

A REPORT  
TO THE  
ARIZONA LEGISLATURE

Performance Audit Division

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Special Performance Audit

## Department of Economic Security

Division of Children, Youth and  
Families—Child Protective Services

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**Debra K. Davenport**  
Auditor General

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AUDITOR GENERAL

**STATE OF ARIZONA  
OFFICE OF THE  
AUDITOR GENERAL**

WILLIAM THOMSON  
DEPUTY AUDITOR GENERAL

November 1, 2002

Members of the Arizona Legislature

The Honorable Jane Dee Hull, Governor

Mr. John L. Clayton, Director  
Department of Economic Security

Transmitted herewith is a report of the Auditor General, A Special Performance Audit of the Department of Economic Security, Division of Children, Youth and Families—Child Protective Services. This audit specifically addresses a legislative request approved by the Joint Legislative Audit Committee on August 9, 2001. I am also transmitting with this report a copy of the Report Highlights for this audit to provide a quick summary for your convenience.

As outlined in its response, the Department agrees with all the findings and recommendations.

My staff and I will be pleased to discuss or clarify items in the report.

This report will be released to the public on November 4, 2002.

Sincerely,

Debbie Davenport  
Auditor General

Enclosure

# SUMMARY

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The Office of the Auditor General has conducted a special performance audit of the child removal process, and the substantiation and appeals process used during Child Protective Services (CPS) investigations of child abuse and neglect reports. CPS is a function of the Division of Children, Youth and Families within the Arizona Department of Economic Security. This audit specifically addresses a legislative request approved by the Joint Legislative Audit Committee on August 9, 2001.

## Legislative request and scope

In accordance with the legislative request, this special performance audit focuses primarily on two CPS functions: (1) the child removal process—the process by which CPS and other involved parties determine whether a child should be removed from his/her parents' or guardians' home, and (2) the substantiation and appeals process—the process by which CPS and other involved parties determine whether abuse or neglect incidents should be substantiated. The legislative request also directed auditors to investigate several other closely related items, including:

- Decision tree, or what is the process for removing children and substantiating allegations of abuse or neglect, including who makes these decisions and the standard of evidence used;
- Legal and compliance issues, including the constitutional basis for child removal, due process rights of accused parents, and compliance with federal guidelines established for the child removal process, and the substantiation and appeals process; and
- Other areas including placement with family members, public versus confidential information contained in case files, and selection and oversight of service providers such as psychiatrists and medical doctors who are used during the removal and substantiation processes.

## Child removal process (see pages 5 to 13)

One of CPS' most crucial responsibilities is determining whether it is necessary to protect children by temporarily removing them from their parents' or guardians' custody. In 2001, CPS conducted about 25,500 investigations and removed approximately 3,900 children from their homes.<sup>1</sup>

Numerous court cases over the past 50 years in Arizona, including one in the Arizona Supreme Court, have upheld the State's right to remove a child when it is necessary to protect the child. However, courts have also found that parents have a fundamental natural right to their children that is entitled to constitutional protection such as due process. Therefore, before removing a child, a CPS investigator must determine that the child is in imminent danger.

Specifically, state statutes allow that a child may be removed if he or she is either "suffering or will imminently suffer abuse or neglect" or "suffering a serious physical or emotional damage that can only be diagnosed by a medical doctor or psychologist." Arizona Administrative Code further defines what constitutes imminent harm. However, not all conditions that the general public might consider abuse or neglect are defined. For example, neither statute nor code specifies that substance-exposed newborns can be removed from their home or that they should automatically be considered abused or neglected. Therefore, the Division has provided its workers further guidance on imminent harm and the type of evidence needed to substantiate abuse or neglect through policies and directives. Again, using the case of substance-exposed newborns, a division memo outlines five questions that an investigator must answer in order to substantiate neglect, including required "medical documentation that the exposure created a substantial risk of harm to the child's health or welfare."

If the investigator, in consultation with his or her supervisor, determines the child is in imminent danger, he or she has the authority to remove the child from the home. CPS must then follow additional procedures required by federal and state laws. These procedures include:

- A mandatory administrative review by a removal review team before a dependency petition, which seeks temporary custody of the child, is filed with the Juvenile Court;
- An administrative review, at the parents' request, of the removal decision by the Department's Family Advocacy Office; and

<sup>1</sup> This only includes children for whom a dependency petition was necessary. The Department must file a dependency petition with the Juvenile Court within 72 hours of a child's removal or the child must be returned home. A dependency petition asks the court to award temporary custody of a child to the State.

- A judicial review by the Juvenile Court when the Department determines that continued out-of-home placement is necessary. In such cases, the Department must file a dependency petition within 72 hours of the removal.

When children are removed, CPS attempts to locate relatives to care for them, rather than placing them in traditional foster care. A previous Auditor General study (see Auditor General Report No. 02-03) found that about 24 percent (or 1,450 of 6,100) of the children in foster care in Arizona at the end of calendar year 2001 were placed with relatives. However, the Auditor General's Office recommended that the Division provide additional training to case managers on the requirements of the kinship foster care legislation; develop additional monitoring mechanisms to help ensure compliance with these requirements; and use, when appropriate, its current goals, objectives, and performance measures to assess the outcomes of kinship foster care placements.

Auditors noted no instances where the procedures the Division has established did not adhere to federal guidelines and found that the Division's use of removal review teams exceeds federal guidelines. Additionally, parents can receive government-funded legal representation when the court finds that they cannot reasonably afford it. Government-funded legal representation is handled by each county.

The Legislature should consider further clarifying in statute the definitions of abuse or neglect and what criteria should be considered in removal decisions. For example, about 13 other states have laws or codes that either include substance-exposed newborns in the definitions of abuse or neglect, or indicate that substance exposure constitutes a criteria for removal. Additionally, auditors identified two ways the Division can improve the child removal process: (1) The Division should ensure that parents receive sufficient information to understand how to properly request an administrative review of their child's removal from the Family Advocacy Office. From July 18, 2000, to May 31, 2002, only 49 requests were made for a Family Advocacy Office review. During this same period, state law would have allowed a Family Advocacy Office review for about 7,400 children. Auditors found that the written information provided to parents about the Office's optional removal review was inadequate. (2) The Division should evaluate the value and effectiveness of removal review teams. Although removal review teams were designed to provide additional oversight of the child removal process, their impact is unknown because the Division has not compiled or analyzed existing information. The federal government does not require the Division to form removal review teams.

## Substantiation and appeals process (see pages 15 to 23)

In addition to determining whether a child can safely remain in his or her home, when conducting investigations, CPS must also determine whether the specific allegations

of abuse or neglect occurred and should be substantiated. Legislation was enacted in 1997 to provide accused parents an opportunity to appeal substantiated allegations of abuse or neglect. In response to that legislation, the Department created the Protective Services Review Team to review the evidence gathered by CPS and to determine whether it is consistent with Arizona's standard of evidence and the statutory definitions of abuse and neglect. If the team staff agrees with CPS' decision, the case is referred to the Office of Administrative Hearings. However, the alleged abuser must request the review and hearing process when he or she is notified of the proposed substantiated allegations.

To substantiate an allegation of abuse or neglect according to Arizona's standard of evidence, the CPS case manager must identify facts that provide reasonable grounds to believe the abuse or neglect occurred, also known as probable cause. Case managers can seek the advice of medical professionals such as psychiatrists and doctors to help make their decision, and case managers also conduct other activities including interviewing the victim, family members, neighbors, and teachers, and examining prior CPS reports. The Division acted to clarify both its definitions of abuse and neglect and its standards regarding the type of evidence needed to substantiate reports. For example, the Division clarified, through a memo to all staff in January 1999, that reports should not be substantiated when the accused person's behavior created only "the potential" for abuse or neglect. The Division also issued a memo to clarify its practices in November 2001 and required case managers to obtain assertions from medical professionals that children exposed to drugs prior to birth had been harmed as a direct result of their mother's drug use.

The percentage of reports that are substantiated has declined from approximately 23 percent in 1998 to 16 percent in 2001. Although the exact reasons for this decline are unknown, the Division's clarifications of its definitions and standards for determining abuse and the addition of the Protective Services Review Team may be contributing to this decline. Substantiated reports of abuse or neglect are listed on the State's Central Registry, and consistent with federal law, the State has enacted procedures specifying who can access certain types of information from the Registry and case files. Access to the Registry is limited and unavailable to the general public. Further, by law, most of the information contained in case files is considered confidential because it contains personal identification and other sensitive information. For example, a case file might include information developed during the investigative process, such as a child's school records or an accused person's criminal history and medical records.

