFYS more authority to effect these terminations. As of May 1, 1998, there were 566 children that had already been in custody for more than 15 months; 248 of those have been in custody longer than 38 months.

One the most significant changes to current casework will be the implementation of concurrent planning for children in custody. Current casework generally involves only one case plan, which as discussed previously, has generally been designed to return children to their parents. The new federal law will require social workers to plan for both family reunification and termination of parental rights.

If, at the end of 15 months, the family can not be reunified due to noncompliance with case plans, the alternative permanency plan – termination of parental rights – should be pursued. In some situations termination is not mandated at the end of 15 months. These situations include potential relative placements, instances when support services have not been offered to the family, and any other situations that social workers can demonstrate termination is not in the best interest of the child.

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REPORT CONCLUSIONS

As set out in the Objectives, Scope, and Methodology section we reviewed selected cases involving custody decisions made by the Division of Family and Youth Services (DFYS). From this review of selected situations where DFYS either sought, or did not seek, custody, we have developed the following conclusions.

DFYS exercises extensive discretion in making decisions to take and maintain custody

When considering taking custody of a child, DFYS social workers have extensive discretion. From our review of many reports of harm (ROH), done in conjunction with both this and the prior recently completed DFYS audit (Control No. 06-4586-98), we often found it difficult to recognize a standard, consistent response to the reports. From our review of ROHs and subsequent case work decisions, we could not develop a definitive standard that would allow us to predict when DFYS would take custody.

We attempted to understand and evaluate decisions using such quantitative measures as the agency's risk assessment tool (RAT) scores. However as discussed in Recommendation No. 4, we found the RAT was not completed consistently by the social workers, and even adequately documented RATs were not necessarily indicators of the eventual custody decisions.

For example in Case A on page 21, we found it difficult to understand why DFYS left the children in the home situation described through such a multiplicity of ROHs and generally high RAT scores. In other cases we reviewed, the agency took custody in seemingly less pervasively bad circumstances (for example, see discussion on page 21 of a case where the agency took custody though RAT scores were relatively low). In discussions with agency personnel, the central rationale was that DFYS is required to make reasonable efforts, perhaps what may appear as extremely reasonable efforts to both avoid taking custody of children.

In Case B-Part I on page 22, DFYS did not seek custody for a boy for which it received numerous ROHs. Despite knowing of the case for some time, the agency was seemingly reluctant to take custody. DFYS acted only after the father had been taken away to a detoxification center, was being evicted from his home, and his electricity was being shut off. DFYS sought custody, after the care-giving grandparents involved had gone to court to obtain temporary custody. As with the situation in Case A this case suggests that in some instances there is seemingly quite a high threshold to the agency's probable cause to take custody of children being abused and neglected.

Another situation where DFYS took custody much sooner is illustrated in the fact situation in Case C on page 24. In Case C, the mother involved expressed puzzlement over DFYS taking emergency custody because of a physical altercation between the mother and daughter. Given the circumstances, as set out in the opening paragraph of the case, it would seem unclear why custody was taken – especially compared to the circumstances involved in Cases A and B as previously cited. Evaluating the decision simply on the information set out

in the original ROH, the agency's decision to seek custody would seem suspect. However, the agency action seems justified in the full context of the girl's circumstances discovered in the course of DFYS responding to the original ROH.

Legal advice regarding "making of a case" also influences custody and termination decisions

When making case work decisions, social workers are also guided by the advice of assistant attorneys general (AAG) working in the Department of Law. DFYS social workers must "make their case" not only to obtain custody, but to maintain custody in subsequent adjudications, and especially when seeking to terminate parental rights. In most instances, the advice and perspective of the AAG working with the agency directs these case work decisions. One primary example is the situation discussed in Case B-Part II on page 23. In this case, not only did the agency resist seeking termination of parental rights primarily on the advice of the AAG involved, it also decided to dismiss the child-in-need-of-aid (CINA) classification based on the AAG's advice. Again, although the AAG's advice and DFYS actions may be consistent with statute, it is inconsistent with agency decisions in seemingly similar cases.

Courts, on occasion, do make rulings that limit the discretion of the agency

In the course of this and past reviews, we have consistently heard complaints from parents and parent advocate groups that the court system does not provide an independent, impartial review of DFYS actions. Both groups typically assert that the courts do not afford them a full chance to be heard and confront the testimony and opinions of agency social workers. While rare, we did note there were occasions when the courts took exception to the custody recommendations made by agency social workers.

For example, in Case D on page 25, the judge decided to allow the young step-daughter to return to her home, against the recommendation of DFYS. The agency had concluded that the girl, had had inappropriate contact with her step-father and was opposed to her return home.

The girl, like the one in Case C had recanted her account of the relationship with her step-father. Again, DFYS had reason to disbelieve the recant, and wanted to continue custody of the girl, until her mother took action that would provide for the safety of her daughter. Essentially this involved separating from, and perhaps ultimately divorcing the stepfather. However, at the adjudication, the court decided that the girl could return home, although DFYS was allowed to maintain custody. It appears a contributing factor to the court's decision was that the step-father was incarcerated and, as a result, would not be present in the home in the near future.

In another case, the court left a young 5 year-old boy with his mother, while giving DFYS supervisory custody. In Case E on page 26, the mother appeared to have difficulty supervising her son, due to her use of prescription painkillers. These instances suggest that the court does exercise independent judgement, but that DFYS consistently prevails, in large part because of experience, by both the social workers and the AAGs about what is necessary to make a CINA case. We have also noted cases where the agency has not pursued custody

due to being advised by an AAG that the circumstances involved would not permit the agency to take custody or, if circumstances change during the time the State has custody, would not allow the agency to retain custody. Case E on page 26 is one such example.

Investigations associated with ROHs impact custody decisions

It sometimes appears that DFYS is responding in a disproportionate manner when the agency seeks custody. In many cases it appeared that the ROH circumstances that triggered the agency's investigation would not warrant DFYS seeking custody. When we interviewed parents and heard how they related the circumstances leading up to DFYS taking custody it often seemed the agency's actions were disproportionate to the situation set out on the original ROH.

However, custody decisions often seem more reasonable when other information is developed from the ROH investigation. For example, in Case C, the circumstances that led to the girl being brought to DFYS by law enforcement, would, in and of itself, not necessarily rise to the level where the agency would seek custody. But as reflected by the other facts set out in Case C, the custody decision is more reasonable. Given the horrific report by the girl, the circumstances seem to be consistent with the provisions set out in law for declaring a child to be a child-in-need-of-aid (CINA). Considering these factors, the agency appears to have appropriately exercised its discretion.

