

Office of
Inspector General of Nebraska Child Welfare

Annual Report

2012-2013



As set forth by the Office of Inspector General of Nebraska Child Welfare Act (Neb. Rev. Stat. §§43-4301 – 43-4331), the Office is established to provide increased accountability and oversight of the Nebraska child welfare system through a full-time investigation and performance review program. This includes assisting in improving operations of the Department of Health and Human Services relating to the Nebraska child welfare system, providing an independent form of inquiry (an official effort to collect and examine information) for concerns regarding the actions of individuals and agencies responsible for the care and protection of children in the Nebraska system, and provide a process for review and investigation to determine if individual complaints and issues of investigation and inquiry reveal a problem in the child welfare system, not just individual cases, that necessitates legislative action for improved policies and restructuring of the child welfare system. Additionally, the Office of Inspector General of Nebraska Child Welfare is required to complete an annual report by September 15 of each year. Consistent with these duties, the following report highlights and activities demonstrate efforts of the OIG from September 1, 2012 through August 31, 2013.

The Office of Inspector General of Nebraska Child Welfare would like to thank and acknowledge Danielle Larson, who served as the office's first volunteer—a valuable extern from the University of Nebraska College of Law Externship Program. Thank you to the Nebraska Legislature and legislative staff for welcoming the office and providing all kinds of help and advice, the Health and Human Services Committee in particular. The Ombudsman's Office went above and beyond in assisting the office in countless ways during its first year—operatively and substantively. The most sincere and heartfelt appreciation for all of the time, talent, and counsel that has been offered.

Finally, please note that the Department of Health and Human Services has been very responsive and timely in any request that has been made of them from the Office of Inspector General of Nebraska Child Welfare during the preceding year, as has Nebraska Families Collaborative and any other child and family serving agency that was asked for information from or for a meeting with the Office.

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EXECUTIVE SUMMARY

This is the first report of the inaugural year of the Office of Inspector General of Nebraska Child Welfare. It remains an exciting, if not continually turbulent, time in Nebraska's child welfare history as there is a significant focus on improving systems for children—both in child welfare and in juvenile justice.

Julie L. Rogers was appointed to serve as the first Inspector General of Nebraska Child Welfare (IG). The Office of Inspector General of Nebraska Child Welfare (OIG) was deemed “opened” when the appointed IG began her duties at the end of July 2012. The OIG is placed within the Ombudsman's Office, a Division of the Nebraska Legislature. The OIG was established through the passage of Legislative Bill 821 in 2012. The OIG started receiving complaints as well as Department of Health and Human Services, Division of Children and Family Services Critical Incident Reports on or after September 1, 2013.

The OIG was created to establish a full-time program of investigation and performance review to provide increased accountability and oversight of Nebraska child welfare and to assist in improving agency operations and deterring and identifying abuse and bad acts. The OIG's mission is to provide accountability and oversight of the Nebraska child welfare system.

Overview of Year 1

Established Operations. Since August 2012, the OIG established internal and external processes; a web presence including an online complaint form; a database; outreach; case research, inquiry, review and reporting protocols; a tracking system; and an infrastructure within the Ombudsman's Office.

Understanding Roles: Office of Inspector General & Nebraska Child Welfare System. Certification was received from the Association of Inspectors General. The OIG researched and interviewed other inspector general programs, particularly the Office of the Inspector General of the Illinois Department of Children and Family Services. The OIG attended, presented at, and/or participated in several groups focused on child welfare to gain a better understanding of the past, present, and future state of child welfare in Nebraska. Various documents were reviewed for the same purpose—Nebraska law, Federal law, CFS Rules and Regulations, CFS Administrative Memos, reports, legislative bills, legislative resolutions, several national and statewide child welfare related studies, and letters.

Responding to Incidents & Complaints. In one year of operations, the OIG received 294 critical incident reports provided through the Department of Health and Human Services Division of Children and Family Services, 93 phone or in-person complaints, and 17 online complaints. Of the complaints, 45 address systemic issues, 65 dealt with reviews of specific, individual cases. 22 were formally referred to the Ombudsman's Office. 35 case-specific reviews were elevated to the level of investigation.

Initiatives & Issue Identification

Membership & Specific Project Development. The IG participated as a new member of several initiatives created to elevate the workings of various areas in serving children in the state's care. Most notably, these included the Nebraska Supreme Court Commission on Children in the Courts, the Workforce Development Committee of the Nebraska Children's Commission, the Juvenile Detention Alternatives Initiative, and the State Ward Cold Case Review Team. Experiences and information gleaned from these

activities bear substantial weight on the development of special projects within each of these initiatives that the OIG specifically supports.

Identified Child Welfare Issues. While there are many issues to be found and improvements to be made in the child welfare system, the qualitative information collected during the first year reveal various issues of note to the OIG including:

- **Workforce Quality & Retention**
- **Developmental Disabilities & Cognitive Functioning Needs in Youth**
- **Serving High-Risk, High-Needs Children & Youth**
- **Building Service Capacity Across the State—Contract Accountability & Creation of Quality Community-Based Services**
- **System Issues Related to Juvenile Court—Attorneys & Delays**
- **How Individuals in the System Treat People, Build Trust, and Engage Families**

Year 2 – Goals & Special Projects

Goals. The OIG will build off of infrastructure groundwork laid in the first year. These goals include:

- Completing full investigations with meaningful findings and recommendations;
- Focusing on recommendations for policy improvement;
- Associating with other Offices of Inspectors General to learn from others with more established and experienced offices;
- Ascertaining and utilizing a comprehensive OIG case management system for tracking cases, complaints, and issues; and
- Making the OIG most efficient and effective by continually seeking out better ways to complete the work.

The OIG will continue to:

- Be responsive to individual complainants, thoroughly review critical incident reports for full investigations, and clarify needed improvements in the child welfare system.
- Build the infrastructure of the OIG, including improvement of operational capacity.
- Improve timeliness through established protocols.
- Conduct outreach to counties, child-serving professionals, and policy makers across the state, with a focus on reaching families and youth.
- Serve as an active member of initiatives to improve child welfare in Nebraska.

Special Projects. Finally, the OIG will pursue the undertaking of several special projects in coordination with the Ombudsman's Office. Outside interested parties will be included in developing and instituting these projects. They include:

- **Develop A Nebraska Child Welfare Code of Ethics**
- **Improve Engagement of Attorneys Operating in Juvenile Court—Legal Specialization in Juvenile Court**
- **Workforce Development—Audit Training of Professionals and Survey Caseworkers on Needs**
- **System-Involved Youth with Multiple Placement History Study**
- **Ascertain the Fidelity to the Structured Decision Making Model of Assessment**

OVERVIEW OF THE OFFICE OF INSPECTOR GENERAL OF NEBRASKA CHILD WELFARE: YEAR 1

The Office of Inspector General of Nebraska Child Welfare (OIG) was created to provide increased accountability and oversight of Nebraska's child welfare system, including any public or private individual or agency serving children in the state's care.

The OIG investigates (1) death or serious injury of a child which occurs in foster homes, private agencies, child care facilities, and others under contract with or receiving services through the Department of Health and Human Services; and (2) complaints of wrongdoing to children and families being served by or through the Department of Health and Human Services or private entities. (Neb. Rev. Stat. §43-4318). The OIG provides accountability and oversight of Nebraska's child welfare system by tracking issues and themes. System improvement recommendations are made both informally and formally to the Legislature's Health and Human Services Committee, the Department of Health and Human Services, Division of Children and Family Services, and the governor.

