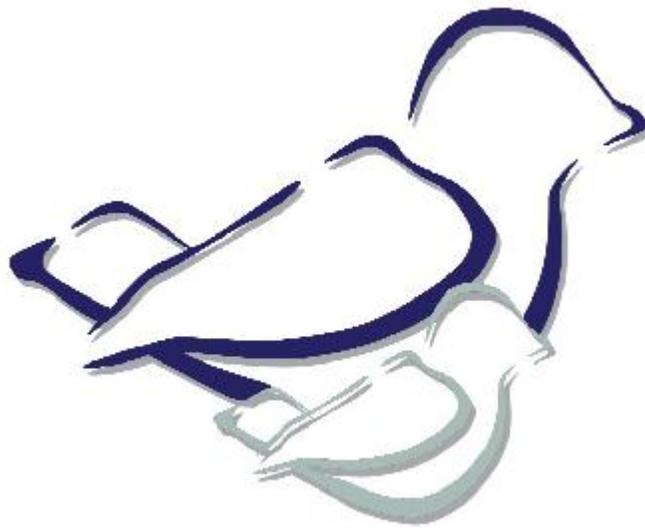


OFFICE OF
CHILD PROTECTION
OMBUDSMAN (OCPO)



ANNUAL REPORT

FY 2012

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.

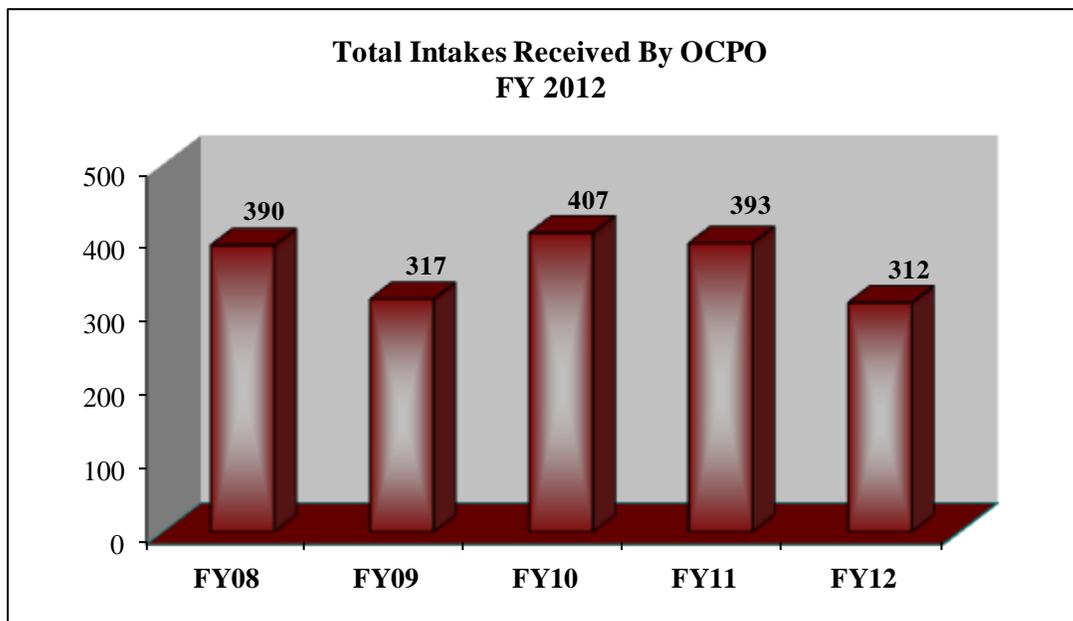
As necessary, the Ombudsman's Office investigates complaints to determine whether DCFS, with regard to a particular child, acted in accordance with Utah Law and DCFS Practice Guidelines. The Ombudsman's Office may not be able to provide the complainant's desired outcome in response to each complaint 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 about the child welfare process.