The circumstances of a case involved in a recent State Supreme Court ruling illustrates how DFYS does, at times, evaluate investigations in the full context of a child's situation rather than the isolated circumstances that may have brought the child to the agency's attention. In an August 7, 1998 decision the court discussed a case where DFYS sought extended custody of a child that was involved, as a passenger, in a minor automobile accident³ where the father was arrested for driving while intoxicated (DWI).

In this decision the State Supreme Court advised lower court judges hearing abuse and neglect cases to weigh the "totality of circumstances" that put a child at risk, even though the child may not face imminent harm. A slim majority of the court (in a 3-2 decision) set out the position that the judges making CINA decisions are obliged to examine all of the circumstances involving a child and not focus only on isolated incidents that trigger state involvement.

Essentially, although such an incident which led to DFYS intervention may not rise to the level of a CINA adjudication, it may be indicative of an aggregation of factors which suggest more substantial risk to the child. According to the court record, the father of the boy involved had two DWI convictions since 1992 in addition to a history of alcohol abuse and domestic violence.

The majority opinion observed that the *"state's evidence tended to show that [the boy], only 9 years old, lived in a chaotic home where everyday life was dominated by his parents'*

³ The court decision stated that the father "...backed his car into a neighbor's vehicle while attempting to leave his apartment complex."

longstanding alcohol abuse and domestic violence," and as such the child "stood in constant jeopardy of physical harm, either from his parents' actions or from their failure to provide adequate supervision." This situation is similar to many of the cases we were asked to review, where the individual circumstances when considered in isolation may not have supported a CINA finding, but led to an investigation that identified other factors to support the State seeking custody. In light of the recent ruling, the circumstances such as those set out in Case A on page 21 would presumably require the agency to move for CINA status earlier in the case.

DFYS custody decisions are generally supportable but not obviously consistent

In general, when DFYS takes custody of children, the decision is supported by numerous risk factors. Risk factors recorded on the risk assessment tool (RAT) most often reflect substance abuse and/or domestic violence issues. These risk factors, when combined with the absence of responsible relatives willing to care for the children, seem to be the most common reason children are taken into custody. In a review of 21 cases in which DFYS took custody of children and risk assessments were completed, RAT scores were high for abuse, neglect or both in 17 of the cases.

One case was for substantiated sexual abuse, and though the RAT abuse and neglect scores were both only 4, substantiated sexual abuse requires an override to a high-risk level. Another case with unusually low RAT scores (abuse score of 3, neglect score of 7) is described in the inset at right. The other two cases showed more moderate risk factors, but involved circumstances that suggested increased risk to the children.

DFYS is required to make "reasonable efforts" to prevent children from being removed from their parents. While these efforts often include assisting parents with daycare, transportation, and substance abuse treatment programs, they also may involve empowering one parent to protect the child against the other parent who may be abusive.

While, as described in the case in the inset above, DFYS may petition to take custody of a child to protect it from one parent, the agency sometimes advises the protective parent to seek domestic violence restraining orders against the abusing parent. In these cases, the protective parent maintains a legal basis to keep the abuser away from the children and the State is not forced to take custody of the children

DFYS Takes Custody with Low RAT Scores

The report of harm concerned three children of divorced parents. The children, who usually lived with their mother, had been staying with their father while their mother was out of town attending to a sick relative.

DFYS became involved when two of the children ran out of the house, flagged down a cab driver and asked him for help because their father was beating their brother. The children stayed with the cab driver that night. When the mother returned the next day, DFYS told her they would petition for temporary custody of the children, but place them with her. According to the case assessment the mother was considering reconciliation with the father and the agency petitioned for temporary custody to protect the children from their father. The agency subsequently released custody when the mother and children left the State.

The files we reviewed indicated that DFYS generally made reasonable efforts to avoid removing children from their parents. Though the agency makes reasonable efforts to keep children with their parents, sometimes these efforts are not successful.

Even in cases where children cannot reside with their parents, DFYS still attempts, when possible, to avoid taking custody of the children.

In general, cases in which DFYS takes custody are distinguishable, by the RAT scores involved, from cases that are substantiated and closed. Occasionally, however, cases with high RAT scores are closed without further action.

Of the 51 non-custody cases we reviewed, 11 had relatively high RAT scores, but custody was not considered an option. Case A is an example of a case with extremely high RAT scores that did not result in DFYS immediately seeking custody or monitoring the family by any other means.

Though this case is atypical in its closure with such high RAT scores, the results of such a closure, continued reports of concern and escalating problems within the family, are all too common.

Most case plans reflect efforts toward reunification, but don't require total compliance

DFYS is required to make "reasonable efforts" not only to prevent removal of children from the home, but also to reunify children in custody with their families. In each of 12 custody cases

Alternatives to custody include placements with relatives, monitoring by other agencies

When parents are unable to care for their children or pose a threat to their child's safety, DFYS is often able to avoid taking the children into physical custody by placing them with relatives or neighbors.

In one case we reviewed, a single mother had left her children with a teenaged babysitter for a few days while the mother was out of town. The babysitter decided she didn't want the responsibility for the children and left them with their maternal aunt, who called DFYS for help. A letter to the mother described a relatively common situation:

You are very fortunate your relatives were willing to help you out when you were away. This created a hardship for (name deleted) and I would hope that you would go out of your way to thank her. If not for her, the Department of Health and Social Services would have petitioned the court for custody of your children.

Placement with relatives is often the best alternative for both the State and for the children. The State benefits by minimizing the costs of foster care. The child is generally also happier and less traumatized by being placed with relatives.

In addition to minimizing both state cost and trauma to children, placement with relatives also allows the State to comply with Indian Child Welfare Act regulations, which pertain to Alaska Native children. These regulations require DFYS to place Native children, who comprise nearly 40% of DFYS' ongoing caseload, with relatives if possible.

Other agencies are also sometimes used as a resource to monitor and assist families so state custody does not become necessary. When DFYS can rely on agencies such as Family Advocacy, Healthy Families, the Public Health Nurse and various tribal organizations to help monitor and assist the family, the likelihood of the State taking custody of the children is reduced.

Some of these agencies assume only a monitoring role to ensure that the risk of harm to the children remains low, while other agencies provide in-home observation and education in parenting skills.

we reviewed in depth, the initial permanency plan was for the children to return to the biological parents. Reasonable efforts to reunify are to be documented through the case plan, which describes what parents must do to regain custody of their child. For the cases we reviewed, each of the case plans required regular visitation with the children. Most of the plans also required drug or alcohol abuse assessment and/or treatment as well as maintenance of drug-free and violence-free homes.

