

PERFORMANCE AUDIT
OF THE
OFFICE OF CHILDREN'S OMBUDSMAN
DEPARTMENT OF MANAGEMENT AND BUDGET

February 2004

“...The auditor general shall conduct post audits of financial transactions and accounts of the state and of all branches, departments, offices, boards, commissions, agencies, authorities and institutions of the state established by this constitution or by law, and performance post audits thereof.”

– Article IV, Section 53 of the Michigan Constitution

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Michigan
Office of the Auditor General
REPORT SUMMARY

Performance Audit

Report Number:
07-176-03

Office of Children's Ombudsman

Department of Management and Budget

Released:
February 2004

The Office of Children's Ombudsman (OCO) was established as an autonomous State agency by Act 204, P.A. 1994 (the Children's Ombudsman Act). OCO helps assure the safety and well-being of Michigan's children in need of foster care, adoption, and protective services through independent investigations of complaints and child advocacy.

Audit Objective:

To assess OCO's effectiveness in assuring the safety and well-being of children in need of foster care, adoption, and protective services through independently investigating complaints; advocating for children; and recommending changes to improve law, policy, and practice.

Audit Conclusion:

We concluded that OCO was effective in assuring the safety and well-being of children in need of foster care, adoption, and protective services. We noted a reportable condition related to database controls and enhancements (Finding 1).

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Audit Objective:

To assess OCO's compliance with laws, policies, and procedures when processing and investigating complaints.

Audit Conclusion:

We concluded that OCO complied with applicable laws, policies, and procedures.

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Agency Response:

The agency preliminary response indicated that OCO agrees with and will comply with both recommendations.

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A copy of the full report can be obtained by calling 517.334.8050 or by visiting our Web site at: www.state.mi.us/audgen/



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AUDITOR GENERAL

February 18, 2004

Ms. Lynne Martinez, Children's Ombudsman
Office of Children's Ombudsman
Boji Tower
Lansing, Michigan

Dear Ms. Martinez:

This is our report on the performance audit of the Office of Children's Ombudsman, Department of Management and Budget.

This report contains our report summary; description of the agency; audit objectives, scope, and methodology and agency responses; comments, finding, recommendations, and agency preliminary response; and a glossary of acronyms and terms.

Our comments, finding, and recommendations are organized by audit objective. The agency preliminary response was taken from the agency's response subsequent to our audit fieldwork. The *Michigan Compiled Laws* and administrative procedures require that the audited agency develop a formal response within 60 days after release of the audit report.

We appreciate the courtesy and cooperation extended to us during this audit.

AUDITOR GENERAL

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OFFICE OF CHILDREN'S OMBUDSMAN DEPARTMENT OF MANAGEMENT AND BUDGET

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Description of Agency

The Office of Children's Ombudsman* (OCO) was established as an autonomous* State agency within the Department of Management and Budget by Act 204, P.A. 1994 (the Children's Ombudsman Act). OCO defines its mission* in its annual report:

The mission of the Office of the Children's Ombudsman is to assure the safety and well-being of Michigan's children in need of foster care, adoption, and protective services and to promote public confidence in the child welfare system. This will be accomplished through independently investigating complaints, advocating for children, and recommending changes to improve law, policy, and practice for the benefit of current and future generations.

OCO has the authority to investigate complaints related to the acts of the Family Independence Agency (FIA) or a child placing agency to ensure compliance with relevant statutes, rules, and policies pertaining to children's protective services and the placement of children in foster care and adoptive homes. The Children's Ombudsman Act lists those individuals who can officially make complaints to OCO:

- The child, if he or she is able to articulate a complaint.
- A biological parent of the child.
- A foster parent of the child.
- An adoptive parent or a prospective adoptive parent of the child.
- A legally appointed guardian of the child.
- A guardian ad litem* of the child.
- An adult who is related to the child within the fifth degree by marriage, blood, or adoption.
- A Michigan legislator.
- An attorney for any individual described above.
- The Children's Ombudsman, at his/her discretion to open an investigation.

OCO categorizes complaints from the public into three types: inquiries*, referrals*, and valid complaints*. Inquiries are requests for information or complaints that do not involve children's protective services, foster care services, or adoption services and

* See glossary at end of report for definition.

therefore are not within OCO statutory authority to investigate. Referrals are complaints that concern a child involved in children's protective services, foster care services, or adoption services, but the complaint is about a component of the child welfare system that OCO has no jurisdiction to investigate (e.g., the court system or law enforcement). Valid complaints fall under the statutory guidelines of the Children's Ombudsman Act and may or may not result in an investigation. A valid complaint may not be opened for investigations for several reasons, including a complaint that concerns an event which occurred many years prior and involvement by OCO would not serve any purpose or a complaint is about an issue that has since been addressed through new policy or law.

OCO and FIA have an operating protocol in a memorandum of understanding to enable OCO's access to FIA records. This agreement provides guidelines for the release of confidential FIA or private agency case file documentation to OCO.

