Child Advocate Attorney Representation and Workload Study

By Governmental Services Division
Carl Vinson Institute of Government

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Executive Summary

The *Kenny A* lawsuit is a federal court class action lawsuit filed June 6, 2002 against the state of Georgia, Sonny Perdue, Governor of Georgia; B.J. Walker, Commissioner of the Georgia Department of Human Resources; Steve Love, the Acting Director of the Georgia Division of Family and Children Services; Beverly Jones, Director of Fulton Country DFCS; Walker Solomon II, Director of DeKalb County DFCS, and Fulton & DeKalb counties on behalf of foster children in state custody through Fulton and DeKalb Departments of Family and Children Services. The Plaintiffs asserted fifteen causes of action under federal and state law.

In February 2005, Judge Marvin Shoob issued an Order denying the defendants' Motion for Summary Judgment. In his order, Judge Shoob stated the following:

> The Court concludes that plaintiff foster children have both a statutory and constitutional right to counsel in all deprivation proceedings, including but not limited to TPR proceedings.. . .Even if there were not a statutory right to counsel for children in deprivation cases and TPR proceedings, the Court concludes that such a right is guaranteed under the Due Process Clauses of both the United States and Georgia Constitutions and are entitled to constitutionally adequate procedural due process when their liberty or property rights are at stake.. . . These include a child's interest in his or her own safety, health, and well being, as well as an interest in maintaining the integrity of the family unit and having a relationship with his or her biological parent.

Judge Shoob also held that the foster child's liberty interest continues even after the child is placed in state custody:

> At that point, a special relationship is created that gives rise to rights to reasonably safe living conditions and services necessary to ensure protection from physical, psychological and emotional harm . . .Thus, a child's fundamental liberty interests are at stake not only in the initial deprivation hearing but also in the series of hearings and review proceedings that occur as part of the deprivation case once the child comes into state custody.

As a result of this order, and on-going negotiations, Fulton County entered into a consent decree with the Plaintiffs on February 10, 2006. The Fulton County consent decree is attached to the report in Appendix E. While the document is comprehensive and full of detail, the three main areas are as follows:

1. Independent Child Advocate Attorneys' Office: establish an office for the Fulton County Child Advocate Attorneys that is independent from the juvenile court and is a division of the Fulton County government; this office must initially be staffed by twelve full-time child advocate attorneys, two full-time investigators and three full-time support staff.

2. Workload Study: a workload study will be conducted by the Carl Vinson Institute of Government to decide how to appropriately measure the workloads of child advocate attorneys; the results of this workload study will then provide the basis for ongoing determinations of staffing requirements for the child advocate attorney office and incorporated into the consent decree.

3. Principles & Guidelines for Child Advocate Attorney Representation: Fulton County Child Advocate Attorneys will abide by the principles and guidelines set forth for the representation of children as stated in the Consent Decree.

The consent decree is to remain in effect until Fulton County has remained in substantial compliance with all provisions of the decree for a continuous eighteen-month period beginning 180 days after the completion and acceptance by the Court of the workload study. Fulton County's compliance with the consent decree is to be monitored by an independent accountability agent, Judge William Jones of Charlotte, North Carolina, who will issue reports at every six-month interval following completion of the workload study.

Fulton County contracted with the Carl Vinson Institute of Government, which completed the Workload Study in June 2007. The study has been delivered to the District Court, for party review and comment. If the Court approves the Study's recommendations, the County will have 180 days from the date of approval within which to comply with its recommendations.

In brief, the Workload Study provides as follows:

- It describes the caseload and work patterns of the existing Child Advocate Attorneys' Office, using data derived from a time study, focus groups, file reviews and court observations.
- It concludes that the existing Child Advocate Attorneys' Office lacks sufficient time and staff to implement the principles and guidelines specified in the *Kenny A* Consent Decree.
- It identifies various reforms both within the Child Advocate Attorneys' Office ("internal" reforms) and within DFCS and Juvenile Court practice ("external" reforms) that may permit the Child Advocate Attorneys' Office to implement those requirements.
- It recommends that without any reforms, each Child Advocate Attorney should represent no more than 80 children at any given point in time.
- It recommends that with internal reforms alone, caseload should rise to no more than 100 children; and with both internal and external reforms, to no more than 120 children.
- It recommends that within 60 and 120 days of the workload study being approved by the court, that the Child Advocate Attorneys' Office will provide reports on office reform and that the accountability agent will collect data on internal and external reforms.
- It recommends that the court appointed Accountability Agent, in consultation with the Workload Study project team, assess the County's implementation of those

reforms and their impact on the representation of children, and recommend caseload and staffing levels consistent with the actual impact of those reforms.

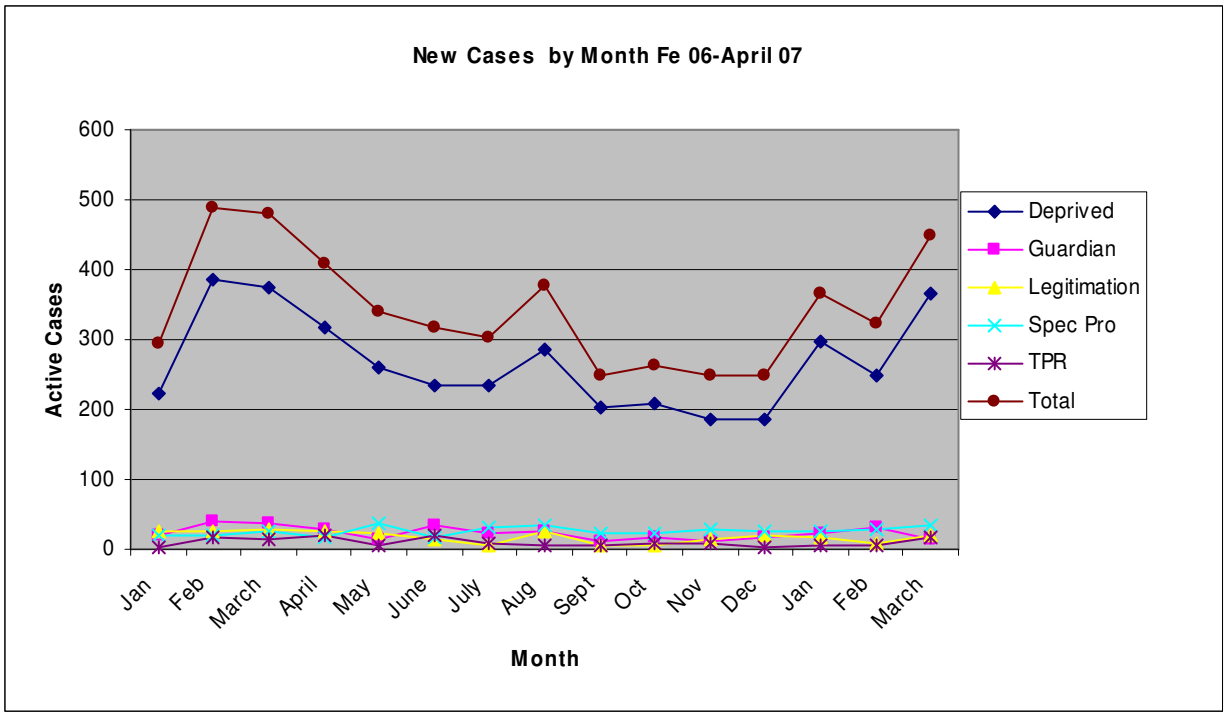
The balance of this Executive Summary provides brief additional detail on each point.

Methodology and Highlights from the Data

The Child Advocate Attorney Workload Study project team developed a methodology both to describe current practices (including both caseloads and work patterns); to estimate how much time each Child Advocate Attorney (CAA) would require to comply with the *Kenny A* Principles and Guidelines; and to estimate how that compliance would affect the number of children that each CAA should represent. The methodology included: a review of the current work environment; focus group discussions with the current CAAs; data collection during a month long study of the time spent by current CAAs; in court observation of the attorneys; case file reviews; and analysis of the data collected in light of the *Kenny A* mandates.

During the Workload Study the Fulton County Child Advocate Attorneys' Office consisted of 1 attorney supervisor, 8 attorneys with active caseloads (2vacant positions), 1 investigator and 2 support staff. The project team focused on all CAA cases, including both cases within the *Kenny A* class of clients (children in DFCS custody) and other types of cases including privately filed deprivation cases (in which DFCS is not involved.)

The Workload Study identified two different caseload numbers. It identified a "point-in-time" caseload that identified the number of discrete child clients that the average CAA currently represents. When adjusted for seasonal variations in the size of the point-in-time caseload, the Study concluded that this point-in-time caseload came to an average of slightly under 163 children per advocate. The Study also identified an "annually opened" caseload figure that identified the total number of new children represented by child advocate attorneys each year. It concluded that this annual caseload figure came to 2947 children for calendar year 2006. Based on these figures, the project team concluded that, in Fulton County, the CAAs could spend only slightly more than 6 hours on all tasks relating to the representation of a single child.



The Workload Study also involved a detailed study of how CAAs spent their time. Over a 4 week period, CAAs were asked to keep time records addressing how much time they spent both on different phases of their case work, and on different kinds of activities in the case. The advocates reported on those activities that were specifically stated in the *Kenny A* decree, supplemented by tasks identified as necessary or advisable in the American Bar Association Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases ("ABA Standards"). The project team then analyzed the resulting time data to determine how the CAAs were currently spending their time and what percentage of the cases received a particular attorney activity. Among the notable findings of the time study were:

- CAAs reported working on 1254 child client cases during the month long time study
- 43 children were present for their deprivation hearings or 5.5% of the cases held during the times indicated the child client was present for their hearing (Table 65)
- CAAs reported conducting document reviews in 47 % of the 1254 cases (Page 80?)
- CAAs reported contact with other attorneys in 46 % of the 1254 cases (Table 40)
- CAAs reported meeting with mother, father or guardian legal representative in 26 % of the 1254 cases (Table 43)
- CAAs reported contact with at least one family member or guardian in 34% of the 1254 cases (Table 44)
- CAAs reported motion activity in 29% of the 1254 cases (Table 49)
- CAAs reported service referrals in 4% of the 1254 cases (Table 51)
- Analysis of the % of total CAAs time on a particular activity indicated, the CAAs spent
    - 5.31% of their total available time counseling clients (Table 33)

- 8.39% in Court Hearings (Table 24)
- 6.04% Waiting at Court Hearings (Table 24)
- 2.3% in Post Hearing monitoring (Table 56)
- .081% in Mediation or Negotiation (Table 54)
- .01% or 8 minutes on Appeals (Table 58)

Based on these results and other data gathered from file reviews, court observations, and focus groups, the Workload Study project team concluded that, under current conditions, the CAAs are unable to meet the standards of the *Kenny A* Consent Decree. The Workload Study concluded that the size of the caseload was the single most important factor causing this inability. At the same time, the Workload Study also identified a series of internal and external factors that contributed to this inability. The following section details some of those factors and summarizes the recommendations for reform:

Internal and External Reforms

The Workload Study identifies two different categories of potential reform, in addition to reform of caseloads: "internal" reforms, relating to changes in the functioning and funding of the Child Advocate Attorneys' Office; and "external" reforms, relating to changes within DFCS and the juvenile court.

