



Commonwealth of Massachusetts
Office of the State Auditor
Suzanne M. Bump

Making government work better

Official Audit Report – Issued May 16, 2019

Office of the Child Advocate

For the period July 1, 2016 through June 30, 2018





Commonwealth of Massachusetts
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Making government work better

May 16, 2019

Ms. Maria Mossaides, Child Advocate
Office of the Child Advocate
1 Ashburton Place, Fifth Floor
Boston, MA 02108

Dear Ms. Mossaides:

I am pleased to provide this performance audit of the Office of the Child Advocate. This report details the audit objectives, scope, methodology, and conclusions for the audit period, July 1, 2016 through June 30, 2018. My audit staff discussed the contents of this report with management of the agency, whose comments are reflected in this report.

I would also like to express my appreciation to the Office of the Child Advocate for the cooperation and assistance provided to my staff during the audit.

Sincerely,

A handwritten signature in blue ink, appearing to read "SMB", written over a light blue circular background.

Suzanne M. Bump
Auditor of the Commonwealth

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LIST OF ABBREVIATIONS

CIR	critical incident report
DCF	Department of Children and Families
IR	institutional report
OCA	Office of the Child Advocate
OSA	Office of the State Auditor

EXECUTIVE SUMMARY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of the Office of the Child Advocate (OCA) for the period July 1, 2016 through June 30, 2018. In this performance audit, we examined OCA's processing of critical incident reports that it receives from executive agencies, its processing of institutional reports (i.e., 51A and 51B reports¹) of abuse and/or neglect that have been investigated and supported by the state's Department of Children and Families, and the administration of its complaint process.

Our audit revealed no significant instances of noncompliance by OCA that must be reported under generally accepted government auditing standards. However, we did identify an issue we believe warrants OCA's attention, which we have disclosed in the "Other Matters" section of this report.

1. A report filed with the Department of Children and Families (DCF) on behalf of a child that alleges abuse or neglect of a child is called a 51A report. Section 51A of Chapter 119 of the General Laws requires certain people, such as medical personnel or school staff members, to file a report with DCF when they have reasonable cause to believe that a child is a victim of abuse or neglect. The 51B report is the DCF investigation into the 51A allegation of abuse or neglect.

OVERVIEW OF AUDITED ENTITY

The Office of the Child Advocate (OCA) was established in 2008 by Section 2 of Chapter 18C of the Massachusetts General Laws, which states,

There shall be an office of the child advocate which shall be independent of any supervision or control by any executive agency. The office shall:

- (a) ensure that children involved with an executive agency, in particular, children served by the child welfare or juvenile justice systems, receive timely, safe and effective services;*
- (b) ensure that children placed in the care of the commonwealth or treated under the supervision of an executive agency in any public or private facility shall receive humane and dignified treatment at all times, with full respect for the child's personal dignity, right to privacy, and right to a free and appropriate education in accordance with state and federal law.*

In 2016, Section 2 of Chapter 18C was amended and added the following responsibilities to OCA:

The office shall . . .

- (c) examine, on a system-wide basis, the care and services that executive agencies provide children; and*
- (d) advise the public and those at the highest levels of state government about how the commonwealth may improve its services to and for children and their families.*

The office shall act to investigate and ensure that the highest quality of services and supports are provided to safeguard the health, safety and well-being of all children receiving services. The office shall examine systemic issues related to the provision of services to children and provide recommendations to improve the quality of those services in order to give each child the opportunity to live a full and productive life.

Section 51B(l) of Chapter 119 of the General Laws states that OCA should be notified of substantiated reports of abuse and/or neglect that have occurred at institutional ("out-of-home") settings licensed or funded by the Commonwealth (see [Appendix A](#)).

OCA is headed by the Child Advocate. A 2016 amendment to Section 3 of Chapter 18C of the General Laws changed how the Child Advocate is appointed: rather than being appointed solely by the Governor (from a list of nominees submitted by a 14-person nominating committee, made up of representatives

from both public and private organizations), the Child Advocate is now appointed through a majority vote of the Governor, Attorney General, and State Auditor.²

At the end of our audit period, OCA had seven employees. OCA received \$800,000 in funding from the Commonwealth for fiscal year 2017 and \$800,000 for fiscal year 2018.

