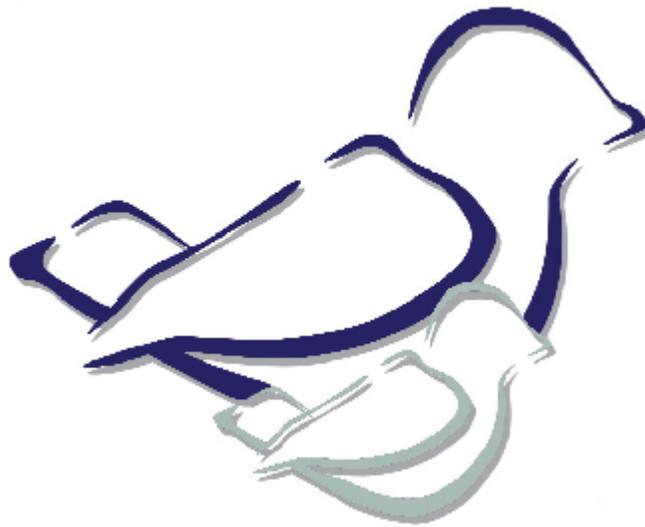


OFFICE OF
CHILD PROTECTION
OMBUDSMAN (OCPO)



ANNUAL REPORT
FY 2010

STATE OF UTAH
DEPARTMENT OF HUMAN SERVICES

ocpo.utah.gov

It is the *vision* of OCPO that through
its involvement with individuals having
concerns about the Division of Child and Family
Services, OCPO will promote *fair resolution*,
effect changes that will improve the
quality of services provided to the
children and families of Utah, and build bridges with
child welfare partners to *effectively work*
for children.

INTRODUCTION:

In January 1996, the Executive Director of the Department of Human Services created the Utah Office of Child Protection Ombudsman, independent from Child and Family Services, where the public could report concerns about cases under Child and Family Services' jurisdiction. In 1998, the Utah Legislature codified the role and authority of the Ombudsman's Office by enacting Section 62A-4a-209 of Utah Code, which states:

"...the ombudsman shall, upon receipt of a complaint from any person, investigate whether an act or omission of the division with respect to a particular child: (i) is contrary to statute, rule, or policy;(ii) places a child's health or safety at risk;(iii) is made without an adequate statement of reason; or (iv) is based on irrelevant, immaterial, or erroneous grounds..."

The purpose of the Ombudsman's Office is to receive and investigate complaints, to provide a voice to the consumer/complainant, to promote a way whereby concerns or disputes are addressed at the lowest level possible; and, to ensure that Child and Family Services is providing adequate services to their clients. Currently, the Ombudsman's Office is the only independent office in State government where complainants can express their concerns about child welfare cases. For this reason, the Ombudsman's Office is a unique resource to Utah citizens. Since the inception of the Ombudsman's Office, the staff has worked to establish an office that can adequately represent citizens of Utah in addressing constituent concerns regarding services provided by Child and Family Services. Without an Ombudsman's Office, once a consumer has exhausted the available avenues to express a concern or complaint within the Child and Family Services structure, a consumer might feel they need to contact the Division Director, the Executive Director of the Department of Human Services, the media, their legislator, or the Governor's Office in search of a means by which a complaint could be addressed. The Ombudsman's Office fulfills this need.

The Ombudsman's Office staff is knowledgeable regarding Utah Law pertaining to child welfare, as well as Child and Family Services Practice Guidelines. The staff utilizes this knowledge to educate complainants and the general public as to the role and function of the Ombudsman's Office, Utah Law, and Child and Family Services. This is particularly important, as it helps the consumer gain a basic understanding of the processes and procedures Child and Family Services follows in their work to ensure the health and safety of children. Frequently, consumers who contact the Ombudsman's Office are angry and/or upset at the actions taken by a Child and Family Services caseworker with respect to their child or family member, which is often due to a misunderstanding, a lack of communication, or assumptions the complainant makes regarding a specific situation or set of circumstances. The Ombudsman's Office staff assists complainants to effectively communicate concerns to Child and Family Services or the appropriate agency, as well as understand the information being communicated to the complainant by Child and Family Services or other agencies. In addition to the statutory authority to investigate complaints, the Ombudsman's Office serves as a resource to the public by providing information regarding community services, the child welfare system, and other agencies.

