



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

2016
Annual Report

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Protection and Services
Annual Report 2016

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

Eric R. Greitens
Governor

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Kelly Schultz
Child Advocate

The Honorable Eric R. Greitens
Governor of the State of Missouri

The Honorable Zel M. Fischer
Chief Justice of the Missouri Supreme Court

Dear Honorable Governor Greitens and Honorable Chief Justice Fischer:

I am pleased to present the 2016 Annual Report of the Office of Child Advocate. The report covers the time frame of January 1, 2016 through December 31, 2016.

I am honored to be appointed the Child Advocate. I truly appreciate this opportunity to serve the children and families of Missouri. Our office remains committed to our charge to review complaints, advocate for abused and neglected children, and to recommend changes with the goal of improving the child welfare system for Missouri's children.

Thank you for your commitment to the children and families of Missouri.

Respectfully submitted by:

A handwritten signature in blue ink, appearing to be "KS", written over a light blue horizontal line.

Kelly Schultz

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History

The Office of Child Welfare Ombudsman was established by Governor Bob Holden's Executive Order in 2002 to act as an agent of accountability regarding Children's Protection Services. In 2004, the 92nd General Assembly passed Speaker Catherine Hanaway's House Bill 1453. The legislation changed the office name to the Office of Child Advocate for Children's Protection and Services and strengthened the role of the office. Governor Jay Nixon signed Senator Jane Cunningham's Senate Bill 54 into law in 2011 authorizing the Office of Child Advocate to coordinate mediation efforts between school districts and students when allegations of child abuse arise in a school setting. In 2014, Senator Eric Schmitt's SB869 and Rep. Bill Lant's HB1092 were signed into law by Governor Nixon authorizing OCA to intervene on behalf of a child during judicial proceedings. Senator Jeanie Riddle's 2015 SB341 authorized OCA to conduct a county review of policy and procedures of Children's Division, the Juvenile Office, and guardian ad litem to improve the handling of child welfare cases within a circuit. (See Appendix B for statute language.) Since its inception, the office has served a total of 9,755 children.

Operation of the Office

Staff

The Office of Child Advocate is directed by the Missouri Child Advocate who is appointed by the Governor and Chief Justice of the Supreme Court, with the advice and consent of the Senate.

OCA staff:
Kelly Schultz, Missouri Child Advocate
Teri Armistead, General Counsel
Carolyn Swanigan, Assistant Prog Mgr
Kate Watson, Assistant Prog Mgr
Courtney Davis, Reviewer

Budget

The Office of Child Advocate is funded through state general revenue funds and federal funds distributed through the Department of Social Services. The budget appropriation for 2016-2017 was \$326,430.

Role of the Office

The Office of Child Advocate operates under the Office of Administration and is, therefore, independent of the Department of Social Services, Children's Division, the Department of Mental Health, and the Juvenile Court. The office provides citizens an avenue to obtain an independent and impartial review of disputed decisions, actions and inactions regarding any child at risk of abuse, neglect or other harm.

The Office of Child Advocate offers seven primary services to concerned citizens:

- ◆ foster care case management review
- ◆ unsubstantiated hotline investigation reviews
- ◆ mediation between parents and schools regarding abuse allegations

- ◆ child fatality review of children with Children’s Division involvement
- ◆ intervene on behalf of a child during judicial proceedings
- ◆ review policy and procedures of Children’s Division, the Juvenile Office, and guardian ad litem within a county
- ◆ information and referrals for families needing resources