INTAKE PROCESS

In FY2012, the Ombudsman’s Office processed 312 complaints. The number of complaints received by the Ombudsman’s Office has fluctuated over the last five years, with an average of 364 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 to articulate

the complainant's concerns to Child and Family Services so that the complainant's concerns can 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 FY2012, the Ombudsman's staff forwarded 120 complaints to Child and Family Services to request a response or to allow Child and Family Services the opportunity to address the concern at the lowest level possible. Included in the 312 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 either no action could be taken by this office, or a further review of the Child and Family Services' case was warranted. This process will be described in this report under the Ombudsman Review section.

OMBUDSMAN REVIEW

An Ombudsman Review may occur under one of three circumstances: 1) when a complainant is not satisfied with the response from Child and Family Services; 2) when a complainant is unwilling to work with Child and Family Services; or, 3) when the Ombudsman's Office is particularly concerned about an issue. In these instances, 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 simultaneously providing more timely and effective feedback to Child and Family Services for improved case management.

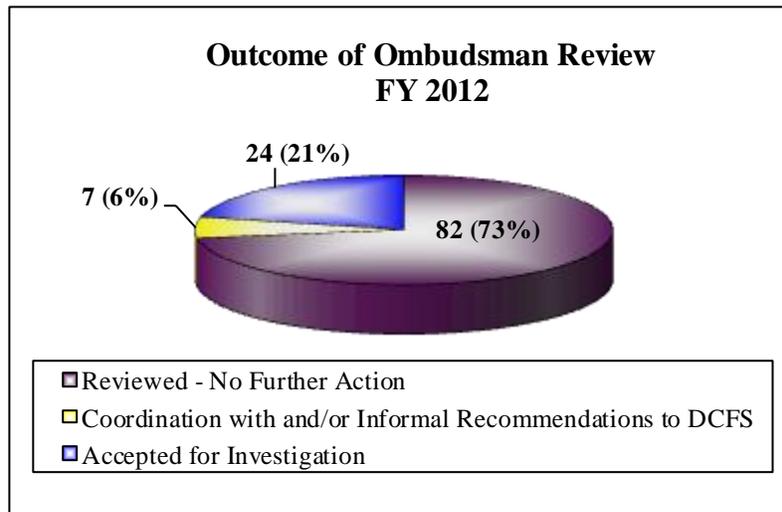
The Ombudsman's Office considers several factors when conducting an Ombudsman Review to assess whether a complaint will be accepted for investigation. In addition to reviewing the Child and Family Services records, the Ombudsman's Office considers whether this office can give the person filing the complaint 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 FY2012, 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 in a family 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 and inform the complainant that concerns of this nature would not be acted upon by this office.



During FY2012, the Ombudsman’s Office conducted 113 Ombudsman Reviews. Of the 113 reviews, it was determined that no investigation was needed in 82 (73%) of the cases. At the conclusion of seven (7) 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 twenty-four (24) Ombudsman Reviews, OCPO determined that further review was required, and the cases were accepted for investigation. It should be noted that four of the cases investigated were not opened for an Ombudsman’s Review prior to being accepted for investigation, as in situations when the request for investigation came directly from the Executive Director’s Office or Child and Family Services Administration.

INVESTIGATIONS

During FY2012, 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 such oversights may be identified and addressed by the Ombudsman's Office.

The 28 investigations completed in FY2012 encompassed 121 individual concerns. Of these 121 concerns that were investigated, 98 (81%) of the concerns were reported to the Ombudsman's Office by a complainant, and 23 (19%) 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 FY2012:

