

The Department of the Public Advocate

Annual Report



A Voice for the People
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Ronald K. Chen
Public Advocate



Jon S. Corzine
Governor



A Voice for the People

The Department of the Public Advocate is charged with making government more accountable and responsive to the needs of New Jersey residents, especially our most vulnerable citizens.

The Public Advocate's mission is to act as a voice for the people on a range of critical issues. This is accomplished through many avenues: policy research and reform, investigation of abuse and neglect, community partnerships, legal advocacy, legislative and regulatory action, education and outreach.

The Public Advocate works both inside and outside state government to protect the interests of the public, with a special focus on the elderly, people with mental illness or developmental disabilities, consumers and children.

Originally formed in 1974 under then Gov. Brendan T. Byrne, the Department was dissolved in 1994. After years of vigorous advocacy by a broad coalition of New Jersey citizens, the New Jersey Legislature adopted the Public Advocate Restoration Act in 2005 with the leadership of Senators Joseph F. Vitale and Robert J. Martin and Assemblymen Wilfredo Caraballo, John J. Burzichelli, Alfred E. Steele and Mims Hackett Jr. On July 12, 2005, Governor Richard Codey signed the bill into law.

In 2006, Governor Jon Corzine inaugurated the new Department with the appointment of Ronald K. Chen to serve as the first Public Advocate in New Jersey in nearly 12 years.

New Jersey's Public Advocate

A Strong Voice on Behalf of all NJ Residents

The Department of the Public Advocate fights vigorously for the rights of New Jersey residents on a wide variety of issues ranging from voting and property rights to children's health and access to services for people with disabilities.

Investigating Childhood Lead Poisoning

A year-long investigation by the New Jersey Department of the Public Advocate uncovered significant gaps in the systems



designed to protect New Jersey children from lead poisoning.

The Department's field investigation late last year found lead dust levels exceeding the legal standard in 85 of 104, or 82 percent of, homes tested in five of the New Jersey cities with high concentrations of lead-poisoned children: Trenton, Camden, Newark, East Orange and Irvington. Together, these five cities accounted for 31 percent of all reported lead poisonings in New Jersey in FY 2005.

Most of the homes tested had already been subject to lead inspections and/or abatements and had been cleared for occupancy. Yet Public

Advocate staff found shoddy abatement and clean-up work and interviewed families of children whose blood lead levels were *higher* after the lead problem in their home had supposedly been cleaned up.

Childhood lead poisoning remains one of the state's most stubborn..... public health crisis.

Thirty years after lead was removed from all household paint and two decades after the introduction of lead-free gasoline, childhood lead poisoning remains one of the state's most stubborn and enduring public health crises. Despite the efforts of half a dozen state agencies to eradicate lead contamination and to address the irreversible and sometimes deadly effects of lead poisoning, the systems designed to eliminate the source of the problem require improvement.

As the results of the field study tests began to come in, the Department immediately notified the families living in residences with significantly elevated lead dust levels and recommended that they have their children's blood lead levels checked. So far, 31 children have been tested. The families of 16 of these children did not share the results with us. Of the 15 remaining children, all had some level of lead in their blood, and 8 had levels at or above 10 micrograms per deciliter, the federal level of



lead in their blood, and 8 had levels at or above 10 micrograms per deciliter, the federal level of concern. Five families have permanently relocated and several homes have been remediated to reduce lead exposure. We helped one family extend its relocation assistance while their home was being abated. The families were also assigned a social worker to help them navigate the lead bureaucracy and access abatement and relocation assistance and were referred to a Legal Services attorney should they need help in protecting their rights as tenants.

The Public Advocate also immediately began working with other state agencies that play a role in our lead poisoning response and prevention system. Together, we recently announced a series of concrete steps that will begin to address the problem, including lowering the threshold at which a child is considered lead poisoned, expanding lead screening and increasing oversight of lead abatement contractors. Likewise, the cities where the investigation was conducted have joined with us to protect at-risk children and to identify and remediate contaminated residences. Looking forward, the Department will work with the Legislature and other state Departments on comprehensive statutory and regulatory reform.

Fighting Eminent Domain Abuse

The Public Advocate has helped alter the legal landscape governing the taking of private property for redevelopment, ensuring that



redevelopment efforts proceed in a manner consistent with the New Jersey Constitution and do not violate the rights of homeowners, businesses and tenants.

The Department of the Public Advocate has scored major court victories in its ongoing effort to prevent abuses of eminent domain laws to ensure that the constitutional rights of private property owners are protected.

In June 2007, the New Jersey Supreme Court issued a landmark decision that helped rein in the overly broad definition of blight contained in the Local Redevelopment and Housing Law. The Supreme Court agreed with the Public Advocate's argument, as *amicus curiae*, that the definition of blight in the statute was too broad. Early this year, the Public Advocate scored yet another major legal victory when the Appellate Division ruled that property owners are entitled to clear notice and a fair hearing before a municipality can take their property for redevelopment.

In addition, the Department is working with property owners facing condemnation proceedings in communities throughout the state, including residents in Mount Holly and Long Branch, to ensure that their legal rights are protected.

Protecting Consumers

The Public Advocate's Rate Counsel saved consumers an estimated \$237 million in 2007 by protecting consumers from unfair or unjustified increases in their electric, gas, cable TV, telecommunications and water bills.

The Public Advocate continues to work to shape the state's energy policy with an emphasis on fostering competitive energy markets and encouraging greater use of renewable energy. Rate Counsel is leading the charge to protect ratepayers, especially low-

income and senior citizens, in the face of recent efforts to deregulate basic telephone and cable TV service.

Advocating for People with Disabilities

The Public Advocate has protected the rights of children to receive appropriate special education services by lobbying successfully for the “burden of proof” in special education hearings to shift from parents back to school districts, where it was for 17 years prior to recent federal court rulings.

The Public Advocate also forced the state to broaden eligibility requirements for services provided by the state Division of Developmental Disabilities after winning a court battle to strike down the state’s overly-restrictive definition of disability. This change will benefit thousands of adults with developmental disabilities who live with aging caregivers and may not have sought assistance from the state when they were younger.

The long-standing waiting list for people with developmental disabilities in need of residential placement or other support services is the subject of an ongoing investigation by the Public Advocate. The Advocate also continues to monitor closely the state’s ongoing effort to reduce the number of people living in state institutions.

Protecting Voters’ Rights

New Jersey will finally begin to comply fully with the federal “motor voter” law as a result of an agreement the Public Advocate reached with the state Motor Vehicle Commission and the Division of Elections in March 2008. A 2007 Public Advocate investigation showed that the NJ MVC has not consistently provided voter registration

opportunities despite a federal law that requires it to do so. Beginning in spring 2008, MVC will step up its efforts to offer to register voters.



The Department also conducted spot inspections of polling places throughout the state and identified dozens of locations that are inaccessible to people with disabilities. As a result of this investigation, election officials in several counties conducted reinspections of problem sites and took steps to either relocate or make appropriate accommodations to at least some of the noncompliant polling places.

On election days, Public Advocate attorneys represent voters in courthouses throughout New Jersey to secure their right to vote when they have been wrongly turned away at the polls. We have consistently won more than 85% of such cases.

Safeguarding the Elderly

The Public Advocate is working toward legislative and regulatory reforms that will better protect residents of assisted living facilities.

Working collaboratively with the DHSS the Department developed proposed regulations to require assisted living facilities to give prospective residents a uniform disclosure form. The disclosure would give consumers details about services, staffing, rates, discharge policies, Medicaid eligibility policies, and other conditions in the facility.

The Public Advocate is also working

closely with DHSS and members of the Legislature on statutory reforms that would prohibit assisted living facilities from involuntarily discharging residents solely because they are moving from private pay to Medicaid status. Reform proposals that would require all assisted living facilities to reserve a minimum percentage of their licensed beds for Medicaid recipients and would provide due process protections for people who are involuntarily discharged or evicted from assisted living facilities are also being formulated.

Ending Elder Abuse

Elderly people living in nursing homes are especially vulnerable to abuse and neglect. The Office of the Ombudsman for the Institutionalized Elderly, its investigators and a cadre of trained volunteers safeguarded thousands of our aging citizens, many with no family to watch over them.

From 2006 to 2007, the eElder Ombudsman staff responded to about 6,400 complaints or incidents involving people over 60 living in nursing homes or other long-term care facilities. Many of these involved allegations of abuse or neglect and resulted in the successful prosecution of individuals guilty of abusing or financially exploiting vulnerable elderly people.

The office's 200 volunteer advocates served as another set of eyes in nursing homes across the state, logging about 15,000 hours addressing residents concerns.

In addition, the Ombudsman has stepped up efforts to combat the financial exploitation of nursing facility residents by conducting Power of Attorney trainings for nursing facility staff throughout the state.

Helping People With Mental Illness

With the cost of keeping one person in a state hospital running about \$218,000 per year, the Public Advocate is the leading voice recommending that the state begin the process of shifting funds from the state psychiatric hospital system into the community-based mental health system.



A study conducted by Public Advocate staff showed that Residential Health Care Facilities, community homes that provide an affordable housing resource for people with mental illness and people who are elderly, are a viable alternative to hospitalization for some of the 1,000 people currently being held in psychiatric hospitals past their discharge date.

Releasing these stabilized patients and downsizing state psychiatric hospitals would save millions of dollars which could be redirected to provide community-based mental health services and supportive housing for hundreds of mental health consumers.

Through our Mental Health & Guardianship Advocacy staff, the Department represents individuals facing civil commitment in state, county, private and general hospitals. In 2007, the unit opened 19,029 cases and closed 16,111. With an overall success rate of 87 percent, department attorneys were able to prove in the vast majority of cases that clients should be treated in less restrictive settings and should not be involuntarily committed.

Creating More Affordable Housing

The Department of the Public Advocate is helping to frame the debate on affordable housing in New Jersey. Last year, the state's Council on Affordable Housing (COAH) doubled its affordable housing need estimates and placed greater emphasis on the need to create housing for the state's poorest residents after the Public Advocate issued a report critical of the agency's rules.

The Public Advocate is also strongly supportive of proposed legislative reforms that would mandate a set-aside to ensure housing opportunities for the lowest income households; create new funding sources for affordable housing; abolish Regional Contribution Agreements which allow towns to buy their way out of providing their fair share of affordable housing; ensure that affordable housing is not lost to redevelopment; and promote affordable housing options for people with disabilities and senior citizens.

Helping Citizens Navigate State Government

Help was just a phone call or an email away for the more than 2,000 New Jerseyans who tapped the assistance of the Public Advocate's Office of Citizens Relations during 2007. OCR case managers were able to help private citizens in their disputes with government entities on a wide variety of issues from flooded properties, to lack of transportation to obtaining a tax rebate.

The division's staff responded to complaints about municipal matters, eminent domain, the Motor Vehicle Commission, the Department of Environmental Protection, housing, the state's handling of developmental disability and mental health cases and various consumer complaints.

Resolving Conflicts Without Litigation

In state fiscal year 2007, the Public Advocate's Office of Dispute Settlement handled 819 cases and trained 210 people in mediation techniques. These services saved millions of dollars in litigation costs, hundreds of hours of judicial time and helped the courts relieve their civil case backlog.

Guarding Inmates Rights

In 2007, the Public Advocate's Corrections Ombudsman fielded about 9,000 complaints and calls from inmates in New Jersey's state prison. The Ombudsman has a long tradition of protecting against abuse, bias and other improper treatment or unfairness within the state prison system.

By responding to inmates' concerns, the Corrections Ombudsman helped to reduce the number of lawsuits filed against the New Jersey Department of Corrections and aided in relieving tensions that can result in serious disturbances at the prisons.

Protecting Public Access to Our Beaches and Waterways

The Public Advocate is committed to strengthening efforts to ensure that all New Jersey residents have access to coastal waterways and beaches. Last year, the Department helped shape changes in Department of Environmental Protection regulations designed to ensure public access to New Jersey beaches and waterways.

In commenting on these proposed regulations, the Public Advocate emphasized the ancient doctrine of the public trust, which guarantees the people of New Jersey access to waterways and their shores.

To help educate the public about beach access, the Department published its second guide to New Jersey's beaches in the summer of 2007, providing information on public and private beaches and their fees, restrooms, parking, access for persons with disabilities, and more.

Chairing the Governor's Blue Ribbon Panel on Immigrant Policy

Governor Jon S. Corzine tapped the Public Advocate to head a Blue Ribbon Advisory Panel on Immigrant Policy designed to create a comprehensive statewide strategy for weaving immigrants into the economic, social and civic fabric of our communities.

The panel's work focuses broadly on the immigrant workforce and labor; the role of the State in the delivery of social services and public benefits to the immigrant population; early, primary, secondary and higher education; and local government services.

The Panel has hosted public hearings throughout the state to give New Jersey residents an opportunity to weigh in on the issue of immigrant integration. Topics covered include: in-state tuition for undocumented students, fair/equal education for all, health access, driving privileges, concerns about state and local cooperation with federal Immigration and Customs Enforcement, guidance for municipalities, and economic and workforce issues.

Making A Difference

Since it reopened its doors in March 2006, the Public Advocate took action to protect...

- government seizure of their homes for private redevelopment
- Elderly people from abuse or neglect
- Children with special education needs
- People with developmental disabilities and mental illness from being denied appropriate services and supports
- Citizens from unresponsive government agencies
- Ratepayers from unfair rate increases
- Voters from barriers that prevent them from exercising their right to vote

- Children from lead poisoning
- Property owners from unlawful

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Section 1: Preventing Childhood Lead Poisoning

Lead poisoning, while entirely preventable, has irreversible effects on a child's health and can cause a variety of learning, behavioral, and neurological problems. The childhood lead poisoning problem in New Jersey is severe. In FY 2006 alone, 3,653 of New Jersey's children were found to have a blood lead level at or above 10 micrograms per deciliter, the federal level of concern. An unknown number of others may be poisoned, but simply were not tested. The lead poisoning problem, while statewide, is not uniform across the State. Low-income and minority children are most at risk because many of them live in deteriorating urban housing that was built before 1978, the year the federal government banned the sale of lead paint.

Background on the Department's Lead Investigation

In 2007, the Department launched an extensive study designed both to improve state and local efforts to respond to children who have become lead poisoned and to develop strategies to enhance the State's lead poisoning prevention efforts.

To gather information, we consulted a wide range of interested groups and individuals. For example, we conferred with government officials from the Departments of Health & Senior Services, Community Affairs, and Human



Services, each of which has responsibilities for remediating lead paint or responding to lead poisoning. We also worked with the Department of Education to create a lead flyer in seven languages that could be sent home to the parents of all school-aged children.

We held symposia for various stakeholders, including lead inspectors, lead

abaters (*i.e.*, those who remediate lead paint in buildings), parents of lead-poisoned children, non-profit community groups, and advocacy organizations. We consulted with national and state lead experts from academia as well as those in the medical and legal professions. Finally, we undertook extensive legal and policy research.

Field Investigation

It became apparent during the course of this work that it would be fruitful to conduct a field investigation to determine whether there were cracks in the state's lead poisoning response and prevention efforts. The Department of

Health and Senior Services (“Health”) gave us access to de-identified electronic information concerning all children in five selected cities who were lead-poisoned over the past ten years. These five cities – Trenton, Camden, Newark, East Orange, and Irvington – together accounted for 31% of all children who tested positive for lead poisoning in FY 2005. We reviewed the records Health gave us and received training from the Philadelphia Childhood Lead Poisoning Prevention Program to test for lead levels in homes by dust wipe sampling. Focusing on “repeat offender” addresses (*i.e.*, addresses where two or more lead poisonings had occurred), we asked current residents if they would allow us to take dust samples.

The results of our field work revealed a system broken at each step. Of the 104 residences tested, 85 (81.7%) came back with lead dust levels significantly above the levels that should trigger a response from the government. Approximately one third of the addresses had been previously abated, and some of the current residents had been told that the home was lead-safe. Our investigation also revealed problems with relocation assistance and abatement. Families often had trouble finding a safe place to stay while their residence was being abated. And one in five required abatements was never carried out, with the result that additional children were needlessly poisoned.

We realized that we had identified a public health crisis and took immediate steps. First, we sent the test results to the 85 families who lived in the residences that had elevated lead dust levels and explained where they could get their children tested for lead poisoning. We also provided them with information on relocation, abatement, and interim cleaning techniques and nutritional guidelines that would minimize the risk of exposure. We then referred them to Legal

Services, which generously offered to assist them with individual legal matters related to the lead problem.

We hired a social worker on an emergency basis who could help them navigate the many state, local, and non-profit entities that deal with lead. She has spoken with over three quarters of the 85 families to date, with the result that 31 children have been tested for lead poisoning. Families of sixteen of these children wanted to maintain the confidentiality of the results and did not share them with us. Of the remaining fifteen children, all had some level of lead in their blood and 8 had a level at or above 10 micrograms per deciliter, the federal level of concern. Additionally, more than a third of the landlords have been contacted, and several have already begun doing work to remediate the lead risk. Five families have moved from the tested property. Unfortunately, this is not the first experience with lead poisoning for a number of these families – 11 informed the social worker that their homes had previously been abated, and the parents of 14 children told her that they had previously been identified as lead-poisoned.

Our next step was to report our findings to the Governor’s Office, our sister agencies that deal with lead, the five municipalities that were the subject of our study, and key legislators. The State has responded in a number of positive ways. For example, the Department of Health is taking steps to ensure the re-inspection of all 85 residences we identified with high lead levels and the Department of Human Services is working with Medicaid-eligible affected families.

