

State of Missouri
Office of
Child Advocate for
Children's Protection
and Services

2003-2004

Annual Report

State of Missouri
Office of
Child Advocate for Children's
Protection and Services
Annual Report 2003-2004

Investigate Complaints

Advocate for Abused and Neglected Children

Recommend Changes

Improve the Child Welfare System

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Mary McEniry
Ombudsman

October 2004

The Honorable Bob Holden, Governor
Honorable Members of the Missouri Legislature
Honorable Members of the Missouri Supreme Court

It is my pleasure to submit the 2003-2004 Annual Report of the Office of Child Advocate for Children's Protection and Services pursuant to the Dominic James Memorial Foster Care Reform Act of 2004. Specifically, Section 37.715.6 states, "The office shall annually submit to the Governor, the General Assembly, and the Missouri Supreme Court a detailed report on the work of the Office of the Child Advocate for Children's Protection and Services."

When tragedy occurs, you can walk away and shake your head in anger and frustration or you can seek change to avoid future tragedies. When Dominic James died in foster care in August 2002, Missouri leaders and child advocates sought change. The Missouri Office of the Child Welfare Ombudsman was created by Executive Order to help ensure that children in Missouri are protected from abuse and that parents' rights are not violated.

The first year of my appointment as Child Welfare Ombudsman has been one of growth. The office was developed to accept and investigate complaints from Missouri citizens regarding the actions or inactions of the Department of Social Services/Children's Division in providing services to protect children and enhance families.

The leaders of our state have again this past legislative session taken action to strengthen our child welfare system in providing protection to our children/families by passing a child welfare reform bill (HB 1453) which was signed into law by Governor Holden. This statute further promotes the well-being of children/families by enhancing state child welfare services. The statute also strengthens the Office of the Child Welfare Ombudsman and changed the name to the Office of Child Advocate for Children's Protection and Services.

The purpose of this annual report is to provide an overview of the activities and accomplishments of the Office of Child Advocate from September 29, 2003 to August 31, 2004. We remain committed to our charge to investigate complaints, advocate for abused and neglected children, and to recommend changes with the goal of improving the system for Missouri's children and their families.

Respectfully submitted,

A handwritten signature in cursive script that reads "Mary McEniry".

Mary McEniry
Missouri Child Advocate

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History

The Missouri Department of Social Services/Children's Division has been under close scrutiny in the past few years concerning their response to hotline reports and the safety of children entrusted to the care and custody of the Division. The level of concern rose even higher in August 2002 when Dominic James died in a foster home in Greene County at the hands of his foster father. Following this tragedy, Governor Holden appointed Richard C. Dunn and Judge Frank Conley to investigate the Greene county child welfare system. Additionally, the Senate President Pro Tem Peter Kinder named an Interim Committee on Children's Protective Services and Foster Care to conduct a statewide review of children's protective services, focusing on foster care and child abuse and neglect investigative procedures. The Missouri Supreme Court also created the Commission on Children's Justice to unify the three branches of government so that comprehensive solutions to child welfare problems could be made in a consistent and rational manner. One of the recommendations to come out of the various committees investigating the child welfare system was to establish a child welfare ombudsman office to provide independent oversight to the Department of Social Services/Children's Division.

On December 17, 2002, Governor Holden created Executive Order 02-22 which established the Office of Child Welfare Ombudsman within the Office of Administration. The purpose of the office as stated in the Executive Order was to "independently promote public awareness and understanding of the child welfare system, identify system issues and responses for the Governor and the General Assembly to act upon, and monitor and ensure compliance with relevant state and federal law, rules, and policies pertaining to children's services and the placement, supervision, and treatment of children in the state's care."

"Missouri's first Child Welfare
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Missouri's first Child Welfare Ombudsman, Mary McEniry, was appointed by Governor Holden on September 10, 2003.

During the 92nd General Assembly (2004), HB 1453 was introduced by House Speaker Catherine Hanaway and passed (partial text of HB1453 can be found in Appendix A). This child welfare reform bill was signed into statute by Governor Holden and strengthened the Ombudsman Office. The statute changed the name of the office to the Office of Child Advocate for Children's Protection and Services. The Child Advocate serves for a term of six years and shall continue to hold office until a successor has been appointed.

Operation of the Office

Staff

In addition to the Ombudsman, there are two investigators and an administrative assistant on staff in the Ombudsman's Office. The Ombudsman has twenty-six years

experience in working with families and children involved in the child welfare system. The experience includes working in child protection, the courts, treatment, training and program administration. The two investigators have a combined total of thirty-nine years experience in child protection, juvenile justice, and conducting investigations. The administrative assistant has 12 years experience working in state government.

The Ombudsman and each of the investigative staff have extensive training in child welfare/juvenile justice issues. They have participated in the following training sessions during the past year:

National Ombudsman Association Conference

American Bar Association Children and the Law Conference

National Symposium on Child Fatalities

Missouri Juvenile Justice Association Conference

Staff have also participated on numerous committees regarding child welfare and have conducted a number of presentations throughout the state. (See Appendix B)

Budget

The Office of the Child Welfare Ombudsman is funded through state general revenue funds and federal funds through the Department of Social Services. The 2003-04 budget amount was \$406,468. Due to budget cuts throughout state agencies, the appropriation for 2004-05 was reduced to \$340,274. Fiscal administration and oversight for the office is provided by the Office of Administration.

Role of the Office

The Office of the Child Welfare Ombudsman* operates as an independent agency under the Office of the Governor within the Office of Administration. The Ombudsman provides families/citizens with an avenue through which they can obtain an independent and impartial review of the decisions and/or actions made by the Department of Social Services/Children's Division.

... provides families/citizens ... an independent and impartial review.

