



**REPORT OF  
THE  
STATE AUDITOR**

**Central Registry of Child Protection  
Department of Human Services**

**Performance Audit  
November 2001**

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November 15, 2001

Members of the Legislative Audit Committee:

This report contains the results of the performance audit of the Central Registry of Child Protection, Department of Human Services. The audit was conducted pursuant to Section 2-3-103, C.R.S., which authorizes the State Auditor to conduct audits of all departments, institutions, and agencies of state government.

The report presents our findings, conclusions, and recommendations, and the responses of the Department of Human Services.

A handwritten signature in black ink that reads "Joanne Hill".

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## TABLE OF CONTENTS

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	PAGE
<b>REPORT SUMMARY .....</b>	<b>1</b>
<b>Recommendation Locator .....</b>	<b>5</b>
<b>OVERVIEW OF THE CENTRAL REGISTRY OF CHILD PROTECTION .....</b>	<b>9</b>
<b>ACCURACY AND COMPLETENESS OF REGISTRY DATA .....</b>	<b>15</b>
<b>Counties Vary in How They Report to the Central Registry .....</b>	<b>16</b>
<b>Not All Third-Party Abuse or Neglect Incidents Are Reported to the Registry .....</b>	<b>19</b>
<b>Many Records Are Inaccurate and Incomplete .....</b>	<b>21</b>
<b>Processing Errors Have Occurred in TRAILS .....</b>	<b>23</b>
<b>Central Registry Does Not Receive Notification of Convictions .....</b>	<b>25</b>
<b>DUE PROCESS ISSUES .....</b>	<b>27</b>
<b>Some Individuals Remain on the Registry After They Have Been Acquitted of Related Charges .....</b>	<b>28</b>
<b>Cases Remain in Status Pending for Long Periods .....</b>	<b>30</b>
<b>PURPOSE AND USE OF THE REGISTRY .....</b>	<b>33</b>
<b>The Purpose of the Central Registry Should Be Reassessed .....</b>	<b>34</b>
<b>Central Registry Statutes Are Complex and Confusing .....</b>	<b>37</b>
<b>Need to Submit Reports to Local Law Enforcement Should Be Assessed .....</b>	<b>39</b>
<b>Communication With Counties Should Be Improved .....</b>	<b>40</b>
<b>Background Checks Are Not Completed Within Statutory Time Limits .....</b>	<b>43</b>
<b>Central Registry Does Not Require Unique Identifiers .....</b>	<b>44</b>
<b>There Is No Flagging System to Ensure Notification of Future Abuse Incidents .....</b>	<b>46</b>



**STATE OF COLORADO**  
**OFFICE OF THE STATE AUDITOR**  
**JOANNE HILL, CPA**  
**Acting State Auditor**

**REPORT SUMMARY**

**Department of Human Services  
Central Registry of Child Protection  
Performance Audit  
November 2001**

**Authority, Purpose, and Scope**

This audit of the Central Registry of Child Protection was conducted under authority of Section 2-3-103, C.R.S., which authorizes the State Auditor to conduct performance audits of all departments, institutions, and agencies of state government. The audit was conducted in accordance with generally accepted government auditing standards.

The purpose of the audit was to evaluate the administration of the Central Registry of Child Protection. Procedures included reviewing documentation, analyzing data, and interviewing staff at the Department of Human Services and county departments of human/social services. Audit work was performed from June 2001 through October 2001.

This report contains 14 recommendations for improving the Colorado Central Registry of Child Protection. We would like to acknowledge the efforts and assistance extended by staff at the Division of Child Welfare, the Department of Human Services, the Colorado county human/social services departments, the Office of the Attorney General, and the Division of Administrative Hearings. The following summary provides highlights of the audit comments, recommendations, and responses contained in the report.

**Background**

The Central Registry of Child Protection is an automated database that contains records of confirmed incidents of child abuse or neglect. As of May 2001 (the most recent date for which overall data are available), the Central Registry contained 107,848 records of child abuse or neglect incidents. Each record can include up to four perpetrators and up to six children. The 107,848 records included data on 113,681 confirmed or alleged perpetrators, 907 unknown third-party perpetrators, and 144,334 children.

According to the Department's records, in Calendar Year 2000 the Registry received about 450 reports of confirmed incidents of child abuse or neglect from the counties each month. Counties may receive complaints about abuse or neglect from various entities, including schools, law enforcement, neighbors, and relatives. When it receives a complaint, the county reviews the allegations to determine if further investigation is needed. Investigations are done to determine if the complaint is valid (e.g., abuse or neglect occurred). Confirmed reports are then submitted to the Central Registry.

*For further information on this report, contact the Office of the State Auditor at (303) 866-2051*

## **SUMMARY**

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2

Central Registry of Child Protection, Department of Human Services  
Performance Audit - November 2001

### **Accuracy and Completeness of Registry Data**

County departments are required to enter data on confirmed incidents of child abuse or neglect into the Department's new TRAILS system and to also submit hard copies of reports to the Central Registry. As part of our audit, we reviewed the accuracy and completeness of the Central Registry. We found the following:

- Because of problems with the Department's new TRAILS system, counties are required to both data enter and submit a hard copy of reports of confirmed instances of abuse and neglect. However, of 43 counties responding to our survey, thirteen stated that they submit either electronically or with hard copy, not both. This is problematic because of the serious problems with system implementation. Registry staff informed us that between the implementation of TRAILS in April and July 2001, there was only one hard copy report of the approximately 2,000 submitted that correctly matched the information that had been data entered into TRAILS. Registry staff has had to work closely with counties to correct inaccurate data.
- Data are not reliable. Many records are inaccurate. We compared a sample of 31 incident reports (CWS-59s) submitted during the period from June 2000 to March 2001. We found 44 separate errors, including instances where children's names were misspelled, social security numbers were incorrect, the severity of abuse was incorrect, types of abuse were incorrect, and birth dates were missing. These errors limit the ability to access and use the information on the Registry.

In addition, we downloaded the entire database of 107,848 records and found significant problems with the information contained in the Registry. About 7,600 records were missing the perpetrator's birth date, a required field; about 46,000 records did not have the perpetrator's social security number. Social security numbers are not currently a required field. Thus, the ability to use the data to identify perpetrators is limited. In addition, the ability to use the data to expunge individuals when they should be expunged is also hampered by database errors. Through our download, we found that 1) the nature and severity of abuse field was blank in about 1,200 records; and 2) the date the incident occurred was not entered in about 1,300 cases.

- The Registry does not include records for all individuals who have been convicted of a child abuse or neglect charge. According to statute, the Director is to place the names of individuals convicted of certain child abuse crimes on the Registry after receiving and verifying the information. We identified 305 individuals that Judicial records showed were convicted of major child abuse or sexual abuse crimes against a child on or after January 1, 1997, but were not listed on the Central Registry. Additionally, we matched a sample of 48 registered sex offenders who had perpetrated sexual crimes against children on the State's Convicted Sex Offender Site with the Registry

database and found 19 (40 percent) of those registered sex offenders were not listed on the Registry. Currently there is no process in place for Registry staff to learn about criminal charges or convictions.

## **Due Process Issues**

The Central Registry is a civil, rather than a criminal, tracking tool. Individuals do not have to be charged with or convicted of a crime in order to be listed on the Registry as a perpetrator of child abuse. As such, assurance that alleged perpetrators have the right to challenge Central Registry actions is extremely important. Central Registry of Child Protection statutes (Section 19-3-313, C.R.S.) contain due process elements that protect individual rights. As part of our audit, we reviewed the Central Registry's administration of the due process requirements. We found that:

- Some individuals who have been acquitted of a child abuse crime or sexual abuse on a child remain on the Central Registry. We found 191 individuals whose Judicial records indicated that they had been acquitted of child abuse charges on or after June 1, 2000, but were listed on the Registry as perpetrators. According to statute, the Director is required to expunge the names of individuals who have been acquitted of child abuse or neglect crimes upon notice of the acquittal. However, the Director may request a hearing to reinstate a subject's name pertaining to an act or acts that supported a dismissed or acquitted criminal charge.
- Registry staff do not always monitor cases in the “status pending” category to ensure they are resolved in a timely manner. We found 17 cases that had been inappropriately kept in the status pending category without a review by the Registry staff. Seven could have been expunged, and ten should have been listed as perpetrators.

## **Purpose and Use of the Registry**

The Central Registry has evolved over the past 30 years from a tracking system for all reports of child abuse or neglect to a complex automated system for tracking, reporting, researching, and conducting background checks. Since 1990 there have been numerous concerns raised about the accuracy, reliability, and use of the data. The delicate balance between protecting vulnerable populations and allowing due process for alleged perpetrators has clearly not been maintained. At this point, we recommend that immediate action be taken to resolve issues surrounding the basic purpose and intent of the Registry. We offer three options for consideration:

- Maintain the Registry as is. Improvements in extraction of data from TRAILS, CBI, and Judicial's ICON database would need to be made.

## **SUMMARY**

4

Central Registry of Child Protection, Department of Human Services  
Performance Audit - November 2001

- Limit the Registry to a database containing only instances where an alleged perpetrator has had contact with law enforcement agencies (e.g., arrest, criminal charge, or conviction) for child abuse or neglect. Information for such a database could be extracted from the Judicial and CBI databases.
- Replace the Registry with a database that contains only criminal convictions. Information could be extracted from the Judicial and CBI databases.