Legislative History & Authority

In 2011, the Nebraska Legislature adopted Legislative Resolution 37, which directed the Health and Human Services Committee to review, investigate and assess the effects of child welfare reform which began its implementation by the Department of Health and Human Services in July 2009. One of the 18 significant recommendations by the Health and Human Services Committee was to create the position of Inspector General of Nebraska Child Welfare to enhance accountability and facilitate reform in the child welfare system, by being given jurisdiction to investigate state and private entities that serve children.

Office of Inspector General of Nebraska Child Welfare Act.¹ Office of Inspector General of Nebraska Child Welfare Act (Act) was enacted by Legislative Bill 821 during the 2012 Legislative Session. The Act, Neb. Rev. Stat. §§43-4301 to 43-4331, sets forth that the Office of Inspector General of Nebraska Child Welfare (Office) is to:

- Provide increased accountability and legislative oversight of the Nebraska child welfare system;
- Assist in improving operations of the Department of Health and Human Services and the child welfare system;
- Offer an independent form of inquiry for concerns—specifically regarding the actions of individuals and agencies responsible for the care and protection of children in the Nebraska child welfare system;
- Provide a process for investigation and review to determine whether individual complaints and issues inquiry reveal a system problem, which then necessitates legislative action; and
- conduct investigations, audits, inspection, and other reviews of the system.

2013 Legislative Changes to the Office of the Inspector General. Substantive changes made to the Act during the 2013 Legislative Session included adding to the jurisdiction of the OIG. These additions are secure juvenile detention centers, staff secure juvenile detention centers, and private entities serving youth under contract with the Office of Probation Administration.² The position of the Inspector General of

1 The text of the Office of Inspector General of Nebraska Child Welfare Act appears in Appendix A of this report.

2 Legislative Bill 561, 2013. Neb. Rev. Stat. §43-4318 et. al.

Nebraska Child Welfare was added as a member to the Nebraska Children's Commission³ and the Child and Maternal Death Review Team.⁴

Established Operations As an Office of Inspector General

Office of an Inspector General. The OIG is the first established inspector general's office within Nebraska state government as provided for in state statute.⁵ As such, it is important to understand the concept for inspectors general offices. The core values of an office of inspector general are honesty, integrity, and trustworthiness. This is accomplished through inspector general standards of independence and confidentiality. The fundamental objective of inspectors general offices is to promote accountability, transparency, good government, and high performance. The OIG's objective is to promote these as it specifically relates to child welfare—any child-serving government or government-supported entity—in Nebraska.

“...The public expects OIGs to hold government official accountable...and to prevent, detect, identify, expose and eliminate fraud, ...illegal acts and abuse. This public expectation is best served by inspectors general when they follow the basic principles of integrity, objectivity, independence, confidentiality, professionalism, competence, courage, trust, honesty, fairness, forthrightness, public accountability and respect...”

Statement of Principles for Offices of Inspector General, Association of Inspectors General

Operating within the Ombudsman's Office. The OIG was established within the Division of Public Council (Ombudsman's Office) within the Nebraska Legislature. The Ombudsman's Office handles individual complaints about the actions of administrative agencies of state government, including those state agencies serving children and state wards. The Ombudsman's Office investigates and resolves complaints informally by working with parties involved, all the while promoting accountability in public administration. It makes sense, then, that the OIG's establishment be within the Ombudsman's Office in order to most efficiently work towards a shared goal: promoting the accountability of Nebraska's child welfare system.

Specifically, the OIG relies on the Ombudsman's Office for operations—physical space, equipment, office supplies, travel, and the like. Moreover, the OIG relies on the Ombudsman's Office staff for:

- Providing the intake function of the OIG as well as answering calls and taking messages;
- Staffing cases to pinpoint and recognize systems issues within the child welfare system based on their complaint handling;
- Formally handling and mediating complaints made to the OIG, but that do not rise to the level of a full investigation; and
- Giving input on recommendations to improve the child welfare system based on their experience in working child welfare, mental health, and developmental disability related individual cases.

³ Legislative Bill 269, 2013. Neb. Rev. Stat. §43-4202.

⁴ Legislative Bill 361, 2013. Neb. Rev. Stat. §71-3406.

⁵ Other Offices of Inspectors General may exist in Nebraska, but they are more closely associated with the federal government and internal military operations.

Accomplishments & Challenges

The OIG is the first inspector general's office of child welfare in Nebraska. As such, the year was spent creating an infrastructure for its work, developing operating procedures, working to understand the broad operations and specific details of the complexities that make up child welfare in Nebraska, and implementing processes for inquiries, reviews, and investigations.

Accomplishments. In the first year of operations, the OIG:

- Created office infrastructure both internally as an OIG and within the larger context of the Ombudsman's Office and Nebraska Legislature;
- Developed procedures for operations including intake, critical incident reviews, complainant reviews, case transfer, and investigation work.
- Established a web presence including an online complaint form (operational April 2013);
- Participated in policy change as needed;
- Conducted reviews and research on various child welfare topics;
- Participated as a member of such groups as the Nebraska Supreme Court Commission on Children in the Courts, the Workforce Development Committee of the Children's Commission, the Juvenile Detention Alternatives Initiative, and the State Ward Cold Case Review Team;
- Created a tracking database for critical incident reports, complaints, and emerging child welfare issues;
- Received, reviewed, and processed 294 critical incident reports from CFS, 8 reviews were elevated to the level of full investigation;
- Received, reviewed, and processed 110 OIG specific complaints through phone call, online complaint, or meetings.
- Represented the OIG at several meetings of agencies, directors, commissions, and groups.
- Traveled to various locations in order to investigate complaints, meet with parties working with or within the child welfare system, and gain a better understanding of child welfare across the state, including Scottsbluff, Gering, Kimball, North Platte, Kearney (Youth Rehabilitation and Treatment Center), Geneva (Youth Rehabilitation and Treatment Center), Norfolk, Macy, Nebraska City, Lincoln, and Omaha.
- Reported to and met with legislators, legislative staff, as well as executive and management level staff at CFS. Regular meetings occur between the OIG and the chairperson of the Health and Human Services Committee.

Challenges. Creating an inspector general's office as a brand new entity did not come without challenges throughout the first year. Setting up a basic operational infrastructure takes time, especially if such set up is to be purposeful and proper, and the office is formally made up of one person. The OIG didn't start taking online complaints until April 2013 and distinct phone lines were not functional until May 2013. There has been no purposeful marketing of the OIG. These and other factors may have led to confusion as to the role and expectations of the OIG, the difference between work of the Ombudsman's Office and the OIG, and what exactly the OIG can do to solve individual problems. Tension arises when there are standards that need to be set and reached to perform quality work of an inspector general's office all the while managing expectations of thoroughness and timeliness of full investigations.

To deal with these challenges, the OIG will build off of infrastructure groundwork laid in the first year. The OIG will work towards:

- Completing full investigations with meaningful findings and recommendations.
- Focusing on recommendations for policy improvement.
- Associating with other Offices of Inspectors General to learn from others with more established and experienced offices.
- Ascertaining and utilizing a comprehensive OIG case management system for tracking cases, complaints, and issues.
- Making the OIG most efficient and effective by continually seeking out better ways to complete the work.
- Being responsive to individual complainants, thoroughly review critical incident reports for full investigations, and clarify needed improvements in the child welfare system.
- Building the infrastructure of the OIG, including improvement of operational capacity.
- Improving timeliness through established protocols.
- Serving as an active member of initiatives to improve child welfare in Nebraska.
- Conducting outreach to counties, child-serving professionals, and policy makers across the state, with a focus on reaching families and youth through leading special projects.
- Continuing frequent informal and formal communication with the Chairperson of the Health and Human Services Committee.

Staff Biography

Within the formal OIG, staff include the Inspector General of Nebraska Child Welfare. The position was appointed according to the Act during the summer of 2012. The appointment is a 5 year appointment.