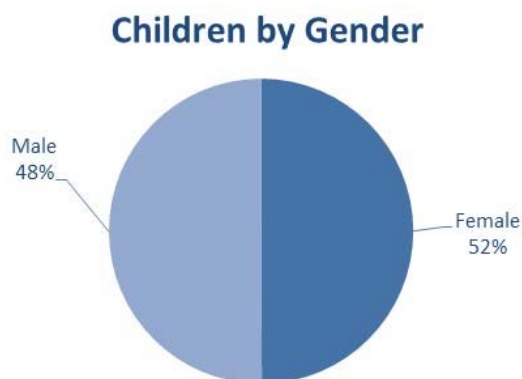
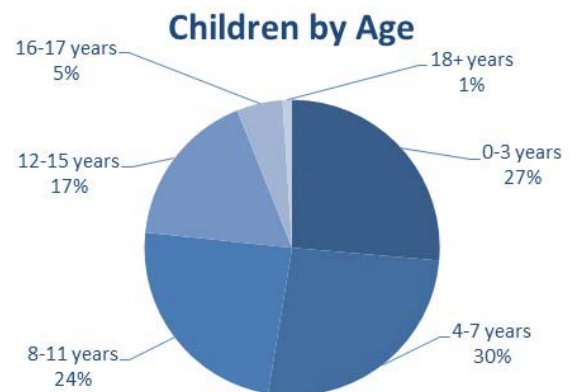
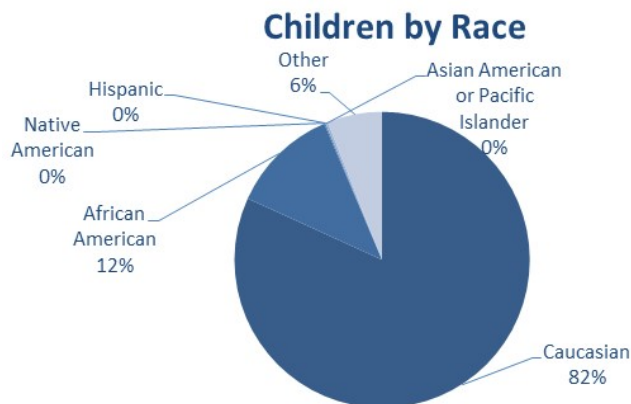
Additional responsibilities include:

- ◆ offering case specific and systemic recommendations when appropriate
- ◆ improve family services by examining laws, policies and procedures
- ◆ provide an annual report to the Governor and Chief Justice
- ◆ educate the public regarding the child welfare process in Missouri while increasing public awareness of the Office of Child Advocate

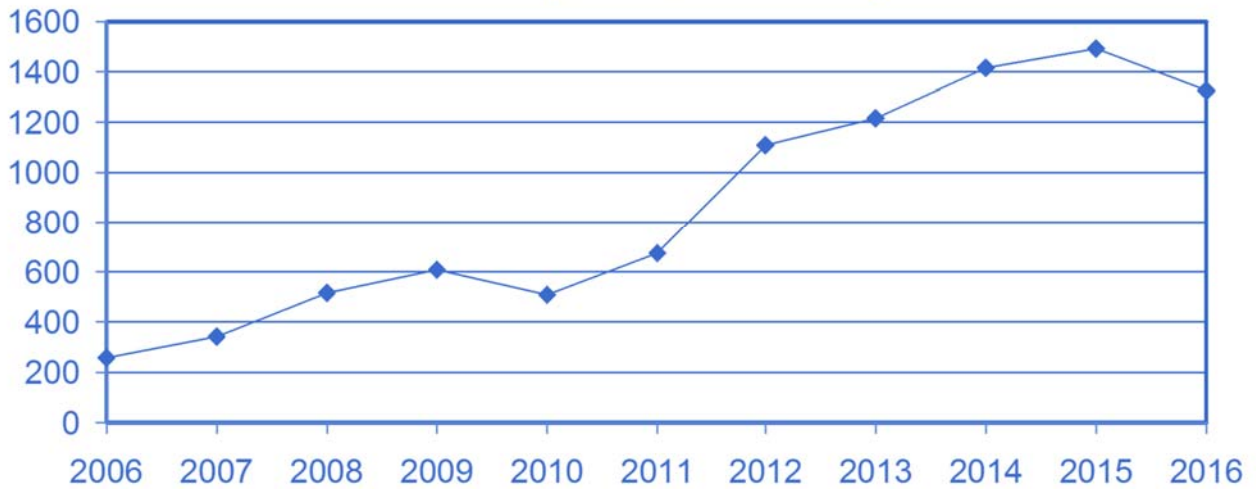
Receiving, Investigating and Concluding Complaints

Receiving Complaints

From January 1 through December 31, 2016, the Office of Child Advocate received 1,329 complaints/contacts including registered concerns from 613 new complainants, 310 unsubstantiated, 51 cases as part of SB341 review, 6 mediation and 4 fatality reviews involving 1,452 children.



