Office of the Child Advocate
Annual Report
FY 2013

The Commonwealth of Massachusetts

Gail Garinger

The Child Advocate

The Office of the Child Advocate

Our Mission is to improve the safety, health and well-being of Massachusetts children by promoting positive change in public policy and practice.

Our Vision is that every child is safe and nurtured in a permanent home and that every family is supported and strengthened within the community.

Our Focus is on children who are served by the Commonwealth's child welfare and juvenile justice systems.

OCA STAFF

Gail Garinger
The Child Advocate

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2012-2013 Interns & Fellows

Elizabeth March, OCA Fellow	Fall 2012-Present
Alexandra Rueckle, Harvard Law School	Summer 2012
Casey Schutte, Harvard John F. Kennedy School of Government	Summer 2012
Elizabeth Tashash, Suffolk University Law School	Spring 2013
Hannah Scoville, Harvard Law School	Summer 2013

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Glossary of Acronyms

C&P	Care and Protection
CBHI	Children's Behavioral Health Initiative
CHINS	Children in Need of Services
CIP	Court Improvement Program
CPCS	Committee for Public Counsel Services
CRA	Children Requiring Assistance
DEEC	Department of Early Education and Care
DCF	Department of Children and Families
DESE	Department of Elementary and Secondary Education
DMH	Department of Mental Health
DPH	Department of Public Health
DYS	Department of Youth Services
EOHHS	Executive Office of Health and Human Services
OCA	Office of the Child Advocate

Letter from The Child Advocate

November 2013

Dear Governor Patrick, Legislative Leaders, and Citizens of the Commonwealth:

I am pleased to submit the Annual Report of the Office of the Child Advocate (OCA) for Fiscal Year 2013, the fifth annual report from the OCA. The OCA was established by Governor Patrick in December 2007 and codified by the Legislature in July 2008, with the overall goal of improving services for children and families served by the Commonwealth's child welfare and juvenile justice agencies. The OCA moves toward this goal by working with the child-serving agencies to examine case practice and policy, to reflect on lessons learned, and to offer an independent voice for the improvement and integration of services.

During the last year we have seen a change in leadership in many of the agencies that serve children and families, including the Department of Children and Families (DCF), the Department of Youth Services (DYS), and the Department of Early Education and Care (DEEC). We welcome the opportunity to work with new leadership and enjoy the commitment and energy of Commissioner Olga Roche of DCF, Commissioner Peter Forbes of DYS, and Commissioner Thomas Weber of DEEC. The OCA can best accomplish its mission through dynamic engagement with the child-serving agencies.

We recently celebrated as Governor Patrick signed House 1432, legislation that raised the age of juvenile court jurisdiction to 18 for delinquency matters. This change in the law validates our common understanding that teenagers are different from adults. Adolescents' brains are still developing in ways that affect their judgment, and while they must be held accountable for their actions, their lack of maturity and potential for rehabilitation should be considered in their treatment. Seventeen-year-olds do not belong in adult criminal court, and I applaud the Legislature and the Governor for enacting and signing "An Act Expanding Juvenile Court Jurisdiction."

The rationale for expanding juvenile court jurisdiction supports another necessary reform in Massachusetts, that of addressing fair sentencing for youth following the United State Supreme Court's decision in *Miller v. Alabama*.

Miller rejected Alabama's mandatory sentence of life without the possibility of parole for a youth convicted of committing a murder while under the age of 18, and held that such sentences violate the Eighth Amendment of the Constitution. Massachusetts, like Alabama, imposed a mandatory sentence, and now that law must change. The Commonwealth has an opportunity to enact legislation that embraces the spirit of the *Miller* decision and ensures that each youth under 18 receives an individualized sentencing hearing. I urge legislators to go farther than *Miller* requires and abolish entirely the sentence of life without the possibility of parole for youth.

I am honored to serve as The Child Advocate and I am grateful for my dedicated staff. I look forward to continuing to work together with the Governor, the Legislature, and all of you in the coming year to improve the lives of children and families in the Commonwealth.

Sincerely,

Gail Garinger

The Child Advocate

"The future we hold in trust for our own children will be shaped by our fairness to other people's children." Marian Wright Edelman

OCA Mission and Values

Our mission is to improve the safety, health and well-being of Massachusetts children by promoting positive change in public policy and practice. We further our mission by focusing on our core values: information, collaboration, and accountability.

Information: The Child Advocate and the OCA staff are always active, participating in meetings, forums, and events to learn more about services and initiatives for children and families in Massachusetts. We share this information with others through our policy work and our Helpline.

Collaboration: Collaboration is critical at every level. No single agency or system can provide all the resources needed to support and strengthen families. The OCA staff work to promote collaboration at every opportunity among initiatives, agencies, and systems.

Accountability: The OCA staff review critical incident reports and child abuse and neglect reports arising in out-of-home settings connected to state agencies. Through these reviews, we identify trends and look for opportunities for system improvements. We meet with agency commissioners and staff to learn from them and to share our perspective.

The role of the OCA is to connect the dots within and between the child welfare and juvenile justice systems. We work to promote system integration among agencies, courts, schools, and health service providers so that children and families can connect to resources in their communities.

Issues and Initiatives from Previous Reports

This is the fifth annual report published since the OCA was created in 2008. Our 2008 and 2009 reports were based on the calendar year (CY); in 2010 we began reporting on our activities for the fiscal year (FY), though we continue to analyze data for the previous calendar year. Past reports have included discussions of the following issues and initiatives:

- Alternative Lock-up Programs – CY 2008, CY 2009
- Child Fatality Review Program – CY 2008, CY 2009, FY 2011, FY 2012
- Child's Counsel and Child's Voice – CY 2008, CY 2009, FY 2011, FY 2012
- Competency of Juveniles in Delinquency Cases – CY 2009, FY 2011, FY 2012
- Comprehensive Plan – CY 2008, CY 2009, FY 2011
- Disproportionate Minority Contact and Data Collection – CY 2009
- Expert Consultation in the Investigation of Child Abuse – CY 2009
- Juvenile Court Record Expungement – FY 2011, FY 2012
- Juvenile Detention Alternative Initiatives – CY 2008, CY 2009
- Juvenile Life Without Parole – CY 2009, FY 2011, FY 2012
- Kin Raising Kin – CY 2009
- Legislation and Regulation – CY 2009, FY 2011, FY 2012
- Online Mandated Reporter Training – CY 2008, CY 2009, FY 2012
- Permanency and Transition Planning – CY 2008, FY2011, FY 2012
- Psychotropic Medication and the Rogers Process – CY 2009, FY 2011, FY 2012
- Restraints and Seclusion – CY 2008, CY 2009, FY 2011, FY 2012
- Raise the Age Legislation – FY 2011, FY 2012
- Review of Agency Investigations – CY 2008
- Review of Agency Policies – FY 2012
- Substance Exposed Newborns – FY 2012
- Sudden Unexpected Infant Deaths – FY 2012
- Use of Aversives at Judge Rotenberg Center – CY 2009
- Violence in the Community – FY 2011, FY 2012
- Zero Tolerance and Dropout Prevention – CY 2008, CY 2009

Please visit the annual report page of our website http://www.mass.gov/childadvocate/annual-reports/ to review any of these discussions. We welcome feedback and questions.

http://www.mass.gov/childadvocate/contact/.

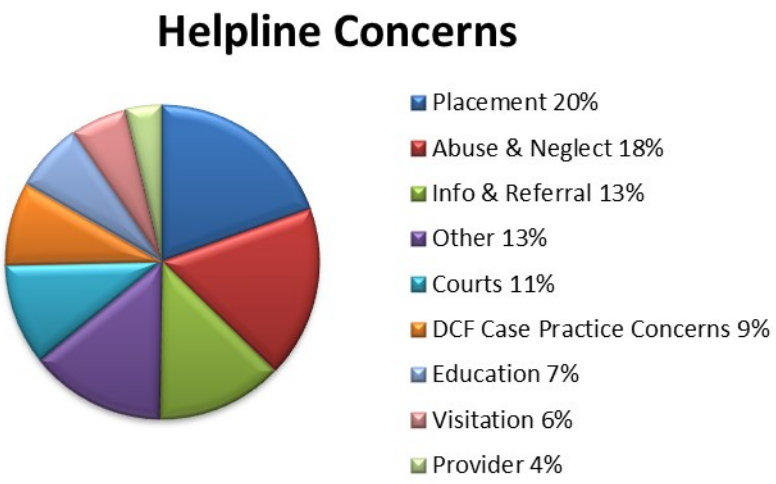
Helpline

The OCA responds to calls on the Helpline about services provided to children and youth in Massachusetts by state agencies. Anyone with concerns about the treatment of a child receiving services from a state agency may contact the OCA. Family members, foster parents, advocates, attorneys, and others can call or write the OCA on behalf of a child to express concerns and ask for advice. The OCA maintains the confidentiality of all information shared with our office. In 2012 the majority of contacts were related to children involved with DCF; many of these children were also involved with the probate and family court or juvenile court. Our clinical specialist and program assistant help individuals resolve their problems directly with the child-serving agencies and identify resources related to children's safety and well-being. To improve our services, the OCA recently met with MASS 2-1-1 to collaborate and share information. Mass 2-1-1 is a resource that connects callers to information and resources regarding critical health and human services available in their community. To learn more about Mass 2-1-1, visit http://www.mass211.org/.

