



SEN. NATHAN LIBBY, SENATE CHAIR  
REP. HOLLY STOVER, 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. JESSICA FAY  
REP. MARGARET O'NEIL

MAINE STATE LEGISLATURE  
GOVERNMENT OVERSIGHT COMMITTEE

**MEETING SUMMARY**  
**July 20, 2022**

**Call to Order**

The Chair, Sen. Libby, called the Government Oversight Committee to order at 9:00 a.m.

**ATTENDANCE**

Senators: Sen. Libby, Sen. Deschambault, Sen. Keim, Sen. Bennett, Sen. Bailey  
Absent: Sen. Timberlake

Representatives: Rep. Millett, Rep. Stover, Rep. Arata, Rep. Blier, Rep. O'Neil, Rep. Fay

Legislative Officers and Staff: Peter Schleck, Director, OPEGA  
Scott Farwell, Senior Analyst, OPEGA  
Mandy Connors, Secretary, OFPR

Others: Deirdre O'Connor, Evident Change  
Matt Levinson, Evident Change  
Bobbi Johnson, Associate Director, OCFS  
Michelle Galego, Policy & Training Specialist, OCFS  
Molly Bogart, Government Relations Director, DHHS

## Introduction of Committee Members

The members of the Committee introduced themselves.

## Introduction of New OPEGA Director

The Chair, Sen. Libby introduced Peter Schleck as the new OPEGA Director. He then asked Director Schleck to introduce himself further. Director Schleck stated he was delighted to be the new Director of OPEGA.

## New Business

(To watch this meeting - the recorded Live Stream can be viewed here:

<https://legislature.maine.gov/Audio/#220?event=86279&startDate=2022-07-20T09:00:00-04:00> )

- **Meeting Summaries**

The meeting summary for June 15, was accepted as written.

- **Public Comment Period – Child Protective Services**

(Submitted Written Public Testimony can be found here: <https://legislature.maine.gov/doc/8689> )

Sen. Libby opened the public comment section.

*(Time stamp on Live Stream page video: 9:11:06 AM)*

Sen. Kathy Breen – pg. 6 of All Public Testimony

Sen. Bennett asked for confirmation that Sen. Breen intervened with the governor's office (regarding the testimony shared). Sen. Breen answered that there was a situation, because of a foster child placement, that the family had to rearrange several vacations and cancel them. The family was trying to go to Boston for a weekend and they were told repeatedly that without three- or four-weeks' notice, that they would not be allowed to go to Boston. Sen. Breen stated that she then reached out to the Governor's Office and was able to get the letter/document that was needed for them to travel to Boston for a couple of days.

Sen. Deschambault asked how old the foster child was. Sen. Breen answered that she was somewhere between 3 and 5. Sen. Deschambault recalled that the testimony stated that the child had been with the foster family for a year, until September 2021, but has now been placed back with the foster family. Sen. Breen answered that was correct. The child went back to their biological family and then the biological grandmother brought the child back to the foster family asking for them to take the child again.

Rep. Arata asked about Sen. Breen's time on the Appropriations and Financial Affairs Committee and if she ever remembered a time when the Department of Health and Human Services has asked for more money for caseworker positions that the Legislature has said no to funding. Sen. Breen answered that every time the legislature has been asked to fund positions in any part of the Child Protective Services, there has been bipartisan agreement on the committee. Rep. Arata asked if they need to look for another root cause of the issue of case workers being overwhelmed. Sen. Breen stated that would be the job of the GOC.

Sen. Bill Diamond – pg. 11 of All Public Testimony

Rep. Blier asked if Sen. Diamond would share his analysis of what changes he thought should be made to make it (CPS) better. Sen. Diamond stated that looking at information that is given by people who deal with the

department, foster parents, adoptive parents, educators and their issues with the system. Having a public forum for information would help bring attention to potential changes.

Sen. Keim stated that she was disappointed that Director Landry was not present during the public comment. She asked Sen. Diamond to elaborate on the town hall forums and how they are different than what the committee was doing currently in this meeting. Sen. Diamond stated that they should have more time than 5 minutes at the forums and there will be a wide range invitation and the word will get out. He believed that if the committee stated that they wanted to hear from foster parents for example, that they would be there. He stated that hopefully there would be some ideas on what the committee can pursue.

Sen. Bennett stated that there are systemic issues and a leadership issue. He found it troublesome that the director of OCFS was not present. He asked Sen. Diamond to reflect on the qualities that he would like to see in the leadership of that office if looking for a new director. Sen. Diamond stated that they don't need to talk about changing the current director, it would be about the attitude, and including invitation to communicate with the people involved with CPS. Sen. Diamond stated that he thought the department would say they do not need to have any public communications because they do have some public forums at the various eight district meetings. He stated that in 2019 he had introduced a bill that would have established a commission to review what is happening with child protection and the department fought it. The department stated that if he killed the bill, they would hold the public forums at the various district meetings. He believes that the public may feel those are too risky to share at. The idea is to get meaningful change (within the department) of attitude.

Sen. Keim stated that what she had heard about the departments' public forums is that it was more of an opportunity for the department to go and talk and the people are not really allowed to talk back. There is no interchange of conversation, just the department saying stuff to people. She asked if Sen. Diamond had heard the same of those forum meetings. Sen. Diamond stated yes, that a foster parent recently had told him that the forum did not allow people to speak. He does not think people are going to take the risk of saying things to the people who could potentially take away their licenses (to foster). Sen. Diamond added that the GOC has unique abilities, including subpoena powers and an equally partisan divide of members.

