



SEN. NATHAN LIBBY, SENATE CHAIR
REP. GENEVIEVE MCDONALD, HOUSE CHAIR

MEMBERS:

SEN. LISA KEIM
SEN. DONNA BAILEY
SEN. RICHARD BENNETT
SEN. SUSAN DESCHAMBAULT
SEN. JEFFREY TIMBERLAKE
REP. H. SAWIN MILLETT, JR.
REP. AMY ARATA
REP. MARK BLIER
REP. MARGARET O'NEIL
REP. HOLLY STOVER

MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

MEETING SUMMARY
November 10, 2021

Call to Order

The Chair, Sen. Libby, called the Government Oversight Committee to order at 10:00 a.m.

ATTENDANCE

Senators:	Sen. Libby, Sen. Bailey, Sen. Bennett, Sen. Deschambault, Sen. Timberlake, and Sen. Keim
Representatives:	Rep. Blier, Rep. Millett and Rep. Stover, Rep. McDonald, and Rep. O'Neil Absent: Rep. Arata
Other Legislators:	Rep. Madigan, Sen. Claxton, Rep. Craven, Rep. Zager, Sen. Baldacci, Sen. Moore, Rep. Javner, Rep. Meyer, Rep. Perry, Rep. Lemelin, Rep. Connor, Rep. Griffin
Legislative Officers and Staff:	Lucia Nixon, Director, OPEGA Matthew Kruk, Principal Analyst, OPEGA Amy Gagne, Senior Analyst, OPEGA Kari Hojara, Analyst, OPEGA Sabrina Carey, Administrative Secretary, OPEGA and Clerk, GOC
Executive Branch Officers And Staff Providing Information to the Committee:	Dr. Todd Landry, Director, Office of Child and Family Services, DHHS Bobbi Johnson, Associate Director, Child Welfare Services, DHHS Christine Alberi, Child Welfare Ombudsman
Other Presenters:	Daniel Despard, Senior Director, Casey Family Programs Scott Modell, Co-Founder, Collaborative Safety Noel Hengelbrok, Co-Founder, Collaborative Safety Christopher Roney, General Counsel, FAME

Introduction of Committee Members

The members of the Committee introduced themselves. Sen. Libby reminded everyone of the electronic meeting conduct and procedures.

Summary of September 8, 2021 GOC Meeting

The Summary of September 8, 2021 Meeting was accepted as written.

New Business

• Presentation – OPEGA Report on Evaluation of the Maine Historic Rehabilitation Tax Credit

Director Nixon introduced the OPEGA report on the Evaluation of the Historic Rehabilitation Tax Credit (HRTC). The report is part of the Tax Expenditure Reviews and the evaluation plan was approved by the GOC back in April. The team was led by Kari Hojara, who worked with Jennifer Henderson and Joel Lee to complete the review.

Kari Hojara, OPEGA Analyst, presented OPEGA's Report on the Evaluation of the Maine Historic Rehabilitation Tax Credit (The report can be found at: <https://legislature.maine.gov/doc/7498> and a copy of the presentation can be found at: <https://legislature.maine.gov/doc/7785>)

Senator Bailey asked when talking about affordable housing and it being certified, who certifies that it is affordable housing?

Ms. Hojara answered that Maine Housing certifies those projects through their normal processes.

Sen. Keim wanted to ask some questions about affordable housing. Is there any guarantee that when someone applies for the credit and then puts in affordable housing units, that they remain affordable housing?

Ms. Hojara answered that she didn't want to give the wrong details without looking at it, but thought that there is something that keeps it permanently affordable housing, at least for 30 years. She said she would follow up on that.

Sen. Keim then asked if there's a cap on the on the amount of rent that can be charged on the housing units or how that's figured and noted that is probably a question for Maine Housing. Her other question was about the 924 affordable housing units created. Did OPEGA do a breakdown on how much each one of those units actually cost the taxpayer, or what the subsidy was on each of those units?

Ms. Hojara answered that OPEGA did not do that breakdown. Often these projects involve multiple different types of tax credits so, figuring out what the actual cost was, would involve doing more work on figuring out all of the credits that were involved in a project. She also noted that some of them are federal and some of them are state. Ms. Hojara did not have that information on hand but will look into it further.

Sen. Keim responded that with looking more broadly at the other types of efforts that we put forward around affordable housing, knowing how much these have been subsidized and their cost would be helpful.

Sen. Libby wanted to know about some figures in the report, including the \$398 million for expenses qualifying and then, \$84 million for Maine credits expended. He asked if it is fair to say that \$84 million in state credits, induced \$398 million in activity? Or is that not a fair statement?

Ms. Hojara answered that the two figures came from different places. The \$398 million is what qualified for the credit, and the \$84 million is what we know was claimed through a certain time period. The timeframes may not be the same. The \$84 million came from MRS, and the \$398 million came from MHPCs data. It may be fair to say that the \$398 million in spending contributed to the \$84 million that was claimed.

Sen. Libby then clarified his question. In the report it is indicated that the credit may be paying for itself and or directionally supporting that. Is there any other detail that could be shared on that front?

Ms. Hojara answered that they were not able to arrive at a final determination about the net cost to the state in that way, but that OPEGA did find that the economic impact reports that made that determination seem directionally accurate. OPEGA thought that the kind of modeling that was used in the economic impact reports is subject to lots of different caveats, and it is an estimate, but that it looks like it is moving in that direction.

Sen. Deschambault made a connection to affordable housing in her area of the state. She has been on the planning board. When the mill complex came before the planning board, the question was how many are affordable housing? The city required that 40% of the apartments would be affordable and affordable was translated to be, 25% or 30% less than the fair market value of the other apartments. It is something that she has witnessed, and those apartments are always affordable. If someone leaves, only someone who meets the eligibility of affordable apartment can move in that apartment. The housing authority certifies the affordable.

Ms. Hojara answered that the certification process for those are the same that Maine Housing uses for all affordable housing and the standards and definition of what counts is in statute. It is guaranteed to remain affordable housing for 30 years because there are covenants in the origination document.

Sen. Deschambault clarified that she heard that the OPEGA report gets sent to Taxation committee but was wondering about other committees, like Labor and Housing. Do they get the reports too?

Ms. Hojara confirmed that currently it is only Taxation Committee that receives the reports.

Rep. Millett asked if there was a current version of the statute that would be available to them. He saw the response from the director of Maine Historic Preservation Commission in the report and was wondering if OPEGA got any other responses to the draft report from MRS, Maine Housing or any other stakeholders? He also commented on Sen. Deschambault's suggestions, adding that given the revenue loss and the possible expansions, he thinks the Appropriations Committee could also be included in receiving the reports like Taxation, Labor and Housing, Education and Cultural Affairs, and maybe the IDEAB committee could also be included.

Ms. Hojara answered that OPEGA can definitely make a current version of statute available to the GOC. In terms of a response from MRS and Maine Housing, those agencies commented on an early version of the draft, but chose not to provide a formal comment letter to be included with the report.

Sen. Libby thanked the staff at OPEGA for working diligently to get the report done on a very short timeframe. There is a bill pending before the legislature and lawmakers made the decision to pause the enactment or an attempt to enact that bill until they had this report. They appreciate the staff who moved mountains to get this one done in the timeframe that they did. His final comment was that in his 5 years as a member of the committee, the report is the first one that he can recall where OPEGA found that the policy goals were largely being met and that the economic impacts, while difficult to precisely estimate, do point to a net benefit to the state. Lots of advocates of tax credits suggest that they will all create economic activity, but we often see that as hard to quantify and prove. With this report, he thinks maybe this credit is an example for the legislature in creating new tax credits in the future, to try to build upon this model.

• Presentation – Evaluation of the Maine Seed Capital Tax Credit – Response from FAME

Sen. Libby introduced Christopher Roney of FAME, reminding the committee that at the last GOC meeting they received the Seed Capital Tax Credit evaluation report and that since then FAME has prepared some information requested by the GOC.

