



The Florida Senate

Interim Report 2010-205

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Committee on Children, Families, and Elder Affairs

AGENCY SUNSET REVIEW OF THE DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Issue Description

Sections 11.901-.920, F.S. are known as the Florida Government Accountability Act. Under this act, most state agencies are subject to a “sunset” review process to determine whether the agency should be retained, modified, or abolished. Reviews are accomplished in three steps. First, an agency under review must produce specific information as enumerated in statute. Second, upon receipt of the agency information, the joint Legislative Sunset Committee and the legislative committees assigned to act as sunset review committees must review the information submitted and may request studies by the Office of Program Policy Analysis and Government Accountability (OPPAGA). Third, based on the agency submissions, the OPPAGA studies, and public input, the joint committee and the assigned legislative sunset review committees will make recommendations to the Legislature by March 1 of the year in which the agency is subject to review, regarding the termination, modification, or continuation of the agency and its programs. The assigned legislative sunset review committees will also propose necessary legislation.

During the 2-year process, each agency under sunset review will have its programs examined to determine the effectiveness and efficiency of the agency’s work and the necessity of continuing the duties and responsibilities assigned to the agency. At the end of the review process, based on the recommendations of the assigned sunset review committees, proposed legislation will be drafted to continue, modify, or abolish the agency under review.

The Legislature will then consider the recommendations and the proposed legislation. An agency may be abolished if the Legislature, pursuant to law, finds that all state laws the agency had responsibility to implement or enforce have been repealed, revised, or reassigned to another remaining agency and that adequate provision has been made to transfer certain duties and obligations to a successor agency.

Background

For the Department of Children and Family Services (DCF or department), the review process began with DCF submitting the required information by July 1, 2008. Staff of the Senate Children, Families, and Elder Affairs Committee (Committee), with the assistance of staff of the Senate Health and Human Services Appropriations Committee, prepared Issue Brief 2009-304, Agency Sunset Review of the Department of Children and Family Services, that identified and described DCF’s programs and made recommendations for further review.

The Committee adopted a list of issues for further review by OPPAGA in accordance with the recommendations contained in the Issue Brief, and in March 2009 OPPAGA was asked to complete research on the following:

- 1) Review the continued provision by DCF of administrative functions at the Agency for Persons with Disabilities to determine whether there is any duplication and if efficiencies are being achieved.
- 2) Review the feasibility of transferring all regulatory authority and responsibility for child care agencies to local governments.
- 3) Review the advantages and disadvantages, including costs, of transferring the Child Care Services program to the Agency for Workforce Innovation versus leaving the program at DCF.
- 4) Review the Medicaid Waiver program and the ADA Waiver program, in order to:
 - Assess each agency’s administration of the waiver programs;

- Compare eligibility requirements and services of the waiver programs; and
 - Consider the viability of the placement of each of the waiver programs.
- 5) Review the Commission on Marriage and Family Support Initiatives to determine if the program is duplicative of the department's child abuse prevention program.
 - 6) Review the Child Abuse Prevention program within the Division of Prevention and Intervention of the Department of Health, to determine if the program is duplicative of the department's child abuse prevention program.
 - 7) Compare the child protective investigations conducted by the sheriffs' offices with those conducted by the department, including a comparison of costs and outcomes.
 - 8) Review possible statutory changes with respect to the Family Builders program.
 - 9) Review the implementation and performance of the newly restructured Children's Legal Services.
 - 10) Review whether the eligibility determinations made by the Department of Health for the Kidcare program, or by any other agency determining eligibility for health and human services, are duplicative of those made by the department's ESS program and determine if it would be more efficient and cost-effective to consolidate those determinations in the ESS program.
 - 11) Review the issue of illegal immigrants committed to DCF institutions and make recommendations regarding mechanisms for deportation where feasible.
 - 12) Review the Office of Adoption and Child Protection to determine if it is duplicative of the department's programs.
 - 13) Review the Statewide Advocacy Council to determine if it is duplicative of the department's programs.

Findings and/or Conclusions

The Appendices (attached) are the detailed OPPAGA reviews as follows:

- **Appendix A:** The Department of Children and Families Needs to Enhance Its Fiscal Controls for the Aged and Disabled Adult Waiver Program
- **Appendix B:** Locally-Focused Community-Based Care Replaced the Family Builders Program
- **Appendix C:** The Commission on Marriage and Family Support Initiatives Disbanded Due to State Budget Reductions
- **Appendix D:** The Office of Adoption and Child Protection Overlaps with the Department of Children and Families in Promoting Public Awareness, but Their Activities Differ in Other Areas
- **Appendix E:** Department of Health and Department of Children and Families Child Abuse Prevention Programs Include Some Similar Functions, but Direct Duplication Is Minimal
- **Appendix F:** The Department of Children and Families and the Agency for Persons with Disabilities Have Improved Their Working Relationship, but Several Problems Remain
- **Appendix G:** Statewide Advocacy Council Activities Overlap with Other Entities, but Duplication Is Minimal
- **Appendix H:** Children's Legal Services Has Made Changes to Address Recommendations for Improvement; Some Challenges Remain
- **Appendix I:** Child Care Regulation Services Placement Options for Legislative Consideration
- **Appendix J:** The Department of Children and Families and the Florida Healthy Kids Corporation Use Similar Eligibility Determination Processes, But Coordinate to Minimize Duplication
- **Appendix K:** Better Coordination Between Florida and the Federal Government Could Expedite Removal of Undocumented Aliens in Mental Health Institutions
- **Appendix L:** Sheriffs' Offices Have Advantages for Conducting Child Abuse Investigations, but Quality Cannot be Directly Compared to DCF
- **Appendix M:** Sheriffs' and DCF Perform Similarly in Conducting Child Protective Investigations

Options and/or Recommendations

The Legislature may wish to consider the following options relating to each of the issues under review:

- **Appendix A:** The Department of Children and Families Needs to Enhance Its Fiscal Controls for the Aged and Disabled Adult Waiver Program
 - Option 1: Continue the ADA waiver program's current placement with both departments
 - Option 2: Transfer the program's elder component to DCF
 - Option 3: Transfer the program's disabled adult component to Department of Elder Affairs
 - Option 4: Transfer all of DCF's home and community-based services programs for disabled adults to DOEA
- **Appendix B:** Locally-Focused Community-Based Care Replaced the Family Builders Program
 - Option: The provisions of ss. 39.311 – 39.318, *Florida Statutes* are no longer needed, and the Legislature should consider repealing these sections of statute
- **Appendix C:** The Commission on Marriage and Family Support Initiatives Disbanded Due to State Budget Reductions
 - Option: The provisions of s. 383.0115, *Florida Statutes*, are no longer relevant, and the Legislature should consider repealing these sections of statute
- **Appendix D:** The Office of Adoption and Child Protection Overlaps with the Department of Children and Families in Promoting Public Awareness, but Their Activities Differ in Other Areas
 - Option 1: Continue the Office of Adoption and Child Protection's current placement
 - Option 2: Transfer the Office of Adoption and Child Protection to the Department of Children and Families
 - Option 3: Transfer the office's responsibilities for adoption planning and public awareness to the department
 - Option 4: Eliminate the office's statutory responsibilities and appropriation
- **Appendix E:** Department of Health and Department of Children and Families Child Abuse Prevention Programs Include Some Similar Functions, but Direct Duplication Is Minimal
 - Option 1: Consolidate the two programs within one department
 - Option 2: Keep the two programs separate
- **Appendix F:** The Department of Children and Families and the Agency for Persons with Disabilities Have Improved Their Working Relationship, but Several Problems Remain
 - Option 1: Maintain the status quo but improve administrative service delivery
 - Option 2: Require that the APD become self-sufficient
 - Option 3: Transfer the Developmental Disabilities Program back to DCF

In addition to the three options proffered in OPPAGA's Research Memorandum, the legislature may also consider transferring APD's Medicaid Waiver Programs to the Agency for Health Care Administration and operation of the agency's institutions back to DCF.

- **Appendix G:** Statewide Advocacy Council Activities Overlap with Other Entities, but Duplication Is Minimal
 - Option 1: Continue the Statewide Advocacy Council and Local Advocacy Councils
 - Option 2: Eliminate the Statewide Advocacy Council and Local Advocacy Councils
 - Option 3: Transfer the Statewide Advocacy Council and Statewide Advocacy Councils to the Advocacy Center for Persons with Disabilities

- **Appendix H:** Children’s Legal Services Has Made Changes to Address Recommendations for Improvement; Some Challenges Remain
 - Option: Require DCF to consult with lead agency administrators, defining those legal costs that CLS should assume for all circuits

- **Appendix I:** Child Care Regulation Services Placement Options for Legislative Consideration
 - Option 1: Abolish the program
 - Option 2: Continue current placement
 - Option 3: Transfer program responsibilities to the Agency for Workforce Innovation and early learning coalitions
 - Option 4: Transfer program responsibilities to the Department of Health
 - Option 5: Transfer program responsibilities to the Department of Business and Professional Regulation
 - Option 6: Transfer program responsibilities to the counties

- **Appendix J:** The Department of Children and Families and the Florida Healthy Kids Corporation Use Similar Eligibility Determination Processes, But Coordinate to Minimize Duplication
 - Option 1: Continue placement of financial eligibility determination with both the department and the corporation
 - Option 2: Centralize financial eligibility determination by transferring this function from the corporation to the department
 - Option 3: Transferring all of the corporation’s responsibilities to the department

- **Appendix K:** Better Coordination Between Florida and the Federal Government Could Expedite Removal of Undocumented Aliens in Mental Health Institutions
 - Option 1: Improve coordination with Immigration and Customs Enforcement while maintaining current policy of treating undocumented aliens in Florida facilities
 - Option 2: Revise Florida statutes to honor Immigration and Customs Enforcement detainer orders that provide for removal of aliens referred to the Sexually Violent Predator Program
 - Option 3: Formalize efforts to assist undocumented aliens who wish to return to their country of origin

- **Appendix L:** Sheriffs’ Offices Have Advantages for Conducting Child Abuse Investigations, but Quality Cannot be Directly Compared to DCF
 - Option 1: Retain the current system in which sheriffs perform child protective investigations in seven counties while DCF performs these investigations in 60 counties
 - Option 2: Encourage additional sheriffs to take on child protective investigations
 - Option 3: Reduce sheriff’s funding per case to that provided to DCF
 - Option 4: Return responsibility for all child protective functions back to the department

- **Appendix M:** Sheriffs’ Offices and DCF Perform Similarly in Conducting Child Protective Investigations
 - Option: Maintain status quo



The Florida Legislature

OFFICE OF PROGRAM POLICY ANALYSIS AND GOVERNMENT ACCOUNTABILITY



RESEARCH MEMORANDUM

The Department of Children and Families Needs to Enhance Its Fiscal Controls for the Aged and Disabled Adult Waiver Program

October 29, 2009

Summary

As requested, OPPAGA reviewed the Aged and Disabled Adult (ADA) Home and Community-Based Services Waiver Program, including its eligibility requirements, services provided, and how the Department of Children and Families and the Department of Elder Affairs administer the program for the eligibility groups under their jurisdictions. The departments differ in how they provide access to the program, manage budgets, and maintain waitlists, but have similar processes for assessing and enrolling beneficiaries. The Department of Children and Families needs to improve its fiscal control mechanisms, and has plans to improve some but not all of these processes. We examined the advantages and disadvantages of four options for the program's organizational placement.

Program Purpose, Organization, and Responsibilities

Florida implemented the Aged and Disabled Adult Waiver Program in 1982 to help aged and/or disabled adults remain in their homes or communities instead of going into nursing homes. Section 2176 of the Omnibus Budget Reconciliation Act of 1981, established the federal Medicaid Home and Community-Based Services Waiver Program, as authorized by Title XIX of the Social Security Act, Section 1915(c). Under this authorization, states can apply to the federal Centers for Medicare and Medicaid Services for a waiver to serve designated target populations by offering a broad array of services that are not otherwise covered under Medicaid but can help prevent clients from entering institutional care. Waiver programs provide home and community-based services intended to help beneficiaries remain in their homes or communities. For further details on all of Florida's Medicaid home and community-based services waivers, including eligibility requirements and services, see Florida's Medicaid Home and Community-Based Services Waivers, OPPAGA Report No. 09-32, July 2009.

The ADA program is dually administered by the Department of Children and Families (DCF) and the Department of Elder Affairs (DOEA). DCF administers the program for disabled adults age 18 to 59, while DOEA administers the program for persons age 60 and above. **Department of Children and Families.** The mission of the Department of Children and Families is to protect the vulnerable, promote strong and economically self-sufficient families, and advance personal and family recovery and resiliency. In accordance with its mission, the department's Adult Protective Services Program Office administers the ADA waiver program for disabled adults. In addition to the ADA waiver program, the department administers two home and community-based services programs funded by general revenue, the Community Care for Disabled Adults Program and the Home Care for Disabled Adults Program. The Adult Protective Services Program also is responsible for conducting investigations of alleged abuse or neglect of vulnerable

adults and for providing case management to abused or neglected vulnerable adults who need additional services to protect them from further harm.

For Fiscal Year 2009-10, the Legislature appropriated the department \$12.5 million to provide ADA waiver program services (\$4 million in general revenue and \$8.5 million in federal funds). In addition, DCF was appropriated \$31.7 million (\$20.3 in general revenue and \$11.4 million in federal funds) in salaries and benefits to administer its Adult Protective Services Program. Of this amount, DCF expects to use an estimated \$1.84 million to administer the ADA waiver program. As of August 31, 2009, the department was serving 885 beneficiaries, with 3,711 potential beneficiaries on a waitlist.

Department of Elder Affairs. The mission of the Department of Elder Affairs is to foster optimal quality of life for elder Floridians. In accordance with its mission, the department's Division of Statewide Community-Based Services administers the ADA waiver program for persons age 60 and over. The department's central office oversees the waiver program and manages the program's contracts with the 11 Area Agencies on Aging. The area agencies are responsible for assessing and enrolling program beneficiaries and providing services through contracts with local providers.

For Fiscal Year 2009-10, the Legislature appropriated the Department of Elder Affairs \$87.2 million (\$28.2 million in general revenue and \$59 million in federal funding) to provide ADA waiver program services. In addition, the department was appropriated \$2.6 million (\$1.3 million in general revenue and \$1.3 million in federal funds) to administer all of its home and community-based services waiver programs that serve elders.¹ As of August 31, 2009, the department was serving 8,890 beneficiaries in the ADA waiver program, with 6,122 potential beneficiaries on a waitlist.

ADA waiver eligibility requirements vary minimally and services do not vary between the Department of Children and Families and the Department of Elder Affairs

The two departments' components of the waiver program have similar requirements and eligibility evaluation processes. The only difference in eligibility requirements between the two components is that persons age 18 to 59 who are served by DCF must also be determined disabled by the federal Social Security Administration, whereas this requirement only applies to elders age 60 to 64 who are served by DOEA. Program beneficiaries served by both agencies must be evaluated for Medicaid eligibility by DCF as well as the Department of Elder Affairs' Comprehensive Assessment and Review for Long-Term Care Services (CARES) Program.^{2, 3} DCF's eligibility determination assesses whether applicants meet financial and technical requirements for Medicaid, while DOEA determines whether the applicants meet clinical and medical eligibility requirements.

The types of services provided do not vary between the two departments. Both departments offer the same services, including adult day health care, medical supplies, personal care, home-delivered meals, and certain therapies.

The Department of Children and Families and the Department of Elder Affairs differ in how they provide access, manage budgets, and maintain waitlists for the ADA waiver program

DCF accepts referrals from a variety of sources to provide access to the program, and maintains centralized control over the program's budget and waitlist. In contrast, DOEA provides access to elders only through its Aging Resource Center system and has given the centers responsibility to manage local program budgets and

¹ In addition to the ADA waiver program, the Department of Elder Affairs administers the Adult Day Health Care, Alzheimer's Disease, Assisted Living for the Elderly, Channeling for the Frail Elder, and Nursing Home Diversion waiver programs. DOEA also administers the Consumer Directed Care Plus Program for elders and the Program of All-Inclusive Care for the Elderly (PACE).

² For both departments, applicants do not have to go through the DCF eligibility determination if they already receive federal Supplemental Security Income (SSI).

³ DCF conducts the financial and technical eligibility determination process for Medicaid and other assistance programs through its ACCESS (Automated Community Connection to Economic Self-Sufficiency) system.

waitlists. However, the two departments' processes for assessing and enrolling individuals into the waiver program are essentially the same.

The **Department of Children and Families** administers the waiver program, as well as its other home and community-based services programs for disabled adults, through its central office, regions, and circuits, with some circuits using contracted case managers. DCF staff estimated that 36.56 FTEs conduct ADA waiver-related activities at the central, regional, and circuit offices, based on the percentage of time spent by 154.5 adult protective services employees. Four employees in the central office spend a portion of their time maintaining the waiver program's budget and waitlist, as well as assisting the regions in managing difficult cases (estimated 1.15 FTEs). In addition, 14 regional Adult Protective Services Program staff spend a portion of their time on duties relating to the waiver program (estimated 4.28 FTEs). Also, an estimated equivalent of 31.13 circuit-level staff administer aspects of the program such as screening, assessing, and enrolling applicants. This includes staff in 10 of the department's 20 circuits that provide case management services to waiver program beneficiaries. The remaining 10 circuits outsource case management using funds appropriated for waiver services. Case managers develop care plans, arrange services, and periodically monitor to ensure that needed services are received.⁴ Many of these staff also perform duties relating to the department's two general revenue-funded home and community-based services programs (Community-Care for Disabled Adults and Home Care for Disabled Adults).

DCF provides access to the ADA waiver program through referrals from multiple sources including the Aging Resource Centers, DOEA staff, provider agencies, and DCF adult protective investigators. The DCF central office manages the program's budget and maintains the waitlist. Regional DCF staff screen applicants and enter data into the program's database, which places applicants on the waitlist with a ranking based on their level of need for services. Local DCF staff conduct annual re-screenings to assess the applicant's current status.

When program funding is available, the DCF central office informs regional staff, who then contact the next applicant on the waitlist to start the enrollment process. Circuit staff complete a face-to-face assessment of each applicant and instruct them on the paperwork needed for the eligibility determination process. DCF's ACCESS system determines whether the applicant is financially eligible and DOEA determines if the applicant meets clinical and medical eligibility requirements. If the applicant is found to be eligible, case managers create a care plan and send it to a provider to begin providing the beneficiary with services.

The **Department of Elder Affairs** administers the ADA waiver program through its central office and contracts with the 11 Area Agencies on Aging. The central office has five full-time employees and one OPS employee who each spend a portion of their time on ADA waiver program-related activities, along with their other duties. The department contracts with the area agencies to administer the waiver program and other services for elders, including general revenue-funded home and community-based services programs (Community Care for the Elderly and Home Care for the Elderly). The department also contracts with the area agencies for 28.5 Medicaid Waiver Specialists, of whom an estimated equivalent of 19.39 staff perform ADA waiver-related activities, such as linking elders with service providers.⁵ The area agencies contract out all case management services for waiver beneficiaries.

Elders gain access to the DOEA component of the ADA waiver program by contacting the area

⁴ A care plan documents the medical necessity of services and specifies the most appropriate setting in which to provide services so as to provide quality care in the most cost-efficient manner.

⁵ These Medicaid waiver specialists also perform duties for other Medicaid-funded programs.

agencies' Aging Resource Centers, which serve as a single point of entry for elders to access services. Each center manages the program budget and maintains a waitlist for its area. Center staff screen individuals and place them on the waitlist with a ranking based on need, and conduct re-screenings to assess the applicants' current status at least annually.

When program funding is available, a center refers the next applicant on the waitlist to a lead agency, which contacts the applicant to complete the enrollment process.⁶ Center employees are available to assist the applicant in obtaining the paperwork required for the eligibility determination process. DCF determines the applicant's financial eligibility for the waiver program, and the DOEA Comprehensive Assessment and Review for Long-Term Care Services Program assesses whether the applicant meets clinical and medical eligibility requirements. If the applicant is determined to be eligible for the waiver program, a contracted case management agency develops a care plan. The case manager then contacts a service provider selected by the applicant and sends the provider a care plan and a service authorization form that allows it to begin providing services.

The Department of Children and Families needs to improve its fiscal control mechanisms for the ADA waiver program and is taking steps to improve some but not all of its processes

The Department of Children and Families has had difficulty managing its ADA waiver program budget, maximizing use of federal funds, and assuring that care plans accurately reflect beneficiaries' medical need for services. The department has developed plans to improve its budgeting and care plan review methods, but is not planning to change its policies to maximize use of federal funds.

For Fiscal Year 2007-08, DCF did not spend a significant portion of its budget for the ADA waiver program because it underestimated the number of individuals it could serve with available funding. Of its \$12.5 million appropriation, the department spent only \$8.4 million, and did not spend \$4.1 million or 33% of the appropriated funds.⁷ Several factors contributed to this surplus. First, the department's methodology for estimated expenditures was based on projected care plan costs per individual being served by the program, which were higher than the actual average cost per beneficiary. The estimated average care plan costs for Fiscal Year 2007-08 were \$15,500, while the actual average cost was \$11,556. Second, the estimates were based on a full year of expenditures even though some beneficiaries were not served for a full year. For example, some beneficiaries enroll in the waiver program in the middle of the fiscal year and some have a break in services because they enter the hospital. For others, enrollment may cease for various reasons, such as the beneficiary dying or entering a nursing home. Finally, the department's methodology did not consider the time it takes to enroll individuals in the waiver program and instead assumed a full year of services for each beneficiary. DCF has calculated that it takes an average of 77 days to go through the eligibility determination process required to enroll applicants into the program. Overall, the unspent funds could have been used to serve approximately 350 more individuals from DCF's waitlist, some of whom were served by programs funded through general revenue.

DCF also has not maximized its use of available federal funding because it makes waiver enrollment optional for waiver-eligible disabled adults who are receiving general revenue-funded home and community-based services. In contrast, DOEA requires waiver-eligible beneficiaries who are receiving general revenue-funded services to enroll in the waiver program when waiver funds become available, which helps to maximize the use of available federal funds. By allowing disabled adults to choose to stay in state-funded programs, DCF is foregoing the opportunity to draw down Medicaid matching funds for those individuals and thus increasing state general revenue expenditures.

Further, DCF has not developed a statewide quality assurance system to review case files to determine

⁶ Area agencies on aging designate and contract with lead agencies in each county to provide case management; in some cases, lead agencies serve multiple counties. The lead agencies in turn subcontract with local providers for services; some lead agencies also provide certain services themselves.

⁷ In contrast, DOEA spent \$81.7 million, or 96 % of its \$85.5 million appropriation.

whether case managers are authorizing services that accurately meet the beneficiary's needs and that the authorized duration and scope of services are medically necessary. Although some DCF regions and circuits reported that they review case files for these purposes, the DCF central office has not established a system to ensure that all local offices are using such a process and has not identified required corrective action to take when finding inaccuracies in care plans.

DCF is taking steps to improve its processes for estimating the number of individuals it can serve in the waiver program and its quality assurance of care plans, but the department does not plan to change its policy of making waiver enrollment optional for waiver-eligible disabled adults who are receiving general revenue-funded services. In May 2009, DCF implemented a revised predictive model for estimating the number of individuals it can serve that considers factors such as attrition, the length of time it takes to enroll beneficiaries, and actual expenditures. DCF also plans to implement a statewide quality assurance system, but does not have an estimated date for implementation. In the planned process, quality assurance staff at the central office will review a sample of case files to determine if the services meet the needs of the beneficiary and that the duration and scope of authorized services are medically necessary. This should help DCF better control against the possibility that case managers could authorize more or different services than are medically necessary.

However, DCF does not plan to make enrollment into the waiver program mandatory when there are available funds that could be used to move waiver-eligible disabled adults out of general revenue-funded programs. According to department administrators, individuals should be given a choice and it is less intrusive to not require individuals to go through the Medicaid eligibility determination process. However, s. 410.604, *Florida Statutes*, states that the department shall ensure that all available funding sources have been explored prior to using funds of the Community Care for Disabled Adults Program.^{8,9}

Options for Legislative Consideration

To evaluate the organizational placement of the Aged and Disabled Adult waiver program, we examined the advantages and disadvantages of four options: 1) continue the waiver program's current administrative placement with the two departments; 2) centralize the program by transferring its elder component to DCF; 3) centralize the program by transferring its disabled adult component to DOEA; and 4) transfer all of DCF's home and community-based services programs for disabled adults to DOEA.

Option 1: Continue the ADA waiver program's current placement with both departments. This option has the advantage of fitting well with the missions of the two departments and integrating service delivery for the waiver program's two age components with other programs for which these beneficiaries may be eligible. The program's elder component matches DOEA's mission to foster optimal quality of life for elder Floridians. By contracting with the area agencies to provide services through the Aging Resource Centers, DOEA helps ensure that the state meets the intent of the federal

⁸ Although the Home Care for Disabled Adults Program does not have a similar statutory requirement, s. 410.033, *F.S.*, states that priority shall be given for provision of care to disabled adults who are not eligible for comparable services and programs of and funded by the department.

⁹ DCF's position is that its policy is in accordance with s. 415.101(2), *F.S.*, which states that "the Legislature intends to place the fewest possible restrictions on personal liberty and the exercise of constitutional rights, consistent with due process and protection from abuse, neglect, and exploitation." This statute refers to actions taken in response to cases of abuse, neglect, and exploitation of disabled adults and elders, however, not all waiver program beneficiaries are receiving these services as a result of a protective investigation. Moreover, DOEA also provides services as a result of protective investigations and has been able to implement a policy requiring waiver-eligible individuals who are receiving general revenue-funded services to enroll in the waiver program when waiver funds become available.

Older Americans Act and the *Florida Statutes* to provide a single point of entry to help elders gain access to an array of services to meet their needs.¹⁰ The centers are integrated into local communities, have control over a wide array of services for elders, and help DOEA and elders by centralizing information and referral services, streamlining eligibility determination, managing local program waitlists, and managing local service budgets.

The waiver program's disabled adult component is consistent with DCF's mission to protect the vulnerable, promote strong and economically self-sufficient families, and advance personal and family recovery and resiliency. This placement centralizes access to programs serving disabled adults who may apply for general revenue-funded home and community-based services programs as well the waiver program. Placement with DCF also helps the department integrate service delivery for disabled adults who are the subject of protective investigations and need services to help alleviate abuse or neglect.

The primary disadvantage of the current organizational placement is the potential loss of efficiencies that could be gained by consolidating the program within a single department. Despite providing the same types of services to each of the waiver program's age components, each department has had to separately develop and maintain mechanisms to assess applicants' needs for services, manage waitlists, manage budgets, develop care plans, provide case management, administer client data systems, contract with service providers, and oversee service delivery.

Another disadvantage of the current placement is that DCF is not maximizing its use of federal funding because it makes waiver enrollment optional for waiver-eligible disabled adults who are receiving general revenue-funded home and community-based services. If the Legislature chooses to continue the program's current organizational placement, it may want to consider directing DCF to change this policy.

Option 2: Transfer the program's elder component to DCF. This option assumes that the Legislature would revise appropriations to give sole responsibility for administering the ADA waiver program to DCF. The option has the advantage of consolidating the program within one department and thus gaining efficiencies through the use of one infrastructure for administration and service delivery.

However, this option has significant disadvantages. Separating the ADA waiver program's elder component from other services for elders goes against the intent of the federal Older Americans Act, which is a major source of funding for services to elders. DOEA has spent several years and millions of dollars in federal and state funding to help implement Aging Resource Centers statewide to give elders one-stop access to services at the local level instead of the former fragmented service delivery system. Consolidating the ADA waiver program within DCF would negate some of this investment of time and resources, as well as some of the gains of the now maturing Aging Resource Center system.¹¹ Another disadvantage is that DCF has had difficulty managing its budget and maximizing use of federal funding, and thus giving it additional responsibilities may not be in the state's financial best interest. If the Legislature decides to consolidate the waiver program, it also would need to consider how to allocate funding between the disabled adult and elder components.

Option 3: Transfer the program's disabled adult component to the Department of Elder Affairs. This option assumes that the Legislature would revise appropriations to give sole responsibility for administering the ADA waiver program to DOEA. As with the prior option, this option has the

¹⁰ The federal Older Americans Act is a major source of the state's funding for elder services.

¹¹ For additional information, see *DOEA Has Taken Reasonable Steps to Begin the Aging Resource Center Initiative*, OPPAGA [Report No. 05-06](#), February 2005; *Aging Resource Center Initiative Is Moving Ahead, But Needs Additional Work*, OPPAGA [Report No. 05-45](#), August 2005; *Aging and Disability Pilot Sites Are Making Progress; Future of Other Centers Uncertain*, OPPAGA [Report No. 06-20](#), March 2006; *Aging Resource Center Initiative Has Not Moved Beyond the Pilot Sites*, OPPAGA [Report No. 06-62](#), September 2006; *Department of Elder Affairs Resumes Transition Activities for Aging Resource Center Initiative*, OPPAGA [Report No. 07-20](#), March 2007; *An Aggressive Schedule Set to Complete Implementation of Aging Resource Centers*, OPPAGA [Report No. 07-38](#), September 2007; *Statewide Implementation of Aging Resource Center Initiative Is Substantially Complete*, OPPAGA [Report No. 08-14](#), March 2008; *All But One Aging Resource Center Is Fully Implemented*, OPPAGA [Report No. 08-51](#), September 2008; and *Transition to Aging Resource Centers Complete, Enhancement of Elder Service System Continues*, OPPAGA [Report No. 09-15](#), March 2009.

advantage of consolidating the program within one department and thus gaining efficiencies through the use of one infrastructure for administration and service delivery. Moreover, consolidating the program with DOEA would put Florida closer to the Aging and Disability Resource Center model envisioned by the federal Older Americans Act, as all Aging Resource Centers would serve a disabled population. Currently, only three of the centers provide services to a disabled population. These three centers were pilot sites that provide information and referral for adults with severe and persistent mental illness. Initial funding to establish the Aging Resource Centers/Aging and Disability Resource Centers was provided through a three-year federal grant, which required the inclusion of one disability group.¹² Other states that received federal grants included physically disabled adults in the service populations for their Aging and Disability Resource Centers.

There are several disadvantages to this option. A primary disadvantage is that it separates one program for disabled adults from the other home and community-based services programs DCF administers (the Community Care for Disabled Adults and the Home Care for Disabled Adults Programs). The Community Care for Disabled Adults Program serves disabled adults who meet or exceed the income eligibility criteria for Medicaid long-term care, while the Home Care for Disabled Adults Program only serves disabled adults who meet the income eligibility criteria for Medicaid long-term care.¹³ Both of these programs serve waiver-eligible disabled adults when there are no openings in the waiver program. If the disabled adult component of the ADA waiver program were transferred to DOEA, disabled adults would need to contact two different departments and be placed on different departments' waitlists for services, which could be confusing and create an additional barrier to services.

Another disadvantage is that some of the Area Agencies on Aging may oppose receiving responsibility for an additional service population. In response to our survey of the area agencies, some staff expressed concerns about this option due to the increase in the Aging Resource Centers' workload and the need for staff training. Staff also expressed concerns that the disabled population may have higher care plan costs than elders and that the needs of the disabled adult population might overshadow the needs of the elder population.

Additional factors to consider would be minimizing potential disruption in services while responsibility is being shifted between departments and integrated into DOEA's existing service delivery mechanisms, identifying funding that could be transferred from one department to the other, and deciding how to allocate future funding between the two service populations. The two departments would need to coordinate this transfer and develop plans to minimize service disruption. If the Legislature chooses this option, it may want to consider giving the two departments six months to one year to establish an orderly transfer of responsibilities. Factors that could affect transition time include that DOEA would need to modify its contracts with the 11 Area Agencies on Aging to expand the role of the Aging Resource Centers to include the 18 to 59 year-old disabled population currently served by DCF, and the area agencies may need to make other modifications such as changing their by-laws and contracts with service providers. Center staff also may need training on how to meet the needs of an additional service population. The two departments would also need to work on whether and how to incorporate a

¹² DOEA received a federal grant that required the state to select at least one disability group for which to provide services along with those services provided to elders. The disability groups that could be selected included individuals with physical disabilities, individuals with severe and persistent mental illness, and individuals with developmental disabilities. To meet the grant requirements, DOEA selected three area agencies to serve in a dual role by implementing Aging Resource Centers and Aging and Disability Resource Centers. The Aging and Disability Resource Centers provide information and referral to adults with severe and persistent mental illness. These centers cover the Broward, Orlando, and Pasco-Pinellas planning and service areas.

¹³ To offset state costs for the Community Care for Disabled Adults Program, DCF charges fees based on a sliding scale for persons with income and/or assets that exceed the Medicaid long-term care limits. According to program administrators, most participants qualify for Medicaid long-term care and thus are not subject to fees.

different population into DOEA's screening and enrollment processes.

In developing a transition plan, DCF would need to identify funding that the Legislature could transfer to DOEA's appropriations. DOEA estimates that it would cost \$642,109 to fund 2 department FTEs and 12 area agency FTEs to assume the ongoing administration and implementation of the ADA waiver program's disabled adult component. Although DCF estimates that a total of 36.56 FTEs spend time on duties related to the ADA waiver program, it does not have staff dedicated to the program and instead has spread this responsibility among adult protective services staff.¹⁴ Some of these staff are protective investigators and supervisors and others only spend a small portion of their time on this program compared to their other responsibilities. DCF's position is that it cannot withstand the loss of this many FTEs without affecting its ability to provide protective services to vulnerable adults statewide. To identify funding that could be transferred to DOEA, DCF would need to review its staffing needs for remaining protective services duties and also develop plans to redistribute workload.

If the Legislature decides to consolidate the waiver program, it also would need to consider how to allocate funding between the program's disabled adult and elder components. One alternative would be to hold the current funding percentages constant (13% of total funding to disabled adults and 87% to elders) to avoid the potential for shifts in the number of beneficiaries served through each of the program's age components. Another alternative would be to allow area agencies to use the same criteria to assess the need for services for all applicants, which would provide an equal prioritization for use of service dollars. However, the latter alternative has the potential to reduce available funding for one component in favor of the other.

Option 4: Transfer all of DCF's home and community-based services programs for disabled adults to DOEA. This option assumes that the Legislature would revise statutes and appropriations to give responsibility for administering the ADA waiver, Community Care for Disabled Adults, and the Home Care for Disabled Adults programs to DOEA. DOEA and the area agencies already administer the Community Care for the Elderly Program, which is the equivalent of the Community Care for Disabled Adults Program, and the Home Care for the Elderly Program, which is the equivalent of the Home Care for Disabled Adults Program. As with Option 3, this option has the advantages of gaining efficiencies in the use of one infrastructure for administration and service delivery and moving Florida further toward the Aging and Disability Resource Center model envisioned by the federal Older Americans Act. Unlike Option 3, this option has the advantage of consolidating access to home and community-based services for disabled adults while allowing them to more fully benefit from the assistance provided through the Aging Resource Centers. These benefits include centralized and uniform information and referral services, and streamlined eligibility determination.

Similar to Option 3, a primary disadvantage to this option is possible opposition from the area agencies. The Legislature would also need to consider how to minimize the potential for disruption in services while responsibility is being shifted from one department to another, and thus may want to give the two departments six months to one year to establish an orderly transfer of responsibilities.

In developing a transition plan, DCF would need to identify funding that the Legislature could transfer to DOEA's appropriations. DOEA estimates that it would cost \$1.35 million to fund 6 department FTEs and 22 area agency FTEs to assume the ongoing administration and implementation of home and community-based services programs for disabled adults. Although DCF estimates that it currently uses 87.34 FTEs to administer these programs, it does not have staff dedicated to the programs and instead has spread these responsibilities among adult protective services staff.¹⁵ Some of these staff are protective investigators and supervisors and others only spend a small portion of their time on these

¹⁴ DCF expects to use an estimated \$1.84 million of its Fiscal Year 2009-10 salaries and benefits appropriation for the 36.56 FTEs that administer the ADA waiver program.

¹⁵ DCF expects to use an estimated \$4.4 million of its Fiscal Year 2009-10 salaries and benefits appropriation for the 87.34 FTEs that administer home and community-based services programs for disabled adults.

programs compared to their other responsibilities. DCF's position is that it cannot withstand the loss of this many FTEs without affecting its ability to provide protective services to vulnerable adults statewide. To identify funding that could be transferred to DOEA, DCF would need to review its staffing needs for remaining protective services duties and also develop plans to redistribute workload.

The Legislature also would need to consider how to allocate funding for the different age components served by the ADA waiver program and the general revenue-funded home and community-based services programs.

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The Florida Legislature

OFFICE OF PROGRAM POLICY ANALYSIS AND GOVERNMENT ACCOUNTABILITY



RESEARCH MEMORANDUM

Locally-Focused Community-Based Care Replaced the Family Builders Program

May 22, 2009

Summary

As requested, OPPAGA examined whether changes should be made to ss. 39.311 – 39.318, *Florida Statutes*, which created the Family Builders program.¹⁶

The 1990 Florida Legislature created the Family Builders program to expand family preservation services.¹⁷ The program provided a prescribed set of services intended to keep families safely intact when their children were at risk of imminent out-of-home placement and to reunite families whose children were recently placed in foster care. However, the state's transition to a community-based child welfare system, as begun by the 1998 Legislature, gradually supplanted state-operated programs such as Family Builders. By April 2005, the department had outsourced child protective services statewide and eliminated funding and contracts for the Family Builders program. As a result, the provisions of ss. 39.311 – 39.318, *Florida Statutes*, are no longer relevant and the Legislature should consider repealing these sections of statute.

Purpose, Organization, and Responsibilities

The 1990 Florida Legislature created the Family Builders program to expand the Department of Children and Families' family preservation services for families involved with the child welfare system. Family Builders services were designed to assure the safety of children and allow them to remain with their families instead of entering out-of-home care, such as shelter and foster care, as a result of abuse or neglect. The program also offered short-term reunification services to return children to their families when the children had recently entered foster care. The department contracted with 28 nonprofit community agencies throughout the state to provide a set of short-term, intensive, in-home crisis intervention services to teach skills and provide supports to achieve long-term changes within at-risk families.¹⁸ Family Builders agencies provided clinical services such as comprehensive assessments, family therapy, counseling, and parenting and crisis training; and support services such as financial assistance, homemaker and childcare services, food, and help with accessing community resources.