To address this problem prospectively, Health is taking steps to lower the blood lead level threshold at which a child is considered lead poisoned so that the state level comports with the

federal standard. DHSS will also use GIS mapping technology to help municipalities focus screening efforts on the most at-risk children. DHSS is also studying the potential benefits of pre- and post-natal screening.

DCA has proposed a new regulation that would prohibit clearance inspectors, who are supposed to ensure that abated properties are lead-safe, from being associated on any given project with the same firm as the abater who did the work.

The DPA also reported our findings and recommendations to the five municipalities that were the subject of our field investigation. The municipalities have responded in a number of positive ways. First, all five have agreed to have comprehensive lead inspections performed at all of the addresses we identified as having potentially dangerous levels of lead dust. The municipalities have also been working to assist individual families with lead-burdened children that the DPA identified. DPA is working with the affected cities with the goal of reaching an agreement on a series of broad-based reforms that the cities can immediately put into practice.

Finally, we are working with Senator Ronald Rice, a long-time proponent of lead poisoning prevention efforts, on researching possibilities for legislative reform. We will continue working collaboratively with sister agencies, municipalities, and legislators to prevent lead poisoning and to respond to poisoned children in an effective and efficient manner.

Section 2: Protecting Property Rights



Eminent Domain Reforms Protect Homeowners, Businesses and Tenants

New Jersey property owners won a series of decisive legal victories during 2007 in cases that challenged abusive eminent domain practices that had disrupted communities across the state. The Public Advocate worked alongside homeowners and businesses to help secure several landmark court rulings that will protect the constitutional rights of property owners from the improper use of eminent domain for private redevelopment.

The Public Advocate began this project in 2006 in response to public concerns about how New Jersey towns were conducting redevelopment and using eminent domain to take property and transfer it from one private owner to another.

Based on its extensive research in this area, in 2006 the Public Advocate released a report entitled *Reforming the Use of Eminent Domain for Private Redevelopment in New Jersey*, which

outlined a detailed list of necessary reforms, including:

- ♦ limiting eminent domain for private redevelopment to truly blighted areas, as the State Constitution requires;
- ♦ making the redevelopment process fair and transparent so people receive adequate notice and have a meaningful chance to defend their rights in court;
- ♦ requiring adequate relocation planning and assistance so that displaced families have an affordable and comfortable place to live; and
- ♦ providing adequate compensation so families that lose their homes can replace them in their same communities.

In 2007, the Public Advocate continued to fight for these protections by pushing for legislative reforms, participating in court battles over redevelopment and the use of eminent

domain, and continuing to investigate the use of redevelopment powers throughout the State.

In early 2007, the Public Advocate undertook a study of recent and ongoing court cases and documented recurring abuses involving eminent domain for private redevelopment. The report, *"In Need of Redevelopment: Repairing New Jersey's Eminent Domain Law – Abuses and Remedies,"* also examined the human toll that abusive eminent domain practices have taken in some New Jersey communities as families experience years of uncertainty about what will happen to them and their homes.

Injustices identified by the Public Advocate included bogus blight designations based on scant or superficial evidence and due process violations in which towns failed to provide residents with clear notice or a meaningful chance to be heard. The inquiry also confirmed that property owners who are displaced by eminent domain and redevelopment often receive inadequate compensation and relocation assistance, leaving them unable to find a new home or launch a new business. The report examined cases that originated in Edison, Long Branch, Lodi, Paulsboro, Perth Amboy, Passaic and Bloomfield. These two reports, as well as legal briefs filed by the Public Advocate and decisions by trial and appellate courts in eminent domain cases can be found at: <http://www.state.nj.us/publicadvocate/public/issues/eminentdomain.html>.

A Victory for Property Owners in the New Jersey Supreme Court

In June 2007, the New Jersey Supreme Court issued a landmark decision in *Gallenthin Realty Development, Inc. v. Borough of Paulsboro* that helped rein in the overly broad definition of blight contained in the Local Redevelopment and

Housing Law, our current statute. The *Gallenthin* decision limits the use of eminent domain for private redevelopment to areas that are actually "blighted" as the Court interprets that term in the State Constitution.

In *Gallenthin*, the borough designated a 63-acre parcel of undeveloped wetlands as blighted, citing the part of the law that says land is blighted if it is "not fully productive." The borough's planning expert testified at the municipal hearing that the *Gallenthin* property met this standard because "you have no improvement; you have vacant unimproved conditions. There's just no activity."

The Public Advocate participated in this case as *amicus curiae*, or "friend of the court," and argued that the definition of blight in the statute was far too broad. The Public Advocate argued that almost any property could be made "more productive," and that the framers of our Constitution intended blight to be defined more narrowly than it is defined in our current statutes. The Supreme Court agreed with the Public Advocate's arguments, and made several important rulings:

- ♦ The Court established that the judicial branch is the "final arbiter" of the meaning of the "blighted areas" clause of our State Constitution.
- ♦ The Court ruled that an area cannot be deemed blighted – and subject to condemnation by the town – simply because it is "not fully productive."
- ♦ The Court stated that "at its core, 'blight' includes deterioration or stagnation that has a decadent effect on surrounding property." The government, therefore, may not designate private property for

redevelopment unless it meets this definition.

- ♦ The Court ruled that when declaring an area blighted, a municipality must establish a thorough justification of that designation, and may not simply recite the definition of blight in the law and assert that the land meets that definition.

This decision has already had a profound impact on redevelopment throughout New Jersey. Relying on the *Gallenthin* decision, the lower state courts have overturned at least seven redevelopment projects because the municipality failed to establish that the area was blighted.

For example, in Belmar, a popular family-owned bakery had been designated as part of a blighted area because of its “faulty and obsolete layout.” The Appellate Division, citing *Gallenthin*, overturned the blight designation because the record contained “no proof whatsoever” that the area was “detrimental to the safety, health, morals or welfare of the community.”

In Newark, the court overturned the blight designation for the Mulberry Street redevelopment area, stating that “regardless of whether the property is located in a small municipality, such as Paulsboro, or a large municipality, such as Newark, whether it is vacant or unimproved or a parking lot, gravel lot or storage yard, a municipality cannot take property for redevelopment . . . merely because it believes that the land is not fully productive and can be used for something more beneficial to the general welfare.”

And in Hackensack, two office buildings had been designated as part of a blighted area because they were “underutilized.” Again citing

Gallenthin, the Law Division ruled that just because “properties may be in a state of mere underutilization is not justification, in and of itself, for designating an area in need of redevelopment.”

Overturning an Unsupported Blight Designation in Lodi

In January 2007, the Public Advocate argued before the Appellate Division in defense of the residents of two mobile home parks in the Borough of Lodi. The Borough had declared the area blighted and proposed a redevelopment project that would feature a strip mall and an upscale senior housing complex. If the local government had been successful in condemning the properties, the tenants of more than 200 house trailers would have faced eviction. Those mobile homes provide scarce affordable housing for low- and moderate-income Lodi residents.

The Public Advocate argued that the Borough’s declaration of blight was based on a superficial and cursory inspection of the area, and no evidence of any detriment to the community. The Advocate also argued that the use of eminent domain in Lodi was in conflict with the Borough’s constitutional obligation to safeguard affordable housing.

Again, citing *Gallenthin* and agreeing with the Public Advocate’s argument, the court found that superficial flaws, such as overgrown grass or chipping paint, are inadequate to prove that an area is blighted. The court also made clear that if a town fails to produce substantial evidence of blight, its decision is no longer entitled to the deference typically afforded local government actions. The proposed redevelopment project has now been withdrawn by a new mayor and council in Lodi, and the residents of the Lodi trailer courts remain in their homes.

Ensuring Fairness in Harrison

In early 2008, the Public Advocate filed an *amicus curiae* brief and argued in the Appellate Division in cases involving three property owners in Harrison. Harrison had designated one-third of the town's total acreage as an area in need of redevelopment, hoping to transform it into an upscale neighborhood for commuters who would ride to work in New York City on the PATH train that stops adjacent to the redevelopment area. The proposed redevelopment includes hundreds of residential units, thousands of square feet of commercial and retail space, parking for thousands of cars, and a soccer stadium.

As the redevelopment progressed, the town moved to condemn a variety of small businesses, including a truck tire repair shop, a used car dealership, and some industrial properties. Defending their properties from condemnation, the business owners tried to challenge the blight designation. Citing a court rule that allows only 45 days for litigants to challenge municipal actions, the trial court held that the owners were out of time to object to the ten-year-old designation.

In February, the Appellate Division reversed the trial court in a published opinion in *Harrison Redevelopment Agency v. DeRose*. Adopting arguments the Public Advocate had advanced, the court held that the business owners were entitled to clear notice and a fair hearing before the municipality took their property for redevelopment. The court thus reinforced the constitutional principle that the "government has an overriding obligation to deal forthrightly and fairly with property owners."

The *Harrison* decision makes clear that a property owner retains the right to challenge a blight designation until the municipality

exercises its power to condemn the property through eminent domain. The Town of Harrison, like many other municipalities around the State, had argued that property owners lose the right to make such a challenge years before the condemnation, around the time when the municipality declares the area to be blighted or "in need of redevelopment." Harrison made this argument even though, as the court found, Town officials had "downplayed any potential negative consequences of a redevelopment designation, and discouraged residents from mounting a challenge to the redevelopment initiative at that time."

If a municipality wants to settle the legality of a blight designation earlier in the redevelopment process, the court held that constitutional principles of due process require the town to provide meaningful notice to every property owner in the targeted area. That notice must inform the owner that (1) his or her property has been designated for redevelopment, (2) this designation authorizes the municipality to take the property against the owner's will, and (3) the owner has 45 days to challenge the designation in Superior Court. Only owners who receive such notice may lose the right to challenge a blight designation later in the process, and even in such cases, the courts may exercise their discretion to extend the time "in the interest of justice."

The appeals panel found that the facts in the Harrison cases were "an apt illustration of the dangers of a municipality withholding from the public the bad news that at times may accompany the potential good news promised by redevelopment" and held that "in dealing with the public, the government must turn square corners."

This decision will change the process by which owners may be forced to sell their property to the government. The ruling applies to any challenge to eminent domain that is still active in the court system, and could lead to reopening disputes over blight designations in other pending cases.

Defending Property Rights in Long Branch

In January, 2007, the Public Advocate filed an *amicus curiae* brief in the Appellate Division in support of appeals by the residents of a seaside neighborhood in Long Branch. The City has been attempting to condemn the properties in this neighborhood and replace them with upscale residential units as well as retail and commercial space. The trial court upheld the City's designation of the area as blighted and its decision to condemn the homes, and the homeowners appealed. The Public Advocate argued that the homeowners were not properly notified of the threats to their homes and did not have an adequate chance to voice their opposition. In addition, the Advocate maintained that the evidence in the record was not sufficient to support the blight designation.

In February 2007, the City asked the court to strike the Public Advocate's brief. A month later, the court rejected the City's attempt to exclude the Advocate from this effort to defend the rights of the residents of Long Branch. The Appellate Division will hear the parties' and the Public Advocate's arguments in May 2008.

Investigating Potential Abuses in Mount Holly

In December 2007, the Public Advocate held a public hearing in response to citizen complaints about a Mount Holly redevelopment project. The redevelopment area includes Mount Holly Gardens, a diverse and affordable residential neighborhood that once included more than 300 attached, garden-style units built

in the 1950s. Since designating the area blighted in 2002, the town has acquired more than 200 of the units. The Township has demolished more than 50 of those units, and has boarded up and left vacant many of the others. Largely because of the actions by the Township, roughly two-thirds of the housing units in the Gardens are now vacant. The current redevelopment plan lists a range of options, including demolishing almost all the homes in Mount Holly Gardens.

The purpose of the hearing was to collect facts on whether or not the redevelopment process in Mount Holly was fair, open and transparent, and whether or not residents have been adequately compensated and successfully relocated.

More than 100 people attended the hearing to tell their story of how their community has been torn apart by the redevelopment project. Residents said that they did not receive proper notice about the redevelopment project; that the redevelopment process was neither inclusive nor responsive to their desire to maintain their close-knit community; that the Township has reduced public services in the area and boarded up homes in an effort to drive out the remaining residents; that relocation planning and assistance have been inadequate; and that the compensation offered to property owners was so low that it would not allow them to buy or rent a comparable home.

Mount Holly officials declined to speak at the public hearing, but submitted written comments asserting that they had abided by the laws governing redevelopment. The Township maintains that it has treated the residents of Mount Holly Gardens fairly and offered more relocation assistance than is required by law.

Represented by South Jersey Legal Services, residents sued the Township claiming,

among other things, that their neighborhood is not blighted, that the redevelopment would violate the Township's obligation to provide its fair share of affordable housing for low- and moderate-income residents, and that the Township has not planned adequately for their relocation. The lower courts upheld the blight designation and dismissed the remaining claims as premature, ruling that the redevelopment may turn out to include adequate affordable housing and relocation options for current residents. The New Jersey Supreme Court declined to hear the case. Meanwhile, the Township is proceeding with demolitions.

The Public Advocate continues to gather facts about the Mount Holly redevelopment project, is preparing a report on its findings, and is exploring options for further action. The information gathered at this hearing has also helped inform the Public Advocate's ongoing advocacy for legislative reform.

Legislative Reform

The Public Advocate has continued to press for legislative reform of New Jersey's redevelopment laws to better protect the rights of tenants and property owners. Despite major victories in the *Gallenthin* and *Harrison* cases, the Department's continued investigations into redevelopment and the use of eminent domain reveal that greater protections are needed. Necessary reforms include mandating a more open, transparent and inclusive redevelopment process; ensuring adequate relocation planning, relocation assistance, and compensation for displaced residents and businesses; strengthening ethics protections; and preserving and promoting affordable housing.

"The Trailer Park Today, Your House Tomorrow"

Judy Kuchenmeister



Judy Kuchenmeister, front left, shares coffee with her neighbors

Judy Kuchenmeister has been living under the threat of losing her home for a long time. She moved into Brown's Mobile Home Park 33 years ago. Even back then, there were rumors that someone wanted to buy the park, drive out the residents and make the area into something "better." But it never got this close.

"You're like walking on eggshells all the time," says Kuchenmeister of the wait for another court decision.

And she worries that even if the court decides in the residents' favor, the town might try to start the redevelopment process all over again.

"That's the part that's really depressing," she says. "You don't mind living like this for awhile. But not forever. Sometimes, it feels like this will never be over."

Kuchenmeister also worries about what

will happen to her and the other residents if they lose.

"Some of the people are on fixed incomes," she notes. "If they did close the trailer park, there's a 10-year waiting period for public housing. Where will they go?"

The former bookkeeper lives alone, with just her cat, Diva, to keep her company. But she finds community in her caring neighbors.

"It's much more of a community," she says. "How many people know their neighbors? People here know each other. They help each other."

Kuchenmeister understands that the battle being waged in Lodi is just one fight. Under the current law, she knows that just about anyone could become a target of eminent domain.

"It's the trailer park today, your house tomorrow."

"Freedom Lost"

Ann DeFaria



Ann DeFaria sits inside the home she has owned for 46 years

Tony DeFaria fought in World War II. He fought for his country. He fought for democracy. He fought for freedom.

That is what hurts his wife, Ann, the most. The 81-year-old Long Branch resident sees that freedom eroding away, one house at a time.

"My husband went to war for our freedom," DeFaria says. "This is what upsets me most. I'm very patriotic. What they're doing is scary. It's unconstitutional, it's unfair and it's corrupt." "I could sit and cry all day," says the mother of four, grandmother of seven and great-grandmother of six.

"Only by the grace of God do I get by." Known around the neighborhood as Miss Ann, DeFaria and her husband bought the small bungalow on Marine Terrace 46 years ago. Back then, they lived year-round in Newark, raising

their four daughters, spending summers in Long Branch and making friends with their seaside neighbors, many of whom came from the same Newark neighborhood.

"The kids couldn't wait to come down here," she remembers.

Over the years, the DeFaria's made improvements to the tidy blue home, with its ocean views and small backyard. Eventually, they moved to the house full-time, building a modest addition and completely renovating the house.

"We figured we would stay here until the Big Guy called us home," says DeFaria, who lost her husband of 50 years in 1996, long before the neighborhood became embroiled in its eminent domain battle.

Now, the homes on either side of the DeFaria residence are boarded up. The same person owned both and sold out to the city. When she looks at those houses, she gets angry. To her, they are proof that the city is destroying her cherished neighborhood, little by little.

"I want to replace my fence, but I don't want to spend the money if I have to move," she explains. "Plus, they won't give us permits to do anything. They are making us blighted."

Like many of her neighbors, DeFaria got an inkling that something was amiss when the city refused to issue a permit for improvements to her home.

"I never remember opening a piece of mail and thinking, 'They're going to take my home,'" Ann says.

The former preschool teacher is hanging her hopes on the court case now before the Appellate Division.

"That's the only hope I have," she says. "We're going to win this case. God is on our side. He wants us to be happy in our last years. We worked hard for that."
And what happens if the residents lose?

With an income of \$1,100 a month, Ann DeFaria has few choices – and even less freedom.

"Where can I go and buy a home that's well insulated, has a new boiler, new heater, 1-1/2 baths, Anderson windows?" she wonders. "I have a nice little house. I have no mortgage. I have no idea where I would go."

Section 3: Assisting our most vulnerable citizens



People with mental illness and developmental disabilities, children with learning disabilities and people who are elderly are among the most vulnerable people in our society and the most in need of our care, our concern and our public resources. For too many of these individuals, however, the system designed to ensure their safety and well-being does not meet their needs.

