

Preliminary Performance Review

Family Protection Services Board

**There Is a Discernable Benefit to Having a
Licensing Agency for Domestic Violence Programs**

**The Board Has Improved Upon Several Issues Mentioned
in the Legislative Auditor's 1999 Review of the Board;
However, Two Issues Have Not Been Adequately Addressed**

**The Board's Licensing and Certification Process Is in
Compliance With Code and Rule Requirements, but There
Are Some Areas in Which the Process Can Be Improved**

**The Board Should Receive Criminal Record Checks of
Program Staff**

**The Board Should Seek More Information From Some
Agencies With Which It Collaborates**

**Programs That Receive Funding From the Board Have
Not Filed Audits With the Legislative Auditor's Office in
Accordance With §12-4-14 as Amended by SB 348**



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John Sylvia
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June 12, 2005

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State Senate
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The Honorable J.D. Beane
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Dear Chairs:

Pursuant to the West Virginia Sunset Law, we are transmitting a Preliminary Performance Review on the *Family Protection Services Board*, which will be presented to the Joint Committee on Government Operations on Sunday, June 12, 2005. The issues covered herein are "There Is a Discernable Benefit to Having a Licensing Agency for Domestic Violence Programs;" "The Board Has Improved Upon Several Issues Mentioned in the Legislative Auditor's 1999 Review of the Board; However, Two Issues Have Not Been Adequately Addressed;" "The Board's Licensing and Certification Process Is in Compliance With Code and Rule Requirements, but There Are Some Areas in Which the Process Can Be Improved;" "The Board Should Receive Criminal Record Checks of Program Staff;" "The Board Should Seek More Information From Some Agencies With Which it Collaborates;" and "Programs That Receive Funding From the Board Have Not Filed Audits With the Legislative Auditor's Office in Accordance With §12-4-14 as Amended by SB 348."

We transmitted a draft copy of the report to the Family Protection Services Board on May 25, 2005. We held an exit conference with the Board on June 1, 2005. We received the agency response on June 3, 2005.

Let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "John Sylvia".

John Sylvia

JS/wsc

Joint Committee on Government and Finance

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Executive Summary

Issue 1: There Is a Discernable Benefit to Having a Licensing Agency for Domestic Violence Programs.

The primary activities of the Board include, but are not limited to:

- Evaluating programs according to licensing and certification criteria;
- Establishing spending formulas for the Family Protection Services Fund, the Domestic Violence Legal Services Fund, and budget bill appropriations for domestic violence;
- Receiving complaints, and working with programs to correct issues accordingly;
- Creating and amending licensing and certification criteria as needed;
- Compiling an annual report and providing it to the Governor and Legislature; and
- Holding Board meetings to discuss relevant program and domestic violence issues.

The Board plays a unique role in West Virginia's domestic violence services network.

The Board regulates and assists domestic violence programs' provision of services, and it sets distribution formulas for state domestic violence money to ensure adequate funding of programs throughout West Virginia. The Board plays a unique role in West Virginia's domestic violence services network, and does not appear to duplicate the services of various other state organizations. Figureheads of state domestic violence programming have attested to the benefit of and need for the Board. The Board performs its required duties.

Issue 2: The Board Has Improved Upon Several Issues Mentioned in the Legislative Auditor's 1999 Review of the Board; However, Two Issues Have Not Been Adequately Addressed.

The Board has strengthened some areas of weakness that were noted in the Legislative Auditor's June 1999 review. The review of the Board noted that the Board did not research domestic violence issues or turn in a domestic violence issues report to the Governor and the Legislature as required by Code. The Board began turning in its annual report in response to the last review; however, it is the opinion of the Legislative Auditor that the annual report does not constitute a domestic violence issues report as mentioned in Code, because the annual report lacks domestic violence issue research findings.

Additionally, the June 1999 report recommended that the Board issue grant disbursements electronically rather than by paper. Currently, of the Board's 16 grantees, only 3 programs receive funds electronically. Programs must sign up on the State Auditor's website in order to receive payments electronically. In May 2005, DHHR sent out letters to the 13 Board programs which still receive payments by paper. The letters encouraged the programs to enroll with the State Auditor's Office to receive payments electronically, and explained the process of enrolling. Electronic payment could prove to be beneficial to the programs because it provides immediate access to funds and eliminates postal delivery problems.

In May 2005, DHHR sent out letters to the 13 Board programs which still receive payments by paper. The letters encouraged the programs to enroll with the State Auditor's Office to receive payments electronically, and explained the process of enrolling. Electronic payment could prove to be beneficial to the programs because it provides immediate access to funds and eliminates postal delivery problems.

Issue 3: The Board's Licensing and Certification Process Is in Compliance With Code and Rule Requirements, but There Are Some Areas in Which the Process Can Be Improved.

The Board's licensing standards do not include methods for treating female batterers. The board has informally adopted the practice of recommending female batterers to licensed family protection programs for treatment.

Currently, state law does not mandate the Board's complaint process. Additionally, the Board does not have a formal policy regarding its complaint process. It is important that the Board have a formal policy for handling complaints to ensure that complaints continue to be handled in a uniform manner in the future.

Presently, in the Board's process of licensure, an applicant fully develops its program before applying for licensure. Current law does not encourage programs to approach the Board or seek assistance from the Board before the creation of a program. Consequently, some new programs may be denied licensure because they failed to design the program according to licensing standards or community needs. To solve this problem, the Board is taking steps to create a process similar to the certificate of need process used by the Health Care Authority. The Legislative Auditor commends the Board for its proactive efforts to resolve this problem and encourages the Board to continue with the implementation of pre-application criteria for developing programs.

State law requires that the Board approve or deny all applications for licensure and certification within 45 days of receipt. The Board does not

Consequently, some new programs may be denied licensure because they failed to design the program according to licensing standards or community needs. To solve this problem, the Board is taking steps to create a process similar to the certificate of need process used by the Health Care Authority.

document the time frame between application receipt and application approval or denial.

In 1998, the Board was given the additional duties of licensing Perpetrator Intervention programs, and certifying Monitored Parenting and Exchange programs. However, those programs have not been given representation on the Board.

Issue 4: The Board Should Receive Criminal Record Checks of Program Staff.

Staff and volunteers of Family Protection shelters, Family Protection Outreach programs, and Perpetrator Intervention programs are not required by law to have background checks. There are background check requirements for Monitored Parenting and Exchange program staff. Some Family Protection programs conduct background checks voluntarily; however, they do not use the Central Abuse Registry. Central Abuse Registry checks contain the same information as State Police criminal record checks, plus information from the State Sex Offenders Registry, and they are ten dollars cheaper than regular State Police checks. Board programs qualify for using the Central Abuse Registry.

According to U.S. Public Law 92-544, FBI criminal records may be exchanged with officials of state and local governments for purposes of employment and licensing; however, before a state agency can request FBI criminal record checks, the agency must be authorized to do so by state statute.

According to U.S. Public Law 92-544, FBI criminal records may be exchanged with officials of state and local governments for purposes of employment and licensing; however, before a state agency can request FBI criminal record checks, the agency must be authorized to do so by state statute. The Board does not have legislative authority to request FBI background checks. Using both a FBI check and a Central Abuse Registry Check results in a more complete check than using only one.

Issue 5: The Board Should Request Research Information From Some Agencies With Which It Collaborates.

All of the Board's grantees do file independent audits in accordance with WVC §48-26-604. Those audits are filed with DHHR in the Compliance Division of the Office of Audit, Research, and Analysis. Each Board grantee's audit is reviewed by a compliance auditor, and the results of the review are noted in an audit findings letter that is sent to the reviewed grantee and to the

Assistant Commissioner of the Finance and Administration Office of DHHR's Bureau for Children and Families. The audit findings letters are not sent to the Board; however, the information in those letters could prove to be useful to the Board.

The Division of Criminal Justice Services (DCJS) has applied to the U.S. Department of Justice for federal domestic violence grants and has been denied funds in part because of licensing and certification issues that pertain to the Board's domestic violence programs. The U.S. Department of Justice has given the DCJS feedback on its applications that could be useful to the Board as it assesses its programs. Also, the DCJS compiles domestic violence research that could be helpful to the Board. The feedback received and research compiled by DCJS are not shared with the Board, even though this information could help the Board identify certification and licensing requirement weaknesses.