Internal Reforms
The Workload Study recommends the following changes in the Child Advocate Attorneys' Office as most likely to produce changes in the quality and efficiency of practice:

- Vertical representation: adopting a "one Child Advocate Attorney - one child" model.
- Increased number of and use of investigators.
- Improvements in caseload management and use of case management software.
- Implementation and enforcement of office policies and procedures.
- Implementation and enforcement of written standards of practice, on topics including model of representation, client contact, client counseling, client home visits, file documentation and uniform forms, case investigation, document review, resource referrals, development and maintenance of the attorney client relationship, how to end the attorney client relationship and help their client transition into adulthood, child's appearance for court hearings, appeals, conflict of interest, staffings with other attorneys and DFCS.
- Regular and specialized training in all the foregoing topics.
- Increased funding for and decreased restrictions on client-related travel.
- Development and increased use of other available resources, including data and brief banks, CASA's and other volunteers, as well a broader range of community referral sources.

External Reforms
The Workload Study recommends the following changes in the practices of DFCS, its representatives and the Juvenile Court

- ***DFCS*** should:
    - Keep CAAs informed of the child's location, including notice within 24 hours of changes in the child's location and contact information.
    - Bring children to hearings on a consistent basis.
    - Permit CAA review of information under DFCS control, and permit CAA communication with third party service providers under contract with DFCS.
    - Regularly include CAAs in meetings and staffings concerning the child.

- ***DFCS' counsel*** (the Special Assistant Attorneys General) should:
    - Present proposed court orders to the CAAs before submission to the judge.
    - Provide reports, evaluations, and other documents prepared for submission to court in a timely manner.

- ***Juvenile Court*** should:
    - Implement a "One Judge, One Family" system, in which each child and family stays with the same judge throughout the relevant deprivation case. Implement a docketing system that permits CAAs to plan for days in court and to have regular and consistent days without any in-court obligation.
    - Refuse to sign court orders without review by all attorneys and/or parties, and promptly calendar motions to correct or amend existing orders.
    - Affirmatively enforce a child's right to counsel as a party to the case and the right to attend and participate in each hearing concerning his/her family.

Caseload Recommendations

The Workload Study concludes with a recommendation about caseloads and the resulting staffing levels for each caseload. In general, the Workload Study concludes that decreasing caseloads and increasing staffing represents the single most significant factor in assuring compliance with the Decree. At the same time, the Workload Study also concludes that many of the reforms just discussed would have the effect either of freeing time for or increasing the efficiency of the CAAs.

Accordingly the Workload Study recommends three different point-in-time caseloads. First, it identified the point-in-time caseload that would be necessary for compliance with the Decree if no further efforts at reform occur, whether within or outside the office. It derived this figure by assessing how increasing the hours spent by a CAA in representing a child would affect the office's ability to achieve the *Kenny A* standards, and comparing that to the office point-in-time cases under current conditions. This analysis resulted in a conclusion that, under current conditions, caseloads should consist of no more than 80 children for each

child advocate attorney. Under current conditions, this would result in 20 Child Advocate Attorneys total, who would each be able to spend 14 hours per child.

A significant percentage of these hours per child would include "wasted time," that is, time spent on dealing with the internal and external barriers discussed in the previous section. The Workload Study estimated the effects that reforming both internal and external practices would have on the ability of child advocate attorney's to represent children. It concluded that:

- If only internal office reforms are implemented, then CAAs should have caseloads of no more than 100 child clients per CAA. The result would be 16 attorneys with roughly 11 hours available per child.

- If both internal Child Advocate Attorneys' Office reforms and external reforms by DFCS and the court occur, the caseloads should be no more than 120 child clients. The result would be 20 child advocate attorneys with roughly 9 hours available per child.

If the Court approves the recommendations of the Workload Study, Fulton County has 180 days from the date of approval to achieve compliance with those recommendations and the requirements as outlined in the Consent Decree. Under these recommendations, compliance will depend on which reforms occur, and how those reforms affect the ability of the CAAs to represent children. Accordingly, the Workload Study recommends that, the court appointed Accountability Agent review and assess Fulton County's implementation of these reforms, relying on reports by the Child Advocate Attorneys' Office and his independent observations and verification of the information provided. The Accountability Agent would then, in consultation with the Workload Study project team, make recommendations to the Court about the caseload size and staffing patterns that would be appropriate in light of those reforms that had actually occurred, and in light of the impact of those reforms on the ability of the CAAs to represent children in compliance with the Decree. The recommendations will take place within 180 days of the court's approval of the workload study.

Chapter 1. Background: The Kenny A Lawsuit

The *Kenny A* lawsuit is a federal court class action lawsuit filed June 6, 2002 against the State of Georgia, Sonny Perdue, Governor of Georgia; B.J. Walker, Commissioner of the Georgia Department of Human Resources; Steve Love, the Acting Director of the Georgia Division of Family and Children Services; Beverly Jones, Director of Fulton County DFCS; Walker Solomon II, Director of DeKalb County DFCS, Fulton and DeKalb counties on behalf of foster children in state custody through Fulton and DeKalb Departments of Family and Children Services. The defendants in the *Kenny A* lawsuit are: the State Department of Human Resources as the party responsible for the operation of the Department of Family and Children Services for Fulton and DeKalb counties and the counties of Fulton and DeKalb as the parties responsible for funding the county child advocate attorneys who provide legal representation for deprived children. The *Kenny A* lawsuit has been resolved through three separate consent decrees; one with the State and one with each county. Fulton County's *Kenny A* Consent Decree was signed by the parties February 10, 2006.

The Plaintiffs assert 15 causes of action under federal and state law.

There are a number of federal law claims alleging violations of the foster children's' federal constitutional and statutory rights to:

- substantive and procedural due process under the Fourteenth Amendment;
- liberty, privacy, and association under the First, Ninth, and Fourteenth Amendments; and
- federal statutory rights under the Adoption Assistance and Child Welfare Act of 1980, as amended by the Adoption and Safe Families Act of 1997; the Multiethnic Placement Act of 1994, as amended by the Interethnic Adoption Provisions of 1996 (Count XV); and the Early and Periodic Screening, Diagnosis, and Treatment Program of the Medicaid Act.

There are also a number of state law claims alleging violations of foster children's' rights and protections including the following:

- substantive due process and equal protection under the Georgia Constitution;
- violations of O.C.G.A. §§ 49-5-12, 15-11-58, 15-11-13, and 20-2-690.1;
- nuisance;
- breach of contract; and
- inadequate and ineffective legal representation.

The single claim against Fulton County is for failure to provide adequate, appropriate and meaningful legal representation for children alleged to be deprived and involved in Juvenile Court deprivation actions.

In February 2005, Judge Marvin Shoob issued a summary judgment order stating children in all deprivation proceedings in Georgia have a statutory and state constitutional right to effective assistance of counsel and that the children are parties to the deprivation cases.

Judge Shoob stated that due process requires that deprived children have a right to counsel because the child's fundamental liberty interests are at stake in deprivation proceedings: their safety, health, and well-being; their interest in maintaining the integrity of the family unit; and their interest in having a relationship with their biological parents.

THE FULTON COUNTY *KENNY A* CONSENT DECREE

The Fulton County consent decree addresses the funding and practice guidelines for child advocate attorneys, the attorneys providing legal representation to children alleged to be deprived and with cases before the Juvenile Court.

The consent decree requires Fulton County to make three main changes:

1) Independent Child Advocate Attorney Office: Establish an office for the Fulton County Child Advocate Attorneys that is independent from the juvenile court and is a division of the Fulton County government; this office must initially be staffed by twelve full-time child advocate attorneys, two full-time investigators and three full-time support staff.
2) Workload Study: A workload study will be conducted by the Carl Vinson Institute of Government to decide how to appropriately measure the workloads of child advocate attorneys. The results of this workload study will then provide the basis for ongoing determinations of staffing requirements for the child advocate attorney office and be incorporated into the consent decree.

   The Fulton County *Kenny A* Consent Decree states as follows, beginning on page 6:

   6. MEASURING AND ENSURING MANAGEABLE WORKLOADS

   C. A comprehensive review of the workloads of Fulton County Child Advocate Attorneys (the "Fulton Workload Study") will be performed by the Carl Vinson Institute of Government ("CVIG") at the University of Georgia, under the direction of Karen Baynes. The Accountability Agent shall be involved in the design and methodology of the Fulton Workload Study at his discretion and in cooperation with CVIG. CVIG will keep the Accountability Agent informed of the ongoing process of the Fulton Workload Study. The Fulton Workload Study shall make recommendations to the Court and the parties concerning the appropriate standard(s) by which the workloads of Fulton Child Advocate Attorneys should be measured, whether by caseload counts or by another mechanism. The Fulton County Workload Study will review case volume, types of cases and their levels of difficulty, the use of volunteer lawyers, attorney experience level, support staff, equipment, technology and other factors which will substantially affect the workload of Fulton County Child Advocate Attorneys. Fulton County will cooperate fully with those performing the Fulton Workload Study in providing access to all documents and information those performing the Fulton Workload

Study request in connection with the workload study, and will pay the fees and expenses incurred in connection with the study. The Fulton Workload Study will be completed, and a final report issued, no later than 120 days after commencement of the Fulton Workload Study. If additional time is needed to complete the Fulton Workload Study, Karen Baynes will notify the parties and the Court in a timely manner.

D. If any party objects to the findings of the Fulton Workload Study, that party will notify the other party and the Court in writing within 15 days after the report is issued. If no party objects to the findings of the Fulton Workload Study, the workload standards recommended therein will be incorporated into this Consent Decree, and Fulton County will comply with those workload standards no later than 180 days after the Fulton Workload Study is issued.