Sen. Deschambault stated that she was also shocked that the Director of OCFS or the Commissioner of DHHS were not present for the meeting. She stated that she did not know there were district meetings, but thought that they should be more open.

Tova Hold spoke about her and her husband's personal experience with the Department as foster parents over the last 8 years. She stated that they have had over 20 placements within their home as well as adopted four children. She added that many of the past foster placements, they still have good relationships with and that it is great to continue to be a part of their lives. She shared that she did not believe that there was a simple solution to fix DHHS, but that she was thankful that there was an opportunity for foster parents and families to share. She explained that they have a strong history with the department. She had an issue where foster children were removed from her home due to a claim of abuse and neglect and that neither she nor her lawyer were given proper reasoning or answers in a timely manner about why the investigation led to that, so they have appealed that decision. She also explained that she had a meeting to discuss their licensing and they were told that they were no longer qualified for a list of reasons, that when asked, could not be found in the regulations. Ms. Hold was told that (CPS) prepared to give them that information during that meeting. She stated there should be a neutral party involved to review out-of-home investigations.

Sen. Bailey asked if the out-of-home investigations for a foster parent follows a different process than an investigation at the normal course of events when the department receives a referral. Ms. Hold answered that she was not sure. CPS did not tell the family their rights Ms. Hold explained, and interviewed the kids in the car. The family was told the supervisors were on vacation and so Ms. Hold was not given the opportunity to clarify or have follow up. Sen. Bailey stated that the committee has heard similar stories from other foster parents and would like to better understand that process.

Rep. Arata asked for clarification that the family still had their adopted children. Ms. Hold answered that yes, it was just the foster children who were removed from their home. There was no follow up to the questioning, just a call to give the family an hour warning of removal.

Sen. Keim asked for clarification that the claim of abuse and neglect was against Ms. Hold and her husband. Ms. Hold answered yes. Sen. Keim then asked if Ms. Hold was still fighting that. Ms. Hold answered yes. Sen. Keim then stated that proves there is something that she also needs to understand better.

Melissa Hackett – pg. 29 of All Public Testimony  
(*Maine Children's Alliance and Maine Child Welfare Action Network*)

Rep. O'Neil stated that she was interested in the issue of prevention looking upstream and would be interested in more specific action items that Ms. Hackett or her colleagues could suggest that the committee should address going forward. She stated that she would also be interested in how the conversations may overlap with those Ms. Hackett may be having with HHS and would like to see how it all loops in and connects. Ms. Hackett confirmed that they were very engaged with the Health and Human Services Committee in the last session. The MCWAN did a presentation on the various aspects of prevention, intervention and also presented to the children's caucus. She stated that when considering child protective services and how burdened the system is, she believed it is important to think about moving resources upstream to help stabilize and strengthen families so they do not have to be involved with the crisis intervention part of the system. Rep. O'Neil asked if Ms. Hackett would be able to email the committee that presentation that was just referenced. Ms. Hackett confirmed she would send that forward.

Jennifer Pieces – pg. 14 of All Public Testimony

Sarah Wood – pg. 27 of All Public Testimony

Arlene Sue Carter – pg. 7 of All Public Testimony

Sen. Deschambault clarified whether Ms. Carter was a DHHS caseworker. Ms. Carter answered yes. Sen.

Deschambault then asked whether Ms. Carter is currently a principal of a school. Ms. Carter again, answered yes. Sen. Deschambault commented that she had heard from teachers in her district that they have similar frustrations. She applauded Ms. Carter for doing her job as a mandated reporter.

Ms. Carter stated that she had spoken to a couple of current DHHS caseworkers who wanted her to add certain information into her testimony. She stated that those caseworkers do not feel confident or comfortable going to anyone to talk about their concerns.

Rep. Arata asked about the caseworkers that had told Ms. Carter about an opportunity to express their concerns, but that they were told it would not be guaranteed to be kept anonymous and how many caseworkers expressed this. Ms. Carter said she was told that information by two caseworkers. Ms. Carter explained that this was because the surveys were done by district versus a statewide survey. Rep. Arata then asked if the workers were afraid that someone would be able to look at the small district numbers and be able to figure out who said what based on the situation. Ms. Carter confirmed yes.

Sen. Keim asked if Ms. Carter would summarize the department as having a lack of communication. Ms. Carter answered that she believed everything starts with the relationships between parties involved in a case. It is about trust and not being afraid to make a mistake. It is the culture of the district offices, and you can't have a good culture or relationships if there is constantly turnover.

Marsha Rogers – pg. 25 of All Public Testimony

Rep. O'Neil asked if there were any other action items the Ms. Rogers would suggest. Ms. Rogers answered that she was happy to hear about the Ombudsman's office playing a more definite role in child protection. Ms.

Rogers stated that as a CASA guardian ad litem she goes to the trainings with the child protective workers. She stated that the trainings are not giving them a way to learn compassion and how to go into homes and treat the families with respect, which is what's lacking.

Deb Riley – spoke about her family's personal experience with the department and the ombudsman's office.

Explaining that her grandchildren were taken away from her daughter due to an accidental injury to one of the kids and that her daughter has had a multitude of issues with the department since, including with the resource parent which is a kinship placement with a relative who she said has a history of issues.