Chris Roney introduced himself as the general counsel for the Finance Authority of Maine (FAME). Mr. Roney stated that FAME had responded prior to this meeting providing answers to Senator Bennett's specific questions raised during the September meeting, so he will be focusing his testimony on the other requests of the GOC which had to do with delivering FAME's action plan and addressing the recommendations of the OPEGA Report and providing comments pertaining to structure of program goals and design elements.

Mr. Roney presented his testimony to the committee about FAME's report back on OPEGA's Evaluation of the Maine Seed Capital Tax Credit. (Presentation is available here: <https://legislature.maine.gov/doc/7419>)

Sen. Libby asked if the reporting forms required by the program are being mailed to program beneficiaries, and whether they have the option to complete the reporting electronically.

Mr. Roney answered that they currently send paper versions of the forms, but they are working towards sending them all out electronically. When they have electronic contact information they email them and ask for them to be either mailed or emailed/faxed back; they do whatever is necessary to get the information back. FAME's goal is to be entirely electronic and have a database to hold all of that information, but simply are not there yet.

Sen. Libby clarified that he asked because it seems that electronic reporting is the new norm, both for ease of the beneficiary and for staff level efficiency. He thinks using paper is an old approach and appreciates the plan to go electronic in the future.

Mr. Roney moved on to FAME's response to Senator Bennett's request for more information. He asked for the committee's feedback on FAME's responses, and whether the information that was given to them was sufficient or if there is even more additional data they would like FAME to track down.

Sen. Bennett said he appreciated that Mr. Roney pulled that information together. He stated that we live in a world of imperfect information. It doesn't tell the whole story. It's like snapshots here and there, which is good to know. It's good to know what we know and what we may not know. It is helpful in giving some directionality to, understanding, venture capital is spent and our investment in Maine.

Sen. Bennett then asked when reviewing this data, such as it is, whether Mr. Roney drew any conclusions from it, relating to the Seed Capital Tax Credit program and its efficacy.

Mr. Roney answered that he thought the information provided was useful and it supported the way that they value the venture capital, for example it provides to the investment community.

Sen. Bennett responded that it is difficult to assess because a lot of what might be called venture capital doesn't flow through normal channels in Maine and that the funds from which it comes are not as structured as it might be in other jurisdictions. He noted that it would be really nice to try to capture that and he thought the Seed Capital Tax Credit is designed to tease some of that out too.

Director Nixon reviewed the overall status with the committee. The committee had the presentation from OPEGA in August, the Public Hearing comment period in September that led directly into a work session, during which the GOC voted to endorse the report. She asked if there are any next steps or action that the GOC needs support from the OPEGA staff in terms of the report. The Taxation committee has received copies of the report, but wanted to check if the GOC wanted the current FAME response back materials to also be given to the Tax Committee.

Sen. Libby said he thought that they have collected the information and data they were primarily seeking and the project is now at a stage where he thought it could be handed over to the policy committee for their continued review and potential amendments. He would guess that there will be at least one bill before the taxation

committee on the Seed Capital Tax Credit that will be drawn from the OPEGA recommendations. He thought that the feedback from FAME would be useful in that process. He said he thought that the GOC has largely accomplished their goal and it is now turn for the tax committee to dive into writing that potential tax policy.

• **Presentation – Tax Expenditure Review of Categories and Schedule**

Lucia Nixon, OPEGA Director, presented materials to the committee related to the requirement that the committee annually review and make any necessary adjustments to the review category assignments and schedule for evaluations of tax expenditures, including adjustments to incorporate tax expenditures enacted, amended or repealed in the preceding year of Legislative sessions.

Senator Bailey asked if there could be a version of the presented chart that had the projects in chronological order in terms of how long they've been around.

Sen. Libby stated he would second that suggestion from Sen. Bailey. On the shipbuilding credit, his understanding of it is that there is one shipbuilder in Maine that qualifies for this credit and they've been accessing it for decades.

Regarding the shipbuilding credit, Director Nixon thought there may be a misunderstanding. She was reading that it was tax years beginning on or after January 1, 2020 She noted that she didn't have the history right in front of her, but that she can look into the history further.

Sen Libby stated that he understood that it probably is technically a new credit but that it may take over for something that had been in place.

He asked that OPEGA staff prepare a revision to the table to include some of that historic information (enactment), then they can ask the Tax Committee to review the table and provide any comments they would like to the GOC.

Director Nixon confirmed there is a requirement that the GOC and the Taxation Committee review and adjust the categories and schedule annually, but there is not a specific approval requirement. Technically, every year, the GOC is supposed to review and make the adjustments by October. Ms. Nixon suggested that it may be another subject for the Tax Expenditure Review Working Group to discuss whether the October date makes sense given when the committees meet and when they have the information from the previous session to do the follow-up work. Director Nixon clarified that OPEGA would go back and revise the full evaluation portion of the table and add historical information on enactment of the exact credit or related credits, so the GOC has a sense of the timeline, as well as any sunset dates that are in statute now, so that the GOC can make sure that evaluations are lined up to happen before something sunsets, if possible. She noted that OPEGA would also still keep the way it's organized now, with a column for the policy grouping, into business incentives, non-business incentives, other types so there would be different ways to sort them. Then OPEGA would provide that revised document to both the GOC and the Taxation committee and for the Taxation Committee there could be a memo from the GOC Chairs to request the review by the Taxation Committee and maybe a report back to the GOC. She noted that it will be important for OPEGA to know what evaluations should be next on deck.

Sen. Libby confirmed that he does want to hear from the Taxation Committee if they have anything that they're thinking of that would benefit from an OPEGA evaluation. He noted that Taxation they may have a bill in the hopper that deals with one of these items under the full evaluation category and that maybe we want to see if we can accommodate any desire to move one up, sooner.

Director Nixon stated that she can keep an eye on when the bill titles are published for second session and whether there is any pertaining to tax expenditures in the chart.

Report from Director

• Status of projects in process

Director Nixon reviewed the current status of projects within OPEGA. She noted that the MCILS project has one piece of remaining work related to indigency determination that has been put on hold to focus on the Child Protective Services work. The Historic Preservation Tax Credit evaluation report was presented today and the public hearing is scheduled for the next meeting. The Research Expense Tax Credit Evaluation had also been delayed by CPS, but is still in progress. Ms. Nixon noted that in the last six years, OPEGA has prepared information to support the taxation committee's expedited review of broad groups of tax expenditures. OPEGA has completed compiling that information for the sixth (final) year of the cycle and will be submitting that material to the Taxation committee as required. OPEGA will also provide copies of that document to the GOC.

Ms. Nixon also noted that the Tax Expenditure Review Working Group, which isn't listed on the OPEGA work plan, has been a project that has required a fair share of effort and attention by OPEGA staff and also some GOC members. The last TERWG meeting was November 1st and their report is due December 1st. OPEGA is working with staff from OFPR to assist the committee with drafting their report. The intent would be to schedule some time in January for both the GOC and Taxation Committee to discuss the recommendations of that working group.

Director Nixon noted that Child Protective Services is going to be the subject of the afternoon portion of the meeting. There are two pieces of OPEGA's CPS review project that are active. The first piece is an Information Brief to the GOC due January 15, 2022. That report looks at the landscape of oversight and advisory entities that are outside of DHHS that provide other oversight functions in the state and potentially looking at the federal players as well and how their oversight works. OPEGA is finishing up fieldwork for the Information Brief, which has involved an intensive number of interviews and then synthesizing the information. OPEGA will be delivering its second report for this project to the GOC in March which will be an evaluation report on the assessment and investigation processes and issues around child safety. On that project, OPEGA has completed work reviewing OCFS policies and has conducted multiple individual and group interviews with agency staff. Staff have also prepared the survey of caseworkers and supervisors, which will go out to over 200 individual caseworkers and supervisors in the department. OPEGA has also obtained some aggregate data from DHHS on all of the investigations that were conducted in 2020. OPEGA is in the process of developing our methodology for gathering information and perspectives of specific groups of mandated reporters.

