

Maine
CHILD WELFARE SERVICES
OMBUDSMAN

15TH ANNUAL REPORT • 2017





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I am honored to present the fifteenth annual report of the Maine Child Welfare Ombudsman. Maine Child Welfare Ombudsman, Inc. is an independent non-profit solely dedicated to fulfilling the duties and responsibilities promulgated in 22 M.R.S.A. §4087-A. The Child Welfare Ombudsman provides neutral investigations of complaints brought forth against the Maine Department of Health and Human Services, Office of Child and Family Services. The Ombudsman also provides information about child welfare services and referrals to outside agencies.

Entering the Ombudsman's sixteenth year of service, we continue to work closely with the Office of Child and Family Services to improve practice and policy to help ensure the best outcomes for children in state custody or those at risk of serious harm. As has been historically true, of the 112 cases that the Ombudsman has reviewed this year, the majority have been handled competently and with no major violations of policy or law and no major practice issues.

The Office of Child and Family Services is staffed with many highly competent, professional and caring social workers who do complex and heartbreaking work on a daily basis and this clearly shows in the many positives found in the cases reviewed by the Ombudsman's office. Maine has developed into a highly regarded state child welfare system and has worked hard to keep children safe and only remove children from parents' care when necessary.

Despite the positives, the Child Welfare Ombudsman has continued to work with the Office of Child and Family Services to identify and remedy both statewide issues as well as problems in individual cases. Every child that the Office of Child and Family Services comes into contact with deserves the highest level of safety, support, compassion and understanding, and the Ombudsman will continue to work towards improvements and remedies for problems that arise, while advocating for children and their needs, whether large or small.

I would like to thank both Governor LePage and the Maine Legislature for continuing to support the Maine Child Welfare Ombudsman as a key component of the many stakeholders that help support Maine's most vulnerable children.



Sincerely,

A handwritten signature in blue ink that reads "Christine Alberi".

Christine Alberi
Child Welfare Services Ombudsman

WHAT IS *the Maine Child Welfare Services Ombudsman?*

The Maine Child Welfare Services Ombudsman Program is contracted directly with the Governor's Office and is overseen by the Department of Administrative and Financial Services.

The Ombudsman is authorized by 22 M.R.S.A. §4087-A to provide information and referrals to individuals requesting assistance and to set priorities for opening cases for review when an individual calls with a complaint regarding child welfare services in the Maine Department of Health and Human Services.

The Ombudsman will consider the following factors when determining whether or not to open a case for review:

1. The degree of harm alleged to the child.
2. If the redress requested is specifically prohibited by court order.
3. The demeanor and credibility of the caller.
4. Whether or not the caller has previously contacted the program administrator, senior management, or the governor's office.
5. Whether the policy or procedure not followed has shown itself previously as a pattern of non-compliance in one district or throughout DHHS.
6. Whether the case is already under administrative appeal.
7. Other options for resolution are available to the complainant.
8. The complexity of the issue at hand.

An investigation may not be opened when, in the judgment of the Ombudsman:

1. The primary problem is a custody dispute between parents.
2. The caller is seeking redress for grievances that will not benefit the subject child.

MERRIAM-WEBSTER ONLINE
defines an *Ombudsman* as:

- 1: a government official (as in Sweden or New Zealand) appointed to receive and investigate complaints made by individuals against abuses or capricious acts of public officials
- 2: someone who investigates reported complaints (as from students or consumers), reports findings, and helps to achieve equitable settlements

3. There is no specific child involved.
4. The complaint lacks merit.

The office of the Child Welfare Ombudsman exists to help improve child welfare practices both through review of individual cases and by providing information on rights and responsibilities of families, service providers and other participants in the child welfare system.

