



JIM PETRO
AUDITOR OF STATE

STATE OF OHIO

OHIO LEGAL RIGHTS SERVICES PERFORMANCE AUDIT

DECEMBER 19, 2002



STATE OF OHIO
OFFICE OF THE AUDITOR

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To the Members of the Ohio Legal Rights Service Commission and the Citizens of Ohio:

In February of 2002, members of the Ohio Legal Rights Service Commission (OLRSC) requested that the Auditor of State conduct a performance audit of Ohio Legal Rights Service (OLRS). Following discussions with Commission members and staff at OLRs, four areas were identified for review: administration and operations, OLRs and Commission relationship, mission and planning, and client and stakeholder services. These areas were selected because they are important components of OLRs operations that support its mission of protecting the human, civil and legal rights of Ohioans with disabilities.

The performance audit contains recommendations that, if implemented, could provide operational and business practice improvements. While the recommendations contained within the performance audit are resources intended to assist the agency and Commission in refining operations, OLRs and OLRSC are encouraged to assess overall operations and develop other recommendations independent of the performance audit.

An executive summary has been prepared which includes the project history, an overview of OLRs and OLRSC, the purpose and objectives of the performance audit and a summary of findings and recommendations. This report has been provided to OLRSC and staff at OLRs and its contents discussed with appropriate officials and management. OLRs and OLRSC have been encouraged to use the results of the performance audit as a resource in improving its overall operations and service delivery.

Additional copies of this report can be requested by calling the Clerk of the Bureau's office at (614) 466-2310 or toll free at (800) 282-0370. In addition, this performance audit can be accessed online through the Auditor of State of Ohio website at <http://www.auditor.state.oh.us/> by choosing the "On-Line Audit Search" option.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Petro".

JIM PETRO
Auditor of State

December 19, 2002

Executive Summary

Project History

In February 2002, the Ohio Legal Rights Service Commission (OLRSC) met with the Auditor of State's Office to request a performance audit of the Ohio Legal Rights Service (OLRS). Under Ohio law, OLRs serves as Ohio's federally required protection and advocacy agency for people with disabilities. OLRSC is charged by the Ohio Revised Code (ORC) with overseeing OLRs's implementation of six federal programs and a state ombudsman program. The current commission members have been in place for less than 18 months because positions were vacated and not filled in past years. Prior to spring 2001 OLRSC had not met for at least two years and had been functionally inactive for several years.

During this time, OLRs operated independently without oversight from OLRSC. OLRs management developed its own organizational culture and practices. Due to the absence of the Commission, OLRs management began to interpret the role of the OLRSC as advisory and non-essential to agency governance or oversight. Because of this history, the ambiguity of the OLRSC statutory authority, and its inexperience with OLRs, the newly reconstituted OLRSC sought an independent assessment of OLRs to highlight efficient and effective practices and identify areas for operational improvement. OLRSC contracted for the audit in an effort to gain an understanding of OLRs' responsibilities and activities and the appropriate oversight role of OLRSC. OLRSC wants to ensure that OLRs provides quality, cost-effective, assistance to people with disabilities.

Based upon discussions with OLRSC, the following areas were assessed in the performance audit:

- Administration and Operations;
- OLRs and Commission Relationship;
- Mission and Planning; and
- Client and Stakeholder Services.

Planning for the performance audit began in February 2002. This performance audit was designed to develop recommendations that provide operational enhancements, efficiency improvements and offer commendations for exceptionally effective and efficient practices currently in place at OLRs. OLRSC and OLRs are strongly encouraged to continue to monitor and assess OLRs operations to gauge the effectiveness of audit recommendation implementation and identify the need for additional improvements.

Agency Overview

OLRS is an independent state agency created in 1975 by State law and federal regulation to protect and advocate for the rights of people with disabilities. OLRs is Ohio's federally designated Protection and Advocacy (P&A) agency and is one of only eight P&As still operated as state agencies. The mission of OLRs is to protect the human, civil, and legal rights of people with disabilities. OLRs is headquartered in Columbus, but is responsible for protection and advocacy for people with disabilities throughout the state of Ohio.

The OLRSC was created by the Ohio General Assembly in 1986 to serve an oversight function. Three Commissioners are appointed by the Speaker of the Ohio House; three by the President of the Ohio Senate, and the seventh, the Chairperson, by the Chief Justice of the Ohio Supreme Court. The Commission meets four times a year and is responsible for appointing the OLRs executive director and overseeing budget and policy matters. OLRSC's interest in undergoing a performance audit of OLRs demonstrates a proactive approach toward ensuring Ohioans with disabilities receive effective services.

OLRS administers six federal programs and a state ombudsman program as its primary protection and advocacy activities. OLRs employs 44 full-time equivalent employees (FTEs), the majority of whom are ombudspersons, disability rights advocates and attorneys who advocate for individual and systemic change through individual, group and class action cases, monitor policies and legislative activity, and provide education and training. Federal law requires OLRs to develop annual programmatic goals and objectives that are open to public comment. These goals are used to direct OLRs' work.

OLRS provides information and referral, counsel and professional advice, and representation on a broad spectrum of cases involving discrimination, abuse, neglect, and rights violations. In order to receive OLRs services, a person's issue must be disability related. OLRs does not routinely provide representation in criminal cases, those involving child custody, divorce, or personal injury or malpractice suits, or other general legal issues not related to a person's disability. OLRs uses case acceptance priorities to decide which cases to take.

In state fiscal year (SFY) 2001, OLRs opened 2,818 individual cases and provided education or referral services to 2,598 individuals. In addition to individual casework, OLRs focuses on systemic advocacy to change laws, policies or conditions that adversely affect people with disabilities. OLRs handled 104 group cases and several class action suits in SFY 2001.

OLRS receives approximately 80 percent of its funding from the federal government and approximately 18 percent from the state general revenue fund (GRF). In SFY 2001, OLRs received nearly \$3 million in federal funding and over \$750,000 in state GRF funding. Occasionally, OLRs receives funds from court settlements and competitive grants. OLRs is also permitted to accept donations, although in past years donations have been nonexistent or

represented a negligible amount. Nevertheless, OLRs's financial position is strong as federal dollars and programs have steadily increased in recent years.

The protection and advocacy services provided by OLRs are critical to ensuring the legal and civil rights of individuals with disabilities in Ohio. Families of individuals with disabilities, disability group stakeholders, constituents and the general public also rely on OLRs to ensure fair and equitable treatment for disabled Ohioans. While OLRs positively impacts the lives of individuals with disabilities served through its programs and services, there are areas for significant improvement that would increase the efficiency and effectiveness of its advocacy efforts and provide greater levels of service to Ohio's disabled population.

The performance audit found significant service level deficiencies and a pervasive agency culture that discouraged contact by clients or participation in planning by clients and stakeholders. Similarly, OLRs does not openly share information with its governing commission and actively discourages requests for information to improve oversight and accountability. In rare instances, the agency has cited federal regulations as a reason for not recognizing the governance and oversight authority of the commission; however, these statements were refuted by the federal funders. Finally, OLRs has not sought to expand its mission or funding sources to include additional disabled populations nor has the agency adopted a proactive methodology for identifying potential clients and cases.

OLRs should automate labor intensive manual processes and redirect its time to client services. Policies and procedures should be updated to reflect the most current laws. Likewise, procedures, training and agency culture should be modified to reflect greater levels of customer service and accountability. OLRs' customer service orientation should be strengthened through updated case management principals and increased access to services. Also, public access to agency information and participation in planning and goal setting should be greatly increased. Current research indicates that few Ohioans outside of the direct service or human services agency sphere are aware of OLRs, its services, or their right to participate in annual goal setting and planning.

OLRs should also recognize the governance role of the OLRSC and encourage OLRSC's participation in furthering the mission of the agency. The role of the OLRSC needs to be clarified to ensure appropriate oversight for the agency. The implementation of the recommendations contained in this report will enable the agency to build on past success and better achieve its mission to protect the rights of people with disabilities throughout the state.

Key Findings/ Recommendations

The key findings and recommendations of the performance audit are presented on pages 1-4 through 1-17. The summary of the key findings and recommendations is followed by the detailed audit information, including a definition of a performance audit and the objectives, scope, methodology, and comparisons used for this audit. This performance audit addresses all major

aspects of OLRS operations from administration to client services, and the remaining portion of the audit contains more thorough analyses than is presented in the key findings and recommendations section. All interested parties are encouraged to read the entire report.

The results of the performance audit are intended to provide useful management information for improving OLRS's operations. A series of recommendations are made that should be carefully considered by OLRS and OLRS management when making decisions about the operation of OLRS. This performance audit is not a financial audit and therefore is not designed to serve as a detailed examination of OLRS fiscal records and past financial transactions.

Administration and Operation

OLRS does not use a strategic budgeting process. OLRS' budgeting process methodology uses prior year allocations as a baseline for current fiscal year operations. The administrative services director indicated that strategic budgeting was a desirable goal, although current management tools and the knowledge base of OLRS staff are not sufficient for implementation.

OLRS should implement a comprehensive strategic budgeting process that incorporates agency goals with measurable objectives. Strategic planning and performance measurement provide the foundation from which strategic budgeting can be achieved. The objective of a strategic budgeting process should be to align the appropriations process with OLRS's desired outcomes.

OLRS does not have adequate scheduling and time management procedures. OLRS requires field staff to provide staff managers with notification of their expected location at least a day in advance, and staff are expected to sign in at the receptionist desk when they are in the office. Flex time is used regularly within OLRS, allowing staff to take leave time at the end of each week.

OLRS should develop a weekly scheduling process that delineates locations, work times and phone numbers for employees a week in advance.

OLRS' payroll process is inefficient and labor intensive. Payroll processing consistently requires two to three days of staff time to complete. Furthermore, payroll policy initially establishes employee wages near the top of pay ranges, and 10 of 12 employee classifications at OLRS are paid above the top step of the pay range.

OLRS should consider implementing an automated payroll system. Additionally, new and promoted employees should not automatically receive maximum allowable salaries.

OLRS' organizational chart and job descriptions are outdated and do not accurately reflect the agency's practices. OLRs' current organizational chart shows a hierarchical reporting structure for the four departments. However, the reporting relationships within OLRs do not follow the path laid out by the current organizational chart. In addition, job descriptions were last updated in 1985.

The organizational chart and job descriptions should be regularly reviewed and updated to reflect OLRs' actual operations.

OLRS maintains policies and procedures that are not regularly updated, effectively organized, maintained electronically, or communicated in an effective manner. Although OLRs maintains a policies and procedures manual to guide agency operations, it is not comprehensive or easily accessible to agency staff.

OLRS should update any out of date policies or guidelines and make them available in electronic format. In addition, policies should be reorganized to reflect the organization's operations, and training should be provided to staff on the content of the manual.

OLRS and Commission Relationship

OLRS does not acknowledge the role of the Commission as the agency's multi-member governing board. The Commission is not able to fulfill its governance responsibilities outlined in the federal code without the cooperation of the agency.

OLRS should immediately recognize OLRSC and support the Commission as it assumes the statutory duties required under the ORC and federal code as the multi-member governing board discussed in 42 USC 15044. The Commission should work to meet all standards established by the federal code, as non-compliance with sections of the code may result in a reduction of federal funding.

The current statute governing the Commission does not provide specific oversight responsibilities over the actions of OLRs or the Administrator. The vagueness of Ohio's statutes has hampered the Commission in several key governance areas. Other states have codes that delineate much more clearly the role of their P&A governing bodies.

OLRSC should advocate for additional legislation to clarify and define the role and responsibilities of the Commission. New legislation should also assign the Commission more authority to oversee OLRs and ensure OLRs is accountable to the population it serves. Additionally, OLRs and OLRSC should work to establish a more positive relationship, focusing on the collective goal of serving Ohioans with disabilities.

OLRS does not adequately track program and performance data. Federal and state laws outline specific reporting requirements for P&As, but lenient oversight at both levels has diminished the value of these reports. The reports do not contain adequate performance information related to goals, and information is not always shared with the Commission.

OLRS should practice better tracking methods for performance information. Records that show sources and expenditures of funding should be maintained in order to demonstrate the effectiveness of OLRs' programs. In addition, OLRs should provide all information regarding strategies, goals, funds and expenditures to the Commission for review.

OLRS and OLRSC currently have no directive that defines the responsibilities and relations of the Commission beyond that of the ORC. OLRSC does not have archived minutes from past Commissions. Also, bylaws or Rules of Council have not been developed for the Commission.

OLRSC should develop policies and procedures to help govern the practices of the Commission. The Commission should have, at OLRs' offices, a designated space to use as a repository for Commission documents. The space should be secured and accessible only to Commission members.

Mission and Planning

There are discrepancies between the OLRs mission statement and its internal philosophies and standard practices. The mission statement of OLRs articulates a focus on providing assistance to individuals with disabilities. However, extensive discussions with OLRs personnel revealed a focus on systemic change based on annual priorities, which directly contrasts with the individual, consumer-oriented mission statement used by OLRs.

OLRS should ensure that its mission and philosophy statements accurately reflect the needs of Ohio's disabled population and adequately portray the services provided by OLRs.

OLRS develops annual priorities without the input of the Commission, the public or stakeholder organizations and does not effectively communicate its priorities, once determined, to these groups. OLRs develops annual priorities in a meeting that is not publicized to, or attended by, members of the general public or the Commission. Once developed, the priorities are not communicated outside OLRs. Because the priorities are not communicated or available via OLRs' website, clients who are not accepted into the system may not understand why their case was rejected. The absence of information on OLRs priorities may also erode the level of confidence and cooperation among Ohio's disability services agencies and ultimately may reduce the level of service provided to Ohio's disabled population.

OLRS should involve the Commission, the general public and stakeholder organizations in the development of its annual priorities. OLRs should meet with stakeholders and the public in several major Ohio cities to facilitate feedback from all stakeholders. Annual meetings should be advertised statewide at least four weeks prior to the meeting. Once priorities are developed, they should be publicized and distributed to stakeholder and referring agencies to avoid confusion and foster more collaborative relationships.

OLRS has not developed a strategic plan to support its mission and goals. Some P&As use strategic planning to help determine annual priorities and goals to guide their activities. Also, strategic planning could help OLRs identify the required actions for grant administration when new grants are received.

OLRS should develop a strategic plan that includes a strategic budget; goals and objectives with associated timelines; measurable outcomes; input from OLRs' key stakeholders; and information relevant to achieving goals and objectives.

The OLRs funding solicitation procedure is a reactive process. Although OLRs has developed a draft policy identifying criteria for accepting grants and other funding, additional processes will be needed to plan for and implement new programs using grant funds. Additionally, a more proactive process for seeking funding could help OLRs obtain strong financial support from private donors and grantors.

OLRS should seek additional funding sources to further the mission of the agency and potentially expand the capacity of the agency and the methods at its disposal for mission accomplishment. OLRs should proactively prepare and plan for new programs regardless of the source of funding for the program.

Client Services

OLRS's current intake and case selection process does not respond to clients in a timely manner. Because case selection and task assignment decisions are made at high levels within the organization, clients can wait more than a week before receiving a response from OLRs. Peer agencies are able to provide immediate low level assistance at intake due to better qualified intake staff

OLRS should restructure its intake and case selection process so that decisions are made at lower organizational levels, thereby improving timeliness and client satisfaction. In order to facilitate this intake process change, OLRs should recruit intake workers with a higher level of qualifications.

OLRS intake hours are not sufficient for client demand, and do not reflect a customer-focused organization. OLRs intake is conducted primarily by telephone from 10:00 am to 12:30 pm and

2:30 pm to 4:00pm Tuesday through Friday. When calls are received during office hours but not during intake hours, OLRSC asks the individual to call back during intake hours. OLRSC does not track calls made during non-intake hours and does not have an answering service to receive calls after office hours.

OLRSC should increase intake hours to regular office hours (8:00 am to 5:00 pm, Monday through Friday). OLRSC should also record all intake calls made after intake hours. A friendly message should instruct the caller to record appropriate information and indicate when they can expect a response.

OLRSC's intake is largely a passive process, dependent upon receiving complaints regarding disabled individuals. OLRSC does not direct formal efforts to actively seek cases consistent with eligibility and stated priorities, which may hamper the agency's ability to affect systemic change.

OLRSC should seek opportunities for systemic change through proactive case selection. Each program priority should be accompanied by an outreach plan identifying relevant stakeholder and parent groups to emphasize communication efforts.

OLRSC's grievance procedures do not ensure independent review. Up to three of five grievance committee members may have had prior involvement with decisions regarding grieved cases. The P&As in Virginia and Michigan have procedures that seek to maximize the independence of the grievance review process by having final binding review at the oversight board level.

OLRSC should reevaluate its grievance procedures to determine the appropriate level of oversight and separation of duties. This could be achieved by allowing an initial review at the supervisor or intake coordinator level. Should the grievant remain unsatisfied, further review could be conducted by the director and administrative services director with final and binding decisions made by the OLRSC.

OLRSC is not active on an ongoing basis in informing, educating or advising policymakers about issues that impact on the lives of individuals living with a disability. OLRSC does not have a strategic plan in the area of legislative or policy issues. OLRSC occasionally works in a collaborative manner with other stakeholders, but rarely takes a leadership position on policy issues. Also, OLRSC has developed several high quality publications but does not use the literature to conduct outreach to its clients.

OLRSC should enhance its leadership role on legislative and policy issues affecting all citizens with disabilities by developing a strategy that includes detailed guidance for improving the agency's relationship and communication with the Governor and the Legislature.

OLRS has developed a number of well written and designed publications. These publications cover a variety of topic areas and provide useful information to Ohio's citizens. The development of these pamphlets and booklets is time consuming, and the ability to synthesize information to a useful format is a great benefit to the state. OLRs collaborated with other agencies in the development of several of these publications and this collaboration provides an opportunity to establish positive relationships with other entities.

Stakeholders and the public are not familiar with OLRs' roles, functions, mission and priorities. An organization's reputation and even its continued existence can depend on the degree to which its targeted stakeholders support its goals and policies. This support is difficult to garner without the effective dissemination of information.

As part of an overall strategic plan, OLRs should develop a communication plan that outlines communication and outreach strategies for the agency.

OLRS does not conduct customer satisfaction surveys on all of its programs or track complaints. The agency only surveys service recipients in two federal programs, CAP and PAIR, and these surveys are not conducted until after a case is closed. The agency has no ongoing formal process to use customer feedback for quality improvement.

OLRS should develop a comprehensive program to assess customer satisfaction regarding programs, operations, and service delivery. Survey results can be used to identify areas for improvement or elements to include in the strategic plan.

Objectives and Scope

A performance audit is defined as a systematic and objective assessment of the performance of an organization, program, function or activity to develop findings, conclusions and recommendations. Performance audits are usually classified as either economy and efficiency audits or program audits. Economy and efficiency audits consider whether an entity is using its resources efficiently and effectively. Program audits normally are designed to determine if the entity's activities or programs are effective, if they are reaching their goals and if the goals are proper, suitable or relevant. The performance audit conducted on Ohio Legal Rights Services is predominantly a program performance audit.

The Auditor of State's Office has designed this performance audit to provide recommendations regarding current operational issues and to provide the framework for increasing efficiency, effectiveness and program impact. Specific objectives of this performance audit include the following:

Administration and Operations

- Evaluate OLRs' organizational structure in relation to business functions.
- Assess staffing in comparison to clients served and potential service gaps.

- Evaluate OLRs' administrative policies and procedures.
- Evaluate the use of internal controls.

OLRS/OLRSC Relationship

- Examine the relationship between OLRs and its commission.
- Assess levels of board/management reporting.
- Analyze the statutory and implied duties of the Commission and compare to other states and similar Ohio commissions.

Mission and Planning

- Evaluate the OLRs/OLRSC mission statement in relation to business and programmatic functions.
- Analyze OLRs/OLRSC strategic planning efforts in relation to mission, long-term vision and short-term priorities and objectives.
- Evaluate the process for identifying, pursuing and retaining funding sources.

Client and Stakeholder Services

- Assess service levels and populations served for federal and State programs.
- Evaluate OLRs programmatic policies and procedures.
- Evaluate the programmatic response to State and federal program mandates.
- Review client, community and stakeholder outreach efforts.
- Evaluate stakeholder recognition of OLRs and services including adequacy, quality, responsiveness and leadership.
- Analyze programmatic impact and value.
- Assess the level of mission achievement.

Methodology

To complete the performance audit, auditors gathered and assessed a significant amount of data pertaining to OLRs including financial and performance measurement records, federal and state statutes, rules and regulations, and policies and procedures.

The auditors also conducted interviews with protection and advocacy agencies in other states, key personnel in State of Ohio agencies, and federal oversight agencies. Further, the auditors reviewed reports from various private, state and federal entities responsible for protection and advocacy agencies. The methodology is further explained below.

Studies, reports and other data sources

In assessing the various areas, OLRS was asked to provide any relevant previous studies or analyses. In addition to reviewing this information, the auditors spent a significant amount of time gathering and examining other pertinent documents or information. Examples of the studies, reports and other data sources which were studied include the following:

- OLRS annual reports;
- OLRS grant records, training materials and contracts;
- OLRS Priorities and Indicators of Progress for October, 2001 to September, 2002;
- OLRS Case Management Policy;
- State statutes and performance documents from Connecticut, Georgia, Idaho, Indiana, Kentucky, North Carolina, New York, South Carolina, Virginia, North Dakota and Wisconsin;
- General Accounting Office report *Customer Service: Human Capital Management at Selected Public and Private Call Centers*;
- 2000 Guide to Performance Measure Management; and
- 1997 Federal Benchmarking Consortium's report *Best Practices in One-Stop Client Service*.

Interviews, Discussions and Surveys

Numerous interviews and discussions were held with many levels and groups of individuals involved internally and externally with OLRS. These interviews were invaluable in developing an overall understanding of OLRS. In addition, surveys were mailed to county boards of mental retardation and developmental disabilities, mental health boards and probate courts along with representatives from other service and advocacy organizations. Examples of the organizations and individuals that were interviewed and surveyed include the following:

- OLRS personnel;
- U.S. Department of Health and Human Services
- Ohio Department of Mental Health;
- Ohio Department of Mental Retardation and Developmental Disabilities;
- Ohio Department of Education;
- Ohio Rehabilitation Services Commission;
- National Alliance for the Mentally Ill (NAMI Ohio);
- We Care Network;
- AXIS Center;
- Child Advocacy Center;
- Ohio Coalition for the Education of Children with Disabilities;
- Bureau of Equal Employment Opportunity;
- Ohio Developmental Disabilities Council;

- Governor’s Council on People with Disabilities;
- Autism Society of Greater Cincinnati;
- The Arc of Ohio;
- ADA Ohio;
- Crest Network;
- Inclusion Network;
- Ohio Statewide Independent Living Council;
- Ohio Provider Resource Association;
- Rehabilitation Service of North Central Ohio;
- District XI Area Agency on Aging;
- Ohio Department of Health;
- Ohio Council of Behavioral Health Providers;
- Ohio Association of Child Caring Agencies;
- Ohio State Legal Services Association;
- Ohio Bar Association;
- Ohio School Boards Association;
- Buckeye Association of School Administrators;
- Nisonger Center;
- University Affiliated Cincinnati Center for Developmental Disabilities;
- Disability Network of Ohio;
- American Council of the Blind of Ohio;
- Ohio Resource Center for Low Incidence and Severely Handicapped (ORCLISH); and
- Ohio Industries for the Handicapped.

Comparisons

Comparisons were developed from other protection and advocacy agencies, client assistance programs, statutes from Ohio and other states, best practice agencies, as well as Federal oversight agencies. The information was obtained primarily through information requests and interviews held with the appropriate personnel. These agencies included the following:

- U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Developmental Disabilities;
- U.S. Department of Education, Office of Special Education and Rehabilitation Services, Rehabilitation Services Administration;
- U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Mental Health Services;
- Office of Protection and Advocacy for Persons with Disabilities (CT);
- Advocacy Center for Persons with Disabilities (FL);
- Equip for Equality, Inc. (IL);

- Illinois Client Assistance Program;
- Indiana Protection and Advocacy Services;
- Kentucky’s Client Assistance Program;
- Office for Public Advocacy Division for Protection and Advocacy (KY);
- New Jersey Protection and Advocacy, Inc.;
- New York Commission on Quality of Care for the Mentally Disabled;
- Governor’s Advocacy Council for Persons with Disabilities (NC);
- North Carolina Client Assistance Program;
- The North Dakota Protection & Advocacy Project;
- North Dakota’s Client Assistance Program;
- Michigan Protection and Advocacy Service;
- Missouri Protection and Advocacy Services;
- Center for Disability Law & Policy (PA); and
- Virginia Office for Protection and Advocacy.

Protection and Advocacy Services in Ohio and the U.S.

The Protection and Advocacy (P&A) System is a federal program that requires each state and territory to develop an agency, either governmental or private non-profit, that works to protect the rights of persons with disabilities through legally based advocacy. The P&A system was established in response to reports of abuse, neglect and lack of programming in institutions for persons with disabilities. P&A agencies have the authority to provide legal representation and other advocacy services to all people with disabilities based on a system of priorities for services. These agencies work to ensure full access to inclusive educational programs, financial entitlements, health care, accessible housing and productive employment opportunities. Some activities of the P&A system include the following:

- Investigating, negotiating or mediating solutions to problems expressed by persons with disabilities that meet eligibility requirements and program priorities;
- Providing information and technical assistance to individuals, attorneys, governmental agencies, services providers and other advocacy organizations;
- Providing legal counsel and litigation services to eligible persons and groups who satisfy the established priorities for the provision of services;
- Providing education and training for governing boards, advisory councils, professionals, constituency groups and the community; and
- Sharing information with elected and appointed officials to assist in making legislative and administrative changes that benefit persons with disabilities.

The Governor of each state must designate the entity that serves as the state's P&A agency. P&A services are administered by a state agency in eight states: Connecticut, Indiana, Kentucky, New York, North Carolina, North Dakota, **Ohio** and Virginia. The remaining states administer P&A services through either a private foundation or a not-for-profit organization. To preserve the independence of the P&A system, federal law requires P&A agencies to be independent of any agency that provides treatment or services.

Program Descriptions

Federal law outlines six distinct programs designed to address the needs of different populations of persons with disabilities. Five of the six federal programs must be administered through the state's P&A agency. The sixth program can be administered by the P&A, a vocational rehabilitation agency, or another state agency. The following is a brief description of the six federal programs.

PADD-- The Protection and Advocacy for Persons with Developmental Disabilities Program was created by the Developmental Disabilities Assistance and Bill of Rights Act of 1975. The U.S. Department of Health and Human Services (HHS) established the PADD program and provides formula grant support to systems designated by the Governor of each State, the District of Columbia, and the Territories to protect and advocate for the rights of persons with disabilities. The act requires that PADD clients meet the definition of developmental disabilities as defined in the act as chronic and attributable to mental and/or physical impairments which must be evident prior to the age of twenty-two. They tend to be life long and result in substantial limitations in three or more the major life areas: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living and economic self-sufficiency.

P&A agencies are required by the act to pursue legal, administrative and other appropriate remedies to protect and advocate for the rights of individuals with developmental disabilities under all applicable federal and state laws. The purpose of the PADD program is "to ensure the humane care, treatment, habilitation and protection" of persons with mental retardation and other developmental disabilities. Such disabilities include mental retardation, autism and cerebral palsy.

PAIMI-- The Protection and Advocacy for Individuals with Mental Illness Program was established in 1986. Agencies use funds from this program to (1) protect and advocate for the rights of people with mental illness and (2) investigate reports of abuse and neglect in facilities that care for or treat individuals with mental illness. Individuals eligible for PAIMI must have significant mental illness or emotional impairment and historically had to reside in residential facilities. These facilities, which may be public or private, include hospitals, nursing homes, community facilities, board and care homes, homeless shelters, jails and prisons.

In October, 2000, the act was amended to authorize P&A systems to serve persons with a significant mental illness or emotional impairment who live in community settings, including their own homes. However, P&A agencies are required by the amendment to give priority in their services to persons residing in institutional settings.

PAIR-- The Protection and Advocacy for Individual Rights Program was established by Congress as a national program under the Rehabilitation Act in 1993. PAIR programs were established to protect and advocate for the legal and human rights of persons with disabilities. Although PAIR is funded at a lower level than PADD and PAIMI, it is part of a comprehensive system to advocate for the rights of all persons with disabilities. Persons eligible for PAIR are individuals with disabilities who are not eligible for the PADD or PAIMI programs, or whose issues do not fall within the jurisdiction of CAP. Persons eligible for PAIR services include those with head or spinal cord injury, multiple sclerosis, HIV infection and AIDS, cancer, heart disease and mobility impairments.

CAP-- The Client Assistance Program was established as a mandatory program by the 1984 Amendments to the Rehabilitation Act. A CAP is required in every state and territory, as a condition for receiving allotments under Section 110 of the Rehabilitation Act. CAP services include assistance in pursuing administrative, legal and other appropriate remedies to ensure the protection of persons receiving or seeking services under the Rehabilitation Act. Individuals eligible for CAP are those persons who are seeking or receiving services from a Rehabilitation Act project, program or community rehabilitation program. Currently 28 CAP programs are administered by a P&A agency.

PAAT-- The Protection & Advocacy for Assistive Technology Program was created in 1994 when Congress expanded the Technology-Related Assistance for Individuals with Disabilities Act (Tech Act). The Tech Act was expanded to include funding for P&A systems to "assist individuals with disabilities and their family members, guardians, advocates and authorized representatives in accessing technology devices and assistive technology services" through case management, legal representation and self advocacy training.

Under the Tech Act, states can receive discretionary grants to assist them in developing and implementing comprehensive statewide programs of technology-related assistance for individuals of all ages who have disabilities. Currently, all 50 states, the District of Columbia, and the Territories have an assistive technology project funded under this act. The Tech Act requires states to examine barriers to accessing and obtaining assistive technology in their state and then work to permanently eliminate those barriers. In addition, each state and territory has established a collaborative relationship through a grant or contract with a P&A agency to provide legal representation and advocacy.

