

State Involvement in Parental Rights and Child Welfare

April 1, 2004

In light of intense media scrutiny since last summer, policymakers, social service workers, and concerned citizens have had many discussions about how the state should or should not intervene when child abuse and neglect are suspected.

This issue was at the core of prominent legislation this year and continues to be a topic debated by candidates for political office and others. In Utah Foundation's Utah Priorities Poll, the issue of parental rights emerged as one of the top ten issues facing Utah this year. This Research Brief is intended to provide data and facts to help voters better understand this issue.

To help shed light on this thorny subject, this brief will explain: 1) the processes involved when the state investigates child abuse and neglect; 2) trends in the number of referrals and the number of times a child is removed from the home, as well as the different types of cases processed by the Division of Child and Family Services (DCFS) is provided; and 3) changes to child welfare law made by the 2004 legislative session.

Steps Taken by the State

Utah law requires any person who has reason to believe that a child has been subjected to abuse, neglect, or dependency (see definitions) to immediately notify the nearest DCFS office, a peace officer or a law enforcement agency. When a child is reported as being abused or neglected, a Child Protection Service social worker is required to make a face-to-face contact with the child and determine if abuse, neglect, or dependency occurred. The social worker assigned to the case will assess risk and safety to ensure that any immediate protection needs are met. If the social worker determines that the child requires immediate protection, the child is placed into protective custody and taken to a safe environment.

DCFS is required to assess the strengths and challenges of the family and then to link the family to appropriate services and resources, either through DCFS or through other community resources.

Checks on the Process

Each case is different, and requires some degree of subjectivity and independent judgment on the part of the social worker. Utah law requires that three organizations work with DCFS to ensure that the child's best interests are met. They are the **Office of Child Protection Ombudsman (OCPO)**, **attorney guardians ad litem**, and the **Attorney General's Office**.

OCPO was established to help resolve concerns about the protection of children who are receiving services from DCFS. The purpose of OCPO is to receive and investigate complaints to ensure that proper services are provided to DCFS clients.

A guardian ad litem is a lawyer appointed by the court to look after the interests of an infant, child or incompetent during court proceedings. The guardian ad litem also represents children who are in foster care.

The Attorney General's Office administers the Children's Justice Center program. There are 15 justice centers in the state that provide safe, child-friendly places for interviews. The centers help coordinate investigation and prosecution of child sex abuse cases and provide referral services to victims' families.

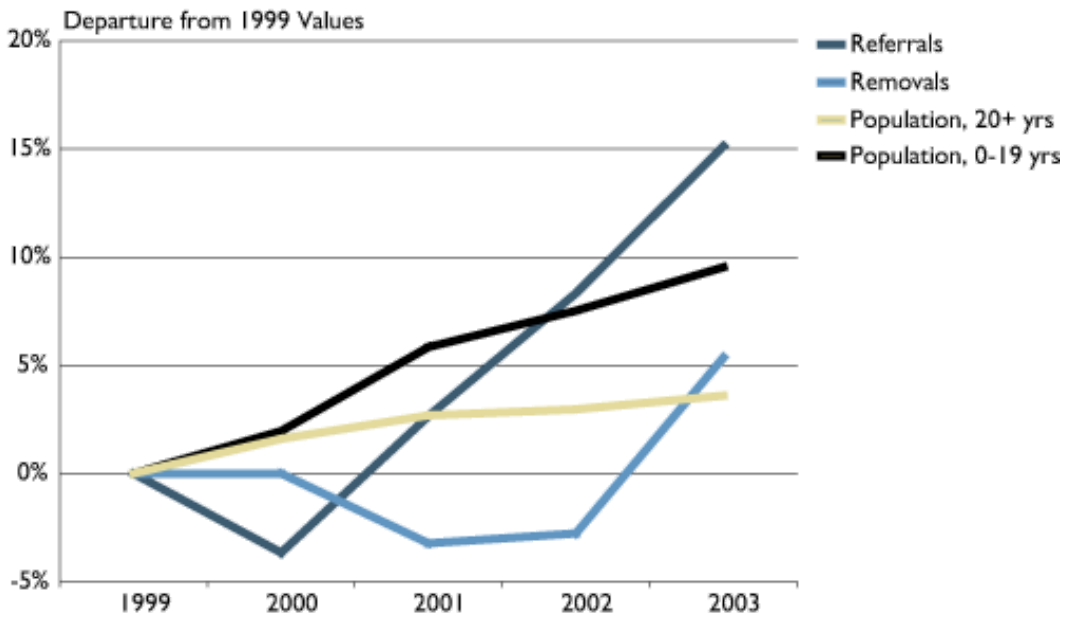
Case Referrals to DCFS

Definitions:

Abuse: Actual or threatened non-accidental physical or mental harm, negligent treatment, sexual exploitation, or sexual abuse.