Sen. Bennett asked Ms. Riley if there were any specific areas that she would like the committee to focus on when reviewing and improving the system. Ms. Riley answered that the biggest thing is the culture and relationships. She stated that in her personal case they were told they could have two visits a week and were only getting one, and her daughter had been emailing about second visitations but the meeting got canceled. Then there was a settlement conference where the department gave her daughter a document to sign, of which her lawyer agreed to, that took away all visitations. After figuring that out, Ms. Riley's daughter asked about why, they would not answer but told her that she could email the department once a week to ask about the status of her children. Ms. Riley stated that the Ombudsman's Office does not have any power or bite, as they can make recommendations to DHHS but DHHS does not have to follow them.

Sen. Bennett asked for clarification about the letter that was counseled by the lawyer for her daughter to sign that limited her ability to email DHHS and that if she violated that, it would be in violation of a court order. Ms. Riley answered yes.

Nicholas Gadder – pg. 23 of All Public Testimony

Sen. Bailey asked Mr. Gadder to elaborate on his mention of gaslighting and not feeling safe around the caseworker and supervisor. Mr. Gadder answered that it stemmed from conversations with the workers during visitations to their house. He stated that they would share information with the worker and that the caseworker would turn around and share the foster parents' thoughts, feelings and opinions, which should be held confidential by the department from other people involved in the case, including biological family members or the therapist for example. He said that the department workers were basically trying to slander their names, making them also feel unsafe around them.

Sen. Bailey asked if there was a policy that there should be confidential communication between the caseworkers and the foster families. Mr. Gadder gave an example that the caseworker would share the therapist's thoughts with the foster family, which was unprofessional, or do the same and share their thoughts with the biological family members, which may not be a policy issue but not okay in those settings.

Rep. Fay asked about the good case workers and supervisors that Mr. Gadder had worked with, and what the qualities are that makes the difference. Mr. Gadder answered that a large part of what makes any sort of leader successful is the ability to coach, and not just direct and tell people to do things. He continued explaining that if a caseworker is just told what to do blindly, the workers never grow and learn how to be a good supervisor themselves. It is an institutional issue, as hired employees become a supervisor because of longevity, when they really do not have the skills and assets to go to that next level and be a true leader. The title does not make the leader. It is about how the workers are being trained and how the message is delivered through the relationships building within DHHS.

Mary-Gene Rumery – pg. 22 of All Public Testimony

Sen. Bailey asked how long from the adoption petition was filed until they had their hearing in District Court.

Ms. Rumery answered seven and a half months.

Sen. Keim asked if she had her comments written. Ms. Rumery answered that she has copies for the committee.

Sen. Keim then asked if the children were ever in care other than her household? Ms. Rumery clarified that the first sibling set of three, the sister was the only one who lived elsewhere. Sen. Keim asked if the children were taken from the biological parents and immediately placed with Ms. Rumery. Ms. Rumery answered yes. Sen.

Keim asked to clarify that the sister was with another family because they were told that they could not have the girl because their home was too small. Ms. Rumery confirmed they were told that because they only had a two-bedroom house at the time. The house was too small and the department would find another placement for the girl.

Joseph Annaloro introduced himself as an administrator and a founder of a support group on Facebook called Families of Forever Reform DHS/CPS. He explained that there were over 750 in the group with evidence of abuse of rights, power and children by DHS. He shared some personal experiences with the department regarding the handling of his biological grand kids after they were taken into CPS custody. He explained that DHS needs to be held accountable when they are caught doing things wrong or improperly. He stated that the state is currently concentrating on the cases where the child is given back and something goes wrong with the family, but there are many cases of DHS workers doing wrong and no one does anything about it. He questioned the ability for a 20-something caseworker to judge a parent's abilities when they have no experience being a parent themselves.

Melanie Blair – pg. 10 of All Public Testimony

Sen. Keim asked if the highlighted parts of the Casey Family Programs Document that Ms. Blair handed out with her testimony were parts that she agreed with. Ms. Blair answered yes. She used her background in education to create her research-based testimony, that not only gave her personal experience but a facts-based side to show that she was looking at every aspect. A lot of what was highlighted supports what Ms. Blair stated in her testimony.

Lori Locke – pg. 19 of All Public Testimony

Sen. Libby asked if the judge mentioned in her testimony was in Sagadahoc County. Ms. Locke answered no, it was Lincoln County, Wiscasset. Sen. Libby then asked if the child was taken to the biological family's home within the 48 hours (mentioned in her testimony). Ms. Locke answered no, the caseworker did not allow that to happen. Sen. Libby asked to clarify that it was a previous caseworker, not Ms. Locke's current one. Ms. Locke answered yes, it was a previous caseworker. That caseworker now does intake after 8 years of cases. Sen. Libby asked Ms. Locke to elaborate about the retaliation mentioned in the beginning of her testimony. Ms. Locke stated that she was worried about retaliation from the department, as well as the biological family, who had been known to be dangerous. She stated that she had gotten an attorney because the biological family had made threats, and even the attorney mentioned knowing the family was dangerous. Ms. Locke stated that it is a safety concern for the child, and for her.

Diana Owen – introduced herself as Malaseet Indian from First Nation Canada. She described her experiences with the Department and CPS involving her family and her children. She talked about threats and retaliation against her for wanting to press charges on an abusive family member, and also for reporting the abuse to CPS. She says any investigation that was started all stopped because they found the children to be safe with her, regardless of the fact that the abusive family member was still in the household.