The OCA maintains a confidential database of concerns from the Helpline and analyzes the information to improve our understanding of child welfare and juvenile justice systems. Listening to Helpline callers informs our interagency and policy work and assists the OCA with setting priorities. The following page provides further information regarding the concerns we hear through the Helpline.

Reach our Helpline by phone, email, or mail.

Phone: 617-979-8360 or toll-free 866-790-3690
Email: childadvocate@state.ma.us
Mail: Office of the Child Advocate, One Ashburton Place, 5th Floor, Boston, MA 02108



Helpline Concerns

Placement
- Appropriateness of placement
- Multiple placements
- Kinship placement rights

Abuse & Neglect
- Filing a report (51A)
- DCF response to a report (51A)
- Restraints in residential and group home facilities
- Maltreatment in schools

DCF Case Practice
- Decisions made by caseworker and agency staff
- Client/DCF communication and expectations
- Lack of agency responsiveness

Education
- Advocacy for special education services
- Bullying
- Restraints and discipline policies in schools
- Educational continuity for foster youth

Courts
- Rolling trials
- Contested custody issues
- Grandparent and kin custodial and visitation rights
- Court orders

Permanency
- Length of time in out-of-home placement
- Premature reunification
- DCF goal changes
- Timeliness achieving permanency
- Adoption and legal risk situations

Information & Referrals
- Where to direct agency questions and concerns
- Filing a grievance with DCF
- Eligibility criteria for state agencies
- DCF placement resource process

DCF Visitation
- Grandparent visitation rights
- Appropriateness of visitation plan
- Caseworker not meeting visitation requirements

Attorney or Guardian *ad Litem* (GAL)
- Infrequent contact with attorney
- Ineffective legal representation
- Role of attorney and GAL
- Obtaining an attorney or GAL

Medication
- Rogers process
- Over-medication of children in treatment facilities
- Overuse of antipsychotic medication in the foster child population
- Administration of medication to children by unlicensed staff

Other/Systemic Issues
- Denial of services
- Coordinating multi-agency involvement
- Confidentiality and information-sharing
- Cost shares for out-of-home placements
- Difficulty accessing services for children with complex needs

How We Help

Mike contacted the OCA Helpline to talk about his grandson Jacob, who is eight years old and in the permanent custody of DCF. Mike explained that Jacob was removed from his parents' home due to issues with substance abuse and domestic violence and now lives with a foster family who wants to adopt him. Because of Mike's age and health, he cannot take care of Jacob himself, but wants to continue the close relationship he has always had with his grandson. Mike attended Jacob's one-hour supervised visits with his parents every other week but wanted to spend more time with him. He accepted DCF's plan for Jacob to be adopted. Mike was unsure whether he had any rights as a grandparent, but he felt certain that more frequent contact with Jacob was important for both of them. Mike asked the OCA to help him communicate with DCF about this issue. The OCA staff relayed Mike's concerns to DCF and inquired whether it would be appropriate to begin independent visits between Mike and Jacob. The DCF social worker began to communicate with Mike and sent him a letter permitting him to attend Jacob's school and extracurricular activities and facilitated contact between Mike and Jacob's foster family.

OCA staff frequently receive Helpline calls from kin, especially grandparents who, like Mike, are not in a position to provide full time care for their grandchildren but have well-established, meaningful relationships with them. The Child Advocate and OCA staff have worked extensively with concerned grandparents on the issue of their rights and visitation, and believe that when children are placed in out-of-home care, it is important to maintain appropriate and meaningful kin relationships for the overall health, stability and well-being of the child.

Website

The OCA website provides consumers and professionals with access to timely information and updates on the OCA's activities. The website includes a page dedicated to the OCA's Helpline, tips for summertime safety, safe sleep for infants, and child welfare and juvenile justice information. http://www.mass.gov/childadvocate/.

Reports of Abuse and Neglect in Out-of-Home Settings

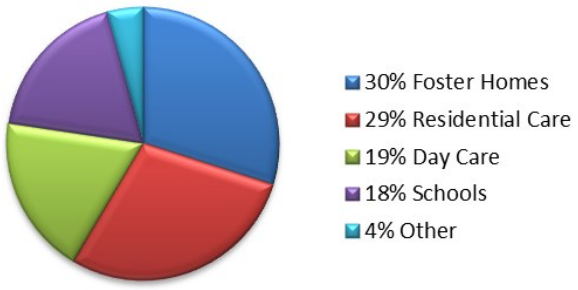
The OCA receives reports that have been investigated and supported by DCF regarding abuse and neglect ("51A" reports) of children and youth in out-of-home settings. These settings include foster homes, residential treatment programs, licensed preschool and day care, elementary and secondary schools, and transportation services. OCA staff analyze and discuss each report and obtain more information from the licensing agencies in selected cases. We provide feedback to the agencies about concerning issues and trends. Over the last year we reviewed 234 reports from CY 2012 supporting 249 allegations of maltreatment (see chart, Categories of Supported Allegations). On the basis of our reviews OCA staff connected with:

- DCF concerning trends within intensive foster care homes.
- DCF and the Department of Early Education and Care (DEEC) regarding issues that arise with families who provide both foster care and family day care.
- Stakeholders involved with prevention, intervention, and treatment of childhood sexual abuse. OCA staff co-chaired a meeting to discuss ongoing collaboration in preventing child sexual abuse in Massachusetts.
- DYS concerning restraint reduction in detention and treatment. OCA staff visited a DYS revocation center to learn more about the staff's work with positive behavioral supports.

Our reviews of these 51A reports inform our participation in the Interagency Restraint and Seclusion Prevention Initiative[1] as well as our partnership with the Committee for Public Counsel Services[2] to examine the performance of child's counsel for children in state custody. Review of these reports has impressed upon The Child Advocate and the OCA staff the importance of screening, training, and supervising our child-serving workforce and adopting a trauma-informed approach to care. Massachusetts was awarded a federal grant resulting in the Massachusetts Child Trauma Project,[3] a collaboration between DCF and four other entities to infuse the child welfare system with trauma expertise.

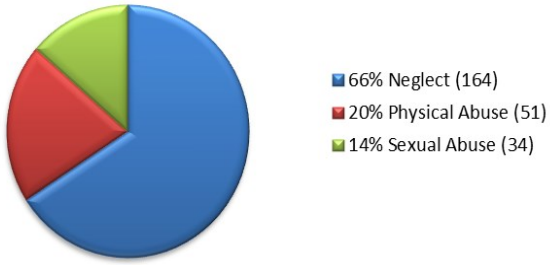
Child traumatic stress occurs when children and adolescents are exposed to traumatic events or traumatic situations that overwhelm their ability to cope. Although many of us may experience reactions to stress from time to time, when a child is experiencing child traumatic stress, these reactions interfere with his or her daily life and ability to function and interact with others. – from *The National Child Traumatic Stress Network*[4]

Settings of Reports Reviewed in 2012



Trauma-informed care seeks to change the paradigm from one that asks, "What's wrong with you?" to one that asks, "What has happened to you?" –from *National Center for Trauma-Informed Care*[5]

Categories of Supported Allegations



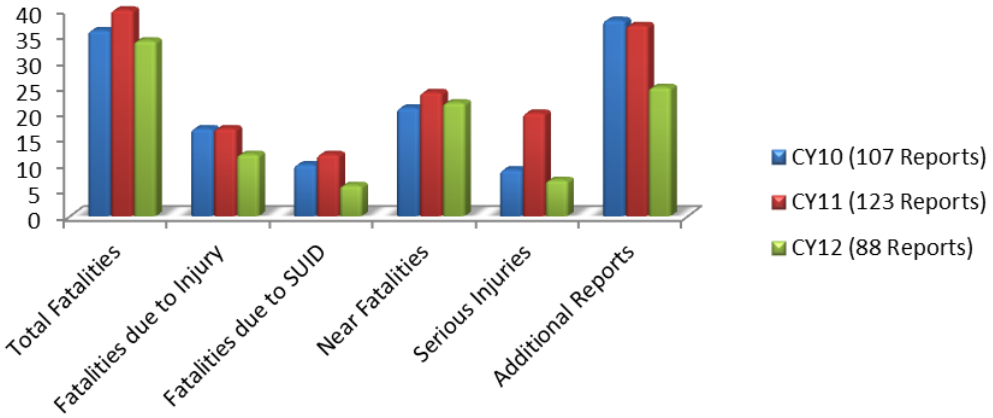
A trauma-informed approach refers to how an organization or community responds to those who have experienced trauma; it refers to a change in the organizational culture. In this approach, all components of the organization incorporate a thorough understanding of the prevalence and impact of trauma, the role that trauma plays, and the complex and varied paths in which people recover and heal from trauma. A trauma-informed approach is designed to avoid re-traumatizing those who seek assistance, to focus on safety first and a commitment to do no harm, and to facilitate participation and meaningful involvement of consumers, families, and trauma survivors in the planning of services and programs. –from *Substance Abuse and Mental Health Service Administration*[6]

Critical Incident Reports

When a child receiving services from an agency organized under the Executive Office of Health and Human Services (EOHHS) dies or is seriously injured, the agency reports the death or injury to the OCA. These are called critical incident reports. The child may have been receiving family-based support services in the community or out-of-home services such as foster, group, or residential care. DCF reports critical incidents involving children whose families have a case open for services in the home or a case closed within the last six months as well as children in DCF care or custody. DYS reports critical incidents involving youth committed by the juvenile court to DYS who are receiving services in the community and in group or foster care, residential programs, and secure treatment centers. DMH reports critical incidents involving children who are receiving services in the community and in acute care, residential programs, and hospital settings. The OCA also receives reports filed by other agencies, such as the Department of Transitional Assistance and the Office of Behavioral Health, when agency leaders have filed reports with EOHHS and forwarded the reports to the OCA based on the involvement of children and families. In each of these settings, the death or serious injury of a child is a sentinel event that prompts the OCA to review the circumstances and the reporting agency's involvement.

