



New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

Oversight of Residential Domestic Violence Programs

Office of Children and Family Services



Report 2017-S-16

April 2018

Executive Summary

Purpose

To determine whether the Office of Children and Family Services (OCFS) is maintaining adequate oversight of residential programs for victims of domestic violence to ensure these programs are operating in compliance with applicable laws, rules, and regulations. Our audit covered the period January 1, 2015 through October 20, 2017.

Background

OCFS' Division of Child Welfare and Community Services (CWCS) oversees the Office of Prevention, Permanency and Program Support at the OCFS Central Office, which is tasked with the licensing and oversight of domestic violence (DV) programs in New York State. Central Office oversees six Regional Offices throughout the State. While Central Office carries out the licensing, the Regional Offices conduct the various inspection functions (certification, re-certification, monitoring, and complaint) and provide oversight of residential and non-residential DV programs in the State.

In 2016, 11,338 individuals (includes adults and children) were admitted to a residential DV program. DV programs are run by various not-for-profit agencies across the State. During our audit period, there were 95 residential DV programs in New York State that operated 162 DV residences.

Key Findings

- Based on the amount and quality of information provided by OCFS, we determined OCFS Central Office does not maintain adequate oversight of DV residences. For example, OCFS was unable to provide the audit team with all program and fire safety inspection reports for our scope period. OCFS also provided inconsistent information on applicable policies and procedures. For example, in response to our preliminary findings, OCFS officials asserted that regulations do not require program and fire safety inspections at individual safe dwellings operated by sponsoring agencies. However, throughout the audit, officials provided policies and procedures clearly showing that inspections of individual safe dwellings are required. OCFS also provided conflicting criteria for inspecting DV residences, asserting that the yearly inspection time frame was not in place for our entire audit period. However, the different inspection time frames were not presented to the auditors until more than four months after the start of our audit. Additionally, throughout our audit, OCFS officials also provided us with various forms of evidence showing the program and fire safety inspections were required yearly. It is unclear if the contradictory information provided so late in the audit process was due to OCFS officials' lack of knowledge, understanding, and oversight of basic program operations, or an attempt by OCFS officials to diminish our audit findings and mask their lack of oversight.
- OCFS would not allow auditors to access either the Domestic Violence Information System or SharePoint; both systems, according to OCFS officials, are used to monitor DV programs. Due to the length of time it took OCFS to provide us with inspection reports, coupled with the manner in which the reports were provided, access to these systems became critical to verify the reliability of the information provided.
- We conducted a risk assessment that was limited due to OCFS' delays in providing information.

From our limited risk assessment, we found that the 53 DV residences we visited were in adequate condition. However, based on an analysis of information received after our initial site visits, we identified information that would have affected our risk assessment. Our analysis of this newly provided information showed some instances of more serious issues than in the earlier information. Therefore, we question whether we would have found more serious issues had all reports been made available during our risk assessment.

- OCFS officials placed constraints on our audit, including delays in and denial of access to records needed to evaluate the effectiveness of their oversight. As a result, there is considerable risk that material information concerning OCFS' oversight of DV programs was withheld from us. This, in addition to the contradictory information OCFS officials provided, raises serious concerns about the adequacy of OCFS' oversight of the DV program.

Key Recommendations

- Develop a centralized method for tracking and maintaining all DV program information.
- Develop procedures to ensure consistency in reporting across all regions.
- Develop procedures for monitoring the Regional Offices' oversight of residential DV programs and each of their respective residences.
- Formally assess the adequacy of the internal control environment at OCFS, and take necessary steps to ensure the control environment is adequate, including cooperation with authorized State oversight inquiries.

Agency Response

In response to the draft report, OCFS officials stated they strongly reject our "erroneous" conclusions. In part, officials argued that they were not required by New York Codes, Rules and Regulations to perform certain visits and inspections. However, in adopting this stance, OCFS officials are overlooking their own internal policies and procedures, which auditors used to assess compliance. Also, OCFS disagrees with our recommendation to formally assess its internal control environment and cooperate more fully with OSC's inquiries. Officials state they have a strong record of complying with internal control verifications, and cannot implement this recommendation because doing so could result in a violation of federal and State confidentiality laws. However, OSC auditors did not ask OCFS for access to information that would violate any federal or State confidentiality laws. In fact, the audit team worked tirelessly with OCFS to create agreements on how to treat confidential data and perform site visits to DV shelters to ensure confidentiality.

Our recommendation also states that OCFS should take necessary steps to ensure the control environment is adequate, which was not addressed in OCFS' response. Organizational structure and accountability relationships are key factors in the control environment. As shown throughout this report, OCFS officials hindered auditors' progress in obtaining independent, reliable information for this audit, not only by restricting access to pertinent information that affected our audit risk assessment and conclusions, but also by presenting us with contradictory information, which delayed the audit, impacted our risk assessment, and further raised questions about the adequacy of OCFS' oversight. It should be noted that a previous OSC audit (Report 2015-S-79, *Oversight of Critical Foster Care Program Requirements*, issued July 2017) similarly found that OCFS overlooked

its own internal policies and demonstrated a weak agency control environment. We remark now, as we did then, that OCFS is responsible for the safety, permanency, and well-being of many of society's most vulnerable people – a duty that requires a disciplined control environment and commitment to accountability and transparency. OCFS' inadequate cooperation with the audit and its defensive and dismissive response are not indicative of an appropriate agency control environment, particularly given the vulnerable population OCFS must protect. Consequently, we urge OCFS to reconsider its position relating to the audit's findings and recommendations with a focus to better enable OCFS to fulfill its vital mission.

We also note that OCFS' response includes multiple misleading and/or inaccurate statements. Our rejoinders to those comments are included in the report's State Comptroller's Comments, which are embedded in OCFS' response.

Other Related Reports/Audits of Interest

[Office of Children and Family Services: Oversight of Critical Foster Care Program Requirements \(2015-S-79\)](#)

[Homeless Shelters and Homelessness in New York State \(2016-D-3\)](#)

**State of New York
Office of the State Comptroller**

Division of State Government Accountability

April 24, 2018

Ms. Sheila J. Poole
Acting Commissioner
Office of Children and Family Services
52 Washington Street
Rensselaer, NY 12144

Dear Ms. Poole:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report entitled *Oversight of Residential Domestic Violence Programs*. This audit was performed according to the State Comptroller's authority under Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

*Office of the State Comptroller
Division of State Government Accountability*

Table of Contents

Background	6
Audit Findings and Recommendations	8
OCFS Oversight	9
Observations at Domestic Violence Residences	13
Inadequate Cooperation	15
Recommendations	16
Audit Scope, Objective, and Methodology	17
Authority	18
Agency Response and Reporting Requirements	18
Contributors to This Report	20
Agency Comments and State Comptroller's Comments	21

State Government Accountability Contact Information:

Audit Director: Brian Reilly

Phone: (518) 474-3271

Email: StateGovernmentAccountability@osc.ny.gov

Address:

Office of the State Comptroller
 Division of State Government Accountability
 110 State Street, 11th Floor
 Albany, NY 12236

This report is also available on our website at: www.osc.state.ny.us

Background

With the rates of homelessness on the rise, the plight of the homeless in New York State has been in the forefront of public attention. In his 2016 State of the State address, the Governor declared homelessness to be an urgent State priority, and announced a tightening of shelter regulations to prevent substandard housing and ensure safe and healthy living conditions. Victims of domestic violence are a vulnerable population and constitute a large segment of the population whose well-being and survival depend on emergency housing – and for whom homelessness is a daily threat. From 2016 to 2017, the number of reported victims of domestic violence who are homeless has increased by 56 percent.