The Division of Criminal Justice Services (DCJS) has applied to the U.S. Department of Justice for federal domestic violence grants and has been denied funds in part because of licensing and certification issues that pertain to the Board's domestic violence programs. The U.S. Department of Justice has given the DCJS feedback on its applications that could be useful to the Board as it assesses its programs.

Issue 6: Programs That Receive Funding From the Board Have Not Filed Audits With the Legislative Auditor's Office in Accordance With §12-4-14 as Amended by SB 348.

WVC §12-4-14 requires any organization that receives \$15,000 or more in state funded grants to file an audit with the Legislative Auditor's Office. During the 2005 Regular Legislative Session, SB 348 was passed and will go into effect July 1, 2005. SB 348 amends WVC §12-4-14 and clearly dictates what must be contained in audits filed with the Legislative Auditor's Office, and what is required of state agencies that issue the grants. If Board grantees do not file proper audits with the Legislative Auditor's Office, they could be debarred from receiving state grants.

Recommendations

1. *The Legislative Auditor recommends that the Legislature should consider continuing the Family Protection Services Board.*
2. *The Legislative Auditor recommends that the Board begin including domestic violence issue research findings and subsequent suggestions in its annual report in order to inform the Governor and the Legislature of weaknesses and needed changes in state domestic violence services.*

3. *The Legislative Auditor recommends that the Board require all programs to sign up with the State Auditor's Office to begin receiving payments electronically.*

4. *The Legislative Auditor recommends that the Board research methods of treating female batterers, and that the Board implement treatment of female batterers into licensing standards for either Perpetrator Intervention programs or Family Protection programs.*

5. *The Legislative Auditor recommends that the Board develop a written policy for complaint resolution and submit it to the Legislature to be considered for inclusion in the Board's Legislative Rules, and that the submission address the process for receiving, documenting, and resolving both written and telephone hot-line complaints.*

6. *The Legislative Auditor recommends that the Board consider clearly documenting the date applications are received, and maintaining records that clearly monitor the time frame between receipt of application and application approval or denial.*

7. *The Legislative Auditor recommends that the Legislature consider increasing Board membership to include representatives of Perpetrator Intervention programs and Monitored Parenting and Exchange programs.*

8. *The Legislative Auditor recommends that the Board inform its licensed programs of their eligibility to use the Central Abuse Registry, and of the procedures for using the registry.*

9. *The Legislative Auditor recommends that the Legislature consider amending state Code in order to give the Board and its programs authority to request criminal record checks from the FBI in accordance with U.S. Public Law 92-544.*

10. *The Legislative Auditor recommends that the Board immediately begin requiring Central Abuse Registry checks and assess the need for FBI criminal record checks of its licensed and certified programs' staff and volunteers, assess the feasibility of paying for such checks by various means, and develop background check requirements and payment procedures that correspond with such findings.*

11. *The Legislative Auditor recommends that the Board request audit review finding letters that pertain to Board grantees from the West Virginia Department of Health and Human Resources' Compliance Division of the Office of Audit, Research, and Analysis.*

12. *The Legislative Auditor recommends that the Board begin requesting relevant federal domestic violence funding project evaluation reports and denial letters from the West Virginia Division of Criminal Justice Services to facilitate its research and licensing and certification functions.*

13. *The Legislative Auditor recommends that Board grantees file audits in compliance with WVC §12-4-14 as amended by SB 348, which was passed during the 2005 Regular Legislative Session.*

Review Objective, Scope and Methodology

Objective

This Preliminary Performance Review of the Family Protection Services Board is required and authorized by the West Virginia Sunset Law, Chapter 4, Article 10, Section 5 of the West Virginia Code as amended. The objective of this review was to answer the following questions:

- a. Is there a continued need for the Board?
- b. Is the Board performing its required duties?
- c. Does the agency operate in a sound fiscal manner?

Scope

The scope of this report covers the time period from FY 2001 through May 2005. Consulted resources included, but were not limited to, the Board, its supporting agencies, and its licensed and certified programs.

Methodology

Information compiled in this evaluation was acquired from West Virginia laws, interviews with Board members and staff, surveys conducted of Board licensees, Board annual reports, Board meeting minutes, Board complaint files, Board financial documents, information found during internet research, and input collected from the West Virginia Department of Health and Human Resources, the West Virginia Department of Criminal Justice Services, and the West Virginia Coalition Against Domestic Violence. This review was conducted in accordance with Generally Accepted Government Auditing Standards.

Issue 1

There Is a Discernable Benefit to Having a Licensing Agency for Domestic Violence Programs.

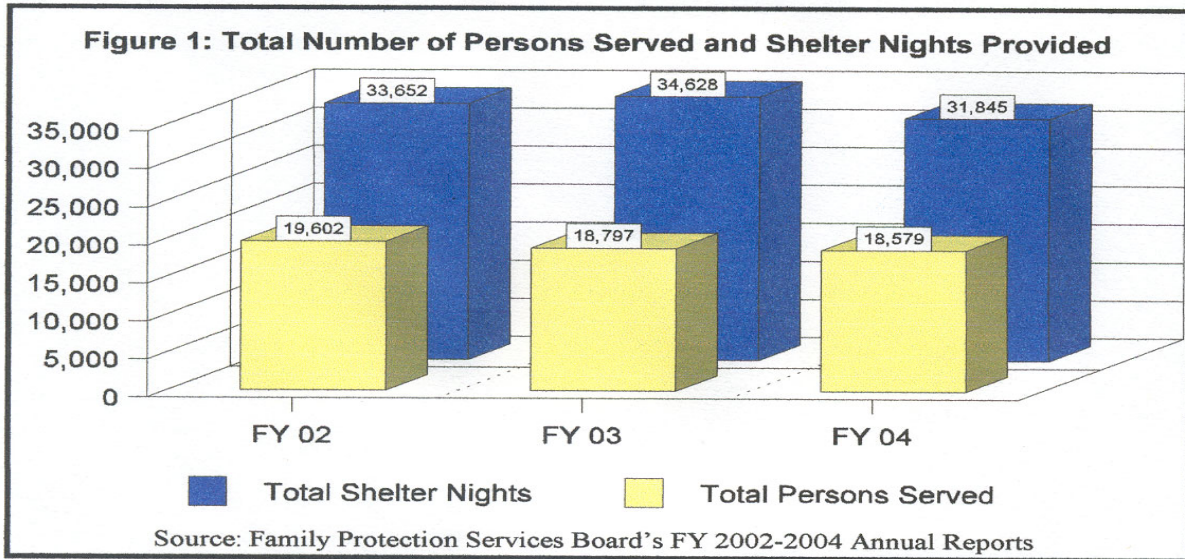
Issue Summary

The Family Protection Services Board provides a needed service to the citizens of West Virginia. The Board licenses Family Protection programs and Perpetrator Intervention programs, and certifies Monitored Parenting and Exchange programs. The Board sets disbursement formulas for three domestic violence service state funds. In FY 2004, the Board set formulas for \$1,867,975 in state funds. Additionally, the Board is supposed to provide domestic violence issue research to the Governor and the Legislature annually. There are some problems with the way the Board does that reporting, which are covered later in this review. If the Board were to cease to exist, all of its responsibilities would most likely be absorbed by the West Virginia Department of Health and Human Resources. The Board adequately performs the majority of its licensing duties; therefore, **the Legislative Auditor recommends that the Legislature should consider continuing the Family Protection Services Board.**

Agency Background

The mission of the Board is to assure that programs working toward the elimination of domestic violence are adequately funded and provide quality services to victims.

The Family Protection Services Board is mandated by the *West Virginia Domestic Violence Act* found in WVC §48-26-1 et al. The mission of the Board is to assure that programs working toward the elimination of domestic violence are adequately funded and provide quality services to victims. The primary duties of the Board include licensure and certification, domestic violence funds allocation, and domestic violence issue research. The Board licenses domestic violence shelters and outreach programs, and Perpetrator Intervention programs. Also, the board certifies Monitored Parenting and Exchange programs. Figure 1 shows the total number of persons served by licensed domestic violence shelters and outreach programs, and the total number of shelter nights which were provided through licensed programs to victims of domestic violence and their children.