Complaints/Contacts History



The composite number of complaints/contacts received by the Office of Child Advocate and is categorized according to (1) New Cases, (2) Reopened Cases, (3) Unsubstantiated Reviews, (4) Information and Referrals, (5) Cases as part of SB341 Review (6) Fatalities, (7) Mediation and (8) Unable to Contact (due to phone numbers no longer in service, etc.)

Investigating Complaints

Upon the receipt of a complaint, the Office of Child Advocate notifies the appropriate Children’s Division Circuit Manager, Division Director, and Juvenile Office that our office has been requested to review a case. The identity of the complainant is kept confidential unless our office is given permission to share the information with the appropriate parties. The Office of Child Advocate proceeds to determine the appropriate level of investigation. Possible levels of investigation include:

- 1) No investigation needed
- 2) Gather information and interact as necessary with involved parties
- 3) Request and review the Children’s Division case file
- 4) Conduct on-site review

2016 Contacts Received	
613	New Cases
58	Reopened Cases
310	Unsubstantiated Reviews
271	Information and Referrals
51	SB341 Cases
4	Fatalities
6	Mediation
16	Unable to Contact
1329	Total Number of Contacts

Concluding Complaints

Reviews and investigations are concluded within 45 business days. Extenuating circumstances may occasionally extend the investigation in certain instances, such as continued court dates, ongoing concerns or new allegations. The Office of Child Advocate will issue a letter of conclusion to the appropriate Children's Division Circuit Manager, Regional Manager, Division Director, Juvenile Office and the complainant. In cases where confidential information cannot be shared with the complainant, a separate letter will be issued to the complainant. Possible conclusions may involve:

- 1) No policy/procedure error(s) noted
- 2) Policy/procedure error(s) noted
- 3) Practice issue(s) identified
- 4) Identification of best practices by Children's Division
- 5) Case recommendation(s) offered for improving services to the child, children or families.

In many referred cases, no violations of policy, practice or state statues were noted. Likewise the majority of reviews did not require a case specific or systemic recommendation. The Office of Child Advocate noted no policy violations, practice concerns, and had no recommendations in 202 cases. Office of Child Advocate was in agreement with an unsubstantiated finding in 273 hotline investigations, did not agree in 18 cases, and were inconclusive in 2 typically due to incomplete investigations.

SB341 Review Procedures

In 2015, House Bill 341 was enacted creating Section 37.719 RSMo., granting the Office of Child Advocate the authority to conduct an independent review of any entity within a county that experienced three or more review requests in a calendar year including, but not limited to, Children's Division, the Juvenile Office, or Guardian ad Litem. The Office was further provided with the authority to make recommendations on changes to any entity's policies and procedures based on the results of the review in order to improve the delivery of services or the function of the entity and to direct such findings and recommendations to the Children's Division and the Office of State Courts Administrator. In addition, the Office was directed to establish and implement procedures for reviewing any such entity. (See Appendix B)

In November 2015, the Office of Child Advocate initiated a review of the Newton County Children's Division and Juvenile Office, based on complaints received by the Office during the calendar year. Within the Children's Division all three program lines, to include; investigations, family centered services and alternative care, were identified as part of the review process to better understand the overall practice within the county. Notification was sent to the stakeholders involved and the Office of Child Advocate requested sixty (60) cases, twenty (20) cases from each program line for review. In addition, numerous interviews were conducted during the course of the review with the following stakeholders: Children's Division circuit manager, Children's Division supervisors, Children's Division investigators, Children's Division family

centered services case managers, Children's Division alternative care case managers, the Chief Juvenile Officer, Deputy Juvenile Officers, alternative care case managers within the foster care case management private agency, foster parents, relative placement providers, a Guardian ad litem, a parent attorney, a Court Appointed Special Advocate (CASA), members of the local child advocacy center, members of the local domestic violence shelter, local therapists involved in the child welfare system, law enforcement officers within the sheriff's department, the juvenile court Judge, a school counselor, a school principal, a criminal defense attorney, the attorney for the Juvenile Officer and a concerned citizen. After all interviews and a review of the records were completed, a compilation of concerns and findings were made.

