OFFICE OF THE CHILD ADVOCATE

FISCAL YEAR 2013 ANNUAL REPORT

July 1, 2012 - June 30, 2013
The Honorable Jack Markell  
Governor

Tania M. Culley, Esquire  
Child Advocate

*Safeguarding the welfare of Delaware’s children through educational advocacy, system reform, public awareness, training, and legal representation of children as set forth in 29 Del. C., Ch. 90A*

Office of the Child Advocate

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The Office of the Child Advocate (OCA) was created in 1999 in response to numerous child deaths in Delaware resulting from child abuse. These cases pointed to deficiencies in the child protection system that could only be remedied through the collaborative efforts of Delaware’s many child welfare agencies. The General Assembly determined that an office to oversee these efforts, staff the Child Protection Accountability Commission (CPAC), and provide legal representation on behalf of Delaware’s dependent, neglected, and abused children was necessary. Pursuant to 29 Del. C. § 9005A, OCA is mandated to coordinate a program of legal representation for children; to periodically review all relevant child welfare policies and procedures with a view toward improving the lives of children; recommend changes in procedures for investigating and overseeing the welfare of children; to develop and provide training to child welfare system professionals; and to staff CPAC.

OCA accomplishes its charge to represent children through the employment of four Deputy Child Advocates (DCAs), a substantial and dedicated pool of volunteer attorneys supervised by a managing attorney, and strong partnerships with the child-serving agencies in Delaware. During Fiscal Year 2013, OCA received 570 referrals and made 261 attorney appointments, completed 36 case reviews to ensure the child welfare system was adequately protecting the children involved, and provided legal representation to a total of 737 abused and/or neglected children. Three hundred fifty-nine volunteer attorneys represented children through OCA during the fiscal year, with 32 new attorneys trained in 4 training sessions throughout the state. By the end of FY13, OCA was proudly partnering with 216 volunteer attorneys with at least 5 years experience representing children through OCA. Sixty-five of the 216 are attorneys whom have 10 years of experience or more.

On the last day of the fiscal year, 707 children were in the legal custody of Delaware’s Department of Services for Children, Youth & Their Families (DSCYF). Of those, OCA was representing 364 (52%) of those children, the Court Appointed Special Advocate (CASA) program was representing 333 (47%), and the remaining 10 children (1%) were unrepresented at that time. Throughout FY13, children were regularly represented within 40 days of entering DSCYF custody.

In addition to coordinating the legal representation of children, OCA participated in many initiatives to improve policies, procedures, practices and laws on behalf of children, primarily in the role as staff to CPAC. OCA staff worked diligently to deliver training on mandatory reporting of child abuse to child welfare professionals, as well as to raise awareness within the community, and to make this information widely available online. OCA staff delivered training on mandatory reporting of child abuse, especially to the over 4,000 medical professionals required to receive such training by the March 2013 deadline. OCA continued to support efforts to promote permanency and stability for older youth in foster care and those aging out of foster care, and its staff attended several national trainings and conferences on a variety of child welfare issues. OCA also supported its clients’ active participation in the Youth Advisory Council (YAC) and the Delaware Youth Opportunities Initiative (DYOI).

OCA is extremely grateful to all of the individuals and organizations that support the children served by OCA. The assistance and partnership of these entities is critical as OCA strives to fulfill its mission to safeguard the welfare of Delaware’s children through educational advocacy, system reform, public awareness, training, and legal representation of children.
Legal Representation

Legal Representation of children is OCA’s primary focus. Statutorily required to coordinate a program of legal representation on behalf of children, OCA utilizes 4 full-time Deputy Child Advocates (DCAs) and approximately 350 volunteer attorneys who are supervised by OCA’s Managing Attorney, and also partners with the CASA Program, to represent the best interests of dependent, neglected, and abused children statewide.

OCA’s Volunteer Attorneys

Three hundred fifty-nine volunteer attorneys actively represented children during FY13, and 24 were new volunteers taking their first case. OCA trained 32 attorneys during 4 training sessions in FY13, and a number of veteran volunteers also attended these trainings to improve their understanding of the child protection system. By the end of FY13, OCA boasted a roster of 216 attorneys with at least 5 years of experience representing children through OCA, 65 of them with 10 years of experience or more.