PABSS-- The Protection and Advocacy for Beneficiaries of Social Security Program was created to serve Social Security Disability Insurance (SSDI) and Supplemental Security Income

(SSI) beneficiaries who want to work despite their continuing disabilities. The Social Security Administration (SSA), as authorized by the Ticket to Work and Work Incentives Improvement Act of 1999, awarded 57 Work Incentives Assistance Program grants to the designated P&A system in each of the fifty States, the District of Columbia, and the Territories. The goals of this program include assisting beneficiaries with disabilities in obtaining information and advice about receiving vocational rehabilitation and employment services and providing advocacy or other related services that beneficiaries with disabilities may need to secure to regain gainful employment.

Statutory Authority

The P&A system is governed by statutory programs designed to serve particular disability populations and establish distinct formula grant funding for these services. The funding levels vary for each of these programs, affecting the relative level of available services for each beneficiary group. **Table 1-1** summarizes the statutory authority of the six major protection and advocacy programs.

Table 1-1 Statutory Authority for Protection and Advocacy System

Program	Statutory Authority	Description
<i>US Department of Health and Human Services</i>		
PADD	<ul style="list-style-type: none"> Part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041, <u>et seq.</u>) Amended in 2000 (Public Law 106-402) to expand the number of P&A authorities (42 U.S.C. 15001, <u>et seq.</u>) Regulations published at 45 CFR Part 1386. Administered by the Administration on Developmental Disabilities, Administration on Children and Families 	The PADD program was developed to protect the human and civil rights of individuals with developmental disabilities and similar vulnerable populations.
PAIMI	<ul style="list-style-type: none"> Protection and Advocacy for Individuals with Mental Illness Act (42 U.S.C. 10801, <u>et seq.</u>) Regulations published at 42 CFR Part 51. Administered by the Center for Mental Health Services, Substance Abuse and Mental Health Services Administration 	The PAIMI Act of 1986, modeled after the DD Act, extended similar protections to persons with mental illness who reside in facilities. In passing the original legislation, Congress recognized the inconsistency among state programs for this population.
<i>US Department of Education</i>		
PAIR	<ul style="list-style-type: none"> 1978 under the Rehabilitation Act Funding established in 29 U.S.C. 794e. Regulations published at 34 CFR 381. Administered by the Rehabilitation Services Administration, Office of Special Education and Rehabilitation Services 	The PAIR program provides P&As the authority to serve persons with disabilities who are not eligible under the PADD and PAIMI programs. The PAIR Program supports much of P&As' work under the Fair Housing Act and the Americans with Disabilities Act.
CAP	<ul style="list-style-type: none"> Established as a mandatory formula grant program by the 1984 Amendments to the Rehabilitation Act (29 U.S.C. 732). Administered by the Rehabilitation Services Administration, Office of Special Education and Rehabilitation Services 	CAP agencies provide information and assistance to individuals seeking or receiving vocational rehabilitation services under the Rehabilitation Act, including assistance in pursuing administrative, legal and other appropriate remedies to ensure the protection of their rights.
PAAT	<ul style="list-style-type: none"> Amendments to the Technology-Related Assistance for Individuals with Disabilities Act (29 U.S.C. 2201, <u>et seq.</u>). Administered by the Office of Special Education and Rehabilitation Services 	PAAT agencies assist individuals with disabilities, their family members and advocates in accessing assistive technology devices and services through case management, legal representation and self-advocacy training.
<i>Social Security Administration</i>		
PABSS	<ul style="list-style-type: none"> Social Security Act, Section 1150 as added by Section 122 of Public Law 106-170; Ticket-to-Work Incentives Improvement Act; Part C of Title I of the Developmental Disabilities Rehabilitation and Assistance and Bill of Rights Act; Workforce Improvement Act of 1998, (42 U.S.C. 6041, <u>et seq.</u>) Administered by the Social Security Administration 	The PABSS program assists SSDI and SSI recipients to access information and services needed to secure gainful employment.

Source: U.S. Department of Health and Human Services, U.S. Department of Education, Social Security Administration

Priorities of the Protection and Advocacy System

The activities and services of each P&A system are guided by its program priorities. These priorities are established annually by P&A agencies and their governing boards with input and comment from the public. They identify areas of emphasis and establish the case selection criteria that will be used by the agency in screening requests for services. Priorities are used to direct resources to specific problem areas at specific times.

The success of each state's P&A agency is dependent on the ability of the agency to develop priorities that meet the needs of that state's population and to implement services to meet those needs. The annual priorities allow each state to identify unique issues and concerns experienced by its citizens and to focus services on these statewide issues. Based on the priorities selected, each state P&A system is different, and the services offered to state residents will vary due to resources and consumer needs.

The elements of a successful protection and advocacy program revolve around priorities matching the needs of the state's citizens and improving the P&A's ability to direct resources to address those needs. The process for establishing these priorities must include ample opportunity for input and comment from individuals with disabilities, their families and significant others, key stakeholders and interested citizens. It is through this collaborative effort that the state protection and advocacy system should be most responsive to citizens' needs.

Comparison of Funding and Service levels

Table 1-2 displays funding levels along with numbers of persons served for four of the federal programs in the protection and advocacy system. The states selected are a subset of the states used as peers in this performance audit. The funding levels for each program are based on formulas established at the federal level. Service levels in each state vary based on demand for services and the priorities set by each state.

Table 1-2 Comparison of State Funding and Service Levels

	OH	IN	KY	MI	MO	NY	ND
Population	11,353,140	6,080,485	4,041,769	9,938,444	5,595,211	18,976,457	642,200
PADD							
Funding	\$1,218,438	\$630,851	\$511,656	\$1,049,541	\$576,466	\$1,672,853	\$314,349
Numbers Served	629	386	239	249	265	2,336	366
Funding Per Person	\$1,937	\$1,634	\$2,141	\$4,215	\$2,175	\$ 716	\$ 859
PAIMI							
Funding	\$939,924	\$506,667	\$359,050	\$812,029	\$463,170	\$1,374,671	\$355,300
Numbers Served	839	128	179	155	254	1,476	173
Funding Per Person	\$1,120	\$3,958	\$2,006	\$5,239	\$1,824	\$931	\$2,054
PAIR							
Funding	\$475,121	\$250,834	\$167,181	\$416,327	\$230,786	\$768,035	\$138,633
Numbers Served	661	106	76	111	66	555	109
Funding Per Person	\$ 719	\$2,366	\$2200	\$3,751	\$3,497	\$1,384	\$1,272
CAP							
Funding	\$405,029	\$213,830	\$142,518	\$354,909	\$196,740	\$654,732	\$118,241
Numbers Served	296	105	110	206	142	666	85
Funding Per Person	\$1,368	\$2,036	\$1,296	\$1,723	\$1,385	\$983	\$1,391
TOTALS							
Funding	\$3,038,512	\$1,601,912	\$1,180,405	\$2,632,806	\$1,467,162	\$4,470,291	\$926,523
Funding Per Person Served	\$1,253	\$2,210	\$1,954	\$3,652	\$2,018	\$ 888	\$1,264
Funding Per State Population	\$3.7	\$3.8	\$3.4	\$3.8	\$3.8	\$4.2	\$0.7

Source: U.S. Department of Education, U.S. Department of Health and Human Services, Annual P&A Program Reports

Note: Population is based on 2000 Census, Funding and service levels for FFY 2000-01

As demonstrated in **Table 1-2**, there is variation in the numbers of persons served with the federal funds for these four program areas. The organizational structure, service delivery process, annual service priorities, and the priority setting process vary within each P&A system. These are some of the working characteristics that can be examined and revised within a P&A system to ensure that the services provided adequately address the needs of each state. OLRs is providing service levels in line with many of its peers, but there are improvements that OLRs can implement that will help to further to advance its mission.

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Administration and Operations

Background

The Ohio Legal Rights Service (OLRS) is the protection and advocacy (P&A) agency for Ohio. OLRS is divided into four departments for the purposes of administering federal protection and advocacy activities: administrative services, disability policy, advocacy and legal. Administrative services is responsible for coordinating the activities and programs for the recruitment and selection of employees, monitoring and administering payroll processes, maintaining personnel files, and preparing budget documents. In addition to the administrative services director, there are two employees in this department whose responsibilities include completing payroll on a bi-monthly basis, processing all contractor arrangements, and reviewing disbursement and drawdown requests.

Other administrative functions are shared by the remaining three departments. For example, supervisors in the disability policy, advocacy and legal departments are all responsible for completing performance evaluations on employees in their respective departments. Additionally, department heads are responsible for reviewing and approving payroll information, leave time, travel plans and expenses for employees, as well as participating in OLRS' budgeting and planning processes.

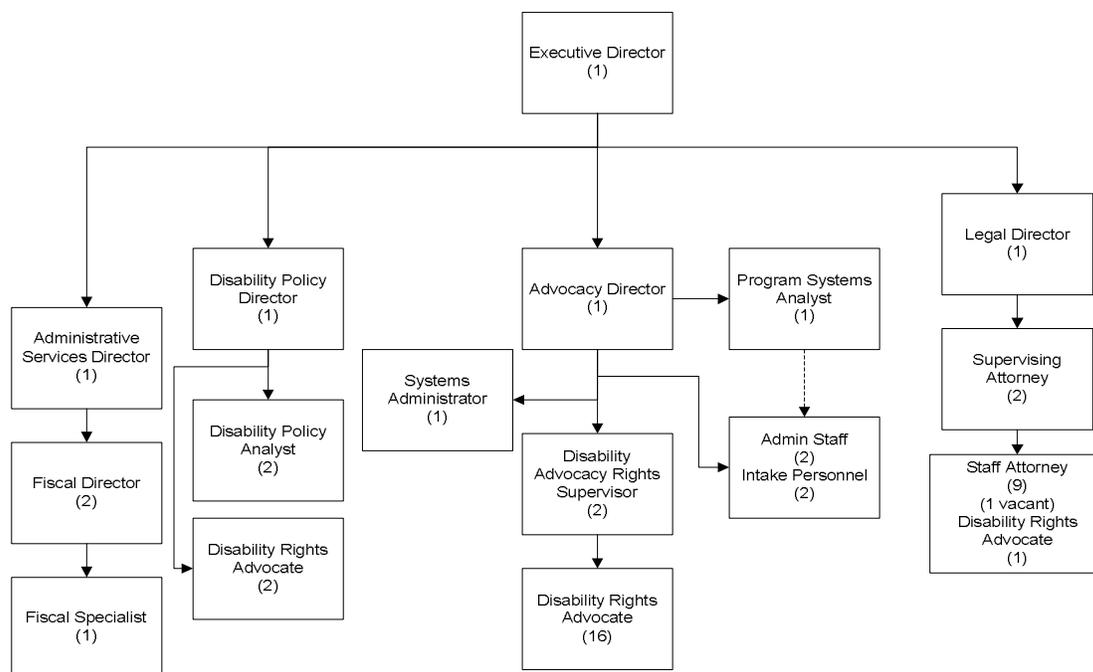
Findings and Recommendations

A. Organization and Staffing

Organization

OLRS maintains four departments to administer services as a protection and advocacy agency; administrative services, disability policy, advocacy and legal. OLRS' current organizational chart shows a hierarchical reporting structure within each of these four departments. **Chart 2-1** shows OLRS' current organizational structure.

Chart 2-1: Current OLRS Organizational Structure



Source: Organization chart from OLRS

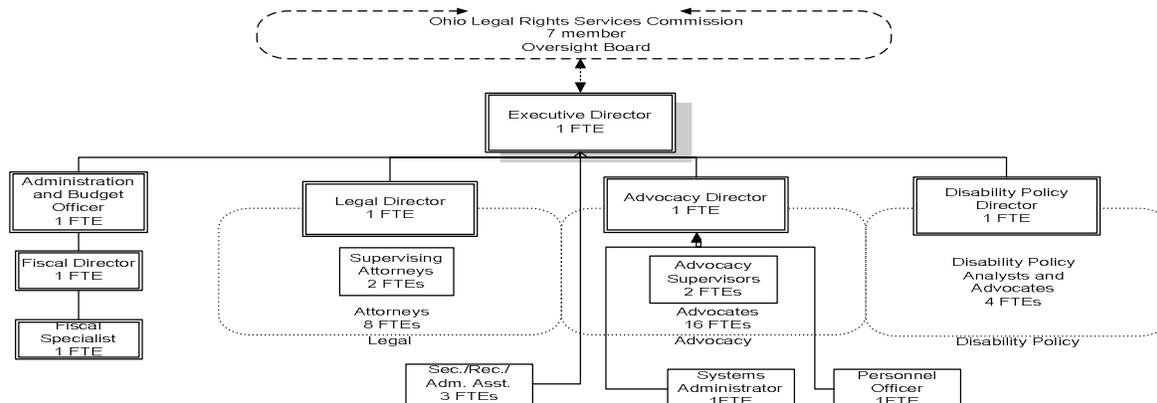
Although **Chart 2-1** indicates clearly-defined reporting relationships and four, vertically-structured departments, discussions with OLRs personnel have revealed discrepancies between the agency's organizational structure and its actual operations. When a case or project is started, the intake coordinators make a determination about the number and type of staff required to handle the case. An ad hoc project team is then assembled consisting of people from each department as appropriate. For example, depending on the size and complexity of a project, it may have a disability policy analyst, a disability rights advocate and a staff attorney. Department heads still maintain final approval of their staff for payroll and other similar processes. Because the size and complexity of cases at OLRs varies significantly, this project-based approach to personnel assignment and management ensures that each case or project has the appropriate type and amount of expertise and staffing.

Although OLRs' method for assigning staff appropriately reflects the agency's operations, it is not clearly delineated in the staffing policies and procedures. At some point, this could create confusion for new employees or new managers who are not familiar with the agency's operations. Formally documenting communication hierarchies and reporting relationships in the organizational structure and job descriptions could assist in maintaining efficiency and continuity in OLRs' operations.

Recommendation 1:

- 1. OLRs should revise its organizational chart and job descriptions to reflect the flattened organization and reporting structure that is currently used. This would ensure that employees adequately understand their reporting relationships and responsibilities and managers fully understand the scope of their oversight. Additionally, employees would understand the cross-functional nature of the work being done by OLRs and the benefit of being on various types of projects.**

OLRs is more accurately depicted as a flat organization characterized by open channels of communication with multi-disciplinary teams focused on delivering client services through a management team that filters and assigns tasks to staff based on pooled expertise and availability. Chart 2-2 illustrates the proposed organizational chart for OLRs, based on actual work practices.

Chart 2-2: Proposed Organizational Chart

Staffing

The executive director of OLRs is statutorily appointed to a five-year term by OLRSC and has many duties formally prescribed in the ORC and OAC. All subsequent staffing decisions, including hiring and the development of job descriptions are the responsibility of the executive director with the assistance of other administrative employees, such as the administrative services director and other department heads.

Pursuant to 5123.6 of the ORC, the “executive director shall be appointed by the OLRs Commission for a fixed five year term, and be a person who has special training and experience in the type of work with which OLRs is charged.” The executive director has responsibility for all OLRs employees and is charged with the following job duties:

- Supervise and direct day to day operations of the statewide agency consistent with ORC 5123.6;
- Implement programs with multi-year time periods through complex decision processes;
- Perform advocacy liaison duties for OLRs at the highest level of state, local, and federal government; and
- Formulate and set policy and direct development of plans for all OLRs programs.

Table 2-1 shows other OLRs personnel with key administrative responsibilities and a brief description of their duties.

Table 2-1: OLRS Personnel with Administrative Responsibilities

Position	Duties
Administrative Services Director	<ul style="list-style-type: none"> • Directs, evaluates and implements OLRS policies statewide • Acts as the agency's personnel officer
Disability Policy Director	<ul style="list-style-type: none"> • Administers agency advocacy program for public policy and special grants • Develops and implements program policy • Supervises agency staff assigned to public policy and grants administration
Client Rights Advocacy Director	<ul style="list-style-type: none"> • Administers agency client rights advocacy program • Develops and implements policies • Supervises legal rights services advocates • Periodically conducts supervisors' case reviews to ensure compliance with agency policies, state and federal statutes and principles of quality assurance • Performs annual evaluations of supervisory staff.
Legal Director	<ul style="list-style-type: none"> • Assists staff attorneys with appeals and other cases before state and federal courts • Supervises out-of-court negotiations and settlements • Participates in orientation and training for new staff • Assigns, reviews and evaluates work.
Advocacy Supervisor	<ul style="list-style-type: none"> • Supervises legal rights and disability rights advocates and other staff as assigned • Counsels staff and recommends course of action • Attends negotiations and settlement meetings • Authorizes travel and other expenditures • Reviews and approves continuing education.
Supervising Attorney	<ul style="list-style-type: none"> • Supervises, trains, monitors and evaluates legal staff work • Prepares articles for publication • Prepares and tries court cases and appeals • Conducts out-of-court negotiations settlements with high ranking public officials
Secretary	<ul style="list-style-type: none"> • Produces technical and legal documents;
Clerical Specialist	<ul style="list-style-type: none"> • Manages agency library, including research materials • Performs general clerical office work • Reviews and files paperwork with local courts.
Policy Analyst	<ul style="list-style-type: none"> • Acts for the director in administering statewide agency special grants • Makes recommendations to the director about the delivery of services • Provides direction to management staff regarding administration and implementation of grants • Writes position papers, reports and articles for agency newsletters
Fiscal Assistant	<ul style="list-style-type: none"> • Performs a variety of fiscal managerial and control activities • Monitors accounts payable and receivable • Approves all travel reimbursements • Maintains office records and ledger regarding state and federal funds • Assists administrative officer with records management and payroll preparation
Executive Secretary	<ul style="list-style-type: none"> • Performs non-routine administrative tasks for agency program directors • Prepares reports and correspondence • Assists fiscal director and staff with office management • Attends public hearings and meetings and summarizes content for agency directors.

Source: OLRS job descriptions

Although there are job descriptions in place for all positions at OLRS, they have not been updated for several years. Job descriptions reflect some out of date practices and prescribe reporting relationships in line with the agency's organizational chart, which are not consistent with standard internal practices. Job descriptions are not regularly updated because most OLRS employees are veteran employees with a solid understanding of how the agency operates.

However, as new employees are hired, or as staff is promoted to management positions, OLRs will begin to lose some institutional knowledge and will have to rely more on its governing documents, such as organizational charts and job descriptions. This will make it imperative that these documents are updated, providing an accurate picture of the agency to new employees and managers.

The most recent AOS financial audit management letter to OLRs contained a finding recommending the completion of performance evaluations for OLRs staff. Furthermore, federal program auditors noted the Agency's absence of performance appraisal and strategic budgeting as areas needing improvement. OLRs has acknowledged the need for a performance evaluation process, but has not yet implemented an agency-wide process. OLRs provided sample evaluations for select positions dating from 1993 to 2001, but these only represented a limited number of positions and did not contain evaluations for senior managers.

The Virginia Office for Protection and Advocacy (VOPA) requires managers to complete performance evaluations that are tailored to meet the criteria of performance measurement for each position. The evaluations are tied to agency job descriptions, and, although outcomes can be difficult to quantify, the evaluations provide a measure of qualified improvement in areas such as customer service and the accomplishment of established objectives. Examples of VOPA performance evaluations were provided to OLRs management to aid the Agency in implementing evaluations for all employees.

Recommendations 2-3:

- 2. OLRs should review and update its job descriptions. In addition to updating the job descriptions to reflect revised reporting relationships, OLRs should monitor applicable laws and techniques in the area of protection and advocacy and incorporate this type of information into its job descriptions.**

- 3. OLRs should conduct performance evaluations on all employees. Performance evaluations should be relevant to each OLRs position and should use the VOPA model as an example. The VOPA performance evaluation forms provide an ongoing performance measurement tool that highlights improvement methods for areas of identified weaknesses as part of the evaluation process. OLRs should include such performance enhancement information as a component of the evaluation process to provide employees the opportunity to enrich their knowledge base and productivity. Through an effective performance evaluation system, OLRs may be able to increase the productivity of the organization by evaluating and recognizing top performers across the internal boundaries of OLRs and providing feedback and targeted development to OLRs staff. Adherence to this policy will enhance management's ability to effectively follow up with employees who demonstrate a need for additional assistance to attain a higher level of performance.**

Management personnel should be required to follow the guidelines and requirements of their job descriptions and should be evaluated accordingly by the executive director.

Span of Control

Span of control is a reflection of the level of oversight per Direct Client Service (DCS) employee by an Administrative (ADM) employee. **Table 2-2** compares OLRs' staffing efficiency and span of control to those of the peers.

Table 2-2: Staffing, Efficiency and Span of Control

State	Direct Client Service (DCS) FTEs	Clients Served	Clients served per DCS FTE	Administrative (ADM) FTEs	Clients served per ADM FTE	Span of Control DCS:ADM
Ohio	32.0	2,425	76	14.0	173	2.3:1
Indiana	13.0	725	55	4.0	181	3.3:1
Kentucky	17.0	494	29	9.0	55	1.9:1
Pennsylvania	4.0	263	66	2.5	105	1.6:1
Michigan	36.0	721	20	11.0	66	3.3:1
Missouri	20.0	727	36	10.0	73	2.0:1
North Dakota	15.5	733	47	8.0	92	1.9:1
Virginia	3.0	146	49	1.0	49	3.0:1
Peer Average	15.5	544	43	6.5	89	2.4:1

Source: OLRs and Peers

OLRS serves more clients per direct-service FTE than any of the peers. However, without performance measurement data regarding service levels and outcomes, staffing levels in comparison to client caseload can not be assessed. The development of a performance measurement system (see **Recommendation 15**) could help OLRs ensure it is appropriately staffed in all areas of operation.

OLRS is slightly below the peer average in the span of control of the administration of the organization. This could indicate that OLRs has a somewhat lower percentage of its resources dedicated to direct service delivery than the peers, although some administrative positions within OLRs provide limited direct service. Reallocating some administrative personnel to direct service positions could significantly increase the level of service OLRs provides. If OLRs were to flatten its organizational structure, it could dedicate resources to providing additional services or to filling service gaps, as discussed in the **client and stakeholder services** section.

The Kentucky Office for Public Advocacy (KPA) is designed to provide services to clients initially through advocates on teams organized by area of expertise. Staff attorneys are included on the teams along with supervisory attorneys that act as the team leaders. The federal program coordinator handles the administrative responsibility of dividing the cases and distributing them to staff after the receptionist obtains the initial answers to the introductory questions. Currently,

17 advocate/attorneys perform individual casework for the agency, and 11 staff members perform administrative functions.

The Ohio Public Defender (OPD) provides advocacy to individuals as required by the courts in the State of Ohio and to the incarcerated population who seek counsel and are unable to pay. OPD has two divisions, each with 3 supervisors and approximately 20 staff. Span of control is approximately 6:1 and is considered a best practice for a flat organizational matrix.

King County, Washington studied the ratio of subordinates who report directly to a single manager. The study defined two schools of thought in organizational theory regarding span of control. Classical (pre-1950) authors believed that supervisors needed to maintain close control over their subordinates and manage no more than 6 subordinates per supervisor. Contemporary management theory holds that such “command and control” organizations are inefficient and therefore advocates higher spans of control and flatter organizational structures. Ideal span of control ratios identified by current authors range from 15 to 25 subordinates per supervisor.

Increased spans of control can provide efficiency benefits through productivity enhancement like the reduction in emphasis on controlling the bureaucracy. A positive effect of the increased span of control is that it allows a highly trained workforce to be responsible and accountable for customer service, especially through the utilization of computer database management tools that through design and refinement will provide ongoing measurement and tracking mechanisms for the management team. Increasing the education and experience requirements for intake and case workers, as discussed in the **client and stakeholder services** section, could help OLRS further distribute responsibility and accountability for some agency functions.

Recommendation 4:

- 4. OLRS should adjust its span of control to approximately one administrator for every three direct service employees. Based on current staffing figures, this would require OLRS to reallocate two to three supervisors to direct service positions. Reallocating two supervisors would create a span of control of 2.8 direct service employees per administrative employee while reallocating three positions would create a span of control of 3.2 employees per administrator. Based on OLRS’ ratio of individuals served per direct service personnel, the agency could provide service to approximately 230 additional individuals by focusing a higher percentage of resources on direct service. Likewise, service quality could potentially be improved by the infusion of additional resources to direct services.**

B. Administrative Policies and Procedures

OLRS maintains a policies and procedures manual to guide administrative and operational practices. The policies and procedures manual was assessed against the following best practices:

- Are the policies and procedures written?
- Are the policies and procedures logically organized?
- Are the policies and procedures available in electronic format?
- Are the policies and procedures regularly updated?

OLRS and other P&A agencies maintain written policies and procedures that are used to guide staff activities that directly affect operational effectiveness. The organization of the policies in the OLRs manual is alphabetical, available in part in an electronic format and is updated infrequently.

Other P&A agencies, like VOPA and Indiana Protection and Advocacy Services (IPAS), have policies and procedure manuals that are organized by functional area. These manuals are available entirely online and are updated on a regular basis. Employees are able to access the manuals online and can search by category for questions that arise in the day-to-day operations of the agency. The P&As review and update policies on an as-needed basis and completely review and revise the manuals every three years. Some deficiencies noted in OLRs' policies and procedures include the following:

- The last documented update to any section of the case management policy was September 1, 1997.
- The Case Action Plan is a draft dated June 27, 1997.
- There is no listing of the grievance document in the table of contents nor is there any functional description of how it should be used by staff.
- The purchasing policy is out of date and reflects a mandatory signoff approval process for all purchases made by OLRs staff. This process is no longer in use.
- OLRs does not have a policy requiring performance evaluations for all employees.
- Though unwritten, OLRs' external stakeholder/customer communication policy creates barriers to direct contact through phone screening practices and limited contact with staff. Poor levels of responsiveness to voice mail and email also create barriers to effective communication and customer service.

Observations of telephone communications between the OLRs receptionist and clients found a substantial number of calls were forwarded to voice mail when employees were present in their offices and available to take client calls. Direct extension numbers are not provided to clients by the receptionist or by client advocates. The executive director's calls are screened by the receptionist, and voice mail is not available for the executive director, which makes contact with the director cumbersome. This unwritten communication policy detracts from client and

stakeholder services and undermines OLRs' limited customer service efforts. See the **client and stakeholder services** section for more information on intake procedures and communication planning.

OLRS does not provide training to staff on the current policies and procedures. The last training provided on policies and procedures was in 1988 and dealt with the ethics policy. Without adequate training, even the most effective and up to date policies and procedures are rendered less effective. While spending over \$10,500 dollars on employee training during FY 2001-02, management was unable to explain the type or value of the training taken by staff.

Best Practices, LLC, a private research firm, conducted a study of the management practices employed by more than 30 companies in the area of human resource performance measurement. A key finding in the area of employee well-being was average training hours per employee as a measure of the company's commitment to continuous learning. The top six companies ranked best-in-class had at least 27 company-sponsored training hours per employee per year. Another effective practice noted among the companies was tracking employee training. Tracking the type and amount of employee training allows organizations to measure the impact of training at an individual level and to compare the performance of employees who have received training to those who have not.

Recommendations 5-9

- 5. OLRs should reorganize its policies and procedures by the operational aspects of the agency. This could be accomplished by restructuring the table of contents to group policies by function. Doing so would enable staff to effectively and easily research policy questions that arise.**

OLRS should also address out of date guidelines. The manual should be examined on an annual basis and updated each year. To effectively review policies, the executive director could delegate the task to each of the functional chiefs.

- 6. OLRs should make its policies and procedures available in an electronic format to be more easily available to all staff. Maintaining policies and procedures in an electronic format also ensures that they are easy to update as changes are required. Formatting its policies and procedures electronically will enable OLRs to easily make and track changes and policy updates as well as provide a review and update reminder system for management.**
- 7. OLRs should require a 24-hour return call response policy for all voicemails and emails. The systems administrator should provide a weekly tracking report of incoming correspondence for each telephone and workstation. Documentation of response logs should be included in the performance measurement system discussed**

- in **Recommendation 15**. This policy would ensure a customer focus in correspondence and a commitment to serving all stakeholders, from clients to commissioners. All staff, including the executive director, should have voicemail and be held to the same standard of customer service by measuring the response time to improve accountability.
8. **OLRS should provide training to all employees on the content and implementation of the policies and procedures. Training on the manual should be provided to all new employees, and all staff should receive training on major changes, updates or complex policies. Training employees in policies and procedures creates a feedback forum in which outdated policies and procedures can be identified for change, and management has the opportunity to improve staff knowledge of expectations, as well as improve management controls.**
 9. **OLRS should assess the training needs of its staff to ensure that provided training is appropriate, effective and in line with the agency's objectives. OLRs should also institute a database tracking system to monitor progress toward the completion of training goals and provide performance evaluation measurement.**

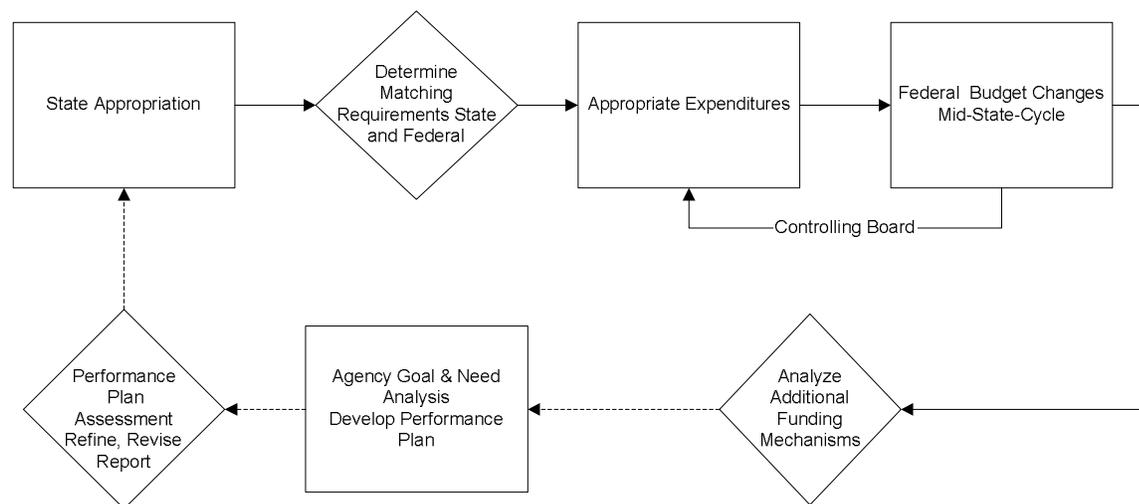
C. Internal Controls

Budgeting

OLRS develops its budget using a prior year perspective. As noted in **Chart 2-3**, state and federal grant dollars available from the previous year is the minimum expectation of funding for the upcoming year. Some exceptions and changes occur, such as identification of new funding opportunities. Grant stipulations require a decision on the part of agency management for addressing the budget requirements. The issue could be as simple as accepting an additional funding stream and implementing the organizational changes to handle the new priorities or as complicated as identifying and advocating for the necessary funding to meet matching grant requirements, without which the strategic initiative could not be completed.