If the decision is to retain the Registry as is, the accuracy, accessibility, and due process issues noted earlier must be remedied immediately. In addition, there are other areas where improvements would enhance the usefulness of the Registry:

- Statutes need to be clarified. Statutes have been developed on an ad hoc, piecemeal basis. Central Registry workgroup and Department staff point to a number of statutory changes that would help in the administration of the database.
- Communication between the county departments and the Registry needs to be improved. County departments may not receive important information from the Registry on critical issues, including how to enter data into TRAILS and the outcomes of appeals by alleged perpetrators.
- The Registry does not complete background check requests within the statutory time requirement of 10 days. Because the Registry records do not include unique identifiers, it may be difficult for entities to accurately determine if an individual is listed on the Registry when doing a background check. Additionally, the Registry does not have a flagging system that provides information when that same individual is the subject of a subsequent confirmed report of abuse or neglect.

Our recommendations and the responses of the Department of Human Services can be found in the Recommendation Locator on pages 5 through 8.

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## RECOMMENDATION LOCATOR

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<b>Rec. No.</b>	<b>Pag e No.</b>	<b>Recommendation Summary</b>	<b>Agency Addressed</b>	<b>Agency Response</b>	<b>Implementation Date</b>
1	18	Provide guidance to counties on how to complete the Central Registry data entry forms and how to report using the new TRAILS system; ensure the process for reporting is clear and that there is a standardized definition of preponderance of evidence.	Department of Human Services	Agree	July 1, 2002
2	20	Require all county departments to update cooperative agreements with local law enforcement agencies and periodically monitor these agreements.	Department of Human Services	Agree	September 1, 2002
3	22	Ensure the information contained in the Central Registry is complete by a) providing county departments with quarterly reports; b) requiring the county reports to be complete with certain identifiers; and c) setting a standard for entering information on birth dates that are unknown.	Department of Human Services	Agree	July 1, 2002
4	24	Investigate and correct TRAILS processing problems and provide training on the Registry part of TRAILS to the appropriate county staff.	Department of Human Services	Agree	July 1, 2002

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## RECOMMENDATION LOCATOR

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<b>Rec. No.</b>	<b>Pag e No.</b>	<b>Recommendation Summary</b>	<b>Agency Addressed</b>	<b>Agency Response</b>	<b>Implementation Date</b>
5	26	Work with the Judicial Department, the Colorado Bureau of Investigation, and the Division of Child Care to ensure the Central Registry is notified of individuals convicted of child abuse offenses. Implement procedures to add these individuals to the Central Registry. Identify ways to include individuals convicted of child abuse crimes or sexual abuse on a child on the Registry when the name of the victim is not known.	Department of Human Services	Agree	January 15, 2002
6	29	Work with the Judicial Department to identify ways to receive information on acquittals of criminal charges for child abuse or neglect. Ensure that individuals listed are notified of their due process rights to have their records expunged if they have been acquitted of charges or the charges are dismissed.	Department of Human Services	Agree	January 15, 2002
7	31	Implement procedures to periodically screen records and resolve the status of the cases that have been in status pending for more than two years.	Department of Human Services	Agree	July 1, 2002

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## RECOMMENDATION LOCATOR

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<b>Rec. No.</b>	<b>Pag e No.</b>	<b>Recommendation Summary</b>	<b>Agency Addressed</b>	<b>Agency Response</b>	<b>Implementation Date</b>
8	36	Work with the General Assembly to evaluate alternatives to the Central Registry, including (1) maintaining the Registry as a civil/administrative tool; (2) making the Registry a tool for tracking alleged perpetrators who have contact with law enforcement; and (3) changing the Registry to be a tool for tracking only individuals convicted of child abuse-related crimes. Propose statutory changes to implement the changes.	Department of Human Services	Agree	July 1, 2002
9	38	Clarify statutes governing the Registry.	Department of Human Services	Agree	In Progress
10	40	Review what information should be reported by counties to law enforcement agencies on founded cases, and if reports on minor severity offenses are found not to be useful, propose statutory changes.	Department of Human Services	Agree	July 1, 2002

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## RECOMMENDATION LOCATOR

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<b>Rec. No.</b>	<b>Pag e No.</b>	<b>Recommendation Summary</b>	<b>Agency Addressed</b>	<b>Agency Response</b>	<b>Implementation Date</b>
11	42	Improve communication by providing training to the county departments on how to use TRAILS to submit reports to the Registry; identify additional notification methods for informing the county departments of changes to processes and changes to legislation; and notify the county departments of the results of appeals and settlements.	Department of Human Services	Agree	March 1, 2002
12	44	Ensure background checks are completed within the statutory requirement of 10 days.	Department of Human Services	Agree	July 1, 2002
13	45	Work with the counties to improve information available for identifying perpetrators of child abuse or neglect and propose statutory changes as appropriate.	Department of Human Services	Agree	March 1, 2002
14	46	Develop a flagging system that would immediately notify the requesting facility if the subject of the request is placed on the Central Registry subsequent to the initial request.	Department of Human Services	Agree	July 1, 2002

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# Overview of the Central Registry of Child Protection

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## Background

The Central Registry of Child Protection is an automated database for tracking confirmed incidents of child abuse or neglect. The Registry is managed by a unit in the Division of Child Welfare, Department of Human Services. Statutes governing the Registry are included in the Colorado Children's Code, specifically Section 19-3-313, et. seq., C.R.S. The Central Registry is a civil tool. Individuals do not have to be charged with or convicted of a criminal offense to be listed on the Registry.

County departments of human/social services and local law enforcement agencies receive and investigate complaints of alleged child abuse or neglect. Law enforcement agencies are required to submit their reports of child abuse or neglect to the appropriate county department. County departments then submit all confirmed complaints to the Central Registry.

The Executive Director of the Department of Human Services convened a workgroup of stakeholders (including representatives from the Attorney General's Office, county departments, child advocacy groups, and parents) in August 2001 to examine the Registry and determine "what it should be." The workgroup proposed that the "mission of the Central Registry of Child Protection is to assure the protection of children through rapid access of accurate data while assuring due process." The workgroup also identified the following four functions of the Registry:

- **Investigation.** The Registry provides investigators (police, district attorneys, medical personnel, and county departments) with information useful in conducting investigations, such as whether there have been similar incidents in the past.
- **Due process.** The Registry provides an opportunity for people to challenge what they believe to be false accusations of child abuse.
- **Employment screening.** According to the workgroup, the Registry provides a convenient central source of information for employers who hire persons to care for children.

- **Research.** The Registry provides information about the frequency, severity and nature of child abuse, as well as demographic information, which is useful for research and policy development.

## Confidentiality of Records

Section 19-1-307, C.R.S., strictly limits the individuals or agencies who have access to the information contained in the Central Registry. According to statute, reports of child abuse or neglect are confidential and not “public information.” Section 19-1-307, C.R.S., provides that individuals who are applying to provide care in a state-licensed family home or child care facility are to be screened against the Registry file. Applicants for child care licenses are also screened against Judicial’s Integrated Colorado Online Network (ICON) and the Colorado Bureau of Investigation (CBI) databases. County departments of human/social services may also check with the Registry when 1) conducting custody evaluations; 2) hiring employees who will be involved with children; and 3) screening for the county’s own adoptive, foster, or kinship homes. County departments also screen prospective adoptive and foster parents against CBI records.

Other agencies, such as the Department of Corrections, may also have access to Registry information when they have the legal responsibility to treat a child or for aiding in determination of recommended treatment, visitation approval, and supervised conditions. Individuals may also request information on themselves.

A very limited group of professionals may also receive information on incidents of abuse involving identities of a named perpetrator and/or victim. They may obtain the information only during the course of an investigation of child abuse or neglect. These entities are:

- County departments of human/social services.
- Law enforcement agencies.
- Physicians who have a child before them who they reasonably suspect has been abused or neglected.
- The State Department of Education only when investigating a report of child abuse or neglect by one of its employees.
- The court upon its finding that access to such records may be necessary for a determination of an issue before it.
- Members of a child protection team (for purposes of the team review).
- A parent, guardian, or legal custodian responsible for the health or welfare of the child who was alleged to be abused or neglected.

## **History of the Colorado Central Registry of Child Protection**

The Central Registry was authorized by statute in 1967 and was established as a part of the then Department of Social Services in 1969. At that time counties were required to report all child abuse or neglect incidents, whether they were confirmed or not, to the Central Registry. Many changes have occurred since then, including:

- Due process procedures were established in 1987. The General Assembly required that counties report only confirmed incidents of child abuse or neglect to the Registry.
- The 1990s brought many other due process requirements, including:
  - House Bill 91-1002 allowed the Registry Director to expunge certain cases for good cause.
  - House Bill 96-1208 required the Director to notify subjects before listing them on the Registry. Additionally, appeal rights of individuals convicted of child abuse charges were limited.
  - House Bill 97-1109 required the Department of Human Services to develop an implementation plan by March 1999 for phasing out the Central Registry. Chapter 3 includes a discussion of the Department's actions.
  - Senate Bill 99-152 required the Director to list an individual as "status pending" until all appeal processes were completed.
- The 2000 and 2001 legislative sessions also resulted in statute modifications:
  - Senate Bill 00-136 required that (1) records of individuals convicted of child abuse or other crimes against children are to remain on the Registry indefinitely, (2) the Director verify the convictions with the Judicial Department or the Colorado Bureau of Investigation, and (3) the Director expunge the record of a person who is acquitted of a related charge or for whom the charge has been dismissed.
  - House Bill 01-1227 required that the Director expunge records of minor severity cases if criminal charges or a petition of dependency or neglect has not been filed within six months of when the Registry received the report of confirmed abuse or neglect.