More information about the Ombudsman Program may be found at <http://www.cwombudsman.com>

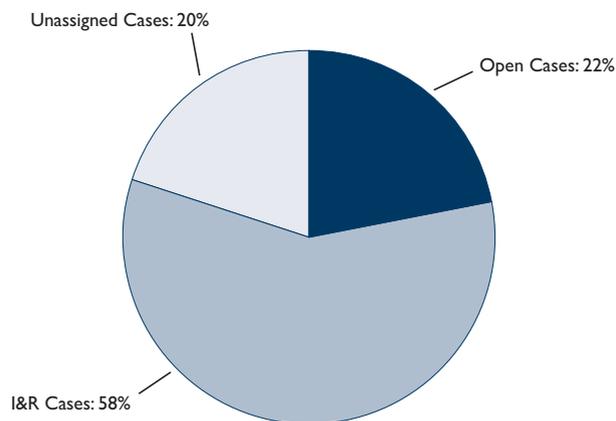
DATA

from the Child Welfare Services Ombudsman

The data in this section of the annual report are from the Child Welfare Services Ombudsman database for the reporting period of October 1, 2016, through September 30, 2017.

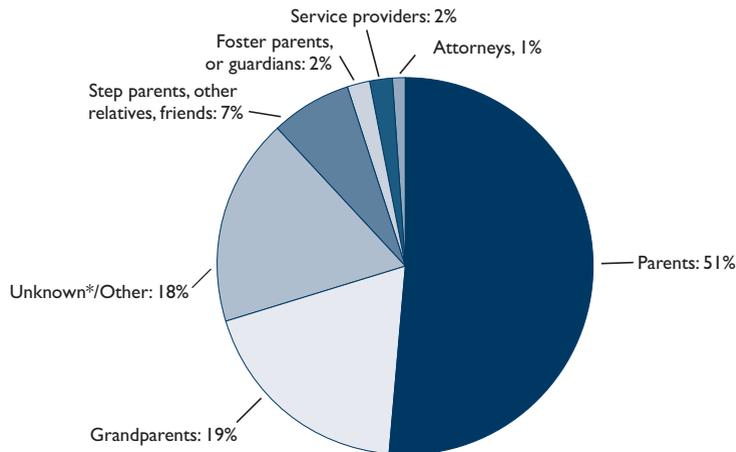
In Fiscal Year 2017, 504 inquiries were made to the Ombudsman Program, a decrease of 8 inquiries from the previous fiscal year. As a result of these inquiries, 112 cases were opened for review (22%), 293 cases were given information or referred for services elsewhere (58%), and 99 cases were unassigned (20%). An unassigned case is the result of an individual who initiated contact with the Ombudsman Program, but who then did not complete the intake process. Our new scheduling protocols allow each caller an opportunity to set up a telephone intake appointment.

HOW DOES THE OMBUDSMAN PROGRAM CATEGORIZE CASES?



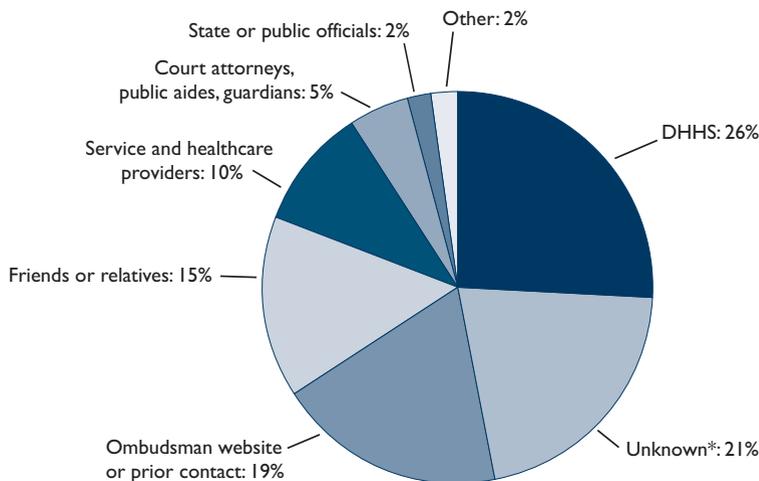
WHO CONTACTED THE OMBUDSMAN PROGRAM?

In Fiscal Year 2017, the highest number of contacts were from parents, followed by grandparents, then other relatives/friends.