The case plans we reviewed appeared to be reasonable in that they generally addressed the issues that initially brought the family to the agency's attention. However, in most of the cases we reviewed, the parents did not immediately make significant progress toward goals outlined in case plans (see Case A for an example of a custody case with resistant parents). In most cases, return of the children to the parents is apparently not contingent upon total completion of steps outlined in the case plan. In many cases, either the parents only partially complied with the requirements of the case plan, or only one of the parents complied with the requirements. In some cases, the return of the children to their parents seemed driven more by the children's displeasure with foster care than with any real progress made by the parents in carrying out their case plan.

The agency's inability or unwillingness to insist that parents comply completely with case plans may be driven in part by a desire to reunify families as quickly as possible. A report by the Alaska Judicial Council, *Improving the Court Process for Alaska's Children in Need of Aid*, comments: *'The child-in-need-of-aid process often focuses, in fact, upon the parent in need of aid.'*⁴ The report also notes: *"Research has shown that the longer a child remains in foster care, the less likely family reunification becomes, with a particularly significant drop between the first and second years in foster care."*

Termination of parental rights impeded by reasonable effort requirements, establishment of paternity, and parent's promises

As discussed above, DFYS efforts to reunify parents and children must be documented in case plans. In one case, when the agency considered terminating the parental rights of a mother who appeared disinterested in reunification, a supervisor determined that termination would not be immediately possible. For medical reasons, the child had been placed in a different region of the state than where the mother lived. The mother, through a combination of her own and DFYS' problems had not visited the child in months. Though she was making little progress toward any case plan goals, the supervisor's position was that the mother had to be provided the opportunity to visit the child before the agency would be able to demonstrate reasonable efforts to reunify the family. The supervisor's advice reflected ongoing concerns she had heard expressed from the AAG involved. This AAG impact on case decisions is discussed in our Report Conclusions on page 11.

Another difficulty in terminating parental rights arises when the paternity of the child is unknown. For the agency to terminate parental rights, both parents must be notified. If a father can not be identified, an advertisement in the local newspaper advises that termination will take place unless someone shows reason the action is not in the best interest of the child.

⁴ Alaska Judicial Council, *Improving the Court Process for Alaska's Children in Need of Aid*; October 1996; p. 92.

If a father is located during the notification proceedings, DFYS must also make reunification efforts with the father and his family.

When DFYS begins to discuss termination proceedings, it is not uncommon for parents to make some effort to comply with case plans. The Alaska Judicial Council also comments on this phenomena: *"Eleventh hour conversions by parents who began treatment at the last minute caused problems in some of the cases reviewed by the (Citizen's Foster Care Review) panel."*

While, as discussed above, we believe that DFYS is well supported when it takes children into custody, we are not so convinced that custody is not taken as often as is necessary. Some of the cases shown in the Case Studies section seem to represent cases where custody would have been warranted. We address our concerns about the safety of children further in the Findings and Recommendations section of this report.

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CASE STUDIES

This section discusses the circumstances involved in various selected cases we considered in the course of this review. The cases are presented to provide examples of the different, and often difficult and conflicting factors that the Division of Family and Youth Services (DFYS) must take into consideration when making decisions about taking or retaining custody of abused or neglected children. Cases were selected to illustrate the various aspects of the agency's casework decision making.

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Case A

Situation demonstrates problems with taking and keeping custody of children

In one case reviewed for this report, DFYS had received 28 reports of harm (ROH) on one of the four children in the family. Numbers of ROHs on the other children varied from 23 to 25. Initial reports concerning neglect of the children began in 1993. According to various reporters, the neglect was the result of drug and alcohol abuse by the parents.

DFYS contacted the parents on some of these reports; others were workload adjusted. By 1994, the reports concerned domestic violence and physical abuse as well as neglect. In April of 1994, the social worker discussed the possibility with the parents of removing the children from the home if reports continued. The mother promised to obtain drug treatment and placed the children with her parents. By the end of July, 1994, the mother had dropped out of her rehabilitation program and was again living with the children. DFYS closed the case because, in its view, there was nothing else it could do with the family.

In August 1994, the mother threatened suicide and the police took the mother and children to a women's shelter. The shelter made several reports that the mother neglected her children and one report that she hit them. In December 1994, the mother became angry with the social worker and claimed she no longer wanted or needed her help. DFYS closed the case with risk assessment scores of 20 for abuse and 16 for neglect (RAT scores are discussed in the Background Information section). The closing documents commented that if the division received more reports, a straight petition (a non-emergency custody petition) should be discussed with the supervisor and Department of Law. The supervisor agreed to close the case but noted:

"High risk case – due to worker shortage and caseload, unable to intervene effectively."

After several more reports of neglect and abuse in early 1995, DFYS finally took emergency custody of the two oldest children in April, when the parents were arrested as a result of a domestic violence incident. In July, the children were released to the parents, though there were indications that the mother continued to use drugs throughout the three-month period the children were in state custody. Throughout the rest of 1995 and most of 1996, the children continued to live with their mother who was, by this time, separated from the father. During this time, DFYS received 9 reports of harm, mostly for neglect. Of those, each of the 6 that were investigated were substantiated.

In October 1996, DFYS took emergency custody of the two youngest children when the mother, who was inebriated, tried to leave town with the children. The children were placed with the father, who was reportedly in active recovery. A case plan outlining the terms of this placement requires that the father is to maintain a drug-free, nonviolent household. The father's signature is not on the plan.

In early 1997, DFYS received new reports of harm that the father was again drinking and using drugs. He was subsequently arrested for driving while intoxicated. In August, DFYS again took emergency custody of the children when the father's girlfriend overdosed on heroin. As of early April 1998, three of the children remained in foster care. One was with her mother. The permanency plan, last updated when the children were placed in foster care, is to return the two youngest children to the father and the oldest to the mother.

Case B-Part 1

DFYS TAKES NON-EMERGENCY CUSTODY AND LEAVES 7 YEAR OLD WITH GRANDPARENTS

One case reviewed involved a child's grandparents as caregivers. The paternal grandparents had a history of voluntarily caring for their grandson on occasions when their son, acting as a single parent, was unable, often due his drug/alcohol addiction, to care for the child. Since 1990, when he was 2 years old, DFYS had received several ROHs involving the child. The agency generally found them unsubstantiated and did not petition for custody.

Though DFYS could not prove most of the allegations of neglect and sexual abuse, by early January 1995, the risk assessment score for the child (see Background Information for discussion of how cases are scored for risk) associated with the most recent ROH was high for both neglect and abuse. The case, however, was closed with a recommendation that the father seek drug and alcohol abuse assessments. Over the next several months, DFYS received more ROHs, but each was closed as unsubstantiated.

