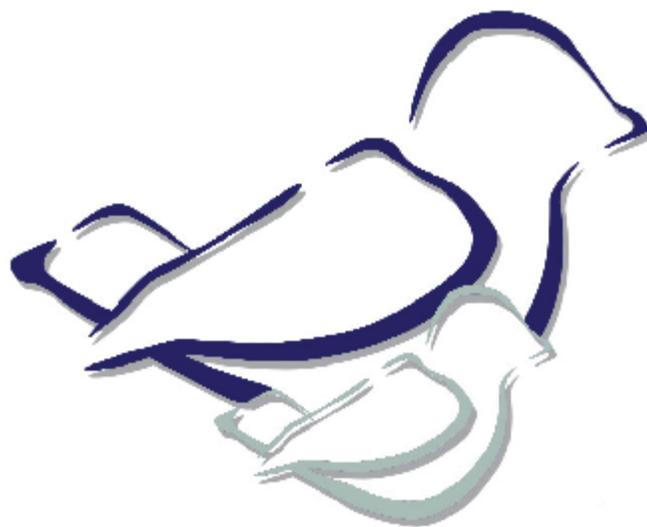


Office of
Child Protection
Ombudsman (OCPO)



Annual Report

FY 2011

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, provide a voice to the consumer/complainant, promote a way whereby concerns or disputes are addressed at the lowest level possible, and 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.

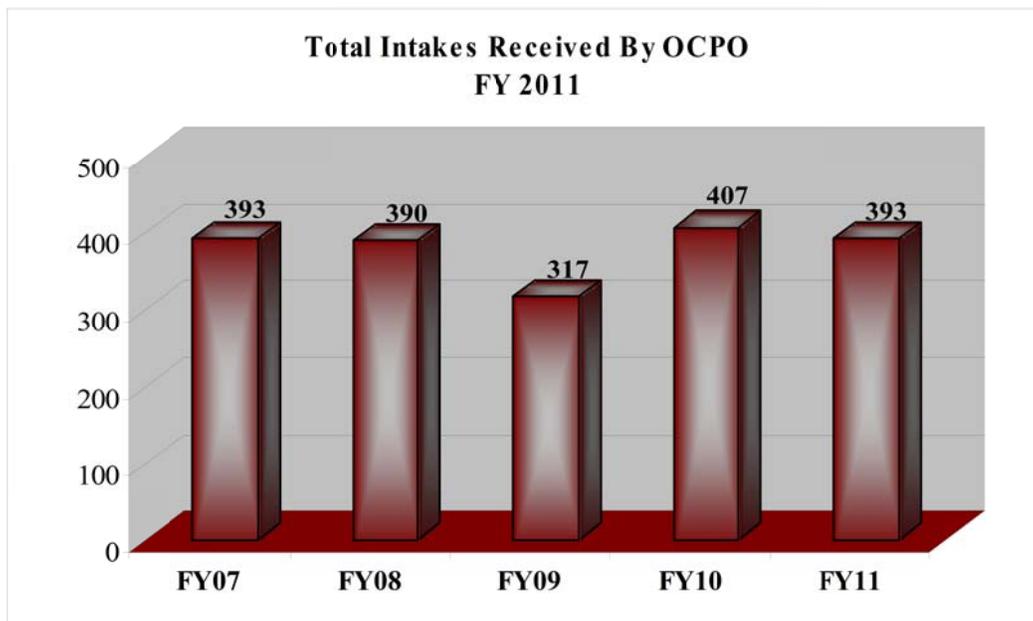
As necessary, the Ombudsman's Office investigates complaints to determine whether DCFS, with regard to a particular child, acted in accordance with Utah law and DCFS Practice Guidelines. The Ombudsman's Office may not be able to provide the complainant's desired outcome in response to each complaint 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 and complainants often thank the Ombudsman’s staff for listening and taking the time to educate them as to the child welfare process.

INTAKE PROCESS

In FY2011, the Ombudsman’s Office processed 393 complaints. The number of complaints received by the Ombudsman’s Office has remained fairly consistent in four of the last five years, with an average of 380 complaints received during each fiscal year.



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 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 share their story. Many complainants express that this is the first time 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 to 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 through which enough information is gathered in to

articulate the complainant's concerns to Child and Family Services in order for the complainant's concerns to be addressed at the lowest level possible.

There are times when the complainant expresses concern about an issue 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. 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's 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 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 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, which includes: speaking with the complainant; preparing the complainant concerns to forward to Child and Family Services; reviewing written responses with the complainant; conducting research into the

complainant's concerns; reviewing the Child and Family Services records; and, making a determination as to what further action is necessary.