Once OCO opens an investigation and receives the case file, the case is assigned to an investigator. Each investigation is subjected to a comprehensive review process. OCO utilizes a multi-disciplinary team approach in which team members have a wide range of experience and diverse professional backgrounds. Generally, the investigation focuses on the issues identified by the complainant*. However, the investigation is not limited to those issues if other violations of State laws or FIA policies are disclosed. Upon completion of the investigation, OCO issues a report that affirms or disaffirms the actions of the agency in question.

At the end of each fiscal year, OCO prepares and submits an annual report to the Governor, FIA, and the Legislature as required by the Children's Ombudsman Act. The report provides an account of OCO's operations and includes overall recommendations to FIA and the Legislature regarding the need for legislation or changes in rules or policies.

* See glossary at end of report for definition.

We summarized OCO complaint and investigation activities for fiscal years 1999-2000, 2000-01, and 2001-02:

	Fiscal Year		
	1999-2000	2000-01	2001-02
Complaints received	713	815	821
Investigations opened	160	158	145
Number of investigators	9.25*	8.75*	9.25*

* Includes 1 supervisory investigator and 1 intake investigator*.

OCO incurred expenditures of approximately \$1.1 million for fiscal year 2001-02. As of August 31, 2003, OCO staff were comprised of 12 employees, including the Ombudsman, 7 investigators, 1 supervisory investigator, 1 intake investigator, and 2 administrative support staff.

House Bill 4096 of 2003, approved by the Family and Children's Services Committee in May 2003, would amend several provisions of the Children's Ombudsman Act relating to the appointment process, complaint process, powers and duties of the Children's Ombudsman, conduct of investigations, confidentiality and disclosure of information, and report of findings. House Bill 4096 would also give OCO the authority to initiate legal action and would provide OCO with direct access to FIA data systems.

* See glossary at end of report for definition.

Audit Objectives, Scope, and Methodology and Agency Responses

Audit Objectives

Our performance audit* of the Office of Children's Ombudsman (OCO), Department of Management and Budget, had the following objectives:

1. To assess OCO's effectiveness* in assuring the safety and well-being of children in need of foster care, adoption, and protective services through independently investigating complaints; advocating for children; and recommending changes to improve law, policy, and practice.
2. To assess OCO's compliance with laws, policies, and procedures when processing and investigating complaints.

Audit Scope

Our audit scope was to examine the program and other records of the Office of Children's Ombudsman. Our audit was conducted in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States and, accordingly, included such testing of the records and such other auditing procedures as we considered necessary in the circumstances.

Audit Methodology

Our audit procedures, performed from May through August 2003, generally covered the period January 1, 2001 through June 30, 2003. We performed a preliminary review to obtain an understanding of OCO operations. We selected a sample of OCO complaints and investigations and reviewed the associated complaint and investigation files to evaluate OCO's intake and investigation processes and to assess OCO compliance with laws, policies, and procedures. We also reviewed OCO's reporting processes over individual investigations and OCO's annual report. In addition, we surveyed Family Independence Agency caseworkers involved in OCO investigations to gain their perspective on OCO.

* See glossary at end of report for definition.

Agency Responses

Our audit report contains 1 finding and 2 corresponding recommendations. The agency preliminary response indicated that OCO agrees with and will comply with both recommendations.

The agency preliminary response that follows the recommendations in our report was taken from the agency's written comments and oral discussion subsequent to our audit fieldwork. Section 18.1462 of the *Michigan Compiled Laws* and Department of Management and Budget Administrative Guide procedure 1280.02 require OCO to develop a formal response to our audit findings and recommendations within 60 days after release of the audit report.

COMMENTS, FINDING, RECOMMENDATIONS, AND AGENCY PRELIMINARY RESPONSE

AGENCY EFFECTIVENESS

COMMENT

Audit Objective: To assess the Office of Children's Ombudsman's (OCO's) effectiveness to assure the safety and well-being of children in need of foster care, adoption, and protective services through independently investigating complaints; advocating for children; and recommending changes to improve law, policy, and practice.

Conclusion: We concluded that OCO was effective in assuring the safety and well-being of children in need of foster care, adoption, and protective services. Our audit disclosed a reportable condition* related to database controls and enhancements (Finding 1).

FINDING

1. Database Controls and Enhancements

OCO should develop documentation standards and improve database controls to ensure accurate and complete data and to track data changes. In addition, OCO should enhance the recording and compiling of complaint and investigation data within the database.

OCO's database was created in 1996 to collect, store, and report information on complaints received by OCO and to allow OCO investigators to record key information and decisions from investigations. Our review of the database, including a sample of 40 complaints, noted:

- a. Three (8%) complaints did not include documentation in the case file as to why a valid complaint was not investigated. We spoke with OCO investigators and obtained sufficient verbal explanations for 2 of the 3 complaints.

* See glossary at end of report for definition.

OCO created its Investigator's Guide to provide assistance to its investigators in performing their duties; however, the Investigator's Guide did not include documentation standards related to the disposition of complaints. It is important that OCO investigators document the disposition of each complaint in the database to support and justify their efforts and actions.

