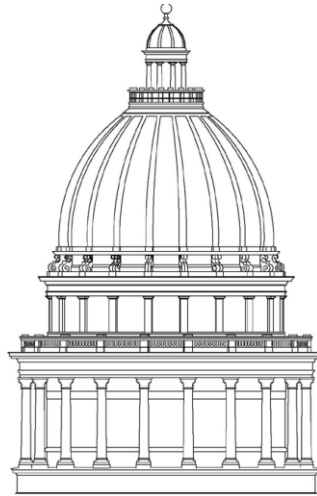


REPORT TO THE  
**UTAH LEGISLATURE**  
Number 2013-01



**A Performance Audit  
Of Utah's Child Welfare System**

February 2013

Office of the  
LEGISLATIVE AUDITOR GENERAL  
State of Utah





STATE OF UTAH

# Office of the Legislative Auditor General

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AUDITOR GENERAL

February 2013

TO: THE UTAH STATE LEGISLATURE

Transmitted herewith is our report, **A Performance Audit of Utah's Child Welfare System** (Report #2013-01). A digest is found on the blue pages located at the front of the report. The objectives and scope of the audit are explained in the Introduction.

We will be happy to meet with appropriate legislative committees, individual legislators, and other state officials to discuss any item contained in the report in order to facilitate the implementation of the recommendations.

Sincerely,

A handwritten signature in black ink that reads "John M. Schaff" with a stylized flourish at the end.

John M. Schaff, CIA  
Auditor General

JMS/lm



# Digest of A Performance Audit of Utah's Child Welfare System

Utah's child welfare system (primarily including DCFS, AG, GAL, and the Courts) has successfully made reductions in the number of children entering the system by better recognizing families capable of self-correcting their problems. For those children entering the system, there remains a challenge to balance protecting children from abuse and neglect while also providing stable and permanent living conditions. We believe that statutory language calling for reunification with parents and rapid adoption into qualified foster homes results in conflict within Utah's child welfare system, as system parties differ in their interpretation and prioritization of the system's parental reunification, child safety, and permanency goals.

**Child Welfare System Has Reduced Intervention.** DCFS is statutorily required to act on public referrals of abuse and neglect, which have grown at the same rate as Utah's child population. DCFS has made changes in response to revisions in statute and as recommended in a prior legislative audit. These changes resulted in decreases in investigations, supported referrals, and DCFS involvement, and also brought the agency closer to national norms related to child abuse investigations. Without these changes, about 1,800 additional children may have entered the child welfare system in 2012 (1,600 children under in-home services and possibly 213 in foster care placements). As a result, more children have remained in their homes with no apparent negative effect.

**Enhanced In-Home Services Can Reduce Costly Removals.** In a previous DCFS audit, we recommended that DCFS choose an evidence-based program that would provide in-home services to prevent some children from being removed from their homes. DCFS has taken steps toward implementing such a program.

**Placement with Kinship Caregivers Is Preferred, But There Are Conflicts.** Utah's use of kinship placements (placing a child with a relative over a non-relative) is increasing, but is not used as frequently as in other states. This is due, in part, to differences of opinion within the child welfare system regarding what constitutes the "best interest of the child."

## Chapter I: Introduction

## Chapter II: System Changes Result in Fewer Children Removed from Their Families

### Chapter III: Majority of Children in Foster Care Are Returned to Parents or Relatives

**Parental Defense Counsel Could Be Strengthened.** *Utah Code* requires the appointment of legal counsel for indigent parents at every stage of the proceedings. Currently there are no statewide practice standards for parental defense counsel in Utah's eight judicial districts, which has led to inconsistencies in appointment and use of parental defense.

**Utah's Slightly Lower Reunification Rates Are Due to Statutory Time Frames.** Utah's child welfare system, driven by statute, prioritizes safety of children and fast reunification time-frames. When reunification is not possible, Utah emphasizes adoption. About 65 percent of the approximately 2,000 children removed annually are either reunified with their parents or placed with relatives (41 percent with parent and 24 percent with relatives). Nationally, Utah has some of the faster time-frames for reunification and adoption.

**Legislature Could Revisit Statutory Time Limits to Address Reunification and Adoption.** Utah is one of two states with a shorter permanency hearing deadline for children 36 months of age and younger. For this age group, Utah requires a hearing within 8 months of the initial removal, while the federally required permanency hearing deadline is within 12 months. Shortened time frames have resulted in some concerns with parental reunification time frames and splitting up siblings whose ages require two separate permanency hearing time frames.

### Chapter IV: Reductions in Long- Term Foster Care Are Needed

**Continued Focus on Long-Term Foster Care Is Necessary.** Foster care is intended to be temporary, yet as of June 30, 2012, 618 of the 2,700 children in foster care had been in care longer than 24 months. Three quarters of these long-term foster children are age 14 years or older and due to their age, are more likely to age out of the foster care system. Spending their formative years in foster care's more restrictive settings, may leave these children underprepared for adulthood and more prone to poor outcomes.

**Strengthened Policies and Practices May Promote Permanency.** Utah's long-term foster children and youth are difficult to place with permanent families. The possibility of improving this outcome may be improved by creating a legal pathway to reinstate parental rights, adjustment of some adoption policies and practices, and addressing guardianship laws.







# REPORT TO THE UTAH LEGISLATURE

Report No. 2013-01

## **A Performance Audit Of Utah's Child Welfare System**

February 2013

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# Chapter I

## Introduction

Utah's child welfare system (primarily including DCFS, AG, GAL, and the Courts) has successfully made reductions in the number of children entering the system by better recognizing families capable of self-correcting their problems. However, we believe that the system continues to be challenged by conflicting interpretations of the system's statutorily set goals. For those children entering the system, there remains a challenge to balance protecting children from abuse and neglect while also providing stable and permanent living conditions. Statutory language calling for reunification with parents and rapid adoption into qualified foster homes results in conflict within Utah's child welfare system, as system parties differ in their interpretation and prioritization of the system's parental reunification, child safety, and permanency goals.

In the past two decades, there has been ongoing state and federal child welfare reform. Finding the balance between the rights of parents and the safety of children has become the primary goal. Utah's Legislature has concurred with the goals that the child welfare system must balance the rights of parents and the needs of abused and neglected children. *Utah Code* 62A-4a-201 states the following:

- (1) (a) Under both the United States Constitution and the constitution of this state, a parent possesses a fundamental liberty interest in the care, custody, and management of the parent's children.
- (2) It is also the public policy of this state that children have the right to protection from abuse and neglect, and that the state retains a compelling interest in investigating, prosecuting, and punishing abuse and neglect...

To achieve these objectives of protecting the child from an adverse family setting, while at the same time trying to preserve the family unit, the child welfare system includes:

- The Division of Child and Family Services (DCFS) in the Department of Human Services
- The Child Protection Division of the Attorney General

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**Balancing the rights of parents and the needs of abused or neglected children is a primary goal.**

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**The child welfare parties include: DCFS, AG, GAL, Courts, Parental Defense attorneys, and private service providers.**

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**In fiscal year 2012, state agencies spent about \$172.3 million on child welfare services and counties spent an additional \$3.6 million on parental defense for indigent parents.**

- The Office of the Guardian ad Litem
- Juvenile Courts
- Parental defense attorneys
- Private service providers

In fiscal year 2012, state agencies spent about \$172.3 million on child welfare services and we estimate counties spent an additional \$3.6 million on parental defense for indigent parents.

## **Child Welfare Activities Are Governed by Evolving Laws**

Concern about the ramifications of child abuse and neglect has led to considerable federal and state legislation. In an effort to increase system oversight and accountability, much of the legislation calls for greater court involvement in child welfare cases. In Utah, greater court involvement has focused on the safety of the involved child. The focus has resulted in a foster care and adoption system that quickly gains security for the child and transitions into long-term stability with adoption. While quickly gaining security and safety for a child are worthy goals, attaining them can come at the expense of parental reunification and kinship placement.

### **Court Improvement Project (1993)**

The federal Court Improvement Project (CIP) established in 1993 allows for state courts to apply for grants to develop and implement plans for improvement in the management of child welfare cases. To date, Utah has received three CIP grants, which have been used to implement, among other things:

- Model child welfare court programs
- CARE (Juvenile Court) and SAFE (DCFS) Case Management System Interface
- Statewide and regional cross-discipline trainings

### **Utah Child Welfare Reform (1994)**

Utah's Legislature made the following changes to the child welfare system in part as a result of the David C. lawsuit:

**Court Improvement Project coordinates efforts with all the parties and improves outcomes for children.**

- Increased state funding for the Child Welfare System
- Charged the Attorney General with the prosecution of child abuse and neglect cases
- Increased the number of Juvenile Court judges
- Funded additional GAL staff to ensure that the best interest of the child is represented in court and administrative proceedings involving issues of abuse and neglect
- Increased DCFS's staff involved in investigations and case management of children in state custody
- Increased funding for placement and treatment options for children taken into custody
- Increased funding for health and mental health needs of children taken into custody
- Increased funding for adoption subsidies for parents who adopt children with highly specialized needs

In addition, there have been bills each year since 1994, amending state child welfare statutes.