Critical Incident Reports

Section 5 of Chapter 18C of the General Laws states that executive department agencies³ must inform OCA when a critical incident has occurred. Section 1 of Chapter 18C of the General Laws defines “critical incident” as follows:

(i) a fatality, near fatality or serious bodily or emotional injury of a child who is in the custody of or receiving services from an executive agency or a constituent agency; or (ii) circumstances which result in a reasonable belief that an executive agency or a constituent agency failed in its duty to protect a child and, as a result, the child was at imminent risk of, or suffered serious bodily or emotional injury or death.

A “near fatality” can only be designated as such by a hospital staff member and requires that the hospital staff member determine that a child has a life-threatening condition as a result of physical abuse, sexual abuse, or neglect.

It should also be noted that OCA reviews and confirms critical incident report statistics with the various Executive Office of Health and Human Services agencies for OCA’s annual report, including the Department of Children and Families (DCF), Department of Developmental Services, Department of Public Health, Department of Youth Services, and Department of Mental Health. This process involves confirming the number and types of critical incidents reported by each agency.

Institutional Reports

Institutional reports (IRs) are reports of institutional abuse and/or neglect that has occurred in out-of-home settings connected to certain state agencies. These settings include licensed preschools and

2. Generally accepted government auditing standards require that organizations be free from organizational impairments to independence with respect to the entities they audit. Under Section 3 of Chapter 18C of the General Laws, the voting panel consists of three members, including the State Auditor. This disclosure is made for informational purposes only, and this circumstance did not interfere with our ability to perform our audit work and report its results impartially.

3. Section 1 of Chapter 18C defines an executive agency as “a state agency within the office of the governor, including the executive office of education, the executive office of public safety and security, executive office of health and human services, and their constituent agencies, the Massachusetts interagency council on housing and homelessness and the executive office of housing and economic development.”

daycares, foster care environments, group homes, residential treatment programs, elementary and secondary schools, and youth correctional facilities. OCA receives IRs (51A and 51B reports) that have been investigated and supported by DCF. OCA staff members review every report to identify trends regarding the treatment of children in out-of-home settings and obtain more information from agencies when needed.

DCF gives OCA a list of case numbers associated with the IRs. OCA policy requires OCA's program coordinator to retrieve IRs from i-FamilyNet (DCF's case management database) using the case numbers provided by DCF, save a PDF of each report on an OCA shared drive, and record the report information in OCA's database. Under OCA policy, every month the director of quality assurance must assign each IR to a staff member for review and hold a monthly meeting to review, analyze, and discuss each report. Each staff member is required to summarize their assigned cases, present them at the meeting, and highlight any questions or concerns that may require follow-up.

Complaint Line Contacts

Anyone with concerns about a child (age 12 or under) or youth (age 13–19) receiving services from a state agency can contact OCA, which can help them resolve their problems with the agency or identify appropriate resources. OCA can receive complaints in six ways: in person or by fax, email, postal mail, online complaint form, or telephone. The most common is telephone; the second most common is email. OCA's "Complaint Line Policy" requires that all complaints be recorded in OCA's database and that a staff member contact the complainant within 48 hours of receipt of a concern. Complaints totaled 398 in fiscal year 2017 and 356 in fiscal year 2018.

AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of certain activities of the Office of the Child Advocate (OCA) for the period July 1, 2016 through June 30, 2018.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Below is a list of our audit objectives, indicating each question we intended our audit to answer and the conclusion we reached regarding each objective.

Objective	Conclusion
1. Does OCA record and review critical incident reports (CIRs) according to its policies and procedures?	Yes
2. Does OCA record and respond to complaint line contacts according to its policies and procedures?	Yes

To achieve our audit objectives, we gained an understanding of the internal controls we determined to be relevant to our audit objectives and tested the controls' operating effectiveness over CIRs and institutional reports (IRs). We also performed the following procedures.

CIRs and IRs

We tabulated and analyzed the CIRs and IRs that OCA received during the audit period to gain a better understanding of the volume and types of incidents reported to OCA. During the audit period, OCA received 277 CIRs and 562 IRs. In addition, we performed the following procedures:

- We tested a nonstatistical judgmental sample of 40 out of 277 CIRs received by OCA during the audit period to determine whether OCA recorded them on its tracking spreadsheet and in its database.