HOW DID INDIVIDUALS LEARN ABOUT THE OMBUDSMAN PROGRAM?

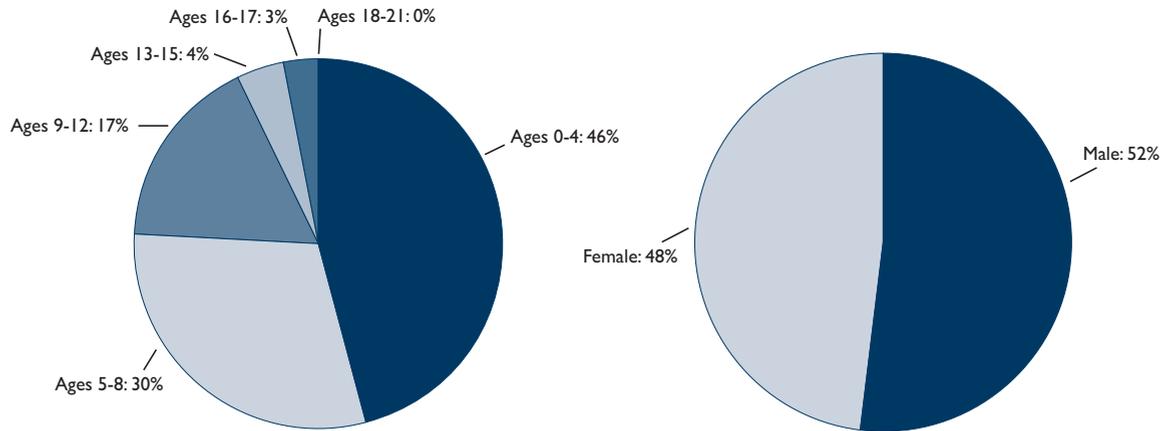
In 2017, nineteen percent of contacts learned about the program through the Ombudsman website or prior contact with the office. Twenty-six percent of contacts learned about the Ombudsman Program through the Department of Health and Human Services.



* *Unknown* represents those individuals who initiated contact with the Ombudsman, but who then did not complete the intake process for receiving services, or who were unsure where they obtained the telephone number.

WHAT ARE THE AGES & GENDER OF CHILDREN INVOLVED IN OPEN CASES?

The Ombudsman Program collects demographic information on the children involved in cases opened for review. There were 202 children represented in the 112 cases opened for review: 52 percent were male and 48 percent were female. During the reporting period, 76 percent of these children were age 8 and under.



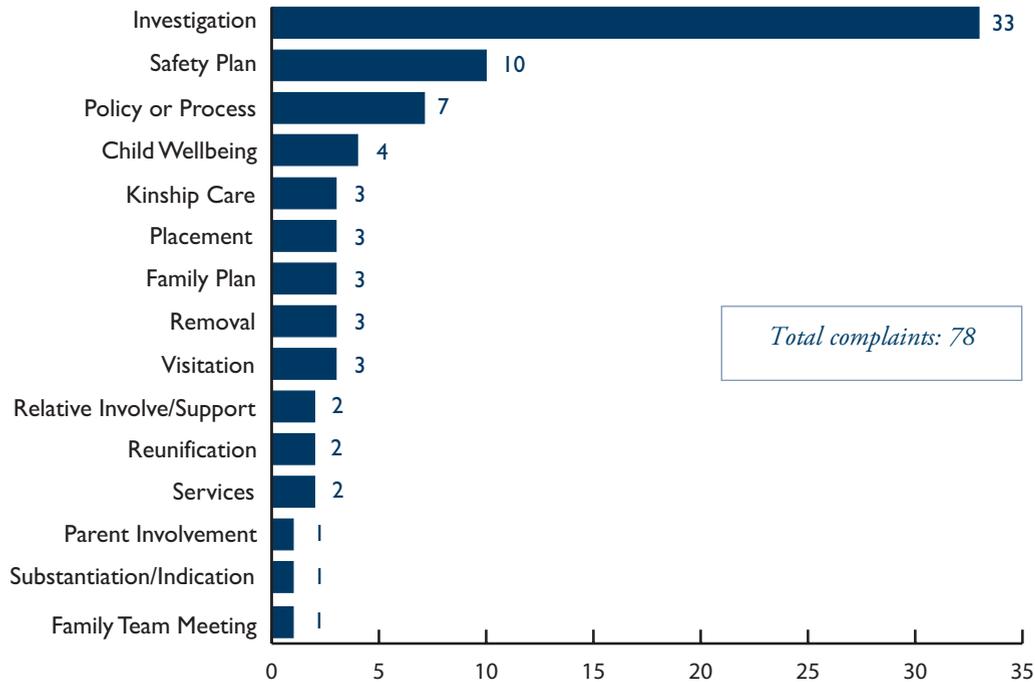
HOW MANY CASES WERE OPENED IN EACH OF THE DEPARTMENT'S DISTRICTS?