OCA staff carefully review each critical incident report and follow up with the agency to learn more information as needed. When a matter warrants closer investigation, OCA staff request investigation reports from the agency, speak with agency staff, and review case records to learn of a family's history and involvement with the agency. The OCA works with the reporting agency to review and learn from the reported situation and promote accountability. Over the past year, the OCA began receiving critical incident reports directly from child serving agencies rather than through EOHHS. We continue to work with the agencies to improve the reporting process and move toward the goal of timely notification of all critical incidents followed by appropriate review by the agency and the OCA.

Numbers of Critical Incident Reports 2010-12



The OCA received 88 critical incident reports concerning 85 incidents that occurred in calendar year 2012. (In three instances, two agencies submitted a report concerning the same critical incident.) The number of reports filed decreased from the previous two years. The OCA received 123 critical incident reports concerning incidents in 2011 and 107 reports concerning incidents in 2010. The following agencies filed the corresponding number of reports for incidents in 2012:

Department of Children and Families:	51	(14 regarding children in DCF custody)
Department of Mental Health:	5	
Department of Youth Services:	29	(29 regarding youths committed to DYS)
Department of Transitional Assistance	2	
MassHealth, Office of Behavioral Health:	1	
	88	

As discussed above, critical incident reports concern children receiving services from child-serving state agencies as well as children in state custody. State custody means that a judge has given legal custody of a child to DCF, along with the right to determine the placement of the child. DCF is the only agency that can be awarded legal custody of children through a Care and Protection (C&P) proceeding, through a petition for a Child Requiring Assistance (formerly known as a CHINS petition), or by the order of a probate and family court judge. Children in DCF custody may be placed with their parents, in licensed foster homes (including kin or extended family), in group homes, or in residential programs. DCF care is different from DCF custody in that a child in care receives services under a voluntary placement agreement between the child's parent or guardian and DCF.

When a youth is committed by a judge to DYS, the parent or guardian remains the youth's legal custodian even though DYS determines services and placement for the youth. DMH provides services on a voluntary basis to its child clients and custody remains with the parent or guardian, even when the child is placed in a hospital or acute treatment setting.

OCA Reporting, Confidentiality, and CAPTA

The OCA is responsible for reporting annually to the governor, legislative leaders, and the public on the activities of our office. In addition, Massachusetts has a duty under the federal Child Abuse Prevention and Treatment Act (CAPTA) to disclose to the public information about child abuse or neglect resulting in a child fatality or near fatality. By providing the information below, the OCA staff seek to balance the confidentiality of the information received with the duty of annual reporting and the duty to disclose the deaths and near deaths of children from abuse and neglect.

Fatalities

Reviewing the deaths of children is difficult but important work. Through our involvement with the statewide Child Fatality Review Program, OCA staff are well-grounded in principles of child death review and knowledgeable about Massachusetts child mortality data. From this perspective, we can examine whether children involved with agencies are at an increased risk for certain kinds of fatal injuries or illnesses.

Thirty-five critical incident reports documented 34 deaths of children and youth involved with EOHHS agencies that occurred in 2012. After reviewing each critical incident report, the OCA staff met to discuss the fatality and the agency response. If the agency conducted an investigation, OCA staff reviewed the resulting report. When both the OCA and law enforcement conducted an investigation into a child's death, OCA staff coordinated their work with the District Attorney's Office. Whenever possible, OCA staff attended local child fatality review team meetings to learn more about the involvement of agencies, courts, schools, and health care providers in the lives of the children who died. The Child Advocate and OCA staff met quarterly with DCF management to discuss our observations concerning fatalities and injuries to children.

Injury-related deaths occurred in 12 children and youth aged six months to 20 years. Two of these children were in DCF custody at the time of their deaths and one was committed to DYS. The other nine children were receiving services while living in the community. The most common causes of injury-related death were motor vehicle accidents and homicides, which is consistent with statewide mortality data for all Massachusetts children.

- Three youths died in motor vehicle crashes -- two males, ages 17 and 18, and a 12-year-old female.
- Three youths died from homicide involving dangerous weapons. Two males, ages 15 and 17, died from gunshot wounds and a 15-year-old male died from knife wounds.
- One 20-year-old female died from accidental overdose.
- One 17-year-old male drowned in a swimming pool.
- One 15-year-old female died from head trauma after a fall.
- One 12-year-old male died from suicide by hanging.
- One 6-year-old female died in a house fire.
- One 6-month-old female died from hyperthermia.

The OCA continues to work with DPH to examine child fatality data for Massachusetts and the OCA, with the goal of learning whether agency-involved children are at increased risk for deaths due to injuries.

Deaths due to natural causes or medical conditions occurred in 11 infants, children, and youth. One of the infants was in DCF custody at the time of death; the other 10 were receiving services in the community at the time of their deaths.

- A 17-year-old female died from a cardiac arrest of unknown origin.
- A 17-year-old male with a seizure disorder died while sleeping.
- A 16-year-old female died from kidney failure.
- An 11-month-old female died from a metabolic disorder.
- A five-month-old male died from a seizure disorder.
- Four infants, three male and one female, died within three months of birth from complications of prematurity.
- A five-week-old female died at five weeks from complications of prematurity and congenital anomalies.
- A male died within two weeks of birth from a congenital anomaly.

Sudden and unexpected infant and toddler deaths ("SUID") were reported in six critical incidents in 2012. All of these deaths occurred in the setting of an unsafe sleep environment; additional risk factors were present in some of the deaths. One infant was in DCF custody at the time of death and five lived in families receiving services in the community.

- A four-month-old male died while sleeping with an adult and another child on a sofa.
- A three-month-old male died while sleeping with an adult.
- A two-month-old female died while sleeping with an adult.
- A two-month-old female died while sleeping in an unsafe position in a crib.
- A two-month-old male died while sleeping with two adults.
- A one-month-old female died while sleeping with an adult.

The OCA continues to work with DPH to examine the number of agency-related infants who die suddenly and unexpectedly, and to determine whether they are at increased risk of SUID. During the last year the OCA has partnered with DCF to share information and learn about its strategic plan to educate parents about the risk of SUID and the importance of safe sleep practices. OCA staff participate in the DPH-led Safe Sleep Task Force. See page 18 for a further discussion of issues related to sudden and unexpected infant deaths.

The medical examiner has not determined the cause of death of five infants and young children who were the subject of critical incident reports. One of the infants was in state custody at the time of death.

- A three-year-old male died while sleeping.
- A 21-month-old female died after suffering seizures.
- A nine-month-old male died after suffering from prolonged oxygen deprivation.
- A six-month-old male died while sleeping on a sofa.
- A five-month-old male died while sleeping on an unsafe surface in his crib.

Near Fatalities

The OCA received 21 critical incident reports concerning near fatalities of 22 children and youth involved with EOHHS agencies that occurred in 2012. The OCA defines a near fatality as an event that places a child in critical or serious condition. Because of the imminent risk of death involved, we include all wounds from dangerous weapons and suicide attempts in this definition. The OCA is working with involved agencies to understand each agency's response to near fatalities and to coordinate our work with that of the agency. For children receiving services from DCF, the OCA obtains and reviews relevant records and in selected cases, meets with DCF managers at area offices to review case practice. Two near fatalities in 2012 involved children and youth in DCF custody. For youth receiving services from DYS, OCA staff request additional information in selected cases to review case management. Fourteen of the incidents related to youths committed to DYS and receiving services in the community; two of these youths were victims of violence on two separate occasions. The most common causes of the near fatalities reported to the OCA were gunshot and knife wounds in adolescents, which accounted for 15 reports. Physical abuse and neglect of young children leading to near fatalities accounted for five reports.