- We chose a nonstatistical judgmental sample of 8 out of 562 IRs, which we tested to determine whether each IR was retrieved from i-FamilyNet, saved on the OCA shared drive, and recorded in OCA's database.

Complaint Line Contacts

We judgmentally chose a nonstatistical sample of 40 out of 754 complaint line contacts from the audit period. We tested each contact to confirm that it was (1) entered in OCA's database and (2) responded to in a timely manner.

We used a nonstatistical sampling approach for our testing and therefore cannot project our results to the entire population.

Data Reliability

To determine the accuracy and completeness of data used during the audit, we conducted interviews/walkthroughs with key OCA personnel to enhance our understanding of the data and extracted CIRs and 51A and 51B reports from OCA's database. We performed a reconciliation of case lists we received from OCA to monthly case lists that OCA received from the Department of Children and Families to ensure that OCA retrieved all the IRs it was supposed to receive from i-FamilyNet for the audit period. We also conducted basic reasonableness checks on spreadsheets by checking for duplicate cases and hidden rows, columns, and worksheets. Based on the analysis conducted, we determined that the data obtained were sufficiently reliable for the purposes of the audit.

OTHER MATTERS

The Office of the Child Advocate should be provided with more information regarding sexual abuse of children.

According to the Office of the Child Advocate's (OCA's) website, the agency's mission is "to ensure all children in the Commonwealth receive appropriate, timely and quality services with full respect for their human rights." Under Section 2 of Chapter 18C of the Massachusetts General Laws, it is also required to, among other things, "investigate and ensure that the highest quality of services and supports are provided to safeguard the health, safety and well-being of all children receiving services." However, the amount of data that OCA receives regarding instances of child abuse is limited, which may inhibit its ability to effectively fulfill its mission.

Specifically, Section 51B of Chapter 119 of the General Laws requires the Department of Children and Families (DCF) to notify OCA of substantiated reports of abuse or neglect that take place in institutional ("out-of-home") settings licensed or funded by the Commonwealth (see [Appendix A](#)). These institutional settings include licensed preschools and daycares, foster care environments, group homes, residential treatment programs, elementary and secondary schools, and youth correctional facilities. The reports include sexual abuse data regarding incidents occurring at residential placement facilities, childcare providers, and foster homes. Perpetrators have included a direct care staff member, a husband of a childcare provider, and a foster parent.

However, allegations of sexual abuse against children in non-institutional settings, such as incidents that occur in a home with a biological parent or legal guardian, are not required to be sent to OCA. Instead, these allegations of sexual abuse are reported to DCF, which does not report this information to OCA. In these cases, a mandated reporter⁴ completes a form called a 51A report and submits it to DCF. The report is reviewed and a decision is made about whether to screen the report in or out.⁵ The main reasons for screening in a report are concerns for child safety and the existence of a reportable condition under Section 51A of Chapter 119 of the General Laws. DCF's "Protective Intake Policy" (Policy #86-015) defines "reportable condition" as follows:

-
4. Mandated reporters are obligated to report suspected abuse and/or neglect. They include medical doctors, schoolteachers, police officers, school administrators, and guidance counselors. For a full definition, see Section 21 of Chapter 119 of the General Laws.
 5. DCF's staff determines whether there is an immediate concern for child safety, such as abuse or neglect by a caregiver or risk of sexual exploitation or human trafficking; if there is, the corresponding report is called a screened-in report. Reports that do not meet this criterion may be screened out and referred to other agencies.

Information indicating that a child may have been abused and/or neglected or may be at risk of being abused and/or neglected by a caregiver, or that a child may have been or may be at risk of sexual exploitation and/or human trafficking.

