

INTERAGENCY COUNCIL FOR CHILDREN AND FAMILIES
PUBLIC REPORT
JUNE 30, 2005

I. MISSION AND PURPOSE

This document is the second public report due in accordance with New Jersey's Child Welfare Reform Plan, entitled "A New Beginning: The Future of Child Welfare in New Jersey (hereinafter "the Plan"). The pertinent section of the Plan concerning this public report is entitled "Striving for Safety and Permanency in the Courts."

As noted in the previous public report, the Interagency Council for Children and Families (ICCF) was created as the entity charged most generally with ensuring timely implementation of the various strategies and benchmarks articulated in the court section of the Plan. To date, the ICCF has convened three meetings among its members, which include the Attorney General; the Administrative Director of the Office of the Courts; the Commissioner of the Department of Human Services, who additionally serves as chair of the ICCF; the Assistant Commissioner of the Division of Youth and Family Services (DYFS); the Public Defender; the Executive Director of the Juvenile Justice Commission and the Child Advocate, to monitor the implementation of the strategies and reforms as outlined in this section of the Plan. Additionally, a working subcommittee of the ICCF has convened monthly meetings to monitor the individual and collective progress of the agencies' efforts to fulfill the Plan's mission and purpose.

It should be noted that the New Jersey Child Welfare Panel submitted its first monitoring report on March 7, 2005, which assessed the State's progress to date with respect to all aspects of the Plan's implementation. As to the Court Section, the Panel

noted that most of the reform plan work related to the courts is still in very early stages of implementation, and that it reserved comment on the State's progress in this area until the next monitoring report, now scheduled for September 2005. The relevant section of the monitoring report that addresses the Court Section of the Plan has been attached to this report as Appendix A.

II. STRATEGIES

As noted in the earlier public report, the Plan commits to employing 11 strategies to effectuate its purposes, the success of which is dependent upon the commitment of the affected agencies to work both independently and collaboratively, as necessary. The updated progress of each strategy is noted below:

A. *The ICCF will monitor the action steps and strategies in this section.*

To date, the ICCF subcommittee has met at least monthly since June 2004 to ensure that the provisions of this section of the Plan are timely implemented. Additionally, the subcommittee has convened separate meetings among its members, as appropriate, to discuss interagency strategies and finalize language to satisfy court-ordered enforceables and ensure that the action steps outlined in the Plan are being timely implemented. During the course of its work, the subcommittee raised implementation concerns to the full committee, as necessary, and has reported its progress for inclusion in this public report.

B. *Expedite the processing of adoption cases.*

i. Hiring

The Division of Law (DOL), which represents DYFS, has hired 46 of the 54 proposed additional DAsG. The DOL has also interviewed a sufficient number of

candidates to fill the remaining positions necessary to meet the Plan's hiring goal of 54 DYFS DAsG. The DOL is near compliance with the Plan's stated caseload goals, which the Plan proposes be met by September 2005. It should additionally be noted that DOL staff are present as often as possible in DYFS local offices to provide informal guidance on issues as they arise. The DOL also works with the courts to avoid scheduling court matters on the regular "conference" day each week in which the assigned DAG attends case conferences for cases in litigation in the local office.

The Public Defender's Office of Parental Representation (OPR) (formerly known as the Parental Representation Unit (PRU)), has continued to transform the manner in which it provides legal counsel for parents. During the last quarter of 2004, the OPR began to move away from a system in place since 1999 which relied virtually entirely on outside "pool" counsel. In its place, the Public Defender implemented a plan for a new state-wide system in which staff attorneys would provide legal representation for the primary parental defendant in both protective services and termination cases. The aim of this transformation was both to increase the quality and accountability of legal counsel and to ensure the presence of legal counsel for parents from the earliest possible opportunity in a child welfare proceeding.

Since beginning this process in 2004, Public Defender staff interviewed approximately 116 candidates for new staff attorney positions. By June 30, 2005, OPR expects to have hired or offered employment to 46 candidates, bringing its staff attorney complement to 48 trial attorneys and three appellate attorneys, with three attorneys performing management roles.

OPR also has begun the process of transforming the role of investigative staff available to assist attorneys and clients in child welfare cases. As of June 30, 2005, the OPR has interviewed nine candidates with social services and social work backgrounds for a new Chief of Investigations and Client Advocacy position. Similarly, OPR has also interviewed and selected candidates to fill five new investigator positions to continue the transformation of OPR's role in serving parents with the intention to provide client assistance and advocacy beyond the duties of a traditional investigator. By June 30, 2005, OPR expects to have hired and placed six new investigators to work with its attorneys in an expanded client assistance role. In addition, five investigators currently on staff will be provided additional resources and training to expand their duties as client advocates while assisting attorneys to defend parents in child welfare cases.

