

**Office of the Child Advocate Written Testimony to Joint Committee on Child Welfare
System Oversight: Police Protective Custody Removals
March 31, 2025**

Chair Gossage, Vice Chair Howerton, and Members of the Committee, I am writing as the Child Advocate with the Kansas Office of the Child Advocate. The Office of the Child Advocate (OCA) acts as a neutral, independent agency to ensure Kansas children and families receive adequate coordination of services for child safety and wellbeing. OCA receives and responds to complaints regarding state agencies, service providers, and juvenile courts that adversely affect the health, safety, and wellbeing of children. Through case and systemic recommendations, OCA seeks impact for best practices, policies, and law.

Kansas has taken significant strides towards improving upstream preventative services through early implementation of Family First Prevention Services, as well as initiatives such as the 4-Questions and Team Decision Making (TDM) to prevent unnecessary removals. Communities and policymakers need to recognize the necessity of building sustainable capacity, supporting families, and ensuring children can remain safely in their homes, thriving with their family. As efforts progress to reduce the number of children in care, Kansas must proceed in a manner that remains child-centered and safety-centered.

In the 2024 Annual Report and prior reports, OCA has encouraged an intentional review of Kansas statutes, policies, and practice to better differentiate poverty from neglect, reducing unnecessary trauma of removal, and narrowing the front door. Presently, there is disparate decision-making statewide due to a lack of clarity in definitions of neglect and harm, leading to inconsistent removal decisions statewide, specifically amongst courts, DCF regions, and police protective custody determinations. Kansas must strive to balance the harm a child may experience if they were to remain at home versus the harm caused by the trauma of removal. A study in 2006 compared children in foster care, children who were found to be maltreated yet remained at home, with a third group of children that were not placed in foster care nor maltreated despite similar demographic characteristics finding that,

“...children placed in out of home care exhibited significant behavior problems in comparison to children who received adequate care, and using the same pre- and postplacement measure of adaptation, foster care children showed elevated levels of behavior problems following release from care. Similarly, children placed into unfamiliar foster care showed higher levels of internalizing problems compared with children reared by maltreating caregivers, children in familiar care, and children who received adequate caregiving. Findings suggest that outcomes

related to foster care may vary with type of care and beyond the effects associated with maltreatment history, baseline adaptation, and socioeconomic status.”¹

Another, more recent, study in 2017, showed similar results.²

It is important to note when determining whether removal is warranted does not equate to children experiencing higher risk factors as ignored or unaddressed. Prevention services, such as intensive family preservation, must be available, offered, and utilized. And if such services are not available, accessible, and utilized, then removal may be warranted.

OCA has specifically highlighted the overreliance and burden placed on law enforcement to make time critical decisions assessing risk of harm versus safety and well-being with limited information, access to family history, and knowledge or access to community resources. Kansas is relying on law enforcement to not only act as a public safety officer but also that of a social worker. Recognition of this particular issue resulted in OCA dedicating a section in the 2024 Annual Report to exploration of 24-hour child protection response by DCF. (See 2024 OCA Annual Report, pages 31-33).



OCA notes that currently, only the Protection Center hotline operates 24 hours in Kansas, and reports that are called in after-hours indicating a child may be in imminent danger are referred to law enforcement. OCA has also received reports that children in imminent danger are sometimes referred to law enforcement during regular DCF business hours. Active responses and decisions on urgent child safety and removal are typically made by DCF only 40 hours per week, while the remaining 128 hours per week are managed by law enforcement. Law enforcement

does not have “in real time” access to DCF resources or historical information to enable consideration of safely vetted alternative options that would prevent children from being placed into police protective custody. Additionally, law enforcement operates by different removal standards than DCF, to include situations where law enforcement would be mandated to take children into protective custody. Questions have been raised about a high percentage of children being removed by law enforcement, bringing into the equation curiosity as to the possibility of reducing the trauma of a preventable removal, if DCF were available and involved at the outset. Although DCF does not provide after-hours workers, they require CMPs to provide 24-hour active response for children and youth in their care. OCA explored other states’ approaches and access, providing examples for Kansas to consider.

OCA applauds the recent work and bipartisan efforts to include improved access by law enforcement to DCF, as well as guidance for law enforcement applying the 4-Questions through the conference committee amendments to HB 2075. Looking ahead, OCA is concerned that “removals” in Kansas are not being accurately tracked and reported, nor is the number of

¹ Lawrence CR, Carlson EA, Egeland B. The impact of foster care on development. *Dev Psychopathol.* 2006 Winter;18(1):57-76. doi: 10.1017/S0954579406060044. PMID: 16478552.