The Public Advocate has made protecting and advocating for these most vulnerable citizens a top priority.

Defending the Rights of People with Developmental Disabilities

Part of the Department's core mission is to advocate on behalf of individuals with developmental disabilities. The Department advocates for policies and practices that ensure that people with developmental disabilities have safe, comprehensive and effective supports and

services and the same opportunities as other citizens to participate fully in all aspects of their communities. The Department continued its work in this area and took a leadership role on a wide range of issues affecting people with disabilities, including working to:

- ◆ Advocate effective action so all people who are able to and do not oppose living in the community can do so successfully;
- ◆ Monitor conditions in state institutions for individuals with developmental disabilities to ensure that residents receive appropriate care;
- ◆ Safeguard the right of people with disabilities to access to exercise their right to vote; and
- ◆ Fight for fairer treatment of children in special education programs

Helping Adults with Developmental Disabilities Receive Services

In 2007, the New Jersey Supreme Court struck down a state regulation that made it difficult for older individuals with developmental disabilities to obtain services if their families had previously cared for them without the help of the State. In the case, *T.H. v. Division of Developmental Disabilities*, the Public Advocate took a leadership role in outlining the consequences of a state policy that improperly denied benefits to qualified individuals. In its ruling, the Supreme Court overturned the policy, which denied services to people if they were unable to prove that they had had limitations in at least three specific areas (such as learning or the ability to care for themselves) *before they turned 22*. The Court ruled that while the law grants eligibility only to those whose disabilities manifest before the age of 22, an applicant need not show three limitations until the time he or she seeks services. The Court also held that an applicant does not have to produce documentation of the disability before age 22 providing there is other credible evidence. T.H. himself was 55 years old when he applied for services, and family members testified credibly that his disability existed before he turned 22 even though there were no medical or education records.

In response to the Supreme Court's decision, the Division of Developmental Disabilities (DDD) proposed a new rule in April that removed the offending language – the requirement that the applicant prove that he or she had at least three specific limitations before the age of 22. The Public Advocate supported this change and the new rules were adopted on October 1, 2007.

We continue to work on this issue in two ways. First, we have urged DDD to change how it defines “developmental disability.” This

definition is important because it determines who is eligible for benefits. When responding to DDD's proposed regulations removing the age requirement, the Public Advocate informed DDD that its law must comply with the federal law that requires that a developmental disability results in limitations in three or more of *seven* areas. The State currently requires that a developmental disability results in limitations in three or more of only *six* areas. New Jersey regulations take two areas that federal law considers separate – the ability to take care of one's own daily needs (e.g., cooking, cleaning, bathing) and the ability to earn and manage enough money to support oneself – and combines them into one area. This can have a significant impact on an individual who seeks services from DDD. A person who is limited in both taking care of his daily needs and managing his finances must prove that he or she is limited in two other areas rather than just one. DDD is expected to propose a new rule in 2008 that would remedy this improper grouping, and the Public Advocate will work with DDD to ensure that the appropriate rule is promulgated.

Second, we are working to ensure that the decision in *T.H.* is followed on the ground. Victory in court has little meaning if people continue to be denied services because of a mistaken understanding of the law. Adult Protective Services, an agency dedicated to the safety of older people living in the community, has informed the Public Advocate that DDD front-line staff seem unaware that they can no longer deny services solely because an applicant lacks documentation or cannot prove that three major limitations manifested before the age of 22. We have been following up with DDD, which has been responsive to our concerns.

Community Outreach

Working closely with consumers, families, advocacy groups and providers, the Public Advocate takes an active role in developing

specific recommendations for reforming and improving services for people with disabilities. Specifically, the Public Advocate has taken a leadership role on such issues as: the use of restraints and aversive interventions; reducing violence and abuse in the disability community; expanding access to special education; reducing the state's reliance on institutional care; and improving the quality of state institutions.

The Public Advocate also received and responded to many individual constituent calls in 2007. These inquiries often were resolved through information and referral, while some required Department staff to become actively involved in problem solving and attend meetings with service providers, treatment teams, consumers and families.

Including People with Developmental Disabilities in our Communities

The Public Advocate is committed to seeing that all capable individuals who do not oppose living in the community can do so successfully. In 1999, the U.S. Supreme Court decided that states should not place or keep individuals in institutions when their treating professionals believe that they are capable of living in the community and the individuals themselves do not oppose living in the community. The Court acknowledged that fiscal restraints may prevent states from moving all eligible individuals into the community at once. Nevertheless, every state must demonstrate that it has "a comprehensive working plan for placing qualified persons with [] disabilities in less restrictive settings, and a waiting list that move[s] at a reasonable pace." In 2006, the New Jersey Legislature required DDD to develop a plan consistent with the 1999 ruling. Before submitting its plan to the Legislature, DDD released a draft to the public at the end of March 2007.

The Department submitted comments to DDD expressing concerns about the adequacy of the draft plan. Among other things, we noted that the pace of moving people into the community was too slow; individuals who wanted to move into the community could be prevented by parents or guardians who opposed placement; and DDD's improved process for evaluating individuals with developmental disabilities had not been adopted in all of its institutions. When DDD submitted its plan to the Legislature, it included a number of changes consistent with the Public Advocate's suggestions. While DDD did not propose to accomplish all that Public Advocate believed it should, it demonstrated a willingness to work with advocates. The Public Advocate is monitoring the implementation of the plan.

The Department also has undertaken an analysis of New Jersey's over-reliance on institutions for the care of people with developmental disabilities. The study is examining ways in which admission policies may need to be changed in order to reduce the reliance on large institutional settings and ensure consumer choice and greater access to needed services and supports.

Helping Individuals with Developmental Disabilities Retain Autonomy in Medical Decisions

In April, a social worker called the Department about a life-threatening emergency facing a 19-year-old with a developmental disability. The young man's urgent treatment for a rare type of cancer required that he sign an informed consent document, acknowledging that he understood the risks and benefits of the treatment and agreed to the treatment. The hospital expressed uncertainty that the young man had the capacity to provide informed consent because of his developmental disability.

Attorneys from our office met with representatives from the hospital, the young man, and his case management team. After our intervention, the hospital agreed that the young man had the ability to make medical decisions at the time but expressed concern about his future capacity. In an effort to avoid future disruption in his care, the young man retained the Public Advocate to draft a health care proxy. The proxy named a person of his choice to make decisions if and only if medical personnel qualified to assess his capacity found that he was unable to make medical decisions for himself. The Community Health Law Project (which had represented, and continues to represent, the young man in other matters) assisted us in the case. Our representation continued until the health care proxy was in place.

Violence and abuse in the disability community

The Department worked hard in 2007 to bring needed attention and action to prevention of violence targeted at individuals with disabilities. In 2007, the Public Advocate co-chaired the first Statewide Summit on Violence and Abuse in the Developmental Disabilities Community. The event, which drew more than 100 people, including law enforcement, self advocates and service providers, focused on the prevalence of violence targeted at individuals with disabilities and strategies to reduce violent incidents. The Public Advocate is working with these community partners to advance increased training for direct support staff and first responders, develop proposals for an employee registry, expand healthy sexuality education and improve collaboration between developmental disability and mental health service providers.

Monitoring State Institutions To Ensure Appropriate Care

One of the Public Advocate's most vital functions is to safeguard the civil rights of people

residing in state institutions and ensure that they receive the highest quality care. Public Advocate staff work closely with families and consumers on specific cases that point to systemic deficiencies in the institutional system. As part of this process, the Public Advocate undertook a study of procedures for responding to allegations of abuse and neglect in state programs for individuals with disabilities. In addition, Public Advocate staff work closely with consumers at New Lisbon Developmental Center to resolve problems that have been identified there including ineffective treatment and behavior supports and improper criminalization of behavior related to disability.

Based on information from advocates, the Public Advocate became aware that some state institutions may be using the criminal justice system and psychotropic drugs as ways to control the behaviors of individuals with disabilities who live within them. The Public Advocate is currently examining these concerns.

In the first instance, the Public Advocate was informed that residents and staff were bringing criminal charges against residents. At times, some individuals who live in these institutions respond in a way that causes harm to others or to property. The Public Advocate is investigating this issue because we are concerned about the potential for abuse of punitive strategies, such as filing criminal charges against an individual with disabilities, in order to control the individual's behavior.

In addition, a large number of individuals in state institutions are medicated with psychotropic drugs. We want to ensure that individuals are medicated only when they have a psychiatric diagnosis that would be addressed by the use of the drug and not to address unrelated behavior problems. We worked closely with

DHS to develop a system for tracking the use of psychotropic drugs in developmental centers, and we are currently examining records regarding the use of these drugs in state institutions.

Giving Students Quality Special Education

Parents of students with special education needs won a significant victory in 2007 with the passage of a law that helps them advocate on behalf of their children. The Public Advocate worked closely with members of the Legislature to achieve the reform.

For 17 years, New Jersey had operated under the appropriate policy that when a family challenges a school's plan for a child with special needs, the school was required to prove it plan would providing an effective education for the child. But federal court rulings in 2005 and 2006 changed that, placing the responsibility on the person who challenges the plan.

In early 2007, the department issued a study of how federal court decisions that shifted the "burden of proof" in special education hearings on to parents had placed children's education in jeopardy. The Public Advocate's study of this issue concluded that school districts are in a far better position to prove that an education plan is appropriate because they have greater access to educational experts and legal counsel. It is unfair to place the burden of proof on families because they lack access to information that could help prove their claims, the Advocate argued. Low-income parents who cannot afford to hire lawyers to argue their case were particularly disadvantaged by the new rules.

The department worked with several legislators – Sen. Stephen Sweeney, Sen. Joseph Doria, Assemblyman Joseph Cryan and Assemblywoman Joan Voss – to develop a reform

initiative that would return the burden of proof back to districts. Governor Jon Corzine signed the bill into law on January 13, 2008. The new law reversed the impact of the federal rulings on New Jersey parents, and returned New Jersey to the previous practice of requiring school districts to prove a student's individual education plan meets the child needs.

Advancing Community-based Services: The Waiting List Problem

New Jersey took some important steps in 2007 toward seeking increased federal funding for community based services, and the *Path to Progress* report by the Department of Human Services provided a roadmap for decreasing New Jersey's reliance on large institutions to care for individuals with developmental disabilities.

One of the most serious flaws in the public systems designed to serve people with developmental disabilities, however, continues to be the lack of services for adults who rely upon their families to care for them. The waiting list of individuals who live in the community and are seeking residential and other community services climbed to more than 8,000 in January. Of these individuals, 4,843 are considered "priority" because their needs are so serious, and the large majority of these people are living at home with older parents.

The Department is working in partnership with The Arc of New Jersey to investigate waiting list issues and develop recommendations and strategies for addressing this significant problem. This work includes extensive outreach to meet with individuals and their families who have spent years on the waiting list with no clear information about when they can expect to be offered the services they need. The Department also is working with these families by initiating

an oral history project to document their lives, challenges, needs and hopes.

In concert with this effort, the Department also is completing a study to determine whether admission policies for developmental centers should be changed so that most potential admissions are diverted to community settings.

Danielle's Law

The Department has fielded a large number of complaints about the implementation of Danielle's Law. The statute imposes mandatory fines on service providers at programs and facilities that care for individuals with developmental disabilities if they fail to call for an ambulance in a life threatening emergency. Parents and providers alike, however, have expressed concerns that caregivers are calling 911 in many instances when it is not necessary, causing unnecessary trips to emergency rooms.

After conducting extensive outreach to families, service providers and institutions, the Department concluded that improved training is needed so staff members make the right decision when determining whether an individual is experiencing a life-threatening emergency. This was one of several recommendations made by the Department. The Department also proposed rule amendments for consideration by DHS. We recommended that regulations be revised to provide clear and common sense guidance to caregivers for when they must call 911, and that DHS meet certain minimum standards when reviewing alleged violations of the statute. We also recommended DHS establish an independent review panel to assess alleged violations of the law, conduct periodic audits of incidents and provide recommendations on the law's implementation. The Department will continue its advocacy on this issue in the coming year.

Constitutional Amendment

The Public Advocate worked closely with the Legislature on efforts to amend the New Jersey Constitution's provision on voter qualifications to remove offensive language used to refer to people with developmental disabilities and mental illness. The Public Advocate provided legal and advocacy support for the passage of legislation that placed the question before the voters in November 2007. Voters approved the public question by a large margin. See section on safeguarding voting rights, below.

Defending the Rights of People with Mental Illness

Few people in our society are as stigmatized and underserved by the social services system as people with mental illness. Perhaps as a result of this stigma, the public systems designed to provide mental health services are over-taxed and under-funded, and discrimination against people with mental illness is widespread.

The Public Advocate's efforts on behalf of people with mental illness focus on the critical need to move people out of overcrowded psychiatric hospitals, where they too often languish long beyond when they are clinically cleared for discharge, to appropriate residential and support services in the community.

In addition, the Advocate has focused attention on the people receiving treatment in these institutions to ensure that these patients are being treated appropriately and effectively and that their rights are being respected. The Advocate also provides legal representation to mental health consumers in local, county, and state psychiatric facilities. The Department works to ensure that issues affecting individual clients are addressed before they become

systemic problems, and that systemic problems are remedied as quickly as possible.

The Public Advocate has met with patients throughout New Jersey's state and county psychiatric hospitals and hospital psychiatric wards. Attorneys and other staff from the Department's Division of Mental Health Advocacy are a daily presence in New Jersey's state and county hospitals and are in constant contact with patients. Through this extensive outreach, we have identified serious overcrowding and inadequate physical plants that have eroded the quality of care in some of these facilities.

In 2007, the Public Advocate also undertook a study of the qualifications and background of social workers and psychologists who work in state psychiatric hospitals. The Department is tabulating its findings and developing recommendations for strengthening the training, supervision and qualifications of these staff in state hospitals. The Public Advocate also has initiated a second phase of this study to examine the credentials held by Human Services Technicians and Human Services Assistants, who provide direct care to patients in state hospitals, and whether current job qualification requirements are adequate.

During 2007, the Public Advocate fielded hundreds of complaints about the mental health system from consumers and family members. Of these complaints, roughly half were about hospital treatment, and were referred to patient advocates at the hospitals; another 30 percent centered on access to services and were referred to mental health treatment providers; and the remaining 20 percent were miscellaneous requests.

Deinstitutionalization: Meeting Housing Needs

The Public Advocate is working closely with other state agencies and mental health advocates to ensure proper supports and services are available in the community so that people who have been deemed able to live outside of a hospital setting can move out of over-crowded state institutions. As with state institutions for people with developmental disabilities, in 1999 the U.S. Supreme Court held that states should not keep individuals in institutions when their treating professionals believe that they are capable of living in less restrictive community settings and the individuals themselves do not oppose living in the community. About 1,000 people in New Jersey's crowded state psychiatric hospitals have been deemed ready to leave the hospital, if proper community placements and supports were made available.

One of the most pressing needs of people leaving state psychiatric hospitals – and for many of state's most vulnerable residents – is affordable housing. For people with mental illness being discharged from a state psychiatric hospital, there is a critical need for housing that is affordable and offers needed support services, like medication monitoring.

Residential Health Care Facilities

In 2007 the Department conducted a groundbreaking study that closely examined residential health care facilities (RHCF). Department staff visited every one of New Jersey's 82 RHCFs, interviewed residents and operators of these critically important facilities, surveyed conditions, and reported its findings to DHS and the Legislature.

RHCFs provide residents with room and board and a minimal amount of nursing care, such as assisting residents in managing their medications. Since many of the people who live

in RHCF's are either mental health consumers or older adults, this project has implications for housing options for both populations.

Mental health consumers are discharged to RHCFs from state, county, and local hospitals every day, yet operators and staff of RHCFs receive minimal training regarding working with people with mental illnesses. Additionally, RHCFs are funded at a rate of only about \$24 per day. In order to ensure that mental health consumers receive the services that they need in a safe, appropriate, and pleasant atmosphere, it is necessary that this funding be increased. By releasing eligible patients from expensive psychiatric hospitals the state could see have a potential funding stream.

Mental Health Parity

In addition to ensuring quality of care in state institutions, expanding health insurance coverage of mental illnesses has been a major priority for the Public Advocate.

In 1999, New Jersey enacted a limited mental health parity law that requires insurers that provide coverage for biologically-based mental illnesses to offer coverage that is equal to a plan's physical health benefits. The law, however, exempts a host of illnesses, such as addictions, eating disorders and other conditions that may not be recognized as biologically based. This leaves a huge gap in coverage for thousands of New Jersey residents who struggle with these disorders.

One of the principle arguments made in opposition to full parity is that it would drive up insurance costs. To address this concern, the Public Advocate studied the fiscal effects of parity laws in other states. That analysis found that the cost of providing parity coverage is negligible. In fact, some states actually reduced

medical costs when they expanded coverage of mental illnesses.

In 2007, the struggle to address this inequity continued and gained momentum, culminating in a successful vote on a parity bill in the Senate in late 2007. The bill was reintroduced in the 2008 session, sponsored by Senator Joseph Vitale and Senator Barbara Buono, and sponsored in the Assembly by Assemblyman Gordon Johnson, Assemblywoman Valerie Vanieri Huttie, Assemblywoman Linda Greenstein, Assemblyman Patrick Diegnan, and Assemblywoman Eleese Evans. The Public Advocate is taking a leadership role this year to ensure the passage of the bill.