The Board has a role in the distribution of the Family Protection Services Fund, the Domestic Violence Legal Services Fund, and budget bill appropriations for domestic violence. In FY 2004, the Board set allocation formulas for \$1,867,975 in state general and special revenue funds. The Board submits its annual report to the Governor and Legislature in an attempt to meet Code requirements for domestic violence research reporting.

Benefits of Licensure

In conducting this audit, the Legislative Auditor considered the benefits of having a licensing Board for domestic violence programs. Presently, the primary activities of the Board include, but are not limited to:

- evaluating programs according to licensing and certification criteria;
- participation by Board members in on-site evaluations of programs;
- setting of spending formulas for the Family Protection Services Fund, the Domestic Violence Legal Services Fund, and budget bill appropriations for domestic violence;
- receiving complaints, and working with programs to correct issues accordingly;
- creating and amending licensing and certification criteria as needed;
- compiling an annual report and providing it to the Governor and Legislature; and
- holding Board meetings to discuss relevant program and domestic violence issues.

In addition to the Board, there are four entities which significantly contribute their efforts toward state domestic violence programs and victims. Those entities are the West Virginia Department of Health and Human Resources (DHHR), the West Virginia Division of Criminal Justice Services (DCJS), the West Virginia Coalition Against Domestic Violence (WVCADV), and Legal Aid of West Virginia (LAWV). DHHR issues and monitors Family Protection Services Fund grants, the Domestic Violence Legal Services Fund grants, and budget bill grants for domestic violence. Also, DHHR applies for federal money from the U.S. Department of Health and Human Services, and disperses and monitors such funds. DCJS applies for federal funding from the U.S. Department of Justice (DOJ) and disperses and monitors such funds. As part of the application process for DOJ domestic violence funding, DCJS compiles domestic violence statistics and research. In addition, DCJS works with the state legal system concerning domestic violence laws and issues. The WVCADV offers domestic violence advocate training and certification, facilitates statewide domestic violence public policy analysis and education, organizes statewide efforts and strategies to increase the public's education about domestic violence, and provides technical assistance to programs on substantive issues related to domestic violence. Moreover, the Board has delegated to the WVCADV the duty of dispersing the Civil Legal Assistance Fund, which is a portion of the Domestic Violence Legal Services Fund designated to cover legal costs for domestic violence victims who have a conflict of interest with LAWV. The Board has delegated the responsibility of issuing the remainder and majority of the Domestic Violence Legal Services Fund to LAWV. LAWV disperses that money on an as-needed basis to domestic violence victims and programs in order to cover legal costs and provide legal services related to domestic violence occurrences.

The Board plays a clear and distinct role in monitoring and aiding domestic violence programs in West Virginia.

Together the Board, DHHR, DCJS, WVCADV, and LAWV comprise a unique network of domestic violence service providers. There does not appear to be any duplication of domestic violence services between those five programs. The Board plays a clear and distinct role in monitoring and aiding domestic violence programs in West Virginia.

West Virginia's bordering states each have a different process for monitoring their domestic violence programs. None license domestic violence programs. Some certify through a process of peer review certification or through monitoring done by a state coalition. Others simply require a program to submit to certain guidelines in order to receive funding. Each unique system of monitoring has positive and negative attributes. However, for West Virginia, licensure appears to be an effective and efficient

way of regulating state domestic violence programs. Regarding licensure and the impact of the Board, the WVCADV issued a statement saying,

The Family Protection Services Board is a significant resource to the State of West Virginia. The work of the FPSB guides the provision of quality services, the growth of licensed programs, and the distribution of statewide funds. The FPSB is a viable model of a collaborative partnership between public and private agencies and organizations. If the FPSB did not exist, all of its roles and responsibilities would default to and be absorbed by an already over-extended Department of Health and Human Resources. The FPSB safeguards the State's commitment to securing safety for victims of domestic violence. The West Virginia Coalition Against Domestic Violence strongly supports the continuance of the WV Family Protection Services Board.

During the audit, the Legislative Auditor sent surveys about the Board's performance to the licensed Family Protection programs. Of the programs that replied, all offered positive comments about the Board and affirmed the need for and effectiveness of Board services.

During the audit, the Legislative Auditor sent surveys about the Board's performance to the licensed Family Protection programs. Of the programs that replied, all offered positive comments about the Board and affirmed the need for and effectiveness of Board services.

The Board does fulfill its mission. It regulates and aids domestic violence programs' provision of services, and it sets distribution formulas for state domestic violence money to ensure adequate funding of programs throughout West Virginia. In light of the Board's unique role in West Virginia's domestic violence services network, the absence of duplication of services between the Board and various other state organizations, the attested benefit of and need for the Board from figureheads of state domestic violence programming, and the Board's performance of required duties, **the Legislative Auditor recommends that the Legislature should consider continuing the Family Protection Services Board.**

The Board does fulfill its mission.

Conclusion

There is a need for the services offered by the Family Protection Services Board. The Board provides a unique service to West Virginia, and works in an effective, collaborative manner with various organizations to insure that quality services are provided to domestic violence victims in the State. The programs that are licensed by the Board and the organizations that work with the Board

have affirmed the need for and the quality of the services provided by the Board. The Board does perform its required duties effectively and meets the goals outlined by state law.

Recommendation

- 1. The Legislative Auditor recommends that the Legislature should consider continuing the Family Protection Services Board.*

Issue 2

The Board Has Improved Upon Several Issues Mentioned in the Legislative Auditor’s 1999 Review of the Board; However, Two Issues Have Not Been Adequately Addressed.

Issue Summary

Although the Board has improved upon several issues mentioned in the 1999 Legislative Auditor’s review of the Board, two noteworthy issues remain. One, most of the Board’s grantees receive their grants by paper checks instead of electronically. Board grantees need to file with the State Auditor’s Office in order to begin receiving electronic payments. DHHR has informed the Board’s grantees of the process for signing up for electronic payment. The Board should require all of its grantee’s to sign up for electronic payment. Two, the Board does not provide adequate domestic violence research to the Governor and the Legislature as required by state law. The Board does file its annual report with the Governor and the Legislature; however, the information found in the Board’s annual report does not constitute issue research findings. The Board should include domestic violence issue research in the report that it submits to the Governor and Legislature.

Update to the 1999 Legislative Auditor’s Report

Board members have become very involved in on-site evaluations.

The Board has strengthened some areas of weakness that were noted in the Legislative Auditor’s June 1999 review. Issue 1 of the report said that the Board needed to be more directly involved in the oversight of domestic violence programs. Since then, the Board members have become very involved in on-site evaluations. All of the programs that are currently licensed or certified by the Board have been visited by a Board member during the last two years.

Additionally, it was noted that in 1998 the Board was given the duty of licensing Perpetrator Intervention programs and certifying Monitored Parenting and Exchange programs; however, as of 1999, the Board had not yet licensed or certified any such programs. Since then, the Board has licensed 12 Perpetrator Intervention programs, and certified eight Monitored Parenting and Exchange programs. One of those licensed programs is the Division of Corrections, which includes ten individual intervention programs. The Board recently developed specific rules for the Division of Corrections’ Perpetrator

Intervention programs and submitted them for inclusion in the Code of State Rules as Series 5 of Title 191. The rules were approved by the Legislature and signed by the Governor during the 2005 Legislative Session.

The June 1999 report further noted that the Board was not accessible to the public, because it was not listed in the phonebook. Currently, the Board is accessible to the public. The Board's complaint hotline is listed in the government section of the phone book, and the Board member contact phone numbers and e-mail addresses are listed on the Department of Health and Human Resources' website. Also, state law requires the complaint line to be posted in all of the Family Protection Programs.

The Board Does Submit an Annual Report to the Governor and Legislature; However the Report Needs to Include More Domestic Violence Research.

It is the opinion of the Legislative Auditor that the annual report does not constitute a domestic violence issues report as mentioned in Code.

