



SEN. CRAIG V. HICKMAN, SENATE CHAIR
REP. JESSICA FAY, HOUSE CHAIR

MEMBERS:

SEN. LISA KEIM
SEN. MIKE TIPPING
SEN. RICHARD BENNETT
SEN. JILL C. DUSON
SEN. JEFFREY TIMBERLAKE
REP. AMY ARATA
REP. H. SAWIN MILLETT, JR.
REP. MARK BLIER
REP. ANNE MARIE MASTRACCIO
REP. MARGARET M. O'NEIL

MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

MEETING SUMMARY
May 26, 2023

Call to Order

The Chair, Sen. Hickman, called the Government Oversight Committee to order at 9:30 a.m.

ATTENDANCE

Senators: Sen. Hickman, Sen. Keim, Sen. Duson, Sen. Bennett, Sen. Tipping, Sen. Timberlake

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

Legislative Officers and Staff: Peter Schleck, Director, OPEGA
Sabrina Carey, Secretary, OPEGA, GOC Clerk

Others: Anthony Pelotte, Director, Office for Family Independence, DHHS
Todd Landry, Director, Office of Child and Family Services, DHHS

Introduction of Committee Members

The members of the Committee introduced themselves.

New Business

(To watch this meeting - the recorded Live Stream can be viewed here: <https://legislature.maine.gov/Audio/#220>)

- **Meeting Summary**

The April 28, 2023, Meeting Summary was accepted as written.

(A copy of this document can be found here: <https://legislature.maine.gov/doc/10133>)

- **DHHS Customer Call Wait Times**

Sen. Hickman explained that the Committee had written a letter to the DHHS Commissioner regarding Sen. Tipping's request, asking questions regarding customer call wait times. He invited the Office for Family Independence (OFI) Director, Anthony Pelotte to join in the conversation and answer questions.

Mr. Pelotte introduced himself and gave an overview of his Office's services. He explained that the Wilton Call Center is the first contact triage that handles incoming calls from clients. He noted that telephone technology allows for specified client transactions to be automated and provides OFI with the ability for real-time tracking and monitoring of calls that cannot be addressed by the automation or the Call Center which are then passed on to one of the specific service queues for in-person communication with an OFI eligibility specialist.

Sen. Timberlake asked for confirmation that the average wait time is sixteen minutes.

Mr. Pelotte answered that those are the numbers for a first contact average wait time.

Sen. Timberlake then asked why his constituents were not being answered or responded to within a multiple day time frame.

Mr. Pelotte answered that the letter explains the difference between calling the triage center at the Wilton Call Center and waiting for the ability to speak with an eligibility specialist.

Sen. Timberlake asked how long the wait in the queue for the specialists.

Mr. Pelotte answered that it is listed in the letter as around one hundred six minutes, but that it depends on the queue. There are some queues with significantly less time to wait to speak to a specialist.

Sen. Timberlake asked about calls regarding problems with child safety or foster care and other issues and suggested they should be answered at a more rapid rate.

Mr. Pelotte answered that those calls are not what OFI receives. He explained that they deal with SNAP benefits, MaineCare, Medical Health Insurance and the TANF program and that most of the calls are about application status, recertifications and when are the benefits going to be approved and sent.

Sen. Duson asked what percentage of calls go into the eligibility specialist queue.

Mr. Pelotte explained that about forty percent of calls are answered and resolved at the first level of triage, the remaining sixty percent of calls are sent to the different eligibility specialist queues depending on the program the person is calling about.

Sen. Hickman believed that when the Committee sent the letter that they were not specific about this relating to the Office for Family Independence, and noted Sen. Timberlake's frustration. He wanted to note that there may need to be some follow up with someone who represents the entire Department and the phone calls that come in because the answers are very specific to OFI and are not comprehensive enough.

Rep. Fay stated she would love to see a flow chart of how the calls come in and where they go to be able to see the bigger picture. She asked if any of the specialists who answer calls in different queues are cross trained so that if someone ends up in the wrong queue that person may still be able to address some of the issues. She asked if there are multiple issues would the person need to go back into the queue to get the specific questions answered by a different specialist and how that would potentially increase the wait time by trying to access multiple programs.