Representing People with Mental Illness

Through our Mental Health and Guardian Advocacy staff, the Public Advocate represents individuals facing civil commitment in state, county, private and general hospitals. The unit also represents individual clients at guardianship hearings and at mental health commitment hearings and sex offender commitment hearings.

In 2007, the unit opened a total of 19,029 cases and closed 16,111. With an overall success rate of 87 percent, department attorneys were able to prove in the vast majority of cases that clients should be treated in settings that are less restrictive than hospitals, and should not be involuntarily committed.

The chart lists the number and outcome of hearings at which the Division appeared or intervened.

In addition to these individuals, the Public Advocate has successfully appealed other cases that have significant implications for mental health consumers:

	Newark	Trenton	Gibbsboro	Freehold	
Openings	5,729	5,041	6,320	1,939	19,029
Closings	5,087	4,542	4,671	1,811	16,111
Waived	450	890	515	28	1,883
Loss	747	438	576	113	1,874
Success	3,929	3,235	3,635	1,697	12,487
TOTAL	5,117	4,563	4,726	1,838	16,244
Success Rate	84%	88%	86%	94%	87%

In a ruling in *In re Commitment of J.R.*, the Appellate Division determined that a patient's conditional release cannot be revoked solely on a belief that the patient will not take his or her medication and might deteriorate clinically. The court found that the state failed to prove the case for recommitting J.R. when it relied solely on the psychiatric opinion that it was possible J.R. would be a danger to himself or others. The court held that the law requires the state prove there is a "substantial likelihood" that an individual will be a danger to himself or others.

Protecting Patients' Rights

The Department has launched an advocacy project to examine and improve protection of the rights of patients in state psychiatric hospitals. We are seeking revisions to the regulations that govern the liberties of patients who are approved for discharge but awaiting a community placement. For decades, New Jersey placed these patients on the least restrictive level – level four – unless the hospital could show that a more restrictive level was

appropriate for a particular patient. This allowed patients greater autonomy both on and off hospital grounds, and allowed patients who were preparing for discharge to better transition to the community by undertaking activities such as looking for housing or employment. In 2003, state regulations changed and ended this practice. Those regulations will sunset this year and the Department will advocate in favor of returning to the previous practice.

In a related project, the Department will bring focused attention to hospital policies that may require revisions so that they comply with the New Jersey Patients Bill of Rights. Through this project, the Department will examine hospital policies governing the rights of patients to have personal belonging while hospitalized, and whether those rules need to be reformed to ensure patient rights are respected.

Improving the Quality of Life of Patients

Sometimes the patients we encounter in the state psychiatric hospitals don't need legal representation, but they need guidance, support or a helping hand. Our staff provides a broad range of advocacy services, from helping a

	Newark	Trenton	Gibbsboro	Freehold	
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patient stave off foreclosure to ensuring that a desperately ill psychiatric patient receives the aggressive medical care he requires.

For instance, a Department Advocate recently helped a patient at Ancora Psychiatric Hospital save his home from foreclosure. While the patient was awaiting a community placement, bills were piling up at his home in Philadelphia, including an overdue home equity loan that was about to result in a lien on his property. When the Department Advocate got involved, she made sure that the patient's mail was forwarded to the hospital and she helped organize his bills. She helped him open an interest account through his bank in Pennsylvania to make sure his bills would be paid. With the Advocate's assistance, the patient will receive the support he needs to move back into his home.

In another case, a Deputy Public Advocate was concerned about a patient he was representing who had significant medical conditions including paraplegia, HIV, leg ulcers, bed sores, a colostomy, a catheter and edema in both legs. Staff at Hagedorn Psychiatric Hospital believed that the bedsores had been caused or worsened as a result of neglect at the nursing

home where the client was residing prior to his admission to Hagedorn. A Department Advocate investigated the case and discovered that there were several medical interventions ordered by consulting specialists that were not enforced. After meeting with the hospital CEO, a more aggressive treatment plan was implemented and outside health care services were obtained to address the patient's complex physical problems. Without family or friends, the Advocate Representative was a lifeline for this patient, who will need nearly total care for the rest of his life.

Protecting the Interests of Patients in County Hospitals

During 2007 the Public Advocate observed a growing problem in finding community placements for some county psychiatric hospital patients. State policies were focused on downsizing Greystone Psychiatric Hospital so that the census would meet the size limit of the newly constructed Greystone Hospital when it opens. As a result, patients at Meadowview Psychiatric Hospital – which is Hudson County's public psychiatric hospital – were being held in the hospital long beyond

when they had been cleared for discharge. In some cases, Meadowview patients were waiting for community placement for longer than two years.

The Public Advocate worked closely with the Department of Human Services to address this issue on a case by case basis through litigation and negotiation, and a number of patients were moved to community placements. The Department is now studying this problem on a broader, systemic basis. The Department will pursue actions to ensure that when the state plans for how to move patients out of state hospitals more quickly after they have been cleared for discharge, it also plans appropriately for those patients who are in county hospitals awaiting placement and are equally entitled to receive treatment in the least restrictive setting possible.

Coordinating services for youth among state divisions

Navigating the systems that provide behavioral health services to children is a difficult task, even for the best informed parent or guardian. Often, Department attorneys must work to force these fragmented systems to relax bureaucratic barriers and place the needs of the child first. In a recent case, the Public Advocate was successful in requiring the Division of Developmental Disabilities (DDD) to fund additional staff to monitor a child who had been left languishing in a psychiatric unit in a local hospital four months longer than was necessary for treatment. The child was previously found to be eligible for DDD services and was already on DDD's "emergency placement" list, but was unable to participate in any of the activities on the hospital unit due to his developmental disability. DDD took the position that the hospital or the family should be responsible for any additional services which might be deemed

necessary to keep the child safe while on the unit. After a number of hearings, the court held that DDD was liable for additional staffing at the hospital and was responsible for more than \$11,000 in service costs.

Youth Advocacy

An Assistant Deputy Public Advocate found that the children on Newark Beth Israels's mental health ward for children in crisis were being denied the right to daily visitation as a matter of policy. She met with the Director of the Unit and he agreed to provide the required daily visitation hours. In addition, the Director agreed not to deny children visitors or deny them the right to wear their own clothing as forms of punishment.

Alternate Commitment Unit

The Department also assists patients committed under the Sexually Violent Predators Act. Since 1999, when the law to civilly commit individuals as Sexual Predators was implemented, the Alternate Commitment Unit has represented almost 500 individuals who were civilly committed as Sexually Violent Predators. The purpose of the unit is to insure that constitutionally mandated due process protections are implemented for each individual facing commitment. The New Jersey Supreme Court and the United States Supreme Court require that only individuals likely to re-offend should be civilly committed after they have completed their prison sentence. This is a difficult unit in which to work because of society's antipathy toward individuals who are labeled Sexually Violent Predators. A small group of dedicated lawyers and support staff represent about 380 confined individuals at their initial and annual review hearings.

Safeguarding the Elderly

In 2007, the Department's Division of Elder Advocacy engaged in significant research and advocacy aimed at improving the quality of life of New Jersey's older citizens.

The Division worked in close collaboration with the Division of Mental Health Advocacy on the comprehensive study of RHCs because of the large number of low-income elderly citizens who live in these facilities. In a number of other areas, the Department initiated investigations and advocacy work targeted at protecting vulnerable older residents of New Jersey from exploitation.

Investigating Discharges from Assisted Living Facilities

The Department, with the assistance of the Office of the Ombudsman for the Institutionalized Elderly, learned that certain residents of assisted living facilities were being involuntarily discharged after they had spent all of their savings and needed to go onto Medicaid.

The Department found that some assisted living facilities were refusing to accept the Medicaid reimbursement for these residents and were attempting to force them to move out. The Department worked closely with the Department of Health and Human Services to protect the safety of individual residents.

The Department also initiated an investigation into this practice and issued a subpoena to the corporate owner of eight assisted living facilities in southern Jersey to obtain information about their involuntary discharge practices. The investigation, which is underway, seeks to identify residents who may be at risk of discharge, and to develop a strategy for intervening so that residents who spend their life

savings and who are qualified for Medicaid can remain in their homes.

Assisted Living: Legislative and Regulatory Reforms

The Department is also working toward legislative and regulatory reforms that will better protect residents of assisted living facilities.

The Department initiated a project to develop uniform consumer disclosure requirements for assisted living facilities, allowing individuals to more easily compare facilities to determine which best meets their needs. Working collaborative with DHSS, the Department developed proposed regulations that would require assisted living facilities to give prospective residents a uniform disclosure form. The disclosure would give consumers details about services, staffing, rates, discharge policies, Medicaid eligibility policies, and other conditions in the facility. The Department expects the rule to be published in the next few months.

The Department also has worked closely with DHSS and members of the Legislature on statutory reforms that would protect prohibit assisted living facilities from involuntarily discharging residents solely because they are moving from private pay to Medicaid status. We also are developing reform proposals that would require all assisted living facilities to reserve a minimum percentage of their licensed beds for Medicaid recipients and would provide due process protections for people who are involuntarily discharged or evicted from assisted living facilities.

Medically Needy waivers

In 2007, the Department engaged in significant research regarding the potential for New Jersey to get Medicaid support for community services for those who do not quite

qualify for Medicaid but who would qualify if their significant medical expenses were excluded from their income. Currently, these individuals can only qualify for Medicaid if they agree to enter a nursing home. The Department's study examined ways to ensure these individuals could receive supportive services in their own home or assisted living facilities so they do not need to enter a nursing home. The Division is finalizing work on a white paper that will propose funding mechanisms to expand Medicaid support for these low-income older individuals so they can remain in their homes.

Clinical Eligibility

The Department has worked closely with a range of community advocates to develop a proposal to broaden the clinical eligibility criteria needed to qualify for a nursing facility level of care, including home and community nursing care. Under current state regulations, an individual must need hands-on assistance with several activities of daily living, such as bathing, eating, and toileting (others are bed mobility transfer and ambulation). The Department and a coalition of advocates are seeking to expand these criteria so that individuals will qualify if they need such assistance due to cognitive impairment, rather than physical disability. The Department also proposed expanding the criteria to include those who need assistance with instrumental activities of daily living, such as medication management.

Protecting Elderly in Institutional Settings

The Public Advocate oversees the Office of the Ombudsman for Institutionalized Elderly, which has been doing critically important work to protect vulnerable older residents for nearly 30 years.

In 2006 to 2007, the Elder Ombudsman responded to about 6,400 complaints or incidents

involving people over 60 living in nursing homes or other long-term care facilities. The Ombudsman both responds to complaints and reviews "incident reports" that facilities must produce for injuries or other incidents that raise concerns.

Sometimes complaints can be resolved to the benefit of the resident "at the bedside" with the full cooperation of the facility operators. In other cases, like cases of serious or system abuse and neglect, referrals will be made to appropriate enforcement agencies.

In one case, a 71-year-old female, who was completely dependent on staff for care was abused by a nurse aide because she dropped a wet bed pad to the floor. Because the aide had hooked the resident's call bell onto the privacy curtain, out of her reach, the resident was unable to call for help with toileting, and urinated on the bed pad. The resident removed the wet pad from under her, and dropped it on the floor. When the aide came in the room and saw the wet pad on the floor, she became agitated. She picked up the pad and threw it in the resident's face, stating loudly, "I have to walk on this floor!"

The aide was terminated from employment at the facility, and ultimately placed on the State's Nurse Aide Abuse Registry. She can no longer work as a nurse aide in New Jersey.

In another case, a referral was made to the state Department of Health and Senior Services, about a nursing facility where an 83-year-old woman was discovered by an aide to have fallen between her bed and a wall. The woman was not breathing and was transported to a hospital where she was pronounced dead. Although the woman was supposed to have side rails and side rail protectors on the bed, these measures were

Type of complaints	Nursing Facility	Board & Care	Total	%Total
Abuse, Gross Neglect, Exploitation	742	120	862	13.5
Access to Information	126	19	145	2.3
Admissions, Transfer, Discharge, Eviction	177	74	251	3.9
Autonomy, Choice, Exercise of Rights, Privacy	409	61	470	7.4
Financial, Property	147	37	184	2.9
Care	1947	241	2188	34.2
Rehabilitation, Maintenance of Function	142	6	148	2.3
Restraints	39	3	42	0.6
Activities and Social Services	57	14	71	1.1
Dietary	211	23	234	3.7
Environment	185	32	217	3.4
Policies, Procedures, Attitudes, Resources	433	137	570	8.9
Staffing	174	19	193	3.0
Certification/Licensing Agency	0	0	0	0
State Medicaid Agency	9	1	10	0.2
System/Others	516	145	661	10.3
Complaints in Other Nursing Home			148	2.3
Total	5314	932	6394	100.00

not enforced by the facility, which was ultimately cited for multiple serious deficiencies.

Protecting Older Adults From Exploitation

Unfortunately, the institutionalized elderly are too often financially exploited, and these cases are a rapidly growing segment of the Ombudsman's caseload.

In one case, a 91-year-old widow unwittingly signed away more than \$160,000 in assets to her pastor, to whom she had given power of attorney. The minister claimed the money constituted "gifts," even though there was no evidence that the resident was capable of exercising good judgment at the time these

"gifts" were given. Our findings were referred to the County Prosecutor, the Social Security Administration, and the Medicaid Fraud Section of the Attorney General's Office and a Public Guardian was appointed to oversee this resident's care. The guardian is working to obtain restitution of the resident's funds.

The Ombudsman responded to a growing number of cases in which the individual had executed a power of attorney, but it was improperly utilized by either a family member or the nursing facility. For example, in one case a woman who was in a nursing home while recuperating from an accident repeatedly

attempted to revoke her power of attorney, but her demands were ignored.

In response to a growing number of cases like this, the Department launched an education campaign in 2007 targeted at educating older New Jerseyans, their families, and nursing facilities about basic legal issues. The campaign focuses on the appropriate use of a power of attorney, and how individuals can ensure that they maintain decisions making authority about their own lives. Department staff have held training sessions in nursing facilities and senior centers throughout the state, and will continue to do so in the coming year. The Department also provide consumer education materials about the use of a power of attorney on its web site:

[http://www.state.nj.us/publicadvocate/pdf/DurablePOA-QA%20\(2\).pdf](http://www.state.nj.us/publicadvocate/pdf/DurablePOA-QA%20(2).pdf)

Biomedical Ethics

As a result of the New Jersey Supreme Court's 1985 decision *In the Matter of Claire C. Conroy* (98 N.J. 321, 1985), the Office of the Ombudsman has become the overseer of ethical decision making in New Jersey's long-term care facilities. In 2007, the Ombudsman continued to conduct ethics education training programs around the state. These trainings help to guide facility staff on when they should call the Ombudsman to assist in end-of-life decision making and other ethics issues.

Volunteer Advocacy Program

The important work of the Elder Ombudsman is greatly augmented by a team of highly motivated and devoted volunteers throughout the state who visit nursing facilities near their homes a minimum of four hours each week. These dedicated volunteers visit their facilities during different shifts and also make unannounced visits. They speak to the staff and observe how residents are treated. They observe

the quality of services provided by the nursing home staff, such as how well residents are groomed and if their personal needs are being met. They address such issues as living conditions, daily activities, and quality of care.

The Office's Volunteer Advocacy Program, first piloted in 1993, continues to thrive. We have trained more than 400 volunteers, of whom 177 are currently active, and placed in 170 facilities throughout the State. Over the past year, these volunteer advocates have donated more than 15,000 hours in nursing homes, visiting elderly residents and advocating for residents' rights. More than 6,500 visits were made and approximately 4,000 concerns resolved to the satisfaction of the residents and their families.

New Jersey has a very dedicated and caring corps of volunteers. Far too often, our volunteers are the only visitors a resident may have. Good quality care should not depend upon whether the resident has a family member who advocates effectively on their behalf. Having an advocate to speak for all the residents, regardless of whether their families are nearby or whether they have any family at all, is the best way to assure residents receive good care.

Meet Our Elder Volunteer Advocates:



Andrew McCray

Volunteer Advocate at Meadowview Nursing and Respiratory Center in Williamstown

Andrew McCray may not have expected to be spending several hours a week in a nursing home unless he was living in one.

But when his aunt moved to a long-term care facility in Lawrence Township, he became her legal guardian. Andrew wanted to make sure his aunt was comfortable and getting quality care.

This is part of the reason why Andrew began volunteering at nursing homes. He eventually joined the Volunteer Advocate Program, overseen by the Department of the Public Advocate's Ombudsman for the Institutionalized Elderly, which investigates reports of abuse and neglect of people age 60 and older living in nursing homes and other long-term care facilities.

Acting as the eyes and ears of the Ombudsman's office, volunteers spend several hours a week visiting long-term care facilities, making sure residents receive the best possible care. Since the program's inception in 1993,

volunteers have donated more than 50,000 hours to advocating on behalf of the state's institutionalized elderly.

Volunteering has paid off for Andrew. He learned how to check for signs that could signal inadequate care of elderly people living in nursing homes. That helped him ensure his aunt received the best possible care.

But a lot of other people benefited from Andrew's efforts, too. While he lost his aunt four years ago, Andrew has been volunteering at the Meadowview Nursing and Respiratory Center in Williamstown for two years. Before that, he volunteered at the Veterans' Memorial Home in Menlo Park for 10 years.

The duties of the former employee of the Department of Health and Senior Services include identifying minor issues that could make residents' lives less than pleasant.

He looks into bedrooms to see whether residents appear distressed or comfortable. He smells for lingering odors. He makes sure people have fresh water to drink and he greets as many people as possible, making certain to speak to residents who do not usually receive visitors.