- On seven occasions males ages 17 through 20 years were injured in their communities by assailants with guns.
- On seven occasions males ages 15 through 17 years were victims of assaults with knives in their communities.
- A 16-year-old female attempted suicide by gun.
- A 15-year-old female was injured in the wreck of an all-terrain vehicle.
- A 13-year-old male received extensive burns in a chemical fire in his home.
- A four-year-old female fell from a window and suffered head trauma.
- Two reports documented that three children, ages two, three, and eight years, suffered abuse at the hands of their caretakers resulting in life-threatening injuries. Two of these children were male and one was female.
- A 17-day-old female fell from an infant swing and suffered head trauma.

Injuries

The OCA received seven critical incident reports concerning injuries to seven children and youth involved with EOHHS agencies that occurred in 2012. Three reports involved infants and toddlers in DCF custody; one report concerned a youth committed to DYS and living in the community while injured. OCA staff followed up with agencies and reviewed relevant investigation reports.

- Four infants and toddlers under the age of two suffered inflicted injuries such as fractured bones and bruising. Two were male and two were female.
- A 16-year-old male suffered an injury to his eye while playing with a BB gun.
- A nine-year-old female was kidnapped from an unlicensed summer day program at a therapeutic school.
- A six-year-old female was burned when her hair and clothing caught fire.

Additional Reports

The OCA received an additional 25 reports concerning incidents that occurred in 2012. The majority of these reports documented violent behavior in community settings allegedly caused by youths involved with EOHHS agencies. Some of the reports described deaths and injuries of children and youth *not* involved with EOHHS agencies. Other reports documented the following circumstances:

- A runaway youth
- Youths who witnessed violence
- The kidnapping of an infant
- A student at a treatment facility who reported a sexual relationship with a teacher
- Incidents of aggression at local offices
- A personnel matter

Four of these reports involved children in DCF custody. Thirteen involved youth committed to DYS.

Child Fatality Review Program

> The death of a child is a community responsibility. It is a sentinel event that should urge communities to identify other children at risk for illness and injury. Reviewing the deaths of children requires comprehensive case information and multidisciplinary participation from the community. Each review should lead to an understanding of risk factors and result in recommendations and actions to prevent deaths and to keep children healthy, safe and protected. –from *The National Child Death Review Center for Policy and Practice*[7]

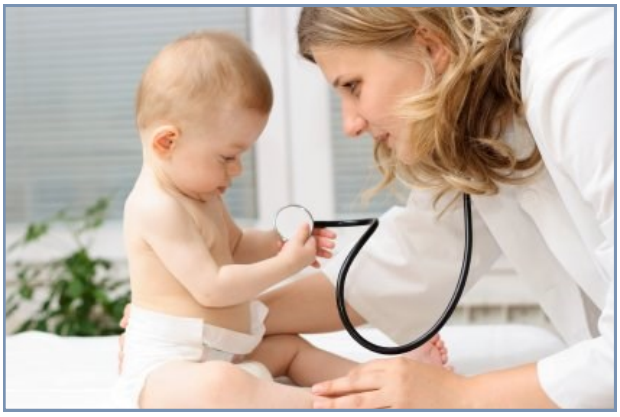
The statewide child fatality review program was created in 2000 with the goal of decreasing the incidence of preventable childhood deaths and injuries. The state team is co-chaired by the Chief Medical Examiner and the Department of Public Heath (DPH) Director of the Bureau of Community Health and Prevention. Eleven local teams meet under the leadership of the District Attorneys' Offices to conduct multidisciplinary reviews of individual deaths. The local teams take local action and formulate recommendations for the state team to consider, including changes to statewide policy, practice, or regulation. The Child Advocate is an *ex officio* member and OCA staff take an active role on the state team. During the last year OCA staff participated in work groups, coordinated a presentation for the state team on 51A reporting, and moderated a panel discussion at the statewide conference.

Certain child fatalities reviewed by the OCA as critical incidents are also reviewed by local child fatality review teams. OCA staff members attend as many local team meetings as possible and attempt to attend whenever the death being reviewed was the subject of a critical incident report. During the last year OCA staff attended local team meetings in Berkshire, Bristol, Essex, Franklin, Hampden, Hampshire, Middlesex, Norfolk, Suffolk and Worcester Counties. Attending local team meetings helps OCA staff to learn about the circumstances in which all Massachusetts children are at risk for fatal injuries and other preventable deaths. It is important to understand the deaths of agency-involved children within this context. A sense of perspective is vital to child fatality review, because while difficult things sometimes happen to children involved with agencies, difficult things happen to other children, as well. At the OCA we are always asking whether agency-involved children are at increased risk of injury or illness and whether interventions aimed at prevention can be tailored to decrease this risk.

Since its inception a decade ago, the child fatality review program has relied on resources allocated by its contributing members. As discussed in prior annual reports, dedicated resources are necessary for this important program to fulfill its mandate and achieve its potential for preventing child fatalities and injuries.

Recommendation: The Child Fatality Review Program is a critical component of the state's efforts to prevent child deaths and injuries and should receive adequate resources to enable the work of both the state and local teams.

Sudden Unexpected Infant Deaths



SUID is the leading cause of death of infants between the first month and first year of life. Between 30 and 50 infants die suddenly and unexpectedly in Massachusetts each year – the equivalent of the loss of two classrooms of kindergarten students. SUID impacts children of color at a rate two to four times that of white infants in the Commonwealth. Understanding why infants die unexpectedly requires careful scene investigation and data collection by law enforcement agencies, medical examiners, and public health officials. In Massachusetts, the SIDS Center at Boston Medical Center and the Child Fatality Review Program are important resources for this work. Please refer to page 14 for data concerning SUID in agency-involved infants.

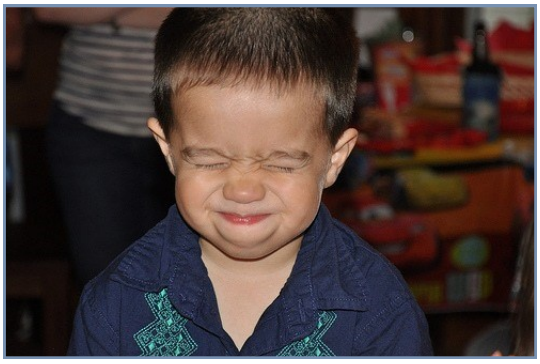
The relationship between SUID and unsafe sleep environments is well established. In 2011 the American Pediatric Association (APA) expanded its recommendations concerning safe sleep practices for infants. In 2012 the Massachusetts DPH issued "Policy Recommendations for Safe Infant Sleep Practices," based on the APA recommendations. These policy recommendations have been endorsed by the State Child Fatality Review Team and were attached as Appendix C to the OCA Annual Report FY 2012.[8] DPH has identified safe sleep as a priority area in its Injury Prevention Strategic Plan and convenes the Safe Sleep Task Force. Last year the National Institute of Child Health and Human Development's launched its Safe to Sleep Campaign,[9] giving Massachusetts the opportunity to join in the message and educate its citizens about the importance of putting infants to sleep on their backs, in their own sleep spaces, for every sleep time.

Recommendation: The Child Advocate encourages all state organizations to offer clear and consistent information to the public about safe sleep practices for infants and to continue to investigate and review all sudden unexpected infant deaths and to collect and analyze data to advance our understanding of how to prevent these deaths.

Substance Exposed Newborns

Substance use among pregnant women presents a significant public health challenge that impacts an estimated ten percent of newborns in the United States. Prenatal substance exposure to both legal and illegal substances can affect a newborn's health and development and increases the newborn's risk for abuse and neglect. The DPH Perinatal Advisory Committee partnered with DPH, DCF, hospitals, and other stakeholders to develop universal screening guidelines for pregnant women in Massachusetts. DPH distributed these guidelines to birthing centers and hospitals in 2013.

Collaboration among birthing hospitals and DCF to assure proper intervention and response to these vulnerable families is critical. Health care providers in Massachusetts are required to file a 51A report when a baby is born physically dependent on an addictive substance. After a 51A report is filed, DCF must decide whether to "screen in" the report for further action. Over the last year, DCF developed a practice guidance for personnel who make screening decisions related to substance exposed newborns.[10] The guidance directs personnel to screen in 51A reports of substance exposed newborns unless the mother has been taking a prescribed medication (such as opioid replacement therapy or other psychotropic or narcotic medication), her medical provider verifies that the medication was part of authorized treatment, the mother is compliant with treatment, and there are no other concerns regarding the safety and well-being of the infant. This practice guidance is an important first step in protecting substance exposed newborns.



Vulnerable newborns need safe and nurturing care 24 hours a day and parents need support to provide this care. When the demands of newborn care are compounded by prematurity or substance exposure, the parents' need for support is also compounded. Some parents cannot safely provide this level of care, even with supports and services in place. Making the decision to remove a newborn from his parents is difficult but essential when a family cannot safely manage the needs of an infant. The OCA encourages DCF to develop guidelines for assessment, investigation, and ongoing casework and supervision to protect vulnerable newborns and support their families.

Recommendation: The Child Advocate urges DCF to develop a targeted response that takes into account the extreme vulnerability of infants, including special factors such as substance exposure, prematurity, multiple births, and other stressors in their homes.