Lisa Sacks – stated that she came to explain what she has witnessed as a bystander in a situation with a family for which she babysat. She stated that there was a charge made and the children were taken out that same day, so it was abrupt and traumatizing for the children and the parents. She explained that she has been in the education field since 2017. After homeschooling her children, she became a substitute. She also worked in special ed and public school and currently works in the residential therapeutic boarding school. She stated that she was concerned about an issue of a school professional taking in the child that was in her classroom, as she was the one who made the claim against the parent. Ms. Sacks explained that as a professional in the educational department, she felt that it crosses a professional boundary. She stated that as the kids' babysitter, she and her husband offered to the caseworker to both be approved to take the child, but have heard nothing in

response. Ms. Sacks thanked the committee for making it possible for everyone to share, and for trying to find solutions to a very complicated issue.

Tanya Dyer (Boudreau) – explained that the situation Ms. Sacks talked about was her own and that she had not originally planned to speak on it. She reiterated what Ms. Sacks had said about her personal experience with the department.

Sen. Deschambault asked to clarify Ms. Dyer's name. Ms. Dyer explained that she would be going back to Boudreau after her recent divorce. Sen. Deschambault asked about the separation of the children. Ms. Dyer answered that two of them are with their dads and the one is with the school teacher. Sen. Deschambault asked if the children were all in the same vicinity. Ms. Dyer answered no, they are all in different counties.

Allison Auch – stated she wasn't really fully prepared to speak, but wanted to know the best way to reach out or get in touch with someone if retaliation has occurred, as she stated it has already happened to her several times for speaking out.

Sen. Libby stated that Ms. Auch could reach out to the Ombudsman's office or OPEGA which are both avenues which she could make a report to. He stated that the OPEGA staff could take her information and share it with the committee members.

Ms. Auch then took the time to explain her situation with foster families having her children, and the scary situations that she has reported that have not gotten any investigation or fixing. She stated that a judge even found it to be true that her children were abused, both mentally and emotionally within the department's system. She stated that she has done everything asked of her to get her children back, but it has not happened yet. She has cameras in her car and house to be able to have video proof of interactions because she stated that she had had things put on her vehicle in a threatening manner.

Betsey Grant – stated that she was a childcare provider for over 24 years. She stated that over the last 5 years it began to be difficult to communicate with department staff. Ms. Grant stated that the more she raises her concerns and issues it feels the less she was responded to and the more issues she had with being heard and receiving payments. She had tried to ask the department about filing a complaint against a DHHS state worker, and feels that is a factor as to why the office has been treating her this way. Ms. Grant stated that she feels that the foster families are not getting the resources they need to survive and the support to stay fostering. She stated that as a mandated reporter, that reporting is one of the hardest things to do because you feel a bit guilty about potentially misreading the situation, but knowing it has to be made. She continued that parents will retaliate and put in a false complaint about a foster parent or herself because the parents know they are licensed by DHHS. She stated that retaliation is real. She explained that she feels the system is fragmented, because if it was just broken you could fix it. The fragmentation allows the system to be crooked.

Mark Moran – introduced himself as a clinical social worker and the chair of the Child Death and Serious Injury Review Panel and a CASA volunteer for several years. He stated that he is a member of the CASA Program Advisory Committee within the Maine Judicial Branch and has been a medical social worker since 2006. He explained that he was a Child Protective case worker for 5 years in the early 2000's. He stated that his personal experience being on the workers side has been slightly different than the others who shared previously. He stated that the work that is done in the Child Protective system is good work by good people. Folks who want to make a difference in a positive way. These are not folks who show up because of a high pay. He stated that these people show up despite demands on time that exceed what they really ought to put into the job. These are complex cases that workers deal with that require great consideration and consultation with experts at times, even outside of the department. He responded to an early question asking what makes a good caseworker and supervisor. He stated that he did not know that there is a perfect answer for that. He felt strongly that a person cannot get good at what they do if they do not do it for long enough. He stated that although there are young new college graduate workers, they want to learn the skills to become good workers and to help. He stated that he worries that the committee and others cannot reasonably understand the complexity of the work without having done it themselves. He suggested a ride along program where a senator or representative could spend a

week with a child welfare caseworker and go around with them responding to reports and talking with foster parents, investigating complaints and understand the nature of the work. There is an element of understanding that only comes with experience, it is not able to be conveyed in a verbal way. He stated that it is very difficult to know where to draw the line in terms of intervention in the child welfare world. Some want the line to be drawn later so they do not have to deal with the removal of their children, and other folks might want the bar to be drawn at a higher spot so that the child gets taken and removed sooner to prevent injury or death in some cases. Mr. Moran stated that he doesn't know where the line is, it is a complex analysis on a case by case basis.

Rep. Stover asked what he would recommend to the committee as they continue to drill down through the work.

Mr. Moran answered that he thought the list would probably be quite long. He referred the committee to a report that his panel issued a few months ago that he briefly presented to the Health and Human Services Committee in June. He explained that the report contains somewhere on the order of 30 recommendations.

Various other entities have issued recommendations and reports and there is some overlap in some of the ideas.

Sen. Libby noted Mr. Moran's comment on the committee not understanding the system because they do not have the first-hand experience. Sen. Libby asked if Mr. Moran was trying to tell them that it is a fool's errand to understand or to actually go in the car and go along. Mr. Moran answered that his intention with that comment was to help recognize that there is greater complexity than what is able to be presented in this sort of forum. He believed that there is an additional element that the committee misses by not having that first-hand experience.