Mr. Pelotte answered that the training is robust and the specialists are trained in multiple programs.

Rep. Fay asked if there were enough people to do the work needed to be done in order to address the customer service issues that are being heard from constituents.

Mr. Pelotte answered that there were some significant investments made into the technology that provides the level of service that has been asked of clients. He explained there is a self-assisted online portal where people can provide recertification information and can sign up using an application for a wide variety of benefits the OFI offers. These options help remove the volume from the telephone option. He also stated that they never stopped in person meeting at their office so there are multiple ways that people can get their needs met, but suggested there is always more that could be done.

Rep. Fay asked for clarification on what the plans are to address the additional technology and customer service issues.

Mr. Pelotte stated that he would be happy to send more comprehensive follow up on the technology enhancement plans. He explained that when someone calls the queue they are presented the option of using integrated voice recognition to do simple tasks like updating their address or requesting a new MaineCare card.

Sen. Hickman stated that the average seems long and asked what the longest and shortest wait times they have ever had.

Mr. Pelotte answered he would follow up with that information.

Sen. Timberlake asked if the Wilton Call Center was fully staffed.

Mr. Pelotte answered that out of forty-five lines, only 4 were vacant.

Sen. Timberlake asked about the status of the specialists and whether they worked at the offices or whether they were working from home.

Mr. Pelotte shared that it is a blend but that about eighty percent have some remote scheduling. The minimum requirement is in-office two days a week.

Sen. Timberlake asked if this system is encouraging the online methods as he feels those ways can be confusing for the user.

Mr. Pelotte answered that the office policy is "there is no wrong door" to reaching out for help with the services, encouraging people to come in to the offices if the calls or the website are not working.

Sen. Timberlake asked what Mr. Pelotte thought a fair wait time in the queue would be.

Mr. Pelotte answered that the goal is to be as fast and efficient as possible and that everyone's level of patience and perception of what is timely is different.

Rep. Arata asked if the Wilton Call Center staff were all working in that building.

Mr. Pelotte answered that some of them are teleworking, but those that do not have adequate technology to work from home are required to be in the office.

Rep. Arata agreed she would like to see more data such as what Rep. Fay asked for.

Sen. Bennett stated that it would be the variation around the averages that would be interesting to him. Statistics on how volatile and what the volatility is based on; daily flow, a weekly, monthly, or are there events that occur that cause the particular spikes in usage. He asked about the unwinding of the Medicaid and when there was notice that the pandemic health emergency was ending.

Mr. Pelotte stated that they knew it would be within a ninety-day period but generally they would have to go in on the day it was expiring to see if it was being continued again.

Sen. Bennett asked for a written timeline of this process.

Sen. Bennett stated that there seems to be some volatility around the application process as well. He asked what would cause the spike noted in October of 2022.

Mr. Pelotte answered he would need to get that information back to them.

Sen. Keim asked for the average wait times of each individual queue. She explained that the abandonment rate on these calls is fifty percent so the wait time average only accounts for that half of the callers. She also added that she was disappointed that they are not hearing more broadly about all of the department call concerns.

Rep. Fay asked for the hours that these calls are answered within.

Mr. Pelotte answered that there is coverage from 7 AM to 5 PM, no weekends, or evenings.

Rep. Arata asked if there was any sort of surveillance or monitoring of the remote workers and if he had knowledge of the current legislative bill that would allow employees to change their minds and disallow monitoring devices on their personal electronic devices. She asked if he would look at that bill and let them know if it would negatively impact their ability to monitor their employees.

Sen. Duson asked if when someone calls and probably should have called a hotline instead, would the triage staff send them to the hotline.

Mr. Pelotte answered that yes, emergency situations are often transferred sooner and sort of jump the line.

Sen. Duson then asked about a language line for those who may not speak English.

Mr. Pelotte answered that they do indeed have interpretive services.

Sen. Duson asked about follow up regarding any possible turnover issues or any significant programs that have been implemented to support staff.

Mr. Pelotte answered he could provide that information.