Psychotropic Medications for Children in State Custody

Over the past four years the OCA has spearheaded an effort to review the process for authorizing and overseeing psychotropic medications for children in DCF custody. (See the OCA Annual Reports from CY 2009, FY 2011, and FY 2012 for more information on this initiative.) Initially the OCA convened interested professionals and commissioned research examining the effectiveness and efficiency of the Rogers process, the practice of requiring a judge to determine whether a child in DCF custody should be treated with antipsychotic medication. This research led the Child Advocate to submit recommendations to the Secretary of EOHHS in early 2012 to reform the Rogers process and to develop tiered oversight for psychotropic medications and behavioral health treatment for children in state custody. In late 2012, a steering committee co-chaired by the Commissioner of DCF and the Child Advocate was formed to develop the Massachusetts plan for reviewing and implementing these recommendations. The Steering Committee on Psychotropic Medications for Children in Foster Care has reviewed authorization and monitoring systems from other states to determine their applicability to Massachusetts. DCF established an internal monitoring system to review the treatment plan for children under five who are prescribed a psychotropic medication, children who are prescribed four or more medications, and children who are prescribed two or more medications in the same pharmaceutical class. The Steering Committee is exploring additional strategies for prior authorization of medications as well as review and monitoring procedures.

Efforts to improve behavioral health care for all children insured by Medicaid continue through the Working Group on Children's Psychoactive Medication convened by DMH and MassHealth. This group continues the Commonwealth's leadership role in addressing this important matter of clinical care and health policy. The Working Group, with the managed care entities that manage behavioral care for Medicaid-insured children in Massachusetts, standardized methods for tracking the use of high-priority medications for vulnerable children. The Working Group is now helping each managed care entity develop its own method for detailed clinical analysis of high-using cases, and developing outreach to the responsible providers. Preliminary data suggest an impressive decrease in medication prescription for such children. OCA staff attend the meetings of the Working Group.

Recommendation: The Child Advocate recommends the development of a process for authorizing and overseeing psychotropic medication use for children in DCF custody that places medication in the context of individualized behavioral health treatment plans and incorporates evidence-based practices.

Permanency

Children need permanent homes where they can be safe, stable and nurtured as they grow. The connection of a permanent home and a caring adult supports healthy growth and development. When children and youth change placements and wait for years without a permanent home, the child welfare system has failed. Data relative to permanency show that Massachusetts is near the national standard for timeliness of reunification with family and is on track to exceed the national standard for timeliness of adoption.[11] Nevertheless, and despite efforts by foster parents, social workers, attorneys, guardians *ad litem*, judges and others, our complex and overtaxed system can cause significant delays in achieving permanency for some children. Through its Helpline, the OCA hears of circumstances in which children have remained in legal limbo for years awaiting resolution of their legal cases. The OCA works with DCF, the Committee for Public Counsel Services (CPCS), and the courts to understand barriers to permanency and to foster greater collaboration in addressing these barriers.

DCF recognizes that every child deserves a permanent family and on July 1, 2013, implemented a new Permanency Planning Policy.[12] This policy emphasizes the importance of concurrent planning and permanency at every stage of DCF's involvement with families and children. Consistent with DCF's Integrated Casework Practice Model, the policy stresses the importance of permanency through family stabilization whenever possible. If out-of-home placement becomes necessary, the policy establishes a new timeline for key decision points in reviewing progress toward permanency. For example, the policy requires a review six weeks after out-of-home placement and a permanency planning conference no later than nine months after placement, or earlier if the outlook for reunification with family is poor. The policy establishes additional requirements for permanency planning conferences and initiation of termination of parental rights in circumstances that suggest reunification with family has become unlikely.

The courts share responsibility with DCF for monitoring progress toward permanency. A court hearing to determine a permanent plan for a child must take place within one year after DCF takes custody of a child and annually thereafter. In it's Annual Report for FY 2012, the OCA raised concerns about the need for greater participation of youth and their attorneys in permanency hearings. Improving permanency hearings is a major priority of the Massachusetts Court Improvement Program (CIP) Strategic Plan. A CIP initiative attempts to increase youth participation in permanency hearings by funding nine part-time DCF interns to reach out to youth and encourage attendance at permanency hearings. In addition, CIP funded two full-time employees of the Administrative Office of the Juvenile Court to focus on training, eliminating backlogs in Care and Protection (C&P) cases, and improving the permanency hearing process and attendance of youth. Preliminary data for FY 2013 show an increase in the number of youth attending permanency hearings after engagement by DCF interns. The OCA will continue to track DCF and CIP initiatives to monitor the effectiveness of state efforts to find permanent homes for children and youth in state custody.

Transition Planning

Transition planning programs and services support older youths' transition from foster care to healthy, productive independence. This process provides young people with a vitally important opportunity to take ownership of their futures and determine their own paths with the guidance of adults. Massachusetts law requires that DCF provide all foster youth with support to develop a written transition plan before they exit care. Elizabeth March, the first OCA Fellow, has led the Alternative Models for Transition Planning project.

Over the last year, the OCA Fellow reviewed literature, spoke with experts and practitioners across the country, and identified promising approaches to developing written transition plans. While the approaches varied, they shared the value that effective transition planning involves formally engaging a circle of agency and non-agency adults in the planning process. Next, the OCA Fellow interviewed stakeholders from across Massachusetts to understand their involvement in transition planning, to gain their perspective on whether Massachusetts youth might benefit from the approaches identified, and to gauge interest in bringing the selected approaches to Massachusetts. The OCA is currently in the last phase of the project, finalizing a report that includes descriptions of the approaches identified, outcomes of stakeholder interviews, and recommendations to improve the process of developing transition plans for the Commonwealth's foster youth. The report will be issued on the OCA website.

Office of the Child Advocate staff with members from Teens Leading the Way. From left to right, Gail Garinger, Barbara Cullen, Heather Porriello, Joselande Simon, Damien DePeiza and Cliff Freeman

Implementation of "An Act Regarding Families and Children Engaged in Services"

A law[13] enacted in August 2012 to transform the 38-year old Child in Need of Services (CHINS) system requires EOHHS to offer services to families before they begin court proceedings for youths who are truants, runaways, persistently noncompliant with school or household rules, or victims of sexual exploitation. Petitions filed under this new law are commonly called Child Requiring Assistance (CRA) petitions. The provisions of the law governing court procedures took effect on November 5, 2012. The legislation requires the Secretary of EOHHS to establish a network of child and family service programs and family resource centers throughout the Commonwealth. EOHHS, DCF and other state agencies are working to design a statewide, community-based network of family resource centers that will provide services to youth and families. The law provides for a phased implementation of these services to families over three years with a pilot program in each county. EOHHS has entered into a contract with Massachusetts 2-1-1,[14] a statewide hotline operating 24 hours a day, to provide specialized information and referral for callers. The law establishes the Families and Children Requiring Assistance Advisory Board whose duties include advising EOHHS, the Governor and the Legislature, collecting and reporting data, and monitoring implementation of the legislation. The Child Advocate participates in these monthly advisory board meetings and is a member of the board's committee on data collection and sharing.

Child and Youth Voice in Court

Children and youth involved with courts rely on their attorneys to advocate for them. The OCA supports efforts to improve the quality of advocacy for children and youth in all court proceedings in the Commonwealth. Through the Helpline, reviewing reports of abuse and neglect in out-of-home settings, and reviewing critical incidents, the OCA learns of issues regarding representation of children arising in Care and Protection (C&P), Child Requiring Assistance (CRA), and delinquency matters. The Child Advocate convenes a group of representatives from DCF, the Child and Family Law Division of CPCS, and the Administrative Office of the Juvenile Court to discuss systemic problems that complicate the ability of attorneys to represent children and youth in C&P and CRA cases.

Two divisions of CPCS oversee appointment of counsel for children, the Youth Advocacy Division (YAD) and the Children and Family Law (CAFL) Division. Over the last year, both divisions have embarked on a process of recertifying attorneys who accept these appointments. YAD has recertified all attorneys who represent Youthful Offenders and anticipates recertifying all other attorneys who accept delinquency appointments by December 2013. The CAFL division is in the process of recertifying attorneys throughout the state who represent children and adults in C&P and CRA cases and estimates that 50 attorneys have been recertified to date.

The OCA Annual Reports for FY 2011 and 2012 discussed the absence of standardized training and reporting requirements for court-appointed investigators in C&P cases. In May 2012 a juvenile court directive required recertification for all investigators as well as ongoing continuing education. All investigators must complete training offered by the Juvenile Court Department in conjunction with Massachusetts Continuing Legal Education (MCLE) in 2013 and every year thereafter to remain on the list of court investigators. This directive is an important step toward improving the quality of court investigations for the benefit of families, advocates, and judges involved with C&P proceedings.