OLRS' administrative services director has identified strategic budgeting as an area for improvement for OLRs, but it has not been incorporated into a strategic plan, and training has not been provided to incorporate the philosophy into OLRs' practices. As shown in **Chart 2-3**, steps following the dotted lines indicate process improvement opportunities noted in **Recommendation 10**. Budget to actual comparisons are performed on a monthly basis and provide the basis from which OLRs determines if an additional appropriation from the controlling board is necessary.

Chart 2-3 provides an overview of OLRs' current budgeting process (solid lines) and potential process improvement areas (dotted lines) needed to implement strategic budgeting.

Chart 2-3: Budgeting Process

Source: OLRS and AOS analysis

The Ohio Office of Budget and Management (OBM) designates a staff person to work with OLRS to develop a budget request that, upon approval of the Governor's office, is forwarded to the State Legislature for approval and appropriation. While all state agencies use this process fundamentally, differences exist in the process of requesting appropriation levels. Using the actual expenditures from prior years to develop a baseline for funding needs is the standard method used by OBM. The result is an agency mentality where results are expected to be similar to the prior year. OLRS takes the federally-awarded money from the prior year as the baseline request and anticipates visiting with the controlling board to request and receive additional appropriations upon learning the actual amount of the federal fiscal year (FFY) grant awards.

The strategic budgeting steps are shown between the dotted lines to indicate areas for improvement. At the Federal Office of Management and Budget (FOMB), and in accordance with the Government Performance and Results Act (GPRA), successful strategic budgeting is a direct result of the development and implementation of an annual performance plan with the measurement of results and outcomes in accordance with the goals. FOMB assesses program effectiveness with the Program Assessment Rating Tool (PART). The PART supports the assessment of the following four aspects of a program:

- Performance of a clear federal role;
- Validity of long-term and annual goals for the program;
- Effectiveness of the program management; and
- Resulting achievements set forth in the agency's GPRA plans.

Annual performance plans must include verification and validation measures of actual performance. While the GPRA does not prescribe the use of a particular method, technique, or organizational entity for completing assessments, an organization may implore established procedures such as performance audits for outcome measurement of certain goals or indicators.

Recommendation 10:

- 10. OLRS should take steps to implement a strategic budgeting process. Part of this process should include completing the “Agency Goal and Need Analysis and Performance Plan Development” shown in Chart 2-3 at the beginning of the budgeting process followed by a performance assessment to determine if ongoing funding requests support the successful accomplishment of goals. While OLRS’ current budgeting process can effectively allocate available funds across programs, the agency can not be sure that this funding distribution is in line with the annual priorities because the two are not currently linked. Development of a performance plan and assessment of accomplishments completes the link in the strategic budgeting cycle.**

Strategic budgeting will require OLRS to align its funding allocations with a strategic plan (see mission and planning) instead of historical funding levels. Funding requirements would be identified to accomplish the goals outlined in the strategic plan and performance measures would be evaluated and assessed through a performance audit process and reported in a manner to bring about change in the organization where necessary to coincide with the mission of OLRS.

A final key component of implementing a strategic budgeting process is training. All management personnel and any other employees with responsibility for developing or monitoring budgets should be trained on the principles of strategic budgeting, including the development of performance plans and implementation of effective measurement processes to validate and verify performance criteria.

Purchasing

OLRS’ procurement policy has not been updated since 1993 and does not reflect the current operating environment. It was noted that agency staff occasionally use state credit cards to purchase computer equipment or other supplies useful to the ongoing operation of the agency which are within the scope of the state payment card purchasing guidelines. However, these purchases did not have prior written approval and were inconsistent with current OLRS policy and procedures.

OBM manages the statewide payment card program. All cardholders have limits that are defined by their agency (within OBM guidelines) and are enforced at the point of purchase by VISA

control features. Limits are established for spending amounts per transaction, monthly spending limits, and the number of transactions that can be made per day consistent with Department of Administrative Services (DAS) Directive No 01-21.

The payment card program has numerous benefits and advantages when fully implemented including:

- Less paperwork and documentation;
- Immediate electronic verification;
- Improved cash flow;
- Reduction in stocking of inventory items; and
- No transaction or annual fees for using the payment card.

The restrictions and limitations established by the Agency Card Administrator constitute internal controls to the cardholders' profiles. The following transaction limits are established in the OBM guidelines:

- \$1000 single item purchase limit;
- \$10,000 monthly spending limit;
- 10 transactions per day; and
- 100 transactions per month.

Although further guidelines are the responsibility of each agency, policies should guide the following activities, according to OBM recommendations:

- Establishing payment card security;
- Reconciling invoices;
- Assigning responsibility for the payment process;
- Completing cardholder logs;
- Providing training and distributing information;
- Encumbering funds;
- Using State term contracts and ongoing purchases;
- Managing agent, acceptance, and service fees;
- Establishing employee awards;
- Establishing set-asides for Minority Business Enterprises and Historically Underutilized Businesses;
- Purchasing goods normally requiring pre-approval of DAS computer services if less than \$1,000;
- Making payment card refunds;
- Using the payment card for services;

- Paying for incidental service when purchasing goods; and
- Purchasing over the Internet.

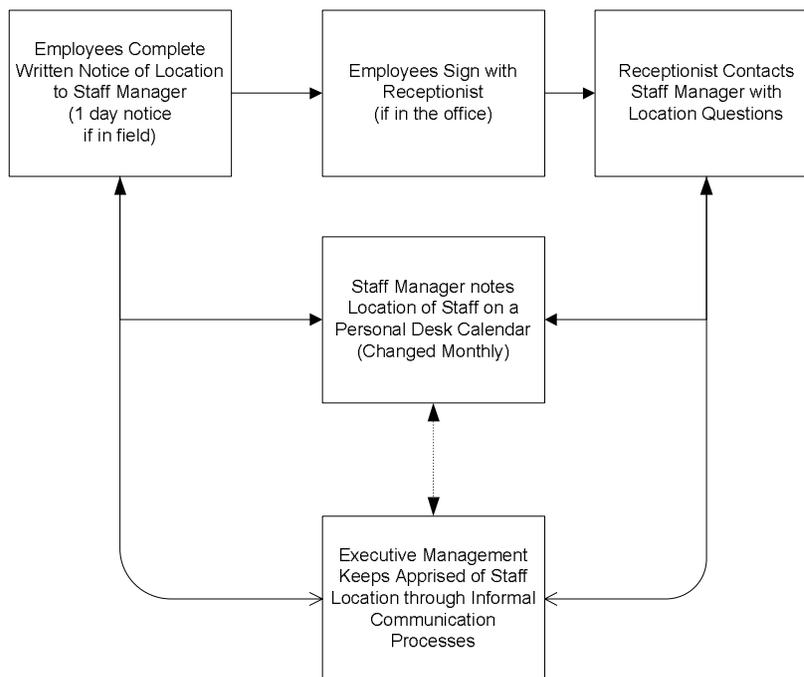
These policy guidelines have been designed to offer maximum flexibility and can be made more restrictive based on the agency's needs, according to the State Payment Card Administrator at OBM.

Recommendation 11:

- 11. OLRs should revise its purchase authorization process to reflect current practices. Written approval of every expenditure is impractical and unnecessary when considering the state policy requiring payment card purchases at or above \$1000 to receive prior written approval. Without updating the current policy, staff activities are unnecessarily hindered by the onerous nature of the rule. Additionally, training and monitoring are necessary to ensure compliance with all policies and guidelines, and management should update all outdated policies to avoid the appearance of impropriety and improve the operation of the organization. Establishing controls that adequately monitor the use of payment cards will provide effective management control over the use of public funds.**

Scheduling and Payroll

Chart 2-4 provides an overview of the scheduling and time management process currently in place at OLRs.

Chart 2-4: Scheduling and Work Time Management Process:

Source: AOS analysis of OLRs process

OLRS requires field staff to either provide staff managers with notification of where they plan to be at least a day in advance or that they sign in at the reception desk when they are in the office.

Flex time is used regularly within OLRs, allowing staff to meet the varying demands of their position. The forty hour work week is treated as a continuum, noting that the hours worked in a week should not exceed forty and allowing staff to take time off at the end of the week if the hours in the week have reached forty. In addition, the policy allows staff members who are unable to use flex time during the week it is earned, to take time off or flex their schedule during the following week, if approved by their direct supervisor. OLRs management stated that this policy provides outcomes consistent with the mission of the organization and limits overtime use. Consistent with this policy, total overtime documented for the agency in the last three years is less than ten hours. According to OLRs management, flex time is tracked and approved by an employee's direct supervisor, allowing staff to work closely with their supervisors and stay on projects as needed to bring them to successful conclusion. However, this policy is not in compliance with DAS and general human resource legal requirements.

Although the flex time policy at OLRs minimizes the use of overtime, it can make scheduling and time management procedures difficult. In addition, because staff have the autonomy to work and take time off as necessary to fill forty hours in a week, it is not always

possible to track staff locations or work times. Additionally, OLRS may be unable to adequately fulfill customer service requirements at the end of the week, when many employees are off due to flex time schedules. Finally, the ambiguity of work schedules makes management oversight difficult and supervisors do not have documentation on hand to support payroll approval of hours claimed for some employees.

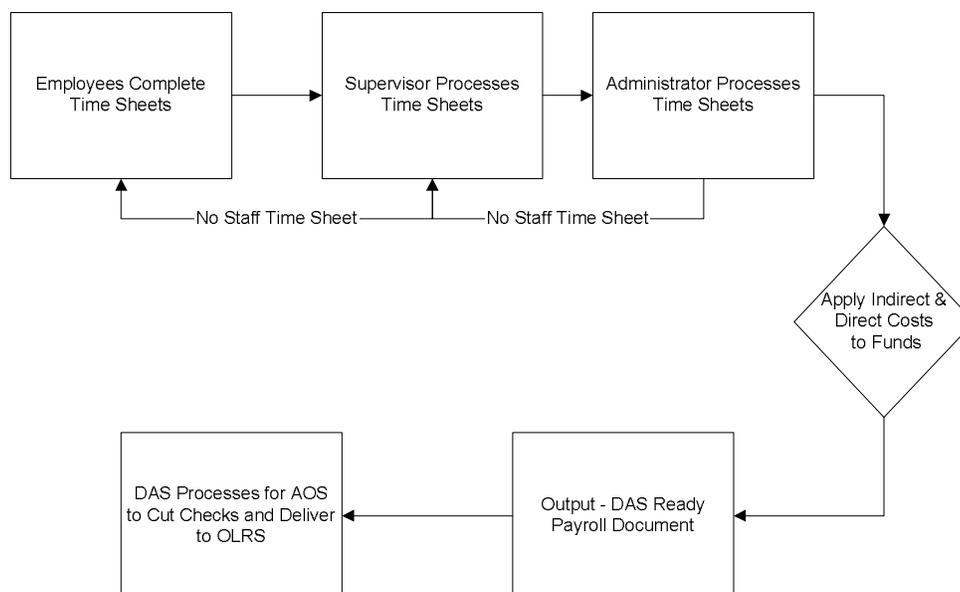
IPAS has a “Work Attendance Scheduling Policy” outlining the following scheduling requirements of staff:

It is crucial to smooth agency operation and communication that the whereabouts of staff during regular working hours are known and that staff can be located or contacted when needed. Each staff member is responsible for reporting their whereabouts via the timely filing of weekly itineraries and to apprise the supervisor of any changes in activities from those specified on the itinerary.

Staff use a form indicating where they plan to be each day of the following week, with deadlines for submittal. In addition staff list contact information on the schedule allowing urgent messages to be forwarded, and, if the individual is unavailable, the staff person is required to call in at least once per day to address any urgent calls needing action.

A weekly scheduling and time management system could help OLRS maintain its minimal overtime expenditures while ensuring that the needs of the agency are met and staff members are easy to locate. Such a system could easily be implemented in a basic email software package. Likewise, the staff could notify the receptionist on Fridays as to the planned work times and locations for the following week. Providing a week’s notice for staff members’ schedules, as opposed daily notice, would enable OLRS to more effectively plan its activities around staff schedules and locations and would allow management to ensure that adequate resources would be available to meet the agency’s needs for the entire week. Finally, ensuring that managers are aware of staff locations and work times ensures accountability and guarantees that staff members work all required hours. During this performance audit, the audit team regularly experienced difficulty locating staff. In most cases, the OLRS receptionist was unaware of the specific location or work hours of staff. OLRS management later stated that this information was maintained by line supervisors and not coordinated within the agency or reported to departmental managers.

OLRS’ payroll process is very structured, tending toward cumbersome. This process is illustrated in **Chart 2-5**.

Chart 2-5: Payroll Process

Source: OLRs and AOS analysis

OLRS' payroll process is manually driven, labor intensive and consistently requires two or three days to complete from the time staff complete time sheets to the transmission of payroll data to DAS. Most payroll data problems are resolved at the agency level, prior to DAS processing. An OLRs staff person's time for two or three days per pay period is necessary to maintain the current system for processing payroll and for management oversight of the work process.

OLRS personnel have expressed resistance to implementing an automated payroll or time and attendance system. Although such a system could tremendously reduce the amount of time spent processing the agency's payroll, there is some concern over the ability to implement the system within the guidelines of the federal funding authorities. However, discussions with the federal funding authorities revealed no potential problems with implementing an automated payroll system or utilizing an electronic time and attendance system to facilitate the payroll process. In fact, such a system could streamline the process of capturing staff time and billing it appropriately to the various grants administered by OLRs. Further, an automated payroll system would mirror the federal government's cohesive push towards a higher level of automation in business transactions.

Workforce Time and Attendance Software published a report describing the content and assessing the benefits of implementing an electronic time and attendance and automated payroll system. The return on investment provided to the organization is the most important factor to

consider when evaluating the software to be used. An organization can easily identify the return on investment by comparing the expected costs of implementation to the expected benefits. Knowing this information up front enables an organization to monitor progress to ensure that expected savings actually materialize. The following are benefits of a timesheet software solution:

- Paper Reduction: direct savings for paper reduction, indirect savings for paper handling;
- Paperwork transfer;
- Improved data quality;
- Fewer inquiries from the data resource department;
- Fewer paycheck corrections;
- Eliminates duplicate entry; and
- Electronic notification of tasks.

While these benefits should be carefully analyzed and quantified, the following costs should also be considered:

- License fee for the software;
- Additional hardware needs to run the software, computer and server upgrades;
- Costs to analyze and select the system;
- Training costs;
- Implementation costs including consulting fees, requirements analysis, custom programming, configuration, testing and deployment; and
- Ongoing maintenance and upkeep costs.

In many cases, the cost savings derived from increased accuracy and reduced processing time offset the cost of software and maintenance.

Recommendations 12-14:

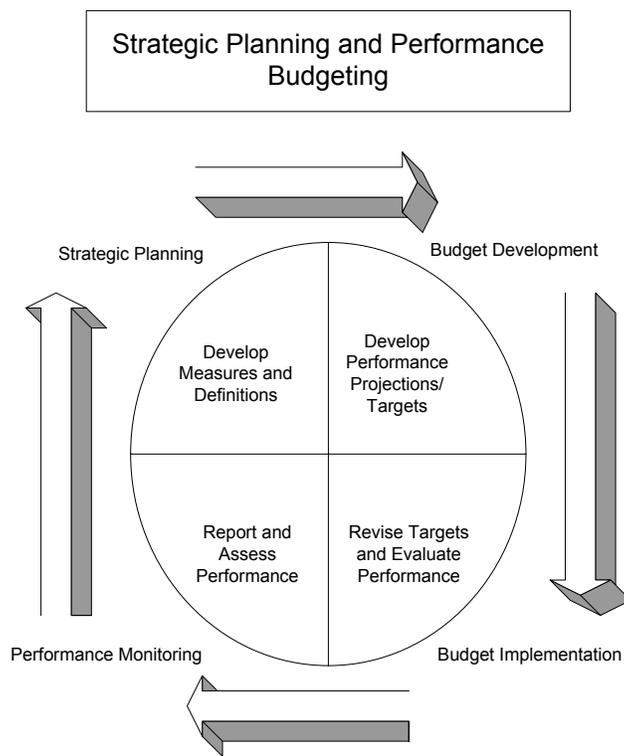
- 12. OLRs should implement a scheduling and time management system for its staff. This could be accomplished with a paper form that is filled out every week, similar to Indiana, or an electronic scheduling mechanism could be used through email or an online calendar function. The weekly schedule should indicate where an employee plans to be working the following week, the hours of work for each day and any planned days off, as well as any travel plans and contact phone numbers for each day. Employees should notify their supervisors as soon as possible of any changes to their schedules.**
- 13. OLRs should implement an off-the-shelf automated time and attendance/payroll system that is compatible with OLRs' Macintosh platform. Agency management should coordinate with DAS to ensure that the package would be compatible with**

current and planned state technology systems, and with federal funding authorities to ensure that the system can track information in accordance with federal reporting requirements. Once implemented, the system should be used for time tracking by grant or program and to process payroll. Depending on the system, OLRs may also be able to use it for scheduling and time management. A time and attendance software solution should provide excellent management control over the documentation and timekeeping process and documentation of the actual working hours in the agency.

14. Any system of scheduling and payroll should be cross checked by payroll supervisors to ensure that employees worked all hours billed and that employees adhered to the schedule submitted. Cross checking schedules against payroll data will raise the level of OLRs payroll accountability and ensure that employees are paid only for the hours worked each week.

D. Performance Measurement

OLRS does not use performance measurement to gauge agency efficiency or the appropriateness of employee workload. The State of Texas developed a performance measurement process for each agency within the state. The process used for performance measurement, and its link to budgetary allocations, is shown in **Chart 2-6**.

Chart 2-6: Planning and Performance Budgeting Process

Source: Texas State Auditor Report

A good performance measurement system should be results-oriented, focus on the most important performance indicators, provide useful information for decision-making, and be accessible and reliable. Useful performance measures should also be valid, cost-effective, and relevant to agency goals, objectives, strategies, and functions. Internal performance measures can be used by managers to periodically review agency progress toward operational goals and priorities; evaluate agency staff performance; develop and refine agency rules, policies, and procedures; and communicate with agency employees, customers and other stakeholders. The following are the four major types of performance measures:

- **Outcome:** Indicators of the public's or customer's benefit from agency actions.
- **Output:** Measures of the number of services an agency produces.
- **Efficiency:** Indicators of productivity expressed in unit costs, units of time, or other units.
- **Explanatory/input:** Measures of factors, agency resources, or requests that affect a state entity's performance.

These appraisal techniques may be used in full or in part to establish appropriate appraisal techniques for OLRs. Factors such as objectivity, usefulness of information, and cost of implementation should be considered when designing a performance measurement system. Implementation of a performance measurement system would facilitate OLRs' desire to implement a strategic budgeting process and would be an integral component in the development of a strategic plan, as discussed in the **mission and planning** section.

Recommendation 15:

- 15. OLRs should implement a comprehensive performance measurement system to be used in monitoring of progress toward achieving agency goals and priorities, and in the planning and budgeting process. By using performance measurement in the budgeting process, OLRs will be better able to allocate resources to areas that require additional assistance and will be able to see the results of those allocations. At the time performance measures are developed, appropriate controls should be developed to ensure that the measures are accurate, useful and cost effective.**

D. Personnel Salaries

During the course of the performance audit, salary levels and compensation for OLRs were assessed in comparison to similar states. **Table 2-3** compares salary levels at OLRs to those of IPAS, KPA and Missouri Protection and Advocacy Services (MPAS). Comparisons are made by the position or type of work being done and include a cost of employment adjustment based on the Bureau of Labor Statistics (BLS) report.

Table 2-3: Hourly Pay Scale Comparison ¹

Position	OLRS	IPAS ²	KPA ³	MPAS ⁴	Peer Average	OLRS over Peer Average	% Above Peer Average
Executive Director	\$49.48	\$34.22	\$34.82	\$35.56	\$34.87	\$14.61	41.9%
Disability Rights Advocate 1	\$29.18	\$24.13	\$19.74	\$18.64	\$20.84	\$8.34	40.0%
Liaison Officer	\$35.56	\$24.13	\$23.89	\$18.45	\$22.16	\$13.40	60.5%
Attorney 5	\$32.33	\$24.13	\$26.28	\$28.16	\$26.19	\$6.14	23.4%
Fiscal Specialist	\$19.90	\$15.41	\$18.03	\$17.00	\$16.81	\$3.09	18.4%
Executive Secretary 1	\$19.90	\$15.41	\$13.48	\$12.14	\$13.68	\$6.22	45.5%
Disability Rights Advocate Supervisor	\$35.56	\$29.81	\$22.22	\$20.39	\$24.14	\$11.42	47.3%
Administrative Assistant 4	\$32.33	\$20.97	\$29.74	\$18.45	\$23.05	\$9.28	40.3%
Rights Advocate Administrator	\$39.23	\$29.81	\$23.89	\$21.85	\$25.18	\$14.05	55.8%
Word Processing Specialist	\$15.33	\$15.41	\$10.13	\$6.31	\$10.62	\$4.71	44.4%
Administrator 2	\$32.33	\$29.81	\$16.31	\$17.00	\$21.04	\$11.29	53.7%
Attorney 6	\$35.56	\$34.22	\$28.91	\$29.14	\$30.76	\$4.80	15.6%

Source: OLRs, IPAS, KPA and MPAS

¹ Comparison of salaries is based on the maximum rate in the step class.

² Indiana salaries were increased by 4.5 percent based on the BLS report to better reflect the cost-of-living differences between Ohio and Indiana.

³ Kentucky salaries were increased by 1.6 percent based on the BLS report to better reflect the cost-of-living differences between Ohio and Kentucky.

⁴ Missouri salaries were increased by 1.1 percent based on the BLS report to better reflect the cost-of-living differences between Ohio and Missouri.

The data presented in **Table 2-3** suggests that OLRs' pay rates are high in comparison to a similar state P&As. The average maximum hourly rate at OLRs for the positions shown in **Table 2-3**, excluding the executive director, is \$29.75. The peer average adjusted average hourly rate is \$21.32, making OLRs' salaries an average of 40 percent higher than peer salaries. OLRs salaries are at least 40 percent higher than the peer average in 9 of the 12 classifications examined.

OLRS is also affected by its practice of promoting employees without supporting documentation such as performance evaluations. Most positions at OLRs are covered by bargaining unit agreements that stipulate step schedules and annual raises. However, when employees reach the last step of a particular position, they are usually promoted to the next position where the step schedule begins again. For example, when an *administrator 2* reaches the last step in the class, the pay rate does not automatically increase except for an annual cost of living adjustment. However, at OLRs, this person would be promoted to *administrator 3*, where the step schedule begins again and the person receives automatic raises throughout the year. While this process is not inherently problematic, the lack of performance evaluations (see **Recommendation 3**) prevents OLRs from justifying its abnormally high salary expenditures.

Recommendations 16-17:

16. **OLRS should refrain from promoting employees without appropriate supporting documentation such as performance evaluations. All promotions should be accompanied by documentation showing the exceptional nature of the employees' performance. Raises should be commensurate with the level of performance outlined in the evaluations. The opportunity to reward high performing employees diminishes when employees receive promotions and subsequent step increases without supporting performance documentation.**
17. **OLRS should conduct a salary study using other P&As (adjusted for cost-of-living) to determine the most appropriate salary step level for new and veteran employees. Also, prior to renewing the contract of the executive director or hiring a new executive director, OLRSC should conduct a salary study of similar positions in Ohio and relevant P&As to determine an appropriate pay range for the executive director position. Conducting this study will help OLRSC to establish a fair, competitive, and reasonable pay rate for the executive director, which should enable OLRSC to retain qualified candidates for executive director while maximizing the funds available for client services.**

Once the salary study has been completed, OLRSC should adjust its salaries, through increases and reductions, to better fit the salary ranges and job descriptions in the salary survey. Changing some salaries will require changes to the negotiated agreements governing OLRSC employees. If OLRSC relies on salary adjustments for new employees alone, it may take five to ten years for the agency's salaries to be brought into line with other P&As. Salaries should be adjusted upon completion of the salary survey to ensure that maximum funding is available for client focused services. The funds redirected from inflated salaries could be used to hire additional staff for more concentrated client outreach.

F. Contracted Services

The current process used by OLRSC for acquiring services from expert witnesses is an informal process. Members of management collaborate to develop a short list of qualified candidates and determine availability. A short agreement is then developed and entered into between the parties with a "not to exceed cost for services without authorization" amount written in the agreement. Staff stay in close contact with the expert and are often able to negotiate a settlement to the issue before going to court with the assistance of the expert. Final billing for time and documentation is then provided to OLRSC and the account is settled. While the information flow is started and managed as shown on the process map, the only portion of the process documented by OLRSC is step 4 and step 5. The contract preparation and signing is the extent of documentation.

Although OLRs staff are usually aware of expert witnesses in the required field, this information is not centrally maintained, and performance information is not tracked for each expert witness. Not documenting this type of information puts OLRs at risk of losing institutional knowledge through attrition. Additionally, the agency is not able to track or monitor information such as which expert witnesses are the most successful or cost-effective. Tracking this information in a database can ensure that both current and future employees are able to select appropriate expert witnesses.

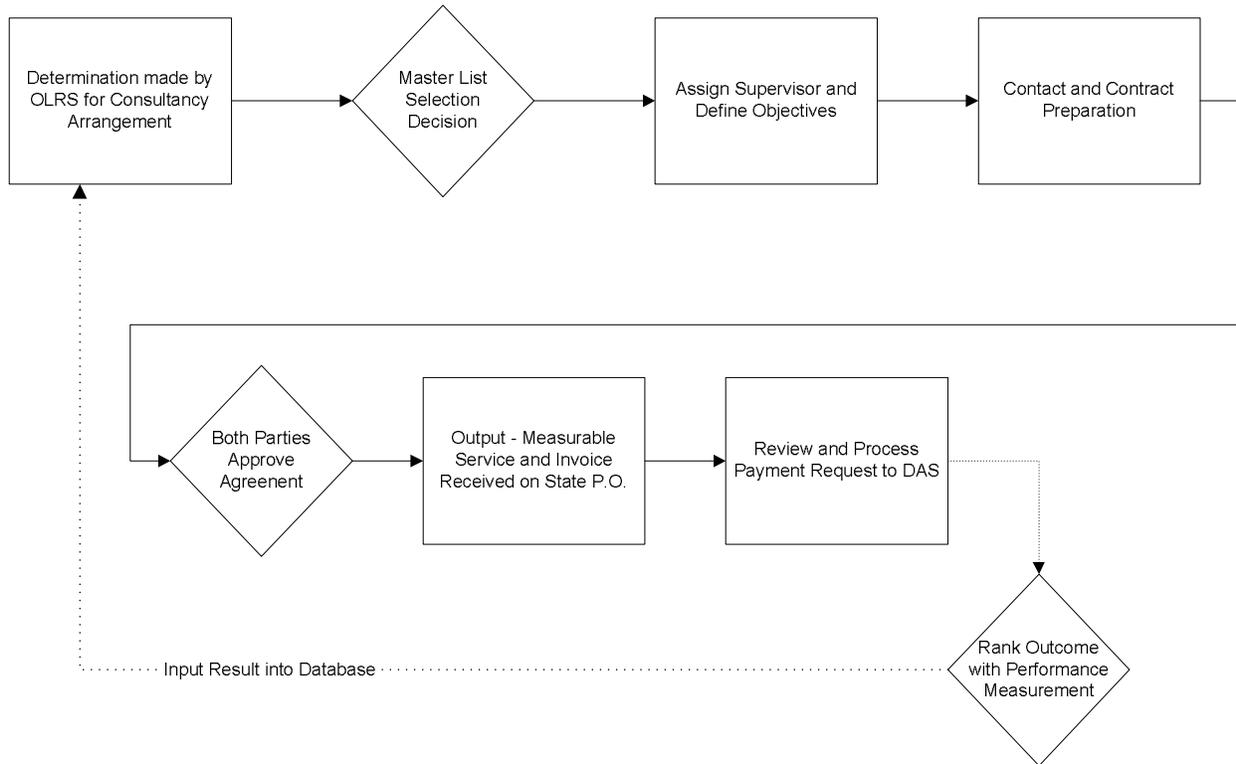
The Columbus Mental Retardation and Developmental Disabilities (MRDD) field office completes a needs assessment each time an expert witness is needed and develops required specifications based on the needs assessment. MRDD then opens the expert contract to bid based on the specifications developed in the needs assessment. Following a similar process within OLRs may improve the cost effectiveness of services purchased by the agency.