In October of 1995 the father was reported to Anchorage Community Patrol. This local agency picked up the father in an inebriated condition and admitted him to a community detoxification center. The grandparents were summoned to take the 7 year old boy. DFYS received an ROH from the grandparents' attorney. In response to the ROH, the agency apparently decided since the child was with the grandparents and not at any imminent risk of harm, DFYS would not seek custody. The grandparents, as result of court action they initiated, obtained a domestic violence restraining order against the father and also received temporary legal custody of the child. At the same time, DFYS responded to a report from the grandparents that the boy was willing to talk about sexual abuse by his father.

During November, 1995 DFYS worked with the Anchorage Police Department (APD) and therapists to investigate various allegations of sexual abuse involving the father and the son. Through various interviews with APD and social workers, the child denied that he had been sexually abused. During this time, the child remained with his grandparents, and DFYS while keeping the case "open" had no custody of the child.

By December 1995, the father had left one treatment program and was beginning another. He had also taken a polygraph in which he denied molesting his son. The polygraph indicated that he was not being truthful. Medical evidence was inconclusive. APD dropped the sexual abuse investigation, believing it could not substantiate a case against the father. The child, who continued to deny any sexual abuse, remained with the grandparents. DFYS filed a non-emergency petition to adjudicate the child as a child-in-need-of-aid (CINA). Under the CINA order, issued December 11, 1995 temporary placement was granted to the grandparents. The CINA order superseded the temporary custody order the grandparents had obtained in October.

CASE B-Part 2

DFYS RELINQUISHES CUSTODY, APPARENTLY AS MUCH FOR LEGAL ADVANTAGE AS CHILD PROTECTION CONCERNS

At the beginning of 1996 the father continued in various treatment programs. There was some dispute between the father and the grandparents over the conditions under which he could have visitation with his son. In February 1996 the Alaska Supreme Court agreed to hear the grandparents' motion to intervene in their grandson's CINA case.

In April 1996, the child's guardian ad litem recommended that the boy remain in the legal custody of DFYS and continue to be placed with his grandparents. A June 1996 case plan stated the problem as being the father's chronic alcohol and drug dependency that endangered the welfare of his son. The plan set as a goal successful completion of an in-patient intensive care substance abuse treatment program. The father was also to continue in therapy after completing this program. The plan noted the sexual abuse allegations made against the father were unsubstantiated. At this time, the case social worker also noted in the file that she should confer with her supervisor regarding termination of parental rights.

By late August 1996, however, DFYS notified the grandparents the agency intended to dismiss the CINA case involving the boy. By that time the district attorney had filed weapons misconduct charges against the father. Since the child was with the grandparents, and in the view of DFYS the agency still had not met its requirement of "reasonable efforts" to reunify the child with his father, no effort was made to terminate parental rights.

DFYS took this approach despite both the guardian ad litem and the therapist favoring termination of parental rights as being in the child's best interest. In September 1996 the assistant attorney general (AAG) wrote DFYS that he could no longer see any further child protection issues involved in the case. He also commented that the Department of Law was too busy to go through an unnecessary termination trial, which would only allow the grandfather to promote his own private custody interests at the expense of the State. Some two and half weeks later he wrote the grandparents' attorney. He stated that if the attorney would drop his appeal to the Alaska Supreme Court, that "the department may be willing to commit to a termination proceeding." After the grandparents' attorney refused to do so, the AAG did file with the court to dismiss the CINA petition. The court dismissed the boy's CINA case.

Case C

GIRL TAKEN INTO CUSTODY AFTER FIGHT WITH MOTHER DUE TO FACTORS OUTSIDE REPORT OF HARM

Initial Action - A 13-year girl came into DFYS custody after a police officer picked her up following a physical altercation with her mother. The officer was responding to a call from the mother, had been to the house, heard the mother's description of the fight, and caught up with the teen-ager as she left the house in anger. The officer brought the girl to DFYS.

In discussions with the mother, she believed the police response was inappropriate and disproportionate. She expressed dismay at the actions of the officer. She had contacted the police with the expectation that they would talk to the girl, tell her to obey her mother, and that would be the end of the altercation. The mother commented that if she knew the police would end up transferring her daughter into custody, she never would have made the call.

In Custody - Once in custody the child reported that her mother had allowed a man to have sexual intercourse with her in exchange for drugs. She reported that upon complaining of such treatment to her mother, she was told "Get over it... ." The record also indicated that this was not the first incident where this mother had been involved with DFYS. There were numerous ROHs over the years involving the daughter and her siblings.

DFYS sought emergency custody under provisions of AS 47.10.010 (a)(1)(3)(6) which provide for a minor being determined to be a child-in-need-of-aid (CINA) under the following circumstances, where the child ...

(a)(1) ... is habitually absent from home or refusing to accept available care, or having no parent, guardian, custodian, or relative caring or willing to provide care,

(a)(3) ... having suffered substantial physical harm or if there is an imminent and substantial risk that the child will suffer such harm as a result of the actions done by or conditions created by the child's parent, guardian, or custodian or the failure of the parent, guardian, or custodian adequately to supervise the child;

(a)(6) ... having suffered substantial physical abuse or neglect as a result of conditions created by the child's parent, guardian, or custodian.

Recant - Subsequently, the girl recanted her story of being traded for her mother's drugs. DFYS considering the circumstances of recantation, and consistent with the professional literature on sexual abuse, discounted the girl's recant. In this particular case, DFYS believed it had reason to believe the daughter was being pressured to recant the story. However, eventually DFYS returned the child to the mother, even though the mother had refused to cooperate in carrying out the case plan.

Case D

GIRL RETURNED HOME BY JUDGE OVER DFYS OBJECTIONS

Initial Action - A 13-year girl came into DFYS custody after reporting to her aunt that her step-father sexually molested her. The agency, in conjunction with law enforcement officials interviewed the daughter and the step-father about the allegations. According to the notes in the case file, the step-father told of encounters with his step-daughter that were consistent with her allegations and initial report. DFYS sought, and received from the courts, custody of the girl.

The mother involved denied all allegations. In her view her daughter made up the entire story in order to seek retribution against her and her husband for disciplining the girl. Subsequently, the girl recanted her allegations. As in case C, DFYS believed it had reason to reject the recantation due to the circumstances of the case. It sought to maintain custody outside the home of the mother and step-father, but the court ruled that the girl could return home. It was speculated that the court felt more comfortable about the decision because the step-father would be out of the home for the next few months due to being incarcerated.