- The foster care caseworker did not comply with the Juvenile Court order that visits be strictly supervised and video recorded.
- The Child and Family Services case was closed when the children were placed with a relative in the State of Colorado, which was a violation of the Interstate Compact on Placement of Children (ICPC).
- The Child Protective Services caseworker did not make adequate efforts to complete the investigation or conduct the required elements of a thorough CPS investigation within the 30-day timeframe as required.
- The Child Protective Services caseworker did not make contact with the alleged victim within the priority response time or document an exception to meeting the priority response time frame as required.
- The Child Protective Services caseworker did not interview the referent as required.
- The Child Protective Services Intake caseworker did not complete the required elements within 24 hours from completion of the initial contact from the referent as required.
- Two foster care caseworkers failed to complete the appropriate kinship paperwork when a relative requested to be considered as a kinship caregiver as required.
- Child and Family Services did not complete a limited home inspection for Preliminary Placement as required.
- The Child Protective Services caseworker did not record the interview with the child in its entirety, and did not document the reason for the recording interruption as required.
- The Child Protective Services caseworker did not complete the required documentation in the Child Protective Services case prior to as required.
- The alleged victim was not informed that they were allowed to have a person of their choice present during the interview as required.
- The Child Protective Services caseworker did not notify the parent of the interview with the child within 24 hours of the interview as required.

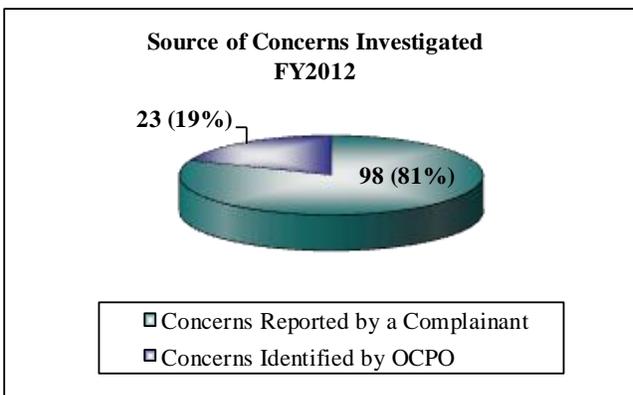


Chart 1

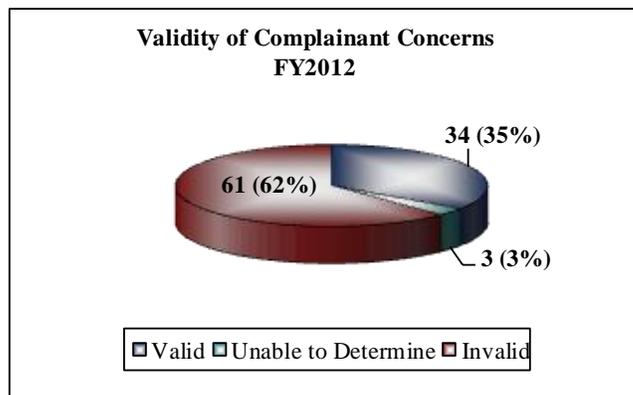


Chart 2

Of the 98 concerns reported to the Ombudsman’s Office by the complainant, the Ombudsman’s Office found 34 (35%) of the complainant concerns to be valid and 61 (62%) to be invalid. The Ombudsman’s Office was unable to determine the validity of 3 (3%) 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 57 (47%) of the 121 concerns investigated during FY2012 to be valid. These 57 concerns included 34 complainant concerns and 23 Ombudsman concerns.

RECOMMENDATIONS

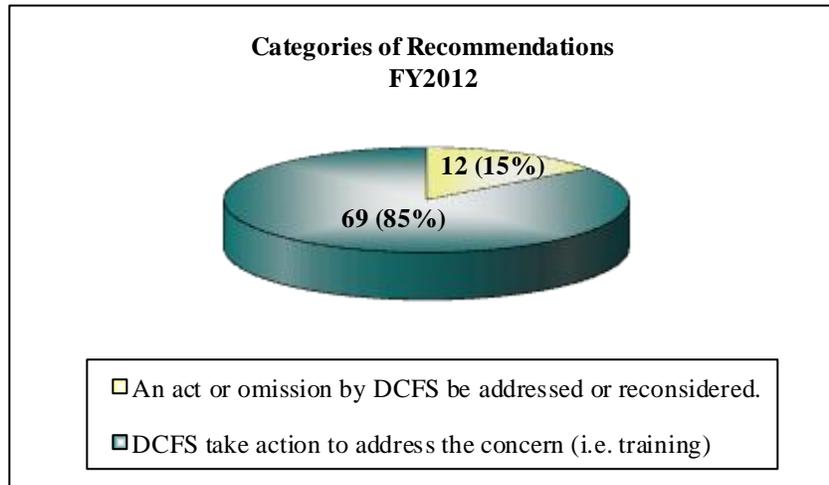
The Ombudsman’s Office found 57 concerns to be valid and made a total of 81 recommendations to Child and Family Services during FY2012. Child and Family Services implemented 100% of the recommendations. The Ombudsman’s Office did not make a recommendation for every valid concern, and made multiple recommendations for some valid concerns; therefore, the number of valid concerns and number of recommendations do not match.