¹⁶ Sections 11.901-11.920, *F.S.*

¹⁷ Ch. 1990-306 (s. 66), *Laws of Florida*.

¹⁸ The Legislature did not directly appropriate funding for the Family Builders program.

Community-based care supplanted the Family Builders program

The 1998 Legislature directed the Department of Children and Families to outsource Florida's child welfare services, including family preservation, to community-based entities known as lead agencies.¹⁹ A major goal of the outsourcing was to redesign the state child welfare system to give communities more control over service design and delivery. Instead of having state-designed and operated child welfare programs such as Family Builders, lead agencies and their community stakeholders now design, develop, and administer service delivery networks to meet the unique needs of local communities. During the transition to community-based care, the department gradually discontinued contracting with agencies that provided Family Builders services and instead gave funding and responsibility for family preservation to the lead agencies. By April 2005, the department had outsourced child protective services statewide and eliminated funding and contracts for the Family Builders program.

Options for Legislative Consideration

Community-based care replaced state-designed and operated programs, such as Family Builders, with local service delivery networks intended to meet the unique needs of communities. As a result, the department discontinued all funding for the Family Builders program by 2005. As the provisions of ss. 39.311 – 39.318, Florida Statutes are no longer needed, the Legislature should consider repealing these sections of statute.

¹⁹ Community-based care lead agencies are required to provide a comprehensive array of protective services to eligible children and families including family preservation, emergency shelter, foster care, and adoption services with the goal of ensuring the safety, well-being, and permanency of children and families. The department remains responsible for program oversight and some functions such as operating the abuse hotline, performing child protective investigations, and providing Children's Legal Services.



The Florida Legislature

OFFICE OF PROGRAM POLICY ANALYSIS AND GOVERNMENT ACCOUNTABILITY



RESEARCH MEMORANDUM

The Commission on Marriage and Family Support Initiatives Disbanded Due to State Budget Reductions

June 4, 2009

Summary

As requested, OPPAGA examined whether changes should be made to statutory provisions that created the Florida Commission on Marriage and Family Support Initiatives.

The Legislature created the commission in 2003 to increase public awareness of the problems of families and develop strategies to strengthen marriages, support parents and families, and promote the well-being of children. However, as a result of budget shortfalls, the 2008 Legislature eliminated the commission's appropriation based on the Department of Children and Families' recommendation to give a higher priority to funding direct services for children and families. The commission disbanded as of June 30, 2008, due to lack of funding. The Legislature should consider repealing s. 383.0115, *Florida Statutes*, as these provisions relate to an entity that no longer exists.

Purpose, Organization, and Responsibilities

The 2003 Legislature created the Commission on Marriage and Family Support Initiatives to increase public awareness of the problems of families, including failing marriages, violence, poverty, substance abuse, and lack of access to needed community systems and supports. The commission's goals were to strengthen marriages, support parents and families, and promote the well-being of children by raising public awareness, developing sound public policy, and advocating for promising practices throughout Florida.^{20, 21}

As required by statute, the commission developed public policy reports on strategies to promote responsible parenting, recommendations to increase access to parenting and marriage skills training and support for two-parent families, and successful ways to promote marriage and family life in Florida. The commission also developed a public awareness campaign to promote marriage in Florida families and served as a clearinghouse for research information on the effects of poverty, violence, and other social forces on families and innovative approaches to deliver services needed for strong families.

The commission was composed of 18 members from the public and the private sector, including community and faith-based organizations. The commission's annual appropriation of \$250,000 in general revenue was included in appropriations for the Department of Children and Families. Commission funding primarily covered the costs of three staff and commission members' travel

²⁰ Section 383.0115, *F.S.*

²¹ The commission replaced the prior Commission on Responsible Fatherhood. The Legislature created the Commission on Responsible Fatherhood in 1996 to raise awareness of the problems created when a child grows up without the presence of a responsible father, to identify obstacles that impede or prevent the involvement of responsible fathers in the lives of their children, and to identify strategies that are successful in encouraging responsible fatherhood.

expenses. The commission was housed in the Ounce of Prevention Fund of Florida, a non-profit organization that served as the commission's fiscal agent through a contract with the Department of Children and Families.

The Legislature eliminated the commission's funding for Fiscal Year 2008-09; the commission subsequently disbanded. In August 2007, as a result of joint instructions from the Legislature and the Executive Office of the Governor intended to address projected revenue shortfalls, state agencies provided prioritized lists of reductions to their Fiscal Year 2007-08 budgets. Agencies were to provide sufficient reductions to equal 10% of their general revenue appropriations.

The Department of Children and Families recommended reducing funding that supported administrative functions before reducing funding for direct services to children and families. The department provided the Governor and Legislature a prioritized list of budget reduction options. These options included a recommendation to eliminate the \$250,000 contract that provided the commission with administrative support. The 2008 Legislature adopted this recommendation and eliminated the commission's recurring appropriation for Fiscal Year 2008-09. The commission ceased operations as of June 30, 2008, due to lack of funding.

Options for Legislative Consideration

The Commission on Marriage and Family Support Initiatives is no longer funded and has ceased operations. As a result, the provisions of s. 383.0115, Florida Statutes, are no longer relevant and the Legislature should consider repealing these sections of statute.



The Florida Legislature

OFFICE OF PROGRAM POLICY ANALYSIS AND GOVERNMENT ACCOUNTABILITY



RESEARCH MEMORANDUM

The Office of Adoption and Child Protection Overlaps with the Department of Children and Families in Promoting Public Awareness, but Their Activities Differ in Other Areas

September 15, 2009

Summary

As requested, OPPAGA examined whether duplication exists between the Office of Adoption and Child Protection within the Executive Office of the Governor and the Department of Children and Families. The office and the department overlap in promoting public awareness of adoption and child abuse prevention but their activities differ materially in other areas. We examined the advantages and disadvantages of four options for Legislative consideration.

Program Purpose, Organization, and Responsibilities

Children who have been abused or neglected are at risk of adverse and costly outcomes throughout their lives, including poor physical, behavioral, and mental health difficulties in becoming and remaining self-sufficient. The state seeks to help children who are victims of maltreatment and cannot be safely returned to their families avoid some of the instability they can experience in foster care by finding them permanent homes as quickly as possible. Accordingly, the Legislature funds child abuse prevention and adoption activities in both the Office of Adoption and Child Protection and the Department of Children and Families.

Office of Adoption and Child Protection. In 2007, the Legislature created the Office of Adoption and Child Protection within the Executive Office of the Governor to establish a comprehensive statewide approach to promote adoption; support adoptive families; and prevent child abuse, abandonment, and neglect. The office is charged with developing public awareness campaigns, developing a state plan, and conducting training to prevent child abuse and promote adoption.²² The office also is responsible for monitoring local planning teams; assisting in developing rules relating to child abuse prevention, adoption, and support of adoptive families; and acting as a liaison for the Governor to the state's agencies. The office is authorized to establish a direct support organization to secure additional funding for these activities. In addition, the Executive Office of the Governor has given the Office of Adoption and Child Protection responsibility for supporting the Children and Youth Cabinet.²³

²² The Legislature created the Office of Child Abuse Prevention in 2006. In 2007, the Legislature expanded its functions by adding the promotion of adoption and supportive of adoptive families, and renamed it the Office of Adoption and Child Protection.

²³ The Legislature created the Children and Youth Cabinet in 2007 (Ch. 2007-151, *Laws of Florida*) as a coordinating council to foster public awareness of children's issues and promote children's issues to the Legislature. The cabinet is assigned to the Executive Office of the Governor. The cabinet's membership includes the Governor, the chief child advocate, representatives of various state agencies that administer programs serving children, and representatives of children and youth advocacy organizations.

For Fiscal Year 2008-09, the office spent \$314,687 in general revenue (\$282,270 for salaries and benefits and \$32,417 for expenses). The Legislature appropriated \$228,180 in general revenue for the office, and thus the Executive Office of the Governor used other funds to subsidize expenses that exceeded this amount. For Fiscal Year 2009-10, the office was appropriated \$212,432.

The office is staffed with three full-time equivalent positions and one OPS position, including the chief child advocate, the deputy chief child advocate, a program manager, and an administrative assistant.²⁴ The Executive Office of the Governor provides one of the three full-time positions, while the other two positions are provided by the Department of Children and Families. The Executive Office of the Governor reimburses the department for some but not all of this staffing expense.²⁵ In addition, three other department staff members spent a portion of their time performing functions to assist the office, at an estimated annual cost to the department of \$76,030.

Department of Children and Families. The department's mission is to protect the vulnerable, promote strong and economically self-sufficient families, and advance personal and family recovery and resiliency. In accordance with its mission, the department's Family Safety Program Office develops and implements strategies to prevent child abuse and neglect, promote adoption, and support adoptive families.

The department is responsible for several child abuse prevention activities. These include contracting with providers to conduct public education campaigns and offer information and referral services to prevent child abuse. The department's Family Safety Program Office also performs several tasks to administer child abuse prevention activities such as managing and overseeing contracts, developing program plans to meet federal funding requirements, providing technical assistance to contractors, and conducting training for child welfare professionals.

The department also is statutorily required to establish and administer an adoption program. As part of this responsibility, the department established a statewide adoption exchange to facilitate the recruitment of adoptive families and a state Adoption Information Center.^{26, 27} Department staff also develop program plans to meet federal funding requirements and provide technical assistance and training to teach agency staff about changes in the law, rules, best practices, and policies and procedures related to adoption. In addition, the department advises child welfare professionals on strategies for recruiting adoptive families and for helping prepare, assess, and place children in adoptive homes. Department staff also develop program plans and provide training and technical assistance to increase and improve post-adoptive support of adoptive families. Further, the department conducts background checks on potential adoptive families through the Federal Bureau of Investigation.

The department contracts with 20 community-based care lead agencies to provide a broad array of child welfare services, including child abuse prevention and adoption. Lead agencies are responsible for planning, administering, and delivering client services; ensuring that services are delivered in accordance with state and federal laws; and coordinating with other local public or private agencies that offer services for clients. In Fiscal Year 2008-09, department contracts with the lead agencies totaled \$723 million in federal and state funds.

²⁴ The program manager primarily supports the duties of the Children and Youth Cabinet.

²⁵ For Fiscal Year 2008-09, the Executive Office of the Governor reimbursed the department for the majority of the expenses related to one of these positions. According to the department, the cost of salaries and benefits for this position was \$101,121. However, the Executive Office of the Governor reimbursed the department \$96,750 of the amount for this position, leaving the department a net cost of \$4,371. Under an August 2009 agreement with the department, the Executive Office of the Governor will reimburse up to \$103,116 of the annual salary and benefit cost for this position. The department position for which it does not receive reimbursement from the Executive Office of the Governor primarily supports the Children and Youth Cabinet. The cost of salaries and benefits for this position was \$58,944 for Fiscal Year 2008-09.

²⁶ The Adoption Exchange is an automated statewide list of potential adoptive parents and adoptable children. The department and lead agencies can view and edit the information on potential adoptive parents and the children available for adoption on this website. The public can view information on children without an identified placement.

²⁷ The Legislature created the Adoption Information Center to provide adoption information and referral services to potential adoptive parents, adult adoptees, birth relatives, pregnant women, and professionals.

Lead agency child abuse prevention services include in-home visits, parenting skills training, respite care for children and parents, and early development screening. Lead agency adoption services include dispersing financial assistance to adoptive families, convening adoption review committee meetings, recruiting families to adopt foster children, conducting parenting training and home studies, managing adoption cases, and providing post-adoption services to stabilize adoptive placements.^{28, 29, 30} In Fiscal Year 2008-09, lead agencies and their subcontractors finalized 3,777 adoptions.

The office and the department overlap in promoting public awareness, but their activities differ in other areas

Both the Office of Adoption and Child Protection and the Department of Children and Families, including its contracted lead agencies, are responsible for promoting public awareness of adoption and child abuse prevention. However, the entities differ in how they conduct planning and training activities and perform several other functions that do not overlap.

The office and the department overlap in responsibilities to promote public awareness

The office, department, and lead agencies each perform functions to promote adoption. In addition, the office and the department are both responsible for public awareness campaigns to prevent child abuse.

The office and the lead agencies promote public awareness of adoption. In Fiscal Year 2007-08, the office was appropriated approximately \$911,000 in non-recurring funds to administer a statewide public awareness campaign on adopting children from foster care. The office developed the Explore Adoption campaign to educate citizens about the benefits of foster child adoption and provide information about the children available for adoption and the adoption process. To support this effort, the office conducted market research in 2008 to identify segments of the population that tend to adopt. The office used this information to develop marketing materials including DVDs, brochures, and public service announcements. The office distributes these materials to the department and lead agencies, as well as other adoption stakeholders and many other child welfare organizations in the state. To further promote adoption, the office has worked to increase statewide coverage of heart galleries, which showcase a collection of professional pictures of children available for adoption from the state's child welfare system.

Many lead agencies also conduct similar public awareness campaigns to promote adoption, including distributing brochures and providing public service announcements to encourage individuals to become adoptive parents. These local campaigns are often targeted to families who may be more willing than the general population to adopt children with special needs. Lead agencies also promote adoptions through speaking engagements and heart galleries.

The department supports both the office and the lead agencies in activities intended to help the lead agencies recruit adoptive families. It also maintains the Explore Adoption website for the office, and department staff participated in development of the campaign. Additionally, the department supports a statewide adoption exchange to facilitate the recruitment of adoptive families as well as the state Adoption Information Center.

²⁸ Each lead agency has an Adoption Review Committee, which is responsible for providing consultation and assistance to the adoption worker on any adoptive home study in which the worker and supervisor are recommending rejection, or adoption case situations which present challenging issues. Both lead agency and department staff sit on this committee.

²⁹ The home study evaluates the strengths, weaknesses and overall ability of a family to provide a supportive environment for the child. Home study assessments are based on interviews with family members, references, and an in-home evaluation of living conditions.

³⁰ Lead agencies are responsible for providing post-adoption services to stabilize adoption placements, which often include mental health counseling for adopted children.

Gary R. VanLandingham, Ph.D., Director

Both the department and the office are responsible for public awareness to prevent child abuse. The department fulfills this responsibility through several programs, including the Community-Based Child Abuse Prevention Grant, which is a federally funded program designed to focus on healthy and positive parenting and public awareness of child abuse and neglect. The department's campaigns provide information to parents, child abuse prevention advocates, and the community on topics such as coping with crying children, tips for preventing child injuries, and healthy child development.

One of the office's statutory responsibilities is to develop public awareness campaigns to prevent child abuse. The office is in the planning stages of implementing this responsibility. The office is working with the department and local planning teams to plan for public awareness educational campaigns. The office also advises the department and its contractors on their public awareness campaigns.

The department and the office differ in their planning and training activities, and have various other responsibilities that do not overlap

Although both the Office of Adoption and Child Protection and the Department of Children and Families perform adoption and child abuse prevention planning activities, the scope of their plans and the stakeholders involved in developing them differ. Both also perform child abuse prevention training functions, but make training available to different target audiences. These entities also perform several other functions that do not overlap.

The two entities use different approaches to develop plans to address child abuse prevention, promote adoption, and support adoptive families. The office approaches planning from a multi-agency perspective and includes state agencies, local entities, and stakeholders in its planning process. To fulfill its statutory planning mandate, the office created a statewide Child Abuse Prevention and Permanency Council that is composed of 32 members and 20 local planning teams to assist it in preparing a five-year state plan to prevent child maltreatment, promote adoption, and support adoptive families. Participants included representatives of state agencies such as the Departments of Children and Families (including representatives from the central office and circuit levels), Education, Health, Corrections, Juvenile Justice, and Law Enforcement; the Agency for Workforce Innovation; local government agencies, school boards, and children's services councils; service providers; and other community stakeholders. The Office's 18-month Child Abuse Prevention and Permanency Plan, which was completed in December 2008, identifies statewide child abuse prevention and adoption goals and programs that child welfare agencies, other agencies, and local communities could implement to promote adoption, support adoptive families, and prevent child abuse.³¹

In contrast, the department's approach to planning is for its staff to develop plans as needed to administer internal programs and fulfill federal funding requirements. For example, the department develops department-wide strategic plans specific to its programs. The department also develops several plans in order to meet federal funding requirements for its child abuse prevention and adoption programs and activities. For example, the department is required to develop a Child and Family Services five-year plan that describes how the department anticipates spending federal funding. This plan covers several of the department's program areas, including child abuse prevention and adoption.

The office has a wider audience for its child abuse prevention training and education than the department, and the two entities work together on some training. The office focuses on making continuing education available for a broad range of professionals, including those involved in child welfare-related programs, education programs, and law enforcement. The office coordinates and makes training available for child welfare professionals serving on local planning teams primarily through webinars and conference calls. The office also is responsible for coordinating the development of a plan

³¹ *The Florida Child Abuse Prevention and Permanency Plan: January 2009 through 2010* describes interim steps to develop a five-year state plan in 2010 that will promote adoption, support adoptive families, and prevent child abuse. The Department of Children and Families developed a previous state plan for child abuse prevention in June 2005 for the period from July 2005 through June 2010. When the Legislature created the office, it moved this planning responsibility from the department to the office.

to establish a child abuse prevention training curriculum for parents and school and law enforcement personnel.

In contrast, the department provides training and education that focuses on its programs and services, primarily targeting individuals within the child welfare community. The department conducts pre-service and in-service training for child welfare professionals and prospective adoptive families. The department's Office of Family Safety also provides child abuse prevention information to its staff in monthly training bulletins.

The office and the department also work together to provide some child abuse prevention training. For example, both entities provided training at the Florida Prevention Summit to assist local planning teams with their planning efforts.

Many office and department functions do not overlap. The office performs various functions, such as monitoring the progress of the entities involved in its planning efforts, acting as the Governor's liaison to state agencies that administer child abuse prevention and adoption programs, and providing administrative support to the Children and Youth Cabinet. The department performs various functions in its role as the state's administrator of child welfare programs and funds. However, many of these functions, such as monitoring its contracted providers and the services they provide, promulgating rules, clarifying policies and statutes, allocating funds to its programs, and managing state and federal funds, do not overlap with those performed by the office.

Options for Legislative Consideration

Given the overlap in some Office of Adoption and Child Protection and Department of Children and Families functions, we examined the advantages and disadvantages of four options that could address this overlap: continue the office's current placement within the Executive Office of the Governor, transfer the office to the department, transfer only its adoption-related responsibilities to the department, and eliminate the office's statutory responsibilities and appropriation.

Option 1. Continue the Office of Adoption and Child Protection's current placement. In this option, the office would remain in its current placement within the Executive Office of the Governor. The primary advantage of this option is that housing the office within the Executive Office of the Governor heightens statewide visibility and focus on promoting adoptions, supporting adoptive families, and preventing child abuse. Stakeholders report that this placement helps the office gain cooperation in addressing issues that cross state and local agencies' programs and responsibilities. Stakeholders also believe that state and local entities' collaborative efforts have contributed to increased interest in adopting foster children. For example, the department's Adoption Information Center reports that when the office launched the Explore Adoption campaign, inquiries to the center increased 21% between May and December 2008 compared to the same period in 2007. State and local entities' efforts also may have contributed to an increase in the number of finalized adoptions of children from foster care over the last three years. The number of finalized adoptions from foster care increased from 3,079 in Fiscal Year 2006-07 to 3,777 in Fiscal Year 2008-09, or a 22.7% increase.

However, some stakeholders report that a disadvantage to the office's current placement as a separate entity outside of the department is that it generates confusion among the general public and local child welfare entities regarding the appropriate contact for some child abuse prevention and adoption issues. Further, the office's funding for the Explore Adoption campaign was non-recurring, leaving some

question about the extent to which it can continue to promote public awareness of foster children needing adoptive placements without additional funding by the Legislature.³²

Option 2. Transfer the Office of Adoption and Child Protection to the Department of Children and Families. In this option, the Legislature would revise the statutes to transfer the office and its responsibilities to the department. This option assumes that the Executive Office of the Governor would continue to provide administrative support to the Children and Youth Cabinet, as required by law, and would retain the chief child advocate to concentrate on this responsibility and continue as the Governor's liaison with state agencies.³³

The primary advantage of this option is that the office's functions fit within the mission of the department, which serves as the state's administrator of child welfare programs and funding. The department is already responsible for administering child abuse prevention and adoption programs. Prior to establishing the office, the department had statutory responsibility for establishing a multi-year state plan to prevent child abuse. According to department officials, the agency could perform the office's child abuse prevention and adoption functions as long as the department receives the funding that the Executive Office of the Governor currently spends on these activities. Another advantage to this option is that it would enable department employees to focus on their primary duties rather than splitting time between duties assigned by department administrators and those requested by the office.³⁴ This option would also help minimize confusion among the general public and local child welfare entities regarding the appropriate contact for child abuse prevention and adoption issues.

The primary disadvantage of this option is that stakeholders report that this change would risk losing the statewide visibility and focus afforded by housing the office in the Executive Office of the Governor. Department officials also stated that sustaining a high level of priority on child abuse prevention and adoption could be difficult in the long term because department administrators are frequently faced with the challenge of needing to shift their employees' focus in response to crises, such as concerns about foster children's use of psychotropic medications.

There would be no cost savings from this option. For Fiscal Year 2008-09, the office's expenditures of \$314,687 exceeded its appropriation of \$228,180, and thus the Executive Office of the Governor used other funds to subsidize these expenses.³⁵ According to the Executive Office of the Governor, if it retains a portion of the office's current appropriation to support the expenses of the chief child advocate and the Children and Youth Cabinet, including the amount it currently pays from other funding sources, it would be able to transfer only \$20,000 of the appropriation to the Department of Children and Families, which would then need to subsidize the remaining cost of these responsibilities from its existing funding. If the Legislature transferred a larger portion of the office's appropriation to the department to support the expenses associated with the office's major activities, such as multi-agency planning to promote adoptions and prevent child abuse and developing multi-agency continuing education and training curricula on child abuse prevention, both the Executive Office of the Governor and the department would need to continue to fund some activities from other sources.³⁶ In either scenario, no savings would be achieved unless the Legislature chose to eliminate some of the office's duties.

Option 3. Transfer the office's responsibilities for adoption planning and public awareness to the department. In this option, the Legislature would revise the statutes to transfer the office's adoption-

³² The Office of Adoption and Child Protection used appropriations for the Explore Adoption campaign to develop products such as DVDs and brochures that can be distributed in the future. However, the office used some of the funding to create and broadcast public service announcements, and would likely need additional funding to continue with these broadcasts.

³³ Section 402.56(3)b, *F. S.*

³⁴ As discussed earlier, three department staff members spent a portion of their time performing functions to support the office at an estimated annual cost of \$76,030 in Fiscal Year 2008-09.

³⁵ The office's expenditures of \$314,687 included expenses to support the Children and Youth Cabinet.

³⁶ For example, the department may need to continue to fund the program manager position for the Children and Youth Cabinet, an annual cost of \$58,944.

related functions, which include planning and public awareness, to the department. This option envisions that the office would retain its child abuse prevention-related responsibilities, such as statewide planning and training. The Executive Office of the Governor would retain responsibility for supporting the chief child advocate, the Children and Youth Cabinet, and the office's child abuse prevention-related activities.

The office's adoption-related planning and public awareness functions fit within the department's mission and the design of the state's decentralized child welfare system. Because the department is the only state agency with responsibility for administering an adoption program for foster children, this issue does not cross state agencies' jurisdictions. The lead agencies perform a number of activities to promote adoption, such as strategic marketing campaigns, targeted outreach to place children with special needs, speaking engagements, and participation in Heart Galleries. The lead agencies are also responsible for providing families with adoption subsidies and post-adoption services.

However, as with the second option, a disadvantage to this option is that it could reduce statewide visibility and focus on adoption programs as these responsibilities would no longer be performed by an entity within the Executive Office of the Governor. Because funding for the office's Explore Adoption campaign was non-recurring and much of its current focus is on planning and training to prevent child abuse, there would be no material cost savings associated with this option.

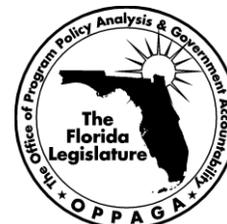
Option 4. Eliminate the office's statutory responsibilities and appropriation. In this option, the Legislature would revise statutes to eliminate the responsibilities specifically assigned to the office while retaining statutory requirements for the Children and Youth Cabinet. The Legislature would also eliminate the appropriation provided to the Executive Office of the Governor for the office's expenditures. The Executive Office of the Governor and the department would continue to provide staff support to the Children and Youth Cabinet (the current program manager and administrative assistant positions).

This option would produce a general revenue savings of \$212,432 based on Fiscal Year 2009-10 appropriations. However, this option would also result in eliminating the chief child advocate and the office's role in increasing the statewide focus on promoting adoptions, supporting adoptive families, and preventing child abuse, and would eliminate efforts to develop a multi-year state plan to achieve these goals. The option could also reduce inter-agency cooperation in addressing issues that cross state and local programs, such as planning and coordinating child abuse prevention activities.



The Florida Legislature

OFFICE OF PROGRAM POLICY ANALYSIS AND GOVERNMENT ACCOUNTABILITY



RESEARCH MEMORANDUM

Department of Health and Department of Children and Families Child Abuse Prevention Programs Include Some Similar Functions, but Direct Duplication Is Minimal

August 25, 2009

Summary

As requested, OPPAGA examined whether duplication exists between the Department of Health's and the Department of Children and Families' child abuse prevention programs. Although many aspects of the programs differ, both programs perform similar functions in providing public education and conducting training for health and child welfare professionals. However, there is little direct duplication in the specific activities the programs perform to carry out these functions. We also examined the option of consolidating these activities within one department, but concluded that if the Legislature wishes to maintain the current level of effort for public awareness campaigns and training to prevent child abuse, there is no compelling reason to consolidate the programs.

Program Purpose, Organization, and Responsibilities

Children who have been abused or neglected are at risk of adverse and costly outcomes throughout their lives, including poor physical, behavioral, and mental health and difficulties in becoming and remaining self-sufficient. In an effort to avoid these negative outcomes, the Legislature funds child abuse prevention programs at the Department of Health and the Department of Children and Families to educate and support families and train health care and child welfare professionals.

Department of Health. The Department of Health's mission is to promote, protect, and improve the health of all people in Florida. In accordance with its mission, the department's Child Abuse Prevention Program identifies, develops, and coordinates strategies to prevent child abuse. These activities include printing and distributing prevention-related brochures to the general public and conducting training for health care and child welfare professionals. In addition, the program identifies, develops, procures, and manages grants for prevention and intervention services. For example, the division is providing quality assurance and contract monitoring to help the Florida Attorney General manage a federal grant for sexual abuse treatment programs.

The department's Division of Prevention and Intervention administers the program.³⁷ Two division employees spend a portion of their time on child abuse prevention-related activities (65% and 55%, respectively) at an annual cost of \$96,250 in general revenue for salary and benefits. The program also

³⁷ The Division of Prevention and Intervention is housed within the Children's Medical Services Program.

spent \$53,652 in general revenue funds in Fiscal Year 2008-09 to print and distribute brochures and conduct training.

Department of Children and Families. The Department of Children and Families' mission is to protect the vulnerable, promote strong and economically self-sufficient families, and advance personal and family recovery and resiliency. In accordance with its mission, the department's Child Abuse Prevention and Intervention Program, which is administered by its Family Safety Program Office, develops and implements strategies to prevent child abuse and neglect.³⁸ Program staff manage contracts and conduct training for child welfare professionals. One office employee spends three-fourths of her time on child abuse prevention-related activities at an annual cost of \$70,559 in general revenue for salary and benefits.

To carry out child abuse prevention and intervention activities around the state, the department contracts with several providers. These include the Ounce of Prevention Fund of Florida, Inc. (Ounce of Prevention), which operates as the state chapter of Prevent Child Abuse America, conducts public education campaigns to prevent child abuse, and promotes parent support groups.³⁹ The department also contracts with the Florida 2-1-1 Network to provide information and referral services to at-risk families. The department is using \$1.1 million from a federal Community-Based Child Abuse Prevention grant and general revenue to fund these contracts during the period from October 2008 through September 2009. The department also contracts with the Ounce of Prevention to administer the Healthy Families Program, which provides free home visiting services to high-risk families that are expecting a baby or who have a newborn. For Fiscal Year 2008-09, the Healthy Families contract was funded by \$28 million in federal Temporary Assistance to Needy Families and general revenue funds (\$6.3 and \$21.7 million, respectively).

The department also contracts with 20 community-based care lead agencies to provide a broad array of child welfare services, including child abuse prevention, family preservation, emergency shelter, foster care, and adoption, as part of its Child Protection and Permanency Program. In Fiscal Year 2008-09, the department's contracts with the lead agencies for providing child welfare services totaled \$723 million in federal and state funds. Of these funds, lead agencies spent approximately \$24 million on a wide range of child abuse prevention services for the general public, at-risk families, and families whose children have entered the child welfare system. Services include in-home visits, parenting skills training, respite care for children and parents, and early development screening. The major sources of funding for lead agency child abuse prevention services are federal Promoting Safe and Stable Families Act funds, the Title IV-E waiver, and general revenue.⁴⁰

The two programs perform some similar functions, but the degree of duplication is minimal

Although the Department of Children and Families' Child Abuse Prevention and Intervention Program has a number of responsibilities that are not addressed by the Department of Health's Child Abuse Prevention Program, the departments' programs perform two similar functions: conducting public education campaigns and providing training to health care and child welfare professionals. However, the programs differ in the topics covered and how they distribute information to the public. They also

³⁸ The department's Office of Family Safety administers the Child Abuse Prevention and Intervention Program.

³⁹ Prevent Child Abuse America is an advocacy organization with the mission of preventing the abuse and neglect of the nation's children. The Ounce of Prevention Fund of Florida, Inc., is the state's chapter of Prevent Child Abuse America and implements and promotes statewide child abuse prevention strategies.

⁴⁰ Promoting Safe and Stable Families is authorized under the federal Social Security Act, Title IV-B, to promote and protect the welfare of children including preventing abuse and neglect. In 2006, Florida received approval of the first statewide waiver for flexible use of foster care funds under title IV-E of the Social Security Act. The waiver allows federal IV-E foster care funds to be used for a wide variety of child welfare purposes rather than being restricted to out-of-home care, as normally the case under federal law. This permits funds to be used for child welfare services including prevention, diversion from out-of-home placement through intensive in-home services, and reunification when it can be accomplished safely and permanently, as well as for foster care.

focus on different topics and use different settings to provide training. The programs coordinate their efforts to prevent duplication and maximize use of funding for these activities.

Both programs conduct public education campaigns and provide training that target similar audiences. As shown in Exhibit 1, both departments conduct public education campaigns to educate parents about dangers to their children, promote good parenting skills, and provide training on child abuse prevention for professionals involved with child welfare programs.

Exhibit 1

The Department of Health's and the Department of Children and Families' Child Abuse Prevention Programs Performed Similar Functions During Fiscal Year 2008-09

Department of Health	Department of Children and Families
Public Education	
<ul style="list-style-type: none"> ▪ Provide brochures to parents that describe the dangers of shaking infants and young children; distributed statewide throughout the year ▪ Provide brochures and posters to the general public on parenting skills; available through its website 	<ul style="list-style-type: none"> ▪ Provided brochures to parents on safe infant sleep environments in Leon, Hillsborough, and Miami-Dade counties in June 2009 ▪ Provide the general public a community resource packet (includes a parent handbook, advocate resource booklet, and poster) and public service announcements for radio and television every April ▪ Broadcast public service announcements on preventing drowning during June 2009
Training	
<ul style="list-style-type: none"> ▪ Provide training to health care and child welfare professionals on various child abuse prevention topics related to the causes and effects of child abuse 	<ul style="list-style-type: none"> ▪ Provide training at child welfare professionals' conferences on various child abuse prevention topics related to administering child abuse prevention programs

Source: OPPAGA analysis.

The programs typically cover different topics and use different delivery systems to educate the public. The Department of Health's public education campaigns primarily focus on the shaken baby syndrome. The department is required by s. 411.233, *Florida Statutes*, to educate the public about the dangers of shaking infants. In conjunction with this responsibility, the department also issues brochures to parents on how to cope with crying infants. In contrast, during the past year, the Department of Children and Families' campaigns have included educating parents about safe infant sleep environments and how to prevent drowning. The department's campaigns also provide general information for parents, child abuse prevention advocates, and the community on topics such as recognizing signs of child abuse, tips for preventing child injuries, and healthy child development.⁴¹

The two departments use different delivery systems for their public education campaigns. The Department of Health primarily distributes its public education brochures through facilities such as birthing centers, home birth providers, county health departments, doctors' offices, hospitals, and child care facilities. In contrast, the Department of Children and Families focuses on media campaigns by holding press conferences, writing news articles, and placing radio and television public service announcements. It also distributes information through its existing network of service providers, such as the Healthy Families Program, community-based care lead agencies, and its child protective investigators.

The programs focus on different topics and use different venues to provide training to health and child welfare professionals. During Fiscal Year 2008-09, the Department of Health provided training

⁴¹ The department selected the topics of safe sleep environments and drowning based on data in Florida Child Abuse Death Review annual reports that showed these were leading causes of child deaths during 2007 and 2008.

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on issues primarily related to how abuse affects children, such as how childhood maltreatment is linked to poor health outcomes, the effects of shaken baby syndrome, and the effects of substance abuse on adolescent brain development. In comparison, the Department of Children and Families conducted training to help professionals administer child abuse prevention programs, such as funding strategies and techniques for educating the public about child abuse prevention.

Although both departments have provided training at conferences, they typically differ in how they provide access to this training. The Department of Health trained child protection teams, child welfare professionals, parent groups, child advocates, and health care and other professionals involved in child protection at hospitals, child welfare conferences, and meetings.⁴² The department also makes videos available through websites. The Department of Children and Families trained child welfare professionals at two child welfare conferences. The Department of Children and Families also provides technical assistance to community-based care lead agencies and publishes a monthly article in its Family Safety Training Bulletin on various child abuse prevention topics.

The departments coordinate their activities to avoid duplication and maximize the use of child abuse prevention funds. Program staff from each department report that they are in regular contact via email or telephone. These staff members also participate in multiple workgroups on how to achieve the goals in the state's Child Abuse Prevention and Permanency Plan, January 2009-June 2010.⁴³

Appendix A shows the funding sources and amounts for the two departments' public education campaigns and training to prevent child abuse.

Options for Legislative Consideration

Child abuse prevention fits within both departments' missions. Since there are some similarities between functions performed by the two programs, one option would be to consolidate these activities within one department. We concluded that if the Legislature wishes to maintain the current level of effort for public awareness campaigns and training to prevent child abuse, there is no compelling reason to consolidate the two programs.

Although consolidation could eliminate any duplicative functions and centralize accountability for child abuse prevention programs, this change would not produce material cost savings. Because the two departments cover different topics in their public education campaigns and use different settings to provide training, consolidating these responsibilities would not reduce the need for staff or funding. Moreover, consolidating the programs would incur transition costs that could negate any potential savings that could occur during the first year.

Another disadvantage of consolidation is that it could create complexities in distributing federal Community-Based Child Abuse Prevention Grant funds. The Governor has designated the Department of Children and Families as the state lead agency to apply for and receive federal Community-Based Child Abuse Prevention Grant funding which the department uses for several types of child abuse prevention activities. If the activities were consolidated in the Department of Health, the Department of Children and Families would need to execute and monitor an interagency agreement with the Department of Health to provide the funds necessary to conduct any transferred activities. The Department of Health would need to initially cover the costs of these activities and then submit invoices to the Department of Children and Families for reimbursement. Consolidating the programs in the Department of Children and Families would avoid this issue.

⁴² The Child Protection Team Program is a medically directed, multidisciplinary statewide program designed to supplement the child protection investigation activities of local sheriffs' offices and the Department of Children and Families in complex cases of child abuse and neglect.

⁴³ Section 39.001, *F.S.*, requires the Governor's Office of Adoption and Child Protection to develop a comprehensive plan for the promotion of adoption, support of adoptive families, and prevention of abuse, abandonment, and neglect of children. The office's Florida Child Abuse Prevention and Permanency Plan, which was released in December 2008 specifies 20 goals for preventing child abuse, abandonment, and neglect. To implement the plan, the office formed workgroups to track the progress made in achieving each goal.

Consolidating the two programs would also make it more difficult to use the two departments' community networks and resources for delivering child abuse prevention information. Since the two departments use different community networks and resources, consolidating the activities within one department could result in losing one of these delivery mechanisms. The departments currently coordinate to prevent direct duplication of public awareness campaigns and training.

Appendix A

Several Funding Sources Support Child Abuse Prevention Activities

Agency	Activity	Funding Source		Funding By Source	Total Federal and State Funding
Department of Children and Families	General child abuse prevention public education campaign	Federal	Community-Based Child Abuse Prevention Grant	\$195,200	\$244,000
		State	Tobacco Settlement Trust Fund	\$48,800	
	Drowning prevention public service announcements	State	General revenue	\$100,000	\$100,000
	Safe Infant Sleep public education campaign	Federal	Community-Based Child Abuse Prevention Grant	\$70,575	\$97,715
		State	Community-Based Child Abuse Prevention State Match	\$17,644	
		State	Community-Based Child Abuse Prevention State Leveraged Funds ¹	\$9,496	
	Training	State	Tobacco Settlement Trust Fund		\$60,000
TOTAL				\$501,715	
Department of Health	Shaken baby syndrome brochures and distribution	State	General revenue	\$18,400	\$18,400
	Training	State	General revenue	\$35,252	\$35,252
	TOTAL				\$53,652

¹ Leveraged funds are those monies that were received by the Department of Children and Families, the designated lead agency for the Community-Based Child Abuse Prevention federal grant, from private, state, or other non-federal sources.

Source: OPPAGA analysis of information provided by the Department of Children and Families and the Department of Health.