E. If any party objects to the findings of the Fulton Workload Study pursuant to paragraph D, the parties will promptly engage in good faith negotiations concerning the appropriate workload standards to be adopted by the County. If the parties reach an agreement concerning workload standards, they will jointly file a motion to amend this Consent Decree to incorporate those standards. If no agreement has been reached within thirty (30) days after the issuance of the Fulton Workload Study, either party may file a motion asking the Court to set appropriate workload standards. If such a motion is filed, the burden will be on the party objecting to the Fulton Workload Study to demonstrate that the workload standards recommended therein do not reflect reasonable workload standards and should not be incorporated into this Consent Decree. Fulton County will comply with the Court's ruling on workload standards within 120 days of said ruling, unless the Court specifies an alternative date for compliance.

3) Principles and Guidelines for Child Advocate Attorney Representation: Fulton County Child Advocate Attorneys will abide by the principles and guidelines set forth for the representation of children as stated in the Consent Decree and in the Consent Decree Appendix.

The consent decree will remain in effect until Fulton County has remained in substantial compliance with all provisions of the decree for a continuous eighteen month period beginning 180 days after the completion of the workload study. Fulton County's compliance with the consent decree is to be monitored by an independent accountability agent, Judge William Jones of Charlotte, North Carolina, who will issue reports at every six-month interval following completion of the workload study.

Duties of the Child Advocate

A. Initial Case Responsibilities

1) Determine the facts of the case by interviewing the child, family members, caseworker, Court Appointed Special Advocates (CASA) volunteers, and others as necessary and appropriate.
2) Where appropriate and necessary to the case, obtain and review the court files and agency records of the child and any siblings; school records; medical records; social services records; psychiatric, psychological, and drug and alcohol records; law enforcement records; photographs; audio/videotapes and other physical evidence.
3) Where appropriate and necessary to the case, contact the attorney(s) for the biological parents, and other persons who are respondents to the case.
4) Where appropriate and necessary to the case, contact other individuals involved with the child such as school personnel, foster parents, neighbors, relatives, medical and mental health providers, family friends and any other potential witnesses or sources of information.
5) Meet with, observe, and establish and maintain a relationship with the child. Assess the child's needs and wishes with regard to the representation and the issues in the case, and explain the proceedings to the child according to the child's ability to understand.
6) Maintain available information concerning the child's location and contact information for the child and other necessary parties or witnesses readily accessible in the child's file. Take reasonable steps to ensure that the placement and contact information in the Child Advocate Attorney's file is current.
7) Conduct additional investigation as determined to be necessary and appropriate to the case, in the exercise of the Child Advocate Attorney's professional judgment.

B. Preparation for and Representation at Hearings

1) Participate as an attorney at all hearings concerning the child.
2) Make informed recommendations for specific and clear orders for evaluation, services, and treatment for the child and the child's family.
3) File all necessary pleadings and papers.
4) Ensure that relevant testimony and documentary and physical evidence is introduced to the court and, when necessary, subpoena witnesses.
5) Monitor the implementation of court orders and determine whether services ordered by the court for the child or the child's family are being provided in a timely manner and are accomplishing their purpose. Where necessary and appropriate, take steps to ensure compliance.
6) Promote a cooperative resolution of the matter.
7) Consult with other persons knowledgeable about the child and the child's family to identify the child's interests, current and future placements that would be best for the child, and necessary services for the child.

8) Where necessary and appropriate for legal representation, attend all meetings involving the child.
9) When appropriate, collaborate with the CASA to provide the best possible representation for the child.
10) Inform the court of the child's wishes.
11) Adequately maintain case file.
12) Explain to the child the disposition of his or her case.

C. Post Dispositional Representation

1) Inform the child of his or her right to appeal.
2) Exercise child's right to appeal, if under the reasonable judgment of the attorney, an appeal is necessary.
3) Where necessary and appropriate, represent the child's interests in an appeal filed by another party.
4) Discuss the end of the legal representation with the child and determine what contacts, if any, the attorney and child will continue to have.

D. Conflicts of Interest

Child advocate attorneys should decline to represent children in conflict of interest situations, including in the following circumstances:

1) The attorney, or other child advocate attorneys on staff in the Fulton Juvenile court, represents, or has represented, the biological parent in a deprivation proceeding.
2) Children in a sibling group have conflicting accounts of facts material to the deprivation or TPR determination.
3) Positions to be taken on behalf of children in a sibling group are mutually exclusive and conflict in a material way.

GENERAL PRINCIPLES FOR THE FULTON COUNTY OFFICE OF CHILD ADVOCATE ATTORNEYS

1) Class member children are entitled to receive adequate, effective, and zealous legal representation at all stages of deprivation and termination of parental rights proceedings throughout the time they are subject to the jurisdiction of the Fulton County Juvenile Court.
2) Child Advocate Attorneys should perform the basic tasks any trial lawyer would, including obtaining all court filings, attending all court appearances, filing motions, and being an active participant in all hearings and settlement discussions.
3) Child Advocate Attorneys should establish an attorney-client relationship and maintain that relationship throughout the duration of the representation. The child's presence at court hearings should be decided in consultation with the child client. If the child client waives their presence for a court hearing or for a non verbal, incompetent child client, the Child Advocate Attorney may, when deemed

appropriate, waive the child's presence on the Court record and should document the CAA file accordingly.

4) Child Advocate Attorneys should investigate all cases through formal and informal discovery and other means, including updated investigations before all review hearings and other stages of a deprivation case.
5) Child Advocate Attorneys should be aware of all staffings, administrative reviews, family team meetings, special education conferences, and all other non-deprivation proceedings involving the child and should attend such meetings to the extent that the Child Advocate Attorney, in the exercise of considered professional judgment, deems necessary or desirable.
6) Child Advocate Attorneys should advocate for the service needs of their clients and their client's families to further their client's safety, permanency, and well-being.
7) Child Advocate Attorneys should monitor their clients' status between court appearances, including the implementation of Juvenile Court orders benefiting their clients, the case plan, and issues relating to clients' foster care or other placement.
8) Child Advocate Attorneys should raise issues of DFCS's non-compliance with court orders, or other issues of concern, with appropriate decision-makers, including if necessary the Juvenile Court through appropriate motion practice.
9) Child Advocate Attorneys should file appeals when necessary and participate in appeals filed by DFCS or parents.
10) Child Advocate Attorneys should attend to the possibility of conflicts and resolve them.

The American Bar Association Standards Summary

During the last twenty-five years, the issues surrounding the model of legal representation and the quality of this legal representation for children in abuse and neglect cases has received increased attention from judges, lawyers, child advocates, legislators and even former foster children. In 1979, the American Bar Association (ABA) approved *Juvenile Justice Standards Relating to Counsel for Private Parties* which included general directions for attorneys working in juvenile court and provided some guidance for attorneys representing children in the abuse and neglect cases. In 1995, the National Council of Juvenile and Family Court Judges issued *Resource Guidelines: Improving Court Practice in Child Abuse and Neglect Cases*. The resource guidelines set a standard for zealous, quality advocacy by the child's legal representative and provided procedural steps the court should take to promote effective and competent advocacy for the child. The ABA not only endorsed the resource guidelines, but in 1996, advanced the recommendations of the resource guidelines by issuing standards of practice for attorneys representing the child in abuse and neglect cases. The ABA also included standards for the juvenile court judges and the court that would promote a higher level of representation for the child.

During the Workload Study, the requirements under the *Kenny A* Consent Decree were used as the framework for development of the items used to measure Child Advocate Attorney representation. The ABA Standards compliment and add to the *Kenny A* requirements by further developing the key elements of effective and zealous representation of children. The

ABA Standards also include extensive commentary that serves to further describe each standard. The ABA standards are divided into two parts. Part 1 addresses the standards for attorneys, while Part 2 addresses the standards for the juvenile court judges and administration in promoting legal representation for the child in accordance with Part 1. Below is a condensed version of the ABA Standards, Part 1.

American Bar Association Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases

Part I– Standards for the Child's Attorney

A. DEFINITIONS

A-1. **The Child's Attorney**: The term "child's attorney" means a lawyer who provides legal services for a child and who owes the same duties of undivided loyalty, confidentiality, and competent representation to the child as is due an adult client.

A-2. **Lawyer Appointed as *Guardian Ad Litem***: A lawyer appointed as "*guardian ad litem*" for a child is an officer of the court appointed to protect the child's interests without being bound by the child's expressed preferences.

A-3. **Developmentally Appropriate**: "Developmentally appropriate" means that the child's attorney should ensure the child's ability to provide client-based directions by structuring all communications to account for the individual child's age, level of education, cultural context, and degree of language acquisition.

B. GENERAL AUTHORITY AND DUTIES

B-1. **Basic Obligations**: The child's attorney should

1) obtain copies of all pleadings and relevant notices;
2) participate in depositions, negotiations, discovery, pretrial conferences, and hearings;
3) inform other parties and their representatives that he or she is representing the child and expects reasonable notification prior to case conferences, changes of placement, and other changes of circumstances affecting the child and the child's family;
4) attempt to reduce case delays and ensure that the court recognizes the need to speedily promote permanency for the child;
5) counsel the child concerning the subject matter of the litigation, the child's rights, the court system, the proceedings, the lawyer's role, and what to expect in the legal process;
6) develop a theory and strategy of the case to implement at hearings, including factual and legal issues; and
7) identify appropriate family and professional resources for the child.

B-2. **Conflict Situations**:

1) If a lawyer appointed as *guardian ad litem* determines that there is a conflict caused by performing both roles of *guardian ad litem* and child's attorney, the lawyer should continue to perform as the child's attorney and withdraw as

guardian ad litem. The lawyer should request appointment of a *guardian ad litem* without revealing the basis for the request.

2) If a lawyer is appointed as a "child's attorney" for siblings, there may also be a conflict which could require that the lawyer decline representation or withdraw from representing all of the children.

B-3. **Client Under Disability**: The child's attorney should determine whether the child is "under a disability" pursuant to the Model Rules of Professional Conduct or the Model Code of Professional Responsibility with respect to each issue in which the child is called upon to direct the representation.

B-4. **Client Preferences**: The child's attorney should elicit the child's preferences in a developmentally appropriate manner, advise the child, and provide guidance. The child's attorney should represent the child's expressed preferences and follow the child's direction throughout the course of litigation.

1) To the extent that a child cannot express a preference, the child's attorney shall make a good faith effort to determine the child's wishes and advocate accordingly or request appointment of a *guardian ad litem*.

2) To the extent that a child does not or will not express a preference about particular issues, the child's attorney should determine and advocate the child's legal interests.

3) If the child's attorney determines that the child's expressed preference would be seriously injurious to the child (as opposed to merely being contrary to the lawyer's opinion of what would be in the child's interests), the lawyer may request appointment of a separate *guardian ad litem* and continue to represent the child's expressed preference, unless the child's position is prohibited by law or without any factual foundation. The child's attorney shall not reveal the basis of the request for appointment of a *guardian ad litem* which would compromise the child's position.

