

**Analysis of the Utah Office of the Legislative Auditor General Performance Audit of the
Division of Child and Family Services**
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Earlier this month the Utah office of the Legislative Auditor General issued [an unusually-insightful report](#) on the state's child welfare agency, the Division of Child and Family Services (DCFS). This is NCCPR's analysis of that report.

For at least a decade, NCCPR has emphasized the need to focus on *entries* into foster care – the number of children taken over the course of a year – when looking at DCFS. That rate has long been above the national average – and far above the rate in states nationally-recognized as, relatively speaking, models for keeping children safe.

Under past leaders, DCFS played a shell game, urging everyone to ignore entries and just focus on the number of children in foster care on any given day – commonly called the snapshot number.

Looks like that's not going to work anymore.

Entries into care have increased over the past decade, but not by much (though this statewide figure may hide variations among regions). But, when rates of child poverty are factored in, that rate of entries *always* has been a little above the national average.

That's the reason for the shell game.

But the recent Legislative Audit of DCFS shows that the big increase has been in the snapshot number. That means while the problem of taking away too many children hasn't gotten much worse, there's been a worsening problem with getting children *out* of foster care, once they're in. And the cutback in in-home services cited by the audit probably is one of the reasons.

A notable feature of the audit is the finding that caseworkers themselves say they are resorting to foster care in cases in which they could have kept children safely in their own homes had the right kinds of help been available.

The problem with the misuse and overuse of foster care is not that it hurts parents, though of course it does. The problem isn't even that it's expensive, though it is. The problem is the enormous harm this does to children.

I'll get back to the harm to children at the end of this analysis. But first I want to highlight some of the other lessons to be learned from the audit.

One caveat before discussing those lessons: The problems uncovered are largely traceable to the previous DCFS Director, Duane Betournay. The current director, Brent Platt, is too new to be responsible for the current state of affairs, and since being named to the job he has made a number of statements indicating he understands these problems and is moving to deal with them. In another year, we'll have a better idea if he has succeeded.

KEY LESSONS FROM THE AUDIT

● **Utah does not actually have an Intensive Family Preservation Services program.** The report didn't put it that way, of course, but that's clear from the report's description of Utah's IFPS program. The "I" in IFPS stands for *Intensive*. Under the program cited as a model by the audit, Homebuilders, caseworkers work with no more than three families at a time. It still saves money because the intervention at that level of intensity lasts for no more than six weeks. After that the family is linked to less intensive help.

The biggest problem with implementing IFPS has been attempts to "dilute" the model – the assumption that if truly intensive help for six weeks works, then less intensive help for a longer time will work almost as well. So Utah's intervention lasts longer, but workers have to juggle eight cases at a time.

That doesn't work. The Washington State Institute for Public Policy analysis cited by the audit found that IFPS programs that follow the Homebuilders model have been proven to work; diluted programs have not.

So as Utah sets out to find one, consistent model for its IFPS program, it should be the real thing, the Homebuilders model. (For further information on this model, see [NCCPR Issue Papers](#) 10 and 11.)

But IFPS shouldn't be the only intervention. Some families need less – day care or a rent subsidy may be enough to avoid having children removed because of housing problems or "lack of supervision" charges. Some families need more – such as drug treatment, in programs where parents and young children can stay together during treatment.

DCFS workers need a full array of services available for families. And that can be done without more spending by curbing the misuse and overuse of substitute care. The audit itself shows the dramatic cost savings. Examples of the kinds of reforms needed, both in terms of services and due process for families, are available in the two "Solutions" sections of our website, www.nccpr.org.

● **DCFS overuses the worst form of care, institutionalization.** Residential treatment is a failure. Period. It simply does not work. That's not my conclusion, it's the conclusion of one review after another of the scholarly literature. Even a former head of one of their own trade associations, the Child Welfare League of America admits that they "lack good research" showing residential treatment's effectiveness and "we find it hard to demonstrate success..." Details and citations are [on our website here](#).

Yet in Utah, the number of children trapped in these places has increased by 50 percent over the past decade. Unfortunately, the audit doesn't provide raw numbers on placements (as opposed to placement days). But as of 2006, the most recent year for which data are available, Utah already had proportionately more children in institutions than the national average.¹ It wasn't much more, but since then much of the country has improved even as Utah's record has gotten worse.