### **The Federal Adoption and Safe Families Act (ASFA) (1997)**

ASFA amended the 1980 Adoption Assistance and Child Welfare Act by refocusing efforts to promote safety and permanence for children in the foster care system. Of primary importance was addressing cases where children still lingered in the foster care system. Major provisions of ASFA include:

- Defines criteria establishing when efforts to preserve and reunify a family are not required
- Outlines the court's discretion to make decisions on a child's permanency based on safety considerations
- Limits the amount of time a child can be in the foster care system prior to being placed in a permanent home
- Requires permanency hearings be held for children no later than 12 months after they enter foster care (6 months earlier than the prior law)
- Requires, in most cases, that termination of parental rights (TPR) be initiated for any child who has been in state custody for 15 out of the most recent 22 months

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**Utah Child welfare reform began in 1994 and resulted in many changes to the child welfare system.**

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**Federal laws drive child welfare practices.**

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- Provides financial incentives to states to increase the number of adoptions

### **The Federal Fostering Connections to Success And Increasing Adoptions Act (2008)**

This federal legislation amended parts B and E of Title IV of the Social Security Act to connect and support relative caregivers, improve outcomes for children in foster care, provide for tribal foster care and adoption access, and improve incentives for adoption. Major provisions of the Act include:

- Created a new plan option for states and tribes to provide kinship guardianship assistance payments on behalf of children who have been in foster care of whom a relative is taking legal guardianship
- Extended eligibility for Medicaid to children receiving kinship guardianship assistance payments
- Required fingerprint-based criminal records checks of relative guardians, and child abuse and neglect registry checks of relative guardians and adults living in the guardian's home, before a relative guardian may receive title IV-E kinship guardianship assistance payments on behalf of a child
- Amended the Chafee Foster Care Independence Program to allow services to youth who leave foster care for kinship guardianship or adoption after age 16
- Amended the Education and Training Voucher Program to permit vouchers for youth who enter into kinship guardianship or are adopted from foster care after age 16
- Authorized grants to state, local, or tribal child welfare agencies and private nonprofit organizations for the purpose of helping children who are in or at-risk of foster care reconnect with family members

### **Complicated Child Welfare Process Is Not Well Understood**

Child welfare cases are complicated because they involve several state agencies who deal with evolving federal and state laws and court decisions. These decisions are often difficult and emotional because, by statute, they need to balance parents' rights and the safety of children



as quickly as possible. Cases are emotional because they involve children, parents, grandparents, extended family members, and potential adoptive parents wishing to adopt children. Child welfare is a specialized area of the law where those unfamiliar with the legal process may perceive injustice.

The Division of Child and Family Services (DCFS) responds to reports concerning potential abuse, neglect, or dependency of children in the community. In most cases, they provide services that keep children and families together without court involvement. In the most severe cases, when children cannot be maintained safely in the home, DCFS works with its attorney, the State Attorney General, and takes the case to court. When cases go to court, the four state agencies described below are involved.

### **Division of Child and Family Services (DCFS)**

DCFS is the child, youth, and family services authority of the state (*Utah Code* 62A-4a-103) that investigates child welfare calls, provides voluntary services to families, is responsible for children in state custody, and works to provide permanency for children in state custody. DCFS provides the following services (in order by cost of program from largest to smallest):

- **Out-of-Home (Foster Care)** – provides housing, maintenance and health care services for children who are removed from their homes and taken into DCFS custody.
- **Adoption Services** – provides monthly or onetime subsidies paid to families who adopt or take custody and guardianship of a foster child.
- **Child Protective Services (CPS)** – receives and investigates allegations of child abuse, neglect, or dependency.
- **In-Home Services** – provided to children at risk of abuse, neglect, or dependency and to families who are at risk of being separated by a foster care placement.

DCFS also has two additional programs, domestic violence services and child abuse prevention services, but these programs were not

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**In most cases, DCFS provides services that keep children and families together without court involvement.**

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reviewed in this audit. In carrying out its responsibility to children, in fiscal year 2012 DCFS had a staff of 992.9 fulltime equivalent employees (FTEs) and spent \$153.2 million (66 percent state and 34 percent federal funds.)

### **Child Protection Division of the State's Attorney General Office (AG)**

The Attorney General (AG) is DCFS's attorney and prosecutes child abuse and neglect cases in Juvenile Court. The Child Welfare Reform Act of 1994 required the AG to assume this responsibility from the counties. Their fiscal year 2012 budget was \$6.7 million (primarily state funds) with 67 FTEs.

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**The Attorney General is DCFS's attorney and prosecutes child abuse and neglect.**

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### **Office of the Guardian ad Litem (GAL)**

The Office of the Guardian ad Litem is a state office within the judicial branch of government. GAL provides attorneys to represent, during court proceedings, the best interests of children who are victims of abuse, neglect, and dependency. The office was established as a state agency by the Child Welfare Reform Act of 1994. The GAL has offices in each of Utah's eight judicial districts and is overseen by the Guardian ad Litem Oversight Committee. The GAL's fiscal year 2012 budget was \$6.3 million (primarily state funds) with 72 FTEs.

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**The GAL represents the best interest of the child in court.**

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### **Utah Juvenile Courts**

Utah's Juvenile Courts have jurisdiction over any child who is abused, neglected or dependent. The court decides whether children have been victimized by maltreatment as defined by state law and then ensuring that a safe, permanent, and stable home was secured for each abused or neglected child coming before the court. No child can enter or leave foster care except by approval of the court.

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**Juvenile Court serves as the gate-keeper and monitor of the child welfare system.**

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Court hearings are initially held to determine if a child should be removed from home and placed in foster care, and then held regularly on open cases to determine if the parent is making progress sufficient to keep a child in the home or return a child to the home.

According to a July 2010 report by the National Conference of State Legislatures (NCSL) on safely reducing the number of children in foster care, Juvenile Courts serve as the gate-keepers and monitors

of the child welfare systems, largely controlling which children and families are served by the system and the nature of the services they receive. Courts must balance a number of factors in making decisions for children: they must protect children from further harm; they must make timely decisions about their futures; and they must respect parents' due process rights. The 2012 budget was approximately \$6.1 million (primarily state funds) and 57 FTEs (an estimate of the workload from the approximately 177 Court FTEs whose work includes child protection.)

### **Parental Defense (PD) Is County Run and Funded**

Indigent parents have the statutory right to be informed of their right to be represented by defense counsel at every stage of the child welfare proceeding (*Utah Code* 78-A-6-1111). Parental defense attorneys help parents navigate the child welfare system by advocating for their goals, protecting their rights, and helping them make informed decisions. Utah's parental defense system is county-run and county-funded. We estimate their budget to be approximately \$3.6 million.

### **Other Entities Provide Additional Oversight**

Additional entities within the Utah Department of Human Services provide support and oversight for the child welfare system.

- **Office of Child Protection Ombudsman (OCPO)** responds to and investigates constituent complaints on specific DCFS cases.
- **Office of Administrative Hearing (OAH)** conducts appeals of supported CPS cases.
- **Office of Services Review (OSR)** performs two annual reviews. The Qualitative Case Review measures DCFS performance by reviewing about 150 case records and interviewing key parties. The Case Process Review evaluates DCFS compliance with DCFS guidelines, state statute, and federal law.

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**Parental defense attorneys help parents navigate the child welfare system.**

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## **Federal/State Child and Family Services Reviews (CFSRs) Provide Feedback**

This congressionally authorized review of state child welfare systems was conducted in Utah in 2004 and again in 2010. There are three child welfare outcomes assessed by the reviews: safety, permanency, and well-being. Results are combined in a national report that provides opportunities for state comparisons and continuous improvement.

### **Audit Scope and Objectives**

This audit responds to legislator questions based on concerns raised by advocates and affected parties regarding Utah's child welfare system. Rather than focusing on individual constituent complaints, this audit reviewed the broader systemic issues relevant to the complaints. This audit summarizes and addresses legislative questions in Chapters II and III and addresses a resulting question in Chapter IV.

#### Chapter II:

- Are there adequate controls in place to prevent the unnecessary involvement and removal of children by DCFS and the child welfare system?
- Are available in-home services adequate in preventing removals?
- When removal is necessary, are children being preferentially placed with kin?

#### Chapter III:

- Are children being reunited with their families as quickly as possible?

#### Chapter IV:

- When children are not quickly reunited with their families, what is being done to expedite their permanency?

## **Chapter II**

# **System Changes Result in Fewer Children Removed from Their Families**

This chapter addresses the following questions:

- Are there adequate controls in place to prevent unnecessary involvement and removal of children by DCFS and the child welfare system?
- Are available in-home services adequate in preventing removals?
- When removal is necessary, are children being preferentially placed with kin?

Utah's child welfare system is reducing its involvement with families and has made some improvements in kinship placements if children are placed in foster care. Recent changes to administrative rules and DCFS procedures have redefined the balance point between allowable in-home problems (letting parents work out issues) and the disruptive problems of child removal. As a result, more children are left in their homes with no apparent increase in negative effect. While rule changes have decreased the percentage of children entering the system, additional efficiency and effectiveness may be possible through increased in-home services, kinship interventions, and improved parental representation in court proceedings.

When DCFS assesses it is necessary to be involved, the protective intervention can be via in-home services or a foster care placement. Some in-home services are court ordered and all foster care placements are court ordered. In fiscal year 2012, Utah's child welfare system took in about 0.49 percent of the child population (2,360 new in-home and 2,004 new foster care placements).

### **Child Welfare System Has Reduced Intervention**

Changes in DCFS's administrative rules and procedures have brought Utah's definitions of abuse and neglect in line with those of most other states. The effect of this change is fewer children entering

the system. As a result, DCFS is less involved with families and makes fewer Juvenile Court child removal requests than in the past. Utah has fewer foster care removals than the national states average. We believe inappropriate removals are less likely to occur given the statutory and procedural controls in place.

For those children entering the system, additional controls are provided by the Attorney General's Office, the Guardian ad Litem, Parental Defense, and Juvenile Court judges. Each of the involved parties plays a role in balancing the rights of the family with protection of the child within statutory guidelines. Each of these organizations also has a different interpretation as to how the system should balance child safety with keeping families united.

### **Rule and Practice Changes Have Reduced DCFS Involvement from Referrals**

Administrative rules have been changed and DCFS has centralized its intake function that provides uniform processing of referrals. As a result of these changes, Utah is investigating fewer referrals, supporting fewer investigations, and providing services to only those families assessed to be in the greatest need for state intervention.

Each year, DCFS receives over 37,000 referrals of potential abuse and neglect from the community, schools, or law enforcement. Utah, like most states, has a mandatory reporting requirement in *Utah Code* 62A-4a-403 that requires professionals and the public who have reason to believe that a child has been subjected to abuse or neglect to report their suspicions to DCFS or law enforcement. The referrals affect about 4 percent of the approximately 900,000 children between the ages of 0 and 18.

DCFS is statutorily required to act on these referrals and determine which rise to the level calling for increased involvement. DCFS receives criticism for both over-interfering with family issues and not doing enough to protect children. Figure 2.1 shows that DCFS has reduced its involvement to those children assessed to be in the greatest need for increased state intervention, even as the number of referrals has increased at the same rate as Utah's child population.