Since the OCA Helpline was started in 2008, the OCA has received calls from parents and relatives concerned about the need for children's voices to be heard in the probate and family court. Two new working groups have been convened to address this important issue. The Governor's Legal Office established the Working Group on Child-Centered Family Laws to examine and recommend changes to Massachusetts laws governing custody of children. The Child Advocate has taken a leadership role in this working group as well as one of its subgroups. The Chief Justice of the Probate and Family Court convened the Voice of the Child Committee to recommend ways to expand advocacy for children in court proceedings. The Child Advocate is an active member of this committee as well as a subcommittee tasked with developing new guidelines to ensure that judges consider the child's perspective in custody or parenting proceedings.

The Child Advocate recently was appointed to the Court Management Advisory Board (CMAB) as the member with significant experience in juvenile matters. The CMAB was created by the legislature in 2003 to advise the Supreme Judicial Court on all issues of judicial administration and management reform. The Child Advocate intends to strengthen the voice of children and youth in the courts through participation in the work of the CMAB.

Celebrate Success: Raise the Age Becomes Law

On September 18, 2013, Governor Patrick signed House Bill 1432, "An Act Expanding Juvenile Jurisdiction," raising the age of juvenile court jurisdiction from 17 to 18 for delinquency cases. This legislation is a major step in creating public policy based on positive youth development. Raising the age to 18 brings Massachusetts in line with 38 other states and the federal government that set 18 as the beginning of adult criminal jurisdiction. As a result of this new law, youth will benefit for an additional year from the expertise and training of juvenile court judges, probation officers, and youth corrections agency personnel and from policies and services specifically tailored to juvenile offenders. During the past three years, The Child Advocate has played a leading role in advocating for this legislation by testifying before legislative committees and speaking to numerous organizations and the media in support of raising the age.

From left to right, The Child Advocate Gail Garinger, Sen. Karen Spilka, Gov. Deval Patrick, Rep. Paul Dinato, Rep. Kay Khan, & Rep. Brad Hill

TESTIMONY OF GAIL GARINGER, THE CHILD ADVOCATE
BEFORE THE JOINT COMMITTEE ON THE JUDICIARY ON FEBRUARY 7, 2012

Good Afternoon. My name is Gail Garinger and I am The Child Advocate for the Commonwealth. Thank you for allowing me to testify today in support of keeping youth in juvenile court until they reach the age of 18. I believe that my experience as The Child Advocate and as the First Justice of the Juvenile Court for Middlesex County have prepared me to offer the Committee a valuable perspective on this issue.

As any juvenile court judge or any parent of a teenager can tell you, adolescents are different from adults. Research has confirmed that adolescent brains are still maturing, and the behavior of adolescents reflects that their judgment and character are not fully formed. They act in the moment, they are often impulsive, and they are unduly influenced by their peers. In a word, they are immature. The juvenile justice system has always treated young offenders as children in need of assistance rather than as criminals, and a juvenile court judge's decisions are guided by the best interests of the child. Fair treatment of juveniles requires holding youth accountable for their actions and providing them with resources for rehabilitation, while ensuring public safety.

Keeping 17-year olds in juvenile court will ensure accountability and rehabilitation of young offenders. Most 17-year olds are amenable to the kinds of services and oversight the juvenile system can provide, such as substance abuse counseling, anger management classes, and required school attendance or vocational training.

Keeping 17-year olds in the juvenile court will enhance public safety. The youthful offender law in Massachusetts gives district attorneys and judges the tools they need to identify serious offenders and to impose longer commitments and even adult sentences in those cases. However, 85% of offenses committed by 17-year olds do not involve violence. These youth should be adjudicated by a juvenile court judge and their treatment should be imposed within the juvenile probation system or the Department of Youth Services.

Sending 17-year olds to adult court is detrimental to their health and safety. Research has shown that compared to their counterparts in the juvenile system, young people who are put in the adult system face a greater risk of suicide and physical and sexual abuse while confined; face more serious barriers to employment, education and housing when discharged; and are more likely to commit more serious offenses upon release.

Sending 17-year olds to adult court is out of step with national and international standards. Thirty-eight other states and the federal government use 18 as the age of adult criminal jurisdiction and other states are moving in that direction. It's time that Massachusetts did the same.

Our pledge to children in the Commonwealth should be that we will start early and never give up – particularly for children who have grown up in poverty and with difficulties imposed on them by their parents and communities. Abuse and neglect in the home and violence in the community create toxic stress in the developing brains of children. We should not be surprised when these same children find their way to trouble, and our response should include compassion and rehabilitative services in addition to accountability. Keeping adolescents in juvenile court until they are 18 is an important step that we should take to try a little harder, for a little longer, to help youth find their way to a healthy and productive life. I urge the General Court to raise the age cut-off for the delinquency jurisdiction of the juvenile court from 17 to 18. Thank you for your consideration.

How We Help

Rebecca contacted the OCA regarding Toni, her ten-year-old daughter. Toni was diagnosed with Pervasive Development Disorder and Attention Deficit Disorder and had been receiving special education services at her elementary school. Rebecca had seen gradual improvement in Toni's behavior during that time, and while she struggled with learning, she was getting better at concentrating long enough to complete her work. Over the summer Rebecca and her daughter moved to a different town and Toni began attending a different school. Toni became resistant to learning, withdrawn, and at times aggressive. Rebecca was concerned that Toni's special needs were not being met in her new classroom. OCA staff listened to Rebecca and helped her identify her concerns, then discussed with her the importance of working with Toni's school to help Toni adjust to a new environment and to ensure that she receives the services she needs. Staff directed Rebecca to the Massachusetts Department of Elementary and Secondary Education[15] (DESE) website where she could find information on her rights as a parent of a child with special needs. The OCA also provided her with a link to the brochure *A Parent's Guide to Selecting a Special Advocate in Massachusetts*.[16]

The OCA Helpline receives many calls from parents and guardians regarding their child's educational needs. Common examples of these needs are assistance with a bullying situation involving peers or school staff, securing special education services, and collaboration to create an Individualized Education Plan (IEP) for a child. The OCA directs parents with concerns about special education to resources such as:

Massachusetts Advocates for Children

http://www.massadvocates.org/contact.php

Special Needs Advocacy Network, Inc.

http://www.spanmass.org/id4.html

Federation for Children with Special Needs

www.fcsn.org

http://fcsn.org/pti/advocacy/advocacy_brochure.pdf (Brochure)

http://www.fcsn.org/parentguide/pguide1.html (Parent Guide)

Fair Sentencing for Youth: Mandatory Life Sentences without the Possibility of Parole for Juveniles

On June 25, 2012, the Supreme Court issued its decision in *Miller v. Alabama*, holding that youth can no longer receive mandatory criminal sentences of life in prison without the possibility of parole (LWOP) for crimes committed before they turned 18 years of age. Until the *Miller* decision, adolescents as young as 14 charged with murder bypassed the juvenile justice system completely in Massachusetts. The juvenile court had no jurisdiction over these cases, no transfer hearings were held, and the criminal cases were routed directly to criminal superior court, regardless of the circumstances. These youths were automatically tried as adults and, if convicted of first-degree murder, received mandatory sentences of LWOP. A child's age, past conduct, level of participation in the crime, personal background, and potential for rehabilitation were irrelevant. All of these youths, regardless of their individual circumstances, grew up and grew old in prison, and would have died while still incarcerated. But following the *Miller* decision, this sentencing scheme can no longer stand.

On January 28, 2013, Governor Patrick filed House 52, "An Act to Reform the Juvenile Justice System." Like the *Miller* decision, the bill recognizes the research on adolescent brain development that has informed society's understanding of how developmental immaturity affects behavior, judgment and character. Fair treatment of juveniles requires holding them accountable for their actions and ensuring public safety, while also taking into account their lesser maturity and greater impulsivity. Key provisions of House 52:

- return trials of juveniles accused of murder to the juvenile court to utilize the juvenile court's expertise in working with children.
- eliminate mandatory sentences of LWOP for youths between the ages of 14 and 18 adjudicated as a youthful offender for first-degree murder.
- allow juvenile judges to sentence these youths to either life with parole eligibility after 15 to 25 years served, life with parole eligibility after 10 to 25 years served for convictions under the felony-murder rule or on a theory of joint venture, or to LWOP after considering evidence of mitigating factors and making written findings.
- require additional safeguards before a sentence of LWOP can be imposed, including notice by the prosecution of intent to seek a sentence of LWOP, admission of evidence of aggravating and mitigating factors, and a written finding that clear and convincing evidence shows that the sentence is necessary for the safety of the public, is in the interest of justice, and a lesser sentence would not satisfy these interests.

The Child Advocate applauds the Governor's commitment to fair sentencing of youth and the rational sentencing options and safeguards encompassed in House 52. The Child Advocate has been a leading spokesperson for fair sentencing for youth both within Massachusetts and nationally and urges outright abolition of LWOP as a sentencing option for youth. The Child Advocate gave a keynote address at the National Convening of the Campaign for Fair Sentencing of Youth, a speech at the Equal Justice Initiative Juvenile Life without Parole Conference, and many media interviews to advocate for abolition of this sentence.