OPR has made further progress in the planned opening of six regional offices. As of June 30th, a Northwest Regional Office has opened in Morristown (for Sussex, Warren and Morris Counties), a Northern Regional Office in Newark (for Hudson, Bergen, Essex, Union and Passaic Counties), a Central Regional Office in Cranbury (for Middlesex and Monmouth Counties), and a Southern Regional Office in Gibbsboro (for Camden, Cumberland, Salem and Gloucester Counties). New space will be occupied shortly to house a Shore Regional Office in Atlantic City (for Ocean, Atlantic and Cape May Counties) and a Capitol Regional Office in Trenton (for Mercer, Burlington and Hunterdon Counties).

The Public Defender also designated a Director of Operations and a Director of Litigation for OPR, along with managing and senior attorneys to provide state-wide management and direct supervision for OPR's regional offices. OPR's goal is to ensure

that a staff attorney represents at least one parent in every matter; an additional structure to provide closely supervised and high quality legal counsel through non-staff attorneys will be implemented for second parent defendants in the third quarter of 2005, again as a replacement for reliance on “pool” attorneys, many of whom, despite the higher rate of \$50 per hour in place since September 2004, still tend to be solo attorneys in their own practice lacking necessary back-up and other support.

As both the new staff and non-staff models for parental legal counsel are implemented, the Director of Operations will continue to maintain a list of seasoned pool attorneys for cases with multiple defendant parents and manage such trial assignments to ensure timely selection of legal counsel for those cases. In addition to supervising staff trial attorneys, the Director of Litigation also will oversee an appellate section, with attorneys in Newark and Trenton, to handle both direct and interlocutory appeals; in conflict cases, appellate assignments will be made to experienced appellate pool attorneys. To maintain high quality representation and advocacy for parents and to help parents secure services essential to the goal of reunification whenever possible, OPR’s objective is to achieve caseload standards of a maximum of 70 open matters for trial staff attorneys (with no more than 50 protective service cases and 20 termination cases) depending on case complexity and client needs, with each appellate attorney to handle 15- 20 appellate cases annually.

Since January 31, 2005, the Office of the Law Guardian (OLG) has hired seven new law guardian attorneys for trial regions throughout the state thereby completing the initial hiring of the additional staff attorney positions funded through the child welfare expansion. Two managing attorneys were appointed to supervise two of the seven OLG

trial regional offices. In addition, two provisional bilingual investigator trainees and seven hourly investigators were hired in order to achieve OLG's team approach of one attorney-one investigator. Additional hourly investigators will continue to be hired as needed to maintain this team approach.

The Office of the Public Defender has secured the space necessary to accommodate additional law guardian staff. The Northern Regional trial office moved to its new location in Hackensack on June 3, 2005. The Capital Regional Office and the Office of the Law Guardian Appellate (OLGA) section are scheduled to move to a new location in early July.

ii. Training and Cross-Training

Since the adoption of the Plan, cross training, which is attended by both DAsG and DYFS staff, has occurred on substantive topics including: Structured Decision Making; foster care; aging out youth and substance abuse. Further subject matter training has been provided to DAsG on the use of psychological forensic expert witnesses; children in foster care; and the interstate compact on the placement of children.

In addition, substantial litigation training (totaling 20 sessions over the course of the year) has been provided to Deputies. Topics included basic training about DYFS practice, relevant statutes, regulations and policies; evidence; fact-findings (beginner and intermediate); guardianship trials; children as witnesses and appellate advocacy. Further, two statewide "practice group" meetings were convened to promote consistent practice by Deputies statewide. Also, Deputies were invited to attend relevant conferences in the State, such as the New Jersey Task Force Conference on Abuse and Neglect, a Court-Appointed Special Advocates (CASA) conference and a conference sponsored by the

American Professional Society on Abuse of Children. Finally, Deputies have contributed to the training of DYFS staff, delivering 13 sessions of training to protective workers and various trainings to local office staff, especially litigation support personnel, about court protocols and requirements.