In the June 1999 Legislative Auditor's review of the Board, it was noted that the Board did not research domestic violence issues or turn in a domestic violence issues report to the Governor and the Legislature as required by Code. In response to that review, the Board now files annual report with the Governor and the Legislature each year. However, it is the opinion of the Legislative Auditor that the annual report does not constitute a domestic violence issues report as mentioned in Code.

WVC §48-26-401(6) requires the Board to, “[s]tudy issues pertinent to family protection shelters, and programs for domestic violence victims, and report the results to the governor and Legislature.” CSR §191-1-4 states, “The Board shall study issues pertinent to family protection programs for domestic violence victims and prepare an annual report to the governor and the Legislature within the first 20 days of the Legislative session regarding those issues.”

The annual report that the Board submits in response to Code requirements essentially includes information about the duties and activities of the Board, the amount of money distributed by the Board, and the number of people served by Board programs. However, the report does not contain any significant domestic violence research findings or subsequent suggestions. The Board works collaboratively on a routine basis with WVCADV, DCJS, DHHR, and LAWV. The Board should consult each of those organizations and agencies for recommendations about domestic violence information of which the Governor and Legislature should be made aware. Additionally, the Board has re-

cently conducted research and is in the process of writing a plan for growth. The Board should include pertinent information from that research and any other research that it conducts in its report to the Governor and Legislature. The research report that is given to the Governor and Legislature gives the Board an opportunity to inform the Governor and Legislature of pressing state domestic violence issues; however, the Board is not utilizing the report to do so. **The Legislative Auditor recommends that the Board begin including domestic violence issue research findings and subsequent suggestions in its annual report in order to inform the Governor and the Legislature of weaknesses and needed changes in state domestic violence services.**

State law requires that Board programs be paid electronically. Currently, of the Board's 16 grantees, only 3 programs receive funds electronically. In May 2005, DHHR sent out letters to the 13 Board programs that still receive payments by paper. The letters encouraged the programs to enroll with the State Auditor's Office to receive payments electronically, and explained the process of enrolling.

Programs Need to Sign up With the State Auditor's Office to Receive Electronic Payments

In the June 1999 report, the Legislative Auditor recommended that the Board issue grant disbursements electronically rather than by paper. The benefits of an electronic payment system include eliminating slowness or failure of payment due to postal issues, and providing immediate access to direct deposit funds. Additionally, electronic payment acts as an internal control, because it reduces the occurrences of human delays and mistakes. Currently, of the Board's 16 grantees, only 3 programs receive funds electronically. Programs must sign up on the State Auditor's website in order to receive payments electronically. In May 2005, DHHR sent out letters to the 13 Board programs that still receive payments by paper. The letters encouraged the programs to enroll with the State Auditor's Office to receive payments electronically, and explained the process of enrolling.

State law requires that Board programs be paid electronically. WVC §12-3-1(a) states, "*all warrants except for income tax refunds, shall be issued by electronic funds transfer: Provided, however, that the auditor, in his or her discretion may issue paper warrants on an emergency basis.*" Therefore, **the Legislative Auditor recommends that the Board require all programs to sign up with the State Auditor's Office to begin receiving payments electronically.**

Conclusion

The Board has improved some areas of weakness that were mentioned in the 1999 Legislative Auditor's review of the Board. Two issues mentioned in the report have not been resolved. The Board's grantees do not re-

ceive payments electronically. Electronic payments give grantees expedient access to funds. Board grantees must sign up with the State Auditor's Office in order to receive payments electronically. State law requires payments to be issued electronically whenever possible. The Board should require its licensees to sign up with the State Auditor's Office for electronic payments.

State law requires the Board to research domestic violence issues and report the findings to the Governor and Legislature annually. That requirement provides the Board the opportunity to educate the Governor and Legislature about pressing domestic violence issues. The Board submits its annual report in an attempt to meet that requirement; however the annual report does not contain any substantive domestic violence research findings. The Board should begin conducting research of important domestic violence issues and reporting those findings in the annual report that it submits to the Governor and Legislature.

Recommendations

2. *The Legislative Auditor recommends that the Board begin including domestic violence issue research findings and subsequent suggestions in its annual report in order to inform the Governor and the Legislature of weaknesses and needed changes in state domestic violence services.*
3. *The Legislative Auditor recommends that the Board require all programs to sign up with the State Auditor's Office to begin receiving payments electronically.*

Issue 3

The Board’s Licensing and Certification Process Is in Compliance With Code and Rule Requirements, but There Are Some Areas in Which the Process Can Be Improved.

Treatment of female batterers is not outlined in state law. The Board should research and decide upon appropriate treatment methods and include treatment of female batterers into program licensing standards.

State law requires applications to be approved or denied within 45 days of receipt. The Board does not have a method for documenting the length of time it takes to approve applications. The Board should create a documenting system to do so.

Issue Summary

Although the Board’s licensing and certification process does meet code requirements, some of the Board’s licensing and certification practices should be improved. The following practices need to be amended.

- Treatment of female batterers is not outlined in state law. The Board should research and decide upon appropriate treatment methods and include treatment of female batterers into program licensing standards.
- The Board has an unofficial complaint process. The Board should consider adopting an official complaint process.
- There are no pre-application requirements for new programs. The Board should continue in its efforts to implement pre-application requirements.
- The Board does not have a method for documenting the length of time it takes to approve applications. The Board should create a documenting system to do so.
- The Board licenses Perpetrator Intervention programs and certifies Monitored Parenting and Exchange programs, but those programs do not have representation on the Board. Those Board should consider giving those programs representation on the Board.

Perpetrator Intervention Programs Do Not Serve Female Perpetrators

During a 2004 Board meeting, recommendations from statewide batterer education programs were discussed. One recommendation said, “*Licensed Batterer Education Programs will not accept women into the classes. Many women who use violence against their male partners are battered women and use violence in self-defense. It is important to differentiate among battering, power and control, and self-defense.*” In response to that recommendation the meeting notes from that meeting state, “*The FPSB agreed to endorse and adopt this recommendation, adding that courts should be encouraged to refer women who are named as*

perpetrators to licensed domestic violence programs for individual and/or group counseling.”

Table 1 includes statistics provided through the West Virginia State Police Uniform Crime Reporting Program. The acts of domestic violence referenced in Table 1 include aggravated assault, simple assault, intimidation, murder, non-negligent manslaughter, and manslaughter. The relationships between the following victims and perpetrators include boyfriend/girlfriend, common law spouse, ex-spouse, and spouse.

Table 1			
West Virginia Domestic Violence Arrests 2001-2003* **			
Calender Year	2001	2002	2003
Total Number of Domestic Violence Arrests	12,262	11,614	9,990
Total Number of Females Arrested	1,273	1,242	1,117
Percentage of Female Arrests	10.38%	10.69%	11.18%
Percentage of Male Arrests	89.62%	89.31%	88.82%

Source: West Virginia State Police Uniform Crime Reporting Program
 *This table does not include instances involving homosexual relationships.
 ** The statistics reflect arrests reported from various sheriff and police departments throughout the state, and do not reflect actual convictions.

It is important that appropriate remedies under law exist for victims of female batterers, even if the occurrence of such abuse is not statistically predominant.

In response to the above statistics, the Board and the WVCADV stated, “most women who are arrested for domestic violence are battered women who react violently as a method of defense or to protect their children.” The Legislative Auditor acknowledges that a significant portion of female batterers are, in fact, domestic violence victims. However, it is important that appropriate remedies under law exist for victims of female batterers, even if the occurrence of such abuse is not statistically predominant.

Although it is not appropriate to put a female batterer into a class for male batterers, intervention and treatment should be available to female batterers. The Board has implemented the practice of recommending female batterers to a licensed Family Protection program for counseling and treatment. The Board should study and decide upon appropriate treatment for female batterers.

Such treatment should acknowledge that women can be batterers, and that some women batter in self-defense. Uniform and clear treatments for female batterers need to exist in order to provide just access to remedies under law to victims of female batterers.

According to the West Virginia Bench Book for Domestic Violence Proceedings, 2004 Ed., “. . . men can be domestic violence victims, and the courts should be alert to that possibility.”

