

House Government Operations Committee
March 10, 2016

Contact: William M. Young
802-777-7760

Good morning. For the record, my name is William Young. By way of introduction, my experience has involved 13 years in Corrections, much of it in Probation and Parole, 2 years as the Social Services District Director (within SRS) in White River Jct., and 18 as the Commissioner of what was then the Department of Social and Rehabilitation Services (SRS). Following that I served for 10 years working with addicts as the Executive Director of Maple Leaf Treatment Center in Underhill. I retired last June.

I was asked to offer any advice I might have about legislation establishing an independent “Ombuds” agency regarding the child and family services functions at DCF. I think that I can be most helpful to the Committee by talking about some of the key factors that should be considered in this regard. As you well know, child protection and family services issues are very complicated. There are usually no easy answers. Yet we all want to have the best system possible in a field that is so important to the safety of our children. I’ll start with some general points that have a bearing on this specific issue.

1. First, ensure that you shape the message any legislation sends to comport with a mission of protecting children. It has been my experience that social work child protection staff are incredibly sensitive to messages about child protection vs. helping parents; about keeping or returning children to their biological parents or placing them in foster or adoptive homes, or any other issues, including this one. I say this because this legislation and how it is implemented, if passed, has the potential to have an impact, for good or for bad, on the staff doing this work and on the work itself more that you would think.

Here’s a brief example. Years ago we began a state wide effort to provide assistance to families in these cases. I made a strong point to all of our staff at a conference, in writing, and in personal visits to every office, that this was in no way backing off our mission of protecting children from abuse and neglect. The point was that, since most children in these cases remain with their parents and most children who do come into custody are reunified with their parents, it makes sense to offer support services to those parents. But in no way were we changing our focus on child protection.

I immediately began getting calls from people around the State telling me that some social worker had told them that we couldn’t take children into custody unless the parents had participated in a family services program.

My point is that it is more important than you might think to be very careful about what the message is with any legislative action in the child protection field. There’s nothing wrong with working to ensure quality services. But please be thoughtful about the message.

2. The size of a state and of a Department influence the capacity to respond to the concerns this proposed legislation addresses.

We are a small state. Our population is about the size of Portland, Oregon. I know that the Committee has talked with the Ombuds agency there and I've looked at some of their information. Oregon has a population of 3.4 million people. Their latest annual report shows 29,382 reports referred for investigation. Vermont's last data shows 2,908 investigations. Comparisons between states are sometimes difficult due to different laws and structures regarding family services and assessments vs. investigations, but the difference in size is obvious.

In a large state such as Oregon, I wouldn't have much hesitation about the action this bill contemplates. But in our small state there are at least a couple of choices about how best to respond to the concerns that prompted this bill.

It is also the case that in our small state, DCF is a very large Department. Its size makes it difficult for a Commissioner to pay close attention to child protection issues. Two previous Commissioners have made that statement to me. SRS was created out of a belief that child protection was not getting proper attention when it was located within the then Department of Social Welfare, mixing a mission of helping parents and their families with one of child protection, with child protection not getting the priority of attention and funding that it required. About ten years ago, out of a desire to break down institutional barriers to services, DCF was created, combining these and other functions. In the process, however, we again gave a mixed message about child protection and made it harder for the agency leader to pay attention to these issues and weakened our effort. I'll talk more about Mission in a minute.

My point is that children and families are best served, and problems of service delivery resolved, when the agency head has time to personally pay attention to child protection issues. The current structure makes it very difficult to do so. It influences the kind of information available to a leader and their ability to personally consider and act on it. You can't always control whether a manager is competent or interested, but you can try to create an administrative structure that supports administrative oversight and management. If that's not clear, I'd be glad to give you some quick examples of what I mean by "paying attention."

3. And that gets us to Mission. And I know that there are people who will disagree with me on this. The Mission of a Child Protection agency is to protect children from abuse and neglect. The Mission is not to help parents. It is not to support or protect social workers or make their work easier. It's not to make people like us.

Now, please don't misunderstand me. Since many children in these cases remain or return home with their parents, any Child Protection Agency must offer or have access to a robust selection of treatment and supports for parents, including foster and adoptive parents.

And of course the agency must be concerned about workload, training and safety issues for social workers. People should be treated with respect and given good and clear information and assistance.

But these activities are a means to an end. Make no mistake. This is a war, a hidden war, with these children the victims of that war. The Mission is to protect children. And if you dilute the message about the Mission, you do it at the peril of the children you are supposed to protect.