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OFFICE OF PROGRAM POLICY ANALYSIS AND GOVERNMENT ACCOUNTABILITY



RESEARCH MEMORANDUM

The Department of Children and Families and the Agency for Persons with Disabilities Have Improved Their Working Relationship, but Several Problems Remain

October 12, 2009

Summary

As requested, OPPAGA examined how the Department of Children and Families and the Agency for Persons with Disabilities work together to coordinate the administrative services the department provides to the agency. While the two entities established a new service-level agreement in 2008 and subsequently worked to improve their relationship, several problems remain. To address these challenges, we examined the advantages and disadvantages of three options: 1) maintain the status quo but improve administrative service delivery; 2) require the Agency for Persons with Disabilities to become self-sufficient; and 3) transfer the developmental disabilities program back to the Department of Children and Families. Either options 2 or 3 would enable the state to receive \$640,000 in additional federal reimbursements for administrative costs, although they would raise other issues.

Program Purpose, Organization, and Funding

The Department of Children and Families provides a variety of administrative services to support the Agency for Persons with Disabilities, which serves persons with developmental disabilities.

The **Department of Children and Families** (DCF) protects vulnerable populations such as children and elders from abuse and neglect, provides economic assistance to qualifying individuals and families, and treats individuals and families affected by mental health or substance abuse. The department has four major program groups: Economic Self-Sufficiency, Family Safety, Mental Health/Institutional Facilities, and Substance Abuse. DCF plans, administers, and delivers most of its services through its central office, six regions, and 20 circuits and provides direct services for its clients through contracts with private, not-for-profit entities. For Fiscal Year 2009-10, the Legislature appropriated the department nearly \$3 billion and 13,268.5 positions.

In 2004, the Legislature transferred responsibility for programs serving persons with developmental disabilities from DCF to the newly created **Agency for Persons with Disabilities** (APD).^{44,45} The agency ensures the safety and well-being of clients with developmental disabilities and provides

⁴⁴ As part of the transfer, 3,871 positions were shifted from DCF to APD. Most of these positions are staff that serve clients at the state's developmental disability centers. Since the initial transfer of positions in 2004, the department transferred 14 additional positions to the agency, which included staff for finance, contract management, legal, and information technology.

⁴⁵ While administratively housed within DCF, the agency is not subject to control, supervision, or direction by the department.

opportunities for clients to work, socialize, and recreate as active members of their communities.⁴⁶ APD operates state-run institutional programs, administers the programmatic management of Medicaid waivers established to provide services to persons with developmental disabilities, and works with local communities and private providers to identify and assist persons who have developmental disabilities. APD administers the developmental disabilities program through a central office, four state developmental disabilities centers, and 14 area offices.⁴⁷ For Fiscal Year 2009-10, the Legislature appropriated the agency over \$1 billion and 3,403 positions.⁴⁸

DCF provides APD a variety of administrative support services. When the Legislature established APD, it directed the agency to enter into an interagency agreement with DCF for the provision of administrative and operational services. Under the law, the department is to continue to provide these services to the agency for as long as necessary.⁴⁹ In addition, APD entered into a second service-level agreement with DCF to provide for its information technology services.

Through an **administrative service-level agreement**, DCF currently provides assistance with the following services to APD: background screenings, contract administration services, financial management services, human resources services and general services (which includes functions such as property, records, facilities and fleet management and purchasing).⁵⁰ As provided by the Legislature, the funding for these services remains with DCF rather than APD.

A number of problems developed between the two entities because the original service agreement did not clearly outline the specific terms or deliverables regarding DCF's responsibilities, which resulted in communication problems and dissatisfaction for both parties.⁵¹ In 2008, the agency and the department established a new service-level agreement that more clearly outlines department and agency responsibilities. As a result, DCF and APD staff report improvements in communication and in their overall working relationship.

APD created a separate **technology service-level agreement** for two reasons. First, the Legislature provided information technology funding directly to the agency. Second, a separate agreement appeared appropriate because of pending changes associated with the state data center consolidation initiative planned for July 2009.⁵² Under the information technology service-level agreement, DCF's Office of Information Systems provided services to APD including desktop, custom application, computer operations, network and electronic messaging, and support services. APD paid DCF for technology services from funds specifically appropriated for information technology and reimbursed the department 100% of its cost up to the amount appropriated.

Transferring administrative functions from DCF to APD has resulted in a fragmented and inefficient administrative service system

When the Legislature created APD, the agency began performing various administrative tasks, while DCF continued to provide some administrative services. APD has assumed responsibility for additional administrative functions in a piecemeal fashion, resulting in a fragmented administrative service system.

⁴⁶ Persons with developmental disabilities include individuals who have or are at risk of having mental retardation, autism, cerebral palsy, spina bifida, or Prader-Willi syndrome.

⁴⁷ The state's developmental disability centers are the Gulf Coast Center in Fort Myers, Tacahale Center in Gainesville, Sunland center in Marianna, and the Mentally-Retarded Defendant Program housed within the DCF's Florida State Hospital in Chattahoochee. These centers were formerly known as developmental services institutions.

⁴⁸ While 3,871 positions were transferred to APD when it was created, 300 positions were subsequently eliminated for Fiscal Year 2009-10 due to the planned closure of the Gulf Coast Center in 2010. The remaining positions were eliminated with the prior closing of the Landmark center.

⁴⁹ Chapter 2004-267, *Laws of Florida*.

⁵⁰ The current administrative service-level agreement between DCF and APD is effective as of July 1, 2008.

⁵¹ A survey conducted by the Auditor General in 2007 indicated that the agency was dissatisfied with the services provided by the department and that department staff was concerned about workload issues.

⁵² Section 17, Ch. 2008-116, *Laws of Florida*, requires that all data center functions performed, managed, operated, or supported by state agencies with equipment currently located in a state primary data center (Southwood Shared Resource Center and Northwood Shared Resource Center) be transferred to the primary data center, with agencies becoming full-service customer entities by July 1, 2010. The transfers to the shared resource centers do not include application development.

While some functions were transferred from DCF to APD based on an established schedule, the department has abruptly transferred other functions that the agency could not staff. If the two entities established a comprehensive plan for transferring responsibilities from DCF, APD would have more opportunity to prepare to perform these services and reduce the likelihood of service disruptions.

The administrative service system is fragmented and inefficient. DCF provides assistance with background screenings, contract administration services, financial management services, human resources services, and general services (which include functions such as property, records, facilities and fleet management and purchasing) to APD. DCF provides these services primarily for APD's central and area offices and also provides assistance with statewide financial statements, payroll, property tracking and inventory, purchasing card administration, fixed capital outlay, payment processing, contract monitoring, and information technology. The state developmental disability centers that APD oversees provide for many of their own administrative services, except for items like fixed capital outlay.

Over time, APD has taken on some functions and tasks originally carried out by DCF. However, due to a lack of statewide staff, APD has at times taken on these responsibilities for only certain areas of the state and left DCF to continue to provide these services in the remaining areas of the state. The result is a fragmented, inefficient administrative service system where both the department and the agency perform some functions (e.g., contract administration), but at different office locations. Contract administration involves a number of functions, including writing and conducting legal review of contracts, contract management, and contract monitoring. As shown in Exhibit 1, DCF conducts legal review of contracts for area offices, while APD conducts legal review of contracts for the central office and the developmental disability centers. In addition to taking on responsibility for certain contracting functions, APD also has taken on some personnel, payroll, and revenue accounting functions, which also are divided between the department and the agency across the central and area offices.⁵³

Exhibit 1

APD and DCF Both Perform Contract Administration Functions for the Agency

Task	Offices Served by APD	Offices Served by DCF
Write contracts	All	None
Write procurement documents	All	None
Legal review and approval of procurement documents	Central office, centers	Area offices
Legal review and approval of contract documents	Central office, centers	Area offices
Contract administration review/ approval of procurement documents	Central office	Centers, area offices
Contract administration review/ approval of contract documents	Central office	Centers, area offices
Review and approval of all procurement documents	Central office	Centers, area offices
Contract oversight units to monitor contracts	None	All
Enter contract encumbrances into FLAIR	Centers	Central office, area offices
Write and update DCF policy and procedures	None	All
Manage, update, and warehouse contract data	All	None
Provides contract manager training	All	None
Conduct annual contract manager file reviews	None	All

Source: OPPAGA analysis.

APD has assumed responsibility for administrative functions in a piecemeal fashion and has not developed a comprehensive plan for moving forward. APD assumed responsibility for providing some services such as several human resource functions based on a schedule established in the 2008 service-level agreement. However, due to budget reductions in administrative staff, DCF has had to shift some

⁵³ Agency officials reported that this division of duties was based on a comprehensive review of available resources.

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functions to APD, even though the agency was not prepared to assume these responsibilities. For example, in February 2008, DCF eliminated its sole contract monitoring position in one district, which left APD to immediately assume responsibility for performing this function at that office.⁵⁴ APD officials report that transferring functions affects the agency's efficiency and effectiveness because it does not have existing staff with necessary experience.

In addition, for services for which APD depends completely on DCF, agency officials express concern that they do not have sufficient staff to conduct quality assurance oversight of the services provided by the department. DCF selects a sample of contracts for monitoring each year. However, APD's contracts represent only a small fraction of the total contracts monitored by DCF, agency contracts may not be selected as part of a small sample, creating concern for APD officials regarding contract oversight.

DCF and APD have not developed a comprehensive plan outlining a systematic schedule for transferring additional administrative functions to the agency. A comprehensive plan for transferring functions from DCF would give APD an opportunity to prepare to perform these services and reduce the likelihood of service disruptions. Due to the breadth and complexity of services needed by APD and current budget constraints, DCF and APD officials have not taken any formal steps to develop a comprehensive plan to transfer remaining administrative functions.⁵⁵

Financial challenges limit DCF's ability to fulfill its duties and provide services to APD

The current economic downturn has had a significant impact on the state's budget, leading to resource reductions for many agencies. For DCF, these budget and staff reductions have affected its ability to provide necessary administrative services within DCF as well as to APD. In addition, shortfalls in APD's information technology services budget have created further financial challenges for DCF. Moreover, the current administrative structure also results in a loss to the state of an estimated \$640,000 annually in Medicaid reimbursement for the agency-related administrative costs.

Budget cuts have reduced DCF's ability to provide administrative services to the agency. Like other state agencies, DCF has experienced budget cuts in each of the past few fiscal years. Specifically, the department's administrative budget has been reduced by over \$61 million since Fiscal Year 2004-05. These budget cuts reduced the number of full-time equivalent positions available to support DCF's programs and affected its ability to perform the functions outlined in its agreement with APD. For example, DCF's financial services unit has lost 30 positions in recent years. Consequently, the unit has struggled to meet the department's workload as well as its responsibilities to APD.⁵⁶

APD's technology budget does not cover all costs. For each of the past three fiscal years, APD's technology budget has fallen short of its needs. The technology service-level agreement requires APD to pay DCF for technology services from funds appropriated for technology. In Fiscal Year 2008-09, the Legislature appropriated \$921,292 to APD for data services. However, at the end of the fiscal year, DCF absorbed a shortfall of nearly \$700,000 for providing technology services to the agency during this period (see Exhibit 2).

DCF staff explained that no specific event or service caused the shortfall; APD's budget simply did not cover its annual information technology service needs. Specifically, each year, midway through the fiscal year, APD's technology budget was completely expended. However, DCF continued to provide the services outlined in the technology services agreement rather than jeopardize client services. The shortfall further reduced the resources available to DCF to support its own operations. With the

⁵⁴ The DCF employee responsible for performing this function retired. However, due to budget constraints, DCF chose not to fill the position.

⁵⁵ During our review, APD and DCF established a workgroup to examine the transfer of additional financial positions and functions that could be moved from DCF to APD.

⁵⁶ APD officials reported that its budget reductions totaled \$2.8 million and 30 full time equivalents for Fiscal Year 2008-09 and 2009-10.

development of the Northwood Shared Resource Center, managed by the Agency for Enterprise Information Technology, as of July 2009, DCF is no longer responsible for providing technology services to APD.⁵⁷ Nevertheless, the total shortfall DCF absorbed over the last three fiscal years totaled more than \$2.2 million.

Exhibit 2

The Agency's Technology Budget Has Not Covered DCF's Cost for Providing Technology Services

Fiscal Year	Amount DCF Billed APD for Technology Services	Amount Paid by APD	Difference
2006-07	\$1,986,557	\$1,454,313	532,244
2007-08	2,293,588	1,237,743	1,055,845
2008-09	1,610,673	921,292	689,381
Total	\$5,890,818	\$3,613,348	\$2,277,470

Source: The Department of Children and Families.

Neither DCF nor APD can seek federal reimbursement for department costs. State policy requires agencies to maximize reimbursement of federal funding whenever possible. Generally, federal law allows for reimbursement of indirect costs for entities administering federal grants and programs. However, an agency can seek reimbursement for only its indirect cost rate, the administrative costs incurred to support its own programs.

With the current division of administrative functions between the DCF and APD, neither entity can seek federal reimbursement for any of the indirect costs associated with the administrative services the department provides to the agency. DCF estimated that its administrative expenses for providing services to APD during Fiscal Year 2007-08 were \$1.68 million. Therefore, the state forfeited approximately \$640,000 in federal reimbursement during this period (based on a reimbursement rate of 38%).

Options for Legislative Consideration

Given that DCF and APD have not developed a comprehensive plan outlining a systematic schedule for transferring functions to the agency, financial challenges and fragmented service delivery are likely to persist for the foreseeable future. In addition, in the absence of additional resources for APD, the department will need to continue to provide these administrative services.⁵⁸ To address the challenges associated with the administrative and operational supports DCF provides to APD, we examined the advantages and disadvantages of three options: 1) maintain the status quo but improve administrative service delivery; 2) require APD to become self-sufficient; and 3) transfer the developmental disabilities program back to DCF.

Option 1: Maintain the status quo but improve administrative service delivery. The Legislature could direct DCF and APD to develop an official transition plan to provide for a more structured transfer of responsibilities and reduce fragmentation and inefficiencies by a specified date. This option would require the agencies to consider the most efficient method for transferring responsibilities from DCF to APD and should include a comprehensive review of the current piecemeal service delivery structure. This option would result in the least disruption within the two agencies and to services for persons with

⁵⁷ Although APD began receiving most of its technology services from the Northwood Shared Resource Center, DCF continues to provide APD minimal technology services.

⁵⁸ DCF officials reported that the department may no longer have the necessary resources to provide administrative services to APD if the department experiences additional reductions in its administrative budget.

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disabilities. However, this option does not resolve the problem of lost federal Medicaid reimbursement associated with DCF's provision of administrative services to APD.

Option 2: Require APD to become self-sufficient. The Legislature could require APD to develop and implement a plan to perform all of its own administrative and operational functions within a specified time period. This plan would need to identify resource requirements and a timeframe for completing the transfer of responsibilities. This option would relieve DCF of the need to subsidize APD's administrative services and make the state eligible to receive federal reimbursement of an estimated \$640,000 in APD's indirect costs.⁵⁹

While the Legislature would have to appropriate additional staff and funding to APD to provide administrative services under this option, centralizing administrative services within APD could provide a net fiscal benefit to the state. Specifically, APD estimated that it would need 48 full-time equivalent positions and \$2.3 million annually in funding to become self-sufficient and internally provide the services it currently receives from DCF. This is comparable to the \$2.4 million that we estimated DCF expended to provide administrative and technology services to APD.⁶⁰

If the Legislature wishes to pursue this option, it should require APD to submit a detailed justification for each position the agency estimates it would need to become administratively self-sufficient. In addition, because APD is relatively small compared to existing programs at DCF, it may not be cost-effective for the agency to perform certain functions such as managing fixed capital outlay. To avoid creating unnecessary positions within APD, APD and DCF should analyze each function to determine if DCF could provide the service more efficiently on a reimbursed cost basis through an interagency agreement. Accordingly, APD and DCF should analyze each function to determine if they should remain within DCF and be provided through an interagency agreement under which APD would reimburse DCF for the cost of providing these services. This could reduce the amount of funding APD would require to become self-supporting and thus increase the potential state financial benefits of this option (retaining a large portion of administrative services within DCF, however, would reduce the level of federal reimbursement the state could receive for these functions).

Option 3: Transfer the Developmental Disabilities Program back to DCF. The Legislature could amend state law, abolish APD, and transfer back to the department the responsibilities and funding for the developmental disabilities program. This option would make DCF eligible to receive federal reimbursement for administrative costs incurred to support the program, which we estimated at \$640,000 for Fiscal Year 2007-08. This option could also generate cost savings if duplicative administrative positions within the two agencies, such as agency head, inspector general, and general counsel positions, were eliminated. However, these cost savings could in part be offset by transition costs to consolidate the two agencies, and transferring the program back to DCF could cause some disruption in services. In addition, developmental disabilities program stakeholders who supported the creation of a separate agency might oppose moving the program back to the department.

⁵⁹ This estimate is based on DCF's indirect costs and federal reimbursement rate. APD's federal reimbursement rate is slightly different, and therefore would affect the actual amount of this reimbursement.

⁶⁰ This estimate is based on the most recent information available from DCF. It includes \$1.68 million for administrative expenses and \$689,000 for technology services.



The Florida Legislature

OFFICE OF PROGRAM POLICY ANALYSIS AND GOVERNMENT ACCOUNTABILITY



RESEARCH MEMORANDUM

Statewide Advocacy Council Activities Overlap with Other Entities, but Duplication Is Minimal

October 13, 2009

Summary

As requested, OPPAGA examined whether the Statewide Advocacy Council is duplicative of other state entities. The council performs similar activities as those performed by other entities, but duplication among the entities is minimal. We examined the advantages and disadvantages of continuing, eliminating, or transferring the Statewide Advocacy Council.

Program Purpose, Organization, and Responsibilities

The mission of the Statewide Advocacy Council (SAC) is to protect and advocate for a better quality of life for Floridians with unique needs. In 2000, the Legislature created a system that includes the Statewide Advocacy Council and local advocacy councils to serve as a consumer protection mechanism without interference by an executive agency for persons receiving services from certain state agencies. The SAC's statutory function is to provide a volunteer network that monitors and investigates conditions that constitute a threat to the rights, health, safety or welfare of persons who receive services from programs operated, funded, or contracted by four state agencies, the Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Children and Families, and the Department of Elder Affairs.⁶¹ The types of programs and facilities monitored and investigated by the volunteer network include group homes for persons with developmental disabilities, adult day training programs, inpatient and outpatient mental health and substance abuse facilities, economic self-sufficiency offices, Baker Act facilities, child care facilities, and licensed foster homes.

The SAC is under the direction of the Executive Office of the Governor and has 15 volunteer members appointed by the Governor. The SAC is staffed with five full-time equivalent positions and one OPS position, including the executive director, four regional staff and one administrative assistant.

The SAC's primary role is to oversee and supervise the operation of 25 local advocacy councils and serve as the appellate body for complaints that the local advocacy councils have not been able to resolve. Located throughout the state and organized into 15 service areas, the local advocacy councils are composed of 270 volunteer members appointed by the Governor.⁶² The local advocacy councils have to meet at least six times annually to coordinate their primary responsibilities of monitoring programs and facilities, and investigating complaints.

⁶¹ Section 402.164, F.S.

⁶² There are three types of local advocacy councils: multi-program councils, which can handle matters relating to all types of client groups; mental health councils, which serve persons who receive mental health services including treatment for abuse of drugs and alcohol; and developmental disabilities councils, which serve persons with developmental disabilities.

- **Monitoring.** Local advocacy council volunteers conduct monitoring visits of facilities serving clients served by the four state agencies over which they have purview. The purpose of these visits is to determine if there are any conditions present in a facility that could result in a future adverse incident. Each local advocacy council decides the number and frequency of monitoring based on local capacity and priorities. For example, councils with larger numbers of volunteers may have the capacity to monitor more facilities more often. On a site visit, volunteers talk to residents and staff, review facility records, and record their observations about the facility on a monitoring checklist.⁶³ Volunteers report their monitoring activities and any related findings and recommendations at local council meetings. They forward their findings and recommendations via letter to the facility and its licensing agency.

Investigations. Section 402.166, *Florida Statutes*, requires local advocacy councils to investigate complaints of abuse or deprivation of rights by a state agency or their providers. Local advocacy council volunteers gather information about alleged incidents by conducting interviews and visiting facilities or program sites. The purpose of the investigations is to determine if agency and provider staff followed established policies and procedures and if needed services are in place. Volunteers report their findings and related recommendations at council meetings. The local advocacy councils forward their recommendations to the facility and its licensing agency when they find that a complaint was valid. These recommendations can direct a facility and licensing agency to take actions to prevent future adverse incidents, such as improving a facility's physical condition and enforcing safety procedures.

Statutes authorize the Governor to assign the SAC to any executive agency for administrative support purposes.⁶⁴ In Fiscal Year 2004-05, the Governor assigned this role to the Agency for Health Care Administration. For Fiscal Year 2009-10, the Legislature appropriated the Agency for Health Care Administration \$555,437 from general revenue, including \$349,566 for salaries and benefits and \$137,450 for expenses, and five FTEs for the SAC. The SAC also has one OPS position.

State agencies also conduct monitoring and investigations, but for different purposes

The four state agencies that oversee the facilities under the councils' purview also monitor and investigate these facilities. However, the purpose and role of the agencies' monitoring and investigations differ from those performed by the council. The agencies and councils coordinate activities to avoid duplication.

State agencies and the Statewide Advocacy Council both conduct monitoring and investigations. The Agency for Health Care Administration, the Agency for Persons with Disabilities, and the Department of Children and Families monitor and investigate the client programs and services they administer.⁶⁵ These activities include contract monitoring, licensing reviews, quality assurance reviews, and inspector general investigations.

However, the purposes of these activities and the role of monitors and investigators differ. State agencies conduct monitoring and investigations to ensure that their employees and contractors follow state and federal rules, regulations, and laws designed to ensure the health, safety, and welfare of clients. For example, the Agency for Health Care Administration reported that it performs annual surveys of Crisis Stabilization Units and Residential Treatment Facilities for Children and Adolescents to determine whether the facilities are operating in compliance with laws and regulations.

In contrast, the local advocacy councils advocate on behalf of clients and work to resolve specific complaints made by clients. In addition, their monitoring and investigation activities are intended to

⁶³ Specific monitoring checklists are available for each type of facility.

⁶⁴ Section 402.165, *F.S.*

⁶⁵ The Department of Elder Affairs also conducts monitoring and investigations of client programs and services through the Office of the Long-Term Care Ombudsman. The SAC has an interagency agreement with this entity.

help ensure that agencies and their contracted providers are safeguarding the health, safety, and welfare of persons receiving services. The local advocacy councils' monitoring and investigations can result in recommendations to the facility and the agencies to improve programs and the quality of life for those individuals. For example, one local advocacy council received a complaint that a client with developmental disabilities received a new wheelchair that needed adjustments to make it usable, but the contracted provider refused to make these adjustments. Council volunteers worked with the provider to negotiate a payment to the client's family so that it could arrange for the necessary adjustments to the wheelchair.

Also, because state agencies use their own employees and contractors to conduct their monitoring and investigations, these persons are subject to the agency's control, supervision, or direction. The Legislature moved the SAC to the Executive Office of the Governor from the Department of Children and Families in Fiscal Year 2004-05 so that council volunteers could operate without interference by an executive agency and function as a third-party entity to advocate on behalf of clients served by the state.

The state agencies coordinate activities with the Statewide Advocacy Council and local advocacy councils. Staff from the Department of Children and Families and Agency for Persons with Disabilities often attend local advocacy council meetings and interact with council staff when discussing investigations. The local councils send copies of their monitoring and investigation reports to the relevant agencies to ensure that the agencies are aware of problems they have identified through their work. In addition, the SAC enters into annual interagency agreements with these agencies that define the roles and responsibilities of each entity, including access to records and other information, such as abuse reports, and training requirements. The SAC is working to finalize an agreement with the Agency for Healthcare Administration.

Two other entities also conduct facility monitoring and investigations, but there is limited duplication with council activities

Two other entities, the Office of the Long-Term Care Ombudsman and the Advocacy Center for Persons with Disabilities, Inc. (Advocacy Center), conduct the same types of activities as the SAC.⁶⁶ While the ombudsman and the SAC coordinate their efforts to prevent duplication, there is some overlap in activities and clients between the SAC and the Advocacy Center.

The Office of the Long-Term Care Ombudsman conducts the same types of monitoring and investigative activities as the Statewide Advocacy Council, but coordinates its activities with the council to avoid duplication. The Office of the Long-Term Care Ombudsman under the auspices of the Department of Elder Affairs is a statewide, volunteer-based system of 17 district councils that identify, investigate, and resolve complaints made by or on behalf of long-term care facility residents. Ombudsman volunteers also conduct monitoring visits of long-term care facilities. The federal Older Americans Act, which provides funding for nutrition programs and in-home and supportive services for elders, also requires states to have an ombudsman. In Fiscal Year 2009-10, the program was appropriated \$1.9 million in state and federal dollars (\$921,985 in general revenue and \$1,026,020 in federal funds). The program has 66.5 paid staff and currently has 466 volunteers serving across the state.

As required by statute, the SAC and the ombudsman develop and annually renew an interagency agreement to coordinate their advocacy efforts for residents of long-term care facilities and avoid

⁶⁶ We did not further evaluate two other entities that have advocacy missions because their primary functions are dissimilar. The Statewide Public Guardianship Office and the Guardian Ad Litem Program advocate on behalf of vulnerable citizens, but their roles are limited to primarily representing the legal interest of individuals. The entities also do not monitor facilities.

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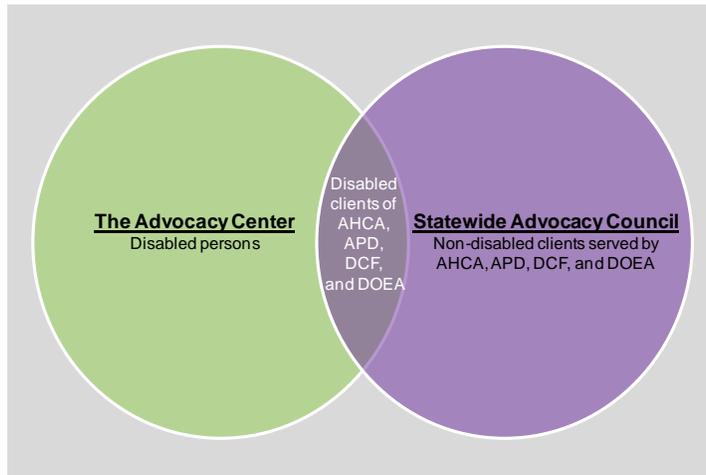
duplication of services. In April 2009, these entities clarified their agreement by adding language designating the ombudsman as the entity responsible for monitoring and investigating complaints involving residents of long-term care facilities who are aged 60 and over. The SAC will investigate any complaints involving residents under the age of 60 as well as older residents who receive mental health or developmental disability services. The interagency agreement also provides for the coordination of investigations and sharing of information when appropriate.

There is some overlap between the mission and activities of the Advocacy Center and the Statewide Advocacy Council, but duplication is minimized due to their use of different approaches. The mission of the Advocacy Center for Persons with Disabilities, Inc., (Advocacy Center) is to advance quality of life, dignity, equality, self-determination, and freedom of choice for persons with disabilities. The Advocacy Center is a non-profit corporation designated by the Governor of Florida as a protection and advocacy system for protecting the rights of Floridians with disabilities. States must designate an entity to serve as this system in order to receive federal funding for the disabled. The Advocacy Center provides services for the disabled such as legal representation, monitoring, investigations, and other advocacy services. The Advocacy Center's revenues totaled \$5.8 million in 2008 and it has 58 staff located in Hollywood, Tallahassee, and Tampa.⁶⁷

The Advocacy Center and the local advocacy councils have similar missions and perform some of the same types of activities for similar groups. The Advocacy Center and the SAC have similar missions to protect the rights of vulnerable citizens. As a result, some of their activities are similar. The Advocacy Center and the councils both monitor facilities and programs that serve the disabled, such as mental health facilities and developmental disabilities facilities. To do this, these entities use monitoring tools to assess facility conditions, safety procedures, and provide access to contact information for clients to request advocacy assistance. In addition, both can communicate with residents to assess if their needs are being met. Both the Advocacy Center and the councils also conduct investigations into allegations of abuse and neglect and rights violations for disabled individuals. Both also may initiate investigations from individual complaints or based upon direct observation during monitoring visits to facilities. To carry out investigations, both conduct interviews with persons such as the alleged victims and facility staff, and can perform site visits.

In addition, the Advocacy Center and SAC serve some of the same client groups (see Exhibit 1). The Advocacy Center is required to serve individuals with disabilities while some of the clients under the SAC's purview also are disabled. For example, both the Advocacy Center and SAC serve clients with developmental disabilities.

⁶⁷ The majority of the Advocacy Center's funding comes from federal grants, including the Protection and Advocacy for Persons with Developmental Disabilities grants and Protection and Advocacy for Individuals with Mental Illness grants.

Exhibit 1**The Advocacy Center and the Statewide Advocacy Council Serve Some of the Same Clients**

Source: OPPAGA analysis.

However, there are some differences between the two entities in their jurisdiction over specific client groups. For example, the Advocacy Center serves persons with disabilities receiving services from the educational system, the correctional system, and vocational rehabilitation. The SAC's statutory purview does not include these client groups.⁶⁸ However, the SAC serves clients not served by the Advocacy Center, such as non-disabled children in foster care or child care and non-disabled individuals receiving services from economic self-sufficiency, Medicaid, and substance abuse programs.

While it is possible for both entities to conduct monitoring in some of the same facilities, they use different methods to select which facilities to monitor and determine the frequency of monitoring visits. These different methods make it unlikely that the Advocacy Center and the councils would monitor the same facilities at the same time.

The two entities use different methods to select facilities for monitoring. The Advocacy Center's Board of Directors adopts annual goals based on federal grant requirements and input from staff and the public. Staff conducts monitoring and other activities based on these goals. For example, in 2008, the Advocacy Center began an initiative to monitor and conduct legal rights training at all of the state's mental health treatment facilities. Each local advocacy council uses various mechanisms to decide which facilities to monitor including abuse notifications from the Department of Children and Families, complaints made directly to the council, media coverage of abuse or poor conditions in a facility, and a schedule the council has developed.

The frequency with which the entities monitor facilities also varies. Advocacy Center staff reported that they conducted eight monitoring visits to facilities in Federal Fiscal Year 2008-09, in addition to other on-site investigation and monitoring activities resulting from specific complaints. During Fiscal Year 2008-09, local advocacy councils conducted 356 monitoring visits to facilities.

⁶⁸ Section [402.164 \(2\)\(b\)](#), *F.S.*, defines Statewide Advocacy Council clients as a client of the Agency for Persons with Disabilities, the Agency for Health Care Administration, the Department of Children and Family Services, or the Department of Elderly Affairs, as defined in ss. [393.063](#), [394.67](#), [397.311](#), and [400.960](#), *F.S.*; a forensic client or client as defined in s. [916.106](#), *F.S.*; a child or youth as defined in s. [39.01](#), *F.S.*; a child as defined in s. [827.01](#), *F.S.*; a family as defined in s. [414.0252](#), *F.S.*; a participant as defined in s. [429.901](#), *F.S.*; a resident as defined in s. [429.02](#), *F.S.*, a Medicaid recipient or recipient as defined in s. [409.901](#), *F.S.*; a child receiving child care as defined in s. [402.302](#), *F.S.*; a disabled adult as defined in ss. [410.032](#) and [410.603](#), *F.S.*; or a victim as defined in ss. [39.01](#) and [415.102](#), *F.S.*; as each definition applies within its respective chapter of the statutes.

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Differences in the entities' approaches to initiating and resolving investigations also reduce the likelihood of duplication. Both entities conduct investigations; however, there are differences in how these investigations are initiated and resolved. The Advocacy Center uses a formalized case selection process and has discretion to determine if staff will investigate a complaint. This process uses an intake and referral system to gather demographic information and other details from individuals who contact the center via telephone. Staff then decides whether they will investigate an individual's complaint using formal case selection criteria. These criteria include if the issue fits within the center's federal grant requirements and annual program goals, the urgency of a particular matter and likely consequences for the individual, the effect resolving the complaint will have for individuals with disabilities, current staff workload, and the potential for successful resolution.

Local advocacy councils do not use formalized selection criteria to determine if they will initiate an investigation. Instead, the local advocacy councils must investigate complaints received from the Governor's office and any calls to the SAC's hotline that fall within its jurisdiction. In addition, the councils have the discretion to initiate an investigation based on information such as abuse notifications from the Department of Children and Families.

The Advocacy Center and councils also differ in how they resolve investigations. The center can take a variety of actions in response to its investigatory findings. These actions range from providing information, advice, and short-term technical assistance to negotiating on behalf of an individual. The Advocacy Center also may represent an individual in administrative or legal proceedings. If a complaint suggests evidence of systemic failure, the center may advocate on behalf of an individual, including entering into class litigation. The SAC uses a different approach to resolving investigations. If a volunteer conducts an investigation and finds that the allegation is supported by clear and convincing evidence, the case is found to be valid and the council makes recommendations to correct the problem and prevent the future occurrence of the same or similar problem. Local advocacy councils send these recommendations via letter to the appropriate facility, service, or program and the applicable licensing agency.

Options for Legislative Consideration

Given the overlap in some activities of the Statewide Advocacy Council with state agencies and the Advocacy Center for Persons with Disabilities, we examined advantages and disadvantages of three options: continue the Statewide Advocacy Council and local advocacy councils, eliminate the Statewide Advocacy Council and local advocacy councils, and transfer the Statewide Advocacy Council and local advocacy councils to the Advocacy Center for Persons with Disabilities.

Option 1: Continue the Statewide Advocacy Council and Local Advocacy Councils. The primary advantage of continuing the Statewide Advocacy Council and local advocacy councils is that they provide an independent check and balance on the provision of state services to vulnerable clients. Having multiple entities, including the councils, conduct monitoring and investigations provides broader coverage to help ensure the health and safety of these clients. However, continuing the councils would require over \$555,000 in general revenue annually. In addition, the councils rely on volunteers to conduct their activities and only 3 of the 15 service areas have enough volunteers to staff a multi-program council, a mental health council, and a developmental disabilities council. In the areas that do not have all three council types, there may not be the capacity to conduct all activities for all client groups. Also, multi-program council volunteer participation varies throughout the state; for example, the Jacksonville multi-program council currently only has 4 of 15 volunteer slots filled.

Option 2: Eliminate the Statewide Advocacy Council and Local Advocacy Councils. The primary advantage of this option is that the state would save approximately \$555,437 in general revenue annually. Moreover, some client groups, such as the elderly and disabled, would continue to have

access to a third-party entity that monitors facilities and investigates complaints through the Long-Term Care Ombudsman and the Advocacy Center.

A primary disadvantage of eliminating the councils is that the state would lose the benefit of having monitoring and investigations conducted by volunteers who do not have an organizational or financial interest in the continued provision of state-funded services. Also, the local advocacy councils provide a multidisciplinary approach to resolving issues because they are composed of members from a variety of backgrounds, cultures, and professions with a common interest of protecting the rights of the individuals receiving services, while staff operating on behalf of a state agency may not represent such a wide variety of perspectives. In addition, the activities conducted by council volunteers may detect and address issues that would not normally rise to the level of state agency involvement but affect clients, such as whether a wheelchair provided to a client was sufficient to address his or her needs.

Option 3: Transfer the Statewide Advocacy Council and Local Advocacy Councils to the Advocacy Center for Persons with Disabilities. This option would require the Legislature to amend s. 402.165, *Florida Statutes*, to allow the activities of the SAC to be performed by a non-governmental entity such as the Advocacy Center. The primary advantage of this option is the potential for cost savings resulting from administrative reductions such as staff and workspace consolidations. In addition, transferring the SAC would eliminate the overlap that currently exists between the Advocacy Center and the SAC. Also, the capacity of the center to conduct its activities may increase through the use of local advocacy council volunteers. Finally, placing the SAC in a non-governmental entity like the Advocacy Center would be consistent with the role of the SAC as a third-party entity because it would no longer be housed in a state agency.

The primary disadvantage of transferring the SAC to the Advocacy Center is that it could result in a narrowing of the SAC's focus due to differences in the entities' purposes. The Advocacy Center is required by federal law to serve disabled clients, and this federal mandate could potentially result in a loss of focus on non-disabled clients currently served by the SAC. Also, the Advocacy Center's mission to provide legally based advocacy could alter SAC activities. For example, the SAC's monitoring and investigation activities could be shifted from preventing future adverse incidents through recommendations to facilities and licensing agencies to compiling evidence for potential litigation.

Gary R. VanLandingham, Ph.D., Director



The Florida Legislature

OFFICE OF PROGRAM POLICY ANALYSIS AND GOVERNMENT ACCOUNTABILITY



RESEARCH MEMORANDUM

Children's Legal Services Has Made Changes to Address Recommendations for Improvement; Some Challenges Remain

December 17, 2009

Summary

As requested, OPPAGA reviewed the implementation and performance of the Department of Children and Families' Children's Legal Services (CLS). The department has restructured CLS and has addressed most of the recommendations made by an internal workgroup and previous external reviews. These improvements include implementing a legal quality assurance program, enhancing attorneys' training and professional development opportunities, providing additional legal resources and tools, and strengthening attorney recruitment and retention efforts. However, CLS still faces several challenges, including strained relationships with stakeholders, limited control over funding for legal costs, insufficient pre-service training for new attorneys, and setbacks in developing its case tracking system.