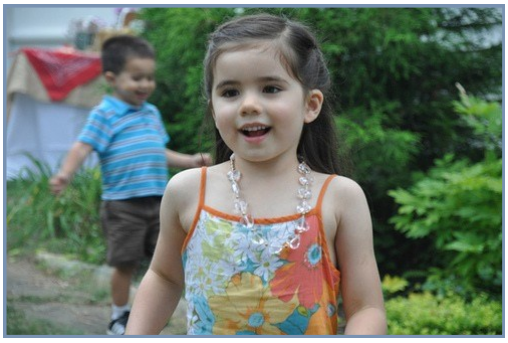
She has worked tirelessly in Massachusetts to advance legislation to create a sentencing scheme that is constitutional and just. The Child Advocate believes that *Miller* is a watershed decision affecting substantive rights for those sentenced as youth, and therefore *Miller* must be applied retroactively to the 62 persons in Massachusetts serving LWOP sentences for crimes committed before they turned 18. The Child Advocate signed *amici* briefs filed with the Supreme Judicial Court on behalf of a juvenile awaiting sentencing for a pre-*Miller* homicide conviction and a person who has been in prison for 31 years as a result of a sentence imposed when he was 17. The OCA will continue to work in the coming year for fair sentencing for youth and for legislation that embraces the spirit of *Miller*.

Recommendation: The Child Advocate urges the Legislature to enact a sentencing statute for youth that abolishes life without the possibility of parole and provides for fair and individualized sentences that take into account the circumstances of the offense, the background and characteristics of the youth, and evidence of the ability of the youth to change and be rehabilitated.

Outreach

The Child Advocate appeared often in public during FY 2012, lecturing and presenting information to interested groups, giving interviews, and participating in conferences and symposia related to child welfare and juvenile justice. The Child Advocate and the OCA staff presented at the following venues:

- Adolescent Consultation Services Forum
- Campaign for Fair Sentencing of Youth Convening (Washington D.C.), keynote address
- Children's Hospital Boston
- Equal Justice Initiative Juvenile Life without Parole Conference (Atlanta, Georgia)
- Grandparents' Forum
- Harvard Graduate School of Education
- Harvard John F. Kennedy School of Government
- Harvard Law School
- Massachusetts Continuing Legal Education Family Law Conference, keynote address
- Massachusetts General Hospital
- Massachusetts Health Law Advocates Committee
- Massachusetts School of Professional Psychology
- Middlesex County Bar Association
- Northeastern University
- Providers' Council
- Statewide Child Fatality Review Program Conference
- Tufts Medical Center
- U.S. Congressional Caucus on Foster Care
- WBUR and Channel 7



The Child Advocate and the OCA staff attended conferences and meetings addressing a broad range of topics related to child welfare and juvenile justice, including early education, child protection and family strengthening, nurturing fathers, interdisciplinary approach to investigating child abuse, psychotropic medications, improving delivery of justice in the probate and family court, justice and mental health collaboration, adoption, sex trafficking, the Juvenile Detention Alternatives Initiative, juvenile life without parole, targeted interventions for unaccompanied youth, and child fatality review. In addition, The Child Advocate and OCA staff engaged in youth outreach through meetings with members of the Governor's Statewide Youth Council, staff and clients at More Than Words, Youth on Fire, Teens Leading the Way, and representatives from two DCF foster care alumni associations. OCA staff also participated in a reading program with youths at a DYS facility and distributed OCA Youth in Care Outreach Cards to youths and their attorneys.

Recommendations

Child Fatality Review Program: The Child Fatality Review Program is a critical component of the state's efforts to prevent child deaths and injuries and should receive adequate resources to enable the work of both the state and local teams.

Sudden Unexpected Infant Deaths: The Child Advocate encourages all state organizations to offer clear and consistent information to the public about safe sleep practices for infants and to continue to investigate and review all sudden unexpected infant deaths and to collect and analyze data to advance our understanding of how to prevent these deaths.

Substance Exposed Newborns: The Child Advocate urges DCF to develop a targeted response that takes into account the extreme vulnerability of infants, including special factors such as substance exposure, prematurity, multiple births, and other stressors in their homes.

Psychotropic Medications for Children in State Custody: The Child Advocate recommends the development of a process for authorizing and overseeing psychotropic medication use for children in DCF custody that places medication in the context of individualized behavioral health treatment plans and incorporates evidence-based practices.

Fair Sentencing for Youth: Mandatory Life Sentences without the Possibility of Parole for Juveniles: The Child Advocate urges the Legislature to enact a sentencing statute for youth that abolishes life without the possibility of parole and provides for fair and individualized sentences that take into account the circumstances of the offense, the background and characteristics of the youth, and evidence of the ability of the youth to change and be rehabilitated.

OCA Administration and Advisory Board

Governor Deval Patrick appointed Gail Garinger as the first Child Advocate for the Commonwealth in April 2008. Before her appointment, she served as a juvenile court judge for 13 years, including eight years as First Justice of the Juvenile Court in Middlesex County. She also served as General Counsel at Children's Hospital Boston. Judge Garinger is assisted in her duties by a staff of three employees with collective experience in social work, law, nursing, and human services. In the spring of 2013 the OCA staff bade farewell to Jenna Pettinicchi, our program assistant, and welcomed Heather Porriello, a new colleague who brings to the position a strong background in human services. During the last year the OCA has hosted a fellow and four interns from two law schools. Our line item appropriation of $243,564 in FY 2012 increased to $300,000 in FY 2013, and increased again to $304,100 in FY 2014. These increases convey an important acknowledgement of the OCA's work. The amount does not fully support the salaries and benefits for our four full-time employees, and additional expenses for the OCA have been absorbed by the Governor's Office.

Twenty-three *ex officio* members, including secretaries and commissioners from child-serving agencies and offices, and three governor's appointees sit on the Child Advocate Advisory Board. The appointees include an advocate, a grandparent raising a grandchild, and a former foster youth. The Child Advocate chairs the meetings, during which the OCA staff update the Board and elicit their input on OCA activities. Information concerning our Advisory Board and past meetings is available on the OCA website.[17]

Office of the Child Advocate staff with Governor Deval Patrick.
From left to right, Christine Palladino-Downs, Jenna Pettinicchi, Governor Patrick, Gail Garinger and Elizabeth Armstrong.

Committees, Boards, and Councils

In addition to the OCA's committee work discussed within this report, The Child Advocate participates as an *ex officio* member on many boards and councils. OCA staff members also attend meetings of selected working groups and initiatives. Involvement with these groups helps to inform and educate staff, so that the OCA can share information and help synchronize policy for child welfare and juvenile justice.

Children's Behavioral Health Initiative Advisory Council: The Children's Behavioral Health Initiative (CBHI) is an integrated system of state-funded behavioral health services for children and youth insured by MassHealth. CBHI provides for early periodic screenings, diagnosis and community-based treatment of behavioral, emotional and mental health disturbances. The Child Advocate is a member of the CBHI Advisory Council and the Child Systems Integration Committee. For information visit: www.mass.gov/masshealth/cbhi.

Children's Trust Fund Board of Directors: The Massachusetts Children's Trust Fund (CTF), a public-private partnership, is a leader in efforts to prevent child abuse and neglect by supporting parents and strengthening families. CTF funds over 100 family support and parenting education programs throughout Massachusetts and offers training and technical assistance to professionals who work with children and families. The Child Advocate is a member of the CTF Board of Directors and serves as Vice-Chair of the Governance Committee. For information visit: www.mctf.org.

Children's League of Massachusetts: The Children's League of Massachusetts is a statewide nonprofit association of private and public child and family service organizations. Through public education and advocacy, the Children's League promotes access to quality services for children, youth, and families. Though not a member of the League, The Child Advocate regularly attends meetings and collaborates with League members. For information visit: http://www.childrensleague.org.

Governor's Child and Youth Readiness Cabinet: In 2008 Governor Patrick signed Executive Order 505 establishing the Child and Youth Readiness Cabinet (Readiness Cabinet). The purpose of the Readiness Cabinet is to enhance collaboration across state departments and agencies that serve Massachusetts children, youth and families. The Readiness Cabinet recognizes the many environments in which children develop and is committed to improving the delivery and coordination of state services in all of these environments. The Child Advocate is a designated member of the Readiness Cabinet and supports its efforts to synchronize state policies regarding youth and families. For information visit: http://www.mass.gov/edu/child-youth-readiness-cabinet.html.

Governor's Council to Address Sexual and Domestic Violence: In 2007 Governor Patrick signed an executive order creating the Governor's Council to Address Sexual and Domestic Violence (GCSDV). The GCSDV explores strategies for Massachusetts to address sexual and domestic violence, provide services and legal protections for survivors, and ensure that perpetrators are held accountable for their actions. OCA staff regularly attend GCSDV meetings, .

collaborate with GCSDV members on issues related to children exposed to sexual and domestic violence, and participate as a member of the GCSDV's Children's Committee. For information visit: http://www.mass.gov/governor/administration/councilscabinetsandcommissions/sexualassault.

