

REPORT HIGHLIGHTS

SPECIAL PERFORMANCE AUDIT

Subject

This report reviewed the processes Child Protective Services (CPS) uses to decide whether to remove a child from the custody of parents or guardians, and to determine whether incidents of abuse or neglect actually occurred.

Our Conclusion

Child Removal—State law provides for two administrative reviews when CPS decides to remove a child from home. However, few parents or guardians are requesting one review and CPS needs to analyze the impact of the other one.

Substantiating Abuse—The percentage of child abuse and neglect reports that were substantiated has decreased between 1998 and 2001, possibly due to tighter standards and a new review process.



2002

The Office of the Auditor General was directed by the Joint Legislative Audit Committee to review the processes CPS uses to: 1) decide whether to remove a child from the custody of his/her parents or guardians; and, 2) determine whether to substantiate a child abuse or neglect report.

Some of the issues the Committee asked the Auditor General to review include:

- The standards of evidence used
- The appeals and review processes
- Compliance with federal guidelines
- Placement of children with family members

Child Removal Process

A critical issue for states regarding child welfare is the need to balance a child's right to adequate care and freedom from harm with a parent's right to custody. State statutes allow CPS to remove a child from his or her parents' or guardians' custody if the child is:

- Suffering or will imminently suffer abuse or neglect, or
- Suffering serious physical or emotional damage that can only be diagnosed by a medical doctor or psychologist.

The Arizona Administrative Code (AAC) further defines what constitutes imminent harm.

Examples of Imminent Harm

- Child has serious nonaccidental injuries requiring medical care
- No caregiver present and the child cannot care for him/herself
- Physical/mental condition of caregiver endangers child

A.A.C. R6-5-5512 (B)

However, not all conditions that the public might consider abuse or neglect are defined. For example, neither statute or code specifically addresses substance-exposed newborns. Therefore, the Department provides its workers further guidance through policies and directives.

If a CPS investigator, in consultation with his or her supervisor, determines that a child is in imminent harm, he or she has authority to remove the child from the home. CPS must then follow additional procedures required by state and federal laws. State procedures follow federal guidelines and require the Department to hold specific hearings and protect case participants' confidentiality.

Mandatory review—Statute requires that a Removal Review Team review all decisions to remove a child before a dependency petition is filed in Juvenile Court. The petition asks the Court to award temporary custody of the child to the State. The team assesses whether other options exist, such as in-home services, and whether CPS should file the petition.

This review goes beyond what is required by federal law and, of the 12 states we surveyed, only Utah has a similar requirement.

Removal Review Team Members

- CPS case manager
- CPS supervisor
- Foster Care Review Board volunteer
- Others may include:
 - Physician
 - Other CPS staff

Optional review—Statutes allow a parent or guardian to request the Family Advocacy Office to review a child removal decision. The Office has the authority to direct that a child be returned home, if warranted. However, the parent/guardian must request a review of the case before CPS files a dependency petition in Juvenile Court.

Few parents request this review. As of May 2002, parents made only 49 requests for reviews out of about 7,400 removals.

Judicial review—CPS must file a dependency petition with the Juvenile Court within 72 hours of a child's removal when CPS determines that continued out-of-home placement is necessary.

At this point, if parents cannot afford an attorney, the Court will appoint a publicly funded attorney to represent them.

Parents generally cannot select or change their appointed attorney.

Placement with family—When children are removed, CPS attempts to place them with qualified relatives rather than in traditional foster care. At the end of calendar year 2001, about 24 percent (1,450 of 6,100) of children in Arizona foster care were with relatives.

Improvements needed in process—Four actions are needed to improve the child removal process.

First, the Legislature should consider clarifying the statutory definitions of abuse and neglect. This could include such issues as whether substance exposure constitutes criteria for removal. At least 13 states address this issue in their statutes.

Second, the Department should improve the information provided to parents or guardians about their rights to have a child removal decision reviewed. Parents may not be aware of their right to request a review by the Family Advocacy Office, possibly because:

- Department brochures do not adequately explain this process.
- 15 of 31 investigative case workers we interviewed were not familiar with the Office; therefore, they would not be able to explain it to parents.