Collectively, volunteer attorneys donated over 4,700 hours of their time to cases that closed in FY13. OCA staff spent nearly 929 hours training and supporting volunteer attorneys in FY13.

Law Firms That Hosted OCA Trainings in FY13:

- Morris James LLP
- Richards Layton & Finger, P.A.
- Young Conaway Stargatt & Taylor LLP

Child Representation Statistics

During the course of FY13, OCA provided legal representation to 737 children statewide, most of whom were in the legal custody of DSCYF. OCA received 568 referrals and made 261 new appointments in FY13.

The bulk of new cases to which OCA attorneys were appointed in FY13 were in New Castle County (74%). Most of those cases were handled by volunteer attorneys (90%), with the remaining 10% being handled by DCAs. In contrast, DCAs handled 76% of the new appointments in Sussex County, and 57% of new appointments in Kent County. Overall, 13% of OCA’s new appointments in FY13 were for Kent County, and 14% were for Sussex (Chart 1). DCAs and their support staff spent 9,239 hours on the representation of children in FY13.

Chart 1. Attorney Appointments by County - FY13

- New Castle (193, 74%)
- Kent (35, 13%)
- Sussex (33, 13%)
Of the 261 new appointments made in FY13, 3 (1%) were for children who were the subject of parent custody disputes, 51 (20%) were for children involved in private dependency/neglect proceedings, and 198 (76%) were for children in the legal custody of DSCYF. The remaining 9 (3%) appointments were for youth who turned 18 and aged out of foster care, but for whom the Family Court extended its jurisdiction and re-appointed the youths’ attorneys.

Three hundred thirteen OCA cases were closed in FY13. Of those, 33 were private cases involving dependency or neglect of children, and 4 were parent custody disputes. The Court terminated its oversight in 7 cases where the Court retained extended jurisdiction. These terminations occurred for various reasons. The remaining cases involved children in the custody of DSCYF, and those cases closed with a variety of outcomes (see Chart 2).

Of those referrals resulted in case reviews to ensure the child welfare system was adequately protecting the children involved and appropriately responding to the needs of those children and their families. One hundred ninety-five of those referrals resulted in child representation through the CASA Program, while another 11 were resolved before an attorney or a CASA could be appointed. Twenty-two referrals had no apparent dependency, neglect, or abuse issues and therefore there was no role for OCA. Eleven cases were accepted by OCA and still pending disposition at the close of the fiscal year. In FY13, OCA staff spent over 240 hours handling referrals and reviewing cases for the need for attorney for appointment and system improvement.

OCA worked closely with the CASA Program throughout FY13 to ensure that all children in DSCYF custody received legal representation. On June 30, 2013, 707 children were in DSCYF custody, an 11% decrease from the prior fiscal year. OCA was representing 364 (52%) of those children, CASA was representing 333 (47%), and the remaining 10 children (1%) were unrepresented on the last day of the fiscal year. All 10 of the children who were unrepresented at the end of the fiscal year received representation within 40 days of entering DSCYF custody. Throughout FY13, children were regularly represented within 40 days.

At the end of FY13, OCA was actively representing 448 children. The majority, 364, were in the legal custody of DSCYF. Another 54 were the subject of dependency/neglect proceedings, while 15 were the subject of parent custody proceedings. Ten youth remained represented by attorneys after their 18th birthday under the extended jurisdiction of the Family Court.

By the end of FY13, 316 referrals had been made to OCA to which attorneys were not appointed. Thirty-nine of those referrals resulted in case reviews to ensure the child welfare system was adequately protecting the children involved and appropriately responding to the needs of those children and their families. One hundred ninety-five of those referrals resulted in child representation through the CASA Program, while another 11 were resolved before an attorney or a CASA could be appointed. Twenty-two referrals had no apparent dependency, neglect, or abuse issues and therefore there was no role for OCA. Eleven cases were accepted by OCA and still pending disposition at the close of the fiscal year. In FY13, OCA staff spent over 240 hours handling referrals and reviewing cases for the need for attorney for appointment and system improvement.