Auditors identified two steps that the Division can take to improve the substantiation process. Specifically, the Division should provide additional training to all case managers on the standards that should be met to substantiate a report. Interviews with division staff indicated concerns about case managers' understanding of what is needed to substantiate a report. For example, 9 of the 31 investigative case managers responding to an auditor phone questionnaire disagreed or strongly

disagreed with the statement that “the current standard of evidence for substantiation is clear.” Second, the Division should improve its process for providing to all case managers and supervisors information about the reasons cases proposed for substantiation are being overturned. During the past 2 calendar years, the team overturned the largest percentages of proposed substantiations for the same four reasons, including that the incident did not meet the statutory definition of abuse or neglect or probable cause was not established.





# TABLE OF CONTENTS



Introduction & Background	1
Chapter 1: Child removal process	5
Decision tree and standard of evidence	6
Placement with family members	10
Compliance and legal issues	10
Actions needed to improve the child removal process	12
Recommendations	13
Chapter 2: Substantiation and appeals process	15
Decision tree and standard of evidence	16
Oversight of service providers	19
Compliance and legal issues	20
Public records versus confidential information	20
Division can enhance supervisor and case manager knowledge of standards	21
Recommendations	23
Agency Response	

♦ continued



# TABLE OF CONTENTS

## Figures:

1	Situations indicating imminent harm and need for removal Arizona Administrative Code R6-5-5512	7
2	Child removal process	8
3	Substantiation and appeals process	17
4	Percentage of investigated reports substantiated years ended December 31, 1998 through 2001	19
5	Protective services review team reasons for overturn of proposed substantiations received in 2001 154 total allegations overturned	22
6	Protective services review team reasons for overturn of proposed substantiations received in 2000 251 total allegations overturned	22

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# INTRODUCTION & BACKGROUND

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The Office of the Auditor General has conducted a special performance audit of the child removal process, and substantiation and appeals process used during Child Protective Services (CPS) investigations of child abuse and neglect reports. CPS is a function of the Division of Children, Youth and Families within the Arizona Department of Economic Security. This audit specifically addresses a legislative request approved by the Joint Legislative Audit Committee on August 9, 2001.

## Legislative request and scope

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- Decision tree, or what is the process for removing children and substantiating allegations of abuse or neglect, including who makes these decisions and the standard of evidence used;
- Legal and compliance issues, including the constitutional basis for child removal, due process rights of accused parents, and compliance with federal guidelines established for the child removal, and substantiation and appeals processes; and
- Other areas including placement with family members, public versus confidential information contained in case files, and selection and oversight of service providers such as psychiatrists and medical doctors who are used during the removal and substantiation processes.

This report organizes the various information gathered in the following two chapters:

- **Chapter 1: The child removal process**—This chapter provides information on the overall removal process, and answers to the legislative questions pertaining to child removal. It also recommends two ways that the Division can improve the child removal process.
- **Chapter 2: The substantiation and appeals process**—This chapter provides information on the overall substantiation process, and answers to legislative questions, and indicates two actions that the Division can take to enhance the substantiation process.

## Methodology

Auditors used a variety of methods to obtain information about the areas outlined in the legislative request such as reviewing Arizona Revised Statutes, administrative code, federal law, and division materials such as policy and procedure manuals. In addition, the following specific methods were used:

- Observing proceedings of the Protective Services Review Team, the Family Advocacy Office, the Arizona Office of Administrative Hearings, individual removal review team meetings, and CPS investigations in order to gain first-hand knowledge of the procedures, processes, and time frames involved in child abuse and neglect substantiation and removal processes;
- Conducting a phone questionnaire with 31 CPS investigators from throughout the State to obtain information about removal and substantiation processes such as case managers' familiarity with standards of evidence;
- Collecting, validating, and analyzing selected data from three separate automated data sources. Specifically, data was obtained from the Division's automated case management information system, the Children's Information Library and Data Source (CHILDS), to determine the number of reports CPS received and investigated. Second, data was obtained from the Protective Services Review Team's database to identify the number of requests for review and the outcomes of those reviews. Third, data was obtained from the Family Advocacy Office to identify the scope and results of parents' requests to review child removal decisions;
- Surveying 12 other states to obtain comparative information on removal and substantiation processes, and to identify best practices in these areas. States were selected for contact based on their geographic proximity to Arizona, information provided by division staff, and population size. Auditors contacted

Colorado, Illinois, Michigan, Minnesota, Missouri, Nevada, New York, Oregon, Texas, Utah, Virginia, and Washington;

- Interviewing division staff statewide, including unit supervisors, program managers, and other staff including representatives of the Protective Services Review Team, the Family Advocacy Office, the Child Abuse Hotline, the policy unit, and the legislative services unit to gain an understanding of their specific responsibilities and practices; and
- Interviewing individuals knowledgeable about CPS processes, including representatives from the Arizona Attorney General's Office, the Arizona Office of Administrative Hearings, the Foster Care Review Board, child welfare advocacy organizations, and the Ombudsman-Citizen's Aide Office.

This audit was conducted in accordance with government auditing standards.

The Auditor General and staff express appreciation to the director and staff of the Department of Economic Security for their cooperation and assistance during the audit.



# CHAPTER 1

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## Child removal process

One of CPS' most critical responsibilities is determining whether it is necessary to protect children by temporarily removing them from their parents' or guardians' custody. In 2001, the Department's Child Abuse Hotline received approximately 34,100 reports of potential child abuse and neglect. Of these, approximately 25,500 were investigated by CPS and approximately 8,600 were referred to the Family Builders Program for assessment.<sup>1</sup> During the same year, CPS removed approximately 3,900 children.<sup>2</sup> This chapter addresses questions related to the process used by CPS to temporarily remove children from their parents' or guardians' custody. Specifically, it describes:

- The decision tree, or process, CPS uses to remove children from their homes, including the standard of evidence used to decide if a child should be removed from the home;
- When children are removed, CPS' efforts to place them with family members; and
- Legal issues regarding child removal including the constitutional basis for child removals, CPS' adherence to federal requirements, and accused parents' access to legal representation.

While gathering this information, auditors identified two ways the Division can improve the child removal system: (1) The Division should ensure that parents receive sufficient information to understand how to properly request an administrative review of their child's removal. (2) The Division should evaluate the removal review team's role by compiling and analyzing existing information about their results.

<sup>1</sup> A.R.S. §8-816 established the Family Builders Program, which allows CPS to refer selected low- and potential-risk child abuse reports to a network of community-based providers for family assessment, case management, and services after CPS screening.

<sup>2</sup> This only includes children for whom a dependency petition was necessary. The Department must file a dependency petition with the Juvenile Court within 72 hours of a child's removal or the child must be returned home. A dependency petition asks the Court to award temporary custody of a child to the State.



## Decision tree and standard of evidence

State statutes define two conditions under which CPS may remove a child from his or her parents' or guardians' custody. Arizona Revised Statutes §8-821 provides that a child may be removed if he or she is either:

“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 further defines what constitutes imminent harm and additional factors to consider when deciding whether to remove a child. As shown in Figure 1 (see page 7), this can include situations where no caregiver is present and a child cannot care for himself or herself, a child has severe or serious nonaccidental injuries that require immediate medical treatment, or the physical or mental condition of the caregiver endangers a child's health or safety. In a phone questionnaire with 31 investigative case managers from across the State, auditors found that most, 25, could identify and explain Arizona's standard of evidence for removal, imminent harm.

However, not all conditions that the public might consider abuse or neglect are defined. For example, Arizona Revised Statutes and the Administrative Code do not specify that newborn children exposed to alcohol or illegal substances can be removed from their parents' or guardians' custody, nor that such children can be assumed to be abused or neglected.<sup>1</sup> The lack of definition on areas such as this is not uncommon. According to a 2001 study published in the *Yale Journal of Health Policy, Laws, and Ethics*, about 35 other states also do not address substance-exposed newborns in either their removal criteria or definitions of abuse or neglect.<sup>2</sup>

The Department has provided additional guidance for its investigators through policy memos and manuals. For example, a division memo outlines five questions that an investigator must answer to substantiate neglect in the case of a substance-exposed newborn. Under these questions an investigator must not only establish that the child tested positive for drugs, but also that “there is medical documentation stating that the exposure created a substantial risk of harm to the child's health or welfare.”

