

**Office of the Child Advocate**  
**Advisory Board Meeting Minutes**  
**October 1, 2009**

**Board Members or Designees Present:**

Chair: Gail Garinger, The Child Advocate

Kathy Betts (EOHHS)

Jane Gabriel (EOPSS)

David McGrath (DEEC)

Dianne Curran (DESE)

John Bynoe (DESE)

Barbara Leadholm (DMH)

Angelo McClain (DCF)

Valorie Faretra (DTA)

Todd Maio (DTA)

Edward Dolan (DYS)

Laurie McGrath (DOR)

Samuel Sutter (MDAA)

Cecilia Porche (MDAA)

Katherine Folger (MDAA)

Michael Dsida (CPCS)

Anne Marie Ritchie, Juvenile Court

Ilene Mitchell, Probate & Family Court

Suzin Bartley, Children's Trust Fund (CTF)

Valdace Levarity, Grandparent, Governor's Appointee

Barbara Kaban, Children's Law Center of Massachusetts, Governor's Appointee

**Other Attendees:**

Elizabeth Armstrong (OCA)

Julianna Brody-Fialkin (OCA)

Susan Cummings (OCA)

Maureen Ferris, The Joint Committee on Children, Families &  
Persons with Disabilities

Meeting commenced: 3:10 pm

### **Welcome from The Child Advocate, Gail Garinger**

The Child Advocate, Gail Garinger, welcomed attendees. She specifically introduced the new Advisory Board members, appointed by the Governor, Valdace Levarity and Barbara Kaban. Anthony Barrows is the third appointee but was unable to attend the meeting. OCA staff, board members, and other attendees introduced themselves.

### **Meeting Minutes from March 5, 2009 Meeting**

Garinger presented the minutes from the previous meeting, held on March 5, 2009. Board members approved the minutes.

### **Annual Report**

Garinger shared with the board the Annual Report, which was filed on June 30, 2009, as required by the OCA's enabling legislation. An electronic copy is available on the OCA website, [www.mass.gov/childadvocate](http://www.mass.gov/childadvocate). The OCA has received positive feedback on the report, which has been cited in relation to topics such as restraints, zero tolerance, and data collection.

### **Budget**

Garinger stated that the OCA has a large mandate and a small budget. There is a constant need to balance the OCA's role in responding to specific complaints or concerns with helping to address more systemic issues. Each of these aspects informs the other. The FY2010 budget for the OCA is \$243,564 and is entirely devoted to salaries.

### **Learning from Tragedy: Rebecca R. – Psychoactive Medications**

The Deputy Director, Elizabeth Armstrong, briefly described the death of Rebecca R. as in introduction to issues concerning children receiving state services and psychoactive medication. The OCA has been working with DPH, DCF, DMH, and court personnel to examine these issues.

### **Learning from Tragedy: Acia and Sophia R. – Grandparent and Other Kin Guardianships**

The deaths of Acia and Sophia provoke concerns around grandparent and other kin guardianships. Many of the complaints the OCA receives are from kin. Armstrong explained the difference between guardianships set up in Probate and Family Court and those arranged through DCF and the Juvenile Court, and the disparities in subsidies and other supports and in supervision and oversight of these guardianships provided by each court system. Kin raising kin need accessible information. The OCA is working with DCF and the newly created Grandparents' Commission to examine the creation of a kinship navigator that may be web or phone based and can provide information easily to kin.

### **Updates on Key Activities**

Garinger updated the Board on key activities of the OCA.

**Complaints and Critical Incidents:** The OCA has received 159 complaints since January 1, 2009. Staff refers most of these back to the involved agency and reviews that agency's process for addressing concerns. State agencies have reported 105 critical incidents to the OCA since January 1, 2009, 25 involving the death of a child. The OCA is conducting an in-depth review of agency involvement in a child fatality that occurred at the end of 2008.

**Child Fatality Review Teams and Child Protection Teams:** The OCA has supported DPH in partnering with Office of the Chief Medical Examiner (OCME) to provide leadership at the state team level and believes that this partnership will lead to a more significant role for the state team and stronger collaboration and coordination between the state and local teams. Staff has also been meeting with hospital-based child protection teams at major hospitals and is exploring the expansion of teams to other hospitals.

**Section 38A Hearings:** After the death of a seven-year old in July, the OCA was asked by a legislator and a judge to comment on whether Chapter 119, Section 38A, which requires court hearings prior to terminating life support of a child in the custody of the Commonwealth, applies when a child has been declared brain dead by physicians. The Office has a draft position on this issue for any interested parties.