During FY2011, the Ombudsman's staff forwarded 120 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 393 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.

During FY2011, the Ombudsman's Office implemented a new protocol with DCFS Administration to process complaints involving personnel issues. The Ombudsman's office does not have jurisdiction to address personnel issues; therefore, when the complainant only reports concerns related to the professionalism of a DCFS employee and does report individual case management concerns, and there is no evidence in the DCFS case record that the alleged act and/or behavior took place, the Ombudsman's Office will formally refer the complaint to DCFS Administration.

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 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 Ombudsman Review will result in one of three decisions: 1) The Ombudsman's Office will not take any further action; 2) The Ombudsman's Office will make a formal referral to Child and Family Services Administration to facilitate communication between Child and Family Administration and the complainant, and/or make informal recommendations to address oversights identified during the review that were not included in the initial complaint; 3) The Ombudsman's Office will accept the case for investigation, as the complainant's concerns warrant further review and investigation. The second option, in which informal recommendations are made to Child and Family Services, was implemented to manage workloads as budget cuts reduced the Ombudsman's Office staff while the number of complaints remained constant. Coordinating with Child and Family Services Administration on this level allows the Ombudsman's Office to provide more timely and effective outcomes for the complainant, while providing more timely and effective feedback to Child and Family Services for improved case management.

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

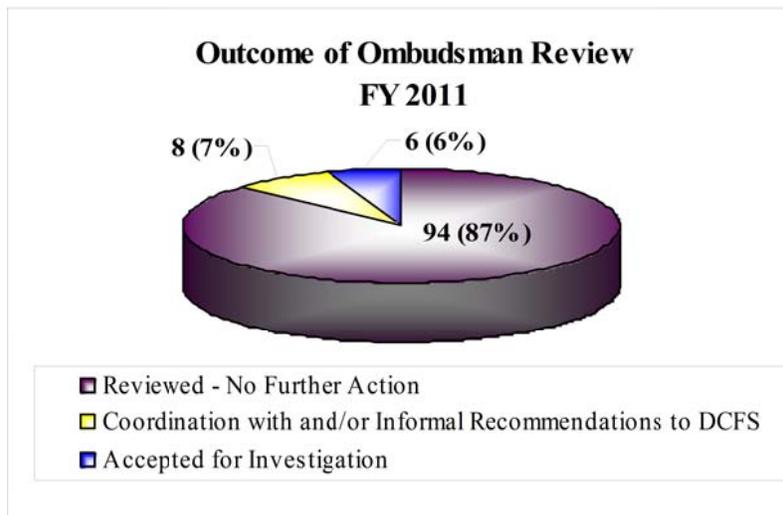
when it appears that the complainant's concerns have merit and it would be appropriate for the Ombudsman's Office to make recommendations to Child and Family Services.

For example, throughout FY2011, 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 the complainant that concerns of this nature would not be acted upon by this office.

During FY2011, the Ombudsman's Office conducted 108 Ombudsman Reviews. Of the 108 reviews, it was determined that no investigation was needed in 94 (87%) of the cases. At the conclusion of eight (8) Ombudsman Reviews, OCPO made informal recommendations/suggestions to DCFS to address concerns that may not have been included in the initial complaint, but were identified during the Ombudsman Review, and/or facilitated communication between the complainant and DCFS Administration.

At the conclusion of six (6) Ombudsman Reviews, OCPO determined that further review was required, 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 FY2011, the Ombudsman's Office completed 28 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 28 investigations completed in FY2011 encompassed 84 individual concerns. Of these 84 concerns that were investigated, 78 (93%) of the concerns were reported to the Ombudsman's Office by a complainant, and 6 (7%) were identified by the Ombudsman's Office (Chart 1).

