

Child Safety Summit

Report of Findings



December 2012



MIKE DEWINE
OHIO ATTORNEY GENERAL





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★ OHIO ATTORNEY GENERAL ★

December 10, 2012

Dear Ohioans,

When I started my career as Greene County Prosecuting Attorney, some of the most difficult and heartbreaking cases I handled were those that involved kids who were abused and neglected. These children, who were often harmed by those who were supposed to love them most, left a life-changing impression on me.

I carried the memory of these vulnerable children with me when I went to the U.S. Senate, where I wrote legislation designed to ensure that the safety of the child is always the most important consideration when determining whether an abused or neglected child should be reunified with his or her biological parents. My language was included in the Adoption and Safe Families Act of 1997, which was signed into law to keep children safe and reduce the number of children lingering in foster care without a permanent home.

To get a better understanding of some of the issues affecting the child welfare system in Ohio, I held a series of child safety summits across the state to listen to foster parents, juvenile judges, foster youth, and others in the child welfare system to see how we could better serve abused and neglected children. These sessions were open to the public, and included compelling testimony from concerned citizens. The following document is a reporting of information gathered during the summits. It contains some of the major issues that stood out in our discussions, as well as recommendations made during the summits, themselves.

Nothing is more important than the safety and well-being of our children. As part of the next steps of our review of the child welfare system, I have assembled a group of child welfare experts to form a Foster Care Advisory Group. The goal of this group is to come up with bold new ideas to address the issues uncovered in this report and beyond. Now is the time for innovative changes to ensure that every child has a safe, loving, and permanent home. Every child deserves nothing less.

Very respectfully yours,

Mike DeWine
Ohio Attorney General

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Executive Summary

Almost exactly one year ago, Attorney General Mike DeWine began to travel across the state to gather facts on the current state of the child welfare system in Ohio. Major issues and themes that arose during his eight child safety summits, the Foster Youth Symposium, and in discussions with relevant parties across the state include:

Foster Parent Participation: Foster parents are not always permitted to participate in the court process, despite their direct knowledge of the day-to-day activities of the child.

Guardian ad Litem Noncompliance with Rules of Superintendence Rule 48: There are complaints across the state of guardian ad litem, who represent abused and neglected children, not following Rules of Superintendence Rule 48, which sets out mandatory minimum expectations of guardian ad litem.

Mentoring for Foster Youth: Foster youth have expressed the need for mentors to assist them as they transition to adulthood.

Normalizing the Experience for Youth in Foster Care: Youth who find themselves in foster care are often not permitted to engage in normal activities, like spending the night at a friend's house. These restrictions further stigmatize youth in foster care and make it more difficult to transition to adulthood.

Accountability and Funding in the System: Ohio ranks low in state funding to its child welfare system.¹ This lack of funding is detrimental to the foster children it serves. However, Ohio should also look at ways of increasing accountability within the child welfare system.

Planned Permanent Living Arrangements: A Planned Permanent Living Arrangement is essentially long-term foster care that almost guarantees that children will age out of the system without a safe, permanent family. While a child is in a Planned Permanent Living Arrangement, the agency is not required to make efforts to reunify the child, but the child is also not eligible for adoption. Ohio should review its use.

These issues will be addressed over the next 90 days by the newly formed Attorney General's Foster Care Advisory Group, which will be responsible for issuing specific recommendations to tackle these and other issues.

Introduction

In response to the tragic deaths of several children in the child welfare system in Ohio, Attorney General Mike DeWine convened eight child safety summits to examine the condition of the child welfare and foster care system in our state. The eight summits were held throughout Ohio in Cincinnati, Cleveland, Toledo, Youngstown, Akron, Dayton, Columbus, and St. Clairsville. At each summit, a panel of child welfare experts spoke about the challenges and accomplishments of Ohio's child welfare system. These panelists were selected from local children services agencies, juvenile courts and prosecutors' offices, nonprofit child welfare agencies, former foster youth, and other statewide foster care organizations. The summits were open to the public, and several concerned citizens offered compelling additional testimony. The following document is a reporting of information gathered during the summits. It contains some of the major issues that stood out in our discussions, as well as recommendations made by panelists and other participants.