B-5. **Child's Interests**: The determination of the child's legal interests should be based on objective criteria as set forth in the law that are related to the purposes of the proceedings. The criteria should address the child's specific needs and preferences, the goal of expeditious resolution of the case so the child can remain or return home or be placed in a safe, nurturing, and permanent environment, and the use of the least restrictive or detrimental alternatives available.

C. ACTIONS TO BE TAKEN

C-1. **Meet with Child**: Establishing and maintaining a relationship with a child is the foundation of representation. Therefore, irrespective of the child's age, the child's attorney should visit with the child prior to court hearings and when apprised of emergencies or significant events impacting on the child.

C-2. **Investigate**: To support the client's position, the child's attorney should conduct thorough, continuing, and independent investigations and discovery which may include, but should not be limited to

1) reviewing the child's social services, psychiatric, psychological, drug and alcohol, medical, law enforcement, school, and other records relevant to the case;
2) reviewing the court files of the child and siblings, case-related records of the social service agency, and other service providers;
3) contacting lawyers for other parties and non-lawyer guardians ad litem or court-appointed special advocates (CASA) for background information;
4) contacting and meeting with the parents/legal guardians/caretakers of the child, with permission of their lawyer;
5) obtaining necessary authorizations for the release of information;
6) interviewing individuals involved with the child, including school personnel, child welfare case workers, foster parents and other caretakers, neighbors, relatives, school personnel, coaches, clergy, mental health professionals, physicians, law enforcement officers, and other potential witnesses;
7) reviewing relevant photographs, video or audio tapes, and other evidence; and
8) attending treatment, placement, administrative hearings, other proceedings involving legal issues, and school case conferences or staffings concerning the child as needed.

C-3. **File Pleadings**: The child's attorney should file petitions, motions, responses or objections as necessary to represent the child. Relief requested may include, but is not limited to

1) a mental or physical examination of a party or the child;
2) a parenting, custody, or visitation evaluation;
3) an increase, decrease, or termination of contact or visitation;
4) restraining or enjoining a change of placement;
5) contempt for non-compliance with a court order;
6) termination of the parent-child relationship;
7) child support;
8) a protective order concerning the child's privileged communications or tangible or intangible property;
9) request services for child or family; and
10) dismissal of petitions or motions.

C-4. **Request Services**: Consistent with the child's wishes, the child's attorney should seek appropriate services (by court order if necessary) to access entitlements, to protect the child's interests and to implement a service plan. These services may include, but not be limited to

1) family preservation-related prevention or reunification services;
2) sibling and family visitation;
3) child support;
4) domestic violence prevention, intervention, and treatment;

5) medical and mental health care;
6) drug and alcohol treatment;
7) parenting education;
8) semi-independent and independent living services;
9) long-term foster care;
10) termination of parental rights action;
11) adoption services;
12) education;
13) recreational or social services; and
14) housing.

C-5. **Child with Special Needs**: Consistent with the child's wishes, the child's attorney should assure that a child with special needs receives appropriate services to address the physical, mental, or developmental disabilities. These services may include, but should not be limited to:

1) special education and related services;
2) supplemental security income (SSI) to help support needed services;
3) therapeutic foster or group home care; and
4) residential/in-patient and out-patient psychiatric treatment.

C-6. **Negotiate Settlements**: The child's attorney should participate in settlement negotiations to seek expeditious resolution of the case, keeping in mind the effect of continuances and delays on the child. The child's attorney should use suitable mediation resources.

D. HEARINGS

D-1. **Court Appearances**. The child's attorney should attend all hearings and participate in all telephone or other conferences with the court unless a particular hearing involves issues completely unrelated to the child.

D-2. **Client Explanation**. The child's attorney should explain to the client, in a developmentally appropriate manner, what is expected to happen before, during and after each hearing.

D-3. **Motions and Objections**. The child's attorney should make appropriate motions, including motions *in limine* and evidentiary objections, to advance the child's position at trial or during other hearings. If necessary, the child's attorney should file briefs in support of evidentiary issues. Further, during all hearings, the child's attorney should preserve legal issues for appeal, as appropriate.

D-4. **Presentation of Evidence**. The child's attorney should present and cross examine witnesses, offer exhibits, and provide independent evidence as necessary.

D-5. **Child at Hearing**. In most circumstances, the child should be present at significant court hearings, regardless of whether the child will testify.

D-6. **Whether Child should Testify**. The child's attorney should decide whether to call the child as a witness. The decision should include consideration of the child's need or desire to testify, any repercussions of testifying, the necessity of the child's direct testimony, the availability of other evidence or hearsay exceptions which may substitute for direct testimony by the child, and the child's developmental ability to provide direct testimony and withstand possible cross-examination. Ultimately, the child's attorney is bound by the child's direction concerning testifying.

D-7. **Child Witness**. The child's attorney should prepare the child to testify. This should include familiarizing the child with the courtroom, court procedures, and what to expect during direct and cross-examination and ensuring that testifying will cause minimum harm to the child.

D-8. **Questioning the Child**. The child's attorney should seek to ensure that questions to the child are phrased in a syntactically and linguistically appropriate manner.

D-9. **Challenges to Child's Testimony/Statements**. The child's competency to testify, or the reliability of the child's testimony or out-of-court statements, may be called into question. The child's attorney should be familiar with the current law and empirical knowledge about children's competency, memory, and suggestibility and, where appropriate, attempt to establish the competency and reliability of the child.

D-10. **Jury Selection**. In those states in which a jury trial is possible, the child's attorney should participate in jury selection and drafting jury instructions.

D-11 **Conclusion of Hearing**. If appropriate, the child's attorney should make a closing argument, and provide proposed findings of fact and conclusions of law. The child's attorney should ensure that a written order is entered.

D-12. **Expanded Scope of Representation**. The child's attorney may request authority from the court to pursue issues on behalf of the child, administratively or judicially, even if those issues do not specifically arise from the court appointment. For example:

1) Child support;
2) Delinquency or status offender matters;
3) SSI and other public benefits;
4) Custody;
5) Guardianship;
6) Paternity;
7) Personal injury;
8) School/education issues, especially for a child with disabilities;
9) Mental health proceedings;
10) Termination of parental rights; and
11) Adoption.

D-13. **Obligations after Disposition**. The child's attorney should seek to ensure continued representation of the child at all further hearings, including at administrative or judicial actions that result in changes to the child's placement or services, so long as the court maintains its jurisdiction.

E. POST-HEARING

E-1. **Review of Court's Order**. The child's attorney should review all written orders to ensure that they accurately reflect the court's verbal orders and statutorily required findings and notices.

E-2. **Communicate Order to Child**. The child's attorney should discuss the order and its consequences with the child.

E-3. **Implementation**. The child's attorney should monitor the implementation of the court's orders and communicate to the responsible agency and, if necessary, the court, any non-compliance.

F. APPEAL

F-1. **Decision to Appeal**. The child's attorney should consider and discuss with the child, as developmentally appropriate, the possibility of an appeal. If after such consultation the child wishes to appeal the order and the appeal has merit, the lawyer should take all steps necessary to perfect the appeal and seek appropriate temporary orders or extraordinary writs necessary to protect the interests of the child during pendency of the appeal.

F-2. **Withdrawal**. If the child's attorney determines that an appeal would be frivolous or that he or she lacks the necessary experience or expertise to handle the appeal, the lawyer should notify the court and seek to be discharged or replaced.

F-3. **Participation in Appeal**. The child's attorney should participate in an appeal filed by another party unless discharged.

F-4. **Conclusion of Appeal**. When the decision is received, the child's attorney should explain the outcome of the case to the child.

F-5. **Cessation of Representation**. The child's attorney should discuss the end of the legal representation and determine what contacts, if any, the child's attorney and the child will continue to have.

THE CHILD ADVOCATE ATTORNEYS' OFFICE OPERATION DURING WORKLOAD STUDY

During the 30-day workload study period, the Fulton County Child Advocate Attorneys' Office was organized as a division of the Fulton County Public Defender's Offices. The Fulton County Public Defender was the department head. A supervising attorney was then delegated the responsibility for the direct supervision of the child advocate attorneys, administrative staff, investigators, office policy, attorney practice guidelines, model of attorney representation and any *Kenny A* mandates.

Historically, the child advocate attorneys had been under the supervision of the judges of juvenile court and both the judges and attorneys were accustomed to that arrangement. Removing the child advocate attorneys from the judges' direction has been an evolving process with growing pains which appear to be resolving and improving with clearer boundaries.

During the study, the office had the following staff positions filled:

- 1 supervising attorney (no regularly assigned caseload)
- 7 child advocate attorneys (2 attorney positions were vacant)
- 2 investigators (1 investigator position was inactive due to long term administrative leave)
- 2 support staff.

During the workload study, the office was not funded for the staffing requirements of the *Kenny A* Consent Decree and there were several unresolved personnel issues resulting in three vacant or inactive positions.

The following is a list of observations of the office structure and procedure made during the workload study:

- There was no written office policy, statement and implementation of office policy appeared passive-reactive rather than proactive
- There were no written standards of practice for attorneys, statement and implementation of standards of practice appeared reactive rather than proactive
- There was no articulated model of representation for the child advocate attorneys, and there was no standard or minimum expectation of how to develop a principled child's position. Additionally, it was:
    - unclear whether the attorney was representing the child client as an attorney, as a *guardian ad litem* or both resulting in confusion as to the attorney's ethical responsibilities and to whom
    - unclear how a child client's best interest was determined,
    - unclear how to resolve child client's express preferences differing from a best interest
- There was no written job description specific to the duties of the administrative staff
- There was no written job description specific to the duties of a child advocate investigator or how the attorneys should use the investigator staff
- Attorney assignment to cases was through an odd-even file number and judge method, and there was substantial moving of cases between judges and attorneys
- Attorneys could not identify the names of their child clients
- Attorneys did not have an identifiable caseload, and attorneys could not state the number of their individual open or pending cases
- Attorneys were representing clients in paired teams
- Deprivation case files were all stored in a joint file room

- Although there were forms designated for use in the deprivation case files, there was significant variation in the use of the forms by individual attorneys and inconsistent documentation of case-file activity both in and out of the courtroom
- Administrative staff printed attorney court calendars, pulled the upcoming case files from the joint file room, and delivered the files to the child advocate attorneys during the week prior to the upcoming court calendar
- There was no articulated method for identifying conflict situations and no conflict policy
- There was no articulated method for identifying issues for appeal, resources for appeals, or methodologies to pursue appeals
- There was no policy for child client attendance at court hearings or how the child client was to be involved in the court process

THE FULTON COUNTY CHILD ADVOCATE ATTORNEYS' OFFICE OPERATION CHANGES AND PENDING ACTIONS SINCE THE WORKLOAD STUDY

Since the 30-day workload study period, the Fulton County Child Advocate Attorneys' Office has been reorganized as a separate department of Fulton County government. A Board has been appointed and the county manager provides direction on personnel issues. The newly formed Fulton County Child Advocate Board is chaired by an elected county commissioner with four additional board members. The Board has met several times and there is active reorganization underway. The Fulton County Child Advocate Attorneys' Office now has a department head supervisor who has direct supervision of the child advocate attorneys, administrative staff, investigators, office policy, attorney practice guidelines, model of attorney representation and *Kenny A* mandates. This structure has further delineated that the child advocate attorney is not under the supervision of the juvenile court judges.