Julie L. Rogers, Inspector General, worked as a deputy public defender in Madison County immediately following law school where she represented children and parents in juvenile court as well as acting as guardian ad litem. She then served as Legal Counsel to the Judiciary Committee at the Nebraska Legislature under then Chairperson Brashear. She served a policy analyst for the former Community Corrections Council, and immediately preceding the appointment as Inspector General, worked on Juvenile Services Community Planning Initiatives at the University of Nebraska's Juvenile Justice Institute. Prior to her appointment, Julie served on the Boards of Directors for St. Monica's Behavioral Health Services for Women, the Nebraska Juvenile Justice Association, and the Junior League of Lincoln.

Per Neb. Rev. Stat. §43-4317, Ms. Rogers has reached the designation of Certified Inspector General by the Association of Inspectors General.

UNDERSTANDING ISSUES FACING NEBRASKA'S CHILD WELFARE SYSTEM

The OIG made it a priority to understand the past and present state of Nebraska's child welfare system, as well as the issues that face the system as it heads into the future. An apprehension of the subject matter is required in order to make meaningful recommendations. It is also important to note that though many ideas and lessons can be learned from what has gone correctly in individual cases, the OIG's role is to make inquiries, conduct reviews and investigations into situations and events where something has gone wrong, when there is a largely negative outcome.

Internal Efforts. Individual cases were staffed regularly with the Ombudsman and public welfare staff within the Ombudsman's Office. The purpose of staffing is to stay up-to-date on what is presently happening with child welfare casework, work through case-specific issues, identify systems issues, discuss recommendations, and keep communication open on following through with any case that has been transferred from the OIG to the Ombudsman's Office, or vice versa.

In addition, various documents were reviewed in order to illicit a good understanding of the state and system of child welfare in order to provide recommendations—Nebraska law, Federal law, CFS Rules and Regulations, CFS Administrative Memos, reports, legislative bills, legislative resolutions, several national and statewide child welfare related studies, and letters.

Involvement in Child Welfare Related Efforts. The OIG attended, presented at, and/or participated in several groups focused on child welfare over the past year including the Nebraska Children's Commission, Nebraska Supreme Court's Commission on Children in the Courts, Nebraska County Attorney's Association, Workforce Development Committee (of the Nebraska Children's Commission), Juvenile Services Committee (of the Nebraska Children's Commission), Through the Eyes of the Child (Summit and meetings), Nebraska Alliance of Child Advocacy Centers, Nebraska Department of Education Committee on the Education of Students in Out-of-Home Placement, Children and Families Coalition of Nebraska, Nebraska Juvenile Court Judges, Nebraska Families Collaborative Board of Directors, Nebraska Juvenile Justice Association, Statewide Juvenile Detention Alternatives Initiative, as well as various meetings led by the Nebraska Department of Health and Human Services, Division of Children and Family Services (CFS). In addition, the OIG met personally with parents, grandparents, providers, attorneys, judges, administrators, family support workers, caseworkers, supervisors, advocates, foster parents, CASAs, and leaders of government and non-profit agencies to gain a better understanding of the past, present, and future state of child welfare in Nebraska.

Individual Inquiries & Complainants—Reviews. By conducting thorough reviews of the public's inquiries and complaints, as well as CFS critical incident reports, much is gleaned including determinations about whether such cases reveal a problem in the child welfare system that would give rise to improved policies and/or restructuring of the systems dealing with children in Nebraska. Understanding what has happened, and specifically for the OIG, what has gone wrong to result in something negative happening to a child, to children, and/or to a family, is crucial in making recommendations for improvement.

Office of Inspector General of Nebraska Child Welfare

The public may communicate such complaints through a phone call, written request, or online form by utilizing this contact information:

Office of Inspector General of Nebraska Child Welfare

<http://nebraskalegislature.gov/divisions/oig.php>

P.O. Box 94604, State Capitol

Lincoln, NE 68509

402-471-4211

855-460-6784 (toll free)

OIG@leg.ne.gov

CONTACT TO THE OFFICE OF INSPECTOR GENERAL: INQUIRIES, REVIEWS, INVESTIGATIONS

The OIG investigates complaints of child welfare violations that arise from a variety of sources, including complaints from the public, information developed during the course of other reviews and activities, and requests for review and assistance by various parties. Overall, the OIG received approximately 110 specific complaints from the public in one year. Also reviewed are the CFS critical incident reports. In some instances, these inquiries or reviews lead the OIG to conduct comprehensive investigations, while in other instances the OIG may forward the complaint to the appropriate oversight, regulatory, or appropriate agency, while in other situations, though not deemed appropriate for a full investigation, reviews lead to realization of issues that need to be addressed or areas that need to be improved within the child welfare system. The OIG forwards complaints to other agencies if a preliminary investigation reveals that the complaints are outside of the Office's jurisdiction or would be more appropriately handled elsewhere. The OIG also tracks child welfare system issues to most appropriately make system improvement recommendations.

In terms of investigations, the Act specifies when a complaint is warranted and when a full investigation shall be completed. Generally, a full investigation will be undertaken when, after a review and a determination is made that the allegations can be independently verified through investigation, there are incidents of misconduct, misfeasance, malfeasance, violation of statute, or violation of rules and regulations. The OIG shall investigate when there is a death or serious injury in a foster home, private agency, child care facility, or other program under contract with the Department of Health and Human Services; or when the case involves an investigation under the Child Protection Act open one year or less. The OIG also tracks systems issues related to Nebraska's child welfare system.

Nature of Inquiries, Reviews, Investigations

The two significant ways the OIG receives information that leads to reviews and investigations is through the CFS critical incident reporting procedures and through public complaints and inquiries.

Critical Incident Reports. The Nebraska Department of Health and Human Services is required to report all cases of death or serious injury of a child to the OIG.⁶ CFS does this through their Critical Incident Reporting process as set forth by CFS Administrative Memo #31-2012. The memo sets forth what kinds of critical incidents are included, but are not limited to:

1. Death of a child resulting from abuse or neglect, where abuse or neglect is a possible cause or contributing factor of child death, or in any case of unexpected child death where there is not a clearly identified medical cause such as an illness, a trauma event such as a motor vehicle accident, or something similar;
2. Near fatality, life threatening condition or serious injury of a child resulting from abuse or neglect;
3. Suicide or attempted suicide of a state ward or a child with whom the Department of Health and Human Services is involved;
4. Elopement of a youth from a state run facility;
5. Law Enforcement: Legal allegations or arrests of DHS youth for serious illegal/criminal activity (i.e. homicide, manslaughter; near fatality of another person, sexual assault, 1st or 2nd degree

⁶ Neb. Rev. Stat. §43-4318 (1)(b).

- assault, aggravated or armed robbery; etc.);
6. High Profile: Any other event that is highly concerning, poses potential liability, or is of emerging public interest, such as contacts involving the media; and
 7. Any other incident designated by the Director.

This listing is not exhaustive and is meant to be used as a minimum guide.

The OIG conducted 294 reviews of critical incident reports in the first year and of these, 8 were elevated to full investigation. The Act requires investigations of death or serious injury to children served by CFS or by entities contracted by CFS to provide care. “Serious injury” is defined as, “an injury or illness caused by suspected abuse, neglect, or maltreatment which leaves a child in critical or serious condition.”⁷ Of the 294 reports reviewed, about half of the reports related to state wards who were system-involved as either status offenders or delinquents at the time of the report. Of the 4 death investigations open, 3 were status offenders or delinquents. This is significant as supervision of such youth is being transferred from CFS to the Office of Probation Administration as part of juvenile justice reform set forth in Legislative Bill 561, 2013.