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**Child Welfare Policy** is another area in which OCA acts to strengthen children and families and the system that serves them. OCA is mandated, pursuant to 29 Del. C. § 9005A (2), to periodically review child welfare policies and procedures with a focus on expanding the rights of children. OCA is also to recommend changes in procedures for investigating and overseeing the welfare of children, and to develop and provide training to child welfare system professionals. 29 Del. C. § 9005A (4). OCA’s staff spent over 1,290 hours on efforts involving child protection policy and procedure in FY13, and another 1,238 hours on such efforts while fulfilling their duties as staff to CPAC.

In its role as staff to CPAC, OCA supports CPAC and its committees by ensuring compliance with the Freedom of Information Act (FOIA), preparing minutes and agendas, scheduling meeting times and locations, facilitating communications, conducting research and, in some cases, even chairing committees. Each full-time staff member participates substantively on at least one CPAC committee or initiative including: CPAC’s Education, Abuse Intervention, Training, and Permanency for Adolescents Committees. See CPAC Annual Report for more details at [http://courts.delaware.gov/childadvocate/CPACreports.stm](http://courts.delaware.gov/childadvocate/CPACreports.stm)

OCA partnered with the Office of the Public Defender and community agencies for the passage of House Bill 182. This bill allows Family Court discretion in certain circumstances to determine whether or not a youth should be placed on the Sex Offender Registry and allows rehabilitated youth an opportunity to request removal.

The Child Advocate, Tania Culley, testified at the Joint Finance Committee regarding DSCYF operations and supported DSCYF initiatives as well as challenged the legislature to push DSCYF and other systems to make further improvements. OCA opposed House Bill 71, which would criminalize the possession of cigarettes by minors, and is participating in meetings to provide an alternate civil solution.

In 2012, Governor Markell appointed a group of youth and child welfare professionals to form the HJR18 Committee, including the Child Advocate. This Resolution outlined recommendations for how to extend services to youth aging out of the child welfare system. In March 2013, the Committee was recognized by the House of Representatives for their work with a tribute on the House Floor.

In 2013, OCA assisted in drafting and supporting the work sponsored by CPAC members, Representative Melanie Smith and Senator Patricia Blevins, created the position of Investigation Coordinator within DSCYF to monitor, coordinate, and track all cases of child death, near death, and sexual abuse to ensure a multidisciplinary civil and criminal response system. This position was filled by one of OCA’s Deputies, Jennifer Donahue. Ms. Donahue started as Delaware’s Investigation Coordinator in May of 2013.

In addition to the bills championed by CPAC - - House Bill 125 (Reinstatement of Parental Rights) and Senate Bill 99 (Non-Relative Placements), OCA partnered with the Office of the Public Defender and community agencies for the passage of House Bill 182. This bill allows Family Court discretion in certain circumstances to determine whether or not a youth should be placed on the Sex Offender Registry and allows rehabilitated youth an opportunity to request removal.
of the Ready by 21 Committee. The Ready By 21 Committee, similar to the HJR18 Committee was formed with youth and adult supporters. This Committee, using the recommendations from the HJR18 Committee, crafted House Bill 163. House Bill 163, passed in June of 2013, will improve Court reviews of youth post 18, provide maintenance stipends for youth, and codify the child welfare agency’s duty to support youth to age 21.

Ms. Culley also participated as Co-Chair of the DYOI Policy Working Group. The DYOI Policy Working Group is designed to coordinate the policy recommendations of other DYOI working groups and make recommendations to the DYOI Community Partnership Board as to what agendas to prioritize on behalf of youth in foster care.

An equally important task of the DYOI Policy Working Group is to teach youth how to become self-advocates and how to advance policy. That goal was realized when the youth involved with the Ready by 21 Committee successfully drafted, lobbied for, and obtained passage of House Bill 163. Ms. Culley took an active role in assisting with the bill but, more importantly, she facilitated the active participation of the youth members of the group. OCA staff participated as members of other DYOI working groups: Transitions, Education, Employment, and Physical and Mental Health.

OCA also assisted DYOI in planning the two-day Ready by 21 Summit, to be held in August 2013, focusing on improvements to the child welfare system and the experience of adolescents aging out. The Summit had tracks for youth and professionals, as well as a joint track. Over 100 youth and 350 professionals were scheduled to attend the Summit. Youth led the planning of workshops and creating public and private partnerships. Workshops included topics such as: youth involvement in court, case planning, employment, financial literacy, and housing options.