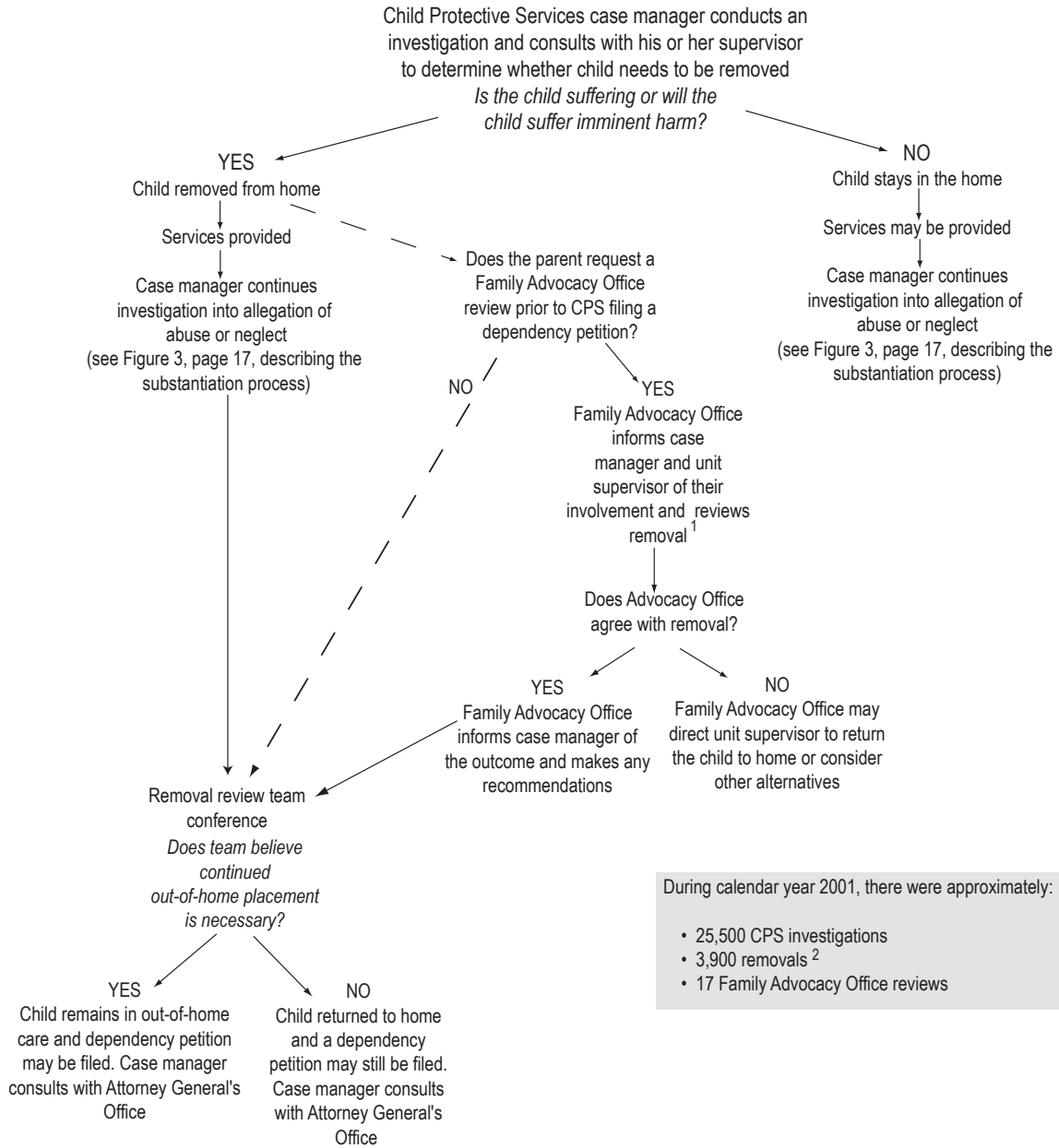
<sup>1</sup> Although substance-exposed newborns are not automatically considered abused or neglected under Arizona law, A.R.S. §13-3620(B) requires regulated health professionals to report to CPS under several circumstances, including when a positive toxicology screen of a newborn child gives the professional “reasonable grounds to believe that the newborn infant may be affected by the presence of alcohol” or illegal substances.

<sup>2</sup> “Synopsis of State Case and Statutory Law” compiled by/published in the *Yale Journal of Health Policy, Laws, and Ethics*. Volume I: Spring 2002. Symposium issued on Current Racial and Ethnic Disparities in Health.

**Figure 1** Situations Indicating Imminent Harm and Need for Removal  
Arizona Administrative Code R6-5-5512 (B) and (C)

- B. The following situations indicate imminent harm and require CPS to intervene as provided in R6-5-5513:
1. No caregiver is present and a child cannot care for himself or herself or for other children in the household;
  2. A child has severe or serious nonaccidental injuries that require immediate medical treatment, such as:
    - Head injury, with risk of damage to the central nervous system;
    - Internal injuries;
    - An injury resulting in coma;
    - Multiple plane injuries indicative of battering;
    - Facial bruises;
    - Fractures or bruises in a nonambulatory child;
    - Instrumentation injury with risk of impairment; or
    - Immersion burns.
  3. A child requires immediate medical treatment for a life-threatening medical condition or a condition likely to result in impairment of bodily functions or disfigurement, and the child's caregiver is not willing or able to obtain treatment;
  4. A child is suffering from nutritional deprivation that has resulted in malnourishment or dehydration to the extent that the child is at risk of death or permanent physical impairment;
  5. A doctor or psychologist determines that a child's caregiver is unable or unwilling to provide minimally adequate care;
  6. The physical or mental condition of a child's caregiver endangers a child's health or safety, such as a caregiver who:
    - Exhibits psychotic behavior and fails to take prescribed medications,
    - Suffers from a deteriorating physical condition or illness, or
    - Takes prescribed or nonprescribed drugs that result in a child being neglected;
  7. The home environment has conditions that endanger a child's health or safety, such as human or animal feces, undisposed-of garbage, exposed wiring, access to dangerous objects, or harmful substances that present a substantial risk of harm to the child;
  8. A doctor or psychologist has determined that:
    - A child's caregiver has emotionally damaged the child;
    - The child is exhibiting severe anxiety, depression, withdrawal, or aggressive behavior due to the emotional damage; and
    - The caregiver is unwilling or unable to seek treatment for the child;
  9. A CPS Specialist has probable cause to believe that a caregiver has engaged in sexual conduct with a child or has allowed the child to participate in sexual activity with others.
- C. In situations not listed in Subsection (B), a CPS specialist shall determine the risk of imminent harm and need for removal by:
1. Doing a family assessment to identify family strengths and risk factors; and
  2. Evaluating all facts and circumstances surrounding a child and family situation, including the following:
    - a. Whether a law enforcement official or medical professional expresses concern about risk to the child victim if the child victim returns to or remains in the home;
    - b. The alleged abuser's behavior towards the child victim;
    - c. Other adults in the household's behavior towards the child victim;
    - d. Whether the child victim resides with a parent or other adult who is willing and able to protect the child;
    - e. The conditions of the home environment and whether those conditions threaten the child victim's safety or physical health;
    - f. Whether there has been a pattern of maltreatment, particularly a pattern of incidents of increasing severity;
    - g. The nature and severity of the alleged maltreatment;
    - h. Whether DES is able to provide services to the child or family to alleviate conditions or problems that pose a risk of maltreatment, without the need for removal;
    - i. Whether the child's caregiver refuses access to a child or declined an offer of in-home services;
    - j. The family's strengths and risk factors;
    - k. The child's current physical and mental condition; and
    - l. Whether the child victim has injuries that require immediate medical treatment.

Figure 2 Child Removal Process



During calendar year 2001, there were approximately:

- 25,500 CPS investigations
- 3,900 removals<sup>2</sup>
- 17 Family Advocacy Office reviews

<sup>1</sup> If timing allows, the Family Advocacy Office review may occur in conjunction with the removal review team conference.

<sup>2</sup> This only includes children for whom a dependency petition was necessary.

Source: Auditor General staff analysis and summary of Division's removal process as described in A.R.S. §§8-802, 8-821, 8-822, and 8-828 and the Division's Children's Services Manual.