The Domestic Violence Prevention Act (Act) of 1987 (Article 6-A of the Social Service Law) requires social services districts to provide shelter and services to victims of domestic violence, and establishes mainstream funding mechanisms for these programs. As a result of the Act, the Office of Children and Family Services (OCFS) created regulations to promote standards for the establishment and operation of non-residential and residential domestic violence (DV) programs.

OCFS' Division of Child Welfare and Community Services (CWCS) oversees the Office of Prevention, Permanency and Program Support at the OCFS Central Office, which is tasked with the licensing and oversight of DV programs in the State. Central Office oversees six Regional Offices – Albany (ARO), Buffalo (BRO), New York City (NYCRO), Rochester (RRO), Spring Valley (SVRO), and Syracuse (SRO) – that provide local oversight and are responsible for the various shelter inspection functions (certification, re-certification, monitoring, and complaint investigation).

DV programs are run by various not-for-profit agencies across the State. OCFS regulations distinguish four types of DV residences:

- DV Shelter: a DV residence with 10 or more beds, completely dedicated to DV victims.
- DV Program: similar to a DV shelter but is largely – not exclusively – dedicated to victims of domestic violence and their minor children (if any), who constitute at least 70 percent of the clientele of such programs.
- DV Sponsoring Agency: provides a temporary shelter at a DV safe dwelling and emergency services to victims of domestic violence and their minor children.
- Safe Home Networks: an organized network of private homes offering temporary shelter and emergency services to domestic violence victims and their minor children.

According to OCFS' DV Licensing Manual, Central Office is required to maintain a tracking and summary file for each DV program, including, but not limited to, any operating certificate issued by OCFS, findings letters, and corrective action plans. The purpose of such supervision and inspection is to ensure that such programs are in compliance with all applicable State and local laws and regulations, and to determine that the services and care provided are adequate, appropriate, and in accordance with the operating certificate. OCFS utilizes a combination of the Domestic Violence Information System, a web-based data system used to track licensing information for DV programs, and SharePoint, a web-based repository for documents, to monitor DV programs.

Central Office policies and procedures require the Regional Offices to perform both program and fire safety inspections of DV residences annually. Program inspections contain a review of case records and incident reports, observation of staff and client interaction, and a walkthrough of the DV residence to determine compliance with regulations. Fire safety inspections monitor the DV program's compliance with fire safety codes. Within 30 days of the completion of the site visit reviews and fire safety inspections, Regional Office staff issue letters to the agency specifying their findings and, if necessary, the required actions the agency must take, as well as recommended actions for program compliance.

During our audit period, there were 95 residential DV programs in New York State operating 162 DV residences. In 2016, 11,338 individuals (includes adults and children) were admitted to a residential DV program.

Audit Findings and Recommendations

Given the Governor's recent initiative to ensure safe and habitable living conditions for the homeless, the state of domestic violence shelters – housing an extremely vulnerable and drastically increasing segment of the State's population – is a particularly critical issue that demands strict oversight.

Based on our audit tests and the amount of inconsistent information that was provided to us, we determined OCFS does not maintain adequate oversight of DV residences. OCFS was unable to provide the audit team with all inspection reports or consistent information across the variations of reports and documentation that were submitted. Timely, complete, and accurate management information is needed to ensure the programs' have complied with prescribed protocols. Lacking this information, OCFS can have no assurance that DV shelters are operating in compliance with applicable laws, rules, and regulations and that DV victims are being protected. There is considerable risk that important information pertaining to the oversight of DV residences was not available to the Central Office, impairing its ability to adequately oversee DV programs. Past audits of OCFS (e.g., *Oversight of Critical Foster Care Program Requirements* [2015-S-79]) found a similar lack of controls and proper oversight of programs that serve society's most vulnerable populations. Given its weak oversight, in tandem with a largely uncooperative and secretive environment, we conclude that OCFS Central Office is not effectively overseeing the DV program.

OCFS officials delayed, restricted, and denied auditors access to certain information necessary to perform our audit. These obstructions may have compromised the validity and reliability of certain information provided to the auditors. Additionally, if the information was intentionally withheld from the auditors, this compromises OCFS' transparency and accountability. According to professional audit standards, we are required to report on the constraints imposed on us by OCFS (including delays in and denial of access to records) and their effect on our audit conclusions. We consider these constraints to be an impairment of our audit scope. As a result, the information OCFS officials provided to us is less than fully reliable and limits the extent of our audit conclusions.

For example, to select a sample of DV residences to visit and evaluate their condition, we requested inspection reports from OCFS. Only after we had selected our sample and conducted our site visits did OCFS provide us with additional inspection reports, which revealed, in some cases, more serious issues than the initial information provided. By withholding these reports, OCFS skewed the results of our sample selection toward lower-risk residences, which could have led us to incorrectly conclude that the condition of DV residences was adequate and that OCFS was effectively overseeing them.

OCFS Oversight

Program and Fire Safety Inspections

OCFS has delegated much of the oversight of DV residences to its Regional Offices; however, Central Office has ultimate administrative responsibility for the work that Regional Offices do. For this purpose, and as outlined in OCFS' DV Licensing Manual, Central Office is required to maintain a tracking and summary file for each DV program, including any operating certificate issued by OCFS, copies of findings letters and corrective action plans, as well as standard components needed to demonstrate functional oversight. While the Regional Offices appear to be adequately overseeing DV residences, due to the denials and excessive delays related to access to certain records and individuals, we are unable to draw this conclusion with any certainty. However, Central Office's administrative control is weak. Throughout the audit, for instance, Central Office either: could not provide us with requested documentation, could not attest to the contents of the files it did provide, or could not provide documents with consistent information. Based on the systemic unreliability of the data, we conclude that Central Office was not effectively monitoring Regional Office operations.

For example, on five separate occasions in 2017 (April 13, April 20, April 28, May 3, and May 18), we requested copies of all program and fire safety inspection reports (Reports) for the 162 DV residences, covering the period of January 1, 2015 to the present (i.e., the date of each request). On April 19, 2017, OCFS provided some Reports; however, Reports for 59 of the 162 DV residences were still outstanding. With no further response from OCFS, on June 29, 2017, we issued a preliminary report detailing the Reports that were missing and requiring OCFS to provide them to us by July 13, 2017. While OCFS subsequently provided additional Reports, officials could not confirm that these accounted for all the Reports, and even requested the audit team go through the Reports to check if anything was missing.

We analyzed the Reports to assess whether each of the 162 DV residences was visited at least yearly in 2015 and 2016 for both a program and a fire safety inspection as required. The information provided to us supported inspections for only a portion of the DV shelters, as detailed in Table 1.

Table 1 – Inspection Data, 2015 and 2016

Inspections	2015	2016	Totals
Program			
Supported	86	94	180
Unsupported	76	68	144
Totals	162	162	324
Fire and Safety			
Supported	120	110	230
Unsupported	42	52	94
Totals	162	162	324

For those DV residences with no support that an inspection occurred within a given year, we are concerned that the inspections were not completed and, more significantly, that the Central Office was not aware that the Reports were missing or not done.

OCFS provided us with electronic copies of its Reports. Rather than give us copies of what was in its system, however, OCFS printed the Reports, scanned them in as PDFs, and provided us with those PDF files. We asked for access to Central Office's original files to verify both that it had the Reports in its tracking and summary files (as required by the OCFS Licensing Manual) and that the versions we were given matched those files. OCFS officials refused to give us access; therefore, we cannot determine whether they are in compliance with their Licensing Manual or evaluate the reliability of the data in the reports given to us.