Sen. Deschambault asked where Mr. Moran worked. He stated that he works at a large medical center which he is not authorized to speak on behalf of, and he is not there to represent. He stated that he lived in the greater Bangor area.

## **RECESS**

The Chair, Rep. Stover, recessed the Government Oversight Committee at 12:15 p.m.

## **RECONVENED**

The Chair, Sen. Libby, reconvened the Government Oversight Committee at 1:15 p.m.

- **Presentation by Evident Change – Structured Decision-Making Tools**

(Presentation Slides can be found here: <https://legislature.maine.gov/doc/8680> )

Deirdre O'Connor and Matt Levinson, from Evident Change presented to the committee about the SDM System in Maine.

Sen. Bailey asked about the other states that do not use Evident Change's model and if the presenters knew what they used and how they compare in terms of outcomes in those states. Deirdre O'Connor answered that they do not track what every jurisdiction is using. She stated that there are some jurisdictions that have picked up the SDM manual from a state and have attempted to implement it without their engagement. There are other risk assessment models that are more consensus based that some jurisdictions are using but she did not know the names of those. Sen. Bailey asked if there was a place to adjust the tool based on new information, what is in place for that adjustment of the tool. Ms. O'Connor answered that their work with Maine is supported by funding from Maine or funding from an organization like Casey Family programs, and they have been able to stay engaged in Maine because of the value that they bring to the leadership there and because of their ability to support some of the activities. There is some ongoing technical assistance, and some coaching institute. There have been some reviews of the assessment tools in terms of data analytics and looking at the risk



assessment in particular and the large cohort of families and that level of data analytics. They have not had the opportunity to do that with Maine data.

The Department of Health and Human Services staff introduced themselves. Bobbi Johnson and Michelle Galego were there to help assist in answering questions.

Sen. Bailey re-asked the question about where the department adjusts the tools with new information. Ms. Johnson answered that the department has been developing the tools since 2017 when they implemented the intake tool. In December of 2018, the Department implemented the safety and risk assessment tools and have implemented the other three tools they have as well. Ms. Johnson stated that in addition to the things that Ms. O'Connor mentioned about technical assistance, a coaching institute, reviews of the case information and data analytics, they also do quality assurance training for all supervisors and quality assurance staff. The intake tool has had an update since its original implementation. She explained that there were some changes in law that occurred and so there was a process to develop these changes within the tool, and rolled out the updated tool in January 2021. There is an ongoing process and the department has an ongoing contract with Evident Change to be able to do that work.

Sen. Bennett asked how many independent variables does a caseworker look at with the tool. Ms. O'Connor answered that SDM is a series of tools, and that the intake tool is separate and different from the safety side. Sen. Bennett also asked if they could answer what is the cross correlation among the variables that they (Evident Change) have studied. Mr. Levinson answered that unlike the presentation which focused more on the safety assessment, the intake assessment does not have a specific number for each item. He stated that they look at four different categories on intake assessments; physical abuse, sexual abuse, emotional abuse, neglect. Depending on the category there are five or six items within the categories that are looked at. Sen. Bennett asked if they could get a visual copy of the layout of that.

Sen. Bennett stated that he used to run a data company and run risk analytics. He acknowledged that it was a separate field, but mentioned that the processes are often the same and he was trying to understand the subjectivity levels within the tool and understand the way it works in trying to draw out information that is actionable for decision makers at the Department. He wanted to understand how the model accommodates changes as well as the cross correlation and the lack of independence among the variables and how they are weighted. He asked if they had a process for that. He reiterated Sen. Bailey's questions, of how do they adjust the tool and change it as they learn more about Maine and also incorporate data from other states. Ms. O'Connor answered that neither her or Matt were on the data analytics team, but stated that those questions are similar to those that the team likes to share with the leaders and jurisdictions as they are discussing and customizing the tools. She mentioned the slide in the presentation talking about risk fit analysis, which is where independent impacts of specific items and correlation were looked at. How do different items affect different families or groups? She highlighted that the Risk Assessment and Risk Re-Assessment tools are two that have that analytical foundation. The other tools are more practice-based on consistent recurring research and literature review. She stated they looked at positive and negative trends, and whether to weight them differently.

Sen. Bennett mentioned that there is a selective group of people that are subject to the assessment and it is not a random sample of the population, it is people who have been reported as having some issue relating to this. He stated that there is some level of bias in the selection that the committee should be aware of as policy makers looking to fix the underlying issues. He suggested an additional approach that is more proactive in reaching out into the communities and trying to identify the at-risk families earlier in the process, rather than once they get reported. He asked to what extent do they think about those kinds of functions rather than just the reactive approach. Ms. O'Connor answered from Evident Change's perspective that the risk assessment tool offered for use at the end of an investigation is only valid on families that have a current allegation or are currently under investigation. It would not be appropriate to use that as a tool to determine risk level. It is not a tool to identify families that would most benefit from prevention services. The risk tool is intentionally built to be used for families that are currently under investigation. She agreed that having a different tool to help identify families

that may most benefit from prevention services is an option that many jurisdictions are looking at and Evident Change is engaged in those conversations and development as well.