DISTRICT #	OFFICE	CASES	CHILDREN		
			% OF TOTAL	NUMBER	% OF TOTAL
0	Intake	4	4%	9	4%
1	Biddeford	21	19%	39	19%
2	Portland	7	6%	11	5%
3	Lewiston	17	15%	30	15%
4	Rockland	7	6%	12	6%
5	Augusta	20	18%	34	17%
6	Bangor	16	14%	29	14%
7	Ellsworth	10	9%	21	10%
8	Houlton	10	9%	17	8%
TOTAL		112	100%	202	100%

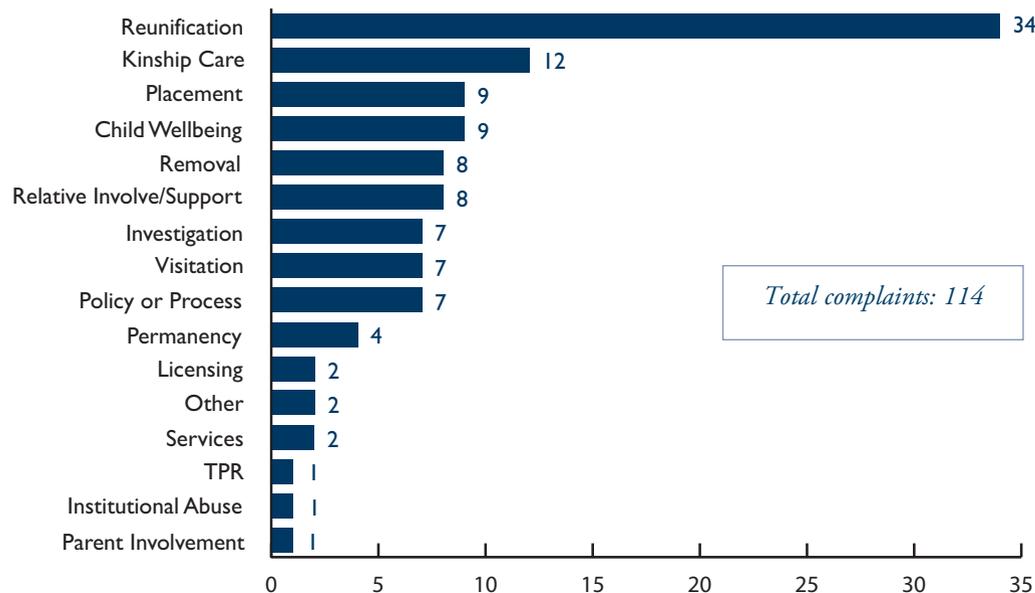
WHAT ARE THE MOST FREQUENTLY IDENTIFIED COMPLAINTS?

During the reporting period, 112 cases were opened with a total of 192 complaints. Each case typically involved more than one complaint. There were 78 complaints regarding Child Protective Services Units or Intakes, 114 complaints regarding Children’s Services Units.

Area of Complaint: **CHILD PROTECTIVE SERVICES**



Area of Complaint: **CHILDREN'S SERVICES UNITS (FOSTER CARE)**



HOW MANY CASES WERE CLOSED & HOW WERE THEY RESOLVED?