The 81 recommendations include 69 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:

- When a Child and Family Services caseworker determines a child cannot remain safely in the home or when it is determined that contact between a child and parent may pose a risk to the child, the case should be discussed with an Assistant Attorney General for court intervention.
- When there are allegations of visible injuries, the Child Protective Services caseworker should document the existence or non-existence of the injuries and either photograph or document the color, size, and location of the injuries.
- The foster care caseworker should document each parental visitation in a timely manner.
- When there is a disclosure of sexual abuse by an individual residing in the same home, facility, and/or placement, the Child Protective Services caseworker should ensure that a

safety plan is developed for the alleged victim and that all relevant information is documented into the CPS case record in SAFE.

- When an allegation of alleged sexual abuse occurs within 72 hours of the disclosure, the Child Protective Services caseworker should ensure that the alleged victim receives a medical examination as required.
- The Child Protective Services caseworker should notify the parent within 24 hours of an interview with their child as required.
- The Child Protective Services supervisor and caseworker should review and follow the DCFS Practice Guidelines regarding documentation.
- The Protective Services Counseling caseworker should ensure that all relevant case information is documented in SAFE as required.
- The foster care caseworker should invite parents to any meetings that are called Child and Family Team Meetings.
- The Child and Family Services caseworker should create Child and Family Plans that clearly identify each child’s specific medical, dental, mental health, educational, recreational, or other specialized services and resources and identify how each need will be met.



The Ombudsman’s Office made 12 recommendations that an act or omission by Child and Family Services be addressed or reconsidered. The following recommendations were made:

- Any missing documentation regarding meetings, visits, contacts with the Guardian ad Litem, or other individuals connected to the case should be entered into the SAFE activity logs.
- The Child Protective Services Case Closure Statement should be amended to represent the findings for the allegations assigned to the case.
- Regional Administration should review the Child Protective Services case to determine whether it should be reopened to amend the case finding.
- The Child Protective Services case should be reopened and the case finding amended to accurately reflect the evidence found during the investigation.
- Regional Administration should review the Child Protective Services case and Additional Information, add an allegation to the Child Abuse and Neglect Report, and make an appropriate case finding.

- Child Protective Services should open and thoroughly investigate the Child Protective Services case to determine whether the children remain at risk. Appropriate action should be taken to ensure the children's health and safety.
- Child Protective Services should complete a thorough investigation and enter an appropriate case finding that reflects how the evidence obtained during the investigation led to the case finding.
- The Child Protective Services caseworker should amend the Case Closure Statement of investigation to accurately reflect information related to the allegation investigated.
- Regional Administration should assess the Child Protective Services caseworker's ability to staff cases and provide guidance to co-workers regarding case findings.
- Regional Administration should review the Child Protective Services caseworker's prior cases to determine whether adequate investigations were conducted in accordance with DCFS Practice Guidelines.
- Regional Administration should review the Child Protective Services case to determine whether the case finding is appropriate and amend the case finding as appropriate.
- The caseworker and/or supervisor should determine whether a text message contained in the record is documented in the correct case or if it was entered in error. If entered in error, the caseworker and/or supervisor should consult with the SAFE Helpdesk to take appropriate action to remove or block the entry.

A UNIQUE SERVICE FOR UTAH'S CITIZENS

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. A combination of valid and invalid concerns is often 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 positive working relationship with Child and Family Services, which promotes addressing casework concerns as well as implementing the Ombudsman Office's recommendations.