If the CPS investigator, in consultation with his or her supervisor, determines that a child is in imminent harm, he or she has the authority to remove the child from the home and place him or her in the temporary custody of the State. Such a decision is subject to a number of mandatory or optional reviews from the following entities (see Figure 2, page 8):

- **Removal review teams**—Arizona changed its child removal process in 1990 to include a mandatory administrative review of the removal decision before a dependency petition is filed with the Juvenile Court.<sup>1</sup> A dependency petition asks the court to award temporary custody of the child to the State. Each removal review team is an ad hoc group assembled by the investigating CPS case manager or supervisor after a child removal has taken place. The team assesses whether there are options other than continued out-of-home placement, such as in-home services, and determines whether a dependency petition should be filed. Under statute, the team must include a CPS staff member, a CPS supervisor, a member of the foster care review board, and the child's physician if the child has a medical need or chronic illness.<sup>2</sup> Typically, the investigating case manager and his/her supervisor are the ones who represent CPS. This administrative review is not federally required, and of the 12 states auditors contacted, only Utah has adopted a similar mechanism.
- **Family Advocacy Office**—Arizona revised its child removal process again in July 2000 to include an administrative review by the Family Advocacy Office, upon parents' request, prior to the filing of a dependency petition.<sup>3</sup> If a parent requests the review prior to the filing, Family Advocacy staff examine whether imminent harm existed during a removal, whether options other than removal were considered, and whether continued out-of-home placement is needed. Reviewers either determine that CPS met the criteria for removal or disagree. If they disagree, reviewers may direct that the child be returned to the parent or suggest other alternatives. If timing allows, this review may take place in conjunction with the removal review team. In calendar year 2001, 19 review requests were made. In 17 cases, the Family Advocacy Office staff approved of the removal decision. In the remaining 2 cases, a review could not be completed because research found that the child had never been removed or CPS had already filed a dependency petition.
- **Juvenile Court**—When CPS determines that continued out-of-home placement is necessary, it must file a dependency petition with the Juvenile Court within 72 hours of the child's removal. Once a petition has been filed, the court holds various conferences and hearings within required time frames to determine such things as the need for continued out-of-home placement, placement options, services for the child and family, and visitation. States vary as to when the courts

<sup>1</sup> Added as A.R.S. §8-546.08 by Laws 1990, Chapter 237, A.R.S. §11. Renumbered as A.R.S. §8-822 by Laws 1997, Chapter 222, §53(B).

<sup>2</sup> A.R.S. §8-822(3).

<sup>3</sup> A.R.S. §8-828.

review child removal decisions. Similar to Arizona, Minnesota, Nevada, and Washington require judicial reviews within 72 hours of child removals. Other states, including New York, Oregon, and Texas, require a judicial review within 24 hours. In contrast, all child removals in Missouri must be court-ordered.

## Placement with family members

When children are removed, CPS attempts to locate relatives to care for them, rather than placing them in traditional foster care. A recent review (see Auditor General Report No. 02-03) found that relative care is an important option for children who must be removed from their homes. At the end of calendar year 2001, about 24 percent (or 1,450 of 6,100) of the children in Arizona foster care were placed with relatives. The Auditor General's Office recommended that the Division provide additional training to case managers on the requirements of the kinship foster care legislation; develop additional monitoring mechanisms to help ensure compliance with these requirements; and use, where appropriate, its current goals, objectives, and performance measures to assess the outcomes of kinship foster care placements.

About 24 percent of children in foster care at the end of 2001 were placed with relatives.

## Compliance and legal issues

CPS' child removal system is guided by the court system, federal requirements, and state statutes. For example, numerous state and federal courts have ruled on the legal basis for governments' ability to interfere in parent-child relationships. Similarly, CPS must meet federal requirements for child removal processes. Additionally, the Juvenile Court decides which parents are eligible to receive publicly funded legal counsel.

**Constitutional basis for removing children**—One of the most complex and critical issues facing welfare agencies is the need to balance the rights of children to adequate care and freedom from harm with the rights of parents to retain custody of and responsibility for their children. Numerous court cases over the past 50 years in Arizona, including one in the Arizona Supreme Court, have upheld the State's right to intercede in the parent-child relationship because of the State's interest in the future well-being of minor children.<sup>1</sup> This includes removing children from their guardians' custody when it is necessary to protect the child. However, courts have also found that parents have a fundamental, natural right to their children that is entitled to constitutional protection, such as due process.<sup>2</sup>

<sup>1</sup> Matter of Appeal in Gila County Juvenile Action No. J-3824 (1981) 130 Ariz. 530, 637 P.2d 740.

<sup>2</sup> Appeal in Pima County Juvenile Action No. J-46735 v Howard, 112 Ariz. 170 P.2d 642 (1975) and Matter of Appeal in Maricopa County Juvenile Action No. JS-5209 and No. JS-4963, 142 Ariz. 178, 692 P.2d 1027 (App. 1984).

To ensure that parents receive an opportunity to be heard early in the process, state law provides for administrative reviews of child removal decisions, in addition to the judicial reviews. As noted previously, parents or guardians can request the Department's Family Advocacy Office to review CPS' decision to remove a child from their custody (see page 9). In addition, all removals that will result in the filing of a dependency petition are reviewed by a removal review team and the Juvenile Court (see page 9).

**Adherence to federal guidelines**—Federal requirements also guide the child removal process. Auditors examined the federal Child Abuse and Prevention and Treatment Act requirements related to child removal and noted no instances where the Division was not adhering to federal guidelines. In some situations, the Division exceeds federal requirements. For example, Arizona enhanced its child removal process in 1990 by requiring that all child removal decisions be officially reviewed by a removal review team before dependency petitions are filed with the Juvenile Court (see page 9). This review is not required by federal law, and similar administrative processes appear to be rare in other states.

Auditors noted no instances where the Division was not adhering to federal guidelines regarding the child removal process.

In addition, the United States Department of Health and Human Services recently conducted a separate, unrelated review of the Division. It found that the Division is in substantial compliance with all federal requirements regarding children's safety. As of February 2002, Arizona was the only state of ten reviewed that substantially met all federal requirements regarding children's safety.

**Parents' legal representation**—Parents and other accused parties can access legal advice in several ways. First, an accused party may seek legal counsel at his or her own expense during any phase of the investigation, substantiation, and child removal processes. Additionally, accused parties can receive government-funded legal representation after their child has been removed. However, the court must generally find that the accused person cannot reasonably afford to provide his or her own legal counsel.

Government-funded legal representation is handled by each county. In Maricopa County, the Legal Defender's Office represents accused parents. The attorneys in the Maricopa County's Legal Defender's Office are paid county employees. Accused parents generally cannot select or change which Legal Defender's Office attorney will represent them, although the Office may internally choose to reassign attorneys if problems develop. Additionally, there is an Office of Legal Contract Counsel that can provide legal representation through private contract attorneys if legal conflicts of interest arise.

## Actions needed to improve the child removal process

Several actions are needed to improve the child removal process. First, the Legislature should consider clarifying in statute how CPS should handle substance-exposed newborn cases. Additionally, the Division should ensure that parents receive sufficient information to understand how to properly request an administrative review of their child's removal. Further, the Division should evaluate the impact of removal review teams by compiling and analyzing existing information about team results.

**Consider clarifying statute**—The Legislature should consider further clarifying in statute the definition of abuse and neglect. This could include such issues as whether substance exposure constitutes criteria for removal. Based on a review of other states' laws as recently published in *Yale Journal of Health, Policy, Laws and Ethics*, about 13 states have laws or codes that either classify substance-exposed newborns in their definitions of abuse or neglect, or indicate that substance exposure constitutes a criteria for removal.<sup>1</sup>

**Improve information provided to parents**—Few parents or guardians are requesting Family Advocacy Office reviews. The Office has been requested to complete only 49 eligible reviews since its inception in July 2000, even though state law would have allowed a Family Advocacy Office review for about 7,400 children during the same period.<sup>2</sup> Auditors identified two reasons that may contribute to the low number of review requests. One is that parents or guardians may not be fully aware of their right to request a review or the speed with which they must act. The second is that some case managers may not be able to explain to parents this possible review.

CPS provides parents and guardians with written notices and brochures explaining the process, including one notice which contains a toll-free telephone number for the Family Advocacy Office. However, these documents do not adequately explain that parents must request a review before CPS files a dependency petition—a step that CPS can take in less than the allowed 72 hours.

The Division has since revised some of the written information provided to parents. For example, it has developed a new form explaining children's and parent's rights including the right to a Family Advocacy Office review which the parent or guardian, and the child (if over 12), must sign. However, this form does not explain how the parent can request a Family Advocacy Office review or the need to do so before a dependency petition is filed. Therefore, it is critical that case managers understand and can explain to parents the Family Advocacy Office's role in reviewing removal decisions. This audit found that some case managers are not familiar with the Office.

<sup>1</sup> Synopsis of State Case and Statutory Law: compiled by/published in the *Yale Journal of Health, Policy, Laws, and Ethics*. Volume 1: Spring 2002. Symposium issued on Current Racial and Ethnic Disparities in Health. These 13 states are Florida, Illinois, Indiana, Iowa, Maryland, Minnesota, Nevada, Oklahoma, South Carolina, South Dakota, Texas, Virginia, and Wisconsin.

<sup>2</sup> Number of requests as of May 31, 2002.

Auditors interviewed 31 investigative case managers from across the State and found that 15 were not familiar with the Office.