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**DCFS has reduced its involvement to the group of children assessed to be in the greatest need for increased state intervention.**

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**DCFS is statutorily required to act on public referrals of abuse and neglect but receives criticism for both over-interfering with families and not doing enough.**

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**Figure 2.1 Changes to the Abuse Definitions and Division Practices Have Reduced the Number of Investigations, Supported Referrals, and Services Provided.** Data in this figure is reported by number and percentage of children, not families.

Number and Percentage of Children That Were the Subject of Referrals, Investigations, and Services									
Fiscal Year	Total Child Population	Referrals		Investigations		Supported		New In-home and Foster Care Services Provided	
2006	788,841	34,960	4.4%	26,981	3.4%	12,206	1.5%	3,194	0.40%
2007	814,603	35,626	4.4	27,164	3.3	12,375	1.5	3,127	0.38%
2008	836,299	35,857	4.3	26,965	3.2	12,501	1.5	2,835	0.34%
2009	856,621	36,422	4.3	27,766	3.2	12,651	1.5	3,057	0.36%
2010	871,474	35,886	4.1	27,443	3.1	12,780	1.5	3,142	0.36%
2011	880,309	36,380	4.1	26,567	3.0	11,543	1.3	2,819	0.32%
2012	895,603	37,663	4.2	24,591	2.7	9,359	1.0	2,664	0.30%

Source: DCFS data.

Figure 2.1 shows a decrease in the percentage of investigations, supported findings of abuse and neglect, and services provided as a percentage of the child population, with a large decrease between 2011 and 2012. In fiscal year 2012, DCFS received 37,663 abuse or neglect referrals from the community, schools, or law enforcement; DCFS investigated 24,591 and identified evidence that abuse or neglect had occurred and affected 9,359 children (1 percent of the population). DCFS provided new in-home and foster care services to 2,664 children (0.30 percent of the population.)

The large decrease in investigations and supported referrals from 2011 to 2012 reflects DCFS’s changes in practice and abuse definitions since our office released a report in January 2011 titled *Division of Child and Family Services*. In that audit, we reported that DCFS appeared to be applying a broader definition of what constituted abuse and neglect than other states. As a result, Utah was investigating more cases and had a higher number of supported findings than the national average. Since that audit, administrative rules have been changed and DCFS has centralized its intake function to provide uniform processing of referrals. As a result of these changes, Utah’s rate of supported findings, at 1 percent of the population, is now closer to the national average.

Figure 2.1 shows that 2,664 of the 9,359 children identified as supported for abuse and neglect were provided services. The

**DCFS administrative rules have been changed and DCFS has centralized its intake function to provide uniform processing of referrals, resulting in less involvement.**

remaining 6,695 were identified as supported for abuse or neglect at a minor level. There was no further DCFS involvement in these cases; rather, DCFS referred them to community resources. Even though these children did not receive DCFS services, DCFS records show they did not appear to have any greater likelihood of future system involvement.

### **Many Children and Youth Are Court-Ordered Into Care**

Children may be court-ordered directly into foster care or in-home services from delinquency hearings or as a result of assessments of children and families recommending those services to the courts. Additionally, the courts may order in-home services for families whose children are being reunified with them after a foster care episode.

In fiscal year 2012, courts ordered DCFS to provide in-home services to 852 children or youth and placed an additional 848 in foster care. According to DCFS records, the foster care placements were for the following reasons:

- The youth's delinquent behavior or the parent's refusal or inability to care for them (about 550 youth)
- In-home services were offered to the family for a period of time but did not correct the family problems (about 200 children or youth)
- Parents voluntarily gave custody to DCFS (about 100 children)

In some cases, youth are involved with the Juvenile Court for delinquency and judges may order them into DCFS custody for placement in foster care rather than to the Juvenile Justice System (JJS). One reason that delinquent youth are placed in foster care instead of JJS is concern for the youth's welfare. A judge told us she was reluctant to place youth with minor offenses in facilities with other youth that have committed more serious offenses. Another judge told us that he places delinquent youth in DCFS custody to access services. These youth are often placed in expensive residential facilities.

Delinquent youth are a concern to the child welfare system. According to the assistant attorney general over child welfare, from the perspective of the juvenile justice system, delinquent youth placed

**Delinquent youth placed in DCFS custody are a concern to the child welfare system because they risk aging out and are often in expensive facilities.**



in DCFS custody comprise an extremely small percentage of the delinquency cases brought before the Juvenile Courts (0.01 percent). However, from the perspective of the child welfare system, this is a significant percentage of the children in foster care. Our review showed that many of these youth remain in foster care long-term and are at risk of aging out of the system without a permanent family.

**DCFS Has Less Involvement and Fewer Removals than Other States**

For fiscal year 2012, including DCFS supported referrals and court-ordered placements, 2,360 children received new in-home services and 2,004 children were placed in foster care, for a total of 4,364 new children served.

Figure 2.2 shows that both the number and percentage of children in state supervision and/or custody has been decreasing even as the number of referrals, as shown in Figure 2.1, is increasing.

**Figure 2.2 DCFS-Provided New In-Home and Foster Care Services Have Decreased.** DCFS has provided fewer in-home services and the number of children placed in foster care has remained constant.

Fiscal Year	New In-Home Services		New Foster Care Placements		Services Provided by DCFS	
	Number	% of Population	Number	% of Population	Number	% of Population
2006	3,492	0.44%	1,962	0.25%	5,454	0.69%
2007	3,246	0.40%	2,033	0.25%	5,279	0.65%
2008	2,876	0.34%	1,790	0.21%	4,666	0.56% *
2009	2,858	0.33%	2,019	0.24%	4,877	0.57%
2010	2,738	0.31%	2,021	0.23%	4,759	0.55% *
2011	2,534	0.29%	1,954	0.22%	4,488	0.51%
2012	2,360	0.26%	2,004	0.22%	4,364	0.49% *

Source: DCFS data.  
 \*May not total due to rounding.

Figure 2.2 shows an overall decrease in new DCFS services provided from 2006 to 2012. The decrease occurred primarily in the number of children receiving in-home services. It is also important to note that reductions in state-supported in-home services have not diverted more children into foster care, allowing children to stay in their own homes. Foster care removals have also reduced as a

**Reductions in state-supported in-home services have not diverted more children into foster care.**

**Foster care removals are not taken lightly by the child welfare system.**

percentage of population and continue to be used as DCFS's treatment of last resort.

DCFS's policies and procedures and members of the child welfare system believe that removal is not taken lightly, citing that trauma is involved when removing children from home and placing them in foster care. However, in some cases, removal is the only way to keep a child safe and prevent further maltreatment.

Utah's foster care entry rate as a percentage of the total population is less than the national average. According to the 2010 Adoption and Foster Care Analysis and Reporting System (AFCARS), Utah had a foster care entry rate of 2.5 per thousand; the national entry rate was 3.4 per thousand.

Figure 2.3 shows that DCFS involvement has been reduced compared to projected estimates based on Utah's expanding child population.

**Figure 2.3 There Are Fewer Children Receiving DCFS Services.** DCFS is involved with fewer families and places fewer children in foster care than would be expected based on Utah's increased child population.

Year	DCFS Provided Services		
	New In-home	New Foster Care	Total
<b>2006 Actual</b>	3,492	1,962	5,454
Expected 2012*	3,946	2,217	6,163
<b>2012 Actual</b>	2,360	2,004	4,364
<b>Difference (2006 - 2012)</b>	<b>(1,586)</b>	<b>(213)</b>	<b>(1,799)</b>

\*Auditor calculation using 13% population growth from 2006 to 2012.

**If changes had not been made, about 1,800 additional children may have entered the system.**

DCFS is allowing families to work out their problems without further state action or cost and referring some to community services. Had these changes not occurred and fiscal year 2006 definitions and practices still applied, about 1,800 additional children may have entered the child welfare system in 2012. (DCFS would be supervising about 1,600 children under in-home services and possibly 213 additional children in foster care placements.)

## **Multiple Child Welfare Controls Prevent Unnecessary Removals**

To ensure that the rights of parents and children are protected, the Legislature has statutorily created controls that limit state involvement. DCFS may petition the court for removal if the lives of children are assessed to be in imminent danger or if they face an imminent threat of severe injury. Removal may only occur if less drastic alternatives are not available and reasonable efforts have been made to prevent such removal. In addition, Child Protective Services (CPS) policy mandates that caseworkers shall review the reasons for removal and other available options with a supervisor and an Assistant Attorney General if a removal is being considered.

Taking temporary custody of a child requires the approval of a Juvenile Court judge, who must be convinced that placing the child in foster care is in the best interest of the child and that reasonable efforts have been made to keep the child in the home. With the exception of exigent circumstances, warrants are required for removal. A Guardian ad Litem attorney is appointed to represent each child who is the subject of a child welfare petition. A Juvenile Court shelter hearing to review the appropriateness of the removal must occur within 72 hours after removal of the child from his or her home, excluding weekends and holidays.

## **Removal Petitions and Warrants Detail Serious Family Problems**

During the course of this audit, advocates complained that children were being inappropriately removed from their homes because of a dirty home. A data review of 6,713 cases in calendar years 2010 and 2011 did not identify any cases where the children were removed by DCFS solely because of a dirty home. DCFS data show there are multiple contributing reasons (called conditions of removal) for each removal. The most prevalent conditions related to removals were: neglect, caretaker drug abuse, caretaker incarceration, sibling at risk, domestic violence, and child behavior problems.

While there are multiple contributing reasons for removals, DCFS case data records a primary reason a child came into custody. In fiscal year 2012, the primary reasons for removal were: neglect (52 percent); dependency (12 percent); delinquent behavior (12 percent);

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**There are many statutorily created controls that limit state involvement with families.**

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**The most prevalent conditions related to many removals were: neglect, caretaker drug abuse, caretaker incarceration, sibling at risk, domestic violence and child behavior problems.**

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parent condition, absence, or abandonment (11 percent); physical abuse (10 percent); and other issues (3 percent).