Fiscal Year 2014 promises to bring numerous legislative initiatives on behalf of youth including changes to the guardianship statute, the child protection registry, CPAC, OCA, juvenile expungements, and consolidated background checks.

The Education Summit, sponsored primarily by the Family Court, was held in April 2013 with an interdisciplinary focus to help children in foster care achieve academic success. After months of planning, the Summit convened educators, court administrators, judges, advocates, and child welfare professionals. There were various trainings on trauma, educational advocacy, discipline, information sharing, along with keynote speakers on education initiatives for children in care. Deputy Child Advocates, Eliza Hirst and Heather Williams, served on the planning committee that met monthly to address logistics, speakers, a pre- and post-conference survey, and long term goals. Nearly all OCA staff attended the Summit and Ms. Hirst presented regarding educational legal advocacy for youth in care.

During FY13, Ms. Culley and Ms. Donahue continued regular attendance at the monthly Youth Advisory Council (YAC) meetings and supported the youth involved with a variety of activities. One such activity was a Holiday Skate
CHI L D WELFA R E POLICY

CPAC and CDNDSC hosted its fourth Protecting Delaware’s Children Conference, a multidisciplinary conference, on May 22, 2013 and May 23, 2013 at Dover Downs Hotel and Casino. The conference was attended by approximately 500 professionals, including law enforcement officers, prosecutors, judges, attorneys, DFS workers, therapists, educators, community providers, and medical professionals who regularly respond to allegations of child abuse and neglect in Delaware. OCA Staff attended and Ms. Morales co-chaired the planning and development of the conference. In addition to national speakers who addressed multi-disciplinary collaboration and various aspects of child abuse (including torture; investigation of death of infants and young children; abusive head trauma; the role of the non-offending caregiver and the priority of holding perpetrators accountable) through plenary sessions and workshops, an Advanced Training Course of the Child Abuse Multidisciplinary Team (MDT) was offered on day one. The course was taught by a group from the National Children’s Alliance, and MDT members learned how to foster teamwork and collaboration as well as how to develop county-specific action plans to strengthen system response to child abuse.

Also in its role as staff to CPAC, in FY13 OCA partnered with the Criminal Justice Council to administer the federal Children’s Justice Act (CJA) grant funds and to coordinate

Party. Ms. Donahue and Ms. Culley also gave a presentation to YAC on the role of their lawyers.

In FY13, Program Administrator Rosalie Morales took the lead in developing and implementing the Child Death Near Death Stillbirth (CDNDSC) Tracking and Response protocol, which was approved by the CPAC/CDNDSC Commission in May 2013. Effective retroactively to January 2013, recommendations from CDNDSC’s review panels will be formally disseminated to agencies and responses will be tracked via the new protocol. Additionally, quarterly reports on the identified trends will be given at the Joint Commission meetings and the CDNDSC and CPAC Annual Reports will include any written public responses submitted by the agencies.

CPAC and CDNDSC also plan to host a two-day advanced training course in the next year. The course will feature national experts demonstrating best practices on crime scene preservation, evidence collection, suspect interviews, and abuse re-enactments utilizing dolls. In addition to the training, CPAC and CDNDSC plan to purchase several doll kits that will be disseminated according to the need of each law enforcement agency. CPAC and CDNDSC plan to create a Delaware-specific “Little Black Book” that will include the child abuse investigative protocols that addressing the coordination of all child abuse investigations, including fatalities.
the activities funded by the grant, including the Child First conferences that offer training on the forensic interviewing of children. Ms. Morales also continued to supervise the CPAC Training Coordinator, Jessica Begley, who took on a greater role in coordinating and implementing training activities and leading initiatives through CPAC. Ms. Morales and Ms. Begley worked diligently to make mandatory reporting training widely available online, in formats tailored to specific audiences such as education professionals, medical professionals, and the general public. As a result, the information is easily accessible for everyone. Overall, 5,870 people were trained during 44 in person and online trainings.