**Assess removal review teams' impact**—The impact of removal review teams on the child removal process is unclear. This additional review is not required by federal law, and similar administrative processes appear to be rare in other states. For example, of the 12 states auditors contacted, only Utah has adopted a similar mechanism that internally evaluates every child removal decision.<sup>1</sup> In addition, unlike the Family Advocacy Office, where a parent must request a review, a removal review team must be convened to review each CPS removal in which the Division plans to file a dependency petition.

Although removal review teams were designed to provide additional oversight over the child removal process, their impact is unknown because the Division has not analyzed existing information. As a result, key information needed to assess the ongoing value and effectiveness of removal review teams, such as how often they direct that children should be returned to their homes, is unknown.

## Recommendations

1. The Legislature should consider further clarifying in statute the definitions of abuse and neglect and what criteria should be considered in removal decisions.
2. The Division should ensure that its forms and brochures contain the sufficient and accurate information parents and guardians need to exercise their right to request a review, including information that describes and emphasizes the limited time frame in which requests for Family Advocacy Office reviews can be considered.
3. The Division should take steps to ensure that case managers understand, and thus can explain to parents, the Family Advocacy Office's role in reviewing removal decisions.
4. The Division should periodically analyze key statistics about removal review teams, including the number held, participants attending, and the review outcomes.
5. The Division should use existing information about removal review teams to evaluate and assess their impact and value.

<sup>1</sup> Auditors contacted child welfare representatives from Colorado, Illinois, Michigan, Minnesota, Missouri, Nevada, New York, Oregon, Texas, Utah, Virginia, and Washington.





# CHAPTER 2

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## Substantiation and appeals process

When conducting investigations, CPS must also determine whether the specific allegations of abuse or neglect occurred. Each of the approximately 25,500 reports investigated in 2001, regardless of whether the child was removed or not, resulted in a “finding” of substantiated or unsubstantiated. Ultimately, after review and appeals, approximately 3,600 reports received in 2001 were substantiated. This chapter addresses questions related to the process used to determine whether specific allegations of abuse or neglect should be substantiated, sometimes referred to as the appeals process. Specifically, this chapter describes:

- The decision tree for the appeals process, including changes that have been made to the process, and the standard of evidence used to decide whether specific allegations of abuse or neglect occurred;
- Oversight of service providers, such as psychiatrists and medical doctors, who assist the investigative process;
- Compliance and legal issues regarding the appeals process, including the Division’s adherence to federal requirements, and the due process rights available to accused parents; and
- Public records versus confidential information contained within case files, including how the Division handles requests for information contained within the case files.

While gathering this information, auditors identified two steps that the Division can take to improve the substantiation, or appeals, process: (1) The Division should provide additional training to case managers on the standards that should be met to substantiate a report. (2) The Division should improve its process for providing to case managers and supervisors information about the reasons cases proposed for substantiation are being overturned.

## Decision tree and standard of evidence

In addition to determining whether or not a child should be removed, when investigating a report, the CPS case manager must also determine whether the specific allegations of abuse or neglect should be substantiated. This is sometimes referred to as the substantiation and appeals process. The process was changed in 1997 to provide an opportunity for parents or guardians to request a hearing on proposed, substantiated allegations of abuse or neglect through the Protective Services Review Team. Steps have also been taken to clarify the standard of evidence needed to substantiate allegations of abuse or neglect. Over the period in which these changes have been taking place, the percentage of reports that were substantiated has declined.

**Substantiation and appeals process decision tree**—The process by which CPS investigates and reviews whether specific incidents of abuse or neglect occurred is known as the substantiation, or appeals, process and involves multiple steps (see Figure 3, page 17):

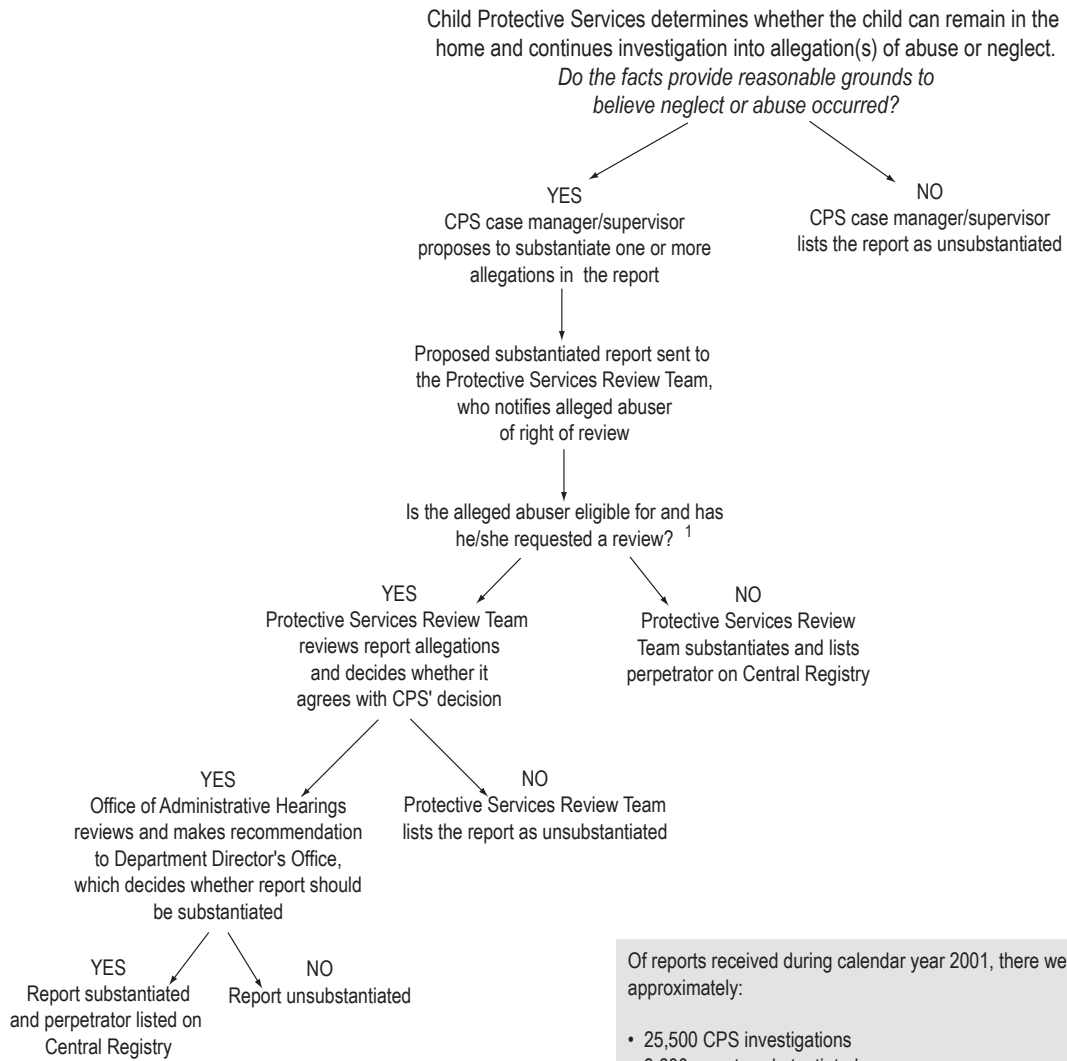
- **CPS investigation**—All CPS investigations, whether or not a child is removed, result in a “finding” of either substantiated or unsubstantiated. To substantiate an allegation of abuse or neglect, the CPS case manager must identify facts that provide reasonable grounds to believe the abuse or neglect occurred, also known as probable cause. Case managers do several things to gather evidence, including interviewing the victim, family members, neighbors, and teachers; examining prior CPS reports as well as police and medical records, and seeking healthcare professionals’ advice. When there is not sufficient evidence to indicate that the allegation is true, the CPS case manager will not substantiate the report. Conversely, if the case manager believes there is sufficient evidence to indicate that the abuse or neglect allegation is true, the CPS case manager will, with the supervisor’s approval, propose the report for substantiation. Whether or not the abuse or neglect report is proposed for substantiation, families may be offered services such as family or substance abuse counseling to protect the child and strengthen the family. CPS conducted about 25,500 investigations in calendar year 2001.
- **Protective Services Review Team review**—In 1997, the Legislature required the Department to add a hearing process to its regular procedures for substantiating abuse and neglect reports.<sup>1</sup> This Department review, conducted by the Protective Services Review Team, is at the request of the alleged perpetrator and conducted prior to a formal hearing. In fiscal year 2002, the Division received \$513,900 in State General Fund appropriations, which it uses primarily to pay for the costs of the Protective Services Review Team.<sup>2</sup> The review and hearing processes are conducted only upon the alleged

CPS conducted about 25,500 investigations in calendar year 2001.