The Office of the Public Defender, Office of the Law Guardian has continued its commitment to train OLG investigative and attorney staff. Day three of OLG's Attorney Essential Skills Training Program was held on March 10, 2005, focusing on guardianship proceedings. The agency repeated the first two days of the Attorney Essential Skills Training Program on April 11 and 12, 2005 to ensure that those attorneys hired since the development of the Program in December 2004 received an opportunity to attend this substantive training program. The final phase of the Essential Skills Training Program is scheduled for September 26, 2005, and will focus on alternative permanency plans for children. With respect to investigator training, the Investigator Essential Skills Training Program was repeated on April 28, 2005 for staff and hourly investigators hired since January 31, 2005. In addition, a statewide training program on "Interviewing Children" was held on May 13, 2005 for all OLG investigators.

Two additional training programs have occurred since January 2005, both aimed at fostering collaboration among all attorneys responsible for representing children, including attorneys representing juveniles in delinquency matters, mental health commitment hearings and child welfare cases. This collaborative training effort began in June 2004 with the first such joint training effort among juvenile defenders, law guardians and mental health attorneys. This innovative initiative continued this year with a conference on April 19, 2005, sponsored by the Office of the Public Defender and

Rutgers Law School, Newark, for all agency attorneys representing children. The training program consisted of a presentation on the Individuals with Disabilities Education Act ("IDEA"), followed by a discussion of how to further the collaborative process among juvenile attorneys, law guardians and mental health attorneys. The second such training, sponsored by the OPD, Rutgers Law School, Newark, and the Northeast Regional Juvenile Defender Center, was held on June 17, 2005. This conference is entitled, "Collaborative Approaches to Representing Children: A Working Conference."

The strategy to expedite the processing of adoption cases also incorporates the work of the Children in Court Improvement Committee's (CICIC) recommendations to the Administrative Office of the Courts (AOC). Much like the efforts of the DOL, DYFS and OPR, the CICIC has committed resources to fund cross-training programs for DAsG, LGs and OPR attorneys. Three particular examples of that commitment include: (1) a statewide conference held in January 2004 for Children in Court judges and staff, DHS, DYFS, Legal Services of New Jersey, Court Appointed Special Advocates (CASA), foster parents, Child Placement Review Board (CPRB) volunteers, the Attorney General's Office, the Office of the Public Defender (OPD), and the Association for Children of New Jersey (ACNJ). Topics included the Child and Family Services Review and the importance of family visitation in dependency cases; (2) two regional conferences, held on May 17 and 18, 2005 and sponsored by the Office of the Public Defender, for judges and attorneys assigned to children in court and juvenile cases; and (3) a conference to be held on October 20, 2005, sponsored by Rowan University and funded by the Court Improvement Program, for family court judges and staff, DYFS case

workers, CASA, child welfare attorneys, the CPRB Advisory Council, and members of the Court Improvement Committee to discuss the links between child maltreatment and domestic violence.

The CICIC formed a workgroup to address the issue of delay in termination of parental rights (TPR) appeals. Members of the workgroup include an Appellate Division judge, a Children in Court judge, a Family Division manager and representatives from the AOC (Family Practice Division and Appellate Division), DHS, the Division of Law within the Office of the Attorney General, and the Office of the Public Defender (Offices of Parental Representation and Law Guardian). By the March 31, 2005 deadline, the AOC was able to report that the workgroup provided recommendations to expedite appeals in TPR cases. Since that time, the recommendations have been reviewed and approved by the Conference of Family Presiding Judges and Acting Administrative Director, Philip S. Carchman. The recommendations are now considered court policy, which will be in effect statewide by July 1, 2005.

C. Reorganize the Department of Law and Public Safety's Division of Law to ensure that attorneys representing DYFS in Family Court are specialists in this area of law, are well trained, and are rigorously supervised for practice.

As noted in the first public report, and in accordance with this provision of the Plan, the Division of Law has been reorganized, creating a DYFS Practice Group with an assistant attorney general (AAG) in charge, and one additional AAG assigned. This Practice Group now includes four sections, each with its own section chief, and the DOL also increased the number of supervising attorneys within each section. Additionally, and as part of the Child Welfare Reform Plan, a dispute resolution protocol has been crafted and adopted as DYFS policy. DYFS and DOL Deputy staff have been provided with the

protocol, which is now part of the DYFS Manual, and the DOL's DYFS DAG Manual. Staff has been and will continue to be advised on its use.

D. Consolidate the Family Court case calendar so parents, attorneys and case workers do not spend unnecessary time in court waiting for their cases to be heard.

The Honorable Ellen L. Koblitz, Chair of the Conference of Family Presiding Judges, had asked each presiding judge to report to the Conference what efforts each vicinage has taken to improve calendar coordination. In particular, judges were asked to report on their consideration of the recommended strategies enumerated in the Plan. These reports were shared with the CICIC. The Division of Law is collecting information regarding waiting time for its child welfare attorneys. When this data is reported to the CICIC, it will be evaluated, and the CICIC will make recommendations to the Administrative Director of the AOC, who will ultimately report these recommendations to the ICCF and other stakeholders, as appropriate.