According to the *West Virginia Bench Book for Domestic Violence Proceedings, 2004 Ed.*, “. . . men can be domestic violence victims, and the courts should be alert to that possibility.” Therefore, **the Legislative Auditor recommends that the Board research methods of treating female batterers, and that the Board implement treatment of female batterers into licensing standards for either Perpetrator Intervention programs or Family Protection programs.**

The Board Does Not Have a Prescribed Complaint Process

Currently, state law does not mandate the Board’s complaint process. Additionally, the Board does not have a formal policy regarding its complaint process. However, it appears that the Board is handling the complaints that it receives in a uniform manner. It is important that the Board have a formal policy for handling complaints to ensure that complaints continue to be handled in a uniform manner in the future.

The Legislative Auditor commends the Board for establishing the Domestic Violence Services Complaint Line.

The Board does not receive a high number of complaints. The complaints that it receives are primarily made through the Board’s Domestic Violence Services Complaint Line, which is a toll-free telephone hotline that the Board established to receive complaints. Some complaints are made in writing. The Legislative Auditor commends the Board for establishing the Domestic Violence Services Complaint Line. However, a prescribed complaint process needs to be documented in order to ensure the uniformity and fairness of complaint resolution. **The Legislative Auditor recommends that the Board develop a written policy for complaint resolution and submit it to the Legislature to be considered for inclusion in the Board’s Legislative Rules, and that the submission address the process for receiving, documenting, and resolving both written and telephone hot-line complaints.**

The Board Should Implement Pre-Application Criteria for Developing Programs.

Presently, in the Board’s process of licensure, an applicant fully develops its program before applying for licensure. Current law does not encourage programs to approach the Board or seek assistance from the Board before the

creation of a program. Consequently, some programs could begin to operate before receiving licensure, or could apply for licensure only to be denied because they failed to design the program according to licensing standards or community needs.

The Board has recently addressed this problem in a planning committee. To solve the problem, the Board is taking steps to create a process similar to the certificate of need process used by the Health Care Authority. In a written proposed plan for growth the Board stated,

State law requires that the Board approve or deny all applications for licensure and certification within 45 days of receipt. The Board says that the deadline is being met, and notes that when an application is received, it automatically goes before the Board at the next Board meeting. However, the actual date of receipt of application is not documented.

To assess whether a proposed residential and/or advocacy service is a needed addition to the statewide network of licensed Family Protection programs, the Family Protection Services Board recommends a two-fold assessment. First, interested organizations will be asked to respond to questions to determine whether the proposed service is consistent with the Board's values and services goals. . . . Second, the Board will review the proposal within the context of a population-driven needs methodology.

The Legislative Auditor commends the Board for its proactive efforts to resolve this problem and encourages the Board to continue with the implementation of pre-application criteria for developing programs.

The Board Does Not Document Date of Application

State law requires that the Board approve or deny all applications for licensure and certification within 45 days of receipt. The Board says that the deadline is being met, and notes that when an application is received, it automatically goes before the Board at the next Board meeting. However, the actual date of receipt of application is not documented; therefore, the Legislative Auditor cannot determine if the Board is in compliance with the law concerning the application review process. In the event that a program would contest the Board's timeliness of licensure decisions, the Board would not have sufficient documentation to reply to the accusations. **The Legislative Auditor recommends that the Board consider clearly documenting the date applications are received, and maintaining records that clearly monitor**

the time frame between receipt of application and application approval or denial.

Perpetrator Intervention Programs and Monitored Parenting Exchange Programs Should Have Representation on the Board

Adding members to the Board would expand the Board's ability to effectively carry out all of its responsibilities.

When the Board was first created in 1989, it was assigned the responsibility of licensing Family Protection programs and outreach programs. Accordingly, state Code requires that Board membership include the Monitored Parenting Exchange programs. In 1998, the Board was given the additional duties of licensing Perpetrator Intervention programs, and it is possible that the lack of Board representation could cause the needs of such programs to be overlooked or neglected. Additionally, because the responsibilities of the Board have increased, the time and effort requirements of each Board member have grown. Adding members to the Board would expand the Board's ability to effectively carry out all of its responsibilities. **The Legislative Auditor recommends that the Legislature consider increasing Board membership to include representatives of Perpetrator Intervention programs and Monitored Parenting and Exchange programs.**

Conclusion

According to the West Virginia State Police's Uniform Crime Reporting Program, over ten percent of reported instances of domestic violence involve female perpetrators. However, current Board policy does not require Perpetrator Intervention programs to accept female batterers into their programs. State Code does not restrict a victim's right to protection or a perpetrator's right to treatment by gender, and the Board and Perpetrator Intervention programs should work to ensure that perpetrator intervention programs offer equal services to both males and females.

The Board does receive complaints, but does not have a written policy regarding its complaint process. Since the Board has not adopted a uniform complaint process, complaints could be handled in an unfair manner. The Board should adopt a written policy for handling complaints.

The current process for licensing does not include pre-application criteria. The lack of pre-application criteria means that developing programs may be operating before being licensed or may be constructing their programs in a manner that does not meet licensing requirements. The Board has begun creating

pre-application criteria and plans to implement that criteria in the near future. The Board should continue in its efforts to create pre-application criteria.

State Code requires the Board to approve or deny license applications within 45 days of receipt. Presently, the Board does not document the date of application. The Board claims that it does meet the 45 day requirement; however, the Board cannot provide documentation to verify that statement. In order to be able to verify the timeliness of application approval or denial, the Board should document the date of application.

In 1998, the Board was given the additional duties of licensing Perpetrator Intervention programs and certifying Monitored Parenting and Exchange programs. However, when those duties were added, the new programs were not given representation on the Board. Board Representation of Perpetrator Intervention programs and Monitored Parenting and Exchange programs should be considered. Giving them representation would ensure that the needs of those programs would be addressed by the Board, and give the Board more members to carry out its new duties.

Recommendations

4. *The Legislative Auditor recommends that the Board research methods of treating female batterers, and that the Board implement treatment of female batterers into licensing standards for either Perpetrator Intervention programs or Family Protection programs.*

5. *The Legislative Auditor recommends that the Board develop a written policy for complaint resolution and submit it to the Legislature to be considered for inclusion in the Board's Legislative Rules, and that the submission address the process for receiving, documenting, and resolving both written and telephone hot-line complaints.*

6. *The Legislative Auditor recommends that the Board consider clearly documenting the date applications are received, and maintaining records that clearly monitor the time frame between receipt of application and application approval or denial.*

7. *The Legislative Auditor recommends that the Legislature consider increasing Board membership to include representatives of Perpetrator Intervention programs and Monitored Parenting and Exchange programs.*

Issue 4

The Board Should Receive Criminal Record Checks of Program Staff.

Issue Summary

Family Protection programs are eligible to use the Central Abuse Registry to conduct background checks; however, the Board and programs were unaware of their eligibility to use the registry prior to this report. In order for programs to be permitted to request criminal record checks from the FBI, they must have legislative authority to do so. Currently, the Board and its programs do not have legislative authority to request FBI criminal record checks.

Presently, criminal record checks are not required of Family Protection program staff or volunteers. The Board should consider requiring background checks for program staff and volunteers. Additionally, Family Protection programs are eligible to use the Central Abuse Registry to conduct background checks; however, the Board and programs were unaware of their eligibility to use the registry prior to this report. Using the registry costs ten dollars less than using the regular State Police criminal record check. Board programs should be informed of their eligibility to request information from the Central Abuse Registry. In order for programs to be permitted to request criminal record checks from the FBI, they must have legislative authority to do so. Currently, the Board and its programs do not have legislative authority to request FBI criminal record checks. The Legislature may wish to grant such authority to the Board.

Criminal Record Checks Are Not Required for Family Protection Program Workers

Criminal record checks are a one-time per employee fee.