Ms. Johnson answered that OCFS is engaged in prevention activities across offices. Some of that is through the Family First Prevention Services Act which has been working to identify gaps in services to work with the cross systems partners in order to understand what exists in the communities for families. She added that they also do that through the Children's Behavioral Health Division that is within OCFS. They look at children that have behavioral or mental health needs and how that can be addressed before families need child welfare intervention. There is no tool specifically like the other that is used within OCFS to assess that.

Rep. Fay recalled it being mentioned that back in 2016 when the tool started being developed there was talk about stakeholders and a steering committee and that people from the department were involved in that. She asked if there were others, members of families who might have interacted with the system or other stakeholders or was it mostly people working in child protection. Ms. Johnson answered that when they developed the intake tool there were representatives from the community but she does not recall whether there were parent partners, but believes they were part of a work group that the Child Welfare Ombudsman was part of as well. She stated that there were also hospital representatives. The department tried to look at who would be impacted or should inform the development of the tool and brought them together as part of that work group.

Rep. Fay stated that she understood that leadership was involved in all of these groups but asked if the people actually using the tools were giving input on how the tool changes and is developed, but also in the original development of the tool. Ms. Johnson answered that within the work groups it was weighted to have more frontline staff participate in those than management or leadership. They brought together intake, case workers, supervisors and program managers and a few leadership staff to inform the development and any updates. Rep. Fay asked if that was an ongoing process that gets updated periodically. Ms. Johnson answered that yes, it can be as new policies are developed or statutes enacted and they work with Evident Change to update and incorporate those changes.

- **Committee Discussion with Department of Health and Human Services Staff**

Sen. Libby invited Ms. Johnson to stay in the discussion and asked for Molly Bogart, from DHHS to join her.

Sen. Libby asked the committee if they had any questions on the Memo from HHS dated July 18, 2022. (Document can be found here: <https://legislature.maine.gov/doc/8681> ).

Rep. Fay stated that she would like to understand the override of the SDM tool better. She mentioned that the last page of the memo mentioned discretionary override and wanted to understand the numbers better and was curious on how the tool is actually used. Do you use the tool and then think about an override? Question two on the last page states that discretionary override is used when unique circumstances exist that were an alternative decision, and supervisor approval is required. Ms. Johnson stated that a discretionary override addresses the fact that in some circumstances there are times where they want to change the decision and it is not listed or captured under the reasons for changing the decision. The worker will bring it to the supervisor and explain the facts of the case and why the decision should be made. It allows for flexibility in the tool for circumstances that are not outlined specifically in the tool. Ms. Bogart added that any discretionary override would be made after the tool decides, and that the worker must always use the tool first.

Rep. Stover asked if they can think of an example of a decision where they may use a supervisory override.

Sen. Deschambault stated that it was when a caseworker says that the tool says one thing, but that it may not be the best decision and having a consult with their supervisor, documenting the reason why, even though the tool says one thing, that there are other factors that justify it.

Ms. Johnson confirmed that Sen. Deschambault explained it well. Ms. Johnson gave an example of a parent being credible and saying there is a court order that exists and the department needs to review that in order to

determine that the conditions that the parent is stating are actually in that court order. Maybe they cannot get the court documents, but they believe the parent to be credible, and so they do an override. The override is intentionally at the end of the tool. They want to consider all factors when deciding and determining whether or not an override would be an appropriate decision.

Sen. Bailey recalled six tools listed, and then there is the data for overrides with three tools. She asked if the department could tell her the percentage of times that decisions were overridden. Ms. Johnson answered that some of the tools that Sen. Bailey referenced do not have an override as part of the tool. The intake tool has two different places that can have an override. A supervisor can override whether a report is screened in for investigation or not, and then also the timeframe in which staff are required to respond. She stated that the Safety Assessment tool does not have overrides.

Sen. Bailey asked why that is. Ms. Johnson answered that it gives three options as an answer based on the data that has been collected and entered into the tool. The child would either be safe, safe with a plan or not safe.

Sen. Bailey then asked if the Safety Assessment tool does not have an override, then the tool is always followed. Ms. Johnson confirmed that the recommendation from the tool is always followed, yes.

Ms. Johnson continued that the next one is Risk Assessment, which has a policy override which lists the reasons when a worker may do an override and there is also the ability to do a discretionary override. The only tool as a part of the permanency work that has an override is the Reunification Assessment Tool, which also produces three decisions. One is to reunify the child home, one is to continue family reunification services and the last would be to change the permanency goal and implement the concurrent plan.

Sen. Keim stated that she noticed the answer to Question 12 as being aware of a small number of circumstances that payments are not being made to resource parents properly. She stated that she was concerned that OCFS is aware of a small number, yet the committee is hearing that it is problematic and more widespread, and either OCFS is not acknowledging that, or they do not know how bad the problem is. Ms. Bogart answered that they are not ignoring the problem, but noted that it is a case specific challenge, which could come down to vendor forms for the family or timeliness of inputting data from caseworkers.

Sen. Keim stated that it is not about the reasons, but it is about the number of people this is happening to. The committee is hearing differently than the department is reporting and the discrepancy is concerning. Ms. Bogart answered that OCFS processes about 7,000 payments per month through DAFS. She stated that they are addressing each situation individually.

Sen. Keim asked how they came to find this number; how did they reach out to figure this percentage out. Ms. Bogart answered that they are comparing the number of concerns they received to the 7,000 that get processed every month. Sen. Keim asked if there may be people that are not getting paid that have not brought it to the department's attention. Ms. Bogart answered yes. That sometimes they get messages in their inboxes or on their phones where someone will say they have not been paid for months, but had been waiting and not saying anything until that call.