As necessary, the Ombudsman's Office investigates complaints to determine whether DCFS, with regard to a particular child, acted in accordance with Utah law and DCFS Practice Guidelines. The Ombudsman's Office may not be able to provide the complainant's desired outcome in response to each complaint filed; however, each complaint reported to the Ombudsman's Office receives

objective and thorough consideration. For example, if a complainant believes that the removal of a child from the parent was illegal, the Ombudsman's Office would provide information to the complainant as to the legal process involved when a child is removed from the parent's custody. The Ombudsman's Office will try to determine whether the complainant has additional concerns. Should additional concerns be identified, such as the parent is not receiving visitation or that the child has a medical need Child and Family Services is not meeting, the Ombudsman's Office will process those concerns through the intake protocol.

Although the Ombudsman's Office is small, the well-qualified staff offers a high standard of service to both the individual consumer and to Child and Family Services. The Ombudsman's Office often receives positive feedback from complainants, such as "We appreciate all of your help. The most we have ever had with this case." Constituents often thank the Ombudsman's staff for listening and taking the time to educate complainants as to the child welfare process. One complainant said "everyone involved in the case is nicer and more positive" due to OCPO involvement. Another reported that it was the first time the process was explained, and she was "greatly relieved" to have the information in order to make a decision as to how to proceed. One complainant said, "You have helped me tremendously."

INTAKE PROCESS

In FY2010, the Ombudsman's Office processed 407 complaints.

Each contact with the Ombudsman's Office is treated as though the expressed concerns might result in an investigation. The Ombudsman's staff spends as much time talking with the complainant as is necessary in order to understand the complainant's concern and the context in which the concern arose. The Intake process is especially important to the complainant, as it gives that person an opportunity to relate their story. Many complainants express that this is the first time that they have been provided the opportunity to explain their situation or their concerns to someone who understands and has the knowledge to help them, even if it is only to provide information. The Ombudsman's Office staff is skilled in gathering information with probing questions in order to determine how this office should proceed. This is not to say that the Ombudsman's staff find validity in the complainant's concerns at this stage of the process, but staff begin the process in which enough information is gathered in order for this office to articulate the complainant's concerns to Child and Family Services so the complainant's concerns can be addressed at the lowest level possible.

In some cases, it is determined that the complainant is concerned about something outside the scope of the Ombudsman's authority or role. For example, a complaint that law enforcement did not follow up with criminal charges against a parent for a neglect situation would not be accepted by the Ombudsman's Office. Although there are situations brought to the Ombudsman's Office's attention that do not result in any action taken by this office, Ombudsman's staff still allow the complainant the time they need to describe their problem and to assist them with referrals or services about which they can inquire through a different agency or source.

During the intake process, staff may complete a variety of tasks to ensure that the complainant's concerns are identified and addressed. It is important for the Ombudsman's Office to categorize complainant concerns so that the level of review or decisions made is appropriate. Some intake calls are identified at the time of the initial communication with the complainant as requiring a review of the Child and Family Services' Child Welfare Management System, called SAFE; others are

identified as being outside the scope or authority of this office, as illustrated in the example above; and still others require the Ombudsman's Office to gather additional information before being able to determine what course of action, if any, is warranted. For example, during the intake process OCPO accessed a complainant's case on SAFE and found that a Child Protective Services caseworker had initially entered a supported case finding of Harmful Material to a Child; however, the case finding was later changed to "unsupported." The rationale for amending the record was that the allegation category of Sexual Abuse better fit the incident; however, the Ombudsman's Office found that the allegation of Sexual Abuse was not entered in the case, nor had a supported finding of Sexual Abuse been made. At a later date, a referent contacted Child Protective Services Intake regarding the same alleged victim to report the allegation of Sexual Abuse based on a new disclosure by the child. OCPO found that the Intake caseworker wrongly dispositioned the referral as "unaccepted" and documented that the basis for the unaccepted referral was that the allegation of Sexual Abuse had been previously investigated. In this instance, OCPO determined that action was warranted and an investigation was opened.