The CICIC contracted with the National Center for State Courts (NCSC) to conduct a federally mandated reassessment to update the initial assessment, completed in 1996 and reported in 1997. On January 18, 2005, the Supreme Court of New Jersey entered an order authorizing NCSC to conduct this reassessment. This reassessment will examine and report on the current strengths and challenges of the dependency court system and its ability to carry out related responsibilities for the protection of children. The NCSC will include the issue of court scheduling in its reassessment and report its findings. This information will be shared with and reviewed by the CICIC and the AOC, and shared with the Conference of Family Presiding Judges and the ICCF, as appropriate.

E. Deploy video-conferencing technology statewide in Family Courts and DYFS offices so attorneys, experts and caseworkers do not spend unnecessary time in court waiting for cases to be heard.

Implementing video-conferencing statewide is underway. It is a complex task, but an important one because it will minimize time spent waiting in court for attorneys, caseworkers, experts and others. Barriers identified to date to accomplish the goals outlined in this strategy include cost of the necessary equipment, access to equipment and the coordination required to connect remote sites.

In addition to the goal of limiting the time parties wait in court for cases to be heard, the Child Welfare Plan also addresses the internal benefits for DYFS of video conferencing. In fact, DYFS plans to use the video conferencing capability to provide training to all staff, and to improve communication among all areas of DYFS and DHS. DYFS has completed an evaluation of its offices as part of the first phase of this project, and reports that 30 sites at 25 offices have been cleared for installation. To date, seven sites are operational. Circuitry and wiring for the 30 sites is currently in progress. Ten offices will be relocated, therefore alternate plans are being made to accommodate video conferencing at the new locations. Verizon is training the DYFS staff. DYFS has used the functional offices to provide communication from DHS, including messages from the Commissioner of DHS and the Assistant Commissioner of DYFS.

The AOC will commit resources in the current State Judiciary budget to expand video-conferencing to five additional courtrooms. DYFS advised the AOC that the local offices in Atlantic, Essex, Monmouth, Morris and Ocean Counties have necessary video-conferencing equipment to participate in the pilot program. The Courts in the

same counties will participate in the pilot. This pilot program will be monitored to determine its feasibility and use in connection with Children in Court cases.

F. Expedite the processing of abuse and neglect cases.

This strategy focuses on electronic filing or electronic transmission of information. DYFS continues to work toward the implementation of the New Jersey Protective Investigation, Reporting and Information Tool (NJSPIRIT), which is a Statewide child welfare information system. The Administrative Office of the Court and Division of Law participated in the Joint Application Design sessions for Release 2 of NJ Spirit. In the fall of 2005, the Division will again invite staff from the Administrative Office of the Court to participate in the Joint Application Design sessions for Release 3, which will include information sharing protocols. It is at this point that the Division will further explore the possibility of creating an electronic interfacing with other governmental agencies.

G. Eliminate Voluntary Placements.

As noted in the first public report, voluntary placement, often referred to as “informed consent,” is a procedure used by DYFS to place children in foster care without having to make application to the court. The procedure includes an extensive agreement (Informed Consent Agreement), which allows a parent to place a child into foster care voluntarily. Through the Child Welfare Reform Plan, DYFS has determined that all placements regarding child abuse and neglect matters should be conducted through a court process. Thus, in consultation with the AOC, OPD and the Attorney General’s Office, DYFS developed a year-long program, which began in October 2004, to eliminate new voluntary placements.

The informed consent agreements include an initial short term (15-day) form, as well as a longer, six-month form. As of May 2, 2005, no DYFS local office was accepting the six-month informed consent as authority for placement. In addition, DYFS has stopped accepting both residential agreements (used to place children in treatment), and independent living arrangements for children who were subjected to abuse and neglect. As of August 31, 2005, no DYFS local office will be accepting any informed consent, including a 15-day informed consent.

DYFS has requested feedback from its internal agency staff, as well as member agencies of the ICCF, to monitor the effects of this strategy's implementation. The Judiciary is also evaluating court staffing and judicial needs in collaboration with the OPR, the Law Guardian unit, and the Attorney General's Office. These agencies have met and will continue to meet to address allocation of resources. Finally, DYFS and the AOC will continue to track and provide data on the changes, if any, in the number of DYFS placements, emergency removals, and filings for each vicinage and statewide. It should be noted that overall, litigation has not increased dramatically to date, as a result of eliminating voluntaries.