Many of the ways in which volunteer advocates help residents may seem insignificant to those who live independently. But to someone who is unable to move without the help of a wheelchair and who can't get a drink of water for himself, having an advocate on hand is an indispensable help.

Regular visits from volunteers mean there is one more person who can help make residents a little more comfortable.

Andrew also deals with issues that pose a clear threat to residents' safety. He sees to it that their requests for staff attention are heeded in a

timely manner. He makes sure pathways to emergency exits are clear.

In-fact, since he's begun volunteering, the facility has posted signs warning staff against placing large objects in the way of exits.

When he passes residents' rooms, he makes sure they can reach their call buttons. In one woman's room, he noticed the control was on the floor, out of her reach. He returned it to her bed. "I'm glad you came in to check," she told him.

Resident Richard Giannone said he is glad to have Andrew on his side. "Everything I've asked him to do so far, he's done it and he's done a good job," Richard said.

At one point, Richard's breathing problems made it difficult for him to operate the mechanical wheelchair he used. He wanted to be fitted for an electric one. The problem, he said, was the state wouldn't cover the cost. He aired this problem to Andrew, who pledged to work with the staff to see about getting Richard the chair he wanted. The solution turned out to be seeing different doctor. The new one "took one look at me and said, 'You need an electric wheelchair,'" Richard said.

Another resident with whom Andrew has developed a rapport is Steven Ziglar, a 48-year-old from Millville, who uses an electric wheelchair and whose movement is severely restricted.

Steven said he is in the process of finding out how he can secure the assistance he would need to live independently. Andrew hopes to help him find a way to live on his own.

Andrew was quick to point out that his role is as a member of a team that included the facility staff.

Andrew says he began volunteering partly for a selfish reason — making sure his aunt got the best care possible from the facility at which she lived.

In the process, he has helped countless others who may not have had anyone else to turn to for help.

Each Volunteer Advocate must have excellent communication skills to establish and nurture relationships with residents of long-term care facilities. In addition, volunteers must be effective advocates, and knowledgeable in residents' rights and best practices in long-term care.



Rosemarie Bill

Volunteer Advocate at Oradell Healthcare Center

Rosemarie Bill receives no money for spending several hours a week at the Oradell Healthcare Center.

But what she gets out of it — a new lease on life — is priceless.

The 66-year-old Saddle Brook resident can relate to residents who have suffered from health problems. A severe heart attack forced her to retire early from her job purchasing supplies for UPS.

Later, she lost her ability to walk long distances after having a hip and both of her knees replaced. She completes her rounds at the center in a power chair. What she sees inspires her.

"I've seen people who were worse off than me," she said "I got to know the people as people, not as patients."

They have taught her an important lesson.

"No matter what handicap you have, you can do something," she says.

Rosemarie is one of 200 participants in the Volunteer Advocate Program, overseen by the Department of the Public Advocate's Ombudsman for the Institutionalized Elderly, which investigates reports of abuse and neglect of people age 60 and older living in nursing homes and other long-term care facilities.

Acting as the eyes and ears of the Ombudsman's office, volunteers spend several hours a week visiting long-term care facilities, making sure residents receive the best possible care. Since the program's inception in 1993, volunteers have donated more than 50,000 hours to advocating on behalf of the state's institutionalized elderly.

The benefit to residents is clear. Just ask Lorna Zeman, president of the facility's residents' council.

"Oh she's great," Lorna says. "They couldn't have found anybody better."

Lorna, a native of Liverpool, England who used to live in Pennsylvania, was selling cookies in the center's lobby when she was asked to pose for a picture for this profile.

"Smile, let your personality shine through," Rosemarie told her.

Rosemarie has a talent for persuading elderly residents to open up to her. This is an invaluable skill for someone whose job involves helping residents air their complaints to staff.

"Initially they clam up," Rosemarie said, adding that many residents have grown more willing to speak with her about topics ranging from roommate problems to details about their families.

Rosemarie has developed a strong rapport with resident Gladys Hartwig. Originally from

Dumont, Hartwig moved to the facility in 1995 following a debilitating back injury. Though she maintains contact with family members, Gladys said she would feel lonelier if not for Rosemarie's regular visits.

Providing good company is not the only way Rosemarie has helped Gladys. For a while, the staff at the center failed to cut Gladys' food before serving it to her. She would bring this to their attention, but by the time a staff member returned to cut her food, it would be cold. Rosemarie has worked with the staff to solve this problem. Gladys' food is now served cut and ready to eat.

Gladys said she finds Rosemarie's visits a welcome break from the norm. "She's wonderful and out of the ordinary," she said. "She's jolly, which you need with all the grouchy people around here."

Like many Volunteer Advocates, Rosemarie has struck a healthy balance between advocating on behalf of residents and maintaining a smooth relationship with the staff of the facility she visits. Both parties, Rosemarie finds, work toward the objective of making sure residents receive the best care possible.

Amy Pestano, a nurse at the facility, said residents are sometimes reluctant to approach her or her colleagues about problems they encounter and so Rosemarie acts as an important intermediary.

But Rosemarie urges residents to overcome this fear and speak up if something is wrong, even when she is not there.

Resident Joe McGrath said Rosemarie encourages him to speak his mind at meetings of the residents' council, even if his comments are not

favorable. "She tells me: 'If you have something good to say, say it. If you have something bad to say, say it.'"

But the most valuable asset Rosemarie provides to her residents may not be her willingness to seek out complaints. It may be her friendly face.

"When I see you come in here, I clap my hands," resident Alice Despres said to Rosemarie.

"You're so sweet to me."

"She tells me: 'If you have something good to say, say it. If you have something bad to say, say it.'"

Section 4: Advancing Good Public Policy

Safeguarding Voting Rights

Through projects calculated to affect a high number of voters generally, and voters within the special constituencies of the Department of the Public

Advocate in particular, the Department engaged in several projects throughout 2007 designed to secure compliance with federal and state statutes guaranteeing voting rights. These projects are designed to encourage the registration of voters, the casting of ballots by eligible voters, and the fair and accurate counting of all ballots.



others, unramped stairs made access nearly impossible for people with disabilities and difficult for senior citizens.

The Department conducted an extensive analysis

of the laws that guarantee access to the election process for people with disabilities. The Department also conducted spot inspections at 121 polling places in nine counties – Bergen, Camden, Essex, Hudson, Mercer, Middlesex, Monmouth, Passaic, and Union – during the June primary election. These

spot inspections indicated that only 20 percent of the locations were accessible, even though a fifteen-year-old federal law requires universal access.

Protecting the Voting Rights of People with Disabilities and Senior Citizens

In 2007, the Public Advocate published two reports, both available online at <http://www.state.nj.us/publicadvocate/public/issues/protectingvotersrights.html>, describing the present and past problems that people with disabilities encounter at the polls. One of the most common problems was polling sites located in inaccessible buildings. In some locations, doorways were too narrow for wheelchairs; in

We recommended that the county boards of election ensure that all polling places are accessible and that the Chief Election Officers engage in more intensive oversight to ensure such compliance. We also recommended that each county fully staff and train a Voting Accessibility Advisory Committee to conduct both pre-election and Election Day inspections of polling place accessibility.

In response to our advocacy, election officials in Camden, Essex, Hudson, Mercer and Passaic counties have reported to us that they conducted reinspections of problem sites and took steps to either relocate or make appropriate accommodations to at least some of the noncompliant polling places. We will continue monitoring the counties' and the State's progress to achieve the mandate that 100 percent of polling places be accessible to voters with disabilities.

In addition, the Department assisted the Legislature in drafting language to amend the State Constitution and statutes to remove offensive terms regarding voter disqualifications. Since at least 1844, the State Constitution has disqualified "idiots" and the "insane" from voting.

Despite this insulting language, our state courts have long made clear that the disqualification is quite narrow: only those whom a court has declared incompetent to vote, based on expert medical testimony, may be excluded from the franchise. Essentially, the question in such cases is whether a person with a mental illness or a developmental disability can nevertheless understand the act of voting. Like all other voters, they need not justify their choices or display deep knowledge of the electoral process. They need only understand what voting is.

To bring the language of our Constitution in line with these cases, the Department assisted in drafting an amendment, sponsored by Senate President Richard Codey, Senator Martha Bark, and Assemblymembers Joseph Cryan, Jim Whalen, and Bonnie Watson-Coleman, to remove the terms "idiot" and "insane" from the State Constitution. Instead, the amended provision would ask whether a person lacks "the capacity to understand the act of voting." The Public

Advocate testified before the Senate State Government Committee that offensive words have no place in a document that embodies our highest ideals and protects our liberties.

The proposed constitutional amendment passed the Legislature in the 2007 session and was approved by voters in the November 2007 election. This change in the law will help prevent obstacles to voting based on outdated and offensive descriptions of disqualifications arising from mental illness or developmental disability. This Department continues to work to ensure that our Constitution and election laws reflect New Jersey's commitment to equality and recognize the dignity of all our citizens.

Increasing Voter Registration

In 2006 and 2007, the Department conducted extensive research regarding compliance with the National Voter Registration Act. This federal law requires motor vehicle agencies to give people an opportunity to register to vote whenever they obtain, renew, or update their driver's licenses. Likewise, an address change accepted by the Motor Vehicles Commission (MVC) must be transmitted to election officials as a change of address for voting purposes. MVC processes approximately 165,000 license applications and renewals and 22,000 address changes every month. Thus, through compliance with the National Voter Registration Act, the MVC has the potential to reach and register tens of thousands of eligible voters.

Unfortunately, New Jersey has not adhered to the requirements of the federal law. A February 2007 study by the Public Advocate showed that New Jersey's motor vehicle agencies offered voter registration opportunities to only 8% of individuals who were entitled to such assistance. The most recent data available show that New Jersey ranked 42 among the 43 states

Monitoring Voting Machines

that answered a federal survey about the percentage of citizens who registered to vote through motor vehicle agencies in 2005-06.

The Department took this information to the Motor Vehicles Commission (MVC) and the Attorney General. Both agreed to work with us to rectify the problem. Over several months we negotiated a compliance plan, and all parties agreed to that plan in a Memorandum of Understanding (MOU) signed on March 20, 2008.

The MOU creates mechanisms through which the MVC will actively solicit and collect voter registrations from eligible citizens. Under the MOU, the MVC and the Division of Elections have agreed to: (1) hand out “short-form” voter registration applications to all eligible customers at MVC offices; (2) post signs in these offices informing the public about their right to register to vote and reminding employees of their voter registration obligations; (3) train MVC employees about these obligations; (4) ensure that address changes accepted by MVC will serve to transfer the applicant’s voter registration to the new address; (5) conduct random compliance inspections at MVC offices and report regularly on compliance; and (6) reach out to register individuals who were denied a registration opportunity in the past.

The collaborative efforts of this Department, the Motor Vehicle Commission, and the Attorney General’s Office will lower barriers to voter registration for New Jersey citizens. The Memorandum of Understanding should lead to a more efficient and effective voter registration system. With motor-voter law compliance greatly improved, citizens should find it easier to participate in the democratic process. This, in turn, should lead to greater turnout and fewer eligible, willing, but unregistered and frustrated voters on Election Day.

In this age of electronic voting, the thorough and scientific testing and certification of voting machines can make the difference between a fair election and an unfair one. With this in mind, the Department continues to examine voting machine reliability, usability, accessibility, security, and cost. State law requires that, within the next several months, all voting machines provide a paper trail that will allow voters to verify their choices. In order to comply, county election boards must acquire and install more than 10,000 voting machine printers or purchase a sufficient number of paper-based voting systems.

State law charges the Voting Machine Examination Committee with reviewing this new technology and making appropriate recommendations to the Chief Election Official. The Public Advocate testified in hearings before the Committee in late 2007 and provided extensive reports and studies to inform its recommendations. Because of problems identified in state testing of the proposed printers, the Committee did not recommend certification of the machines, and the Attorney General, then Chief Election Official, declined to certify them. The Public Advocate continues to keep a close watch on the certification process.

The Department has also undertaken a comprehensive review of the contracts between the counties and Sequoia, the primary voting machine vendor in New Jersey. Sequoia threatened to sue county election officials for violation of their contract if they turned over their machines for independent review following glitches on primary Election Day in February 2008. The Department obtained a copy of the contract in question and found troubling provisions that might hobble elections officials both in seeking independent review of problematic machines and in obtaining

appropriate remedies for machine failures. We therefore subpoenaed the vendor's recent contracts with New Jersey counties. We hope to ascertain whether the problems are common and to recommend alternative contract language that might better protect the counties and the citizens' right to vote on reliable, accurate, and secure systems.

In addition, the Public Advocate appeared as *amicus curiae* in *Gusciora v. McGreevey*, a case concerning the legality of New Jersey's voting systems. We provided the court with information regarding the role of audits, myriad problems with voting machines, and the need for thorough testing standards.

The Department commends sponsors Senator Nia Gill and Assemblymember Reed Gusciora, fair elections advocates, the Legislature, and the Governor for passing legislation in 2007 that will require regular audits of paper records and machine tallies. These audits should help to ensure the accuracy and reliability of our voting technologies.

Protecting the Franchise on Election Day

Prior to the November 6, 2007, general election, Department staff trained lawyers and other advocates to assist or represent voters who were denied the right to vote. Thirteen attorneys from the Department were on duty at county courthouses around the State to monitor election problems and to assist voters who were improperly denied their right to vote at the polls. The Department also set up a free hotline for voters with disabilities who encountered problems at the polls. This hotline educated voters about their rights and assisted with problems related to voting.

In 32 of the 34 cases where the Public Advocate was involved last November, the courts

ordered officials to allow the voters to cast ballots. Our efforts included an emergency appeal to the Appellate Division on behalf of a husband and wife who were denied their right to vote. The wife had previously been registered to vote in another county and had changed her address with the MVC. The appellate judge ordered that, under the law, this change of address should "automatically [have] caused her to be registered to vote at her current address." The judge thus issued an order entitling her to vote. The appellate court ruled against the husband, however. He was a new citizen and had never registered to vote, but he had visited an MVC office to obtain a driver's license. No one there had offered him the opportunity to register to vote. Although the government thus defaulted in its legal duty, the court held that the husband could not vote because he was not registered.

In the presidential primary on February 5, 2008, we again staffed the hotline and appeared in courthouses around the State on behalf of voters, winning 41 of the 47 cases in which our attorneys assisted. We helped voters who had difficulty voting in the party primary of their choice because of glitches in the registration records, and we successfully argued before most judges that the National Voter Registration Act requires that voters be given an order to vote when they have previously been denied their voter registration rights at state motor vehicle offices. The Superior Court in Bergen County, however, denied such relief to an eligible voter who had moved, changed his address with MVC, and renewed his driver's license – yet MVC and the Division of Elections had not updated his voter registration or offered him an opportunity to re-register. We took an emergency appeal on his behalf, but the Appellate Division held that he could not vote. This decision directly contradicts the Appellate Division order we won on behalf of another voter in the November election. Thus, it

remains unsettled whether a citizen is entitled to vote on Election Day when flaws in his or her registration are attributable at least in part to the government's non-compliance with the National Voter Registration Act.

The Department has also supported the efforts of other advocates who seek to assist voters in exercising their rights at the polls. A recent directive from the Attorney General restricts free speech and the distribution of printed information within 100 feet of the entrance to polling places on Election Day. The only exception is for exit polling, which is permitted so long as pollsters register with election officials at least two weeks before the election. By imposing substantial regulations on voting rights work, the directive creates a risk that citizens will be deprived of valuable assistance.

In December 2007, the Public Advocate decided to enter a case challenging these restrictions. We filed an *amicus curiae* brief in the Appellate Division arguing that proposals to regulate this kind of civil rights work require formal rulemaking. Instead, the directive was issued without formal notice and comment, without input from the Legislature or the press, and without widespread publication of either the proposed or final draft. The Appellate Division heard the case in March 2008, and we await a decision.

Promoting Affordable Housing

New Jersey has an extreme shortage of affordable housing that has persisted for well over 30 years. Millions of New Jerseyans have few choices about where they can live because of the lack of affordable housing. When families do find housing, they often pay half or even more of their income to live there. This high price limits their ability to pay for daily needs, such as

transportation, child care or health care. And for many, exorbitant housing costs make it impossible to save for long-term needs like retirement or their children's higher education.

The Public Advocate began an initiative in the fall of 2007 to increase the amount of housing in New Jersey that is affordable to low- and moderate-income families. Specifically, the Public Advocate sought to improve how the government implements a state constitutional requirement that every municipality provide its fair share of affordable housing.

This constitutional requirement is known as the *Mount Laurel* doctrine, named for a series of lawsuits originally brought in the 1970's by organizations and individuals who sued the Township of Mount Laurel for employing land use policies that excluded low- and moderate-income families. In these cases, the Supreme Court ruled that: 1) every municipality in New Jersey is prohibited from regulating land in a way that excludes low- or moderate-income households, and 2) every municipality is required to take affirmative measures to provide its fair share of housing opportunities for low- and moderate-income households.

The State Legislature created the Council on Affordable Housing (COAH) in 1985 to facilitate the implementation of this mandate. COAH estimates the statewide need for affordable housing, determines each municipality's "fair share" of that need, and develops rules for how municipalities meet that need. In 2004, for the third time in its existence, COAH issued a new estimate of the affordable housing need in New Jersey and revised rules governing how towns could meet that need (commonly referred to as the "third round rules"). In January 2007, the Appellate Division invalidated significant parts of the third round

rules because they failed to live up to the constitutional mandate. COAH then began an effort to rewrite the rules by the end of 2007. The rewrite of these rules was the subject of the Public Advocate's affordable housing initiative.