Public Complaints & Inquiries. As stated, the OIG received 110 complaints regarding individual cases or regarding the functioning of Nebraska's child welfare system. Of these, 93 were phone or in-person complaints, and 17 were online complaints.⁸ Of the complaints, 45 address systemic issues, 65 dealt with reviews of specific, individual cases. 22 were formally referred to the Ombudsman's Office. 35 case-specific reviews were elevated to the level of investigation.

Inquiry & Review Process

Whether reviewing critical incident reports or individual complaints, the OIG thoroughly reviews each. This includes gathering information from NFOCUS and talking with various parties about the case, specifically the caseworker. Then a determination is made about whether to exercise options of opening an investigation or formally referring the complaint to the Ombudsman's Office. Sometimes after reviews are completed, it could be determined that no jurisdiction exists for case specific action by the OIG (for example, custody issues in divorce cases, issues related to probation, or issues related to the courts). Systemic issues are always noted. Other reviews result in answering questions or referral to other agencies.

Non-Systemic v. Systemic. If someone needs help that is non-systemic, the individual typically is calling about actions taken on a specific child welfare or youth corrections case or for general information. Non-systemic contacts can sometimes lead to the identification of a systemic issue, but they usually need help with something involving the movement of their child welfare case. If that is what they need, they are referred to the Ombudsman's Office. If the review of the individual case reveals that allegations of misconduct, misfeasance, malfeasance, or violation of a statute or rules and regulations of the Department of Health and Human Services, then the OIG opens a full investigation.

Systemic contacts are those that involve an issue or issues concerning how the child welfare or youth corrections systems work in Nebraska. Systemic contacts generally arise from individuals who are

⁷ Neb. Rev. Stat. §43-4318 (1)(b).

⁸ The first online complaint was received April 2013 by the OIG.

frustrated with an established policy, rule or law or a lack of such policy, rule, or law that would alleviate the situation.

Information for Child Welfare Questions & Other Agency Referral. In addition to formally transferring the handling of complaints to the Ombudsman's Office, over the past year, the OIG made referrals to the Auditor of Public Accounts, the U.S. Department of Labor, the Nebraska Attorney General's Office, Office Of Probation Administration, Nebraska State Bar Association, CFS, and the Nebraska Child Abuse and Neglect Hotline. The referrals are generally, but not always, given to the complainant to follow-up with the appropriate agency.

ISSUES IDENTIFIED BY THE OFFICE OF THE INSPECTOR GENERAL

“Not everything that counts can be counted, and not everything that can be counted counts.”

Albert Einstein

The qualitative information collected during the first year of reviewing and investigating complaints—both systems complaints and individual case complaints—reveal issues regarding how we as a government and as a system treat children and families.

Underlying noted issues is that the child welfare system in Nebraska has not yet reached a point of **stabilization** since the failed attempt at privatization. Stabilization would include the ability to reach caseload limits which has not been accomplished even though it is statutorily required, slowing down significant caseworker turnover, and **building trust** between and among government entities and private providers. Also, because of the recent juvenile justice reform, there is expected to be additional destabilization as significant changes are made and work is done to transfer status offense and delinquency cases from CFS case management to Probation supervision.

In terms of individual cases, it boils down how an individual person, an individual family, an individual child is treated. Professionals—including, but not limited to caseworkers, family support workers, judges, guardians ad litem, juvenile attorneys, county attorneys, administrators, foster parents, therapists, youth facility staff, coordinators, providers—need the tools to give children the best professional selves they can give. Instead of making the system more complex, each individual part of it needs to become the best they can at their unique individual role. Families, children, and youth being served by the child welfare system have significant problems. That is why they are system-involved. This is a difficult population to deal with, but encouraging, building, and modeling healthy relationships must be at the forefront of this work.

Child Welfare Issues

In the course of work by the OIG over the past year, the following are several of the issues identified to improve Nebraska's child welfare system.

Workforce Quality and Retention

Individual complaints reveal that more experienced caseworkers and caseworkers who have had a constant presence in the cases, in other words, the case had a low occurrence of a new caseworker being assigned, the better the outcomes for kids and families. Competent caseworkers, and competent professionals, make a world of difference in a case in the child welfare system.

Caseworker turnover continues to be a problem. The lower number of different caseworkers assigned to a case, the higher rate of success for children and families. There needs to be a dramatic increase in the retention of caseworkers in every area of the state if there is an expectation that outcomes improve for families in the child welfare system.

In addition, caseloads are too high. The 2012 Nebraska Legislature enacted caseload requirements into law—needing to be met by September 1, 2012.⁹ The caseload requirements have yet to be met.

Professionals working with children and families need to receive quality training, the right amount of training, and on-going training while utilizing tools and models learned with fidelity and quality assurance.

More generally, all professionals working in the child welfare system should receive quality and on-going training as well as assurances that they are engaging with the work they are doing within the child welfare system.

Recommendations:

- Continuation of CFS focusing on caseworker turnover and caseload limits through their Continuous Quality Improvement efforts.
- Continuation of the Workforce Development Committee of the Nebraska Children's Commission in looking more closely into how to recruit and retain quality professionals.
- Consider Child and Youth Care Worker Certification Competencies as the panhandle is working towards as they look to elevate the quality of professionals working with children and families in their region.
- Consider a Code of Ethics be established specifically for operation within the Nebraska child welfare system.
- Ensure that all professionals involved in the child welfare system receive adequate, recurring, quality training.
- Implement a system of quality assurance in skills that are developed, utilized, and retained for caseworkers and others working with children in the child welfare system receive.

Developmental Disabilities & Cognitive Functioning Needs in Youth

There is a gap in services for system-involved kids needing habilitative care—functional skills—but that do not qualify for the full array of developmental disabilities services provided through the Division of Developmental Disabilities.

Some youth in the child welfare system have a developmental issue, or cognitive impairment, and there is little to no recognition of that cognitive impairment in the services they are receiving. This often results in serious acting out behavior on the part of the youth (because they lack the tools to function well in the community, they do not know how to get the tools to function well, they are just expected to function well—follow the rules), then in and out of multiple placements, the wrong services being given (for example, a youth being required to complete mental health therapy when what is really needed is behavior modification training such as life skills or healthy relationship help), “failure” at several programs, and/or ultimately, when they age out of the child welfare system, incarceration.

Youth who are lower functioning, if they do not qualify fully for Developmental Disability services, they get dropped out of all services, they age out of the system, and the system has not helped them to be functioning members of the community.

⁹ Neb. Rev. Stat. §68-1207.

If their functioning is not quite low enough, the system assumes that these individuals either need mental health therapy, they need programming to change their thinking, or they need to be held accountable. For example, they might be given a prescription when what they need is a mentor or they might be required to participate in talk therapy when what they need is vocational rehabilitation.

Intellectual impairments themselves do not go away, but such youth can be served by recognizing the individual's strengths and assess the individuals needs. Understanding is lacking for dealing with cognitively impaired system-involved youth.

Lower functioning youth that are age out of the child welfare system, but do not qualify for developmental disabilities, often do not possess the life skills they need to function in society and they are left on their own, many times end up in jail or prison.

Recommendations:

- Recognize that because a system-involved individual does not reach a certain threshold on an assessment or scale, it does not mean that child may not have a cognitive impairment that needs to be addressed by the services provided.
- Utilize an appropriate child-specific assessment tool for system-involved children to access appropriate and needed development disability services.
- Formalize a process within the child welfare system that provides for the individual needs of the child and
 - Functionally assesses a cognitively impaired youth's needs;
 - Identifies that youth's strengths; and
 - Utilize the state's resources to resolve those needs by building on strengths.
- Broaden the continuum of care through a coordinated effort between the Division of Developmental Disabilities and Division of Children and Family Services for children who currently fall short of the criteria for DD services but could clearly benefit from habilitative care.
- Ensure kids who have cognitive impairments and are doing well in a certain environment, but must be placed elsewhere (usually because funding is no longer available) are individually assessed as to what specifically has worked well for them in the old environment and provide parallel care in the new.