- **Public Hearing – OPEGA Report on “OCFS Case File Review: Safety Decisions and Actions Taken in the Case of Maddox Williams”**

(A copy of the Report can be found here: <https://legislature.maine.gov/doc/9997>)

(A copy of all written comment can be found here: <https://legislature.maine.gov/doc/10132>)

(The Live Stream Recording of this meeting can be found here:

<https://legislature.maine.gov/Audio/#220?event=88883&startDate=2023-05-26T09:30:00-04:00>)

Sen. Hickman invited Director Todd Landry of the Office of Child and Family Services to discuss any follow up from the report presentation at the last meeting.

Director Landry stated that he did not have any prepared comments for the public hearing but noted that every child fatality is a traumatic and tragic event for the families involved and their communities. He stated that the goal within OCFS is to do the best that they can to try and prevent those situations from happening within the limits that are prescribed by federal and state law. He appreciated the OPEGA staff's work and the note that the Department has responded quickly and appropriately to all requests and are committed to continue doing so. He noted that between meetings the Department, in partnership with the Maine Child Welfare Action Network, released the Child Safety and Family Wellbeing Plan. He wanted to make sure the Committee was aware of this plan and looked forward to continue to work with the community to further develop that plan going forward. He noted that the Department also met with the Health and Human Services Committee and provided them with a complete detailed listing of the budgetary and other initiatives.

Christine Alberi – The Child Welfare Ombudsman (pg. 1 of written comment pdf)

Sen. Keim asked for a better clarification of the recommendations that the statute is followed in regards to filing a TPR (Termination of Parental Rights).

Ms. Alberi explained that the statute requires that the Department file a petition to terminate parent's rights when a child has been in foster care for 15 of the last 22 months. She explained that the definition of “in foster care”

is not the day that a PPO was filed and the children were removed from their family, but has to do with when the court actually makes an order about that or sixty days after the PPO is filed. The TPR cannot be filed if there is a representation to the court that it would not be in the child's best interest to do so.

Sen. Bennett asked if Ms. Alberi had any reflections on the causes or reasons for the deficiencies in process that is noted in her testimony.

Ms. Alberi noted that things have changed since the other children in the family entered custody in 2018 and when Maddox was killed in 2021, but stated that the causes and some of the investigation would be lack of staff for the Department to make sure they have time to do thorough investigations and communicate. She noted that lack of experience is sometimes part of the issue, and she would love to see more training on all of the issues, which she noted that the Department is working on, but stated in this particular case it is hard to say exactly what happened.

Sen. Bennett stated that he was extremely interested in what Ms. Alberi thought of these issues and the decisions that were made and referenced in this specific way.

Ms. Alberi stated that with reunification cases she has found that there is a difficulty in providing an ongoing assessment in a case. She noted in this case, mental health is a good point to talk about because if the mental health provider does not agree with what the Department's concerns are in a case then that mental health provider is going to tell the court that the parent is fine and there are no issues. She noted that sometimes they get to the year mark and it is not entirely clear whether they should file a petition to terminate the parent's rights or not. She recommended that the Department err on the side of filing the TPR when in doubt because the hearings take a long time to finish which can delay the process even further.

Sen. Hickman read the statute that has the legal process for filing a TPR and asked Ms. Alberi if she has seen other situations in her work where the Department has not followed this statute.

Ms. Alberi answered that there were six cases in the previous year's annual report where the petitions to terminate rights were delayed long after the statutory timeframe.

Sen. Hickman asked if she thought the statute was sound.

Ms. Alberi answered yes, she did not see any problems with it and confirmed it is based on federal recommendations.

Sen. Hickman asked what she would say about the Department not following the law.

Ms. Alberi stated that she recommended to the Department that they err on the side of filing a TPR within the statutory timeframe.

Rep. Mastraccio stated that her clear issue is that even though one part of the Department was uncomfortable with Maddox going back to his mother, there was another area of the department that was allowing the other children to go back with the mother. She stated that she did not understand if one aspect of the Department is uncomfortable with one child then why would someone else be okay with it for the other children.