Some of the activities described below have already been implemented and some are currently under consideration by the Director of the Fulton County Child Advocate Attorneys' Office and the governing Board. Upon approval, many of the referenced activities will require additional resources, attorney or staff training, and a period of implementation prior to the beginning of the compliance period. The implementation period will provide the Accountability Agent an opportunity to assess the effectiveness of the implemented activity and the impact on recommended caseloads for the child advocated attorneys

The Child Advocate Attorneys' Office now has the following staff positions filled:

- 1 Department Head attorney (no regularly assigned caseload)
- 11 child advocate attorneys
- 3 investigators
- 3 support staff

The office is now funded for the staffing requirements of the *Kenny A* Consent Decree, pending the recommendations of the workload study, and there are no unfilled positions.

The following is a list of some of the office structure and procedure changes that have been made and pending changes being considered since the workload study:

- A written office policy
- Written standards of practice for attorneys with detailed directions for achieving those standards
- An articulated model of representation for the child advocate attorneys which provides direction for the attorney's role in representing the legal interest of the child client, a statement of the attorney's ethical responsibilities and to whom, and directives on how to arrive at the child client's position
- Administrative staff duties are now more specific and supporting the attorney role
- Investigator duties are now more specific, and directives on how the attorneys refer cases to the investigators are now more specific, and staffing between attorney and investigator is now required
- Attorney assignment to cases is evolving to a vertical representation model and will increase if the court moves to a one judge – one family model for deprivation cases
- Attorneys now have a list of the names of their child clients and have an identifiable caseload
- Attorneys have their open or pending cases in file cabinets in their offices
- Revised forms for file documentation are being implemented and these forms have been reviewed by the accountability agent for *Kenny A* compliance, these forms uniformly document case file activity both in and out of the courtroom
- Attorneys are now responsible for their own court calendars
- A computerized case tracking software system is being developed which will assist in *Kenny A* compliance and promote best practices in deprivation cases
- An attorney conflict policy is currently in development

Chapter 2. Methodology

OBJECTIVE

The Child Advocate Attorney Workload Study was designed to identify a reasonable caseload and a maximum caseload for Child Advocate Attorneys based on these attorneys being able to meet the standards of practice as defined by the court ordered Consent Decree and as expected in this profession.

Ideally, Child Advocate Attorneys' caseloads would allow sufficient time and resources such that every child would receive "perfect" representation. In reality, "perfect" representation is an impossible standard to meet within any judicial system. Consequently, a more reasonable and appropriate caseload for Child Advocate Attorneys is one that will allow an attorney to provide a "good" and "zealous" level of representation. The challenge for the project staff was to define what "good" and "zealous" means in terms of the time needed to complete a variety of child advocate attorney tasks within the specified environment.

EXPERTISE

The Carl Vinson Institute of Government was chosen to carry out the Child Advocate Attorney Workload Study. The Institute staffed the study with a combination of the following expertise:

- The Governmental Services Director who previously served as an Associate Juvenile Court Judge in Fulton County, GA
- The director of the Law Clinic at the University of Georgia's School of Law
- A Senior Public Service Associate who is a former Child Abuse and Neglect Information Specialist
- A Child Advocate Attorney with 20 years of experience
- Two University of Georgia students in the Masters of Social Work program

GENERAL APPROACH

While the Consent Decree and other widely accepted performance standards, such as those outlined by the American Bar Association, provide an adequate outline of the tasks that Child Advocate Attorneys need to perform in the course of their representation, assessing in any particular case whether that attorney has met these standards and has therefore provide "good" and "zealous" representation is not something that can be easily determined. To do so with a high level of accuracy would require multiple observers "shadowing" attorneys as they work over a period of time. More importantly, even if one could observe all of an attorney's work, there would need to be some judgments made about the quality of this work even in cases where the activity itself may be designed to meet a particular standard.

Finally, Child Advocate Attorneys do not work in a vacuum; rather, their work is constrained by the environment, (e.g, the schedule, work routines, facilities, policies and procedures, and resources that are dictated or provided by the court or the Department of Family and Children Services, etc.). For these reasons, the project staff attempted to collect data from multiple sources and perspectives.

I. Task Environment Review: Through focus group discussions and meetings with Child Advocate Attorneys and others, the project team identified elements of the task environment (internal and external to the Child Advocate Attorneys' Office) that may make it easier or harder to achieve a "good" and "zealous" level of quality representation.

II. Time Study: The time study was designed to identify the amount of time that Child Advocate Attorneys are currently able to spend on specific case activities. The working assumption in this phase was that Child Advocate Attorneys are doing as good a job as they can under the current conditions and caseloads. However, inherently, there are times when one case may get more "quality time" than others. There is also an inherent difference in the experience, practice, and documentation efforts of the attorneys employed by this office. Hence as part of time study, we requested that Child Advocate Attorneys identify when they believed they were able to provide enough "quality time" and when they were not. It is also important to note, that the attorneys in this office represent child clients who do not fall within the definition of the class. However, because their efforts on these cases impact the time and efforts spent on representing members of the class, all cases were considered during this time study. Likewise, all cases were factored into the findings and recommendations section of this report.

III. Court Observations: Members of the project team observed a sample of cases to identify where and when the Child Advocate Attorneys were providing sufficient or insufficient representation at hearings. In accordance with the Consent Decree, the attorneys must actively participate in all hearings that relate to members of the class. This court relies heavily on an oral motions practice. Thus, court observations provided some indication of the level of participation of each attorney as well as their interactions with their clients, other parties to the action, and the judiciary. Although an objective check list was produced, many changes in office practice expectations, assignment of cases, and court calendaring during the time study limited the project team's ability to effectively quantify observed factors. Thus, qualitative observations are offered as generalized thematic areas for potential efficiency and effectiveness reform.

IV. File Reviews: The project team reviewed a random stratified sample of files to identify 1) whether the attorneys had adequately documented case activities; 2) key case characteristics (e.g., client risks and special needs) that might have influenced the nature of what constituted a reasonable set of case activities for the Child Advocate Attorney; and 3) the adequacy of the case activities in light of the case characteristics. In addition, documentation in the attorneys' files indicated the level of activity, as well as interaction with clients and other parties. The file reviews were conducted by the social work students to ascertain the type of case and assess the risks and needs of the child client. The files were then reviewed by attorneys with experience in this field in order to document whether the

Child Advocate Attorneys were meeting the required level of representation as outlined in the Consent Decree.

V. Time Study Results Focus Groups: The project team presented the results of the time study to the entire Office of the Child Advocate Attorneys and discussed in small groups the meaning of the time study in light of the task environment and task environment issues identified in Phase I. Findings of the time study and reflections on quality were only presented at the aggregate level. No individually identifiable results were presented or released to the groups or the public at large. The Supervising Attorney was given access to a limited set of time study elements (e.g., so as to ensure adequate time report completion but not to view individual-level reflections on case quality).

VI. Workload Allocation Focus Groups: Focus groups of Child Advocate Attorneys used the time study and task environment study results to attempt to come to a consensus as to an appropriate case workload standard.

VII. Data Collection Regarding Current Caseloads, Trends, etc.: The Fulton County Child Advocate Attorneys' Office does not currently have a computerized database of its clients. Nor does it currently have an accurate count of the number of cases currently being handled by the office or individual attorneys. The Workload Study team collaborated with the Fulton County Juvenile Court in obtaining data on current caseloads, caseload trends, etc. In addition data was collected from the Fulton County Department of Family and Children Services in order to cross check members of the class. Through analysis of all data, the Workload Study Team determined baseline data regarding current operations in order to contextually place the above findings as well as support the appropriate caseloads moving forward.

TIME STUDY DESIGN AND APPROACH

The Child Advocate Attorneys Workload Time Study design was based on discussions among the project staff as well as input from a variety of experts in the field (e.g., Director of the National Child Welfare Resource Center on Legal and Judicial Issues). The purpose of the Time Study was to be able to describe in detail the exact nature of the work and activities of the child advocate attorneys.

The Time Study data collection included five components described in more detail below.

- Case Phase and Activity
- Hearing-Specific Activities
- Case Participants
- Time
- Assessment of Time Needed

Case Phase and Activity

A key task of the study project staff in this regard was to be able to identify any potential activity that an attorney might engage in as they went about their practice. More specifically, the project staff would need to be able to use the findings about activities to make some judgments regarding whether the attorneys were practicing their profession according to the Consent Decree and widely accepted standards of practice.

Over the course of a few months, the project staff developed a typology of activities in conjunction with child advocates in Fulton County. The typology was designed to be both comprehensive (i.e., be able to identify all the activities performed by Child Advocate Attorneys) and mutually exclusive to the extent possible (i.e., no activity could be described with more than a single term).

The final activity typology involved two levels: a primary level or case phase and a secondary level or specific activity within a case phase. The final typology included 21 case phases (including codes for non-case related activities and case-related activities that were not specific to any individual case). And 50 specific case activities. The typology allowed for a hundreds of combinations of case phases with specific activities so as to be able to, for example, identify how much time an attorney spent on investigation at any particular phase of a case.

The following presents the Case Phase and Activity Typology and the specific directions that Child Advocate Attorneys were provided in order to clarify how to code specific activates.