A review of files, warrants, and petitions show serious family problems that led to DCFS's involvement. Chapter III will show that 41 percent of children were reunified with their parents once parents resolved the issues that brought the child into care. An additional 24 percent were placed with relatives.

## **Enhanced In-Home Services Can Reduce Costly Removals**

In our previous audit, we were asked to identify some cost-saving recommendations for DCFS. During that review, we found that the number of children in foster care and the amount of time they remained in care had both increased. Also, the cost of the foster care program continued to increase. Research indicated better outcomes resulted for children served in their own homes. Therefore, the previous audit recommended that DCFS choose an evidence-based service option that would provide in-home services and, when possible, prevent additional children from being placed into foster care. DCFS agreed and has since made some progress toward in-home services. We recommend they continue on this course to reduce removals and increase faster returns home after removal.

### **DCFS Has Made Some Progress With Statewide In-Home Program**

According to DCFS, most of the work on a statewide in-home service program has been preparatory and has not yet impacted the in-home service numbers. DCFS plans to use the in-home services program both to reduce new entries into foster care and facilitate a faster return home after foster care placement.

DCFS recently implemented an evidence-based assessment tool called Structured Decision Making (SDM) that will be used to identify appropriate cases for in-home services, determine the intensity level for these services, and help determine how long services are needed. SDM's proposed benefits include fewer removals from the home, a reduction in the amount of time a child spends in foster care, and a

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**Most of the work on a statewide in-home services program has been preparatory and has not yet impacted the in-home services numbers.**

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framework for placing limited resources where they are most needed. Because this model has been newly implemented in the regions, it is unclear if these outcomes will be achieved. Other states have used SDM with good success.

In addition to SDM, the division has proposed the following changes to the in-home program:

- Enhanced caseworker visitation standards
- Enhanced caseworker training and tools
- Evidence-based and evidence-informed services replacing less effective services
- More personnel dedicated to in-home services
- An enhanced reliance on community partners to help families in need

### **Title IV-E Waiver Will Help DCFS Provide Additional In-Home Services**

DCFS applied for a federal waiver that will allow for a shift in use of Title IV-E funds, normally designated only for foster care, to test innovative in-home services through a five-year child welfare demonstration project. Approval was granted by the federal government in September 2012, with implementation by no later than October 2013. Title IV-E funds may be shifted to support these innovative in-home services to the extent that the costs for foster care are reduced. The division estimates that the project may result in a reduction of \$1.4 million in federal funds for foster care over the five-year period that will then be reinvested in additional in-home services.

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**DCFS was authorized to use a portion of Title IV-E funds to test innovative in-home services.**

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### **Placement with Kinship Caregivers Is Preferred, But There Are Conflicts**

Utah statute provides for an initial preferential consideration for kinship caregivers (favoring placing a foster child with a relative). Federal statutes also give preferential treatment to kin for the initial foster care placement because children know their relatives and could be traumatized by placement with strangers. Also, it allows them to continue relationships with parents and maintain their roots. Utah's use of kinship placements is increasing, but is not as high as other

states and is hindered by initial placement in foster/adoptive homes. Initial placement with non-relatives can be problematic if parents cannot remedy, within statutory timelines, the circumstances requiring the child's removal. The state can then terminate parental rights and the child can be adopted by the foster parents. In some cases, Guardians ad Litem (GAL) and judges, citing safety and permanency, are reluctant to move children who have bonded with their foster parents, even if kin become available later.

### **Statute Requires Preferential Consideration for Kin**

The federal Adoption and Safe Families Act (ASFA) requires states to “. . . consider giving preference to an adult relative over a non-related caregiver. . .” when making placement decisions, provided the relative caregiver meets all relevant State child protection standards. Utah statute also has a preferential consideration for a relative or friend's request for placement of the child, after a shelter hearing, favoring placing a child with a relative, if in the best interest of the child. *Utah Code* 78A-6-511 defines relative as an adult who is a grandparent, great-grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, stepparent, first-cousin, sibling, stepsibling of a child. Kinship preference expires 120 days from the date of the shelter hearing, if there is no success in identifying a suitable relative.

There have been a few cases where relatives have appealed after a child has been adopted by foster parents after the 120-day period has passed, claiming there was a preferential consideration for kin. In each case, the court upheld the adoption. The court's reasoning was that Utah's Adoption Code does not give preferential placement to relatives – the preferential placement with kin is valid only for the initial 120 days after the child's removal to foster care.

### **Kin Placements Are Challenging**

Statutory changes have called for a kinship preference that reflects the best interest of the child. DCFS addressed kinship placement in 2008 by creating the position of kinship program administrator and hiring kinship specialists in each region. This effort resulted in increased kinship placements from 25 to 35 percent of all initial placements (fiscal years 2008 to 2012) but Utah is still below the

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**Initial kinship placements have increased from 25 to 35 percent from fiscal year 2008 to 2012.**

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national median for kin placement. DCFS explains that Utah's lower kin placement rates may be a result of the national comparison's exclusion of placements with relatives in the in-home program.

Kin placement can be challenging in light of state foster care licensing requirements and Utah's foster care and adoption program. In some cases DCFS, GALs, and judges may disagree with what is in the best interest of a child, safety and stability or staying with family. It takes DCFS time to identify willing relatives to care for children and help them through the licensing process. To insure the safety of children, kinship homes must be licensed under the same standards as other foster homes. In some instances, the relatives cannot pass the required background check, are unable to meet licensing standards, or present safety concerns. The director of the Office of the GAL stated that not all children have appropriate kinship families to care for them. Two judges told us that, in some cases, it is better for children not to be placed with family members.

If relatives are not identified early, children are placed with foster/adoptive parents who are already licensed and trained to accept a child. Once children have been placed with foster/adoptive parents, both GALs and judges cite the children's attachment to the foster/adoptive parents as an important factor as to why children should remain in that home, even if relatives come forward later, and base this determination on case evidence that supports the best interests of the child. DCFS management and social workers, however, often believe that children should be adopted by appropriate kin before being adopted by strangers.

DCFS's practice guidelines state that "First priority is to maintain a child safely at home. However, if a child cannot safely remain at home, kinship care has the potential for providing these elements of permanency by virtue of the kin's knowledge of and relationship to the family and child."

In contrast, the GAL's procedural manual states that adoption is the preferred choice for permanency, if a child cannot be reunified with his or her parents. It does not differentiate between adoption by kin or non-kin. Once placed, GALs are often reluctant to recommend that a child be removed from a foster/adoptive home to

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**Differences of opinions exist as to what is in the best interest of a child – placed with kin or with foster parents.**

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**GALs and judges are reluctant to move children to kin if they've attached to the foster parents.**

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the home of a relative because they believe that attachment is too important to be broken.

DCFS management and social workers told us that, in some cases, they disagree with the attachment argument used by GALs and judges. Social workers acknowledge that attachment is one of many issues to be considered. However, they believe that if children have attached to foster parents, there are ways to transition a child to the home of a relative that promotes attachment to that relative. DCFS's management states that, in many cases, children do better with kin and extended family than with foster families.

### **Placement Priorities Should Be Reviewed**

Over 85 percent of all initial foster care placements have a parental reunification goal. However, should reunification fail, a child is more likely to be adopted by foster/adoptive parents rather than relatives. Two-thirds of adoptions are by non-relatives, one-third by relatives.

For example, in one case, four children were removed from their parents in a rural community and placed in a foster home in another city while DCFS worked on reunification with the parents. No appropriate in-state kin were available. When the parents did not make progress, reunification services ceased, the parents' rights were terminated, and adoption proceedings started. Based in part on therapists' recommendations, the GAL recommended that the children be adopted by the foster parents they had lived and bonded with for eight months. However, DCFS recommended the children be placed with interested out-of-state kin. The judge said that it was a close call and acknowledged that, though there were willing out-of-state kin, the children had bonded with the foster parents and would stay with them. The judge said there have been other, similar cases.

GAL and DCFS's policies and procedures also differ in regards to permanency preference when reunification with parents is not possible. The GAL practice manual states:

In cases where reunifying a child with parents is not possible, the urgent question is what will be the permanency goal. Many times the option of "permanent custody and guardianship" is considered, especially in kinship placements. While this is a valid permanency goal



under ASFA, it should never be routinely accepted as the best choice, and should always be carefully scrutinized in terms of what is truly in the best interest of a child or youth.

Furthermore, the GAL practice manual states that “while ASFA may allow guardianship as a permanency goal, the public policy of Utah clearly favors adoption.”

DCFS’s practice guidelines place priority on kinship placement. DCFS management has stated that, in some cases, kin (usually grandparents) should be given permanent custody and guardianship instead of being required to adopt their grandchildren.

## **Parental Defense Counsel Could Be Strengthened**

When in-home cases and all foster care cases are brought before Juvenile Court; the Attorney General represents DCFS and Guardian ad Litem attorneys represent the best interest of the child. Indigent parents are represented by a parental defense attorney. *Utah Code* 78A-6-1111 requires the appointment of legal counsel for indigent parents “. . . at every stage of the proceedings.” We reviewed cases in each of the eight judicial districts and found that parental defense counsel are not always present at the initial shelter hearings and, in one court district, are not often present for the second or pre-trial hearings. This absence occurs because the initial shelter hearing and pre-trial hearing are combined. As a result, parental defense is delayed.

In 2004, the Legislature established the Office of Child Welfare and Parental Defense. Intended to implement parental defense (PD) attorney standards and provide resources to contracted attorneys, actual oversight and funding was assigned to Utah’s counties. Currently there are no statewide practice standards for attorneys representing parents in child welfare proceedings, other than they must be members in good standing of the Utah Bar. The Director of Legal Education at the ABA Center on Children and the Law stated that Utah’s county-run PD arrangement is fairly typical among states but results in concerns that include:

- Lack of consistency and variation in quality of representation
- Absence of training or certification standards
- Lack of adequate pay
- Lack of caseload standards

To address these concerns, the American Bar Association House of Delegates approved its Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases. Most states have adopted parental defense standards that may include modified ABA attorney standards and some form of parental representation in dependency proceedings. Limited evaluations of parental representation programs show that quality parental defense representation may help states be more efficient in their dual federal mandates of keeping children safely in their homes when possible and minimizing time in foster care. Utah has not adopted parental defense standards and may benefit from doing so.