As mentioned previously, the Board licenses Family Protection programs, Perpetrator Intervention programs, and Monitored Parenting and Exchange programs. Of those programs, only staff and volunteers of Monitored Parenting and Exchange programs are required to have criminal record checks. This means that staff and volunteers of domestic violence shelters, domestic violence outreach programs, and Perpetrator Intervention programs are not required by law to have background checks. However, some of those programs do conduct background checks voluntarily. According to the Board, “*It is an unwritten philosophy and practice among many domestic violence programs to do criminal background checks only for staff dealing directly, one-on-one with children—such as the child advocate positions. Most domestic violence programs do background checks for child advocate staff.*”

Concerning the feasibility of implementing criminal record check requirements, the Board stated “*The cost factor of criminal checks is an issue.*” Criminal record checks are a one-time per employee fee. Board licensees

Accessing the Criminal Abuse Registry costs only \$10.

are eligible to use the Central Abuse Registry to conduct state criminal record checks. Accessing the Criminal Abuse Registry costs only \$10. FBI background checks cost \$24 per check. Currently, the 14 licensed Family Protection programs have a total of 262 staff. The records of some of those staff have been checked voluntarily by programs, so each current staff member does not represent a needed check. However, for example purposes, if FBI and Central Abuse Registry checks were conducted on all 262 staff, the total one-time cost would be \$8,908. After the records of present staff are checked, the future cost of checks will be dependent on employee turnover rates.

There are several ways that costs could be covered. The individual programs could pay the cost out of their existing budgets. Initially, the checks of existing staff could even be conducted over an extended period to spread cost over more than one fiscal year. Currently, applicants for initial teacher licensure are required to pay for the cost of both checks. Likewise, Family Protection programs could require employment applicants to pay for the cost of background checks.

Central Abuse Registry checks contain the same information as State Police criminal record checks, plus information from the State Sex Offenders Registry. If programs are currently using the State Police criminal record check system, they are paying \$20 per check, which constitutes \$10 per check which could be saved by using the Central Abuse Registry. Prior to this report, the Board did not know of its eligibility to access the Central Abuse Registry.

WVC §15-2c-1 et al. describes the Central Abuse Registry. According to that Code, the Central Abuse Registry contains, “. . . the names of individuals who have been convicted of a felony or misdemeanor offense constituting abuse, neglect or misappropriation of the property of a child or an incapacitated adult or an adult receiving behavioral health services.” Only programs deemed eligible by DHHR can use the Central Abuse Registry. According to a DHHR representative who works with background checks, any program that is licensed through the Bureau For Children and Families is eligible to use the Central Abuse Registry. The Family Protection Services Board is part of the Bureau For Children and Families; therefore its licensed programs are eligible to use the Central Abuse Registry system.

Currently, Family Protection programs which voluntarily conduct background checks on staff do not use the Central Abuse Registry. Central Abuse Registry checks contain the same information as State Police criminal record checks, plus information from the State Sex Offenders Registry. If programs are currently using the State Police criminal record check system, they are paying \$20 per check, which constitutes \$10 per check which could be saved by using the Central Abuse Registry. Prior to this report, the Board did not know of its eligibility to access the Central Abuse Registry. **The Legislative Auditor recommends that the Board inform its licensed programs of their eligibility to use the Central Abuse Registry, and of the procedures for using the registry.**

Using both checks results in a more complete check than using only one.

If Family Protection programs were to request FBI criminal record checks on potential employees, the checks would come from the FBI, Criminal Justice Information Services Division. The system used to conduct such checks is called the Integrated Automated Fingerprint Identification System (IAFIS). The IAFIS database contains information submitted by state, local, and federal law enforcement agencies. In contrast, the Central Abuse Registry contains detailed information from West Virginia's State Police records and Sex Offender Registry. Using both checks results in a more complete check than using only one.

According to U.S. Public Law 92-544, FBI criminal records may be exchanged with officials of state and local governments for purposes of employment and licensing; however, before a state agency can request FBI criminal record checks, the agency must be authorized to do so by state statute.

According to U.S. Public Law 92-544, FBI criminal records may be exchanged with officials of state and local governments for purposes of employment and licensing; however, before a state agency can request FBI criminal record checks, the agency must be authorized to do so by state statute. A state agency that has the authority to use the FBI check system for purposes similar to the Board's purposes is the West Virginia Department of Education. That authority is granted by WVC §18A-3-10. The Legislature may wish to consider adding similar language to the Board's Code. **The Legislative Auditor recommends that the Legislature consider amending state Code in order to give the Board and its programs authority to request criminal record checks from the FBI in accordance with U.S. Public Law 92-544.**

At a minimum, Family Protection staff and volunteers whose jobs require that they routinely have direct contact with children should be required to submit to a Central Abuse Registry check. However, the Board should consider requiring both FBI checks and Central Abuse Registry checks for all Board program's staff and volunteer positions. **The Legislative Auditor recommends that the Board immediately begin requiring Central Abuse Registry checks and assess the need for FBI criminal record checks of its licensed and certified programs' staff and volunteers, assess the feasibility of paying for such checks by various means, and develop background check requirements and payment procedures that correspond with such findings.**

Conclusion

Currently, Family Protection program staff and volunteers are not required to be screened by criminal record checks. Because there is no requirement for criminal record checks, it is possible that programs are not adequately screening staff and volunteers, and thus, clients of Family Protection programs and their children could be put at risk of being served by employees or volunteers with a criminal history. The Board should consider requiring

criminal record checks for program employees and staff.

Prior to this report, the Board and its programs were unaware of their eligibility to use the State's Central Abuse Registry. The registry contains the same information as the regular State Police criminal record check plus a list of the registered sex offenders in the State. Additionally, the Central Abuse Registry costs only \$10; whereas, the regular State Police criminal record check costs \$20. Some Board programs voluntarily conduct criminal record checks on their staff. Those programs are not using the Central Abuse Registry. Therefore, those programs are paying unneeded cost to conduct criminal record checks. The Board should inform its programs of their eligibility to use the Central Abuse Registry.

The Board and its programs do not have authority to request FBI checks on program staff and volunteers. According to U.S. Public Law 92-544, authority to do so must be given to the Board by state statute. FBI checks access more information than Central Abuse Registry checks, and could be beneficial to Board programs. The Legislature may wish to consider giving Board programs the authority by statute to request FBI checks on potential staff and volunteers.

Recommendations

8. *The Legislative Auditor recommends that the Board inform its licensed programs of their eligibility to use the Central Abuse Registry, and of the procedures for using the registry.*

9. *The Legislative Auditor recommends that the Legislature consider amending state Code in order to give the Board and its programs authority to request criminal record checks from the FBI in accordance with U.S. Public Law 92-544.*

10. *The Legislative Auditor recommends that the Board immediately begin requiring Central Abuse Registry checks and assess the need for FBI criminal record checks of its licensed and certified programs' staff and volunteers, assess the feasibility of paying for such checks by various means, and develop background check requirements and payment procedures that correspond with such findings.*

Issue 5

The Board Should Seek More Information From Some Agencies With Which It Collaborates.

Issue Summary

State Code requires all Board grantees to file an independent audit with the Board. Such audits are filed with and reviewed by DHHR. However, those audit review findings are not routinely shared with the Board. The contents of audit review finding letters could prove to be useful to the Board, and the Board should consider requesting such information from DHHR.

The West Virginia Division of Criminal Justice Services applies for certain federal domestic violence grants. During the course of application, DCJS conducts domestic violence research. That research, which could prove useful to the Board, is also not routinely shared with the Board. It may be beneficial to the Board to request such research information from DCJS. Additionally, DCJS was denied for domestic violence funding twice. Each time that DCJS was denied, it was provided with a letter which stated the reasons for denial. Some of the reasons for denial mentioned in the letters reflect deficiencies in the Board's certification criteria. However, those denial letters were not shared with the Board. In order to increase the State's eligibility for federal funding and to inform the Board of needed changes to licensing and certification criteria, the Board should consider requesting relevant information about federal funding approvals and denials from DCJS.

DHHR Program Audit Review Findings Letters Should Be Forwarded to the Board

The audit finding letters contain information which could prove to be useful in the Board's oversight of its grantees.

§48-26-604 says, "A shelter or program receiving funds pursuant to this article shall file an annual report with the Board. . . . The report shall include . . . the results of an independent audit." All of the Board's grantees do file independent audits in accordance with that Code. Those audits are filed with DHHR in the Compliance Division of the Office of Audit, Research, and Analysis. Each Board grantee's audit is reviewed by a compliance auditor, and the results of the review are noted in an audit findings letter that is sent to the reviewed grantee and to the Assistant Commissioner of the Finance and Administration Office of DHHR's Bureau for Children and Families.