There are three main duties of the Ombudsman's Office: 1) provide education to Missouri citizens regarding the child welfare process; including investigation, case management and the court system 2) receive and investigate complaints from citizens regarding the child welfare system and 3) make recommendations on improving the system. The role of the Ombudsman is set forth in the Executive Order and a complete version can be found in this report in Appendix C.

*The Ombudsman Office operated under the Executive Order from 9/27/03 – 8/27/04; therefore, this report will reflect the role as established by the Executive Order.

Providing Education Regarding the Child Welfare System

Many parents/relatives of children involved in the child welfare system due to hotline calls, removal of children, etc. become frustrated and angry because they do not understand the system and feel that they are being targeted personally and unfairly. The Office of the Child Welfare Ombudsman receives many calls with questions/concerns regarding the roles of the individual agencies involved in the child welfare system, i.e. the Children's Division, the courts, the Juvenile Office, Prosecutor's Office, law enforcement, etc. The investigators at the Ombudsman's Office listen to the caller's concerns and attempt to explain and interpret the process to the caller and to help them understand how the system is designed to ensure the safety of the children they are calling about.

Some persons calling the Ombudsman's Office have questions about specific statutes and/or Children's Division policies. In those cases, investigators help explain the specific statutes and/or policies and may send a copy of the statute/policy to the caller. Callers may also be directed to the Department of Social Services Internet site where the policies are available online. (<http://www.dss.mo.gov/cd/info/cwman>)

Example: A mother called the Ombudsman Office stating her adolescent had gotten out of control in her home and there was an altercation between the adolescent and the step-father. The police were called and a hotline was made. Juvenile court took jurisdiction of the child and removed the child from the home temporarily. Services for the child and family were court ordered. The child was returned to the physical custody of the parents but remained under the jurisdiction of the court. The mother in this case felt her family was being discriminated against and felt the system was not acting in her child's best interest. The Ombudsman thoroughly explained the process that took place and specified the state statutes and Children's Division policies that supported the process. It was also explained to the parent that the process her family had been involved in had proceeded as it should have in order to protect her child and her family. The mother then realized that her family was not being singled out or discriminated against and agreed to participate in the treatment process ordered by the court. The mother later called the Ombudsman and praised the services which had been provided by the Children's Division and stated she felt the services had helped her family immensely.

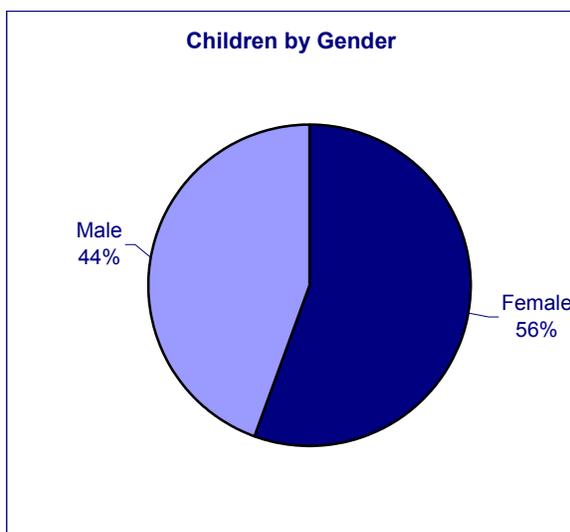
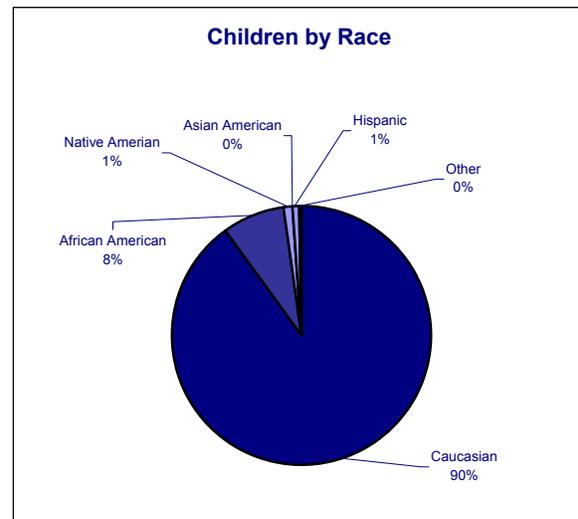
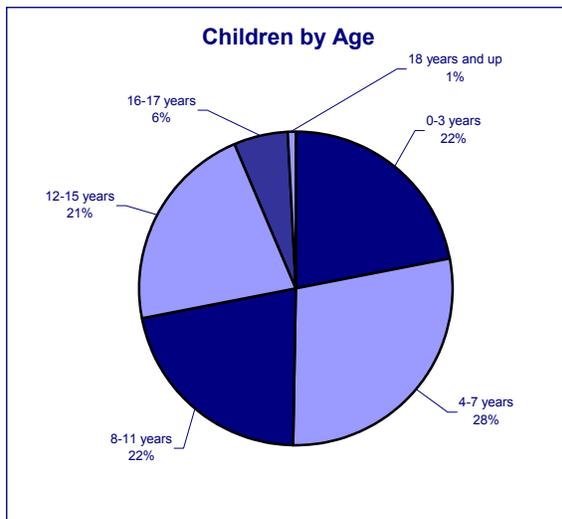
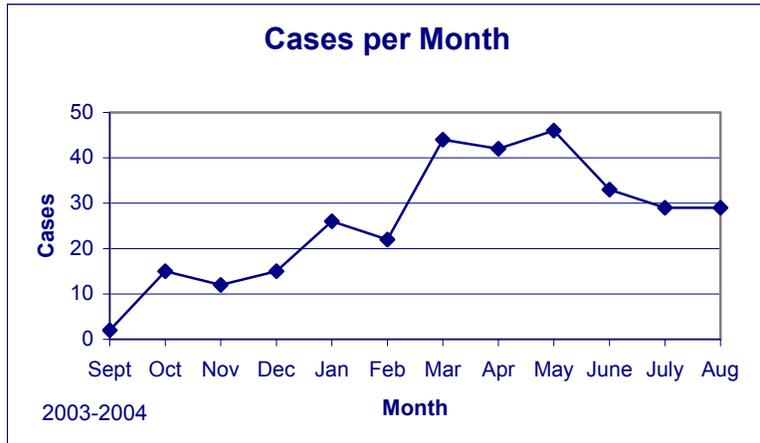
Ombudsman