During the reporting period, the Ombudsman Program closed 107 cases that had been opened for review. These cases included 177 complaints and those are summarized in the table below.

VALID/RESOLVED complaints are those complaints that the Ombudsman has determined have merit, and changes have been or are being made by the Department in the best interests of the child or children involved.

VALID/NOT RESOLVED complaints are those complaints that the Ombudsman has determined have merit, but they have not been resolved for the following reasons:

1. **ACTION CANNOT BE UNDONE:** The issue could not be resolved because it involved an event that had already occurred.
2. **DEPARTMENT DISAGREES WITH OMBUDSMAN:** The Department disagreed with the Ombudsman's recommendations and would not make changes.
3. **CHANGE NOT IN THE CHILD'S BEST INTEREST:** Making a change to correct a policy or practice violation is not in the child's best interest.
4. **LACK OF RESOURCES:** The Department agreed with the Ombudsman's recommendations but could not make a change because no resource was available.

NOT VALID complaints are those that the Ombudsman has reviewed and has determined that the Department was or is following policies and procedures in the best interests of the child or children.

RESOLUTION	CHILD PROTECTIVE SERVICES UNITS	CHILDREN'S SERVICES UNITS	TOTAL
Valid/Resolved	4	6	10
Valid/Not Resolved*	21	13	34
1. Action cannot be undone	20	9	
2. Dept. disagrees with Ombudsman	0	1	
3. Lack of Resources	1	3	
Not Valid	47	86	133
TOTAL	72	105	177

* Total of numbers 1, 2, 3

During reviews of the 107 closed cases, the Ombudsman identified 14 additional complaint areas that were not identified by the original complainant. The 14 complaints were found to be valid in the following categories: 5 child well-being, 4 investigation, 2 reunification (one resolved due to changes made by Department), 2 services (unresolved due to lack of resources), 1 kinship involvement, and 1 Policy or Process. Unless otherwise noted the actions were unresolved because they could not be undone.

POLICY AND PRACTICE

Recommendations

The Ombudsman and the Department of Health and Human Services, Office of Child and Family Services (the Department) have had another year in partnership to support improvement in the Department's work in child welfare. The Department has agreed with the Ombudsman's recommendations, specifically in the areas of safety planning, assessment, and later placement of children in relative care.

The Department has continued to sustain improvements in placement of children with appropriate kin at the outset of a case and improvements in kinship involvement in general throughout a case.

During the 2017 fiscal year the following were among the most important recommendations made to the Department:

1. ASSESSMENTS AND SAFETY PLANNING

Assessment Practice and Safety Planning continue to be at the forefront of recommendations made to the Department this year. Multiple cases involved failure to follow assessment policy, failure to follow safety planning policy, or failure to recognize risk to children in their parents' care. Of particular concern were cases involving highly vulnerable children (infants, children with high medical needs, or non-verbal children.)

After opening an initial assessment, the Department and parents will often agree to a safety plan or voluntary care agreement to place children out of the home while an investigation takes place and parents engage in services to increase safety. Sometimes safety plans allow the children to remain with the parents with conditions. Best practice is to quickly complete investigations to determine the risk to the children, and carefully monitor the safety plans, particularly when one or all of the children remain with the parents. Parents also must agree with the safety plan or voluntary care agreement. After the assessment period, if risk to the children is still high, a petition is filed with the court or the children are taken into state custody by emergency petition.

When a safety plan is in effect, by definition, risk to the children may be high. Sometimes an assessment has been completed and the Department has not filed a petition in court but believes that further child protective involvement is warranted. In these cases social workers monitor the level of safety over a period of months, either with the children remaining in the parents' custody or with the children out of the parents' custody under a voluntary care agreement. Social workers make regular contact with children, caregivers, providers and other collateral contacts.

When assessments policy is not followed, either through lack of contact with children, parents, providers, or other collaterals, and safety plan compliance is not monitored, this can put children at risk both in the short and long term.