Additionally, we found conflicting dates and inconsistencies among the Reports that OCFS provided. In some instances, OCFS provided findings letters that referenced, but did not include, program improvement plans. We also note that several Reports, with finding letters attached, had been sent from the Regional Offices to Central Office via email subsequent to our requests, raising concern that Central Office does not actually maintain the necessary documentation for each agency, as required by its Licensing Manual.

According to Regional Office officials, at the beginning of each calendar year, Central Office sends them a listing of programs with operating certificates that are set to expire, and requires Regional Office staff to sign a statement of compliance on a program's application – for every new or renewed license. We determined, however, that Central Office has no other controls to ensure that the actual inspections were completed. Furthermore, OCFS' inability to confirm that it provided all inspection Reports, along with its refusal to provide the audit team access to pertinent resources, leads us to believe that OCFS may not be adequately overseeing its DV programs. As a result, there is a risk that DV programs could be operating without an inspection – and thus potentially endangering the health and safety of the individuals whom these programs are intended to serve. Furthermore, OCFS has no assurance that deficiencies, once identified, are being properly addressed and that corrective actions are being implemented.

Analysis of Inspection Dates

On April 6, 2017, OCFS provided auditors with a spreadsheet listing the DV programs as well as the dates of program and fire safety inspections. Shortly afterward, on April 19, 2017, OCFS provided us with a second version of the same spreadsheet but with differing information. When we asked about the source of this second spreadsheet, it took OCFS five months to respond with the explanation that the information was from licensing files and the spreadsheet was created strictly in response to our data request.

When records contain differing data, they are of limited evidentiary value. We compared the two spreadsheets and identified eight instances where the date of the site visit had changed. While the first spreadsheet gave a specific site visit date, the second spreadsheet stated the same site visit was not completed. In addition, Regional Office staff informed us that one of the site visits indicated in the second spreadsheet actually did not occur. We also determined that eight

inspection dates listed on the second spreadsheet were either a Saturday or Sunday, and two fell on holidays and, as such, questioned their accuracy. OCFS officials stated the inspection dates on weekends and holidays were typographical errors and subsequently provided other inspection dates. We acknowledge that this is a plausible explanation in some cases. In others, however, it is less so, including instances where, for example, OCFS gave 2017 dates for inspections that occurred in 2016 – and dates that also contradicted those on the inspection reports OCFS itself provided to us. This underscores OCFS’ lack of functional oversight over the DV program, which is a critical service. Additionally, OCFS’ inability to provide the correct 2016 inspection dates continues the pattern of OCFS providing unreliable data and contradictory information, further raising the concern that OCFS is not adequately overseeing the DV program.

We compared the inspection dates in the second spreadsheet given to us by OCFS with dates from the inspection reports provided. For 37 percent of the dates in the spreadsheet, there were no matching dates in an inspection report; for a majority of the dates in the spreadsheet (68 percent), either there was no inspection report to support the spreadsheet inspection date or the inspection report date differed by more than 30 days. For example:

- OCFS’ spreadsheet indicated that the 2016 fire safety inspection of a DV residence occurred on November 29, 2016; however, the inspection report had a date of August 9, 2016.
- OCFS’ spreadsheet showed that the 2016 program inspection of a DV residence occurred on February 24, 2016; however, we did not receive documentation to support this visit.

Furthermore, we found six instances where OCFS’ spreadsheet showed “no inspection resource issue” or the field was left blank, but we received reports showing that the inspection had occurred.

Inconsistent Information

In response to preliminary findings issued on September 14, 2017, OCFS officials took exception to our statement that “OCFS policies and procedures require yearly site visit reviews and fire safety inspections of all residential DV facilities.” OCFS officials asserted that its regulations do not require program and fire safety inspections at individual safe dwellings operated by sponsoring agencies. Therefore, OCFS disagrees with our finding that it failed to provide reports for a number of safe dwelling visits. OCFS stated that it performed all required fire safety inspections in both 2015 and 2016 and all required program inspections in 2015. OCFS also indicated that six program inspections were not conducted in 2016.

Using the new criteria presented in OCFS’ response, we re-analyzed all missing inspection reports and found that some were still missing, contrary to OCFS’ claim:

- 16 fire safety inspection reports (ten for 2015 and six for 2016) for DV shelters and DV Programs, and
- 15 DV program inspection reports for 2016.

Not only did OCFS fail to provide us with all necessary records to support its statements that inspections were completed (even after we gave OCFS a detailed listing of what was missing), but the information that it provided to us appeared to conflict with the statements made to us. Although OCFS officials stated that they are not required to conduct fire safety and program inspections of safe dwellings, their site visit protocols for program inspections and guidelines for fire inspections both reference safe dwellings (see Figure 1).

Site Visit Protocols for Domestic Violence Residential Shelters, Programs Safe Dwellings, and Safe Home Networks

Site visit reviews will occur at least yearly for each domestic violence residential shelter, program, safe dwelling or safe home network. For the purposes of applying for a renewal of an operating certificate a visit will occur approximately 90 days prior to the expiration of the current operating certificate. Regional Office Domestic Violence program staff will conduct the site visit review. If the domestic violence residential facility is a new program, the site visit review(s) will be conducted prior to the issuance of the initial operating certificate to determine compliance with regulations. Site visit reviews may also be conducted more frequently for various reasons (see Regulations 452.8 – Supervision and inspection by the Department) and/or at the discretion of the respective Regional Offices.

Domestic Violence Site Visit Review Protocols – Outline

- Schedule site visit with agency
- Notification letter and Domestic Violence Recertification form sent to agency (Recert. only)
- Regional Office review of completed Recertification Form (Recert. only)
- On-site review
- Debriefing
- Written report to the agency
- Agency's written response to the report
- Approval/Modification letter to agency (acceptance/non-acceptance of agency's response)
- Plan developed by the Regional Office and agency (if necessary)
- Plan monitored by Regional Office (if necessary)

Site Visit Review – (for Recertification or any other Site Visit):

Step 1 - The items on the On-Site Monitoring Tool (for recertification) or the Annual Site Visit Monitoring Tool (for annual visits) should be used to structure the visit. The on-site review **must** consist of the following:

- Entrance interview.
- Collect roster of clients and staffing schedules.
- Walk through of the physical plant.
- Observation of staff/client interactions.
- Review of logs and incident reports.
- Review of case records.
- Review a sample of staff and volunteer records.
- Exit conference with agency staff.

Additionally, the following optional activities may also be completed on an as needed basis:

- Observe a staff meeting.
- Interview staff.
- Interview clients.

Step 2 – After the on-site review, Regional Office staff will issue a letter specifying their findings to the agency *within 30 days* of completion of the review. The letter will include required actions that the

New York State Office of Children & Family Services

Domestic Violence Safe Dwelling Fire Inspection Guideline

PART 1: Description of FACILITY - Occupancy R-3

Name of Agency:	Shelter Address:	CONFIDENTIAL
Name of Program:	Licensed Capacity:	

PART 2: INSPECTION INFORMATION:

Reason for Inspection:	
Initial Inspection	Annual Inspection
Agency Request	Complaint
Other	
Inspection Escort	

Title 18-B NYCRR Sections from Part 455 are citations enforceable by the Office of Children and Family Services.