Promoting the Office

Per section 37.710.2 (7) RSMo, The Office of Child Advocate is authorized, "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." Between January 1 and December 31, 2016, the Office of Child Advocate increased the knowledge of Child Welfare professionals and citizens by providing the following trainings while at the same time raising the awareness of the Office of Child Advocate:

- ◆ Missouri Juvenile Justice Association/Office of State Courts Administrator (MJJA/OSCA) fundamental skills training for new hire Juvenile Officers
- ◆ MJJA/OSCA fundamental skills training for new hire Juvenile Detention staff
- ◆ Missouri State Highway Patrol Juvenile Justice training
- ◆ Stewards of Children prevention of sexual abuse of children training
- ◆ Visitation training for MJJA

In addition, the Office of Child Advocate served on the following Task Force and Work groups to improve child welfare practice and raise awareness of the Office of Child Advocate:

- ◆ Task Force on Human Trafficking
- ◆ Juvenile Standards Work Group
- ◆ Prevention of the Sexual Abuse of Children Workgroup
- ◆ Missouri Task Force on Children's Justice
- ◆ Child Fatality Review Program State Panel
- ◆ Task Force on Recruitment, Licensing, and Retention of Foster Care and Adoptive Homes
- ◆ Missouri State Foster Care and Adoption Board
- ◆ Missouri State Juvenile Justice Advisory Board Child Support Guidelines: Review Subcommittee of the Family Court Committee

The Office of Child Advocate's awareness and visibility was increased as a result of speaking, participating or exhibiting at the following conferences and trainings:

- ◆ Missouri Juvenile Justice Association (MJJA): Education Spring Conference
- ◆ Missouri Juvenile Justice Association (MJJA): Fall Educational Conference
- ◆ Annual Missouri School Counselor Association Fall Conference

- ◆ Missouri Coalition of Children’s Agencies (MCCA)
- ◆ ATTACH 28th Conference, Association for Training on Trauma and Attachment in Children
- ◆ Powerful Learning Conference sponsored by the Department of Elementary & Secondary Education
- ◆ Alternative Care Conference sponsored by the Office of State Courts Administrator
- ◆ Show-Me Leadership Summit: Strengthening Communities by Strengthening Families
- ◆ Missouri State Fair, Family Fun Center

Complaint Types and Sources—New Cases

Types of New Complaints

Complaints to the Office of Child Advocate for Children’s Protection and Services generally fall into one of 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 _____	204 calls
Unsubstantiated Findings _____	310 calls
<ul style="list-style-type: none"> ◆ Failure to protect child from parental abuse ◆ 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_____	284 calls
<ul style="list-style-type: none"> ◆ 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_____	105 calls
<ul style="list-style-type: none"> ◆ 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 services ◆ Unreasonable delay or opposition to adoption 	
Other_____	20 calls

Sources of New Complaints

Most of the complaints received by the Office of Child Advocate are from biological parents of children in state care or custody. Specific concerns may revolve around placement, visitation, safety, communication and other related matters. Grandparents