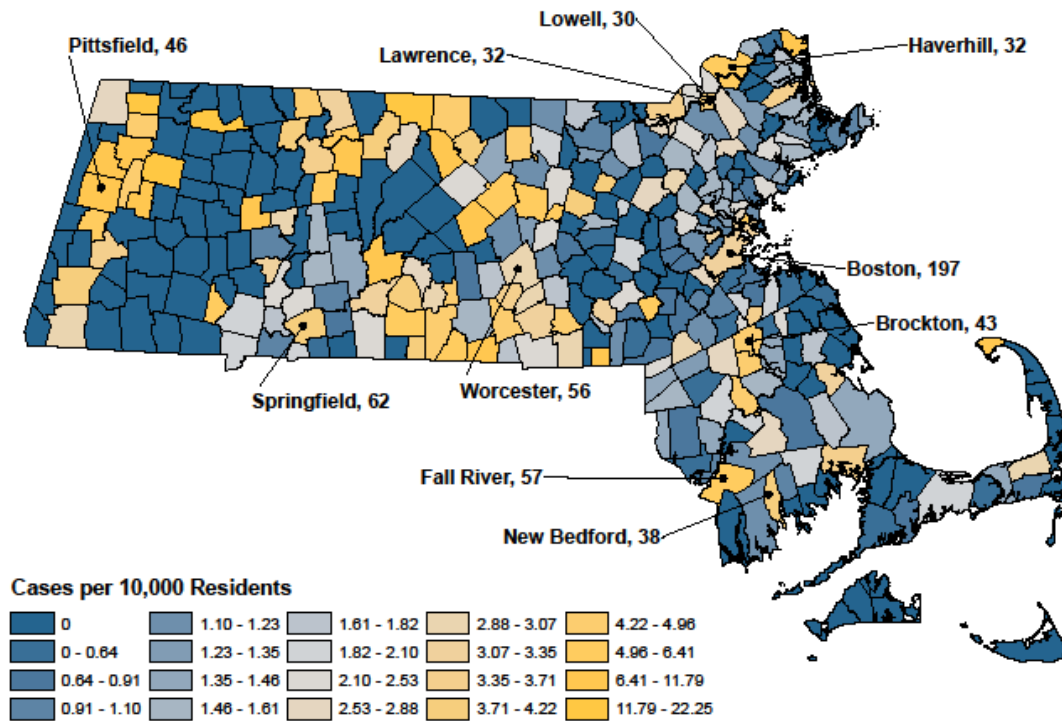
For each report that is screened in, a decision is made on whether the incident constitutes an emergency or non-emergency. An emergency response is completed within 5 working days, and a non-emergency response is completed with 15 working days. DCF then determines whether the allegation is supported. For allegations that are supported, DCF opens a case for intervention, assessment, and action planning. Depending on the seriousness of the allegation, a case can be referred to the appropriate district attorney's office for prosecution (see [Appendix B](#) and [Appendix C](#)).

In order for us to assess to what extent incidents of sexual abuse may be occurring in non-institutional settings, OCA provided us with institutional reports (supported 51A and 51B reports) that it obtained from DCF regarding alleged abuses against children in out-of-home settings. This information covered fiscal years 2017 through 2018. OCA also provided us with a list of sexual abuse allegations that were made in the Commonwealth during the period July 1, 2017 through October 31, 2017 that contained both institutional and non-institutional sexual abuse incidents.

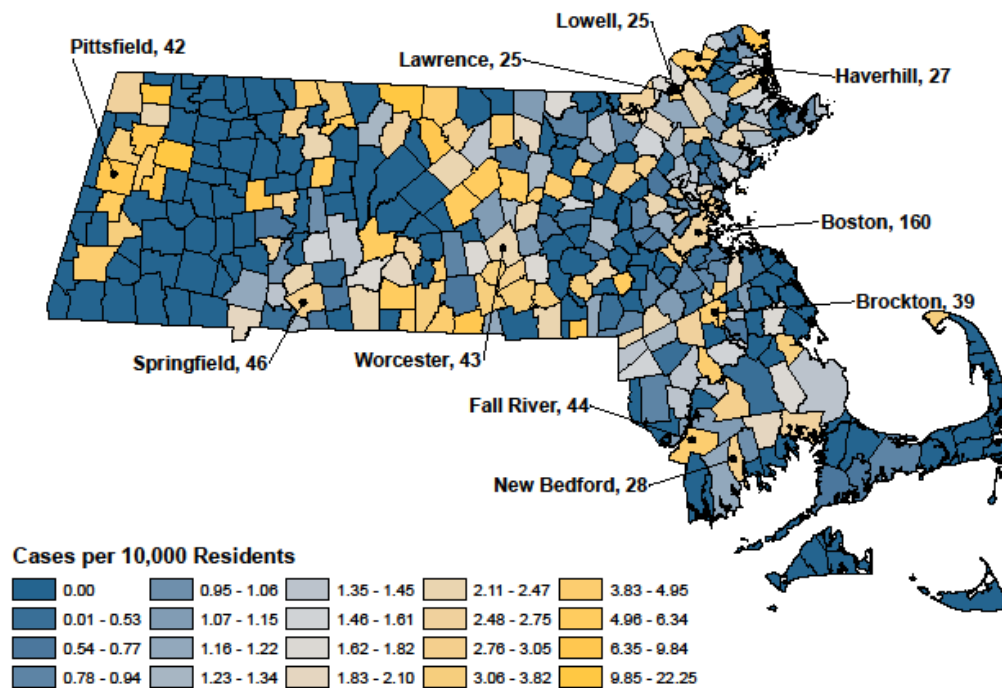
This information indicated that from July 1, 2017 through October 31, 2017, DCF received 2,681 reports of sexual abuse against children, of which 1,505 were serious enough to warrant further investigation by DCF and/or area district attorneys. (See the location maps below, which display the top municipalities where substantiated sexual abuse occurred.) Of the 1,505 incidents, 1,482 (98%) were committed in non-institutional settings, and therefore OCA was not required to analyze them.