During the initial contact with a complainant, the Ombudsman's staff explains that at any time during the process, the complainant can choose to do any of the following:

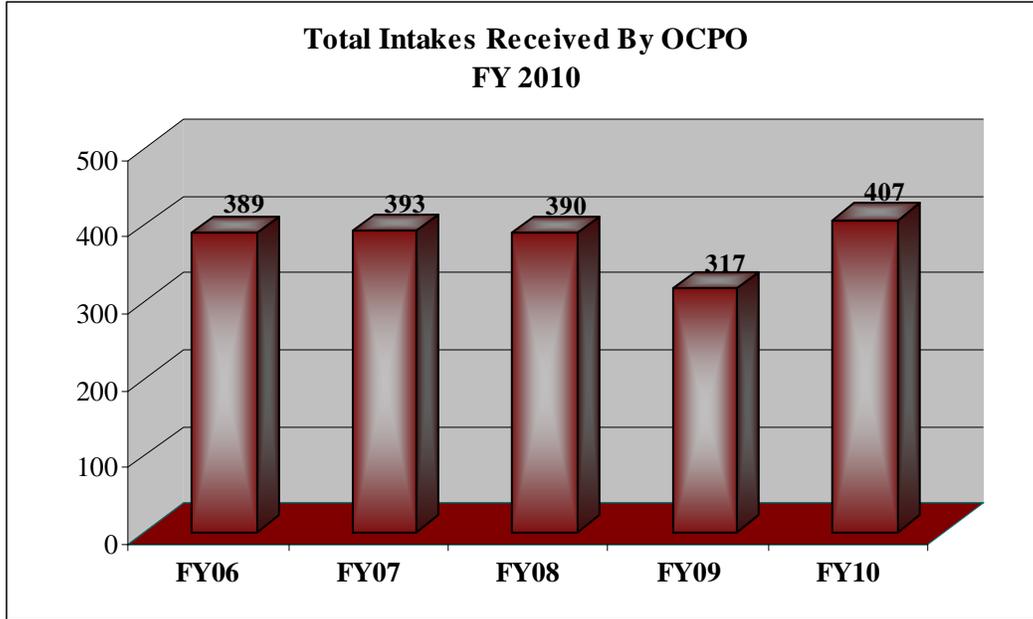
- Withdraw his/her complaint.
- Request that a Child and Family Services representative contact him/her in an effort to have the concerns addressed at the lowest level possible. The complainant can have the Ombudsman's process end at that point, or the complainant can request that, in addition to the above, Child and Family Services also provide a written response to the Ombudsman's Office describing the action taken to address the complainant concerns.
- Request no further contact with Child and Family Services about the complaint, but request that the Ombudsman's Office gather the information necessary to evaluate whether further action is necessary and review the information with the complainant.
- Request the Ombudsman's Office conduct an investigation.

In those instances where the complainant requests the Ombudsman's Office to obtain a written response from Child and Family Services, the Ombudsman's Office staff member reviews the response with the complainant. At that time, the Ombudsman's Office staff work with the complainant to determine whether they desire further action, such as an Ombudsman's Review or investigation. Typically at this stage, the Ombudsman's Office staff has not researched the Child and Family Services case in SAFE. Once a decision is made to conduct a review, the Ombudsman's Office staff begins researching the complainant's concerns with the information contained in the Child and Family Services electronic record. When a review is completed, the Ombudsman's Office notifies the complainant of its findings. At that point, either the Ombudsman's Office will take no further action, or accept the case for investigation.