Pursuant to legislation passed in FY10, all licensees of the Delaware Board of Medical Licensure and Discipline were required to undergo training on the mandatory reporting of child abuse. CPAC’s training module, available on the OCA website, was made available to medical professionals and others in the community. By the March 31, 2013 deadline, some 4,420 doctors nationwide completed the training via OCA’s website.

The Child Advocate together with CDNDSC’s Executive Director attended “Preventing Child Fatalities: Promising Strategies for Improving the Outcomes of Fatality Reviews” in Washington DC. This national meeting was hosted by the Children’s Bureau and was the final report of a study in which Delaware was a participating site to look at cross-system collaboration of fatality reviews. Since CPAC serves as the Citizen Review Panel for Delaware, participation in these meetings is critical to ensure system reform results from child death and near death reviews.

OCA continued to meet regularly with the DSCYF Cabinet Secretary to improve policies and procedures in the child welfare system and develop future policy and legislative agendas. Quarterly meetings with the Division of Family Services (DFS) help to advance issues such as case management decisions, placement, training, and system challenges. Annual meetings with the Division of Management Support Services (DMSS) were held to discuss IV-E funding requirements and Medicaid and social security policy matters affecting youth in DSCYF custody. From these meetings, a training was developed on the
role of DMSS and the required language in court orders to ensure federal funding (IV-E) for youth in foster care. In addition, OCA performed case reviews on child abuse/neglect cases referred to OCA to ensure the child welfare system is adequately protecting the children involved and to determine whether there were any breakdowns in the system’s response to the needs of those children and their families.

OCA held two retreats during FY13, one for all OCA staff and another for the attorneys. OCA staff attended the first of four vicarious trauma trainings in FY13. OCA staff are participating in this training to help ensure everyone is taking care of themselves in order to best make positive contributions to Delaware’s child welfare system. Training thus far has focused on stress vulnerability and self-care awareness.

OCA benefitted from the assistance of four law clerks throughout FY13. These law clerks helped the Deputy Child Advocates with record reviews, memos, and preparation for court hearings. Ms. Hirst and a law clerk wrote an article entitled *Dismantling the United Front In Child Abuse Cases: Reevaluating Delaware’s Serious Injury Statute After Fifteen Years of ASFA* published in the Washington and Lee’s University School of Law’s Journal of Civil Rights and Social Justice in the Spring 2013 issue. Another DCA, Kelly Ensslin, together with a former law clerk, had an article entitled *Best Practices for Investigating and Prosecuting Child Abuse: Applying Lessons Learned from Delaware’s Earl Bradley Case* published in the Widener Law Review.

Ms. Culley and Ms. Hirst completed and passed the Child Welfare Law Specialist Certification through the National Association of Counsel for Children and are now certified child welfare law specialists. Three other OCA attorneys have completed the exam and are waiting for results. As of June 30, 2013 this is a certification that only these two hold in Delaware.

OCA promoted team building by boasting nearly 100% participation in the Governor’s Cup 5K in May 2013. Ms. Hirst came in second in her age group and 16th overall. OCA came in 4th as a team.
In addition to its other policy work, OCA participated in various workgroups focused on improving services to children and advocating for children’s rights, including the Child Death, Near Death, Stillbirth Commission and its Child Abuse Neglect (CAN) Panel, the Interagency Committee on Adoption and its Community Education on Adoption Subcommittee, and Fetal Alcohol Spectrum Disorder (FASD) Task Force. Chief Judge Chandlee Kuhn convened a group to study the school discipline and juvenile justice issues in Delaware. As part of the group Ms. Hirst wrote a paper on various education outcomes for youth in foster care. Ms. Hirst was also asked to co-lead the planning stage of a project in the Brandywine School District. This project is funded through a grant from Casey Family Programs. A point person has been identified to oversee the project and the project administrator is working to implement ideas such as improving data exchange between the school district and DFS along with potentially developing trauma-informed practices in school.