Affordable Housing in New Jersey: Reviving the Promise

In an effort to understand the key issues surrounding the COAH rules, the Public Advocate consulted with a range of affordable housing advocates and experts; performed in-depth legal research, and met with government officials. As a culmination of this research, the Public Advocate released a report entitled *Affordable Housing in New Jersey: Reviving the Promise*, available at <http://www.state.nj.us/publicadvocate/public/issues/advocatingforaffordablehousing.html>. This report outlined two key concerns about the third round rules, as they had previously been drafted:

- 1) The rules would not lead to the creation of significant housing for families earning less than 40% of median income, roughly \$26,000 annually. Instead, towns could be certified as COAH-compliant by creating affordable housing opportunities almost exclusively for families earning more than this amount. The Public Advocate called on COAH to require that a significant percentage of each town's affordable housing obligation be dedicated to families making less than 40% of median income.
- 2) COAH's rules greatly underestimated the need for affordable housing in New Jersey. The original third round rules projected that only 52,726 new affordable units were needed through 2014, COAH's lowest projection ever.

The Public Advocate's report described how COAH had relied on incorrect assumptions and outdated and shaky data to justify this low estimate of the affordable housing need. Perhaps the most glaring reason for COAH's underestimation of the need for affordable housing was that it did not count families solely because they are "cost burdened." Low- and moderate-income households are considered "cost-burdened" when they pay more than 30% of their income toward housing. According to the Department of Community Affairs, there are almost 700,000 low- and moderate-income cost-burdened households in New Jersey.

The Public Advocate called on COAH to use more sound methodologies and more reliable data to develop an accurate measure of the affordable housing need in New Jersey.

COAH's Revised Third Round Rules

On December 17, 2007, subsequent to the Public Advocate's report, the COAH board approved revised third round rules. The revised rules are a significant improvement over the prior version. Most importantly, COAH more than doubled its estimate of the housing need in New Jersey, to roughly 115,000. While the Public Advocate still believes this greatly understates the problem, the new estimate will help New Jersey start to maximize the stock of affordable housing that is created through public and private development and redevelopment. In addition, the new proposed rules contain some important revisions that will increase the availability of housing for lower-income New Jerseyans, including new funding for very-low-income housing, but the rules do not mandate any set-aside for such households.

Thus, in January 2008, we took the additional step of writing to the New Jersey Housing & Mortgage Finance Agency, which is

responsible for creating a pricing structure for affordable housing. We urged the agency to ensure that some proportion of the housing stock would be affordable to those earning incomes below the median. We explained the particular importance of such housing to people with disabilities or mental illness, many of whom remain institutionalized for years because of the lack of affordable housing options in the community. We await the agency's promulgation of proposed rules.

Working To Support Legislative Reforms

In December 2007, the Public Advocate testified before the Assembly Committee on Housing and Local government on a package of housing reforms proposed by Assembly Speaker Joseph Roberts and Assemblywoman Bonnie Watson-Coleman. Among the important initiatives the Public Advocate supported is an effort to abolish Regional Contribution Agreements, or RCAs. RCAs allow towns to avoid meeting up to half of their constitutional affordable housing obligation by paying other towns to create affordable housing.

The proposed legislation would create other sources of funds to assist municipalities that have a disproportionate share of affordable housing, while also enforcing the important principle that a municipality should not be allowed to buy its way out of providing its fair share of housing for low- and moderate-income families. The Public Advocate also testified in support of an initiative to set aside 25% of affordable units for very-low-income families, those who make less than 30% of median income or roughly \$19,000 annually. The Public Advocate continues to work with Speaker Roberts and other legislative leaders to develop policies to expand the availability of housing that is affordable to the full range of low- and moderate-income families.

Integrating New Jersey's Immigrant Community

Chairing the Governor's Blue Ribbon Advisory Panel on Immigrant Policy

On August 6, 2007, Governor Jon Corzine announced his creation of a Blue Ribbon Advisory Panel on Immigrant Policy. "For years New Jersey has been a gateway to America – a place of opportunity and new beginnings," the Governor said. "And today we take an important step in creating a comprehensive statewide strategy for weaving immigrants into the economic, social and civic fabric our communities and State." He called on the Public Advocate to chair the panel.

The panel's work focuses broadly on issues affecting the immigrant workforce and labor; the role of the State in the delivery of social services and public benefits to the immigrant population; issues concerning education at the primary, secondary and higher education levels; and local government services. The Public Advocate assigned panel members to one or more of four subcommittees: Workforce/labor and economic development, social services, education, and state and local government services.

The panel has held regular meetings and public hearings to conduct its business, including one in November in which panel member Mayor Michael Wildes gave members an overview of immigration law as it relates to state immigrant policy. In early 2008, the panel joined officials in Illinois by video conference to learn about that state's path breaking work to ensure its state government responds effectively to immigrant issues.

The first of three public hearings by the panel was held December 10, 2007 at the Labor

Education Center in New Brunswick. More than 250 people attended, and 71 individuals testified. Among the attendees were members of diverse communities including Latinos, Haitians/Caribbeans, South Asians, Poles, Ukrainians, and Filipinos. The testimony represented an array of perspectives from advocates, immigrants (documented and undocumented), students, laborers, pro/anti immigrant groups, and various congregations. The speakers addressed a range of issues such as: in-state tuition for undocumented students, fair/equal education for all, health access, driving privileges, concerns about state and local cooperation with federal Immigration and Customs Enforcement, guidance for municipalities, and economic and workforce issues. The testimony will be compiled, grouped according to topic, and submitted to the panel's subcommittees for their reference in coming up with recommendations. The panel held its second public hearing at Bridgeton High School on March 11, 2008. About 120 people attended the hearing, which attracted residents from throughout southern New Jersey's farming communities including agricultural employers, farm workers and labor advocacy groups. Witnesses also included members of the Latino, Haitian and South Asian communities as well as young first generation immigrant professionals and students, educators, advocates, and concerned citizens. Fifty-two witnesses testified and many expressed their concern for safety, workforce protection, and access to health care and other services. The speakers addressed a range of other issues, including: concerns about ethnic profiling; targeted enforcement against local code violations; the need for in-state college tuition for children of undocumented residents. Some attendees testified in favor of increased enforcement of immigration laws and elimination of access to benefits and services for undocumented residents.

A third public hearing will be held in northern New Jersey later in the year. The education subcommittee is studying issues concerning access to education for the immigrant community. The social services subcommittee is looking into issues of cultural competency and access to social services by immigrants. The subcommittee will develop policy recommendations to implement standard contract language to require all state contractors who deliver social services to do so in a manner that reflects cultural competency. Additionally, the subcommittee is examining barriers immigrants face in gaining access to social services.

In support of the Panel's work, the Public Advocate has conducted background research on: the respective powers of federal, state, and municipal governments with respect to immigration; local immigration-related ordinances; driving privileges for undocumented immigrants; language access requirements under the Title VI of the Civil Rights Act; and proposals for in-state tuition for all immigrants attending state universities. The Department is also assisting the Panel in its consideration of the establishment of an office of immigrant affairs in New Jersey.

Consulting in State and Local Controversies Involving Immigration

The Public Advocate consulted with the Attorney General regarding her August 22, 2007, Directive on Immigration Enforcement, which established rules for law enforcement inquiries into a person's immigration status. The Public Advocate pressed concerns about the resource allocation and civil rights implications of that Directive.

In addition, attending to pressing local matters as they have arisen, the Public Advocate

engaged police and city officials in Newark regarding the treatment of day laborers. Laborers there had been receiving citations for “obstruction” even though the city’s obstruction ordinance conflicts with state law. After a series of dialogues with concerned parties, municipal prosecutors agreed to postpone obstruction cases pending further review, which is ongoing.

The Public Advocate also met with and heard the concerns of representatives of community leaders in Dover and Morristown, where there are allegations of discrimination against Latino immigrants. The Department continues to monitor these controversies.

Ensuring Public Access to Public Land

Commenting on the Public Access Rules

The Public Advocate submitted comments to the Department of Environmental Protection (DEP) in January 2007 supporting its proposed regulations to ensure public access to and use of tidal waterways and their shores and recommending increased protections. The comments underscored the importance of the rules and emphasized their roots in the ancient doctrine of the public trust, which guarantees the people of New Jersey access to waterways and their shores. The comments also suggested ways of strengthening the regulations to ensure access for all, including people with disabilities. DEP published its final regulations in the December 17, 2007. DEP has addressed in the rules most of the public access and use terms supported by the Public Advocate. The main concern remaining is whether vigorous enforcement will ensure implementation of the rules.

Building on the New Jersey Supreme Court’s decision in *Raleigh Avenue Beach Association v. Atlantis Beach Club, Inc.*, the DEP

rules expressly state that the public has rights to use any tidal waterway and the shores of all tidelands at any time. Moreover, the rules specify that the public is entitled to use any open land acquired with public funds and any beach built or replenished with public funds. The rules also formalize the standards for beach fees set forth in *Raleigh Avenue*.

Beach Access

To help educate the public about beach access, the Department published its second guide to New Jersey’s beaches in the summer of 2007, providing information on public and private beaches and their fees, restrooms, parking, access for persons with disabilities, and more.



Section 5: Fostering More Responsive Government



The Public Advocate's Division of Citizen Relations consists of three distinct offices that each serves the public in a unique way.

- 1) The Office of Citizen Relations serves as the state's ombudsman in resolving problems citizens have when interacting with state government.
- 2) The Office of Dispute Settlement provides a broad range of neutral dispute resolution services to the courts, public and private sectors to minimize and resolve conflict.
- 3) The Corrections Ombudsman addresses the issues and concerns of the state's inmate population.

While each office provides a distinct function, each is dedicated to solving problems and resolving conflict whenever possible. Below is a more detailed report on each of these offices.

Helping Citizens Navigate Government Agencies

It is as much the duty of government to render prompt justice against itself, in favor of citizens, as it is to administer the same between private individuals." -Abraham Lincoln

It is in this spirit that the Public Advocate's Office of Citizen Relations was created.

The primary responsibility of Citizen Relations is to respond to complaints about government agencies. Some complaints are best handled by a simple telephone call to the appropriate agency. Other complaints are serious enough to warrant a full investigation. In either case, Public Advocate investigators make sure that when it is appropriate, government renders prompt justice against itself.

- ♦ Specifically, the Office of Citizen Relations gives the public a way to:

- ◆ Express their dissatisfaction with a decision, action or policy of a government agency;
- ◆ Seek information about a government agency and/or program;
- ◆ Report bureaucratic delays, inadequate or confusing responses to citizen inquiries; and
- ◆ Express concerns about the manner in which an agency addresses a problem or treats a citizen.

The Office of Citizen Relations serves as an early warning system to identify areas in government where improvements are needed. By soliciting citizen complaints directly from the public, the Office of Citizen Relations is able to identify areas in need of systemic reform. If necessary, the Office of Citizen Relations is also empowered to hold public hearings and to refer matters to the Public Advocate for further action.

The complaints received during 2007 cover a broad spectrum of issues, including problems with specific state agencies and more general concerns about state policy. Citizen Relations fielded complaints about municipal matters, eminent domain, the New Jersey Division of Youth and Family Services, the Division of Taxation, the Motor Vehicle Commission, and developmental disability and mental health cases.

Case Studies: You Can Fight City Hall.... And Win

The Refund Is in the Mail..

R.D., a small business owner in Denville, Morris County, saved \$117,000 due to the efforts of the Public Advocate's Office of Citizen Relations.

Told he owed \$145,000 to the New Jersey Department of Labor (DOL) in unemployment taxes, R.D. and his accountant had been lobbying

unsuccessfully for years for a more accurate accounting of his tax exposure from the DOL. The \$145,000 tax bill, they maintained, was based on an auditor's estimate and had no factual basis. But R.D.'s complaints to the DOL went nowhere.

It wasn't until our OCR case manager got involved, and was able to access individuals in the DOL legal department, that R.D. got an accurate accounting of how much he owed -- \$28,000 -- and was able to make payment arrangements and clear up the matter.

A father of 10 and with seven of his children still at home, R.D. had his bank accounts frozen and almost lost his home before the Public Advocate got involved.

The Case of the Lost Tax Payment

V.C. and her husband called us and reported that although they promptly filed income tax extensions and paid any taxes that were due on time, the Division of Taxation had previously lost personal checks that she had mailed.

So for the 2006 tax year, V.C. decided to pay her taxes that were due by credit card. The payment apparently was not received

because V.C. began getting form letters requesting payment, and charging late fees and interest. We reviewed V.C.'s documents and arranged a conference call with V.C. and the Division. It turned out that they had received her payment, but it was credited to the 2005 tax year, not 2006. After the Division recalculated the taxes due, and deducted the late fees and interest, the Division advised her that she had actually overpaid her taxes by \$30, and refunded her the money.

Ending a decade of frustration

By the time W.D. contacted our office, he had been fighting city hall for ten years over a flooding problem on his property. W.D. said the flooding was caused by undersized drainage pipes on township land next to his. He asked us to take a look at his case. Our review of the documents showed that the township's own engineer also believed the problem was the township's responsibility. We reached out to the mayor and business administrator on W.D.'s behalf, and local officials then met with the homeowner and agreed that they would take a proactive approach to begin work and solve the flooding problem.

Health Insurance and the Collection Agency

Mr. and Mrs. A. both underwent identical medical procedures, one week apart. The insurance claim for Mr. A. was processed by the hospital and paid in full by the insurance company.

Mrs. A. was not so lucky. The claim was only partially paid – leaving a balance of \$650. By the time they reached out to us, she had tried and failed to resolve the problem with the hospital, the insurer, and the collection agency that had been brought in to collect payment. We reviewed Mrs. A.'s paperwork, and reached out to the hospital, the insurer and the collection agency. It turned out that the service code on the claim was incorrect. The hospital corrected the code, we resubmitted the claim to the insurer, the claim was paid in full and they were cleared by the collection agency.

Getting to Work

L.O. sent us an email in August complaining about her unsuccessful attempts to get services through NJ Transit Access Link, which provides transportation services to people with disabilities. L.O. is a teacher and is physically disabled. Back in April 2007, she began the application process with NJ Transit so she could begin receiving services in September and would be able to get to school and continue working as a teacher. As the start of school drew closer, she contacted us and said she was frustrated because she had made numerous calls, sent many emails and had been unsuccessful.

We contacted NJ Transit on her behalf, and explained the problem. After reviewing her file, NJ Transit reported that the application had

been suspended due to missing information. We obtained the missing information from L.O. and passed it on, and NJ Transit finished the application process. L.O. was approved for services in time for the first day of school.

[A Look at the Numbers](#)

Since the Office of Citizen Relations opened for business in November 2006, we received and processed 2,295 complaints regarding New Jersey state and local government agencies, as well as private entities. To gain a greater understanding of the challenges that our state currently faces, we conducted a preliminary analysis of our first-year intake to identify the most pressing issues and where they emanated from.

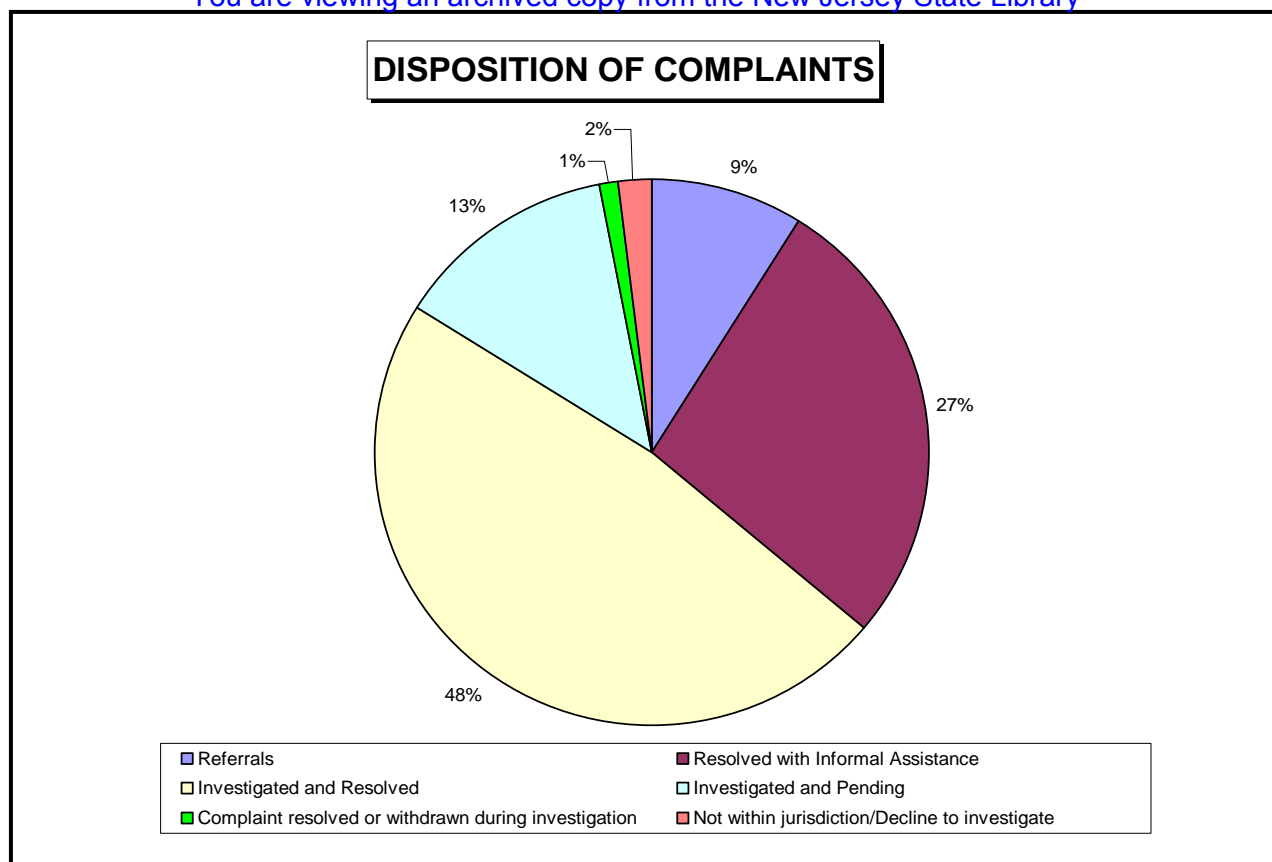
[Getting Back to Work](#)

C.G., a single mother of two children, claimed she was pressured to resign from her job at a state psychiatric hospital because of her medical limitations. She said she was led to believe that she would retain her seniority and her pay when she was able to return to work. But after she was cleared to return to duty and did so, she was classified as a new employee – with no seniority and less pay. She filed a complaint and was waiting for the Merit System Board to hear her case, but the hearing was postponed three times without explanation.