The majority of the Ombudsman's Office staff time is spent in the Intake process to speak with the complainant; prepare the complainant concerns to forward to Child and Family Services; review written responses with the complainant; conduct research into the complainant's concerns; review the Child and Family Services records; and, determine what further action is necessary.

During FY2010, the Ombudsman's staff forwarded 112 complaints to Child and Family Services to request a response or allow Child and Family Services the opportunity to address the concern at the lowest level possible. Included in the 407 complainant calls were situations that were described by

the complainant in such a way that a decision could be made during the initial call that no action could be taken by this office, or, on the contrary, a further review of the Child and Family Services' case was warranted. This will be described later in this report under the Ombudsman Review section.



OMBUDSMAN REVIEW

When a complainant is not satisfied with the response from Child and Family Services, the complainant is unwilling to work with Child and Family Services, or if the Ombudsman's Office is particularly concerned about an issue, the Ombudsman's Office will proceed with an Ombudsman Review to determine the appropriate action to be taken. This type of review is conducted by the Deputy Ombudsman or an Assistant Ombudsman. The review will result in one of three decisions: 1) No further action is warranted by this office; 2) The complainant could be served better by being referred to another agency; or 3) The concerns warrant further review; therefore, the case is accepted for an investigation.

The Ombudsman's Office considers several factors when conducting an Ombudsman Review to assess whether a complaint will be accepted for investigation. In addition to reviewing the Child and Family Services records, the Ombudsman's Office considers whether this office can give the person filing the complaint the outcome they are seeking. Another factor considered is whether further involvement by the Ombudsman's Office will impact the direction of the case.

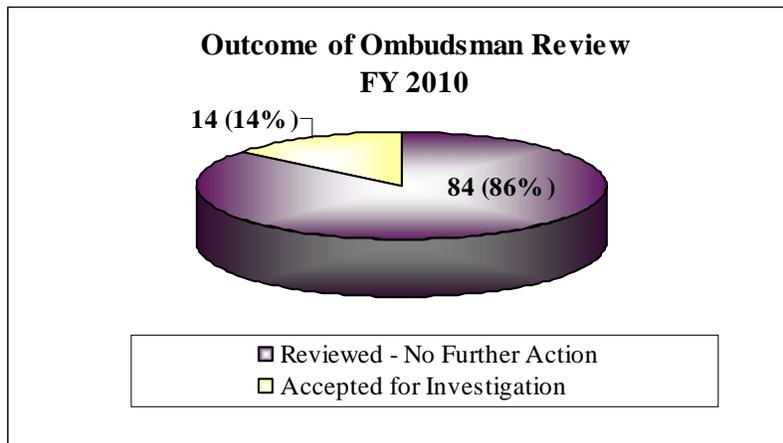
When the Ombudsman's Office finds that Child and Family Services acted in accordance with DCFS Policy and Practice Guidelines, and there is no violation of Utah Law, the Ombudsman's Office determines that no further action will be taken. Conversely, a case is accepted for an investigation when it appears that the complainant's concerns have merit and it would be appropriate for the Ombudsman's Office to make recommendations to Child and Family Services.

During FY2010, the Ombudsman’s Office conducted 98 Ombudsman Reviews. Of the 98 reviews, it was determined that no investigation was needed in 84 (86%) of the cases.

For example, throughout FY2010, there were multiple cases in which the complainant stated that the desired outcome was to regain custody of his/her children. The Ombudsman’s Office also received requests for assistance in having Child and Family Services involvement terminated or for the Ombudsman’s Office to determine whether a parent received adequate reunification services. In these situations, the Ombudsman’s Office would determine that no further action would be taken, as decisions regarding custody and reunification services are under the jurisdiction of the Juvenile Court and any decisions regarding these matters would be made by the Juvenile Court Judge.