Recommendation 18:

- 18. OLRs should create a database and strategic selection process for expert witnesses that mirrors Chart 2-7 and should develop criteria for the database application. Organizing the database in this manner enables the tracking, reporting and measurement of the quality of candidates and outcomes and offers excellent performance measurement criteria. A staff team should develop a list of the prospective experts and all relevant information pertaining to their expertise. Additional research should be completed to document the prior use and outcomes generated by all previous service contract arrangements. The filemaker system currently in use at OLRs provides easy access to a familiar database system that can be used to develop this management tool. The objectives written by the supervisor will provide the outcome management and review necessary to make the database a valuable tool in recognizing the performance of the contracted party.**

Chart 2-7 shows the current expert witness acquisition process for OLRs in solid lines. Ranking outcomes and inputting the results into a database are steps that should enable OLRs to compile and distribute institutional knowledge and more effectively select and monitor expert witnesses. These steps are shown with dotted lines.

Chart 2-7: Recommended Expert Witness Acquisition Process



Source: AOS analysis

OLRS/OLRSC Relationship

Background

The Ohio Legal Rights Services Commission (OLRSC or Commission) was created in 1986 by the Ohio General Assembly, 11 years after the creation of the Ohio Legal Rights Services (OLRS). Ohio Revised Code (ORC) § 5123.60 establishes the Commission for the purpose of appointing an executive director of Legal Rights Services, advising the executive director, assisting in budget development and establishing general policy guidelines. The ORC also states OLRSC may receive and act upon appeals of personnel decisions. The affirmative vote of at least four members of the Commission at a meeting where at least five members of the Commission are present is required for OLRSC to pursue a class action lawsuit or issue a subpoena. However, since the formation of OLRSC, no class action litigation has been proposed by OLRSC.

OLRSC consists of seven members: three appointed by the Speaker of the Ohio House of Representatives; three appointed by the President of the Ohio Senate; and one chairperson who is appointed by the Chief Justice of the Ohio Supreme Court. The members of OLRSC serve three year terms and may not serve more than two consecutive terms. OLRSC is required to meet at least four times a year.

OLRSC appoints the executive director to a five-year term. The executive director may only be removed during the five-year term for physical or mental incapacity, conviction for violation of any law relating to the powers or duties of office, or for other good cause.

Findings and Recommendations

A. Commission/Agency Relationship

The current statute governing OLRSC does not detail specific oversight responsibilities. Rather, the statute directs OLRSC to assist with the development OLRSC's budget and strategic priorities. The current executive director of OLRSC assisted in drafting the legislation pertaining to the role and responsibilities of OLRSC. The executive director indicated that the section of the ORC pertaining to OLRSC's responsibilities was intentionally ambiguous to protect the independence of OLRSC, although this statement was not verified by the audit team. However, the ambiguity in the current statute has provided OLRSC with sufficient interpretive power to prevent the OLRSC from effectively executing its oversight and governance responsibilities.

OLRSC was not active from FY 1999 through FY 2000. Open Commission appointments were filled in early FY 2001 and the current commissioners have been active since being appointed. The precedent set by the previously inactive Commission coupled with an ambiguous statute has led to conflicts between the OLRSC executive director and OLRSC on the role, responsibilities and oversight powers of OLRSC. The OLRSC executive director has been, in some instances, hesitant to share information with the Commission. The Commission is not included in strategic decision making opportunities and has been excluded from meeting with other active advisory boards within OLRSC (i.e., Protection and Advocacy for Individuals with Mental Illness Program (PAMI) board).

Because of the conflicting interpretations of the ORC statute governing OLRSC's interactions with OLRSC, the Commission requested an examination of the current statute and the statutory authority granted to multimember governing boards in other states. During the course of the audit, conflicting interpretations on federal statutes regarding confidentiality caused the Commission to request additional analyses of the federal statute and their role as the agency's multimember governing board.

OLRSC representatives have stated that the agency does not recognize OLRSC as a multimember governing board. Furthermore, the agency and Commission have not developed directives outlining the roles and responsibilities of OLRSC beyond the limited definitions provided within the ORC. Federal code (42 USC 15044) specifies that a state protection and advocacy agency that maintains a composition of members who broadly represent or are knowledgeable about the needs of the individuals served by the system will recognize the collection of members as a multi-member governing board. Several federal agency representatives also stated that their agencies recognized the Commission as Ohio's P&A multimember governing board. Additionally, OLRSC fulfills several federally-mandated functions, which are required of P&A governing boards. However, the Commission will be

required to take on additional governance responsibilities to fully comply with the federal requirements of a multi-member governing board.

Table 3-1 lists major statutory parameters under which a commission, advisory board or multimember governing board operates in 12 other states.

Table 3-1: State Commission Policies

State Commission Policy	States	#	%
State has a commission for the Protection and Advocacy Agency	CT, GA, ID, IN, KY, NC, ND, NY, OH , SC, VA, WI	12	100.0%
Commission takes part in policy planning	CT, ID, ND, NY, OH , SC, VA	7	58.3%
Commission appoints the director/administrator	GA, ID, IN, ND, OH , SC, VA	7	58.3%
Commission or agency prepares annual report for governor, legislature regarding performance	CT, ID, NY, OH , SC, VA	6	50.0%
Commission assists/approves of staff selection procedures	GA, IN, KY, NY, OH , SC	6	50.0%
Director serves at the pleasure of the commission	GA, IN, ND, SC, VA	5	41.7%
Commission approves the budget	GA, ID, KY, ND	4	33.3%
Commission provides general supervision to management and reviews performance	ID, KY, NY, VA	4	33.3%
Commission takes part in budget planning	GA, NY, OH , VA	4	33.3%
Commission must meet quarterly	KY, OH , VA	3	25.0%
Commission approves strategy/goal planning	ID, ND	2	16.7%
The commission takes part in strategy/goal planning	ND, VA	2	16.7%
Commission has a role in the investigation of complaints	VA	1	8.3%
Commission has a role in establishing grievance procedures	NY	1	8.3%
Commission has no role in the handling of advocacy cases	KY	1	8.3%

Source: Ohio and peer states' Protection and Advocacy Laws & Statutes

As shown in **Table 3-1**, several states have more detailed oversight responsibilities contained in statute. Seven of the selected states have a directive that specifies a commission to have a role in the agency's policy planning.

In six states, the Commission appoints a director or executive director to run the agency and also determines the salary of the executive director. For most other states, either the appointing party is otherwise specified or is a state political figure such as the governor. Ohio is the only state reviewed that has in its statute conditions under which the removal of the executive director by the commission is possible. However, OLRSC may only remove the executive director under reasonable cause which is not defined in the statute.

Some members of the OLRSC have received personal correspondence regarding the level of service provided by OLRSC or grievances in progress. However, OLRSC does not have formal powers associated with the grievance process, and OLRSC personnel have historically declined to provide case files or grievance information to commissioners. New York's commission has a role in establishing the grievance process. New York's Retrieve Bill § 45.07 allows for the commission to establish procedures that ensure the effectiveness of investigation of complaints by clients. This allows the commission to remain reasonably confident in the level of service provided by the agency while maintaining a separation of duties between the commission and the agency.

None of the statutes selected for review make any declaration regarding the commissions' entitlement to view client information. Most states have conditions regarding confidentiality, but these typically relate to public access, not to commission access. In contrast, OLRSC rules specify that, "it is the policy of OLRSC that all information gathered in the course of its official duties is confidential, as between attorney and client or as otherwise specified by sections 5123.60 and 5213.601 et seq. of the ORC." This statement has been used by OLRSC to limit the information provided to the Commission regarding complaints, grievances and other client driven requests to specific commissioners for assistance or intervention.

Federal law includes multimember governing bodies within the realm of confidentiality guaranteed by law. According to 42 USC § 15043, states must have a system for protection and advocacy, and the system shall have access to all clients or client records. Further, 42 USC § 15044 describes one potential organization of such a system as "a public system with a multimember governing board." Because the concept of a multimember governing board, such as OLRSC, is specifically discussed in the federal code, it would appear that such a board is included in the system, which, in turn, has expressed access to clients and client records.

Federal officials from the Substance Abuse and Mental Health Services Administration, an agency of the U.S. Department of Health and Human Services, and from the Administration on Developmental Disabilities stated that in particular circumstances, such as a case that may require extra funding, or investigation into a grievance appeal, a board may be able to view client records in order to gain a full perspective of the situation. Both representatives clarified their statements, indicating that the specific situations and the procedure of investigation must be outlined in the commission bylaws prior to the examination or request for records and should not be approached in an extemporized manner (see **Commission bylaws**).

OLRSC has limited information about agency operations. The executive director produces a monthly director's report for OLRSC that covers topics such as new OLRSC publications, current litigation standings, survey results, and fiscal conditions. The executive director began supplying the monthly reports verbally after a request from the Commission

chairperson. In the recent past, the executive director has issued the reports in writing with the topics varying from month to month. The monthly reports are the only source of information available to OLRSC at the time of reporting. Although the OLRSC and executive director agree that the Commission should not engage into day-to-day supervision over OLRs, OLRs actions have restricted the powers and responsibilities of OLRSC. Federal and State law require a certain level oversight by the Commission and restricting this oversight function appears to indicate a continued resistance on the part of OLRs to accept the oversight of the governing board.

Some of the resistance to OLRSC involvement in OLRs matters may be attributed to the role of the Commission as perceived by the agency. OLRs personnel have indicated that the agency was effective without a Commission in prior years. Now that OLRSC has reconvened, OLRs representatives have stated that its only real value to the agency is in the area of policy oversight. OLRs representatives have indicated that their understanding of the requirements of the agency and its functions are not open to discussion or modification, which may put the agency at odds with the Commission as the Commission pursues performance improvement initiatives and oversight efforts.

During deliberations for HB 94 in early 2001, the executive director approached the State legislature to oppose an amendment to the Commission's statutory duties. The executive director did not notify the Commission of the letters in opposition to the proposed amendment. These letters were later made available to the audit staff. Citing commentary provided by the Commissioner of the Administration on Developmental Disabilities in a letter, the executive director stated that requiring an affirmative vote of the Commission where a majority of Commission members are present at the meeting to pursue legal action would be in violation of federal regulations. However, the ORC contains this provision in 5123.61 and the statutory changes appeared to provide additional clarity to the existing statute as opposed to changes to the independence of the agency. Subsequent communication with the Administration on Developmental Disabilities clarified the opinion. A representative of the Administration indicated that the Commission could not be involved in routine decision making on legal issues, such as subpoenas, but could be involved in decision making on legal action against systemic issues (see also **OLRS mission and planning**).

According to some Commission members, the executive director has opposed past statutory changes by citing federal regulations and providing similar statements to legislative representatives from federal agency representatives. Information collected during this performance audit indicated that, on occasion, the federal regulations may have been interpreted in a manner that supported OLRs' opposition to the statutory changes. Upon further examination, the federal statutes appear to have been characterized in an abbreviated manner or supported by only one of the federal grantors. In each case, the Commission has been excluded from the communications with federal representatives and state legislators.

Recommendations 19 to 23:

19. **OLRS should recognize OLRSC as the multi-member governing board discussed in 42 USC 15044. The Commission should work to meet all standards established by the federal code, as non-compliance with sections of the code may result in a reduction of federal funding. In particular, the Commission should ensure that the appointing authorities are fully apprised of the requirements of the composition of the board. The Commission should also ensure that the appointing authorities fill all vacancies in the Commission within 60 days to meet federal guidelines. Finally, the Commission should ensure that OLRSC and the Commission meet all federal reporting requirements.**

20. **OLRSC should advocate for the addition of statutory language clarifying the oversight role and accountability level of the Commission. OLRSC should support the inclusion of language in the statute that more clearly defines the role and responsibilities of OLRSC and assigns the Commission sufficient oversight authority to ensure OLRSC is accountable to the population it was established to serve. The political independence of OLRSC is clearly important. However, there needs to be a balance between OLRSC independence and accountability. In its oversight capacity, OLRSC should function as representatives of the populations served by OLRSC, ensuring proper focus and diligent response to the legal issues of the disabled community.**

Based on the statutory authority of commissions in other states, several amendments that the Commission should consider presenting as a component of a statutory update include the following:

- **The executive director serves at the pleasure of the commission.**
- **The Commission takes part in the development of the budget and approves the annual budget.**
- **The Commission participates in policy development.**
- **The Commission participates in strategic planning meetings and approves the strategic plan.**
- **The Commission provides general supervision to management and reviews management's performance.**
- **The Commission has a role in the investigation of complaints.**
- **The Commission is notified of legislative communications from the agency.**
- **The Commission is notified of communications to federal grantors from the agency.**
- **The Commission receives specific reports including progress on goals and service to consumers.**

- **The Commission has role in developing and approving grievance procedures and acts as the final appeal authority in grievance cases.**

Although collaboration with OLRSC is an important component of establishing a strong working relationship between the Commission and agency, OLRSC should be the primary advocates for these statutory changes.

- 21. The Commission should consider, in the development of its bylaws (see Commission bylaws), increasing the frequency of its meetings. Quarterly meetings generally do not provide an oversight board with sufficient contact to adequately ensure the accountability of its agency. Meeting every two months or on a monthly basis would provide the Commission with a greater number of opportunities to receive information from the agency and clients and act on Commission business.**
- 22. OLRSC and OLRSC should work to establish a more effective, mutually-acceptable working relationship regardless of any changes that may be made to the ORC. OLRSC should be forthcoming with information regarding performance and progress toward jointly agreed-upon goals. The executive director should seek opportunities to include the Commission in decision making and public meetings. Also, the executive director should consider forming a public relations partnership with the Commissioners. Commissioners live throughout the state and could serve as agency representatives to underserved areas.**
- 23. OLRSC should provide client records and case files to OLRSC under special circumstances as indicated in the federal code. Such instances include cases when the Commission is involved in the resolution of grievances or when the agency is handling high-profile cases that may develop into class-action litigation and may require the support of the Commission. Likewise, OLRSC should avoid involvement in day-to-day agency operations and should only seek access to client records under special circumstances. OLRSC would be subject to the same standards of confidentiality as the agency.**

B. Management Reporting

OLRSC is not included in the development and dissemination of the OLRSC annual report and required federal reports. According to 42 United States Code Section § 15044 (e), beginning in fiscal year 2001-02, each board or commission is required to prepare and transmit [to the Secretary] a report that describes the activities, accomplishments, and expenditures of the agency during the preceding fiscal year, including a description of the system's goals, the extent to which the goals were achieved, barriers to their achievement, the process used to

obtain public input, the nature of such input, and how such input was used. The Ohio statute replicates this directive in ORC § 5123.60 (f)(5) and (7) as a requirement of the executive director to prepare a report of activities and a budget to be submitted. Although 42 USC § 15044 and ORC § 5123.60 requires the state agency to prepare an annual performance report, the report is not used by the federal agencies as an oversight tool.

OLRS produces an annual report to exhibit the agency's operations from October through September of the following year. The FY 2000-01 report was distributed to the Governor of Ohio, Chief Justice of the Supreme Court, President of the Senate, Speaker of the House, OLRSC, Director of Mental Health, Director of Mental Retardation & Developmental Disabilities, and also was available to the public. The executive director compiles the report, which includes individual case and group case information; class action litigation and court ordered monitoring updates; policy work; grievances; and information regarding OLRSC's programs, Protection and Advocacy for Persons with Developmental Disabilities Program (PADD), PAIMI, Protection and Advocacy for Individual Rights Program (PAIR), and Client Assistance Program (CAP). Major unusual incidents, changes in Medicare, selected cases and OLRSC's Statement of Philosophy are also outlined. The Commission is not included in the preparation of the annual report or provided a copy of the report for review.

In addition, OLRSC is required to file federal reports on each grant received. The reports are prepared in a template provided by the grantor and appear to change little from year to year. Supporting documentation is not included and the federal grantors who were contacted during this audit stated that they rarely, if ever, audited the reports received or visited the P&A. The reports are prepared by OLRSC staff and submitted by the executive director. The Commission is not included in the approval process or provided a copy of each report for review.

OLRSC is not involved in the development or approval of the agency's annual budget request to the legislature. The Commission is also excluded from identifying priorities and the corresponding federal funding streams used to address each priority. Of the states reviewed, four set standards for their commission to be able to approve the budget. Three states, Georgia, New York and Ohio, provide policy that allows the commissioners to take part, or assist the executive director in budget planning. Per Ohio statute, the OLRSC is to advise the executive director on the budget. However, the Commission has had difficulty obtaining copies of OLRSC's draft or final budget. Without involving OLRSC in the development of the budget, OLRSC is preventing OLRSC from fulfilling its formal duties. Formal approval of the budget ensures OLRSC can have an impact on resource allocation and, therefore, ensure the priorities of the agency correspond to those of Ohio constituents.

OLRSC does not have access to basic performance measurement data or key statistics that could be used to evaluate OLRSC performance. The executive director does not provide performance information as a component of management reports and restricts the

Commission's access to basic reporting information, citing the confidentiality of all agency materials. In several instances, basic statistics could not be developed for inclusion in this performance audit because of the agency's interpretation of the State and federal statements on confidentiality. For instance, information on the number and type of grievances was provided, but OLRs would not provide information on the client's referral source or general reason for the initial contact with the agency.

In Indiana, Kentucky and New York, the commission is given the ability to oversee management and review performance within the agency. Kentucky Act 31.015 gives the commission the ability to, "review the performance of the public advocacy system and provide general supervision of the public advocate." In these states, the daily operations and management remain the responsibility of the executive director. Federal and State statutes and regulations require OLRs to supply budget and expenditure data, public reports and performance information to the multimember governing board/Commission. However, penalties for failure to report are not enforced. OLRSC's inability to obtain performance data for OLRs inhibits the Commission's ability to oversee agency operations, ensure agency accountability to funding authorities and constituents, and guide overall agency responsiveness to client requests.

Recommendations 24 –26:

- 24. OLRs should provide copies of all public documents, legislative updates and reports, and federal reports to the Commission for comment prior to their release from the agency. The Commission should also be provided supporting information that may not be included in the report to verify that reporting information is correct.**
- 25. OLRs should ensure that the Commission has access to the agency's proposed budget prior to its submission to the legislature. If Recommendation 20 is implemented, OLRSC will have input into the budgeting process. In the interim, the executive director should ensure that OLRSC has adequate opportunity to review and comment on proposed budgets and that Commission members comments and/or concerns are adequately addressed prior to the submission of the budget to the Ohio Office of Budget and Management.**
- 26. OLRs should provide the Commission with data and documentation showing budget to actual expenditures and other financial information. OLRs should maintain its financial management records at a sufficient level of detail to provide the executive director and Commission members with assurance on the effectiveness and efficiency of OLRs programs. Such information should be provided to the General Assembly and public in summary form via internal publications and the agency's web site respectively. In addition, OLRs should**

provide a summary of the agency's strategic plan within its annual report. Providing a summary of expenditures and strategic goals would demonstrate OLRSC's internal oversight of funds and the investment of such funds in priority programmatic areas.

Expenditure information should be coupled with performance data (as explained in the administration and operation section) to illustrate OLRSC's service levels and accomplishments. Such information will provide the agency and Commission with target service levels and contribute to the formation and development of goals and strategic objectives. Coupling funding and performance data also helps identify underperforming areas where desired outcomes may not be achieved.

C. Commission Bylaws and Rules

OLRSC does not have an archive of minutes of the meetings of past Commissions. The current Commission maintains its own minutes, but does not have a central repository for minutes and other documents. Furthermore, the Commission minutes are not accessible through the OLRSC web site or at the agency. OLRSC has not provided the Commission secure storage or workspace within the agency, even though excess space appears to exist.

The International Organization for Standardization (ISO) has developed a set of five individual but related international standards on quality management named ISO 9000:2000. Initially, published in 1987 and revised in 1994 and 2000, they are not specific to any particular industry, product, or service. One of the cornerstones in the standard is the importance placed on adopting an effective document and data control system. In order to effectively control documents and data, an organization must clearly define which documents and data must be controlled and who is responsible for overseeing document control. Responsibility for this function can be centralized or de-centralized, but an organization must ensure that the most current documents are at necessary points of use, obsolete documents are removed, and help ensure that appropriate and periodic reviews by the entity that created them are performed. Controlling documents and data is critical for management to be able to make decisions on current and fact-based information and for ensuring compliance with organizational policies and procedures. A copy of the ISO standard may be obtained by contacting www.asq.org.

OLRSC has not implemented bylaws or rules of council. Bylaws and rules of council are used to define the expectations and requirements of board or commission membership. The bylaws and rules of council constitute the board/commission's policies and procedures, including board/commission expectations of agency reporting, expectations of the executive director, and refinement and further definition of the relationship between the board and the agency.

Many organizations implement bylaws because of the benefits bylaws provide in terms of running effective meetings and demonstrating accountability. Most Ohio councils are required by the ORC to establish and maintain a set of rules that govern their board of trustees' operations. Strong bylaws have the following key similarities:

- A detailed description of board of trustees composition including terms of office, compensation, reimbursement, appointing authorities, vacancies, successors and reappointment policies;
- Formal and detailed description of board and executive management duties;
- Quorum and meeting establishment requirements, including frequency and voting procedures;
- Procedures for the dissemination of minutes
- Indemnification statement; and
- Policy statements on committees, purchasing, financing, staff needs and permanent files.

Bylaws provided by the Louisiana State Planning Council on Developmental Disabilities and Pennsylvania's Center for Disability Law & Policy include several key policy areas for rules of governing bodies. These areas include the following:

- The membership and purpose of the board of directors;
- The requirements for filling vacancies occurring in the Board of Directors;
- The requirement of board meetings to be scheduled at a time and place set by the Board and notification of the meeting stipulations for members and the public;
- The conditions under which a board is able to call a special meeting;
- The requirements for establishing a quorum and voting *in absentia*;
- The roles, responsibilities and relationship of the board and executive;
- The procedure for designating committees;
- The reporting requirements for the Board and agency; and
- The reimbursement policies for travel and actual expenses incurred on official business.

When implementing new bylaws and procedures, a governing body should consider:

- What policy or law may apply to the item;
- Whether the item complies with, duplicates, modifies, or affects existing policies or procedures;
- Whether a new policy is needed to implement the proposed action;
- What the time frame is for implementing and completing the proposed action; and
- Who will evaluate the proposed action and how it will be evaluated.

In order to establish the role of OLRSC within OLRs, responsibility guidelines must be established. OLRs' PAMI Advisory Council has well-established bylaws. The bylaws specify the policies under which the council operates. These policies include, but are not limited to the following:

- Regulation on the professions, expertise, or interest of the Council members;
- State residency stipulations;
- Representation regulations for individual members;
- Definition of a quorum ;
- Election of chairpersons;
- Establishment of ad hoc committees; and
- Agency reporting requirements (see **Recommendation 26**)

The PAIMI Advisory Council also abides by Robert's Rules of Order during council meetings.

Recommendations 27 - 28

- 27. OLRSC should use ISO 9000 procedures to develop a record retention policy for OLRSC minutes, Bylaws and Rules of Council (or policies and procedures), OLRs reports, client complaints and grievance resolutions. OLRSC should obtain space at OLRs' offices to house its documentation. The space allocated to the OLRSC should be able to be secured and should be accessible only to OLRSC members.**

- 28. OLRSC should work to develop policies and procedures to help to govern its practices in relation to the agency. The Commission should obtain policies and procedures from governing boards in other states to help develop its own policies and procedures. OLRSC should also use its own PAMI Advisory Council's bylaws as an example to establish policy and procedures. Adopting a parliamentary procedure such as Robert's Rules of Order would be an effective way to establish a means of conducting meetings for OLRSC and managing the relationship between the agency and OLRSC.**

OLRS MISSION & PLANNING

Background

The mission of the Ohio Legal Rights Service is to protect and advocate for the human, civil, and legal rights of people with disabilities. OLRS' stated goal is to enable people with disabilities to realize self-determination, equality of opportunity, and full participation in desired activities.

The mission and goals of OLRS are further clarified by a series of philosophy statements included in the annual report. These philosophy statements largely focus on the importance of protecting the personal autonomy and decision-making abilities of disabled people in Ohio. Some of the major concepts discussed in the statements of philosophy include the following:

- OLRS' duty is to advocate for the ultimate right [of a disabled Ohioan] to make a choice and have that choice heard and considered.
- OLRS seeks to enhance and protect personal autonomy as people termed disabled strive to become free from the isolated status they are forced to occupy.
- OLRS believes that persons not called disabled could, at any time, find themselves so labeled due to circumstances beyond their control.
- OLRS believes it is the rights that should be protected by an advocate, not the person.

OLRS receives federal and state funding to provide protection and advocacy (P&A) services for Ohio's disabled population. OLRS identifies priorities for case acceptance on an annual basis that are documented in the annual reports for each program and sent to the appropriate administering federal agency. However, these priorities are not publicized to the public or stakeholder organizations. Although these priorities are developed within the parameters of each federal program, they significantly reduce the broad scope of the OLRS mission statement.

Findings and Recommendations

A. Mission Statement

According to OLRs' 2001 annual report:

The mission of the Ohio Legal Rights Service is to protect the human, civil, and legal rights of people with disabilities. OLRs' goal is to enable people with disabilities to realize self-determination, equality of opportunity, and full participation.

The mission statement of OLRs articulates a focus on providing assistance to individuals with disabilities. The goals and philosophies that support the mission further support the concept that OLRs was established to protect and advocate for the rights of individuals with disabilities, and this interpretation is consistent among OLRs' stakeholders. However, extensive discussions with OLRs management revealed discrepancies between the agency's published mission statement and its internal philosophies and standard practices.

The case selection and management practices in place at OLRs are based on annual priorities that identify specific policy or systemic issues that the agency chooses to address. These priorities exclude a large portion of individuals from service eligibility favoring instead specific cases that address the systemic or policy-related issues identified in the annual priorities. The targeted focus of the annual priorities does not coincide with the individual, consumer-oriented mission statement used by OLRs.

Protection and advocacy agencies have varying mission statements, some addressing individual service and others addressing systemic change. **Table 4-1** identifies the variations in mission statements of comparative states' P&A agencies.

Table 4-1: Protection and Advocacy Agency Mission Statements

State	Mission Statement
Ohio	To protect and advocate the human, civil, and legal rights of people with disabilities
Connecticut	Advance the cause of equal rights for person with disabilities and their families
Florida	Advance the dignity, equality, self-determination and expressed choices of individuals with disabilities
Illinois	Advance the human and civil rights of people with physical and mental disabilities in Illinois
Indiana	Protect and promote the rights of individuals with disabilities, through empowerment and advocacy
Kentucky	Provide each client with high quality services through an effective delivery system, which ensures a defender staff dedicated to the interest of their clients and improvement of the criminal justice system.
Michigan	Advance the dignity, equality, self-determination, and expressed choices of individuals.
Missouri	Protect the rights of individuals with disabilities by providing advocacy and legal services
North Dakota	Uniting to champion the equality and inclusion of people with disabilities where we live, learn, work and play.
New Jersey	Protect, advocate for and advance the rights of persons with disabilities in pursuit of a society in which persons with disabilities exercise self-determination and choice, and are treated with dignity.
New York	Improve the quality of life for individuals with disabilities in New York State, and beyond, and to protect their rights
Virginia	Through zealous and effective advocacy and legal representation to protect and advance legal, human, and civil rights of persons with disabilities; combat and prevent abuse, neglect, and discrimination; and promote independence, choice, and self-determination by persons with disabilities.

Source: P&A websites

Of the 11 peer P&As shown in **Table 4-1**, 6 of the agencies, or 54 percent, mention serving individuals specifically. The remaining states mention persons with disabilities in general, similar to OLRs. Further review of P&A outreach information from other states indicates a delineated focus on either protection of individual rights or systemic change. This focus is normally established within an agency's strategic plan, which allows for the enumeration of specific and measurable goals and objectives. While the broad nature of the mission statement of OLRs is consistent with those of some other states, OLRs' mission is not clarified by a strategic plan. The absence of specific, measurable goals and objectives contributes to the confusion of stakeholders regarding the mission of OLRs.

Recommendation 29:

- 29. OLRs should ensure that its mission and philosophy statements accurately reflect the goals and objectives of the agency. Either the procedures of OLRs should be changed to focus on serving individuals, as is implied in the mission statement, or the mission statement should be adjusted to reflect a focus on systemic change, as is the current practice of the agency.**

B. Annual Priorities

OLRS develops annual priorities to guide case selection and agency decision making. However, the priorities are not sufficiently specific, measurable or adequately publicized. Many peer P&As involve stakeholder organizations in the development of priorities and goals and apprise these agencies of achievements and changes. OLRs' development of annual priorities takes place within the agency. Although an annual meeting is held to garner public input on priorities, it is not attended by members of the general public or the Commission because of inadequate advertising. . While OLRs personnel have attributed this to a lack of interest or initiative, it does not appear that the meetings are publicized. The Commission is not always aware of the meeting, and numerous stakeholder organizations stated that they are not aware of the meetings. Press releases advertising the meeting or other forms of communication used to solicit input could not be provided by OLRs. In some instances, OLRs collaborates with State agencies to identify service priorities and methodologies. However, these agencies indicated that they were not apprised of OLRs' annual priorities once they were finalized.

Although the public hearing concept has netted poor attendance in prior years, stakeholders have indicated that, were the meeting publicized, they would use it as a forum to bring issues to OLRs' attention. Some stakeholders, unaware of the current annual public hearing, suggested this concept in their survey responses as a good method to obtain feedback and ideas from other disability services personnel and the general public

Because the public meeting process has not been productive, OLRs management has developed new procedures for gathering public input on the annual priorities. The proposed process involves the dissemination of a survey for consumers at several outside agency group meetings during the summer of FFY 2002. The survey would allow OLRs to select areas of discussion for a conference to be held at the end of the summer. Attendance at the conference would be by invitation. The conference would provide a forum for discussing OLRs activities/priorities for next fiscal year. OLRs management stated that the conference would have a representative sample of professionals from various fields of disability service to build on structure and continuity of care.