- n. 1. A government official appointed to receive and investigate complaints made by individuals against abuse.*
- 2. One that investigates reported complaints, reports findings, and helps to achieve equitable settlements.*

Merriam-Webster's
Collegiate Dictionary

Responding to Complaints

The primary role of the investigators in the Ombudsman's Office is spent receiving complaints from callers and investigating the complaints. During the period September 29, 2003 – August 31, 2004 the Office of the Child Welfare Ombudsman received 316 complaint calls involving 617 children.



Complaint information is received by the investigators primarily over the phone. However, some complainants prefer to email their concerns or to write letters. Complaints may come directly to the Ombudsman's Office from citizens or may be referred through the Governor's Office, Auditor's Office, or individual legislators from their constituents. The investigators spend a considerable amount of time talking with each complainant and gathering sufficient information to determine the issues involved. All complaints are reviewed by the assigned

investigator and discussed in weekly staff meetings with the Ombudsman to gather

input and discuss options with all team members. The first step in determining how to proceed with a complaint is checking the Children's Division data base system for hotline calls. The Department of Social Services/Children's Division has given the Ombudsman and the investigators full access to their hotline data base system. A decision is then made on whether an investigation is warranted and what level of investigation is needed. There are three possible levels of investigations by the Ombudsman's Office:

- ◆ Level I: Information is gathered via telephone calls/fax/emails regarding the case.

Specific reports may be obtained and reviewed by the investigator. A face-to-face meeting may be held with the complainant to gather more information or to review reports/documentation the complainant has in their possession.

- ◆ Level II: The Ombudsman's Office requests a complete case file from the Children's Division for review by the assigned investigator.
- ◆ Level III: The Ombudsman and/or the investigator conducts an on site investigation of the situation. This may involve conducting interviews and/or contracting with other professionals for consultation, i.e. physicians, attorneys, mental health experts, etc.

During the investigation of complaints, investigators in the Ombudsman Office contact Children's Division staff to gather more information regarding the situations referred for investigation. The Ombudsman's Office is to be utilized after citizens have gone through the complaint process established by the Children's Division. When complaints are received investigators verify whether the complainant has already been through the Division's complaint/appeal process. The Ombudsman's Office

The Ombudsman's Office is to be utilized after citizens have gone through the complaint process established by the Children's Division.

coordinates closely with the Constituent Unit in the Children's Division Central Office. That unit consisting of two staff many times has received the same complaints received in the Ombudsman's Office. Staff from both offices discuss mutual complaints and determine which office is most appropriate to conduct the investigation and/or what information has already been obtained. When it is determined that the Ombudsman's Office will conduct the investigation, investigators contact the Circuit Manager or other appropriate staff in the county where the child (ren) involved in the complaint resides to obtain more information.

Information may also be obtained from Juvenile Officers, law enforcement, or other entities involved with the family.

Once an investigation is complete, the complainant is informed of the disposition of the investigation and the case is closed. Possible dispositions are as follows:

- ◆ No policy/procedure violations noted.
- ◆ Policy/procedure violations documented.
- ◆ Practice issue identified.
- ◆ Recommendations made to the Children’s Division for improving the delivery of services to children/families.

If policy/procedure violations are discovered, the Children’s Division Administration is notified in writing and a written response to the Ombudsman’s Office is requested as to what steps the Division will take to rectify the situation. If the Division does not take steps to resolve the issue, the Ombudsman’s Office has the option and responsibility to inform the Governor and the General Assembly of the situation and the lack of response by the Division. This option would be utilized in serious situations where child safety was a factor. This information could also be made available to the public as needed.

Improving the System

The Ombudsman reviews proposed legislation involving children/families/child welfare issues and provides input to individual legislators regarding the pros and cons of the proposed legislation. After legislation is passed, input is provided to the Governor for their information in regard to making decisions about signing legislation. The Ombudsman consults with child advocates across the state regarding pending/needed legislation during the legislative session. Meetings are also held with the Children’s Division staff on legislation affecting their agency and families with whom they work.

Complaint Sources and Types of Complaints Investigated

Complaint Sources

Most of the complaints received in the Ombudsman’s Office come from biological parents of children in care. The majority of parents call because their children have been placed in the custody of the state and parents feel that the children should be returned to the parent’s home. Grandparents are the second highest source of complaints. These calls usually involve grandparents wanting placement of grandchildren that have been removed from their parent’s home or grandparents who are

Caller Relationship	No.	Caller Relationship	No.
Biological Parent	150	Grandparent	64
CASA/GAL	2	Legal Guardian	1
Child	4	Other Relative	34
Children’s Division	3	Other Relationship	15
Community Professional or Service Provider	10	Step-Parent	7
Foster Parent	26	Total:	316

concerned about the safety of their grandchildren living with a parent or other caretaker.

Example: A grandparent in another state contacted the Ombudsman's Office with concerns regarding their grandchildren who were living in Missouri with a relative after being removed from a parent's home due to physical abuse. The grandparent was concerned about the emotional stability of the relative and the safety of the children. During the course of investigation by the Ombudsman's Office, the children were removed from the relative's home and placed in foster care until the grandparent could have a home study completed and be considered for placement of the children. The Ombudsman's Office found no policy violations on the part of the Children's Division in the handling of the case but a closer assessment of the relative's home was needed in order to ensure the safety of the children placed there.