Also, complainants often report concerns regarding the Juvenile Court Judge presiding over the case, the child’s Guardian ad Litem, or the Assistant Attorney General, all of which are outside the authority of the Ombudsman’s Office. These are cases in which the Ombudsman’s Office would refer the complainant to other resources but inform him/her that concerns of this nature would not be acted upon by this office.

For fourteen (14) cases in which there was an Ombudsman Review, it was determined that these cases required further review and the cases were accepted for investigation. It should be noted that not every case accepted for investigation is first opened for an Ombudsman’s Review.



INVESTIGATIONS

During FY2010, the Ombudsman’s Office completed 22 investigations. An investigation may contain multiple concerns. The Ombudsman’s Office investigates to determine the validity of each individual concern reported by a complainant. When the Ombudsman’s Office finds evidence to support a complainant’s concern or finds documentation that Child and Family Services did not act in accordance with Utah Law or Child and Family Services Policies and Practice Guidelines, the concern is documented as a valid concern. For example, if a Child and Family Services caseworker does not document that the alleged perpetrator was interviewed during the course of the Child Protective Services investigation as required by Utah Law and Practice Guidelines, OCPO will document this as a valid concern.

Complainants do not typically have knowledge of Utah Law or the Child and Family Services Practice Guidelines; therefore, a violation may be unknown to the complainant. During the Ombudsman Review or the investigation of a case, however, such oversights may be identified and addressed by the Ombudsman's Office.

The 22 investigations completed in FY2010 encompassed 119 individual concerns. Of these 119 concerns that were investigated, 95 (80%) of the concerns were reported to the Ombudsman's Office by a complainant, and 24 (20%) were identified by the Ombudsman's Office (Chart 1).

Some of the concerns expressed by complainants during FY2010 include the following:

- The Child Protective Services caseworker did not adequately investigate an allegation of Physical Abuse.
- The Child Protective Services caseworker did not seek the opinion of a medical professional who had information regarding the allegation being investigated.
- The Child Protective Services caseworker's documentation was unprofessional and contained multiple spelling and grammatical errors.
- The Child Protective Services caseworker did not make timely face-to-face contact with the children.
- The Child Protective Services caseworker requested and obtained a protective order on behalf of a minor child in order to transfer custody of child.
- The Child Protective Services caseworker did not adequately communicate with the police department.
- The permanency caseworker did not communicate with the therapist regarding the parent's progress.
- The permanency caseworker is giving preference for reunification to the mother, despite a court order that both parents be given equal consideration.

Some of the concerns identified by the Ombudsman's Office include the following:

- The Child Protective Services caseworker did not interview the parents or document the admission or denial to each allegation as required by DCFS Practice Guideline 203.1.C.
- The Child Protective Services caseworker did not document that the alleged perpetrators were interviewed as required by DCFS Practice Guideline 203.1.E.
- The Child Protective Services caseworker did not a complete description of the interview with the alleged perpetrator, including any admissions or denials to each allegation as required by DCFS Practice Guideline 204.13.B.
- The Child Protective Services caseworker did not adequately document how the facts obtained during the CPS investigation resulted in the case finding as required by DCFS Practice Guideline 204.10.I.
- The Child Protective Services caseworker did not document the rationale for conclusions made as required by DCFS Practice Guideline 204.13.B.
- The Child Protective Services caseworker did not review reports from law enforcement or include them in the case prior to case closure as required by DCFS Practice Guideline 204.15.C.