H. Develop mechanisms for DYFS and Probation to collaborate, as appropriate, in cases where they are both involved.

The Probation Services Division within the AOC and DYFS have been working together to develop a Memorandum of Understanding (MOU), which includes various mechanisms for collaboration. The strategies for the coordination of service delivery to families who are involved with both agencies are included in the MOU, including coordination of case planning for clients who are under DYFS supervision and are being monitored by Probation. This coordination aims to end duplication of services provided

by both agencies (for example, substance abuse treatment referrals), as well as coordinate the expectations of both agencies, so that people are not placed in the position of having differing expectations under Probation and from DYFS. This has required no changes to the confidentiality statutes that govern DYFS' records; rather, DYFS and Probation have developed protocols for the exchange of information that satisfy the necessity of client confidentiality. The MOU has been developed. AOC's Counsel's Office and DYFS are presently undergoing discussions regarding revisions of the document. It is anticipated that the document will be finalized by the end of July 2005, subject to review by the Acting Administrative Director. In addition, DYFS information technology staff, in developing NJSPIRIT, is moving towards electronic interfacing, so the exchange of information can become streamlined.

I. Improve the culture of the courts to better respond to the needs of children and families.

This strategy requires the Judiciary to undertake an assessment of what parents and children experience in court. It also requires training for professionals to increase cultural awareness in dealing with DYFS-involved children and families; recommendations to ensure that parents and foster parents receive proper notice of court dates and an opportunity to be heard during court proceedings; and recommendations to strengthen the role of resource families¹ in the court process.

The AOC has contracted with Rutgers University School of Social Work, Center for Children and Families to conduct an assessment to accomplish this task, which was approved by the Supreme Court of New Jersey on January 18, 2005. A workgroup of the CICIC is working with Rutgers to oversee the assessment. Members of the workgroup

¹ The term "resource family" is defined in the Child Welfare Reform Plan as all foster and adoptive parents, both those who knew the child before the child's placement ("kin") and those who did not.

include Children in Court judges, Family Court staff, and representatives from the AOC Family Practice Division, the Child Placement Review Board Advisory Council, CASA, Legal Services of New Jersey, DHS, the Division of Law in the Office of the Attorney General, and the Office of the Public Defender (Offices of Parental Representation and Law Guardian). Rutgers will provide a report to the AOC and to this workgroup which will include findings and recommendations to improve the court's response to the needs of children and families, and will develop a training program based upon those findings.

J. Plan and operationalize alternative and innovative court models across the state.

The Morris/Sussex Family Drug Court (FDC) opened in June 2004. As of January 31, 2005, twelve individuals from nine families are actively participating in the program. The Morris/Sussex Family Drug Court was able to increase the number of families participating in the program as a result of receiving a three-year grant in the amount of \$347,586 from the Robert Wood Johnson Foundation. The Morris/Sussex staff will provide a program update to the AOC in September 2005. The AOC will meet with FDC staff to assess the program's progress and determine whether continuation of the Morris/Sussex pilot is warranted and whether statewide expansion of Family Drug Courts is appropriate.

K. Take additional steps to ensure effective representation of children and parents in child welfare proceedings.

The Office of the Public Defender currently represents both children through its Law Guardian Unit, and parents through its Office of Parental Representation. OPR has historically provided representation for parents through a small staff of in-house attorneys and private sector pool attorneys. The number of staff attorneys has increased, in

accordance with the Plan. The Public Defender's organizational structure provides a firewall, which separates the Law Guardians from the OPR. Nonetheless, the Plan raises the issue of whether a conflict of interest is inherent with the Public Defender providing representation to both parents and children. To examine whether a conflict exists, the Plan required independent, expert assessments of and reports on (1) the quality of legal representation of parents, and (2) an identification of any legal conflicts in the organizational structure. The expert report concerning parental representation was not submitted until June 2005; accordingly, the Panel extended the State's deadline to submit a responsive plan until December 2005.