Attorney General DeWine also hosted a day-long Foster Youth Symposium on May 11, 2012, during his office's annual victims' rights conference. The juvenile judge and public children services agency directors from each county were invited, along with other key people from across the state. This symposium gave attendees an opportunity to break into working groups to identify challenges and potential solutions in seven issue areas. The findings from the Symposium are also incorporated into this report.

Operating under the premise that every child deserves the chance to grow up in a stable environment and to be loved and cared for, the eight summits explored what could be done to make a real commitment to the more than 12,000 children languishing in foster care in Ohio.ⁱⁱ Too many of these children have no real hope of ever having a permanent home and a real family. For this reason, alone, a comprehensive, holistic review of the entire foster care system in Ohio is needed. Our child safety summits were just the first of many steps that must be undertaken to address this critical situation.

Some of the statistics that set our efforts in motion are truly alarming. Data show that in Ohio in Fiscal Year 2011, there were:

- 23,169 reports of alleged child neglect in this state;ⁱⁱⁱ
- 22,993 reports of alleged child physical abuse;^{iv}
- 12,340 reports of alleged child sexual abuse;^v and
- 10,580 reports of multiple abuse allegations.^{vi}

Tragically, child abuse and neglect deaths are on the rise. Fifteen years ago, about 1,200 children each year – or three children every day – were dying across the country at the hands of their parents or caretakers.^{vii} Today, most recent statistics show that abuse and

neglect claim the lives of nearly 1,770 children each year nationwide.^{viii} That's five children every single day — one child every five hours!

Ohio-specific data show that many children who die of abuse or neglect have had either prior or current involvement with children services. Between 2006 and 2010, 165 Ohio children — 86 percent of them under the age of five — died from child abuse and neglect.^{ix} Thirty-eight percent of these children had a prior history of being abused or neglected, and 22 percent of them had an open child protective services case at the time of their death.^x

On average, there are approximately 12,000 Ohio children in foster care during any given month.^{xi} However, over the course of 2009, for example, more than 23,000 children were in state custody for at least one day.^{xii} As a whole, 15 percent of Ohio's foster care population is in foster care for four or more years.^{xiii} Sadly, however, only 1,241 children were adopted out of foster care in Fiscal Year 2012,^{xiv} and that is down from 1,465 adoptions in 2009^{xv} and down even further from 2,022 adoptions in 2005.^{xvi}

As the number of adoptions declines, the number of children aging out of the foster care system increases. Ohio has a greater percentage of foster children aging out of the system without the hope of having a permanent family than the national average. In fact, in Fiscal Year 2009, only nine states had a greater percentage of children aging out of foster care.^{xvii} In Fiscal Year 2010, 1,320 Ohio children aged out of foster care with no home.^{xviii} That number grew to 1,525 children in Fiscal Year 2012.^{xix}

It is detrimental to these children, and to society, when they age out of foster care without a home. Twenty-five percent of children who have aged out of foster care do not have a high school diploma or GED.^{xx} Less than two percent of them complete college.^{xxi} More than 50 percent experience at least one episode of homelessness.^{xxii} And, nearly 30 percent are incarcerated at some point in their lives.^{xxiii}

These sobering statistics, combined with what was heard at the child safety summits, confirm that there are two issues casting the longest shadow over foster care in Ohio: safety and permanency.

Foster Parent Participation

One consistent theme heard in the Child Safety Summits was the lack of foster parent inclusion in the child welfare system. Foster parents are not always included as a part of the process. Often communication barriers are erected that inhibit foster parents from advocating for the child in their care. As primary caregivers, these foster parents could serve as a valuable resource to the child welfare system in its decision making regarding the best interest of the child.

At all eight summits, foster parents shared that they are rarely given the opportunity to speak in court, even when they had information that was critical for the judge to hear. The importance of foster parent testimony is reflected in current Ohio law. This issue was addressed by the Ohio Legislature in 1997 with the passage of Ohio House Bill 464. This statute created Ohio Revised Code Section 2151.424, which gave foster parents the right to receive notice of a court hearing involving a foster child in their care and clarified that foster parents may present evidence. In 2007, the importance of foster parent testimony was further reflected in Ohio Senate Bill 163, which replaced the clause stating that a “foster caregiver or relative may present evidence” with the phrase “the foster caregiver or relative shall have the right to present evidence.” It is clear that current Ohio law gives foster parents the right to speak in court.

