



Legislative Audit Division

Performance Audit Summary

Child Protective Services System

September 2002

Introduction

House Joint Resolution 32 of the 2001 Legislature requested a performance audit of the Child Protective Services (CPS) system. Specifically, the resolution asked for a review of the uniformity of CPS and application of the Indian Child Welfare Act. The Department of Public Health and Human Services (DPHHS) is statutorily designated as being responsible for protecting Montana children who are abandoned, neglected, or abused.

The Child and Family Services Division (CFSD) within DPHHS is assigned responsibility for meeting this statutory mandate. CFSD must respond to reports of child abuse or neglect and provide protective services when necessary. This includes taking temporary or permanent custody of a child when ordered by the court. The CPS is made up of numerous stakeholders that include: CFSD, district courts, county attorneys, parents, and providers.

Background

CPS is a complex process in terms of funding, statutory requirements, and the number/types of entities involved. Federal laws have a direct impact on CPS services because they establish the foundation for requirements states must meet when providing child protective services. These requirements generally relate to timing of legal proceedings, making reasonable efforts to reunite families, and achieving permanent placements for children when courts determine reunification is not possible. CFSD is funded by a combination of state and federal funds. In each of the last three fiscal years (FY99-FY01) the division expended over \$22 million dollars for child protective services. CFSD is currently allocated a total of 330 FTE. Approximately 270 of the division's employees are located in field offices. CFSD personnel include social workers, permanency planning specialists, family resource specialists, family group decision-making coordinators, supervisors, and regional administrators.

Performance Audit Framework

The main focus of our fieldwork involved interviews with the various CPS stakeholders and an in-depth review of social worker case files. In all, we reviewed a total of 60 randomly selected CPS files, 35 general cases and 25 ICWA cases. The file reviews concentrated on compliance and documentation related to specific areas of the CPS process we determined were high risk. We

visited all five CFSD regions in the state. We interviewed numerous CFSD personnel, however we also obtained input/ clarification from judges, county attorneys, court-appointed special advocates, in-home service providers, families, and members of the legislature.

The other area of concentration for fieldwork was contact and follow-up with tribal representatives regarding the application of ICWA. We provided notification of our performance audit to officials from the eight Montana tribal nations and received responses from six of those nations. We interviewed tribal officials and social service personnel regarding the CPS system and the level of communication and coordination with DPHHS.

General CPS Process

The CPS process requires CFSD personnel, county attorneys, and courts to make numerous decisions from the time of the initial report of child abuse or neglect and throughout the case. Since these decisions can significantly impact children and families, they are "critical". Our review concentrated on examination of the uniformity of CPS practices, and the documentation associated with the various critical decisions made by social workers, county attorneys, and the courts. We grouped our issues into several topic areas including:

- Statutory compliance.
- Case file documentation.
- Services provided.
- Foster care placements.
- Supervisory review.

We developed recommendations for DPHHS in each of the noted topic areas. We made the following observations based on our interviews and file reviews.

- Non-uniformity – *Throughout the state we noted lack of uniformity in the CPS process, both by CFSD and entities external to CFSD, including county attorneys and district courts.* This non-uniformity in operations does not necessarily have a negative impact on the overall CPS process. We recommended changes to increase process consistency.
- Compliance - *Overall, CFSD complied with most federal and state regulations. However, we did identify noncompliance with state and federal statutes in select areas and instances.* While CFSD has responsibility for compliance with statute, county

attorneys and/or district courts are primarily responsible for legal aspects of the CPS process. Some noncompliance was due to uncontrollable factors such as parents leaving the state after a child was removed from their custody, and their whereabouts being unknown.

- Limited documentation – Case file documentation is an area needing improvement. We make documentation-related recommendations in four of the six major areas reviewed during our CPS file review. ***CFSD should focus case file documentation on “critical” decisions. CFSD personnel should better document the specifics of who, what, where, when, and why for each critical decision made during the CPS process.***
- Limited supervisory review – This is another area needing improvement and is a major cause for inconsistencies. ***We recommend CFSD increase emphasis on supervision to help address issues/concerns identified during our review. Refocusing supervisory responsibilities on file review and documentation to support critical decisions should improve the CPS process overall.***
- Limited Training – CFSD does not have an ongoing training program for social workers and social worker supervisors. ***We recommend CFSD set training standards and create a standardized training program that is centrally monitored. In addition, training for other stakeholders in the CPS process needs to be increased through communication and coordination with the Attorney General’s Office and Montana Supreme Court.***

Indian Child Welfare Act Findings

In practice, case management of ICWA and non-ICWA cases is similar, and our findings and recommendations presented above also apply to ICWA cases. However, the issues presented in this section only address activities specific to the application of ICWA. Topics include:

- Compliance with statutory requirements.
- CFSD communication and coordination with tribes.
- Documentation supporting CFSD actions
- Services provided to Native American families.
- CFSD compliance with ICWA-preferred placements.
- CFSD supervision of ICWA cases.

We made numerous recommendations related to compliance with ICWA and increasing communication and coordination with tribal governments. The following are some of our observations relative to the application of ICWA in Montana:

- Based on our review of ICWA files and interviews, ***we identified widespread noncompliance with the requirement a qualified expert witness testify at child abuse and neglect hearings.***

- ***CFSD provides technical assistance and training opportunities to tribal governments.*** However, there are needed improvements in two areas related to communication and coordination. These include: coordination in development of CFSD policies and procedures for managing ICWA cases; and assuring tribes are aware of abuse and neglect proceedings involving tribal members.
- Both Montana statute and ICWA require CFSD provide remedial efforts to prevent a removal, and rehabilitative efforts to reunify a family. As with evidentiary standards, ICWA sets a higher minimum level of effort for cases involving Indian children. In most instances, ICWA cases require more effort on the part of social workers to provide these services. ***CFSD personnel recognize the need to consider incorporating Native American culture and customs into cases. However, in some instances file documentation provided little information about activities and efforts to provide the level of services mandated by ICWA.***
- CFSD generally attempts to place Indian children in ICWA-preferred placements when children must be removed from the home. In many cases, CFSD placed Indian children with immediate or extended family, or in homes requested by the parents. The division still places many Indian children in non-Native American foster homes. While there are several reasons for these placements, ***CFSD needs to increase its emphasis and documentation relative to compliance with ICWA placement preferences.***

Other CPS-Related Findings

We also identified various issues that if changed or improved could enhance CPS system efficiency and effectiveness. The following outlines the noted issues.

- Administrative Rules need to be adopted for substantiation fair hearings
- CFSD should seek legislation to clarify its authority to maintain some child protective services information
- CFSD needs to establish a workload/caseload tracking system and determine, based on an analysis of the data, whether to seek legislative clarification of the division’s future mission.
- CFSD, Department of Justice, and the Montana Supreme Court should seek ways to encourage and expand training for legal professionals.

For a complete copy of the report (02P-02) or for further information contact the Legislative Audit Division at 406-444-3122; e-mail to lad@state.mt.us; or check the web site at <http://leg.mt.gov/audit>.