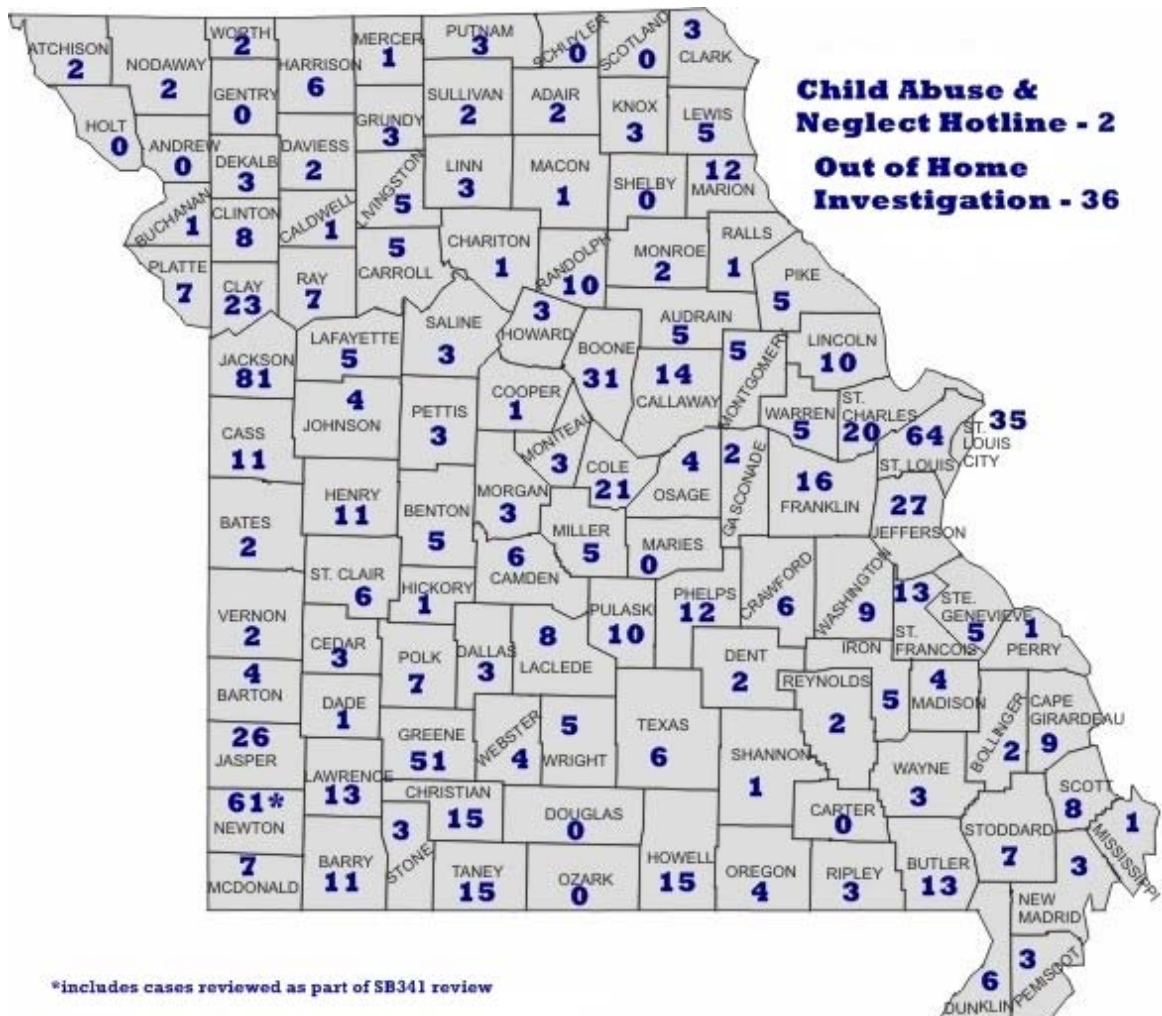
Caller Relationship	No.	Caller Relationship	No.
Anonymous	3	Grandparent	133
Biological Parent	246	Other Attorney	5
CASA/GAL*	4	Other Relationship	37
Child	2	Other Relative	65
Children's Division Employee	3	Public Defender	1
Community Professional or Service Provider	53	Step-Parent	12
Foster Parent	49	Total:	613

are the second highest source of complaints and other relatives are the third highest. These calls usually involve family wanting placement of children that have been removed from the parent's home or family who are concerned about the safety of the children living with a parent or other caretaker.

*Court Appointed Special Advocate/Guardian ad Litem

Location of Children Referred

Complaints come from across the state and from relatives living in other states. The Office of Child Advocate identifies patterns of concern within a county and across the State. However, the number of calls we receive in a county often is only reflective of the number of children in care and the level of awareness of our office in a specific location.



Effectiveness Measurements

Though not required by statute, the Office of Child Advocate has established measurement gauges to help ensure effectiveness in serving Missouri children and families. These include initial response time, time frame for completing new investigations, and time allotment for completing unsubstantiated reviews.

A timely initial response is of fundamental importance. A 90% goal has been set to contact the complainant within three business days of any new complaint. In 2016 OCA met this goal in 93% of cases.

The goal of the Office of Child Advocate is to complete more than 80% of the investigations and unsubstantiated reviews within 45 business days of receipt of the complaint. However, many factors may cause a case to remain open, out of timeframes. For example, cases involving the court system may be kept open beyond 45 days to sufficiently monitor the court process. In other instances, conducting a complete and thorough investigation may require an extended period of time due to ongoing concerns.

In 2016, the Office of Child Advocate saw an increase in Alternative Care and Services cases and initiated a county review as authorized in SB341. As a result, our performance measures suffered greatly. OCA completed cases within 45 business days only 55% of the time. Timely case reviews have remained a significant challenge. The Office of Child Advocate changed our review practices and began to read past investigation, assessments, and service cases for informational purposes without formally issuing findings. This practice allowed OCA to gather important family and case history; issue findings addressing current concerns; and begin to improve our performance measures. While our numbers reflect a reduction in cases reviewed, we increased the number of children and families served.

