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STATE OF NEW YORK  
**OFFICE OF THE STATE COMPTROLLER**

June 24, 2004

Mr. John A. Johnson  
Commissioner  
New York State Office of Children and Family Services  
52 Washington Street  
Rensselaer, NY 12144

Re: Accounting for and Contacting  
Children in Foster Care  
Report 2003-S-35

Dear Mr. Johnson:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law, we audited the Office of Children and Family Services' (OCFS) oversight of selected local social services districts in their efforts to account for and maintain required contacts with foster care children in district care. Our audit covered the period September 1, 2002 through January 31, 2004.

**A. Background**

OCFS' mission, which is to promote the well-being and safety of children, families and communities, includes oversight of the State's foster care program. Foster care placement is intended as a temporary out-of-home arrangement for children whose parents are not able to care for them and for children awaiting adoption. OCFS provides technical support and supervision to the State's 58 local social services districts (districts) that provide foster care services. Districts may provide foster care services directly or contract with voluntary agencies to provide them. District caseworkers coordinate the delivery of foster care program services required by the Social Services Law (Law) and regulations. Caseworkers are responsible for developing service plans; for maintaining a written case record to document case progress; for contacting the children, parents and foster parents; and for developing plans for the child's permanent placement (i.e., reunification with his or her family or freed for adoption).

OCFS uses the Child Case Review Service System (CCRS) to record the foster child's status and to record actions taken on the child's behalf. For example, CCRS documents actions taken by districts to initiate judicial proceedings intended to free the child for adoption. OCFS also uses

CCRS information to pay foster care parents and other providers for foster care services. According to CCRS data, the State had 12,016 children in foster care outside of New York City as of August 31, 2003. Of this number, 11,534 children were In Care (placed in foster care); 250 children were identified as Absent from Care with Consent (temporarily absent from foster care placement with district approval); and 232 children were categorized as Absent without Consent (absent without district approval and unaccounted for), or AWOL.

Districts are responsible for the foster children in their custody, and must be able to account for each child. Title 18 of the New York Codes, Rules and Regulations (Title 18) also requires caseworkers to have face-to-face contacts with foster children to gauge the child's adjustment to placement and to arrange for services the child needs. Title 18 requires at least two contacts during the first month of placement; in subsequent months, caseworkers must provide at least one contact each month for children who have special needs for supervision and services, or at least one contact every three months for children without such needs. Title 18 requires that all services, contacts, visits, interviews and information be recorded in progress notes.

In a prior audit (*Report 2000-S-2, issued March 13, 2001*), we found that OCFS needed to improve its oversight of district foster care activities by developing a risk assessment instrument to regularly monitor district compliance with relevant laws and regulations. To implement this recommendation, OCFS developed Safety and Permanency Assessments (SPAs), and now uses SPAs as its primary means of monitoring district foster care activities. The SPAs include questions about each aspect of a child's stay in foster care, including the number of contacts with the district caseworker. When OCFS personnel visit a district office to conduct a SPA, they review case files and assess district performance by completing SPA questions. Thus, OCFS personnel can use SPAs to determine whether the number of contacts made meets the Title 18 requirements. If the completed SPA identifies deficiencies in case management, the district must submit a corrective action plan to OCFS, detailing the district's correction plans.

## **B. Audit Scope, Objectives and Methodology**

For the period September 1, 2002 through January 31, 2004, we audited districts' accountability for foster children in their care and OCFS' oversight of selected districts' foster care contacts. The objectives of our performance audit were to determine: whether selected districts outside New York City can physically locate the foster children in their custody; whether these districts provide foster children with the required number of caseworker contacts; whether districts make diligent efforts to find children reported as Absent without Consent; and whether OCFS adequately oversees districts' compliance with Title 18 contact requirements. We excluded the New York City district from our audit scope because we plan to do a separate audit of this district's foster care services.

To accomplish our objectives, we interviewed OCFS and district officials and reviewed relevant State laws and regulations. Our audit scope included children in the custody of the eight districts (Albany, Erie, Monroe, Nassau, Onondaga, Orange, Suffolk and Westchester Counties) outside New York City with the largest number of children in foster care. These 8 districts collectively accounted for 6,196 (53 percent) of the 11,784 upstate foster children outside NYC that OCFS reported to be in care (i.e., In Care or Absent from Care with Consent) as of August 31, 2003.