Case Phase and Activity Typology

Primary Activity or Case Phase

1 ProbableCause
2 10DayHearing
3 PreTrial
4 Mediation
5 Adjudication
6 Disposition
7 PermancyPlan
8 RuleNisi
9 Reviews
10 Motion for Reunification
11 Citizen Panel Review
12 Motion Other
13 Termination
14 PostTermination
15 Legitimation
16 Guardianships
17 TerminationOfGuardianship
18 DrugCourt
19 Delinquency

20 Non-Case-Related
21 Case-Related

Secondary Activity

1 ASSUME CASE RESPONSIBILITY
2 INVESTIGATION Key Parties
3 INVESTIGATION Counseling Client in Person
4 INVESTIGATION Counseling Client Not in Person
5 INVESTIGATION Medical
6 INVESTIGATION Psycho Social
7 INVESTIGATION Expert Other
8 INVESTIGATION Law Enforcement
9 INVESTIGATION Educational
10 INVESTIGATION Home Evaluation
11 INVESTIGATION Placement Visit
12 INVESTIGATIONS Document review
13 INVESTIGATION Staffing
14 INVESTIGATION Other
15 INVESTIGATION Travel
16 SERVICES Referral
17 PREHEARING Legal Research
18 NEGOTIATION Informal
19 NEGOTIATION Conference
20 HEARING in Court
21 HEARING Wait Time
22 HEARING Travel
23 MOTION Continuance
24 MOTION Emergency Hearing
25 MOTION Extend Custody
26 MOTION Modify Custody
27 MOTION In-Court Review
28 MOTION Other
29 POST-HEARING Initiate Orders
30 POST-HEARING Review Orders
31 POST-HEARING Other Documents
32 POST-HEARING Initiate Monitoring
33 POST-HEARING Other Monitoring
34 APPEALS Preparation
35 APPEALS Briefing
36 APPEALS Argument
37 APPEALS Travel
38 FILE CLOSING
39 FILE Notes
40 NON-CASE-RELATED Training/CLE
41 NON-CASE-RELATED Office Meetings
42 NON-CASE-RELATED JC Activities
43 NON-CASE-RELATED Meetings with Agencies/Others
44 NON-CASE-RELATED Speaking Engagement
45 NON-CASE-RELATED Consultation
46 NON-CASE-RELATED Other Consultation
47 NON-CASE-RELATED Personal/Social
48 CALENDAR CALL
49 CASE-RELATED Consultation
50 OFFICE ADMINISTRATIVE

Hearing-Specific Activities

Whenever a Child Advocate Attorney reported on participating in a hearing, they were also asked to report whether or not they were involved in any of the following hearing-specific activities that are indicated in the Consent Decree and supported by the ABA Standards.

1. Presented witnesses
2. Presented evidence
3. Cross-examined witnesses
4. Initiated objections
5. Made oral presentations
6. Made Recommendations

Case Participants

Standards for Child Advocate Attorneys indicate that they should be interacting with a wide range of potential parties to the case in order to better understand the nature of the case and of the child's wishes, to collect important information for the case (e.g., related to special risks and needs of the child), to represent the child in associated decision-making bodies or procedures (e.g., DFCS staffing), to negotiate with other parties to the case, and to review and monitor case outcomes. In order to be able to track these interactions, Child Advocate Attorneys were asked to specify what parties were involved in each of their case activities. Specifically, they were asked to indicate whether any of the following parties were present at the activity.

List of Potentially Involved Persons

Legal Custodian
Mother
Child
Father-Biological
Father-Legal
Father-Putative
Step-Father
Maternal Grandmother
Paternal Grandmother
Maternal Grandfather
Paternal Grandfather
Maternal Aunt
Paternal Aunt
Maternal Uncle
Paternal Uncle
Nephew
Niece
Cousin
OtherRelative
Non-Relative Caregiver

Foster Parent
Mother Attorney
Father Attorney
Guardian Attorney
Other Attorney
Foster Parent
DFCS Caseworker
DFCS Supervisor
CPS Caseworker
SAAG
Medical Provider
Psychologist
Teacher
Counselor
Judge
Child Advocate Attorney
Investigator
Probation Officer
Other
CASA

Time

Child Advocate Attorneys (CAAs) were asked to specify in minutes how much time they spent on each activity. In many instances, the CAAs would be working on multiple cases at a single time due to the fact that CAAs would often be representing multiple in children from the same family. In these instances, the amount of time would be divided among the individual children/cases.

Assessment of Time Needed

For each activity, the CAAs were given the opportunity to indicate whether they needed more or less time (as a percentage of the time that they spent on the activity) in order to provide for good quality representation related to that activity.

Directions/Clarifications for Time Sheet Entry

Case File Number: Be sure to use the entire case file number (xxxxxx-xx) UNLESS you are working on the cases for all of the children in the family. Then you can simply note the family file number (xxxxxx).

Which Proceeding Category to Choose: Generally, activities are for upcoming case phase. There may not always be an obvious next phase to a case. For example, if you discover in a post-adjudication phase that a child is not receiving her medicine, you will probably attempt to resolve the situation in an informal matter. However, in terms of a

Proceeding category, the next logical consequences phase might be a "Motion Other," which would be the action you would take were you not able to resolve the situation informally, or it could be an issue that you would be taking up in a "Review" stage. Just use your best judgment in choosing the category.

Which Activity Category to Choose: Sometimes an activity will seem to fall under two or more categories. For example, if you call up a foster parent to check on a child after a hearing, this activity could easily fall into the Investigation Key Parties category, which is pretty much a general catch-all category for working with DFCS, SAAGs, family members and case attorneys. However, this activity could also fall under the Post-Hearing POST-HEARING Initiate Monitoring or POST-HEARING Other Monitoring categories, which are more narrow and specific categories. The general rule for choosing a category in these situations is to choose the more specific and descriptive category over the more general one.

Placement Visit Versus Child Consultation: A key example of the "choose the more specific category rule" is: If going for a placement visit, always choose the placement visit category as this will show that you were making a different kind of effort from consulting with a child in your office or in the court.

Investigations Review Document Versus Post-Hearing Other Documents. This is another example of where Post-Hearing Other documents would be preferred because it is a little more descriptive.

When to use the 10 Day Hearing category: Any time you are working on investigations or other activities just prior to a scheduled 10DayHearing, use this category. When you report on the actual activities that take place at the hearing, use the 10 Day Hearing category if these activities include both adjudication and disposition at one sitting. However, if only adjudication occurs, report this event under the Adjudication category. Similarly, if a hearing is used only for disposition, report this under the Disposition category. We understand that there is some difference between 10 Day Hearings that are fairly routine and ones that involve more preparation and more hours and more activities in court. The time data and the reporting on the In Hearing activities will provide us with an understanding of these differences.

Group Meeting Versus DFCS Staffing, Versus Other Staffing/Meeting: We have heard that Child Advocates spend a good deal of time in DFCS Team meetings or staffings. Report these activities under Code 48. When a staffing/group meeting is one that involves multiple disciplines/agencies, use the Group Meeting category. If the

meeting/staffing is for educators or mental health workers, use INVESTIGATION Educational and INVESTIGATION PsychoSocial respectively.

The Negotiation Conference category: Use this category to denote a conference that takes place in the presence of the Judge.

The Investigation travel: Use this category just to report the time spent on the road. Report other time (i.e., the time you actually have contact with a key party, or spend working on a document or other case artifact under the appropriate investigation or other category).

Case Related Consultation: This category is to be used when you are consulting with your colleagues in the Child Advocates' office.

Initiate Orders: Use this category if you are the one drafting the order. Please note the purpose of the order in your activity notes.

Motions: Please note who made the motion the purpose for doing so.

Review Orders: Please note who drafted the order and the purpose for doing so.

CHILD ADVOCATE CASE REPORTING SYSTEM

As part of the Child Advocate Attorney Workload Study, the study team developed an information system designed to manage the data collected both as part of the time study and from other sources such as the JCATS information system of the Juvenile Court.

A full description of the system capabilities and User Manual can be found at http://128.192.30.16/advocate/alogon.asp

Chapter 3. Time and Caseload Study Findings

CASELOADS

During the period of the study, a data extract from the JCATS information system of the Juvenile Court was conducted daily. While JCATS is designed to provide case assignment for the child advocates, in the majority of cases, the specific advocate that will be responsible is not assigned the case due to either the intake workers not knowing what advocate will be assigned or to the Child Advocate Office's policies of initially assigning all cases (at least for the purpose of probable cause hearings) to one of two advocates. Later, these cases will be reassigned to other advocates who will carry the case forward if necessary. Unfortunately, the reassignment of cases is not routinely registered in the JCATS system.

A potential alternative means of identifying specific caseloads for specific advocates is the use of the activity records in the time study. However, this is not entirely satisfactory because the advocates are likely not to have performed any work on an open case if this case was not active during the time study period. Consequently, a caseload assessment based on the time study data would potentially represent an undercount of the actual cases for which an advocate would be responsible.

Due to these data source limitations, our strategy for assessing caseloads did not include any attempt to identify the specific caseloads of specific advocates beyond what could be gleaned from the time study activity reports. Instead, we assessed the cases that the Child Advocate Attorneys' Office is responsible for in the aggregate. Given the method used to allocated cases among the CAAs (e.g., some advocates only work probable cause hearings), this aggregate method of analysis provides, we believe, a fairer measure of average caseloads, even though some advocates may experience caseloads that differ from the average. This measure would be fairer, in part, because even though some CAAs have a larger number of cases for a shorter period of time, it is possible to rearrange the work so that all CAAs are responsible for a roughly equal share of the cases. It is this latter arrangement that better matches the meaning that a reasonable person would attach to the concept of a CAA's caseload.

In order to identify the average caseload and to see how caseloads have changed over time, we drew a set of case information data from the Juvenile Court's information system (JCATS) covering January 1997 through April 2007. The total number of Child Advocate Attorney-type cases handled by the court during this period was 45,564.

Defining a Caseload

For the purposes of defining a standard or viable workload of a child advocate, a point-in-time measurement of caseload (i.e., the number of cases that a CAA has open at any particular point in time) is the preferable measure. An alternative to a point-in-time caseload

is the set of newly opened cases that child advocate would need to address at some point after the cases opened. [1]

A point-in-time caseload measure is preferable to a newly-opened-cases measure because cases can vary substantially in terms of how long they take to handle effectively. For example, the CAA might experience a very manageable number of new cases in a given year, but nevertheless have an unmanageable caseload due to the carry over of cases from prior years, or vice versa.

Moreover, because a CAA's caseload can vary day by day, month by month, and year by year, the key factor in whether the caseload is manageable should be based on the CAAs' ability to manage the caseload at its peak period during the referenced period of time.

The Child Advocate Study Project team spent a considerable amount of time attempting to identify recent trends in point-of-time caseloads for the CAA office. In order to identify this caseload count using a data set that included the CAA-associated cases from January 1997 to April 2007, we performed a number of queries on the data set based on the following criteria:

- Select cases that have a case opening date prior to "Point-in-Time A" that also have either no disposition yet or that have a disposition that is later in time than Time A or that have a disposition but also have a date for a future hearing that is later in time than Time A.

It should be noted that these criteria differ somewhat from the Juvenile Court's definition of a case in that the CAAs' Office continues to work on cases after a disposition as long as there are hearings scheduled to review a case in the future.