Issues related to the statutory requirements of the Registry are discussed throughout this report.

## Central Registry Statistics

As of May 21, 2001 (the most recent date for which overall data are available), the Central Registry contained 107,848 records of child abuse or neglect incidents. Each record can include up to four perpetrators and up to six children. The 107,848 records included data on 113,681 confirmed or alleged perpetrators, 907 unknown third-party perpetrators, and 144,334 children.

According to the Department's records, in Calendar Year 2000 the Registry received about 450 reports of confirmed incidents of child abuse or neglect from the counties each month. Counties may receive complaints about abuse or neglect from various entities, including schools, law enforcement, neighbors, and relatives. When it receives a complaint, the county reviews the allegations to determine if further investigation is needed. Investigations are done to determine if the complaint is valid (e.g., abuse or neglect occurred). Confirmed reports are then submitted to the Central Registry. According to the Registry's records, in Calendar Year 2000 the counties received 50,197 referrals (or complaints) of child abuse or neglect. The counties investigated 30,663 (61 percent) of the complaints and confirmed 5,434 (18 percent) of those investigated.

The 5,434 confirmed incidents in Calendar Year 2000 represented 5,685 alleged perpetrators. Slightly over half (50.4 percent) of these individuals were female. Registry records did not specify the relationships to the child victim for 4,495 of the individuals. However, reports showed the following for the 1,190 individuals for whom the relationships were known:

- 409 (34.4 percent) were parents.
- 387 (32.5 percent) were other caretakers.
- 10 (0.8 percent) were foster parents.
- 44 (3.7 percent) were residential facility staff.
- 74 (6.2 percent) were child care providers.
- 266 (22 .4 percent) were non-caretakers.

Other data show that the majority of the perpetrators reported to the Registry are parents of the child victim(s). Data for Calendar Year 1996 (the last year for which there was not a large percentage of perpetrators in the "relationship unknown" category) showed the following for the 5,673 perpetrators reported to the Registry:

- 4,596 (81.1 percent) were parents.
- 549 (9.6 percent) were caretakers, foster parents, residential facility staff, or child care providers.
- 251 (4.4 percent) were non-caretakers.
- 277 (4.9 percent) were unknown.

In Calendar Year 2000, 7,467 children were victims of confirmed abuse or neglect. About 53 percent of these children were female, and 47 percent were male. Registry records included ages for 7,432 of these children:

- 749 (10 percent) were less than 12 months old.
- 2,301 (31 percent) were between 1 and 5 years old.
- 3,000 (40 percent) were between 6 and 12 years old.
- 1,382 (19 percent) were between 13 and 18 years old.

Ages for 35 of the children were unknown.

Incidents of child abuse or neglect can range in severity level from minor to fatal. Although the Department could not provide any information on criminal charges and/or convictions of perpetrators, both Registry staff and county representatives told us that very few individuals listed on the Registry as perpetrators are ever arrested, charged, or convicted of any child abuse crime. The following table shows the breakout by severity for the incidents involving the 7,467 child victims in Calendar Year 2000.

<b>Severity of Abuse for Calendar Year 2000</b>		
<b>Severity of Abuse</b>	<b>Number of Incidents</b>	<b>Percentage of Incidents</b>
Minor	3,591	48.1%
Medium	3,109	41.6%
Severe	725	9.7%
Death	29	0.4%
Incomplete	13	0.2%
<b>Totals:</b>	<b>7,467</b>	<b>100%</b>
<b>Source:</b>	Central Registry of Child Protection statistics for Calendar Year 2000.	

There are several types of child abuse and neglect. Abuse can include injuries, such as cuts, bruises, or fractures. Neglect can include lack of supervision or abandonment. As

shown in the following chart, the majority of the incidents in Calendar Year 2000 involved neglect.

<b>Types of Abuse and Neglect for Calendar Year 2000</b>		
<b>Type</b>	<b>Total Number</b>	<b>Percentage of Total</b>
Neglect	5,391	52.9%
Physical Abuse	2,004	19.7%
Psychological or Emotional Abuse/Neglect	1,188	11.7%
Sexual Abuse	1,074	10.5%
Medical Neglect	534	5.2%
<b>Totals:</b>	<b>10,191</b>	<b>100%</b>

**Source:** Central Registry of Child Protection statistics for Calendar Year 2000.  
**Note:** Incidents may have multiple responses resulting in more incidents listed than occurred; i.e., one incident may involve both physical and sexual abuse.

## Expenditures and Staffing

In Fiscal Year 2001 the Colorado Central Registry of Child Protection program expenditures totaled almost \$1.3 million. The Registry received individual appropriations to purchase services for appeals from the Attorney General's Office, Division of Administrative Hearings, and the Office of Appeals that totaled about \$615,000.

As of October 2001, the Central Registry of Child Protection had nine FTE, which included five administrative assistants, one office manager, two general professionals, and the Director. For Fiscal Year 2002 the Registry received approximately \$115,000 to use for contract staff for data entry and professional services in the appeals process.

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# Accuracy and Completeness of Registry Data

## Chapter 1

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### Background

As discussed previously, the Central Registry of Child Protection is an automated database that contains records of confirmed incidents of child abuse or neglect. According to Section 19-1-103(27), C.R.S., a confirmed incident of child abuse or neglect is one in which:

...any report made pursuant to article 3 of this title that is found by a county department, law enforcement agency, or entity authorized to investigate institutional abuse to be supported by a preponderance of the evidence.

Section 19-3-304(2), C.R.S., mandates that a number of professionals (e.g., physicians) who interact with children report suspected or known child abuse or neglect to the county department of human/social services or local law enforcement agencies. County departments and/or law enforcement agencies investigate these allegations of child abuse or neglect. The investigations may be independent of each other, or a collaborative effort can occur. The county is the lead agency on all cases of intrafamilial abuse. If a county finds there is a preponderance of evidence to support the allegation, it reports the incident to the Central Registry.

Local law enforcement agencies are the lead investigators on third-party abuse (e.g., an incident committed by any person who is not a parent, stepparent, guardian, or legal custodian). Section 19-3-308(5), C.R.S., requires that local law enforcement agencies submit their investigative reports of third-party abuse to the appropriate county department. The county department is then responsible for reviewing these reports to determine if there is a preponderance of evidence. If so, the county files a report with the Central Registry based on the law enforcement agency's investigative report.

Currently counties are required to enter data regarding the confirmed incident into the Department's new automated system, TRAILS, and also to report using the hard-copy

CWS-59 form. The CWS-59 form includes fields for children in the household, including names, relationship to parent, roles (e.g., victim), sex, birth date, social security number, and state identification number; parents or parent substitutes, including role (e.g., perpetrator, passive participant, not involved), sex, birth date, and social security number; nature of abuse or neglect; severity of abuse or neglect; services provided by the county department; date the report was made to the Central Registry; and addresses for the family and/or perpetrator. The Central Registry received about 450 reports of confirmed incidents each month in Calendar Year 2000.

## **Counties Vary in How They Report to the Central Registry**

Through our interviews with 15 county departments of human/social services, we found that counties submit reports of confirmed incidents of child abuse or neglect to the Central Registry inconsistently. Central Registry staff and the 2001 Registry workgroup (discussed in the Overview Section) also identified county inconsistencies as a problem for maintaining accurate and complete data. As a result of these inconsistencies, the Registry may not be a complete source of incidents of child abuse or neglect.

The inconsistencies we identified include:

- **Not all county departments submit a hard copy of the CWS-59 form in addition to entering information into TRAILS.** We sent a survey to all Colorado county departments of human/social services inquiring about their methods for reporting cases to the Registry. We received responses from 43 of the counties. Seven of the responding counties reported they only submit child abuse and neglect reports to the Registry through TRAILS. This is problematic because of the significant deficiencies with TRAILS. As discussed later, there are many data processing errors that occur with TRAILS. Central Registry staff correct these errors only after they receive the CWS-59 form and compare information on the form with data in TRAILS. Registry staff informed us that between the implementation of TRAILS in April 2001 and July 2001 there was only one CWS-59 of the approximately 2,000 submitted that correctly matched the information that had been data entered into TRAILS.
- **Some counties do not enter information into TRAILS.** Six responding counties reported that they submit the CWS-59 only and do not enter any information into TRAILS. Submitting only a hard-copy form is problematic because information sent only by the CWS-59 form will not appear in the TRAILS

system until Registry staff have had the opportunity to data enter that information into TRAILS. Since Registry staff are currently backlogged about one month in their data entry of information into TRAILS, the information contained in the Registry is not current.