**Child's Counsel and Incompetency Issues in Delinquency Cases:** The OCA has been working with child's counsel to identify gaps in services and due process rights for incompetent juveniles who are seriously limited and/or mentally ill, and who are "stuck" in the system and the Office is considering strategies to address these gaps. The OCA also has been working with CPCS, the Juvenile and the Probate and Family Courts, child's counsel and guardians ad litem to examine ways to strengthen children's voices throughout the whole child welfare and court systems.

**JDAI and ALPs:** Both the Juvenile Detention Alternatives Initiative (JDAI) and Alternative Lock-up Programs (ALPs) address the detention prior to adjudication of juveniles accused of crimes. The OCA is lending its support to Commissioner Tewksbury as she spearheads the effort to reduce the numbers of juveniles detained in Massachusetts. The Child Advocate is also working with the Executive Office of Public Safety and Security and the Juvenile Justice Advisory Committee to assure that the programs holding youth awaiting trials are licensed and safe.

**Kids and Schools:** The OCA firmly supports agencies and advocates who are working on efforts to keep all kids, but especially "our kids," in school and acknowledges the larger effects not getting a high school diploma has on youth and society. Recently, the OCA gave input to EOE regarding the Dropout Commission's Report.

**Youth Outreach:** The OCA has a special mission to children in the care of the Commonwealth. Staff has been reaching out to youth and has been distributing OCA outreach cards, geared specifically to adolescents in and youth aging out of DCF care. Garinger commended the DCF Commissioner on the Foster Child Bill of Rights.

**Interagency Restraint Initiative:** Garinger discussed her recent participation with DMH-involved youth in creating a youth restraint policy. The OCA is concerned about restraint and seclusion use in all agencies, having received a number of complaints as well as information from executive agencies that children are being injured as a result of restraints. Information from the OCA Annual Report on this issue has been cited in a number of presentations and publications. The OCA strongly supports the interagency initiative to reduce the use of restraints and seclusion for children in residential facilities and schools in Massachusetts and sits on the interagency Steering Committee as well as the policy and regulation subcommittee.

**Mandated Reporter Training:** The Child Welfare Law calls for new training for mandated reporters but does not specify who is responsible for this and does not provide for funding. DCF has taken the lead on this and is working with UMass to create an online training for mandated reporters. The OCA views this as a base training and expects that more specific trainings will take place within each field. The OCA has also been working with DCF, the DAs, DESE, and other stakeholders on the issue of the mandated reporting of underage consensual sex.

**Children's Behavioral Health Initiative (CBHI):** Garinger was pleased to report that CBHI has rolled out five behavioral health services since June 30, 2009. The Office of the Child Advocate sits on the Children's Behavioral Health Advisory Board and is a member of a subcommittee on systems integration.

**Integrated Casework Practice Model:** Garinger discussed the Integrated Casework Practice Model that DCF currently is implementing across the state. The OCA understands that this model is designed to further DCF's policies and interventions for strengthening families and assessing risk and safety. The OCA will be reviewing data resulting from the implementation of this model, especially as it interfaces with CBHI data.

**Legislation:** Garinger has been asked to testify regarding two bills currently in the legislature: S68/H129 regarding Children in Need of Services (CHINS) and S940 on data collection in the juvenile justice system. The OCA understands the need for data collection and the fact that many are frustrated with the current CHINS system, but would be concerned about any legislation that would require additional costs at a time when core services have already been cut and may need to be reduced further in FY 11.

### **Comprehensive Plan**

Garinger shared the legislative language regarding the comprehensive plan. The plan, to be created in consultation with the Child Advocate Advisory Board and the Interagency Child Welfare Task Force, will look ahead five years and be updated annually to plan for the ensuing five years. It shall include benchmarks and cost estimates and shall recommend a coordinated, system-wide response to child abuse and neglect. It may include recommendations for legislative changes. Garinger noted that the plan's focus is broader than DCF. She emphasized the importance of prevention and early intervention. She looks forward to working with DCF and the Children's Trust

Fund (CTF) on this aspect of the plan. The Executive Director of CTF mentioned the great work that DEEC is doing on its Birth to 3 Task Force. Garinger also stressed the importance of trauma-informed care, the need for data collection and sharing, and the use of evidence-based best practices. The OCA is currently developing a framework for the comprehensive plan, and anticipates the cooperation of board members and their agencies. Garinger asked board members to provide information on initiatives, strategic plans, and task forces.

### **Discussion**

The board discussed the comprehensive plan and the 24 points listed in the legislation. It was suggested that during the writing of the legislation, the legislature understood that the plan was broad, and expected the OCA to pick some of the 24 points and address those more closely while including a strategy to examine the other points in the future. Garinger noted that it is clear that there is concern over the budget; although new initiatives may not start now, the plan looks forward five years. The plan should prioritize recommendations. Commissioner McClain of DCF suggested that the legislative language include the word “integrated” because the plan should recommend ways to integrate system-wide responses.

Meeting adjourned: 4:35 p.m.