Foster parents also frequently call the Ombudsman's Office with concerns regarding their interactions with the Children's Division. Many of these calls are in regard to foster parents feeling they are not being included as part of the "team" in regards to planning for the children in their care. While foster parents report being included in Family Support Team Meetings (FST), they feel that they are not listened to or their input regarding the children is not valued. Foster parents also report poor communication between caseworkers and the foster parents. In many cases, the Ombudsman's Office has helped to facilitate more direct communication among the parties involved and a better understanding of the issues.

In many cases, the Ombudsman's Office has helped to facilitate more direct communication among the parties involved and a better understanding of the issues.

Example: A foster parent called with concerns about a foster child placed in her home. She indicated that she had spent a great deal of time advocating for a child in her home with disabilities. The foster parent had worked with the schools for a considerable amount of time to ensure appropriate services for this child. The foster parent was concerned due to learning that the Children's Division wanted to move the child to another foster placement where they would be closer to their parent who had moved to another county. The move would prohibit the child from receiving the intensive services the foster parent had been able to secure through the school district in her area. The investigator assigned to the case spoke with the Children's Division staff involved in the case and found that the foster parent had difficulties expressing herself in the Family Support Team meetings and therefore was not always able to articulate the time and effort she had spent securing services or what the specific needs of the foster child were. Assistance was given to the foster parent on how to present information effectively in the FST meetings to ensure that the best interests of the child were articulated and attended to.

In some cases, adolescents have called directly to our office to express concern regarding their involvement with the child welfare system and seeking assistance with problems they are having.

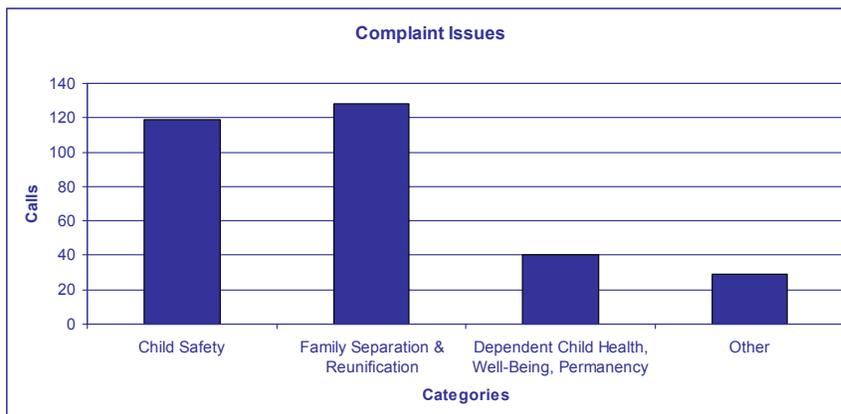
Example: A young man in the custody of the state and placed with a relative wanted information on how to become emancipated and be able to move to his own residence. Although the youth had participated in Family Support Team meetings where plans for his future were discussed, he did not fully understand the process or his options. The assigned investigator gathered information from the Children's Division and helped the youth understand his options. They also discussed the youth's goals for his future and how to achieve those goals.

Types of Complaints

Complaints to the Ombudsman's Office generally fall in to three main categories: 1) child safety 2) family separation and reunification, and 3) dependent child health, well-being, and permanency. These categories involve the following issues:

Child Safety _____	119 calls
◆ Failure to protect child from parental abuse or neglect	
◆ Failure to address safety concerns involving child in foster care or other substitute care	
◆ Failure to address safety concerns involving child being returned to parental care	
◆ Failure to provide appropriate services to child at risk of harming self or others	
Family Separation and Reunification _____	128 calls
◆ Unnecessary removal of child from parental care	
◆ Failure to provide appropriate contact between child and family	
◆ Failure to reunite families despite parental compliance with court-ordered services	
◆ Failure to place child with relatives	
◆ Inappropriate termination of parental rights	
Dependent Child Health, Well-Being, Permanency _____	40 calls
◆ Inappropriate change of child's foster or other substitute placement	
◆ Inadequate development or implementation of plan to transition child to new placement	
◆ Failure to provide child with appropriate medical, mental health or educational services	
◆ Unreasonable delay or opposition to adoption	
Other _____	29 calls
August 2004	

Family separation and reunification issues are most frequently referred to the Ombudsman's Office.



Location of Children Referred

Complaints come from across the state and from relatives living in other states. These referrals involve children from counties across the state. Jackson County represents the highest number of referrals to the

Ombudsman's Office with Greene County being second. The following graphic shows a map of the state and denotes the number of complaint referrals for each county.

- ◆ Family Support Team Meetings not held as required by policy
- ◆ Timeline not met for initial contact in hotline investigation

While some cases did not reveal policy violations, they did raise concerns regarding inappropriate practice issues. The identified practice issues include:

- ◆ Insufficient or inappropriate caseworker documentation in case files
- ◆ Inappropriate comments made by caseworkers to children/families/professionals
- ◆ Lack of timely placements with relatives when children are removed from the home
- ◆ Excessive delay in completing home study on potential relative placement providers
- ◆ Relative placements not being identified in a timely manner and if they are identified, Interstate Compact for the Placement of Children (ICPC) referrals are not made in a timely manner.