The proposed new procedures for gathering public input may be in violation of ORC §121.22, which requires all meetings of public agencies to be public meetings and open at all times, allowing a member of a public body to be present, be considered present, vote or determine if a quorum is present at the meeting. Establishing the annual priorities for OLRs at an invitation-only meeting could be in violation of ORC §121.22. Also, the absence of publicized public forums for the discussion of priorities and goals may be in violation of state and federal regulations requiring opportunities for public input into the P&As operations.

OLRS personnel also indicated that publicizing the annual priorities could lead to other organizations making case selection decisions prior to referral to OLRs. Because of the potentially broad nature of OLRs case selection and advocacy, agency management indicated that case

selection should be made by OLRs advocates, not referring agencies. However, several stakeholder organizations have expressed frustration over the number of referrals that are rejected by OLRs. Developing specific goals and objectives to support the mission and effectively publicizing those goals and objectives along with the annual priorities could help OLRs provide a higher level of service to its clients and foster more positive relationships with its stakeholder organizations.

OLRS personnel have indicated that focusing on systemic change in the area of disability rights allows the agency to maximize its funding by affecting a larger population of people with disabilities. For example, instead of advocating for 200 individuals with similar disability-related problems, OLRs might use a small number of these cases as a catalyst for systemic or policy change that could benefit the larger population of disabled persons.

OLRS' focus on systemic change is consistent with the requirements for federal grant dollars and with many other states' P&As. However, its divergence from the published mission statement has caused continued confusion and frustration among clients and stakeholders. Many potential clients that request service from OLRs are rejected because their situation is either not in line with the annual priorities or is not an effective platform from which to attain systemic or policy change. Other disability service agencies at the State or county levels may experience similar confusion or frustration when their client referrals to OLRs are not accepted. Repeated denial of service to referrals may erode the level of confidence and cooperation among Ohio's disability services agencies. Some agencies stated that they no longer refer clients to OLRs due to the high rejection rate.

Recommendations 30-32:

30. OLRs should collaborate with OLRSC as well as State and local agencies and the general public when developing goals, objectives and annual priorities. The inclusion of these stakeholders could help to ensure that OLRs is meeting the needs of its client base while establishing more positive and cooperative relationships with other agencies that serve Ohio's disabled population. Obtaining input from all appropriate sources could be facilitated by publicizing the annual public. OLRs should strive to expand its outreach efforts even further and involve as many community members and stakeholders as possible.

OLRS should publicize its annual meetings over a three month period prior to the dates of the meetings. Notification of the meeting should be provided to all Ohio stakeholder groups, State and county agencies and media outlets so that the message can reach the general public. OLRs should post the meeting dates and times on its web site and include information on the meeting on its recorded phone message. OLRs should also consider holding public forums in Cleveland, Cincinnati, Athens and Toledo, as well as Columbus, to allow persons from all areas of the state to be involved in the prioritization process.

31. **OLRS should ensure that its mission statement and annual priorities form a concise and focused guide for the year's activities. Using the current mission statement as a starting point, agency personnel should identify how the federal programs help to accomplish the mission of OLRs. Personnel should further identify how annual priorities and activities contribute to the federal programs and thus to the accomplishment of the mission. Specific goals and objectives with measurable outcomes related to the annual priorities should be developed as indicators of mission accomplishment. All of these things could be enumerated in a strategic plan.**
32. **OLRS should adequately publicize its annual priorities among stakeholder organizations and the community in general. OLRs should also consider working with stakeholders to clarify their understanding of the annual priorities. Stakeholder organizations could be an extremely valuable tool in identifying underserved populations and matching these populations with the priorities of OLRs if the stakeholders are apprised of the agency's goals and annual priorities.**

Annual priorities should be included in OLRs' annual report to the state. The priorities should also be included on the agency's web site, as is common practice in other states. OLRs should provide supplemental information to other state and county agencies and have a brochure explaining the priorities available for distribution to stakeholders.

C. Strategic Planning

OLRS has not developed a strategic plan in conjunction with its annual priorities. To ensure each P&A program meets the most critical needs of the disabled community, federal law requires all P&As to develop annual priorities with input from the public. OLRs uses information from the intake system, staff expertise, and the previous year's accomplishment of goals to determine program priorities for the following year. OLRs then uses these goals and priorities for case acceptance and assignment. In contrast, some P&As use strategic planning to help determine annual priorities and goals and to guide their activities for three to five years.

OLRS managers have stated that strategic planning principles are encompassed in the development of annual priorities and objectives, which are compiled from input from staff, the Protection and Advocacy for Individuals with Mental Illness Program (PAIMI) advisory council and public hearings. However, OLRs plans to use its upcoming invitation-only conference as a forum for the development of a strategic plan. During the invitation-only conference, OLRs plans to develop a three year strategic plan incorporating the following elements:

- Collaboration among several entities serving OLRs constituents;
- Collection of data using the OLRs intake system;

- Collection of staff research on pertinent components not accessible by the intake system; and
- Representation of consumer needs through a single document.

Strategic planning can be accomplished in several ways. The United Way has developed a planning checklist for identifying an agency's administrative strengths and weaknesses. By identifying essential activities, recommended standard practices, and enhancement indicators, activities can be measured to determine if additional work is required to accomplish a goal. If a goal has not been met, the identified activity may be applicable to a strategic plan. Other steps often used in developing a strategic plan include the following:

- Solicit volunteers from various components of the community;
- Hire a facilitator for a multi-day planning session to develop drafts of the following through a consensus-based program :
 - beliefs,
 - mission statement,
 - objectives,
 - parameters, and
 - strategies;
- Develop detailed action plans with cost/benefit analyses for the implementation of each strategy;
- Gather the original strategic planning team to review the action plans and finalize the strategic plan;
- Develop an implementation schedule and resource allocation plan; and
- Combine strategies and plans into one document and make a brief brochure summarizing the plan's contents for distribution to stakeholders.

Strategic planning is also essential to address two unique problems faced by P&As. When a new P&A program is developed, P&A staff must learn both new legislation concerning the program details and the requirements for grant administration. OLRs develops expertise based on the guidelines identified. In some cases, a learning curve may be required to maximize the benefits of each new grant. The grants managed by OLRs have expanded from 3 in 1975 to over 10—with the potential addition of several new grants in the next few years. Strategic planning could help OLRs identify the required actions for grant administration when new grants are received.

Also, after receiving public comment to establish case selection criteria, P&As must develop priorities to ensure the most vulnerable populations or those with complex advocacy needs are served before less vulnerable populations. Priorities are necessary as the demand for representation often exceeds the resources of the P&A system. According to OLRs' annual reports submitted to the federal granting authorities, OLRs has partially met a majority of its priorities requiring continued activity in subsequent years. Acknowledgement of these practices reinforces the need for OLRs to develop a strategic plan to map out action steps needed to accomplish identified goals.

Recommendations 33-34:**33. OLRS should develop a strategic plan that includes the following components:**

- **Strategic budget;**
- **Goals, objectives and implementation plans with associated timelines;**
- **Measurable outcomes;**
- **Input from OLRS' key stakeholders; and**
- **Information relevant to achieving goals and objectives.**

In developing a strategic plan, OLRS should ensure that the needs of clients and stakeholders are adequately addressed and that the plan provides sufficient direction and detail to effectively guide the agency's operations. OLRS should develop and publicize annual strategic planning meetings to update the plan and garner public input.

34. OLRS should monitor legislation that could result in new programs for P&A systems. When potential new programs are identified, OLRS should develop an initial plan for how the program will be administered and incorporate the plan in the agency's long-term strategic plan. By doing this, OLRS would be in a better position to determine the resources required by the program and to maximize the provisions of those programs prior to implementation.

C. Grant Funding

Currently OLRS uses federal and state grants to protect and advocate for consumers. The following three programs are administered through state funding:

- Ombudsman Program;
- Legal Services; and
- Traumatic Brain Injury (for housing initiatives).

OLRS also receives funding from seven federal grants which include the following:

- Client Assistance Program;
- Protection and Advocacy for Individuals with Developmental Disabilities (PADD);
- Protection and Advocacy for Individuals with Mental Illness (PAIMI);
- Protection and Advocacy for Individual Rights (PAIR);
- Protection and Advocacy for Assistive Technology (PAAT);
- Family Support Collaborative; and
- Traumatic Brain Injury.

Funding for federal programs is based on a state's population and does not usually change based on the number of clients served or the number of programs administered. Therefore, Ohio receives approximately the same amount of federal funding per state resident as most other states (see **appendix B**). The federal funding formulas do not encourage the development of new programs beyond the stipulations of the grant, nor do they encourage P&As to increase their client base. However, other types of funding are available that reward service levels, outcomes and innovation in P&As.

In addition to federal funds, OLRS also receives an annual budget from the State. Several other P&As also receive state funds. Of the states that receive state funds, the amounts vary greatly. This is due, in part, to the varying structures of P&A administration in other states. While some states have a single agency dedicated to P&A services, such as OLRS, other states have either multiple agencies sharing the functions or non-profit agencies administering the programs. The variations in state funding are also due in part to the funding methodology. Some states provide P&A funding based on the number of clients served or historical funding levels. Other states provide funding for specific programs. For example, Ohio provides funding for OLRS to administer an ombudsman program that is intended to reach a broader population of disabled Ohioans than the federal grants allow. A cursory review of OLRS expenditures indicated that the ombudsman funds were often used to support administrative functions. OLRS experienced approximately a 20 percent decline in the amount of state funding it receives during the last budget cycle.

Private non-profit and foundation grants, and private donations appear to be a fairly consistent funding stream for many P&As. Due to its unique role within State government, OLRS is one of only a few State agencies that is permitted to receive private donations. OLRS also has the ability to apply for, receive and administer private grants like a private non-profit organization. The ability to accept private donations is consistent with many other states' P&As, and some states have used private funding sources effectively. OLRS has not extensively sought private funding for its programs.

OLRS management indicated that the source and potential constraints of new grant funds were sometimes a barrier to accepting additional funding. In some cases, the source or requirements of private funds could put OLRS in a compromising position when advocating for consumers. OLRS seeks to avoid such issues that may conflict with the mission and ability to conduct administrative duties. However, OLRS has not extensively researched private funding options and may be able to obtain sizable sums from private donors unconnected with the P&A or human services systems.

The Government Finance Officers Association (GFOA) recommends that all government entities adopt a policy encouraging diversity in revenue sources. A diverse funding base increases an organization's ability to mitigate funding fluctuations and decreases dependence on any single funding source. Grantors often assist agencies in developing new and creative ways to address significant or persistent problems. Most grant funding is initiative-based and lasts only a limited time.

OLRS could potentially use a strategic plan to guide efforts to obtain private grant or donation monies. These funds could be targeted to accomplish various objectives within the plan. Additionally, because most of OLRs' funding comes from federal grants, the actions of the agency are significantly limited by federal codes and regulations. Obtaining funding from a variety of private sources would allow OLRs to use a broader range of methods to accomplish its mission and goals and, potentially, serve a greater range of Ohioans.

OLRS management stated that the agency has had trouble maximizing the benefits of grants because of the need to learn and master the grant requirements. When OLRs receives a new grant, full implementation can take one or two years. OLRs does not always know if current staffing levels are appropriate for the administration of the grant or if additional staffing would be required. Further, OLRs does not always know specifically how the grant contributes to the accomplishment of its mission. These types of constraints are common to agencies receiving federal funding. The problems associated with receiving new funding could be mitigated by incorporating the new program/funding into the agency's strategic plan.

OLRS has developed a draft policy identifying criteria for seeking additional grant and other funding opportunities to serve the disabled community. The draft policy frames the process for seeking grant funding within the following guidelines:

- Purpose, goals, and objectives are consistent with OLRs' mission and priorities;
- Staffing and other resources are sufficient to meet grant goals, reporting and other operational requirements;
- Staff are familiar with and understand issues and subject matter of the grant;
- Grant funds do not supplant other agency funds; and
- Services could be continued at the end of the grant period, or discontinuation of the grant would not cause undue hardship on any service recipients.

Grant selection criteria are an important first step in identifying and securing additional funding. Furthermore, OLRs' efforts to document its decision making process is an important component of establishing strong accountability to stakeholders. However, OLRs will need additional processes to plan for and implement new programs using grant funds.

Recommendations 35-37:

- 35. OLRs should seek additional funding sources to further the mission of the agency and potentially expand the capabilities of the agency and the methods at its disposal for mission accomplishment. Also, a more diverse funding base could help OLRs mitigate any potential fluctuations in funding and could help support non-federal programs in the event of a reduction in State funding.**

- 36. OLRS should proactively prepare and plan for new programs regardless of the source of funding for the program. The agency should assign staff to closely monitor the activities of federal grantors and legislative bodies regarding issues pertinent to P&As and, when new funds or programs are approved, research allowable activities under new legislation. Upon identifying new legislative activities, OLRS should evaluate the potential impact on current operations, including staffing levels and workloads. Optimal implementation may necessitate OLRS distributing some of the funding to the County level for administration or to solicit private attorneys for *pro bono* opportunities. Proactive planning for upcoming programs would allow OLRS to maximize funding and increase the benefits of programs in a shorter time period than can be accomplished under the current reactive practices used by the agency.**
- 37. OLRS should implement its grant selection criteria as policy for the agency. OLRS should also develop a formal checklist for any potential grants that includes the signatures of the agency’s decision making authorities. Once funding is secured, the completed and signed checklist should be included in the documentation and files for the grant and should be maintained for at least seven years. OLRS personnel could benefit from maintaining the records for up to seven years as a source of history, documentation and accountability. This will allow OLRS to pursue and secure additional funding without sacrificing the autonomy or independence of the agency while also increasing the accountability of agency decision makers when determining the appropriateness of grant funding.**

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Client and Stakeholder Services

Background

Ohio Revised Code Section 5123.60 establishes a legal rights service to protect and advocate the rights of mentally ill persons, mentally retarded persons, developmentally disabled persons, and other disabled persons who may be represented through administering other advocacy service grants or programs. OLRs seeks to achieve its federal mandate by administering federal and state grant programs for indirect and direct client services. OLRs receives federal funding for Protection and Advocacy for Individuals with Developmental Disabilities (PADD), Protection and Advocacy for Individuals with Mental Illness (PAIMI), Client Assistance Program (CAP), Protection and Advocacy for Individual Rights (PAIR), Protection and Advocacy for Assistive Technology (PAAT), and Protection and Advocacy for Beneficiaries of Social Security (PABSS). In addition, it receives funding from the State of Ohio for a Developmental Disabilities and Mental Health Ombudsman (OMB) program. Furthermore, OLRs also receives and administers smaller federal grants such as the Traumatic Brain Injury and Assistive Technology grants. For the purpose of this analysis, the focus will be on those programs that constitute a higher percentage of OLRs funding (PADD, PAIMI, CAP, and PAIR).

Table 5-1 illustrates the level of direct intervention within each federal program for FFY 1999, 2000, and 2001.

Table 5-1: Summary of OLRs Direct Intervention: Individual Cases

Program	FFY 1998-99	FFY1999-00	FFY2000-01	FFY 2000-01 FTEs	Clients per FTE
PADD	641	606	629	13.1	48
PAIMI	636	612	839	11.3	74
PAIR	764	649	661	4.5	147
CAP	308	280	296	4.9	60
Total	2,349	2,147	2,425	33.8	72

Source: 2000 and 2001 OLRs annual reports and 1999 Program Performance Reports

Protection and Advocacy for Individuals with Developmental Disabilities (PADD)

The PADD program is administered by the Department of Health and Human Services through the Administration for Children and Families. The PADD program benefits individuals with developmental disabilities through systems change. Federal law defines a developmental disability as a severe chronic disability of an individual that is attributable to mental, physical, or a combination of impairments manifested before the age of 22 and likely to continue indefinitely. For program eligibility, these disabilities must result in substantial functional limitations in three

or more of the following major life activities: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency. Laws and regulations pertaining to the standards for agency eligibility, client eligibility, obligation of funds, reporting requirements, and client confidentiality are found in 45 C.F.R. Sections 1385 and 1386. No instances of non-compliance were noted with respect to OLRs' PADD program.

Protection and Advocacy for Individuals with Mental Illness (PAIMI)

The PAIMI program is administered by the Department of Health and Human Services through the Substance Abuse and Mental Health Services Administration. PAIMI benefits individuals with significant mental illness or severe emotional impairment who are at risk for abuse, neglect, or civil rights violations. Those residing in care or treatment facilities have service priority, while those individuals living in the community may be served as determined by their state protection and advocacy systems. Under PAIMI the term "individual with mental illness" means an individual who has a significant mental illness or emotional impairment, as determined by a mental health professional qualified under the laws and regulations of the State; and is either an inpatient or resident in a facility rendering care or treatment, in the process of being admitted to a facility, or confined in a municipal detention facility for reasons not resulting from a conviction of a criminal offense. Laws and regulations pertaining to the standards for agency eligibility, client eligibility, obligation of funds, reporting requirements, legal action limitations, advisory councils, and client confidentiality are found in 42 U.S.C. Section 10801. There is no evidence of substantial non-compliance with these statutes.

Client Assistance Program (CAP)

The CAP program is administered by the Office of the Assistant Secretary for Special Education and Rehabilitative Services within the Department of Education. CAP's purpose is to advise, inform, and advocate for clients and client applicants of all services and benefits available to them through programs authorized under the Rehabilitation Act of 1973. In addition its purpose is to inform individuals with disabilities of benefits available to them under the Rehabilitation Act and under Title I of the Americans with Disabilities Act of 1990 (42 U.S.C. Sections 12101-12213). CAP federal statutes define a disabled person as any person who (i) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (ii) has a record of such an impairment, (iii) is regarded as having such an impairment. Laws and regulations pertaining to the standards for agency eligibility, client eligibility, obligation of funds, legal action limitations, service accessibility, mediation procedure requirements, and client confidentiality are found in 34 C.F.R. Section 370. This analysis did not reveal any evidence of non-compliance with these standards.

Protection and Advocacy for Individual Rights (PAIR)

The PAIR program is administered by the Department of Education through the Office of Special Education and Rehabilitative Services. Laws and regulations pertaining to the standards for agency eligibility, client eligibility, obligation of funds, legal action limitations, mediation procedure requirements, and client confidentiality are found in 34 C.F.R. Section 381 (2000). This analysis did not reveal any substantial form of non-compliance with these standards. The program benefits disabled individuals not covered under CAP, PADD, or PAIMI. 29 U.S.C. Section 706(8)(B) defines disabled persons as any person who (i) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (ii) has a record of such an impairment or, (iii) is regarded as having such an impairment.

OLRS administers federal programs that benefit different disabled populations. However, the agency employs similar intervention strategies for each of these disabled groups. On behalf of clients, OLRs conducts the following actions:

- Refers the client or source to a relevant agency;
- Counsels and provides professional advice for self-advocacy;
- Investigates client cases ;
- Provides ombudsman/dispute resolution services;
- Negotiates and mediates on behalf of the client;
- Seeks remedies through an agency's administrative process; and
- Seeks legal remedies.

In conducting this performance audit, the Auditor of State's office issued a survey to garner feedback on perceptions of OLRs. The survey was developed based on recommendations from the article *Guidelines for Measuring Relationships in Public Relations* published by the Institute for Public Relations. The survey measures perceptions of trust, commitment, relationships and satisfaction. Eighty-four surveys were mailed to county boards of mental retardation and developmental disabilities, alcohol drug addition and mental health services boards, and probate courts in 18 counties. Thirty representatives from other advocacy, service, educational, legal and administrative organizations also received the survey. Recipients were asked to respond to 11 questions regarding their perceptions of the agency. A summary of the thirty-nine surveys that were completed and returned can be found in **Appendix C**.

In addition to the mail surveys, interviews were conducted with key stakeholders from four state agencies, the Department of Mental Health, the Department of Mental Retardation and Developmental Disabilities, the Department of Education and the Rehabilitation Services Commission. Additional comments and feedback were submitted by staff at these agencies. Based on the feedback received, many individuals are unaware of the mission and priorities of OLRs. Few stakeholders were aware that OLRs sets annual service priorities and most

surveyed stated they had not had direct input into setting the priorities. A result of being unaware of OLRS mission and service priorities is that stakeholders have different perceptions and expectations of OLRS and this has led to fragmented communication and frustration for some clients and stakeholder agencies.

Findings and Recommendations

A. Intake and Case Selection

The function of the OLRS intake process is to provide a preliminary screen of client case problems. Information is gathered to determine client eligibility and a problem description. Each intake worker records, at minimum, the client's and source's name, the client's and source's contact information, and information to determine whether the client is eligible for services. Furthermore, the intake worker records a summary of the client's problem, the action the client wishes OLRS to take, and authorization for OLRS to take appropriate steps to work on the problem. From this information, the intake coordinators (the advocacy and legal directors) make case selection and initial intervention strategy decisions.

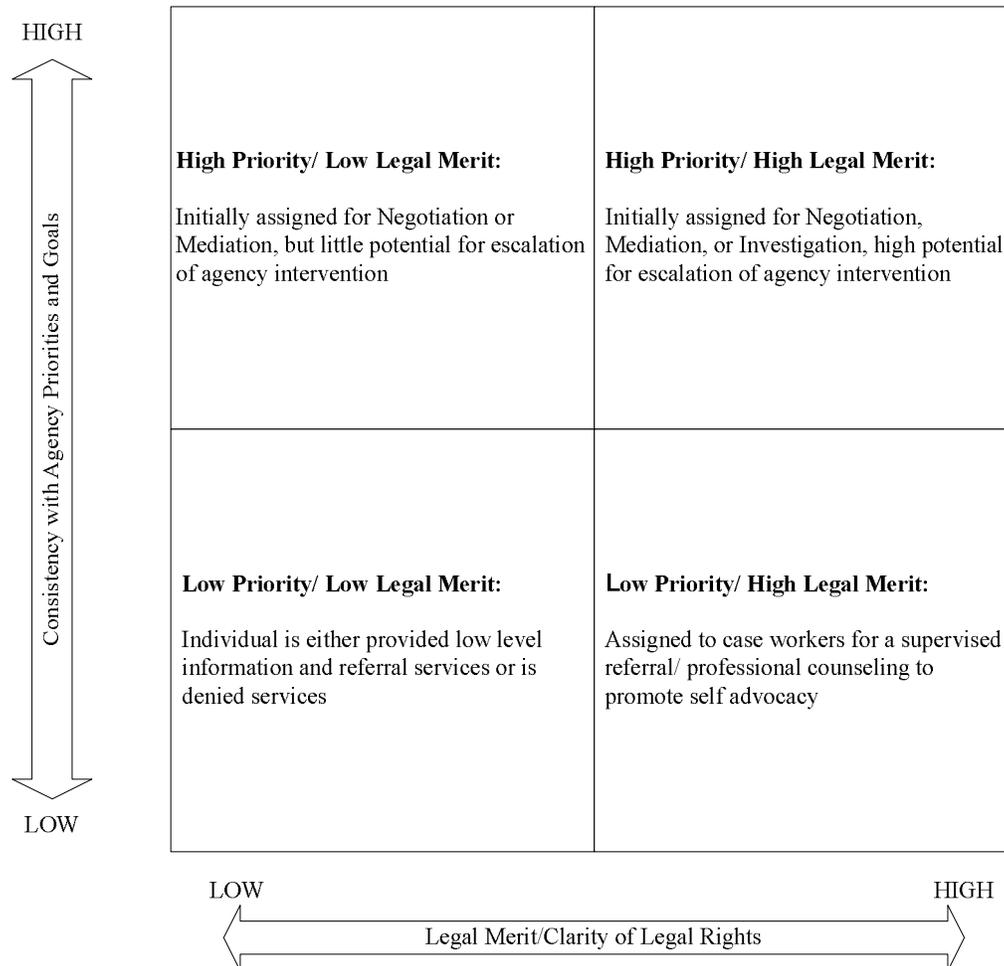
The OLRS program eligibility requirements stated in its policy manual closely mirror those stated in the federal statutes. A review of a sample of case files and intake information revealed no significant non-compliance with internal eligibility requirements. Denial of services can be done at intake for non-disability related cases or by the intake coordinators' case screening. Denial of service at intake is infrequent, conducted verbally, and reviewed by intake coordinators. Those cases denied by the intake coordinators are assigned to intake staff to mail the caller a letter stating that their case has been rejected and explaining the grievance policy.

The advocacy director states that the intake coordinators consider two factors when making case selection and intervention strategy decisions for individual cases:

- The validity and merit of the case based upon legal standards and the clarity of legal rights; and
- The goals and priorities of OLRS.

These factors dictate the level of staff involvement and the practical ability of the agency to incrementally increase its level of involvement. **Chart 5-1** illustrates functional case selection and intervention strategy decision making criteria.

Chart 5-1: Summary of OLRs Case Selection and Intervention Strategy Determination Criteria



Cases which have merit, but do not meet agency goals are typically assigned to staff members for supervised referral or professional counseling. Cases which have less merit or lack clarity of legal rights, but meet agency goals are usually assigned for negotiation or mediation. If these efforts fail, however, little recourse is left to the individual. Those cases that mirror agency goals and have merit will initially be assigned to case workers for negotiation, mediation, or investigation. In those cases where merit and correlation with agency goals is unknown, a case worker will be assigned for further investigation of the matter.

Individual Client Focus -- Intake and Case Selection Process

The 1997 Federal Benchmarking Consortium's report *Serving the American Public: Best Practices in One-Stop Customer Service* also identifies direct lines of communication to decision makers, timeliness, and knowledgeable personnel as critical factors to client satisfaction. In contrast to these standards, OLRs's intake process maintains decision making at high organization levels and reduces the responsibilities of individuals at the point of call. In conjunction with fewer responsibilities for intake staff, the credentials of these individuals are insufficient to provide service to callers. These factors and the resulting lengthy response time are analyzed in greater detail in the following discussion.

OLRS maintains decision-making and screening duties at high levels within the organization, while keeping information gathering and advocacy duties at lower organizational levels. Intake workers are responsible for gathering information from individuals and recording it for the review of the intake coordinators. The intake coordinators, who are also the advocacy and legal directors, function as the primary means of screening cases for OLRs. Intake coordinators evaluate information obtained from the intake workers based upon the case's legal merit and consistency with agency priorities. The intake coordinators then assign staff and appropriate initial tasks to advocates and attorneys based upon specialization and caseloads of staff members.

The Kentucky Protection and Advocacy Division (KPAD) uses a highly skilled information and referral (IR) team (including an attorney) that obtains necessary information from callers and evaluates the case based upon legal merit and consistency with agency priorities. A preliminary screening of cases is performed by the IR team. Those cases that do not meet the agency's criteria are given information and referral services by the IR team. If the case is deemed to have sufficient merit and is consistent with priorities, it is then assigned to an attorney team leader. The attorney team leader determines the appropriate level of agency involvement. Higher organizational levels primarily act in a monitoring and supervising function. The 2000-01 federal program reports (PADD, PAIR, and PAIMI) indicate that KPAD has more validated complaints per investigation, higher client satisfaction rates, fewer cases without merit per total closings, and less funding per abuse and neglect investigation than OLRs.

The North Dakota Protection and Advocacy Project (NDPAP) does not have a separate intake division, rather, case workers in eight regional offices respond to complaints directly. Disability advocates make case selection decisions and any necessary referrals. Autonomous decision making is encouraged by the state office. Clients can expect immediate feedback for cases requiring information and referral, or technical assistance. Those cases that require higher levels of agency intervention, such as representative advocacy, require the supervision of the deputy director. The ultimate decision for extending advocacy services lies with the deputy director.

Several internal control weaknesses are associated with the OLRs case selection decision-making model. The primary weakness resides in the quality of the information provided by

intake staff. The legal director estimates that sufficient information is obtained to determine the appropriate level of OLRs involvement 50 percent of the time. The other 50 percent of the time, further investigation is required. Inadequate information reduces the quality of case selection and initial intervention strategy decisions. Furthermore, additional investigations lengthen response time. This could partially be explained by the low level of training provided to, and qualifications required of, the intake staff. Intake is typically performed by administrative staff on a part-time basis. Position descriptions of administrative staff do not provide specific qualifications associated with intake duties. Furthermore, OLRs does not have a formal training program and intake methodology is inconsistent among staff. In contrast, KPAD uses highly skilled and qualified staff for intake, and therefore, is better able to screen intake cases with decision making at lower organizational levels.

For intake staff, KPAD requires two to four years of experience or a master's degree in a related field. Furthermore, an attorney is a member of the intake team to assist in screening cases for further agency involvement. The executive director of KPAD states that a highly specialized intake team provides better information and better pre-screening so that advocates and attorneys receive higher quality cases that are both legally valid and consistent with agency priorities. In addition, other agencies dealing with different fragile populations require higher qualifications for intake staff. The Protective Child Services Association's (PCSA) standards for intake staff include: a bachelor's degree in human services or related field, or an associate's degree in human services or related field and a minimum of six months experience. In limited circumstances, a minimum of one year of direct experiences in a social service setting is sufficient.

A highly skilled intake staff enables the consolidation of case screening functions with intake duties at lower organizational levels, thereby allowing those cases requiring less agency involvement to bypass the case selection, intervention strategy determination, and staff assignment processes. As a result, a more timely response is possible due to decision making authorized at lower organizational levels. OLRs policies state that intake review and case selection should be conducted by intake coordinators on the day that intake is received and a report of opened cases is generated each Monday and distributed to case workers. Case workers then have five working days to take initial action. A sample of 31 randomly selected case files indicates that on average case assignment requires 2.6 days and initial action on a case requires 5.8 days. An OLRs client can generally expect at least a seven day wait before the agency responds to their complaint. In contrast, KPAD's policies state that they will respond within three working days to gather initial information and provide low level intervention services. OLRs's longer response times result in reduced client satisfaction, and have potentially adverse effects on the rights of disabled individuals.