Ms. Alberi confirmed that she had heard of similar cases before and noted it always raises a question mark of what that thought process is. There are cases where a parent is capable of taking care of one child but not more, and it is not always clear that these children will be safe or unsafe. She noted that the Department had claimed abandonment and then withdrew, probable because it is hard to make that argument if those other children are at home.

Rep. Mastraccio stated that her other issue is around the lack of cooperation. She stated that three months of cooperation did not seem sufficient to cancel out the noncooperation that had occurred before. She asked if the lack of cooperation be utilized or come into play at all in the termination of parental rights.

Ms. Alberi answered that it could be used in a hearing and could be considered. She noted though, that it was overall included in the meaningful engagement in services and making behavioral changes for the parents.

Sen. Timberlake stated that he thought the Ombudsman's Report gave more insight into what was happening than what the OPEGA Report gave. He was concerned that the OPEGA Report does not get in depth as he would have liked.

Ms. Alberi stated that she had talked with OPEGA staff about the difference in how they think of these decisions as whether they are safety decisions or not. She stated that where they disagree a bit is in the characterization of the consequences of some of the decisions that were made. She stated that the OPEGA report lays out the facts really clearly. She noted that in a case like this where the family had extensive department involvement that is when the interventions are the most crucial and its important to get them right at that time.

Sen. Duson noted that if the Department does not file a TPR, it is required to file documentation with the court explaining that filing is not in the best interest of the child, and asked if that documentation was provided to the court in this case.

Ms. Alberi answered that it was not that the Department did not file in this case, they just did not file within the timeline.

Sen. Duson asked if it was noted why the children were not all placed into custody in the same case.

Ms. Alberi explained that Maddox had been placed with his father, a different parent than the other children had, which is why he did not come into the other reunification case.

Sen. Duson asked if there was a requirement that there be a reference to the status of other children.

Ms. Alberi answered that there are portions of the investigation case with whether Maddox was safe with his father.

Betsey Grant – (pg. 4 of all Testimony)

Victoria Vose – (Maddox's Paternal Grandmother)

([11:46:20 AM](#) of the LiveStream Video)

Sen. Timberlake asked if Ms. Vose had any conversations with DHHS and the workers before Maddox's death.

Ms. Vose answered yes, between 2018 and 2021 there was ongoing conversation.

Sen. Timberlake asked if she had ever conversed with the Department saying that she was concerned about Maddox's safety and what their response was.

Ms. Vose answered yes and explained that one person described the mother as a lion taking care of her cubs as to why she was so uncooperative.

Sen. Timberlake then wanted clarification that she had told DHHS her grandson was potentially in danger and nothing was done

Ms. Vose answered yes and stated that there was a conversation in court where her son wanted Maddox to stay with her and the Guardian Ad Litem wanted Maddox to stay with her.

Rep. Arata asked about Jessica (Maddox's mother) and whether she had acted in any negative ways against her.

Ms. Vose said yes, she kept text messages that she had received from Jessica.

Sen. Hickman asked for follow up on what kind of messages she got.

Ms. Vose answered that she was told by Jessica that Maddox was not safe with her and she could only see him supervised.

Melanie Blair – (pg. 12 of written comment pdf)

Rep. Arata asked if in her experience as a foster parent the Department has been following a practice of "when in doubt, file out and let the judge decide".

Ms. Blair answered that no, she has a current case that is past the 15-month mark and the TPR has not been filed.

Rep. Arata asked if Ms. Blair had seen this happen more times recently or is this her only experience.

Ms. Blair answered that she has had this experience with multiple cases over the last four years.

Sen. Hickman asked for clarification on how many "multiple" means.

Ms. Blair explained that she currently had a case with five children and had two previous cases that were not filed on time that she ended up adopting. She added that she could tell many stories from other foster parents as well. She recalled some of her past testimony that included a survey of foster parents which had asked about how many of their cases were not terminated at 15 months. She noted that her local office has a lot of

vacancies but thought that not terminating was leading kids to getting stuck in the system forever or they end up going back because of a technicality.

Sen. Hickman invited her to share her ideas on how she would make things better.

Ms. Blair gave some examples of ideas that she had, and stated she would be happy to elaborate more on things that she thinks are beneficial in the future.