Effectiveness Measurements

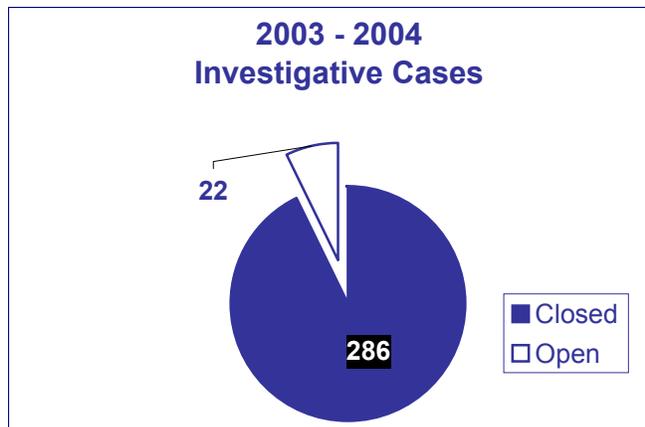
The Ombudsman’s Office set measurements for effectiveness in how complaints are handled in the office. The first measurement is for the length of time complainants are contacted after complaint is received in the office. Our goal during the first fiscal year (September – June 2004) was to contact complainants within three business days after receiving complaint in the office 90% of the time. The second goal was to complete the investigation of a

Measurement	Goal	Met
Contact complainant within 3 business days after complaint received	90%	96%
Complete investigation within 30 days of receiving complaint	80%	80%

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complaint within 30 business days of receiving the complaint in 80% of the cases referred. Both goals were met in the first fiscal year.

Some cases are kept open beyond 30 days. These cases may involve very complex issues and require more than 30 days to fully investigate the complaint. In addition, some cases involved in the court system may be kept open beyond 30 days in order to monitor the court process.



Systemic Issues Identified/Recommendations

Over the past year, we have seen issues that concern us and that we feel need further research and attention. These issues were found to be common elements in many of the cases that were investigated by the Ombudsman's Office.

- I. **Working with mentally unstable parents:** These cases are exceptionally difficult for all parties involved. They require a great deal of time, patience, and expertise in understanding the dynamics of mental illness and in providing case management services to the parents.

Recommendation: Training for Children's Division staff on providing services to mentally ill parents to include: symptoms/characteristics of mental illness, risks for children of mentally ill parents, treatment options, etc.

- II. **Relative placements:** This issue was an element of a large number of referrals to our office. Potential relative placements are not being identified early enough in the case planning after children have been removed from their homes.

Recommendation: Caseworkers and the court system need to more diligently search for possible relative placements for children placed in the state's custody and expedite the approval process for these homes. If relative placement is identified as a concurrent plan, ICPC referral should be initiated as soon as the plan is established.

- III. **Serious physical abuse cases:** In many cases reviewed, there appeared to be a lack of understanding on the part of caseworkers regarding medical findings and the meaning of those findings relevant to the risk to the child.

Recommendation: On all serious physical abuse cases with medical findings, the Children's Division/Multi-disciplinary Team should consult with medical experts to obtain accurate information on the possible cause of the injury and the resulting risk to the child.

- IV. **Child placements:** We have seen a trend in many areas of the state in one or more children in a family being placed in foster care while one or more children are left in the home with the parent of all of the children. The question is if it is unsafe for some children to remain in the home why is it not unsafe for all siblings in the home? Or the reverse question, if it is safe for some siblings to remain in the home, why is it not safe for all the siblings to remain in the home?

Recommendation: The courts and all team members need to more carefully evaluate the placement of children and more thoroughly assess the risk to children remaining in their own home.

- V. **Physical abuse of children under the age of one year:** Several cases referred to our office involved children under the age of one year that had serious physical injuries as a result of abuse. Research shows that babies who have been abused are at very high risk of further abuse, with almost one in three reabused within

three years (Archives of Disease in Childhood 2004, 89:845-846). In one case our office reviewed, a young child died after being seriously physically abused by a caretaker. Previous allegations of abuse had been hotlined to the Children's Division.

Recommendations: 1) Serious physical abuse cases involving young children should be assigned only to trained and experienced caseworkers. 2) Medical consultants should be utilized to explain injuries and risk to the child. 3) Multi-disciplinary case staffings should be held as soon as possible for any hotline report alleging non-accidental injuries to a child under the age of one or in cases where the investigation indicates non-accidental injuries to a child under the age of one. These staffings should specifically include staff from the Division (both the investigator and their supervisor), medical personnel, law enforcement, and Juvenile Court staff. Other participants may be included as needed. Staffings should include discussion regarding the allegations; the explanations for the injuries by the parent/caregiver; the likelihood that the injuries happened as explained by the parent/caregiver; the risk factors present in the family; developmental status of the child; previous hotlines and/or criminal history of the parent/caregiver; explanation of medical evaluation and conclusions if conducted; ability of parent/caregivers to protect the child; and assessment of need for placement of the child outside of the home.

State and National Review Efforts

Federal Child Welfare Review/Missouri's Program Improvement Plan

The Children's Division participated in the Family and Children Services Federal Review in December 2003. Three counties participated in the review: Jackson, St. Louis, and Jasper. The Federal Review is designed to assess the state's performance in protecting children and finding safe, permanent homes for those who have suffered abuse or neglect. All 50 states have been evaluated in the last three years and no state fully complies with standards established by the federal government for the protection of children. Missouri failed in many, but not all of the areas of the review. The review teams found many areas of strength in Missouri's child welfare system: the commitment of staff and administrators toward the protection of children; strong policies that support best practice; foster families willing to go above and beyond in caring for children; youth in foster care are given a voice in the system; and improvements in the hotline system. The teams also found many challenges: staff retention; caseload size; too long to achieve permanency for children; cumbersome court processes; effective case planning lacking; and lack of ongoing training for staff. The Children's Division was required to develop a Program Improvement Plan (PIP) to address each of the practice deficiencies identified through the review process. The Ombudsman served on one of the PIP committees to develop the PIP plan for submission to the federal government.