## **Recommendations**

1. We recommend that DCFS continue working toward an in-home services model, provide training to staff, and provide in-home services to families whose children are at risk of being removed from their homes.
2. We recommend that DCFS continue working to place children with relatives for their initial placement.
3. We recommend that the Legislature review Utah Code provisions on placement prioritization to better define child welfare system placement priorities.
4. We recommend that the Legislature consider statutorily adopting ABA's practice standards to enhance parity and minimum standards for parental representation in all counties.

## **Chapter III**

# **Majority of Children in Foster Care Are Returned to Parents or Relatives**

This chapter addresses the question:

- Are children being reunited with their families as quickly as possible?

Utah is slightly faster than the national average for timeliness of reunification, with a median stay in foster care of 7.5 months for children eventually reunited with family. Utah's child welfare statutes are designed to minimize the time children spend in DCFS custody while trying to find each child a safe, permanent family. State statute gives parent(s) short time frames to correct unsafe conditions in order to regain custody of their children. We found that 65 percent of the approximately 2,000 children removed annually from their homes are eventually reunited with their parent(s) or relatives.

Much of the speed in reunification is driven by statute, which limits reunification services to a maximum of 18 months. Hearing timelines emphasize permanency for children, resulting in comparatively short time frames for reunification or adoption. Given this speed, it is important to ensure that the system consistently interprets all permanency variables (sibling separation as an example) to gain the best possible outcomes. Some statutory intent clarification may be necessary.

### **Utah's Slightly Lower Reunification Rates Are Due to Statutory Time Frames**

Utah's child welfare system prioritizes safety of children and reunification within fast statutory time frames. When reunification is not possible, Utah emphasizes adoption. About 65 percent of children are either reunified with their parents or placed with relatives (41 percent with parents and 24 percent with relatives). Nationally, Utah has some of the faster time frames for reunification and adoption. Compared with other states, Utah's overall permanency rate, which

includes reunification, living with relatives, adoption, and guardianship, is near the national median.

**Sixty-Five Percent of Children Exiting Foster Care Are Returned to Parents or Placed with Relatives**

Safe and timely reunification is the preferred permanency option for children and youth removed from parental care. Parents and other permanent caregivers have a right, protected by federal and state law, to raise their children when they can safely do so. Because statute protects this right, child welfare agencies are required to offer families time-limited reunification services. Successful reunification (return of care and custody of the child or youth to parents or guardians) is the most likely reason a child will exit the foster care system. When parents do not make meaningful changes to resolve the issues that brought the child into care, custody and guardianship can be given to others or the parents' rights can be terminated and the child adopted.

Figure 3.1 shows 4,516 children exiting foster care in calendar years 2010 and 2011. Of these exits, 65 percent (2,915 children) were reunified with their families or placed with relatives. Another 19 percent were adopted by non-relatives or had custody and guardianship with a non-relative, and 16 percent exited foster care for other reasons, such as aging out at age 18.

**Figure 3.1 Numbers of Children Exiting Foster Care by Exit Reason (Calendar Years 2010 and 2011).** Nearly two-thirds of closures were due to family reunification or placement with relatives.

Exit Reason	Parent or Relative		Non-Relative and Other		Total Exits	
	#	%	#	%	#	%
Reunification	1,852	41%			1,852	41%
Custody and Guardianship	667	15%	64	1%	731	16%
Adoption Final	396	9%	833	18%	1,229	27%
Other*			704	16%	704	16%
<b>Grand Total</b>	<b>2,915</b>	<b>65%</b>	<b>1,601</b>	<b>35%</b>	<b>4,516</b>	<b>100%</b>

Source: Auditor analysis of DCFS data for children in state custody during calendar years 2010 and 2011.

\* Other includes: Aged out of care, custody transfer to Juvenile Justice Services (JJS), runaway, referred to an outside organization, death, unknown.

**Reunification with Parent(s) Is the Preferred Exit Reason.** Most exits are a result of reunification efforts as directed by statute.

Successful reunification is the most likely reason a child will exit foster care.

Forty-one percent of children removed are reunified with their parents.

Figure 3.1 shows that 41 percent of children are returned to their parents or primary caretakers.

When children are reunited with parents or primary caretakers, the process appears to conclude quickly. A federal report, based on AFCARS (Adoption and Foster Care Analysis and Reporting System) data, comparing child welfare outcomes across states for 2007-2010, placed Utah in the 75th percentile for timeliness of reunifications occurring within 12 months of removal. According to AFCARS data, Utah children and youth spent a median of 7.5 months in foster care prior to being reunified, close to the national median of 7.6 months.

**Custody and Guardianship Is Most Likely to Occur with Relatives.** Figure 3.1 shows that 16 percent of all foster care exits were to custody and guardianship, of which 91 percent went to relatives. Guardianship does not require parental rights to be terminated, as is the case with adoption. According to DCFS data, Utah children spent a median of five months in foster care prior to exiting to custody and guardianship.

Parents can regain custody of their children who are placed in foster care if they are able to remedy the circumstances requiring removal within specific statutorily-defined time frames. About 41 percent of children were reunited with their parent(s). When parents are unable to meet this requirement, the child welfare system works to provide another permanency plan for the child. An additional 24 percent were placed in the custody and guardianship or adopted by relatives, resulting in 65 percent of children being reunited with parents or relatives.

### **Fast Tracking Adoptions Gives Utah The Fastest Adoption Time Frames**

In some cases, *Utah Code* (78A-6-312) does not require reunification services to be provided to parents. Based on reviewed cases, 14 percent (154 of 1,076) did not have an initial placement goal of reunification. In cases where the child welfare system is not required to provide reunification services, the adoption process can begin sooner.

Figure 3.1 shows that 27 percent of all exits from foster care result in adoption. Utah ranked eighth highest among all states in calendar

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**Utah children spent 7.5 months in foster care prior to being reunified, comparable to the national median of 7.6 months.**

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**In some cases, *Utah Code* does not require reunification services to be provided to parents.**

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**In Utah, 33% of adoptions occur within a year of removal, compared to the national median of 4%.**

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**One reason for Utah's faster adoptions is the use of foster/adoptive homes.**

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**Expecting foster parents to attach to a child and support reunification with the child's parents may be opposing goals.**

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year 2010 for the rate of adoption. Approximately one-third of adoptions (396 of 1,229) were by relatives, two-thirds by non-relatives. Nationally, Utah has the fastest adoption time frames: 33 percent of adoptions occur within a year of removal, compared to the national median of 4 percent. A large majority of adoptions, 83 percent, occur within 12 months of a child legally becoming available for adoption in Utah, which is much higher than the national average of 60 percent.

Utah's adoptions are faster because children who are removed are often placed with families licensed as both foster parents and adoptive parents. Thus, if the parents or primary caretakers do not meet the child and family plan's requirements for reunification, the child can be adopted by the foster parents. A child's time in the foster/adoptive home counts toward the six-month statutory adoption waiting period, so adoptions can be finalized quickly. Utah's rules of appellate procedure have also expedited child welfare appeals, further shortening adoption time frames.

In fiscal year 2011, children under six months old taken into custody made up 10 percent of all children taken into custody. But these children were two and a half times more likely to be adopted than older children, which appears in line with statute requiring adoptions of younger children if they cannot be reunited with parents.

While foster/adoptive homes allow children to be adopted faster, one DCFS manager said that it may present a conflict if the foster/adoptive parents are expected to support parents or primary caretakers with their reunification services. In other words, foster parents who may be emotionally attached to a child are also expected to help the child reunify with parents or primary caretakers. These appear to be opposing goals.

When adoption becomes the primary goal for a child, parental rights must be terminated. In 2011, parental rights were terminated involving 540 children; 69 percent of parents voluntarily relinquished their rights and therefore did not go to a termination trial. In 2010, parental rights were terminated involving 607 children; 73 percent of parents voluntarily relinquished their rights.

## Utah's Reunification, Adoption, and Overall Permanency Rates Are Near Those of Comparable States

In 2010, 84 percent of Utah children exited foster care for permanent placement, close to the national median of 86 percent. Permanency is defined as being reunified with parents or primary caretakers, living with other relatives, living with a legal guardian, or being legally adopted.

**Figure 3.2 State Comparisons of Foster Care Entry Rates and Exit Reasons from Foster Care (Calendar Year 2010).** Utah's reunification rate is slightly lower than comparable states with similar foster care entry rates.

	Foster Care Entry Rate per Thousand in the Child Population	Permanency Exits from Foster Care				Total **
		Reunified	Living with Relatives	Guardian-ship	Adoption	
Utah	2.5	41%	8%	8%	27%	84%
Avg. of States With Similar Foster Care Entry Rates*	2.4	45%	13%	6%	23%	86%

Source: Auditor analysis of The Annie E. Casey Foundation and AFCARS data

\*States with similar foster care entry rates include: AL, DE, GA, LA, ME, MD, NJ, NY, NC, and TX.

\*\*Does not equal 100% exits from foster care because not all exits qualify as permanency, for example, aging out.

Figure 3.2 shows that Utah's reunification rate of 41 percent is slightly less than a selective sample of states with similar foster care entry rates. It is important to compare exit rates to those states with similar foster care entry rates. The difference between Utah and these peer states may be due to Utah's emphasis on early adoption that results in slightly lower reunification rates (41 percent compared to 45 percent) and slightly higher adoption rates (27 percent compared to 23 percent). This emphasis is statutorily driven by shorter time frames for reunification services for parents with children 36 months and younger. Two-thirds of Utah's adoptions are to non-relatives.