Serving High-Risk, High-Needs Children & Youth

Kids who have disorders or behaviors from trauma are not well comprehended by the mental health care system nor the child welfare system. The result is that a significant number of children get placed in and out of a myriad of placements with little success. They might complete a high level program well and get kicked out of the next placement for bad behaviors (aggressiveness, self-harming, not following the rules, and the like), or sent to the wrong type of program—one that is inappropriate in addressing the individual child's needs. A standard menu of services are provided to these high risk, high needs youth which are often ineffective. Best practices in trauma-informed care require creative

solutions at the front-line level which address the specific needs, interests, and challenges of the individual being served.

Recommendations:

- Institute better interface, coordination and collaboration between the expertise in and among the Divisions within the Department of Health and Human Services.
- Better assessment and recognition of what kinds of mental health services individual children need.
- Utilize a system-wide definition for trauma and trauma-informed care for children in the child welfare system.
- Implement a trauma-informed care model.
- As this care is very individualized, quality training and understanding of all stakeholders should be prioritized, particularly front line caseworkers and service providers.

Building Service Capacity Across the State—Contract Accountability & Creation of Quality Community-Based Services

The creation of appropriate and quality services and placements across Nebraska to serve the needs of children and families involved in the child welfare system is necessary. Youth are often placed into inappropriate services or services that are poorly provided with little to no oversight.

CFS contracts out many services provided in child welfare cases including family support, monitoring, visitation supervision, intensive family preservation, therapy, foster care, and the like. The failed attempt at privatization caused a decimation of services, especially in rural parts of the state. This service capacity is still being rebuilt. The system should encourage the creation of quality, professional child welfare services in all parts of the state.

There is anecdotal disagreement between CFS and service providers about whether private entities are making money on contracts with the state, are able to break even in providing services, or whether private/non-profits are having to subsidize services. Solving this issue would build trust between CFS and service providers—helping with insisting upon both quality of services and the building of services capacity statewide.

In addition, as a 2012 study of Nebraska's child welfare system pointed out when referring to the upheaval failed privatization caused, “While dollars were involved in all of these cases, dollars did not represent the only costs. Service provider capacity has also been lost, and the sheer level of upheaval has eroded a substantial amount of the trust among agencies.”¹⁰ This bears out from talking with individual agency leaders providing services across the state.

Shelter use has been heavily curtailed in the last 6 months within child welfare. Using shelters less is a good thing, but there is concern that limiting the use of shelters without alternative and appropriate services and placements may cause harm. It is the hope that limiting shelter placements improves

¹⁰ Center for Support of Families and Hornby Zeller Associates, Inc., “Assessment of Child Welfare Services in Nebraska” November 2012. p. 9.

outcomes for youth and does not more frequently move or relocate youth to new placements.

Recommendations:

- Hold contractors accountable. Fidelity to the implementation of Results Based Accountability by CFS should occur. This should help in ascertaining whether quality services are being provided, and then implementing action steps to improve the quality of services as needed. If Results Based Accountability does not result in improvement of quality in services, other strategies should be considered and implemented.
- Clear and consistent communication between CFS and service providers is key to understanding the service capacity that is needed or lacking and to encourage service capacity creation for services needed by children and families in the child welfare system.
- A cap on administrative costs in contracts with CFS should be considered. To help facilitate this, there should be an audit or study to know what the true costs of providing services are through private entities.
- Study whether the lower use of shelters has resulted in better outcomes for youth or simply more placements.
- The child welfare system should coordinate and collaborate with the newly created position (Legislative Bill 561, 2013) of Director of Community-Based Juvenile Services at the Nebraska Crime Commission.
- Encourage the creation of a variety or continuum of placements for system-involved youth.

System Issues Related to Juvenile Court—Attorneys & Delays

The most difficult cases in child welfare do not get decided in team meetings or in mediation or the like, but rather argued by represented parties in juvenile court by and through licensed attorneys.

There is frustration by individual parties that their attorney or guardian ad litem is not doing their job. Additional inquiry usually leads to the situation where the attorney or guardian ad litem is just not very engaged in their client's case. They are not necessarily doing anything that is improper, their clients might feel that they are not completely engaged in trying to help them with their case.

Individual cases out of Douglas County have come to the attention of the OIG, and upon further inquiry, the biggest systems issue is that even though a motion has been filed by one of the parties, because of full dockets, it may not be heard for months. In some situations, hearings on one issue can not be heard in a timely manner, and the hearing is set for different days months apart. This causes delays in permanency. By the time a motion is heard in the case of a 6-month old, for example, waiting 6 months to hear the motion is ½ of the child's life.

While a decision on an appeal is pending, the juvenile court case is “on hold” while the case is being decided. This often impacts children and families because they are waiting on a decision before permanency or other impactful decisions can be reached. Neb. Rev. Stat. § 43-2,106.01 (1) provides “Any final order or judgment entered by a juvenile court may be appealed to the Court of Appeals in the same manner as an appeal from the district court to the Court of Appeals. The appellate court shall conduct its review in an expedited manner and shall render the judgment and write its opinion, if any, as speedily as

possible.” All parties do their duties—properly representing their client's interests. Appeals are proper. There are many factors to thoroughly weigh and consider in cases on appeal from juvenile court. It is the delay in issuing decisions that is hard on children and families.

Recommendations:

- Look further into implementing recommendations from studies authorized and funded by the Nebraska Legislature on how to elevate the practice of law in the Nebraska juvenile court system.¹¹
- Elevated the professional practice of law in juvenile court. This relates to all attorneys practicing in juvenile court—prosecutors, defense counsel, and guardians ad litem.
- Add an additional juvenile court judge in Douglas County. Alternatively, study and implement ways to be more efficient without compromising quality in Douglas County Juvenile Court.
- Look to other states to ascertain processes that speed up appellate decision-making relating to juvenile matters.
- Consider how to better speed up decision-making when cases are on appeal from juvenile court. There may be other jurisdictions or states that have ways—either informally or formally for doing so.

How Individuals in the System Treat People, Build Trust, and Engage Families

Complainants often feel scared, threatened, and disrespected by parties in the system. Families entering the system are typically in a high state of stress, i.e. domestic violence, substance abuse, poverty, mental illness, and they lack the skills to handle that stress well. Entering the child welfare system, whether it is a CFS investigation, ongoing case management, or services provided like family support or supervised visits or drop-in visits, increases a party's stress level significantly. Under such circumstances, some do not exhibit good interpersonal behaviors. In addition, any threats or perceived threats do not change thinking or circumstances that brought the family to the attention of child welfare in the first place.

Good caseworkers and family support workers model interpersonal behaviors and apply creative problem-solving to individual cases. As the system stabilizes and improves, agencies could implement mentoring programs as a way to gain skills to help these individuals be engaged. A little bit of outside the box thinking and/or compassion on the part of a caseworker.

Trust should not only be built when engaging individual families and kids in the system, but also at the top levels of administration.

Recommendations:

- Caseworkers and others working directly with families should make sure the requirements of them are clear, that parents know what they must do or accomplish to get their kids back or to have their case closed. Families should be empowered and educated and clearly communicated with.
- The orientation to the process is set at Initial Assessment. IA professionals should possess the skills to engage families right away.
- Transparency and clear communication should exist at every level of the system—from

¹¹ National Association of Counsel for Children, “Evaluation of the Guardian ad Litem System in Nebraska,” December 2009, and National Juvenile Defender Center, “Juvenile Legal Defense: A Report on Access to Counsel and Quality of Representation for Children in Nebraska,” Fall 2009.

professionals working directly with children and families to agencies working both internally and with one another externally. Being transparent is one way to help build trust.