According to foster parents across the state, the extent to which foster parents are permitted to participate in the court process varies greatly, from some foster parents stating they are not given notice of court hearings and others stating they are permitted to attend hearings but not allowed to give testimony. Foster parents have the opportunity to observe the children in their care around the clock. These foster parent caregivers have a great deal to offer our courts in terms of factual information, including how a foster child is adjusting, the wishes of the foster child, and how the foster child is reacting to visitations with his biological family. All of these issues impact child safety and well-being, and should be considered by a judge when deciding crucial issues relating to child placement. It is not sufficient to filter foster parent concerns through the child’s caseworker or guardian ad litem, as foster parents report that not all of their concerns are always passed along to the ultimate finder of fact.

Foster parents across Ohio have also expressed that they are afraid to fully advocate for a foster child in their care for fear that the public children services agency will remove the child if they advocate for a position against the agency. To ensure full foster parent participation in advocating for the best interest of children in their care, Ohio should consider solutions that not only permit foster parents to speak on behalf of the children in their care, but encourage them to do so.

Guardian Ad Litem Non-Compliance with Rule 48

A second issue heard at the summits was that many guardian ad litem are not meeting minimum requirements and consequently are not representing the best interest of foster youth. Guardian ad litem serve an integral role in the child welfare system. The public children services agency has a duty to protect biological parents' rights while looking out for the safety of children. The biological parents' attorney has a duty to fulfill the wishes of his or her client. The guardian ad litem is charged with representing the best interest of the child. It is absolutely critical that the guardian ad litem is fully investigating each case prior to making a recommendation of the child's best interest to the judge. The Ohio Rules of Superintendence Rule 48 define the minimum standards for investigation required for each case.

Rule 48 lays out very specific requirements for guardian ad litem, including:

Rule 48 (D)(13): A guardian ad litem shall make reasonable efforts to become informed about the facts of the case and to contact all parties. In order to provide the court with relevant information and an informed recommendation as to the child's best interest, a guardian ad litem shall, at a minimum, do the following, unless impracticable or inadvisable because of the age of the child or the specific circumstances of a particular case:

- (a) Meet with and interview the child and observe the child with each parent, foster parent, guardian or physical custodian and conduct at least one interview with the child where none of these individuals is present;
- (b) Visit the child at his or her residence in accordance with any standards established by the court in which the guardian ad litem is appointed;
- (c) Ascertain the wishes of the child;
- (d) Meet with and interview the parties, foster parents and other significant individuals who may have relevant knowledge regarding the issues of the case;
- (e) Review pleadings and other relevant court documents in the case in which the guardian ad litem is appointed;
- (f) Review criminal, civil, educational and administrative records pertaining to the child and, if appropriate, to the child's family or to other parties in the case;
- (g) Interview school personnel, medical and mental health providers, child protective services workers and relevant court personnel and obtain copies of relevant records;

(h) Recommend that the court order psychological evaluations, mental health and/or substance abuse assessments, or other evaluations or tests of the parties as the guardian ad litem deems necessary or helpful to the court; and

(i) Perform any other investigation necessary to make an informed recommendation regarding the best interest of the child.

Consistently, we heard at the summits from foster youth, foster parents, and social workers that many guardian ad litem, particularly non-CASA guardian ad litem, are not meeting these minimum guidelines. The requirements laid out in Rule 48 are not merely procedural, but are in place to help ensure that the court has independent information upon which to make a best interest decision. One method that should be considered is to increase oversight and quality control by juvenile court judges and/or the Ohio Supreme Court. Guardian ad litem are critical to providing a voice in court for abused and neglected children, and Ohio should develop a solution to ensure that these children are being adequately represented in court.

Mentoring for Foster Youth

Having a mentor was highlighted as important at Child Safety Summits in Cleveland, St. Clairsville, Youngstown, Toledo, and Akron. The concept of foster youth needing a mentor was nearly always mentioned by the youth on the panel. One youth on the panel in Youngstown explained that she was only comfortable discussing important issues with her mentor, because her foster parent was verbally abusive and she was not close with her social worker.

A former foster youth from Franklin County expressed this same idea in a 2009 Foster Youth Rights Handbook created by the Ohio Youth Advisory Board:

“I was never aware of my rights as a foster child until my later years in high school. Because of that I felt I was unwanted. Although I did succeed with sports and had plenty of friends, I was still alone and no one really knew me. Once I met my mentor, who I still continue to speak with, I opened up with my feelings and received the support that helped drive me to where I stand today.”^{xxiv}

Many successful youth recount having one caring adult who mentored them and changed their lives.