Rep. Millett brought up the review request on the Workday Maine program. He said he was wondering about some rumors he had heard suggesting that there is progress on the Workday Maine Program. He was wondering if it might be appropriate to have an update of the status of negotiations and litigation at the first GOC Meeting in January.

Sen. Libby thanked the Representative for his suggestion. He stated he was open to an update. He then asked Rep. Millett, given his past experience, if he feels like DAFS would be able to share anything substantive with us if negotiations are ongoing, given the delicate nature of that sort of process.

Rep. Millett was thinking just a written response from DAFS in terms of how things have proceeded since April 23rd would be adequate. If there is drafting going on, on an RFP, that would be off limits for us to engage in, but perhaps a simple a status update in writing would be adequate.

Representative Stover wanted to support what Rep. Millett said. She thought that they still have some information to process and if they could move that discussion up, if it could even be January that it would be appropriate to make this request by letter to DAFS.

Sen. Libby confirmed that he thought it would be appropriate to make a request and they could transmit a letter seeking an update on negotiations and any other related subjects.

Planning for upcoming meetings

Sen. Libby mentioned that they were proposing to have their meetings on the first and third Fridays of the month during Session with a 10:00 start time each meeting.

Sen. Bailey brought up her new seat on the Maine Child Welfare Advisory Panel and that creates a conflict on the first Friday of every month.

Sen. Libby then asked if the committee was okay with the second and fourth Fridays of every month during session, but to have the first meeting of the session on the third Friday of January, the 21st. The schedule would be one meeting in January, and two meetings in February, March and April on the 2nd and 4th Fridays. The committee unanimously agreed on that schedule.

Next GOC meeting date

The next GOC meeting is scheduled for Friday, January 21, 2022 at 10:00 a.m. and will be held electronically.

-Lunch Break-

• Presentation – Collaborative Safety, Casey Family Programs and the Office of Child and Family Services

Copies of the report and presentation materials are available here: <https://legislature.maine.gov/doc/7420> and <https://legislature.maine.gov/doc/7429>

Daniel Despard introduced himself as a strategic consultant for Casey Family Programs, which is the nation's largest operating foundation focused on safety, and reducing the need for foster care in the United States. It was founded in 1966 by Jim Casey, who was also the founder of the United Parcel Service, or UPS. Collaborative Safety is an organization that has demonstrated expertise has developed a safety science-based model for critical incident reviews in child welfare. These reviews are often conducted after a fatality or a serious injury, but could also be conducted after other significant events. Casey Family Programs has partnered with Collaborative Safety in working with several other jurisdictions to build internal capacity to implement this model. He noted that when Director Landry contacted him this past July to request Casey Family Programs' assistance in investigating several recent child fatalities, to evaluate child safety policies and practices and the context of those deaths and to offer recommendations, we engaged Collaborative Safety to use their safety science-based model to conduct critical incident reviews of the fatalities. When we use the terms child welfare system or the system, we recognize public child welfare agency is central to that system, but want to clarify that the system is much broader and involves multiple stakeholders, including the courts, law enforcement, education, medical providers, community service providers, community members, and many, many more keeping children safe is the responsibility of all system partners. Once the public child welfare agency in this case, OCFS, begins working with a child and family, the core of that work is the assessment of child safety. That assessment of child safety is completely dependent upon the information gathered and shared among the system partners. Practices, policies, or protocols that enhance or improve the gathering and sharing of critical information among the system partners will enhance the assessment of a child's safety and in turn enhance the plans to keep children safe.

Scott Modell introduced himself and Noel Hengelbrok as the presenters from Collaborative Safety. (A copy of the presentation is here: <https://legislature.maine.gov/doc/7429>)

Rep. Madigan – HHS Committee – wanted to clarify on the point where Mr. Modell and Mr. Hengelbrok said they identified difficulty engaging with caregivers, and she wondered if they had any information on what the barriers were towards engaging with caregivers and developing those relationships?

Mr. Hengelbrok answered what they saw was that there was a bit of an adversarial relationship with the child welfare agency itself, from the caregiver perspective. Through the analysis they are seeing that it may be that the caregiver sees the child welfare agency as a more of a threat and they distance themselves and their family causing this difficulty up front to engage and communicate the benefits and supports that the child welfare agency does want to bring in.

Rep. Madigan also wanted to clarify what feedback they got around standby staffing patterns and whether they can be specific about the recommendations or problems identified.

Mr. Hengelbrok answered that the standby staffing patterns are about staff sign up for standby positions on late nights and weekends. Essentially everybody is signed up for those hours. Those individuals may end up doing things that they had never done before. While this does create an influx of staff knowing all of the aspects of work they may be required to complete, it also is a challenge because there may be differences in how questions are asked or how much information is gathered between a new or more seasoned worker.

Mr. Modell continued to clarify that it is a challenge for most child welfare agencies, as they are open for operation 24/7 but may not be fully staffed 24/7, so the staff has to be available 24/7 as standby. There are some best practices that folks have across the country. One of the recommendations was to look at those other practices to figure out ways to do it better.

Mr. Despard added that Casey Family Programs is in all 50 states and is working on surveying across the country for what would be considered best practices. What they do know is that there is not a single jurisdiction that believes they have the gold standard in this. This is a challenge everywhere. What CFP is doing is finding jurisdictions that believe they have improved systems.

Representative Craven followed up regarding the communication and the perceived threats that the family may feel from caseworkers. She noted that there is a program in Maine called the Alternative Response Program that is winding down, but that seemed to have been more conducive of families participating and communicating with home visitors. Rep. Craven asked if they have looked at that program or if they were going to be recommending that they continue to employ alternative response workers?

Mr. Hengelbrok answered that alternative response did come up within the within the scope of review based on the analysis, and it didn't really come out necessarily as being this key finding that would be prompting any specific recommendation towards alternative response.

Senator Claxton asked Collaborative Safety if in their work or human factor debriefing as relates to knowledge factors, did they come away with the sense that the case workers were being afforded the opportunity to acquire all the knowledge that they needed to do this work? He would hate to have people working in positions for which they are not fully trained, although they may be experienced.

Mr. Hengelbrok answered that it varied, in terms of we think about knowledge factors. How that came up within context of the, the report specifically, it wasn't always just kind of the presence or absence of knowledge--it was really how do people activate knowledge. For instance, sometimes if you are on a very tight timeline, the ability to really act on or actualize all the knowledge that you really have or been provided becomes compromised a bit. He referenced the standby staffing patterns earlier. For instance, if there is a worker who doesn't have much experience working with a particular type of case who through working on standby is put in a position work that type of case, what we can see is just by the very difference of them not having experience within that type of case, we are going to see some type of deficits or differences, compared to from somebody who is experienced in that type of case work specifically.

Mr. Modell added that it's a good question. Is everybody trained in everything they need? And what we know from the safety industry is even though sometimes somebody may be trained on something as Mr. Hengelbrok alluded to, that knowledge isn't necessarily always activated. There are circumstances that support that.

Sen. Claxton specified that his question was related to the red flags and whether that might be a minimally amenable to a checklist approach? He asked about all the following red flags, because it was really safety concerns that prompted Collaborative Safety in getting involved.

Mr. Hengelbrok answered that it really depends on the situation. There is a movement towards bringing in a checklist type approach that essentially supports or provides tools that allow people to check that they have everything they need. A lot of times what happens is that the supports are there and the tools are. What can happen is based off of the time you have, the participation of all those who may be involved in the process, and the quality of information that's being shared from one person to another, all of the tools that are strong and meant to support practice may not be as effective as they were initially designed. What can happen is where some of the information that is needed is not there, or is not able to be accessed, or someone's not sharing it, or you maybe have information that isn't accurate. Certainly, there are also time constraints and sometimes workers who are confronted with situations that are constantly evolving and where they don't always have complete knowledge of what may be happening. It is really complex.