III. ENFORCEABLES

As noted in the first public report, the Panel designated certain provisions as legally enforceable. The Court Section of the Plan contains eight "enforceables" – some of which mirror the language of the Plan; each of which has a designated timeframe for completion. The eight enforceables are as follows:

1. Develop a high-level coordinating body, the Interagency Council for Children and Families (ICCF) to oversee and report on court reform efforts. *This has been accomplished.*
2. Eliminate the practice of accepting voluntary placements of children. *As noted in the earlier part of this report, eliminating voluntary placements has been phased in throughout the State, and will be completely eliminated by August 31, 2005. Additionally, and as noted above, DYFS has stopped accepting both residential agreements and independent living agreements on behalf of children who were subjected to abuse and neglect.*

3. Provide parents with adequate notice of initial removal hearings. *A plan to accomplish the goals of this enforceable was timely submitted to the Panel by the March 31, 2005 deadline.*
4. Provide resource families adequate notice of hearings involving children in their care. *The AOC submitted to the Panel a plan to accomplish this enforceable on Sept. 30, 2004. The Panel responded with comments on Oct. 27, 2004. A revised plan, responsive to the Panel's comments and suggestions, was submitted on January 10, 2005.*
5. Take all reasonable steps to complete abuse and neglect proceedings, permanency hearings, and termination of parental rights and adoption cases in accordance with state and federal Adoption and Safe Families Act timelines. *A plan was submitted to the Panel in Dec. 2004, as required. The Panel, in its first monitoring report, noted that the proposals contained in this plan were not fully supported by all of the ICCF participants, and were not yet adopted as policy by the State. Accordingly, the ICCF has revised this enforceable and has instead proposed a three-county pilot framework that will be evaluated after one year for Statewide implementation.*
6. Provide high quality legal representation to children involved in child welfare proceedings. *This enforceable required, in part, that by September 30, 2004 a plan be developed, subject to Panel review and approval, regarding the caseload standards for Law Guardians and the number of new Law Guardian staff hired to meet this standard. This plan was submitted on time and the Panel provided comments on October 27, 2004. On December 1, 2004, the Public Defender*

submitted to the Panel a detailed response on behalf of the Office of the Law Guardian. The second part of this enforceable requires that this caseload standard is met for 95 percent of the Law Guardians by September 30, 2005.

7. Provide high quality legal representation to child welfare agency staff through effective collaboration and coordination with DAsG. *The first part of this enforceable requires that by December 31, 2004, policies concerning working relationships and dispute resolution be revised and adopted. This plan was submitted on time. The second part of this enforceable, which required that by June 30, 2005, practice substantially conform to policies, was timely submitted on June 30, 2005. The remaining part of this enforceable concerns caseloads and is due on September 30, 2005, respectively.*
8. Provide high quality legal representation to parents involved in child welfare proceedings. *The components of this enforceable involve increasing the reimbursement rate for attorneys representing parents, developing a plan to address the quality of legal representation offered to parents and identifying any conflicts of interest or issues. The State increased the hourly rate for pool attorneys to \$50 per hour in September 2004; a further increase to \$75 per hour is required by September 2005. Though due in February 2005, the Child Welfare Reform Panel did not submit the independent assessments concerning parental representation to the State until June 2005; accordingly, the Panel extended the State's deadline to submit a responsive plan until December 2005.*

IV. BENCHMARKS AND SUMMARY

Finally, the Plan incorporates numerous data measures, including baseline data to determine appropriate starting points for measurement, interim and final targets against which to measure progress; and a prescribed methodology assigned to each benchmark to identify the data source that will measure a particular benchmark. Nine benchmarks have been assigned to the Court Section of the Plan:

1. Decrease the number of children currently in care on a voluntary placement agreement;
2. Increase the percentage of new placements made known to the court within five days of placement;
3. TBD Regarding notice to, and attendance of, birth parents, resource parents and other relevant stakeholders to relevant legal proceedings;
4. Increase the percentage of termination of parental rights cases with a disposition within six months from the filing date. The Judiciary has increased resources to this case type including the reassignment of judges, which has resulted in a decrease in the number of cases in backlog. As of May 2005, the number of cases in backlog has decreased by 34 percent since May 2004.
5. Increase the percentage of cases that have had a permanency hearing within legally mandated timeframes;
6. Increase the percentage of cases that have timely fact-finding hearings;
7. Decrease caseload of Deputy Attorneys General who represent DYFS;
8. TBD decreasing caseload of Law Guardians;

9. TBD regarding decreasing time waiting in court.

Because numerous agencies uniquely comprise the ICCF, the mechanisms to share, measure and track data among these agencies, where appropriate, must be developed. An ICCF subcommittee has discussed which agencies are ultimately responsible for achieving the benchmarks enumerated above, including the complex issues surrounding data collection and synthesis. The Department of Human Services formed Reporting and Analysis subcommittees to track each benchmark, identify the appropriate source of the data, record accurate baseline information and oversee related implementation issues.