Finally, the Department should analyze what impact, if any, the removal review teams are having. Key information, such as how often a child is returned home, is unknown.

24 percent of children are placed with relatives.

Recommendations

The Legislature should:

- Consider clarifying the statutory definition of abuse and neglect.

The Division should:

- Ensure that case managers understand the Family Advocacy Office's role in reviewing removal decisions.
- Improve the written information provided to parents and guardians.
- Analyze key statistics about removal team decisions, and then use the information to evaluate their impact.

The Substantiation and Appeals Process

Whether or not a child is removed from the home, CPS must determine whether each allegation it investigates should be substantiated. If CPS' investigation finds there is not probable cause that abuse or neglect occurred, the report is listed as unsubstantiated. If there is probable cause, the report is proposed for substantiation. It is then subject to further review and appeals.

“Probable cause” means reasonable grounds, based on facts, to believe that abuse or neglect occurred.

In 1997, the Legislature required CPS to add a hearing process to its procedures for substantiating abuse and neglect reports.

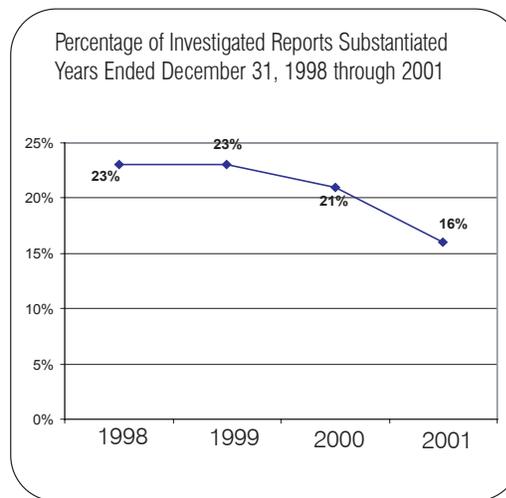
Substantiation Process:

- CPS proposes to substantiate a report
- Protective Services Review Team (PSRT) notifies the alleged perpetrator of the right to request a review
- If no request is received the report is substantiated.
- If requested, and no other legal actions are pending, the PSRT conducts a review.
- If the PSRT agrees to substantiate, the Office of Administrative Hearings (OAH) reviews the case
- OAH makes a recommendation to the Director of DES, who makes the final decision.

Most cases are not proposed for substantiation and only a few go through the appeals process. Only 354 of the 4,251 reports proposed for substantiation were reviewed by the PSRT.

Once the process is completed, substantiated reports of child abuse or neglect are listed on the State's Central Registry. Access to the Registry is limited and unavailable to the public.

Substantiation rate declining—The percentage of cases that were substantiated has declined between 1998 and 2001.



The exact reasons for the decline are not known. However, the Division has tightened its standards to ensure they are more in line with the statutory definition of abuse and neglect. Also, the addition of the review process involving the Protective Services Review Team may have affected the rate.

It is difficult to know how much these changes have affected the substantiation rate. However, the PSRT has overturned about 48 percent of the allegations it reviewed between 1999 and 2001. In addition, some CPS staff have suggested that some findings may not be proposed for substantiation because of case manager concerns that the PSRT will overturn them.

Percentage of substantiated cases has declined between 1998 and 2001.

More training and feedback needed—The results of the PSRT reviews indicate case managers need more training on the standards for substantiation and feedback on the PSRT results. Over the last 2 years, the main reasons the review team has overturned proposed substantiations are:

- The incident did not meet the statutory definition of abuse or neglect;
- Corroborating documentation was absent from the case file; or
- Probable cause was not established.

When we contacted case managers, we learned that several did not have a clear understanding of the current standard of evidence required for substantiation. Therefore, some additional training could assist all case managers and supervisors to better prepare cases proposed for substantiation. Further, the Division should consider improving its feedback on PSRT results by providing case examples and potential solutions that can be readily applied in the field.

Recommendations

The Division should:

- Develop and provide additional training on the most common problems identified by the PSRT, to ensure that all case managers and supervisors understand what is required to substantiate reports of child abuse and neglect.
- Consider improving its feedback on PSRT results by including case examples and potential solutions that all case managers and supervisors can more readily apply in the field.

TO OBTAIN MORE INFORMATION

A copy of the full report
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