**Utah's emphasis on early adoption may result in slightly lower reunification rates and slightly higher adoption rates.**

## Legislature Could Revisit Statutory Time Limits to Address Reunification and Adoption

Utah is one of two states with a shorter permanency hearing deadline for younger children than the federally required 12-month permanency hearing. Utah's faster permanency hearing statute for young children creates some concerns. First, differing interpretations of the 8-month period allowed for reunification services can result in one parent being given only 8 to 11 months of reunification services, with another parent before a different court being given up to 18 months. Longer treatment periods have been shown to have greater success, specifically for parents in drug treatment. Second, the different hearing time frames for children from birth to 36 months and those 36 months and older may result in the splitting up of siblings. Separation of siblings has been shown to be as traumatic to children as separation from parents.

**Statutory time limits for reunification services have been a continuing concern.**

Statutory time limits for reunification services have been a continuing concern in Utah and were last modified in 2001. Since there is still inconsistency and concern, the Legislature may wish to revisit the issue and consider clarifying these issues to better reflect their intent.

### Inconsistent Application of Statute Occurs

Individual courts have different interpretations of the permanency hearing statutes. *Utah Code* 78A-6-312(17) states:

With regard to a minor who is 36 months of age or younger at the time the minor is initially removed from the home, the court shall: (a) hold a permanency hearing eight months after the date of the initial removal, pursuant to **Utah Code** 78A-6-314; and (b) order the discontinuance of those services after eight months from the initial removal of the minor from the home if the parent or parents have not made substantial efforts to comply with the child and family plan.

The Attorney General's Office says that under this section it is clear that, for children 36 months of age and younger, reunification services must be terminated if the parent fails to make substantial efforts to



comply with the child and family plan within 8-months of removal. It is less clear what should occur if, at the 8-month permanency hearing, the court finds that the parent has made substantial efforts.

Some courts apply some or all of the limitations of Section 314 to these 8-month permanency hearings. These courts believe they can only extend services for 90 days after the 8-month permanency hearing, thus allowing parents up to 11 months to regain custody. Other courts, however, find that if the parents have made substantial efforts to comply with the child and family plan within the 8 months, services may continue to 12 months, at which time a full permanency hearing must be held and up to two 90-day extensions may be granted, which gives parents up to a total of 18 months.

A change to a 12-month hearing could benefit a parent by offering more time, but in so doing, the compliance requirement changes. The 8-month permanency hearing requires that parents make substantial efforts to comply with the child and family plan, while the 12-month hearing requires substantial compliance with the child and family plan.

### **Sibling Groups May Be Split Up By Two Different Statutory Time Lines**

Current statute requires an 8-month permanency hearing for children 36 months of age or younger and a 12-month permanency hearing for children over 36 months of age. Having an earlier permanency hearing for younger children is unusual. Arizona is the only other state that does not follow the federal 12-month guideline for all children. In Utah, these differences affect siblings who could be split up by a court because of this four-month difference. The age break results in two separate permanency hearing time lines.

It is possible that by the 8-month permanency hearing, the parents might not be making substantial efforts with the child and family plan and could lose the younger child to adoption. By the 12-month permanency hearing, the parents could then be in compliance and the older children returned to them, effectively splitting up the sibling group with no recourse. We identified one case where the judge placed a younger child on the 12-month permanency timeline instead of the required 8-month permanency timeline because of the younger child's bond with older siblings. Others involved with the child welfare system agree this issue can be a problem.

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**The 8-month permanency hearing requires the parent to make substantial efforts, while the 12-month permanency hearing requires the parent to achieve substantial compliance with the child and family plan.**

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**Nearly all other states follow the federal 12-month permanency hearing guideline for all children.**

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**Sibling groups could be split up by two separate permanency hearings.**

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**Except for the Very Youngest (0-5 months old) Children, the 8-Month Permanency Hearing Does Not Improve Reunification Times and Only Incrementally Improves Adoption Times.** Since 3-year-olds are scheduled for the 12-month permanency hearing and those under 36 months of age are scheduled for the 8-month permanency hearing, there should be differences in the median months to adoption and reunification for these two groups. The median was chosen as the best measure of central tendency, because averages in these cases would be impacted by long, drawn-out adoptions. A data summary of 1,620 children who exited foster care in calendar years 2010 and 2011 is shown in Figure 3.3.

**Figure 3.3 A Comparison of Children Removed from the Home at 36 Months of Age or Younger to Children Removed at Age 3.** The earlier permanency hearing for children 36 months and younger appears to have a substantial impact on adoptions for the youngest age group (0-5 months).

Statutory Permanency Hearing	-----8 month-----				12 month
	0-5 months	6-11 months	12-23 months	24-36 months	3 years
Age at Removal					
Median Months to Reunification	8.0	10.0	10.0	10.5	10.5
Median Months to Adoption	11.0	12.8	13.6	14.6	15.0
Number of Children	448	185	375	329	283

Source: Auditor analysis of DCFS data for children in state custody during calendar years 2010 and 2011.

There is a four-month statutory difference in permanency hearings between those children under 36 months old and those 3 years and older. However, the data only shows a four-month decrease in adoption times and a two-month decrease in reunification times for children 0 to 5 months old. All other age groups have similar times to reunification as three-year-old children, who are not under the shorter permanency time frame. Median adoption times gradually decrease, but do not show a full four-month decrease except for the very youngest. Having a four-months-earlier permanency time frame for younger children appears to have limited impact, except to speed up adoptions for the very youngest.

If a young child is in a foster/adoptive home, moving the permanency hearing from 8 months to 12 months may provide longer reunification times and an increased potential for reunification. However, if reunification does not occur, the young child in the same

**A four month earlier permanency hearing appears to have limited impact, except to speed up adoptions for infants.**

foster/adoptive home should experience little difference if their adoption occurs at 11 months or at 15 months. The 0-5 month old age group has the lowest reunification rate, so increasing the amount of time for reunification services for the parents would increase the potential for reunification.

**A Shorter Permanency Time Frame for Younger Children Means Less Time for Parents to Correct Problems that Led to Removal.** Three-fourths of parents who have a child less than three years old removed have a substance abuse problem; an extra four months in treatment means a greater chance for a successful recovery. Using drug treatment data for Utah women with children, an extra four months in treatment could mean up to 9 percent more women successfully completing drug treatment. For these parents, more time in drug treatment may mean a greater chance of being reunited with their children.

A number of child welfare professionals, particularly the GAL and AG, have stated that they do not want to change the 8-month permanency hearing for children 36 months and younger. However, DCFS management would like to give parents more time to achieve reunification. We recommend the Legislature consider moving all children to a federal 12-month permanency hearing time or consider adding an exception to the 8-month permanency statute for sibling groups.

### **Reunification Time Limits Are an Ongoing Concern**

Statutory time limits for reunification services have been a continuing issue in Utah. In an effort to ensure that children did not linger in foster care, the Child Welfare Reform Act of 1994 allowed reunification services for up to one year, which was consistent with federal guidelines.

In 1996, statute was amended to provide reunification services based on the age of the child – six months of reunification services for parents of children two years of age or younger and one year for all others.

In 2001, because of concerns that statutory time limits for achieving permanency were not consistently applied, statutory changes

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**Increasing the amount of time for reunification services for parents of 0-5 month old infants would increase the potential for reunification.**

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**Not all child welfare parties want to remove the 8-month permanency hearing.**

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attempted to clarify time requirements for reunification services. The changes moved the permanency hearing to eight months after the initial removal of a child. The amendment also changed the wording of the age of the child from a general “two years” (which could be interpreted from 24 to 36 months) to a specific “36 months of age or younger.”

Since there is still inconsistency and concern, the Legislature may wish to revisit the issue and consider clarifying these issues to better reflect legislative intent.

## **Recommendations**

1. We recommend that the Legislature consider clarifying the permanency statutes to avoid different interpretations of statute.
2. We recommend that the Legislature consider removing the 8-month permanency hearing requirement for children 36 months of age or younger or consider making an exception to the 8-month permanency hearing requirement for sibling groups.

## Chapter IV

# Reductions in Long-Term Foster Care Are Needed

This chapter addresses the question:

- When children are not quickly reunited with their families, what is being done to expedite permanency?

Concerns exist about the number of children in high-cost, long-term care. As of June 30, 2012, about one-fourth of the children in foster care had been in care longer than 24 months. Since no strong evidence exists that any one approach significantly improves the likelihood of permanency for such children, DCFS has incorporated in policy and practice their preferred approaches. In light of ongoing concerns, this chapter presents some approaches that show promise for improving permanency for long-term foster care children and youth.

### Continued Focus on Long-Term Foster Care Is Necessary

Long-term foster care is a significant challenge for DCFS. As of June 30, 2012, 618 of the 2,700 children in foster care had been in care longer than 24 months. Of this group, three quarters were 14 years of age or older. Many of these youth age out of the foster care system. Unprepared for adulthood, outcomes for these youth are not good. Poor outcomes are due, in part, to children spending their formative years in costly and restrictive settings, such as group homes and institutions, instead of a family-like setting.

#### Long-Term Foster Care Is Concerning

Between 2002 and 2012, the number of children who exited foster care after being in care for 24 months or more rose 18 percent. Long-term foster care is concerning because foster care is intended to be a temporary placement of less than 24 months. Foster care durations can be considerable for children in long-term foster care. The median time spent in long-term foster care is about four years and the range is

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**In 2012, 618 children were in long-term foster care for more than 24 months.**

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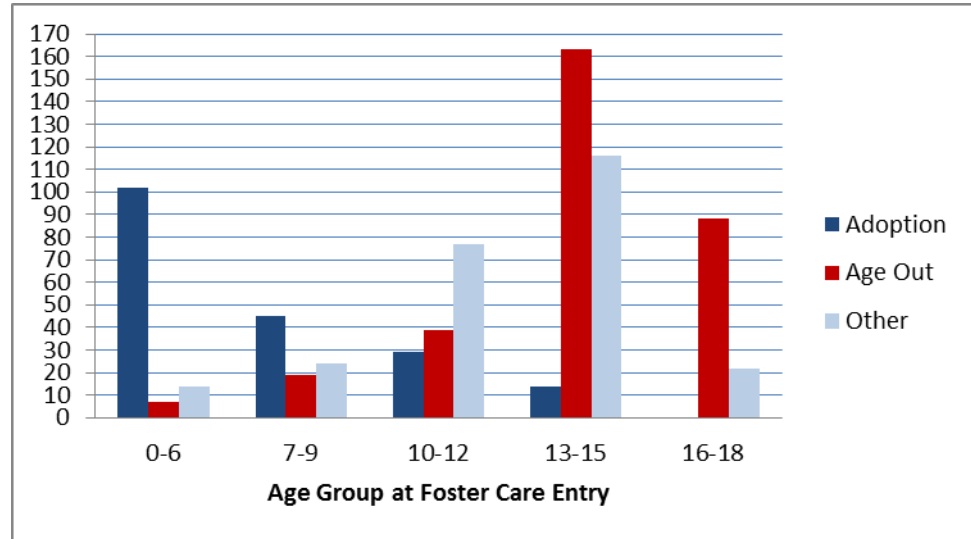
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**Long-term foster care is concerning because foster care is intended to be a temporary placement.**

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between 2 and 16 years. As time in care lengthens and youth age, they become increasingly likely to age out of the system, as shown in Figure 4.1.