Rep. Zager asked is it known in a prospective sense, what the indicators and standards are of an optimally functioning, safe child welfare system? For instance, turnovers can be a concern retrospectively. When something awful happens, we can look back and say, well, what was the turnover rate in that may have been too high, but is there any way, if the research has elaborated or matured enough for this, to know prospectively when you're bumping up against some of those yellow zone or red zone, more proximal indicators?

Mr. Modell answered that they want to create a culture that staff feel safe to share what is impacting their work. Creating a culture where staff feel safe to talk about when things may be going wrong is ideal for that. There is not necessarily a perfect set of indicators that can really lead us towards knowing when an agency has not been performing optimally. A lot of the indicators that are currently used when thinking about child welfare across the country are looking back at incidents or looking back at numbers related to what's already happened, and trying to use that information as predictive for what's going to happen. This can become problematic because the types of cases and events that have happened a month ago or a year ago aren't necessarily predictive of what you're going to be facing a year or two years into the future. There are certain conditions that definitely come up again, and this is from us working with agencies across the country, we see turnover certainly plays a role in staff's ability to be successful. It could certainly be difficult in keeping staff in a rural area. There could be pay differences that occur. Certainly, workload issues can come up. There is a lot of detail of what does that actually look like and how it actually impacting people's ability to be successful with the knowledge, tools, resources, and supports that exist in the community. There are a lot of different child welfare jurisdictions across the country, and outside of it, that struggle to maintain and have all the supports that they need to be to be successful.

Sen. Baldacci mentioned that one of the key goals for him is to have an early warning system to prevent these deaths in the first place. Recommendation number two talks about a protocol between law enforcement and hospitals and child welfare. That will require some statutory changes and he asked if they at Collaborative Safety have a model from any other states that have done that. His second question is about whether they have any experience evaluating a program like the one in Michigan that has an electronic birth matching program where they created a database for people who become parents that might be need of immediate services or might need to be watched. Sen. Baldacci noted he is very concerned about and focused on creating a better early warning system for child protection.

Mr. Modell answered that while their agency does not particularly study that area, there is work that's being done and Mr. Despard may know some of some additional work. I think that that's where folks really want to know is there a specific type of parent and child and age when is this most likely to happen? It's a very difficult thing to predict, people can do awful things and some of it is not predictable. Is there a way to identify this sort of a priori? To our knowledge, there's nothing really robust out there that says, these are the things we do know.

Mr. Hengelbrok continued that there becomes difficulty when you have different entities that are all working towards the same goal, but are consistently working with different sets of information, and those sets of information may be constantly changing as well. Something that was ultimately influencing that

recommendation is that there was a starting point between communication between hospitals and law enforcement, where hospitals may be reluctant, and thinking about their own constraints, such as how not to aggravate the family that they may be interacting with, so they may share less complete information than they have with law enforcement. When we see child welfare or child protection workers who get involved, the hospital staff are more likely to be providing more detail and more insight into what may be going on. What then happens out in the field is that the information that the child protection workers will act on is going to be really based off of which source they choose to rely on. The source would typically be law enforcement. When that transfer of knowledge gets to, let's say a child welfare worker from law enforcement, the information they're getting maybe less detailed and maybe not be as complete as if they were taking it from the hospital directly.

Rep. Madigan asked going forward, what are the core components of a child welfare system? How are they going to prevent child death? She wants to make sure that in 5, 10, 15 years from now, they're not in the same boat noting that a lot of attention needs to be put on having insight into when is the system going beyond what it was designed for.

Mr. Hengelbrok answered that they want to do the work more efficiently. We always want to see the quality continue to increase, but also resources aren't infinite. We have to be cognizant of the resources that we're using and being responsible with those as well. There are pressures that are always affecting an organization's ability to be successful. With the complexity of the challenges that a child welfare organization is trying to address, the best thing they can do is try and open up lines of communication and stay vigilant in understanding how the system is operating, and gathering data on when they may have been pushing the system too far or when they have put their workers into a position where they can't adequately complete the work. It's time to correct and give people what they need. What they see in a lot of agencies is there are workers who are accountable to the organization through metrics, expectations and outcomes. It is not just about giving metrics and rules to follow and outcomes to reach, but is also about the responsibility of the agency to give people what they need to actually be successful. He noted keeping the lines of communication open about what those needs are and really trying to act on it as well as possible but there are always limitations with that as resources are finite.

Rep. Stover mentioned that there has been no discussion about how they should, from a prevention perspective, start at ground zero. There have been starts and stops including the "Don't Shake Jake" Campaign and Periods of Purple Crying, but she asked what can be done from ground zero. There are other entities included, but there's no been no discussion about how we from a prevention perspective start at ground zero. There is Public Health Nursing who are out in the community and actually visiting family's homes, and early childhood education including head start or childcare, or gradually going right up to school-based response, seeing these children. These are all great programs but they don't see all children. When talking about a systemic response, there are gaps in all systems, as in not all children go to these places, but they do mostly end up in the hospital when they're born. She asked how can we add in some of those pieces to include things like public health nursing or early childhood and home visitation?

Mr. Modell answered that some of those things didn't surface in the review in this report. Specifically, to unsafe sleep, the Don't Shake Jake Campaign, in Tennessee, in a two-year period cut unsafe sleep deaths in half. Over 200 was down to 100, due to a joint effort between hospitals, schools, nursing programs, child welfare and public health. One of the ways they were able to do that from the child welfare perspective was to use the systemic review on those cases to show what some of the barriers to not just safe sleep, also safe eating equipment and furniture, safe sleep knowledge and why people aren't using these things. He noted there are a lot of efforts and energies going towards that area, but it is much more complex than just what staff necessarily needs to do differently.

Rep. Stover asked how can they all together build some systemic pieces in earlier? At one point everyone was getting a home visit. And everyone was getting Period of Purple crying training at the hospital. And so over

time we have done some things for a while and then stopped at one point. She just wants to have an inclusive system that goes all the way back down to the nursery stages.

Sen. Libby asked if they can tell him which states you've worked with on child protective oversight or analysis.

Mr. Modell asked Sen. Libby if he could ask a clarifying question. He asked if the Senator was saying states that they've conducted independent reviews or agencies that we currently work with and support to who infuse this model into their system or both? Sen. Libby clarified states where you've done a similar scope of work as you've done here in Maine.

Mr. Modell answered that they have conducted these same reviews within Tennessee, Wisconsin, and Pennsylvania, as well as in Maine. A large focus going broader than that as to how they build skill sets within others to conduct these reviews as well. They work with a number of agencies, the state of New York, New York city, the state of Minnesota, the state of Wisconsin, New Jersey, and Kentucky. They work with counties in California, counties in Wisconsin, and counties in Nevada, as well as the state of Utah, state of Montana, the state of Minnesota.

Sen Libby then asked what is the gold standard for Maine in their opinion.

Mr. Hengelbrok answered that there is a lot of different entities in jurisdictions across the country who are doing well at different aspects, and the more we can try and share those ideas and those approaches the better off we are. Trying to put one type of agency as being the pinnacle might over simplify the good work that's being done across the entities. It is a really tough complex type of system that is being operated. It is difficult to say that there is a perfect example to follow.

Sen. Libby then asked what states they think appear to have most of their ducks in a row?

Mr. Hengelbrok answered that the state of Minnesota, for example, has a state supervised county administration and what they are operating with is a really good communication system between what the counties need and what the state can ultimately provide them. It is a good example of how a system can work well together to help identify what the needs are but also try to fulfill those needs and how they work towards success. Something that really stands out about Minnesota is when something goes wrong, a lot of times you can see an adversarial response between county providers and in-state oversight agencies but in Minnesota the response is more of collaboration, such as how do we work together to ultimately move towards a better outcome?

Sen. Libby then asked a question on one of the findings in the reports. One of the recommendations is that OCFS needs to work with law enforcement and the health systems to draw protocol agreements, however, he notes no mention of the public-school system or childcare providers. Can you shine some light on why that section of the system is left out of that recommendation?