We selected three samples of foster care cases: in the first sample, we tested districts' awareness of children's location and their compliance with contact requirements; in the second, we tested whether districts could readily locate children who had recently entered foster care; and in the third, we tested the diligence of district efforts to find AWOL foster children. The first sample was a random sample comprising 112 of the 6,196 foster care children OCFS reported to be in care in the eight districts. To verify the children's existence and districts' awareness of their location, we accompanied district caseworkers on visits to placement sites. We also reviewed each child's case file to determine whether the district made all the face-to-face contacts due during the one-year period ended August 31, 2003. In the second sample, we judgmentally selected 10 children from among the 81 foster children who had recently entered district custody (and whose case information had not yet been entered on CCRS) to determine whether the districts knew where the children were located. For the third sample, we randomly selected (using a random number generator) 50 of the 126 foster children the eight districts had reported AWOL during our audit scope period and were still AWOL as of August 31, 2003. We reviewed each child's case file to determine whether districts had made timely and diligent efforts to locate the child, and whether caseworkers had provided the contacts required during the year before the AWOL occurred.

We conducted our audit in accordance with generally accepted government auditing standards. Such standards require that we plan and perform our audit to adequately assess those OCFS operations included in our audit scope. Further, these standards require that we understand OCFS' internal control structure and its compliance with those laws, rules, and regulations that are relevant to the OCFS operations included in our audit scope. An audit includes examining, on a test basis, evidence supporting transactions recorded in the accounting and operating records and applying such other auditing procedures as we consider necessary in the circumstances. An audit also includes assessing the estimates, judgments and decisions made by management. We believe that our audit provides a reasonable basis for our findings, conclusions and recommendations.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State, several of which are performed by the Division of State Services. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these management functions do not affect our ability to conduct independent audits of program performance.

### **C. Results of Audit**

Our audit found districts can readily locate the foster children in their custody, and make diligent efforts to find AWOL foster children, as required by Title 18. Districts also meet or exceed Title 18 requirements for face-to-face contacts with caseworkers. We also found that OCFS' use of SPAs has contributed to improvements in district compliance with caseworker contact requirements. We encourage OCFS to continue using SPAs to monitor district administration of foster care programs.

## 1. District Accountability for Foster Children

Since districts must know a child's location to appropriately manage his or her foster care case, it is essential that districts be able to locate or account for all the children in their custody. We confirmed that the districts we visited could locate or otherwise account for all 112 children in a sample of children in care, and for all the children we sampled who had recently entered foster care, but were not yet entered on CCRS. Finally, we determined that districts had made diligent efforts to find all the children we sampled who were identified as AWOL.

### a. Children In Care

District officials must be able to account for all the foster children in their custody to provide for their safety, to perform case management assessments and to meet the service goals required by the Law. To determine whether districts can locate the foster children for whom they have responsibility, we selected a random sample of 112 cases from among 6,196 foster care cases identified as In Care and Absent with Consent in the 8 upstate districts we visited (Albany, Erie, Monroe, Nassau, Onondaga, Orange, Suffolk and Westchester Counties). We confirmed that these districts could locate or otherwise account for all 112 children in our sample. As shown in *Table 1* below, we contacted 85 children by visiting placement sites, accompanied by caseworkers; we verified the location of 9 children through other means (e.g., a signed affidavit from an out-of-state caseworker asserting the child was placed in that state); and we reviewed case files and other documentation to confirm that 18 children were no longer in foster care.

Table 1: Foster Care In Care Sample				
District	In Care Sample	Children Located	Children Verified by Other Method	Children No Longer In Foster Care
Albany	7	5	1	1
Erie	24	17	0	7
Monroe	20	18	0	2
Nassau	9	6	2	1
Onondaga	4	2	0	2
Orange	6	6	0	0
Suffolk	29	22	4	3
Westchester	13	9	2	2
<b>Total</b>	<b>112</b>	<b>85</b>	<b>9</b>	<b>18</b>

Since we and district caseworkers met with 85 of our sampled children, and were able to otherwise account for the location or status of the remaining 27 children, we conclude that the districts we visited can readily locate the foster children in their care.