Although it is not required by law or regulation, we believe that OCA could better achieve its mission of protecting children by receiving detailed information of supported allegations of sexual abuse and other abuse that occur in both institutional and non-institutional settings. In the Office of the State Auditor's (OSA's) opinion, not receiving complete information about this issue may inhibit OCA's ability to effectively advocate for all children in the Commonwealth who are receiving services from state agencies.

All Sexual Abuse Case Locations⁶

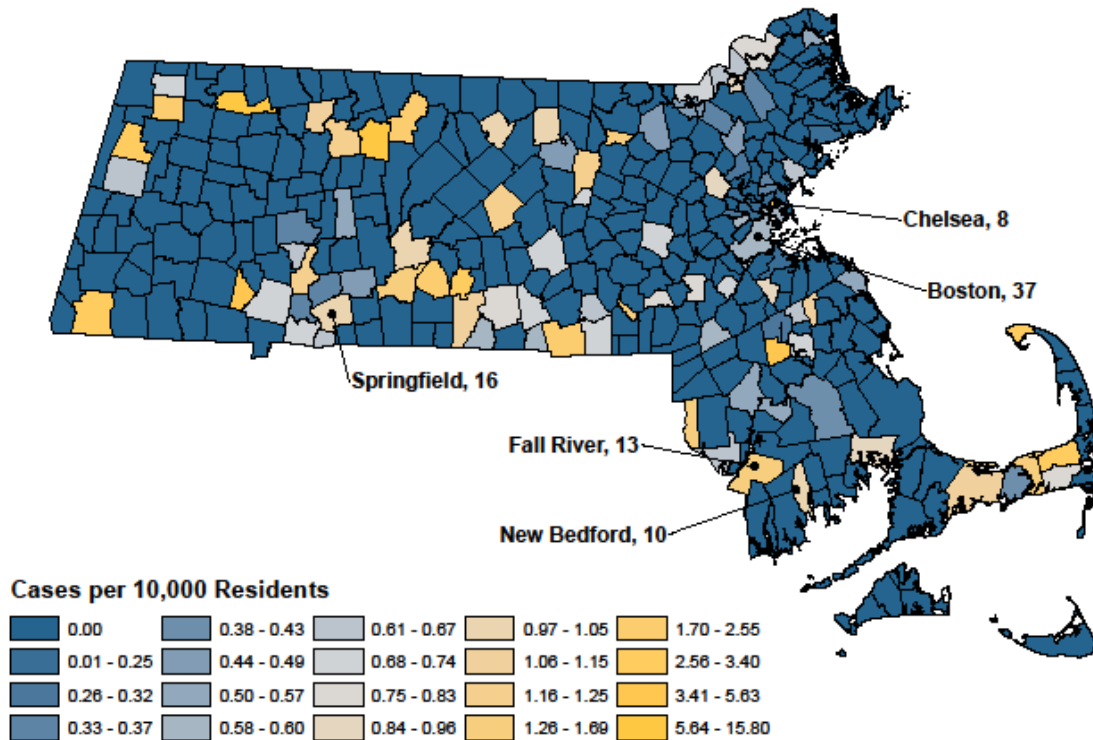


District Attorney Referral Case Locations



6. Overlap in number ranges is due to rounding.

Screened-In Supported Case Locations



In response to this issue, OCA provided the following comments:

In the "Other Matters" section of the report, you suggest that the OCA could better achieve its mission if we were to receive detailed information regarding supported sexual abuse allegations for non-institutional settings. As you know from your audit, the OCA carefully reviews all substantiated allegations of any type of neglect and abuse, whether sexual in nature or not, when it occurs in an out-of-home setting.