Case E

SMALL BOY LEFT IN HOME WITH MOTHER BUT SUPERVISED BY DFYS WORKERS DUE TO SAFETY CONCERNS

Initial Action – Numerous neighbors reported to DFYS that a young 5-year-old boy was crying and screaming so loudly that they could hear him through the walls of their adjoining apartments. The boy was trying to get the attention of his mother to assist him in going to the bathroom, since he was in a full body cast. According to the report of harm the neighbors had tried to arouse the boy's mother by phoning the apartment repeatedly, but to no avail. One reporter was recorded as stating that a neighbor had banged on the apartment's door so hard that a clock had been knocked off the wall inside the mother's apartment, but again raised no response.

The DFYS social worker along with law enforcement officials finally gained access to the apartment. Apparently, the boy's mother was heavily sedated by prescription painkiller medication. DFYS was concerned about the mother's ability to adequately supervise her son. Adding to this concern were the circumstances included in the boy being in the body cast. This was a result of the boy jumping out a second story window, while his mother was asleep because of the medication she was using.

In Custody - DFYS filed for custody of the child after emergency placement, but the court ordered supervision only following a lengthy and highly contested hearing. An adjudication hearing is scheduled in September 1998, but DFYS contemplates that it may withdraw if the home remains stable. The boy is receiving child protection daycare services, both as respite for the mother and so the agency may monitor the child's condition.

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The director of the Division of Family and Youth Services (DFYS) should improve the relevance of the forms utilized to assess risk to children, and institute procedures to provide for more consistent, ongoing supervisory review of the risk and case assessments.

DFYS received 15,547 reports of harm (ROH) in FY 97. As discussed in the Report Conclusions section, the agency has established procedures to manage this caseload. Managing the caseload includes not only identifying and investigating the highest priority ROHs, but also supervising those cases to ensure appropriate resolutions. DFYS has developed procedures to assess risk of harm and determine which service level will best reduce risk to families under investigation. Forms summarizing the facts of each investigation are central to caseload management as they serve as a means by which line social workers communicate to their supervisors the results of ROH investigations.

DFYS uses two forms to document and assess the risk of continued harm to children of parents under investigation. The risk assessment tool (RAT) is used to quantify potential continued risk to the child. The results of the RAT are designed to form the basis for recommendations for how the case should be resolved. RAT scores ostensibly establish the level of service that should be provided to families under investigation. This service level is recorded on a case assessment form. The case assessment form is used to document, in a summarized manner, the situation that brought the family to the agency's attention, the outcome of the investigation, and any recommendations for resolution of the situation.

RAT form design and usage has been criticized by outside consulting organization

The Kempe Children's Center, in a report published in December 1997,⁵ made the following comments about the design of the RAT:

Many of the risk factors in the instrument are demographic or historical, and as such, they will not change. The only 'dynamic' variables are substance abuse, depression, perception of abuse by non-caregivers, motivation for change, and actual change in psychological or life circumstances. Given the amount of research on individual, familial, and environmental variables influencing child maltreatment, dynamic factors should be added to the assessment. The limited number of dynamic variables to be considered leaves the worker without a clear indication of what must be controlled in order to assure safety.

The Kempe Children's Center report also made the following observations about how social workers complete the RAT and DFYS' decision making process as it pertains to RAT scores:

⁵ Kempe Children's Center: Report by the Review Panel, December 1, 1997.

- *There is great inconsistency and apparent inaccuracy in the use of the existing risk assessment scale in the categories on depression, negative social relationships, and cooperation.*
- *The use of the risk assessment tool varied considerably in the cases reviewed indicating the need for training to increase inter-rater reliability and validity.*
- *...discrepancies suggest that training is manifest in the efforts and accomplishments of some caseworkers and supervisors, and not others.*

Our review found RAT forms and case assessments are inconsistently completed

In addition to the deficiencies noted by the Kempe Children's Center, in our review of 66 RATs, we found the forms were often incomplete. A comprehensive family history is critical to completing these forms. Incomplete information understates the risk to children and may impact decisions related to services to be provided for the family. In many cases, it appeared that completion of the RAT form was a mere paperwork exercise rather than the comprehensive assessment tool that we understand was the intent behind the document when it was originally developed.

Case assessment forms are used to summarize the initial situation, progress and recommendations on a case. In our review of 51 case assessments, we found that most were completed and reviewed by a supervisor. We were not, however, convinced that the assessments were comprehensive. In 10 cases (just under 20%), the assessment did not explicitly address the issues described in the report of harm. In 42 (almost 82%) cases where the family had had previous interactions with the division, there was no mention of these previous cases in the case assessment or the pattern of abuse or neglect they represented. This inclination to view each report of harm as an isolated incident was discussed by the Kempe Children's Center: *"It is crucial that investigations and assessments be based on more than just the current incident/report."* As discussed in the Report Conclusions section, the Alaska Supreme Court has recently endorsed this position with a recommendation that judges review the "totality of circumstances" surrounding child-in-need-of-aid (CINA) cases.

In addition to case summaries that appear incomplete, recommendations for resolving cases were not consistently persuasive. These case assessment recommendations range from lists of potential services for the family to simply "close case." We were unable to determine from the case files whether the decision to discontinue intervention with the family was supported by additional factors not shown in the file or whether the decision was, as it appeared on the case assessment, unsupported. When a case with high-risk levels is closed, the reasons for the closure should be shown on the case assessment form. As discussed in Recommendation No. 2, in cases where the State does not take custody, yet high-risk to the child remains, it does not seem to us that "close case," with no further commentary, is an appropriate recommendation.

In our view, DFYS social workers do not consistently complete RAT forms because they perceive the forms as having limited relevance to line social work. Besides often having little training on what the forms mean and how they should be completed (see Recommendation

No. 4), workers realize that for most cases, the agency will provide services only if the decision is made to take custody. As discussed in Recommendation No. 2, all too often, services are not available, even if needed, for children not in state custody. Accordingly, if the custody drives the service level rather than the "scored risk" faced by a given child, the RAT form really is reduced to a hollow paperwork exercise.

The deficiencies noted in DFYS' assessment and summary forms may have far reaching effects. Because these forms are used by supervisors to help determine whether the line social worker has made appropriate case recommendations, the validity, accuracy, and completeness of these forms is central to good casework. DFYS should review the entire risk assessment and case closure system. This analysis should include an evaluation of whether factors currently used to assess risk actually provide social workers with enough information to make valid case recommendations. The agency should also ensure that social workers are appropriately trained and supervised in the use of the risk assessment tool and the related case assessment forms.

Recommendation No 2

DFYS should develop alternatives to closing cases where services are indicated but custody is not taken.