<sup>1</sup> A.R.S. §8-546.12, added by Laws 1997, Chapter 224, §2, renumbered as A.R.S. §8-811 and amended by Laws 1998, Chapter 276 §20.

<sup>2</sup> The Protective Services Review Team has 11 authorized FTE positions.

Figure 3 Substantiation and Appeals Process



Of reports received during calendar year 2001, there were approximately:

- 25,500 CPS investigations
- 3,600 reports substantiated

<sup>1</sup> An alleged abuser's request for a review is eligible if it is received within 14 days of the notification and there is no other legal action pending regarding the incident.

Source: Auditor General staff analysis and summary of the Division's substantiation process as described in A.R.S. §§8-811 and 41-1092.08, the Division's Children's Services Manual, and the Protective Services Review Team's policy manual.

perpetrator's request. To initiate this process, team staff send a letter to the alleged perpetrator indicating CPS' intent to substantiate and informing him or her of the right to request a review of CPS' proposed substantiation decision. In order to be eligible for review, the alleged perpetrator must submit a request for the review within 14 days and there must not be any other legal action pending regarding the incident. If the alleged perpetrator does not request or is not eligible for a review, the allegations are determined to be substantiated. For those requesting a review, team staff determine whether information gathered during the CPS investigation provides reasonable grounds to believe the alleged abuse or neglect occurred and the evidence collected is consistent with the statutory definitions of abuse and neglect. Team staff either upholds CPS' decision or list the report as unsubstantiated. Of the 4,251 reports proposed for substantiation in calendar year 2001, the team reviewed 354 reports involving 414 allegations and overturned 154 of them.<sup>1</sup>

- **Office of Administrative Hearings review**—If the Protective Services Review Team upholds CPS' proposed substantiation, then the Office of Administrative Hearings conducts a hearing.<sup>2</sup> The Office of Administrative Hearings decides whether it agrees with CPS' decision to substantiate the report and makes a recommendation to the Department's director, who ultimately decides whether to accept, accept with modifications, or amend the Office's recommendation.<sup>3</sup> In 2001, the Director's Office accepted 120 of the 163 decisions and accepted with modifications another 41 of the decisions rendered by the Office of Administrative Hearings.<sup>4</sup>
- **Central Registry entry**—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 general public. CPS case managers can access the information when investigating child abuse and neglect reports to facilitate the assessment of whether the child is at risk. Similarly, law enforcement agencies can use the registry to assist in criminal investigations and prosecutions of child abuse or neglect. In addition, the Department can use information contained in the registry to conduct background checks for foster home licensing, adoptive parent certification, and child care home certification. Approximately 3,600 of the reports received during calendar year 2001 were substantiated.

**Standard of evidence used to substantiate reports**—State statutes and division policy dictate that one standard of evidence, probable cause, be considered when determining whether specific instances of child abuse or neglect occurred.

<sup>1</sup> A single report can involve multiple perpetrators and/or multiple allegations of abuse or neglect.

<sup>2</sup> Pursuant to A.R.S. §41-1092.07.

<sup>3</sup> Pursuant to A.R.S. §41-1092.08.

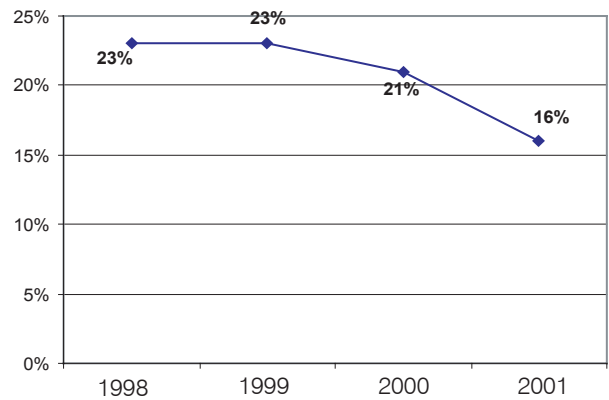
<sup>4</sup> The remaining decision was certified by the Office of Administrative Hearings because it did not receive a response from the Director's Office within the required time frame.

Approximately 3,600 reports received in 2001 were substantiated.

Probable cause refers to evidence that provides reasonable grounds to believe that an incident did occur. The Division has also acted to clarify both the definitions of abuse and neglect and its standards regarding the type of evidence needed to substantiate reports. For example, the Division clarified, through a memo to all staff in January 1999, that reports should not be substantiated when the accused person's behavior created only "the potential" for abuse or neglect. The Division also issued a memo to clarify its practices in November 2001 and required case managers to obtain assertions from medical professionals that children exposed to drugs prior to birth had been harmed as a direct result of their mother's drug usage.

The substantiation rate is declining—As illustrated in Figure 4, the percentage of child abuse and neglect reports that are substantiated has decreased from approximately 23 percent to 16 percent between calendar years 1998 and 2001.<sup>1</sup> The exact reasons for the decline in the substantiation rate are unknown. However, the Division indicates that it has been tightening its standards to ensure they are in line with the legal definition of abuse or neglect. In addition, the added Protective Services Review Team process may be contributing to some of the decline in the substantiation rate. Of the allegations it reviewed between 1999 and 2001, the team overturned CPS' proposed substantiation decisions about 48 percent of the time. In addition, some case managers may be reluctant to propose cases for substantiation due to this process. Although auditors were unable to estimate the extent to which CPS case managers were not proposing cases for substantiation, in interviews with division staff, five individuals indicated that some cases may not be proposed for substantiation because of the Protective Services Review Team process.

Figure 4 Percentage of Investigated Reports Substantiated Years Ended December 31, 1998 through 2001



Source: Auditor General staff analysis of data derived from the Children's Information Library and Data Source, on April 1, 2002.

## Oversight of service providers

Medical and other professionals can play an important role in substantiating complaints of child abuse and neglect. Case managers can seek the advice of a variety of professionals to assist them in determining whether a child needs to be removed from his or her home or if a specific incident of abuse or neglect occurred. For example, a case manager can ask a psychologist to conduct a mental status exam for an accused person or request a psychiatrist to determine whether somebody involved in the investigation suffers from a mental illness. Similarly, case managers may request a physician to examine a child if he or she suffered injuries

<sup>1</sup> To ensure consistency with the Division's process for calculating the substantiation rate, the lowest category of child abuse and neglect reports—potential risk—is not included in auditors' calculation of the substantiation rate.

requiring medical attention or sexual abuse is suspected. When a service provider is consulted, the case manager would generally provide a summary of the allegations and an indication of investigative results to date. For example, a psychiatrist would be told about the behaviors that prompted a case manager to suspect that the client suffers from mental illness.

CPS divides Arizona into six geographic districts. Each of these districts contracts and oversees the local service providers it uses. This allows each district to develop contracts with providers that can meet its unique needs. For example, District 1, centered in Maricopa County, contracts with St. Joseph's Hospital for pediatric physician services. However, because the hospital employs these doctors, it is responsible for screening their credentials and monitoring their performance. Similarly, District 1 attempts to rely on the Department of Health Services whenever possible to provide mental health services. In these circumstances, the local regional behavioral health authority chooses, oversees, and funds mental health providers' services.

## Compliance and legal issues

Auditors examined federal requirements related to the appeals process and the due process rights of parents accused of abuse or neglect. Auditors reviewed the federal Child Abuse Prevention and Treatment Act requirements related to the appeals process and noted no instances where the Division was not adhering to federal requirements. In addition, as noted on page 16, legislation adopted in 1997 provides parents or guardians accused of abuse or neglect an opportunity to request the Protective Services Review Team to examine cases where CPS is proposing to substantiate findings of abuse or neglect.

## Public records versus confidential information

Auditors also reviewed the Division's practices for releasing information contained in case files. By state and federal law, much of the information contained in case files is considered confidential. For example, a case file might include sensitive information developed during the investigative process, such as a child's school records or an accused person's criminal history and medical records. Similarly, the State has enacted procedures, consistent with federal law, specifying who can access certain types of information. For example, an accused person or a child over the age of 12 who is the subject of a CPS report can receive information about the initial report made to CPS, but cannot receive information about the person(s) who made the report.

Much of the information contained in case files is considered confidential by state and federal laws.

The Division has taken steps to help ensure case file information is provided appropriately. For example, the Division has worked with the Arizona Attorney General's Office to develop guidelines to assist case managers and other division staff in responding to requests for information. Additionally, the Division developed forms to facilitate requests for information and worked with the Attorney General's Office to provide recent training to staff who handle requests for certain types of information. These procedures appear appropriate, and several division personnel indicated that CPS case managers generally contact either their supervisor or the Attorney General's Office before releasing information.