- **County department staff are concerned about inconsistent information on the Registry.** Seven of the fifteen (47 percent) county departments told us that information they submit to the Registry is not consistent with information other counties submit. For example, counties have different definitions of “preponderance of evidence.” Thus, counties vary in what they consider to be a confirmed incident of child abuse or neglect. Neither the Colorado Children’s Code (Title 19 of the Colorado Revised Statutes) nor the Department’s rules and regulations include a standard definition of preponderance of evidence. The 2001 Registry workgroup also identified the lack of a standard definition of preponderance of evidence as a problem for counties.
- **County departments fill out the CWS-59 form inconsistently.** We interviewed 15 counties about how they complete the form. According to their responses, many counties complete the form incorrectly:
  - Three fill out a separate form for each child victim in the same household, while one county completes only one form for all children involved regardless of whether they are from the same household.
  - Seven fill out separate forms when there is more than one perpetrator involved in the incident. According to the Director of the Registry, one CWS-59 form should be filled out for all children in the same household; a separate CWS-59 is only needed when there are children involved from different households. Additionally, perpetrators should also be listed on the same form.

Inconsistent methods of filling out the CWS-59 form can lead to problems with linking incidents properly in the Registry. Linking incidents is a manual process conducted by Registry staff to ensure that a perpetrator with more than one incident is identified and marked as no longer eligible for good cause expungement, and to ensure the victim's records are also linked to identify instances of recurring abuse. If Registry staff do not identify the different incident reports as related, a link may not be put in place. Although Central Registry staff told us that they have a quality assurance process in place to make sure that all perpetrators and victims are associated with one incident, we found problems. During our review we found that for 2 of a sample of 36 incidents Registry staff could not

determine if the person should be eligible for good cause expungement since there were multiple incidents listed on the Registry for the same day for the same perpetrator.

As discussed in Chapter 3, communication between the county departments and the Central Registry needs to be improved. The Department has not recently provided TRAILS training to the counties specifically on how they should use the Central Registry portion of the new system to ensure they report correctly. Further, as noted in Chapter 3, some agency letters that are used by the Department to communicate with the counties are unclear. The agency letters provided to the counties do not make it clear that the counties are required to report cases to the Registry via hard copy of the CWS-59 and also through data entry into TRAILS. It is evident from these issues that communication efforts between the counties and the Registry need to be improved.

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### **Recommendation No. 1:**

The Department of Human Services should improve the consistency of reports made to the Central Registry of Child Protection by ensuring that county departments receive frequent and updated instruction on how to report and submit information to the Registry. This should be accomplished by:

- a. Providing guidance to the counties on how to complete the hard-copy CWS-59 form correctly and how to report incidents using the new TRAILS system.
- b. Working with the counties to ensure the process for reporting to the Registry is clear, ensuring that the counties understand they are to report via TRAILS in addition to submitting a hard copy of the CWS-59.
- c. Working with the county departments to ensure a standardized understanding of the preponderance of evidence concept and providing the county departments with a clear definition of what constitutes a preponderance of evidence.

### **Department of Human Services Response:**

Agree. The Department had already planned for TRAILS training and new rules and will continue its efforts:

- a. TRAILS training will be provided by March 1, 2002.
- b. In addition to the two Agency Letters and the TRAILS Update providing this information, a statewide email was issued on November 14, 2001.

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- c. Rules defining preponderance of evidence were introduced on November 2, 2001. Child Welfare Core Training currently provides this information; Central Registry of Child Protection training will be developed and implemented by September 1, 2002.
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## Not All Third-Party Abuse or Neglect Incidents Are Reported to the Registry

Through our interviews with 15 county departments, we found that counties and local law enforcement agencies do not always comply with statute and the Department's regulations for reporting third-party abuse or neglect (e.g., abuse perpetrated by a non-family member, such as a neighbor or coach). For example:

- **Not all local law enforcement agencies report third-party abuse cases to the county departments.** Nine of fifteen (60 percent) county departments we interviewed stated that local law enforcement agencies do not consistently report cases of third-party abuse to the county. Additionally, one law enforcement agency was not aware of the requirement to notify the county of third-party abuse cases. According to Section 19-3-308(5.3)(a), C.R.S.:

Upon the completion of an investigation, the local law enforcement agency shall forward a copy of its investigative report to the county department of social services. The county department shall review the law enforcement investigative report and shall determine whether the report contains information that constitutes a case of confirmed child abuse and requires it to be filed with the state central registry....

If local law enforcement agencies do not consistently report third-party abuse or neglect to the counties, some of these incidents will not be submitted to the Central Registry. Thus, the Central Registry will be an incomplete database of child abuse.

- **Counties have not consistently updated cooperative agreements with local law enforcement agencies.** Department rules and regulations require that county departments develop written cooperative agreements with law enforcement agencies for investigation and reporting of child abuse or neglect. We requested cooperative agreements from the 15 county departments we interviewed. We received and reviewed 14. We found that:

- One county did not have signed agreements because “local law enforcement agencies were reluctant to sign them.”
- A large county had an agreement with a military installation but no local law enforcement agencies (e.g., police, sheriff).
- One county believed that local law enforcement agencies were required to report confirmed instances of third-party abuse directly to the Central Registry. The law enforcement agency for this county told us that they did not report third-party abuse cases to any entity.
- A large county told us that it did not have any agreements with local law enforcement agencies.

The Department needs to work with the counties to ensure cooperative agreements with law enforcement agencies are in place and periodically updated. All parties should have an understanding of the requirements for reporting these types of abuse or neglect.

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## **Recommendation No. 2:**

The Department of Human Services should require all county departments to update cooperative agreements with local law enforcement agencies to ensure that confirmed third-party abuse cases are reported to the county department by law enforcement agencies. Department of Human Services staff should be responsible for periodically monitoring these agreements to ensure they are updated.

## **Department of Human Services Response:**

Agree. The Department already requires cooperative agreements between the county departments and law enforcement.

- a. The Department will review with Law Enforcement, District Attorney Offices, and counties, the statutory requirement and make recommendations for any change by September 1, 2002.
  - b. In the interim, the Department will develop a process to monitor the counties’ cooperative agreements with Law Enforcement by July 1, 2002.
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## Many Records Are Inaccurate and Incomplete

Through our review of the entire database of 107,848 records in the Central Registry as of May 21, 2001, we found many inaccuracies and incomplete records. For example:

- **Many records lack critical identifying information.** We downloaded the entire database of 107,848 records and found significant problems with the information contained in the Registry. About 7,600 records were missing the perpetrator's birth date, a required field; about 46,000 records did not have the perpetrator's social security number. Social security numbers are not currently a required field. Thus, the ability to use the data to identify perpetrators is limited. In addition, the ability to use the data to expunge individuals when they should be expunged is also hampered by database errors. Through our download, we found that 1) the nature and severity of abuse field was blank in about 1,200 records; and 2) the date the incident occurred was not entered in about 1,300 cases.

In many cases the information that is missing is needed so that a perpetrator can be properly identified when entities are researching for prior incidents or performing background screens. For many perpetrators listed on the Registry, a birth date is the only information used for ensuring that a person is identified properly. According to the Department, it does not have the authority to require that counties obtain social security numbers. Since there are no unique identifiers in the Registry, many problems occur when searching the database. The lack of unique identifiers is discussed in more detail in Chapter 3.

- **Many records contain data entry errors.** As discussed previously, the county departments are required to both data enter case information into TRAILS and also send a hard copy of the CWS-59 form to the Registry. Registry staff compare the information in TRAILS with the data on the CWS-59 and make any needed corrections. Staff have had to correct thousands of records by manually reentering the data. As with any manual entry of information, there is a high risk for errors. Some of the errors may also be the result of system problems.

We found a number of data entry errors on the Registry. We compared a sample of 31 incident reports (CWS-59s) submitted during the period from June 2000 to March 2001. We found 44 separate errors, including instances where children's names were misspelled, social security numbers were incorrect, the severity of abuse was incorrect, types of abuse were incorrect, and birth dates were missing. These errors limit the ability to access and use the information on the Registry.

- **Data are not entered consistently.** We found that county staff are inconsistent in how they enter birth dates for those involved in an incident if the person's actual birth date is unknown. For example, many birth-date fields are blank, others are entered as 1/1/1900, and some are entered as 1/1 of whatever year the staff believes the subject was born. Because of the variety of ways in which birth dates are entered, it is very difficult to determine whether or not an alleged perpetrator has been the subject of prior or subsequent reports of child abuse or neglect.
- **There is no systematic check in place to ensure that information in the Registry is accurate.** Specifically, county departments do not verify that information entered into the Registry is accurate. All 15 county departments we interviewed stated that they do not review the Registry for accuracy. We compared information on the Registry with county documentation and found an example in which information did not match. In this case the victim who was listed on the Registry was incorrect. We contacted the county caseworker, who told us that the child listed as the victim on the Registry had nothing to do with the incident.

The Department needs to take immediate action to ensure that data in the Registry are accurate and complete. County departments should review the information they submit to the Registry for accuracy. The Registry should also mandate that certain fields, such as birth dates, be completed accurately. If the subject's birth date is unknown, the counties should follow standardized procedures for entering a substitute birth date.

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### **Recommendation No. 3:**

The Department of Human Services should ensure that the information contained in the Central Registry of Child Protection is complete by:

- a. Providing county departments with quarterly reports of information included on the Registry for cases they reported. County departments should review the information for accuracy and provide feedback to the Registry.
- b. Requiring the information submitted on the CWS-59 or into TRAILS be complete with respect to certain identifiers. This could be automated by not allowing transmission without certain fields completed.
- c. Improving data consistency by setting a standard for entering information on birth dates that are unknown.

## **Department of Human Services Response:**

Agree.