The results of this analysis yielded a set of data showing a steadily and substantially increasing CAA Office caseload.[2] When we compared this trend to the trend in the annual count of deprivation cases reported by the Fulton County Juvenile Court, the trend in CAA caseloads appeared to be anomalous. Similarly, one might expect a point-in-time caseload to be substantially less than an annual caseload, assuming that the court can dispose of a good percentage of the cases that it opens in a single year. However, we found that the CAAs

[1] Data on opened cases during the most recent full year of reporting.

Table F1: Children/ Cases Opened in 2006

Cases/Case Type	Count
Deprived	3093
Guardian	278
Legitimation	223
Spec Pro	305
TPR	117
Children	
Count of Distinct Children	2947

[2] The analysis is presented in Appendix A.

point in time deprivation caseload in 2007 (2330 cases) was more than 75% of the court's annual caseload (3093 cases).

A subsequent review of the data indicated that the primary cause of the CAA point-in-time caseloads increasing at a rate that was substantially greater than the increase in the annual count of deprivation cases published by the court was a large number of deprivation cases that did not have a recorded disposition. According to our definition of "a non-disposed case as an active case for the CAA office," the cases that were not disposed in prior years were still included in the CAA Office caseload even if they were more than three years old.

An analysis of the cases without any disposition is presented in Table 1. While one would expect a large number of recent cases to be in a state where there was yet no disposition, for cases that are more than a couple of years old, it is reasonable to expect that the court would order a disposition of some type.

Table 1: Cases without Dispositions by Year

Year	Number Without A Disposition
1997	1
1999	2
2002	1
2003	130
2004	246
2005	565
2006	510

These data and the case identification numbers were shared with the Juvenile Court. The Court staff reviewed a sample of cases from the years prior to 2006. Based on a review of the case files, it was discovered that for a small percentage of the older cases without dispositions the lack of disposition was due to DFCS filing a request for safekeeping authorization, but then returning the child to the family or other party without filing a petition or otherwise insuring that the court approved of the action on the case. The Juvenile Court reports that as of April 2007, DFCS has now agreed to conduct such a follow up so as to ensure that the Court provides a disposition. The majority of the older open cases were reported to be caused by data entry errors. [3]

[3] To address these identified problems, the Juvenile Court has developed a policy such that the requesting party will be given twenty-four hours (24) to file a complaint with the Court after safekeeping authorization. The Intake Supervisor and Case Processing Supervisor will be required to monitor these cases and notify the court's DFCS Liaison Supervisor when a complaint is not filed in a timely manner. The Judicial Case Managers will be required to input case results immediately after a hearing, and the Chief Deputy Clerk will perform weekly reviews of the case result data to ensure proper entry. Monthly Reviews of the open deprived case list will be performed by the Clerk's Office, and JCATS, the Court's Case Management System, is being programmed to assist in tracking open cases.

Best Estimate of CAA Caseloads

Because of the problems with distinguishing which non-disposed cases should be considered open cases from the CAAs' Office point of view, we were forced to attempt to estimate rather than precisely measure the CAA caseload. Table 2 presents our best estimate of the CAAs' Office (and individual CAA) caseload measures for the point-in-time of January 2007. The estimate was achieved by adjusting the basic case count (i.e., the count that includes all non-disposed cases) based on the assumption that a case that is more than one year old and still does not have a disposition is essentially an expired case and should be subtracted from the caseload. The caseload measure used in this study as the benchmark for a CAA's workload is the count of distinct children who have business before the court related to CAA-types of cases.

Table 2: Best Estimate of Point-in-Time CAA Office Caseload, January 2007

Unadjusted Case Counts	
Count of Cases (includes multiple cases for a single child):	1774
Count of Distinct Children:	1546
Individual CAA Caseload	
Average Individual CAA Caseload Based on an Office with 10 CAAs	154.6

Case Types

Table 3 below provides a breakdown of distinct child cases by case type. It should be noted that the sum of the distinct children counts by case type differs from the overall sum of distinct children counts due to the overlap between children among the various case types. For example, a child who has an open deprivation case may also have an open TPR case. Unless one employs an arbitrary method of allocating children to one category of cases or another there will always be some double counting of cases when one filters cases by case type. Essentially, there were 123 distinct child cases that were of more than one case type in January 2007.

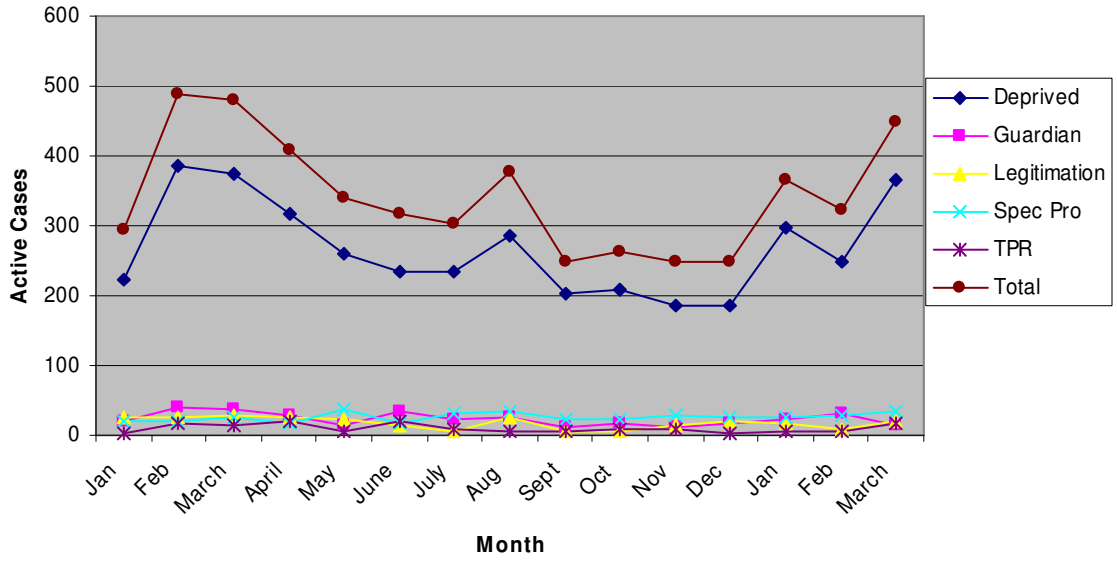
Table 3: Point in Time CAA Distinct Children as of January 2007
(Some Overlap in Counts)

Type	Count	Percent of Total
Deprived	1,361	82%
Guardian	55	3%
Legitimation	39	2%
Spec Pro	127	8%

TPR	87	5%
Total	1,669	100%

Adjustments for Seasonal Activity

Within any one year, caseloads can vary based on the number of new cases coming into the CAA Office. Below is a graph of the monthly trend in the new cases during a recent 15-month period. These data suggest is that are seasonal peaks in cases that take place during the beginning of the year and during early Fall. These peaks are most likely due to an increase in teachers reporting of child abuse cases as they initially meet a new class of children or get to know these children more thoroughly. What the seasonal trend data suggest that a CAA Office will need to staff for seasonal peaks in cases.



In order to develop a caseload measure that is adjusted for the seasonal trends we performed the following calculation. (See Table 4 for the outcomes).

Step 1: Identify the amount of the total caseload that is represented by cases opened in January.

Step 2: Subtract the new cases from the calculated caseload (adjusted for the non-disposed cases).

Step 3: Add the cases for the peak load month (i.e., March 2007).

Table 4: Final Estimated 2007 Caseload: Adjustment for Seasonal Peak Workloads	
Jan. 2007 Caseload Adjusted	1,546
Jan 2007 New Cases	367
Carry Over Cases from Period Prior to Jan 2007	1,179
Peak 2007 Cases	450
Seasonally Adjusted Caseload	1,629
Individual CAA Caseload	162.9

Children and Cases

Based on an analysis of the deprivation, TPR, guardianship, and legitimization cases (i.e., CAA-type cases) from 1997 through March 2007, the average child who came into the court for one of these types of cases was a party to approximately 2.3 cases. Some children were party to as many as 17 or 18 cases, and the 7% of children who appeared before the court most often accounted for approximately 24% of the court's CAA-type cases during this period.

Table 5: CAA-Type Cases Per Child Before the Court, January 1997 to April 2007	
CAA-Type Distinct Children	19,791
All CAA-Type Cases	45,564
Average times in Court per Child	2.3

Table 6: Children with Six or More CAA-Type Cases Before the Court, January 1997 to April 2007	
All Cases	45,564
1443 Children with 6 or More Cases (or 7% of All Children)	10,885
Percent of all cases	24%

ANNUAL AVAILABLE TIME FOR CASEWORK

Once holidays, annual leave, and sick leave are subtracted from the available workdays in a year, CAAs are contracted to work 224 days a year. Table 7 outlines how these available days translate into minutes per full-time-equivalent (FTE) CAA and for the entire CAA Office.

Table 7: Annual Available Time for Casework by FTE and Total CAA Office	
Working Days per FTE	224
Minutes in Working Year per FTE	107,520
CAA FTEs	10
CAA Office Working Minutes	1,075,200

Annual Workload by Cases and Children

In order to estimate the amount of time that a CAA can, on average, spend on a case, we divided the available time in one year's operation by the total number of cases that the CAA office handled in 2006 (see Table 8). We also estimated the average amount of time during 2006 that a CAA could spend per child seen in the system (see Table 9). It should be noted that one child can have multiple cases. For example, most guardian, special proceeding, and TPR cases are preceded by the child's involvement in a deprivation case.