Mentoring has proven very successful through organizations such as Big Brothers Big Sisters. A national survey of Big Brothers Big Sisters programs showed that children matched with a “big” were 46 percent less likely to start using drugs, 52 percent less likely to skip school, and 64 percent showed more confidence in their ability to perform their schoolwork.^{xxv} Even more specifically, a 2007 study issued in *Pediatrics*, the official Journal of the American Academy of Pediatrics, showed that foster youth with mentors during adolescence experience improved outcomes as young adults.^{xxvi} Mentors have the potential to provide positive influences for foster youth that could assist them in transitioning to adulthood.

Ohio should investigate creation of a program to meet the foster children’s expressed need for mentors. Many promising programs currently exist in Ohio and across the country. One foster care specific mentoring program called “Permanency Champions Mentoring Program” is operated by Adoption Network of Cleveland. This program provides mentors who help prepare foster youth awaiting adoption for loving, permanent adoptive families.^{xxvii} Such a mentoring program could be extended to all teenage youth ineligible for adoption in a Planned Permanent Living Arrangement.

Normalizing the Experience for Youth in Foster Care

The experience of being in foster care can be stigmatizing for a child who, by no fault of their own, finds himself or herself in an unfamiliar home. During our child safety summits, former foster youth reported feeling increased stigma due to the number of restrictions placed upon them while in foster care. Youth in foster care often report being unable to have “normal” teenage experiences, such as riding to the mall with friends or sleeping over at a friend’s house without having a full background check on the friend’s parents completed beforehand.

Ohio should work to address the experience of youth in foster care to reduce stigma and allow them as normal a childhood as possible. As part of this process, agencies should review their policies to see which are truly essential for the safety of children in foster care and seek innovative solutions to help children experience the activities and opportunities their peers enjoy.

Accountability and Funding in the System

Despite several recent investments by the state, Ohio ranks low in terms of state spending on the child welfare system.^{xxviii} This lack of state funding especially impacts those 43 counties without local levies.^{xxix} With local budgets increasingly tight, a lack of funding means great variability in services that public children services agencies can provide families and foster children.^{xxx} The state, through the Ohio Department of Job and Family Services, recently made several investments in Ohio's child welfare system, including hiring up to 35 new Wendy's Wonderful Kids adoption recruiters and two state-level independent living coordinators. Ohio should continue to invest state funds in programs that are proven to expedite permanency for the children in our foster care system and improve outcomes for these youth.

However, along with these investments, there is a need for more accountability within the child welfare system. Throughout the child safety summits, foster parents and biological parents alike repeatedly expressed frustration about the lack of accountability within the child welfare system. Families often find themselves without recourse when they feel that a social worker or public children services agency is not acting in the best interest of a foster child in their care. Some counties, such as Franklin and Hamilton counties, have an ombudsman to handle disputes with the public children services agency, but many counties do not have this mechanism. Even among the counties that have an ombudsman to sort out disputes with an agency, an ombudsman employed by the agency is arguably not an unbiased party.

Ohio should explore the creation of a system of accountability for the children and families in their care. Eleven states — Colorado, Connecticut, Georgia, Indiana, Maine, Massachusetts, Michigan, Missouri, Rhode Island, Tennessee, and Washington — all have independent and autonomous ombudsman offices with child welfare oversight.^{xxxi} The United States Ombudsman Association (USOA) has established a set of suggested best practices for Ombudsman offices. According to the USOA, an ombudsman office should be independent from outside control or influence and impartial.^{xxxii} Further, the ombudsman should control confidentiality and have the privilege and discretion to keep confidential or release any information related to a complaint or investigation.^{xxxiii} Finally, the ombudsman should have a credible process for reviewing complaints to ensure access to all potential complainants.^{xxxiv} Ohio should consider this or other options to create a system of accountability for the children it serves.

Planned Permanent Living Arrangements

In Ohio, one custody status into which a child can be placed is a Planned Permanent Living Arrangement.^{xxxv} Planned Permanent Living Arrangement is a major barrier to permanency, because this custody status means that no reunification efforts with the child's biological parents are necessary, but the child is also ineligible for adoption.^{xxxvi} This leads to children lingering in foster care and almost inevitably aging out without a permanent family to help them successfully transition into adulthood.