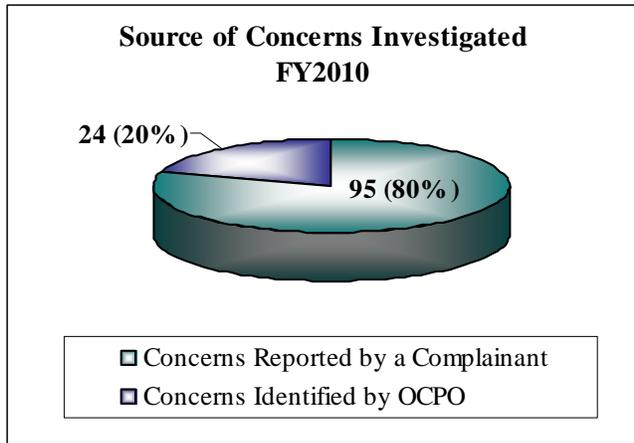


Chart 1

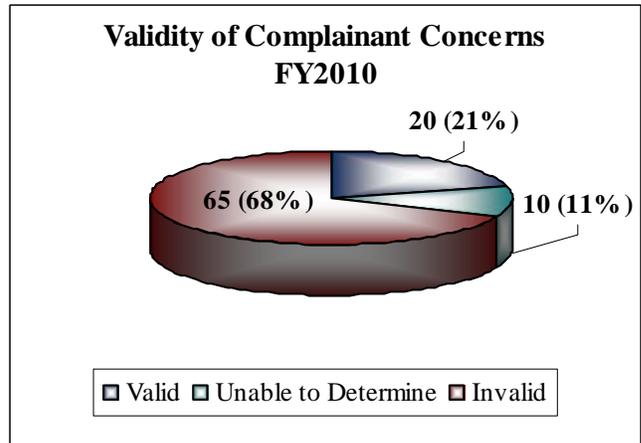


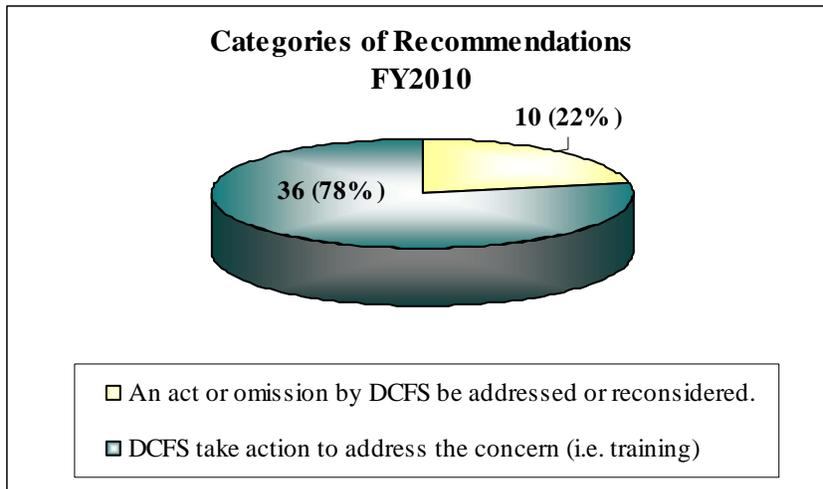
Chart 2

Of the 95 concerns reported to the Ombudsman’s Office by the complainant, the Ombudsman’s Office found 20 (21%) of the complainant concerns to be valid and 65 (68%) to be invalid. The Ombudsman’s Office was unable to determine the validity of 10 (11%) complainant concerns (Chart 2). A finding of “unable to determine” is made when there is no means by which the Ombudsman’s office can verify that a situation or concern occurred. For example, if a complainant expressed concern that a Child and Family Services caseworker was rude, treated the complainant with disrespect, or made concerning statements during a conversation, the Ombudsman’s office would be unable to determine the validity of the complainant’s concern, as the Ombudsman’s office staff was not present during the alleged incident; however, Child and Family Services would be asked to address the issue with the caseworker. Overall, the Ombudsman’s Office found 44 (36%) of the 119 concerns investigated during FY2010 to be valid.