Recommendations 38-39:

38. OLRs should reorganize its intake and case selection process to be consistent with best practices. Both KPAD and NDPAP have structured, streamlined and

consolidated their intake process so that decisions are made at lower organizational levels, thereby improving operational timeliness and client satisfaction. Case screening and case selection is conducted by intake staff in these organizations. Furthermore, intake staff provides low level agency interventions, such as information and referral services and professional counseling and advice. OLRs should reengineer their intake process consistent with best practice intake characteristics. Increasing the duties and responsibilities of OLRs intake would require increased qualifications and skill level of the intake staff as discussed in Recommendation 39. By improving its intake process, OLRs can reduce response time of low level intervention strategies, and thereby, improve client satisfaction.

39. OLRs should require a higher level of intake staff qualifications and skills. OLRs should recruit intake staff with experience or education in a field related to OLRs' functions. In addition, the intake staff should include at least one attorney to help obtain the necessary information to determine legal merits and clarity of legal rights. Increased intake staff qualifications and skills will allow increased delegation of duties and decision making at lower organizational levels. Furthermore, delegation would allow management to engage in more supervisory and administrative activities.

Individual Client Focus -- Intake Policies

OLRS intake is conducted primarily by telephone from 10:00 am to 12:30 pm and 2:30 pm to 4:00pm Tuesday through Friday. While OLRs case management policy states that an intake worker and a back up intake worker should be on duty during these hours, the advocacy director stated that only one intake worker is actually on duty. When calls are received during office hours but not during intake hours, OLRs asks the individual to call back during intake hours. OLRs does not record intake calls made outside of OLRs regular office hours. According to OLRs personnel, this is because OLRs does not provide emergency services to disabled Ohioans. KPAD and NDPAP have indicated that their intake functions remain open during regular office hours and that all calls made after office hours are recorded and returned. NDPAP also instituted a 24 hour rotating on-call policy for its advocates to ensure that emergency calls can receive immediate response. Furthermore, other agencies dealing with fragile populations, such as the Public Child Services Association (PCSA), recommend longer hours of intake. PCSA has established a standard that intake shall have a method which ensures all intakes are received and responded to by a trained professional 24 hours per day, 365 days per year. **Table 5-2** illustrates the average number of calls received by OLRs for each day of the week intake is open.

Table 5-2: Average Intake Calls By Day of the Week

	Tuesday	Wednesday	Thursday	Friday	Avg.
Average Calls for April & May:					
Total Incoming Calls	34.13	24.50	24.22	23.89	26.53
Calls Answered	21.88	19.25	19.67	19.33	20.00
Calls Abandoned	26.13	5.25	4.56	4.56	9.79
% of Calls Abandoned	36%	21%	18%	18%	23%
Average Answered Call Time	9.67	7.23	7.21	7.72	7.93
Average Answered Wait Time	4.75	2.89	2.38	2.46	3.08
Average Abandoned Wait Time	3.72	3.21	2.12	3.05	3.00
Longest Answered Call Time	32.83	22.34	20.47	20.28	23.77
Longest Answered Wait Time	9.39	10.86	7.98	8.29	9.07

Source: 2002 May and April telephone reports

A two month sample of calls to the intake queue revealed an average of 24 calls on Wednesday, Thursday, and Friday. However, OLRS averaged 34 calls on Tuesday but was only able to actually answer slightly more than on Wednesday, Thursday, and Friday. In addition, intake callers exhibited higher answered and abandoned wait times on Tuesday compared to other intake days. While calls made on Saturday, Sunday, and Monday could not be tracked, an increase in the number of calls on Tuesday could indicate that calls and complaints accumulated over this time period. Furthermore, an increased willingness of callers to wait could indicate increased urgency of their calls. Perhaps most noteworthy, is an average abandonment rate of 23 percent. Standards established by the Help Desk Institute recommend a mean target for abandoned calls of five percent. Nearly a quarter of all calls to the intake queue during intake hours do not access the intake process.

Limited intake hours could also result in lost client calls. This, in turn places an increased demand on the call system during intake hours and results in reduced client satisfaction, and may create potentially adverse effects on the rights of clients. The federal benchmarking consortium recommends one-stop customer service model that is both convenient and accessible for improved client satisfaction. OLRS intake hours are not consistent with a clear customer focused mission.

As discussed in the Mission and Planning section of this report, OLRS does not have a clear, customer focused mission and vision. OLRS provides services to individuals both directly and indirectly through systemic change. Systemic change refers to those efforts aimed at changing relevant state and federal statutes; setting legal precedents for future legal action; and improving the policies, procedures, and practices of client service providers. These roles require two different models of client interaction. The nature of systemic change affects individuals in an indirect manner, while serving individuals requires direct interaction with the client. A clear statement of the organization's focus is necessary to guide its operations. While management has stated its intention to affect disabled individuals through systematic change, the advocacy director estimated that 50 percent of the agency's time is spent on individual cases and 50

percent is spent on class action suits or policy issues. Of the time spent on individual cases, an estimated 75 percent of that time is spent on providing counseling, negotiation, or investigation. While an organization is able to provide both kinds of services, a conscious understanding of the direct and indirect service requirements is needed. The implications of inconsistent organizational direction are OLRs policies and procedures that could be more customer focused.

Recommendations 40-42:

- 40. OLRs should increase intake hours to at least regular office hours (8:00 am to 5:00 pm Monday through Friday). This change would increase intake hours by 20 hours per week from 25 hours to 45 hours. Data suggests that the number of calls increases on Tuesdays at a greater rate than calls can be answered. Increasing intake hours would allow calls to be dispersed over more hours per day and days per week. This change would effectively increase intake capacity by 80 percent, raising intake availability and client satisfaction.**
- 41. OLRs should record all intake calls made after intake hours. A message should instruct the caller to record appropriate information and indicate when they can expect a response. OLRs intake staff should then contact the individual on the next business day to obtain the additional information needed to make case selection and level of involvement decisions. In this manner, OLRs will become more customer focused and would potentially receive otherwise missed complaints. The capabilities of the current phone system indicate that significant costs should not be incurred for implementation of this recommendation.**

OLRS should reevaluate the intake staffing model for improved client accessibility. Factors such as service level goals and peak intake days/hours should be considered in establishing staffing practices so that current abandonment rates are improved. Options that OLRs might consider to improve the staffing model used in intake include the following:

- a. Use pool of intake workers to receive calls on a rotating basis (round-robin), as is commonly used in other human services agencies.**
 - b. Include an electronic routing function (or menu) for calls so that calls are routed to specialists trained in a specific aspect of OLRs services.**
- 42. OLRs should use an answering service to staff its intake function on a 24 hour basis. Best practices in intake suggest that a 24 hour answering service provides the greatest opportunity for clients to enter the system. The answering service should record clients' intake information so case workers can follow up with them the next day but should also be able to alert case workers to emergency situations. Since**

OLRS serves a fragile population that may need immediate assistance to ensure safety and quality of life, a 24 hour intake system would provide the requisite level of support to best serve the needs of this client population.

Individual Client Focus-Intake Management Policies & Practices

OLRS' intake function does not have formal policies to guide intake management practices. While both intake coordinators act in the role of case screeners, the advocacy director is more involved in the management of intake staff. The advocacy director assists in the informal training of intake staff, reviews intake files, and provides guidance as questions arise. A functional supervisor reviews intake forms daily for potential emergencies and any missing information. A summary of the intake process exists in the OLRs case management policy, but step-by-step directions and detailed formal policies do not exist for intake management.

OLRS also does not effectively use performance measurements to help manage the intake process. As discussed in the **administration and operations** section of this report, quantitative and qualitative performance measures are critical to operational planning and to evaluating intake operations and intake personnel. These management tools are often used to identify areas of concern in the intake process or operation. Recently, OLRs has implemented a phone system that allows statistical compilation for all phone lines and for specific queues. This system allows OLRs to track statistics for the number and length of all incoming calls, calls answered, calls abandoned, and calls outgoing. While management has informally established averages for select statistics, OLRs management is currently learning the capabilities of the system and has not yet established formal standards, targets, or baselines for intake performance. OLRs management are reluctant to use industry standards because they believe the nature of their intake is incongruent with sales or technical service models. OLRs could more effectively use these statistics for managing the intake function. The statistics are reviewed for the information provided but active and ongoing management based on the call statistics has not been implemented. The absence of formal management controls over the intake process, such as qualitative or quantitative measures, prevents OLRs from targeting its efforts toward process and operational improvements.

In an assessment of the IRS's telephone assistance program, the Government Accounting Office (GAO) used the following criteria:

- **Level of Service:** Calls answered divided by total calls (including repeat calls, calls abandoned, and calls receiving a busy signal).
- **Accuracy:** Quality assurance monitoring for proper procedures, accuracy of answers, and courteousness.
- **Call Wait:** How long the customer waits for the phone to be answered
- **Productivity:** Average time for a representative to handle a call and hang up to become available for another call

The Help Desk Practitioner's Handbook, recommends tracking the following factors for call center management:

- **Change in environment and in call load:** Number of calls by type, number of calls, number of supported work stations, and number of calls per workstation.
- **Change in resolution times:** The percentage of calls resolved at point of call and, for the remaining calls, the resolution times broken down into percentages per interval of time.
- **Change in customer wait times:** Abandonment rate, customer wait times by percentage by interval of time.
- **Cost measures:** Operating cost in cost-per-unit (workstation or employee) basis.

A 2000 GAO report, *Customer Service: Human Capital Management at Selected Public and Private Call Centers*, identifies common methods of obtaining qualitative data for call center management and employee appraisals. These methods included internal monitoring of selected calls, surveys of external customers to determine their satisfaction level, and internal surveys to determine the satisfaction level of staff members. These qualitative measures typically evaluate the accuracy, teamwork, professionalism, completeness of information, and general level of client interaction of call center staff. The report further identifies quantitative measurements used at high performing organizations. Data was tracked and analyzed for call handling, availability, and timeliness with indicators such as average speed of answer, access rates, service accuracy, caller satisfaction, etc. Increased feedback using data such as that described above will improve management control and provide direction and guidance to intake staff.

Finally, OLRS does not use a formal training program for its intake staff. Instead, it uses an informal training program. The intake supervisor states that the focus of informal training is gaining familiarity with the intake system and minimum information required at intake. More extensive knowledge is gained through on the job training. As a result, the intake supervisor states that there are not consistent methods of gathering intake information among intake staff.

The PCSA recommends that intake workers undergo Core Training for Caseworkers, computer training, specific training on crisis intervention and advanced interviewing techniques and the agency's in-house training on intake policies and procedures. All training should be completed in the first year of service.

Also, the GAO found that many successful call center departments require entry-level employees to receive approximately eight weeks of classroom instruction supplemented with additional time performing activities designed to simulate their typical work activities. The report also recommended that experienced employees receive periodic "refresher" training to remain current with policy, objectives, and activities. Employing these policies should improve intake methodology, consistency of techniques employed among staff, and improve the level and quality of information gathered at intake.

Implementation of formal policies and procedures would provide OLRS with greater management control and oversight in the intake process. Without formal policies and procedures, OLRS may rely, to a greater degree, on value based decision making that may exclude certain client sub-sets. Formalizing the intake management process and increasing oversight will ensure that all eligible clients receive the maximum benefit through their contact with the agency.

Likewise, performance measures and formal training will heighten OLRS' level of customer service and likely improve client satisfaction levels. Currently, OLRS is unable to identify points in the intake process that may be bottlenecks which affect the speed at which clients receive service. Performance measures would allow OLRS to identify areas in intake that may not be performing efficiently and target them for improvement. Training would provide intake workers with increased customer service skills that would enhance the initial contact clients have with the agency.

Recommendations 43-44:

- 43. OLRS should employ performance measures to evaluate overall intake operations and the performance of individual intake staff members consistent with the agency's mission and priorities. OLRS should monitor any changes in the type, quantity, or cost of calls for organizational planning purposes. This can be accomplished with performance measures such as:**
- a. Cost per unit (call or person);**
 - b. Productivity measures (average time for a representative to handle a call and become available for the next call);**
 - c. Level of service (call wait, calls answered per total calls, etc.); and**
 - d. Caller satisfaction.**

These measures can be implemented by fully utilizing the current phone system, integrating information from employee time sheets or budgets, and using client satisfaction surveys. Using these management tools, OLRS will be able to react to changes in its service environment, make better informed changes to the intake process, and better determine organizational and functional area priorities.

Performance measures should be used for providing feedback to staff, identifying professional development needs, evaluating staff productivity, and for ensuring quality service. OLRS should use both quantitative and qualitative measures of intake staff. Quantitative measures should include the following factors:

- Productivity measures;**
- Level of service measures;**

- Resolution times; and
- Caller satisfaction.

Qualitative measures should assess the following criteria:

- Accuracy of information and referrals;
- Professionalism;
- Completeness of information; and
- Teamwork.

These qualitative assessments could be made by monitoring selected calls, intake forms, and surveys of external clients. Increased feedback will improve management control and provide direction and guidance to intake staff. Assuming that these measures reflect OLRs's mission and priorities, these measures will better enable intake staff to achieve organizational goals.

44. OLRs should employ formal training techniques for new intake staff and annual refresher training for experienced intake staff. Training should be conducted in-house and should include familiarization of intake policies and procedures, training on technological resources, interviewing techniques, crisis intervention, conflict resolution, the minimum information required from different types of cases, and simulations of typical work activities. These activities should be used to improve intake methodology, the consistency of techniques employed among staff, and the level and quality of information gathered at intake.

Proactive Intake: Case Recruitment

OLRs's intake is largely a passive process dependent upon receiving complaints from potential clients. OLRs does not engage in case recruitment by actively seeking cases consistent with program eligibility and OLRs priorities. Currently, OLRs receives some cases from the disabilities community through speaking engagements, its employees' involvement in various disability related organizations, or through the intake process. It does not seek cases from stakeholder organizations, nor does it investigate the institutions, hospitals, or community homes in the state to identify potential issues requiring intervention, although this technique is employed by some P&As. A survey of stakeholder organizations revealed mixed opinions regarding the relationship OLRs maintained with these groups.

KPAD actively recruits cases from stakeholder groups, county agencies, faith based organizations, mental health groups, prisons and parent groups. In addition, it makes site visits to hospitals and facilities on an annual basis for the purpose of advertising its services and looking for suspicious activities that might warrant intervention, such as restraint and seclusion facilities.

NDPAP uses active case recruitment for its issue areas and the priorities within those issue areas. Each issue area has an associated outreach plan designed to build case information for systemic change. Typically these plans involve outreach to relevant groups to communicate agency priorities, explain legal standards, and request referrals.

Proactive case recruitment is designed to have the most impact on systemic change efforts. Systemic change cases require the following characteristics: substantial legal merit; clear legal rights; consistency with agency priorities; and potential for broad application. In many instances, OLRs criteria in these areas are more stringent than the peers because it typically has more precise language identifying agency priorities. More stringent criteria for systemic change cases demand more focused intake efforts, such as proactive case recruitment. Relying upon passive case selection results in a less focused pool of cases to use for systemic change efforts and is reflective of an internal conflict between the systematic change and individual representation roles of OLRs. Without the use of case recruitment, OLRs faces longer lead times to identify and build cases to address systemic issues. Also, OLRs may not be aware of certain issues facing disabled Ohioans as targeted efforts to identify issues are not being used.

Recommendation 45:

- 45. Case selection should include a proactive component whereby OLRs actively seeks cases (and opportunities) for systemic change. Each program priority should be accompanied by an outreach plan which identifies relevant stakeholder and parent groups to emphasize communication efforts. OLRs should systematically review the operations of facilities within the state that provides services to disabled individuals in an effort to identify potential issues. Furthermore, the agency should actively recruit cases from stakeholder organizations such as parent groups and faith based groups. OLRs should be sure to clearly communicate its priorities and goals so that individuals in targeted groups understand the services OLRs offers.**

B. Case Management

OLRS uses a bottom up model of case management. Planning, task completion, case closure, and other aspects of case management are the responsibility of the caseworkers. Management primarily performs a monitoring and a supporting function within the case management process. OLRs management controls include case reviews, a tickler system, and a *days open report*. However, these controls require improvements in frequency and utilization. Management could also communicate task direction more clearly to guide case workers. Initial task assignment notes are the primary means of giving direction to caseworkers. At times these are based upon incomplete or preliminary information and are cursory in nature. A sample of case files revealed that assignment notes are generally limited to initial actions and individuals to contact.

The nature of OLRs case management controls and employee direction is partially explained by the varied nature of cases and the resulting need for flexibility. OLRs offers a wide variety of services under several programs. In addition, management of case workers is not evenly distributed among supervisors. Currently, there is an overall ratio of 1 supervisor to 4.4 caseworkers. However, among 5 active supervisors, ratios range from 1 to 1, to 1 to 15 supervisors to caseworkers indicating inconsistent levels of oversight responsibility.

Case Planning

Case planning is a management tool that provides both internal and external accountability for case worker actions. Internally, case planning offers direction to case workers through identifiable performance goals, which can be evaluated against actual performance during the engagement and at its conclusion. Externally, case planning documents are effective tools for confirming and communicating client and service provider expectations regarding intervention strategies, service levels, and expected results.

OLRS case management policy states that case handlers are responsible for each case assigned to them with the guidance and assistance of their supervisor. Assigned tasks should be completed in a timely manner and supervisors may establish a timeline. However, interviews with the legal director, legal supervisor and advocacy supervisors indicate that case action plans and time lines are seldom used. Furthermore, planning documents were not included in a random sample of case files provided by OLRs.

Formal guidance is primarily provided through task assignment notes and a *tickler system* that indicates deadlines to OLRs staff. Task assignment notes are based upon preliminary information that is obtained from intake. A randomly selected sample of cases revealed that the level of direction was limited to general initial actions and individuals to contact. Also, while the tickler system is used by attorneys to track deadlines, it is not used by advocacy staff. This is partially explained by the numerous intervention strategies OLRs employs. Each strategy requires different levels of planning and agency resources.

An additional component in the adequacy of case management is the role of management oversight. OLRs experiences varied levels of case management oversight. The ratio of supervisors to case workers varies from 1 to 1, to 1 to 15. The advocacy division had the lowest ratio of supervisors to case workers at 1 to 15, thereby having the most potential for oversight improvement. The informal nature of OLRs's case planning activities provides an opportunity to improve management control and client interaction.

The relationship between legal service providers and potential customers is examined in *Inside/Outside: How Businesses Buy Legal Services* (Smith). The general trend in the legal profession is toward increased accountability. Toward that end, it is suggested that a document be prepared containing the preliminary terms of engagement upon first round interviews with all available witnesses. This document is intended to outline or detail the terms of engagement

between a legal firm and the client to establish preliminary expectations and to be used as a tool to measure actual performance against those expectations. The document includes an executive summary, an analysis of issues, and a budget and strategy section.

The executive summary (not to exceed two pages) includes the following items:

- Key issues and problems with the case;
- Probable outcome of key issues stated in percentages;
- Cost estimates;
- Staffing plan;
- Timetable for resolution;
- Settlement recommendation; and
- Alternative dispute resolution recommendations

The analysis of issues contains a summary of the relevant facts known to date, an analysis of the applicable laws, and an analysis of probable case outcomes (stated in percentages). These items are then used for a strategy analysis that involves a discussion of settlement alternatives, alternative dispute resolution options, recommendations, and a choice of forum. Timelines and budgets are developed from the strategy analysis. Timelines include a schedule for all contemplated pre-trial motions and contemplated discovery. These actions are usually justified on a cost benefit basis. In addition, the analysis identifies necessary experts, estimate length of trial and pre-trial preparation, and present a staffing plan. Short-term and long-term costs (a range is acceptable) are estimated for each item within the case strategy. Each action necessary to execute the strategy is presented with the anticipated number of hours for each attorney and the attorney hourly rates or blended rates.

These guidelines were developed to help formalize the relationship with outside customers and a legal firm. With some adjustment, planning and accountability tools could be used both internally and externally by OLRs. Internally, planning documents can be used as tools for case guidance, evaluating staff performance, and ensuring consistent applications of procedures and laws. Externally, case planning documents can be used for managing client expectations. Case planning documents are effective tools for confirming and communicating client and service provider expectations regarding intervention strategies, service levels, and expected results.

Smith presents these guidelines with substantial legal disputes in mind. Therefore, the guidelines would be most applicable to any class action suits, systemic change cases, or group cases that OLRs may contemplate for participation. However, these guidelines can be used in part to develop similar standards for legal and advocacy work planning. Furthermore, OLRs data systems could aid in the development of case plan preparation by automatically entering data necessary for determining time lines and budgets.

KPAD performs planning at a team level. Teams prioritize work, set out tasks, and assign staff and completion dates to each task. Each plan includes a summary of the problem, specific activities to reach goals, timelines, case acceptance criteria (if any) and responsibilities of staff members. Those activities reaching this level are interventions such as negotiation, mediation, administrative remedies, and legal remedies.

Case planning provides a tool to manage case costs, agency priorities, and client expectations. Case plans can also provide a basis for employee evaluations. If OLRS engaged in a greater degree of case planning, it could potentially increase funding efficiency, better align activities to agency priorities, increase customer satisfaction, and provide better feedback and direction to caseworkers. Clearly communicating to clients the services OLRS intends to provide, would better manage client expectations and could improve client satisfaction. Case planning documents also would provide OLRS management with a means to more clearly direct and more accurately evaluate caseworker activities, thereby, improving employee direction and management control. Finally, case planning documents could aid OLRS caseworkers and supervisors in monitoring progress toward the achievement of agency goals.

Recommendation 46:

- 46. Case workers should be required to prepare planning documents for open cases including negotiation, mediation, administrative remedies, and legal remedies. As potential agency involvement increases, the level of planning should increase as well. Planning documents should include intervention strategies, expected outcome probabilities, specific prioritized work steps, timelines, expected labor hour allocations, relevant issues, and completion dates. These documents should be used by management to evaluate actual case progress and to improve the accuracy of future planning documents. Individual case worker performance can be evaluated against these documents and included in performance evaluations. Finally, portions of these documents should be developed and distributed to the client to manage client expectations of agency involvement and potential outcomes.**

Case Planning: Investigations

Case planning is more effective with accurate and complete information. The legal director has stated that information at intake is insufficient for case selection decisions 50 percent of the time. Therefore, investigations become an important component of case planning. Investigations help determine the agency's level of involvement, appropriate agencies to contact, and the applicable law. Too little information could reduce the appropriateness of agency actions and thereby, reduce the percentage of successful interventions. Furthermore, too much investigation can unnecessarily deplete agency resources. Currently, OLRS has no formal means of assessment to determine the appropriateness of additional investigations. Furthermore, there is not an established method to ensure a consistent investigation methodology or that all necessary

information is obtained. As a result, case workers may conduct unnecessary or ineffective investigations.

Investigations are conducted using different methodologies in the legal and advocacy divisions. The advocacy supervisor stated that the investigation methodology was case worker specific. Common types of cases investigated include abuse and neglect, potential client rights violations, Americans with Disabilities Act (ADA) cases, or benefit cases from various state and federal agencies. The purposes of most advocacy investigations can be categorized as follows:

- Substantiating the claims of the client;
- Determining if the involvement of relevant agencies was appropriate;
- Determining whether the offending organization has followed its own policies or has policies in place; and
- Evaluating the level of training of involved staff members.

It should be noted that there are no formal definitions or standards to determine if alleged rights violations are substantiated. This is determined by the caseworker and advocacy supervisor.

The legal supervisor stated that the main purpose of an investigation in the legal department is to establish the case's legal merit. Different types of cases have different legal standards. There are four main categories of cases OLRs investigates: special education, mental health, mental retardation, and disability. The legal supervisor was able to generalize legal standards for each type of case. Standards usually include the expected or legally required level of service balanced with the legal merits of the case based on the denial of service or accessibility.

KPAD has formalized standards for determining the appropriateness of conducting an investigation and established the minimum amount of information to obtain during investigations. This information is a component of the case management policy manual. It investigates incidents involving the following:

- Physical assault resulting in serious harm or death;
- Failure to provide adequate and appropriate treatment, care, or monitoring resulting in serious harm or death; and
- Excessive/Inappropriate use of mechanical, chemical, or other restraints; isolation or other aversive measures, resulting in serious harm, physical injury or death.

Furthermore, KPAD's policy manual states that all investigations should be within the P&A's established priorities, avoid duplication of state mandatory abuse/neglect investigations unless the quality of those activities is a concern, and be related to a larger systemic problem or issue which has not been corrected or adequately addressed by individual advocacy. Investigations should also present an opportunity for systems reform.

During an investigation, the KPAD manual directs investigators to perform the following:

- Document circumstances under which the abuse/neglect is occurring;
- Interview individuals with knowledge of those circumstances, including those alleged to be affected by the situation;
- Access confidential information as appropriate (client records, police reports, incident reports, etc.);
- Inspect the location where the incident took place;
- Review relevant regulations, policies, and procedures;
- Obtain professional opinions and recommendations; and
- Conclude with a factual explanation of the events that occurred.

According to 2001 program performance reports, KPAD has more validated complaints per investigation within the PADD program, and less cases without merit per closed cases in the PAIMI program than OLRS. Use of formal policies and investigation methodologies has helped KPAD to improve its performance in relation to other P&As by allowing it to streamline its investigation process and redirect resources to direct client services. Formal policies regarding the appropriateness of additional investigation would help OLRS eliminate unnecessary investigations, thereby reducing case costs and improving case management time lines. The formalization of investigation methodology would help OLRS ensure consistency among case workers, ensure the sufficiency of information gathered during intake, and increase the effectiveness of investigations by requiring them only for complex or highly detailed cases.

Recommendations 47-48:

- 47. OLRS should establish a formal means of assessment to determine the appropriateness of additional investigations. Investigations should only be conducted when they are consistent with OLRS priorities, and are not already mandated by other agencies. Cases appropriate for additional investigation should also be related to larger systemic issues that present OLRS with an opportunity to advocate for reform. These standards will reduce unneeded investigations and allow those resources to be used for additional client oriented services.**

- 48. OLRS should implement formal policies on the investigation methodology to ensure investigations are conducted in a consistent manner that obtains all necessary information. The formal policies should include statements or instructions on the following:**
 - a. How to document the circumstances of abuse;**
 - b. Methods for interviewing parties to the events;**
 - c. How to access confidential information surrounding the event; and**
 - d. Techniques for reviewing relevant regulations or laws.**

Supervision

OLRS formal case management policies and procedures provide insufficient monitoring and control. In addition the policies fail to provide case workers with direction and performance goals. OLRs uses three management tools to monitor and direct staff performance: quarterly case reviews, a *days open report* issued every 90 days, and a *tickler system* that reminds legal staff of statutory deadlines.

OLRS case management policy states that supervisors will perform case reviews on at least a quarterly basis. In addition, supervisors review cases upon closure. During these case reviews, the supervisor will assess the case handler's workload to determine whether the staff member is available for new assignments. The supervisor will also discuss actions taken on the case and provide direction and assistance. Case files must be completely documented, including, the open intake form, all correspondence, all court and hearing related documents and notes of all activity. Should inappropriate actions be determined, the case may be reopened.

While this process allows the supervisor to provide direction, feedback, and monitor the actions of case workers, it does so only on a quarterly basis. In addition, review of closed cases does not provide timely feedback and can allow potential service problems to persist until reviewed in the quarterly review. While no formal standard for evaluating the length of case resolution exists, the *days open report* is used by the supervisors to determine if any case has been open for an extended period of time. The legal supervisor estimated that any information referral case open longer than one month or any investigation or negotiation case open longer than 90 days would be reviewed by supervisors.

The legal director stated that less formal methods such as summary memorandums, e-mails, and meeting discussions are the primary means of communication between caseworkers and supervisors. This method is consistent with the open door policy employed by the advocacy supervisor to guide staff in the completion of tasks and case planning. However, these practices and policies neither provide for active review the progress of case workers nor aid the case planning process. A randomly selected sample of case files revealed that supervisor notes were absent from 87 percent of the files examined.

In effective agencies, evaluations and performance measures are used as management tools to improve case management. While staff attorneys' performance are occasionally evaluated, advocates do not receive performance evaluations (see **administration and operations section**). A sample of performance evaluations for attorneys indicated that these evaluations are infrequent and sporadic. Performance measurements are not used by OLRs to evaluate staff performance, achievement of agency priorities and goals, or in the planning and budgeting process.

While most P&As conduct case reviews similar to those of OLRs, several conduct these reviews more frequently. KPAD reviews each case once a month, while the NDPAP conducts case

reviews on a bi monthly basis. KPAD policy additionally requires a client satisfaction questionnaire to be sent to all clients upon case closure and to a random sample of I&R callers at the end of each month. These measures are used to monitor the quality of services provided by the P&A.

Managing People in Today's Law Firm: The Human Resources Approach to Surviving Change recommends law firms evaluate legal staff for quality of work product, knowledge of the law, ability to apply the law, actual productivity, efficiency, peer relations, relations with support staff, personal strengths and weaknesses, training and development needs, initiative, innovation, comprehensiveness, and client skills. It also specifies the following performance appraisal techniques for legal staff:

- **Essay Appraisal Format:** requires supervisors to write a description of the associate's performance;
- **Critical Incident Log:** appraiser keeps a "log" of incidents exhibiting highly successful or unsuccessful behavior involving the associate;
- **Employee Ranking Methodologies:** appraiser compares associates to one another by ranking them best to worst;
- **Graphic Rating Scales:** evaluates employees against several performance dimensions on a scale indicating employer satisfaction; and
- **Management by Objectives:** requires collaborative goal setting by the manager and subordinate consistent with agency goals. These goals are used to evaluate future employee performance.