Finally, the ICCF and its working subcommittee will continue to ensure the timely implementation of the Court Section strategies enumerated in the Plan. The ICCF is scheduled to release its next public report in December 2005.

GLOSSARY OF ACRONYMS

Interagency Council for Children and Families	ICCF
Division of Youth and Family Services	DYFS
Department of Human Services	DHS
Deputy Attorneys General	DAsG
Division of Law	DOL
Parental Representation Unit	PRU
Office of Parental Representation	OPR
Office of the Law Guardian	OLG
Office of the Law Guardian Appellate	OLGA
Law Guardians	LGs
Office of the Public Defender	OPD
Structured Decision Making	SDM
Children in Court Improvement Committee	CICIC
Administrative Office of the Courts	AOC
Assistant Attorney General	AAG
National Center for State Courts	NCSC
Court Appointed Special Advocates	CASA
Child Placement Review Board	CPRB
Association for Children of New Jersey	ACNJ
New Jersey Protective Investigation, Reporting & Information Tool	NJSPIRIT
Memorandum of Understanding	MOU
Family Drug Court	FDC

Appendix A

H. STRIVING FOR SAFETY AND PERMANENCY IN THE COURTS

BACKGROUND AND MAJOR CONCLUSIONS

In developing *A New Beginning*, New Jersey wisely recognized that successful reform of the child welfare system requires ongoing cooperation with a well-functioning Family Court. The State made a range of commitments, designed to “bring children’s cases to court promptly to help protect children’s safety and all parties’ rights, and...move the cases forward in accordance with applicable standards to achieve permanency for children,” and “ensure that all parties are treated respectfully in court and that the culture of the courts is appropriate to the presence of children, and...explore innovative court models to improve outcomes for children and families.”

Successful implementation of this part of the plan requires a great deal of coordinated activity among the Department of Human Services, the Administrative Office of the Courts, the Attorney General, the Public Defender, and the Juvenile Justice Commission, among others. The State’s plan therefore paid particular attention to the creation of a high-level body that could oversee the implementation of the court-related portions of the reform plan. Most of the reform plan work related to the courts is still in very early stages of implementation and we reserve comment on the State’s progress in this area until the next monitoring report.

REFORM STRATEGIES AND PERFORMANCE

1. Develop a high-level coordinating body, the Interagency Council for Children and Families (ICCF), to oversee and report on court reform efforts.

New Jersey has established the ICCF, chaired by Commissioner Davy of the Department of Human Services, which has met twice and has issued a public report on its work. The ICCF also created a working group of high-level staff which has met regularly for the past six months and has done useful work to advance this section of the reform plan. The Panel cannot yet conclude, however, that the ICCF’s activities amount to a “coordinated agenda for implementing reform strategies,” or a “capacity to track and monitor progress,” as required by the Settlement Agreement. Our review of ICCF agendas and discussions with staff suggest that this body has not consistently played a decision-making role, and that where differences of opinion exist among the agencies involved about how best to implement a part of the reform plan, those differences have not routinely been resolved by the ICCF. The Panel anticipates further conversations with ICCF leadership about the role of this body.

2. Eliminate the practice of accepting voluntary placements of children. (See Benchmark 79)

A New Beginning recognized that the “utilization of voluntary placements deprives parents of legal representation in a judicial setting” and, consequently, places children at risk of “languish[ing] in out-of-home placement longer than children who are involuntarily placed.” In keeping with commitments made in the plan, New Jersey has

promulgated policies ending voluntary placements in the four Phase I counties, effective October 1, 2004. These policies will be extended to the rest of the State over the next year. While the State deserves credit for moving forward in this area, some questions remain regarding placement agreements used for children needing residential placement or independent living. The Panel will seek to clarify this matter with New Jersey within 30 days of issuing this report, before concluding the State has met its full commitment in this area.

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3. Provide parents adequate notice of initial removal hearings. (See Benchmark 81)

A very basic legal protection, fundamental to a fair and effective child welfare system, is the requirement for prompt judicial review when children are removed from their families. Parents must be informed of these hearings and be represented by counsel when they occur. A New Beginning recognized that, in practice, parents have often failed to receive timely notice of initial removal hearings, and committed to developing a plan to address this problem. That plan is due on March 31, 2005, and the Panel will comment on it in our next monitoring report.

4. Provide resource families adequate notice of hearings involving children in their care. (See Benchmark 81)

The Federal Adoption and Safe Families Act requires States to inform resource families of court proceedings regarding children in their care, and to give them an opportunity to be heard. The full participation of these families, who often know more about the day-to-day lives of the children under the court's jurisdiction than anyone else, is critical to good decision-making. In practice, however, New Jersey recognized in A New Beginning that resource parents have frequently not received adequate notice, and sometimes not received any notice, of these proceedings. The State committed to remedying this basic breach of both the law and good child welfare practice.