Additionally, over the past two years, the OCA has devoted time and resources to develop a deeper understanding of child sexual abuse on a systemic level. We have completed an internal analysis of supported sexual abuse allegations in out-of-home settings to understand the types of sexual abuse occurring, and DCF's response. We have also met with several state agency personnel and community providers to understand the state's multi-disciplinary response to the sexual exploitation and human trafficking of youth. As a result of all this work, the OCA feels that the current system, which includes law enforcement, the District Attorneys, DCF and the Child Advocacy Centers, is responding to child sexual abuse in an effective way. We are supporting additional funding for the Child Advocacy Centers to enable them to do more work with children and youth with problematic sexual behaviors.

The Child Advocate co-chairs the Child Sexual Abuse Prevention Task Force. The Task Force issued its final report and recommendations in May 2017. The report provides a framework for actions that all youth servicing organizations should undertake to prevent sexual abuse as well as

to identify and properly respond to reports of such abuse. Throughout Fiscal Year 2018, the Child Advocate participated in a series of local community meetings to gain insight into the type of supports that local youth serving organizations needed to implement the sexual abuse prevention framework. In collaboration with the Children's Trust, the OCA is working to sponsor an interactive web-portal to provide the tools to implement the framework and to provide appropriate training to staff and volunteers.

The OCA is currently launching a multiagency review, and ultimate rewrite, of the Mandated Reporter Statute. This effort will present an opportunity to address child sexual abuse from the point of view of potential reporters, and to identify any gaps that may exist.

As you know, we requested from DCF a list of all reports of sexual abuse for non-institutional settings. This report contained all allegations, whether or not the child subject to the abuse was receiving, or had ever received, services from the Commonwealth. We are working with DCF to better understand the implications of this data and will continue to examine the DCF response to victims of sexual abuse to ensure it is appropriate and that it considers the prior history of the victim as well as the current and future plans for the victim.

The Child Advocate is the cochair, with the DCF Commissioner, of the Data Work Group which is completing its effort to overhaul what information DCF presents to the public and how it is presented. The Work Group is currently identifying additional data needs and the OCA will explore the need for additional reporting in this area.

The OCA mission is focused on the systems that serve children in the Commonwealth. It would be a huge expansion of the OCA's mandate for it to start analyzing all sexual abuse allegations of children in the Commonwealth, regardless of whether or not they were receiving services. . . . We feel that our continued involvement in, and support of, the existing systems in the Commonwealth focused on [the] issue of sexual abuse is sufficient to ensure that our children and youth are well served.

OSA acknowledges that OCA is taking significant measures to better understand the issue of child sexual abuse throughout the Commonwealth and to ensure the safety of children, such as facilitating a rewrite of the mandated-reporter law (Section 51A of Chapter 119 of the General Laws). Further, OSA recognizes that OCA's mandated responsibilities apply only to children who are receiving services from the Commonwealth. However, as noted in our report, OCA is charged with, among other things, "[advising] the public and those at the highest levels of state government about how the Commonwealth may improve its services to and for children and their families." OSA believes that OCA could better fulfill this responsibility if DCF were mandated to provide OCA with reports on instances of child abuse and neglect that occur in non-institutional settings. While OCA should not necessarily be obligated to subject these reports to the same level of scrutiny as those related to sexual abuse in institutional settings, this information would allow OCA to obtain a more comprehensive understanding

of this problem on a systemic level; provide information to the appropriate entities so they could address any identified problems promptly; and also, to some extent, assess the effectiveness of the system that has been established to address this problem.

For example, for the non-institutional child sexual abuse data that we reviewed during our audit, we were able to identify the communities that had the highest number of incidents of child sexual abuse. OCA could use these data to inform local communities and lawmakers of this fact, which would allow them to take whatever measures they deemed necessary to address this problem in their areas.