Purpose, Organization, and Responsibilities

Chapter 39, *Florida Statutes*, makes the Department of Children and Families responsible for protecting children in the dependency system. A 1989 Florida Supreme Court opinion required adequate legal representation on behalf of the Department of Health and Rehabilitative Services (now the Department of Children and Families) at every stage of juvenile dependency proceedings conducted under Ch. 39, *Florida Statutes*.⁶⁹ To comply with this requirement, the 1992 Legislature required that an attorney for the department must represent the state in dependency proceedings.⁷⁰ The 1997 Legislature modified this requirement to specify that an attorney must represent the department during dependency and termination of parental rights proceedings.⁷¹ CLS attorneys

- advise protective investigators, caseworkers, and administrators on legal sufficiency for shelter, dependency, and termination of parental rights petitions and other issues;
- supervise or prepare and sign all legal documents including petitions, pleadings, motions, discovery requests, case plans, affidavits of diligent search, affidavits under the Uniform Child Custody Jurisdiction Act, pre-dispositional reports, judicial review social studies, certificates of service, and notices of appeal;
- provide legal expertise to caseworkers in case staffings and conferences;
- attend court hearings;

⁶⁹ The Florida Bar Re: Advisory Opinion HRS Nonlawyer Counselor, 547 So. 2d 909, 1989. Prior to this opinion, state attorneys represented the state in contested dependency cases. In non-contested cases, case workers prepared petitions, filed motions, appeared in court, and presented evidence without assistance from the state attorney. The Department of Legal Affairs represented the state in cases under appeal.

⁷⁰ Chapter 92-170, *Laws of Florida*.

⁷¹ Chapter 97-238, *Laws of Florida*, amended Ch. 39, *Florida Statutes*, and transferred sections related to delinquency and children and families in need of services to Chs. 984 and 985, *F.S.*, respectively.

- participate in dependency mediation;
- represent the department in contested adoptions and the state in appellate proceedings; and
- train protective investigators and caseworkers regarding their legal responsibilities.

The department uses in-house attorneys to perform these functions in most counties and judicial circuits. However, it contracts with the state attorney for Pinellas and Pasco counties to provide these services in the 6th Judicial Circuit and with the Office of the Attorney General to provide these services in Hillsborough, Manatee, and Broward counties (Judicial Circuits 12, 13, and 17).

For Fiscal Year 2009-10, the Legislature appropriated \$43.7 million and 425 full-time equivalent (FTE) positions for Children's Legal Services.⁷² Approximately 60% of these FTEs are attorney positions, including management positions, while the remaining positions are paralegals and administrative support staff.

The department restructured Children's Legal Services as part of its reorganization effort. The 2007 Legislature authorized the department to modify its organizational structure.⁷³ As part of this effort, the Secretary formed several workgroups of internal and external stakeholders to examine the department's structure. The Legal Review Workgroup was charged with reviewing the department's Office of the General Counsel and the former Child Welfare Legal Services functions.

This workgroup reviewed previous OPPAGA and Florida Bar reports that cited problems with the department's legal services and gathered information from stakeholders.⁷⁴ The workgroup made recommendations to reorganize the department's legal services with a new management structure; improve the quality of legal representation; and enhance communication, coordination, and collaboration both within the department and with community partners. These recommendations also addressed the need for attorney training and professional development, caseload standards, adequate support staff levels, recruitment and retention practices, case tracking, and quality assurance.

To respond to these recommendations, the department created a new management structure for Child Welfare Legal Services in 2007. The function was made an autonomous unit reporting to a state director, separate from the department's general counsel and regional legal counsels. The director of Children's Legal Services reports to the department secretary and there are five regional directors and five functional area directors who oversee training, appeals, quality assurance, administration; and special topics. The geographical areas supervised by the Children's Legal Services' regional directors align with the department's regional structure except in South Florida where one director supervises both the department's southeast and southern regions. The department continues to use managing and supervising attorneys to oversee circuit operations.

Children's Legal Services has addressed most recommendations

To address the recommendations made by the Legal Review Workgroup, CLS has implemented a quality assurance program, enhanced training and professional development opportunities, provided more legal resources and tools, and strengthened staff recruitment and retention efforts. Although opinions about the success of these efforts are mixed, CLS staff and some stakeholders report that these steps have improved the quality of legal services provided by attorneys.

CLS has established a quality assurance program. As recommended by both prior OPPAGA reports and the Legal Review Workgroup, the department has established a quality assurance system for CLS. The initial quality assurance reports, issued in July 2008, focused on the quality of petitions filed with

⁷² The appropriation includes funding for the State Attorney's Office and the Office of the Attorney General; FTEs represent only DCF employees.

⁷³ Chapter 2007-174, *Laws of Florida*.

⁷⁴ *Child Welfare Legal Services Should be Provided by DCF or Private Law Firms*, OPPAGA [Report No. 04-05](#), January 2004; *Child Welfare Legal Services Makes Some Improvements, But Other Changes Needed*, OPPAGA [Report No. 05-47](#), September 2005; *Report of the Florida Bar's Law Office Management Assistance Service to the Office of the General Counsel State of Florida Department of Children and Families*, The Florida Bar, July 2004.

the court to request removal of children from their homes and compared department regions and circuits by the rate at which investigators removed children. In March 2009, this process was refined to focus on 10 key measures. According to department staff, this change was based in part on the findings of a federal Child and Family Services Review of Florida's child welfare system, including whether children and caregivers are present in court, whether children's educational needs are met, and whether children are prepared for independent living once they leave foster care. CLS administrators indicate that they use quality assurance findings and reports to identify areas needing improvement.

The department is planning to further enhance its quality assurance efforts by integrating CLS reviews with those of the Family Safety Program, and it recently conducted a pilot to test this model. CLS managing and supervising attorneys will spend two days each quarter reviewing cases to assess the quality of legal decisions, while Family Safety quality assurance staff will review these cases for the quality of protective investigations and case management.

CLS has enhanced training and professional development opportunities. As recommended by the workgroup and prior OPPAGA reports, the department has enhanced its training and professional development programs. These have included

- providing training on litigation skills to improve attorney's trial skills;
- providing training on updates to Ch. 39, *Florida Statutes*;
- issuing a trial advocacy guide to help attorneys and their supervisors prepare for trial;
- establishing a process whereby new attorneys ride along with protective investigators and case workers to help attorneys better understand the different roles and responsibilities in the dependency system;
- creating a structured mentoring system for new attorneys that includes shadowing senior attorneys, observing trials, assisting senior attorneys with trials and conducting trials themselves under the observation of supervising and managing attorneys; and
- establishing processes to ensure that all training for CLS attorneys qualifies for Continuing Legal Education credits.

CLS also provided training in legal requirements for children's Master Trust Accounts and independent living, and provides ongoing technical assistance to its attorneys on a range of issues including foster children's educational needs, special needs trusts, and Medicaid eligibility. The CLS appellate director additionally provides case law updates through monthly conference calls and posts appellate decisions on the program's website.

CLS has provided legal resources and tools to its attorneys. To address weaknesses in legal resources identified by the workgroup and the Florida Bar's 2004 report, the department has provided laptop computers to its attorneys and has upgraded their printers and scanners. CLS also provided Blackberries, cell phones, and access to Internet legal research tools such as Westlaw and Lexis-Nexis to many of its attorneys, and it intends to provide these tools to the remaining attorneys as funding permits. CLS also developed a password-protected website for CLS staff through the University of South Florida's Center for the Advancement of Child Welfare Practice. This website contains announcements of upcoming training, information on legal issues, and general announcements.

CLS has strengthened recruitment and retention efforts. As recommended by the workgroup, The Florida Bar, and OPPAGA, CLS has strengthened its efforts to recruit and retain attorneys. Specifically, CLS administrators have made presentations to Florida law school students on practicing dependency

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law. It has also provided paid internships to students who participate in The Florida Bar's certified legal intern program; these interns spend a semester working with a CLS attorney to help them understand dependency law and the department's work. CLS administrators report that they have recruited several attorneys through this program.

CLS has also taken steps to reduce attorney turnover. Our 2004 report noted that turnover exceeded 75% in some districts and was due in part to limited career paths, modest salaries, and high caseloads. For example, our 2004 report noted that average salaries for beginning attorneys was \$38,000 compared to average starting salaries ranging from \$40,000 to over \$100,000 for new law school graduates hired by private law firms. However, managing attorneys report that they recently hired attorneys at around \$50,000 per year. In addition, caseloads have been reduced from a range of 73 to 220 active cases per attorney to a range of 60 to 80 cases. Managing attorneys also monitor cases to identify those that should be closed such as when children have been reunified with their parents and thus further judicial action is not required, and administrators periodically review caseloads across the state and realign staffing as needed to more evenly distribute workload across the state. These caseload management efforts have been aided by a reduction in the number of children entering the dependency system.⁷⁵

These steps, together with the national economic recession, have helped to reduce staff turnover. For Fiscal Year 2008-09, the department reported average attorney turnover of 14.3%, ranging from 5% to 22% among regions.

Although opinions are mixed, CLS staff and some stakeholders report that these changes have improved the quality of legal services. To assess stakeholders' opinions about the quality of CLS legal services, we visited six circuits and interviewed or held focus groups with judges, guardians ad litem, attorneys ad litem, child protective investigators, case managers, and CLS staff (attorneys, supervisors, and managers).

CLS attorneys, supervisors, and managers reported a substantial improvement in the quality of the department's legal representation of dependent children since restructuring CLS. The improvements most often mentioned were that

- attorneys better understand that they represent the State of Florida, rather than case managers or child protective investigators, as was their previous understanding before CLS was restructured;
- attorneys have a more in-depth knowledge of cases and are able to better recognize when children may need non-dependency legal advocacy;
- attorneys control decisions about which cases to take to court and proceed only when cases are sound;
- attorneys guide decisions about when to remove children from their homes, which has supported the department's effort to reduce out-of-home care;
- attorneys understand that it is not their role to protect the department or hide poor casework, resulting in more transparency and openness in court;
- attorneys feel more supported by management in the legal decisions they make; and
- attorneys believe that judges show them more respect in court, have more confidence in their work, and are more likely to rely on their judgments when in court.

Judges, guardians ad litem, and attorneys ad litem were not uniformly positive about the changes at CLS, although many reported improvements since its restructuring. Attorneys ad litem indicated that CLS has a more unified perspective about its legal role in the dependency system, and indicated that CLS attorneys are more knowledgeable, better prepared, and more confident in the courtroom. Some

⁷⁵ Department administrators cite a combination of factors to explain why fewer children are entering the dependency system. These factors include efforts by protective investigators and community-based care lead agencies to safely divert some cases of reported maltreatment by using other resources to provide services and help families, and increased emphasis on child abuse prevention and intervention.

judges reported that the CLS attorneys are willing to advocate with community-based care lead agencies to provide needed services to children. However, some of these stakeholders reported that CLS attorneys were not attending case staffings, did not appear to have adequate knowledge of cases, and did not have enough experience practicing dependency law.

Case managers and child protective investigators were generally the most concerned about the changes in CLS, but reported some improvements. Some case managers noted that the attorneys have begun contacting them farther in advance of court hearings to enable them to more adequately prepare testimony. Others noted that they have a more collaborative relationship with the attorneys and receive guidance on additional work needed to strengthen cases. Protective investigators reported that CSL attorneys are more pro-active in determining legal sufficiency to proceed in a case while still taking the investigator's viewpoint into account, and indicated that CLS has a higher level of accountability than in the past and the attorneys seem to be more knowledgeable and caring. However, as discussed below, other protective investigators and case managers were concerned about their relationships with CLS attorneys and the quality of legal representation.

Children's Legal Services faces some ongoing challenges

Despite changes to improve its operations and performance, CLS still faces challenges due to strained relationships with some stakeholders, lack of control over funding for legal costs, insufficient pre-service training for new attorneys, and setbacks in support and maintenance of its case tracking system.

CLS needs to rebuild relationships with stakeholders. Both the workgroup and prior OPPAGA reports had concluded that the department needed to improve relationships with key stakeholders and better delineate the roles and responsibilities of the various entities involved in dependency proceedings. To address these issues, department and CLS administrators announced through written and oral communication that CLS attorneys represent the State of Florida, acting through the department, rather than the department or its contracted providers.

However, some stakeholders reported that CLS staff conveyed this clarification in a manner that strained rather than improved relationships. Some protective investigators and case managers told us that CLS administrators and attorneys often clarified roles and responsibilities in an adversarial manner, and indicated that they were told that their case recommendations would no longer be represented by CLS attorneys and their role was that of a witness rather than a partner in dependency proceedings. As a result, these stakeholders said that their expertise and knowledge of families was ignored, that CLS attorneys presented cases without complete knowledge of all facts, and the attorneys sometimes disagreed openly with them in court about case decisions. Further, these stakeholders asserted that the roles of case managers and CLS were becoming blurred as attorneys assumed responsibilities such as establishing an appropriate permanency goal for a child.

To address this problem, CLS administrators are planning a series of team building workshops with lead agencies that will be facilitated by a consultant from the Casey Family Programs. CLS regional directors have also met with judges in their regions to discuss the new CLS structure and plan to have periodic meetings with these officials.

CLS does not control all funding for legal costs. Unlike other state legal entities such as state attorneys, public defenders, and court-appointed counsel, CLS does not receive a designated appropriation for legal costs. The Florida Bar's 2004 report noted that non-attorneys, rather than CLS managers, were projecting budgetary needs for the department's legal costs in dependency proceedings. To ensure there

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are adequate funds to cover the cost of litigation, the report recommended that managing attorneys be responsible for this function. The workgroup also recommended that CLS be given control and responsibility for all legal costs associated with dependency proceedings.

However, the department has not made this change, and there is inconsistency across circuits in which entity is responsible for paying for legal costs such as expert witnesses, service of process, and public notice of termination of parental rights proceedings. Generally, the department's budget does not cover these costs and it must request payment for these expenses from the contracted lead agencies.⁷⁶ Some lead agency directors question why their organizations are expected to pay for trial costs.

However, in Circuits 6, 12, 13, and 17, the department's contracted CLS providers (a state attorney and the Office of the Attorney General) receive funding in their contracts for all legal costs incurred while working on behalf of the department. These contractors indicated that billing lead agencies for legal costs would be problematic and not in keeping with their normal operations.

To ensure agreement on which entity is responsible for legal costs, CLS developed and negotiated amendments to lead agency contracts that delineate the specific legal costs lead agencies will pay in each circuit for Fiscal Year 2009-10. However, the department is not planning to modify lead agency funding amounts to shift responsibility for legal costs from lead agencies to CLS.

To bring about a greater degree of uniformity in these arrangements, the department should consider, in consultation with lead agency administrators, defining those legal costs that CLS should assume for all circuits. For example, the department could form a working group to identify legal costs most appropriate for the department to control, such as service of process or depositions, and legal costs that lead agencies should control, such as obtaining copies of children's birth certificates and parents' death certificates when applicable.

CLS needs to develop more structured pre-service training for new attorneys. The workgroup recommended that CLS establish a pre-service curriculum for new attorneys. Although CLS has enhanced training and professional development in several areas, its regional administrators and attorneys reported a continuing need to develop a structured orientation training curriculum that covers the dependency system, the roles and responsibilities of the entities in this system, and relevant statutory and case law. Attorneys noted inconsistencies in training provided in different department regions on substantive issues affecting the dependency system, such as domestic violence, substance abuse, and mental health. To address this problem, the department should consider reinstating the pre-service training curriculum for new attorneys that it offered prior to 2004; to minimize costs it should record a video of the training to post on the CLS website so it can be viewed by new attorneys at whatever point they are hired during the year.

CLS has encountered setbacks in support and maintenance of its case tracking system. Our prior report noted that the department lacked a statewide automatic tracking system to help attorneys manage their caseloads and meet case processing time requirements. Instead, the department had several stand-alone systems including manual systems.

Subsequent to our 2004 report, the department decided to adopt the Judicial Case Management Information System which was being developed and implemented by the Office of the State Court Administrator, and it provided funding to help develop this system. This system, now titled the Florida Dependency Court Information System, is still under development. Furthermore, as noted by a report from the Florida Bar's Legal Office Management Assistance Service, the system was intended to support judges and judicial case managers rather than department attorneys, and confidentiality issues precluded department attorneys from using the system.

⁷⁶ According to department administrators, funding for legal costs shifted from the department to lead agencies during the transition to community-based care, but they were not able to identify the point in time or the reasons why this occurred.

In 2005, the department adapted a case tracking and monitoring system developed and used by the Office of the Attorney General. However, the system has limitations in that it does not interface with the Florida Safe Families Network (the department's case management data system); instead, case managers must enter key legal event dates into the case management system for federal reporting purposes. As a result, the department is operating dual systems to capture legal information, and contracted CLS providers continue to operate their own case tracking systems.

In 2007, the department instead decided to develop a legal module within the Florida Safe Families Network, as was recommended by the workgroup. However, when the department released the legal module in August 2009, the system did not incorporate functions CLS needed such as case tracking, calendaring, and the ability to generate legal forms.

To address this problem, the department will continue to use its current CLS case tracking system for the foreseeable future and has contracted with a provider to support, maintain, and develop enhancements to the legal module. However, this solution does not address the limitations in the current system such as the lack of an interface with the Florida Safe Families Network.

Gary R. VanLandingham, Ph.D., Director



The Florida Legislature

OFFICE OF PROGRAM POLICY ANALYSIS AND GOVERNMENT ACCOUNTABILITY



RESEARCH MEMORANDUM

Child Care Regulation Services Placement Options for Legislative Consideration

December 30, 2009

Summary

As requested, OPPAGA reviewed the costs and feasibility of transferring the Child Care Services Program that is currently administered by the Department of Children and Families to another entity. This memo provides information on the program's purpose, current organizational placement and agency responsibilities, resources, and performance. In general, we found that there is considerable overlap of the child care establishments regulated by DCF, the Department of Health, and the Agency for Workforce Innovation as well as duplication among the agencies' inspections of these facilities.⁷⁷ Abolishing the program would eliminate much of this duplication and reduce state costs associated with child care regulation, but would not be in the state's best interest due to a potential decrease in the health and safety of children in child care settings and a loss of significant federal funding. Thus, we examined the advantages and disadvantages of several organizational options that the Legislature may wish to consider.

Purpose, Placement, and Responsibilities

The Child Care Services Program is intended to ensure that children are well cared for in a safe, healthy, positive, and educational environment by trained, qualified child care staff. Federal regulations require states, as a condition to qualify for federal Child Care and Development Block Grant Funds, to establish health and safety standards and procedures to ensure child care providers comply with all applicable requirements.⁷⁸ Florida law identifies those child care establishments that must be licensed.⁷⁹ State licensure standards address health, sanitation, safety, and adequate physical surroundings; health and nutrition; and child development needs of children in child care.⁸⁰

The Department of Children and Families' Child Care Services Program is statutorily responsible for administering child care licensing and training in 61 of the state's 67 counties. State law also provides that county governments with licensing standards that meet or exceed state minimum standards may

⁷⁷ 'Overlap' is used in this memorandum to refer to two or more entities that inspect or monitor the same child care establishments. 'Duplication' is used to refer to two or more entities that inspect the same child care establishments to verify adherence to the same or very similar requirements or issues.

⁷⁸ In response to the growing need for quality child care, Congress established the Child Care and Development Block Grant Act of 1990. Provisions governing the Child Care and Development Block Grant Act include 42 USC 9858, as amended, section 418 of the Social Security Act (42 USC 618), as amended, and Title 45, Parts 98 and 99, *Code of Federal Regulations*.

⁷⁹ Section [402.312](#), *F.S.*

⁸⁰ Section [402.305](#), *F.S.*

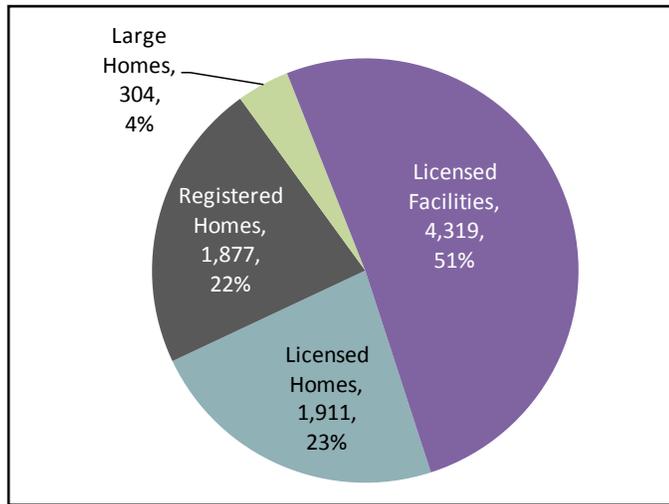
designate a local licensing agency to license child care facilities in their county.⁸¹ Currently, six counties have state-approved local licensing and inspection programs.⁸² In the remaining counties, the Department of Children and Families' Child Care Services Program performs child care regulatory and compliance activities.

As of June 30, 2009, the state Child Care Services Program regulated 8,411 child care facilities and homes in 61 counties (see Exhibit 1). According to DCF, these child care establishments could serve approximately 439,000 children. These licensed providers include child care facilities, family child care homes, and large family child care homes.⁸³

Staff in the department's licensing units, located in most counties, inspect facilities a minimum of three times per year and licensed homes two times per year. In addition, staff conduct follow-up inspections and provide technical assistance to ensure deficiencies found during inspections are corrected. The program also annually registers family day care homes not required to be licensed; registration requirements include that the homes submit documentation of screening and background checks, successful completion of a 30-hour training course, and record keeping of current immunization records, but does not entail onsite inspections. Licensing staff also collect verifying documentation from child care facilities that claim religious exemption from licensure. These providers are an integral part of a church or parochial school and are accredited by, or a member of, one of the recognized religious exempt associations.

The Child Care Services Program's central office is responsible for formulating policy and developing and implementing a uniform system of procedures that provides for the consistent application of disciplinary actions across regions and a progressively increasing level of penalties.⁸⁴ The central office also provides quality assurance, program oversight, and ongoing data analysis to identify trends that might require changes in provider and/or licensing staff training. In addition, the department maintains the Child Care Information System (CCIS) that stores information on regulated providers, and training and credential information specific to individual child care personnel. This system is used by DCF licensing inspectors and other agencies that administer early childhood programs to verify compliance with licensure requirements related to training. The department contracts with outside vendors for

Exhibit 1 The Child Care Services Program Regulates 8,411 Child Care Facilities and Homes in 61 Florida Counties



Note: The Department of Children and Families also administers the religious exempt child care facilities process in accordance with s. [402.316, F.S.](#)

Source: Department of Children and Families, Child Care Program, Quick Facts, as of June 30, 2009.

⁸¹ Section [402.306, F.S.](#)

⁸² These counties are Brevard, Broward, Hillsborough, Palm Beach, Pinellas, and Sarasota.

⁸³ The program also regulates family child care homes that are licensed by counties and those participating in the subsidized child care program in counties that do not license the homes (s. [402.313, F.S.](#)). Six counties license family day care homes and perform monitoring inspections: Alachua, Broward, Hillsborough, Palm Beach, Pinellas, and Sarasota. Six additional counties license family day care homes, but monitoring inspections are conducted by the Department of Children and Families. These counties are Clay, Duval, Miami-Dade, Nassau, Polk, and St. Johns. Family day care homes in the remaining Florida counties have a choice of being licensed or registering annually with the department or, if applicable, a local licensing agency.

⁸⁴ Section [402.310\(1\)\(c\), F.S.](#)

training for child care personnel and issues credentials to designate whether individuals' professional education meets or exceeds program requirements.

Resources

The Legislature appropriated \$18.4 million and 137.5 full-time equivalent positions to the Child Care Services Program for Fiscal Year 2009-10 (see Exhibit 2). The program's primary source of revenue is the federal Child Care Development Fund, placed in the Federal Grants Trust Fund. These funds are distributed to states and are used to operate child care subsidy programs and improve the quality and availability of child care.

Exhibit 2

The Legislature Appropriated Over \$18 Million to the Child Care Services Program for Fiscal Year 2009-10¹

Child Care Services Program Activities	General Revenue	Federal Grants Trust Fund	Social Services Block Grant Trust Fund	Operations and Maintenance Trust Fund	TOTAL	Full-time Equivalents	Other Personal Services
Licensing	\$1,170,176	\$4,680,704	\$1,950,294	\$530,696 ²	\$8,331,870	116.50	
Training	665,741	2,662,967	1,109,570		4,438,278	1.00	
Quality Initiatives ³	470,268	1,881,071	783,780		3,135,119		50.50
Quality Assurance	141,552	566,206	235,919		943,677	12.00	
Administration	126,847	507,386	211,411		845,644	8.00	
Information Systems	111,284	445,135	185,472		741,891		
TOTAL	\$2,685,868	\$10,743,469	\$4,476,446	\$530,696	\$18,436,479⁴	137.50	50.50

¹ Funds for the Child Care Services Program are appropriated through the Family Safety and Preservation Services budget entity.

² In Fiscal Year 2008-09, the department collected \$396,058 in licensing fees from child care centers. Pursuant to s. [402.315\(3\)](#), F.S., these fees are established at rate of \$1 per child, with a minimum fee of \$25 and maximum of \$100 per center. All moneys collected by the department for child care licensing are held in a trust fund and reallocated to the department the following fiscal year to fund child care licensing activities, including the [Gold Seal Quality Care Program](#). DCF is responsible for the administration of the Gold Seal Quality Care Program, and early learning coalitions are responsible for the payment differential to providers that have attained the Gold Seal Quality Care designation.

³ For Fiscal Year 2009-10, the Department of Children and Families allocated \$1,053,246 to the six counties with local licensing agencies (Brevard, Broward, Hillsborough, Palm Beach, Pinellas, and Sarasota counties) to help offset their child care regulations costs, authorized by s. [402.315\(1\)](#), F.S.

⁴ This figure does not include funding to support Child Care Service Program activities that are performed by other departmental units. These other program activities including background screening of child care providers and administrative actions associated with the denial, suspension, or revocation of a license or registration.

Source: Department of Children and Families.

Performance

The Child Care Services Program's performance measures demonstrate mixed results, with some legislative performance standards not being achieved. As shown in Exhibit 3, the program met one of three legislative standards in Fiscal Year 2008-09 (number of instructor hours provided to child care provider staff). It should be noted that this measure and one of the measures not met—the number of facilities and homes licensed—are output measures beyond the program's control as its workload is based on demand and other external factors. The program's one outcome measure—the percentage of licensed child care facilities and homes with no Class 1 (serious) violations—fell short of meeting the legislative standard by approximately 3%. The department asserts that this measure creates a disincentive for licensing staff to ensure the health and safety of children in care by accurately classifying serious licensure violations as Class 1, and has recommended replacing this measure with its two internal performance measures.

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Exhibit 3**The Child Care Services Program Met One of Three Legislatively Approved Performance Standards in Fiscal Year 2008-09**

Performance Measure	Fiscal Year 2008-09	
	Actual Performance	Standard
Legislatively Approved Measures		
Percentage of licensed child care facilities and homes with no Class 1 (serious) violations during their licensure year	96.34%	99%
Number of facilities and homes licensed	6,534	6,868
Number of instructor hours provided to child care provider staff	71,008	63,019
Internal Program Measures		
Percentage of licensed child care facilities inspected in accordance with program standards	98.91%	95%
Percentage of licensed child care homes inspected in accordance with program standards	98.14%	90%

Source: The Department of Children and Families Performance Dashboard Application, as of August 12, 2009 (<http://dcfdashboard.dcf.state.fl.us/>) and *Long Range Program Plan, Fiscal Years 2009-2010 through 2013-2014*, Florida Department of Children and Families, September 30, 2008.

The department established these two internal measures through its performance tracking process, which requires each of its programs to establish performance measures and performance targets. The two internal measures assess the timeliness of its inspections of licensed child care facilities and homes. For each month in Fiscal Year 2008-09, the Child Care Program generally met or exceeded its targets for both measures. However, it should be noted that the internal measures do not assess the outcomes of the inspections (whether the facilities are complying with state standards), as does the current legislative measure.

Florida law also directs other state agencies to regulate child care establishments; considerable overlap occurs

Florida law also requires two other state agencies to regulate child care establishments. These agencies are the Agency for Workforce Innovation and the Department of Health. In addition, the Department of Business and Professional Regulation carries out similar regulatory functions to DCF for non-child care-related businesses in Florida.

The Agency for Workforce Innovation. In 2001, the Legislature transferred the responsibility for administering the School Readiness Program (previously called Subsidized Child Care) to the Agency for Workforce Innovation and the early learning coalitions.⁸⁵ However, responsibility for child care licensing, training related to licensure and regulatory compliance, remained with the Department of Children and Families.

Pursuant to Florida law, the Agency for Workforce Innovation administers the School Readiness and Voluntary Prekindergarten Education (VPK) programs and the Child Care Resource and Referral Network.⁸⁶ The agency works with 31 local early learning coalitions that provide School

⁸⁵ In 1999, the Legislature enacted the School Readiness Act (Ch. [99-357](#), *Laws of Florida*) to create a more efficient and integrated school readiness system, and increase children's chances of achieving future educational success and becoming productive members of society. The act created the Florida Partnership for School Readiness, a state-level governing board to coordinate statewide program efforts and created local School Readiness coalitions to plan and implement a comprehensive program of readiness services. The partnership was assigned to the Executive Office of the Governor for administrative purposes. In 2001, The Legislature transferred administrative support of the partnership from the Executive Office of the Governor to the Agency for Workforce Innovation (Ch. [2001-170](#), *Laws of Florida*). In 2004, the Legislature eliminated the partnership and transferred its responsibilities for early education to the Agency for Workforce Innovation, making the agency responsible for state-level coordination of the School Readiness and VPK programs and of the School Readiness coalitions, renamed as early learning coalitions.

⁸⁶ Sections [411.01\(4\)\(b\)1](#), and [1002.75\(1\)](#), *F.S.*, and s. 17, Ch. [2001-170](#), *Laws of Florida*.

Readiness and VPK services through a network of child care providers. Federal law related to the School Readiness Program requires that the agency ensure the quality, availability, and affordability of child care throughout the state. The agency is responsible for reviewing and approving coalitions' School Readiness Program plans, providing technical assistance to coalitions, and developing and adopting program performance standards and outcomes. With regard to VPK, the agency's duties include administering the program at the state level, adopting procedures governing the administration of the program including registering providers and enrolling children, paying providers, and approving improvement plans of low-performing providers.

To meet these responsibilities, the agency conducts annual eligibility reviews of client files in all 31 coalitions. In addition, the agency conducts coalition performance/program reviews of all coalitions or contracted service providers every three years to assure compliance with state and federal requirements related to the school readiness and VPK programs.

Early learning coalitions conduct unannounced monitoring visits at least once a year of all establishments that provide child care services through the School Readiness and VPK programs. During monitoring visits coalitions observe classroom practices, review the curriculum, and examine aspects of program administration, as well as verify providers' operating status, staff credentials, training, and record keeping. These annual reviews also help ensure compliance with child enrollment and eligibility requirements. In addition, coalitions monitor unlicensed providers (license exempt and informal providers) offering child care services through the School Readiness Program, which includes the health and safety of the provider's physical environment.

Some coalition monitoring reviews duplicate health and safety items inspected by the Department of Children and Families. Given that most School Readiness Program and all VPK providers are licensed child care establishments, there is considerable overlap between DCF and the coalitions in the child care providers they inspect. As shown in Exhibit 4, based on data provided by DCF and the Agency for Workforce Innovation, we estimated that coalitions conduct annual reviews of roughly 77% of the licensed child care establishments that are also inspected by DCF.⁸⁷ Most coalition monitoring reviews focus on issues that differ from those addressed in DCF inspections; coalition reviews include an examination of several educational quality items not covered by DCF's inspections. However, the monitoring visits of almost one-third of the coalitions (9 of 31 coalitions, 29%) also include an evaluation of adherence to health and safety standards that are very similar to or duplicative of the items examined by DCF during its inspections or the local licensing agencies.^{88, 89}

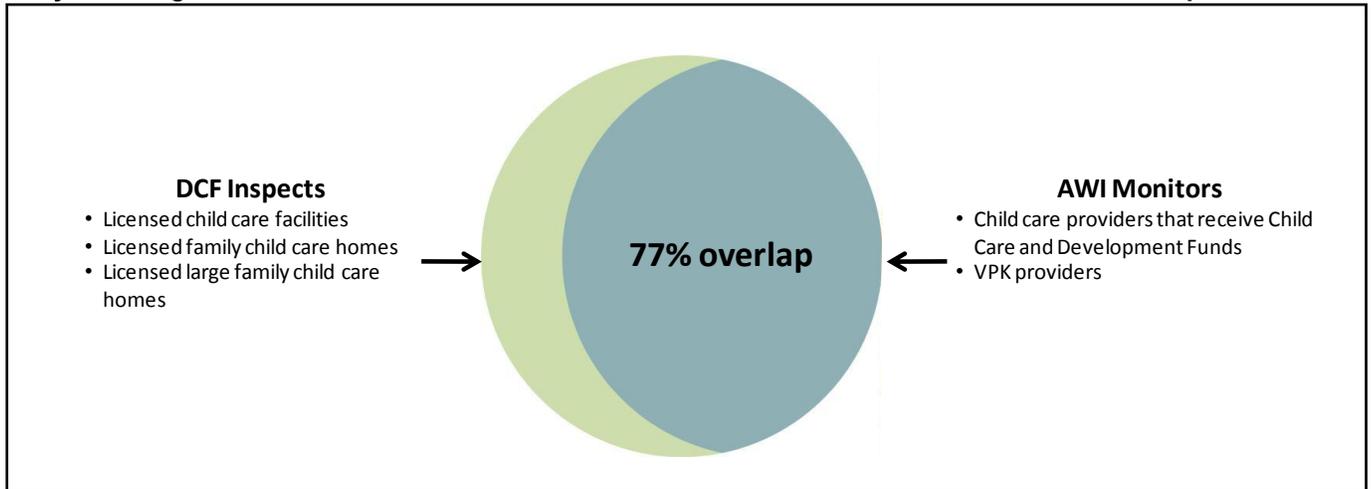
⁸⁷ This estimate is based on the number of establishments licensed by DCF as of June 30, 2009, and number of licensed child care providers that received either a School Readiness or VPK payment during the 2008-09 program year. See Exhibit 4 in this memorandum for a more detailed explanation of this estimate.

⁸⁸ These nine coalitions are Alachua; Flagler-Volusia; Indian River, Martin, and Okeechobee; Manatee; Orange; Osceola; Seminole; Gateway; and Santa Rosa. Seven of the coalitions use the Environment Rating Scales as a tool for monitoring for child care providers participating in School Readiness. The coalitions that use the Environment Rating Scales examine 33 of 63 items that also are included on the DCF inspection list. Two coalitions use other health and safety checklists for School Readiness providers; these coalitions examine 27 and 61 items, respectively, that are also inspected by DCF.

⁸⁹ Two coalitions, Pasco-Hernando and Putnam-St John's, examine a limited number (fewer than 10) of the health and safety issues also inspected by DCF. In addition, 12 coalitions participate in voluntary provider quality rating initiatives that often include an examination of health and safety items similar to or the same as many of those included on DCF's inspection

Exhibit 4

Early Learning Coalitions Monitor 77% of the Licensed Child Care Establishments That DCF Inspects



Note: The estimated overlap in this exhibit is based on the number of facilities licensed by DCF as of June 30, 2009, and number of licensed child care providers that received either a School Readiness or VPK payment during the 2008-09 program year. There were 620 records in the Agency for Workforce Innovation data base that could not be matched to DCF data; these records were excluded from the percentage overlap calculation. According to the Agency for Workforce Innovation, its data may not equate to a one-to-one match with DCF’s data as some providers may have gone out of business or had their licenses suspended, revoked, or terminated during 2008-09, or because of duplicate records in the Agency for Workforce Innovation data base. The Agency for Workforce Innovation and DCF indicated that they will work together to identify the reasons for and to eliminate unmatched records. Depending on the reasons for the unmatched records, the actual overlap may be slightly higher.

Source: Based on information obtained from the Department of Children and Families, and the Agency for Workforce Innovation.

DCF entered into its current interagency agreement with the Agency for Workforce Innovation in July 2009. The stated purpose of the interagency agreement includes the coordination of the two agencies’ child care functions. This agreement indicates that the two entities will coordinate program monitoring to reduce duplication of effort but does not specifically state that the Agency for Workforce Innovation will direct early learning coalitions to discontinue their evaluation of health and safety standards that are also examined during DCF inspections.

Although coalitions and DCF examine many of the same health and safety items during their visits to child care establishments, the standards associated with these items vary and often require child care providers to meet different requirements. This is because DCF is charged with ensuring that child care establishments meet the state’s minimum licensing standards while the nine coalitions identified above review child care providers to ensure they meet higher quality standards pursuant to the School Readiness Act. Regardless of the reasons for the differences, these inconsistencies can seem contradictory, and can be confusing and frustrating for child care providers. The Agency for Workforce Innovation indicated that it is currently working on developing a standardized process of program assessment that will focus on the educational aspects of School Readiness programs and likely will result in the elimination of the duplicative health and safety items.

Department of Health. The Department of Health’s Environmental Health Program is charged with detecting and preventing disease caused by natural and manmade factors in the environment.⁹⁰ As part of this program, the department inspects group care facilities including child care facilities and specialized child care centers for the mildly ill.⁹¹ As instructed in law, the Department of Health contracts with county health departments to conduct

checklist. These coalitions are Big Bend, Broward, Duval, Heartland, Hillsborough, Miami-Dade, Northwest, Osceola, Palm Beach, Pinellas, Polk, and Sarasota.