Special Projects Being Pursued by the Office of the Inspector General

The OIG would has plans to complete or begin several Special Projects to improve Nebraska's child welfare system for Fiscal Year 2013. The Special Projects plan summarizes new and ongoing reviews and activities that OIG plans to pursue with respect to child welfare related programs and operations during the next fiscal year and beyond. These Special Projects are coordinated with the Ombudsman's Office.

This is a dynamic process and adjustments are made throughout the year to meet priorities and to anticipate and respond to emerging issues with the resources available. Relative risks in the programs for which the OIG has oversight to identify the areas most in need of attention and, accordingly, to set priorities for the sequence and proportion of resources to be allocated. In evaluating Special Projects a number of factors are considered, including:

- Mandatory requirements for OIG reviews, as set forth in laws, regulations, or other directives;
- Requests made or concerns raised by the Health and Human Services Committee;
- Work to be performed in collaboration with partner organizations; and
- Timeliness.

Special Project I: Develop a Nebraska Child Welfare Code of Ethics

Child welfare professionals make important decisions on behalf of the state that affect the lives of children and families. In making sound decisions, professionals should rely on incorporating the values of the child welfare profession and current knowledge about the problem with which they are dealing, while thinking critically about the decision that they must make. The OIG will lead an effort to develop a Nebraska child welfare code of ethics.

Special Project II: Improve the Engagement of Attorneys Operating in Juvenile Court—Legal Specialization in Juvenile Court

It is important that all attorneys appearing in juvenile court—prosecutors, guardians ad litem, and juvenile defense attorneys, are properly engaged and trained in the specialization that families and children appearing in juvenile court deserve. The OIG will lead an effort to take action on recommendations to improve this part of the child welfare system.

Special Project III: Workforce Development—Audit Training of Professionals & Survey Caseworkers on Needs

In coordination with current efforts of the Nebraska Children's Commission, the OIG will audit training of caseworkers through CFS and Nebraska Families Collaborative and will conduct a survey of caseworkers on what they think they need to do a quality job for their clients as well as what they need to stay in their role as caseworker in order to alleviate caseworker turnover.

Special Project IV: System-Involved Youth With Multiple Placement History

The OIG will lead a study of youth who have had multiple placements (likely youth who have been characterized by the system as “high-risk, high-need”), whether in foster homes, detention facilities, group homes, inpatient psychiatric hospitals, or Youth Rehabilitation and Treatment Centers. Additionally, the study should note the frequency of use of psychotropic medications and assess whether the system possessed the proper tools to help these children become functioning members of the community as they either reach permanency or age out of the system.

Special Project V: Ascertain the Fidelity to the Structured Decision Making Model of Assessment

CFS utilizes Structured Decision Making in each point of the child welfare process. Questions have arisen as to whether the tools are being utilized with fidelity and quality assurance, including at the initial assessment stage. The OIG will lead an effort to understand the model and its adherence to fidelity and quality assurance.

APPENDIX: OFFICE OF INSPECTOR GENERAL OF NEBRASKA CHILD WELFARE ACT

43-4301. Act, how cited.

Sections 43-4301 to 43-4331 shall be known and may be cited as the Office of Inspector General of Nebraska Child Welfare Act.

43-4302. Legislative intent.

(1) It is the intent of the Legislature to:

(a) Establish a full-time program of investigation and performance review to provide increased accountability and oversight of the Nebraska child welfare system;

(b) Assist in improving operations of the department and the Nebraska child welfare system;

(c) Provide an independent form of inquiry for concerns regarding the actions of individuals and agencies responsible for the care and protection of children in the Nebraska child welfare system. Confusion of the roles, responsibilities, and accountability structures between individuals, private contractors, and agencies in the current system make it difficult to monitor and oversee the Nebraska child welfare system; and

(d) Provide a process for investigation and review to determine if individual complaints and issues of investigation and inquiry reveal a problem in the child welfare system, not just individual cases, that necessitates legislative action for improved policies and restructuring of the child welfare system.

(2) It is not the intent of the Legislature in enacting the Office of Inspector General of Nebraska Child Welfare Act to interfere with the duties of the Legislative Auditor or the Legislative Fiscal Analyst or to interfere with the statutorily defined investigative responsibilities or prerogatives of any officer, agency, board, bureau, commission, association, society, or institution of the executive branch of state government, except that the act does not preclude an inquiry on the sole basis that another agency has the same responsibility. The act shall not be construed to interfere with or supplant the responsibilities or prerogatives of the Governor to investigate, monitor, and report on the activities of the agencies, boards, bureaus, commissions, associations, societies, and institutions of the executive branch under his or her administrative direction.

43-4303. Definitions; where found.

For purposes of the Office of Inspector General of Nebraska Child Welfare Act, the definitions found in sections 43-4304 to 43-4316 apply.

43-4304. Administrator, defined.

Administrator means a person charged with administration of a program, an office, or a division of the department or administration of a private agency or licensed child care facility.

43-4305. Department, defined.

Department means the Department of Health and Human Services.

43-4306. Director, defined.

Director means the chief executive officer of the department.

43-4307. Inspector General, defined.

Inspector General means the Inspector General of Nebraska Child Welfare appointed under section 43-4317.

43-4308. Licensed child care facility, defined.

Licensed child care facility means a facility or program licensed under the Child Care Licensing Act, the Children's Residential Facilities and Placing Licensure Act, or sections 71-1901 to 71-1906.01.

43-4309. Malfeasance, defined.

Malfeasance means a wrongful act that the actor has no legal right to do or any wrongful conduct that affects, interrupts, or interferes with performance of an official duty.

43-4310. Management, defined.

Management means supervision of subordinate employees.

43-4311. Misfeasance, defined.

Misfeasance means the improper performance of some act that a person may lawfully do.

43-4312. Obstruction, defined.

Obstruction means hindering an investigation, preventing an investigation from progressing, stopping or delaying the progress of an investigation, or making the progress of an investigation difficult or slow.

43-4313. Office, defined.

Office means the office of Inspector General of Nebraska Child Welfare and includes the Inspector General and other employees of the office.

43-4314. Private agency, defined.

Private agency means a child welfare agency that contracts with the department or the Office of Probation Administration or contracts to provide services to another child welfare agency that contracts with the department or the Office of Probation Administration.

43-4315. Record, defined.

Record means any recording, in written, audio, electronic transmission, or computer storage form, including, but not limited to, a draft, memorandum, note, report, computer printout, notation, or message, and includes, but is not limited to, medical records, mental health records, case files, clinical records, financial records, and administrative records.

43-4316. Responsible individual, defined.

Responsible individual means a foster parent, a relative provider of foster care, or an employee of the department, a foster home, a private agency, a licensed child care facility, or another provider of child welfare programs and services responsible for the care or custody of records, documents, and files.

43-4317. Office of Inspector General of Nebraska Child Welfare; created; purpose; Inspector General; appointment; term; certification; employees; removal.

(1) The office of Inspector General of Nebraska Child Welfare is created within the office of Public Counsel for the purpose of conducting investigations, audits, inspections, and other reviews of the Nebraska child welfare system. The Inspector General shall be appointed by the Public Counsel with approval from the chairperson of the Executive Board of the Legislative Council and the chairperson of the Health and Human Services Committee of the Legislature.

(2) The Inspector General shall be appointed for a term of five years and may be reappointed. The Inspector General shall be selected without regard to political affiliation and on the basis of integrity, capability for strong leadership, and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, investigation, or criminal justice administration or other closely related fields. No former or current executive or manager of the department may be appointed Inspector General within five years after such former or current executive's or manager's period of service with the department. Not later than two years after the date of appointment, the Inspector General shall obtain certification as a Certified Inspector General by the Association of Inspectors General, its successor, or another nationally recognized organization that provides and sponsors educational programs and establishes

professional qualifications, certifications, and licensing for inspectors general. During his or her employment, the Inspector General shall not be actively involved in partisan affairs.