Sen. Keim asked if there was anything that the department could do to reach out and find this information in a more proactive manner. Ms. Johnson stated that this is a significant issue that they are working to make sure that all payments are processed as intended. There had also been talks with district staff about those situations and how to address them, but they do not always know the behind the scenes of what is happening with the payment processing.

Sen. Libby asked about the current number of open positions in the Office of Child and Family Services. Ms. Johnson stated that currently they had 50 vacant case worker positions open. Sen. Libby asked if that included the newly approved positions. Ms. Johnson answered yes, it included the 21 additional positions that were effective July 1, 2022. Sen. Libby asked if the department was employing some of the tactics that were reported on last quarter in terms of ads, college job fairs, etc. Ms. Johnson answered that they have continued to do that and tried to target recruitments in some of the areas where they have higher numbers of vacancies.

- **Committee Discussion with OPEGA Staff**

Sen. Libby welcomed OPEGA Director Schleck back into the discussion.

Sen. Libby moved the discussion to focus around the OPEGA Child Fatalities Memo (Document can be found here: <https://legislature.maine.gov/doc/8683>) and the potential of seeing Child Protective Records in an Executive Session Discussion (Memo Document can be found here: <https://legislature.maine.gov/doc/8684>). He mentioned wanting to touch on the Child Fatalities Table Memo first. Sen. Libby then asked Director Schleck to explain a brief overview of what was written in the memo to the committee on this topic.

Director Schleck explained that when a child fatality occurs there is an extensive document that goes into great detail that the Department will release upon the completion of the sentencing of any trials based on the provision in Statute Title 22. As cases are completed on the recent child fatalities, the information will be released once the trial closes. He stated that it is his understanding that the Attorney General has opined to the Department that it is not likely there is a legal path for the committee to directly access the records. There is always the process by which OPEGSA is recognized as able to get them, but that was not necessarily what the committee hoped for. OPEGA could be taking another step on behalf of the committee, looking at systemic risk when it comes to the reunification piece.

Sen. Libby stated that even if the committee wanted to go into Executive Session and pull the records and review them directly, it would be a lengthy legal battle with an uncertain outcome. Within that period, they may be able to have access to the reports as they are released after trial. Sen. Libby stated that he did not think the Executive Session would be a fruitful exercise.

Sen. Deschambault stated that she is stuck on the one phrase, "or other legislative official". She stated that words that are in statute are supposed to mean something, and so she wanted to know what that meant if not the Committee.

Sen. Bailey stated that she was not sure how the committee can do oversight if they cannot see the files. She believes that the public expects them to be able to see the files as the oversight committee. She stated that she understands confidentiality as an attorney, but thought that no matter what the committee looks at for recommendations or finding, if they haven't looked at the files, it is incomplete.

Sen. Libby summarized the process that would happen. He explained that the committee would request the information from DHHS, DHHS then cites the AG's opinion in response, the committee would then subpoena the records, DHHS figures out a way to not comply with the subpoena legally, and then there would be a hearing with a judge that could take months. He asked if the committee would want to engage in that length process given that they likely do not have a definition or a background on what legislative official means. Or if the committee would want to wait for the criminal cases to conclude and then have access to the data. Or they can ask OPEGA staff to summarize and provide the committee with their findings.

Sen. Millett stated that he read the last paragraph of the Attorney General's opinion, which seemed to say that a pathway of getting what the committee wants would be for DHHS to negotiate with the OPEGA staff to define the terms and the specific limits upon disclosure. The footnote says that as long as it doesn't impede a criminal investigation or violate the three federal statutes, that negotiation could result in the description of what information might be available to the committee. He stated that may be a way to get around the limitations of the statutory exclusion.

Director Schleck stated that the memo left him with an overall felling of doubt as to the capabilities to do this the way that the committee would prefer. He stated that he would want to circle back with Principal Deputy Attorney General Chris Taub to get clarity, but that his reaction is that the overarching impression was that it would be a tough road.

Sen. Bennett stated that he thought the letter conflates legislative and executive authority. He explained that OPEGA is a creature of the Legislature, not the Executive Branch, and if OPEGA has information that they are using to do work for the committee, the committee should have the right to look at that underlying information. He believed that the committee could pursue both paths in some fashion. Sen. Bennett stated that the Attorney General is not there to represent the Executive Branch, he is there to represent the State of Maine. Although there were words in there that suggested he (Attorney General) is not staking out a defined position on it.

Sen. Keim stated that she agrees on moving forward down both avenues. She stated that the documents that become public after trial only occur when there is a child's death. She suggested that the committee may want to look into some things that may never become public.

Sen. Libby stated that as a practical matter, some of the information that the committee is looking for regarding the specific child death cases may become public before the committee would actually have their day in court to fight for the opportunity to see the files privately. He stated he was concerned that this would be a requirement of resources to secure the documents that they may get when the public gets them sometimes this fall.

Sen. Libby switched the conversation to the options for future OEPGA reviews.

Director Schleck directed the committee to the Project Recommendation document that OPEGA provided.