⁹⁰ Section [381.006](#), *F.S.*

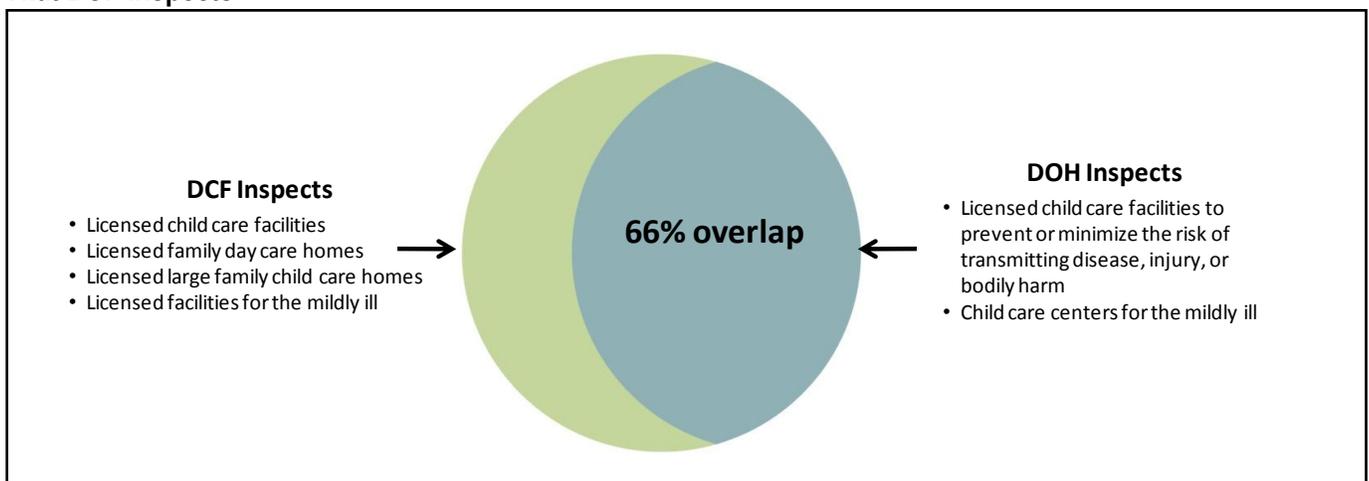
⁹¹ Environmental health inspections for the group care facilities include water supply and plumbing, sewage, food service, personnel health, hygiene, and work practices (s. [381.006\(16\)](#), *F.S.*).

environmental health inspections of these facilities.⁹² In addition, four of the six counties with local licensing agencies have contracted with county health departments to carry out inspection functions.

There is considerable overlap between the child care establishments inspected by DCF and the Department of Health. The department, through its contract with the county health departments, conducts annual environmental health inspections of 66% of the licensed child care establishments also inspected by DCF; the remaining facilities are licensed family day care homes and large family child care homes that are not included in the Department of Health's statutory inspection responsibilities (see Exhibit 5). In addition, there is duplication in the specific items that both agencies examine during their inspections. Our reviews of the checklists used by the two agencies found that both examine many of the same items in 11 of the 63 areas on the checklist used by DCF inspectors.⁹³

Exhibit 5

The Department of Health Inspects Approximately 66% of the Licensed Child Care Establishments That DCF Inspects



Source: Based on information obtained from the Department of Children and Families, and the Department of Health.

The Department of Health has an interagency agreement with DCF to delineate each agency's regulatory child care responsibilities and to reduce duplication of these activities between the agencies. The agreement identifies which of the two agencies will assume primary regulatory responsibility for enforcing the same or similar health and safety standards assigned in law or rule to both agencies. The Department of Health is in the process of modifying its inspection checklists to eliminate duplication in accordance with the interagency agreement. However, DCF does not plan to modify its inspection checklists pursuant to the interagency agreement because it asserts that the agreement does not relieve its legal responsibility to enforce these standards. Furthermore, DCF staff claim that this duplication is beneficial as health and safety violations not observed in Department of Health inspections may be caught during DCF's inspections. However, this practice results in continued duplication of efforts between the two agencies despite the interagency agreement.

The Department of Business and Professional Regulation. The Department of Business and Professional Regulation carries out regulatory functions similar to DCF's for many non-child-care-related businesses in Florida. The department has enforcement authority for 21 professions and

⁹² Section [154.01, F.S.](#), directs the Department of Health to include environmental health services of group care facilities in its contracts with counties for delivery of services through county health departments.

⁹³ These items include cleaning; toilets and bath facilities; bathroom supplies and equipment; bathroom supplies and supervision; proper hand washing; drinking water available; sanitary diapering; potty chairs; diaper changing station; diaper disposal; and toxic substances and materials.

monitors these professions and related businesses to ensure that the laws, rules and standards set by the Legislature are followed. The department's Division of Hotels and Restaurants, one of four divisions under the department's Deputy Secretary of Business Regulation, licenses, inspects, and regulates public lodging and retail food service establishments in Florida under Ch. 509, *Florida Statutes*.⁹⁴ The division's mission is to protect the health and safety of the public by inspecting and regulating these establishments. There is no overlap between the facilities inspected by DCF and the Department of Business and Professional Regulation.

The Department of Children and Families bears the cost of some local child care ordinances

Currently DCF provides licensure and inspection services for six counties—Clay, Duval, Miami-Dade, Nassau, Polk, and St. Johns—that have passed local ordinances to require the licensure of family day care homes.⁹⁵ Based on DCF estimates, we determined that this practice would require approximately six FTEs to conduct inspections of family day care homes in these counties. Currently Florida law does not allow DCF to charge counties for these additional services, which costs the state approximately \$300,000 annually based on the most recent DCF inspector salary and benefit data available.⁹⁶ The Florida Legislature may wish to amend Florida law to make counties that have such ordinances responsible for reimbursing DCF for the costs associated with state enforcement of the ordinances or to make counties assume responsibility themselves for enforcing these additional requirements. However, having counties assume these enforcement duties would introduce another entity into the child care regulatory system and could cause confusion among providers on the differences of DCF's and counties' roles in child care regulation. Alternatively, the Legislature could amend Florida law to allow DCF to charge a fee to pay for the state's costs associated with licensing family day care homes in counties that pass such ordinances.

The Legislature could consider several organizational placement options

We examined six organizational options: 1) abolishing state child care regulation; 2) maintaining the current placement of child care licensing and regulatory compliance functions in the Department of Children and Families; 3) transferring program responsibilities to the Agency for Workforce Innovation and early learning coalitions; 4) transferring program responsibilities to the Department of Health; 5) transferring program responsibilities to the Department of Business and Professional Regulation; and 6) transferring program responsibilities to the counties.

These options are summarized below and in Exhibit 6 at the end of this memorandum.

Option 1: Abolish the program. Although abolishing the child care licensing and regulatory compliance program would reduce state costs and much of the duplication associated with child care regulation, it would not be in the state's best interest. Federal regulations require the state to certify that it has licensure and other child care provider requirements that protect the health and safety of children in order to receive federal program funding. In Fiscal Year 2009-10, the Legislature appropriated \$548 million from the Child Care Development Fund, which includes

⁹⁴ The department licenses lodging establishments, free-standing restaurants, fast food services, and mobile units and bars serving food.

⁹⁵ Section 402.313(1), *F.S.*, includes a provision that allows a county to require the licensure of family day care homes through local ordinance. In the six counties that have passed such an ordinance, DCF has assumed the responsibility for licensing family day care homes. According to the department, ss. 402.313(1) and 402.308, *F.S.*, read together, do not appear to require that a county establish itself as a local licensing agency in order to require that family day care homes in the county be licensed.

⁹⁶ Section 402.315(2), *F.S.*, requires the department to bear the costs of the licensing of child care facilities when contracted to do so by a county.

\$239 million transferred from the Temporary Assistance to Needy Families block grant.⁹⁷ Abolishing the program would likely lead to the loss of these funds.

In addition, abolishing the program would eliminate oversight of 8,411 child care establishments in Florida (as of June 30, 2009) which could compromise the health and safety of children in these out-of-home environments. In Fiscal Year 2008-09, program inspectors identified approximately 35,000 instances in which child care establishments did not meet state standards in areas including staffing, health, training, physical environment, and record keeping. During the same period, the program cited 240 establishments for Class 1 (serious) violations of state laws and rules including those related to background screening requirements for child care personnel, supervision of children in their care, and administration of medication to children.

Option 2: Continue current placement. In this option, the Child Care Services Program would remain in its current placement within the Department of Children and Families. The primary advantage of this option is that it would not require additional state investments to move staff and equipment, and would avoid potential short-term confusion over who is responsible for child care regulation associated with other options that would transfer the program to another state or local entity. DCF has the necessary local-level infrastructure to conduct inspections of child care establishments and has inspected licensed child care facilities and homes as required. The department also has extensive experience in regulating and working with child care providers in addition to other related responsibilities such as training, maintaining a provider data management system, and conducting administrative hearings.

A primary disadvantage of this option is that it addresses neither the overlap nor the duplication in inspection activities that currently exists among regulatory entities. Currently, several different state and local entities inspect child care establishments, and providers have complained about the inefficiency and time burden of the current system in which DCF, early learning coalitions, and the Department of Health through county health department inspectors each separately visit facilities during the year and examine many similar issues and records. DCF asserts that regulatory overlap can be a valuable resource to a provider because of DCF's and the other regulatory entities' different areas of expertise. DCF has entered into interagency agreements with both the Agency for Workforce Innovation and the Department of Health to reduce duplication of inspection items. However, as noted earlier in this memorandum, these efforts have not eliminated the duplication.

If the Legislature chooses to continue the program's current placement, it may wish to take steps to eliminate unnecessary duplication among entities that regulate child care establishments. For instance, the Legislature could direct DCF to remove from its inspection checklists the health and safety items also examined by the Department of Health and to use information from Department of Health to certify child care facilities have met state minimum standards for these items.⁹⁸ Alternatively, the Legislature could direct the Department of Health to eliminate its inspection of the duplicative items. Similarly, the Legislature could direct the Agency for Workforce Innovation to advise coalitions to use the results of DCF inspections related to health and safety, whenever possible, in monitoring child care providers. These changes would result in a more efficient use of state resources and may help to reduce frustration among child care providers.

⁹⁷ Federal law (42 U.S.C. s. 618, 45 CFR 98.15(b)(5) and 45 CFR 98.41) requires the Lead Agency to certify that procedures are in effect to ensure that child care providers of services that receive federal [Child Care and Development Funds](#) (CCDF) comply with all applicable state, local, or tribal health and safety requirements.

⁹⁸ The Department of Health inspects child care facilities twice per year while DCF inspects licensed child care facilities three times per year. Therefore, DCF could eliminate duplicative items for two of the three inspections it conducts annually.

Option 3: Transfer program responsibilities to the Agency for Workforce Innovation and early learning coalitions. In this option, the Legislature would revise the statutes to transfer state-level responsibility for child care licensing and regulation to the Agency for Workforce Innovation and local-level responsibilities to the early learning coalitions. A primary advantage of this option is that it removes one agency from oversight responsibility, which would streamline processes and potentially reduce administrative costs. In addition, the option would utilize the existing infrastructure of 31 regional coalitions that already oversee child care establishments that operate the School Readiness and VPK programs. Thus, this option could result in a more coordinated and comprehensive system of early learning and child care, and would reduce the inspection burden for licensed child care providers since it would remove one agency from oversight responsibility.

This option also has the potential to reduce state expenditures and improve the efficiency of the inspection process. Combining inspections could save the state as much as \$153,900 annually primarily as a result of the reduction in the number of inspectors and other expenses due to the need to conduct fewer total inspections per year.⁹⁹ The actual amount saved would depend on how existing DCF inspectors are distributed among the 31 coalitions. Furthermore, depending on how it is implemented, this option may result in additional savings, if existing state-level staff within the Agency for Workforce Innovation were able to absorb some of the duties of the current DCF program staff. Thus, this option has the potential to result in a more efficient use of state resources and may help to reduce the inspection burden on child care providers.

A disadvantage of this option is that it could result in potential conflict of interest where a single agency would be responsible for both ensuring the availability of child care services and regulating the providers of these services. However, prior to 1999, DCF had this dual responsibility. In response to a 1999 OPPAGA report examining early education programs, DCF asserted that it was important that these activities remain united in a single agency and that conflicts of interest had not been an issue in the past as the child care licensing counselors were separate from other program staff.¹⁰⁰

Some legal barriers also would need to be resolved before this option can be implemented. The First District Court of Appeal recently upheld a 2008 Division of Administrative Hearings' administrative order holding that early learning coalitions are not state agencies for purposes of Chapter [120, Florida Statutes](#). Therefore, the coalitions cannot carry out the administrative actions necessary to license and regulate child care providers. The Agency for Workforce Innovation could adopt rules for the program, but when the Legislature gave responsibility for the School Readiness Program to the agency its stated intent was that the administrative staff at the state level for the School Readiness Program be kept to the minimum and that School Readiness programs be regionally designed, operated, and managed.¹⁰¹⁻¹⁰² As a result, the agency does not currently have the infrastructure to absorb the licensing and regulatory functions that would accompany a transfer of those responsibilities to the agency. This could require the transfer of some or all of the current DCF staff, including attorneys supporting the program, to handle regulatory issues. The Legislature also would need to reconsider its earlier intent to keep agency administrative staff to a minimum if it wished to pursue this option.

⁹⁹ This estimate is based on surveys and interviews of coalition staff and an analysis of coalitions' and DCF's checklists. We identified seven coalitions that examine 33 of the 63 health and safety items on the DCF checklist, one coalition that examines 27 items inspected by DCF, and one coalition that examines 61 items of the DCF items. Our analysis determined that combining the coalitions' reviews with inspections conducted by DCF could result in a potential cost savings of between \$58,642 and \$153,886. These savings would come from the elimination of between one and three inspector positions (between \$47,622 and \$142,866 in salaries and benefits, respectively) and a reduction in travel-related expenses (\$11,020 in reimbursed mileage). The actual cost savings may be less because most of the duplicative items on the nine coalitions' checklists are very similar to but not exactly the same as health and safety items on DCF checklists.

¹⁰⁰ *Follow-Up Review of Early Education and Child Care Programs*, OPPAGA [Report No. 98-38](#), January 1999.

¹⁰¹ Section [411.01\(2\)\(d\)](#), *F.S.*

¹⁰² The [School Readiness Act](#) introduced educational requirements that were not part of the program prior to 1999.

Further, early learning coalitions are statutorily responsible for operating at the local level to meet the needs of the unique populations they serve. While the 31 different coalitions could be contractually given the responsibility to exercise the state's policing power to evaluate and correct licensing violations in a consistent manner, this function is different from the overall program quality support role that coalitions currently fill; as a result, providers and others could become confused about the nature of the role of the coalitions. Also, a conflict of interest could arise in some areas where coalition board members are also owners of child care businesses that would be licensed and regulated by the coalition under this scenario.

This option also may impede the coalitions' ability to collect matching funds as required by federal law. As a condition of receiving Child Care Development Block Grant funds, federal law requires each state to secure matching funds. While the Legislature appropriates a portion of these funds annually through the General Appropriations Act, it also requires each early learning coalition to collect 6% match from local sources based on the number of working poor eligible participants served. The Agency for Workforce Innovation reported that in 2008-09, it used \$18,674,615 collected by early learning coalitions to draw down \$23,196,719 in federal funds. Since each early learning coalition is a 501 (c) 3 not-for-profit corporation, collecting these funds is allowed under Florida Statute. According to the Agency for Workforce Innovation, if early learning coalitions were given state agency status, they would be prohibited from registering under Florida law as 501 (c) 3 not for profits, which would make it very difficult for them to raise local contributions. Thus, under this option, the agency asserts that the state could lose a total of \$41,871,334 in local and federal funds. If the Legislature were not to increase annual appropriations to offset the loss of locally generated contributions, this would result in a decrease of services to approximately 10,500 children annually.

Finally, the agency is not currently approved to receive the results of FBI background checks. Thus, the agency would either need to pursue statutory authority to receive screening results, or it would need to establish an interagency agreement with DCF to continue to process background screening for child care personnel (DCF has a similar arrangement with the Agency for Persons with Disabilities).

Option 4: Transfer program responsibilities to the Department of Health. In this option, the Legislature would revise the statutes to transfer responsibility for current child care licensing and regulation to the Department of Health and county health departments. This option assumes that state-level program responsibilities would be transferred to the department's Environmental Health Division due to the similarity of that division's mission to that of the Child Care Services Program. The Environmental Health Division focuses on protecting the health, safety, and well-being of individuals in residential facilities, including child care centers.

A primary advantage of this option is that it builds upon existing agency relationships and infrastructure at the local level. The Department of Health, through the county health departments, already conducts health and sanitation inspections of many of the child care providers licensed and inspected by the program. Also, this option removes one agency from oversight responsibility, which would streamline processes and potentially reduce administration costs. Based on data from both agencies, we estimate that this option also could generate cost savings of approximately \$465,000 annually primarily as a result of the reduction in the number of inspectors, supervisors, and travel expenses needed to conduct fewer total inspections per year.¹⁰³ Depending on how it is implemented, this option may result in

¹⁰³ This estimate is based on interviews of agency staff and an analysis of the two agencies' inspection checklists, which found that county health department inspectors examine many of the same health and safety items in 11 of the 63 areas on

additional savings, if existing state-level staff within the Department of Health were able to absorb some of the duties of current DCF program staff. Thus, this option also has the potential to result in a more efficient use of state resources and may help to reduce the inspection burden on child care providers.

Some barriers may need to be addressed to successfully implement this option. First, the Department of Health might have to retrain transferred DCF inspectors so that they are qualified to conduct a broader range of inspections that are not part of their current expertise. The *Florida Statutes* require Department of Health staff who perform environmental health or sanitary evaluations in any primary program area to meet certain education, training, or experience requirements that demonstrate their competency to perform such evaluations.¹⁰⁴ No such requirement exists for DCF Child Care Services Program inspectors. Thus, if Child Care Services Program inspectors are transferred to the Department of Health's Environmental Health Division they would likely be limited to inspecting only child care facilities unless they received additional education and training. Second, the Department of Health expressed concerns that this option would create additional workload for its Office of General Counsel, which the department reported is experiencing a significant case backlog. And third, the Department of Health is not a currently approved recipient of FBI screening results, but could be designated as a recipient of this information through statutory designation or through an interagency agreement under which DCF would continue to process background screening for child care personnel. Furthermore, this option would require the Department of Health to coordinate child care regulatory and oversight functions through an interagency agreement with the Agency for Workforce Innovation to minimize duplication.

Option 5: Transfer program responsibilities to the Department of Business and Professional Regulation. In this option, the Legislature would revise the statutes to transfer responsibility for current child care licensing and regulation to the Department of Business and Professional Regulation. This option assumes that the program would be transferred in its entirety as a separate unit under the Deputy Secretary of Business Regulation, who is responsible for the regulation of businesses throughout Florida.

An advantage of this option is that it places the program in one of the largest licensing agencies in the state. The department has experience in key program areas such as licensing and processing payments, conducting inspections, and managing training requirements, for many non-child care-related businesses in Florida. However, this option does not address the current duplication that exists among entities that regulate child care entities since the department would assume responsibility for the child care inspections that DCF currently performs. Similar to the current placement, this option would require the Department of Business and Professional Regulation to coordinate child care regulatory and oversight functions through an interagency agreement with the Department of Health and the Agency for Workforce Innovation to minimize duplication. Thus, this option may not eliminate confusion and frustration among child care providers in some coalitions regarding the role of various regulatory entities and varying standards.

In addition, implementing the option presents several potential challenges. First, the Department of

DCF checklists. Our analysis determined that combining the two agencies' inspections of licensed child care providers could result in the elimination of up to seven inspector positions (\$333,354 in salaries and benefits), one supervisor position (\$65,864 in salaries and benefits), and reduction in travel-related expenses (\$66,080 in reimbursed mileage). The actual cost savings may be less because although county health department inspectors examine 11 of the 63 health and safety areas inspected by DCF, they may not inspect all sub-items associated with each area. The actual amount saved also would depend on how the option is implemented.

¹⁰⁴ Under s. [381.0101](#), *F.S.*, primary areas of environmental health are food protection program work and onsite sewage treatment and disposal system evaluations. Individuals performing Department of Health child care inspections are not specifically required to hold these certifications. However, according to the Department of Health, in practice, a typical child care inspector is certified in food protection in order to perform food-related aspects of the inspection so that a separate food inspector does not have to also visit the facility.

Business and Professional Regulation's local-level presence is more limited than that of DCF, and the option could result in higher travel costs to inspect child care facilities. Second, the option has the potential to lose the program's focus on early childhood issues. The department lacks expertise related to child care services and would need to become familiar with program issues and requirements and establish relationships with child care providers and stakeholder groups. Third, the department has little experience managing large federally funded programs, and could require additional staff to support the federal accounting and reporting requirements. Finally, the department expressed concern that the new program would have a negative impact on its call center and its Office of General Counsel, which the department indicates is experiencing a significant case backlog.

Option 6: Transfer program responsibilities to the counties. In this option, the Legislature would revise the statutes to transfer responsibility for child care licensing and regulation to the counties. As discussed earlier in this memorandum, under current law, counties have the option to conduct child care regulation, and six counties have opted to take on this responsibility. This option would transfer child care regulatory responsibilities to the remaining 61 counties. Each of these counties would assign these duties to a local agency or contract with a county health department to carry out the activities. This option assumes that the state would continue to maintain minimum health and safety standards but would allow counties to pass ordinances that exceed these minimums.

A primary advantage of this option is that it would move child care regulation closest to where these services are delivered. Counties could increase current standards above state minimums based on community needs and local demands. Those local areas wishing to establish higher standards would be able to do so, although this would likely increase expenses for child care establishments and child care costs for parents. The option also may reduce government bureaucracy for local child care providers by centralizing child care regulation with county-based business activities such as business licensing, building permitting, and fire inspections.

The primary disadvantage of this option is that counties may not have the resources needed to take on these additional responsibilities. Because this option would essentially create 67 separate child care programs, each with its own program and support staff, administrative processes, and infrastructure, the overall program would likely lose economies of scale and overall administrative costs would likely increase. To cover these costs, counties would likely need to raise provider fees and fines; each of the six counties that currently have local licensing authority charge substantially higher licensing fees than does the state and also charge fees to family day care homes currently not charged by DCF. Also, counties could interpret and enforce state minimum standards differently, resulting in a loss of consistency across the state.

An additional consideration associated with this option is that it might not eliminate the need for state-level oversight and data collection. To remain eligible for federal funding, the state must designate a single lead agency that retains overall responsibility for program administration, including data reporting to the federal government. DCF indicates that it currently has difficulty obtaining timely and accurate data from the six counties with local licensing authority, and data reporting problems may increase under this option because some counties may not have the resources needed to properly collect, store, process, and report data and ensure its validity and reliability. Overall program accountability could also suffer under this option as the state would have limited ability to oversee the performance of the county programs and to ensure that state standards are appropriately enforced. Furthermore, transferring the Child Care Services Program to the counties would not eliminate the duplication that exists among entities that regulate child care establishments since counties would assume responsibility for the child care inspections that DCF currently performs.

Gary R. VanLandingham, Ph.D., Director

Exhibit 6**The Legislature Could Consider Several Options for the Child Care Services Program**

Option	Advantages	Disadvantages
Option 1 Abolish the program.	<ul style="list-style-type: none"> ▪ Would reduce state costs associated with the government regulation of child care establishments ▪ Would eliminate duplicative inspection of health and safety items between DCF and the Department of Health and some coalitions 	<ul style="list-style-type: none"> ▪ Would lead to the loss of significant federal funding ▪ Would eliminate oversight of 8,411 child care providers in Florida which could compromise the health and safety of children in out-of-home settings
Option 2 No change. Maintain child care licensing and regulatory functions in the Department of Children and Families.	<ul style="list-style-type: none"> ▪ The department has extensive experience in regulating and working with local child care providers and early learning coalitions. ▪ The department has inspected licensed child care establishments and homes as required by law. ▪ Does not require additional state investments to move staff and equipment ▪ Would avoid potential short-term confusion over who is responsible for child care regulation 	<ul style="list-style-type: none"> ▪ Requires coordination of child care regulatory and oversight functions through interagency agreements to minimize duplication ▪ Does not address inefficiency due to duplicative inspection of health and safety items between DCF and the Department of Health and some coalitions ▪ Will not eliminate confusion and frustration among some child care providers regarding the role of various regulatory entities and varying standards
Option 3 Transfer program responsibilities to the Agency for Workforce Innovation and early learning coalitions.	<ul style="list-style-type: none"> ▪ Consistent with the agency's/coalitions' current responsibilities and expertise, which focus on early education and child care issues ▪ Potential to reduce inspection costs and could reduce the inspection burden on child care facilities ▪ Potential to reduce state-level administrative costs by consolidating child care regulatory and oversight functions ▪ Could result in a more coordinated and comprehensive system of early education and child care by decreasing the number of state agencies that share oversight of the system ▪ Potential to reduce the confusion and frustration among some child care providers regarding the role of various regulatory entities and varying standards 	<ul style="list-style-type: none"> ▪ Transferring the regulatory function of child care licensing to a non-state agency such as Early Learning Coalitions appears to be prohibited by Florida law. ▪ Might require the transfer of some or all of the current DCF staff, including attorneys, currently supporting the program to handle child care regulatory duties ▪ May be contrary to the original legislative intent of the agency's role in regulating the School Readiness Program ▪ Would either result in a loss of substantial federal funds due to the inability of coalitions to raise local contributions or require additional state appropriations to meet federal matching requirements ▪ Requires coordination of child care regulatory and oversight functions through an interagency agreement with the Department of Health to minimize duplication ▪ Might create conflicts of interest for the agency and early learning coalitions where they are responsible for both ensuring the availability of child care services and regulating the providers of these services ▪ Might create conflicts of interest for some coalition board members who are also owners of child care businesses that would be licensed and regulated by the coalition ▪ Would require the agency to take steps to receive the results of FBI background checks ▪ Could result in different licensing standards across the 31 early learning coalitions

Option	Advantages	Disadvantages
<p>Option 4 Transfer program responsibilities to the Department of Health.</p>	<ul style="list-style-type: none"> ▪ Consistent with the department's and local county health departments' missions, responsibilities, and areas of expertise, which focus on health and safety issues ▪ Potential to reduce state-level administrative costs if child care regulatory and oversight functions were consolidated ▪ Potential to reduce inspection costs and could reduce the inspection burden on child care facilities ▪ Could result in a more coordinated and comprehensive system of early education and child care by decreasing the number of state agencies that share oversight of the system ▪ Potential to build upon existing relationships and infrastructure at the local level. Four county health departments currently function as local licensing agencies ▪ Local health departments are located in each county and might be more responsive, timely, and accountable to local child care providers. 	<ul style="list-style-type: none"> ▪ Requires coordination of child care regulatory and oversight functions through an interagency agreement with the Agency for Workforce Innovation to minimize duplication ▪ Would require the agency to take steps to receive the results of FBI background checks ▪ County health departments might not have the resources needed to hire additional staff and to pay for increased legal expenses ▪ Additional legal staff might be required in Department of Health's Office of General Counsel to address an increase in administrative hearings related to the child care program ▪ Might require current DCF inspectors to obtain additional training to be able to inspect non-child care establishments. ▪ Has the potential to lose the program's focus on early childhood issues, as the department's focus is on broader health issues
<p>Option 5 Transfer program responsibilities to the Department of Business and Professional Regulation.</p>	<ul style="list-style-type: none"> ▪ Regulatory functions align with the department's overall business regulatory mission. ▪ The department has experience administering a statewide inspection program to ensure compliance with health and safety regulations for food and lodging establishments. ▪ The department's existing units perform training, licensure, and fee collection activities for the programs it currently regulates and might be able to conduct these functions for the child care program. 	<ul style="list-style-type: none"> ▪ Requires coordination of child care regulatory and oversight functions through interagency agreements to minimize duplication; may not eliminate confusion and frustration among child care providers in some coalitions regarding the role of various regulatory entities and varying standards ▪ The department's presence is limited at the local level so it might experience increased travel costs to inspect child care facilities. ▪ The department has little experience managing large federally funded programs. This might require additional staff to support federal accounting and reporting requirements. ▪ The department lacks experience in regulating and working with local child care providers which may result in a period of transition, possible disruption of services and uncertainty at the local level. ▪ Additional legal staff might be required in the department's Office of General Counsel to address an increase in administrative hearings related to the child care program. ▪ Has the potential to lose the program's focus on early childhood issues

Gary R. VanLandingham, Ph.D., Director

Option	Advantages	Disadvantages
<p>Option 6 Transfer program responsibilities to counties.</p>	<ul style="list-style-type: none"> ▪ Moves child care regulation closest to where these services are delivered ▪ Potential to increase standards over current state minimums and tailor standards to local community needs which might result in healthier and safer environments for children ▪ May reduce government bureaucracy for local child care providers by centralizing child care regulation with county-based business activities 	<ul style="list-style-type: none"> ▪ Counties may not have the resources to take on the additional responsibilities without making reductions in other local services or compromising level and quality of services. ▪ To avoid the loss of federal funding, the state would likely need to retain certain functions such as oversight, rule development, legislative monitoring activities, and administration. ▪ May result in a loss of continuity and consistency across the state with counties establishing different standards or interpreting and enforcing state standards differently. Fees and fines would likely vary across the state ▪ May be more difficult for the state to obtain the data it needs to monitor, assess, and report on program performance ▪ Might result in increased costs to child care providers if counties raise fees and fines to cover expenses, increase standards, or expand licensing standards to currently unlicensed providers, which may result in financial hardships or closures of some child care establishments ▪ Loss of economies of scale as 61 of the 67 counties would have to establish separate child care regulation programs with trained inspectors and procedures to monitor for compliance with standards, for example. ▪ Does not eliminate duplicative health and safety inspection items ▪ Would need to address how counties would obtain access to the results of FBI background checks

Source: OPPAGA analysis based on interviews and questionnaires of potentially affected stakeholders including state agencies, counties, early learning coalitions, and professional associations representing counties and county health departments.



The Florida Legislature

OFFICE OF PROGRAM POLICY ANALYSIS AND GOVERNMENT ACCOUNTABILITY



RESEARCH MEMORANDUM

January 4, 2010

The Department of Children and Families and the Florida Healthy Kids Corporation Use Similar Eligibility Determination Processes, But Coordinate to Minimize Duplication

Summary

As requested, OPPAGA reviewed whether the financial eligibility determinations made by state agencies for various health and human services programs are duplicative of those made by the Department of Children and Families' Economic Self-Sufficiency Program, and whether any of these functions could be consolidated with the department. There is little overlap among the eligibility determination processes used for many state health and human service programs. However, the department and the Florida Healthy Kids Corporation perform similar processes to determine eligibility and respond to customer inquiries; the two entities do coordinate their efforts to minimize this duplication. We evaluated three options for consolidating the corporation's eligibility determination function within the Department of Children and Families.

Program Purpose, Organization, Responsibilities

In addition to the Department of Children and Families' Economic Self-Sufficiency Program, several state agencies conduct financial eligibility determinations for health and human services programs. These include

- the Agency for Workforce Innovation, which determines eligibility for the Cash Assistance Severance Benefit Program, Relocation Assistance Program, School Readiness Program, and the Up-Front Diversion Program;
- the Department of Children and Families Office of Homelessness, which determines eligibility for the Emergency Financial Assistance for Housing Program;
- the Department of Community Affairs, which determines eligibility for the Community Services Block Grant Program, Low-Income Home Energy Assistance Program, and the Weatherization Assistance Program;
- the Department of Elder Affairs, which determines eligibility for the Emergency Home Energy Assistance for the Elderly Program; and
- the Florida Healthy Kids Corporation, which determines eligibility for the components of the Florida KidCare Program funded through Title XXI of the Social Security Act.

Most of these programs use fundamentally different eligibility determination business models than the Department of Children and Families' Economic Self-Sufficiency Program, as described in Appendix A. However, the Florida Healthy Kids Corporation determines financial eligibility for similar purposes and

in a manner that could be reasonably assumed within the Department of Children and Families' Economic Self-Sufficiency Program.

The Florida KidCare Program. The Florida KidCare Program is a partnership among three state agencies and the non-profit Florida Healthy Kids Corporation to provide health care services to children.¹⁰⁵ The program has four components: Medicaid, MediKids, Healthy Kids, and Children's Medical Services Network. Children's eligibility for the various program components depends on a child's age, family income, and in some cases their medical needs.

Medicaid covers eligible children ages 0-19; financial eligibility requirements vary based on the child's age and family income.¹⁰⁶ Medicaid is an entitlement program created by Title XIX of the federal Social Security Act.¹⁰⁷ The Agency for Health Care Administration (AHCA) is the primary state agency responsible for administering the Medicaid Program. As required by s. 409.902, *Florida Statutes*, the Department of Children and Families conducts the program's financial eligibility determination.

MediKids covers children ages one to five whose family income is between 133% and 200% of the federal poverty level, and is administered by AHCA. MediKids is authorized by the federal Children's Health Insurance Program (Title XXI of the Social Security Act), and requires enrollees to pay a \$15-20 monthly premium.¹⁰⁸ The Florida Healthy Kids Corporation conducts the program's financial eligibility determination.

Healthy Kids covers children between the ages of 5 and 19 whose family income is above the Medicaid limits, but equal to or below 200% of the federal poverty level. Like MediKids, Healthy Kids is a non-entitlement program authorized by Title XXI of the Social Security Act and participants must pay a \$15-20 monthly premium per family. The Florida Healthy Kids Corporation administers the program, including conducting financial eligibility determination.

Children's Medical Services Network within the Department of Health serves children from birth through age 18 who have special health care needs and meet the program's clinical eligibility guidelines. The program serves qualifying children whose family income is at or below 200% of the federal poverty level, and services may be funded under Title XIX (Medicaid) or Title XXI of the Social Security Act. The Department of Children and Families conducts financial eligibility determination for the children covered through Medicaid and the corporation conducts financial eligibility determination for the children whose family income is above the Medicaid thresholds but at or below 200% of the federal poverty level. The Department of Health conducts an additional eligibility determination by assessing whether applicants meet this program's clinical requirements (such as whether a child is diagnosed with cystic fibrosis).

The Department of Children and Families. The Department of Children and Families' mission is to protect the vulnerable, promote strong and economically self-sufficient families, and advance personal and family recovery and resiliency. In accordance with this mission, the department's Economic Self Sufficiency program determines eligibility for several assistance programs that receive federal funding, including Medicaid, Supplemental Nutrition Assistance Program (formerly called Food Stamps), Temporary Assistance for Needy Families, and some state programs.¹⁰⁹

¹⁰⁵ The three state agencies are the Agency for Health Care Administration, the Department of Children and Families, and the Department of Health.

¹⁰⁶ The Medicaid program serves children from birth to age 1 whose family income is at or below 200% of the federal poverty level, children ages 1 to 6 whose family income is at or below 133% of the federal poverty level, and children ages 6 to 19 whose family income is at or below 100% of the federal poverty level.

¹⁰⁷ However, children from birth to age 1 whose family income is above 185% but at or below 200% of the poverty level are covered by Medicaid as an optional group. Funding to serve children in this group is authorized under Title XXI of the Social Security Act.

¹⁰⁸ The monthly premium for children enrolled in the Title XXI components of Florida KidCare is \$15 for families at or below 150% of the federal poverty level and \$20 for families with incomes from 151% to 200% of the federal poverty level. These are per-family premiums, regardless of the number of children in the family enrolled. In addition, families whose incomes exceed 200% of the federal poverty level are offered a full-pay premium option, which is \$159 per child per month for MediKids and \$133 per child per month for Healthy Kids.

¹⁰⁹ Medicaid provides health and long-term care services to certain individuals who meet established income and assets criteria, including children and families, pregnant women, and aged and disabled individuals. The Supplemental Nutrition Assistance program provides funds to qualifying low-income

The program relies heavily on technology to conduct eligibility determination, as a result of changes made to streamline operations, increase efficiency, and reduce reliance on staffing.¹¹⁰ The program uses an on-line application, a network of community partners to help clients submit applications, and four call centers to manage client inquiries. From Fiscal Years 2003-04 to 2006-07, the Legislature decreased program funding by \$85 million (a 29% reduction) and eliminated 3,099 program FTEs (a 43% reduction). The program is also responsible for developing, maintaining, and upgrading the on-line application system; ensuring compliance with federal and state laws; and recovering overpaid funds from clients.

For Fiscal Year 2009-10, the Legislature appropriated 4,598.5 FTEs and \$523.1 million to the Economic Self Sufficiency program, of which \$235.4 million is for financial eligibility determination activities related to the supplemental nutrition assistance, cash assistance, and Medicaid programs. The remainder is for administering the program (\$43.8 million), direct payments to low income individuals (\$231.1 million), and benefits recovery (\$12.8 million). The program's funding is derived from federal (45%) and state sources (55%), with less than 1% from other sources. The Department of Children and Families plans, administers and delivers most program services through 20 circuits with oversight from six regions. The circuit and regional offices are responsible for ensuring that the department delivers services in accordance with state and federal laws and for coordinating services with other public or private agencies that serve clients.

The Florida Healthy Kids Corporation. The Florida Healthy Kids Corporation's mission is to provide affordable access to health insurance coverage for children of working families.¹¹¹ The Legislature established the not-for-profit corporation in 1990.¹¹² The Agency for Health Care Administration negotiates and monitors the state's contract with the corporation.

In addition to conducting financial eligibility determination for the Florida KidCare Program components funded through Title XXI of the Social Security Act, the corporation is responsible for contracting with managed care plans to deliver health care services, assigning children to plans, collecting monthly premiums from families, and overseeing the quality of services provided by the managed care plans for children enrolled in the Healthy Kids portion of the Florida KidCare Program. The corporation contracts with a third-party administrator (vendor) to perform some of these duties.

The corporation uses on-line and paper applications, a network of community partners to help clients submit applications, and a call center to manage client inquiries. The vendor performs initial eligibility screening and final eligibility determination for children who are not Medicaid eligible.¹¹³ The vendor also collects the premiums from families. Once families pay their first premiums, the vendor automatically enrolls eligible children in Healthy Kids managed care plans to begin receiving services. To continue services each month, parents submit premiums by mail, over the phone, or through the Internet.

individuals for essential food items. Temporary Assistance for Needy Families provides cash benefits to certain low-income individuals including adults with dependent children and children residing in foster care. Some other state programs for which the Economic Self Sufficiency program determines eligibility include Optional State Supplementation, a cash assistance program designed to support community-based living arrangements and prevent placement in an institution, and the Community Care for Disabled Adults and Home Care for Disabled Adults programs, which provide home and community-based services to eligible disabled adults less than 65 years of age.

¹¹⁰ For more information, see *ACCESS Improved Productivity; Additional Refinements Would Better Manage Workload*, OPPAGA Report No. 08-13, March 2008.