OCA staff were asked to present at several conferences and trainings including: CASA training, Permanency Summit, Bridge the Gap Pre-Admission Conference, the Delaware Paralegal Association, Nemours Prevention Services, and Children & Families First foster-adoptive parent support group. Ms. Hirst also taught a CLE on Section 504 and IDEA special education issues. Ms. Culley partnered with the Office of the Public Defender to develop and provide training on obtaining juvenile expungements. With the assistance of DSCYF, 150 state employees and community providers were trained on the process of juvenile expungements. Ms. Culley and Ms. Morales also developed training with one of its volunteers, Shauna Hagan, Esq., a Family Law attorney, and presented at the Delaware State Bar Association Women and Law Section’s Sisters in Success Program at Baylor Women’s Correctional Institute. The Rocky Mountain Children’s Law Center invited Ms. Culley to Denver to present to a multidisciplinary forum on Delaware’s implementation of the federal McKinney Vento Act, and how Delaware agencies partner to ensure school stability for youth in foster care. In response to the Family Court regularly appointing members of the general bar, Ms. Culley is working with Family Court and other partners to train attorneys to represent children and parents in non-DSCYF proceedings.

OCA staff attended several local and national multidisciplinary conferences and meetings throughout FY13, including Protecting Delaware’s Children, Achieving Permanency for Children in Foster Care, the Third National Cribs for Kids, the National Council of Juvenile and Family Court Judges, the National Association of Counsel for Children, and the Twelfth International Conference on Shaken Baby Syndrome and Abusive Head Trauma.
DONATIONS

OCA received many generous donations from individuals and organizations in the community who seek to help OCA provide necessities, as well as life experiences, to the children OCA serves. These donations help ensure OCA’s clients enjoy the same experiences other children may take for granted, especially during the holidays. In FY13, community members again outdid themselves in their generous donations to OCA.

Many of OCA’s clients were “adopted” and provided with an abundance of gifts during the FY13 holiday season by organizations such as the Christiana Rotary Club and the Rotary’s Transform One Unique Child’s Heart (TOUCH Program), the Overflow Church, the Crossroads Presbyterian Church, Digital Legal, and the Eastpoint Community Church. Members of these organizations rallied to collect thoughtful, individualized gifts from the wish lists of these children. Gifts included toys, games, clothes, shoes, sports equipment and apparel, electronics, art supplies, jewelry, toiletries, and more. Over 200 OCA clients benefited from the extraordinary kindness of these organizations and families.

During FY13, OCA used the monetary donations from community members to help several children take advantage of extraordinary opportunities and to fulfill their dreams. One youth had such an opportunity when donated funds enabled her to attend the 2013 Business Professionals of America National Leadership Conference named “Uncover Your Magic.” At the conference she met with 5,000 other participants. They competed and prepared for the workforce by advancing leadership, citizenship, academic, and technological skills.

OCA helped another youth participate in her eighth grade graduation activities. She was able to purchase her eighth grade yearbook, class t-shirt, and panoramic class picture. She was also able to attend the eighth grade semi-formal dance and the class trip to Washington D.C.

Several children were able to play sports or get school pictures thanks to donated funds. One child was able to attend a school field trip to Hershey Park. Several other youth received help paying for their shoes and equipment for their school sports teams and one child received a new bike. Donations were also used to help an OCA client pay for tutoring in preparation for her GED test. These are but a few examples of how donated funds were used to help OCA’s clients in FY13. OCA is extremely grateful to the organizations that make it possible to continue providing Delaware’s most vulnerable youth with experiences such as these.

Together, the Bankruptcy, Melson-Arsht, Rodney and Terry Carey Inns and Delaware’s Inns of Court continued their tradition of assisting OCA to provide special opportunities and memories for children during the holidays and throughout the year by donating gifts for OCA’s clients, as well as making generous monetary contributions of over $1,200.
Office of the Child Advocate FY13 Annual Report

Fiscal Year 2013

OCA Pro Bono Honor Roll


* Attorney has been a volunteer for at least 5 years
** Attorney has been a volunteer for at least 10 years
OFFICE OF THE CHILD ADVOCATE STAFF

Tania M. Culley, Esquire
Child Advocate

Kelly Ensslin, Esquire ♦ Jennifer Donahue, Esquire
Eliza Hirst, Esquire ♦ Heather Williams, Esquire
Deputy Child Advocates

Joanna Suder, Esquire
Managing Attorney

Rosalie Morales
Program Administrator

Sam Clancy ♦ Jennifer Falkowski ♦ Melissa Palokas
Family Crisis Therapists

Molly Shaw
Office Manager