- b. Four (10%) complaint dispositions were misclassified in OCO's database. In three instances, complaints that should have been classified as inquiries were classified as referrals. Also, our review disclosed one instance in which OCO classified a complaint as a referral when it should have been classified as a valid complaint. In this instance, the valid complaint did not meet sufficient criteria to warrant an investigation. These misclassifications resulted in discrepancies between complaint disposition categories within OCO's annual report.

OCO classifies each complaint into 1 of 3 types (inquiries, referrals, or valid complaints) during the intake process to ensure that the proper course of action is taken with regards to the complaint and for reporting in OCO's annual report. A misclassification could result in a valid complaint that was not investigated. Our review disclosed no such instances.

- c. OCO's database did not include an audit trail to track all changes to the database and prevent unauthorized changes. All users had unrestricted update access to the database. Audit trails would provide documentation of changes and improve data accountability. Our review did not disclose any instances of unauthorized changes to OCO's database.
- d. OCO's database did not collect data necessary for efficient preparation of OCO's annual report. OCO prepares and submits an annual report to the Governor, the Legislature, and the FIA director in accordance with Section 10(5) of the Children's Ombudsman Act. Our review of OCO's annual report disclosed that OCO had not developed its database to collect key data on the final disposition of investigations. As a result, OCO investigators set aside their normal duties to review and classify findings and record and compile the data in the annual report. Enhancing data collection may result in more effective use of investigators time.

RECOMMENDATIONS

We recommend that OCO develop documentation standards and improve database controls to ensure OCO's database has accurate and complete data and to track data changes.

We also recommend that OCO enhance the recording and compiling of complaint and investigation data within the database.

AGENCY PRELIMINARY RESPONSE

OCO agrees with the recommendation that OCO develop documentation standards for the classification of complaints. OCO informed us that the recommendation was adopted as an OCO operating procedure in January 2004 and that the Investigator's Guide will be revised to reflect this change. OCO informed us that it reviewed definitions of inquiry, referral, and valid complaint to ensure more accurate classification of complaints. OCO will comply by March 2004.

OCO agrees with the recommendation that OCO improve database controls to track data changes. The database does not currently have the capacity to track changes to the database or to prevent unauthorized changes. OCO will work with the Department of Management and Budget, the Legislature, and the Department of Information Technology to seek funding and capacity to accomplish the recommended enhancements. OCO will comply by December 2004.

OCO agrees with the recommendation that the database be enhanced to facilitate the compiling of complaint and investigation data for preparation of OCO's annual report and other purposes. The OCO database was created in approximately 1996 and has been minimally enhanced since that time. The database does not currently have the capacity to compile certain key investigation data. OCO will work with the Department of Management and Budget, the Legislature, and the Department of Information Technology to seek funding and capacity to accomplish the recommended enhancements. OCO will comply by December 2004.

COMPLIANCE WITH LAWS, POLICIES, AND PROCEDURES

COMMENT

Audit Objective: To assess OCO's compliance with laws, policies, and procedures when processing and investigating complaints.

Conclusion: We concluded that OCO complied with applicable laws, policies, and procedures.

Glossary of Acronyms and Terms

autonomous	The power or right of self-government.
complainant	An individual who can make a complaint to the Children's Ombudsman with respect to a particular child, alleging that an administrative act is contrary to law, rule, or policy; imposed without an adequate statement of reason; or based on irrelevant, immaterial, or erroneous grounds.
effectiveness	Program success in achieving mission and goals.
FIA	Family Independence Agency.
guardian ad litem	An individual whom the court appoints to assist the court in determining the child's best interest. A guardian ad litem does not need to be an attorney.
intake investigator	The individual who responds to the complainant, usually by telephone, within 24 to 48 hours to obtain more detailed information to complete the intake process.
inquiries	Requests for information or complaints that do not involve children's protective services, foster care services, or adoption services. These complaints might involve custody matters, child support, school problems, or juvenile delinquency, which OCO has no statutory authority to investigate.
mission	The agency's main purpose or the reason that the agency was established.
OCO	Office of Children's Ombudsman.

ombudsman	A Swedish term for an appointed government official who investigates complaints, reports findings, and helps achieve solutions.
performance audit	An economy and efficiency audit or a program audit that is designed to provide an independent assessment of the performance of a governmental entity, program, activity, or function to improve public accountability and to facilitate decision making by parties responsible for overseeing or initiating corrective action.
referrals	Complaints that concern a child involved in children's protective services, foster care services, or adoption services, but the concern expressed is not about the actions of FIA or a private agency. Rather, the complaint is about a component of the child welfare system that OCO has no jurisdiction to investigate, for example, law enforcement, attorneys, or the court system.
reportable condition	A matter that, in the auditor's judgment, represents either an opportunity for improvement or a significant deficiency in management's ability to operate a program in an effective and efficient manner.
valid complaints	Complaints that fall under the statutory guidelines of the Children's Ombudsman Act.