- a. A process will be developed for counties to review the completed Central Registry of Child Protection Incident Report for accuracy and to report any inaccuracies to the Central Registry. This may involve TRAILS system enhancement.
- b. The Department is developing identifiers in regards to date of birth. Social security numbers are frequently unavailable during the Child Protection Services intake process. Requiring the caseworkers to obtain this information would be a detriment in the investigation and limit the numbers of confirmed reports being listed on the Central Registry. TRAILS business rules do not require a social security number. Current TRAILS business rules related to dates of birth are a required field.
- c. See "b" above. Current TRAILS business rules related to dates of birth will be integrated into Central Registry of Child Protection training curriculum by June 1, 2002.

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## **Processing Errors Have Occurred in TRAILS**

As stated previously, Colorado TRAILS is the new statewide system that was created to link all state and county child welfare caseworkers, supervisors, and support staff. When the Registry portion of TRAILS was implemented in April 2001, abuse and neglect reports to the Registry were to be handled online via TRAILS. However, because of major problems with the implementation of TRAILS, the system has not been fully used as intended. During our audit we identified many problems with the implementation of the Registry part of TRAILS. Specifically, these problems include errors that are occurring when the information is entered into the system at the county department level and when the information is received by the Registry.

TRAILS may not be transmitting data correctly from county departments to the Central Registry. As discussed previously, Registry staff told us that only one record transmitted correctly between April 2001 and July 2001. For example, in some cases role codes have been reversed and the victim is listed as a perpetrator or a perpetrator is listed as a victim. Additionally, fields that are required to be filled out by the county are transmitted to the Registry as blank fields. As a result, the Registry is requiring county departments to submit

reports to the Registry via TRAILS and also via the CWS-59 form, as discussed earlier. This is done to ensure that the information transmitted by TRAILS can be verified by Registry staff so that errors are corrected. Since both methods are required for reporting, workload for both the counties and Registry staff has increased greatly. County departments are duplicating work because they are supposed to be reporting via TRAILS and the CWS-59 form. The Registry staff's workload has also significantly increased because they are comparing each hard-copy report with the information in TRAILS. Frequently, Registry staff must contact individual county departments in order to ensure accuracy. This process is very time-consuming and burdensome. Further, the county departments have not received any formal training on how to use TRAILS specifically for Registry reporting. As a result, it is unclear whether the processing problems are due to a TRAILS system error or if the county departments are entering data incorrectly due to a lack of training. Although the Department is identifying and working on resolving TRAILS processing problems, many problems exist that the Department needs to correct.

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### **Recommendation No. 4:**

The Department of Human Services should continue to investigate TRAILS processing problems and ensure the errors are corrected. Further, the Department should provide training on the Registry part of TRAILS to the appropriate county staff.

### **Department of Human Services Response:**

Agree. The Department is investigating and working on resolving TRAILS problems: (1) Department TRAILS, Information Technology Services (ITS), and Child Welfare staff have met to identify all current problems; (2) ITS and TRAILS staff are working on fixing the problem; and (3) Child Welfare and TRAILS staff are developing Central Registry of Child Protection training for counties.

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## Central Registry Does Not Receive Notification of Convictions

House Bill 96-1208 required the Central Registry to place individuals convicted of child abuse crimes on the Registry upon notification from the court. However, we found the Registry does not include records for all individuals who have been convicted of a child abuse or neglect charge. The statute was subsequently changed in July 2000 and now requires that “the director shall place the name of the subject who has been convicted of an offense pursuant to article 6 of title 18, C.R.S., section 18-3-405, C.R.S., or section 18-3-405.3, C.R.S., on the registry as soon as possible after receiving such information and verifying the information with the judicial department or the Colorado bureau of investigation.” However, the Registry has not worked with Judicial on notification issues.

We requested that the Judicial Department provide a listing of all individuals convicted of child abuse or neglect or sexual abuse on a child specified in Sections 18-3-405 and 18-3-405.3, C.R.S. We received and analyzed a database of 1,136 individuals who had been convicted of at least one of the specified offenses. We compared the names of these individuals with the database of the Central Registry as of May 21, 2001. We identified 305 individuals that Judicial records showed were convicted of major child abuse or sexual abuse crimes against a child on or after January 1, 1997, but were not listed on the Central Registry. Additionally, we matched a sample of 48 registered sex offenders who had perpetrated sexual crimes against children on the State’s Convicted Sex Offender Site with the Registry database and found 19 (40 percent) of those registered sex offenders were not listed on the Registry.

Currently there is no process in place for Registry staff to learn about criminal charges or convictions. The Judicial Department does not notify the Registry of convictions of child abuse or sexual abuse cases. However, the Department of Human Services has not been proactive in seeking to obtain this information from the Judicial Department's Integrated Colorado On-Line Network (ICON). ICON includes records regarding the disposition of cases being handled in district and county courts. ICON does not include federal or Denver County court records. Few of the crimes that constitute mandatory exclusions from child care employment should be missed in the ICON database, since most felonies should reach courts covered in the database. One way the Department could obtain information from Judicial's ICON system is to coordinate with the Department's Division of Child Care, which already has access to ICON for criminal background check purposes. The Department needs to ensure that the Registry includes records for all individuals convicted of a child abuse crime or sexual abuse on a child, including the ones we identified. Further, the Registry ties records by victim, not perpetrator. The Director

told us that perpetrators cannot be added to the Registry without an associated child victim. This is a database problem that must be corrected immediately.

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### **Recommendation No. 5:**

The Department of Human Services should work with the Judicial Department, Colorado Bureau of Investigation, and the Division of Child Care to identify methods to ensure the Central Registry of Child Protection is notified of individuals convicted of the offenses listed in Sections 18-3-405 and 18-3-405.3, C.R.S. The Central Registry needs to implement procedures to add these individuals (including the ones we identified) to the Central Registry of Child Protection. The Department should also evaluate ways to include individuals convicted of child abuse crimes or sexual abuse on a child without the name of the associated child victim(s).

### **Department of Human Services Response:**

Agree. The Department has been working to establish a process for this to occur. Those individuals identified in the audit as being convicted from July 1, 2000, to the present will be entered onto the Central Registry by January 5, 2002. Work is currently underway to secure additional information from the courts.

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# Due Process Issues

## Chapter 2

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### Background

As discussed in the Overview Section, the Central Registry is a civil, rather than a criminal, tracking tool. Individuals do not have to be charged with or convicted of a crime in order to be listed on the Registry as a perpetrator of child abuse. However, one of the major functions of the Registry involves due process rights and responsibilities. Due process includes legal principles and procedures to safeguard the protection of individual rights. Most of the Central Registry of Child Protection statute (Section 19-3-313, C.R.S.) involves due process requirements. According to statute, the Director of the Central Registry:

- Must notify the subject in writing before the individual is placed on the Registry. This is referred to as a pre-listing notification.
- Must designate a subject's name as "status pending" until all reviews and hearings are completed. Only certain entities (e.g., law enforcement or court), as specified in Section 19-1-307, C.R.S., are authorized to receive information about subjects in the status pending category.
- May expunge certain records for "good cause." The Director must review for expungement any record that was reported between July 1, 1991, and June 30, 2000; was based on a minor offense; and had been on the Registry for two years. Subjects of records related to a first-time listing of a minor offense reported before July 1, 1991, may request a review for expungement.
- Must determine within six months of a report on or after July 1, 2001, of a minor offense if a criminal charge or a petition in dependency or neglect has been filed related to the subject. If these actions have not been taken, the Director shall expunge the record.
- Must expunge records if a subject has been acquitted of or charges have been dismissed for certain specified offenses, including sexual abuse on a child and child abuse, upon receipt of notice of acquittal or dismissal.

- Must seal records, except those involving a conviction of child abuse or sexual abuse on a child, no later than 10 years after the child's 18<sup>th</sup> birthday.

According to statute, the subject of a confirmed report of child abuse or neglect:

- Has the right to request a review by the Director before having his or her name placed on the Registry.
- Can request an administrative hearing to determine whether the report is accurate and there is a preponderance of evidence to support a finding of child abuse or neglect so that the subject's name should be placed on the Registry as a perpetrator. The burden of proof in such a hearing is on the Department of Human Services.
- May request amendment, sealing, or expungement of the report within two years after the mailing date of the notice of placement on the Registry that was sent to the subject.

The Director believes that the Registry devotes about 75 percent of its staff and financial resources to due process, or appellant, functions.

## **Some Individuals Remain on the Registry After They Have Been Acquitted of Related Charges**

Senate Bill 00-136, which was signed by the Governor on June 1, 2000, mandated that the Director expunge the names of all individuals acquitted of child abuse charges. Prior to this Bill, the Director was allowed to expunge individuals who had been acquitted of a related charge. As discussed below, we found that the Registry includes records for individuals who were acquitted of child abuse charges after June 1, 2000.

According to Section 19-3-313 (7) (d) (I), C.R.S., "if a subject is acquitted of an offense, or if such a charge is dismissed, the director of the central registry shall expunge the subject's name pertaining to the act or acts that supported such alleged criminal offense upon the receipt by the director of notice of the acquittal or dismissal." The Central Registry does not routinely receive notification when individuals listed on the Registry are acquitted of a child abuse charge. As a result, it has not expunged the records of all of these subjects.

We requested the Judicial Department to provide a database of all individuals who have been acquitted of child abuse charges. We then compared the 1,589 listings in the Judicial file with the names of the perpetrators listed in the database of 107,848 records in the Central Registry as of May 21, 2001. We found that 191 individuals who had been acquitted on or after June 1, 2000, were listed on the Registry. We provided this information to the Central Registry. The Director plans to investigate to determine what actions to take.