The Pew Commission on Children in Foster Care

In 2003, the nonpartisan Pew Commission was launched to develop recommendations to improve outcomes for children throughout the United States in the foster care system-particularly to expedite the movement of children from foster care into safe, permanent, nurturing families, and prevent unnecessary placements in foster care. Members of the Pew Commission came from all over the country. Gary Stangler of St. Louis, Executive Director, Jim Casey Youth Opportunities Initiative, was one of the Commission members.

The Pew Commission made the following conclusions:

- ◆ Federal Assistance for foster care is not tailored to state needs and only covers needy children.
- ◆ Juvenile courts cannot keep track of foster kids because they are overcrowded, understaffed and lack funding.
- ◆ Federal funding for foster care, which comes from 31 different programs, is too complex.

In May 2004, the Commission made recommendations regarding changing federal funding to give states more flexibility in spending federal dollars. The recommendations would also help dependency courts secure the management tools, information, and training necessary to fulfill their responsibilities to children, and they would help children and parents have a strong and informed voice in court proceedings. The Commission also called for more accountability by both child welfare agencies and the courts.

State Audits

State Auditor, Claire McCaskill, has completed several audits of the child abuse hotline and foster care systems in Missouri. Many of the deficiencies found in her audits have also been found in the investigations completed by the Ombudsman's Office:

- ◆ Required in-home visits did not always occur
- ◆ Parental rights not terminated in a timely manner
- ◆ Available foster homes received no placements, while others were overloaded
- ◆ Efforts should be made to retain existing trained foster parents
- ◆ Reimbursement rates for foster parents rank low among states
- ◆ Weaknesses continue in case management at local offices
- ◆ Initial contacts with children to ensure safety are not always timely
- ◆ Abuse/neglect service cases are not always closely monitored

Systemic Improvements

The Children's Division deserves credit for many improvements they have made as a result of recommendations by the various entities that have evaluated and audited their procedures/practices. Those improvements include:

- ◆ Enhanced background checks, including fingerprinting, for foster parents and emergency placements
- ◆ Improvements in prioritizing and classifying calls to the Child Abuse and Neglect hotline
- ◆ Increased privatization through performance-based contracting
- ◆ Increased external partnerships to provide for the needs of families
- ◆ Increased accountability using accreditation standards, risk and assessment tools and enhanced automated management information systems
- ◆ Improved coordination between the departments of Mental Health and Social Services to prevent children from entering custody solely to access mental health services
- ◆ Training for the courts and Children's Division staff on best practices in child abuse cases to achieve permanency for children

Recommendations

Although the Children's Division has made much progress in the past two years in improving services to children and their families, there are still areas that need improvement.

Accreditation of the Children's Division

The Office of the Child Welfare Ombudsman recommends that Missouri continue to seek full accreditation with the Council on Accreditation for Children and Family Services. This is now mandated by the state foster care reform legislation and funding has been allocated by the state for this effort. Continued state funding for this effort is strongly encouraged.

Family Participation

The family should be part of the engagement process at all levels of planning, service, delivery, and evaluation. Too often parents are told what the treatment goals are instead of including the parents in the planning process. Family choices should be considered in all planning for the child outside of situations that put the child at risk of harm.

Placement Decisions

Attachment issues are significant to the mental health of children in all placement decisions. The current child welfare system tends to focus on the physical safety of the child while not adequately considering the effect of removal on the child's emotional/mental health. Practice guidelines must be established to address not only safety issues but also children's emotional, mental, and behavioral health needs.

Culturally Competent Services

There should be culturally competent policies and professional competence in procedures, outreach, advocacy, and training throughout the service delivery system. To facilitate successful outcomes, the team delivering services and supports to children and families should, if at all possible, represent the diversity of the population. This includes the delivery of child protection, mental health, medical, and other services in the community.

Background Checks on Foster Parents and Relative Care Providers

These background checks are now mandated by state statute. Unfortunately, a backlog has been created by this law and by the rush of applications for Missouri's new concealed gun permits. A deadline is needed on the processing of the fingerprints for foster parents and relative placements just as there is for concealed gun permits. To meet the deadline, more resources are needed to process the fingerprints.

Adherence to Agency Policies

Missouri has excellent child welfare policies/procedures that reflect best practices. Unfortunately, these policies/procedures are not consistently adhered to by workers in all counties of the state. This reflects a need for more training and more intensive supervision for workers.

Acknowledgements

The Ombudsman Office would like to thank Governor Holden for issuing the executive order establishing the office in 2002 and the General Assembly for passing legislation in 2004 strengthening the office and for approving continued funding for the initiative.

We would also like to thank the leadership at the Department of Social Services/Children's Division, specifically Steve Roling and Fred Simmens for their openness and cooperation with our office. Thanks also to all of the DSS/Children's Division staff who have graciously and quickly responded to our requests for information on specific cases under investigation.

Appendix A

State of Missouri
92nd General Assembly
SECOND REGULAR SESSION

Truly Agreed to and Finally Passed HOUSE BILL NO. 1453

37.700. As used in sections 37.700 to 37.730, the following terms mean:

(1) "Office", the office of the child advocate for children's protection and services within the office of administration, which shall include the child advocate and staff;

(2) "Recipient", any child who is receiving child welfare services from the department of social services or its contractors, or services from the department of mental health.

37.705. 1. There is hereby established within the office of administration the "Office of Child Advocate for Children's Protection and Services", for the purpose of assuring that children receive adequate protection and care from services, programs offered by the department of social services, or the department of mental health, or the juvenile court. The child advocate shall report directly to the commissioner of the office of administration.

2. The office shall be administered by the child advocate, who shall be appointed jointly by the governor and the chief justice of the Missouri supreme court with the advice and consent of the senate. The child advocate shall hold office for a term of six years and shall continue to hold office until a successor has been duly appointed. The advocate shall act independently of the department of social services, the department of mental health, and the juvenile court in the performance of his or her duties. The office of administration shall provide administrative support and staff as deemed necessary.