² Laura Gypen, Johan Vanderfaeillie, Skrallan De Maeyer, Laurence Belenger, Frank Van Holen, Outcomes of children who grew up in foster care: Systematic-review, *Children and Youth Services Review*, Volume 76, 2017, Pages 74-83, ISSN 0190-7409, <https://doi.org/10.1016/j.chilyouth.2017.02.035>.

“placements” a child is experiencing, skewing data utilized to guide future policy decisions and services. OCA encourages targeted coordination among law enforcement, juvenile intake assessment centers (JIAC), DCF, and the Courts to ensure data sharing and tracking of all PPC removals.

In consideration of data, presently, OCA categorizes complaints received by six main categories, each of which include subcategories. One of the subcategories is “Unnecessary Removal from Parental Care.” Between January 1, 2023 to present, unnecessary removal from parental care as the primary area of concern accounted for 5% of all initial complaints. This is the sixth most frequently cited subcategory. Since inception, OCA has made 20 formal findings.

Supported	3
Unsupported, with recommendations	2
Unsupported, without recommendations	15

*See last page for examples of OCA recommendations.

Of the complaints including unnecessary removal, nearly half reported children removed through PPC. Common themes OCA has noted as generalized statements of concern include:

- Medical providers submit mandated reports to DCF, but due to not receiving timely response, they submit simultaneous reports to law enforcement and primarily rely on law enforcement response often resulting in PPC.
- DCF and other reporters were instructed by the prosecutor’s office to contact law enforcement and request PPC versus submitting an Affidavit and request for Ex Parte Order for Custody.
- Law Enforcement report a lack of timely response by DCF and/or CMP, necessitating the use of PPC to address presenting child and family wellbeing concerns.
- Education providers report a lack of timely response by DCF and/or CMP, necessitating the use of PPC to address presenting child and family wellbeing concerns.
- Child(ren) placed in PPC. TDM held with a recommendation that the child(ren) return to parental custody with in-home services. However, Court determines that the best interest of the children is to be placed in DCF custody, out-of-home placement. Concerns voiced include a lack of trust by judicial partners that DCF will ensure preventative in-home services are accessible, provided, and utilized.
- DCF Affidavit submitted and Ex Parte order per DCF request that Protective Custody be used to pick up child(ren) and deliver to DCF (child(ren) less than 1 year).
- *Not PPC, but practice in an area by DCF to utilize law enforcement to accompany DCF at the time of removal in all cases to execute Ex Parte Order despite no identified safety concerns for DCF.

In efforts to better track the use and impact of PPC, OCA is committed to formally tracking PPC in all complaint concerns received, beginning April 1, 2025.

OCA appreciates your time and attention in recognizing the importance of children and families receiving timely coordination and access to a comprehensive continuum of services, amplifying reasonable efforts at the prevention level, addressing safety, and balancing the harm of removal,

particularly when evaluating the reliance of PPC and impact on children, families, and the community.

I am pleased to stand for questions at the appropriate time.

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OCA recommendation examples:

- OCA encourages DCF and CMP to reach out to panel attorneys, County Attorney, Court, and local law enforcement representatives to better inform and educate regarding the TDM process and prevention services.
- Agency exhaust reasonable efforts to prevent removal, including option of Family Preservation Services, through TDM process.
- To eliminate delays in service referrals, OCA recommends DCF review contracts with family preservation service providers regarding monthly caps or locate additional intensive service providers that can be utilized when the family preservation provider is unable to accept new referrals.
- OCA recommends DCF ensure policy be regularly reviewed with staff and supervisor regarding assessment of immediate and ongoing child safety. Additionally, internal case review audits can assist in identifying strengths and areas for growth regarding assessment of child safety.
- OCA recommends that DCF fully assess a family prior to requesting law enforcement assistance or attendance. OCA has noted on multiple cases that DCF requests the presence of law enforcement when a joint investigation is not required by statute (PPM 15301); and/or without fully documenting a concern for the safety of the DCF worker. These requests have often occurred when there is the possibility of a removal from the home. In the absence of the items listed above, requests for law enforcement assistance should occur after the child and situation have been assessed, as per PPM 2471. Law enforcement presence may contribute to individual's defensive behavior, creating an adversarial relationship as well as unnecessary trauma for caregivers and children. OCA recommends that DCF ensure CPS workers are utilizing the preventative and protective aspects within policy to eliminate unnecessary trauma to families.