PART 3: BUILDING DESCRIPTION

Type of Construction:	Number of Stories:		
Describe Building:	Finished Attic and Basement:		
Is this the only occupancy in the building?			
Automatic Emergency Generator or Alternate Emergency Power Source:			
Type of Heating System:	Electric:	Gas:	Oil:

PART 4: Domestic Violence Safe Dwelling Requirements PER SECTION 455

Wood Frame Construction (Type V):	Yes <input type="checkbox"/> No <input type="checkbox"/>	Explain below
Is there a bed in unfinished attic, basement, stair hall, or storage room: Yes or No	Yes <input type="checkbox"/> No <input type="checkbox"/>	Explain below
Are there any children above second floor:	Yes <input type="checkbox"/> No <input type="checkbox"/>	Explain below

Figure 1

Throughout the audit, OCFS provided auditors with contradicting information in response to requests for documentation and answers to inquiries – a situation that in and of itself casts doubt on the adequacy of oversight by OCFS. On March 9, 2017, we requested that OCFS provide us with all of its policies and procedures in effect for the scope of our audit. Included in these documents were policies that required annual program and fire safety inspections. On July 31, 2017 – more than four months after the start of our audit – OCFS provided us with additional, but undated, policies showing that annual program inspections are not required, which OCFS officials claimed were in effect prior to January 2017. On September 8, 2017, we received another policy, in effect on May 24, 2016, showing that annual program inspections were required. We discussed the discrepancies in our preliminary report, to which OCFS officials responded with yet another version. This time, OCFS stated that the annual program inspection requirement went into effect January 2016, but was unable to provide us a written policy showing the effective date. Rather, OCFS officials stated that the policy change was communicated verbally to Regional Offices and later included in the DV Licensing Manual.

Under government auditing standards, when auditors have concerns about the validity or reliability of evidence, they should seek independent, corroborating evidence from other sources. To comply with this standard, we tried to verify the program and fire safety inspection procedures in place by contacting the Regional Offices. However, Central Office officials blocked each of our requests, explicitly instructing Regional Office officials to not respond directly to us and, instead, filter the information through Central Office. In one instance, our telephone call to a Regional Office official was rerouted to a Central Office official. OCFS officials' inability to provide us with the procedures in place and their denial of our access to those who could corroborate their statements undermine their position that they are providing effective oversight of the DV program.

At several times throughout the audit, OCFS officials provided us with various forms of evidence showing the annual program and fire safety inspection requirements, as summarized in Table 2. Documentary evidence was provided in the form of site visit protocols, fire inspection guidelines, and OCFS' annual program monitoring tool. Testimonial evidence came from statements made by OCFS officials, at both Central Office and Regional Offices, during various meetings.

Table 2 – Evidence of Annual Program and Fire Safety Inspection Requirements

Evidence	Date Provided	Inspection Requirement
Site Visit Protocols	March 28, 2017	At least yearly
Safe Dwelling Fire Inspection Guideline	March 28, 2017	Annually
Shelter and Program Fire Inspection Guideline	March 28, 2017	Annually
Annual On-Site Monitoring Tool	March 28, 2017	Annually
Central Office and NYCRO Oversight Meeting	April 13, 2017	Annually
ARO Oversight Meeting	May 3, 2017	Annually
BRO Oversight Meeting	May 11, 2017	Annually
RRO Oversight Meeting	May 11, 2017	Annually
SRO Oversight Meeting	May 23, 2017	Annually
SVRO Oversight Meeting	May 23, 2017	Annually

Additionally, we asked OCFS officials numerous times about the number of Reports that are generated for a safe dwelling with multiple units. OCFS officials would only respond that the number of Reports generated was situational and, despite requests for clarification, did not provide any additional detail. We were unable to determine if the contradictory information provided so late in the audit was an attempt by OCFS to diminish our audit findings or simply due to OCFS officials' lack of knowledge, understanding, and oversight regarding basic program operations, further supporting our conclusion that they lacked oversight of this program.

Observations at Domestic Violence Residences

OCFS did not provide all of the requested inspection documentation in a timely fashion. Therefore, due to limited time and resources, we went forward with a risk assessment, based on hard copy

reports we received from OCFS on April 19, 2017 – the only data we had at the time – and selected a judgmental sample of 52 sponsored programs to assess the conditions at those sponsored programs’ DV residences and to determine if OCFS maintains adequate oversight, ensuring the residences are free of health and safety hazards and are in compliance with applicable laws, rules, and regulations. Our site visits comprised 51¹ of 95 DV programs and 53² of 162 residences these programs oversee.

We found the overall condition of DV residences we visited to be adequate. While we did not find any major problems during our site visits, we did identify at least one deficiency at 51 of the 53 DV residences visited, as shown in Table 3. However – and as explained below – we question whether we would have uncovered additional, and more serious, issues if we had access to all reports when we performed our risk assessment.

In response to our findings, OCFS officials stated that all instances of non-compliance have been corrected.

Table 3 – Non-Compliance Issues at DV Residences

Description of Non-Compliance	Number of Residences
Unprotected outlets accessible to children (see Figure 2)	27
Cleaning agents and other toxic materials located within reach of children (see Figure 3)	18
Required emergency numbers not posted near telephone	14
Missing screens on operable windows	13
Inadequate garbage cans in use	12
Fire extinguishers not in compliance with fire code	9

¹ Our sample included 52 sponsored programs’ DV residences; however, we were unable to perform a site visit at one program because OCFS revoked the program’s certification prior to our scheduled visit.

² Sponsored programs may operate more than one residence and a residence may offer more than one sponsored program. As a result, we visited 53 separate locations for the 51 sponsored programs we were able to visit.



Figure 2

Unprotected Outlet in Children's Play Area



Figure 3

Cleaning Chemicals Within Children's Reach

An analysis of additional Reports that OCFS provided on July 7, 2017 – after we conducted our site visits – revealed critical information about shelters not in our sample that would have impacted our sample selection. Our review of the additional Reports revealed, in some cases, more serious issues. For instance, for one provider operating three programs, we visited one program, which pointed out issues with cleanliness; however, one of the other programs we did not visit by virtue of not having received the additional Reports. The Report for this program supplied after the fact cited an unreported child maltreatment case, multiple residents staying beyond the 180-day maximum length of stay, and no evidence of follow-up to reported incidents. In another instance, a DV residence that we also did not visit due to not having received the Reports timely had bathrooms in need of repair, insufficient staffing, a “hostile” environment, and heating pipes in need of child-protective covering. The fact that we received these Reports after our visits skewed the results of our sample selection toward lower-risk residences. Additionally, there is a risk that conditions jeopardizing the health, safety, and well-being of DV victims may exist in a DV residence that we were not able to visit due to the limited information we were provided.

Inadequate Cooperation

As discussed throughout this report, OCFS officials hindered auditors' progress in obtaining independent, reliable information for this audit, not only by restricting access to pertinent information that affected our audit risk assessment and conclusions, but also by presenting us with contradictory information, which delayed the audit, impacted our risk assessment, and further raised questions about the adequacy of OCFS' oversight.

In order to meet government auditing standards, auditors require unfettered access to people and documents relevant to the audit. However, OCFS officials would not permit auditors to access either its Domestic Violence Information System or SharePoint – systems that contain licensing

information and inspection reports for DV programs. They also did not allow us to direct requests for information or questions to Regional Offices or program staff, and were unwilling to allow OCFS staff to provide any information directly to us without prior management approval and clearance. Instead, OCFS officials required that all OSC requests be funneled through OCFS Audit and Quality Control (Internal Audit) staff before being given to the program staff, and that all information provided by the program staff be funneled back through Internal Audit before it was provided to us. Further, any questions directed to Regional Office staff were passed along to Central Office staff rather than being answered by the Regional Office staff. According to OCFS officials, they did this to ensure we would receive complete and accurate information. OCFS maintained this control over every audit request, even if we only wanted to ask a follow-up question of program staff. This process added significant delays to the process, both in providing information to us and in scheduling (and, in some cases, failing to schedule) meetings at our request, hindering our audit activity.