Resolution of reports of harm where custody is not taken varies widely. One consistent element, however, is that, regardless of perceived continued risk to children, there is little follow-up with the family. Of 45 cases with completed RATs where custody was not taken, 11 cases (24%) had risk assessment scores considered high under the current scale. As discussed in Recommendation No. 1, risk assessment scores tend to understate actual risk to the child. This suggests that more children are at higher risk than the assessment tool indicates. Each of the 45 cases was closed without further action, regardless of RAT scores.

The Kempe Children's Center also commented on this situation:

"...it appeared that cases were closed even if the risk assessment revealed high risk. What is the purpose of the tool if one can find high risk and close the case?" The Center then recommended "...that DFYS' responsibilities include follow-up in all investigated cases in which there has been a substantiation. If DFYS has recommended that the client do something, then DFYS needs to check to see if it's been done. If DFYS puts a safety plan in place, there needs to be a role for DFYS to monitor and evaluate its effectiveness."

We concur with the Center's recommendation. For FY 99 DFYS will be receiving increased funding for more social worker positions. In our view, the use of some of these positions to provide follow-up services to families not currently served will help to ensure the safety of children for which the agency is responsible.

Recommendation No. 3

DFYS should document the involvement, or lack thereof, of parents in the development of case plans.

In our review of 12 cases in which custody was taken, we found case plans for only 8. Of the eight case plans we found, only four were signed by both the social worker and the parents. Typically the social worker and the social worker's supervisor sign case plans, but parents often do not. In some files, it is unclear whether the absence of a parental signature suggests disapproval of the case plan, the absence of discussion about the case plan, or administrative oversight.

DFYS is required to make "reasonable efforts" to reunify families. The case plan is generally the document that sets out those efforts. Documentation that the parents involved accepted the plan, or at least some documented acknowledgement that efforts that were made to include them in the case plan is important. DFYS must be able to demonstrate that the parents were aware of the plan's requirements. The agency may find it difficult to prove that reasonable efforts have been made when the time comes to terminate parental rights if signed case plans can not be produced.

Occasionally, the absence of parental signature on the case plan does indicate the parent's reluctance to sign a plan with which they disagree. DFYS should ensure that caseplan forms including a signature line for parental disagreement with the caseplan are consistently utilized in all regions. With such a signature on file the parents will find it difficult to claim, as they often do, that they are not aware of any case plan requirements to explain their failure to comply with the reunification plan of the agency.

Recommendation No. 4

DFYS should ensure that all line social workers receive appropriate training

To some degree, each of the prior findings reflect our observation that many DFYS social workers do not receive enough training to adequately protect children. In addition to the pressures generally associated with the dynamic nature of families, new state and federal laws will soon substantially change casework methods for children in long-term state custody. Some line social workers have expressed concern that they are not fully prepared for these changes. These concerns are supported by some of our own fieldwork experiences.

During the course of our fieldwork, we observed the effect of inadequate training during our attendance at permanency planning meetings. Over the course of two days, three cases in which the social worker recommended termination of parental rights were brought to the meetings. Each of the cases was presented to a permanency planning committee that included the guardian ad litem, tribal representatives, social workers and their supervisors, and the permanency planning coordinator. The committee forwarded none of the cases to the Department of Law to begin termination proceedings, however, due to oversights in fundamental casework necessary to successfully pursue the terminations.

As discussed in the Report Conclusions section, social workers have discretion and the related responsibility for initial custody decisions. Social workers have told us that they are often ill prepared to make custody determinations, especially in cases of alleged sexual abuse. We have found that these cases are some of the most challenging for DFYS. Sexual abuse cases are often the most difficult and lengthy cases and may present the largest liability to the State. One of the cases we reviewed seems to illustrate line social workers' contention that they have not always been provided appropriate training for working these cases.

The case involved a child and her mother alleging that the child's father, who has shared custody of the child, had sexually abused her. The father denied the allegations, claiming that the mother was simply trying to obtain sole custody of the child. The social worker involved in the case, who concedes that she has no specific training in interviewing sexual abuse victims, believes that the child has now been interviewed so often that any potential anecdotal evidence that the child may have been able to provide has been irreversibly contaminated.

The details of this case were submitted to the Kempe Children's Center for review and advice. The Center commented: *"It is unclear why this case is being dismissed merely because the alleged perpetrator is denying."* The report also recommended only supervised visits with the father stating as the reason: *"[The child] remains in emotional and psychological conflict in the relationship with the father when there is ongoing contact without adequate supervision."* Subsequently, DFYS and the Attorney General's Office dropped the CINA case with a recommendation that the Kempe Center report be reviewed during a divorce-related custody hearing currently scheduled for December, 1998. It seems possible that a more timely resolution of this case may have been realized if the involved social workers had been better trained in interviewing sexual abuse victims.

Over the last several years, DFYS funding for training has been sporadic. Though there have been trainers in each of the three regions, funding for training has been very limited. Many social workers that began work within the last few years had not had basic CORE⁶ training. The agency has recently made efforts to ensure that all social workers have had CORE 101 and 102 classes. The social workers, however, find these classes of limited use after they've been on the job for a few years. Social workers frequently comment that the training they most need has been provided only to supervisors and is rarely presented to line workers. DFYS hopes to remedy some of the training problems through partnering with University of Alaska Anchorage to establish a training academy. While the academy seems to enjoy wide support from supervisory and line social workers, line social workers out of the Anchorage area are concerned that very little funding appears to remain for social workers to take advantage of any community-based educational programs within their own regions.

Given the broad discretion afforded social workers and the subjective nature of casework, adequate and timely training for line social workers is essential. In the agency's restructuring

⁶ CORE training is a series of courses in basic child protection services to be provided to all staff. Topics covered include, but are not limited to, the history of child welfare, DFYS mission and mandate, personal safety, assessment of child abuse and neglect, intake, investigation, confidentiality, ethics, cultural sensitivity, family centered services, safety issues, and stress and time management.

of the training system, DFYS has a unique opportunity to offer its workers the tools they need to better protect children. In the development of new training programs, the agency should seek and carefully consider line workers' perceptions of what training they believe would provide them with the tools to better protect children.

Recommendation No. 5

The commissioner of the Department of Health and Social Services (DHSS) should develop a non-judicial process to provide recourse and consideration to parents and other interested parties that become involved in child protective services disputes.

By the nature of the agency's responsibility it often creates controversy. When DFYS makes the decision to take physical custody of a child in order to assure they are protected from neglect or abuse, such action often generates protest from the parents involved. Likewise, as has been unfortunately the case in some recent instances when DFYS decides not to take custody, and subsequent harm comes to the child, the agency's decision making process is also subject to public criticism.