¹¹¹ The Legislature established the not-for-profit corporation in 1990 to administer a state program that provided comprehensive health insurance coverage to uninsured children in low-income families. After the federal government passed Title XXI of the Social Security Act, the corporation began administering this new program for the state, which replaced the state's earlier program.

¹¹² Section 624.91, F. S.

¹¹³ Pursuant to federal law, the corporation screens each application to determine whether the applicant appears to be eligible for Title XIX Medicaid; if so, the vendor electronically sends the application to the department.

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The corporation's funding is derived from a combination of federal and state appropriations, premiums, and other sources. In Fiscal Year 2009-10, the corporation's budget was \$348.9 million, of which 58% (\$202 million) was from federal funds, 26% (\$91.4 million) from state funds, and 16% (\$55.1 million) from other funding sources, including premiums. The corporation uses the majority of its funding (an estimated \$320 million or 92%) to make capitated payments to health and dental plans. The corporation estimates that it will spend \$19.2 million to pay the vendor to conduct eligibility determination (e.g., processing new applications, renewing beneficiaries' coverage, and recording interim changes in beneficiaries' information), collect premiums from families, and assign enrollees to plans. The corporation will use the remainder of its budget to cover its expenses, conduct outreach, and monitor plans.¹¹⁴

The department and the corporation use similar business processes to determine eligibility and respond to customer inquiries; however, their customer service outcomes differ substantially and each program has unique responsibilities

Both the department and the corporation conduct eligibility determination using on-line applications, external databases to verify financial information, and call centers to respond to applicant inquiries. Due to the design of the Florida KidCare program which provides services through components administered by different entities, a family may need to interact with both the department and the corporation to receive benefits, such as when they have one child eligible for the Medicaid program and another the Healthy Kids program, or when they apply to one program but their child is actually eligible for another program. The two entities coordinate efforts to minimize duplication and reduce the burden on applicants. The corporation's call center performance in meeting customer demand is substantially higher than that of the department. In addition to eligibility determination, each program performs certain unique functions.

The department and the corporation use similar processes to collect and verify applicant information and respond to customer inquiries. Both entities have on-line applications that are available 24 hours a day, seven days a week. While the department and the corporation receive the majority of the applications on-line, they also accept paper applications. Both require applicants to provide demographic information, disclose income sources, and prove citizenship. Once applicants submit this information, the department and the corporation use external databases to verify most of the financial information provided. For example, to verify income information, the department matches child support payments with Department of Revenue data and earned income and unemployment compensation with Agency for Workforce Innovation data. The corporation currently contracts with a company to obtain this information, but has recently signed an agreement with the Department of Revenue and Agency for Workforce Innovation that will allow it to directly access this information. In addition, because not all required information can be verified through external databases, both entities accept mailed, faxed, and scanned documents and store this information electronically in the application file.

The department and the corporation use call centers to answer inquiries about applications and process changes.¹¹⁵ These call centers allow applicants to either use an automated voice response system for quick automated information or to speak with a staff person to ask more detailed questions, process application changes, and update case information. The department operates five call centers in Jacksonville, Miami, Ocala, Tallahassee, and Tampa. Three of these call centers answer applicants' questions and process changes for all programs for which the department conducts eligibility determination. The Ocala call center only conducts interviews for the Supplemental Nutrition Assistance Program. The Tallahassee call center, known as the KidCare Medicaid hotline, answers general questions about Florida KidCare, particularly the Medicaid component. This call center's role in financial eligibility determination is limited; e.g., it does not typically process application changes or

¹¹⁴ The corporation's expenses include staffing and related expenditures.

¹¹⁵ The department call centers in Jacksonville, Miami, and Tampa also scan and index documents that applicants mail or fax, and answers providers' questions about an individual's eligibility status.

update case information.¹¹⁶ The corporation operates one call center in Tallahassee to answer applicants' questions about new and renewal applications for Title XXI programs, premium payments, and health plan assignment.

The two entities also send letters to inform applicants about the status of their applications, such as whether they need to submit additional information and whether or not they qualify for services. Both also use letters to notify beneficiaries when they need to submit information to renew coverage.

The department and the corporation coordinate efforts to minimize duplication. While the department and the corporation administer separate eligibility determination processes, they exchange applicant information electronically to streamline their processes and reduce the burden on applicants. The entities exchange this information because of the design of the Florida KidCare program, which provides services through components administered by different entities. For example, a family may need to apply to both entities for eligibility determination if they have children of different ages; one child may be eligible for the Medicaid program administered by the department while the other may be eligible for the Healthy Kids or MediKids program administered by the corporation. A family may also apply to one entity when their children are eligible for the programs administered by the other, or need to switch their children's enrollment to programs administered by the other entity as the children age or the family's financial status changes.

Each night, the entities exchange data on children whose applications have been denied, are no longer eligible for services, or who have been screened as potentially ineligible for the program to which they applied. The department and the corporation use these data to complete the eligibility determination process. The department uses the information from the corporation to determine eligibility for Medicaid, and beginning in November 2009, the corporation accepts the department's information to determine eligibility for Title XXI services. Previously, the corporation used the information from the department to partially fill out its application and sent the partial application to the family to complete. Exchanging information prevents families from having to resubmit the same information when children need to enroll in a different program component.

The department and corporation share information stored in each other's document imaging systems, which enables them to access supporting information, such as birth certificates, and reduce the amount of information applicants must submit to both entities. This is especially useful when enrollees transfer between Medicaid and Title XXI services, or when a person applies for one program but is most likely eligible for another.

The department and the corporation are working to further streamline their processes, including reducing, combining, and simplifying the wording of letters sent to applicants. In 2009, the department increased the number of characters that its eligibility data system (the FLORIDA System) can generate to make letters easier to read and understand.

The corporation's call center performance substantially exceeds that of the department. Both the department and the corporation operate call centers. However, differences in the call centers' capacities result in the corporation being able to provide significantly better customer service. (See Exhibit 1.)

Exhibit 1

The Corporation's Call Center Customer Service Performance Substantially Exceeds That of the Department

Performance Measure	Department ¹		Corporation ²	
	Fiscal Year	July-November	Fiscal Year	July-November

¹¹⁶ Department administrators do not consider the hotline as being one of the department's financial eligibility determination call centers. Families typically only receive the hotline's telephone number if they call the department's main eligibility determination number and ask questions about enrolling a child in Medicaid, or if they call the corporation's call center and either ask or select an option to find out about Medicaid for children.

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	2008-09	2009	2008-09	2009
Average Calls Received Per Month ³	1,569,853	1,842,396	170,410	92,725
Average Percentage of Calls Answered	21%	20%	59.0%	98.8%
Average Percentage of Blocked Calls ⁴	74%	75%	32.2%	0.2%
Average Percentage of Abandoned Calls	5%	6%	7.2%	1.2%
Average Time to Abandon Call	338 seconds	447 seconds	185 seconds	110 seconds
Average Wait Time	658 seconds	847 seconds	207 seconds	23 seconds

¹ Department call center performance statistics exclude the KidCare Medicaid hotline.

² The corporation changed vendors for its call center in May 2008. Due to poor performance, the corporation initiated a corrective action plan for November 2008 through February 2009. Subsequent to the corrective action plan, the vendor's call center performance improved.

³ These figures exclude calls to the call centers' interactive voice response system.

⁴ Blocked calls include calls that exceed the phone system's capacity, which result in a directive to call back later. The caller is not allowed to leave a message or wait for the next available representative.

Source: OPPAGA analysis of department and corporation data.

The department's call centers are receiving significantly more calls than their design capacity, a problem that has been exacerbated by worsened economic conditions. Families often overwhelm the department's call centers and have difficulty getting their calls answered. The call centers received an average of 1.8 million calls per month from July through November 2009, which was a significant increase from the average of 882,690 calls per month received from July through December 2007. The call centers were designed to handle 450,000 calls per month. As a result, the department call centers' level of customer service is poor. From July to November 2009, the call centers were able to answer only 20% of calls, with the remaining calls either blocked (not answered) or abandoned. Most calls (6.9 million or 75%) were blocked and the callers received a busy signal and had to call back later, while 524,982 calls (6%) were placed on automatic hold and the callers eventually hung up without reaching a staff person; these callers were on hold an average of 447 seconds (7 minutes, 27 seconds) before abandoning their calls.

In contrast, the corporation's call center has sufficient capacity to handle the number of calls it currently receives. The call center received an average of 92,725 calls per month from July through November 2009. This was significantly fewer than the average of 170,410 calls per month received from July 2008 through June 2009 following to a transition to a new vendor, which initially caused service disruptions. Although the call center was only answering an average of 59% of calls and blocking 32% during July 2008 to June 2009, the corporation issued a corrective action plan and the vendor's performance subsequently improved. The call center is designed to handle 80,000 to 100,000 calls per month, and thus it was able to answer 99% of calls and had average wait times of only 23 seconds for the time period July to November 2009.

The department and the corporation have several unique responsibilities that do not overlap. While the department and the corporation have similar eligibility determination processes, it should be noted that there are important differences between them. The department's role in the Economic Self-Sufficiency Program is generally limited to eligibility determination. In contrast, the corporation performs other primary functions, including collecting premiums from families to begin and maintain enrollment, recruiting health and dental plans, and overseeing the quality of care the plans provide.

One of the corporation's major functions is to collect premiums from families to enroll their children and to maintain enrollment. Once the corporation receives the initial premium, it enrolls children into managed care plans. It also contacts families who are late in making payments to remind them to submit the payments to maintain enrollment. The corporation uses these premiums to pay commercial health plans that assume the insurance risk. Because the department determines eligibility for entitlement programs that do not require clients to pay premiums, it does not collect payments or contact families to remind them to submit payments. The department also does not enroll children into health plans. It partners with the Agency for Health Care Administration, which helps Medicaid-eligible families

choose among health plans and assigns beneficiaries to available health plans.^{117, 118} The Agency for Health Care Administration has this responsibility because it is the primary agency responsible for the Medicaid State Plan and thus must ensure that enrollment in each plan does not exceed the plan's capacity and that the state complies with the Medicaid requirement that newly eligible individuals have the opportunity to choose from at least two managed care plans.

In addition, the corporation recruits health and dental plans and oversees the quality of care provided through these plans. The department does not have similar responsibilities, as the Agency for Health Care Administration recruits and monitors Medicaid's health plans.

Options for Legislative Consideration

We assessed the advantages and disadvantages of three options to consolidate the Florida KidCare Program's financial eligibility determination process with that of the Department of Children and Families' Economic Self-Sufficiency Program: 1) continuing the current divided system; 2) centralizing financial eligibility determination within the department; and 3) transferring all of the corporation's responsibilities to the department.

Option 1: Continue placement of financial eligibility determination with both the department and the corporation. In this option, the Legislature would continue to assign responsibility for determining financial eligibility for the Title XXI programs to the Florida Healthy Kids Corporation and responsibility for determining Medicaid financial eligibility to the department. This option has the advantage of avoiding potential disruptions in service that could occur during an organizational transition. In the past, program beneficiaries have been adversely affected by large-scale administrative changes, such as when the corporation selected a new vendor and when the Agency for Health Care Administration began using a new Medicaid fiscal agent. During these transitions, some beneficiaries temporarily lost health care coverage, experienced long processing times for applications, and/or had difficulty getting answers to questions. This option also has the advantage of not requiring the department to reprogram and upgrade the FLORIDA system to handle Title XXI program applications, train its eligibility workers and call center staff to handle Title XXI program-related issues, and increase its call center capacity to incorporate the Healthy Kids and MediKids programs.

In addition, this option would preserve the corporation's advantage of being able to concentrate its focus on the Title XXI programs, which are its sole responsibility. As a result, the corporation can quickly dedicate resources to address problems or legislatively-mandated changes. In contrast, the department has numerous responsibilities that compete for its attention. If the department assumed responsibility for the corporation's eligibility determination functions, it would need to balance its response to Title XXI-related problems and any new mandates with those of its other programs and needed changes may not receive the same priority.

However, the current system has disadvantages. Continuing the current divided responsibility for financial eligibility determination precludes potential economies of scale that may be achieved through a consolidated system. The current process requires the two entities to develop and maintain separate policies, procedures, and resources to verify eligibility, including multiple databases, links with external

¹¹⁷ Because most areas of the state have only one available health plan for children served under Title XXI, no choice counseling is needed or required. The corporation directly assigns children to plans in the five counties that have more than one health plan available but families can call and change plans up to 90 days after this auto-assignment, preserving their opportunity to choose.

¹¹⁸ If Medicaid-eligible children need health care services before plan assignment is complete, they can receive them through Medicaid's fee-for-service payment system. Florida's Title XXI program does not offer a fee-for-service option and therefore children cannot receive services prior to plan assignment.

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electronic data used to verify eligibility, call centers, document imaging equipment and protocols, staffing, and other infrastructure.

The current process also requires some families to interact with two entities when undergoing financial eligibility determination to obtain health care coverage for their children, which can cause frustration and confusion. For example, families with children enrolled in different Florida KidCare program components must complete separate renewal processes with both the department and the corporation. This problem is compounded when children must change from one program component to another due to age or fluctuations in family income; such problems can impede accessibility for potentially eligible children.¹¹⁹

Option 2: Centralize financial eligibility determination by transferring this function from the corporation to the department. In this option, the Legislature would revise statutes and appropriations to transfer the corporation's eligibility determination responsibilities and associated funding to the department. The corporation would retain responsibility for collecting premium payments, enrolling children into health plans, recruiting health plans, and monitoring the plans' quality of care.

A primary advantage of centralizing financial eligibility determination is the potential to improve accessibility by streamlining the process and reducing confusion for applicants. This would be particularly important for families whose children are enrolled across program components. Families would only need to interact with one entity when applying for and renewing financial eligibility to obtain coverage under any Florida KidCare program component.¹²⁰

Consolidating financial eligibility determination within one department would also gain efficiencies through the use of one infrastructure for administering this aspect of the Florida KidCare Program. For example, eligibility data would be stored in one data system instead of two. Efficiencies might also be gained by consolidating processes used to gather and verify information, although the extent of gain may be limited because the two programs have already adopted a single application and share data through daily transfers.

Whether or not the option would result in cost savings is unknown because neither the corporation nor its vendor were able to identify the proportion of the vendor's \$19.2 million budget for Fiscal Year 2009-10 that is used for eligibility determination versus collecting premiums and enrolling children in health plans. While some of this funding should be available to transfer to DCF if eligibility determination were transferred, the corporation would likely need to renegotiate or rebid its vendor contract if this option were implemented.

Approximately \$3.8 million of the vendor's annual budget is allocated for processing new applications (\$1.50 per application or an estimated \$556,000) and renewing coverage (estimated \$3.2 million). The remaining \$15.4 million is budgeted for account maintenance, which includes both eligibility determination activities such as processing changes in beneficiary status and activities involved in collecting premiums and enrolling children. In the absence of information about the allocation of resources for the vendor's different account maintenance activities, the actual amount available from these funds to transfer to DCF is unknown.

The department estimates that it would need an additional 202 FTEs and \$8.7 million in annual recurring funds to cover the costs of the staff, expenses, and technology needed to manage the increased workload in applications and calls it would incur under this option, assuming that the department would provide the same level of customer service it currently provides for other programs. This would require transferring the equivalent of approximately 32% (\$4.9 million) of the corporation vendor's account

¹¹⁹ The board of the Florida Healthy Kids corporation has created a committee (the Administrative Simplification, Quality, and Service Committee) to address ways to minimize these problems.

¹²⁰ Families would continue to need to contact other entities for non-financial eligibility activities including clinical eligibility screening for enrollment in the Children's Medical Services Network, health plan selection for Medicaid and MediKids, and premium payments for Title XXI programs.

maintenance fees, along with the fees for processing initial applications and renewals.¹²¹ However, the department also estimates that it would need an additional \$3.8 million in non-recurring funds during the first year of implementation. Most of this funding (approximately \$3 million) would support efforts to reprogram and upgrade the FLORIDA System, such as adding eligibility algorithms to the system and an interface with the premium collection component. The remaining funds would support the department's estimated non-recurring expenses associated with adding additional staff.

A primary disadvantage of this option is that it has the potential to reduce enrollment and retention in the Florida KidCare Program, particularly if the change is implemented in a manner that impairs responsiveness to applicants. The department is currently struggling with a significant workload increase in its current eligibility determination operations due to recent economic trends. The corporation's eligibility determination responsibilities would add approximately 16,000 new applications, 10,000 applications for renewal, and 113,000 calls each month to the department's workload.¹²² Past experience has shown that poor customer service can contribute to declines in Florida KidCare program enrollment. For example, beginning in 2004, the Legislature amended statutes to increase income documentation requirements for applicants, and it eliminated and then reinstated year-round open enrollment. When the corporation implemented these changes, families experienced lengthy call wait times and had confusion about the new requirements, resulting in incomplete applications that lacked required documentation. As a result, processing delays occurred and program enrollment fell.

To minimize such adverse effects, the department and the corporation would need time to develop and implement transition plans if this option were implemented. Accordingly, if the Legislature chooses to implement this option, it could consider giving the department and corporation two years to complete the transition.

It should be noted that this option would not preclude families from needing to interact with different entities to access health care services because the corporation would continue to be responsible for collecting premium payments and enrolling children in health plans. For example, although the department would determine financial eligibility, children in Healthy Kids and MediKids cannot receive health coverage until their families pay premiums.^{123, 124} This option also would not fully consolidate call centers. The department's call centers would handle calls related to financial eligibility determination, while the corporation would need to maintain its own call center to assist families with questions related to premiums and health plans, which can be confusing and frustrating to families who contact the department's call center but must be transferred to the corporation for answers to questions.

Option 3: Transferring all of the corporation's responsibilities to the department. In this option, the Legislature would revise statutes and appropriations to dissolve the corporation and give the department responsibility for all of the corporation's activities, including conducting financial eligibility determination, collecting premium payments, enrolling children into health plans, recruiting health plans, and monitoring the quality of care the plans provide.

This option would have similar advantages and disadvantages to Option 2. It would consolidate financial eligibility determination for Florida KidCare applicants within one entity, resulting in potential efficiencies and possible improvements in accessibility for families. Unlike Option 2, it would also

¹²¹ Transferring 32% of the account maintenance fees would provide approximately \$4.9 million to DCF, while adding \$556,000 in vendor funding for new applications and \$3.2 million for renewals would total \$8.7 million.

¹²² These estimates are based on workload data from Fiscal Year 2008-09.

¹²³ Healthy Kids, MediKids, and some portions of the Children's Medical Services Network are funded through Title XXI, and families must pay premiums to enroll their children and maintain enrollment.

¹²⁴ Requiring families to contact a different entity for plan enrollment is similar to the process in place for Medicaid-eligible children, whose families are expected to contact AHCA for plan enrollment.

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consolidate responsibility for premium collection, enrollment, and Healthy Kids plan management with the same entity that conducts financial eligibility determination, thus further centralizing accountability and access. However, as with Option 2, this option has the disadvantages of requiring a significant investment to reprogram the department's legacy data system, increasing the department's workload at a time when it is struggling to meet demand, and potentially disrupting services during transition.

The feasibility of this option is questionable. The department does not currently perform functions such as collecting premiums, recruiting plans, and monitoring quality of care, nor does it have the infrastructure to do so. Department administrators assert that, as a result, the department would likely have to contract these services out, which would not differ from current corporation operations. As a result, there would likely be little practical impact. The state would likely end up with the equivalent of the corporation's vendor to handle these additional tasks, negating some of the potential benefits of consolidation. Thus, Options 1 and 2 are likely the most prudent for Legislative consideration.

Appendix A

Several Agencies Administer Eligibility Determination for Health and Human Services Programs That Are Not Compatible with the Department of Children and Families' Model

We examined the business models used by state agencies that perform eligibility determination for health and human services programs to determine whether these agencies' financial eligibility determination processes could be consolidated within the Economic Self-Sufficiency Program. With the exception of the eligibility determination conducted by the Florida Healthy Kids Corporation, we concluded that other assistance programs do not fit with the department's business model. The programs we considered were

- the Agency for Workforce Innovations' Cash Assistance Severance Benefit Program, Relocation Assistance Program, School Readiness Program, and Up-Front Diversion Program;
- the Department of Children and Families' Emergency Financial Assistance for Housing Program;
- the Department of Community Affairs' Community Services Block Grant Program, Low-Income Home Energy Assistance Program, and Weatherization Assistance Program; and
- the Department of Elder Affairs' Emergency Home Energy Assistance for the Elderly Program

This appendix describes the business models used by each entity to conduct eligibility determination, and presents our conclusions the other programs are not compatible with the department's business model.

Over the last several years, the department has modernized the Economic Self-Sufficiency business model through technology, which changed how it works with clients. The 2003 Legislature directed the Department of Children and Families to significantly redesign the state's public assistance program and reduce staffing and funding. Between Fiscal Years 2003-04 to 2006-07, the Legislature decreased program funding by \$85 million (a 29% reduction) and eliminated 3,099 program FTEs (a 43% reduction).

In response to this mandate, the department developed the ACCESS system (Automated Community Connection to Economic Self-Sufficiency) to modernize its eligibility determination process and increase staff productivity. The new system increased the program's reliance on technology, including a secure on-line application, a data system to maintain these applications, and a website that allows clients

to view basic information about their cases on-line. Because most clients can submit an application 24 hours a day, seven days a week, the on-line application is more convenient for applicants who can use a computer or have a caregiver or other support to help them submit an application. The department also developed a computer program to electronically transfer this application information into the program's eligibility determination data system. The department also expanded its automated access to state and federal databases used to update case information and implemented systems to support call center operations to answer applicant questions.

The department also changed how it interacts with clients. By automating and centralizing processes, the department eliminated most face-to-face interactions with applicants. Formerly, clients visited a customer assistance center to fill out a request for assistance and made an appointment to complete an application and be interviewed by an eligibility worker. During this interview, the eligibility worker would make sure the application was complete and explained the additional documentation the client needed to bring to the service center. In contrast, department staff now conduct most client interviews over the telephone if needed to complete the eligibility determination process.¹²⁵ Clients also fax or mail additional required documents to the department. The program closed many customer service centers and recruited community partners to provide locations and personal assistance to help applicants apply for benefits.

Unlike other programs, the department's automated eligibility determination processes are not designed to provide individualized unique assessments, coordinate with multiple local entities, or respond to urgent or emergency situations. The Economic Self-Sufficiency Program's primary role is to verify financial and other information to determine eligibility for a large number of applicants. To efficiently perform this function, the department's business model relies on standardized algorithms and limited interaction with clients. Its system is not designed to evaluate unique client circumstances or needs or to coordinate these needs with local services or providers. The department also is not equipped to respond to emergency needs; due to the high volume of applicants, the department reports that it typically uses 15 to 16 days to determine eligibility (federal requirements allow up to 30 to 45 days).¹²⁶ In addition, while the department provides ongoing monthly payments to certain eligible clients, its automated systems are not connected to local providers or designed to make one-time payments to these providers on a client's behalf.

In contrast, most of the other assistance programs we reviewed do not fit with the department's business model. Most of these programs provide small, one time payments to clients and often do not independently verify financial and other information. Most also serve relatively small numbers of applicants and provide individualized client interaction. This allows them to assess each client's circumstances and coordinate these needs with local programs or vendors. As a result, some of the programs, such as the Low Income Home Energy Assistance Program, can respond to a client's emergency needs in 48 hours or less. In addition, these programs often do not pay the client but instead, like the Weatherization Assistance Program, make payments directly to vendors or other third parties on behalf of the client. For some of these programs, federal requirements mandate that local-level entities distribute funds.

Three of these programs do not perform a separate financial eligibility determination because they serve individuals who were already deemed eligible for one of the Department of Children and Families'

¹²⁵ Only the Supplemental Nutrition Assistance Program requires applicant interviews.

¹²⁶ Federal requirements direct the department to process Medicaid applications in 45 days, and Temporary Assistance for Needy Families applications and most applications for the Supplemental Nutrition Assistance Program in 30 days. Certain applications for Supplemental Nutrition Assistance Program must be processed in seven days, though the department has not met this standard since at least January 2007.

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major assistance programs. These are the Cash Severance Benefit Assistance Program, Relocation Assistance Program, and the Up Front Diversion Program. These programs redirect individuals away from ongoing cash assistance for which they are financially eligible, based on the department’s determination efforts. However, these programs perform an additional assessment to ensure that the participants meet non-financial criteria.

Table A-1 describes the nine health and human service programs we examined and our conclusions as to the reasons why these program’s eligibility determination processes are not compatible with the department’s Economic Self-Sufficiency program’s business model.

**Table A-1
Financial Eligibility Determination for Several State Assistance Programs Is Not Compatible with the Processes Used by the Department’s Economic Self-Sufficiency Program (ESS)**

Agency for Workforce Innovation, Cash Assistance Severance Benefit Program (Temporary Cash Assistance Diversion)	
Purpose	This program uses federal Temporary Assistance for Needy Families (TANF) funding to provide a one-time payment as an alternative to continued cash assistance to beneficiaries who become employed.
Description	The Cash Assistance Severance Benefit program diverts individuals from needing Temporary Cash Assistance by providing a \$1,000 lifetime benefit to beneficiaries who are employed and can benefit from a one-time payment rather than continue receiving cash assistance. The payment generally is used to offset employment income that may be lower than the cash assistance income applicants had once received.
Non-financial Eligibility Qualification Requirements	An applicant must: <ul style="list-style-type: none"> ▪ be currently receiving cash assistance ▪ have received cash assistance for six consecutive months, ▪ be employed and receiving earnings, and ▪ be able to eliminate the need for ongoing cash assistance with the available funds.
Financial Data Verification Method(s)	The applicant must apply for and be eligible to receive temporary cash assistance, with income verified by the ESS program. However, ESS does not complete the remainder of the eligibility determination process if a diversion payment can meet the family’s needs.
Time Standards	This program does not have a time standard.
Expenditures for Fiscal Year 2008-09 ¹	\$497,244
Number Served in Fiscal Year 2008-09	440 applicants
Other Information	Staff at each regional workforce board assess non-financial eligibility, and then ESS issues the payment upon request of the regional workforce board. If a beneficiary subsequently needs cash assistance, he or she must wait six months, or meet emergency criteria to collect cash assistance and then repay diversion benefits. If the beneficiary cannot wait six months, the cash assistance severance benefit repayment is withheld, in equal amounts, from the family’s cash benefit for eight months.
Reasons Program Does Not Fit With ESS Business Model	ESS already conducts the financial eligibility determination aspect of the program. In addition, the program <ul style="list-style-type: none"> ▪ does not provide monthly, recurring payments, and ▪ relies on regional workforce board staff to evaluate whether an applicant meets the non-financial eligibility criteria and is a good candidate for these funds.
Agency for Workforce Innovation, Relocation Assistance Program (Temporary Cash Assistance Diversion)	
Purpose	This program uses federal Temporary Assistance for Needy Families funding to provide moving expenses to families who could achieve employment or safety in another community.
Description	Relocation Assistance diverts individuals from needing Temporary Cash Assistance by providing funds to individuals who are eligible for cash assistance, have an employment opportunity or are a current victim of domestic violence, and can achieve self-sufficiency by moving to another community. The payment can be used to pay for moving expenses, such as a moving truck, lodging, fuel, an airplane or bus ticket, or housing.

Non-Financial Eligibility Qualification Requirements	The applicant must <ul style="list-style-type: none"> ▪ be eligible for temporary cash assistance, ▪ have obtained employment or need education or training that provides an increased salary or improved benefits that requires relocation to another community, ▪ have a family network to support continued employment, or ▪ be a victim of domestic violence who would become safe by relocating.
Financial Data Verification Method(s)	The applicant must apply for and be eligible to receive temporary cash assistance. However, ESS does not authorize ongoing cash assistance if a diversion payment can meet the family's needs.
Time Standards	The program does not have a time standard.
Expenditures for Fiscal Year 2008-09 ¹	\$1,216,624
Number Served in Fiscal Year 2008-09	562 applicants
Other Information	Staff at each regional workforce board assess non-financial eligibility, and then ESS issues the payment upon request of the regional workforce board. Applicants who <ul style="list-style-type: none"> ▪ are victims of domestic violence are eligible for temporary cash assistance immediately after relocating, ▪ are searching for employment after relocating and report to a one stop career center can receive childcare assistance for 30 days, and ▪ request relocation assistance more than once per lifetime must demonstrate why the initial assistance was not successful. <p>If a beneficiary subsequently needs cash assistance, he or she must wait six months, or meet emergency criteria to collect cash assistance and then repay diversion benefits. If the beneficiary cannot wait six months, a prorated portion of the cash assistance severance benefit repayment is withheld, in equal amounts, from the family's cash benefit for the remainder of their eligibility period.</p>
Reasons Program Does Not Fit With ESS Business Model	ESS already conducts the financial eligibility determination aspect of the program. In addition, the program <ul style="list-style-type: none"> ▪ does not provide monthly, recurring payments, ▪ provides funding for unique situations that require a rapid response time, and ▪ relies on regional workforce board staff to evaluate whether an applicant meets the non-financial eligibility criteria and is a good candidate for these funds.
Purpose	This program uses state and federal TANF and Child Care and Development Fund Subsidies (CCDF) funding to provide financial assistance for childcare services to help parents begin or continue employment so that they can become financially self-sufficient.
Description	The program provides low-income households with extended-day, extended-year, and school-age care to help parents begin or continue employment.
Non-Financial Eligibility Qualification Requirements	Parents seeking services must have a child who is <ul style="list-style-type: none"> ▪ at risk for abuse, ▪ at risk of welfare dependency, ▪ receiving the state's relative caregiver payment, ▪ under age 13, ▪ under age 19 with a disability, or ▪ eligible for the migrant preschool program. <p>Applicants must document</p> <ul style="list-style-type: none"> ▪ each child's date of birth, ▪ Florida residency, and ▪ that immunizations are up to date.

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Financial Data Verification Method(s)	<p>Applicants document their income by providing check stubs, a signed statement by an employer, a signed contract for employment; or self-employment documentation such as business account ledgers, written documentation from customers or contractors, or federal tax returns.</p> <p>However, applicants who completed the ESS eligibility determination process for TANF within the prior six weeks only need to submit documentation of the amount of TANF funds and any changes in the other income they receive. If the eligibility determination is more than six weeks old or a family needs child care for an additional child not covered by TANF, the applicant must document income as described above.</p>
Time Standards	According to program administrators, they ask the early learning coalitions to process applications within 10 days.
Budget Fiscal Year 2009-10	\$724,025,504
Number Served in Fiscal Year 2008-09	247,336 children
Other Information	<ul style="list-style-type: none"> ▪ Families can continue receiving child care assistance after their time limit for temporary cash assistance ends. ▪ Local early learning coalitions assess additional family social and health care needs and facilitate access to services. ▪ The program has received approximately \$6 million in federal and state funds to begin designing and developing a data system by September 2012 that will interface with the Department of Children and Families' ACCESS system and other state data bases to verify reported income.
Reasons Program Does Not Fit With ESS Business Model	<p>The program</p> <ul style="list-style-type: none"> ▪ does not always verify reported income, ▪ coordinates requests for child care with available placement openings and parent preferences, ▪ pays the local child care provider directly (rather than paying the family approved for services), ▪ provides additional assessment and coordination for needed social and health care services, and ▪ responds quickly to expedite receipt of child care so that the applicant will comply with TANF work requirements.
Purpose	This program uses federal TANF funds to provide a one-time payment as an alternative to long-term cash assistance by eliminating a short-term barrier to self sufficiency.
Description	The Up-Front Diversion Program diverts individuals from needing Temporary Cash Assistance by providing a one-time benefit of \$1,000 to individuals who are eligible for cash assistance but can benefit from a one-time rather than ongoing payment. The payment can generally be used to pay for automobile repair, utilities, medical services, and other unexpected circumstances or emergency situations.
Non-Financial Eligibility Qualification Requirements	<p>The applicant must</p> <ul style="list-style-type: none"> ▪ document his or her identity, ▪ be eligible for, but not currently receiving, temporary cash assistance, ▪ have dependents under age 19 or a pregnant woman residing in the home, ▪ have an unexpected circumstance or emergency situation, ▪ appear to have a short-term barrier to obtain and maintain employment or obtain child support payments, and ▪ be able to meet day-to-day recurring expenses.
Financial Data Verification Method(s)	The applicant must apply for and be eligible to receive temporary cash assistance. However, ESS authorizes the diversion payment in lieu of ongoing cash assistance if a diversion payment can meet the family's needs.
Time Standards	Florida Administrative Code directs the agency to process each diversion application within five working days following receipt of all necessary information.
Expenditures for Fiscal Year 2008-09 ¹	\$540,589.64
Number Served in Fiscal Year 2008-09	568 applicants

Other Information	<p>Staff at each regional workforce board assess non-financial eligibility, and then ESS issues the payment upon request of the regional workforce board.</p> <p>If a beneficiary subsequently needs cash assistance, he or she must wait three months, or meet emergency criteria to collect cash assistance and then repay diversion benefits. If the beneficiary cannot wait three months, the cash assistance severance benefit repayment is withheld, in equal amounts, from the family's cash benefit for eight months.</p>
Reasons Program Does Not Fit With ESS Business Model	<p>ESS already conducts the financial eligibility determination aspect of the program. In addition, the program</p> <ul style="list-style-type: none"> ▪ does not provide monthly, recurring payments, ▪ provides funding for unique situations that require a rapid response to ensure on-going employment, and ▪ relies on regional workforce board staff to evaluate whether an applicant meets the non-financial eligibility criteria and is a good candidate for these funds.
Purpose	This program uses federal Temporary Assistance for Needy Families (TANF) and state maintenance of effort funds to provide payments to landlords or other third parties to prevent homelessness.
Description	The Office on Homelessness conducts the financial and programmatic eligibility determination for the Emergency Financial Assistance for Housing Program. The program only serves households with minor children. A family may receive a one-time payment per year of up to \$400 every 12 months. The household either must be homeless and able to rent an apartment with this payment or behind on paying rent and facing eviction. The landlord must agree to accept this payment and not evict the family for at least 30 days, unless there is a legal cause to do so. (The money may also be applied to a mortgage payment; however, mortgage providers are often not willing to accept these funds as adequate payment to stop foreclosure if the amount owed is significantly higher than \$400.)
Non-Financial Eligibility Qualification Requirements	<p>The applicant must</p> <ul style="list-style-type: none"> ▪ be a Florida resident and U.S. citizen or legal alien, ▪ intend to remain in the residence, ▪ experience non-voluntary, unavoidable unemployment, ▪ have a dependent, and ▪ be facing homelessness.
Financial Data Verification Method(s)	<ul style="list-style-type: none"> ▪ The applicant self-reports income. ▪ An employer can provide a written statement documenting that the housing emergency is caused by loss or decrease of income.
Time Standards	Florida Administrative Code directs the department to act on each completed application within three working days; however, the department typically takes approximately a week to ten days to review each application. Department administrators attribute the longer processing time to only having seven staff, three of whom work year-round to review approximately 400 to 2,800 applications each week, most of which arrive during the first four months of the fiscal year. The department uses temporary workers for this duty.
Budget Fiscal Year 2009-10	Approximately \$1.8 million.
Number Served in Fiscal Year 2008-09	4,103 applicants
Other Information	<p>The program has seven temporary (OPS) staff, three of whom work year-round. The three staff continue processing applications even after all funds have been dispensed so that they can send letters notifying applicants that no more grant funds are available.</p> <p>The department recommends moving the program to local agencies, such as homeless coalitions so that funds can be combined with other local resources.</p>
Reasons Program Does Not Fit With ESS Business Model	<p>This program</p> <ul style="list-style-type: none"> ▪ does not verify self-reported income, ▪ provides a one-time payment per year, ▪ pays a landlord or mortgage company rather than the applicant, ▪ must respond quickly to avoid eviction, ▪ must verify tenancy with individual landlords and mortgage companies, and ▪ typically exhausts its annual funding within four months -- additional funds are not available until the following fiscal year.

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Department of Community Affairs, Community Services Block Grant	
Purpose	This program uses U.S. Department of Health and Human Services grant funds to provide funding for anti-poverty services including emergency health care, food, housing, and daycare.
Description	Local governments and organizations conduct the financial and programmatic eligibility determination for this program that helps persons with low-incomes attain the skills, knowledge and motivation to achieve financial stability, such as job counseling and placement and training services. The program also provides immediate life necessities, such as food, shelter, and medicine.
Non-financial Eligibility Qualification Requirements	Applicants must provide information applicable to the specific assistance requested. For example, if the applicant requests assistance to complete education, the applicant must submit prior transcripts and a tentative class schedule.
Financial Data Verification Method(s)	Applicants <ul style="list-style-type: none"> ▪ report household income and qualify if income is at or below 200% of the federal poverty level, or ▪ document that they receive Supplemental Security Income.
Time Standards	This program does not have a time standard.
Budget Fiscal Year 2009-10	\$46,976,599 (of which \$29,100,000 is additional one-year funding provided by the American Recovery and Reinvestment Act of 2009)
Number Served Fiscal Year 2008-09	207,986 applicants
Other Information	Local communities conduct needs assessments and use block grant funds to support services that are otherwise unavailable or underfunded. Thus, services provided vary by county.
Reasons Program Does Not Fit With ESS Business Model	Federal guidelines mandate that the state provide funds as grants to local governments and organizations for distribution to applicants. In addition, the program <ul style="list-style-type: none"> ▪ does not verify self-reported income, ▪ does not provide monthly payments, ▪ offers different services in different communities based on local needs assessments, and ▪ coordinates with local service providers to approve applicant requests and provide services.
Department of Community Affairs, Low Income Home Energy Assistance Program	
Purpose	This program uses U.S. Department of Health and Human Services grant funds to pay utility service providers to prevent the applicant's utility services from being disconnected or to re-connect these services.
Description	The Department of Community Affairs provides federal funds to local community service provider agencies. The local agencies determine whether low income households experiencing a home energy emergency are eligible for assistance. Households can qualify for crisis payment assistance once during the winter and once during the summer, and for one non-crisis payment during any month of the year.
Non-financial Eligibility Qualification Requirements	<ul style="list-style-type: none"> ▪ The applicant must document that heating or cooling will be disconnected or has been disconnected due to non-payment of past bills. ▪ The utility service provider must agree to accept the assistance payment as sufficient for past due bills and to cancel plans to disconnect services. ▪ With available funds, the program prioritizes services to persons age 60 or older, persons with disabilities, and families with children.
Financial Data Verification Method(s)	The applicant <ul style="list-style-type: none"> ▪ reports household income that is at or below 150% of the federal poverty level, or ▪ documents receipt of Supplemental Nutrition Assistance Program assistance (formerly called Food Stamps) or Supplemental Security Income.
Time Standards	Federal guidelines require local provider agencies to process completed applications within 18 to 48 hours. The 18-hour time standard applies when a service disconnection would result in life-threatening situation, such as when a household member depends on life-sustaining medical equipment or has been diagnosed with other temperature-sensitive health conditions.
Budget Fiscal Year 2009-10	\$90,864,000
Number Served Fiscal Year 2008-09	132,179 households, including dwellings weatherized
Other Information	Local community organizations <ul style="list-style-type: none"> ▪ accept applications and coordinate with local utility service providers to sustain or reconnect utility services for eligible applicants, and ▪ may refer repeat applicants to the Weatherization Assistance Program for items to be repaired or replaced.