There are two basic reasons that the Registry is not receiving information on acquittals:

- The Central Registry does not receive information from Judicial regarding acquittals. As discussed in Chapter 1, the Registry has not been proactive in identifying ways to get information from Judicial.
- The subjects may not know they have the right to have their names expunged from the Registry upon acquittal or dismissal of charges. The Registry does not include this option in letters it sends to these individuals.

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## **Recommendation No. 6:**

The Department of Human Services should:

- a. Work with the Judicial Department to identify ways for the Central Registry of Child Protection to receive information on acquittals of criminal charges for child abuse or neglect.
- b. Ensure that individuals listed on the Central Registry of Child Protection are notified of their due process rights to have their records expunged from the Registry if they have been acquitted of charges or the charges are dismissed.

## **Department of Human Services Response:**

Agree.

- a. The Department will continue its development of a plan for ICON access. Implementation should occur by January 15, 2002.

- b. The notice to individuals regarding the placement of their names on the Central Registry of Child Protection and their appeal rights has been revised to include information regarding acquittals and dismissals as of August 2001.
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## Cases May Remain in Status Pending for Long Periods

According to Section 19-3-313(5.5)(a), C.R.S., upon receipt of a confirmed report, the Director of the Central Registry is required to send a written notice to each person who has been reported to the Registry as the perpetrator of child abuse or neglect. The subject has 14 days after the mailing date of the notice to request the Director to review the investigation made by the county department or local law enforcement agency. The Director is then allowed to make a decision based on a review of the investigation as to whether there is a preponderance of evidence that the name of the subject investigated should be placed on the Registry as a perpetrator. According to Section 19-3-313(5.5)(b)(III), C.R.S., "if the director of the central registry determines by a preponderance of the evidence that the name of the subject investigated warrants placement on the central registry as a perpetrator, then the subject's name shall be designated 'status pending,' pending the outcome of the subsequent reviews and hearings." Only those entities authorized to receive information concerning the Registry may obtain information about those subjects whose status is designated as status pending. Two years is an estimate of a reasonable amount of time for someone to remain in status pending. The record of a person who has committed a minor first-time offense is expunged after two years. Thus, Registry staff should evaluate all individuals remaining in status pending for more than two years.

We found that Registry staff do not always monitor cases in the status pending category to ensure they are resolved in a timely manner. Through our review of the entire database of 107,848 records in the Central Registry as of May 21, 2001, we identified 1,202 cases in the status pending category. We found 17 cases that had been inappropriately kept in the status pending category. For example:

- **Seven of the cases could have been expunged:**
  - **Four remained in status pending after the charges against the subject had been dropped or the person had been acquitted.** When we brought these cases to the Registry's attention, the Director told us that she did not know of the acquittals or dismissals because the Registry does not receive any notice from the courts regarding the outcomes of criminal prosecutions of child

abuse. Section 19-3-313(7)(d)(II), C.R.S., allows the Director to “request a hearing to reinstate on the central registry a subject’s name pertaining to an act or acts that supported a dismissed or acquitted criminal charge.” The Director told us that after reviewing these four cases, she does not intend to expunge the records from the Registry but has requested a hearing to list all four because of the seriousness of the charges (i.e., sexual assault).

- **Three should have been expunged because the severity levels of the incidents were minor.** According to Registry staff, due to staff oversight, the cases were not expunged when they should have been. Leaving individuals on the Registry longer than required for a minor, isolated offense could have negative impacts on their employment opportunities. As discussed in Chapter 3, background screens of the Registry are required for applicants for certain child care jobs or child care provider licenses.
- **Ten cases involved subjects who should have been listed as perpetrators:**
  - **Eight individuals had been in status pending for more than two years, even though they should have been listed as perpetrators.** Registry staff told us due to an oversight, the status of these individuals had not been changed. After we brought these cases to the attention of the Director, the individuals were listed on the Registry.
  - **Two individuals had been convicted of criminal child abuse charges.** As a result, county departments and other agencies searching the Registry for information on these perpetrators would have been told that the person was not listed as a perpetrator but that their status was pending. Consequently, not listing individuals as perpetrators as soon as possible creates problems for the accuracy and completeness of Registry inquiries for the purpose of child abuse investigations or background checks. After we brought these cases to the attention of the Director, the individuals were listed on the Registry.

The Department should ensure that Registry staff periodically review all cases that have been in the status pending category for two years or more to ensure that the information is correct. Status should be resolved as soon as possible.

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## **Recommendation No. 7:**

The Department of Human Services should implement procedures that require the Central Registry of Child Protection to periodically screen records for those that have been in

status pending for more than two years. The Registry should take action to resolve the status of those cases as soon as possible.

### **Department of Human Services Response:**

Agree. A system modification on the Access database will be developed to create a monthly report of all individuals in “Status Pending” 24 months or more. This system modification will occur by July 2002. Registry staff will continue to take action to resolve the status pending as soon as possible. All cases that the auditors noted have been reviewed for next steps.

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# Purpose and Use of the Registry

## Chapter 3

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### Background

As discussed in the Overview Section, the Central Registry of Child Protection has evolved significantly since it began in the late 1960s. Functions have been added, statutory requirements have been expanded, and the database has grown. In the last several years the Registry's value and purpose have been the subject of discussion and debate among legislators and broad-based Department workgroups, including:

- **1998 review in order to plan for a potential phaseout of the Registry.** In 1998 the Executive Director of the Department of Human Services convened a workgroup of stakeholders concerning “the plan for the phase out of the Central Registry of Child Protection” in response to House Bill 97-1109. This Bill directed the Department to develop an implementation plan by March 1, 1999, for phasing out the Registry as a separate database. The Bill did not require the Registry to be eliminated. According to the Bill, the plan was supposed to address four issues:
  - The elimination of the Registry as a separately maintained database contingent upon the implementation of the Children, Youth, and Family automation project [now the TRAILS system] that was supposed to include the “ability to track reports of abuse and neglect for county or district departments of social services, law enforcement agencies, district attorneys, and physicians engaged in the investigation and treatment of child abuse and neglect.”
  - The elimination of the employment screening duties by providing that such duties shall be performed by another agency, such as the Colorado Bureau of Investigation (CBI).
  - Alternatives for parents to obtain information regarding the investigation of child abuse and neglect that has occurred in licensed child care facilities “so that they can make informed decisions in their selection of options.”

- An analysis of the General Fund savings resulting from the phasing out of the Registry.

The group, which included representatives from law enforcement, district attorneys, the Attorney General's Office, counties, parents, and child advocacy groups, concluded that the Registry should not be eliminated as a separate database because (1) the implementation of the Children, Youth, and Family system (now TRAILS) was not scheduled until April 2000; (2) no other database, including CBI's, could provide the information needed for background screening; (3) although parents did not have access to the Registry to check on child care providers, they could have "assurance that all licensed providers and employees of facilities have been screened against the Central Registry"; and (4) no cost savings could be identified that would result from the phaseout of the Registry.

- **2001 stakeholder review.** In August 2001 the Executive Director of the Department of Human Services convened a similar workgroup to "examine what the CRCP [Central Registry of Child Protection] has evolved to and what it should be." According to the Executive Director's memo, in "the coming year, alternatives to the present operation will be evaluated to determine if a more effective system can be developed." This workgroup, which included representatives from the same entities as the 1998 group, met during August and September. The Department plans to issue the report on its findings by February 2002.

## **The Purpose of the Central Registry Should Be Reassessed**

The Central Registry has evolved over the past 30 years from a tracking system for all reports of child abuse or neglect to a complex automated system for tracking, reporting, research, and background checks. However, as discussed throughout this report, there are significant problems with the system. There have been numerous attempts over the past 10 years to fix the Registry, including efforts by the General Assembly, audit teams, and workgroups convened by the Department.

The history of statutory change reflects the General Assembly's attempt to balance the interests of protecting vulnerable persons with the need to ensure fairness and due process for alleged perpetrators. Statutory changes have been established on a piecemeal, ad hoc basis, mostly in response to issues that have affected the important balance. The Legislature has attempted on six occasions to develop a clear vision for the Registry or

even to replace it with other systems. (Statutory problems are discussed in more detail in the next comment.)