Department's Response: The Department has an important role in ensuring the safety of children within the families involved with Child Welfare Services. Contacting and assessing critical case members as well as completing monthly face to face contacts is a critical part of the work we do within OCFS to achieve the goal of ensuring child safety and meeting the needs of families. The Department's policy outlines the expectation to interview all critical case members, including out of home parents, face to face monthly. The OCFS acknowledges there is need to strengthen this practice statewide. The OCFS has internal reports that monitor this practice at the caseworker and District levels. The OCFS is actively engaged with staff statewide to monitor quality of this practice and actively work with staff to promote improvements where needed.

Additionally, the District Management Team has had success in collectively reviewing both Family Team Meetings and permanency outcomes per district. This provides the OCFS important oversight into the progress of the case as it directly relates to child safety and reduction of risk within a family. The Department has recently implemented Structured Decision Making within the Intake process and is currently beginning the process to implement Structured Decision Making at the Assessment level. This will strengthen the Department's practice for monitoring cases throughout the Intake and Assessment periods, including safety plans. The Structured Decision Making process addresses both practice and policy to create a consistent response to allegations of child abuse and neglect statewide.

2. KINSHIP POLICY FOR LATER PLACEMENT OF CHILDREN WITH RELATIVES

The Ombudsman has recommended this year that the Department develop clear policies regarding when it is appropriate and in the children's best interests to move children from long term foster homes to out of state (or in state) relative placements that could not take the children during the reunification period. It is not clear in policy whether attachment or bond to a non-kinship foster family, whether or not other attachment issues are present in the children, should outweigh the benefit of being placed with kin for adoption and permanency. The statute is unclear on this, as it gives priority to kinship placements, but does not reference the timing of placement. Whether or not to move a child under these circumstances is decided by determining whether this is in the best interests of the child, but there are no objective legal standards by which to measure this.

The Ombudsman has recommended that the Department should consider a policy where children should always be placed with appropriate kin, including adopted siblings, unless there is a situation where there would be a serious impact on the child and the impact can be measured by evidence based or other objective standards.

Department's Response: The Department prioritizes kinship placements for all children. The OCFS actively monitors the number of children whom are placed within kinship placements. Currently in Maine, we are above national averages for this type of placement. Additionally, the OCFS is actively collaborating with the Attorney General's office to review the current statute in order to provide recommendations

to the Legislature to ensure that statutory language related to kinship placement is congruent and consolidated within the statute and prioritizes kinship placements overall. Additionally, the OCFS has initiated the Kinship Advisory Board which directly addresses issues related to kinship care and also informs the legislature on recommendations related to this type of care.

At the same time, the OCFS utilizes concurrent planning in all cases. This allows the OCFS to ensure child safety and simultaneously plan for long term placement and permanency for all children in care. Within this practice, the OCFS prioritizes strengthening and forming relationships with kin so the child can have additional kinship options that may not have been present during the initial timeframe when the decision was made on where to place the child to ensure the child's immediate safety. These kin resources are continuously engaged in the case process and explored as long term permanency options for the child.

3. LACK OF RESOURCES FOR CHILDREN IN NEED OF MENTAL HEALTH AND BEHAVIORAL HEALTH SERVICES

The Ombudsman has noted a pattern of cases where children are harmed due to issues with or lack of resources within the children's mental health and behavioral health systems. Children's mental health and behavioral issues have been exacerbated by lack of quick availability and wait lists for in-home counseling services, therapeutic foster homes, and crisis beds. A child who might otherwise have been able to remain in a kinship placement, for example, might have that placement disrupted due to lack of support and might cycle through a crisis placement, a residential treatment center and into a therapeutic foster home. More experienced therapeutic foster homes with full support might prevent placement disruption or entry into residential treatment. Waits for crisis beds have negatively affected children's safety. At least one experienced cognitive behavioral therapist stopped accepting Mainecare payments citing a low Mainecare reimbursement rate.