Ultimately, OCFS' overall lack of cooperation and delays in providing information, coupled with the contradictory information and denial of access to certain relevant information, limited our audit work and compromised the reliability of certain evidence provided to us. This presents considerable risk that important information was purposefully withheld from auditors. Furthermore, because OCFS officials were unwilling to allow their program staff to provide information directly to us without prior approval and clearance by Internal Audit, we have limited assurance that the data presented was not altered or modified before we received it. As a result, consistent with government audit standards, we considered that information to be less reliable in forming our audit conclusions. Readers of this report should consider the effect of these scope limitations on the findings and conclusions presented in our report.

OCFS has a responsibility to the public to provide access to information and to oversee its programs as prescribed by law. In addition, OCFS must demonstrate accountability for the resources and authority used to carry out its programs. Transparency and accountability are two cornerstones to good government. A lack of commitment to transparency and accountability can result in degradation of the internal control environment, resulting in increased risk that internal controls do not function properly. Insufficient internal controls provide less assurance that program goals and objectives are being accomplished efficiently and effectively.

Recommendations

1. Develop a centralized method for tracking and maintaining all DV program information.
2. Develop procedures to ensure consistency in reporting across all regions.
3. Develop procedures for monitoring the Regional Offices' oversight of residential domestic violence programs and each of their respective residences.
4. Formally assess the adequacy of the internal control environment at OCFS, and take necessary steps to ensure the control environment is adequate, including cooperation with authorized State oversight inquiries.

Audit Scope, Objective, and Methodology

Our audit sought to determine whether OCFS is adequately overseeing residential programs for victims of domestic violence to ensure these programs are operating in compliance with applicable laws, rules, and regulations for the period January 1, 2015 through October 20, 2017.

To accomplish our objective and assess related internal controls, we reviewed corresponding laws and regulations, as well as OCFS policies, procedures, and inspection documents. We selected a judgmental sample of the 52 DV programs to visit. Our sample was selected based on various criteria such as the type of DV residences the program operates, the expiration date of the operating certificate, and the quantity and type of findings last identified. We interviewed OCFS officials to obtain an understanding of and evaluate their policies and procedures. Additionally, we reviewed publicly available information on OCFS' website, as well as the website of the Office for the Prevention of Domestic Violence.

As is our normal practice, we requested that OCFS officials provide us with a letter of representation to affirm that they have made all relevant records and related data available for audit, and that they have complied with all applicable laws, rules, and regulations or have disclosed any exceptions and material irregularities to the auditors. The letter of representation is also intended to confirm any significant oral representations made to the auditors and thereby reduce the likelihood of misunderstandings. OCFS did provide us with a representation letter, but made purposeful changes to the document to limit the period of time covered by its representations only through December 31, 2016, thereby excluding the entire period we were conducting our audit, during which it provided significant audit-related information. This includes all oral representations made to the auditors, applicable policies and procedures, and auditor observations at domestic violence residences. As such, we deemed the letter unacceptable for the purposes of our audit and requested a revised letter. OCFS denied this request. Therefore, we have limited assurance that the information provided to us during the course of our audit was reliable, accurate, and complete.

We conducted our performance audit in accordance with generally accepted government auditing standards, with the exception of the scope impairment detailed previously in this report. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. Except for the effect of limitations previously discussed in this report, we believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational

independence under generally accepted government auditing standards. Therefore, in our opinion, these functions do not affect our ability to conduct independent audits of program performance.

Authority

This audit was performed according to the State Comptroller's authority under Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

Agency Response and Reporting Requirements

We provided a draft copy of this report to OCFS officials for their review and formal written comment. We considered their comments in preparing this final report. OCFS strongly rejects our conclusions as "erroneous." While OCFS agrees with three of four of our recommendations, officials noted they had already implemented these recommendations prior to our audit. However, the findings and conclusions of our audit show improvement is still needed. Officials argued that they were not required by New York Codes, Rules and Regulations to perform certain visits and inspections. However, in adopting this stance, OCFS officials are overlooking their own internal policies and procedures, which were provided to auditors and used to assess performance.

OCFS disagrees with the fourth recommendation to formally assess its internal control environment and cooperate more fully with OSC's inquiries. Officials believe they have a strong record of complying with internal control verifications, and cannot implement this recommendation because doing so could result in a violation of federal and State confidentiality laws. First, OSC auditors did not ask for access to information that would violate any federal or State confidentiality laws and, in fact, worked tirelessly with OCFS to create agreements on how to treat confidential data and perform our site visits to DV shelters to ensure confidentiality. Second, our recommendation also states that OCFS should take necessary steps to ensure the control environment is adequate. OCFS officials failed to address this issue in their response. The control environment is the attitude toward internal control and control consciousness established and maintained by the management and the employees of an organization. The organization structure and accountability relationships are key factors in the control environment. As shown throughout this report, OCFS officials hindered auditors' progress in obtaining independent, reliable information for this audit, not only by restricting access to pertinent information that affected our audit risk assessment and conclusions, but also by presenting us with contradictory information, which delayed the audit, impacted our risk assessment, and further raised questions about the adequacy of OCFS' oversight. It should be noted that a previous OSC audit (Report 2015-S-79, *Oversight of Critical Foster Care Program Requirements*, issued July 2017) similarly found that OCFS overlooked its own internal policies and demonstrated an inappropriate agency control environment. We remark now, as we did then, that OCFS is responsible for the safety and well-being of many of society's most vulnerable people – a duty that requires a disciplined control environment and commitment to accountability and transparency. OCFS' inadequate cooperation with the audit and its defensive and dismissive response are not indicative of an

appropriate agency control environment, particularly given the vulnerable population OCFS must protect. Consequently, we urge OCFS to reconsider its position relating to the audit's findings and recommendations with a focus to better enable OCFS to fulfill its vital mission.

We also note that OCFS' response includes multiple misleading and/or inaccurate statements. Our rejoinders to those comments are included in the report's State Comptroller's Comments, which are embedded in OCFS' response.

Within 90 days after the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Office of Children and Family Services shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees advising what steps were taken to implement the recommendations contained herein, and where the recommendations were not implemented, the reasons why.

Contributors to This Report

Brian Reilly, CFE, CGFM, Audit Director
Nadine Morrell, CIA, CISM, CGAP, Audit Manager
Amanda Eveleth, CFE, Audit Supervisor
Stephon Pereyra, Examiner-in-Charge
Heath Dunn, Senior Examiner
Cheryl Glenn, Senior Examiner
Anne Marie Miller, CFE, Senior Examiner
June-Ann Allen, Staff Examiner
Mary McCoy, Senior Editor

Division of State Government Accountability

Andrew A. SanFilippo, Executive Deputy Comptroller
518-474-4593, asanfilippo@osc.ny.gov

Tina Kim, Deputy Comptroller
518-473-3596, tkim@osc.ny.gov

Ken Shulman, Assistant Comptroller
518-473-0334, kshulman@osc.ny.gov

Vision

A team of accountability experts respected for providing information that decision makers value.

Mission

To improve government operations by conducting independent audits, reviews, and evaluations of New York State and New York City taxpayer-financed programs.