The delicate balance between protecting vulnerable populations and allowing due process for alleged perpetrators has not been maintained. It is not clear that the Central Registry has been successful in protecting children, providing due process to individuals accused of child abuse, or helping employers screen potential staff. Because of ongoing issues with the Registry, we believe the basic purpose and intent of the Central Registry should be challenged. The Department should work with the General Assembly to evaluate options for the Registry's functions. There are three types of databases that might be considered:

- **Civil/Administrative Database:** This option would essentially maintain the Registry as it is. As noted in this report, extensive improvements would need to be made in the areas of data accuracy and completeness. All confirmed instances of child abuse and neglect would be included regardless of actions taken by law enforcement or the courts. Systems feeding the Central Registry would be TRAILS, ICON, and the CBI Colorado Crime Information Center (CCIC). When fully functional, TRAILS will track all incidents of child abuse or neglect. ICON has information on the outcome of Colorado court proceedings. CCIC maintains records of arrests. Once these computerized systems are able to communicate with each other, county departments and investigators would be able to have access to information on perpetrators of child abuse or neglect. This option would require that the perpetrators have a unique identification, as discussed previously. Additionally, because of system challenges, this alternative could not be fully implemented for at least two years. The Department estimates that TRAILS will not be fully operational until 2003.
- **Contact With Law Enforcement Database:** Under this option, information in the database would be limited to instances in which an alleged perpetrator had contact with law enforcement agencies. In other words, an individual would only be listed on the Registry if he or she had been arrested, charged, or convicted of a crime of child abuse or sexual abuse against a child. Information would be extracted from ICON and CCIC. This option would require statutory changes and could possibly be implemented within one year. There would likely be fewer fairness and due process issues with this option, since it raises the threshold for individuals to be added to the Registry.
- **Criminal Conviction Database:** The Central Registry as currently maintained would be eliminated. Information in the criminal conviction database would be limited to convictions of child abuse or sexual abuse of a child, making the Registry

a criminal tracking tool rather than a civil tool. Data would come primarily from ICON and CCIC. This alternative would result in a smaller Registry containing only the most serious and severe incidents. Individuals who made a minor error in judgment that did not result in injury to a child would not be listed as a perpetrator of child abuse. Due process considerations would be handled by the court system, not an executive branch agency. This alternative could be implemented within one year. As with the second option, there should be fewer fairness and due process issues with this option.

The Department needs to work with the General Assembly to determine the purpose of the Central Registry and to evaluate the alternatives discussed above.

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### **Recommendation No. 8:**

The Department of Human Services should work with the General Assembly to evaluate alternatives to the Central Registry of Child Protection, including (1) maintaining the Registry as a civil/administrative tool; (2) making the Registry a tool for tracking alleged perpetrators who have contact with law enforcement, including arrests, charges, and convictions of child abuse crimes; and (3) changing the Registry to be a tool for tracking only individuals convicted of child abuse-related crimes. The Department should propose statutory changes to implement the changes.

### **Department of Human Services Response:**

Agree. The Department will work with the General Assembly to evaluate options. The Department has evaluated alternatives to the Central Registry of Child Protection over the years, and will continue to do so. It appears duplicative to make the Registry a criminally based system since CBI and ICON provide this information. The purpose of the Registry is to be a civil/administrative tracking tool containing confirmation of incidents of abuse/neglect confirmed by county investigations. Many do not result in criminal charges or a dependency and neglect action because they are minor or moderate in nature (severity level). Those in the business of hiring staff who are caring for vulnerable and young populations have found this valuable. Such broad-based information has been viewed as the first steps in prevention. If it is to be maintained in the interest of prevention, then its purpose and processes must be clear in the statutes and the limitations of its information must be acknowledged. Alternatives to how the Registry functions will be a focus in efforts by the Department over the next 12 months.

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## Central Registry Statutes Are Complex and Confusing

As noted in the prior comment, the Central Registry statutes (Section 19-3-313, C.R.S.) have been extensively modified since the Registry was authorized by the General Assembly in 1969. If the General Assembly decides to maintain the Registry as is, clarification of the statutes is needed. According to the Registry Director, many of these modifications have been added in a piecemeal manner resulting in confusing and contradictory statutory requirements. Additionally, Central Registry staff, stakeholders participating in the 2001 workgroup, and representatives from various counties we interviewed stated that the statutes governing the Registry are extremely complicated and difficult to follow.

Examples of statutes that have been identified by Registry staff and workgroup participants as being problematic include:

- **Date of Incident.** Sections 19-3-313(5.5)(a) and (6)(a), C.R.S., require that notices sent to subjects include “date of incident.” According to the Director, it is difficult, if not impossible, to specify the date of one incident when the report involves an allegation of neglect. Child neglect typically represents a pattern of behavior over time and/or failure of the child’s parents, legal guardian, or custodian to provide adequate food, clothing, shelter, medical care, or supervision that a prudent parent would take. Thus, a subject accused of child neglect may not have committed an offense on a certain date but over a long period of time. The date of the report would be more useful for neglect cases.
- **Minor Offense.** Section 19-3-313(7)(b)(III), C.R.S., requires that the “state department, through rule-making shall define minor abuse and good cause; except that minor offense shall not include any incident involving sexual abuse.” This requirement does not reference convictions of child abuse or neglect in addition to sexual abuse. Thus, an individual with a criminal conviction for child abuse could be considered to have committed an offense of minor severity.
- **Charges Filed.** Section 19-3-313(7)(e), C.R.S., states that “Prior to the date that is six months after the date a person reported a subject who is the subject of report based on a minor offense, as defined by rule of the state department, to the director for placement on the central registry as a perpetrator pursuant to subsections (1) and (5.5) of this section, the director shall determine whether any criminal charge or petition in dependency or neglect has been filed related to the

actions that supported the report of the subject's name to the central registry." Staff who work with this law believe this citation is very difficult to administer.

- Sections 19-3-313(7)(c)(I)(A) and (B) and (7)(d)(I), C.R.S., discuss the relationships between dependency and neglect filings, criminal charges, and the Central Registry. The statutes either require or allow the Director to expunge records if certain criteria are met (e.g., acquittal, dismissal of charges, or non-sustained dependency and neglect petition). The statute does not clarify what happens if a dependency and neglect petition is filed, but criminal charges are not, or vice versa.

The statute also seems to require that the Director expunge or prove by an increased burden of proof that a report of minor offense is accurate if a dependency and neglect petition is not filed. In third-party or institutional (e.g., child care facility) abuse cases, however, a dependency and neglect petition would not be appropriate. Such a petition is filed against family members, not teachers, neighbors, coaches, or child care providers.

If the Central Registry is to be maintained, the Department should work with the General Assembly to propose statutory changes to make the Central Registry statutes clearer and more understandable, eliminate any contradictions, and correct any omissions.

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### **Recommendation No. 9:**

The Department of Human Services should work with the General Assembly to identify statutory changes to make the Central Registry of Child Protection statutes clearer, eliminate any contradictions, and correct any omissions.

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### **Department of Human Services Response:**

Agree. The Department had already begun discussions with legislators prior to the audit. A briefing discussion occurred on November 5, 2001, with four legislators in response to similar recommendations from the recently held Central Registry of Child Protection workgroup. Work will continue on this effort. Legislative change will be introduced for purposes of technical cleanup either in Legislative session 2002 or 2003, depending on the ability to draft language and obtain a sponsor in a relatively short time frame for 2002.

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## Need to Submit Reports to Local Law Enforcement Should Be Assessed

In addition to the statutes addressed in the prior comment, we also noted problems with the requirement that the local county departments of human/social services are responsible for reporting incidents of confirmed child abuse and neglect to the Central Registry of Child Protection and to local law enforcement agencies. According to Section 19-3-307(3), C.R.S., “a copy of the report of known or suspected child abuse or neglect shall be transmitted immediately by the county department to the district attorney's office and to the local law enforcement agency.”

County departments of human/social services typically use the CWS-59 form to communicate confirmed incidents to both the Central Registry and local law enforcement. The form includes fields for information about all the children in the household, the parents, the perpetrators, the date the report was made to the county department and to the Registry, and the nature of the abuse and neglect confirmed by county department investigation. Although 14 of the 15 county departments we interviewed stated that they submit the required reports to law enforcement, one large county told us that its local law enforcement agencies asked it not to forward these reports. According to the county, these law enforcement agencies believed the large volume of reports they received were not useful.

We contacted seven law enforcement agencies across the State to ask them about their use of the county reports:

- Six of the seven (86 percent) stated that there is no value added in requiring county departments to submit all confirmed cases of child abuse and neglect reports to them. Additionally, they said that reports of minor offenses are not useful and are thrown away or filed without review when they are received from the county departments.
- One said the CWS-59 form does not contain enough information to be able to determine if a case should be opened by law enforcement. This county believes the CWS-59 is not a sufficient method of notification.
- One said it typically receives the reports from county departments “way after the fact” and thus usually throws the reports away.
- One suggested that the county contact it only in cases where abuse is severe and a law enforcement investigation is needed.

Currently it appears that many law enforcement agencies do not use or want to receive county reports on minor severity incidents of child abuse or neglect and do not open criminal cases on these types of offenses. As a result, county departments are generating unneeded paperwork to send all reports to local law enforcement agencies. Law enforcement agencies, however, could use the reports of medium or severe incidents to determine if a criminal case should be opened or if further investigation is needed. If reports on minor incidents are not needed, the Department should propose statutory changes to require that only incidents of medium or above severity be reported to local law enforcement.

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### **Recommendation No. 10:**

The Department of Human Services should coordinate with law enforcement agencies and county departments of human/social services to review what information should be reported by counties to local law enforcement agencies on founded cases. If reports on minor severity offenses are found not to be useful, the Department should propose any needed statutory changes.

### **Department of Human Services Response:**

Agree. The Department already requires that the county departments through cooperative agreements between county departments and law enforcement develop and establish methods by which each will address child welfare processes at the local level. The Department will review this recommendation with Law Enforcement, District Attorney Offices, and county departments. Recommendations for any statutory changes will be made.