● **Caseworkers are misreading the message from the *David C.* lawsuit and settlement.**

Nothing in the settlement calls on caseworkers to adopt a “take the child and run” mentality. But for whatever reason, perhaps the publicity surrounding the suit and its settlement and the failure of past DCFS leaders to send the right message, workers apparently are running scared. That’s what the audit means by workers becoming “risk averse.” The issue isn’t the risk to the child – workers may understand that foster care often is, in fact, the riskier option. Rather, it is the risk to their careers if they leave a child in her or his own home and something goes wrong.

Caseworkers often complain that “We’re damned if we do and damned if we don’t.” But that is not true.

I have followed child welfare for nearly 35 years, first as a reporter, now as an advocate. In all that time, I have never seen a caseworker, supervisor or other agency staffer fired, demoted, suspended, reprimanded, or even slapped on the wrist for taking away too many children. All of these things have happened to workers, supervisors, even agency chiefs, when one child was left in a home and something went wrong.

When it comes to taking away children, caseworkers are not “damned if they do and damned if they don’t.” They’re *only* damned if they don’t. Somehow the *David C.* settlement reinforced that mentality on the frontlines.

● **At least one region, and maybe two need better leadership.** In the Western Region, the regional director, or perhaps more than one person in that job, allowed a cycle of despair to set in. Workers started taking more children. Instead of examining those decisions to see if those removals really were necessary, instead of exploring every option for better alternatives, the director in this region diverted funds from keeping families together in order to pay for the foster care. Of course that made it even harder to keep families together, so the increase in foster care placements got even worse – to the point where, as noted above, workers in this region admit they are taking away children who could remain safely in their own homes had the right kinds of help been available.

The issue of screening in calls for investigations, discussed below, raises questions about leadership in the Eastern Region.

● **Private agencies are putting their own interests ahead of the needs of children.** OK, that’s about as much of a revelation as the fact that the world is round – but it’s still good to see it recognized in the audit. Specifically the audit notes that

With present contracting practices, the business of providing foster care may be at odds with the practice of expedited permanency.

In other words, DCFS places a child in a group home or institution, or in a “proctor home” overseen by a private agency. Then it pays that private agency for every day it holds the child in foster care. And then DCFS lets the private agency itself decide when it would be a good idea for the child to leave its care – what the audit calls a culture of “provider trust.”

You don't suppose that has something to do with the fact that the length of stay in foster care keeps going up?

In contrast consider what happened in Illinois, which used to pay agencies the way Utah does now: In the late 1990s, a child was more likely to be trapped in foster care in Illinois than any other state – more than 50,000 children were in foster care on any given day. Then Illinois reversed the financial incentives for private agencies. They are rewarded both for adoptions (which often are conversions of kinship placements to subsidized guardianships) *and* for returning children safely to their own homes. They are penalized for prolonged stays in foster care. Today fewer than 16,000 children are in foster care in Illinois – and a high percentage of them are with relatives. Illinois takes away children at one of the lowest rates in the country, half the rate of Utah when poverty is factored in. Independent, court-appointed monitors have found that child safety has improved.

● **Utah remains profoundly and irrationally hostile to kinship care.** Study after study has found that placing children with relatives is better for children's well-being, more stable, and most important safer than what should properly be called "stranger care." Yet Utah has long lagged behind in placing children with extended family members – using kinship care at one of the lowest rates in the nation. Unlike 49 other states, Utah misread the Adam Walsh Child Protection Act in a way that led it to push the Legislature to enact a law placing needless roadblocks in the way of placing children with relatives – prolonging stays in institutions. Only after intense pressure from NCCPR and other groups did DCFS reverse course and get the law repealed. Details are in [our report on Utah child welfare](#).

Now the audit reveals that Utah even refused to join the many states that are taking advantage of federal legislation to allow "subsidized guardianship" – which allows grandparents to give their grandchildren permanency similar to adoption but without having to fight their own children over termination of parental rights.

The audit notes that, fortunately, the new DCFS director is reconsidering this shortsighted approach. He has made a point of noting his agency's past failures concerning kinship care.

● **Utah defines maltreatment too broadly.** Again, not much of a revelation; it's something I've raised repeatedly in discussing child welfare in Utah. Particularly alarming is Utah's fanaticism about cases in which a child witnesses domestic violence – the single largest category of substantiated maltreatment in Utah. I know of no other state as fanatical about this.