In instances when a child is taken into custody, it has been the position of the agency that the court system provides due process and protection for the children's parents. Within 48 hours of taking a child into custody, DFYS must appear in front of a judge to obtain concurrence with the agency's decision. If the DFYS custody action is not supported by the circumstances involved then the judge can order the child be returned to the home. As discussed in the Report Conclusions section, parents often feel they are not afforded appropriate due process in many of these hearings.

Parents and other interested individuals often feel judicial system unresponsive

In many of the individual cases we were asked to review, parents and other parties such as grandparents and foster parents often expressed frustration with the way the judicial review process worked in conjunction with their child-in-need-of-aid case. Various parents repeatedly voiced their frustration that the court process did not provide them with an adequate forum to tell their side of the story.

They often complained that they were afforded limited opportunity to speak at judicial proceedings while social workers were allowed to repeat what in the parents' view was hearsay and second hand gossip. Then the assistant attorney general (AAG) representing the agency characterizes their actions in the worst possible light, as advocates are wont to do in order to make the strongest case possible. In our view, much of this perception is fostered by the procedural rules followed by the court system when considering CINA cases. The inset on the following page discusses these rules and application.

Proposed legislation and related testimony reflects much of the frustration with established process

An extensive revision to the CINA statutes passed during the 1998 legislative session, gave DFYS what is generally acknowledged as new, expanded authority to intervene on behalf of children. Much of the opposition to this revision of the CINA statutes was initiated by individuals and organizations suspicious and concerned about giving DFYS broader, more expanded authority.

In our view, the nature of these concerns was reflected in some sentiment to set up a separate process to adjudicate children and juveniles. Evidence of this sentiment was legislation introduced during the 1998 legislative session establishing such a process. This legislation was given limited consideration and did not pass. However, testimony at hearings related to the legislation was that such an entity was necessary to develop a countervailing authority to the perceived wide, and from a practical perspective unchecked, authority of DFYS.

Options to consider to provide some further recourse for involved parties

Considering these perceptions, whether valid or not, we suggest the DHSS commissioner consider establishing an alternative means of recourse for parents and others involved in child custody decisions involving DFYS outside of the formal judicial process. We suggest the commissioner consider the following possible remedies:

1. Improved public notification and staff awareness of existing DFYS complaint resolution process. Currently DFYS has an informal procedure in place to respond to various complainants, the review is done internally by agency staff. There is a complaint form that can be made available to parents upon request. However, in Kenai, it was reported to us, that the DFYS office was unaware of the procedure and could not provide the appropriate form to the individual from the public making a request. While this process would likely be criticized as lacking independence, it may be a place to start.

We suggest the agency develop informational posters and require various state DFYS offices to display them prominently. Such posters should inform parents of the existence of a complaint procedure, along with instructions about how to contact the appropriate agency personnel to make a complaint. The agency should develop a clear complaint review and resolution procedure, which would include formal notification to the complainant of the result of the reviewer's investigation and decision.

2. Funding a specialized position in the Office of the Ombudsman. DFYS should consider utilizing some of its funding to contract with the Office of the Ombudsman to provide a position to respond to complaints of how specific cases are handled. Such a position, set up in an agency outside the Department of Health and Social Services could provide an ongoing, independent presence to assess on behalf of the public how the agency is responding to the concerns and rights of parents while acting on reports of neglect and harm to their child(ren).

3. Development of a community-level mediation process. Mediation is becoming increasingly popular as a method of conflict resolution. Mediation is a conflict resolution process in which one or more impartial persons intervene to help negotiate a mutually acceptable agreement between two parties. The mediator does not take sides or decide how a dispute should be resolved.

One promoter of mediation, in talking about the mechanics of a particular process commented that mediation sessions could provide substantial catharsis in emotional situations such as child custody. Sessions held in conjunction with mediating a dispute could provide a time that parties can speak at length and be heard without interruption. A session with a mediator can be more freewheeling, and informal rather than constrained by the formalities of a court room.

A full day of mediation can serve to bring emotions under control. This may result in a better understanding of the issues involved, communication of the actions DFYS wishes to pursue, and set the stage when such issues are discussed before the next court date, when emotions may surge again. In such a setting a trained non-lawyer layman mediator may often help make the process a much less stressful and unpleasant one for the parents involved.

We urge the department and DFYS to consider how to address this very real frustration that many parents have with the child protection system. We realize that DFYS workers themselves may often be frustrated with the attitude and response of the parents and see any sort of outreach effort as being counterproductive to effective child protection. In our view, the interlocking structure and roles of DFYS, the Department of Law, and the Alaska Court System leave many parents with a feeling, either real or perceived, that they are not being heard.

Parents are frustrated with all aspects of the system. They complained of the service their public defender attorney can provide. They expressed dismay to us upon discovering their child has separate "confidentiality rights" from them (see Recommendation No. 6). They resent being branded as the worst kind of parents in the strongly worded, adversarial language that is employed by the State's advocates from the Attorney General's Office and being silenced by the formalities of the process employed by the Alaska Court System. In general, they feel the full weight of the State is unfairly being brought to bear on them. It seems to us that such frustration over not being heard and not having a chance to tell their story, sets up a process that makes parents less willing to participate in effective case planning and contributes to extending the time children spend in state custody. For these reasons we encourage the Department of Health and Social Services' commissioner to explore ways to provide some non-judicial avenue to addressing these concerns.

**CINA Court Rules, based on civil standards
rather than criminal, are often viewed as unfair**

In many of the individual cases we were asked to review, the parents involved did not feel they received due process and fair consideration under the CINA court process. In our view, this was often due to the nature of some of the Alaska Court System's CINA rules. These rules, primarily designed to protect and benefit the child, are applied in a manner where the parents involved believe they are not being afforded due process, especially when compared to procedural safeguards available in criminal trials. Specifically, some of the rules that contributed to the complaints we heard were:

1. **Exclusion of parties.** The court may exclude a parent during the child's testimony in order to protect the child from material psychological harm. The parents may listen to a recording of the testimony to prepare for further examination and rebuttal, but we heard numerous complaints that access to, and availability of, tapes was inconsistent and intermittent on the part of the courts. [Rule 3 (c)]
2. **Exclusion of witnesses.** Witnesses may be excluded from any hearing at the discretion of the judge. Parents we spoke to complained repeatedly they were not availed of what they felt was adequate opportunity to rebut DFYS claims with witness testimony. [Rule 3 (d)]
3. **Admission of hearsay evidence.** According to CINA Rule 10 (b)(4) "*[t]he court may admit hearsay evidence which would be otherwise inadmissible under the Evidence Rules if the hearsay is probative of a material fact, has circumstantial guarantees of trustworthiness, and the appearing parties are given a fair opportunity to meet it.*" Many parents we interviewed felt the court "let in" and considered only hearsay evidence presented by the DFYS social worker. From our limited review of selected cases, it seems that this complaint had merit – the testimony of social workers, repeating the reports and complaints of others was often the central aspect of the State's presentation.