Sen. Bennett noted that Ms. Blair had been very critical of the OPEGA Report and asked for her comment on the decisions made by the Department.

Ms. Blair stated that the evaluation was supposed to be whether policy and practice was followed and it was stated that termination was not filed on time, and the abandonment could have been filed. She said that the Report states that the termination was not filed but then later states there were no unsound decisions.

Sen. Timberlake asked for a copy of her foster parent survey.

Ms. Blair stated that she would resend that testimony.

Melissa Hackett – (pg. 10 of written comment pdf)

Mark Moran – ([12:19:53 PM](#) of the LiveStream Video)

Sen. Hickman asked for Mr. Moran's opinion on the return of Maddox to his mother not being in the best interest of Maddox.

Mr. Moran answered that he thought that Maddox's mother was effectively a stranger to him and that placement of a toddler was not an ideal circumstance. In this case, Maddox had previously been with his grandmother and perhaps that would have been a different option for the course of this case.

Sen. Hickman asked if the Department had sole discretion at this point in the case about where Maddox should be placed.

Mr. Moran answered that his understanding was that the Department had discretion as to whether they pursued the request for preliminary protection order on Maddox's behalf, not explicitly placement unless he was in their custody.

Sen. Hickman asked if the definitions around abandonment gave the department more leeway to make a different decision anytime in that two-year span when he really had no contact with his biological mother.

Mr. Moran stated that without going back through the timelines he would hesitate to give a definitive statement but he understood that Maddox was in his father's custody and thus the department would have not had reason to file a termination of parental rights or seek a finding of abandonment at that point.

Sen. Timberlake asked if he thought the OPEGA Report was accurate the way it is written.

Mr. Moran thought the Report was generally accurate. He stated that there were opportunities for improvement in the management of Maddox's case over the course of its lifespan. He noted that the Department has often been willing to examine itself and make changes that are deemed appropriate.

Sen. Timberlake stated that in his reading of the report he questioned whether the day the caseworker went into the dark room where the kids were sleeping, if the caseworker had actually inspected the children and seen bruising if the outcome would have been different.

Mr. Moran stated that it could have made a difference in the case if the caseworker had seen a child with bruises, it would have prompted questions and further inquiry, but he explained that inspection of a child within the home goes into the concept of what rights do parents have.

Sen. Timberlake asked if that noncompliance to actually view the children should set off an alarm bell for a caseworker.

Mr. Moran answered that yes, in his previous experience as a caseworker, he could not remember being in that particular circumstance but hoped that it would set off some kind of alarm bell. He recalled Ms. Alberi's comment that the caseworkers need evidence to get a court order but it is difficult to gather evidence if the family is not cooperative.

Sen. Timberlake thought that there is a problem that is not being addressed and he thought it was concerning that Mr. Moran did not think it was as big of a problem.

Sen. Hickman asked how soon would a caseworker get a court order to go back and inspect a child if they believe that the circumstances by which they have been denied access to the child could be concerning.

Mr. Moran explained that the caseworker could leave the residence and immediately go and present the paperwork to a judge within a matter of hours depending on the geography. It could certainly be the same day.

Sen. Hickman asked if he was the caseworker in that situation and another person gave him evidence that there was violence against that child, what he would have done.

Mr. Moran answered that as a caseworker he would not have the authority to decide on that independently. He would have to go back to his supervisor and various levels of management within the office and would likely have been required to consult the Assistant Attorney General to decide about whether there was enough evidence to make that argument and prevail in front of a judge.

Rep. Mastraccio asked where the issue of the child's best interest resided within the law.

Mr. Moran answered that without going back through the statute he would defer to the Attorney General's office, but shared that the role of the Guardian Ad Litem in every case is to represent the child's best interest to the court.

Rep. Mastraccio was surprised that it does not seem to be the case that the child's best interest is at the top of the list.

Mr. Moran explained that there is a section in statute that specifically talks about child protection and preliminary child protection orders. It is about deciding whether there is immediate risk of serious harm.