And once again, the problem is the harm to children. Witnessing domestic violence can indeed be harmful to a child. But taking the child from the non-offending parent is much more harmful. That's why such removals actually are prohibited in New York as a result of a class action consent decree. (NCCPR's Vice President was co-counsel for plaintiffs.) Expert after expert was scathing in denouncing the practice of removing children in these cases. The judge's own summary of their testimony is [on our website here](#).

This may well explain why the proportion of cases "substantiated" by DCFS is nearly double the national average.² It is unlikely that Utah is a cesspool of depravity with double the child abuse of the nation as a whole.

● **Whether or not you're a child abuser in Utah depends on where you live in Utah – at least according to DCFS.** The graph on page 35 of the audit shows an amazing disparity in the number of calls accepted for investigation in the Eastern Region compared to the others. It is unlikely that, within Utah, the Eastern Region is an even greater cesspool of depravity.

DCFS is right to move toward a centralized intake system and the audit is right to encourage it. But that needs to be accompanied by a rigorous system for screening calls.

ONE MYTH THAT WENT UNCHALLENGED

Although the audit is commendable in many respects, even the auditors accepted one common myth propounded for at least a decade: the one about Utah having unusually low rates of child removal and an unusually low proportion of children in foster care.

That's only true if one blithely ignores the single largest factor both in actual maltreatment and in wrongful removal of children – poverty.

Here's how we explain it in the *NCCPR Rate-of-Removal Index*, our annual comparison of the propensity of states to take children from their parents:

We could have simply compared the number of children removed to a state's total child population. But then all the states with high rates of removal and high child poverty rates would complain that this was unfair because we didn't consider the single largest risk factor for actual abuse, (not to mention the factor most often confused with "neglect") – poverty. In addition, since child protective services agencies almost never take children from affluent families, using the total child population would allow affluent states that still take large numbers of children from impoverished neighborhoods to camouflage this fact. So, in order to factor that out, and come closer to an apples-to-apples comparison, we used the Census Bureau's Current Population Survey, Annual Demographic Survey to determine the number of people under age 18 living in poverty in each state.

We then compare the number of children removed from their parents in each state to this three-year average estimate of the number of people under age 18 in that state who are living in poverty.

As the above indicates, we use this measure – factoring in poverty - in every discussion we have in every state, including states where the rate of removal is *lower* when poverty is factored in.

And by that estimate, as noted above Utah's rate of removal actually is slightly above the national average and significantly above the rate in systems widely regarded as, relatively-speaking, models for keeping children safe. And 11 states have proportionately fewer children in foster care on any given day.

THE HARM TO CHILDREN

At the very beginning of this analysis I said I would return to the matter of the harm to children caused by Utah taking away so many children needlessly, and prolonging foster care for an ever larger number of children.

This is important to emphasize in light of the *Salt Lake Tribune* editorial on January 20. The editorial seemed to take offense at the very notion of auditing the state child welfare agency to measure its efficiency. But there is no time when efficiency is more important than when, literally, children's lives are on the line.

More important, the editorial fell into the common trap of equating child removal with child safety. In fact:

- [A major study of foster care “alumni”](#) found they had twice the rate of post-traumatic stress disorder of Gulf War veterans and only 20 percent could be said to be “doing well.” [Two more studies, of more than 15,000 cases](#), found that even maltreated children left in their own homes with little or no help fared better, on average, than *comparably-maltreated* children placed in foster care.

- All that harm can occur even when the foster home is a good one. The majority are. But the rate of abuse in foster care is [far higher than generally realized](#) and far higher than in the general population. That same alumni study found that one-third of foster children said they'd been abused by a foster parent or another adult in a foster home. (The study didn't even ask about one of the most common forms of abuse in foster care, foster children abusing each other). Switching to orphanages won't help -- the record of institutions is even worse.

- Worst of all, the more that workers are overwhelmed with children who don't need to be in foster care, the less time they have to find children in real danger. So they make even more mistakes in both directions. That is almost always the real explanation for the horror-story cases that make headlines.

None of this means no child ever should be taken from her or his parents. Rather, it means that foster care is an extremely toxic intervention that must be used sparingly and in small doses. Utah needs to stop upping the dose of foster care.

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¹ The Child Welfare League of America used to have a database which compiled the reports submitted by states to the federal government on types of placements. CWLA no longer maintains this database but a state-by-state printout of the 2006 figures is available from NCCPR.

² U.S. Department of Health and Human Services, Child Maltreatment 2009, Table 2-3, pp. 13,14, available online at: <http://www.acf.hhs.gov/programs/cb/pubs/cm09/cm09.pdf>