The court has adopted these rules to both expedite the CINA hearing process and provide protection for the best interests of the child. Currently, the Alaska Court System is reevaluating the way in which it handles CINA cases. A review was completed in October 1996, titled *Improving the Court Process for Alaska's Children-in-Need-of-Aid*, presenting analysis that indicated that the Alaska Court System was inconsistent in how it handled the cases. The study found jurisdictions varied in the amount of time they set between required adjudications, and how this variance contributed to children remaining in state custody for inordinately long periods.

Recommendation No. 6

The director of DFYS should reevaluate the scope and application of the agency's confidentiality requirements, giving due consideration to the impact they may have on promoting more cooperation with parents in the development of case plans for their children.

Much of what DFYS does with various cases must remain confidential. It is our observation that this need for confidentiality often gets in the way of the agency's effectiveness in carrying out case work. When DFYS refuses to disclose information about a child's psychological evaluation, or counseling sessions to parents, it contributes to mistrust between the parents and the agency. Accordingly, such mistrust often contributes to parents not cooperating in a satisfactory manner with DFYS in developing, much less carrying out, case plans designed to reunite the parents with their children.

A common complaint about the case plans developed by DFYS was that they often included more subjective rather than objective measures of accomplishment, and that when it seemed to parents the objectives of one case plan was accomplished, another was developed. Another complaint was that case plans often seemed to be dictated by the social worker rather than developed jointly on a more cooperative basis with the parents. As discussed further in the next recommendation, oftentimes parents seemed to have limited involvement in developing a case plan.

DFYS procedure permits a parent to bring an attorney to case plan meetings, but it seems this courtesy extends only to the attorney. If an attorney sends a representative in their stead, the agency closes the meeting rather than permit the representative's participation. This is done, say DFYS officials, to protect the confidentiality of the child. The parent is perceived as being uncooperative, while at the same time DFYS seems to be acting in somewhat arbitrary manner. It is not clear to us what confidentiality interest a 10-month old child enjoys separate from their parents that limits outside assistance in case planning. Although we could see where a 15 year old child may have separate confidentiality interests.

DFYS should consider seeking more cooperation with case plans by utilizing outside third parties to assist and advise the parents as they go through the case plan conferences. Such parties could be required to receive training so they could provide assistance and support to parents in case plan meetings. Such counselors could advise parents of the procedure involved, perhaps advocate, to some extent, on the parents' behalf with the social worker involved, and contribute to a better developed case plan, which the parent has "bought into." The primary obstacle to such an approach is DFYS' concerns regarding confidentiality. Accordingly, we suggest that DFYS reconsider the necessity and value of all its confidentiality requirements.

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

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November 24, 1998

Pat Davidson, Auditor
Division of Legislative Audit
Legislative Budget and Audit Committee
P.O. Box 113300
Juneau, Alaska 99811-3300

Re: Department of Health and Social Services
Division of Family and Youth Services
Child Protective Services
Custody and Termination Decisions for Selected Cases
Audit Control Number 06-4573-98

RECEIVED
NOV 24 1998
LEGISLATIVE AUDIT

Dear Ms. Davidson:

Thank you for the opportunity to review and respond to the preliminary report on the audit referenced above. Thank you also for extending the time for a response to allow thorough consideration of the report and coordination with Department of Law staff in responding to it.

Decisions by social workers to take emergency custody or seek non-emergency custody to protect children from parental abuse and neglect have obvious and important ramifications for children and families. And there are clearly no more important decisions to parents and children than decisions to seek termination of parental rights or to actually sever legal ties between children and parents.

Because of their impact, these decisions are inherently controversial and evoke intense and enduring emotions among those affected by them. The decisions understandably result in strongly held beliefs about the fairness and responsiveness of the persons and processes involved in such decisions, particularly when the outcomes are perceived as unfavorable or unsatisfactory, as they inevitably will be at times.

It is entirely understandable that these earnest beliefs result in frequent and impassioned complaints about the individuals and processes involved in such decisions. These persons and processes are often perceived by complainants as the cause of either catastrophic family disruption or disastrous failure to protect a child. It is no surprise, then, that dissatisfaction with these decisions and their results are the cause of more complaints about social workers, attorneys, judges and court processes than any other actions taken in child protection cases.

As auditors have noted in previous reports, complaints about these decisions may and do come from conflicting and sometimes directly opposing perspectives. It is not uncommon at all for the state to receive diametrically opposed complaints about the same custody decision – on one hand, that the decision was premature and too intrusive; and on the other hand, that it was too late and did not adequately protect the children involved. In fact, the audit upon which this report is based was, I believe, conducted to respond to complaints made to legislators from both perspectives.

These extremes of perspective about the child protection system reflect the difficulty we experience as a society in attempting to balance fundamental but sometimes conflicting goals and rights. We seek to support and maintain the integrity of families and preserve the rights of parents. At the same time we strive to assure the safety of children and protect them from abuse, neglect and exploitation sometimes perpetrated on them by those whose most basic responsibility is to nurture and protect them.

Child protection decisions involve interpreting, judging and sometimes predicting complex human behavior. Thus, they are often neither simple nor exact. They do not lend themselves to mechanistic formulas or prescriptive blueprints that can be followed by rote. Consequently, these decisions are always subject to differing interpretations of the facts and both legitimate and baseless criticism. It is not always easy to distinguish between legitimate criticisms and those that are simply self-serving or driven by misguided emotion.

Complaints from widely divergent perspectives may be largely unavoidable, given the nature of child protection issues and the balancing act our child protection system is required to perform. Decisions will clearly not satisfy all those with interests in the outcome. But I believe we must work to minimize the basis for justifiable complaints and answer unjustified complaints by helping resolve the emotions that prompt them.

Because I recognize the difficulty of interpreting and comparing custody decisions, particularly in the face of conflicting descriptions and accounts of events long past, I appreciate the obvious effort you and your staff put into researching these important, sensitive and difficult decisions. I also appreciate your effort to bring a balanced, objective perspective to your report and to develop constructive recommendations that might help improve future decisions and their acceptance by those affected by them.

Before responding to your recommendations, I want to comment on the overall framework of the child protection system and some of your observations and conclusions leading to those recommendations.

Background

Decisions to take emergency custody or to seek non-emergency custody of children are, as they should be, relatively infrequent events. In the most recent 12-month period for which data is available, fewer than 8% of child protection investigations resulted in emergency removal of