## Division can enhance supervisor and case manager knowledge of standards

The Division can take additional steps to ensure that all reports of abuse or neglect are being properly handled. First, to ensure all case managers and supervisors clearly understand the standards that must be met to substantiate a report, the Division should develop and provide additional training about the problems most commonly uncovered by the Protective Services Review Team during the past 2 calendar years. As shown in Figures 5 and 6 (see page 22), the team overturned the largest percentage of proposed substantiations for the same four reasons, including that the incident did not meet the statutory definition of abuse or neglect, or probable cause was not established. Interviews also identified concerns about case managers' understanding of what is needed to substantiate a report. For example, 9 of the 31 investigative case managers responding to an auditor phone questionnaire disagreed or strongly disagreed with the statement, "The current standard of evidence required for substantiation is clear."

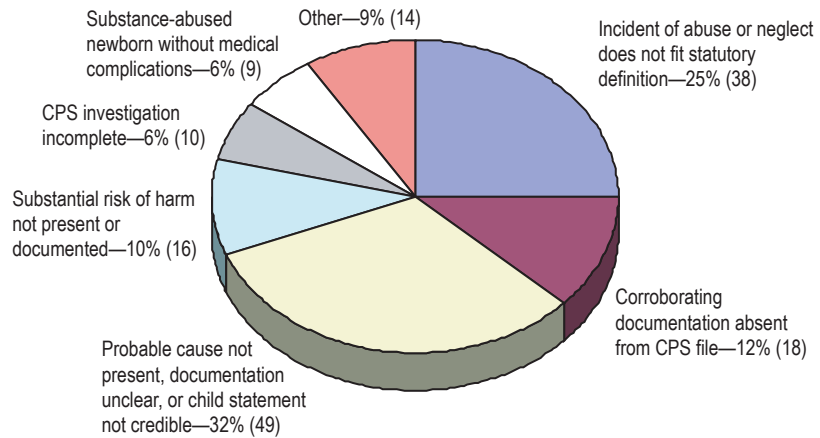
Second, the Division should improve its process for providing feedback on the Protective Services Review Team's results so that it can continually enhance the quality of its investigation function. Currently, when the team completes a case review, it sends the results to the investigating case manager and his/her supervisor. Additionally, a monthly status report regarding the team's activities and results is provided to division and district management. However, the data on the team's results over the past 2 years suggests that some case managers still do not understand the standards required to substantiate reports. Therefore, the Division should consider periodically supplementing its current efforts with additional information. The Division is in the process of developing a new report that will include unit level information so individual CPS units can see how well they are doing. The Division should also consider including in this report case examples and potential solutions that could be readily applied by all supervisors and case managers in the field.

Case managers and supervisors need additional training on the standards that must be met to substantiate a report.

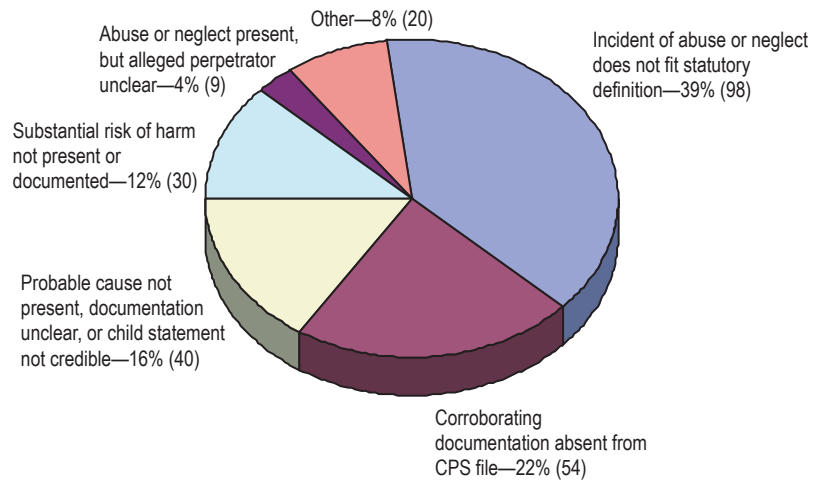


**Protective Services Review Team  
Reasons for Overturn of Proposed Substantiations  
Received in 2000 and 2001**

**Figure 5 154 Total Allegations Overturned  
(2001)**



**Figure 6 251 Total Allegations Overturned  
(2000)**



Source: Auditor General staff analysis of data obtained from the Protective Services Review Team database on May 15, 2002.

## Recommendations

1. The Division should develop and provide some additional training on the problems most commonly identified by the Protective Services Review Team over the past 2 years to ensure all case managers and supervisors statewide understand the statutory definitions of abuse and neglect, how to document investigative results, and how to establish probable cause.
2. The Division should continue to improve its process for providing feedback on the Protective Services Review Team's results so that it can continually enhance the quality of its investigation function. Specifically, it should consider supplementing its new report with case examples and solutions that could be readily applied by all supervisors and case managers in the field.



# AGENCY RESPONSE





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**ARIZONA DEPARTMENT OF ECONOMIC SECURITY**

1789 W. Jefferson, P.O. Box 6123, Phoenix, Arizona 85005

Jane Dee Hull  
Governor

John L. Clayton  
Director

Debbie Davenport, CPA  
Auditor General  
Office of the Auditor General  
2910 North 44<sup>th</sup> Street, Suite 410  
Phoenix, Arizona 85018

Dear Ms. Davenport:

We are pleased to received the Office of the Auditor General's evaluation of the Child Removal Review process and the Substantiation and Appeals process used during Child Protective Services investigations. The rights of children to remain in the care of their parents, and of parents to raise their children free from government involvement are among the most fundamental. As a Department, we are eager to join with concerned stakeholders to meet the challenge of maintaining family integrity while protecting vulnerable children from harm. We are hopeful your evaluation will inspire a cooperative effort to meet this challenge, and we welcome the opportunity to improve the Department's processes.

The legal authority to remove children who are at risk of imminent harm from their parents or other caregivers has, as you have confirmed, been given to the State, and in turn delegated to our Department. The decision to use this authority must be made with the utmost caution, and with full consideration of the consequences to the child, parents, extended family, and community. The Department is pleased the Report noted that Arizona's process for reviewing removal decisions is not only in compliance with federal requirements, but includes procedures, such as our Removal Review Teams, that exceed federal requirements.

The Department is also pleased that your Office confirmed Arizona's compliance with federal guidelines requiring a process for parents to appeal proposed substantiated allegations of abuse or neglect, and noted that the Department was found in substantial conformity in relation to both safety outcomes evaluated during a recent comprehensive review conducted by the U.S. Department of Health and Human Services.

Debbie Davenport, CPA  
Page 2

The Department views your Office's recommendations as methods to further refine an area of strength within our Department, and is able to report activity is nearly complete with regard to improving the written information provided to parents and guardians. The Department has recently updated the written materials provided to parents and guardians when Child Protective Services conducts an investigation. These materials include a *Summary of Client Rights and Responsibilities (Children's Rights and Parent's/Guardian's Rights)*. The Department has also revised written materials to better clarify the purpose of the Family Advocacy Office, and parents' rights to have this Office review the circumstances pertaining to their child's removal from the home.

We appreciate that the Report clearly specifies that due process is made available to parents and guardians prior to substantiating a report of child abuse or neglect. The Department's Protective Services Review Team and the Office of Administrative Hearings provide a multi-step process for determining if allegations of child abuse or neglect should be substantiated.

The Department's response to each of the recommendations made by your Office is attached.

If you have any questions or concerns, please contact me at (602) 542-5678.

Sincerely,

John L. Clayton

Attachment

**DEPARTMENT OF ECONOMIC SECURITY'S RESPONSE  
to the AUDITOR GENERAL'S RECOMMENDATIONS for the  
CHILD REMOVAL PROCESS  
and the  
SUBSTANTIATION AND APPEALS PROCESS**

The Office of the Auditor General's evaluation of the Department's Child Removal process and Substantiation and Appeals process includes seven (7) recommendations, of which five (5) pertain to the Child Removal process and two (2) pertain to the Substantiation and Appeals process. The Department of Economic Security is pleased to provide the following comments regarding these recommendations.

The Department's Division of Children, Youth and Families administers the Child Protective Services Program, and is referred to as "the Division" in this response.

***Child Removal Process***

Recommendation 1:

The Legislature should consider further clarifying in statute the definitions of abuse and neglect and what criteria should be considered in removal decisions.

DES Response:

The Department would welcome the opportunity to work with the Legislature on statutory amendments in this area.