These appraisal techniques may be used in full or in part to establish appropriate caseworker appraisal techniques for OLRS. Factors such as objectivity, usefulness of information, and cost of implementation should be considered when designing an employee evaluation system.

Recommendations 49-50:

- 49. OLRS should increase the frequency of its case reviews from a quarterly to a monthly basis. This policy would provide additional guidance to employees on a more frequent basis and increased monitoring of case workers. Cases could be reviewed for appropriate actions, timeliness, and quality control. In some instances, it may be necessary to increase the ratio of supervisors to caseworkers. In this manner, caseworkers will receive additional supervision and improved mentoring.**
- 50. OLRS should implement a comprehensive performance measurement system to be used in staff evaluations, monitoring of progress toward achieving agency goals and priorities, and in the planning and budgeting process. Case worker actions should be evaluated on a quarterly basis against case planning documents and performance measures. They could be evaluated against a critical incident log, relative to other**

caseworkers, or against previously agreed upon employee objectives. Management could also evaluate case workers against established performance attributes on a numerical scale. These evaluations should be conducted with employee development in mind. For a further discussion of performance evaluations, refer to the administration and operation section of this report.

C. Client Grievances

OLRS grievance procedures are established in Ohio Administrative Code (OAC) §5124-1-06. A grievant is able to file a grievance with OLRs when the client is denied assistance or the client is dissatisfied with the assistance provided. A grievant can be any person who has contacted or been referred to OLRs, is currently receiving assistance, or has received assistance from OLRs. Clients and stakeholders are informed of grievance procedures at intake if they express dissatisfaction, at case closing, and at any time the client expresses dissatisfaction with the services of OLRs. Grievance information is not provided to all parties as a matter of agency procedure. Grievances are filed with the intake coordinators, who review the grievance, direct any necessary investigation, and, if the grievance remains unresolved after five working days, forward it to the OLRs grievance committee.

The grievance committee consists of the involved supervisor, the administrative services director, the special assistant to the administrator, and the intake coordinators. The grievance committee issues a decision to the grievant and the client within 15 working days explaining the reason for the decision and what action OLRs will take in the matter. However, compliance with time lines and procedures could not be confirmed because OLRs declined to provide sufficient grievance file data for this analysis. Grievants have the right to appeal any of the committee's decisions to the administrator. The administrator's decision is final and binding.

While access to grievance files was not available for this analysis, 300 grievances were surveyed by OLRs from October 1, 1998 to present, and could be categorized into three groups: 113 cases were alleged to be improperly closed, 72 complaints involved a communication problem between the client and the lawyer or advocate, and 67 cases involved denial of service. These complaints are associated with aspects of case selection and provision of service. The remaining 48 cases were resolved without committee action.

Of the 300 grievance files surveyed by the legal director, 252 were determined to be grievances that required committee action. Of these 252 cases, 25 were PADD cases, 28 were CAP cases, 78 were PAIMI cases, 51 were state funded cases, 65 were PAIR cases, 2 were Ombudsman cases, and 3 were PABSS cases. The remaining 48 grievances were resolved without committee action and are not included in this analysis. One hundred thirteen cases were grieved because the client believed the case was closed improperly. Within this category there are two subcategories: cases closed due to lack of merit, and cases closed with a lower level of service provided than that desired by the client. Seventy-two cases were grieved because of a communication problem

with the worker. This category includes complaints of rudeness by staff, disagreement with the advice that the client was given, failure by staff to initially contact a client, or a misunderstanding between the case worker and the client. Sixty-seven cases were grieved because of denial of services.

Table 5-3 illustrates the grievances filed in each program for the period of October 1, 1998 to June 1, 2002.

Table 5-3: Summary of Historical Client and Stakeholder Grievances

Fund	PADD	PAIMI	PAIR	CAP	State Funded	Ombudsman	PABSS ¹	Total
Communication Problems	14	25	13	11	8	0	1	72
Case Closed Improperly	8	35	30	12	24	2	2	113
Denial of Service	3	18	22	5	19	0	0	67
Total Number of Grievances	25	78	65	28	51	2	3	252

Source: Summary of client grievances generated by the legal director

¹ Protection and Advocacy for Beneficiaries of Social Security

Overall, improperly closed cases constituted the most frequent category of grievances at 44.8 percent of all grievances. Communication problems were the second most common category of grievances at 28.6 percent of all grievances. The program with the most grievances was the PAIMI program with 31.0 percent of all grievances. Grievances within the PAIMI program were primarily related to allegedly improperly closed cases and represented 44.9 percent of all PAIMI grievances. Within the PADD program, communication complaints were most prevalent at 56.0 percent of PADD grievances. Finally, 46.2 percent of all PAIR grievances were related to allegedly improperly closed cases.

Table 5-4 illustrates the percentage of grievances filed within each program that were validated by the committee within each of the identified complaint categories.

Table 5-4: Summary of Grievances Upheld by Committee

Fund	Communication Problems	Cases Closed Improperly	Denial of Service	Fund Overall
PADD	21.4%	12.5%	0%	16%
PAIMI	12%	11.4%	22.2%	14.1%
PAIR	7.7%	16.7%	9.1%	12.3%
CAP	27.3%	16.7%	0%	17.8%
State Funded Services	25%	20.8%	10.5%	17.6%
Overall Category Complaint Upheld	16.7%	15.9%	11.9%	15.1%

Source: Summary of client grievances generated by the legal director

Communication issues between clients and staff are most likely to be upheld by the grievance committee, followed closely by improperly closed cases. Communication issues are most likely to be upheld within the PADD, CAP, and State Funded programs, while improperly closed cases are most likely to be upheld within the CAP and PAIR programs.

OLRS currently has no formal protocol or criteria for evaluating grievance claims, and lacks policies regarding the resolution of validated grievances. The advocacy director identified general criteria used to evaluate grievances. Grievance claims are decided based upon a simple majority vote of the committee members. The advocacy director states that committee members typically use assorted criteria to evaluate these claims based upon the nature of the claim. Those grievances for denial of service are evaluated based upon client eligibility, case merit or clarity of legal issues, and agency priorities. By re-evaluating these issues, the committee can determine if closing or rejecting a case was appropriate. Cases involving improper case management are decided on a case by case basis using individual judgment.

Typically, committee members will review case files and conduct fact finding activities to find evidence of mistreatment. They examine the level of client/agency communication, review steps in the case investigation, and evaluate potential personality conflicts between staff and client. Grievances involving the outcome of their cases and the level of OLRs involvement are evaluated according to the following activities:

- Research or analyze laws that are open for interpretation that may have directed case workers to proceed in a particular manner;
- Evaluate the merit of the case; and
- Review case management steps.

Should grievances be validated, they are typically resolved by re-opening cases, supervising case workers more closely, reassigning case workers, and reassigning tasks to be performed. However, conversations with grievance committee members revealed methodologies and evaluation criteria that differed slightly between members. OLRs declined to provide a sample of grievance files to validate the existence of functional review criteria and resolution guidelines. The duties of some of the individuals comprising the grievance committee require that they are involved in the decision for extending service, the nature of service extended, case management, and the resolution of cases. This involvement partially mirrors the grievance categories stated above. Up to three of five committee members may have had prior involvement with decisions regarding grieved cases. For instance, supervisors are involved in case management decisions such as task guidance and escalation of services decisions and review all cases at closure, while intake coordinators make all case selection and initial intervention strategy determinations. Furthermore, cases of a complex nature are usually discussed with intake coordinators at strategy meetings.

The Protection and Advocacy agencies in Virginia and Michigan have procedures that ensure a level of independence for grievance reviews. Both organizations have final binding review at the oversight board level. The Michigan Protection and Advocacy Service's (MPAS) grievance policy is similar to OLRs's in that both policies require grievance review to be conducted internally by individuals that may have had prior involvement in the case. However, MPAS allows final and binding review to be conducted by the Board of Director's grievance committee.

The Virginia Department Office for Protection and Advocacy (VDOPA) initially uses informal complaint resolution. Should these procedures not resolve the complaint, the director and human rights advocate review the case and meet with the grievant. A decision is issued within 10 days after the director receives the complaint. Should the individual still be unsatisfied, that individual may file a petition for a hearing by the Local Human Rights Committee (LHRC) using the procedures described in Virginia Administrative Code (12VAC35-115-180). According to 12VAC35-115-210, the grievant may appeal the LHRC's decision to the State Human Rights Committee (SHRC) whose action plan will be final and binding on all parties. In each of these three levels of review, reviewers have no direct involvement in case selection or case management activities. For additional discussion on the appropriate role of the OLRSC in the grievance process, please refer to the **OLRS/ OLRSC relationship** section of this report.

More detail in OLRs policies stating grievance review criteria and grievance resolution options could reduce ambiguity among grievance committee members, OLRs case workers, and clients. Grievance committee decisions would be focused and guided by established guidelines. By effectively communicating these policies, case workers would receive additional direction for acceptable case management practices. **Table 5-3** illustrates that those grievances alleging communication problems and improper case closure are found valid more often. This could be explained by the complexity of issues involved in these cases, and how those issues affect both case management and grievance review. Effectively communicated, clear grievance review criteria reinforce acceptable case management practices. Communicating this information externally could also reduce any ambiguity regarding the decision process for clients. By managing client expectations, the total number of grievances and appealed grievances may decline, while improving client satisfaction.

Recommendations 51-52:

- 51. OLRs should reevaluate its grievance procedures to determine the appropriate level of oversight and separation of duties. It should seek to at least partially separate some levels of review from active involvement in the case selection or case management process. This could be achieved by allowing an initial review at the supervisor or intake coordinator level. Should the grievant remain unsatisfied, further review could be conducted by the director and administrative services director with final and binding decisions made by the OLRSC. These levels of**

review should both enable quick resolution of issues at lower organizational levels and allow for objective review.

- 52. OLRS should establish more detailed and specific procedures for evaluating grievances and resolution options for validated grievances. These procedures should include formal procedural rules, criteria for evaluating the validity of grievance claims, and established awards available to validated grievances. These policies would ensure more consistent grievance reviews and resolutions. In addition these policies would reinforce acceptable case management practices. Finally, implementing these policies should help manage client expectations.**

D. Outreach Efforts

Legislative and Policy Outreach

Policy leadership within OLRS is provided by the disability policy director, disability policy analyst, and a policy analyst. In addition to the individual and group case work, the agency opens “policy cases” to address issues on a systemic level. When a policy case is opened, interventions provided can include monitoring, providing comment, researching/analysis, and participation on a committee or task force. Outcomes for policy cases are identified as the number of people helped, whether the policy or law changed, or if changes increased access to assistive technology.

OLRS does not have a strategic plan to guide the presentation and pursuit of legislative issues. The agency collaborates with other state departments, like the Rehabilitation Services Commission or the Council on Developmental Disabilities, on their various legislative agendas. OLRS, while a member of the collaboration working on the issue, is usually not recognized as being at the forefront of advocacy for an issue. The director stated that OLRS can take the lead if that is appropriate, but that has not typically been the situation.

The agency does not have a legislative agenda or position but, instead, provides technical assistance to legislators. OLRS staff is involved in a number of other councils and coalitions including the State’s Council on Development Disabilities, the Rehabilitation Service Commission’s Consumer Advisory Council, the Ohio State Independent Living Council, and the Disability Policy Coalition. OLRS staff participates in various other work groups addressing issues that include Medicaid redesign, advance directives for the mentally ill, special education, etc. The disability policy director is responsible for legislative and regulatory monitoring. The disability policy director stays current on legislative issues by reviewing various publications, monitoring various wire services and any filing of administrative rules by key state agencies through the Joint Committee on Agency Rule Review. Issues identified can lead to a policy case intake that is then assigned to another staff person for follow-up.

One example of OLRs legislative activity is the legislation drafted through the work of the Family Support Collaborative (FSC). The work of the FSC is targeted at teaching family members how to be their own advocates. OLRs assisted in developing the Family Support Act and assisted FSC members in meetings with legislators to obtain sponsors for the bill. The agency has implemented an on-line survey as a part of this program and has begun to compile and share the results of this survey. The FSC has an outreach project, aimed at getting information about the FSC and the family survey out to underserved areas of the state. The outreach is performed by parent members, family support specialist and FSC advocates.

The federal Administration on Developmental Disabilities (ADD) provided instruction on the role of protection and advocacy agencies in educating, advising or informing federal, state and local policymakers. The ADD considers advocacy to include advocating for the enactment or amendment of legislation at the state level which affects individuals with developmental disabilities. The ADD advisory stresses that the protection and advocacy agency should make a balanced presentation, discussing the advantages and disadvantages of the legislation and comparing it with other proposals that may also be under consideration. "Grantees should emphasize their role as a source of information and advice in helping legislators and other policymakers to identify and evaluate the available alternatives for meeting the needs of individuals with developmental disabilities."

There are several prohibitions against lobbying including the use of funds to influence the outcome of an election or for contributions to political parties. The prohibitions also include using grant funds to pay any person for influencing or attempting to influencing federal officials concerning the awarding of any federal contract, grant, or loan. The ADD states that protection and advocacy agencies can meet their responsibility to inform, educate or advise policymakers and avoid violating any limitations on lobbying by emphasizing nonpartisan analysis, study and research.

There is no indication that OLRs is acting outside of the guidelines in terms of its legislative advocacy; however, the agency is not as active in this arena as is permitted in the ADD advisory. OLRs is not active on an ongoing basis in informing, educating or advising policymakers about issues that impact on the lives of individuals living with a disability. The low profile assumed by the agency contributes to a diminished awareness of the expertise within OLRs and detracts from citizens being aware of this resource. Limited awareness of OLRs' function is evidenced by the 10 percent of stakeholder survey respondents indicating they were unaware of OLRs. Legislators, policymakers and citizens should be continually educated about the role of OLRs, its mission, and its areas of expertise. OLRs can better accomplish its mission and operationalize its philosophy when the agency is perceived as a leader and expert on issues impacting the lives of those with disabilities.

Recommendation 53:

- 53. OLRs should incorporate a goal into its strategic plan to increase its leadership on legislative and policy issues affecting all citizens with disabilities. Any strategy developed by OLRs should include detailed guidance for improving the agency's relationship and communication with the Governor and the Legislature. The Governor and the Ohio General Assembly play an important role in setting policy and creating laws that impact the lives of individuals with disabilities. Therefore, developing a positive relationship and creating effective channels of communication with the General Assembly is critical to OLRs' efforts to educate and advise policymakers in areas that can impact OLRs' ability to carry out its mission.**

Public Relations

A review of OLRs job descriptions found seven positions which have responsibilities in the areas of communication and outreach. One of these positions is the community affairs officer, who has responsibilities related to assisting with community outreach by being involved with community and consumer groups and assisting in developing public relations programs. The position also furnishes information and explains OLRs programs to the public, writes position papers and reports, and makes speeches and gives lectures. Additionally the position staffs the OLRSC meetings, and takes the official minutes. This position is currently vacant, further diffusing responsibilities for public relations within OLRs.

There is a need for OLRs to focus on improving public relations. Based on the survey responses, stakeholders are not familiar with OLRs' roles, functions, mission and priorities, and, as a result, are sometimes frustrated by what they perceive as an unresponsiveness

According to the U.S. Department of Labor, public relations specialists keep the public informed about the activities of government agencies and officials. Public relations specialists create favorable attitudes among various organizations, special interest groups and the public through effective communication. An organization's reputation, profitability, and even its continued existence can depend on the degree to which its targeted stakeholders support its goals and policies. Public relations specialists handle organizational functions such as media, community, consumer and governmental relations. Informing the general public, interest groups and stakeholders of an organization's policies, activities, and accomplishments is an important part of a public relations specialist's job. The work also involves keeping management aware of public attitudes and concerns of the many groups and organizations with which they must deal.

In addition to the absence of a community affairs officer, OLRs does not have a communication plan. The agency does have a September 22, 1992 memorandum regarding the policy on press contacts which directs staff to the executive director or the legal director before speaking to the

press. The memorandum provides some guidelines for the staff to follow if contacted by the media.

To carry out the work of the agency, OLRs must communicate its intentions to its constituency groups. A communication plan should support the agency's efforts to achieve its strategic goals and to fulfill its mission and mandate. According to the book, *Communication Planning: An Integrated Approach*, an effective communication plan includes the following sections:

Background Statement: This section provides information about the organization and its current position that is relevant to the development of the communication plan. For example, the statement may speak to new initiatives, organizational or systemic changes that merit consideration in the development of the communication plan.

Functional Objectives: Present strategic objectives of the organization relevant to the development of the plan.

Policy Issues: Listing of current and emerging debates of concern to the organization. For example, school funding, residential treatment services, housing issues, and changes in administrative rules impacting persons with disability are current issues of concern to OLRs.

Internal Environments: The section describes the opinions and actions of internal personnel as they relate to their information needs, the communication practices for the organization and the positive and negative factors in the internal environment.

External Environments: Presentation of customers' and stakeholders' opinions and actions in regard to relevant policy issues or the performance of the organization. Feedback from surveys and focus groups can be used in this section to highlight communication needs identified from these sources.

Windows of Opportunity: Listing of good news, actions, or research undertaken by the organization to benefit internal and external customers and stakeholders.

Communication Objectives: Communication objectives for the organization should take into account information from the previous sections. An example objective for external audiences is, 'To increase awareness and create a better understanding of OLRs priorities.' An example objective for internal audiences is 'To improve communication between OLRs and the OLRSC.'

Messages: This section lists the basic messages that management would like to convey to target audiences, both internally and externally.

Communication Priorities: Lists strategies for meeting communication objectives and communicating key messages. For example ‘Conduct regional focus groups to obtain feedback from key stakeholders into service priorities for upcoming year.’

Strategic Considerations: This section offers cautions in proceeding with the plan and recommendations for action. One consideration could be that any strategy designed to provide information on changes being planned regarding service priorities should assure the key stakeholders that they will have an opportunity for input into the proposed changes.

Requirements for Consultations, Partnerships, and Negotiation: This section outlines the customers and stakeholders that should be consulted with planning communication activities, suggests partnerships that could be established, and points to areas that could benefit from negotiations.

Performance Indicators: Sets forth standards for evaluating the success of the communication plan efforts. Examples of performance indicators include: customer satisfaction, referrals to OLRs, attendance at annual meeting, or visits to the OLRs web site.

The development and implementation of a communication plan would provide a tool for OLRs to identify specific priorities and objectives for the messages OLRs would like to communicate. The plan could also incorporate performance measures to help determine how well it has achieved those objectives. It is evident from the stakeholder survey that OLRs has not effectively communicated its program priorities and a good communication plan could remedy this situation. Effective communication is critical to customer service, collaboration, and the ability of OLRs to achieve its mission and strategic goals.

Recommendations 54-55

- 54. OLRs should fill the position of community affairs officer. A community affairs officer would increase awareness of OLRs, its services and priorities, which should increase referrals to the agency and reduce misperceptions about the agency. This position would also help improve relationships with stakeholders which would enhance the effectiveness of OLRs’ ability to advocate for individual rights and needed systemic change.**

Based on statistics from the US department of labor, the median annual income for a public relations specialist in state government with benefits is \$51,000. One option is for OLRs to contract out for a public relations specialist and then to evaluate the need for the community affairs officer through the process of developing a communication plan. The public relations specialist will provide the needed expertise to develop the plan and can assist the agency in determining ongoing needs in this area.

55. **The agency should develop a communication plan using the sections identified in Communication Planning: An Integrated Approach as a guideline. The communication plan should be developed in conjunction with the agency's strategic plan to ensure that the goals developed in the communication plan flow from the agency's overall strategic direction. An additional resource that provides guidance for developing a communication plan is a publication by the International Association of Business Communication titled *The Communication Plan: the Heart of Strategic Communication* (Potter).**

Electronic and Print Publications

OLRS maintains a web site that provides information about the agency's services. The agency's annual report along with a variety of publications on disability related issues are available on the web site. In the past, the agency published its own newsletter and recently shared plans to contribute to another entity's quarterly newsletter. The agency also maintains a separate web site for the FSC project. This FSC project is in its fifth year with funding from the Ohio Council on Developmental Disabilities and has a focus of increasing advocacy in families.

OLRS provides a number of publications on a wide variety of issues, and these publications are available free of charge from the web site. Two OLRs reports are also listed on the web site: the 2001 OLRs annual report and the OLRs survey on private psychiatric services. The OLRs web site has no legislative advocacy activities or information on outreach and education activities conducted by the agency.

Although OLRs previously published its own newsletter, it does not currently do so. The executive director cited a plan to contribute information to the AXIS Center for Public Awareness of People with Disabilities newsletter. The quarterly information will also be reproduced in an OLRs specific mailing that will be sent to the Governor, the General Assembly and other select individuals and organizations. Currently when OLRs becomes aware of a new issue or new information about an ongoing issue, they informally share that information with the various councils and coalitions who then pass on the information to their contact lists.

Table 5-5 contains a sample of OLRs publications. These publications demonstrate the work done by the agency to produce informational products.

Table 5-5: Sample of Ohio Legal Rights Publications

Name of Publication	Date of Publication
Transition Planning for Students with Disabilities	April, 2001
A Guide to Medicaid Services for People with Brain Injuries or Other Disabilities, and their Families and Advocates	March 2001
The Report on Housing: Crisis and Opportunity a Traumatic Brain Injury and Disability Perspective	March 2002
Advocating for housing a traumatic brain injury and disability perspective	March 2002
Information on housing a traumatic brain injury and disability perspective	March 2002
Ohio's Family /support Collaborative conference and advocacy review	Material not dated
Ohio's Family Support Collaborative	2002
Ohio's Family Support Collaborative coming together in organized advocacy for Ohio's families	Material not dated
Family Support Collaborative (pamphlet)	January 2002
A Closer Look Selected Sources (pamphlet)	Material not dated
A Closer Look A Review of psychotropic Medication Practices in Children's Residential Facilities in Ohio	Material not dated
A Closer Look Seclusion and Restraint Practices in Children's Residential Facilities in Ohio	Material not dated
A Closer Look Families and our kids: Living in the residential maze...	Material not dated
OLRS' Kids MH Survey	October 2000
Vocational Services and Independent Living Programs and Services Available in Ohio through the Rehabilitation Act	February 2001

Source: OLRs

OLRS publications are distributed through different channels depending on the topic. For example, information regarding the family support collaborative was mailed to individuals who attended the FSC conference and a mailing list of other family advocates. There are a variety of publications available from the OLRs web site. Topics include: the Americans with Disabilities Act, Assistive Technology, Employment, Medicaid, Special Education, Voter Information, and Legal Resources and Rights in the Community.

Stakeholder organizations have stated that the publications developed and distributed by OLRs are very helpful and well-written. However, because the publications are developed on an as needed basis, there are no formal standards or guidelines for the appearance of the publications. In some cases, publications have been issued without a name or symbol clearly representing OLRs on the cover. The executive director stated that contact information and OLRs logos were sometimes intentionally omitted so that individuals would not contact OLRs with additional questions about the issue or service. The absence of contact or identifying information could cause confusion on the part of some readers. Clearly displaying a standard symbol or byline on all OLRs publications could help to ensure that the agency is properly credited for all services it provides.

In addition to publications, protection and advocacy agencies in many other states post newsletters on their web sites. These organizations have their own unique newsletters and do not

use newsletters of other organizations as a vehicle to disseminate information. The frequency of the peer state's newsletters varies between quarterly and semi-annually.

The New York Commission on Quality of Care for the Mentally Disabled (NYCQC) produces a semi-annual newsletter titled *Quality of Care* which is available on the agency's web site. The newsletter provides results of investigations conducted by the agency, updates on state-wide initiatives and a variety of information on disability related topics. For example, the Fall-Winter 2001-2002 newsletter contains information regarding electro-convulsive therapy, spina bifida, and suggestions for not-for-profit agencies in selecting an independent certified public accountant for auditing services.

The Michigan Protection and Advocacy Service (MPAS) produces a quarterly newsletter that is also posted to the agency's web site. The newsletter provides updates on the agency's activities along with updates on any significant administrative changes within the organization. For example, the newsletter provides updates on changes in agency administration along with introductions of new staff. The newsletter also provides information regarding upcoming conferences and resources that are available.

Newsletters provide an avenue to disseminate valuable information to citizens on disability related issues. They also provide a means to share the mission, priorities, and activities of the agency. Information about the organization provides a basis for understanding the activities being conducted by the agency and gives the reader a picture of the agency's operations and its method for resource allocation.

Recommendations 56-57:

- 56. OLRs should pursue the publication of its own newsletter as a means to communicate to stakeholders the agency's mission, priorities and activities. The newsletter will serve to increase public awareness of OLRs and assist in clarifying the agency's role and responsibilities as Ohio's protection and advocacy agency.**

OLRS should post the newsletter on the agency's web site and consider developing an electronic distribution for the newsletter. This will reduce the number of mailings needed and contain costs. Also, OLRs should evaluate the effectiveness of its newsletter. Real costs related to the production and distribution of the newsletter should be tracked and the use of the newsletter monitored. Finally, OLRs should seek to obtain feedback on the impact of this type of communication strategy.

- 57. OLRs should ensure that the name of the agency is displayed on all of the publications developed by the agency. This should increase awareness of the contributions made by the agency and highlight the variety of areas of expertise within OLRs.**

E. Stakeholder Recognition of Agency and Services

Stakeholder Perceptions of Ohio Legal Rights Services

During this performance audit, feedback from stakeholders was obtained in a variety of formats, including a mail survey, interviews and written comments. Stakeholder feedback indicated wide variation in the perceptions of the agency and identified a number of strengths, areas for improvement, and recommendations for OLRs. There were several responses which indicated that the agency had no contact with OLRs and was unaware of the agency and its functions. While perceptions varied, there were a number of strengths repeatedly identified by stakeholders. These strengths include:

- OLRs' actions are grounded in clear philosophical principals and they are willing to support and represent the wishes of the individual with a disability.
- The agency's independence enables it to provide strong advocacy and OLRs staff are perceived as tough and fair.
- OLRs has good leadership, skilled attorneys, and knowledgeable staff.
- The agency issues useful reports that provide information and demonstrate trends in different areas.

Along with agency strengths, stakeholders identified areas for improvement. These areas result from dissatisfaction with the agency. The areas for improvement include:

- All of the stakeholders that were interviewed stated they were unaware of annual meetings or annual priorities, and that they did not have input into setting annual service priorities. Thirteen percent of the survey respondents indicated they were unaware of the agency, its services and/or its mission. This contributes to confusion regarding OLRs' mission and service priorities.
- Eighteen percent of the survey respondents commented on difficulties in accessing services through the agency's intake process. There is a lack of awareness as to how OLRs selects cases, allocates resources or is administratively structured. There is the perception that some issues could be easily resolved if there was more open and frequent communication with OLRs staff. There is a perception that responses from OLRs are not timely.
- Nine stakeholders described OLRs as functioning with more of an adversarial litigious approach. The protection and advocacy agencies were established by federal law with a focus on protecting the rights of individuals in institutional settings. One stakeholder noted

that the federal law is inconsistent with today's needs of individuals with disabilities as there is now more need for advocacy related to community-based services.

Along with strengths and areas for improvement, suggestions and recommendations for OLRS were solicited. The recommendations for improvement that were offered from stakeholders include:

- OLRS should take more public positions and provide more public testimony on issues affecting the disabled. It would be preferable to have OLRS be more visible in Ohio's communities.
- OLRS needs to hold public hearings on their plans and priorities outside of Columbus. OLRS needs to be proactive in explaining its mission to different stakeholders. OLRS should open its planning process to gather input from stakeholders and involve stakeholders in some of its decision making processes. There needs to be ongoing, formal dialogue between OLRS and other state agencies to proactively identify and work on system issues. This appears to happen only with select stakeholders.
- OLRS should open intake to all day.
- OLRS should advertise its dispute mediation process so that disputes can be worked out in a shorter time frame.
- OLRS should look into strategies to help school districts in a non-adversarial manner.
- Cross training with staff from OLRS and other organizations would be beneficial.

As shown above, the feedback regarding the agency varied tremendously among the respondents. There were a number of entities, including the probate courts surveyed, who were unaware of the agency and others who were not familiar with the role and functions of the agency. There are numerous misunderstandings about the agency including what the mission is and who the agency represents. Referrals, communications and interactions are impacted by stakeholders' awareness and familiarity with OLRS and its services. It appears that the level of communication and interaction varies between OLRS and certain stakeholders and those that have more limited communication expressed greater confusion and frustration with OLRS.

The Institute for Public Relations reports that effective organizations select and accomplish goals when they develop relationships with stakeholders/constituencies. Public opposition to management goals and decisions often results in issues and crises. The process of developing and maintaining relationships with strategic stakeholders is a critical component of strategic management, issues management and crisis management. According to the Institute, most management decision-makers believe that they choose goals and make decisions that are best for

an organization and that they, rather than other stakeholders, know what decisions are best. Better decisions are made when an organization listens to and collaborates with stakeholders beforehand rather than trying to persuade others to accept goals after decisions are made.

The feedback from stakeholders indicates that OLRs needs to put additional effort into relationship building and communication strategies. OLRs should focus on building relationships with key stakeholders. These relationships should not detract from OLRs's independence and its ability to provide strong advocacy. These efforts should save money for the organizations involved by reducing the costs of litigation, regulation, or legislation. OLRs will benefit by cultivating relationships with consumers, stakeholders and legislators who are needed to support its goals.

Recommendation 58:

- 58. OLRs should use the suggestions for improvement identified in this report along with the comments from the AOS survey (Appendix C) in future planning activities. Many of these comments and suggestions could become objectives for the agency's strategic plan and then be incorporated into the agency's communication plan.**

Client Satisfaction Surveys

Two programs, CAP and PAIR, require that client satisfaction surveys are mailed to each client after case closure. OLRs practice has been that one month after the case is closed, the administrative assistant mails out a survey card. Results of these surveys are reported in the CAP and PAIR annual program reports.