She came to us seeking help in getting a firm hearing date so her case could be heard. We reached out to the Merit Review Board, provided them with details and documentation about C.G.'s claim, and asked for an expedited hearing. Her hearing was held the following week and the Merit Review Board ruled in her favor and granted her retroactive back pay to make up for the pay she had lost while waiting for the hearing.

There are 21 counties within the state of New Jersey. The counties that produced the largest percentage of Citizen Relations' first year intake were Middlesex, Hudson and Monmouth. The largest share of cases from these three counties involved complaints from inmates and families against the Department of Corrections. A large number of the cases from Monmouth County were complaints involving eminent domain. Ocean, Essex and Mercer counties also produced large numbers of cases. Eminent domain matters dominated in the Ocean County caseload, while complaints about utility rates were a large share of the Essex caseload. Mercer County produced the largest number of complaints about Board of Social Services caseworkers, rental assistance and Section 8 Housing. In the other counties, no sign issue dominated the body of complaints.

Along with complaints about eminent domain and correctional issues, some other significant issues during the first year include cases involving the Division of Taxation, the Motor Vehicle Commission, DYFS, and the Division of Developmental Disabilities. We will undertake greater analysis of our data once enhancements of our data base system are completed. We anticipate that Citizen Relations data will become an essential resource for the Department and for other state agencies in the continuing work of increasing government accountability.



Resolving Disputes Without Litigation

THE OFFICE OF DISPUTE SETTLEMENT

Established in 1974, the Office of Dispute Settlement (ODS) began as a small community mediation program and has evolved into one of the leading public dispute resolution offices in the country. ODS saves the state and private parties millions of dollars every year by resolving disputes quickly and efficiently.

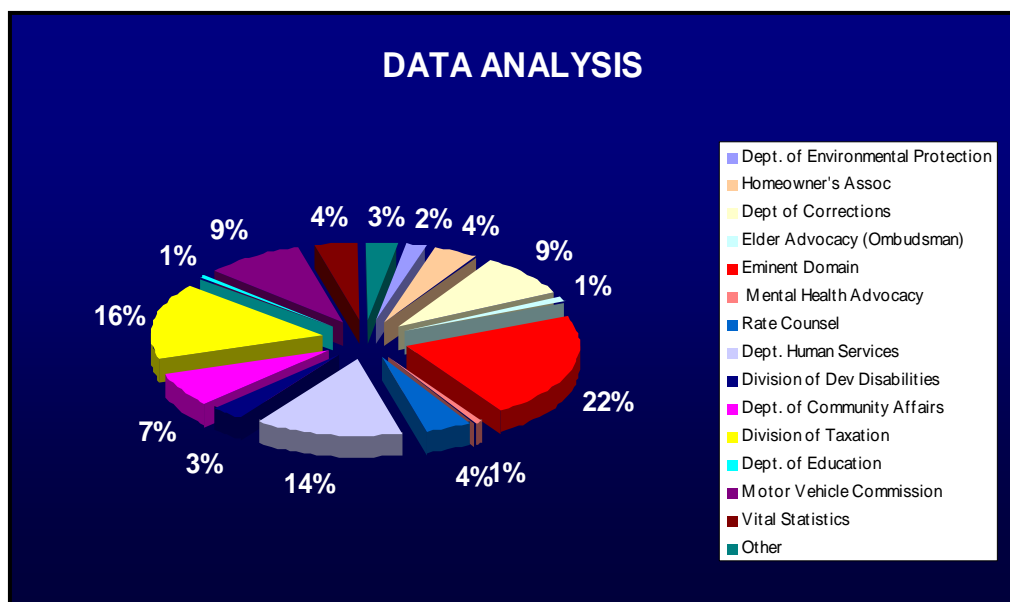
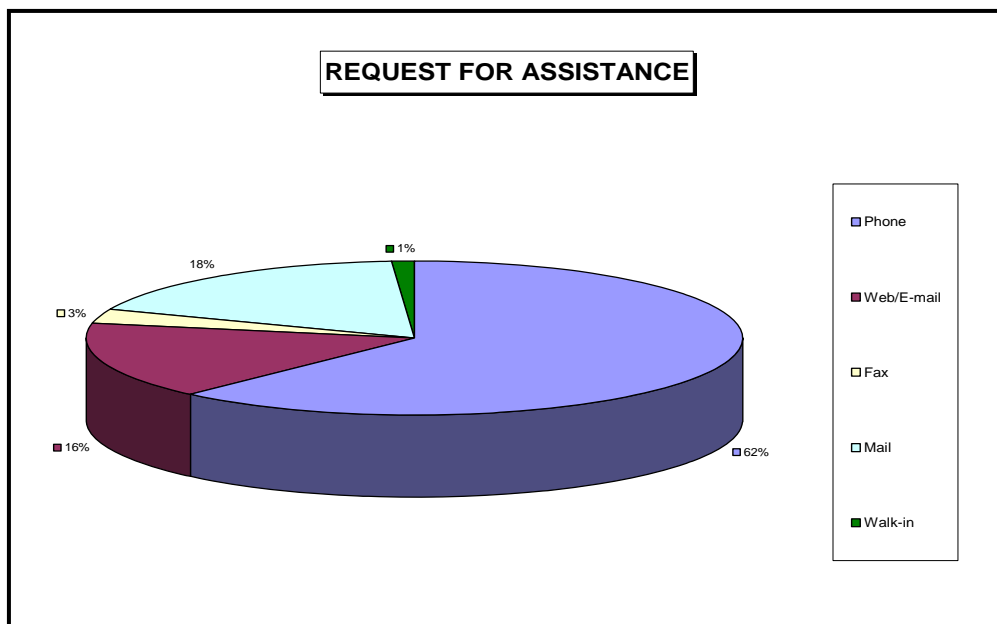
The Office of Dispute Settlement provides neutral mediation services to resolve a wide variety of disputes. The office mediates all types of public disputes and civil litigation in the state and federal courts; trains judges, attorneys and state agency personnel in negotiation, mediation and settlement techniques; coordinates and promotes the use of dispute resolution in state government and mediates cases for federal government dispute resolution programs.

In 2007 ODS handled 819 cases and trained 210 people. ODS' services have saved millions of dollars in litigation costs, hundreds of hours of judicial time and helped the courts relieve their civil case backlog. ODS is a recipient of the CPR Legal Program National Award for "Outstanding Practical Achievement in Dispute Resolution" for its mediation of high-profile court cases.

Court Mediation:

In 2007, the office mediated 71 cases that were pending in the state and federal courts in New Jersey. These cases involved subjects such as: environmental clean-up, employment, construction, insurance coverage and personal injury.

In Southern New Jersey Rail Group v. NJ Transit Corp., two fortune 500 corporations sued the state for over \$100 million in cost overruns related to the construction of the Riverline light rail line. The case was originally before a state court judge, but due to its complexity had been



sent to a retired judge as a special master. The parties, facing years of litigation and millions of dollars in litigation costs, referred the matter to ODS for mediation. Through mediation, the office resolved the litigation quickly and saved each of the parties over \$1 million dollars in litigation cost. In just one case, ODS saved both the state and corporate litigants more than \$1 million each in litigation costs.

In another case, the office was able to broker a settlement between state prisoners convicted of sex crimes and state corrections

officials. In this dispute, the inmates alleged that state officials failed to keep them safe from attacks by other prisoners. The settlement increased the protections afforded the prisoners, while also helping the state avoid years of protracted and expensive litigation.

Dispute Resolution Programs

The Office of Dispute Settlement also manages two New Home Warranty arbitration programs which involve arbitrating disagreements between homeowners and builders. Under this program, a panel of neutral

construction experts resolves disputes between homeowners and builders regarding defects in new home construction. In 2007 ODS handled 289 New Home Warranty cases and 261 Residential Warranty disputes.

Under an inter-agency agreement with the Government Records Council, the Office of Dispute Settlement mediates all disputes arising under the NJ Open Public Records Act (OPRA). ODS staff mediate between the person who is denied access to a government record and the custodian who is responsible for providing such access. Last year, ODS mediated 73 of these cases.

Under state law, all disputes between excavators and underground facilities operators involving amounts less than \$25,000 must be submitted to ODS for resolution through alternative dispute resolution procedures. The goal of the amendment is to provide a fast, efficient and cost-effective way to resolve disputes where utility lines are damaged during digging. ODS handled 105 of these cases this year.

ODS serves as a member of the Equal Employment Opportunity Commission (EEOC) and U.S. Postal Service mediation roster in order to mediate employment disputes. In 2007 ODS mediated 15 of these cases.

Dispute Resolution Training:

Because of the proven track record of dispute resolution and clear benefits to all parties, the Public Advocate continues to expand the reach of the Office of Dispute Settlement by training increased numbers of legal, law enforcement, and government officials.

Last year, ODS trained 210 judges, attorneys and state agency personnel, an increase of more than 15 percent from the previous year.

The ODS also trained more than 60 state police as part of that agency's continuing management training seminars.

Office Of Dispute Settlement	
Type of Case	#Cases
Court Mediation	71
Pre-litigation	5
Home Warranty	550
Open Public Records	73
Underground Facilities	105
Federal Mediation	15
Total Cases	819

Through the Office of Dispute Settlement, the Public Advocate has created and hosts an inter-agency working group to expand the use of dispute resolution in state government. In addition, ODS staff serve as members of the Supreme Court Committee on Complimentary Dispute Resolution and chair the Subcommittee on Education. The Supreme Court Committee reviews rules relating to the use of mediation in the state courts and makes recommendations to the NJ Supreme Court.

During the last year, the Public Advocate proposed legislation that would expand the use of ADR throughout state government, and thus save the state millions of dollars in litigation costs and increase productivity of state offices. The proposed legislation passed the state assembly almost unanimously but was not voted on by the state senate before the final 2007 legislative session expired. The proposed bill will be re-introduced in 2008.

Humane Treatment for Inmates

While the Department of Corrections (DOC) has an obligation to ensure that all persons committed to State correctional institutions be provided with the custody, care, training, and treatment needed to prepare them for reintegration into the community, oversight by an independent body is essential to ensure the integrity of the system, administrative accountability, and to protect the rights of the incarcerated. This is the purpose of the Public Advocate's Corrections Ombudsman.

Through this office, inmates can seek redress for issues and concerns encountered while incarcerated regarding their living conditions and allegations of maladministration or inaction by correctional authorities. The office investigates complaints where the inmate has failed to get satisfactory results through available institutional channels.

In 2007, the Corrections Ombudsman fielded nearly 9,000 complaints and calls from inmates in New Jersey's state prisons.

Lawsuit Prevention.

In the last 35 years, the Corrections Ombudsman has helped reduce the number of lawsuits filed against the New Jersey Department of Corrections by responding to inmates' concerns and encouraging resolution through institutional remedies and informal mediation. While it is difficult to quantify the actual savings in litigation costs, the office has clearly reduced the number of lawsuits associated with inmate complaints.

Pulse of the Institutions

The office continues to monitor the pulse of the institutions in an effort to relieve the pressures, tensions and hostilities that abound within them by means of more open

communications. The Corrections Ombudsman provides a release valve which serves to prevent potential serious disturbances at the prisons. Inmates correspond with the Ombudsman using a standardized, bilingual form through which they can express their concerns or complaints in an organized manner.

Special Assignments

In 2007, Ombudsman staff participated in 62 special assignments, consisting primarily of searches of congregate and living areas in correctional facilities. Attendance at these searches helps to minimize allegations of destruction of inmate property and other complaints. Inmates as well as administrative staff welcome the Ombudsman's role in this process.

Primary Inmate Issues and Concerns During 2007

Common inquiries center on the accuracy of the calculation of inmates' anticipated maximum release dates, requests for updated calculations of their time, earned work and minimum status credits, and concerns regarding sentencing information noted on their records. These totaled 1,882 inquiries, or 21 percent of Ombudsman cases.

A large number of inquiries regarded the inmates' eligibility for reduced custody, community release, work assignments and visitation program procedures. There were 999 such inquiries, or 11 percent of the total.

Ten percent of all inquiries, or 898 cases, involved dissatisfaction with medical treatment or complaints about a lack of medical treatment, delays with processing medication, delays in referrals for outside consultations, discrepancies concerning medical co-pays and being treated

poorly or with disrespect by medical personnel.
(10 percent of inquiries)

Nearly 10 percent of all inquiries, or 872 cases, involved requests for updated parole eligibility dates, accuracy of the calculations of their parole eligibility release dates, status of parole hearing results and complaints that they are overdue for hearings.

Lost, damaged or missing property, or delays in receiving property after a transfer from one facility to another, is another common subject of inquiries by inmates. These comprised 839 cases, or 9.4 percent of the Ombudsman's caseload. Another frequent concern raised by inmates involves the processing of inmate wages, deductions for fines and penalties, delays with posting of money orders received, medical co-pays, and discrepancy with canteen orders and related refunds. These 709 inquiries comprised 8 percent of all cases. The balance of issues and concerns raised by inmates include requests for institutional transfers, allegations of harassment by other inmates or staff, concerns about mail and telephone usage, and allegations of inappropriate discipline.

In addition to addressing specific complaints or concerns, the Ombudsman tackled a number of other issues affecting the inmate population including living conditions for immigrants in county jails and concerns about the medical and dental care provided to prison inmates. The Ombudsman also helped federal authorities conduct a study as part of the Prison Rape Elimination Act and in a separate matter, an investigation into language barriers in prisons. The Office also monitored the transfer of 47 female inmates from the Edna Mahan Correctional Facility for Women in Clinton to the New Jersey State Prison in Trenton.

Section 6: Guarding the Interests of Ratepayers



Advocating for Fair Prices

The Public Advocate, through its Division of Rate Counsel, ensures that utility consumers receive safe, adequate and proper service at affordable rates. One of the Rate Counsel's major functions is to examine all requests for rate hikes and protect consumers from unfair or unjustified increases in their electric, gas, cable TV, telecommunications or water bills.

Rate Counsel has legal standing to challenge proposed increases and represent the ratepayers on any changes to utility service. The Division also represents consumers in a limited number of auto insurance matters.

In three separate rate cases, Rate Counsel negotiated and won significant concessions for water ratepayers. Middlesex Water Company filed a Petition to increase rates by \$8.9 million. Rate Counsel's settlement resulted in a much lower increase of \$4,950,000 million. United Water settled for an increase of approximately \$35.8, nearly 54 percent lower than the

Company's original request. Fayson Lake Water Company sought to increase rates for water service by approximately 45 percent. Rate Counsel's Settlement resulted in an 18.57 percent increase.

Overall last year, through negotiations and settlement agreements, Rate Counsel helped to save ratepayers an estimated \$236.6 million in reduced rate hikes and other credits.

The Division also worked on other fronts to protect ratepayers. In the legislative arena the Division advocated in support of bills to encourage the use of renewable energy and energy efficiency by homeowners. The Division, through its website and publications, helps educate consumers on important utility and conservation measures. The Division also fields inquiries from consumers and provides information to assist them with their questions and concerns. Last year, the Division responded to over 300 consumer inquiries.

Championing Ratepayer Interests in Energy Policies

Long-term Energy Planning

The Division has actively participated in the development of the Governor's Energy Master Plan. Based on the recommendations in the Plan, it is expected that legislation to implement it will be introduced in the Legislature in the coming year. Rate Counsel is prepared to offer legislative recommendations for the Master Plan's components and to thoroughly review enabling legislation, with an eye toward shaping the state's energy policy as a whole and serving as a voice for ratepayers.

Fostering Competitive Energy Policies

Since the adoption of the Electric Discount and Energy Competition Act (EDECA) in 1999, the New Jersey Board of Public Utilities ("Board" or "BPU") has overseen the purchase of electricity by the four investor owned utilities on behalf of their customers. Starting in 2002, the Board has endorsed an auction process for basic generation service ("BGS") which has grown to a \$6.5 billion per year auction to buy electricity.

Unfortunately, New Jersey ratepayers are paying exorbitant costs for energy supplies while deregulation of generation has led to record profits for generating companies and has reduced the incentive to build new generation plants. Rate Counsel has been actively participating in the BGS Auction proceedings before the Board to advocate for New Jersey ratepayers to ease the burden of energy costs and combat unjust and unfair rates. Rate Counsel has argued for more transparency in the procurement process to ensure fair dealing from the bidders.