(Document can be found here: <https://legislature.maine.gov/doc/8685> )

He brought the committee to page four, tab six, where two options are listed that OPEGA wanted the committee to consider. He stated that OPEGA wanted an answer for stage three so that they can move forward with that work immediately. Director Schleck explained that the last day of the 130<sup>th</sup> Legislature would be somewhere around December 7<sup>th</sup>, so as a practical matter, OPEGA could get good research and background information on reunification by the end of October, but it would not be the kind of evaluative review of systemic risks and concerns and root cause analysis. Option two is to have the evaluative work, but the delivery of the product would be in the next legislative session.

Sen. Libby summarized that phase three option one would be an information brief in October and option two would be a deeper analysis that would be delivered in January of next year, the 131<sup>st</sup> Legislature. Sen. Libby stated that option two was his preference, even though it would go to a new GOC, it would be a more thorough analysis. It will complete the work around the reunification process, and the new legislative committee will have that in their hands in January.

Sen. Libby stated that phase four was grouped into three topics and asked Director Schleck to briefly explain. Director Schleck stated that the three options for phase four were aspects of staffing, aspects of the availability of services, and foster parent supports. He stated that there may be issues that overlap in those areas, but that there is ground in those categories to do another report.

Rep. Stover asked to clarify if the options for phase four were to choose one of the three. Director Schleck confirmed that was the idea.

Sen. Bennett stated that if he had to vote today, he would vote for topic area three.

Sen. Keim stated that she did not feel ready to decide phase four of the work. She does not know where the greatest need is. She stated that for phase three, option two was the better option even though the committee may be completely new then.

Sen. Libby added that because option two would be a full report, it triggers the notice requirements that OPEGA gives to the Department, who can send in a response within 15 days, that cannot be removed, and with the holidays in November and December, it pushes the timeframe into January.

Rep. Stover stated that she was going to be optimistic that the new committee would take the recommendations from the report and do some thing with it.

**Motion:** Direct OEPGA to engage in phase three, option number two, delivering a full report in January 2023. (Motioned by Sen. Libby, seconded by Sen. Bennett, passed by unanimous vote).

**Sen. Libby moved the conversation back to the Executive Session discussion.**

Director Schleck suggested inviting PDAG Chris Taub to join at the next committee meeting to discuss and answer any questions that the committee may have before making a vote or decision on the matter.

Sen. Keim stated that the committee had already listened to AAG Taub talk. She did not like the idea of waiting another month to discuss it again. She suggested that if the committee wanted to move forward with trying to get information, to just push forward and do it.

Sen. Libby stated that if the committee wanted to do something today, they should be specific about which records they want and from whom, and if they don't want to wait until next meeting, to direct OPEGA to request the records on the committee's behalf and cite what those specific records are.

Director Schleck stated that it would need to be a request from the committee, as OPEGA already has the ability to access these records, so it would need to be from the committee themselves.

Sen. Bennett stated that he did not agree with the characterization. He stated that reviewing this material in executive session is important to respect confidentiality. He stated that he does not think the committee should change their internal process.

Sen. Libby stated that there are statutes that govern how the committee and OPEGA interact with one another.

Sen. Deschambault stated that she read that it says "to not use Executive Sessions to defeat purposes of Freedom of Access Laws". She asked if the committee goes into Executive Session with data information and facts, if that is going to be open to the media for freedom of information.

Sen. Libby answered that if the committee goes into Executive Session for a purpose that is allowed by statute, then media would not be accompanying the committee.

Sen. Bailey stated that she would at the very least like to keep the process going. She would like to see the committee write a letter to the department requesting the case files for the fatalities that started this whole process, and express that they would like to see the files as the committee's duty and responsibility as an oversight committee and assuring them that the committee will take every necessary precaution to keep that information confidential. She suggested they also put in that the committee is open to having discussions in terms of what it will look like, and if the department has any specific concerns, leaving the door open for discussion, while also making the committee's intention clear.

**Motion:** GOC Sends letter to DHHS – Request for casefiles (dating back to May '21) to review in Executive Session.

(Motioned by Sen. Bailey, seconded by Sen. Keim, passed by unanimous vote).

## Next GOC meeting date and planning

Sen. Libby noted that the next GOC meeting is scheduled for Wednesday September, 2022 at 9:00 a.m. and will be held in person.

Director Schleck mentioned that there was a previous expectation that the Executive Director of the Maine Commission on Indigent Legal Services would be able to provide an update at the next meeting. He also stated that there was a notion to follow up with the Maine Wild Blueberry Commission. He suggested that there was an opportunity to reach out and ask how things are going in terms of the concerns expressed previously. Director Schleck then stated that there also was an idea to check in on WorkDay Maine.

**Motion:** To allow the GOC Chairs to continue dialogue with the Department (DHHS) during the interim (in regards to asking for the casefiles).

(Motioned by Sen. Bennett, seconded by Rep. Stover, passed by unanimous vote).

## Unfinished Business

Director Schleck brought up the current review on the incentives for the Visual Media Tax Expenditure, and that OPEGA welcomes the committee members to meet individually, and have a conversation about any kind of feedback on that review, as the office is interested in everyone's perspective.

Sen. Deschambault stated that in the last month there were two people who made a film in Biddeford and the people involved asked if they would be able to give testimony.

Sen. Libby stated that anyone who wanted to share their information and weigh in on a tax review should share that with the OPEGA staff.

## **Adjourn**

The Chair, Sen. Libby, adjourned the Government Oversight Committee meeting at 3:28 p.m. on a motion by Rep. Millett, seconded by Sen. Bennett.