**Figure 4.1 Children in Foster Care for More than 24 Months by Age at Entry and Exit Reason (Calendar Years 2010 and 2011).** Age at entry into foster care is the strongest predictor that a youth will age out of foster care.



Source: Auditor analysis of DCFS data for children in state custody during calendar years 2010 and 2011.

Other includes: Reunification, guardianship, custody to JJS, child ran away, referred to other agency, non-petitional release, voluntary custody terminated, and one death.

Youth who do not achieve permanency by their 18<sup>th</sup> birthdays are vulnerable to undesirable outcomes. These youth, compared to their non-foster care peers, are less likely to finish high school and become employed. They are also more likely to have mental health problems, be involved in crime, go to jail, become homeless, live in poverty, and rely on public assistance.<sup>1</sup> In contrast, permanency achievement is linked with better socio-emotional development, educational attainment, financial stability, and better health and mental health outcomes.<sup>2</sup>

**Youth who do not achieve permanency by their 18<sup>th</sup> birthdays are vulnerable to undesirable outcomes.**

<sup>1</sup> Mark Courtney, "Youth Aging Out of Foster Care," *MacArthur Foundation Research Network on Transition to Adulthood and Public Policy* 19 (April 2005): 1-2.

<sup>2</sup> Richard Barth and Laura Chintapalli, *Permanence and Impermanence for Youth in Out-of-Home Care*, ed. Benjamin Kerman, Madelyn Freudlich, and Anthony N. Maluccio *Achieving Permanence for Older Children & Youth in Foster Care* (New York: Columbia University Press, 2009), 88.

Figure 4.1 also shows that youth in long-term foster care are significantly less likely to be adopted. In 2010 and 2011, only two percent of children adopted were age 13 and older. When adolescents are adopted, they are at an enhanced risk of adoption disruptions.

### Youth are Court Ordered into Foster Care And Reside in High-Cost Placements

More than half (54 percent) of youth in long-term foster care were initially court-ordered into care for the following primary reasons: neglect (31 percent); dependency (26 percent); delinquent behavior (18 percent); physical abuse (10 percent); parent condition, absence, or abandonment (6 percent); and other issues (9 percent). Figure 4.2 shows the placement setting for the 618 youth in foster care for 24 months or more on 6/30/12.

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**Fifty-four percent of youth in long-term foster care were initially court-ordered into foster care.**

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**Figure 4.2 Placement Level for All Youth in Foster Care for 24 Months or More (6/30/12).** Many of the children in foster care for extended periods reside in group homes or institutions.

Placement Level on 6/30/12		Number	% of Total Placements
I	Basic Home	89	14%
II	Specialized Home	44	7%
III	Structured Home	61	10%
<b>Subtotal DCFS Foster Home</b>		<b>194</b>	<b>31%</b>
IV	Proctor Home	160	26%
<b>Subtotal Proctor Home</b>		<b>160</b>	<b>26%</b>
V	Group Home or Institution - Moderate	31	5%
VI	Group Home or Institution - Intensive	32	5%
VII	Group Home or Institution - Individual	6	1%
IRTS	Individualized Care, DSPD Waiver	150	24%
<b>Subtotal Group Home or Institution</b>		<b>219</b>	<b>35%</b>
Other	Non-Placement Related Costs	27	4%
Other	Runaway	18	3%
<b>Grand Total</b>		<b>618</b>	<b>100% *</b>

Source: DCFS

\*This does not equal 100% due to rounding.

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**Thirty-five percent of long-term foster youth reside in group homes or institutions.**

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Thirty-five percent of long-term foster youth reside in group homes or institutions. Federal and state law, as well as DCFS practice

**The use of group homes or institutions should be limited, as such placements do not result in permanent families.**

guidelines, state that children should live in the least restrictive, most family-like setting possible. However, for some youth in care, this may not be possible. Many are older and have emotional and behavioral issues. According to DCFS’s 2012 long-term foster care clinical data, these youth suffer from disorders that may be heightened by multiple placement changes, resulting in an increased likelihood of placement in restrictive settings.

According to a Casey Family Programs report on older youth in foster care, “Research makes clear that children and youth grow and thrive in the context of families, not institutions.” In addition, best practices suggest that use of group home or institutional settings should be for therapeutic purposes only and kept brief, as such placements do not result in permanent families.

Our 2011 audit found that the division had become over-reliant on proctor home placements, especially for youth, due to an insufficient number of structured foster homes. This concern still exists as DCFS continues to rely on proctor homes and the limited use of structured foster homes. In addition, a large population of youth is receiving services through DSPD providers in higher-cost professional parent or group homes where they receive full-time supervision.

**Youth in Long-Term Foster Care Use 43 Percent of DCFS’s Out-of-Home Budget but Make Up Only 23 percent of the Foster Care Population.** Figure 4.3 shows that costs escalate with more restrictive, less family-like placement levels.

**Figure 4.3 Annual Placement Costs for Youth in Foster Care 24 Months or Longer (6/30/12).** The costs of group home or institutional care exceed the costs of family-based foster care.

Placement Level	Total Cost FY 2012	Estimated Cost Per Placement
DCFS Foster Home	\$ 1,434,685	\$ 7,395
Proctor Home	3,128,392	19,552
Group Home or Institution*	10,195,740	46,556
<b>Total Placement Costs</b>	<b>\$ 14,758,817</b>	

Source: DCFS

\*Group home costs include individualized residential treatment for the cognitively impaired. An additional \$1.3 million in non-placement costs are not included in the above figure.



In 2012, DCFS spent almost \$10.2 million on group homes or institutions for youth. Using the number of youth in care on June 30, 2012, we calculated that DCFS spent an average of \$46,556 per year to house a youth in a group home or institution. These placement costs do not include DCFS staff time or the time and costs of other involved agencies.

DCFS uses group homes and institutions to house some youth who are juvenile sex offenders, destructive, self-destructive, or who have previously run away from foster care. We believe that the use of group homes and institutions should be limited and accompanied by performance measures that demonstrate beneficial outcomes.

Such outcome measures are not currently being tracked. DCFS recently contracted with the University of Utah's Graduate School of Social Work to develop a system, similar to that already employed by the Juvenile Court-administered juvenile justice system, to evaluate provider outcomes. A second method being used to drive better outcomes is performance-based contracting (PBCs). PBCs align provider payments or contract renewals with beneficial outcomes such as shortened foster care duration, reduced costs, and enhanced permanency. A 2005 survey showed that 34 states were testing PBCs; by 2008, 12 states had implemented PBCs.

### **Strengthened Policies and Practices May Promote Permanency**

The most preferred legal permanency options are difficult to achieve for many of Utah's long-term foster children and youth. There are barriers within Utah's child welfare system that increase the difficulty of gaining and maintaining permanency. These barriers include:

- Lack of a legal pathway to reinstate parental rights
- Limitations in existing adoption policies and practices
- Weakness of guardianship laws
- Overuse of individualized permanency

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**DCFS spent an average of \$46,556 per year to house a youth in a group home or institution.**

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**Performance-based contracting, which aligns payments with beneficial outcomes, should be considered.**

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## Reinstatement of Parental Rights Gives Some Families a Second Chance

**Utah does not have a formal pathway for reinstatement of parental rights.**

Utah lacks a formal pathway for reinstatement of parental rights, failing to recognize that parents who are unfit at one stage of their lives may later become appropriate parents. For those youth who are in long-term foster care, returning to their parents may be a viable permanency option. Utah terminates parental rights, as required by federal law, when a child has been in foster care for 15 of the most recent 22 months. At the end of fiscal year 2012, 47 percent of long-term foster children had been freed for adoption by terminating parental rights.

**Ten states have enacted laws that authorize courts to reinstate parental rights.**

Ten states have enacted laws that authorize courts to restore parental rights. Since statutory changes are relatively new, little data is available to know the frequency of this legal option or the outcomes for youth involved. Attorneys, DCFS management, and judges that we spoke with agreed that reinstating parental rights is a good idea that provides another avenue by which foster youth could find permanent homes.

To illustrate the possible benefits of reinstating parental rights, consider the experience of one Utah foster care youth who had been removed from his home at the age of two. Parental rights for both parents were terminated and shortly afterward, the child was adopted. The adoption failed and the child was returned to DCFS custody at age five. This boy spent 12 additional years in foster care because his proctor parents were uninterested in adoption. Meanwhile, the boy's mother and father remained married, secured employment, and resolved the original concerns that led to their rights being terminated. DCFS focused efforts on reunifying the young man with his birth parents, but without the provisions in statute to reinstate parental rights, he had to wait until he was 18.

DCFS's adoption specialist stated that there are additional youth in long-term foster care that could benefit if reinstatement of parental rights was an option. Parents whose rights were previously terminated might be a resource for some children in long-term foster care if they can demonstrate to the court that they are now capable parents.

## **Adoption Policies and Practices Need Strengthening**

Although more difficult, adoption is a valid permanency goal for youth in long-term foster care. In 2010 and 2011, 15 long-term foster youth were adopted. Additional adoptions may be possible if DCFS strengthens and enforces some of its adoption policies and practices. Use of the Adoption Exchange, lack of adoption subsidies, misperceptions of some youth in care, and consideration of some specific staff training are among the concerns encountered.