Agency Comments and State Comptroller's Comments



Office of Children and Family Services

ANDREW M. CUOMO
Governor

SHEILA J. POOLE
Acting Commissioner

March 7, 2018

Brian Reilly
Office of the State Comptroller
110 State Street, 11th Floor
Albany, NY 12236

Re: Audit 2017-S-16 Draft Audit Findings

This letter is in response to the Office of the State Comptroller's draft report entitled Oversight of Residential Domestic Violence Programs. Contrary to your conclusion, the New York State Office of Children and Family Services (OCFS) provides extensive oversight of residential programs for victims of domestic violence (DV) to ensure these programs are operating in compliance with applicable laws, rules and regulations. Further, your conclusion that OCFS failed to cooperate with your review misunderstands the legal prohibitions on sharing the information you requested.

OSC Audit Finding: OCFS Oversight

OCFS Response: OCFS Provides Extensive Oversight of DV Residential Sites

OCFS strongly rejects OSC's erroneous conclusion that OCFS does not adequately monitor DV residential programs. OCFS directly monitors DV shelters and programs, sponsoring agencies and safe home networks. The monitoring and oversight of DV residential programs is the primary responsibility of the six OCFS regional offices located throughout the state. As OSC recognizes in its report, "the regional offices appear to be adequately overseeing DV residences."¹

OSC's conclusion that OCFS does not adequately oversee DV residential programs is, in part, based upon OSC's misunderstanding of the number and types of required visits at DV residential sites. In its draft report, OSC erroneously states that annual program and fire safety inspections were required of all DV residential sites during 2015 and 2016, the two years OSC auditors reviewed. Based on this misperception, OSC maintains that 162 visits should have occurred in both 2015 and 2016. This presumption is inaccurate and results in OSC erroneously concluding that OCFS failed to provide reports for numerous visits.

Pursuant to OCFS regulations,² OCFS staff are required to conduct program monitoring visits and fire safety inspections at DV shelters and programs and to engage in regular monitoring of sponsoring agencies and safe home networks. OCFS is not required to conduct program monitoring visits and fire safety inspections at individual safe dwellings operated by sponsoring agencies or individual safe homes operated by safe home networks. Monitoring responsibility for

¹ See OSC Draft Report at page 8.

² See 18 NYCRR Parts 452-455.

individual safe dwellings is the responsibility of the applicable DV sponsoring agency.³ Likewise, the applicable safe home network has the monitoring responsibility for individual safe homes in its network.⁴

State Comptroller's Comment 1 – As detailed on pages 11–13 of our report, we used policies and procedures developed by OCFS Central Office and practiced by OCFS Regional Offices to determine the number and types of visits (i.e., program and fire safety inspections) that should have occurred during our audit period.

However, throughout our audit, OCFS officials were unable to provide auditors with consistent and/or timely responses to our requests for information, in particular policies and procedures, raising concerns about not only the validity and reliability of any information provided but also the adequacy of OCFS oversight. For instance, when asked about the annual program inspection requirement, over the course of the audit, OCFS officials gave us a series of answers, each contradicting the one before:

- Initially, OCFS officials indicated that the annual program inspection requirement was in effect for the entire audit period (January 1, 2015 through October 20, 2017).
- Officials later backtracked, stating that the annual requirement instead went into effect on January 1, 2017. Officials provided us with an undated policy as evidence.
- More than six months after the start of our audit, officials stated that the annual inspection requirement was actually applicable starting in January 2016. However, they could not provide a written policy citing the January 2016 requirement and, in fact, noted this policy was a verbal directive.

Likewise, when asked (on several occasions) for information on the number of safe dwelling inspection reports that should be completed (i.e., one for each location, one for each sponsoring agency, or some other criteria), OCFS officials were unable to clearly answer this question until more than six months after the start of our audit, at which time they stated that OCFS is only required to oversee the sponsoring agencies and not individual safe dwellings. We note that this claim stands in stark contrast to Regional Offices' actual practices of inspecting each safe dwelling, not just sponsoring agencies.

Rather than acknowledging that they need to strengthen oversight of the program, OCFS officials claim that we misunderstood the number and types of required visits at DV residential site. However, in light of the contradictory – and unreliable – information OCFS provided and officials' inability to respond knowledgeably to basic program questions, we stand by our assessment that OCFS Central Office does not adequately monitor DV residential programs.

³ 18 NYCRR § 455.11(a)

⁴ 18 NYCRR § 454.12

Programmatic Monitoring

During the two-year audit period under review, OCFS increased the frequency of program monitoring visits at DV shelters and programs and at the programmatic offices of sponsoring agencies and safe home networks. For calendar year 2015, the first year in the OSC audit period, program monitoring visits of DV shelters, programs, sponsoring agencies and safe home networks were required only at the time of initial certification, and when the program was up for recertification, which occurs at one, two or three-year intervals depending upon the program's compliance history. OCFS changed its policy, effective January 1, 2016, to require annual program monitoring visits of DV shelters and programs, sponsoring agencies and safe home networks. These annual visits could occur either as part of the recertification process for a program that was up for recertification during the year, or separately if the program was not up for recertification.

Based upon these requirements, in 2015, OCFS was required to conduct 36 program monitoring visits, not the 162 OSC indicated in its report. Similarly, in 2016, OCFS was required to conduct 93 program monitoring visits, not the 162 OSC indicated. OCFS performed all the required program monitoring visits for 2015 and all but seven in 2016.

- OCFS provided OSC documentation for over 94% of the required program monitoring visits.

State Comptroller's Comment 2 – At various times during the audit, and as discussed in the report, OCFS officials provided different criteria for the audit's scope period (see Comment 1). However, even using their latest version of criteria, OCFS officials' assessment is inaccurate. We re-analyzed the missing inspection reports using the new criteria that OCFS officials offered in October 2017 – and reiterate above in their response to our draft report. Contrary to OCFS' claim that only seven inspections were not performed in 2016, our re-analysis identified 15 program inspections or 12 percent (16 percent in 2016) that OCFS did not provide support for. At that time, and per their request, we provided OCFS officials with the list of DV residences for which we did not receive evidence of inspections. Armed with this information in advance of the draft report, it is unclear why officials continue to claim that they did not provide documentation for only seven inspections. More importantly, since the purpose of these annual inspections is to ensure the health, safety, and welfare of the residents, we are puzzled by OCFS' unwillingness to recognize these deficiencies. Rather than attempting to minimize the findings of the audit, OCFS officials should be concerned that they were seemingly unaware that at least 7 and up to 15 programs did not appear to receive a required annual inspection. This is even more troubling when we consider that this assessment is based on OCFS' most restrictive criteria. Using other criteria provided by OCFS during the audit, the number of programs that did not appear to receive an inspection increases significantly.

Fire Safety Monitoring

Throughout the audit period under review, OCFS staff were required to conduct annual fire safety inspections of DV shelters and programs. 61 DV shelters and programs required annual fire safety inspections by OCFS in 2015 and 62 required inspections in 2016. OCFS staff completed all required fire safety inspections in 2016, and all but two in 2015. OSC incorrectly included in its count of the number of visits required for 2015 two program sites that did not open until 2016 (Urban Resource Institute's Restoration House and Urban Resource Institute's Hope House).

OCFS previously provided supporting documentation to OSC for 12 visits that OSC erroneously included in its list of missing fire safety inspection reports.

- OCFS provided OSC documentation for over 98% of the required fire safety inspections.