The agency has attempted in the past to send satisfaction surveys to clients served in its other programs. The concern of the agency is the low response rate received after mailing out the surveys. The last time OLRs mailed out the survey to other programs was one or two years ago. Many of the surveys were returned due to recipient having moved or the address being incorrect. The agency also received some negative feedback from consumers who received the survey cards. The agency has not used telephone satisfaction surveys due to the perception that this methodology is intrusive.

OLRs is planning to put the satisfaction survey on its web site. It has experience with web based surveys from the Family Support Collaborative project. It is also planning to attach the survey cards with case closure letters as opposed to waiting a month and doing the separate mailing. While OLRs is soliciting limited customer satisfaction feedback, the methodology used to date does not yield results that can be generalized to other programs or service recipients.

Serving the American Public: Best Practices in One-Stop Client Service indicates that clients expect accessible, accurate, timely and responsive service, and top organizations continually

measure their progress in these areas. Having a customer focus means that business is handled so that the customer does not have to make multiple calls or explain his/her problem to more than one person. The best practice is to go beyond customer satisfaction, and seek to gain customer loyalty. In the public sector, customer loyalty can mean committed customers who spread the word about the quality of service they receive from their government, which directly translates into increased public confidence.

Potential options for identifying service delivery problems are to implement a surveying process, track client complaints, or monitor areas which require the most intensive client contact. Methods for surveying customers and key stakeholders include:

- Daily call-back surveys to provide specific, immediate customer feedback;
- Fixed-interval mail surveys; for example, surveys of every 20th customer to assess such factors as timeliness, accuracy, and quality; and
- A fixed number of surveys sent out on a monthly basis.

Best practice organizations have highly developed feedback systems dedicated to collecting, facilitating, integrating, and helping the organization learn from feedback. This is not the practice at OLRs as the agency does not survey all programs or track complaints. While feedback is obtained from the CAP and PAIR programs, it is not obtained from PAIMI and PADD and these two programs involve the largest number of staff. By limiting customer satisfaction information to two programs, the agency has no method to identify service gaps, staffing issues, or other quality of care problems in the remaining programs. Also, obtaining customer satisfaction feedback when a case is closed benefits future customers but limits the agency's ability to address the concerns and needs of that particular customer. Implementation of a methodology that would solicit feedback from all OLRs programs at various intervals during service delivery will provide the agency with information that can be used to improve service delivery in all programs.

Recommendation 59:

- 59. OLRs should develop a comprehensive surveying program in order to assess customer satisfaction regarding its programs, operations, and service delivery. Survey results can be used to identify areas of emphasis to be included in the strategic plan. As individuals served, family/significant others, and service providers are often in opposing positions, it may be necessary to develop different surveys for each party. OLRs should also consider administering surveys to clients and family members at different points of service delivery. Currently the surveys are sent to select cases at the point of closure. This does not allow the agency to obtain feedback on the quality of services while they are being provided and to be proactive in improving quality of care on an ongoing basis.**

OLRS should evaluate the use of different methodologies based on the unique needs and circumstances of individuals and families served. For example a mail or web based survey may be appropriate for parents of special needs children. These methodologies allow respondents to complete the survey at times that are more convenient. However, a telephone survey may be more appropriate for individuals residing in institutional settings or for those individuals with privacy concerns that do not wish to receive mail at their homes.

F. Level of Mission Achievement

Eligibility for OLRs services

According to the 1997 Census Brief, one in five Americans have some kind of disability and one in ten have a severe disability. Applying the estimate of one in ten having a severe disability to Ohio's 2000 Census population, provides an estimate of 1,135,314 residents experiencing a severe disability.

According to the eligibility criteria contained in the OLRs Case Management Policy, the eligibility requirements for protection and advocacy services, as defined by relevant federal regulations, are more restrictive than the disability definition used by the US Census Bureau. This is particularly true for the PAIMI and PADD programs. These programs outline specific, medical disabilities that are covered under the program, whereas the US Census Bureau uses a "restricted lifestyle" definition, which could include situations such as a bad back or other injuries that would not constitute a disability for the purposes of the PAIMI or PADD programs. The PAIR program provides a broader definition of disability focusing on individual rights, as defined in 34 C.F.R. § 104, which is similar to the definition used by the US Census Bureau.

Table 5-6 provides the total population and number of individuals who identified themselves as disabled in the 2000 census for Ohio and other peer states. The final column contains the estimate of the numbers of individuals in the state with a severe disability based on the prevalence rate noted in a 1997 Census Brief.

Table 5-6: State Disability Census Data ¹

State	Total Population	Percent of population ages 5-20 with disability	Percent of population ages 21-64 with disability	Percent of population over 65 with disability	Estimated total population w/ severe disability
Ohio	11,353,140	7.91%	17.52%	41.00%	1,135,314
Kentucky	4,041,769	9.05%	24.03%	49.32%	404,177
Michigan	9,938,444	8.46%	18.08%	42.33%	993,844
New York	18,976,457	8.83%	20.99%	40.31%	1,897,646
North Dakota	642,200	7.19%	15.40%	38.46%	64,220
United States	281,421,906	8.06%	19.20%	41.92%	28,142,191

Source: Disability Status of the Civilian Non-institutionalized Population, U.S. Bureau of the Census, Census 2000

Note: Estimate of population with a severe disability based on a 1:10 ratio cited in the US Census Brief

¹ The definition used by the US Census bureau is that a person is considered to have a disability if he/she has difficulty performing certain functions (seeing, hearing, talking, walking, climbing stairs and lifting and carrying) or has difficulty performing activities of daily living or has difficulty with certain social roles (doing school work for children, working at a job and around the house for adults). A person is considered to have a severe disability if he/she is unable to perform one or more activities, uses an assistive device to get around, or needs assistance from another person to perform basic activities

The data contained in **Table 5-6** provides an estimate of the population in the selected states that has a severe disability. While the protection and advocacy agencies serve individuals with a variety of disabilities, this estimate is being used as a basis to compare service levels provided by the different protection and advocacy agencies. This data is compared to the actual number of persons served in **Table 5-7**.

Table 5-7 contains the number of persons served in the four major federal programs for the protection and advocacy agencies. The table then compares the number of persons served to the estimate of the population with a severe disability as defined in the US Census Brief. **Table 5-7** provides an indication of the penetration rate of services provided by the various protection and advocacy agencies compared to the estimated population of individuals with a severe disability in each state.

**Table 5-7: Comparison of 2001 Numbers Served
to Estimate Of Severely Disabled Population**

	OLRS	KPAD	MPAS	NYCQC	NDPAP	Peer Average
CAP	296	110	206	666	85	267
PAIMI	839	179	155	1,476	173	496
PAIR	661	76	111	555	109	213
PADD	629	239	249	2,336	366	798
Total Served	2,425	604	721	5,033	733	1,773
Estimated population with Severe Disability	1,135,314	404,177	993,844	1,897,646	64,220	839,972
% of estimated population served	0.21%	0.15%	0.07%	0.27%	1.14%	0.21%

Source: State protection and advocacy agency 2001 annual program reports, and the December, 1997 Census Brief

The comparison in **Table 5-7** shows that the penetration rate for OLRs, in comparison to the selected peer states, is the same as the peer average. This indicates that OLRs is serving a slightly greater proportion of individuals with disabilities as the protection and advocacy agencies in the peer states.

The data does show that two states, New York and North Dakota, serve a larger percentage of the individuals living with a severe disability than OLRs. NYCQC covers a larger geographic area and is structured significantly different than OLRs. NYCQC administers a statewide network of advocacy programs located throughout the State of New York. NDPAP serves a much higher percentage of the individuals with disabilities living in North Dakota. This state's protection and advocacy agency has regional offices, unlike OLRs which works out of one office located in Columbus.

While the data used for this comparison shows that OLRs is serving more individuals with disabilities than the peer average, the two states that operate from regionalized offices serve a greater percentage of the disabled population than the peer average. This illustrates the effectiveness of deploying staff from regional offices, thereby reaching a greater range of potential clients. In contrast, the centralized office methodology used by OLRs provides protection and advocacy services for the entire state. Migrating to a regionalized office may provide OLRs with a greater penetration rate than is currently being achieved.

Recommendation 60:

- 60. OLRs should monitor its service levels and remain open to evaluating different service methodologies. The agency should examine through its strategic planning process, options to expand its outreach and methods to increase its presence in communities throughout the state. While staff may prefer working out of one central office, OLRs should critically examine if this best meets the needs of Ohio's**

disabled citizens. As a component of the strategic planning process, OLRs should include goals and actions to increase its presence in various regions of the state.

G. Programmatic Impact

Litigation

According to the National Association of Protection and Advocacy Systems (NAPAS), protection and advocacy agencies accomplish their goals by pursuing legal, administrative and other appropriate remedies under the appropriate Federal, state and local laws (e.g., the Americans with Disabilities Act, the Individuals with Disabilities Education Act, and the Fair Housing Act). Approximately 98 percent of cases are resolved voluntarily, without resorting to litigation. Information provided by OLRs, shows that in 2001, the agency was involved in 34 cases involving litigation. During the same year, the agency served 2,818 individual cases through various programs. The percent of individual cases that involved litigation is 1.2 percent which is below the national average.

Table 5-8 and **Table 5-9** displays five years of OLRs data regarding cases involving litigation and cases resolved through mediation/negotiation. This is not reflective of all cases handled by the agency, but only those that are assigned the tasks of negotiation or litigation as defined in agency's case management policy. The data covers state fiscal year (SFY) 1996-97 through 2000-01 for cases involving the CAP program, PADD (DD), PAIMI (MH), PAIR and the state funded program. The CAP program data begins in 1999 as OLRs started administering this program in October 1998.

Table 5-8: Cases Involving Litigation

	SFY 1996-97	SFY 1997-98	SFY 1998-99	SFY 1999-00	SFY 2000-01	Total	Average
Total	57	47	34	28	34	200	40
Carry Over from Previous Year	33	35	25	20	20	133	27
New	24	12	9	8	14	67	13
Closed	12	22	14	8	12	68	14

Source: March 27, 2002 report provided by the OLRs Advocacy Director

Note: Data is based on state fiscal year (July 1 through June 30).

Table 5-9: Cases Resolved Through Mediation/Negotiation

Program	SFY 1996-97	SFY 1997-98	SFY 1998-99	SFY 1999-00	SFY 2000-01	Total	Average
Client Assistance Program (CAP)	N/A	N/A	36	46	48	130	43
Developmental Disability (PADD)	126	106	119	120	122	593	119
Mental Health (PAIMI)	97	72	96	62	78	405	81
Individual Rights (PAIR)	45	28	64	92	56	285	57
State Funded Services	26	16	8	8	4	62	12

Source: March 27, 2002 report provided by the OLRs Advocacy Director

Note: OLRs began administering the CAP program in 1998

The data in **Tables 5-8 and 5-9** shows that on average there were 14 cases involving litigation closed annually between SFY 1996-97 and 2000-01. During this same time frame, there was an average of 295 cases resolved through mediation. The ratio of cases resolved through litigation to cases resolved through mediation is 1:21.

Protection and advocacy agencies have standing to bring lawsuits in their own right, or act as the named plaintiff because of their statutory mandate to protect the statutory and constitutional rights of persons with disabilities. Also, standing is conferred by the legislation that requires agency governing boards and advisory councils to be comprised, in part, of people with disabilities and their family members, and by the requirement that individuals with disabilities play a significant role in developing service priorities.

OLRS was involved in 39 cases involving litigation between October, 1998 and September, 2001. Five of these cases were class action lawsuits. In terms of federal funding, 22 of the cases involved PADD, 13 involved PAIR, 1 involved PABSS, 1 involved CAP and 3 involved PAIMI. Of the 39 cases, 25 of them involved a governmental entity as the opposing party. In those cases involving a governmental entity, 52 percent involved a state government entity and the remainder involved a county government entity. The outcomes of the 39 cases are provided in **Table 5-10**.

Table 5-10: Outcomes of OLRs Litigation

Outcome	Number of Cases	Percentage
Settlement	16	41%
Judgment for person(s) with disability	9	23%
Judgment against person(s) with disability	6	15%
Other (pending, court ruling, voluntary dismissal)	7	18%
Monitoring	1	3%
Total	39	100%

Source: Memorandum regarding litigation outcomes generated by OLRs Legal Director

The data in **Table 5-10** demonstrates that over 40 percent of the cases involving litigation reach a settlement or are in a monitoring phase. This data combined with the data on the number of cases that are resolved through mediation and negotiation highlight the importance placed by OLRs on working with other entities to reach a workable solution to improve the lives of those with disabilities.

It is a reasonable assumption that, without the involvement of OLRs, a number of the cases that are resolved through mediation and negotiation would instead be brought as private actions by the individuals and families involved. As the data in Tables 5-8 and 5-9 shows, only a small percentage of OLRs cases involve litigation. Through its mediation activities, OLRs' intervention may save the state considerable personnel time in preparing legal defenses. Current AOS estimates of staff time required to prepare for the defense against civil suits in similar areas equates to approximately \$300,000.

Recommendation 61:

- 61. OLRs should continue to focus its efforts on mediation and negotiation services when resolving cases. These services are more cost-effective than litigation and can often lead to more collaborative solutions to problems facing Ohio's disabled population. OLRs could increase its value to the State by reaching out to a larger population of disabled Ohioans and addressing a broader scope of issues facing this population. Working with stakeholders and policymakers to identify the needs of its target population could help OLRs ensure it is meeting the needs of all Ohioans.**

Appendix A: State Legislation

Director serves at the pleasure of the commission

Georgia - 17-12-49G: The mental health advocate shall be appointed by and shall serve at the pleasure of the council.

Indiana - IC 12-28-1-10: The commission shall establish Indiana protection and advocacy services and appoint an individual to be executive director of the services. The executive director serves at the pleasure of the commission and shall devote the director's time exclusively to the performance of the duties of the office.

North Dakota - 25-01.3-03: The committee shall appoint a director, who serves at the will of the committee.

Virginia - 51.5-39.5: (A) The Virginia Office for Protection and Advocacy shall be administered by the Board, whose powers and duties include, but are not limited to: (1) Appointing and annually evaluating the performance of a director who shall not be a member of the Board, to serve as the chief executive officer of the Office at the pleasure of the Board.

Commission Prepares or Approves the Budget

Georgia - 17-12-48G: The council and its director shall prepare an annual budget showing all anticipated expenses of the division for the following fiscal year, which shall be the same as the fiscal year of this state. Such budget may be submitted by the mental health advocate.

17-12-47G: The Georgia Indigent Defense Council and the council's director shall be responsible for the management of the division. Managerial duties include, but are not limited to, the following: (4) Preparing an annual budget for the division, administering the funds made available to the division, and overseeing the expenditure of such funds.

Kentucky - 31.015 (e): The Commission shall review and adopt an annual budget prepared by the public advocate for the system and provide support for budgetary requests to the General Assembly.

Idaho - 67-6703 (2): For budgetary purposes and for administrative support purposes, the council shall be assigned, by the governor, to a department or office within state government. However, this assignment shall not interfere with the advocacy, capacity building, and systematic change activities, budget, personnel, plan development or plan implementation of the council....

Virginia - 51.5-39.5: (A) The Virginia Office for Protection and Advocacy shall be administered by the Board whose powers and duties include, but are not limited to: (2) Preparing and submitting a budget to the General Assembly for the operation of the Board.

Commission Participates in annual strategic planning meetings

Connecticut - Ch 18, Sec. 46a-7: State policy concerning disabled persons. It is hereby found that the state of Connecticut has a special responsibility for the care, treatment, education, rehabilitation of and advocacy for its disabled citizens. Frequently the disabled are not aware of services or are unable to gain access to the appropriate facilities or services. It is hereby the declared policy of the state to provide for coordination of services for the disabled among the various agencies of the state charged with the responsibility for the care, treatment, education and rehabilitation of the disabled.

Virginia - 51.5-39.5: (A) The Virginia Office for Protection and Advocacy shall be administered by the Board, whose powers and duties include, but are not limited to: (3) Establishing general policies for the Office and advising and assisting the Director in developing annual priorities, (4) Establishing annual program priorities for the Office....

North Dakota - 25-01.3-02 (8): The committee is responsible for and shall adopt rules for the administrative supervision and direction and for the planning, design, implementation, and functioning of the project....

Commission receives specific reports detailing progress on goals and service to consumers

Connecticut - Sec. 46a-13: The advocacy office and advocacy board shall report ...annually on or before December first, and at any other time upon request of the Governor or the General Assembly, concerning the status of services for persons with disabilities and the operation of both the advocacy board and office and shall make recommendations, administrative and legislative, concerning the protection of the rights and welfare of persons with disabilities living in Connecticut.

Idaho - 67-6708 (4): The council shall submit periodic reports to the governor, the legislature, and departments of state government on how current federal and state programs, rules, regulations, and legislation affect services to persons with developmental disabilities.

South Carolina - Section 43-33-350: (4) [The South Carolina Protection and Advocacy System] may conduct team advocacy inspections of a facility providing residence to a developmentally disabled or handicapped person. Inspections must be completed by the system's staff and trained volunteers. Team advocacy inspections are unannounced visits....The South Carolina Protection and Advocacy System for the Handicapped, Inc., shall prepare a report based on the inspection which must be submitted to the Joint Legislative Committee on Mental Health and mental Retardation, South Carolina Department of Health and Environmental Control, and State Department of Mental Health.

Commission establishes grievance procedures

New York - Article 45.07 (c) 1: The commission shall ...establish procedures to assure effective investigation of complaints of patients, residents and employees of mental hygiene facilities affecting such patients and residents including allegations of patient abuse or mistreatment, including all reports of abuse or maltreatment of children in residential care....Such procedures shall include but not limited to receipt of written complaints, interviews of persons, patients, residents and employees and on-site monitoring of conditions. In addition, the commission shall establish procedures for the speedy and impartial review of patient and resident abuse and mistreatment allegations called to its attention in writing.

Appendix B

Tables B-1 through B-5 show the amount of funding received for the major federal grant programs in FFY 1999-00 and FFY 2000-01.

Table B-1: Federal CAP Funding

State	Population	CAP		Funding per Resident	
		2000	2001	2000	2001
Ohio	11,353,140	\$381,772	\$405,029	0.034	0.036
Connecticut	3,405,565	\$111,511	\$118,241	0.033	0.035
Florida	15,982,378	\$508,030	\$543,697	0.032	0.034
Illinois	12,419,293	\$410,246	\$436,368	0.033	0.035
Indiana	6,080,485	\$200,917	\$213,830	0.033	0.035
Kentucky	4,041,769	\$134,058	\$142,518	0.033	0.035
Michigan	9,938,444	\$334,361	\$354,909	0.034	0.036
Missouri	5,595,211	\$185,249	\$196,740	0.033	0.035
New Jersey	8,414,350	\$276,392	\$292,987	0.033	0.035
New York	18,976,457	\$619,030	\$654,732	0.033	0.035
North Carolina	8,049,313	\$257,012	\$275,285	0.032	0.034
North Dakota	642,200	\$111,025	\$118,241	0.173	0.184
Pennsylvania	12,281,054	\$408,747	\$431,547	0.033	0.035
Virginia	7,078,515	\$231,298	\$247,292	0.033	0.035
Peer Average	8,685,003	\$291,375	\$309,722	0.044	0.046

Source: Ohio and peer state program allocation data

Table B-2: Federal PADD Funding

State	Population	PADD		Funding per Resident	
		2000	2001	2000	2001
Ohio	11,353,140	\$1,036,741	\$1,218,438	0.091	0.107
Connecticut	3,405,565	\$276,812	\$325,105	0.081	0.095
Florida	15,982,378	\$1,172,505	\$1,396,758	0.073	0.087
Illinois	12,419,293	\$952,501	\$1,117,488	0.077	0.090
Indiana	6,080,485	\$534,480	\$6,305,810	0.088	1.037
Kentucky	4,041,769	\$431,900	\$511,656	0.107	0.127
Michigan	9,938,444	\$878,452	\$1,049,541	0.088	0.106
Missouri	5,595,211	\$488,932	\$576,466	0.087	0.103
New Jersey	8,414,350	\$555,111	\$648,586	0.066	0.077
New York	18,976,457	\$1,437,581	\$1,672,853	0.076	0.088
North Carolina	8,049,313	\$686,599	\$811,199	0.085	0.101
North Dakota	642,200	\$267,768	\$314,349	0.417	0.489
Pennsylvania	12,281,054	\$1,082,533	\$1,260,882	0.088	0.103
Virginia	7,078,515	\$544,097	\$638,567	0.077	0.090
Peer Average	8,685,003	\$716,098	\$842,618	0.109	0.200

Source: Ohio and peer state program allocation data

Table B-3: Federal PAIMI Funding

State	Population	PAIMI		Funding per Resident	
		2000	2001	2000	2001
Ohio	11,353,140	\$793,001	\$939,924	0.070	0.083
Connecticut	3,405,565	\$294,740	\$355,300	0.087	0.104
Florida	15,982,378	\$1,040,376	\$1,244,417	0.065	0.078
Illinois	12,419,293	\$797,659	\$9,487,964	0.064	0.764
Indiana	6,080,485	\$425,484	\$506,667	0.070	0.083
Kentucky	4,041,769	\$303,054	\$359,050	0.075	0.089
Michigan	9,938,444	\$683,029	\$812,029	0.069	0.082
Missouri	5,595,211	\$389,686	\$463,170	0.070	0.083
New Jersey	8,414,350	\$500,893	\$599,980	0.060	0.071
New York	18,976,457	\$1,154,875	\$1,374,671	0.061	0.072
North Carolina	8,049,313	\$5,458,692	\$649,761	0.678	0.081
North Dakota	642,200	\$294,740	\$355,300	0.459	0.553
Pennsylvania	12,281,054	\$823,455	\$978,080	0.067	0.080
Virginia	7,078,515	\$461,775	\$551,296	0.065	0.078
Peer Average	8,685,003	\$971,420	\$1,364,437	0.145	0.171

Source: Ohio and peer state program allocation data

Table B-4: Federal PAIR Funding

State	Population	PAIR		Funding per Resident	
		2000	2001	2000	2001
Ohio	11,353,140	\$393,445	\$475,121	0.035	0.042
Connecticut	3,405,565	\$127,186	\$138,633	0.037	0.041
Florida	15,982,378	\$523,563	\$637,786	0.033	0.040
Illinois	12,419,293	\$422,789	\$511,883	0.034	0.041
Indiana	6,080,485	\$207,059	\$250,834	0.034	0.041
Kentucky	4,041,769	\$138,157	\$167,181	0.034	0.041
Michigan	9,938,444	\$344,584	\$416,237	0.035	0.042
Missouri	5,595,211	\$190,913	\$230,786	0.034	0.041
New Jersey	8,414,350	\$284,843	\$343,689	0.034	0.041
New York	18,976,457	\$637,957	\$768,035	0.034	0.040
North Carolina	8,049,313	\$264,870	\$322,923	0.033	0.040
North Dakota	642,200	\$127,186	\$138,633	0.198	0.216
Pennsylvania	12,281,054	\$421,244	\$506,227	0.034	0.041
Virginia	7,078,515	\$238,369	\$290,087	0.034	0.041
Peer Average	8,685,003	\$302,209	\$363,303	0.047	0.054

Source: Ohio and peer state program allocation data

Table B-5: Total Federal P&A Funding

State	Population	Total		Funding per Resident	
		2000	2001	2000	2001
Ohio	11,353,140	\$2,604,959	\$3,038,512	0.229	0.268
Connecticut	3,405,565	\$810,249	\$937,279	0.238	0.275
Florida	15,982,378	\$3,244,474	\$3,822,658	0.203	0.239
Illinois	12,419,293	\$2,583,195	\$11,553,703	0.208	0.930
Indiana	6,080,485	\$1,367,940	\$1,601,912	0.225	0.263
Kentucky	4,041,769	\$1,007,169	\$1,180,405	0.249	0.292
Michigan	9,938,444	\$2,240,426	\$2,632,716	0.225	0.265
Missouri	5,595,211	\$1,254,780	\$1,467,162	0.224	0.262
New Jersey	8,414,350	\$1,617,239	\$1,885,242	0.192	0.224
New York	18,976,457	\$3,849,443	\$4,470,291	0.203	0.236
North Carolina	8,049,313	\$6,667,173	\$2,059,168	0.828	0.256
North Dakota	642,200	\$800,719	\$926,523	1.247	1.443
Pennsylvania	12,281,054	\$2,735,979	\$3,176,736	0.223	0.259
Virginia	7,078,515	\$1,475,539	\$1,727,242	0.208	0.244
Peer Average	8,685,003	\$2,281,102	\$2,880,080	0.344	0.399

Source: Ohio and peer state program allocation data

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Appendix C: Responses to survey regarding Ohio Legal Rights Services

Statement	Responses					Average Response
	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	
Ohio Legal Rights Services treats people fairly and justly.	0	2	5	16	11	4.1
Comments:	The overall score indicated agreement with the statement. Survey responses indicated that OLRs treats individuals fairly and justly. OLRs is seen as allocating staff resources in a fair manner. There were concerns noted as to the role and involvement of the OLRSC and the need to increase involvement of other stakeholders.					
I feel very confident about the competency and skill of Ohio Legal Rights Service.	0	3	6	18	7	3.9
Comments:	The responses to this statement indicated that, in general, OLRs staff is seen as competent and knowledgeable; however, there were comments regarding negative experiences with the agency's receptionist. Other responses noted that OLRs represents client issues in work groups and provides written testimony on various issues.					
Ohio Legal Rights Service has the ability to accomplish what it says it will do.	0	4	8	19	3	3.6
Comments:	There were differing responses to this statement. OLRs is viewed as having the ability to be effective but is limited by available time and funding. Respondents noted concerns regarding the number of individuals and families whose cases are not accepted by OLRs. One respondent indicated they were unaware of OLRs' mission or guiding principals. Another respondent noted that OLRs is not active legislatively.					
Sound principles seem to guide the actions of Ohio Legal Rights Service.	0	0	8	17	8	4.0
Comments:	OLRs is viewed by most respondents as representing an individual's wishes based on clear philosophical principles. One survey noted that OLRs adheres to its mission statement. Concerns noted in this area include the need for the agency to be more responsive to telephone calls and the tendency of the agency to be too impractical and ideological and to have a "gotcha" attitude.					
I can see that Ohio Legal Rights Service wants to maintain a relationship with my organization.	0	3	9	12	10	3.9
Comments:	Responses showed an overall agreement to this statement. A number of respondents indicated they have a positive relationship with OLRs and receive timely assistance when they contact the agency. One concern expressed involved the perception that the agency has not been active since the Martin lawsuit. There was also a concern regarding difficulty in establishing a consistent and collaborative relationship with OLRs.					

Both Ohio Legal Rights Service and my organization benefit from our relationship.	0	2	10	14	8	3.8
Comments:	Responses to this statement varied. A number of surveys indicated a collaborative relationship with OLRs while others noted that they have no relationship or see no benefit in the relationship that exists. The respondents with positive relationships noted past opportunities for exchange of information with OLRs. One respondent noted that there could be benefits from a good organizational relationship with OLRs but that OLRs does not seem interested in or capable of establishing a relationship.					
Generally speaking, I am pleased with the relationship OLRs has established with my organization.	1	3	7	15	8	3.8
Comments:	Responses to this statement also differed. Comments indicated that organizations felt that relationships could be improved with increased understanding of the work done by both parties. One entity expressed frustration over the inability to establish a referral process that could be used when OLRs closes its intake system. Another respondent noted that the relationship was so positive that it would be difficult to think of a way to improve it.					
Ohio Legal Rights is dependable and does what it says it will do.	1	2	6	21	4	3.7
Comments:	The majority of responses indicated agreement to the statement. One entity did note that it has decreased its use of OLRs services because of prior negative experiences.					
Ohio Legal Rights performs appropriate tasks comparable to my expectations.	1	4	6	19	4	3.6
Comments:	Comments in this area resonated many of the same concerns as previously noted. There is concern over poor customer services at the first point of contact with the agency and over the number of people seeking assistance whose cases are not accepted. Many of the respondents are under the impression that cases are turned down due to lack of adequate funding for OLRs. One comment noted that the OLRs publications in the areas of Medicaid and housing are outstanding and represent an instance of the agency exceeding expectations.					
Ohio Legal Rights solicits information from my organization for relevant decision making and planning.	1	3	11	14	4	3.5
Comments:	Comments to this statement indicated contrasting relationships and experiences in working with OLRs. Several respondents indicated open and ongoing communication with the agency while others noted that OLRs has not solicited their input for planning.					

<p>Ohio Legal Rights effectively protects and advocates for the human, civil, and legal rights of people with disabilities.</p>	0	3	5	15	11	4.0
<p>Comments:</p>	<p>On average, the survey found agreement with this statement. Comments noted that the strength of OLRs is in its ability to advocate for an individual, but there was disagreement in the agency’s effectiveness as an organizational advocate. One example cited of OLRs advocacy was in the area of nursing home licensing rules to ensure appropriate health and safety standards. OLRs was described as providing good legal services and being unafraid to advocate for an unpopular issue in support of a client. There were again negative comments regarding poor customer service in response to inquiries.</p>					
<p>Additional Recommendations:</p>	<ul style="list-style-type: none"> • OLRs should hold public hearings on its plans and priorities outside of Columbus. At least every 3-5 years, they need to hear comments from all parts of the state. • Open intake all day; expand capacity of OLRs to serve more people. • Provide more information regarding outreach services such as speaker’s bureau and increase distribution of publications. • Explore methods to develop effective working relationships with other organizations. • Publish an e-newsletter. 					

Scale: 5-strongly agree, 4-agree, 3-neutral, 2-disagree, 1-strongly disagree

Note: There were a total of 39 surveys returned. Five surveys were returned with no responses.

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