*Performance measures are reported for time period July 1, 2015—June 30, 2016.

Recommendations for Systematic Improvements

Maintaining Parental Visits Benefit Children

The Office of Child Advocate began to address the lack of parental visits and its significant impact on children and delay in permanency in 2015. In 2016, OCA continued to express concerns regarding visitation and specific practices in circuits denying visits between parents and children. Maintaining frequent and meaningful contact between parents and children benefits children. Research has continually demonstrated improved outcomes.

- ◆ Children who were visited frequently (once a week or once every two weeks) exhibited fewer behavioral problems than children who were visited infrequently (once a month or less) or not at all. Overall, children who had frequent contact with their parent(s) showed less anxiety and depression than children whose parents' visits were wither infrequent or non-existent (Cantos & Gries, 1997).

- ◆ Children who were visited frequently by their parent(s) were more likely to have higher well-being ratings, adjusted better to placement, and were less likely to be discharged from placement (Hess, 2003).

Visitation also:

- ◆ Supports attachment
- ◆ Eases pain of separation
- ◆ Maintains and strengthens family relationships
- ◆ Reassures a child that their parent(s) is/are all right and helps them to eliminate self-blame for placement
- ◆ Supports the family in dealing with changing relationships
- ◆ Enhances parent motivation to change by providing reassurance that the parent-child relationship is important for a child's well being
- ◆ Provides opportunities for parent(s) to learn and try new skills
- ◆ Supports a child's adjustment
- ◆ Enables the parent(s) to be active and stay current with their child's development, education and medical needs, church and community activities
- ◆ Provides opportunities for parent(s) to assess how their child is doing, and share information about child's needs
- ◆ Assists in the assessment of parenting capacities and permanency goals
- ◆ Reduces time in Alternative Care
- ◆ Increases likelihood of reunification

Decisions regarding visitation should be based solely on the safety and well-being of a child. Visitation should not be used as a means to coerce the parent into compliance with the written service agreement or on the results of urine analysis (UA) for drugs. By denying visitation based on a lack of parental compliance or a positive drug screen, the team effectively punishes the child as well as the parent. Practices such as requiring three clean UAs prior to allowing visitation harms children, lengthens the time in Alternative Care, and are not effective in changing parental behavior.

In custody procedures, Section 452.400 RSMo establishes that the standard to deny visitation between a parent and a child requires the court to find "that visitation would endanger the child's physical health or impair his or her emotional development." At this time, there is no statutory required findings to deny visitation in Section 210 or 211. Office of Child Advocate recommends that Children's Division use similar articulation of harm when recommending cessation of visitation to the court. Absence the ability to articulate the physical or emotional harm, visitation is recommended.

Hess, Peg. (2003) *Visiting Between Children in Care and Their Families: A Look at Current Policy. The National Resource Center for Foster Care & Permanency Planning*, pp.1-21.

Cantos, A.L. & Gries, L.T., (1997). Behavioral Correlates of Parental Visiting During Family Foster Care. *Child Welfare*, 76 (2) 309-330.



Acknowledgements

The Office of Child Advocate wishes to thank Governor Eric R. Greitens and the General Assembly for their support.

Appreciation is also expressed to the Office of Administration, including Commissioner Sarah Steelman.

The Office of Child Advocate expresses appreciation to the Children's Division, Juvenile Offices, and other agencies that work to help ensure the safety and well-being of children.

Appendix A

County Review Policy

Upon the office receiving three or more review requests within a calendar year, the office may begin a review of the county or if the office after review of independent cases identifies a pattern of concerns within the county, the office may begin a review of the county, to include:

1. Identifying the program line or entity in which the review will be conducted
2. Identifying the specific concern, delivery of service method or functioning of the identified entity concerns including, but not limited to:
 - ◆ Practices involving visitation, relative placement, sibling separation, requests to cease reasonable efforts, no reasonable efforts provided.
 - ◆ Communication with co-investigation
 - ◆ Safety Planning
 - ◆ MDTs
 - ◆ Requests for Removal to JO
3. Notifying the Regional Director, Juvenile Officer, Circuit Manager, Judge of the Juvenile/Family Court and Office of State Courts Administrator of the requests made and authority to review county within the circuit.
4. Request from Children's Division a random sampling of cases within the program line to be reviewed.
5. Interviewing of stakeholders (to include; law enforcement, juvenile officer, children's division, CAC, CASA, GAL, parent attorneys, foster parents) to further identify the specific concern, delivery of services method or functioning of the team members. Request may be made for additional documentation from stakeholders regarding delivery of services.
6. Request to set up a meeting to discuss concerns within the county and to mediate possible solutions to improve the delivery of services or function of the entity
7. Issuance of letter with recommendations to address changes to the entities policies or procedures, delivery of services, or functioning of the entity. Letter to be issued to Children's Division, Juvenile Officer and Office of State Courts Administration.
8. Coordination with Office of State Courts Administration to provide assistance and/or training with regard to the Family Court Improvement Project and/or to develop a plan for change for the county based on the review.

Appendix B
Missouri Revised Statutes
Chapter 37
Office of Administration

Definitions.

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.

Office established--appointment of child advocate.

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.

Access to information--authority of office--confidentiality of information.

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.

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 any findings or reports of the child advocate regarding the parent or child with the court, and issue recommendations regarding the disposition of an investigation, which may be provided to the court and to the investigating agency;
- (5) To file amicus curiae briefs on behalf of the interests of the parent or child; or to file such pleadings necessary to intervene on behalf of the child at the appropriate judicial level using the resources of the office of the attorney general;
- (6) To initiate meetings with the department of social services, the department of mental health, the juvenile court, and juvenile officers;
- (7) 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;
- (8) 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;
- (9) 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; and
- (10) To mediate between alleged victims of sexual misconduct and school districts or charter schools as provided in subsection 1 of section 160.262.

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 a child abuse and neglect investigation resulting in an unsubstantiated report.

Complaint procedures--annual report, contents.

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.

Independent review, when, procedures--recommendations, findings submitted.

37.719. 1. The office shall have the authority to and may conduct an independent review of any entity within a county that has experienced three or more review requests in a calendar year including, but not limited to, children's division, the juvenile office, or guardian ad litem. The office shall establish and implement procedures for reviewing any such entity.

2. The office shall have the authority to make the necessary inquiries and review relevant information and records as the office deems necessary in order to conduct such reviews.

3. The office may make recommendations on changes to any entity's policies and procedures based on the results of the review in order to improve the delivery of services or the function of the entity. Upon completing a review under the provisions of this section, the office shall submit any findings and recommendations to the children's division and the office of state courts administrator.

Files may be disclosed at discretion of child advocate, exceptions--privileged information --penalty for disclosure of confidential material.

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.

Immunity from liability, when.

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.

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.

Chapter 160

Schools--General Provisions

Section 160.262

Mediation, office of the child advocate to coordinate, when--procedures--binding agreement, when.

160.262. 1. The office of the child advocate as created in section 37.705 shall be authorized to coordinate mediation efforts between school districts and students and charter schools and students when requested by both parties when allegations of child abuse arise in a school setting. The office of the child advocate shall maintain a list of individuals who are qualified mediators. The child advocate shall be available as one of the mediators on the list from which parents can choose.

2. Mediation procedures shall meet the following requirements:

(1) The mediation process shall not be used to deny or delay any other complaint process available to the parties; and

(2) The mediation process shall be conducted by a qualified and impartial mediator trained in effective mediation techniques who is not affiliated with schools or school professional associations, is not a mandated reporter of child abuse under state law or regulation, and who is available as a public service.

3. No student, parent of a student, school employee, charter school, or school district shall be required to participate in mediation under this section. If either the school district or charter school or the student or student's parent does not wish to enter into mediation, mediation shall not occur.

4. Each session in the mediation process shall be scheduled in a timely manner and be held in a location that is convenient to the parties in dispute.

5. Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent administrative proceeding, administrative hearing, nor in any civil or criminal proceeding of any state or federal court.

6. If the parties resolve a dispute through the mediation process, the parties shall execute a legally binding agreement that sets forth the resolution and:

(1) States that all discussions that occurred during the mediation process shall remain confidential and may not be used as evidence in any subsequent administrative proceeding, administrative hearing, or civil proceeding of any federal or state court; and

(2) Is signed by a representative of each party who has authority to bind the party.