### b. Children Newly Entered into Care

There is a period of time between a child's actual entry into foster care in the district and the district's entry of the child's name and relevant information on the CCRS. For the sample we reviewed, this lag in updating CCRS ranged from three days to eight weeks. Among the reasons lag

occurs are court delays in sending districts necessary paperwork for the child, and district data entry backlogs. For cases in this lag category, information about the children's location and status is not yet entered on CCRS, the State's system of record for foster care data, but is known only to district and/or voluntary agency personnel. Thus, it is particularly important that districts can readily locate children newly entered into foster care.

To determine whether districts know the location of foster children during this lag period, we judgmentally selected 10 children from among the 81 lag cases that existed at 6 of the 8 districts at the time of our visits. Our ten-case sample included between one and three children at each of the six districts. (Orange County had no new entries into foster care at the time of our audit, and Suffolk County officials told us the six new foster children in their district could be negatively affected by our visit to verify their location.) In each of these ten cases, the district knew the location of the child, and we accompanied caseworkers to visit each child on site. Thus, we concluded the districts we tested do a good job of tracking the location of children newly arrived in foster care.

c. Children Absent without Consent

According to Title 18, a child is Absent without Consent, or AWOL, when the child runs away or otherwise disappears from a foster home or placement facility without the knowledge or consent of the person(s) responsible for the child's care. Title 18 states that, when a child is reported to the district or voluntary agency as AWOL, the caseworker or case planning supervisor is responsible for ensuring that diligent efforts are made to locate the child no later than 72 hours after the AWOL report is received.

We reviewed the case files of 50 AWOL foster children, randomly selected from a list of 126 children who were reported AWOL as of August 31, 2003. Our sample included children from all eight districts. The children in our sample, whose ages ranged from 13 to 17 years old, may have since returned to foster care (on their own or through district search efforts), or may still remain AWOL. We discovered that many of the children in our sample had been AWOL several times; further, some children went AWOL on one day, but returned to care the next day. Since each child is unique, and since instances of AWOL may be prompted by various events, we did not speculate why AWOL cases occurred. Instead, we limited our audit efforts to reviewing districts' compliance with Title 18 requirements to timely locate AWOL children.

Our review showed that all the districts had made diligent efforts to find the AWOL children in our sample within the prescribed 72-hour time period. As a result of this test, we concluded that districts' efforts to locate AWOL foster children were appropriate, and in compliance with Title 18.

**2. Districts' Compliance with Foster Care Contact Requirements**

Our tests showed districts met or exceeded Title 18 requirements for face-to-face contacts with caseworkers in 151 of the 155 (96 percent) In Care and AWOL cases we tested. We believe OCFS SPAs have strengthened OCFS oversight of districts' administration of foster care, and have helped improve district compliance with contact requirements.

a. Contacts with Foster Children

Title 18 requires that caseworkers have a mandated number of face-to-face contacts with foster children to gauge the child's adjustment to placement and arrange for services that meet the child's needs. To determine whether districts had provided the required contacts with foster children, we reviewed the 112 case files from our In Care sample to determine if all required face-to-face contacts were made for the year ended August 31, 2003. Of the 112 sampled cases, we were able to access 105 case files. (Seven case files were unavailable for review for a number of valid reasons, including court actions that sealed case files upon adoption.) We found that 101 (96 percent) of the 105 foster children whose case files we reviewed had received all, and in some cases, more of the required face-to-face contacts during the period we tested. There were only four instances (two in Nassau County and two in Suffolk County) in which all required contacts were not made.

The exceptions in Nassau County involved two children who were in placement out of state. In the first instance, the child received only 6 of the 12 contacts required during a one-year period. Five of these contacts were provided while the child was in Nassau County custody between September and December 2002. However, the child's foster family moved to Nevada in January 2003. Nevada officials contacted the child only once (in July 2003) through August 2003, despite six written requests, as well as documented phone calls, from Nassau County asking Nevada officials to contact the child. In the second instance, the child was placed in a Pennsylvania facility under contract with Nassau County. Facility officials indicated the child was contacted 24 times during our review period, and reported the dates these contacts occurred. However, the facility had not complied with district contract requirements to document contacts in the progress notes. In Suffolk County, we found that one child received three of the four contacts required for the period, and that another child received only one of the two required face-to-face contacts during the first month of placement. Suffolk County officials believe these exceptions are due to documentation problems.