Reasons Program Does Not Fit With ESS Business Model	Federal guidelines encourage the state to use local service agencies to distribute funding. In addition, the program <ul style="list-style-type: none"> ▪ does not verify self-reported income, ▪ limits benefits to certain months or times per year, ▪ coordinates with large and small utility service providers, ▪ pays utility service providers directly, and ▪ responds quickly to ensure utility services remain connected.
Purpose	This program uses U.S Department of Energy Weatherization Assistance Program grant funds to pay weatherization service providers to repair applicants' homes in order to improve the homes' energy efficiency for at least 10 years.
Description	The program helps low-income households reduce monthly energy costs by replacing windows, ventilation and water heaters and making other infrastructure improvements to reduce home energy consumption. The program offers federal grant funds to community action agencies, local governments, Indian tribes and non-profit agencies, which then conduct eligibility determination.
Non-Financial Eligibility Qualification Requirements	The applicant must <ul style="list-style-type: none"> ▪ provide a recent utility bill that demonstrates this expense is 14% or more of the family's monthly income, ▪ provide proof of state residency, ▪ provide proof of property ownership or required landlord forms if the applicant is a renter, ▪ allow a home inspection that determines whether improvements can be made that would reduce the home's energy consumption, and ▪ meet the U.S. Department of Energy's priority service groups, in the order listed, including households with persons age 60 or older, persons with disabilities, families with children under 12 years old, native Americans, households with recurring high energy costs, and repeat recipients of Low Income Home Energy Assistance Program benefits.
Financial Data Verification Method(s)	The applicant must <ul style="list-style-type: none"> ▪ provide proof of income for the past 12 months for each household member, ,and ▪ report household income that is equal to or below 200% of the federal poverty level, or ▪ provide proof of receipt of Temporary Assistance for Needy Families or Supplemental Security Income.
Time Standards	This program does not have a time standard.
Budget Fiscal Year 2009-10	Annual federal award of \$11,700,000. The program received an additional \$175,978,209 in April 2009 from the American Recovery and Reinvestment Act of 2009 as a three-year award that can be used through April 2012.
Number Served in Fiscal Year 2008-09	444 homes weatherized
Other Information	<ul style="list-style-type: none"> ▪ Applicants must resubmit income information for re-verification if services are not delivered within 180 days. ▪ This program may use up to 15% of the Low Income Home Energy Assistance Program's funding, if needed. ▪ Due to federal stimulus dollars from the American Recovery and Reinvestment Act of 2009, the program's most recent budget is significantly higher than in prior years.
Reasons Program Does Not Fit With ESS Business Model	The program <ul style="list-style-type: none"> ▪ does not verify self-reported income, ▪ does not provide monthly payments, ▪ coordinates with local home inspectors to approve a home for services, and ▪ pays weatherization service providers directly, rather than paying the applicant.
Purpose	This program uses funds from the Department of Community Affairs' Low Income Home Energy Assistance Program, which are provided by grant funds from the U.S. Department of Health and Human Services, to pay utility service providers to prevent disconnection of utility services; purchase items such as blankets, portable heaters and fans; repair existing heating or cooling equipment; or pay utility services re-connection fees for elders.
Description	Local Area Agencies on Aging annually receive these federal funds from the Department of Elder Affairs through the Department of Community Affairs. The local agencies determine whether low-income households, with at least one member age sixty or older, are experiencing a home energy crisis and are eligible for assistance. Households can qualify for assistance once from October through March (Fall/Winter) and once from April through September (Spring/Summer).
Non-financial Eligibility Qualification Requirements	<ul style="list-style-type: none"> ▪ At least one individual living in the household is age sixty or older. ▪ The applicant must document that heating or cooling will be disconnected or has been disconnected due to non-payment of past bills.

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	<ul style="list-style-type: none"> ▪ The utility service provider must agree to accept the assistance payment as sufficient for past due bills and to cancel plans to disconnect services.
Financial Data Verification Method(s)	<p>The applicant</p> <ul style="list-style-type: none"> ▪ documents income through check stubs, bank statements, or a letter from Social Security, ▪ reports income without providing additional documentation, or ▪ documents receipt of Supplemental Nutrition Assistance Program benefits or Supplemental Security Income.
Time Standards	Federal guidelines require local Area Agencies on Aging to process completed applications within 18 to 48 hours. The 18-hour time standard applies when a service disconnection would result in a life-threatening situation, such as when a household member depends on life-sustaining medical equipment or has been diagnosed with other temperature-sensitive health conditions.
Budget Fiscal Year 2009-10	\$6,609,824
Number Served Fiscal Year 2008-09	3,854 households during the Fall/Winter season and 3,696 households during the Spring/Summer season
Other Information	<p>The Local Area Agencies on Aging</p> <ul style="list-style-type: none"> ▪ accept applications and coordinate with local utility service providers to sustain or reconnect utility services for eligible applicants, ▪ can identify needed repairs to windows, doors, heating or cooling systems, or other energy-related items that could help lower long-term energy costs and refer the applicant to the Weatherization Assistance Program for items to be repaired or replaced, and ▪ ensure a single point of contact for all elder-related programs and services.
Reasons Program Does Not Fit With ESS Business Model	<p>The program</p> <ul style="list-style-type: none"> ▪ does not verify self-reported income, ▪ does not provide monthly payments, ▪ coordinates with large and small utility service providers, ▪ pays utility service providers directly, ▪ needs to respond quickly to ensure that utility services remain connected, and ▪ contributes to state efforts to meet the intent of the federal Older Americans Act by providing a single point of contact for all elder-related programs and services.

¹ TANF funds for this program are included in the Department of Children and Families' larger TANF budget. For comparison purposes, we have provided Fiscal Year 2008-09 expenditures for these programs.

Source: OPPAGA analysis of federal requirements, the *Florida Statutes*, *Florida Administrative Code*, and information provided by the Agency for Workforce Innovation, Department of Children and Families, Department of Community Affairs, and Department of Elder Affairs.



The Florida Legislature

OFFICE OF PROGRAM POLICY ANALYSIS AND GOVERNMENT ACCOUNTABILITY



RESEARCH MEMORANDUM

Better Coordination Between Florida and the Federal Government Could Expedite Removal of Undocumented Aliens in Mental Health Institutions

February 1, 2010

Summary

As requested, OPPAGA examined three questions related to undocumented aliens receiving mental treatment services in state mental health treatment facilities.¹²⁷

- How many undocumented aliens are served in Florida's mental health treatment facilities and what are their characteristics?
- How much does it cost to serve undocumented aliens in Florida's mental health treatment facilities?
- What are options for reducing the state's cost of serving undocumented aliens in mental health treatment facilities?

As of November 24, 2009, there were 86 undocumented aliens in Florida's mental health treatment facilities. Two-thirds of this population was committed through their involvement with the criminal justice system. Most of these persons are from Central America and the Caribbean Region. Florida currently spends over \$9 million dollars annually to treat undocumented aliens in mental health treatment facilities, most of which comes from general revenue. The state's options for reducing these costs include improving coordination with the U.S. Department of Homeland Security's Immigration and Customs Enforcement to remove these persons, honoring Immigration and Customs Enforcement detainers for Sexually Violent Predator clients, and assisting undocumented aliens who wish to return to their country of origin.¹²⁸

Program Purpose, Organization, and Responsibilities

The Department of Children and Families (DCF) provides mental health treatment within institutions for mentally ill persons involved in the criminal justice system and those with severe and persistent mental illness who cannot be served in the community.¹²⁹ A judge may commit to a state mental health treatment

¹²⁷ For purposes of this report, the term 'undocumented alien' refers to a person who enters the United States without legal permission or who fails to leave when his or her permission to remain in the United States expires.

¹²⁸ Federal law uses the term 'removal' to refer to an immigration legal proceeding formerly known as 'deportation'. An immigration judge issues a removal order to deport an undocumented alien from the United States.

¹²⁹ Section 394.455(18), *F.S.*, defines mental illness as "an impairment of the mental or emotional processes that exercise conscious control of one's actions or of the ability to perceive or understand reality, which impairment substantially interferes with a person's ability to meet the ordinary demands of living, regardless of etiology."

facility an individual who has been evaluated as having a mental illness and who poses a threat to themselves, other individuals, or public safety.

Judges may order two types of commitment—forensic or civil. Forensic commitments include defendants who are incompetent to proceed to trial and those who are determined not guilty of a charged crime by reason of insanity. Civil commitments include mentally ill individuals committed under the Baker Act as well as sexually violent predators committed under the Involuntary Civil Commitment of Sexually Violent Predators Act.

Forensic Commitment. Florida law provides that persons must be mentally competent before they stand trial for their offenses. If a defendant is unable to understand the charges and penalties he/she is facing, unable to understand the legal process and disclose to counsel facts pertinent to the proceedings, or maintain appropriate courtroom behavior, the judge may find that the individual is incompetent to proceed.¹³⁰ A defendant's competency must be restored before the criminal proceeding may resume. If the court further determines that the defendant is a danger to himself or others, it may involuntarily commit the defendant to a secure forensic facility to receive competency restoration training. Not guilty by reason of insanity applies to defendants who are competent to proceed with their legal defense, but have been adjudicated as not guilty because they were judged to have met the legal definition of insanity at the time they committed an offense.¹³¹ If the determination is made that further residential treatment is needed, the individual is sent to a state mental health treatment facility until they no longer meet the statutory requirements for involuntary commitment.¹³²

Civil Commitment. The Baker Act (Florida Mental Health Act) provides short-term treatment to individuals with serious mental disorders and then returns them to the community. An individual committed under the Baker Act must be mentally ill and meet statutory criteria for involuntary inpatient placement including: 1) being incapable of surviving alone or with the help of others and likely to suffer from neglect without treatment; or 2) likely to inflict serious bodily harm on themselves or others in the near future. Additionally, all available less restrictive treatment alternatives, such as community outpatient treatment, must be judged as inappropriate to improve the individual's condition.¹³³

Florida law also provides for civil commitment of certain sex offenders who meet the statutory criteria of a sexually violent predator. The Involuntary Civil Commitment of Sexually Violent Predators Act (Jimmy Ryce Act), addresses the treatment needs of persons who have been convicted of a sexually violent offense and have a mental abnormality or personality disorder that makes them likely to engage in future acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment.¹³⁴ The Department of Children and Families evaluates selected sex offenders, most of whom are serving sentences in state prison for sex crimes. Those offenders found to meet the criteria of a sexually violent predator are transferred from the Department of Corrections after completion of their sentence and are detained at the Florida Civil Commitment Center. During a civil commitment proceeding, a judge or jury determines whether or not the offender meets the criteria of a sexually violent offender. Persons committed to the state under the Involuntary Civil Commitment of Sexually Violent Predators Act are detained until the court determines that they are no longer a threat to public safety. It is not uncommon for individuals to remain in detention status for many years; some undocumented aliens have been at the civil commitment center for at least nine years.

Patients at the state mental health treatment facilities, both civil and forensic, receive a variety of treatment, rehabilitation and enrichment services to address their individual therapeutic needs, including psychiatric

¹³⁰ Sections 916.12 and 916.3012, *F.S.*

¹³¹ Rule 3.217, *Florida Rules of Criminal Procedure*.

¹³² Section 916.15, *F.S.*

¹³³ Section 394.467, *F.S.*

¹³⁴ Section 394.912, *F.S.*

treatment, health care services, psychiatric rehabilitation, vocational and education services, addiction services, and rehabilitation therapy.

Questions and Answers

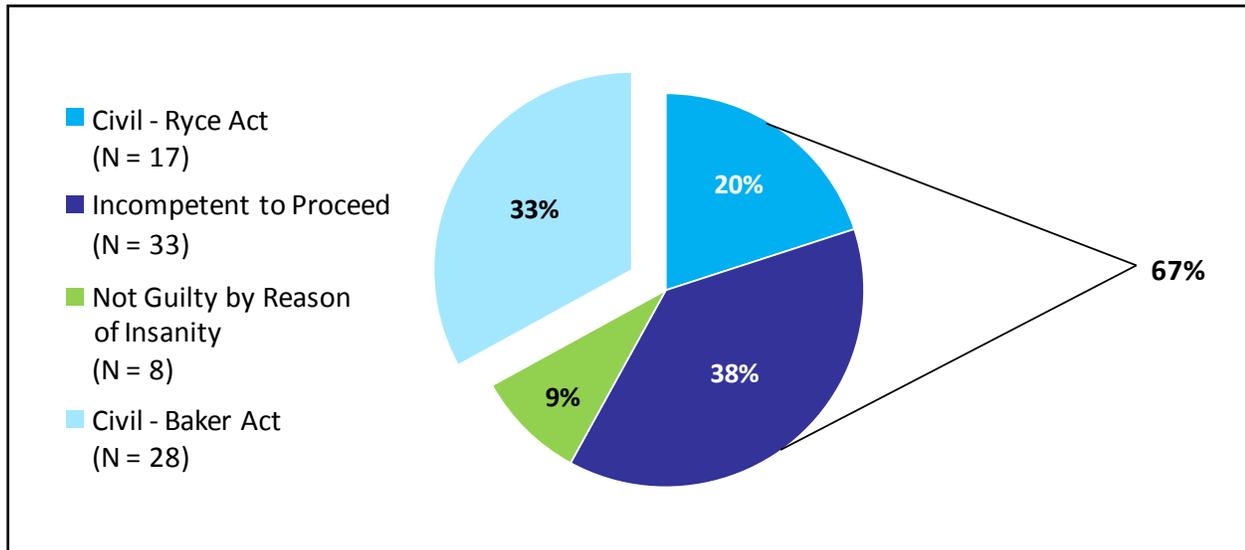
How many undocumented aliens are served in Florida's mental health treatment facilities and what are their characteristics?

As of November 24, 2009, a total of 86 undocumented aliens resided in state mental health treatment facilities, 69 of whom resided in state mental health treatment facilities and 17 in the Florida Civil Commitment Center. The ratio of undocumented aliens as a percentage of total capacity has remained fairly constant over the last five years. A large segment of this population was committed through their involvement with the criminal justice system. Most of these persons are from Central America and the Caribbean Region, and about half have families in Florida.

While the number of undocumented aliens in state mental health treatment facilities does not appear to be growing, the department does not have a standardized process for identifying and verifying undocumented alien status. According to DCF staff, the number of undocumented aliens varies between 60 and 90 at any given time. Department figures show that between April 2005 and September 2009, the number ranged from a high of 87 or 3% of total state mental health treatment beds to a low of 62 or 2% of total beds.¹³⁵ However, the department does not have a standard process for identifying and verifying undocumented alien status. In some cases, facility staff ask an individual if he/she is a citizen of another country. In other cases, facility staff involve the individual's family and case manager or they contact federal immigration officials to help determine the individual's citizenship status. Without a standardized process, the department cannot be sure that it has sufficiently identified all undocumented aliens for possible removal. Department staff stated that they will be exploring a more standardized process for verification across facilities.

As illustrated in Exhibit 1, based on DCF's assessment, two-thirds of undocumented aliens in state mental health facilities have committed or stand accused of committing a crime. All individuals forensically committed as incompetent to proceed or not guilty by reason of insanity have committed or stand accused of a felony crime, and all sexually violent predators committed under the Involuntary Civil Commitment of Sexually Violent Predators Act have been convicted of at least one sexually motivated crime and typically have multiple convictions. Of the four commitment categories, only civil commitment pursuant to the Baker Act does not involve a felony crime. Overall, 67% of the 86 undocumented aliens in state mental health treatment facilities and the Sexually Violent Predator Program have committed or stand accused of committing at least one felony crime; most commonly a violent crime and/or sex offense.

¹³⁵ System-wide there are 2,698 mental health treatment facility beds not including program slots in the Sexually Violent Predator Program.

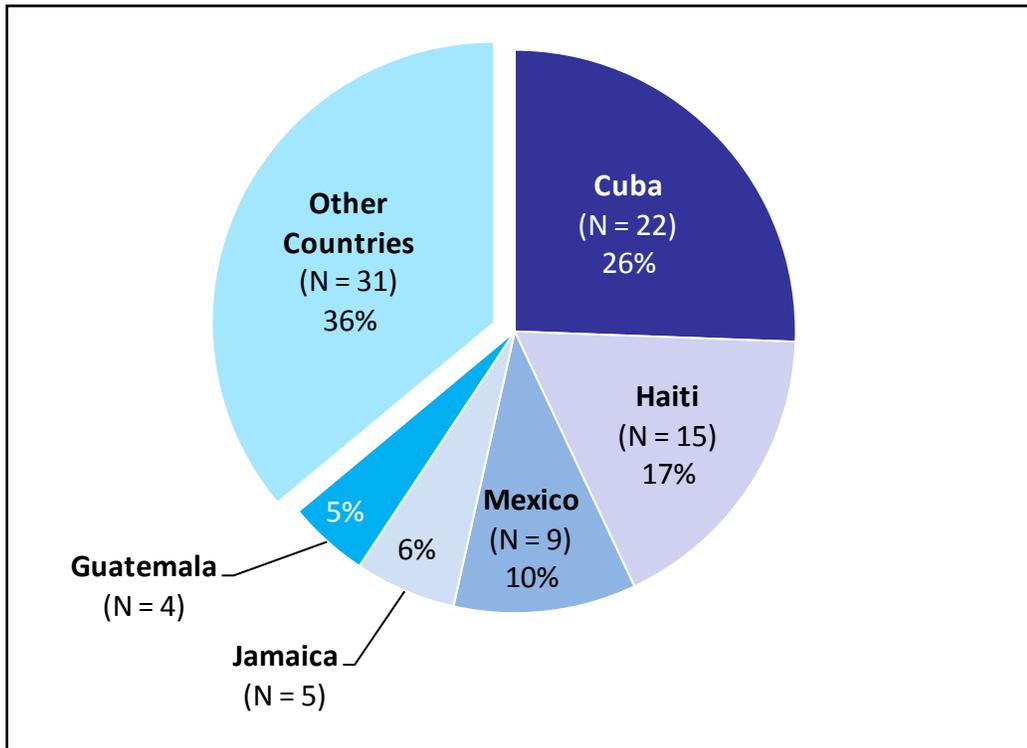
Exhibit 1**Two-thirds of Undocumented Alien Commitments Are Related to a Felony Criminal Charge**

Source: OPPAGA analysis of Department of Children and Families data.

OPPAGA analyzed the criminal charges of alien forensic commitments and found that 80% of individuals incompetent to proceed or not guilty by reason of insanity had been charged with a violent crime or sex offense. These crimes include aggravated assault with a deadly weapon, first-degree murder, lewd and lascivious battery, and arson. Additionally, 15% of these aliens were charged with battery on a law enforcement officer or resisting (arrest) with violence.

As shown in Exhibit 2, the largest numbers of undocumented aliens in state mental health facilities are from Cuba and Haiti. In November 2009, there were aliens from 25 different countries across Europe, Asia, and Africa committed to state mental health treatment facilities and the Sexually Violent Predator Program.¹³⁶ Few countries had more than one or two citizens in Florida's mental health facilities.

¹³⁶ In addition to the 25 countries, two individual's countries of origin were unknown and one individual's country of origin was listed as South America.

Exhibit 2**The Majority of Undocumented Alien Commitments Come from Five Countries**

Source: OPPAGA analysis of Department of Children and Families data.

Undocumented aliens in state mental health treatment facilities have a variety of mental illnesses. Those committed to mental health treatment facilities have been diagnosed with mental disorders including schizophrenia, major depression with psychotic features, paranoid schizophrenia, delusional disorder and dementia. Some also have been diagnosed with developmental or personality disorders including antisocial personality, borderline intellectual functioning, and moderate mental retardation. The majority of these individuals have medical conditions including Hepatitis B, seizure disorders and diabetes that can lead to additional medical expenses. Those committed to the Sexually Violent Predator Program typically suffer from paraphilias including pedophilia, exhibitionism and sexual sadism. Additionally, this group is likely to have a history of drug and alcohol abuse, developmental or personality disorders, and medical conditions.

How much does it cost to serve undocumented aliens in Florida's mental health treatment facilities?

Florida spends over \$9 million annually on undocumented aliens in mental health treatment facilities, most of which comes from state general revenue. Additionally, aliens have longer than average stays compared to non-aliens, resulting in higher costs.

The annualized cost to serve the 69 undocumented aliens that were in state mental health treatment facilities on November 23, 2009 is \$8.5 million, with annual costs for individual clients ranging from \$115,037 to \$130,036. Because some of these individuals are in residential treatment for periods longer than a year, the accrued cost for these specific patients is just over \$17.2 million. In addition, the state spends nearly

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\$630,000 annually to treat the 17 undocumented violent sexual predators in the Florida Civil Commitment Center. The annual cost for a Sexually Violent Predator Program treatment bed is just under \$37,000. Like those residing in mental health treatment facilities, sexually violent predators often spend longer than a year in the Florida Civil Commitment Center. The accrued cost for these 17 individuals is \$2.4 million.

Most of the \$19.6 million the state has spent thus far on residential treatment for the 86 undocumented aliens housed in November 2009 comes from general revenue. Funding for state mental health treatment facilities is 75% general revenue with approximately 25% trust funded through the Federal Grants Trust Fund. Funding for the Sexually Violent Predator Program is exclusively state general revenue. The current population of aliens in all state mental health treatment facilities has cost the state \$15.3 million in general revenue and \$4.3 million in federal funding.

Undocumented aliens have longer than average stays compared to patients who are United States citizens. Undocumented aliens had typical lengths of stay that were 25 days, or 14%, longer than non-aliens resulting in an estimated additional cost of \$8,160 per alien admission. DCF staff stated that undocumented aliens may stay longer than average because it is hard to find a placement for them in the community upon release. Undocumented aliens typically are not eligible to receive Medicaid funding, which is the primary funding mechanism for community mental health housing and treatment options. Additional factors cited by facility staff include:

- language and cultural barriers that may hinder competency restoration;
- limited understanding of the U.S. judicial system, contributing to anxiety and a lack of confidence to progress with their competency restoration;
- lack of family and community support; and
- medical complications that affect doctors' ability to stabilize the patients' psychiatric conditions.

What are options for reducing the state's cost of serving undocumented aliens in mental health treatment facilities?

Florida has limited options for reducing the cost of serving undocumented aliens in mental health treatment facilities. This is due to several factors including the state's constitutional obligation to provide competency restoration services, public safety concerns, the state's lack of authority to remove undocumented aliens, federal deportation restrictions, and the state's inability to share clinical information with immigration authorities. The state's options for reducing costs include improving coordination with the U.S. Department of Homeland Security's Immigration and Customs Enforcement (ICE) to remove these persons, honoring Immigration and Customs Enforcement detainers for Sexually Violent Predator clients, and assisting undocumented aliens who wish to return to their country of origin.¹³⁷

LIMITATIONS

The state has a constitutional obligation to provide competency restoration services. Thirty-three of the 86 undocumented aliens (38%) are individuals found incompetent to proceed. The state is constitutionally required to restore their competency prior to a criminal proceeding. As a result, Florida cannot reduce competency training and restoration costs by allowing the federal government to remove an incompetent alien unless the state wants to drop the criminal charges. In addition, immigration judges are reticent to order an alien removed unless they are satisfied that the person is competent and can understand the proceeding and its significance. While mental incompetence does not appear to preclude alien removal from a legal

¹³⁷ U.S. Department of Homeland Security's Immigration and Customs Enforcement Office of Detention and Removal is the primary enforcement agent for the identification, apprehension and removal of illegal aliens from the U.S.

perspective, in practice, if an alien has had his/her competency restored, judges are more likely to issue a removal order.¹³⁸

There are public safety concerns if the state does not provide Baker Act services to undocumented aliens. According to a Department of Children and Families legal opinion, the state is not constitutionally required to provide civil, involuntary commitment to undocumented aliens. However, the purpose of the Baker Act is to place a mentally ill person in a treatment facility because it is likely that they will hurt themselves or someone else, or pose a risk to public safety. If the state changed the Baker Act to exclude undocumented aliens from civil commitment, the state could avoid short-term costs, but such individuals could be a public safety risk and subsequently end up in the forensic mental health care system.¹³⁹

The state of Florida lacks the authority to remove undocumented aliens. Removal of undocumented aliens is the responsibility of the U.S. Department of Homeland Security's Immigration and Customs Enforcement. Under current federal law, the state of Florida cannot remove undocumented aliens. The filing of detainers, conducting removal hearings and the issuing of removal orders are all federal functions. Therefore, in attempting to reduce costs, the department cannot independently vacate a commitment order or remove an alien without the approval of a judge.

Some undocumented aliens cannot be removed due to federal restrictions. U.S. Department of Homeland Security's Immigration and Customs Enforcement cannot remove an individual if the United States does not have diplomatic relations with his/her country of origin. For example, the United States does not have diplomatic relations with Cuba. Currently, there are 22 Cuban nationals in state mental health treatment facilities. In addition, Immigration and Customs Enforcement cannot remove an individual if his/her country of origin will not accept them. Some countries will not accept individuals who have been removed, particularly those who are mentally ill or have committed a crime. The federal government cannot hold an alien indefinitely; if after six months they are unable to remove the alien, they must release him/her into the community.

The department cannot share clinical information with Immigration and Customs Enforcement. Florida law permits the department to share a client's clinical and medical information with specific entities, including the Department of Corrections, the state attorney, the patient's legal counsel and, in cases of Medicaid fraud, the Department of Legal Affairs, but does not specifically permit Immigration and Customs Enforcement to receive clinical information.¹⁴⁰ Since an individual's civil commitment to a state mental institution is protected information in the clinical file, the state cannot share information with Immigration and Customs Enforcement that an alleged undocumented alien has been civilly committed by the state. This confidentiality issue hampers coordination between the state and federal government for purposes of initiating the removal process. To address this issue, the Legislature should amend ss. 394.4615 and 916.107(8), *Florida Statutes*, to provide for the release of clinical records to Immigration and Customs Enforcement for both civil and forensic patients.

Options for Legislative Consideration

¹³⁸ The Sixth Circuit of the U.S. Court of Appeals concluded that since a removal proceeding is a civil action to determine an alien's continued residence in the U.S., not a criminal proceeding, an alien subject to removal is not afforded the level of competency determination under the Due Process Clause granted a criminal defendant.

¹³⁹ It should be noted that this discussion focuses on the institutionalization of individuals committed pursuant to the Baker Act, not to the 72-hour involuntary examination authorized by law. The state could not deny an individual evaluation services based on his/her citizenship status due to the practical limitations of quickly and positively determining an individual's citizenship.

¹⁴⁰ Section 394.4615, *F.S.*

Improve coordination with Immigration and Customs Enforcement while maintaining current policy of treating undocumented aliens in Florida facilities. Currently, the Department of Children and Families and Immigration and Customs Enforcement do not coordinate to identify undocumented aliens in mental health institutions who may be appropriate for removal. To improve coordination, the Department of Children and Families could institute a program similar to the Department of Corrections' Institutional Hearing Program. Under this program, the Department of Corrections identifies individuals suspected of being undocumented aliens and shares this information with Immigration and Customs Enforcement. The federal office then places a detainer order on the individual and the U.S. Department of Justice conducts removal hearings while these individuals are still in Department of Corrections' custody.¹⁴¹ If the immigration judge has issued a removal order or the hearing process is underway when the offender reaches the end of his prison sentence, Immigration and Customs Enforcement takes custody of the offender.

If the Department of Children and Families was to develop a similar program with Immigration and Customs Enforcement, undocumented aliens of any commitment status in state mental health treatment facilities could be identified and the removal process initiated early in their commitment. For example, when the Department of Children and Families admits an alleged undocumented alien, the department would alert Immigration and Customs Enforcement, who could begin conducting the citizenship verification process.¹⁴²

Revise Florida statutes to honor Immigration and Customs Enforcement detainer orders that provide for removal of aliens referred to the Sexually Violent Predator Program. Currently, Florida Statutes states that sexually violent predators are not subject to an Immigration and Customs Enforcement detainer order upon release from the Department of Corrections, which defers the removal of a predator who is undocumented until after his/her release from civil detention or commitment. As of November 2009, there were 17 undocumented aliens in the Florida Civil Commitment Center for Sexually Violent Predators. According to facility staff, 16 of these individuals have files with Immigration and Customs Enforcement and most (14) have active detainer orders. While 9 of the 17 undocumented aliens in the Florida Civil Commitment Center are Cuban nationals and therefore cannot be removed, removal of the remaining eight would result in an annual cost savings of approximately \$300,000.

To speed the removal of these types of offenders, the Legislature could revise the law to allow undocumented aliens who meet the sexually violent predator criteria to be directly transferred to Immigration and Customs Enforcement upon release from the Florida Department of Corrections rather than sending them to the Sexually Violent Predator Program. Then, if Immigration and Customs Enforcement were unable to deport the alien, he/she would then be transferred to the Florida Department of Children and Families for civil detention and possible commitment as authorized in law. The department should develop a memorandum of understanding with the federal government to codify this process in order to reduce the likelihood that the federal government mistakenly releases into the community an alien who was not successfully deported.¹⁴³ This is very important as the likelihood of sexually violent predators engaging in repeat acts of predatory sexual violence is high. Directly transferring aliens who are sexually violent predators to Immigration and Customs Enforcement would speed removal and free up Florida Civil Commitment Center beds for other sexually violent predators.¹⁴⁴

¹⁴¹ A detainer order is issued by the court or other authorizing agency to take an individual in its custody. For example, a prisoner under custody of the Department of Corrections with an ICE detainer would be released directly into ICE custody upon completion of the offender's prison sentence.

¹⁴² As previously noted, federal immigration judges are reticent to issue a removal order for an alien who is incompetent to proceed. In these cases, the department would alert the federal government when an alien has had his competency restored and he is ready to stand trial for his criminal offense. At that point, the individual also would be competent to face an immigration judge in a removal hearing. Upon final resolution of criminal charges, Immigration and Customs Enforcement could remove the alien.

¹⁴³ The Department of Children and Families does not have access to law enforcement systems that would electronically designate individuals detained to the Sexually Violent Predator Program. As a result, a process would need to be put in place to ensure that Immigration and Customs Enforcement employees are made aware of undocumented aliens who are still subject to state civil commitment pursuant to the Involuntary Civil Commitment of Sexually Violent Predators Act.

¹⁴⁴ When considering this option, the Legislature may wish to balance potential cost savings with the ethical implications of sending a sexually violent offender back to his country of origin where he may be free to reoffend in that country.

Formalize efforts to assist undocumented aliens who wish to return to their country of origin. In a few cases, the department has facilitated the voluntary return of undocumented aliens to their home countries. For example, South Florida Evaluation and Treatment Center (a privatized state forensic facility in Miami), has helped aliens who have requested to return to their country of origin. The patient filled out a consent/release form allowing facility staff to make the necessary contacts. The facility contacted the appropriate embassy and the embassy then contacted Immigration and Customs Enforcement to coordinate the return.

Facility staff stated that while they have assisted undocumented aliens in the past, they have not had an appropriate candidate in a couple years. According to staff, an appropriate candidate is an alien

- who is legally competent;
- whose receiving country is willing to accept them; and
- who has ties in their country of origin including someone who can care for them.

In addition to the above criteria, only individuals civilly committed under the Baker Act or forensically committed as not guilty by reason of insanity would be appropriate candidates. Aliens forensically committed as incompetent to proceed would not be appropriate for voluntary return as they have outstanding felony charge(s) and are unlikely to be granted a removal order by a federal judge. While the department has assisted in repatriation on a limited basis, we recommend the department formalize their efforts by developing guidelines to identify appropriate candidates and develop written procedures to facilitate voluntary repatriation.



The Florida Legislature

OFFICE OF PROGRAM POLICY ANALYSIS AND GOVERNMENT ACCOUNTABILITY



RESEARCH MEMORANDUM

Sheriffs' Offices Have Advantages for Conducting Child Abuse Investigations, but Quality Cannot be Directly Compared to DCF

February 26, 2010

Summary

As requested, OPPAGA compared the costs, processes, and outcomes of child protective investigations conducted by the sheriffs' offices with those conducted by the Department of Children and Families (DCF). Legislative appropriations to sheriffs' offices have historically exceeded the funding per investigation provided to DCF for child protective investigations. DCF and sheriffs generally use similar investigative processes and procedures, although the higher level of funding for the sheriffs results in their investigators having greater resources than typically available to DCF investigators. Due to their law enforcement affiliation, child abuse investigators working for sheriffs also generally have greater access to training and specialists, as well as enhanced cooperation and community respect not always afforded to DCF investigators. Sheriffs' offices and the department have similar outcomes on measures of investigation timeliness; information is not yet available to assess whether there are differences between the two groups in their investigation decisions, recommendations and outcomes. We examined four organizational options for child protective investigations.

Program Purpose, Organization, and Responsibilities

Florida's child protective investigations units are responsible for receiving and responding to reports of child abuse and neglect. As required by Ch. 39, *Florida Statutes*, child protective investigators must respond to reports of a child's maltreatment, assess risk to the child, initiate removal or provide in-home services to ensure the child's safety, and make a determination regarding the allegations of child maltreatment. Protective investigators perform these functions in partnership with several other entities such as local law enforcement, Child Protection Teams, Guardians ad Litem, Children's Legal Services, the courts, and community-based care case management agencies.

DCF performs child protective investigations in 60 counties statewide through its organizational structure, which includes regional directors, circuit administrators, operational program administrators, program operations administrators, child protective investigation supervisors and child protective investigation units. Sheriffs' offices perform child protective investigations under grant agreements with DCF in the remaining seven counties: Broward, Citrus, Hillsborough, Manatee, Pasco, Pinellas, and Seminole.

Sheriffs administer this function either as a separate division within their office or a bureau within their investigations division. These units are supported and supervised by a combination of civilian (non-sworn) and sworn law enforcement personnel in most of the sheriffs' offices, although the Pasco County child

protective investigation unit is run solely by civilian personnel. Child protective investigators and their immediate supervisors are civilian personnel in all seven counties. Appendix A describes the history of these sheriffs' offices becoming responsible for child protective investigations.

All child protective investigations, regardless of entity administering this function, must be done in accordance with state and federal laws and regulations. Specifically, the department and the sheriffs' offices must

- investigate all reports of child abuse, neglect, abandonment, and special conditions (e.g., child-on-child sexual abuse);
- respond to all out-of-town inquiries on or requests pertaining to alleged child abuse;
- provide child protective investigations 24 hours a day, seven days a week;
- begin investigations within 24 hours of report receipt;
- complete investigations within 60 days;
- use the department's decision support tools for investigators;
- complete the paperwork necessary to determine a child's eligibility for Temporary Assistance for Needy Families (TANF) funding;
- provide testimony and support to enable judicial or administrative hearings;
- conduct supervisory reviews of all cases within established timeframes; and
- comply with legislative performance measures and standards.

However, sheriffs' grant agreements with the department provide some discretion to create their own operating policies and procedures for the investigative function, provided that sheriffs carry out all mandatory functions and requirements for protective investigations specified in Ch. 39, *Florida Statutes*, Ch. 65C, *Florida Administrative Code*, and the grant agreements.

For Fiscal Year 2009-10, the Legislature appropriated \$98 million and 1,586.5 FTEs to the department for its child protective investigative function and \$47 million to the seven sheriffs performing this function.¹⁴⁵ Sheriffs' offices conducted 27% of the state's child protective investigations in Fiscal Year 2008-09.

State costs for sheriffs' offices generally exceed DCF costs for child protective investigations

Legislative appropriations to sheriffs' offices historically have exceeded the funding per investigation provided to the department for child protective investigations. (Please see Appendix B for a history of appropriations for child protective investigations.)

DCF's allocation for child abuse investigations includes its direct costs for this function, such as salaries and benefits for investigators, associated expenses, and risk management insurance.¹⁴⁶ As shown in Exhibit 1, the state cost per DCF investigation in Fiscal Year 2008-09 was \$733 when calculated using the direct allocation for this function. As shown in Exhibit 2, the average cost per investigation conducted by the sheriffs' offices (\$957) was \$224 higher than the state's cost for DCF, although it was lower for one sheriff (Pasco).

Exhibit 1

Estimated Fiscal Year 2008-09 Cost per DCF Investigation Ranges from \$733 to \$873

Method of Calculation	Estimated Cost per Investigation
Direct allocation	\$733 ¹
Including administrative overhead based on approved federal indirect cost rate	\$873 ²

¹⁴⁵ Appropriations for the sheriffs' offices include funding for administrative overhead and salary and benefits for supervisors, investigators, and aides.

¹⁴⁶ Investigators also receive \$800 per year to cover their vehicle insurance costs.

Difference in Cost	\$140
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¹ DCF's Fiscal Year 2008-09 allocation for child protective investigations was a total of \$98,182,943 (direct appropriations and allowance for investigators' vehicle insurance), and it investigated 133,871 reports of maltreatment statewide.

² DCF's federal indirect cost rate for its regional and circuit operations was 19%.