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## **Communication With Counties Should Be Improved**

As discussed previously, all Colorado county departments are responsible for reporting confirmed cases of child abuse or neglect to the Central Registry. We identified problems with communication between the county departments and the Registry. Specifically, we found that the county departments may not receive important information from the Registry on critical issues. Issues we identified include:

- **TRAILS concerns.** All 15 county departments we interviewed stated that they have not received any training on how to use the TRAILS system to submit cases to the Registry. Since county departments have not received this training, the information that is submitted is often inaccurate or incomplete. As discussed in Chapter 1, significant errors have occurred with the transmission of county reports to the Central Registry over TRAILS. The Department has been unable to identify the source of these errors and does not know if they are TRAILS processing problems or data entry mistakes.
- **Lack of guidance.** The Department has not provided the counties with the training or guidance on entering information into TRAILS. In addition, it has not provided enough information on the need to send in the CWS-59 form when reporting confirmed incidents to the Registry. The Department mainly communicates with the counties through “agency letters.” The Department has issued four agency letters addressing policies related to TRAILS implementation. However, the agency letters are sometimes unclear. For example, the Department has established temporary procedures the county departments are required to follow when submitting cases to the Registry until the TRAILS problems are solved. These temporary procedures are noted in the agency letters. However, the dates that are listed in the letters for these temporary procedures are overlapping. For example, one agency letter requires counties to complete handwritten CWS-59 forms and submit these forms to the Registry while also stating that the CWS-59s would be eliminated as of April 1, 2001. Thus, it is not surprising that 13 of the 43 (30 percent) county departments that responded to our written survey on TRAILS are not completing the reporting procedures correctly. As explained in more detail in Chapter 1, submitting reports incorrectly causes problems with the accuracy of the information found on the Registry.
- **Unclear criteria for appeals.** As discussed in Chapter 2, individuals reported for child abuse or neglect can appeal their listing on the Central Registry. Many of the 15 counties we interviewed expressed frustration with the way the Registry handles appeals. For example:
  - Two stated that they do not know what criteria the Registry uses during the appeals process. They also told us that they are uncertain of the standards in place for when a person is expunged versus when the person is kept on the Registry. Additionally, they complained that the Registry does not notify them of the result of an appeal.
  - One stated that the county is never informed of the outcome of the appeal (i.e., if the subject was expunged or kept on the Registry). According to this

county, caseworkers are frustrated because they "have worked hard to complete the investigation, and if the perpetrator is not placed on the Registry because of appeals or negotiations the caseworker should be notified." Registry staff told us that county directors are copied on all documentation regarding appeals. However, the information may not be getting to the appropriate child protection caseworkers.

- Four stated that they are rarely made aware of the hearings set during the appeals process and they are seldom asked by the Registry to participate in the hearing. It would be helpful for the county departments to receive information and notification from the Department about these issues so that the information could be more easily explained to the county departments' clientele. However, The Director told us that county staff are the primary witnesses at the hearings.
- One stated that it would be beneficial to receive additional information from the Registry about new legislation changes or court rulings during the appeals process because these issues could change the cases the counties forward to the Registry.

Since the county departments are the main sources that report confirmed incidents of abuse and neglect directly to the Registry, it is important that communication between the county departments and the Registry be clear. The Department should ensure that county staff receive appropriate training and that staff are also notified on all topics related to the Central Registry. Counties should also be notified of the outcome of any appeal process.

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### **Recommendation No. 11:**

The Department of Human Services should ensure that communication between the county departments of human/social services and the Central Registry of Child Protection is improved by:

- a. Providing training to the county departments on how to use TRAILS when submitting reports to the Registry. Additionally, training should be offered that provides an overview of the appeals process, including the criteria for expungement used during the appeals process.
- b. Identifying additional notification methods for informing the county departments of changes to processes and changes to legislation.

- c. Notifying the county department on the results of appeals and settlements of abuse or neglect cases.

### **Department of Human Services Response:**

Agree. The Department will continue its efforts to ensure communications with county departments.

- a. TRAILS training sessions for county workers are being developed.
- b. Currently counties are notified through rule, agency letter, and presentations to Child Welfare Advisory Groups and County Directors. We will explore additional forums for notification.
- c. Written notification is currently provided on all appeals and settlements. We will explore avenues to strengthen this.

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## **Background Checks Are Not Completed Within Statutory Time Limits**

Applicants for child care licenses or positions and individuals applying to be foster or adoptive parents are required to be screened for confirmed incidents of child abuse or neglect. Some volunteer organizations (e.g., scouting) may also require potential volunteers to obtain a background check of Registry records. According to the Department's records, the Registry processed about 34,000 requests from child care facilities, counties, and individuals for background checks in Fiscal Year 2001. About 367 (1 percent), resulted in a match (i.e., the individual was listed on the Registry).

We found that the Registry does not complete background check requests within the statutory time requirement. According to Section 19-1-307(2)(k), C.R.S., the Registry is required to respond within 10 days to any request for a background screen.

We contacted 9 of the 61 child care facilities that had received at least one match on an applicant background check during a six-month period in 2001. We found instances where the Registry took up to three months to respond to a request for a background check. Four facilities had already hired the applicant and then had to terminate the individual when it finally received the data showing the individual was a perpetrator of child abuse. One facility hired and then moved the individual to a position that did not involve contact with children. As a result, these facilities lost time and expended resources such

as wages paid and training paid for employees who were then terminated because of the result of the background check. Additionally, there is the potential that a person with a history of child abuse could be hired, while waiting for the results of a Central Registry background check, and could abuse a child in his or her care. The 2001 Central Registry workgroup also looked at this issue and determined that “turnaround time on background screens is too long and over what is required in statutes.” The Department needs to ensure that the Central Registry complies with the statutory requirement on completion of background screening.

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### **Recommendation No. 12:**

The Department of Human Services should ensure that the Central Registry of Child Protection completes background checks within the statutory requirement of 10 days.

### **Department of Human Services Response:**

Agree. The Department will prioritize Central Registry of Child Protection resources to this area and will evaluate ways to streamline processes. The Department will evaluate resources needed to stay within the statutory time frames.

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## **Central Registry Does Not Require Unique Identifiers**

As discussed in more detail in Chapter 1, the Central Registry is in many ways an incomplete or inaccurate record of child abuse cases. Many Registry records are incomplete. Data are missing from certain fields. For example, as of May 21, 2001, the Central Registry database contained 58,025 incidents in which the Parent #1 was listed as the perpetrator. Birth dates were missing for 7,620 perpetrators.

Unique identifiers would be invaluable in ensuring that a person is properly identified when the Registry performs a background screen. For example, a person with a common name would not be able to be clearly identified as a perpetrator because the Registry may contain many perpetrators with that same name. As discussed in Chapter 1, the Registry could not verify that a registered sex offender who had perpetrated a sexual offense against a child and was listed on the State’s Convicted Sex Offender Site was also on the Central Registry. This convicted sex offender had a “common name.”

Since the Registry is used for background check functions, identification of individuals is critical. The Department should work with county departments to develop required identifying information and then propose statutory changes if necessary. Identifying data are also critical for the Department to be able to obtain information about arrests, criminal charges, and the outcome of court proceedings from the Colorado Bureau of Investigation and the Judicial Department. While both CBI and Judicial base identification on fingerprints, they collect as much information as possible (e.g., social security number, address, date of birth, sex, and race).

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## **Recommendation No. 13**

The Department of Human Services should improve background checks by:

- a. Working with county departments of human/social services to improve information available for identifying perpetrators of child abuse or neglect.
- b. Proposing statutory changes as appropriate regarding obtaining identification information.

## **Department of Human Services Response:**

Agree.

- a. The Department will address unique identifiers in Central Registry of Child Protection training. In those cases where a date of birth cannot be initially obtained, a standard process for entering unknown dates of birth will be developed. Counties will be instructed and trained to update birth information, as it becomes available. Social security numbers are frequently unavailable during the Child Protection Services intake process. Requiring the caseworker to obtain this information would be a detriment in the investigation and limit the numbers of confirmed reports being listed on the Central Registry. TRAILS business rules do not require a social security number. Current TRAILS business rules related to dates of birth are a required filed.
  - b. The Department will assess the best way to accomplish unique identifiers to the Central Registry of Child Protection.
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## **There Is No Flagging System to Ensure Notification of Future Abuse Incidents**

The Registry does not have a flagging system that provides information to an employer or licensing agent who requested a background screen on an individual when that same individual is the subject of a subsequent confirmed report of abuse or neglect. As a result, the Registry background screen is only good for the point of time it was conducted.

Flagging of records would allow the requesting facility to be notified immediately if the person whose file is flagged were placed on the Registry at any time subsequent to the initial check. The Registry can then notify the requesting facility. Facilities could save time and money, and also be assured of the integrity of their current employees, if a flagging system were in place at the Registry.

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### **Recommendation No. 14:**

The Department of Human Services should develop a flagging system that would immediately notify the requesting facility if the subject of the request were placed on the Central Registry of Child Protection anytime subsequent to the initial request.

### **Department of Human Services Response:**

Agree. The Department will evaluate this recommendation in light of processes already in place in the Department for such flagging. The Department will determine if flagging by the Central Registry would be cost beneficial. The Department has a process established in which the CBI flags the Division of Child Care on any subsequent arrests for individuals employed as a child care home provider or as an operator of a child care center. There is also a critical incident report and tracking database maintained by the Division of Child Care to alert them about any county investigations that are occurring in licensed or certified 24 hour care facilities or on any individual subsequent to hiring in those facilities. Further, these investigations are flagged through the Child Welfare Division's Institutional Abuse Team since this team reviews all cases of abuse/neglect within licenced 24 hour child care facilities.

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