The Administrative Office of the Courts (AOC), together with the other agencies that make up the ICCF, developed a plan to assure that notice is sent to resource families in a timely fashion. Following a number of questions and recommendations from the Panel, the AOC presented a revised plan in January 2005. The plan calls for a number of useful actions, including better matching of data between the OCS information system and the court information system and re-training of personnel on this issue. However the Panel remains concerned that the time allotted to this work is too lengthy; the training, for example, is not expected to be completed until the fall of 2006. We anticipate further discussions with the ICCF on this issue.

5. Take all reasonable steps to complete abuse and neglect proceedings, permanency hearings, and termination of parental rights and adoption cases in accordance with State and Federal Adoption and Safe Families Act timelines. (See Benchmark 82, Benchmark 83, and Benchmark 84)

Children can be kept safe and provided with a permanent family in a timely manner only if the court process works both effectively and expeditiously. New Jersey has appropriate

standards for the disposition of child welfare matters, and the State has determined by reviewing data from the court system that some of these matters (for example, child abuse and neglect proceedings) are regularly concluded in a timely manner. Other proceedings, however, more often encounter delays. These appear to be most significant with regard to termination of parental rights cases, 42 percent of which are pending beyond the timeframes required by the standards.

The ICCF workgroup has studied this subject and has developed a number of very thoughtful proposals for how to expedite these matters. However, these proposals do not yet enjoy the full support of all of the ICCF participants, and to date they have not been adopted as policy by the State. Accordingly, we cannot conclude that the State has fulfilled its obligation to develop and begin to implement a plan for more

timely court proceedings. Given the quality of the work done to date, such a plan is within reach, and we hope it will be completed in the near future.

6. Provide high-quality legal representation to children involved in child welfare proceedings.

The Office of the Public Defender's (OPD) Law Guardian unit represents the legal interests of children who are involved in abuse/neglect and adoption proceedings. In *A New Beginning*, New Jersey recognized that staffing in this unit has not kept up with the expansion of the caseload, and that additional attorneys would have to be hired to allow enough time per case for quality representation of each child. The final target for law guardian caseloads was to be determined after an analysis to be performed by the Public Defender, subject to Panel review and approval.

OPD has proposed a final standard by which the caseloads of law guardians will be reduced to no more than 88 children. Towards that end, OPD has hired 13 additional attorneys, and estimates that by the end of the current fiscal year on June 30, 2005, caseloads will have been reduced to 133 total active children per attorney. The OPD is seeking additional funding, in the second and later years of the reform plan, to further reduce caseloads to the target level.

The Panel has approved the proposed standard, but expressed concern about the amount of time contemplated to achieve it. We plan to meet with the Public Defender and other interested parties to discuss options that might lead to more rapid attainment of the caseload targets.

7. Provide high-quality legal representation to child welfare agency staff through effective collaboration and coordination with Deputy Attorneys General (DAG).

New Jersey has, as promised, developed a protocol for resolving disagreements that arise when child welfare staff and the attorneys who represent them in court differ on the best course of action with regard to a particular child and family. The protocol follows a historical practice, in which such disagreements are brought up the chain of supervision in each agency until they are resolved.

The protocol is a reasonable approach to addressing this issue. It does not, however, speak to the circumstances that are most likely to produce disagreements, nor does it identify the additional activities (for example, joint training or policy clarification) that might reduce their frequency. We suggest that the ICCF work group might usefully analyze these issues and, if warranted, expand the protocol to address them.

8. Provide high-quality legal representation to parents involved in child welfare proceedings.

A New Beginning recognized that most parents in child welfare proceedings have been represented by private "panel" attorneys, who were inadequately reimbursed and worked without the support of paralegals, social workers, and clerical help that is available to Deputy Attorneys General (who represent the State) and law guardians (who represent children). To address these needs, New Jersey committed to (i) increasing reimbursement

rates for these attorneys; (ii) expanding the staff of the Parent Representation Unit in the Public Defender's office; and (iii) undertaking an independent study of the quality of parent representation.

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The actions described above were not expected to be completed during this monitoring period. Hiring efforts are underway, as is the study, which is being conducted by Professor Martin Guggenheim, a nationally recognized expert in this area. The Panel will comment on the results of this work in our next monitoring report.

NEXT STEPS

Next Steps deferred until the Panel meets with the ICCF.