APPENDIX A

Section 51B(I) of Chapter 119 of the Massachusetts General Laws

If the department substantiates a report alleging that abuse or neglect occurred at a facility approved, owned, operated or funded, in whole or in part, or was committed by an individual the department has reason to believe was licensed by the department of elementary and secondary education, the department of early education and care, the department of mental health, the department of developmental services, the department of public health or the department of youth services, the department shall notify the office of the child advocate and the affected department, in writing, by transmitting a copy of the report filed under section 51A and the department's written evaluation and written determination.

If the department substantiates a report alleging that abuse or neglect was committed by an individual who was employed at a facility approved or licensed by the department of early education and care, then the department shall notify the office of the child advocate and the department of early education and care, in writing, by transmitting a copy of the report filed under section 51A and the department's written evaluation and written determination.

APPENDIX B

Section 51B(k) of Chapter 119 of the Massachusetts General Laws

[The Department of Children and Families] shall notify and shall transmit copies of substantiated 51A reports and its written evaluations and written determinations . . . to the district attorney for the county in which the child resides and for the county in which the suspected abuse or neglect occurred, and to the local law enforcement authorities in the city or town in which the child resides and in the city or town in which the suspected abuse or neglect occurred when the department has reasonable cause to believe that 1 of the conditions listed below resulted from abuse or neglect.

The department shall immediately report to the district attorney and local law enforcement authorities . . . when early evidence indicates there is reasonable cause to believe that 1 of the conditions listed below resulted from abuse or neglect:

- (1) a child has died or has suffered brain damage, loss or substantial impairment of a bodily function or organ, substantial disfigurement, or serious physical injury including, but not limited to, a fracture of any bone, a severe burn, an impairment of any organ or an injury requiring the child to be placed on life-support systems;*
- (2) a child has been sexually assaulted . . .*
- (3) a child . . . is a sexually exploited child or a child who is otherwise a human trafficking victim; or*
- (4) any other disclosure of physical abuse involving physical evidence which may be destroyed, any current disclosure by a child of sexual assault, or the presence of physical evidence of sexual assault.*

APPENDIX C

Policy for Referrals to the District Attorney and Local Law Enforcement Authority (Policy #85-012)

Mandatory referrals are made to the District Attorney for the county and the local law enforcement authority of the city or town in which the reported child resides and in which the alleged incident occurred. The Department's obligation to notify these entities is independent from its statutory obligation to intervene where it determines that a child is at risk of abuse or neglect. As a result, the Department will often be required to contact the District Attorney(s) and local law enforcement authority(ies) at an early stage, such as at screening, before a determination has been made that Department involvement is required. Likewise, the Department is required to make notifications regardless of the amount of time that has passed since the reported incident of abuse or neglect and even where the Department is not able to identify an alleged perpetrator.

The Department must contact the appropriate District Attorney(s) and local law enforcement authority(ies) as soon as it has reason to suspect that one of the conditions listed below may have resulted from abuse or neglect:

- a. A child has died.*
- b. A child has suffered brain damage, loss or substantial impairment of a bodily function or organ, substantial disfigurement, or other serious physical injury including, but not limited to:*
 - a fracture of any bone,*
 - a severe burn,*
 - an impairment of any organ or*
 - an injury requiring the child to be placed on life-support systems.*
- c. A child has been sexually assaulted. This category includes the crimes of indecent assault and battery, and rape of a minor, in any form.*
- d. A child has been the victim of human trafficking—even when information does not point to involvement by a caregiver. This category covers a child who has been subjected to harboring, recruitment, transportation, provision, obtaining, patronizing or soliciting for the purpose of:*
 - sex trafficking (i.e., inducement to perform a commercial sex act, forced sexual services and/or sexually explicit performance including the production of pornography); and/or*
 - labor trafficking (i.e., forced services, involuntary servitude, peonage, debt bondage or slavery).*

- e. A child has been sexually exploited—even when information does not point to involvement by a caregiver. A child is the victim of sexual exploitation if the child:*
- engages in or offers or agrees to engage in sexual conduct with another person in return for a fee or in exchange for food, shelter, education or care;*
 - is encouraged or recruited by another person to engage in prostitution; and/or*
 - is encouraged or recruited to consent or consents to engage in a sexually-explicit performance or to be the subject of lascivious, obscene or pornographic photography, filming or other depiction.*
- f. Any other disclosed physical or sexual abuse that involves physical evidence that is at risk of loss or destruction, or any disclosure by a child of an incident of sexual abuse.*