The need to narrow or abolish this custody status was a common theme across many of the working groups during the Attorney General's Foster Youth Symposium held during the 2012 Two Days in May Conference on Victim Assistance. Under Ohio law, the only entities that can request Planned Permanent Living Arrangement status are public or private children service agencies.^{xxxvii} Once a request is made for Planned Permanent Living Arrangement, the court must determine whether the planned permanent living arrangement is in the best interest of the child and the child must fit in one of three categories:

1. The child is unable to function in a family-like setting and requires institutional care;
2. The parent is unable to care for the child, adoption is not in the child's best interest, and the child has a significant relationship with a relative; or,
3. The child is age 16 or over, has been counseled on permanent placement options, and is unwilling to accept or unable to adapt to a permanent placement and is in an independent living program.^{xxxviii}

According to the Public Children Services Association of Ohio Factbook data, 1,815 children had Planned Permanent Living Arrangement custody status in 2010.^{xxxix} Approximately 72 of these children were under the age of 11.^{xl} Many of these children are the long-stayers in foster care, with 77 percent of these youth having been in foster care for more than two years.^{xli} 35 percent (of the 1,815) have been in foster care without a permanent family for more than four years.^{xlii} Ohio should reexamine Planned Permanent Living Arrangement status to help ensure youth do not linger in foster care or emancipate without a permanent family.

Conclusion

This report is a compilation of information and recommendations from participants at the eight child safety summits the Attorney General's office held throughout the past 12 months. The next step in efforts to better protect these vulnerable children will be the formation of a Foster Care Advisory Group of child welfare experts from across the state. While this group is being tasked with examining the issues presented in this report, the participants also are asked to go beyond the report in developing bold, tangible recommendations. These recommendations, which will be issued within the next 90 days, must challenge the status quo and explore ideas that put the best interest of the child above all else. We need to think outside of the box for solutions. We have an opportunity to think beyond what has always been done – and do something different – something that works!

ⁱPublic Children Services Association of Ohio (2011). Narrative. In *2011-2012 Factbook* (10th ed., p. 1); Candisky, C. (2011, May 28). Ohio last in aid to Children Agencies. *The Columbus Dispatch*, p. 1. Retrieved from <http://www.dispatch.com/content/stories/local/2011/05/28/ohio-last-in-aid-to-children-agencies.html>.

ⁱⁱ State Automated Child Welfare Information System (SACWIS) data. (2011). Retrieved by Ohio Department of Job and Family Services.

ⁱⁱⁱ State Automated Child Welfare Information System (SACWIS) data. (2011). Retrieved by Ohio Department of Job and Family Services.

^{iv} State Automated Child Welfare Information System (SACWIS) data. (2011). Retrieved by Ohio Department of Job and Family Services.

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^{ix} Ohio Child Fatality Review Board. (2012, September 30). *12th Annual Report*, p. 44.

^x Ohio Child Fatality Review Board. (2012, September 30). *12th Annual Report*, p. 45.

^{xi} State Automated Child Welfare Information System (SACWIS) data. (2012). Retrieved by Ohio Department of Job and Family Services.

^{xii} Public Children Services Association of Ohio (2011). Narrative. In *2011-2012 Factbook* (10th ed., p. 3).

^{xiii} Public Children Services Association of Ohio (2011). State of Ohio Profile. In *2011-2012 Factbook* (10th ed., p. 25).

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- ^{xx} McCoy-Roth, M., DeVooght, K., Fletcher, M. (2011, August 10). Number of Youth Aging Out of Foster Care Drops Below 28,000 in 2010, p. 3.
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^{xxix} Public Children Services Association of Ohio, *2011-2012 Factbook*, 10th Ed., 7. http://www.pcsao.org/PCSAOFactbook/2011_2012/Narrative.pdf

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^{xxxi} National Conference of State Legislatures. (2012, August). *Children's Ombudsman Offices/Office of the Child Advocate*. Bartel Nowak, K. Retrieved on 2012, December 8 at <http://www.ncsl.org/issues-research/human-services/childrens-ombudsman-offices.aspx>.

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^{xxxiii} United States Ombudsman Association. (2003, October 13). *Governmental Ombudsman Standards*, p. 2; National Conference of State Legislatures. (2012, August). *Children's Ombudsman Offices/Office of the Child Advocate*. Bartel Nowak, K. Retrieved on 2012, December 8 at <http://www.ncsl.org/issues-research/human-services/childrens-ombudsman-offices.aspx>.