Dependency: The condition of a child who is homeless or without proper care through no fault of the child's parent, guardian, or custodian.

Neglect: Failure or refusal of a parent, guardian, or custodian to provide any care necessary for the child's health, safety, morals, or well-being, such as educational neglect, medical neglect, physical neglect, failure to thrive, failure to protect, chronic neglect, or severe neglect.



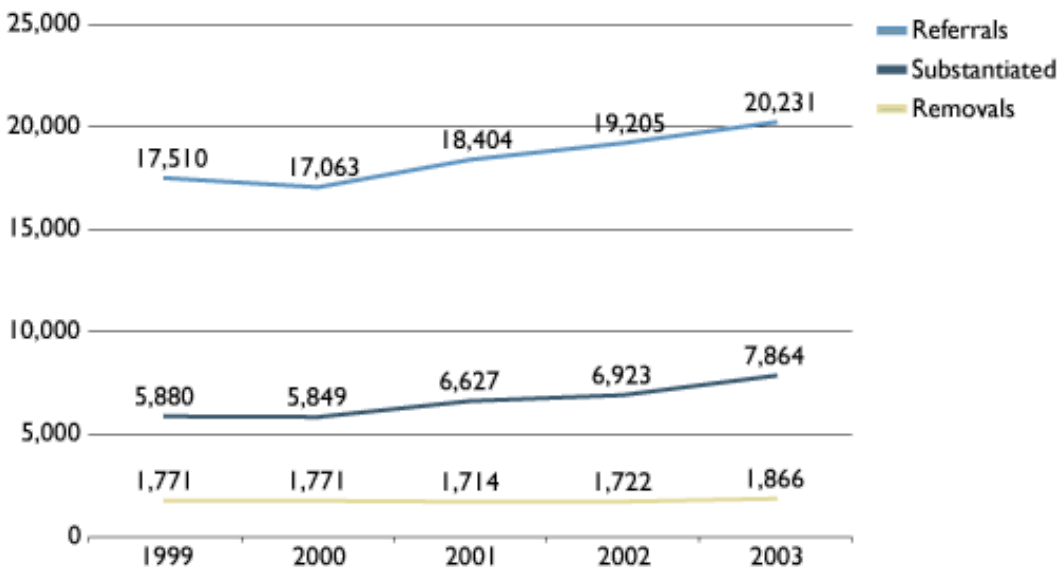
Sources: Division of Child & Family Services, Governor's Office of Planning & Budget: Population Estimates & Projections

Over the past five years, the number of referrals received by DCFS has climbed over 15%, growing 50% faster than the adult population. Several factors may help explain this:

- The economic recession that was felt from 2001 to 2003 placed financial stress on many families, and studies have shown a correlation between economic stress and child abuse and neglect.
- Some families who were receiving public financial assistance prior to 2000 may have lost that assistance as a result of the restructuring of welfare programs in Utah which began in 1997, but which did not impact many families until 2000. This adds further economic stress to those families. According to the Utah Department of Workforce Services, 22% of Child Protective Services cases involve families receiving some form of public assistance.
- Spotlighted media attention on recent child safety cases may have made citizens more alert to situations in their neighborhoods that warrant a referral.
- Expanded public-awareness/education efforts by DCFS may have caused people to feel more comfortable making referrals.