Governor's Interagency Council on Housing and Homelessness Advisory Board: In 2007 Governor Patrick signed an executive order reinstating the Governor's Interagency Council on Housing and Homelessness (ICHH). The ICHH works to implement the recommendations from the Massachusetts Commission to End Homelessness and leads a five-year strategic plan to end homelessness in the Commonwealth by 2013. The Child Advocate participates as a member of the ICHH Advisory Board and provides policy recommendations to the ICHH regarding the impact of homelessness on children and families. For information visit: http://www.mass.gov/governor/administration/councilscabinetsandcommissions/housingcouncil.

Governor's Interagency Council on Substance Abuse and Prevention: In 2008 Governor Patrick signed an executive order reestablishing the Governor's Interagency Council on Substance Abuse and Prevention (ICSAP). ICSAP works to maximize coordination between DPH and other state agencies regarding substance abuse and prevention. In July 2010 ICSAP submitted an update of the Commonwealth's 2005 Substance Abuse Strategic Plan. Through participation in ICSAP meetings, OCA staff members highlight the impact on children when substance abuse is present in the home, as well as the need for additional substance abuse services for youth. For information visit: http://www.mass.gov/governor/administration/councilscabinetsandcommissions/subabuseprevent.

Interagency Restraint and Seclusion Prevention Initiative: In response to growing concern about restraint and seclusion use in child-serving settings, the Commonwealth in 2009 organized a cross-secretariat effort to reduce and prevent their use. The Initiative brings together leaders from DCF, DDS, DMH, DYS, DEEC, and DESE to work in partnership with the OCA, parents, youth, providers, schools and community advocates to focus on preventing and reducing the use of behavior restrictions that can be re-traumatizing. The vision for the multi-year effort is that all youth-serving educational and treatment settings will use trauma-informed, positive behavior support practices that respectfully engage families and youth. For information visit: http://www.mass.gov/eohhs/gov/departments/dcf/interagency-restraint-and-seclusion-prevention.html.

Rural Access Commission: In 2013 the legislature commissioned the Rural Access Commission to address the distinct needs of rural communities and to examine the barriers faced by low-to moderate-income individuals living in rural areas to obtain public assistance and state-sponsored services. The Child Advocate was appointed as a member of the Commission and supports the efforts to improve access to state agencies in rural communities. The final report is available at: http://www.mass.gov/eohhs/docs/eohhs/rural-services-commission-report.pdf.

Juvenile Detention Alternatives Initiative: The Juvenile Detention Alternatives Initiative (JDAI) is an Annie E. Casey Foundation initiative under the leadership of the JDAI Statewide Steering Committee with support from DYS. JDAI focuses on safely reducing the numbers of youth held in secure detention prior to adjudication of a delinquency offense or probation violation, and on developing a multi-tiered system of detention alternatives and diversion programs that better serve the needs of court-involved youth. For information visit: http://www.mass.gov/eohhs/gov/commissions-and-initiatives/juvenile-detention-alternatives-initiative-jdai.html

Professional Advisory Committee for Child and Adolescent Mental Health (PAC): PAC was founded in 1978 as a statewide group with representatives from professional, advocacy, trade, and family organizations. PAC's goal is to ensure universal access to quality mental health services for all children and adolescents in Massachusetts. PAC makes recommendations to DMH and other child-serving agencies and to the Legislature regarding service quality, best practices, access, system change and design, and public policies that will promote quality behavioral health services for children and adolescents. The Child Advocate and staff attend meetings to discuss the concerns and ideas of this group of advisors.

Special Commission to Study the Commonwealth's Criminal Justice System: The Special Commission to Study the Commonwealth's Criminal Justice System was created by Outside Section 189 in the 2012 budget. The commission is tasked with exploring the feasibility of developing an application for technical assistance that would use a data driven approach to reduce corrections spending and utilize the savings to reduce crime, strengthen public safety and fund other budget priorities. The Child Advocate serves on the Commission as the designated member with experience in juvenile justice and also co-chairs the subcommittee on incarcerated persons. http://www.mass.gov/bb/gaa/fy2012/os_12/h189.htm.

Special Commission on Unaccompanied Homeless Youth: The Special Commission on Unaccompanied Homeless Youth was established through Outside Section 208 of the FY 2013 Budget. The Commission analyzed barriers to serving unaccompanied youth under 18, including gay, lesbian, bisexual and transgender youth; assessed the impact of mandated reporting requirements on unaccompanied youths' access to services; reviewed the Commonwealth's ability to identify and connect with unaccompanied youth; and developed recommendations to reduce identified barriers to serving this population. Although not a member of the Commission, OCA staff attended Commission meetings to support development of the recommendations to address the diverse needs of this unique population. The final report can be accessed at: http://www.mahomeless.org/files/Special_Commission_on_Unaccompanied_Homeless_Youth_Report.pdf.

Support to End Exploitation Now Coalition: The Support to End Exploitation Now (SEEN) Coalition, an initiative of the Children's Advocacy Center of Suffolk County and the Suffolk County District Attorney's Office, is a collaboration of government and community-based agencies that has developed a multidisciplinary team approach to intervention when children and teens are victims of commercial sexual exploitation. OCA staff sit on the SEEN Coalition Steering Committee. The SEEN Coalition was instrumental in drafting and advocating for Safe Harbor provisions that redefined commercially sexually exploited youth as children requiring assistance rather than criminals, passed as part of "An Act Relative to the Commercial Exploitation of People." For information visit: www.suffolkcac.org/programs/seen.

Task Force on Youth Aging Out of DCF Care: The Task Force on Youth Aging Out of DCF Care (The Task Force) is a group of private and public representatives working to improve the outcomes of youth transitioning from DCF care. The Task Force's goals are to ensure that these youth have lifelong connections with one or more adults, are fully prepared for education, work and life, and are contributing members of their communities. The Task Force was instrumental in developing and advocating for 2010 legislation that provides youth in state care with legal rights to continued supportive services after they turn 18. For more information on this legislation visit the OCA website.[18] For information visit: www.thehome.org/site/PageServer?pagename=about_advocacy_about.

Young Children's Council: The Young Children's Council (YCC) was formed in March 2010 to advise EOHHS, DPH, and the Boston Public Health Commission as they implement two federal grants, MYCHILD and Project LAUNCH. The U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration funded the grants to expand early childhood mental health services in Boston, with an emphasis on youth and families who have experienced toxic stress related to child abuse, neglect, domestic violence or homelessness. The Child Advocate is a member of the YCC and values the opportunity to share information pertaining to mental health intervention for children younger than five years of age. For information: www.ecmhmatters.org/Pages/ECMHMatters.aspx.

[1] http://www.mass.gov/eohhs/gov/departments/dcf/interagency-restraint-and-seclusion-prevention.html
[2] http://www.publiccounsel.net/Practice_Areas/cafl_pages/civil_cafl_index.html
[3] http://machildtraumaproject.org/index.php/about
[4] http://www.nctsn.org/resources/audiences/parents-caregivers/what-is-cts
[5] http://www.samhsa.gov/nctic/
[6] http://www.samhsa.gov/traumajustice/traumadefinition/approach.aspx
[7] http://www.childdeathreview.org/cdrprocess.htm © Michigan Public Health Institute September 2005
[8] http://www.mass.gov/childadvocate/docs/annual-report-2012.pdf
[9] http://www.nichd.nih.gov/sts/Pages/default.aspx
[10] Download this practice guidance at: https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&ved=0CDUQFjAB&url=http%3A%2F%2Fwww.mass.gov%2Feohhs%2Fdocs%2Fdph%2Fquality%2Fhcq-circular-letters%2F2013%2Fdhcq-1305586-sen-guide-lines.doc&ei=UjRLUqztDpbb4APqh4HAAQ&usg=AFQjCNFFKxAd_w099_FF592wMySSIYTciA&sig2=PcQKvyFfN-w5Sly2gqAjPQ&bvm=bv.53371865,d.dmg.
[11] DCF tracks data relative to timely achievement of permanency and summarized here are examples of indicators the agency monitors. Between 7/1/2012 and 6/30/2013, 74.7% of children who reunified with family did so within 12 months of their removal. Massachusetts is within 99.3% of the national standard of 75.2%. During the same time period, 35.5% of children who were adopted achieved this status within 24 months of their entry into care. At the present time, MA is on track to exceed the national standard. The median time to adoption was 30.7 months between 7/1/2012 and 6/30/2013, and Massachusetts is within 87.5% of the national standard of 27.3 months. Source: Massachusetts Statewide Automated Child Welfare Information System.
[12] http://www.mass.gov/eohhs/docs/dcf/policies/permanency-planning-policy.pdf
[13] Chapter 240 of the Acts of 2012, "An Act Regarding Families and Children Engaged in Services." Initially referred to as FACES, common usage has turned toward the acronym CRA for Child Requiring Assistance.
[14] http://www.mass211.org/
[15] http://www.doe.mass.edu/
[16] http://fcsn.org/pti/advocacy/advocacy_brochure.pdf
[17] http://www.mass.gov/childadvocate/advisory-board/
[18] http://www.mass.gov/childadvocate/news/legislation-provides-additional-opportunities-and-servi.html

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