(3) The Inspector General shall employ such investigators and support staff as he or she deems necessary to carry out the duties of the office within the amount available by appropriation through the office of Public Counsel for the office of Inspector General of Nebraska Child Welfare. The Inspector General shall be subject to the control and supervision of the Public Counsel, except that removal of the Inspector General shall require approval of the chairperson of the Executive Board of the Legislative Council and the chairperson of the Health and Human Services Committee of the Legislature.

43-4318. Office; duties; law enforcement agencies and prosecuting attorneys; cooperation; confidentiality.

(1) The office shall investigate:

(a) Allegations or incidents of possible misconduct, misfeasance, malfeasance, or violations of statutes or of rules or regulations of the department by an employee of or person under contract with the department, a private agency, a licensed child care facility, a foster parent, or any other provider of child welfare services or which may provide a basis for discipline pursuant to the Uniform Credentialing Act; and

(b) Death or serious injury in foster homes, private agencies, child care facilities, juvenile detention facilities, staff secure juvenile facilities, and other programs and facilities licensed by or under contract with the department or the Office of Probation Administration and death or serious injury in any case in which services are provided by the department to a child or his or her parents or any case involving an investigation under the Child Protection Act, which case has been open for one year or less. The department and the Office of Probation Administration shall report all cases of death or serious injury of a child in a foster home, private agency, child care facility or program, or other program or facility licensed by the department to the Inspector General as soon as reasonably possible after the department or the Office of Probation Administration learns of such death or serious injury. For purposes of this subdivision, serious injury means an injury or illness caused by suspected abuse, neglect, or maltreatment which leaves a child in critical or serious condition.

(2) Any investigation conducted by the Inspector General shall be independent of and separate from an investigation pursuant to the Child Protection Act. The Inspector General and his or her staff are subject to the reporting requirements of the Child Protection Act.

(3) Notwithstanding the fact that a criminal investigation, a criminal prosecution, or both are in progress, all law enforcement agencies and prosecuting attorneys shall cooperate with any investigation conducted by the Inspector General and shall, immediately upon request by the Inspector General, provide the Inspector General with copies of all law enforcement reports which are relevant to the Inspector General's investigation. All law enforcement reports which have been provided to the Inspector General pursuant to this section are not public records for purposes of sections 84-712 to 84-712.09 and shall not be subject to discovery by any other person or entity. Except to the extent that disclosure of information is otherwise provided for in the Office of Inspector General of Nebraska Child Welfare Act, the Inspector General shall maintain the confidentiality of all law enforcement reports received pursuant to its request under this section. Law enforcement agencies and prosecuting attorneys shall, when requested by the Inspector General, collaborate with the Inspector General regarding all other information relevant to the Inspector

General's investigation. If the Inspector General in conjunction with the Public Counsel determines it appropriate, the Inspector General may, when requested to do so by a law enforcement agency or prosecuting attorney, suspend an investigation by the office until a criminal investigation or prosecution is completed or has proceeded to a point that, in the judgment of the Inspector General, reinstatement of the Inspector General's investigation will not impede or infringe upon the criminal investigation or prosecution. Under no circumstance shall the Inspector General interview any minor who has already been interviewed by a law enforcement agency, personnel of the Division of Children and Family Services of the department, or staff of a child advocacy center in connection with a relevant ongoing investigation of a law enforcement agency.

43-4319. Office; access to information and personnel; investigation.

- (1) The office shall have access to all information and personnel necessary to perform the duties of the office.
- (2) A full investigation conducted by the office shall consist of retrieval of relevant records through subpoena, request, or voluntary production, review of all relevant records, and interviews of all relevant persons.

43-4320. Complaints to office; form; full investigation; when; notice.

- (1) Complaints to the office may be made in writing. The office shall also maintain a toll-free telephone line for complaints. A complaint shall be evaluated to determine if it alleges possible misconduct, misfeasance, malfeasance, or violation of a statute or of rules and regulations of the department by an employee of or a person under contract with the department, a private agency, or a licensed child care facility, a foster parent, or any other provider of child welfare services or alleges a basis for discipline pursuant to the Uniform Credentialing Act. All complaints shall be evaluated to determine whether a full investigation is warranted.
- (2) The office shall not conduct a full investigation of a complaint unless:
 - (a) The complaint alleges misconduct, misfeasance, malfeasance, violation of a statute or of rules and regulations of the department, or a basis for discipline pursuant to the Uniform Credentialing Act;
 - (b) The complaint is against a person within the jurisdiction of the office; and
 - (c) The allegations can be independently verified through investigation.
- (3) The Inspector General shall determine within fourteen days after receipt of a complaint whether it will conduct a full investigation. A complaint alleging facts which, if verified, would provide a basis for discipline under the Uniform Credentialing Act shall be referred to the appropriate credentialing board under the act.
- (4) When a full investigation is opened on a private agency that contracts with the Office of Probation Administration, the Inspector General shall give notice of such investigation to the Office of Probation Administration.

43-4321. Cooperation with office; when required.

All employees of the department, all foster parents, and all owners, operators, managers, supervisors, and employees of private agencies, licensed child care facilities, juvenile detention facilities, staff secure juvenile facilities, and other providers of child welfare services shall cooperate with the office. Cooperation includes, but is not limited to, the following:

- (1) Provision of full access to and production of records and information. Providing access to and producing records and information for the office is not a violation of confidentiality provisions under any law, statute, rule, or regulation if done in good faith for purposes of an investigation under the Office of Inspector General of Nebraska Child Welfare Act;
- (2) Fair and honest disclosure of records and information reasonably requested by the office in the course of an investigation under the act;
- (3) Encouraging employees to fully comply with reasonable requests of the office in the course of an investigation under the act;
- (4) Prohibition of retaliation by owners, operators, or managers against employees for providing records or information or filing or otherwise making a complaint to the office;
- (5) Not requiring employees to gain supervisory approval prior to filing a complaint with or providing records or information to the office;
- (6) Provision of complete and truthful answers to questions posed by the office in the course of an investigation; and
- (7) Not willfully interfering with or obstructing the investigation.

43-4322. Failure to cooperate; effect.

Failure to cooperate with an investigation by the office may result in discipline or other sanctions.

43-4323. Inspector General; powers; rights of person required to provide information.

The Inspector General may issue a subpoena, enforceable by action in an appropriate court, to compel any person to appear, give sworn testimony, or produce documentary or other evidence deemed relevant to a matter under his or her inquiry. A person thus required to provide information shall be paid the same fees and travel allowances and shall be accorded the same privileges and immunities as are extended to witnesses in the district courts of this state and shall also be entitled to have counsel present while being questioned.

43-4324. Office; access to records; subpoena; records; statement of record integrity and security; contents; treatment of records.

- (1) In conducting investigations, the office shall access all relevant records through subpoena, compliance with a request of the office, and voluntary production. The office may request or subpoena any record

necessary for the investigation from the department, a foster parent, a licensed child care facility, a juvenile detention facility, a staff secure juvenile facility, or a private agency that is pertinent to an investigation. All case files, licensing files, medical records, financial and administrative records, and records required to be maintained pursuant to applicable licensing rules shall be produced for review by the office in the course of an investigation.

(2) Compliance with a request of the office includes:

(a) Production of all records requested;

(b) A diligent search to ensure that all appropriate records are included; and

(c) A continuing obligation to immediately forward to the office any relevant records received, located, or generated after the date of the request.