Mr. Hengelbrok answered that when they think about sharing information and working optimally as a system, what they are really working off is the scope of the cases that they are presented with, to go in and learn from and the information that was gathered through the review and analysis process. What came out of that process here as a strong influencing factor based on the analysis, was this communication work between hospitals, law enforcement and the child welfare agency itself.

Sen. Bailey asked in preparing the report it talked about including, OCFS staff, external stakeholders, law enforcement the ombudsman and OPEGA but she just wanted to clarify that in fact, in preparing this report, they did not include the families.

Mr. Hengelbrok answered that within the review process itself, they did not go out and have any direct interviews with families.

Rep. Millett stated he was thinking back to early discussion in the summer back maybe in June when the department said that this is a time for a call to action. There was discussion about needing to know what went wrong. The Department suggested contracting with Casey Family Programs, and the GOC said fine as long as there is a seat at the table for the staff from OPEGA and the Child Welfare Ombudsman in the transmittal letter

from Casey Family Programs and talks about transmitting some interim policy recommendations on page 27. His question was that he thought as a result of the in-depth review there, Casey agreed to perform that there would be a fair amount of drilling down toward the question within those four project circumstances. He also wants clarification on whether the document they have before them is a research paper or if it is a product of some in-depth analysis of what went wrong in those four cases last summer. Is that an activity that Dr. Landry or Christine Alberi will be speaking to? He wants to see page 27 and how it fits within a real aggressive action plan going forward. He was not sure from what he had heard from those who had spoken already, is how much inquiry has taken place with the families, caregivers, and the unfortunate victims and their associations leading up to the seven recommendations? Is the work of Collaborative Safety a research paper, or is it a product of a joint activity between CS and Casey Family Programs?

Mr. Hengelbrok answered that it is all within context of those cases that occurred, which ultimately prompted the review, which was understanding the interface between the child welfare system and these families. It wasn't necessarily from an approach to list out what is objectively good or bad, mainly because that's not necessarily going to kind of help us understand what would happen. From the perspective of this report, specifically, as we want to understand what was going on in this system at this time, what were the interfaces that were happening between these systems and the family, and where do we see some possible gaps there? Ultimately, what are some of those more distal influencing factors into how that surfaces or how barriers get created in wanting to achieve success and safety and supports for families. They are starting with that scope of the review, starting with those cases, and then they build out understandings from the child welfare system perspective of what are some influencing factors that are impacting the ability to provide the highest quality and best support to children and families, not just those that were ultimately with these cases, but children and families across the state of Maine. That's what the in-depth review did, it surfaced some of these things that exist, not only in these cases, and that's why the recommendations were targeted at that area and moves away from surface level recommendations of just another policy or another form to fill out and more of what are those systemic features that's going to impact this.

Rep. Millett asked if they are at a point where they have a set of recommendations that can form an action plan to be developed by the department with the help from the ombudsman and the legislature, or are they still at a point of doing research before pulling together an action plan? He is interested in what can we do now to correct the wrongs and prevent future wrongs of a similar magnitude as just seen previously.

Mr. Modell answered that the department can speak to the action plan. There are a number of things that they are doing that are already aligned with those recommendations that would come from our perspective. This is not a research paper it is an in-depth review of those cases that these are what surfaced from the systemic review of those cases.

Mr. Hengelbrok continued by stating that when they think about the recommendations they ask how can we actualize these. It is going to take a lot of work. It will be a work in progress. There isn't one specific recommendation that could be filled out that gives a perfect plan of how it all will roll forward. It is really trying to provide guidelines of where the child welfare system can see some improvement efforts geared towards. The contemporary safety science that is used in critical safety industry, moves people away from identifying or labeling behavior as right or wrong. It falls under what is called mechanistic approach or mechanistic reasoning and those approaches haven't been shown to be effective for improvements in safety.

Sen. Claxton followed by asking if it is fair to interpret that those child deaths wouldn't have happened if the seven recommendations weren't needed?

Mr. Hengelbrok answered that there is no way to make that causal connection to say that those deaths wouldn't have occurred. It is impossible to know that. All they can do is act off of the information they got. What is the information showing them and how can they try to improve the outcomes?

Sen. Claxton stated that since so much of what was recommended is focused towards process, they may need help longer-term, coming up with metrics so that it is notable when making progress. Right now the approved metrics are of death or successful reunification a year and that is no way to know whether all the things that

happen in between are successful or not. There needs to be a sort of report that tells how far along the path they are and how they know it.

Mr. Modell answered that those are good questions specifically to know how they are doing better and what those metrics look like. They will support that and will always advocate for better and more communication, regardless of the relationship.

Sen. Keim asked where the five cases that they analyzed came from, how they were organized and chosen? It would be helpful to understand what those cases were. Mr. Hengelbrok answered that they were cases that were specifically brought to them and presented to them to conduct the reviews. The cases were all on child fatalities that occurred and for confidentiality they can't really go into too much depth with.

Sen. Keim then asked then what the date range is, and how recent were these five cases that were analyzed? Mr. Hengelbrok answered that they were in June of 2021 and for some of the cases there was past history as well.

Rep. Javner wondered if the systemic maps in the report are just a tool that was given by OCFS or other actual systemic maps that were created from the five cases were mapped? Or is that going to be coming later date from the department?

Mr. Hengelbrok answered that yes there were systemic maps. Those were based in a well-studied and well-used kind of mapping process that uses safety science. They were conducted for all of these cases as well for the summary and recommendations report. We don't have those maps involved specifically, and this is regarding confidentiality concerns.

Sen. Bailey stated that she is still struggling with the process again that was used. She disclosed her viewpoint from being an attorney and a former judge and described the process she is used to for trying to find as the way to get as close as possible to the truth is to listen to all sides. She was trying to understand how you analyze the interface between child welfare and these families without including the families and other collaterals. She said she wants to understand the process a little bit more and why specifically they excluded the families and the other collaterals involved with the specific families that ended in tragedy.

Mr. Modell answered that the task of the review is to conduct a systemic analysis of sort of the features of these cases. Other investigations into the child fatalities through law enforcement, even at the OCFS level occurred on those particular cases. The events surrounding the fatality was investigated by multiple agencies as to understanding what happened and how that child died. The tasks that they were given was to understand the systemic features and do a systemic analysis of the cases and interactions with the families and the child welfare system from the perspective of the child welfare system.

Mr. Hengelbrok added that there are always barriers in being able to directly ask questions or bring in perspectives from the families. What they work off is a lengthy in-depth look into what those interactions were and what they hear from disclosures and comments from the families through the case notes in order to give an understanding of how the interactions occurred and how the supports were being provided. That is ultimately the basis of the review that they conducted. It starts with understanding those interactions, and understanding through those case notes and documentation what the family experience was and using that to build on and understand from that child welfare system perspective, how did that interface work? How could it be improved?

Sen. Bailey wanted to clarify though that it does limit the report because it is the departments perspective, the caseworker's perspective, so it's not necessarily objective.

Mr. Modell answered that it also has the perspective of the external folks who were there from law enforcement as well as providers and the ombudsman. But it is a good question. When law enforcement is conducting the fatality event, when the child welfare agencies conducting the fatality event, they're talking to everybody, they're talking to witnesses and collaterals and so forth about that specific event.

Sen. Baldacci wanted to follow up on some points have been made. He asked if they were tasked with producing the report in a relatively short amount of time.

Mr. Hengelbrok confirmed that yes, it was about a 90-day timeframe that they had to work on it.

Sen. Baldacci then asked what was the budget that they were given for this?

Mr. Modell answered that it was a flat fee that was inclusive of travel and expense, and it was \$60,000.