37.710. 1. The office shall have access to the following information:

(1) The names and physical location of all children in protective services, treatment, or other programs under the jurisdiction of the children's division, the department of mental health, and the juvenile court;

(2) All written reports of child abuse and neglect; and

(3) All current records required to be maintained pursuant to chapters 210 and 211, RSMo.

2. The office shall have the authority:

(1) To communicate privately by any means possible with any child under protective services and anyone working with the child, including the family, relatives, courts, employees of the department of social services and the department of mental health, and other persons or entities providing treatment and services;

(2) To have access, including the right to inspect, copy and subpoena records held by the clerk of the juvenile or family court, juvenile officers, law enforcement agencies, institutions, public or private, and other agencies, or persons with whom a particular child has been either voluntarily or otherwise placed for care, or has received treatment within this state or in another state;

(3) To work in conjunction with juvenile officers and guardians ad litem;

(4) To file amicus curiae briefs on behalf of the interests of the parent or child;

(5) To initiate meetings with the department of social services, the department of mental health, the juvenile court, and juvenile officers;

(6) To take whatever steps are appropriate to see that persons are made aware of the services of the child advocate's office, its purpose, and how it can be contacted;

(7) To apply for and accept grants, gifts, and bequests of funds from other states, federal, and interstate agencies, and independent authorities, private firms, individuals, and foundations to carry out his or her duties and responsibilities. The funds shall be deposited in a dedicated account established within the office to permit moneys to be expended in accordance with the provisions of the grant or bequest; and

(8) Subject to appropriation, to establish as needed local panels on a regional or county basis to adequately and efficiently carry out the functions and duties of the office, and address complaints in a timely manner.

3. For any information obtained from a state agency or entity under sections 37.700 to 37.730, the office of child advocate shall be subject to the same disclosure restrictions and confidentiality requirements that apply to the state agency or entity providing such information to the office of child advocate. For information obtained directly by the office of child advocate under sections 37.700 to 37.730, the office of child advocate shall be subject to the same disclosure restrictions and confidentiality requirements that apply to the children's division regarding information obtained during an child abuse and neglect investigation resulting in an unsubstantiated report.

37.715. 1. The office shall establish and implement procedures for receiving, processing, responding to, and resolving complaints made by or on behalf of children who are recipients of the services of the departments of social services and mental health, and the juvenile court. Such procedures shall address complaints relating to the actions, inactions, or decisions of providers or their representatives, public or private child welfare agencies, social service agencies, or the courts which may adversely affect the health, safety, welfare, or rights of such recipient.

2. The office shall establish and implement procedures for the handling and, whenever possible, the resolution of complaints.

3. The office shall have the authority to make the necessary inquiries and review relevant information and records as the office deems necessary.

4. The office may recommend to any state or local agency changes in the rules adopted or proposed by such state or local agency which adversely affect or may adversely affect the health, safety, welfare, or civil or human rights of any recipient. The office shall make recommendations on changes to any current policies and procedures. The office shall analyze and monitor the development and implementation of federal, state and local laws, regulations and policies with respect to services in the state and shall recommend to the department, courts, general assembly, and governor changes in such laws, regulations and policies deemed by the office to be appropriate.

5. The office shall inform recipients, their guardians or their families of their rights and entitlements under state and federal laws and regulations through the distribution of educational materials.

6. The office shall annually submit to the governor, the general assembly, and the Missouri supreme court a detailed report on the work of the office of the child advocate for children's protection and services. Such report shall include, but not be limited to, the number of complaints received by the office, the disposition of such complaints, the number of recipients involved in complaints, the state entities named in complaints and whether such complaints were found to be substantiated, and any recommendations for improving the delivery of services to reduce complaints or improving the function of the office of the child advocate for children's protection and services.

37.725. 1. Any files maintained by the advocate program shall be disclosed only at the discretion of the child advocate; except that the identity of any complainant or recipient shall not be disclosed by the office unless:

(1) The complainant or recipient, or the complainant's or recipient's legal representative, consents in writing to such disclosure; or

(2) Such disclosure is required by court order.

2. Any statement or communication made by the office relevant to a complaint received by, proceedings before, or activities of the office and any complaint or information made or provided in good faith by any person shall be absolutely privileged and such person shall be immune from suit.

3. Any representative of the office conducting or participating in any examination of a complaint who knowingly and willfully discloses to any person other than the office, or those persons authorized by the office to receive it, the name of any witness examined or any information obtained or given during such examination is guilty of a class A misdemeanor. However, the office conducting or participating in any examination of a complaint shall disclose the final result of the examination with the consent of the recipient.

4. The office shall not be required to testify in any court with respect to matters held to be confidential in this section except as the court may deem necessary to enforce the provisions of sections 37.700 to 37.730, or where otherwise required by court order.

37.730. 1. Any employee or an unpaid volunteer of the office shall be treated as a representative of the office. No representative of the office shall be held liable for good faith performance of his or her official duties under the provisions of sections 37.700 to 37.730 and such representative shall be immune from suit for the good faith performance of such duties. Every representative of the office shall be considered a state employee under section 105.711, RSMo.

2. No reprisal or retaliatory action shall be taken against any recipient or employee of the departments or courts for any communication made or information given to the office. Any person who knowingly or willfully violates the provisions of this subsection is guilty of a class A misdemeanor.

210.145

15. A person required to report under section 210.115 to the division and any person making a report of child abuse or neglect made to the division which is not made anonymously shall be informed by the division of his or her right to obtain information concerning the disposition of his or her report.

If the report is determined to be unsubstantiated, the reporter may request that the report be referred by the division to the office of child advocate for children's protection and services established in sections 37.700 to 37.730, RSMo. Upon request by a reporter under this subsection, the division shall refer an unsubstantiated report of child abuse or neglect to the office of child advocate for children's protection and services.