We also reviewed all 50 of our sampled AWOL case files to determine whether these children had been contacted the required number of times during the one-year period prior to the AWOL occurrence. We found that caseworker contacts met Title 18 contact requirements in each of these cases.

b. OCFS Oversight of District Compliance with Contact Requirements

OCFS is responsible for monitoring districts' compliance with Title 18 contact requirements. We believe OCFS' development and use of the SPA, a case management and compliance assessment tool, enhance both OCFS' oversight capabilities and districts' compliance with the Law and regulations, as demonstrated by performance improvements at the four districts where SPAs had been performed.

We found OCFS had completed SPAs at four of the eight districts, as follows: Erie (September 2000); Onondaga (April 2001); Nassau (July 2001); and Suffolk (November 2002). Our review of these SPAs showed that contact deficiencies had been identified in each of these districts. Reported collectively, SPA results for the 4 districts showed that caseworkers had not made the required number of contacts in 34 (29 percent) of the 118 cases examined.

We reviewed 79 case files (62 cases from our In Care sample, and 17 cases from our AWOL sample) from the 4 districts where SPAs had been completed, and tested for compliance with contact requirements. These case files were different files from those OCFS had reviewed during the districts' respective SPAs, and our compliance test period was subsequent to the periods covered by the SPAs. Of the 79 case files in this sample, only the 4 cases (5 percent) detailed above failed to meet contact requirements. Thus, we conclude that OCFS has used SPAs effectively to improve districts' compliance with Title 18 contact requirements.

As of January 9, 2004, OCFS had completed 20 SPAs. OCFS' goal is to perform a SPA at each district every three years. We encourage OCFS to continue conducting SPAs to improve districts' compliance with contact requirements; to monitor districts' overall case management performance; and to gain increased assurance that districts effectively promote the well-being and safety of foster children in their care.

### **Recommendation**

*Continue performing Safety and Permanency Assessments to make sure districts continue to meet foster care contact requirements.*

We provided a draft copy of this report to OCFS officials for their review and comment. Their comments have been considered in preparing this report, and are included as Appendix A. OCFS officials agreed with our recommendation.

In addition to the matters discussed in this report, we have also reported separately to OCFS officials about a number of other audit issues. While these are matters of lesser significance, officials should implement our recommendations related to these issues to improve districts' effectiveness in administering foster care programs.

Within 90 days after the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Office of Children and Family Services shall report to the Governor, the State Comptroller and leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

Major contributors to the report include Richard Sturm, Donald Geary, Michael Cantwell, ShaDina Currie, Theresa Nellis, Michael Breer, Michael Filippone, Carole LeMieux, Ira Lipper, Mark Radley and Nancy Varley.

We wish to thank the management and staff of the Office of Children and Family Services and personnel at the local social services districts we visited for the courtesies and cooperation extended to our auditors during this audit.

Very truly yours,

William Challice  
Audit Director

cc: Robert Barnes



New York State  
Office of  
**Children & Family  
Services**

George E. Pataki  
*Governor*

John A. Johnson  
*Commissioner*

May 27, 2004

Mr. William P. Challice  
Audit Director  
NYS Office of the State Comptroller  
Division of State Services  
State Audit Bureau  
123 William Street – 21<sup>st</sup> Floor  
New York, New York 10038

Subject: Draft Audit 2003-S-35

Dear Mr. Challice:

The Office of Children and Family Services (OCFS) has reviewed the Draft Audit, regarding Accounting for and Contacting Children in Foster Care, issued April 15, 2004. Based on review of the draft report, OCFS agrees with the recommendation.

Thank you for the opportunity to provide comments throughout this process.

Sincerely,

Susan A. Costello  
Deputy Commissioner  
for Administration

cc: David C. Dorpfeld  
Lynn Dobriko



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