Sen. Baldacci stated that he thought that they had done what they were asked to do, but he thinks the failure is with how it was approached by the state. He stated that they have given the GOC/HHS a helpful framework, but that the state really has to do its own work whether as a legislative body, or as other investigators, he feels they need to do a lot more in terms of an investigation, and in terms of a review of the systems. He stated that there is a lot more work to be done and that this investigation should take at least a year and should involve all parties that were involved in the system-not just the families, but all the providers, judges, lawyers, everybody that is involved in this very complex system. This is a good starting point, but there is a lot more work to do in terms of investigating.

• **Presentation - Dr. Landry – Director Office of Child and Family Services**

Remarks begin at: [4:31:18 in the GOC YouTube LiveStream](#) (No written materials provided)

Rep. Madigan asked for Dr. Landry to describe the changes that he mentioned about the standby or after-hours coverage that had been implemented this fall.

Dr. Landry explained that these are some of the interim changes that they wanted to put in place based on the feedback from their staff on how to improve that process. A few of those opportunities include increased staffing on weekends and holidays, so that the burden does not fall on a small number of staff. They increased the number of staff that had those responsibilities. They built some flexibility into the shifts, recognizing that more flexibility was needed based on when staff may be going into and conducting some of these investigations and these responses at night and how that impacts their flexibility of shifts into the next day for example. They also tried to clarify some expectations for ongoing case assignments. Dr. Landry continued explaining that they tried to be clear about clarifying when those expectations are for those cases to transfer as well as where there needs to be effective joint roles for the initial caseworker that may be responding to some of these after-hours calls, including the ongoing work that some of our caseworkers will take on for those cases that have a longer length of time. They've been working with their staff to better define some roles and understanding exactly what their preferences may be as it relates to the timeframes for which they may be 'on call' for overtime and standby hours. Those were the pieces that could be put in place or examples of some of the pieces that could be put in place immediately. They are looking at longer term solutions with the help of Casey Family Programs and others. Dr. Landry stated they are certainly look forward to working with the HHS committee to talk further about those going forward into the next legislative session.

Rep. Perry had a question about working communication and relationships with hospitals and law enforcement. She asked how they are looking at the change in communication and also the expectations that both law enforcement and hospitals may have in terms of communicating with the department in case?

Dr. Landry answered that he thinks that's going to be the exact approach that they wanted to take with their colleagues at Maine State Police as well as the Maine Hospital Association and others. One of the things that was heard in the recommendations and in the report, is that there sometimes can be perceived challenges as it relates to sharing of that information, particularly between hospitals and law enforcement. They want to get to the crux of those issues. There may be issues that, for example, may come up about concerns around HIPAA and privacy violations, from a hospital perspective. There may be concerns from a law enforcement perspective about sharing information that they may feel have some concern that it may impede their

investigation that they may be doing. With the support of Commissioner Sauschuck (Department of Public Safety) and staff with the Maine Hospital Association and others, what they are trying to do is be able to meet over a relatively short period of time, identify what those barriers are, attempt to mitigate those barriers in the form of a template protocol agreement. If some of those barriers require some type of legislative action or other types of action, they want to be able to address those, when those opportunities come up. Some of the things can maybe be resolved through a protocol agreement or a memorandum of understanding, if you will. There may be other pieces that require other action that might be needed.

Rep Perry then asked about Dr. Landry's mention of the leaders in these organizations. Where is it going to hit the ground when the people who are really doing the reporting are going to understand that communication and how to do that and how important that is?

Dr. Landry answered that he understands and appreciates that whatever is decided and discussed is going to have a cascade effect and be permeated throughout an organization. That would be true for any type of organization, whether it be law enforcement, hospitals, or others. Starting with this group and their ability to pull in others as needed and have these discussions, once there is a draft protocol agreement, then they will be able to go that next step of working with perhaps individual hospitals or hospital systems. They may have to work with individual law enforcement agencies and entities in order to talk with them. He believes this is really where the Maine Hospital Association and Maine State Police can help because they can facilitate those discussions once those protocol agreements are in place.

Senator Baldacci wanted to emphasize in his remarks as a member of HHS committee, he really wanted to focus on this early warning system, because the vast majority of child deaths occur of children three years and younger. In terms of trying to prevent these deaths before they happen, the state of Michigan has a birth matching system that they've started. It is involved with both the law enforcement and hospitals and child welfare to try and identify high risk families that are having babies. He wanted to ask that OCFS review that so that maybe they can discuss it in the spring when they meet again as a committee. He would like to have that kind of coordinated effort. He noted recommendation two is a good one, but will require a lot of follow-up and some statutory changes because of the confidentiality rules on several levels. He is hopeful that the state, in addition, is going to have the Attorney General's Office involved because he doesn't want to reach a dead end. If it needs a statutory solution, they can provide it and follow up with a coordinated statewide effort to identify families as they leave the hospital that are higher risk. Sen. Baldacci continued by stating that he really wanted to get details and focus on the expansion of public health nursing and how we can plug that into this overall effort. He wanted to again emphasize that his major focus is on establishing an early warning system for families as soon as they leave the hospital and for establishing immediate services, particularly public health nursing once the family is at home.

Dr. Landry responded by confirming that with the work group with Maine State Police and Maine Hospital Association, that yes, the Office of the Attorney General has already agreed to be part of the discussions and will be working alongside them.

Rep. Craven mentioned that she knew that it is children and families that are important, but was wondered if they have any safety measures in place for caseworkers that may have to go out at night or have to spend nights away from home working with families at risk?

Dr. Landry stated that staff safety is a vital importance to them. Safety for everyone involved in any of the work done is just as important as child safety, including family safety, and certainly staff safety. Many of the cases described, particularly those that may occur in the evening or weekend, staff engage with law enforcement and oftentimes the work that they are doing on those investigations certainly involve and incorporate the work of law enforcement as a support. The other piece that can be recognized is that when law enforcement may or may not be involved, there are times when more than one OCFS staff member goes out, so there is additional support provided. That additional staff member could be a supervisor or a colleague or it could be others in any situation where staff feel like they are in a potentially dangerous situation. There is also training provided to support staff and ongoing coaching to staff on how to potentially disengage from these situations. Support

from other staff, as well as law enforcement as needed, are ways they make sure staff safety is taken care of. It is a very important piece of the work that they do and it is part of the training and ongoing coaching that is done. There is also an ongoing database of sorts, regrettably, of threat reports as staff do receive threat reports from time to time. Those are documented so that if there was a safety issue or situation in the past, and a different worker is assisting on a case, they can see that information before they potentially go into what could be an unsafe situation. Staff safety is absolutely paramount and important, and they continue to make sure to do all that they can to make sure that their staff are in safe situations as much as possible.

Rep. Meyer stated that while it is critically important that there is improved communication between law enforcement and the hospitals, she did not want to lose sight of the fact that there are so many other professionals who have contact with families and with new parents before they make their way to an emergency room or to the attention of our hospitals and to our law enforcement. Some folks' lives are touched by TANF/ASPIRE caseworkers, and any number of people, from prenatal care, to childcare for other children in a family. She noted there are so many people who know these families that there should be open communication—that there are so many people who have had insight into the stressors that lead to a child being neglected and abused.

Dr. Landry first stated that he appreciated the opportunity to say that while they are focusing on these recommendations, it is not to the exclusion of other efforts, strategies and improvement efforts that they are making. It's one of the reasons why the child welfare systems in our country are some of the most complex systems that we have is the number of interactions and ways that members of our society and communities interact with the families. Everything from prenatal care, to the physical health medical professionals, to pharmacists and others who engage with these families, to the education system, Head Start, early childcare, the list goes on and on. It is one of the big challenges that they have to recognize. When staff are conducting investigations, when a report comes in for potential abuse or neglect, one of the challenges is collecting the appropriate information relevant to that case, and counterbalancing that by doing so in as timely a fashion as possible to make good effective decisions. Even in those cases where perhaps there is no indication of abuse and neglect, but where a family potentially may need additional assistance, that is where the broader 'system of child welfare' has to come in play because while OCFS through our child welfare services are not going to be directly providing some of those services in those situations, we certainly want to make sure that those referrals and linkages to those services are made. TANF/ASPIRE and the other general assistance programs mentioned are some of a number of other programs and opportunities that may be available in the communities that can help the families.