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^{xxxvi} Ohio Association of Child Caring Agencies. (2011, May). *OACCA Discussion Paper: Planned Permanent Living Arrangements in Ohio*, p. 1.

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xxxviii Ohio Revised Code Section 2151.353

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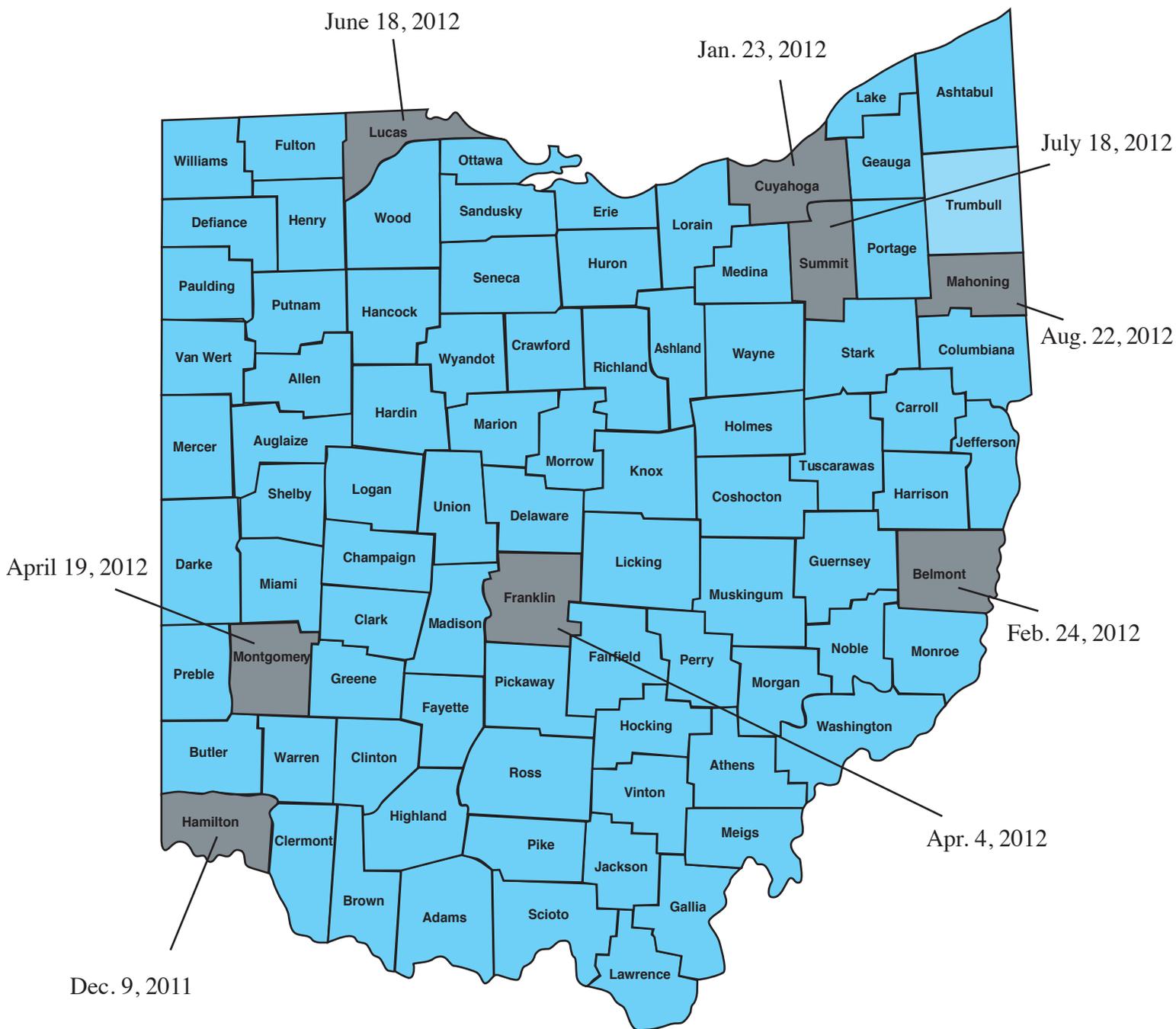
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Child Safety Summits



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Report of Findings

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