Recommendation 2:

The Division should ensure that its forms and brochures contain the sufficient and accurate information parents and guardians need to exercise their right to request a review, including information that describes and emphasizes the limited time frame in which requests for Family Advocacy Office reviews can be considered.

DES Response:

The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

The Division is pleased to report that this recommendation is already implemented. On September 9, 2002, the Division revised the brochure entitled "A Guide To Child Protective Services (CPS)". This Guide is provided to a parent or guardian when CPS is conducting an investigation and when it is necessary to remove a child from his or her home. The revised Guide clarifies the purpose of the Family Advocacy Office (FAO), the parent's right to request a removal review through this Office, and the timeframes for requesting the review, as specified in state law. In addition, the revised Guide includes a copy of the *Summary of Client's Rights and Responsibilities*, including *Children's Rights, Parent's and Guardian's Rights, and Parent's and Guardian's Responsibilities*. The Family Advocacy Office and the Protective Services Review Team and Appeals Process are included in the Parent's and Guardian's Rights section.



The Division is also pleased to report that on September 16, 2002, the document entitled "Request for CPS Services" was revised to include the *Summary of Client's Rights and Responsibilities*. This document includes the parent's right to request the Family Advocacy Office to immediately review the removal of a child from his or her home. CPS case managers review this document with parents, guardians, and children age twelve and older and obtain a signature acknowledging the explanation and receipt of information.

In August 2000, the Division revised the *Information for Parents and Guardians* section of the Temporary Custody Notice to include the right to request an immediate review of a child's removal by the Family Advocacy Office and the need for requesting this review in a timely manner.

The statewide toll-free telephone number for the Family Advocacy Office is included in these written materials.

### Recommendation 3

The Division should take steps to ensure that case managers understand, and thus can explain to parents, the Family Advocacy Office's role in reviewing removal decisions.

### DES Response:

The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

As specified in the DES Response to Recommendation 2 (above), the recent revisions to the written materials entitled "A Guide To Child Protective Services (CPS)" and the "Request for CPS Services" will greatly assist the case manager when reviewing the role of the Family Advocacy Office with parents, and documenting this review for the case record. After reviewing the documents with the parent, including the *Summary of Client Rights* (also described in the DES Response to Recommendation 2), the case manager obtains a signature from the parent, which acknowledges the explanation and receipt of the information. The role of the Family Advocacy Office, and the right of the parent to request a Family Advocacy Office review of a child's removal is included in the information for which the parent is acknowledging receipt.

In October 2002, the Division's Child Welfare Training Institute will begin using the recently developed Child Welfare Supervisor Core training curriculum. The new curriculum and training will provide CPS supervisors statewide with comprehensive information regarding the Family Advocacy Office, including the policy, role and responsibilities of this Office, and the requirement to inform a parent whose child has been removed of their right to request a Family Advocacy Office review of the removal.

In November 2002, the Division's Policy Unit will issue a statewide *Policy Reminder* to case managers and supervisors regarding the role of the Family Advocacy Office. *Policy Reminders* are an effective mechanism for disseminating relevant information regarding Division policies and procedures.

Recommendation 4:

The Division should periodically analyze key statistics about removal review teams, including the number held, participants attending, and the review outcomes.

DES Response:

The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

The Division's automated child welfare case management system (CHILDS) includes case-specific data elements for the Removal Review Team process. These case-specific data elements include the names of the participating Removal Review Team members, both Department of Economic Security members and non-Department members (such as the Foster Care Review Board representative), the date and time of the removal team review, and the specific findings/outcome

On a monthly basis, aggregate data is produced and disseminated to the Division's District Program Managers statewide. The data summarizes the number of removal reviews held each month (by unit and District), and summary data regarding the findings/outcome.

As suggested by the Office of the Auditor General, the Division will continue to review the aggregate data on the monthly Removal Review Report, and enhance the report to better assist with ongoing data and trend analysis.

Recommendation 5

The Division should use existing information about removal review teams to evaluate and assess their impact and value.

DES Response:

The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

As specified in the DES Response to Recommendation 4 (above), the Division currently has an automated report that captures aggregate data (by unit and District) for the Removal Review Team process. The Division will continue to review the aggregate data on the monthly Removal Review Report, and enhance the report as needed for data analysis purposes. Information and trends gleaned from the statewide and District-specific removal review team statistics will be used to assess the impact and value of this process.

***Substantiation and Appeal Process***

Recommendation 1

The Division should develop and provide some additional training on the problems most commonly identified by the Protective Services Review Team over the past 2 years to ensure case managers and

supervisors statewide understand the statutory definitions of abuse and neglect, how to document investigation results, and how to establish probable cause.

DES Response:

The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

The Department's Protective Services Review Team (PSRT) Management and Regional Review Specialists have recently reviewed the training curriculum used by the Division's Child Welfare Training Institute. The curriculum review focused on the training provided to new case managers (CPS investigators) with regard to conducting CPS investigations, accurately documenting the information gathered throughout the investigation, and understanding the legal and applied definitions of abuse and neglect. The PSRT Management and Regional Review Specialists are scheduled to observe training sessions provided to case managers through the Child Welfare Training Institute. By observing the training, the PSRT can better assess if the information provided to new case managers is sufficient for developing their investigation and documentation skills prior to receiving a CPS caseload.

In addition to new case manager training, the PSRT will be involved in the development of the new CPS Supervisor's Core Training. This will provide CPS Supervisors with current policy-specific information regarding the statutory definitions of abuse and neglect, how to document investigation results, and how to establish probable cause.

Recommendation 2

The Division should continue to improve its process for providing feedback on the Protective Services Review Team's results so that it can continually enhance the quality of its investigation function. Specifically, it should consider supplementing its new report with case examples and solutions that could be readily applied by all supervisors and case managers in the field.

DES Response:

The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

The PSRT database currently captures the relevant information needed to address this recommendation; however the data base does not produce a report with aggregate data for analysis.

During October 2002, the PSRT and a data base systems analyst will design a report with aggregate data for review and analysis purposes. When developed, the report will be distributed to each District and Unit, so supervisors and managers can routinely review and analyze information, such as the number of PSRT decisions which did not support the case manager's finding, and the reason for the PSRT overturning the case manager's finding.

Currently, the PSRT Regional Review Specialist and the case manager communicate closely (through telephone and electronic mail) during a PSRT review. When a case manager's proposed substantiation finding is overturned, the PSRT immediately informs the case manager and supervisor of the reason and basis for the decision. The PSRT Manager also provides information to the District Program Managers

statewide with regard to PSRT statistics, trends, and observances. Monthly ad-hoc reports are provided to the District Program Managers, Program Administrator, and Field Operations Manager with regard to PSRT statistics and findings.

The Department of Economic Security appreciates the opportunity to respond to the recommendations contained in the Auditor General's Report.

## Performance Audit Division reports issued within the last 12 months

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<b>01-20</b>	Department of Public Safety— Highway Patrol	<b>02-01</b>	Arizona Works
<b>01-21</b>	Board of Nursing	<b>02-02</b>	Arizona State Lottery Commission
<b>01-22</b>	Department of Public Safety— Criminal Investigations Division	<b>02-03</b>	Department of Economic Security—Kinship Foster Care and Kinship Care Pilot Program
<b>01-23</b>	Department of Building and Fire Safety	<b>02-04</b>	State Parks Board— Heritage Fund
<b>01-24</b>	Arizona Veterans' Service Advisory Commission	<b>02-05</b>	Arizona Health Care Cost Containment System— Member Services Division
<b>01-25</b>	Department of Corrections— Arizona Correctional Industries	<b>02-06</b>	Arizona Health Care Cost Containment System—Rate Setting Processes
<b>01-26</b>	Department of Corrections— Sunset Factors	<b>02-07</b>	Arizona Health Care Cost Containment System—Medical Services Contracting
<b>01-27</b>	Board of Regents	<b>02-08</b>	Arizona Health Care Cost Containment System— Quality of Care
<b>01-28</b>	Department of Public Safety— Criminal Information Services Bureau, Access Integrity Unit, and Fingerprint Identification Bureau	<b>02-09</b>	Arizona Health Care Cost Containment System— Sunset Factors
<b>01-29</b>	Department of Public Safety— Sunset Factors		
<b>01-30</b>	Family Builders Program		
<b>01-31</b>	Perinatal Substance Abuse Pilot Program		
<b>01-32</b>	Homeless Youth Intervention Program		
<b>01-33</b>	Department of Health Services—Behavioral Health Services Reporting Requirements		

## Future Performance Audit Division reports

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Children's Behavioral Health

Department of Health Services—Health Start Program

Department of Health Services—Nursing Homes Licensure