State Comptroller's Comment 3 – Although OCFS indicates that staff were required to conduct annual fire safety inspections of DV shelters and programs, OCFS provided us with procedures that show fire safety inspections are also required for safe dwellings (see page 12 of the report). Furthermore, we found that, in practice, Regional Offices perform fire safety inspections at DV shelters, programs, and safe dwellings. We issued preliminary findings during our audit to give the agency an opportunity to correct any potential errors of fact. At that time, we asked the agency to review the information carefully to ensure there was no additional information that we should consider in formulating our audit conclusions but that had not yet been provided. On two separate occasions, in June 2017 and September 2017, as part of our preliminary findings, we provided OCFS with a listing of program and fire safety inspection reports that we had not received. That OCFS is only now disclosing that two of the DV residences on the list did not open until 2016 – and failed to disclose this at either of the two times we provided the listing – is yet another troubling issue. Moreover, as discussed on page 10 in our report, we re-analyzed the missing inspection reports, focusing on DV shelters and programs, and still found that we were missing 16 fire safety inspection reports. We provided OCFS with a listing of the 16 DV shelters in February 2018, and OCFS only now addresses the two DV residences that opened in 2016 and fails to address the other 14 inspection reports that were not provided to auditors. OCFS' claim that it "previously provided supporting documentation to OSC for 12 visits that OSC erroneously included in its list of missing fire safety inspection reports" is false as no such reports were provided.

OSC appears to have misinterpreted OCFS' increased requirements for conducting program monitoring visits and fire safety inspections that evolved over 2015 and 2016 claiming it is conflicting criteria. It is troubling that this change in policy to improve OCFS' oversight beyond the regulatory requirements led OSC to inexplicably conclude that OCFS does not adequately monitor DV residential programs. Despite numerous attempts by OCFS to educate OSC's auditors regarding the actual visit and inspection requirements, OSC continues to conflate what were required visits and what were optional regional office inspections and visits. OCFS acknowledges that some of the confusion may have arisen from parts of OCFS' licensing manual, which contained some language intended for internal use that may be confusing to outside entities. OCFS has since revised the language in the manual to address that issue.

State Comptroller's Comment 4 – As discussed in Comment 1, the inspection requirements for program monitoring visits present conflicting criteria. Throughout our audit, OCFS officials were unclear about what the requirements were and what time period the requirements covered, demonstrating an overall lack of knowledge and oversight of the program. Additionally, OCFS' claim of an increase in fire safety inspections is incorrect, and in fact, OCFS once again contradicts itself: On page 23, officials state, "Throughout the audit period under review, OCFS staff were required to conduct annual fire safety inspections of DV shelters and programs." Therefore, there were no changes to increase fire safety inspection requirements from 2015 to 2016.

As detailed on pages 11–13 of the report, the criteria we used to determine the number of program and fire safety inspections that should have occurred during our audit period is based on policies and procedures developed by OCFS Central Office and practices by OCFS Regional Offices. In its response, OCFS fails to mention the criteria contained in its own policies and only focuses on the New York Codes, Rules and Regulations.

OCFS Response: OCFS Maintains Appropriate Records Regarding its DV Oversight

The OSC report wrongly criticizes OCFS' maintenance of documentation regarding its DV oversight activities. In 2015, the first year subject to the OSC audit, OCFS required all inspections and site visit reports and supporting documentation to be maintained in hard copy in file cabinets at the applicable regional offices. In 2016, as part of its efforts to enhance its oversight of DV programs, OCFS instituted a policy requiring the regional offices to submit to a central office SharePoint site copies of all inspections and site visit that were done in relation to the initial certification or any subsequent recertification of a program. In January 2017, OCFS began requiring regional offices to also upload to the SharePoint site all new reports for annual visits to programs that were conducted in the middle of a recertification cycle.

In response to OSC's audit request, the regional offices and central office utilized considerable staff resources to locate, copy, centralize, review and redact, when necessary, all available responsive information. The spreadsheets containing inspection dates that OSC references in its draft report as unreliable were not pre-existing OCFS records used to track or monitor required visits. Rather, they were developed by OCFS during the audit specifically to respond to OSC's request for specified data on the entire universe of DV program sites and the dates they were visited or inspected. OSC's draft report references a few visit or inspections dates on the initial spreadsheets that fell on weekends or holidays or conflicted with the dates on the visit or inspection reports. OCFS reviewed the identified dates and, as acknowledged by OSC, confirmed that the dates noted on the spreadsheets were the result of typographical errors in preparing the spreadsheets. Although OSC suggests that some of the sites listed on the spreadsheets did not have corresponding visit or inspection reports, as previously discussed, the spreadsheets included many DV residential sites that were not required to be visited or inspected by OCFS in 2015 or 2016.

State Comptroller's Comment 5 – Auditors would have preferred to obtain inspection reports directly from the Regional Offices. However, OCFS officials were unwilling to allow their staff to provide any information to us without prior management review, approval, and clearance – a process that cripples transparency. That OCFS needed to create a basic spreadsheet of inspections solely for OSC audit purposes, coupled with Central Office not having direct access to inspection reports, reflects both administrative and oversight weaknesses, and begs the question of how Central Office ensured that all required visits occurred without having a centralized tracking mechanism. OCFS' argument that many DV residential sites were not required to be visited or inspected is irrelevant for this analysis. The purpose of the analysis on page 10 of the report, comparing data from the OCFS spreadsheet and the actual inspection reports provided, was to show that while OCFS officials indicated certain required site visits had occurred, they were unable to provide documentation to support inspections. Our analysis demonstrates OCFS' confusion as to whether and when inspections had actually occurred. Moreover, if OSC had not

pointed out the deficiencies in the information provided, Central Office would still be unaware that the information they provided was incorrect.

OSC Audit Finding: Observations at Domestic Violence Residences

OCFS Response: OSC Found No Major Issues at Any DV Residential Program Visited

OSC's report clearly indicates that it found no major compliance issues with any DV residential site it visited. OSC conducted site visits to a of 53 sites and "found the overall condition of the DV residences we visited to be adequate."⁵ Of note, OSC "did not find any major problems during [its] site visits."⁶ These site visits represented over half of the DV agencies that operate residential facilities and a third of the DV residential sites OCFS regulates.

OSC failed to find any major issues despite having selected a judgmental sample based on a variety of risk factors OSC identified. OSC received the full listing of domestic violence residential sites from which to choose, and could visit any location that was still in operation. As acknowledged by OSC in its sample methodology description, OSC used a risk assessment to select its judgmental sample, rather than a random sample, of sites to visit. This had the effect of sending its auditors to sites that had previously been identified by OCFS through inspection reports, finding letters and/or program improvement plans as having an issue requiring remediation. Therefore, OCFS strongly disagrees with any assertion that OSC's selections were skewed to those that were lower-risk. OSC's argument that additional information about two program sites would have impacted OSC's risk assessment and possibly led OSC to find more serious issues is an unfounded conclusion not based in reason at all.

State Comptroller's Comment 6 – As detailed on pages 13–15 of the report, OCFS was not forthcoming with the requested inspection documentation for all DV residences, which restricted our risk assessment of DV residences to visit. Only after we had selected our sample and conducted our site visits did OCFS provide us with additional inspection reports. Our analysis of these later inspection reports revealed critical information about shelters that would have impacted our sample selection. Furthermore, and as clearly indicated on page 14, the two serious issues we described in the report are only a subset of the additional problems identified in our analysis; we present them purely as examples to illustrate the types of issues that existed but did not factor into our risk assessment because OCFS had not provided the records timely.

OSC Audit Finding: Inadequate Cooperation

OCFS Response: OCFS Cooperated with OSC During this Audit

Contrary to OSC's report, OCFS fully cooperated with OCS's audit, within the limits of applicable federal and state law. OCFS provided all records of recertification and fire safety visits for 2015 and 2016 in our possession and cooperated in providing OSC with all information necessary to conduct its audit and establish the reliability of its risk assessment. Further, OCFS provided OSC the full scale of OCFS oversight and monitoring instruments, licensing manual, and information relevant to the oversight and monitoring of DV programs.