Best policy and practice would be to make quickly available all possible services for children with serious behavioral and mental health issues so that these children do not need to be hospitalized or in residential treatment. The children involved in the cases that the Ombudsman reviewed this year, where gaps in services harmed children or exacerbated the children's issues, ranged in age from elementary school to late teens; this issue affects children of all ages.

Some children do need residential treatment both for the short and long term. Children in residential treatment are at risk of discharge every 90 days. These cycles are not healthy for many children's mental health and can put pressure on children and providers. Instead of an arbitrary amount of time, better policy would be to allow the child's treatment team to determine when the child is ready for discharge. Additionally, there are few choices for residential treatment in general in Maine, especially for older youth who cannot be placed in a kinship or foster placement due to serious behavioral or mental health issues. The quality of these facilities varies widely. All children in state custody deserve to have the highest quality and most effective treatment available.

Lastly, children continue to be placed in New Beginnings Homeless Shelter due to lack of placement

resources or lack of approval for residential treatment. In one case reviewed this year the child placed at the homeless shelter was 13; and in another case the child was 14.

Department social workers spend a disproportionate amount of time caringly and thoughtfully supporting children with difficult mental health and behavioral issues. In cases reviewed this year, social workers provided excellent service to older youth in care and spent an above average amount of time checking in with older youth, advocating for services, and providing emotional support.

Department's Response: The Department continues to recognize the behavioral health needs of children whom are involved with child welfare services. The OCFS is actively engaged with internal and external stakeholders, including advocacy groups to evaluate and improve practice and services for children with behavioral health needs. Additionally, the Department has created a plan for children who are waiting for behavioral health services that includes a coordinated response from the Children's Behavioral Health and Child Welfare teams as well as the MaineCare Complex Case Unit when appropriate. The OCFS believes this will help children to have more integrated and timely services to address their behavioral health needs. Similarly, the Children's Behavioral Health team is actively reviewing all cases of children waiting to receive services and helping families to identify other supports available to them while they wait for the service.

CONCLUSION

The Ombudsman and Department will continue to collaborate to improve policy and practice in these and all other areas that affect children and families involved with or at risk of being involved with Child Welfare Services.

ACKNOWLEDGMENTS

As the fifteenth year of the Maine Child Welfare Ombudsman program comes to a close, we would like to acknowledge and thank the many people who have continued to assure the success of the mission of the Child Welfare Ombudsman: to support better outcomes for children and families served by the child welfare system. Unfortunately, space does not allow the listing of all individuals and their contributions.

The staff of public and private agencies that provide services to children and families involved in the child welfare system, for their efforts to implement new ideas and provide care and compassion to families at the frontline, where it matters most.

Senior management staff in the Office of Child and Family Services, led by former Director James Martin, and Acting Director, Kirsten Capeless, for their ongoing efforts to make the support of families as the center of child welfare practice, to keep children safe, and to support social workers who work directly with families.

The Program Administrators of the District Offices, as well as the supervisors and social workers, for their openness and willingness to collaborate with the Ombudsman to improve child welfare practice.

The Board of Directors of the Maine Child Welfare Services Ombudsman, Ally Keppel, Allie McCormack, Maureen Boston, Virginia Marriner, and Katherine Knox for their support and dedication to our agency.

Even in cases where the Ombudsman has disagreed with the Department's actions, it is never difficult to find positives in the work of child welfare social workers assigned to work with children and families. Whether it is to remove children from a home, inform parents that their rights are being terminated, or hear stories of horrific abuse directly from a child, social workers perform complex and challenging work every day.

The Ombudsman would like to take this opportunity to recognize in particular social workers who work with older youth in foster care. In the cases involving older youth reviewed this year, social workers have patiently developed relationships with youth who have serious mental health and behavioral issues and who are often in impossible situations. Social workers have followed children through homelessness, residential treatment, hospitalization, counseling, schools, and family and foster placements that often fail. This work is exhausting and important for these children, many of whom do not have family who can support them. This work is often thankless, and these social workers have given some small hope, friendship and comfort to children who have very little.



CHILD WELFARE OMBUDSMAN

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