**The Adoption Exchange Is Not Used Effectively.** Caseworkers do not consistently use the Adoption Exchange, a web-based resource that provides information to educate prospective adoptive parents and connect waiting foster children with adoptive families. As of July 1, 2012, 127 of the 261 children who were legally free for adoption were not posted on the Adoption Exchange. This omission occurred in spite of a DCFS policy requiring caseworkers to place all legally free children on the exchange.

Regional directors indicated that some caseworkers are not following this policy because it is time-intensive and caseworkers are already over-burdened by other tasks. DCFS should ensure that the Adoption Exchange is used effectively by enforcing its own policies.

**Adoption Subsidies May Aid Long-Term Foster Children and Youth.** DCFS management believes current adoption subsidy amounts for long-term youth are a disincentive for foster parents to adopt rather than continue to foster. According to a DCFS example, foster parents wishing to adopt a teenager with social conflict, physical aggression, or minor sexual reactivity would receive a \$347 monthly adoption subsidy. However, if the child remains in foster care, they would receive a \$900 monthly foster care payment for this same teenager.

The pay discrepancy is based on administrative rules that cap the adoption subsidy as a percentage of the maximum foster care payment. Providing for additional subsidies for older youth, children in care more than 24 months, and children with multiple placements could aid some additional adoptions. Adoptions that close long-term foster care cases would result in cost savings for DCFS, GAL, AG, and the juvenile courts.

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**DCFS should use the Adoption Exchange, as required by policy, to promote adoption of children in long-term care.**

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**DCFS management believes current adoption subsidy amounts for long-term youth are a disincentive for foster parents to adopt.**

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A national survey of 600 foster parents found that 30 percent of kin foster parents and 11 percent of non-kin foster parents were unwilling to adopt because they could not afford the cost of changing from foster care to adoption. A second national study documented that, even with increased adoption subsidies, there could be foster care savings. Increased adoption subsidy amounts for difficult-to-adopt children may be beneficial.

**Some Youth Are Ambivalent about Adoption and Remain in Long-Term Foster Care.** DCFS regional directors and permanency staffs believe that youth themselves can be a barrier to adoption. Utah statute follows the federal consent-to-adoption policy that requires youth age 12 and over to agree to adoption. One former long-term foster youth (who had aged out of care) stated that she had opposed the possibility of adoption because she believed state-provided services would be lost if she were adopted. The permanency worker clarified to her that adoption would not have resulted in a loss of services.

**Staff Training on Permanency Values Might Help Some Long-Term Care Youth.** Permanency values training, part of the permanency roundtable (PRT) is a strategy developed by Casey Family Programs to address permanency for youth who have been in foster care for extended periods. Less than 10 percent of DCFS caseworkers and staff have received the training. PRTs have been successfully employed in several states. In Georgia, one year after 500 cases went through the PRT process, one in three of these youth achieved legal permanency. If similar results were applied to Utah, 202 PRT would occur, resulting in 67 additional youth achieving legal permanency.

DCFS began training staff and performing PRT on youth age 14 and over in long-term foster care in November 2010. Ten long-term foster care cases were reviewed in each of DCFS's five regions. Of the 50 cases reviewed, only a few youth attained legal permanency. A number of youth, however, established improved permanency status and a reduction in their placement levels. DCFS's practice improvement administrator told us that the division remains optimistic that PRTs will deliver improved outcomes for long-term foster youth as the division works to educate staff on the importance of permanency. We agree with the division's intent to continue

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**Utah statute requires youth age 12 and over to agree to adoption.**

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**DCFS plans to continue training staff and expand the number of Permanency Roundtables performed on long-term foster care cases.**

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training staff and expand the number of PRTs performed on long-term foster care cases.

### **Permanent Guardianship Can Be Better Used**

Permanent guardianship (PG) is an underutilized permanency option for youth. Only 12 percent of children in long-term foster care had a primary permanency goal of guardianship. Statutory changes could increase the frequency with which guardianship is chosen as an option for permanency.

Youth may benefit from PG for a couple of reasons. First, PG can occur without terminating parental rights, offering a permanency option other than adoption for children whose parents retain parental rights. Over half of the children and youth in long-term foster care are ineligible for adoption because their parents retain parental rights. Second, in multiple state evaluations, PG has been shown to enhance permanency for hard-to-place children such as youth, sibling groups, and those with significant emotional problems.

According to the Guardian ad Litem director, guardianship is not frequently utilized in Utah because the current form of guardianship does not protect the guardians from the possibility of parental petitions and motions to modify or terminate the guardianship. Several GALs stated that if Utah's guardianship laws provided additional protections to guardians, more children would exit the foster care system through guardianship. One commented that, "If I and my judge knew that these guardians could be safe from 'petitioning parents' I believe more of my cases with older clients would be closed." Other key players in the child welfare system also believe that strengthening the statute could help to enhance permanency through guardianship.

Finally, from a financial aspect, additional guardianship subsidies could increase the number of people willing to become guardians. Such subsidies would be possible if Utah participated in the federal Title IV-E Guardianship Assistance Program. While not a current participant, DCFS is taking the necessary steps to implement this program.

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**Statutory changes could increase the frequency with which guardianship is chosen as an option for permanency.**

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**Individualized permanency is problematic because it enhances the risk that youth will age out of foster care.**

**Lawmakers in other states have focused attention on reducing the use of permanency goals that do not result in a permanent family.**

## **Individualized Permanency Is Overused**

As of June 30, 2012, individualized permanency was the primary permanency goal for 54 percent of children in long-term foster care. Individualized permanency is the least preferred goal because it promotes aging out of the system over the security of a permanent family. In 2012, 44 percent of all youth with an individualized permanency goal aged out of foster care.

Utah permanency goals are reviewed at court hearings every 12 months while the child remains in state custody. In addition, court review hearings are held at least every six months. While permanency goals are reviewed for each child, some judges and the DCFS director indicated that it would be beneficial for judges and supervisors to receive management reports that identify all children and youth on their caseloads with the goal of individualized permanency. This information is available from DCFS's SAFE reports.

Some other jurisdictions have reduced the use of individualized permanency in favor of goals that result in family permanency. In Maine, for example, lawmakers repealed the law permitting their child welfare division to assign a "permanency goal" of long-term foster care. New York City's Administration for Children's Services requires that any individualized permanency also include documentation of a child's "significant connection to an adult that is willing to be permanent resource for the child." Duval County, Florida, decreased the use of individualized permanency by 42 percent between 2010 and 2011. This reduction in combination with the use of Permanency Roundtables reduced the average length of stay by three years.

Because achieving a legal permanent family ensures a greater likelihood of long-term success, Utah's child welfare system should instill permanency goals that result in legal permanency and interdependence rather than independence.

## Recommendations

1. We recommend that DCFS improve oversight of residential providers by using performance outcome measures and performance-based contracts.
2. We recommend that the Legislature consider adding statutory language that would allow for reinstatement of parental rights for those parents whose rights were previously terminated and have children in long-term foster care, if they can demonstrate to the court that they are now capable parents.
3. We recommend that DCFS ensure that each region places all eligible foster care children on the Adoption Exchange.
4. We recommend that DCFS consider factoring adoption difficulty in the adoption assistance section of administrative rules.
5. We recommend that the Legislature consider adding statutory language to strengthen the legal status of guardians.

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## **Agency Response**

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State of Utah

GARY R. HERBERT  
Governor

GREG BELL  
Lieutenant Governor

## DEPARTMENT OF HUMAN SERVICES

PALMER DEPAULIS  
*Executive Director*

Division of Child and Family Services

BRENT PLATT  
*Director*

February 15, 2013

Mr. John Schaff  
Legislative Auditor General  
W 315 Utah State Capitol Complex  
Salt Lake City, UT 84114

Dear Mr. Schaff:

On behalf of the Division of Child and Family Services (DCFS), I want to thank you for this opportunity to respond to your audit, "A Performance Audit of Utah's Child Welfare System" (#2013-01). We appreciate the comprehensive and professional manner in which Maria Stahla (Audit Supervisor), Anndrea Parrish (Audit Staff), and August Lehman (Audit Staff) conducted the audit. They had a monumental task of reviewing Utah's child welfare system.

Below is our response to the five audit recommendations directly related to DCFS.

1. We recommend that DCFS continue working toward an in-home model, provide training to staff, and provide in-home services to families whose children are at risk of being removed from their homes.

**DCFS agrees. As recommended in the previous Legislative Audit (2011-02), DCFS has been actively moving in this direction. We will continue to strengthen our efforts to better serve families whose children are at risk of being removed from their homes.**

2. We recommend that DCFS continue working to place children with relatives for their initial placement.

**DCFS Agrees. The agency will continue to work diligently towards placing children with their relatives when appropriate and safe. We have already purchased and implemented software specifically designed to help locate kin. In addition, we've also designated Kinship Specialists in each region to support Casework staff.**

3. We recommend that DCFS improve oversight of residential providers by using performance outcome measures and performance-based contracts.

**DCFS agrees. DCFS is working in partnership with the University of Utah Graduate School of Social Work to develop performance outcome measures for residential providers. The University will also conduct reviews to determine the extent to which residential providers are meeting these performance outcome measures, and will provide technical assistance to the providers to help them improve where needed. DCFS contracts will require these providers to participate in this process.**

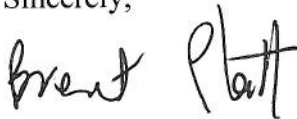
4. We recommend that DCFS ensure that each region places all eligible foster care children on the Adoption Exchange.

**DCFS agrees. DCFS will put a systematic process in place to ensure all eligible foster children are placed on the Adoption Exchange to improve the likelihood of finding a family for each child. DCFS will partner with the Adoption Exchange to act upon this recommendation.**

5. We recommend that DCFS consider factoring adoption difficulty in the adoption assistance section of administrative rules.

**DCFS agrees. The Division will review current guidelines and practice, and make necessary changes to ensure that adoptive families of children with the greatest needs will have sufficient financial support.**

Sincerely,



Brent Platt  
Director