That message has been diluted within this large agency, when for years I heard people say that, “the Mission of DCF is to strengthen and support families.” That no doubt is the Mission of much of DCF’s work, but it is not the Mission of child protection. When the message is diluted, it influences decisions, for example, about abuse and neglect, about the removal of children from their homes and about return to their parents. More recently I have heard that the Department has tried to clarify the child protection mission.

And that’s a good thing, because the first and last question that you should ask in making decisions in these often very complex cases is: “Is this the right thing to do for this child?” For example, I remember a case where a very young child came into custody. As time went by and the parent floundered and failed to make progress the Department moved to terminate parental rights in order to provide the child with a permanent home. Time is particularly important with very young children. The court ordered termination. The parent, who had subsequently gotten into treatment and was making progress, took the appeal to the VT Supreme Court. The Supreme Court stated, in a ruling denying the appeal of a termination of parental rights, that “A child is not a reward for good behavior.”

The Mission is to protect children and to ensure that we are acting in their best interest. It should permeate everything we do and legislate.

4. And that gets me to the issue of creation of an Ombuds function independent of the Department. There are two main points I’d like to stress, funding issues aside.

The first is that concerns about quality of work are an administrative responsibility. When I was Commissioner, of a much smaller Department, I would have been strongly opposed to this type of action. I believed that it was my responsibility to oversee and correct any weaknesses or failings in how we operated and generally believe that I did. And if it couldn’t be done, it was my responsibility to report that to the Governor and Legislature and identify what was needed to correct that.

When I received concerns about cases from a parent or a legislator or a child advocate, I would get the necessary information, review it personally and take whatever action I thought necessary and in the case of legislators, respond to them myself. And of course managers at the local level often act to resolve complaints as well.

The fact that the Department is so much larger than SRS was makes things more complicated, but it is still an administrative responsibility. No doubt the Administration feels that way in this instance. It is certainly one way, in a very small state, to look for an answer to these concerns. So I don't discount it. It is an option.

Second, as the information from Oregon seems to indicate, an independent "Ombuds" agency can offer another way to provide oversight and assistance to children and their families. I would stress that it will likely be more of a resource for parents involved in the child protection system.

Children rarely call asking for help. They don't vote. They don't call their representative to ask them to intervene on their behalf. They need powerful voices to speak up for their needs. So I hope, if you proceed with this legislation, that you can give some thought to emphasizing that the purpose of this independent Office is to advance child protection efforts in Vermont. Everything we do should be a means to that end and framed in that context. If properly done and led, such an agency could be a resource for parents and policy makers and for children.

As you consider whether or not the State should put such an agency in place, please be aware of unintended consequences. If the person in charge of such an agency is a crusader with an agenda and focus on helping parents, or a "moral oxygen technician" who thinks that families need to be rescued from DCF and that, with few exceptions, a child should remain with or be returned to their family, they will create a tremendous morale problem for social workers and, more importantly, will push for decisions that are not in the best interest of abused and neglected children. The leader of such an Office has to be someone who is committed to the Mission of child protection. Perhaps you could consider some language to that effect if you move this forward.

I think it comes down to whether you think, in a state the size of Vermont, the creation of this Office is necessary to assure quality work in the agency and proper action to protect children from abuse and neglect.

In closing, I do have one other recommendation for you. If the Committee is interested in how we structure our administrative functions in a way that best serves children, I'd recommend that you consider how we provide children in abuse/neglect cases with legal counsel.

In Vermont, children have a right to their own attorney in these cases, as do parents. The State's attorney does not represent the child. Those attorneys work within the Office of the Defender General, who provides legal counsel through the Public Defenders for adults charged with a crime. It's an adversarial system, them vs. the State. Children are represented by the Juvenile Defenders Office, within that administrative structure. Juvenile Defenders represent children in delinquency proceedings. They are an adversarial process – them vs. the State.

But the same office represents children in abuse/neglect proceedings. I have to tell you that I do not think that those children get the vigorous service they deserve through this system, where they are represented by attorneys who work within a structure and environment of an adversarial relationship with the State and largely serve adults. I've known of a few juvenile defenders who were fierce protectors of the children they represented and for services required, whether the child was returning home or was in foster or pre-adoptive care, but not many.

That function should be located in a separate agency (certainly not DCF). Perhaps, if you form this "Ombuds" office, you could locate it there, further strengthening the message of an effort of serving the best interest of children and striving for quality services.

I would be glad to answer any questions and appreciate the Committee's attention.
Thank you.

William M. Young
Burlington, VT