Appendix B

Committees

State Child Fatality Review Panel

Children's Justice Act Task Force

State Foster Care Advisory Committee

Children's Division Community Quality Assurance Committee (Jackson County)

Federal Review Program Improvement Planning Committee/Judicial

Community/Training Presentations

Midwest Foster Care and Adoption Conference

State Foster Care Advisory Committee

St. Louis Foster and Adoptive Care Training Extravaganza

OSCA Legislative Video Teleconference Training

OSCA Administrative Concerns Committee Meeting

Jackson County Foster Parent Resource Fair

Southeast Region Foster Parent Advisory Committee (Poplar Bluff)

Appendix C

Executive Order

WHEREAS, I, Bob Holden, recently appointed Richard C. Dunn and Judge Frank Conley to investigate the Greene County child welfare system, and

WHEREAS, their Report of the Investigation of the Child Welfare System in Greene County found that the child welfare system is broken and requires immediate attention, and

WHEREAS, it is the duty of the state to ensure that abused and neglected children and their parents are served reasonably and fairly by government agencies, and

WHEREAS, citizens need an independent voice to intervene when they are subjected to unauthorized or unreasonable agency decisions

NOW, THEREFORE, I Bob Holden, Governor of the State of Missouri, by virtue of the powers vested in me through the constitution and the laws of the State of Missouri, do hereby establish the Office of Child Welfare Ombudsman within the Office of Administration.

I. Appointment

The Governor shall appoint an Ombudsman who shall be a person of recognized judgment, independence, objectivity, and integrity, and shall be qualified by training or experience, or both, in child welfare law and policy. No person serving as Ombudsman shall engage in any other occupation, business, or profession likely to detract from the full-time performance of his or her duties as Ombudsman or to result in a conflict of interest or an appearance of impropriety or impartiality

The Ombudsman shall hold office for a term of three years and shall continue to hold office until reappointed or until his or her successor is appointed The Governor may remove the ombudsman only for neglect of duty, misconduct, or inability to perform the duties of the position.

II. Purpose

The purpose of the office shall be independently to promote public awareness and understanding of the child welfare system, identify system issues and responses for the Governor and the General Assembly to act upon, and monitor and ensure compliance with relevant state and federal law, rules, and policies pertaining to children's services and the placement, supervision, and treatment of children in the state's care

The Ombudsman shall

1. (1) Provide information as appropriate on the rights and responsibilities of individuals receiving children's services and on the procedures for providing these services;
2. (2) Investigate, upon his or her own initiative or upon receipt of a complaint, an administrative action alleged to be contrary to law, rule, or policy, imposed without an adequate statement of reason if required, or based on irrelevant, immaterial, or erroneous grounds; however, the ombudsman may decline to investigate any complaint, Monitor the procedures established, implemented, and practiced by the Department of Social Services to carry out its responsibilities in delivering children's services with a view toward appropriate preservation of families and ensuring children's health and safety,
3. (4) Recommend changes in the procedures for addressing the needs of families and children, and
4. (5) Submit an annual report, including recommendations, to the Governor and General Assembly by October 31 of each year analyzing the work of the office.

III. Confidentiality

To encourage citizens to come forward with their concerns, the Office of Child Welfare Ombudsman is required to protect their confidentiality.

The Office shall treat all matters under investigation, including the identities of service recipients, complainants, and individuals from whom information is acquired, as confidential, except so far as disclosures may be necessary to enable the ombudsman to perform the duties of the office and except as provided by applicable state or federal law. Upon receipt of information that by law is confidential or privileged, the Ombudsman and his or her staff shall maintain the confidentiality of such information and shall not further disclose or disseminate the information except as provided by applicable state or federal law. Nothing in this order shall be construed to mean that confidentiality is required when the Ombudsman or Ombudsman's staff has received a threat of, or becomes aware of a risk of, imminent serious harm to any person, or when the Ombudsman or Ombudsman's staff reasonably believes that any person specified in section 210.115, RSMo, including the Ombudsman or any person in the Ombudsman's office, has failed to comply with section 210.115, RSMo.

IV. Miscellaneous

When the Ombudsman or Ombudsman's staff member has reasonable cause to believe that any public official, employee, or other person has acted in a manner warranting criminal or disciplinary proceedings, the Ombudsman or Ombudsman's staff member shall report the matter, or cause a report to be made, to the appropriate authorities.

To ensure the integrity of the operations of the Office, no discriminatory, disciplinary, or retaliatory action may be taken against an employee of the department, an employee of a contracting agency of the department, a foster parent, or a recipient of family and children's services for any communication made, or information or assistance given or disclosed, to aid the Ombudsman in carrying out his or her responsibilities, unless the communication, information, or assistance is made, given, or disclosed maliciously or without good faith. This subsection is not intended to infringe on the rights of the employer to supervise, discipline, or terminate an employee for other reasons.

The department of social services shall:

1. Allow the Ombudsman or the Ombudsman's designee to communicate privately with any child in the custody of the department for the purposes of carrying out its duties under this order;
2. Upon the Ombudsman's request, grant the Ombudsman or the Ombudsman's designee the right to access, inspect, and copy all relevant information, records, or documents in the possession or control of the department that the Ombudsman considers necessary in an investigation; and
3. Grant the office of child welfare ombudsman unrestricted access to the case management information system for the purpose of carrying out its duties under this order.

The Ombudsman is authorized to receive confidential information from executive departments and agencies and service providers. All executive departments and agencies are directed to assist the Office of Child Welfare Ombudsman in carrying out the purposes of this order.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 17th day of December, 2002.

[Bob Holden's signature]

BOB HOLDEN
GOVERNOR

ATTEST:

[Matt Blunt's signature]
SECRETARY OF STATE