Sen. Deschambault stated that she read in one of the reports that they worked with Commissioner Sauschuck (Department of Public Safety) and Commissioner Liberty (Department of Corrections), but is confused about the role of working with Commissioner Liberty and the Department of Corrections.

Dr. Landry explained that their work with Commissioner Liberty and the Department of Corrections really is around the intersection between juvenile justice and child welfare. There are children, youth and families that may come in contact with both of our individual systems at different times. It is really about communicating and bridging those components. They also recognize that outside of child welfare, within the area of children's behavioral health, which is also part of OCFS, there are some pretty significant impacts and intersections with the juvenile justice system. The work in that report as it relates to with the Department of Corrections has really been around that intersection between juvenile justice and OCFS, more significantly the children's behavioral health side. Although, certainly sometimes on the child welfare side as well.

Sen. Deschambault responded that was what she thought and it is kids that either because of their behaviors ended up at Long Creek or are on probation. She would like OCFS to consider one other avenue when dealing with situations where both parents could also be in jail. She feels that there is a disconnect between CPS and the parents, as they tend to only deal with the family that is in the community. She stated that there are licensed clinical social workers at the prisons who could be a point of contact for DHHS when involved with a child in

this situation. It may not be children in current crisis, but the parents will be returning. There are hundreds of kinds affected by parents being incarcerated.

Dr. Landry stated that there may be two different populations that they are talking about. First, families where parents are incarcerated whose children may be in the care and custody of DHHS. That is a relatively small number of situations. Second, there is a larger population, however, of children (whose parents are incarcerated) who may not have direct current involvement with DHHS because they are in a formal or informal arrangement living with a relative, where DHHS and specifically OCFS may not have any direct role as far as custody of the children. Dr. Landry continued, stating it may be interested to know that for the past two years, they have been working with Representative Talbot Ross specifically on the topic of how to improve and further engage with reunification efforts and support services for individuals who are incarcerated, whose children are in the care and custody of the state and how to ensure that those services continue while they're incarcerated, so that they can in fact be in a better position to potentially complete the necessary steps to reunify when they are discharged or leave incarceration.

Sen. Libby had a couple questions on staff turnover. It was noted as a key finding in the Collaborative Safety Report, but there was not much in the way of action steps to address that. He asked: What is the most recent annual turnover rate? And how many vacancies in frontline worker positions do they have currently? And what is the number of children in protective custody?

Dr. Landry responded that they continue to monitor and watch closely what is happening as it relates to staff turnover. That has been a key focus for the past two and a half years. They have reported to both of the committees in the past around some of the efforts related to that specifically. He gave approximate percentages of turnover rates for the years of 2019 and 2020, but stated he will get the committees the exact numbers. He noted the current vacancy rate was around 7% of their frontline staff positions. They have approximately 420 frontline caseworkers in OCFS, and about 30 vacancies state wide. They would like to lower that vacancy rate and fill those positions with qualified staff, while at the same time still support staff who are in their current roles so that they can reduce turnover. Currently there are 2,264 children in state custody. 70 of those include those who have reached the age of maturity, but have voluntarily stayed in the custody of the state through those supports as they age into adulthood.

Sen. Libby stated that the OCFS reported turnover rate in 2018 was 23% and it went down the next year in 2019 to 17.75%. It sounds like the turnover rate is on the decline now, but he anticipates that the 2021 numbers are probably going to be up based on the number of vacancies Dr. Landry had just described. He noted that the last time this was brought up, caseloads was identified as the primary driver for turnover and other systemic issues. The Legislature's response was more funding for more positions and the department was able to hire a significant number of new frontline workers. He believed it was around 280 in 2015 and now it is over 400, so that is a significant increase. Sen. Libby heard the Collaborative Safety folks share that even though OCFS added a substantial number of positions that the day-to-day tasks for each case are too burdensome and that it is contributing to turnover. He wondered if they are going to uncover a new problem in a few years--if this turnover happens again related to caseworkers' number of cases or addressing the day-to-day burden of administrative requirements, and whether that is a place to focus on that could produce positive results?

Dr. Landry responded that caseload is calculated mathematically as total number of cases divided by the total number of staff. When you average out all of the different types of cases and the number of caseworkers we have, our current average mathematical caseload is somewhere between 10-11 cases per worker. He noted, however, that 10 cases for one worker are completely different than 10 cases that another worker has. This is where it is more helpful to sometimes look at workload instead of caseload. OCFS has a workload analytic tool that has helped provide the legislature with reports on their total workload assessments, and he believes that is a much more accurate way of looking at the amount of work that they have and the number of staff that they have. They currently have a higher amount of work based on that analytic tool versus the amount of staff available. They believe they have reduced the gap, but according to that tool, they still have a way to go. That reduction can be achieved in many ways, one is by adding additional staff positions, but the other thing we have to look at is the number of children in care. The number of children in care decreased from federal fiscal

year 2020 to federal fiscal year 2021. It has been recently on the increase, since this past summer, so they have seen the increased number of children impact the workload. The other factors that impact the workload are the tasks, duties and responsibilities that are necessary to effectuate the responsibilities of the positions. They are going to look at the recommendations around both the work that is necessary as well as the timeframe that is necessary so that the staff can be successful, while at the same time meet the timely responses to families and others that they are responsible to.

Sen. Libby stated he was to find the report on the 2021 workload. He noted that in that report it talks about ARP, which brought up a prior line of questioning about phasing out the ARP program. He asked Dr. Landry to answer how they are going to fill the 15 additional child welfare staff positions (from phasing out ARP) when they have double that number in current vacancies.

Dr. Landry stated that they appreciate the Legislature through the budget authorizing 10 additional positions beginning on January 1st with an additional five positions beginning July 22nd. They look forward to adding those positions in order to bring back in the assessment pieces that were previously or are currently being assigned to ARP. He doesn't know of any system in Maine that has had zero vacancies at any given point in time, for a variety of reasons. They will probably always be in a position to recruit new staff as well as working on improving retention efforts.

Sen. Claxton asked based on workload, how many more people are needed to meet existing workload demands, as opposed to the vacancies mentioned?

Dr. Landry answered that he could say what the number was for 2021, if he looked in the report but doesn't have the current number of what the analytic tool reports now.

Sen. Claxton asked if it is the goal to staff the agency to cover 100% of the workload or 105%, to allow us any sort of flexibility for unexpected changes in anticipated work?

Dr. Landry answered based on the current structure, they have not yet made one hundred percent level on prior workloads. That is what they are pushing toward.

Sen. Claxton returned to the topic of metrics and asked how are we going to know how we're doing? It would be good to anticipate hearing how OCFS is progressing with some of the metrics or developing some of the metrics for the various initiatives. It won't fit into the meeting agenda, but would be an early January conversation, probably.

Dr. Landry responded that he would be happy to talk more about the metrics, as they have a pretty significant number of measures. He noted that some of those are federally required, some they put in at the state level, and as they move forward on some of the initiatives they will hopefully be able to create what he would call hard data metrics and create milestones to demonstrate progress towards completion of some of these action steps related to the recommendations.

- **Presentation - Christine Alberi, Child Welfare Ombudsman**

(A copy of the presentation is available here: <https://legislature.maine.gov/doc/7425>)

Rep. Madigan stated that in the presentation it was mentioned that speaking to the caseworkers was thought as critical in improvement through the collaborative safety problem solving process. She agrees and thinks that talking to people who are those frontline workers often kind of gets at some of the problems that may have happened. She asked if that was something their office could do? Is it something, in Ms. Alberi's opinion, something that they should be doing more of?

Ms. Alberi answered that yes, they should certainly be doing more of it at all levels. Her office can do that through this process, through the Collaborative Safety model.