Currently, the audit findings letters are not sent to the Board. The audit finding letters contain information which could prove to be useful in the Board's oversight of its grantees. It is important that the Board be aware of its grantees' financial issues, whether those issues be small or large, and that the Board have an opportunity to work with its grantees to correct financial issues. **The Legislative Auditor recommends that the Board request audit review finding letters that pertain to Board grantees from the West Virginia Department of Health and Human Resources' Compliance Division of the Office of Audit, Research, and Analysis.**

The Board Should Be Notified of Licensing and Certification Issues That Relate to Federal Funding.

Presently two state agencies apply for federal domestic violence money: DHHR and DCJS.

State Code does not charge the Board with responsibility over the application for or the distribution of the federal domestic violence money that the State receives; however, state Code does charge the Board with setting the State's licensing and certification standards. Presently two state agencies apply for federal domestic violence money: DHHR and DCJS. DHHR has neither been denied for money nor found any licensing or certification issues as a result of work done during the application for federal funding. DCJS, however, has been denied for federal domestic violence money and licensing and certification issues were identified during the course of applying for federal funding.

Since FY 2002, the U.S. Department of Justice has issued STOP Violence Against Women Formula Grant Program, Rural Domestic Violence and Child Victimization Enforcement Grant Program, Justice Assistance Grant Program, and Victims of Crime Act Assistance Grant Program funds to West Virginia. DCJS is the state agency that applied for those funds. The U.S. Department of Justice denied DCJS applications for the Safe Havens: Supervised Visitation and Safe Exchange Grant Program in FY 2002 and FY 2003. The denied funding amounted to \$742,939 in FY 2002, and \$749,970 in FY 2003. Such funding would have been used to aid state Monitored Parenting and Exchange programs. DCJS did not reapply for those funds in 2004; however, DCJS did reapply for that funding in FY 2005 and is awaiting a response from the grant program. The Safe Havens funding is the only federal domestic violence funding for which DCJS has applied and subsequently been denied.

In each instance of denial, the U.S. Department of Justice gave DCJS a list of reasons for denial. The 2003 denial letter is vague in its list of program weaknesses. However, the 2002 denial letter lists several program weaknesses. Some of the weaknesses mentioned include:

- *The onsite security measures are not described in the application;*
- *Volunteers in the program will only receive 8 hours of training; this is insufficient; and*
- *The proposed project does not adequately focus on domestic violence or sexual assault.*

It is possible that amendments to the Board's certification criteria and language could positively influence West Virginia's eligibility for Safe Havens Funds or other federal grants.

Although the above weaknesses are neither the only nor the primary reasons for denial, they do reflect certification criteria, and should be brought to the Board's attention. In state law, security requirements for Monitored Parenting and Exchange programs are vague. To date, program volunteers are still only required to have eight hours of training. State law does not express that Monitored Parenting and Exchange programs focus on domestic violence or sexual assault. It is possible that amendments to the Board's certification criteria and language could positively influence West Virginia's eligibility for Safe Havens Funds or other federal grants.

Furthermore, in order to satisfy requirements for funding, DCJS researches state domestic violence issues, programs, and statistics, and compiles its findings in project evaluation reports that are submitted to the U.S. Department of Justice. Those reports are very informative and address strengths and weakness of the state domestic violence system. Although some of the information contained in the reports is easily accessible from West Virginia's Uniform Crime Reporting, the reports also contain observations and suggestions that reflect the unique point of view of DCJS. For example, in the *West Virginia Rural Domestic Violence & Child Victimization Enforcement Program Project Evaluation Project, Year 2002-2004: Final Report 2004*, DCJS noted that, "*There is a need to incorporate into existing services (Batterer Intervention and Prevention Programs, Domestic Violence Programs, Child Protective Services, etc.), parenting education for batterers and adult victims designed to address the power and control issues that are destructive to children of batterers.*" Furthermore, the report provides information about a training study which addressed the issue and was conducted in 2004 by the DCJS and WVCADV. Such information is closely related to licensing criteria. Earlier, it was cited that the Board does not adequately research and report upon domestic violence issues. The Board could consult the research findings of DCJS and include that information in its annual domestic violence

report.

Neither the denial letters received from the U.S. Department of Justice nor the project evaluation reports that DCJS submits to the U.S. Department of Justice are formally shared with the Board . The DCJS staff person that oversees the application process for federal funding is a member of the Board, but does not formally present federal funding research reports and denial letters to the Board. **The Legislative Auditor recommends that the Board begin requesting relevant federal domestic violence funding project evaluation reports and denial letters from the West Virginia Division of Criminal Justice Services to facilitate its research and licensing and certification functions.**

Conclusion

Board grantees are required to file independent audits with the Board. The Board is part of DHHR, and subsequently, the Board grantees' audits are filed with DHHR. When DHHR reviews those audits, audit review finding letters are compiled and sent to the reviewed program and the Bureau For Children And Families; however, the audit review finding letters are not sent to the Board . The Board should be given the opportunity to consider audit review findings in its licencing decisions. Therefore, DHHR should forward audit review finding letters to the Board .

DCJS applies for some federal domestic violence funding. As part of the application process, DCJS conducts domestic violence research. Some of the issues addressed in DCJS research relate to licensing and certification issues. DCJS should share its domestic violence research reports with the Board, so the Board may consider DCJS findings when reviewing licensing and certification criteria. Furthermore, in response to DCJS applications for federal domestic violence funding, DCJS has received two denial letters that list program faults. Some of the faults mentioned reflect certification criteria set by the Board. Those denial letters should be shared with the Board, so the Board can consider them when amending certification criteria. It is possible that related changes to certification criteria could increase the State's eligibility for federal funding.

Recommendations

11. *The Legislative Auditor recommends that the Board request audit review finding letters that pertain to Board grantees from the West Virginia Department of Health and Human Resources' Compliance Division of the*

Office of Audit, Research, and Analysis.

12. *The Legislative Auditor recommends that the Board begin requesting relevant federal domestic violence funding project evaluation reports and denial letters from the West Virginia Division of Criminal Justice Services to facilitate its research and licensing and certification functions.*

Issue 6

Programs That Receive Funding From the Board Have Not Filed Audits With the Legislative Auditor's Office in Accordance With §12-4-14 as amended by SB 348.

Issue Summary

Most of the Board's grantees are not in compliance with WVC §12-4-14, which requires all organizations that receive \$15,000 dollars or more in state funded grants to file an audit with the Legislative Auditor's Office. In January of 2005, DHHR notified each of the Board's grantees of the Code requirement for the audits. WVC §12-4-14 was amended during the 2005 Regular Legislative Session by the passage of SB 348. Board grantees should comply with the newly-amended WVC §12-4-14.

Board Grantees Should File Audits With the Legislative Auditor's Office in Accordance With WVC §12-4-14 as Amended by SB 348.

Only 2 of the 16 Board grantees have filed audits with the Legislative Auditor's Office.

WVC §12-4-14 requires any organization that receives \$15,000 or more in state funded grants to file an audit with the Legislative Auditor's Office. Of the Board's 16 grantees, all receive more than \$15,000 in state grants. Only 2 of the 16 Board grantees have filed audits with the Legislative Auditor's Office. In January of 2005, letters were sent by DHHR to all of the Board's grantees to notify them of the Legislative Auditor audit filing requirement. The Legislative Auditor commends DHHR for notifying its grantees of §12-4-14 audit filing requirements.

Furthermore, during the 2005 Legislative Session, SB 348 was passed and will go into effect July 1, 2005. SB 348 amends WVC §12-4-14 and clearly dictates what must be contained in audits filed with the Legislative Auditor's Office. SB 348 requires all state agencies making grants to:

- Notify the Legislative Auditor of the amount of funds to be disbursed under the grant, the identity of the person receiving the grant and the purpose and nature of the grant, within 30 days of making the grant or authorizing the disbursement of the grant funds;
- For state grants prior to July 1, 2005, provide the Legislative Auditor

with the information concerning the grants by September 29, 2005;

- Report persons failing to file a required report within the required time period for any state grant disbursed after July 1, 2003, to the Legislative Auditor for purposes of debarment from receiving state grants; and
- Provide a copy of any report submitted by a grantee that provides evidence of a reportable condition or violation of grant requirements to the Legislative Auditor within 30 days of receipt of the report.