Removals of Children

Figure 2: Referrals, Substantiated Cases & Removals



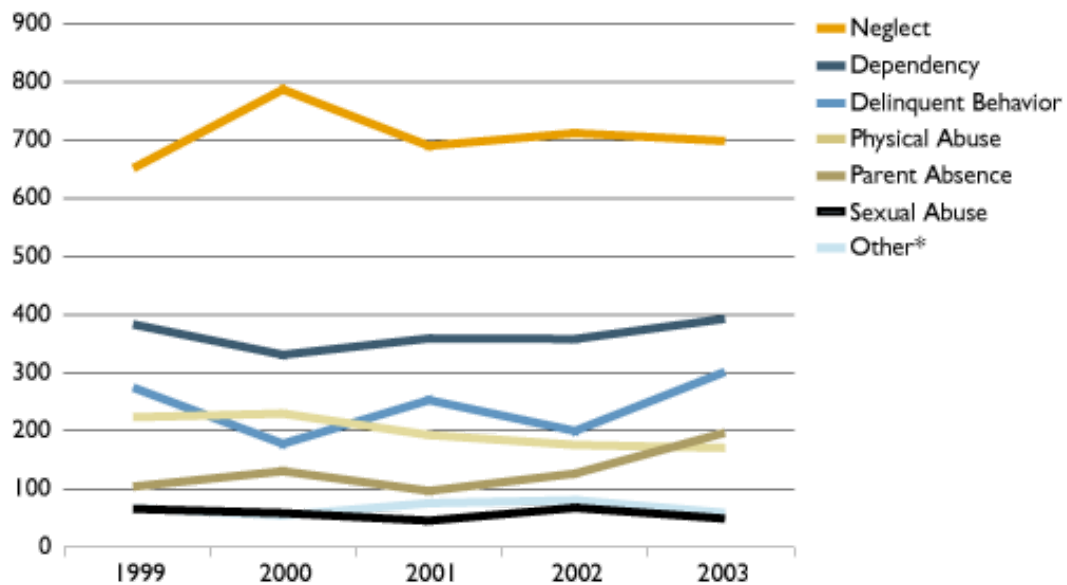
Source: DCFS

Removing a child from his or her home is an action meant to be taken only when the child's immediate health or safety is in danger. A far more common approach is to implement resources and programs to help the family provide a safer environment, while keeping the child in the home. Of the number of referrals investigated by DCFS, 36% result in a supported case— where abuse, neglect or dependency is judged by the social worker to have occurred. Approximately 10% of referrals or one quarter of supported cases result in the child being removed from the home.

Update: Since the original publication of this report, DCFS has requested that Utah Foundation clarify the data in the above graph. The referrals data above counts families, rather than children, but the removals data counts children. This overstates the proportion of referrals that result in removals from the home. Using more consistent data would show an average of 5% of referrals result in a removal, rather than 10%.

In cases where the child is removed, there are often several reasons, or allegations that lead to the removal. The primary reasons are diagrammed in the chart below.

Figure 3: Primary Reasons for Removal of Children from Homes



*includes abandonment, adoptive failure, relinquishment, sentencing guidelines and status offenses.
Source: DCFS

Neglect, by far the most common primary reason, is made up of multiple subcategories. For the year 2003, these categories are listed below with caseloads:

Figure 4: Categories of Neglect Cases

Category	Cases	Percentages
Medical Neglect		7%
Dental Neglect	23	1%
Medical Neglect	168	5%
Medical Neglect Resulting in Death / Disability	1	0%
Psychological Neglect	32	1%
Other Neglect		93%
Educational Neglect	80	5%
Environmental Neglect	1028	37%
Physical Neglect	2103	46%
Neglect-chronic	55	4%
Neglect-Severe	18	2%

Source: DCFS

DCFS reports that in FY 2003, 67% of children removed from their homes were able to return either to their homes or to a relative's home.

Figure 5: Children Returned to Families

Category	% Cases	Average Time
Custody Returned to Parents	37%	9 months
Custody Given to Relative	30%	4 months

Source: DCFS

New Legislation

During the 2004 General Session of the Utah Legislature, the topic of parents' rights was hotly debated. Many more bills were proposed than were approved. Some of the significant bills that did pass the legislature are listed below:

Figure 6: Significant Legislation on Parental Rights Approved by Legislature

Bill provisions	Bill number	Bill status
Limit access by attorney guardians ad litem only to information about children and families where it has been approved by a court to represent the interests of the children.	H.B. 60 Bill Documents 2004 General Session	Signed
Give Department of Human Services access to the DCFS information system for the purpose of licensing and monitoring foster parents.	H.B. 60 Bill Documents 2004 General Session	Signed
Exempt health care decisions of a mature minor from the definition of neglect. "Mature minor" means a person less than 18 years of age whom the court determines is of an age and maturity and who reasonably demonstrates the capacity to make reasonable health care decisions on the minor's own behalf.	H.B. 140 Third Substitute Bill Documents 2004 General Session	Vetoed
Stipulate that no agency may base decisions of custody, placement, termination of parental rights, etc, on whether the parent (a) legally possesses or uses a firearm or other weapon; (b) espouses particular religious beliefs; or (c) schools the minor outside the public education system.	H.B. 197 Bill Documents 2004 General Session	Signed
Create within the Department of Administrative Services the Office of Child Welfare Parental Defense, which will contract with independent attorneys to serve as parental defense attorneys, and which will be funded by the legislature, county contributions and private contributions.	H.B. 268 Fourth Substitute Bill Documents 2004 General Session	Signed
Require notice to parents of their rights before conducting a child abuse or neglect investigation.	H.B. 268 Fourth Substitute Bill Documents 2004 General Session	Signed

Source: <http://www.le.state.ut.us/>

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