RECOMMENDATIONS

The Ombudsman’s Office found 44 concerns to be valid and made a total of 46 recommendations to Child and Family Services during FY2010. Child and Family Services implemented 100% of the recommendations. The Ombudsman’s Office did not make a recommendation for every valid concern, and made multiple recommendations for some valid concerns; therefore, the number of valid concerns and number of recommendations do not match. These 46 recommendations are comprised of the following:

- 34 individual concerns resulted in 34 individual recommendations.
- To address six valid concerns, the Ombudsman’s Office made multiple recommendations for each concern. These six concerns resulted in 12 individual recommendations.
- The Ombudsman’s Office did not make a recommendation to address one valid concern, as the DCFS caseworker about which the concern was identified is no longer employed by DCFS.
- The Ombudsman’s Office did not make a recommendation to address three valid concerns, as Child and Family Services took appropriate action to address the concerns during the Ombudsman’s Office’s involvement, thus eliminating the need for a recommendation.



The 46 recommendations include 36 recommendations that Child and Family Services take action to address the concerns to prevent similar oversights from happening in future cases. For example, the Ombudsman’s Office recommended that in current and future cases:

- The Child Protective Services caseworker interview the parent(s) regarding each allegation, and document the admissions or denials to each allegation in the SAFE activity recording, as required by DCFS Practice Guideline 203.1.C.
- The Child Protective Services caseworker utilize the interviews conducted during the investigation to gather information specific to the allegation(s) being investigated, and ensure that the documentation of such interviews accurately reflects how the information gathered was used to make an appropriate case finding.
- The Child Protective Services caseworker document a complete description of the interview with the alleged perpetrator, including any admissions or denials to each allegation as required by DCFS Practice Guideline 204.13.B.
- The Child Protective Services caseworker document how the facts obtained during the Child Protective Services investigation resulted in the case finding of each allegation included in the Child Abuse and Neglect Report, as required by DCFS Practice Guideline 204.10.I.
- When the Child Protective Services caseworker is unable to make a continuous or complete audio recording of an interview with a child, she clearly and accurately document the details of the interview with the child.
- The Child Protective Services caseworker interview each alleged perpetrator identified in the case as required by DCFS Practice Guideline 203.1.E.
- The Child Protective Services Intake caseworker ensure that referrals contain the minimum required information in SAFE, in accordance with DCFS Practice Guideline 201.2.A.
- The Permanency caseworker provide the court report to the parent within the same time frame the report is provided to the Assistant Attorney General (10 days prior to court as required by DCFS Practice Guideline 307.B.3) to ensure the parent has adequate time to review the report prior to the review hearing.

The Ombudsman's Office made 10 recommendations that an act or omission by Child and Family Services be addressed or reconsidered. For example, the following recommendations were made:

- Child Protective Services Intake determine whether an investigation should be conducted, listing ZB as the alleged victim of Emotional Maltreatment.
- The correct name of the alleged perpetrator of Domestic Violence Related Child Abuse be documented and a case finding made.
- Regional Administration review the case finding of the Child Protective Services case and amend as appropriate.
- Verify whether the Court ordered both parents to be given equal consideration for reunification. If found that the Court ordered equal consideration for each parent, OCPO recommends that the language in the Child and Family Plan be accurately amended to reflect the order of the Court.

In conclusion, the Ombudsman's Office is contacted by complainants who report their frustrations and concerns on a variety of issues. Some contact this office hoping that knowledgeable staff can provide him/her with information about their particular set of circumstances so they can feel reassured that Child and Family Services staff are handling their case appropriately. In some cases, the Ombudsman's staff can communicate with the complainant that, indeed, the Child and Family Services caseworker is complying with Utah law and Practice Guidelines. Other individuals who contact this office express other beliefs about Child and Family Services interventions. There are usually some valid concerns with invalid concerns. The Ombudsman's Office is in the unique position to educate, help identify and make recommendations for the improvement of practice with child welfare cases. The Ombudsman's Office has a good and supportive working relationship with Child and Family Services when concerns are identified for which recommendations are made.