Sen. Claxton asked, to do the work that needs to be done, does the Ombudsman office need additional resources? Ms. Alberi confirmed that yes, they are currently working on, through a number of different avenues, adding increased staff to their office. They are working with the department on a possible agency bill. There are also several other Senators and Representatives who have put bill titles to help strengthen their office. As you heard from Collaborative Safety, their review process is very intensive. It requires a lot of hours and time that their office just can't support right now. One thing she hadn't mentioned was that the phone calls, incoming contacts to their office have gone up this year as well. They don't have enough people now to operate as they should. That is something they would need more of support this new process, in addition to the work they already do.

Rep. Craven asked if Ms. Alberi thought that the Casey Report was adequate to address the issues that are going on at OCFS. She wondered what Ms. Alberi's thought of the report, and if there were enough recommendations for a preventative kind of outreach.

Ms. Alberi answered that the short answer was no. The report does not, and she does not believe it is intended to address the issues and things that are preventing the system from operating the way they would want it to. A lot can be learned from reviewing just a few cases, but it is not going to provide all the information needed for all of the different issues. She believes that the report is a good place to start. It is based on just a few cases, and even some of the recommendations in it are not fully fleshed out, by design. It is part of why it is so complicated, is the report is not designed to provide a framework right now.

Sen. Libby mentioned that he had been following the Ombudsman reports for four or five years, and a theme that has been emerging is child welfare practices in the cases they've been reviewing. There are a number of concerns and year after year there is the same message, which is those concerns largely persist. In this year of the report, it was noted the impact of COVID-19, which is significant. He asked if she would speak to where those two pieces might diverge. He asked if the same problems that have been identified year after year in OCFS, are they seeing any improvements in any areas.

Ms. Alberi answered that it is difficult to parse out how things would have been. Everything within this year's annual report that will be released on January 1st happened after the start of COVID. It is difficult to tell what the impacts have been. There have been multiple things affected by the pandemic, such as the visit supervision agencies are having a hard time hiring staff, so parents and children are not getting enough visits with each other. It could be pointed to as a problem in practice, but it is not something with OCFS control. There has not been any major improvement to any of the longstanding issues that have been seen.

Sen. Libby asked how information is flowing between her and OCFS, the nature of how that information is following the nature of the communications. He noted it's one thing to say, staff are polite when you inquire, but it's another thing to be a productive partner in the work. He asked if she has seen improvement in that regard?

Ms. Alberi answered that there has certainly been improvement in the volume of communication. She has gotten information on child deaths as they occur, which is not something that is statutorily required. She is having regular meeting where they are working on legislation. Ms. Alberi continued by stating that she doesn't think they are there yet in terms of a full partnership of sharing information, but it's not so much about sharing information as it is about everybody using each other to understand where things aren't working well and working together to come up with a plan.

Sen. Baldacci stated that one of the recurring issues when it comes to the ombudsman isn't so much the work that can be done, but the work that can't be done. One of his thoughts is that there needs to be independent oversight body that has both subpoena authority for documents and people, if needed, as well as some system of being able to assess penalties or hold people accountable. That decision would take several months, so he wanted to know if Ms. Alberi would give the committee's recommendations in terms of making the authority of her office more binding or more compulsory in terms of DHHS. Sen. Baldacci believes that people have to

be held accountable and the only way to hold people accountable is having a system where oversight can occur with authority.

Ms. Alberi answered that she understood his concerns. It is something that is included with the different pending legislation coming from all directions. It is certainly something they have been discussing. In terms of, talking about subpoena power, it is interesting. The statute actually gives the ombudsman the authority to walk into the department and see any records they want at any time. They have an agreement with them to make it administratively easy on everyone. It's not so much getting the information because they have access to the child welfare database and the information is there. It is just about partnering with the department to be effective in having the recommendations be actively considered and implemented.

Sen. Libby concluded the series of presentations and asked the HHS Committee to stay for a short conversation about future plans. He noted there is a series of reports that are coming from the OPEGA office and said as a reminder the report that will land in the middle January is a look at oversight of child protective services systems. The second report, which is due in the middle of March, will take a closer look at OCFS. A third report will come later, but those are two projects that are in the works. Given the context, he was looking to the members of either committee for what they might suggest for next steps for this work or beyond those two reports.

Rep. Madigan stated that she things regarding the upcoming reports, that it would be good if both committees met jointly. She also suggested that an analyst of the GOC or HHS could gather together for members, all the pending legislation regarding child protective services.

Sen. Libby confirmed that he thought joint meetings would be very appropriate for receipt of the next reports. He suggested that the pending legislation be gathered by the HHS analyst as all of those bills would be in that committee.

Sen. Baldacci asked if the chairs would consider some sort of structured process, whether they could hear from people in the field directly, both caseworkers, advocates for families, court people. He would like to hear from a variety of people from all different parts of the state and different parts of the child protective system.

Sen. Libby stated that what he is hearing is maybe a public meeting that is advertised and some outreach has done to representatives from all of the stakeholders in this work. Maybe some outreach to specific sets within each practice area so that there is a good cross section of input.

Rep. Craven stated that the question was raised several times, about how they could identify families that should be on the radar for check-ins or for some kind of way of knowing how DHHS or others could keep families on our radar for oversight or for help or for support, like home visiting or stuff like that. She wondered if there was some way to figure out or have some kind of research to see who they are investigating.

Rep. Stover mentioned that she was sensitive to some of the people working in the field who might want their privacy, but might also be willing to talk to the committee, but not have it recorded and running as a live stream. If it is possibly to bring them in one at a time and allow them to speak, for those people who may feel uncomfortable having a public comment period when they are still employed by an agency or whoever they're employed by. She would like to figure out a way to keep it as confidential as possible for those people who would like to speak.

Sen. Libby stated that the Director Nixon (OPEGA) noted in the morning half of the meeting that the confidential survey of frontline workers is going out into the field within a week or two. Staff has gone to great lengths to describe the fact that this is confidential and safe to share thoughts and opinions. There is that piece that is moving. He is finding it challenging to see how they can convene a legislative meeting, but not broadcast it, given out freedom of information requirement. He suggested that others research as well to see if there is a way to accomplish that goal.

Sen. Baldacci stated that they could allow people to submit who are caseworkers or others to submit written statements that are that are given to somebody who can read the statement, but their names are kept anonymous or listed as Jane Doe or Jane Doe type of thing. That way they don't have to testify, but they can at least give their comments.

Rep. Meyer mentioned that she thought that inviting the Maine Children's Alliance to present to the committees would be prudent. They may coordinate a group of providers, stakeholders, and advocates and meet regularly around the supports that are available for families and among other issues. They would be a great resource to both committees.

Sen. Claxton stated that he would like to give an opportunity to hear from the department about how they were doing on any of the seven initiatives, with the intention of covering all of them eventually, whether it is one per meeting or several per meeting about how they were addressing the seven recommendations from Collaborative Safety. Then folks who had other perspectives might be able to follow that testimony and then would get a fuller view of how things were going in that arena. It might be easier to combine a couple of the seven into one hearing and the rest into another, but that hearing from the department on how they are doing with putting meat on the bones of the basic recommendations and how they are going to play out as a way to fill our oversight obligation and then invite other people with perspectives to share their sense of how.

Sen. Libby asked for Sen. Claxton to clarify whether he was thinking of this as a long-term reporting process, like quarterly reporting, or if it was tied into the suggestion from Sen. Baldacci to have a sort of open forum.

Sen. Claxton clarified that he was thinking of something like a monthly meeting until they got through the seven recommendations and then they would know the department were on the first pass. If they want to have quarterly meetings they may need to request to Leadership to allow for staffing of some more meetings between now and the end of 2022.

Unfinished Business

- **None**

Adjourn

The Chair, Sen. Libby, adjourned the Government Oversight Committee meeting at 4:02 p.m. on the motion of Rep. McDonald, second by Rep. Craven (HHS), unanimous.