If Board grantees do not file proper audits with the Legislative Auditor's Office, they will lose funding. Each of the grantees' audits should be in compliance with SB 348. The Board and DHHR should strive to meet the responsibilities listed in §12-4-14 and SB 348. **The Legislative Auditor recommends that Board grantees file audits in compliance with WVC §12-4-14 as amended by SB 348, which was passed during the 2005 Regular Legislative Session.**

Conclusion

The Board grantees were notified of WVC §12-4-14 requirements in January 2005; however, the passage of SB 348 has created additional requirements that will go into effect July 1, 2005. State funding of the Board's grantees is dependant upon the grantees filing proper audits with the Legislative Auditor's Office. Therefore, Board grantees need to file audits with the Legislative Auditor's Office in accordance with Code and recent amendments in order to continue to receive state funding.

Recommendation

13. *The Legislative Auditor recommends that Board grantees file audits in compliance with WVC §12-4-14 as amended by SB 348, which was passed during the 2005 Regular Legislative Session.*

Appendix A: Transmittal Letter

WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610
(304) 347-4890
(304) 347-4939 FAX



John Sylvia
Director

May 25, 2005

Judy King Smith, Chair
Family Protection Services Board
P.O. Box 4228
Morgantown, WV 26505

Dear Ms. Smith:

This is to transmit a draft copy of the Preliminary Performance Review of the Family Protection Services Board. This report is scheduled to be presented during the June 12-14 interim meetings of the Joint Committee on Government Operations. We will inform you of the exact time and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions the committee may have.

We need to schedule an exit conference to discuss any concerns you may have with the report. We would like to have the meeting between Tuesday, May 31, 2005 and Thursday, June 2, 2005. Please notify us to schedule an exact time. In addition, we need your written response by noon on Friday, June 3, 2005, in order for it to be included in the final report. If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 340-3192 by Thursday, June 9, 2005, to make arrangements.

We request that your personnel not disclose the report to anyone not affiliated with your agency. Thank you for your cooperation.

Sincerely,

A handwritten signature in cursive script that reads "John Sylvia".

John Sylvia

Enclosure
c: Eileen Barker, Emily Hopta

_____ *Joint Committee on Government and Finance* _____

Appendix B: Agency Response



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Family Protection Services Board

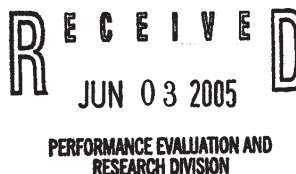
State Capitol Complex, Building 3, Room 206
Charleston, West Virginia 25305
Telephone: (304) 558-0684 Fax: (304) 558-1130

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

June 3, 2005

John Sylvia
Director
Performance Evaluation and Research Division
West Virginia Legislature
Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305



Dear Mr. Sylvia:

The Family Protection Services Board accepts the Preliminary Performance Review conducted by Dusty Johnson of the Legislative Auditor's Office. In this response, only the recommendations which reflect non-compliance or partial compliance, or that the Family Protection Services Board needs to clarify, are addressed.

Response to Recommendations

Issue 2: The board has improved upon several issues; however, two issues have not been adequately addressed.

The Board has become very involved in the oversight and on-site evaluation of domestic violence programs. In the past 2 years, all licensed or certified programs were visited by the Board.

In the 1999 Legislative Auditor's review, it was recommended that the Board have all grantees receive their grants by electronic payments. Although the Board notified all grantees of this option, only 2 grantees completed the paperwork for electronic payments. The Board will notify grantees that they are required to receive future grant payments electronically and provide all necessary paperwork to the grantees.

The Board prepares an annual report as required by 48-26-401 to "study issues pertinent to family protection shelters, programs for domestic violence victims and report the results to the governor and Legislature." Within this report, the Board provides information concerning funding, individuals served and grants received for all licensed programs – family protection programs, perpetrator intervention programs, and will add in 2005 monitored parenting and exchange programs. The Board also provides a listing of the highlights of its major activities. The Legislative Auditor requests that the Board include "domestic violence issue research." The Board will provide additional information regarding domestic violence issues in future reports.

Regarding the issue of Board accessibility listed the 1999 report, the Board has also required all licensed programs to post the Board's hotline number in a visible and accessible place in all programs.

Issue 3: The board's licensing and certification process is in compliance with code and rule requirements, but there are some areas in which the process can be improved.

The Legislative Auditor recommends the Board research methods of treating female batterers, and that the Board implement the appropriate method into licensing standards. While the Board agrees that both women and men need education and support to change battering behaviors, the Board also acknowledges services for women are already provided through family protection programs. As documented in the Legislative Auditor's report and within the Board's minutes,

"...courts should be encouraged to refer women who are named as perpetrators to licensed domestic violence programs for individual and/or group counseling."

The Board concurred with this recommendation and further recommended in lieu of batterer education programs for females, that

"...courts should be encouraged to refer women who are named as perpetrators to licensed domestic violence programs for individual and/or group counseling."

The intent of the recommendation and board action is consistent with research that shows some women use violence, most "batterers" are men, and most women tend to use violence in self-defense of or in retaliation towards their batterers. Gaining power and control over another establishes battering in an intimate partner relationship. Batterers seek to punish, abuse and control their partners through a pattern of violent, coercive and intimidating actions. Women's use of violence must be analyzed in the context of the power and control dynamic.

Both women and men can be victims of domestic violence, but research demonstrates that there are significant reasons for the differences in women and men who utilize violent behavior. Women most frequently use violence in self-defense, while men choose to respond with violence as a means of power and control. Further, the Legislative Auditor recommends that

"...the Board research methods of treating female batterers, and that the Board implement treatment of female batterers into licensing standards for Perpetrator Intervention programs or Family Protection programs."

The Board feels strongly that women are responded to by the education programs in place within the licensed family protection programs, and will revise the rules to insure licensed

family protection programs provide appropriate responses for women who batter in self-defense, to protect their children or as perpetrators.

The Board agrees with the Legislative Auditor that a written policy for complaints should be added to the Board's Legislative Rules, and will submit this policy to the Legislature.

The Board agrees with the Legislative Auditor that pre-application criteria are necessary for developing programs prior to commencing licensure application process and will continue its work to implement this process. A pre-application for Perpetrator Intervention Programs is already in use, and the plan for growth of domestic violence services will include a similar pre-application for family protection programs.

The Board agrees with the Legislative Auditor that the Board should maintain records that clearly monitor the timeframe between receipt of application for licensure and certification and application approval or denial.

The Board agrees with the Legislative Auditor that Board membership should be expanded to include representatives from licensed perpetrator intervention programs and monitored parenting and exchange programs.

Issue 4: The board should receive criminal record checks of program staff.

The Legislative Auditor states that the Board does not require criminal record checks for family protection program workers. The Board does require these checks for all staff and volunteers of Monitored Parenting and Exchange Programs. Any child within a shelter is to be under the supervision of his or her mother at all times, unless the child is meeting independently with the Children's Advocate. Numerous safety procedures are in place in all family protection programs to protect children.

The Board will determine by January 2006 what process would be most appropriate for family protection programs.

Issue 5: The board should seek more information from some agencies with which it collaborates.

The Board has been notified at meetings of any problems with audits, but will in the future request copies of the audit review finding letters. This information can then be discussed at board meetings.

The Board will request the Department of Criminal Justice Services (DCJS) provide members with grant denial information.

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Issue 6: Programs that receive funding from the board have not filed audits with the Legislative Auditor's Office in accordance with 12-4-14 as amended by SB 348.

The Board acknowledges that this is a new practice that must be enforced. The WV Department of Health and Human Resources has informed grantees of this new policy and the Board will remind grantees as necessary to insure programs are in compliance with State Code.

Sincerely,



Judy King Smith
Chair, Family Protection Services Board

cc: Martha Walker
Shana Phares
FPSB Board