Source: OPPAGA analysis based on DCF's Fiscal Year 2008-09 Approved Operating Budget and information provided by the department.

Exhibit 2

State Cost per Investigation Is Higher for Most Sheriffs' Offices Compared to DCF

Sheriffs' Office	Average Cost per Investigation ¹	Difference in Cost Compared to \$733—DCF Direct Allocation	Estimated Difference in Cost Compared to \$873—DCF Cost Including Overhead
Broward	\$951	\$218	\$78
Citrus	1,299	566	426
Hillsborough	1,082	349	209
Manatee	915	182	42
Pasco	727	(6)	(146)
Pinellas	965	232	92
Seminole	826	93	(47)
Total for Sheriffs	\$957	\$224	\$84

¹ Estimated based on 49,641 investigations conducted.

Source: OPPAGA analysis based on Fiscal Year 2008-09 appropriations to sheriffs and information provided by the department.

The cost difference is not as significant when DCF's administrative overhead costs are taken into account. DCF's grants to the sheriffs and its appropriations include the costs of overhead, including salaries and benefits for sworn officer management staff, employee recruitment benefits, and non-child welfare-related training, as well as the direct costs for investigations.¹⁴⁷ We estimated DCF overhead costs for this function using DCF's federal indirect rate of 19% for regional and circuit operations.¹⁴⁸ As shown in Exhibit 1, the estimated DCF cost including administrative overhead was \$873 per investigation when based on the federal indirect rate, and thus, when overhead is included, the estimated statewide average cost per investigation conducted by the sheriffs (\$957) was \$84 higher than DCF's cost (see Exhibit 2). The cost per investigation varies among sheriffs' offices, and two offices (Pasco and Seminole) receive funding per investigation that is lower than the funding for DCF when overhead costs are considered.

DCF and sheriffs generally use similar investigative processes, but sheriffs' investigators have access to greater resources and other advantages due to their law enforcement affiliation

DCF and the sheriffs' offices generally follow similar investigative processes and procedures. However, the higher level of funding for the sheriffs results in their investigators having enhanced resources not always available to DCF investigators. Sheriffs' office investigators, due to their law enforcement affiliation, also have greater access to training, and an enhanced degree of cooperation and community respect not always afforded to DCF investigators.

There is limited variation in investigative processes and procedures between DCF and the sheriffs' offices. All child protective investigations, regardless of entity performing the function, must be done in

¹⁴⁷ Retirement benefits for sworn law enforcement officers are higher than civilian county and state employees, thereby increasing overhead costs for sheriffs.

¹⁴⁸ We applied the department's federal negotiated indirect cost rate for regional/circuit administration of 19% to the investigative appropriation.

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accordance with state and federal laws and regulations. To compare the operations of sheriff and DCF child protective investigation units, we analyzed units in seven counties—three operated by sheriffs' offices (Broward, Hillsborough, and Manatee) and four operated by DCF (Sarasota, Palm Beach, Duval and St. Johns). We selected these counties based on their population size, caseload (number of child abuse cases investigated), and demographics. We conducted site visits to the selected counties, examined procedure documents, and interviewed a range of stakeholders including case managers, Children's Legal Services attorneys, child protection team administrators, and judges. For the remaining counties in which sheriffs' offices conduct child protective investigations, we conducted telephone interviews with administrators.

We found little variation between the sheriffs and DCF in the processes and procedures used for child protective investigations. For example, both routinely interview the alleged victim and siblings, observe interactions between children and parents, and obtain additional information from others such as family members, neighbors, and teachers.

One difference between sheriffs and the department is that some sheriffs have created a special unit with investigators who attend dependency court hearings in place of the investigator assigned to a case. This practice frees investigators to pursue cases rather than attend numerous and lengthy court hearings. However, some stakeholders reported that the persons attending court were not always familiar with case details and could not answer questions, resulting in delays and additional hearings.

Greater funding provides sheriffs' office investigators with enhanced resources not always available to department investigators. Our visits to sheriffs and DCF child protective offices showed that their differing funding levels resulted in different resources to support and reward investigators. The additional resources available to sheriffs' offices enhanced their investigators' ability to perform job duties and the offices ability to attract and retain experienced investigators. These differences included those described below.

- *Sheriffs have slightly lower overall investigator caseloads.* The department data on total caseloads for 2008-09 indicates that sheriffs' investigators have an average caseload of 13 cases and DCF investigators have an average caseload of 14 cases.¹⁴⁹ However, sheriffs' staff members reported that their investigators' average caseloads ranged from 10 in Citrus to 24 in Hillsborough and staff in four DCF districts (Duval, Palm Beach, St. Johns, and Sarasota) reported that their investigators' average caseloads ranged from 14 in St. Johns to 30 in Sarasota. These variations may reflect several factors such as philosophical differences between sheriffs and DCF in keeping cases open, the availability of investigative aides to assist with case activities, and the number of removal and shelter cases handled by the two types of units. Also, due in part to their lower caseloads, sheriff's office investigators have lower turnover; 19% compared to 25% for DCF investigators. Higher turnover reduces DCF's level of staff experience and increases its need to spend time and resources training new investigators.
- *Sheriffs tend to have more investigative aides and support staff positions.* Although one sheriff's office reported having one aide for every 20 investigators, the remainder ranged from one aide for every five investigators to one aide for every 14 investigators. DCF has similar support positions, but has a ratio of one aide for every 20 investigators. These support staff free investigators from performing clerical tasks such as compiling information as well as supervising children awaiting placement, conducting home studies, searching for parents or relatives, and coordinating appointments for children such as medical exams. This allows investigators to focus on their core duties of investigating allegations.
- *Sheriffs provide vehicles for investigators.* Sheriffs assign vehicles to their investigators and provide maintenance services and fuel for these cars. In contrast, DCF investigators use their

¹⁴⁹ The Child Welfare League of America recommends a caseload size of 12 active cases per investigator in the workdays available during a designated 30-day period or month, and s. 20.19(5)(c), *F.S.*, requires that caseloads not exceed this standard by more than two cases.

personal vehicles and are reimbursed for mileage at the state rate, plus an insurance stipend of up to \$800 per year to cover their car insurance costs.

- *Sheriffs provide investigator uniforms.* These uniforms include khaki pants and polo or oxford cloth shirts with the sheriff's logo, which enhances investigators' professional appearance, provides credibility and authority, and helps create the sense of being a part of a team. Some but not all sheriffs' offices also cover the costs of dry cleaning.
- *Sheriffs provide additional equipment to investigators.* While both sheriffs and DCF investigators are provided laptops, cell phones, and digital cameras, sheriffs also provide each investigator with police radios, GPS systems, digital voice recorders, and infant and toddler seats for each car. In contrast, DCF investigators are provided a pool of infant and toddler seats shared among investigators. The items provided by sheriffs make investigators' jobs easier to perform and reduces their stress when they need to remove children from their homes.
- *Sheriffs provide supplies for children awaiting placement,* including diapers, formula, food, clothes. DCF offices have these items only if they were donated or purchased by staff with their personal funds.
- *Sheriffs have well-equipped visitation rooms* with furniture, rugs, toys, television, games, kitchens, and bathrooms to provide children with a comfortable and safe environment after removal, further enabling investigators to perform their job more easily. In contrast, only one DCF office we visited had such a room. DCF investigators reported having to keep children with them in their cars or offices while awaiting placement and also using their personal funds to buy food for the children.
- *Sheriffs provide investigators with office space* either in the sheriff's office or collocated with or near community-based care lead agencies, which facilitates communication between supervisors and investigators and enhances accountability. In contrast, DCF has started to use 'hoteling', in which investigators share offices on a space-available basis, in some counties to reduce expenses. Investigators and supervisors in these offices reported that this practice was not conducive to day-to-day supervision or consulting with Children's Legal Services attorneys about cases.
- *Sheriffs often provide higher salaries for investigators,* which enhances morale and also contributes to lower turnover. In addition to higher salaries, sheriffs' child protective investigators are normally awarded merit and cost-of-living raises; Fiscal Year 2008-09 was the first year in which sheriffs' office investigators were not given raises. In contrast, DCF investigators have not received merit or cost-of-living raises over the last three years. Our comparison of DCF minimum investigator salaries with those offered by three sheriff's offices (Hillsborough, Manatee, and Pasco) showed that DCF's salary minimum was \$4,800 to \$10,000 lower than that offered by the sheriffs. DCF's pay and benefit package for investigators is dictated by state personnel laws and policies and appropriations; sheriff protective investigators are county employees and their pay plan and benefit package varies by county size and geographical location.

Due to their law enforcement affiliation, sheriffs' offices can perform child abuse investigations with greater access to training and specialists, as well as enhanced cooperation and community respect not always afforded to DCF investigators. Child protective investigation units administered by sheriffs' offices also have advantages that are not entirely due to their higher state funding. Because sheriff's offices are law enforcement agencies, they can provide protective investigators with access to training and resource specialists, and a higher degree of cooperation with local law enforcement agencies and the community.

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When compared to DCF child protective investigation units, sheriffs' offices receive the advantages listed below.

- *Sheriffs often have better cooperation with local law enforcement agencies.* This cooperation helps ensure investigators' safety and facilitates the investigation of maltreatment cases with possible criminal charges, such as sexual abuse. DCF's relationships with local law enforcement vary. Investigators can call local law enforcement to accompany them if they feel unsafe and they also conduct joint investigations. Some DCF investigators report that response time for both is often delayed, while other investigators reported that relationships with local law enforcement agencies had greatly improved in recent years.
- *Sheriffs provide investigators with some of the same training provided to law enforcement officers.* This training includes forensic interviewing and interrogation techniques, which enhances investigators' knowledge and skills and thus may improve the quality of investigations. Although DCF provides many training opportunities to its investigators, investigators reported that they would benefit from training that is more pertinent to the skills required to carry out their job (e.g., illegal drug use and what to look for, investigative report writing, etc.).
- *Sheriffs provide more structured field training for investigators prior to assigning a caseload.* This training may include shadowing a protective investigator before and during pre-service training, working alongside an experienced investigator on cases, and weekly evaluation and feedback on their casework. DCF has maintained a mentoring program for new investigators, but this program is less structured than that provided by some sheriffs.
- *Sheriffs provide more stringent background and other screening for prospective investigators.* The sheriffs' offices use screening methods including psychological and medical exams, polygraphs, credit history, drug tests, criminal background checks, and personal and professional references, which help assure that civilian investigators meet the background requirements of law enforcement officers. These techniques are more extensive than those used by DCF, although the department has increased its screening requirements for investigators to include some of these elements, such as drug tests, criminal background, and personal and professional references.
- *Sheriffs have a domestic violence specialist/liaison funded by the Florida Coalition Against Domestic Violence for each office.* These positions help investigators understand the dynamics of domestic violence and access to services for the victim and his or her children. The Florida Coalition provided these funds only to the sheriffs' offices using grant funds DCF provided to the coalition. While DCF investigators are trained on domestic violence, few work with a domestic violence specialist on a routine basis or are collocated with such staff.
- *Sheriffs provide access to resource specialists.* Sheriffs' offices are more likely than DCF to collocate other resource specialists with investigators to help with cases involving mental health or substance abuse problems, technical assistance in how to handle specific cases, and technical assistance in linking families with services.
- *Sheriffs have enhanced relationships with the community.* Community stakeholders, department and sheriffs child protective investigators, and managers and supervisors indicate that the culture and attitude of sheriffs' offices enhances the community's view of the investigative function and fosters more respect from the families being investigated. DCF is working to change its relationships with community stakeholders by developing better relationships with local child welfare agencies, creating more professional-appearing badges and a dress code for employees. However, it still struggles to acquire and maintain respect in local communities.

Sheriffs' offices and DCF have similar compliance with timeliness measures; information is not yet available to assess whether sheriffs differ from DCF in their investigation quality and outcomes

During Fiscal Year 2008-09, sheriffs' offices and the department had similar performance on critical timeliness measures. As DCF and the sheriffs' offices use different external quality assurance systems to assess investigation quality, the results of these reviews are not comparable. We have recently received data from DCF's case management information system to evaluate other program measures such as investigators' decisions and outcomes for children. Our analysis is ongoing, and we will provide the results when available to House and Senate committees.

Sheriffs and the department have similar compliance with timeliness measures. As shown in Exhibit 3, there are minimal differences between sheriffs' offices and the department in compliance with timeliness standards. DCF tracks four timeliness measures on its performance dashboard—whether child victims are seen within 24 hours, whether investigations are commenced within 24 hours, whether investigations are reviewed by supervisors within 72 hours, and whether cases are closed within 60 days.

As shown in Exhibit 3, only one of these measures—the percentage of child victims seen within 24 hours—varied substantially across areas of the state. This measure can be affected by factors beyond the control of the investigator, such as when the child and family are not at home or the family's address is inaccurate.

Exhibit 3

Sheriffs' Offices and DCF Performed Similarly on Timeliness Measures in Fiscal Year 2008-09

Location ^{1, 2}	Percentage of Child Victims Seen Within the First 24 Hours	Percentage of Investigations Commenced Within 24 Hours	Percentage of Investigations Reviewed by Supervisors Within 72 Hours	Percentage of Investigations Completed Within 60 Days
Seminole	90.3%	99.0%	100.0%	99.9%
Broward	85.7%	99.0%	99.0%	99.7%
Hillsborough	90.5%	98.0%	99.0%	98.0%
Manatee	87.3%	98.0%	98.9%	99.3%
Pasco	84.9%	98.0%	97.2%	98.9%
Pinellas	86.9%	99.0%	98.7%	99.6%
Sheriffs' Average	87.6%	98.6%	98.8%	99.2%
District 1	83.6%	98.0%	99.3%	98.6%
District 2	81.8%	97.0%	96.9%	95.8%
District 3	83.1%	99.0%	96.4%	96.8%
District 4	83.5%	99.0%	97.8%	99.3%
District 7	90.3%	99.0%	99.3%	99.8%
District 8	78.4%	99.0%	97.0%	99.0%
District 9	83.1%	99.0%	96.8%	97.1%
District 11	77.1%	98.0%	98.3%	99.0%
District 12	87.6%	99.0%	97.8%	99.5%
District 13	90.4%	99.0%	99.3%	96.6%
District 14	88.0%	99.0%	97.9%	97.2%
District 15	92.3%	99.0%	99.3%	99.6%

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Suncoast Region	87.3%	99.0%	98.3%	98.8%
Department Average	85.7%	98.8%	98.2%	98.5%
State Average	85.8%	98.7%	98.3%	98.6%

¹ Although DCF has realigned its district operations into circuits, performance for Fiscal Year 2008-09 was reported at the district level.

² Child protective investigations in Citrus County transitioned to the Sheriff's office in 2006. DCF has not yet included Citrus County on its performance dashboard for child protective investigations.

Source: OPPAGA analysis of DCF Performance Dashboard.

Quality assurance reviews are not comparable. Although the sheriffs' offices report higher quality assurance ratings than DCF, the ratings of the two types of organizations are not comparable. The sheriffs were authorized by s. 39.3065(3)(d), *Florida Statutes*, to develop their own quality assurance review system to assess the quality of work performed by child protective investigators.¹⁵⁰ The sheriffs developed a set of standards and a review methodology that differs from the department's quality assurance reviews. Due to these differences, the outcomes of the sheriffs and DCF cannot be compared.

While the department's and sheriff's quality assurance reviews examine many of the same investigative steps and decisions, DCF's ratings are based on different and more factors. For example, DCF has established 28 quality standards for the initial response of investigators, while the sheriff's process has 18 standards. Similarly, DCF has 9 standards addressing emergency removal of children while the sheriffs have 4 standards for this area. In addition, the sheriffs' quality assurance process focuses on statutory requirements, while the department also includes requirements established by Florida Administrative Code and federal performance requirements. As a result, DCF's quality assurance reviews place more emphasis on procedural compliance.

Also, the sheriffs' quality assurance reviews are conducted as peer review teams of other sheriff's offices while the department's reviews are conducted by an internal quality assurance unit.¹⁵¹ Because some of the ratings are based on the reviewers' judgment, using different quality assurance processes can limit the comparability of the ratings.

Data to evaluate investigators' decisions and differences in outcomes is not yet available. To address these differences in the quality assurance reviews used by DCF and the sheriffs, we requested data from the department's case management information system, the Florida Safe Families Network (FSFN) on investigation decisions, recommendations, and outcomes. We chose these indicators based on input from subject area experts at DCF headquarters, the Florida Mental Health Institute at the University of South Florida, and sheriffs' offices. However, we encountered delays in obtaining data (over 1.3 million investigation records) for the analysis because our request required special programming to extract specific data elements from FSFN. DCF provided these data on January 22, 2010, and our analysis is ongoing. We will provide a separate memorandum to applicable House and Senate committees on the outcomes of our analysis.

Options for Legislative Consideration

We examined four options for the organizational placement of child protective investigations:

(1) retain the current arrangements in which seven sheriffs perform child protective investigations, (2) encourage additional sheriffs to take over this function, (3) reduce funding for sheriff's to the level provided to DCF, and (4) discontinue contracting with sheriffs and returning responsibility for all child protective functions to DCF.

Option 1: Retain the current system in which sheriffs perform child protective investigations in seven counties while DCF performs these investigations in 60 counties. The current system has the advantage of testing two service delivery systems. As discussed earlier, the sheriffs receive higher funding levels that

¹⁵⁰ The law requires that the quality assurance evaluation tool and methodology be based on criteria upon which the sheriffs and the department have agreed.

¹⁵¹ The sheriffs' peer review teams include at least one DCF quality assurance staff member.

enhance their investigators' ability to perform job duties. The sheriffs' offices are generally better able to attract and retain experienced investigators, avoiding the need for these units to spend time and resources training new investigators. Due to their law enforcement affiliation, sheriffs' offices can perform this function with greater access to training and resource specialists, and an enhanced degree of cooperation and community respect not always afforded to DCF investigators.

However, this system is more expensive to the state than solely having DCF perform this function, and it could result in service disruptions should sheriffs opt out of performing the function.

Option 2: Encourage additional sheriffs to take on child protective investigations. This option has the same benefits and drawbacks as Option 1. However, most sheriffs have indicated that they will not consider taking on this function without a guarantee that they will receive adequate funding. A DCF manager indicated that one sheriff was interested in taking over this function but wanted a 40% increase over the current DCF budget for that area of the state.

Option 3: Reduce sheriff's funding per case to that provided to DCF. The estimated savings for this option is \$2 million in general revenue.¹⁵² However, it would likely result in some sheriffs' offices discontinuing this function.

Option 4: Return responsibility for all child protective functions back to the department. As with Option 3, this action could potentially save the state \$2 million in general revenue.¹⁵³ However, there would be offsetting short-term costs to building DCF's infrastructure to handle this responsibility, including leasing office space, transferring inventory purchased with grant funds, and purchasing needed equipment. As staff currently employed by the sheriffs may not transfer to DCF, particularly if their salaries are reduced as a result of this move, DCF could need to quickly hire and train a substantial number of new investigators in order to avoid service disruptions.

¹⁵² The estimated savings calculation is based on the federal administrative overhead rate of 19% applied to the \$98.2 million allocation for child protective investigations in Fiscal Year 2008-09. The savings calculations assume 50% general revenue funding.

¹⁵³ Ibid.

Appendix A

County Sheriffs' Offices Have Been Authorized to Conduct Child Protective Investigations for 17 Years



1993 Florida Legislature authorizes DCF (then the Department of Health and Rehabilitative Services) to enter into agreements, within existing resources, with county sheriffs' office or local police departments to assume the lead role in conducting criminal investigations of child maltreatment, and partial or full responsibility of conducting certain components of child protective investigations.



1997 Manatee County Sheriff's Office begins conducting investigations of more serious cases of child maltreatment, as authorized by the 1993 Legislature.



1998 Florida Legislature requires DCF to transfer the responsibility for all child protective investigations in Manatee, Pasco, and Pinellas counties to county sheriffs' offices by July 1999.



1999 Florida Legislature adds the Broward County Sheriff's Office to those sheriffs authorized to conduct child protective investigations.



2000 Florida Legislature transfers child protective investigations in Seminole County to the sheriffs' offices that conduct these investigations. The Legislature also gives DCF general authorization to enter into grant agreements with other sheriffs to perform child protective investigations in their respective counties.



2005 Florida Legislature provides funding to the Hillsborough County Sheriff's Office to assume responsibility for child protective investigations.



2006 Florida Legislature provides funding to the Citrus County Sheriff's Office to assume responsibility for child protective investigations.

Appendix B

Appropriations History for Child Protective Investigations Conducted by Sheriffs' Offices

As shown in Table B-1, legislative appropriations to the sheriffs' offices increased every year until Fiscal Year 2006-07.

Table B-1
Sheriffs' Offices Received Increases in Appropriations Until Fiscal Year 2006-07

Fiscal Year	Manatee	Pasco	Pinellas	County Broward	Seminole	Hillsborough	Citrus
1999-2000	\$1,930,425	\$1,486,709	\$5,590,992	\$5,272,874	N/A	N/A	N/A
2000-2001	2,100,045	2,363,855	7,212,817	10,226,626	\$3,251,216	N/A	N/A
2001-2002	2,178,403	3,187,607	7,551,721	10,673,738	2,845,681	N/A	N/A
2002-2003	2,305,714	3,441,504	8,252,915	11,085,007	3,122,776	N/A	N/A
2003-2004	2,453,337	3,661,843	8,781,301	12,258,634	3,322,709	N/A	N/A
2004-2005	3,138,047	4,001,038	9,131,158	12,307,058	3,335,698	N/A	N/A
2005-2006	3,619,941	4,189,840	10,656,488	13,337,160	3,527,155	\$1,000,000	N/A
2006-2007	3,619,941	4,189,840	10,656,488	13,337,160	3,527,155	15,503,339	\$500,000
2007-2008	3,619,941	4,189,840	10,656,488	13,337,160	3,527,155	13,091,844	1,984,715
2008-2009 ¹	3,410,532	3,947,463	10,040,024	12,565,623	3,323,114	12,334,498	1,869,903
2009-2010	3,410,532	4,591,619	10,040,024	12,565,623	3,323,114	12,054,683	1,505,562

¹ Represents a 5.78% reduction during Fiscal Year 2007-08.

Source: Department of Children and Families.

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The Florida Legislature

OFFICE OF PROGRAM POLICY ANALYSIS AND GOVERNMENT ACCOUNTABILITY



RESEARCH MEMORANDUM

Sheriffs' Offices and DCF Perform Similarly in Conducting Child Protective Investigations

May 28, 2010

Summary

As requested, OPPAGA compared the performance of child protective investigations conducted by sheriffs' offices with those conducted by the Department of Children and Families (DCF). Our analyses showed that both sheriffs' offices and DCF perform well on measures of investigative timeliness. Sheriffs had slightly higher performance on four of these measures than DCF and were comparable to DCF in the percentage of cases in which investigations were commenced within 24 hours. We found no meaningful difference between sheriffs' offices and DCF in terms of whether allegations of child maltreatment were substantiated or their recommendations of actions needed to reduce risks to children. Although cases handled by sheriffs' offices had slightly more positive outcomes than those handled by DCF, this difference was not meaningful.

Background

This is the second of two research memoranda comparing child protective investigations conducted by sheriffs' offices with those conducted by DCF.¹⁵⁴ It assesses whether there are performance differences between sheriffs' offices and DCF in the timeliness of their investigations, the types of critical decisions and recommendations made by their child protective investigators, and the short-term outcomes of their investigations.

To evaluate the timeliness of the child protective investigations, we used data available on the department's Performance Measures Dashboard and data from the Florida Safe Family Network (FSFN), which is the department's child welfare information system. We also used FSFN data to evaluate investigators' critical decisions and the outcomes of investigations. It should be noted that FSFN data has some limitations, as it was designed as a case management system to meet the needs of caseworkers and their supervisors rather than researchers.¹⁵⁵ As a result, contextual information about the decisions made by investigators and case managers is contained in chronological case notes that are not readily accessible for data analysis purposes. In addition, FSFN is an evolving information system and DCF continues to identify instances in which data has not been entered into required data fields, which reduces the reliability of the data in the system, or users are not interpreting data fields as intended.

¹⁵⁴ An earlier memorandum compared costs, investigative processes and procedures, resources, and quality of child protective investigations conducted by sheriffs and DCF. It concluded that legislative appropriations to sheriffs' offices for child protective investigations historically have exceeded the funding per investigation provided to DCF. Both entities generally use similar investigative processes and procedures, although the higher level of funding for the sheriffs resulted in their investigators having greater resources than typically available to DCF investigators. Due to their law enforcement affiliation, child protective investigators working for sheriffs also generally have greater access to training and specialists, as well as enhanced cooperation and community respect not always afforded to DCF investigators.

¹⁵⁵ Unless otherwise noted, we used FSFN data from July 1, 2007 to June 30, 2009.

DCF conducts child protective investigations in 60 Florida counties. Sheriffs’ offices, which conduct child protective investigations under grant agreements with DCF, are responsible for this function in the remaining seven counties: Broward, Citrus, Hillsborough, Manatee, Pasco, Pinellas, and Seminole.

All child protective investigations, regardless of the entity administering this function, must be conducted in accordance with state and federal laws and regulations. Florida’s child protective investigation units are responsible for receiving and responding to reports of child abuse and neglect, which involves gathering forensic evidence and making a formal determination of whether child maltreatment occurred or the child is at risk of abuse or neglect, and providing the child with protection if needed. As required by Ch. 39, *Florida Statutes*, child protective investigators must respond to reports of child maltreatment, assess risk to the child, initiate removal or provide in-home services to ensure the child’s safety, and make a determination regarding the allegations of child maltreatment. Each of these responsibilities represents a key decision point in the investigative process. Protective investigators perform these functions in partnership with several other entities such as local law enforcement, Child Protection Teams, Guardians ad Litem, Children’s Legal Services, the courts, and case managers employed or contracted by community-based care lead agencies.

For Fiscal Year 2009-10, the Legislature appropriated \$98 million and 1,586.5 FTEs to the department for its child protective investigative function and \$47 million to the seven sheriffs performing this function. Sheriffs’ offices conducted 27% of the state’s child protective investigations in Fiscal Year 2008-09.

Sheriffs’ offices and DCF perform similarly in meeting investigation time requirements

There is little difference between the performance of sheriffs’ offices and DCF on investigation timeliness measures. However, most sheriffs’ offices close cases more quickly than DCF, using less time than allowed by statute.

DCF’s performance dashboard contains data on five key timeliness measures: percentage of investigations commenced within 24 hours, percentage of child victims seen within 24 hours, percentage of Child Safety Assessments submitted within 48 hours of the child being seen, percentage of investigations reviewed by supervisors within 72 hours, and percentage of cases closed within 60 days.¹⁵⁶ Three of these measures have legislative standards (percentage of investigations commenced within 24 hours, percentage of investigations reviewed by supervisors within 72 hours, and percentage of cases closed within 60 days) while the other two are internal measures DCF uses to help monitor its performance.

As shown in Exhibit 1, sheriffs performed slightly higher than DCF on four of these measures but performed slightly lower than DCF on the percentage of cases in which investigations were commenced within 24 hours.

**Exhibit 1
Sheriffs’ Offices and DCF Performed Similarly on Timeliness Measures in Fiscal Year 2008-09**

Location ¹	Percentage of Child Victims Seen Within the First 24 Hours	Percentage of Investigations Commenced Within 24 Hours ²	Percentage of Child Safety Assessments Submitted Within 48 Hours	Percentage of Investigations Reviewed by Supervisors Within 72 Hours ³	Percentage of Investigations Completed Within 60 Days ⁴
Sheriffs’ Average	87.6%	98.6%	97.4%	98.8%	99.2%
DCF Average	85.0%	98.9%	96.0%	98.1%	98.4%

¹ Child protective investigations in Citrus County transitioned to the sheriff’s office in 2006. DCF has not yet included Citrus County in its performance dashboard for child protective investigations.

² Legislative Standard = 100%.

³ Legislative Standard = 98%.

¹⁵⁶ A Child Safety Assessment is an in-home assessment investigators use to document factors such as signs of present danger to the child, the child’s vulnerability, and the safety plan developed by the investigator with the family.

⁴ Legislative Standard = 100%.

Source: OPPAGA analysis of data from DCF's Performance Dashboard.

We also found that most sheriffs' offices close cases more quickly than DCF, using less time than allowed by statute. Section 39.301(17), *Florida Statutes*, requires DCF to close investigation cases within 60 days after receiving the initial report.¹⁵⁷ The department reports performance for this requirement as the percentage of cases meeting the time standard, which does not show the actual time each office takes to close cases. Using data from FSN, we calculated the average and median time to complete investigations.

As shown in Exhibit 2, sheriffs' offices consistently closed cases more quickly than the department, taking a median of five fewer days to close cases over the time period from Fiscal Years 2004-05 to 2008-09. For example, in Fiscal Year 2008-09, five of seven sheriffs' offices closed cases in an average of 40 days or less compared to 15 of 60 DCF investigative units.¹⁵⁸ Several factors may contribute to these results. Administrators in two sheriffs' offices (Manatee and Seminole) told us that they strive to close cases within 30 days, which affects the mean and median time to close cases for the sheriffs as a whole.¹⁵⁹ Another factor is that sheriffs' offices have lower caseloads and more aides to assist with clerical tasks, giving investigators more time to focus on conducting investigations.

Exhibit 2

Sheriffs' Offices Close Child Protective Investigations More Quickly Than the Department

Number of Days Cases Were Open	Mean	Median
DCF	43.3	45.0
Sheriffs' Offices	36.3	40.1

Source: OPPAGA analysis of FSN data for Fiscal Years 2004-05 to 2008-09.

There is little difference between sheriffs' offices and DCF in whether investigators substantiate allegations of maltreatment and the decisions they make to protect children and provide services

We also examined whether there are differences between sheriffs' offices and DCF in the critical decisions investigators make during the investigative process, which include determining whether there is sufficient evidence to substantiate allegations of child maltreatment and deciding how to prevent further harm to children. We found no meaningful differences in the critical decisions made by sheriffs' offices compared to the department regarding how frequently they substantiate allegations of child abuse and neglect. There were also no significant differences between DCF and sheriffs' offices in their response to instances of maltreatment and recommendations to protect children. For each of these critical decision points, we further evaluated results by the major types of maltreatment to verify that sheriffs' office and DCF investigators made similar decisions for similar types of cases, but found no meaningful differences between the two entities.¹⁶⁰

¹⁵⁷ Section 39.301(17), *F.S.*, provides exceptions to completing the investigation within the 60-day timeframe; e.g., a concurrent criminal investigation.

¹⁵⁸ The five sheriffs' offices that closed cases within 40 days are Broward, Citrus, Manatee, Pinellas, and Seminole.

¹⁵⁹ The average length of time cases were open for Manatee and Seminole sheriffs' offices was 19 days.

¹⁶⁰ We also examined whether sheriff and DCF investigators responded differently to the same risk factors, such as whether there were prior maltreatment reports, serious injury, increased incidents of maltreatment, or children had limited visibility to non-family members in the community. However, since these analyses also found no meaningful differences, the results are not presented.

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Substantiating maltreatment allegations. A critical case decision is whether an investigation substantiates the allegation of child maltreatment. Investigators substantiate allegations of child maltreatment if they find that a child was harmed in a manner that meets Florida’s definition of child maltreatment and there is sufficient evidence to support the allegation of maltreatment.¹⁶¹

Our analyses did not find meaningful differences between the two investigative entities in the extent to which investigators substantiate abuse allegations. As shown in Exhibit 3 below, although sheriffs’ investigators substantiated child maltreatment in a slightly higher percentage of cases than DCF, this difference is not meaningful. Moreover, there were no meaningful differences in substantiation rates for different types of cases. Overall, the total investigators’ substantiation rates for sheriffs’ offices and DCF were 18.1% and 17.8%, respectively.

Exhibit 3

Sheriff and DCF Protective Investigators Substantiate Allegations at a Similar Rate

Allegation	Sheriffs	DCF
Abuse ¹	10.9%	12.7%
Neglect ²	11.9%	11.8%
Threatened Harm ³	19.1%	18.2%
Total Rate of Substantiation for All Investigations	18.1%	17.8%

¹ Abuse includes allegations of physical injury, sexual abuse, mental injury, bone fracture, death, bizarre punishment, burns, asphyxiation, internal injuries, and human trafficking.

² Neglect includes allegations of inadequate supervision, medical neglect, abandonment, failure to thrive, and malnutrition/dehydration.

³ Threatened harm includes allegations of family violence, substance misuse, threatened harm, environmental hazards, failure to protect, and caregiver unavailable.

Source: OPPAGA analysis of FSN data.

Deciding how to respond to maltreatment and reduce risk to children. When investigators substantiate maltreatment or find situations that put children at risk of maltreatment, they make critical decisions about how to best protect the children. When commencing investigations, investigators may decide children are at imminent risk of further harm and must be immediately removed from their homes or receive emergency services to try to prevent removal.¹⁶² At the conclusion of investigations, investigators may also decide that children must be removed from their homes, or may recommend court-ordered in-home services, voluntary in-home services, or that no services are needed. In some cases, investigators decide services are needed because they verified that child maltreatment occurred. In other instances, they may decide a family should be offered services because of a perceived risk of maltreatment in the future.

We assessed whether there was any difference between sheriffs’ offices and DCF in the extent to which investigators immediately removed children from their homes or put emergency services in place due to imminent risk of serious harm. We did not find meaningful differences between sheriffs’ offices and DCF in investigators’ response to emergency situations. As shown in Exhibit 4, sheriff protective investigators made the decision to immediately remove children from their homes in 18.4% of investigations that substantiated allegations maltreatment, compared to 17.7% for DCF. A similar pattern occurred for emergency services, as shown in Exhibit 5. Both sheriff and DCF protective investigators provided emergency services in 4.3% of investigations that substantiated maltreatment had occurred. We also did not find meaningful differences between sheriffs’ offices and DCF when conducting this evaluation for major types of verified maltreatment. Exhibits 4 and 5 show these results by type of maltreatment.

¹⁶¹ Florida’s definition of child maltreatment includes abuse, abandonment, and neglect.

¹⁶² An allegation of child maltreatment is often not an isolated problem; many families experience multiple and complex problems, often at crisis levels. During the initial risk assessment, the investigator may determine that a family is in a crisis situation and arrange for emergency services for the child and family, such as food and shelter or crisis counseling, to try to prevent having to remove a child from home.

Exhibit 4**Sheriff and DCF Protective Investigators Conduct Emergency Removals at Similar Rates**

Rate of Emergency Removal for Investigations that Substantiated:	Sheriffs	DCF
Abuse	16.1%	16.3%
Neglect	31.5%	30.5%
Threatened Harm	18.5%	18.4%
Rate of Emergency Removal for All Investigations that Substantiated Maltreatment	18.4%	17.7%

Source: OPPAGA analysis of FSN data.

Exhibit 5**Sheriff and DCF Protective Investigators Provided Emergency Services at Similar Rates**

Rate of Providing Emergency Services for Investigations that Substantiated:	Sheriffs	DCF
Abuse	3.2%	4.1%
Neglect	4.3%	5.1%
Threatened Harm	4.5%	4.1%
Rate of Providing Emergency Services for All Investigations that Substantiated Maltreatment	4.3%	4.3%

Source: OPPAGA analysis of FSN data.

We also examined the recommendations that investigators made at the conclusion of investigations, but found no significant differences between sheriffs' offices and DCF. When investigators concluded maltreatment occurred, both investigative entities recommended out-of-home placement in approximately 14% of cases, court-ordered in-home services in approximately 7% of cases, voluntary in-home services in approximately 40% of cases, and no services from the child welfare system in approximately 40% of cases (see Exhibit 6).

Exhibit 6**Sheriff and DCF Protective Investigators Made Similar Recommendations for Investigations with Verified Maltreatment**

Recommendation in Cases with Substantiated Maltreatment	Sheriffs	DCF
Out of Home Placement	14.3%	14.1%
Court-Ordered In-Home Services	6.8%	7.1%
Voluntary In-Home Services	38.7%	39.6%
No Child-Welfare Services	40.2%	39.2%

Source: OPPAGA analysis of FSN data.

It should be noted that our analyses of investigators' critical decisions have some caveats due to data limitations. For example, available data did not show what, if any, services the family was already receiving at the time of the investigation. According to department administrators, investigators would not recommend a service that was already being provided, such as in-home services. As a result, these numbers reflect investigators' recommendations and not necessarily the types of services the family actually received.¹⁶³ In

¹⁶³ Although investigators did not recommend services in approximately 40% of the investigations that substantiated maltreatment, this does not necessarily mean the family did not receive services. The family may already have been receiving services at the time of the investigation, may have been referred for

addition, while investigators are responsible for making recommendations about removal, out-of-home placement, and court involvement, the final decision in a case of child maltreatment involves other parties in the dependency system such as investigation supervisors, Children’s Legal Services attorneys, and judges.

Sheriffs’ office and DCF investigations resulted in similar outcomes for children

We did not find meaningful differences between sheriffs’ offices and DCF in short-term investigation outcomes for children as measured by subsequent maltreatment within three and six months when an investigator did not originally substantiate maltreatment. We focused on unsubstantiated allegations to isolate short-term investigation outcomes that can be more directly linked to the investigation process rather than the influence of other stakeholders in the child welfare system such as case managers and service providers.

As shown in Exhibit 7, cases investigated by sheriffs had slightly more positive short-term outcomes, but this difference is not meaningful. For both groups, in approximately 3% of cases where the investigator did not substantiate maltreatment, a later investigation substantiated maltreatment within three months regardless of which entity conducted the initial investigation. At six months, this rate increased to approximately 4.5% for both groups.

Exhibit 7

Subsequent Verified Maltreatment Occurred at the Same Rate for Investigations Conducted by Sheriffs and DCF

Subsequent Maltreatment Within Three and Six Months	Sheriff	DCF
Investigations with subsequent verified maltreatment within three months when original alleged maltreatment was unsubstantiated	2.6%	2.8%
Investigations with subsequent verified maltreatment within six months when original alleged maltreatment was unsubstantiated	4.4%	4.5%

Source: OPPAGA analysis of FSFN data.