(3) The office shall seek access in a manner that respects the dignity and human rights of all persons involved, maintains the integrity of the investigation, and does not unnecessarily disrupt child welfare programs or services. When advance notice to a foster parent or to an administrator or his or her designee is not provided, the office investigator shall, upon arrival at the departmental office, bureau, or division, the private agency, the licensed child care facility, the juvenile detention facility, the staff secure juvenile facility, or the location of another provider of child welfare services, request that an onsite employee notify the administrator or his or her designee of the investigator's arrival.

(4) When circumstances of an investigation require, the office may make an unannounced visit to a foster home, a departmental office, bureau, or division, a licensed child care facility, a juvenile detention facility, a staff secure juvenile facility, a private agency, or another provider to request records relevant to an investigation.

(5) A responsible individual or an administrator may be asked to sign a statement of record integrity and security when a record is secured by request as the result of a visit by the office, stating:

(a) That the responsible individual or the administrator has made a diligent search of the office, bureau, division, private agency, licensed child care facility, juvenile detention facility, staff secure juvenile facility, or other provider's location to determine that all appropriate records in existence at the time of the request were produced;

(b) That the responsible individual or the administrator agrees to immediately forward to the office any relevant records received, located, or generated after the visit;

(c) The persons who have had access to the records since they were secured; and

(d) Whether, to the best of the knowledge of the responsible individual or the administrator, any records were removed from or added to the record since it was secured.

(6) The office shall permit a responsible individual, an administrator, or an employee of a departmental office, bureau, or division, a private agency, a licensed child care facility, a juvenile detention facility, a staff secure juvenile facility, or another provider to make photocopies of the original records within a reasonable time in the presence of the office for purposes of creating a working record in a manner that assures confidentiality.

(7) The office shall present to the responsible individual or the administrator or other employee of the departmental office, bureau, or division, private agency, licensed child care facility, juvenile detention facility, staff secure juvenile facility, or other service provider a copy of the request, stating the date and the

titles of the records received.

(8) If an original record is provided during an investigation, the office shall return the original record as soon as practical but no later than ten working days after the date of the compliance request.

(9) All investigations conducted by the office shall be conducted in a manner designed to ensure the preservation of evidence for possible use in a criminal prosecution.

43-4325. Reports of investigations; distribution; redact confidential information; powers of office.

(1) Reports of investigations conducted by the office shall not be distributed beyond the entity that is the subject of the report without the consent of the Inspector General.

(2) Except when a report is provided to a guardian ad litem or an attorney in the juvenile court pursuant to subsection (2) of section 43-4327, the office shall redact confidential information before distributing a report of an investigation. The office may disclose confidential information to the chairperson of the Health and Human Services Committee of the Legislature when such disclosure is, in the judgment of the Public Counsel, desirable to keep the chairperson informed of important events, issues, and developments in the Nebraska child welfare system.

(3) Records and documents, regardless of physical form, that are obtained or produced by the office in the course of an investigation are not public records for purposes of sections 84-712 to 84-712.09. Reports of investigations conducted by the office are not public records for purposes of sections 84-712 to 84-712.09.

(4) The office may withhold the identity of sources of information to protect from retaliation any person who files a complaint or provides information in good faith pursuant to the Office of Inspector General of Nebraska Child Welfare Act.

43-4326. Department; provide direct computer access.

The department shall provide the Public Counsel and the Inspector General with direct computer access to all computerized records, reports, and documents maintained by the department in connection with administration of the Nebraska child welfare system.

43-4327. Inspector General's report of investigation; contents; distribution.

(1) The Inspector General's report of an investigation shall be in writing to the Public Counsel and shall contain recommendations. The report may recommend systemic reform or case-specific action, including a recommendation for discharge or discipline of employees or for sanctions against a foster parent, private agency, licensed child care facility, or other provider of child welfare services. All recommendations to pursue discipline shall be in writing and signed by the Inspector General. A report of an investigation shall be presented to the director within fifteen days after the report is presented to the Public Counsel.

(2) Any person receiving a report under this section shall not further distribute the report or any confidential information contained in the report. The Inspector General, upon notifying the Public Counsel and the director, may distribute the report, to the extent that it is relevant to a child's welfare, to the guardian ad

litem and attorneys in the juvenile court in which a case is pending involving the child or family who is the subject of the report. The report shall not be distributed beyond the parties except through the appropriate court procedures to the judge.

(3) A report that identifies misconduct, misfeasance, malfeasance, or violation of statute, rules, or regulations by an employee of the department, a private agency, a licensed child care facility, or another provider that is relevant to providing appropriate supervision of an employee may be shared with the employer of such employee. The employer may not further distribute the report or any confidential information contained in the report.

43-4328. Report; director; accept, reject, or request modification; when final; written response; corrected report; credentialing issue; how treated.

(1) Within fifteen days after a report is presented to the director under section 43-4327, he or she shall determine whether to accept, reject, or request in writing modification of the recommendations contained in the report. The Inspector General, with input from the Public Counsel, may consider the director's request for modifications but is not obligated to accept such request. Such report shall become final upon the decision of the director to accept or reject the recommendations in the report or, if the director requests modifications, within fifteen days after such request or after the Inspector General incorporates such modifications, whichever occurs earlier.

(2) Within fifteen days after the report is presented to the director, the report shall be presented to the foster parent, private agency, licensed child care facility, or other provider of child welfare services that is the subject of the report and to persons involved in the implementation of the recommendations in the report. Within forty-five days after receipt of the report, the foster parent, private agency, licensed child care facility, or other provider may submit a written response to the office to correct any factual errors in the report. The Inspector General, with input from the Public Counsel, shall consider all materials submitted under this subsection to determine whether a corrected report shall be issued. If the Inspector General determines that a corrected report is necessary, the corrected report shall be issued within fifteen days after receipt of the written response.

(3) If the Inspector General does not issue a corrected report pursuant to subsection (2) of this section, or if the corrected report does not address all issues raised in the written response, the foster parent, private agency, licensed child care facility, or other provider may request that its written response, or portions of the response, be appended to the report or corrected report.

(4) A report which raises issues related to credentialing under the Uniform Credentialing Act shall be submitted to the appropriate credentialing board under the act.

43-4329. Report or work product; no court review.

No report or other work product of an investigation by the Inspector General shall be reviewable in any court. Neither the Inspector General nor any member of his or her staff shall be required to testify or produce evidence in any judicial or administrative proceeding concerning matters within his or her official cognizance except in a proceeding brought to enforce the Office of Inspector General of Nebraska Child Welfare Act.

43-4330. Inspector General; investigation of complaints; priority and selection.

The Office of Inspector General of Nebraska Child Welfare Act does not require the Inspector General to investigate all complaints. The Inspector General, with input from the Public Counsel, shall prioritize and select investigations and inquiries that further the intent of the act and assist in legislative oversight of the Nebraska child welfare system. If the Inspector General determines that he or she will not investigate a complaint, the Inspector General may recommend to the parties alternative means of resolution of the issues in the complaint.

43-4331. Summary of reports and investigations; contents.

On or before September 15 of each year, the Inspector General shall provide to the Health and Human Services Committee of the Legislature and the Governor a summary of reports and investigations made under the Office of Inspector General of Nebraska Child Welfare Act for the preceding year. The summary provided to the committee shall be provided electronically. The summaries shall detail recommendations and the status of implementation of recommendations and may also include recommendations to the committee regarding issues discovered through investigation, audits, inspections, and reviews by the office that will increase accountability and legislative oversight of the Nebraska child welfare system, improve operations of the department and the Nebraska child welfare system, or deter and identify fraud, abuse, and illegal acts. The summaries shall not contain any confidential or identifying information concerning the subjects of the reports and investigations.