⁵ See OSC Draft Report at page 13.

⁶ Id.

OCFS officials did not place inappropriate constraints on OSC's audit. Pursuant to New York State law and regulations, OCFS must maintain the confidentiality of victims of domestic violence and the locations of residential DV sites. See Social Services Law §§349-a(7) and 459-h, and 18 NYCRR 452.10. In addition, OCFS receives Federal Family Violence Prevention and Services funds. The federal law governing such funding specifically states that *"grantees and subgrantees shall not (i) disclose any personally identifying information collected in connected with services requested (including services utilized or denied), through grantees' or subgrantees' programs; or (ii) reveal personally identifying information without informed, written, reasonably time-limited consent by the personal about whom information is sought, whether for this program or any other Federal or State grant program...[42 U.S.C. 10406 (c)(5)(B)(i and ii)].* OCFS' Domestic Violence Information System contains demographic information which may be used to identify certain victims of domestic violence. Similarly, certain documents in OCFS' SharePoint site also contain confidential information regarding the location of DV sites or identifying information about individuals who made complaints about DV programs.

State Comptroller's Comment 7 – As detailed throughout our report, OCFS officials delayed, restricted, and denied auditors access to certain information necessary to perform our audit. We requested access to the Domestic Violence Information System and SharePoint because, according to OCFS officials, they are used to monitor DV programs. We did not request information that could be used to identify victims of domestic violence. As a courtesy, we had previously worked out agreements with OCFS to not access certain identifiable information due to the nature of the data, yet OCFS blatantly denied any access to these two systems. Further, the fact that OCFS provided us with access to DV residences razes its "confidentiality of location" argument.

In addition, OCFS designated a principal point of contact throughout the audit engagement in order to facilitate the sharing of information and to assure compliance with federal and state confidentiality requirements relative to the protection of DV victims' privacy and the location of DV residential programs. Any delays in providing information to OSC resulted from the tremendous effort that was necessary for OCFS to collect and redact the numerous records requested by OSC staff.

State Comptroller's Comment 8 – OCFS' assertion that the delays in providing the information were due to the tremendous effort required to collect and redact numerous records requested by auditors is misleading as it implies that redaction of records played a role in the delays. However, less than 1 percent of the inspection reports we received were redacted. Moreover, a careful reading of OCFS' response makes it clear that many of the delays were due to its own control weaknesses. For instance, when auditors requested a listing of inspection reports and completion dates, rather than admitting it did not have a centralized tracking document of inspections, OCFS created two iterations of a spreadsheet to demonstrate it tracked inspections, thus creating their own, unnecessary burden. In another instance, when OSC auditors requested inspection reports, once again, rather than admitting that it had not collected reports prior to 2017, and allowing OSC to obtain this information from the regions, Central Office instituted a cumbersome process of collecting this information from the regions itself. OCFS also denied OSC access to SharePoint, which houses inspection reports. This prevented auditors from determining when the reports were received by Central Office. Such "tremendous efforts" by OCFS would not have been necessary if OCFS had been forthcoming with OSC auditors.

Moreover, such information should have been readily available to Central Office if appropriate monitoring was being performed.

Finally, OSC's suggestion that OCFS changed its representation letter to exclude the entire period OSC conducted its audit is grossly inaccurate. Rather, OCFS changed the representation letter to be clear that the two-year audit period (2015 – 2016) for which OCFS was making representations ended on December 31, 2016. OSC's preliminary report contained conclusions regarding OCFS' monitoring activities during 2017. Acknowledging its error, OSC's draft report does not include any 2017 information.

State Comptroller's Comment 9 – By restricting the representation letter to the two-year period ending December 31, 2016, OCFS excluded the entire period of our audit scope, during which it provided significant audit-related information. This includes all oral representations made to the auditors, applicable policies and procedures, and auditor observations at DV residences. Therefore, we have limited assurance that the information provided to us during the course of our audit was reliable, accurate, and complete. It should be noted that OCFS similarly limited the period of time covering its representations during our previous audit (Report 2015-S-79: *Oversight of Critical Foster Care Program Requirements*).

OCFS, therefore, disagrees with OSC's recommendation that OCFS enhance its "cooperation with authorized State oversight inquiries." Consistent with federal and state confidentiality laws, OCFS did not provide the audit team assigned to this engagement with unfettered access to the agency's personnel and information systems. During the planning stages of this audit, OSC's Division of State Government Accountability was made fully aware of federal and state confidentiality laws relating to OCFS's domestic violence programs, as well as the agency's commitment to adhere to these requirements, which are necessary to protect one of the state's most vulnerable populations. Instead of adhering to these laws, the OSC chose instead to recommend violation of them.

State Comptroller's Comment 10 – We did not request information that was in violation of federal and State confidentiality laws and, in fact, worked tirelessly with OCFS to ensure compliance with these laws. As a courtesy, we worked out agreements with OCFS to not access certain identifiable information due to the confidentiality of the data.

OCFS Response: OCFS Continues to Strengthen Its DV Oversight

The OSC report contains several recommendations with which OCFS agrees, however, OCFS implemented these recommendations prior to the commencement of this audit in February 2017. Specifically, OSC recommends that OCFS (1) develop a centralized method of tracking and maintaining all DV program information; (2) develop procedures to ensure consistency in reporting across all regions; and (3) develop procedures for monitoring the regional offices' oversight of residential domestic violence programs.

As previously discussed, OCFS central office staff have already implemented these steps:

- In 2014, OCFS developed a DV licensing manual that includes protocols and tools for regional offices to use in conducting monitoring site visits, which is regularly updated in response to comments from the regional office staff and central office reviews;
- In 2016, OCFS increased the number of programmatic site visits regional office staff must

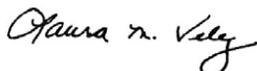
conduct at DV shelters, programs, sponsoring agencies and safe homes networks to a minimum of at least one annual visit (prior to that, site visits were required only upon recertification, in accordance with regulations);

- In 2016, OCFS developed a central office SharePoint site to maintain inspection/visit reports for programs being certified/recertified. This site was later modified to include a DV site tracking sheet, tools, protocols and monitoring documents. It was completed by January 2017 and expanded at that time to include annual inspection/visit reports for programs that were not being certified or recertified at the time of the inspections/visits.

Based upon the foregoing, OCFS has already implemented the recommended changes with respect to recommendations 1, 2, and 3. OCFS disagrees with recommendation 4, which suggests OCFS formally assess its internal controls environment and cooperate more fully with OSC's inquiries by providing more access to information. OCFS has demonstrated a strong track record of complying with internal control verifications, and cannot implement this recommendation because doing so could result in a violation of federal and state confidentiality laws.

State Comptroller's Comment 11 – Although OCFS asserts that our Recommendations 1–3 were implemented prior to the commencement of our audit, the findings and conclusions of our audit show improvement is still needed. Further, OCFS' pattern of a lack of cooperation during recent audits and its defensive and dismissive response are not indicative of an appropriate control environment. We urge OCFS reconsider our recommendations and implement changes to increase oversight, and evaluate its control environment to ensure the health, safety, and welfare of one of the State's most vulnerable populations.

If you have any questions, please contact Associate Auditor Bonnie Hahn at Bonnie.Hahn@ocfs.ny.gov.



Laura M. Velez Deputy
Commissioner
Child Welfare and Community Services