Rate Counsel has also suggested a "portfolio manager" approach, similar to the role

of a mutual fund manager to purchase energy for the state. By creating a diverse mix of available options to obtain energy and capacity in New Jersey we can insure our energy future. We also advocated for entering into longer term contracts for price stability, and requiring that Class I renewable resources be included with the long term contracts to encourage industries to develop new renewable technology. The Division is staunch supporter of energy efficiency measures as part of the resource mix to help us meet the ambitious goals set by the Governor to reduce energy needs by 20 percent by the year 2020.

Encouraging Cleaner Energy

Reducing Regional Greenhouse Gas Emissions

As part of an ongoing effort to reduce emissions of air contaminants, including greenhouse gases, the Public Advocate's Division of Rate Counsel has been participating in the Regional Greenhouse Gas Initiative. The Regional Greenhouse Gas Initiative ("RGGI") is an effort by seven Northeast and Mid-Atlantic States to develop a regional, mandatory, market-based cap-and-trade program to reduce greenhouse gas emissions. Each of the seven participating states signed a Memorandum of Understanding which outlines the program in detail, including the framework for a Model Rule. Initially, the program will address carbon dioxide (CO₂) emissions from the electric power sector.

In an effort to support RGGI, Governor Corzine signed an Executive Order #54 on February 13, 2007 to endorse their objectives. In July 2007, the New Jersey Legislature enacted the Global Warming Response Act which outlines goals to reduce greenhouse gas emissions. In November 2007, several bills were introduced in the state Legislature defining the role of the Department of Environmental Protection, the BPU, and the Economic Development Authority

to aid in reducing greenhouse gas emissions. The Division of Rate Counsel filed comments on the draft bills and has been an active participant in negotiations to ensure that the most cost effective means to reduce CO2 emissions are explored to benefit the ratepayers of New Jersey.

Promoting the Transition to Renewable Energy

In January, 2007, the Board of Public Utilities established a process to examine ways to protect the energy market from noncompliance with the state's goal of having 20% of its energy supply from renewable sources by 2020. The Office of Clean Energy (OCE) at the Board circulated a proposal in May recommending a rebate program, funded through utility bills for residential and small commercial customers, and recommending that prices for credits earned for generating solar energy be set by the Board rather than through an auction process.

Rate Counsel took an active role in arguing against OCE's proposal as not in the best interests of NJ ratepayers and least likely to promote a competitive solar energy market. Rate Counsel advocated for an open market approach, as a way to obtain the best value for the solar energy generated by homeowners and small businesses. While the Board of Public Utilities decided to adopt the OCE proposal, the Board indicated it would later adopt rules that may provide a means to address Rate Counsel's concerns. Rate Counsel will continue to advocate a solar proposal that maximizes the value of solar energy and pushes the state toward our renewable energy goals.

Challenging Deregulation of Telephone and Cable

Rate Counsel has been fighting on many fronts to protect ratepayers with respect to efforts by the telephone and cable industries to deregulate rates and service. Verizon filed a

petition with the Board of Public Utilities to reclassify directory assistance "411" calls as competitive and no longer subject to rate regulation. Reclassification would have eliminated Verizon customer's four free 411 calls. Rate Counsel presented expert testimony and prevailed at hearing, resulting in savings of over \$70 million per year to New Jersey ratepayers.

In cable, Rate Counsel has actively opposed petitions to deregulate rates and services in New Jersey towns. Rate Counsel also negotiated a settlement in petitions filed by Cablevision and Comcast to increase rates across their service territories, resulting in annual rate savings of more than \$4 million for New Jersey cable subscribers.

Advocating for Seniors, and Disabled and Low Income Ratepayers

The FCC adopted Rate Counsel's recommendations and established new regulatory requirements that obligate Voice Over Internet providers and manufactures to provide services to the hearing disabled. In addition, Rate Counsel filed comments on a continuing FCC study examining how to maximize and promote the federal telephone Lifeline Link-Up program. Rate Counsel also testified at hearings before the Board and filed suit to require the Board to follow its 2003 order to automatically screen electric and gas Lifeline applicants for Universal Service Fund benefits.

The Public Advocate also has directed Rate Counsel to monitor the build out of fiber optic and competitive cable service to ensure that they are made available to all consumers, including multi-dwelling units, to further enhance competitive choice in service providers and assist in lowering rates to customers.

Department Overview

Fiscal Responsibility

In order to maximize limited resources, the department made a decision during its first months of operation to enter into an innovative agreement with the Department of Treasury.

Under that shared services agreement, the Public Advocate pays Treasury to provide it with administrative services at a much lower cost than if the Public Advocate were to build an internal bureaucratic structure to provide those services internally. The agreement covers technology services, personnel services and fiscal/budget services. It also takes advantage of the exceptional expertise and skills of Treasury Department staff in these areas.

Under this agreement, the Department of the Public Advocate became the first principal department in New Jersey State government to enter into this type of innovative arrangement.

The Department of the Public Advocate now contains six divisions and three ombudsman offices, plus the Office of the Child Advocate, which is “in but not of” the Department of the Public Advocate.

With a proposed FY 2009 budget of \$17.466 million, the department is funded to employ 188 full-time employees. It should be noted, however, that, of the total budget, roughly \$14 million was shifted from existing budgets as offices housed in other departments were moved to the Public Advocate.

That includes the staff for the Office of the Ombudsman for the Institutionalized Elderly, the Office of the Corrections Ombudsman, the Office of Dispute Settlement and the former Division of Mental Health Guardianship. All of these offices and their employees had continued to operate in the years after the former Public Advocate was disbanded. When the new department was formed, they were moved under the umbrella of the Public Advocate.

Protecting the Public Interest

One of the core functions of the department is to protect the public interest. The **Division of Public Interest Advocacy** examines public policy and uses research, advocacy and legal intervention to advance reforms that will benefit New Jersey citizens. Key areas include reforming the use of eminent domain for private redevelopment, reducing childhood lead poisoning and securing the right to vote for all New Jersey citizens.

Division Leader: Catherine Weiss

Protecting Individuals With Mental Illness

The **Division of Mental Health Advocacy** protects and advocates for people who have mental illness. The attorneys and staff in this division ensure that people within the mental health system receive the care and assistance they need to live the fullest lives possible. The division includes the Mental Health and Guardianship unit, which represents individuals who are facing commitment to psychiatric facilities.

Division Leaders: Ann Portas and Patrick Reilly

Advocating for the Elderly

The **Division of Elder Advocacy** works to secure, preserve and promote the health, safety and welfare of New Jersey's elderly population. Through legislative and policy work, education and outreach, this division advances reforms to improve the quality of life for New Jersey's older residents.

This division is also charged with protecting the rights of residents of long-term healthcare facilities who are age 60 or older. The **Office of the Ombudsman for the Institutionalized Elderly** is staffed with investigators and nurses who investigate reports of abuse or neglect of people living in nursing homes and other long-term care facilities and take action to protect them from harm.

Division Leader: Gwen Orlowski

Elder Ombudsman: Debra Branch

Improving Life for People with Developmental Disabilities

Protecting the safety and legal rights of New Jersey citizens with developmental disabilities is the central charge of the **Division of Developmental Disability Advocacy**. The division's staff works to promote policies and practices that ensure people with developmental disabilities have safe and effective supports and services and opportunities to participate fully in all aspects of their communities.

Helping Citizens Navigate Government Agencies

The department keeps an open line of communication with New Jersey citizens through its **Division of Citizen Relations**. The division investigators respond to complaints about state agencies and local governments. They educate citizens on the most effective government service for a particular problem. If a state agency fails to respond, Citizen Relations staff advocate on behalf of citizens to resolve disputes.

The **Office of Dispute Settlement and the Corrections Ombudsman** are also located in this division. The Office of Dispute Settlement provides neutral mediation services to resolve a wide variety of disputes, including those brought by individuals seeking access to government records under the Open Public Records Act and claims under the New Home Warranty Act. This office also serves as court-appointed mediator and provides dispute resolution training.

The Office of the Corrections Ombudsman addresses issues, problems or complaints of those confined to the New Jersey state correctional system.

Division Leaders: Eric Max and Donna Jago

Corrections Ombudsman: Luis Silva

Fighting For Consumers

The Division of Rate Counsel ensures that utility consumers receive safe, adequate and proper service at affordable rates. The division examines each request by a public utility for a change in rates or service terms, with the goal of protecting ratepayers from unfair or unjustified increases in their electric, gas, cable TV, telecommunications or water bills. This division has the legal right to challenge proposed increases and represents the ratepayer on any changes to utility service. The division also represents consumers in a limited number of health and auto insurance matters.

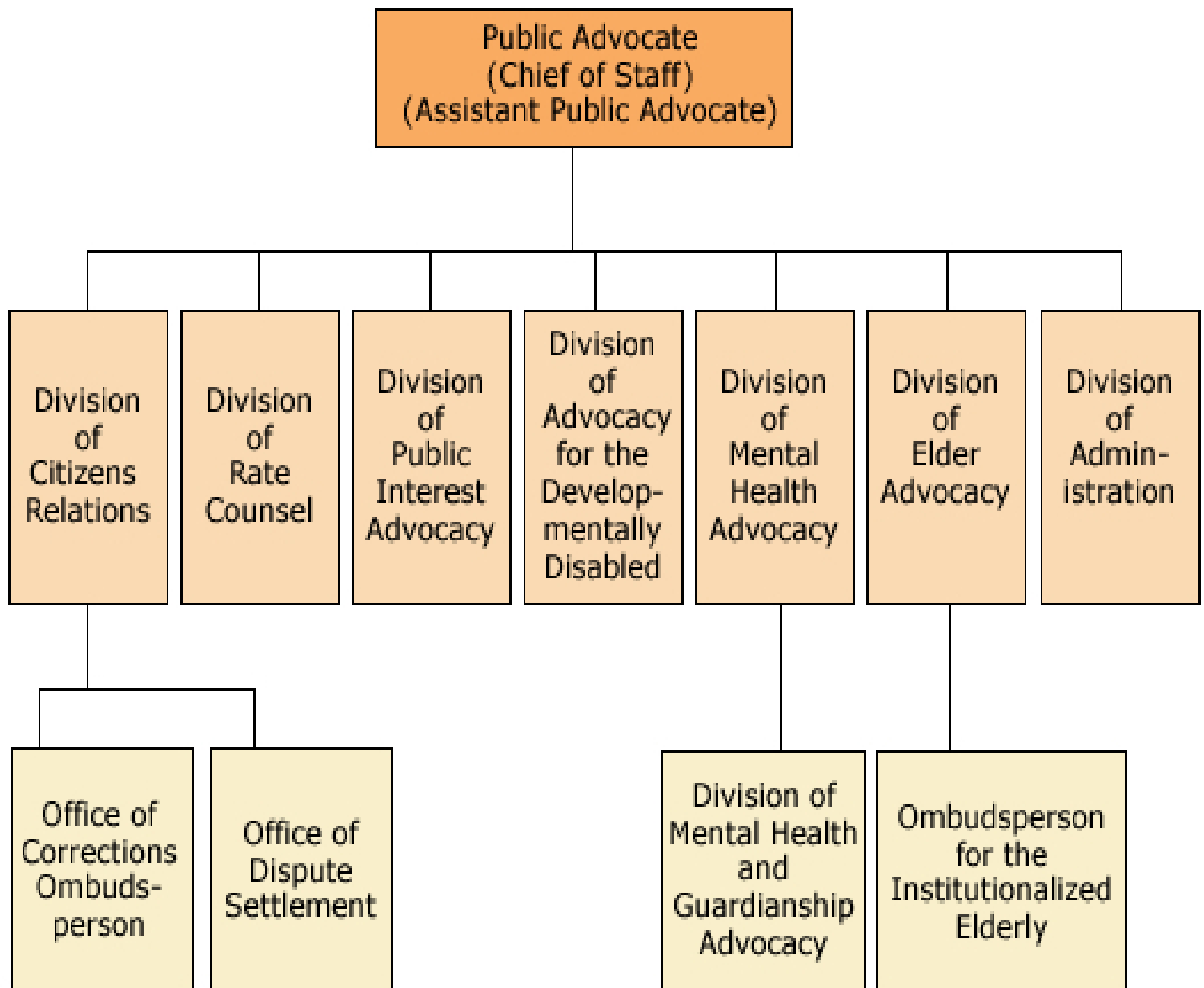
Division Leader: Stefanie Brand

Safeguarding Children

The Office of the Child Advocate, an independent agency within the Department of the Public Advocate, works to protect the interests of children who are at risk of abuse or neglect. The Child Advocate seeks to improve the safety and well-being of New Jersey's children through investigation, policy and practice reform, public reporting, hearings, litigation and other strategies.

Child Advocate: Dr. E. Susan Hodgson

Department of the Public Advocate



In-But-Not-Of Agency

Office of the Child Advocate

On Our Website

The Public Advocate: A Voice For the People

The Public Advocate strives to be an accurate source of information for the public, policymakers, advocates and others on specific issues. Following is a list of reports, legal briefs, citizen guides and other information currently available on our website: <http://njpublicadvocate.gov>

Reports and Publications

- ◆ Getting the Lead Out: The Lead Poisoning Crisis in New Jersey, April 2008
- ◆ Heading Toward Homelessness: Issues with Residential Health Care Facilities, March 2008
- ◆ Office of the Ombudsman for the Institutionalized Elderly Annual Report, November 2007
- ◆ Affordable Housing in New Jersey: Reviving the Promise, October 2007
- ◆ State of Denial: Report on Accessibility Inspections of New Jersey Polling Places, September 2007
- ◆ Alternative Dispute Resolution (ADR) White Paper, June 2007
- ◆ 2007 New Jersey Beach Guide, June 2007
- ◆ In Need of Redevelopment: Repairing New Jersey's Eminent Domain Laws, May 2007
- ◆ Access Denied: Protecting the Voting Rights of Senior Citizens and People with Disabilities,, April 2007
- ◆ Department of the Public Advocate Annual Report, March 2007
- ◆ Expanding Mental Health Coverage Saves Medical, Human Costs, February 2007
- ◆ Restoring the Burden of Proof to School Districts in Special Ed Hearings, January 2007
- ◆ 2006 Guide to State Beach Fees
- ◆ Office of the Ombudsman for the Institutionalized Elderly Annual Report, October 2006
- ◆ Citizen's Guide on PSEG-Exelon merger, April 2006
- ◆ Reforming the Use of Eminent Domain for Private Redevelopment in New Jersey, May 2006

Legal Briefs

- ◆ Amicus Brief in Harrison Eminent Domain Case
- ◆ Amicus Brief for Appellants Farouk and Amber Sheikh for an Order To Vote in the 2007 General Election
- ◆ Public Advocate Opposes City of Long Branch's Motion to Strike Amicus Brief and Appendix
- ◆ *Amicus* brief in Eminent Domain case: Gallenthin Realty Development, Inc. v. Borough of Paulsboro
- ◆ Public Advocate Opposes City of Long Branch's Motion to Strike Amicus Brief and Appendix
- ◆ *Amicus* brief in Eminent Domain case: Gallenthin Realty Development, Inc. v. Borough of Paulsboro
- ◆ *Amicus* brief in Eminent Domain cases: City of Long Branch v. Gregory P. Brower et al. and City of Long Branch v. Anzalone
- ◆ *Amicus* brief in Eminent Domain case: Save our Homes et al. v. Borough of Lodi
- ◆ *Amicus* brief in Free Speech Case: Committee for a Better Twin Rivers v. Twin Rivers Homeowners' Association
- ◆ *Amicus* brief filed with the New Jersey State Supreme Court on Lead Paint Case
- ◆ *Amicus* brief: T.H. vs Division of Developmental Disabilities
- ◆ Public Advocate Asks U.S. District Court to Dismiss Federal Lawsuit Petitioner's Brief on Opinion 705 Supreme Court Advisory Committee on Attorney Ethics

Citizens Guides

Elderly

- What is the Ombudsman for the Institutionalized Elderly?
- How do I decide in advance what medical treatment I want?

Durable Power of Attorney Q & A

Ratepayers

Consumer Conservation Handbook (4th Edition) – 2006

Consumer Assistance Handbook: A Guide From The Division Of The Rate Counsel For Natural Gas, Water, Electric, Telephone And Cable Television Customers- 2006

Public Advocate's Annual Report 2007

2005-1999 Archived Publications

TV Converter Box Program

Understanding your Gas Bill

Understanding your Electric Bill

Energy Tax Credit Information

Consumer Assistance Programs for your Telephone Service

Financial Assistance Programs for Energy Bills

Holiday Conservation Tips

Join the Change A Light, Change the World Campaign

Water Conservation Tips

Energy Efficiency Tips

Contact Us

In addition to advocating for broad public policy change, the Department of Public Advocate helps individuals with specific concerns related to the care of the institutionalized elderly, interaction with local and state governmental agencies and inmates confined to state prisons.

Email: PublicAdvocate@advocate.state.nj.us

Office of the Ombudsman for the Institutionalized Elderly

Ph: (877) 582-6995

Fax: (609) 943-3479

Office of Dispute Settlement

Phone: (609) 292-1773

Fax: (609) 292-6292

Division of Citizen Relations

Phone: (609) 826-5070

Fax: (609) 984-4770

Office of the Corrections Ombudsman

Phone: (609) 292-8020 or (609) 633-2596

Fax: (609) 633-8644

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