Rep. Mastraccio stated that trying to define what's the best interest of the child would be the real crux of the issue, because this case was not short term. She asked Mr. Moran how the legislators could and ensure that the best interest of the child is the focus.

Mr. Moran answered that he did not know the legislative fix for that. He stated that the Guardian Ad Litem's input is relevant and welcomed by the court at every stage of a child protection proceeding, including the preliminary protection order. The court is allowed or directed to decide on the facts as to the question of whether the child is in immediate risk of serious harm. The child's best interest is not the question the courts are trying to answer.

Sen. Hickman asked who decides what the best interest of the child is in that situation.

Mr. Moran answered that the department would have input and the parent's attorney could argue that it is not in the child's best interest to terminate the parent's rights. The Guardian Ad Litem would be offering an opinion. The court would make the final decision.

Sen. Duson asked whether there would be a team review or discussion within the Department as to what should be filed.

Mr. Moran answered that yes, his understanding was that there are team discussions at many stages within a case and he would expect that at the point at which the Department is considering filing for termination of parental rights.

Sen. Duson stated that in the OPEGA Report it found that the Department failed to comply with the statute with regard to the filing for termination of parental rights. She stated that she was having difficulty because a lot of the conversation is talking about recognizing the mitigating circumstances as a substitute for a finding of failure to comply. It is stated that the Department must file the petition, yet the Report says that there were no unsound decisions. She asked how that cannot be unsound.

Mr. Moran answered that it could be sound with regard to it not being in the child's best interest. If the Department can articulate a reason to not do it, and that is sufficient to the court then it would be sound to not file for a TPR.

Bill Diamond – (pg. 8 of written comment pdf)

Sen. Timberlake stated that Mr. Diamond had served on the GOC for a number of years and asked if he thought that the OPEGA Report did what they were asked to do.

Mr. Diamond answered no, and that he thought it was unusual because OPEGA has a rich history of being direct in presenting evidence that the GOC can depend on and rely on to make some fixes in a system that appears to not be functioning the way it should. He thought it avoided and misrepresented many facts.

Sen. Timberlake asked if there was anything else that Mr. Diamond wanted to add.

Mr. Diamond answered that he hoped that this report would have included a lengthy discussion with the family members and those who knew what happened.

Sen. Hickman asked if Mr. Diamond recalled the 15-day draft that is sent to the evaluated state agency or entity that allows them to then provide the office comments on the draft which must be included in the final report when presented to the committee.

Mr. Diamond answered that he believed that came about to help make sure there was accountability.

Sen. Hickman asked Mr. Diamond if he thought that it was wise procedurally that the agency that has been evaluated has an opportunity to see the report before the committee does.

Mr. Diamond stated that the agency being involved or having to see it prior is a concern.

Rep. Mastraccio stated that the 15-day draft period is just to be sure that there is no materially inaccurate information in the report and opportunity for the department response to be included in the final report. She asked Mr. Diamond to clarify that the agency does not have to respond if they don't want to, if there was something they wanted included, they could, but it would not change the report in any way.

Mr. Diamond answered that was correct.

Director's Report

Director Schleck shared that the third Case File Review is waiting for the criminal sentencing of the father in court, which would then prompt the Department to release the public memo regarding that case. He explained that at the next meeting they would be able to present the summary of the Fire Marshal's Office survey. He also referenced Sen. Tipping's letter from the Labor Committee that had come in just prior to the meeting regarding assaults on state psychiatric workers. Director Schleck noted the ongoing bills of interest tracking list had been updated and noted that most of them are heading towards work session, being tabled or being carried over. He also shared that they delivered an approved letter on the Tax Expenditure Review Working Group legislation to the Tax Committee that was voted on by the GOC at the last meeting, setting forth the GOC's perspectives and suggestions.

Unfinished Business

None.

Next GOC meeting date and planning

Director Schleck reminded that traditionally the GOC has moved to once-a-month meeting sessions in the Interim (out of session) and suggested that June 23, 2023 would be the next meeting date.

Adjourn

The Chair, Sen. Hickman, adjourned the Government Oversight Committee meeting at 1:30 PM on a motion by Rep. Fay, Second by Rep. Mastraccio.