The following is a sample of concerns expressed by complainants and found to be valid during FY2011:

- The Protective Supervision Counseling caseworker stated being unsure when the children would return to the custody of the mother, although DCFS did not have custody and the Juvenile Court had not taken jurisdiction of the children.
- The Protective Supervision Counseling caseworker made decisions as to whether the children could have contact with the parent, without the Juvenile Court taking jurisdiction or giving Child and Family Services authority to make such decisions.
- An allegation that was previously supported was overturned, which prevented the parent from obtaining a Protective Order on behalf of the minor children.
- The Child Protective Services caseworker introduced the Guardian ad Litem to the caregiver as a "friend," which caused confusion for the caregiver and gave the appearance of a conflict of interest.
- Child and Family Services did not provide the foster parents with the appropriate placement forms when the children were placed in their home.
- DCFS failed to appear in court for a Protective Order hearing when ordered to do so by the Court.
- The Child Protective Services supervisor and caseworker incorrectly interpreted the Child and Family Services Practice Guideline.
- Significantly inadequate documentation in multiple Child Protective Services investigations raised concern that the Child Protective Services investigations were not conducted in accordance with various Child and Family Services Practice Guidelines, possibly leaving children at risk.
- Allegations of Sexual Abuse identified during an ongoing Child Protective Services investigation were not thoroughly investigated.
- The children were not informed that they were allowed to have a person of their choice present during the interview as required by UCA 62A-4a-409(7)(f) and DCFS Practice Guideline 203.1.B.1.

The Ombudsman’s Office identified the following concerns:

- The Child and Family Team determined that parent-child visitation should be supervised; however, there was documentation that the DCFS foster care caseworker left the child unsupervised with the parent during the visit.
- The Child Protective Services intake caseworker inappropriately dispositioned the stated allegations documented in the Child Abuse/Neglect Report as an Unaccepted Referral.
- DCFS Regional Administration did not ensure that information contained in a written response to OCPO was accurate and that the information was documented in the case records.
- Documentation in two separate Protective Services Counseling cases was not accurate, timely, or complete as required by DCFS Practice Guideline 080.4.
- Documentation in the Child Protective Services case was inadequate and was not entered in SAFE prior to case closure as required by DCFS Practice Guideline 204.13 and 204.15.

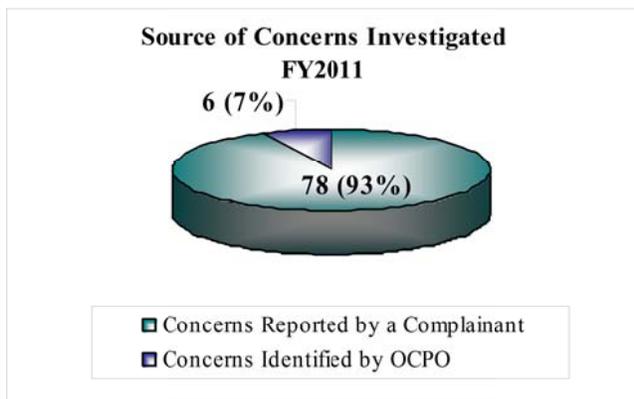


Chart 1

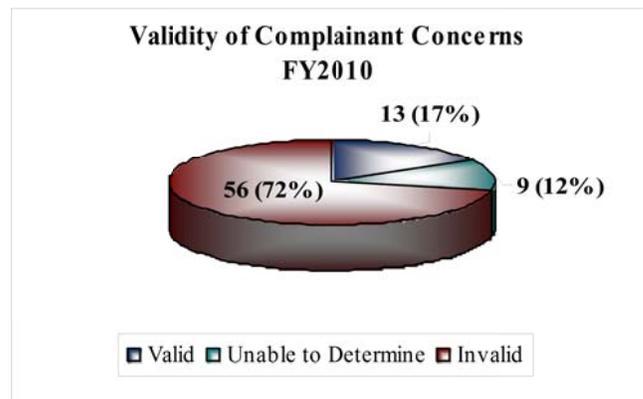


Chart 2

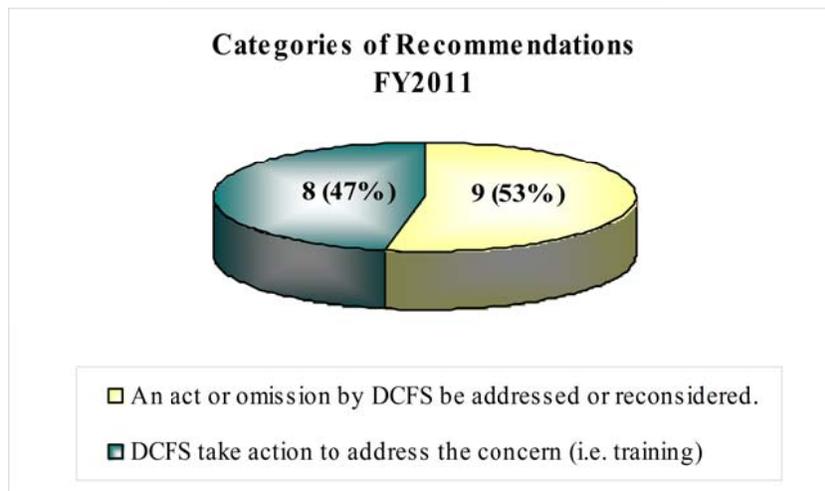
Of the 78 concerns reported to the Ombudsman’s Office by the complainant, the Ombudsman’s Office found 13 (17%) of the complainant concerns to be valid and 56 (72%) to be invalid. The Ombudsman’s Office was unable to determine the validity of 9 (12%) complainant concerns (Chart 2). A finding of “unable 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 19 (23%) of the 84 concerns investigated during FY2011 to be valid. These 19 concerns included 13 complainant concerns and six Ombudsman concerns.

RECOMMENDATIONS

The Ombudsman’s Office found 19 concerns to be valid and made a total of 17 recommendations to Child and Family Services during FY2011. 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 17 recommendations are comprised of the following:

- Five individual concerns resulted in five individual recommendations.
- To address four valid concerns, the Ombudsman’s Office made multiple recommendations for each concern. These four concerns resulted in 12 individual recommendations.
- The Ombudsman’s Office did not make a recommendation to address two valid concerns, 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 eight 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 17 recommendations include eight recommendations that Child and Family Services take action to address the concerns to prevent similar oversights from happening in future cases. The Ombudsman’s Office recommended that in current and future cases:

- When conducting a child interview, the Child Protective Services caseworkers “inform the child that he or she has the right to have a support person present during the interview,” and “make reasonable efforts to arrange for the child’s choice of a support person to be present for the interview” as required by DCFS Practice Guideline 203.1.B.1.
- The Child Protective Services Intake caseworkers involved in making the decision regarding the case disposition receive training on making appropriate decisions as to what constitutes a case when the allegation is determined to be sexual abuse.
- The foster care caseworker ensure uninterrupted supervision for the duration of the parent-child visit any time there is a court order for supervised visitation or the Child and Family Team determines that supervised visitation between a parent and child is necessary.
- The Child Protective Services (CPS) caseworker clearly state the role of the professional being introduced to clients to avoid confusion and the appearance of a conflict of interest.

- The Child Protective Services supervisor and caseworker ensure that all relevant case information is documented in SAFE prior to case closure, in accordance with DCFS Practice Guideline 204.15.
- The Child Protective Services supervisor and caseworker review DCFS Practice Guidelines 204.13, 204.15, 080.4 regarding documentation.
- The Protective Services Counseling caseworker ensure that all relevant case information is documented in SAFE in accordance with DCFS Practice Guideline 080.4.
- DCFS Regional Administration ensure that information provided to OCPO in response to a complainant concern is accurate and supported by documentation in the case record.

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

- The Protective Services Counseling caseworker enter documentation in SAFE to accurately reflect information reported to OCPO in the DCFS response.
- The Child Protective Services caseworker amend SAFE to identify the child as a victim of sexual abuse and make a case finding.
- The Child Protective Services caseworker document appropriate rationale for the decision in making the case finding.
- The supported finding for the Child Protective Services investigation be amended to reflect an unsupported finding as ordered by the Office of Administrative Hearings.
- The Regional Child Protective Services Intake supervisor review the Unaccepted Referral to determine whether the allegations meet the minimum criteria for an accepted case. If determined that the minimum criteria has been met, the allegation of sexual abuse be assigned for investigation and an appropriate finding made as to the allegation at the completion of the investigation.
- Child Protective Services Intake open a case to investigate the allegation of sexual abuse.
- The Child Protective Services caseworker add information to the Child Protective Services case as to what activities took place to investigate the allegation of the sexual abuse.
- If the Child Protective Services caseworker is unable to document the investigative activities, Regional Administration determine whether the allegation was satisfactorily investigated, and if not, Regional Administration take appropriate action to ensure the allegation is investigated.
- The Protective Services Counseling caseworker enter documentation in SAFE that is consistent with the information to which DCFS referred in the response to the complainant concerns.

In conclusion, the Ombudsman's Office is contacted by complainants who report their frustrations and concerns on a variety of issues. Some complainants contact this office with the hope that knowledgeable staff can provide him/her with information and/or clarification regarding their particular set of circumstances. Some complainants are seeking assurance 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 is often a combination of valid and invalid concerns reported. The Ombudsman's Office is in the unique position to educate, help identify and communicate concerns, and make recommendations for the improvement of practice in

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.