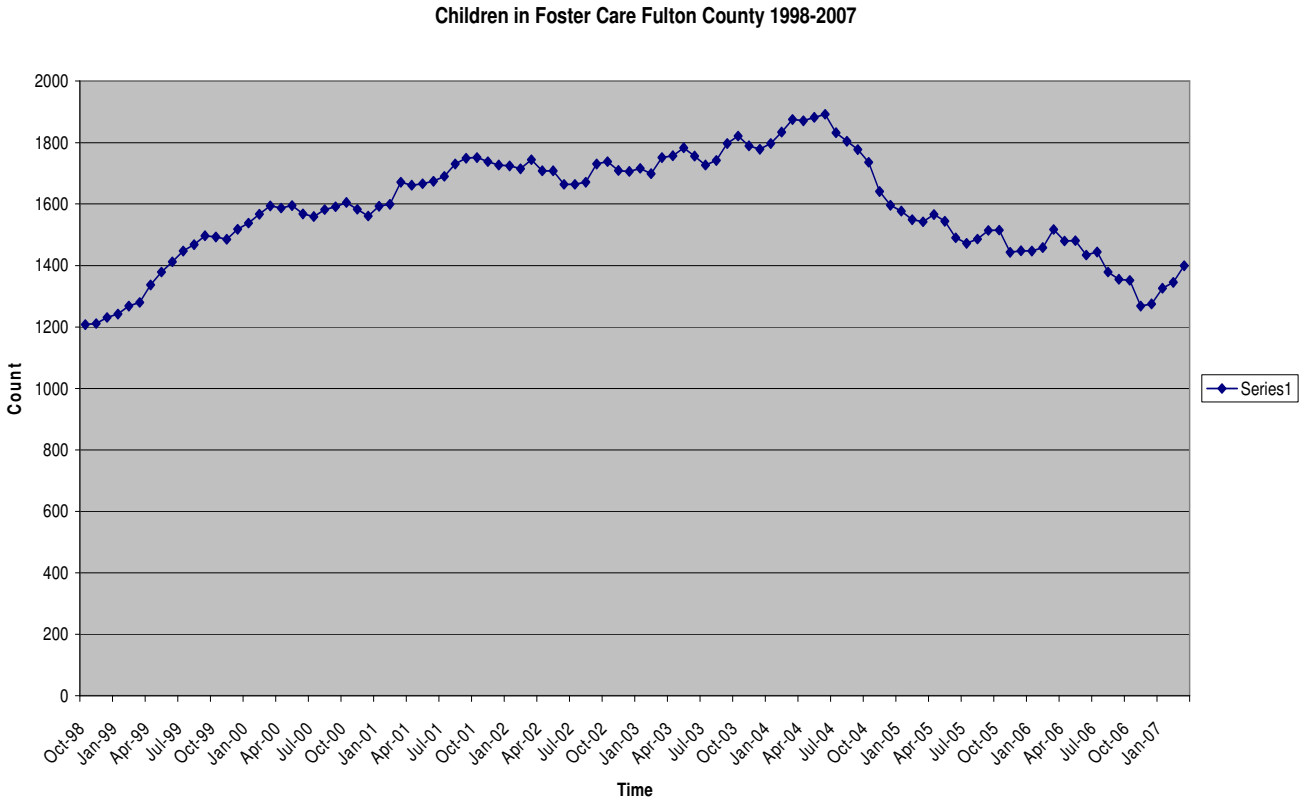
Table 8: 2006 Cases by Type and Time Available for Casework	
Deprived	3,093
Guardian	278
Legitimation	223
Spec Pro	305
TPR	117
Total Cases	4,016
Available Time Per Case	
Minutes per Case	267.73
Hours per case	4.46

Table 9: 2006 Distinct Children and Available Time for Children's Casework	
Count of Distinct Children	2,947
Available Time per Child	
Minutes per Child	3 64.85
Hours per Child	6.08

FOSTER CARE AND CASES

The following chart illustrates the trend in the number of children who are at the center of the *Kenny A* class. The number of children in this group has declined somewhat in the last couple of years, but may have stabilized at a level of approximately 1400 children. Based on

the premise that all of these children are clients of the CAA and that the CAA also has responsibility for other children who may not be part of the *Kenny A* class (e.g., children with legitimization, guardianship, or special proceeding issues), the estimated point-in-time caseload figure presented above appears to be reasonable.



According to data gathered from the Georgia AFCARS data found at http://fosteringcourtimprovement.org/ga/County/incare_GA_AFCARS_FCFFY1999-2007A_monthly.csv:

Children in Fulton County Foster Care on March 31, 2007: 1,399

Petitioners and DFCS Actors

Because the *Kenny A* lawsuit has a particular focus on children who are in DFCS custody or who are at risk of such custody, we attempted to analyze the JCATS data for indicators of a DFCS interest in a CAA-type case. This analysis involved examining cases for the presence of either a DFCS petition or the assignment of a SAAG or DFCS caseworker. The results of this analysis, presented in Tables 10 and 11, suggest that the presence of DFCS as the petitioner (indicated in 67% of the cases) represents the best indicator of a DFCS interest in a case since it appears that the assignment of a SAAG or DFCS caseworker (indicated in only 53% of the cases) may not occur in the JCATS record-keeping process on as consistent a basis.

Table 10: Petitioners in CAA-Type Cases January 1997 to April 2007		
Petitioner	**Count**	**Percent**
Dept of Family and Children's Services	30501	66.9%
Relative Other Than Parent	3481	7.6%
Parent	3208	7.0%
Atlanta Police Department	1543	3.4%
Unknown	1369	3.0%
Assistant District Attorney	1224	2.7%
Probation Officer	952	2.1%
Atlanta School District	553	1.2%
Fulton Co Police Department	525	1.2%
Fulton Co. School District	457	1.0%
Self	422	0.9%
Other Juvenile Court - In State	204	0.4%
East Point Police Department	160	0.4%
College Park Police Department	114	0.3%
Department of Children and Youth Svcs	112	0.2%
Legal Custodian	100	0.2%
Other Police Department	98	0.2%
Department of Juvenile Justice (old DCYS)	88	0.2%
Department Of Natural Resources	64	0.1%
MARTA Police Department	52	0.1%
Roswell Police Department	48	0.1%
Alpharetta Police Dept	47	0.1%
Union City Police Department	41	0.1%
Hapeville Police Department	39	0.1%
Fulton County Sheriff Dept	36	0.1%
Palmetto Police Department	30	0.1%
Superior Court	27	0.1%
Atlanta City Police	17	0.0%
Fairburn Police Department	12	0.0%
Victim	9	0.0%
DeKalb County Police	8	0.0%
Railroad Police	7	0.0%
GA State Univ Police Department	4	0.0%
Georgia Department of Transportation Enforcement	4	0.0%
Probate Court	4	0.0%
Sandy Springs Police Dept	3	0.0%
GA State Patrol	1	0.0%
TOTAL	45564	100.0%

Table 11: Cases with SAAGs and DFCS Caseworkers Assigned in JCATS in the Period 1/1/1997 to 4/1/2007			
DFACS Caseworker Assigned	**SAAG Assigned**	**Count**	**Percent**
N	N	21,249	46.6%
N	Y	3,623	8.0%
Y	N	5,384	11.8%
Y	Y	15,308	33.6%
Total of Either SAAG or Case Worker Assigned		24,315	53.4%

Dispositions

The *Kenny A* lawsuit has a particular focus on children who are in DFCS custody or who are at risk of such custody. Table A4: Dispositions of All CAA Cases January 1997-April 2007 (Appendix B) outlines the dispositions of all cases that have been disposed during the last 10 years. These data indicate that of all the cases handled by the CAAs, approximately 20% result in DFCS custody. However, because a child may at some point go into DFCS custody but at a later point in time through another proceeding be returned to DFCS or may go into DFCS custody more than once, this percentage cannot be applied to the court's case counts to calculate the number of children in DFCS custody.

Table A5: Dispositions of Deprived Cases January 1997-April 2007 (Appendix B) presents dispositions for only the deprivation case type. As one might expect, a higher percentage of this class of case involved the placement of the child in the custody of DFCS.

Children in DFCS Custody

Although there were 8,658 cases that resulted in the Juvenile Court awarding custody to DFCS, a number of these cases involved the same child. A child experiencing DFCS custody once will have, on average, a 60% chance of experiencing such custody again.

Table 12: Cases and Children involving DFCS Custody January 1997-April 2007	
Cases with DFCS Custody Dispositions	8658
Individual Children Placed in DFCS Custody	5465
Average Placements Per Child	1.6

However, as Table 13 indicates, some children (e.g., high risk children) have a much greater than average chance of a second, third, or more DFCS custody disposition.

Table 13: DFCS Custody Cases Accounted for by Highest Risk Children January 1997-April 2007	
All Cases with DFCS Custody	8,658
Cases represented by the 749 Children with 3 or More DFCS Custody Dispositions (or 14% of All Children with a DFCS Disposition)	2,812
Percent of All Cases	32%

CASE FLOW

Using the Juvenile Court data system (JCATS) we analyzed the flow of cases into and out of the court over the past 10 years. Findings include the following.

Average Time in Days from Case Opening to Disposition

Estimating average case time is difficult for a couple of reasons: 1) problems with the potential for cases to remain open in the JCATs system for longer than one year, 2) the potential to under estimate the length of a case during the most recent year due to the fact that so many recently opened cases would logically not be disposed of until much later in the year or during the following year, and 3) the potential for a case that has a disposition date to nevertheless have future activity due to there being a future hearing date.

In order to address these factors which would skew a case-flow estimate, we conducted a two-tiered analysis.

1) In the first tier, we restricted the data analysis to the period from 1997 through April 2006. Any case that did not have a disposition date by this time would nevertheless be considered a closed case. The data in this tier also excluded cases that had a future hearing date. That is, for these cases the difference between the opening case date and the disposition date should represent the true length of the cases since there would not be additional casework performed on the case in most instances.

   Number of Cases: 40134 Average Length of Case in Days: 105

2) In the second tier of cases, we included only cases in the period from 1997 through April 2006 that also had a future hearing date. However, for this tier we calculated the length of the case from the opening case date to the future hearing date.

   Number of Cases: 255 Average Length of Case in Days: 1,203

Table 14 below presents the calculation of average case length based on standardizing the two tiers of average case lengths.

Table 14: Calculation of Average Case Length in Days			
Tier	**Count**	**Average Case Length**	**Sum**
Tier 1	40134	105	4,214,070
Tier 2	255	1,203	306,765
Total	40389		4,520,835
		Standardized Average Length of Case	112

Demographics of a Recent Sample of CAA-Type Cases

The following tables outline basic demographic information (age, sex, and race) about children whose cases have been in the Juvenile Court as a potential CAA case during the 20 month period prior to April 25, 2007.

Table 15: Breakdown of Children Involved in CAA-Type Cases by Age September 2005 – April 2007		
Age	**Count**	**Percent**
< 1	571	14%
1	280	7%
2	210	5%
3	186	5%
4	185	5%
5	181	5%
6	183	5%
7	170	4%
8	166	4%
9	128	3%
10	157	4%
11	159	4%
12	201	5%
13	201	5%
14	263	7%
15	287	7%
16	276	7%
17	171	4%
18	4	<1%
19	1	<1%
Total	3,980	100%

Table 16: Breakdown of Children Involved in CAA-Type Cases by Sex September 2005 – April 2007		
Sex	**Count**	**Percent**
Female	1,886	49%
Male	1,947	50%
Unknown	28	1%
Total	3,861	100%

Table 17: Breakdown of Children Involved in CAA-Type Cases by Race September 2005 – April 2007		
Race	**Count**	**Percent**
Afr Amer	3,310	86%
Asian	7	<1%
Black	2	<1%
Caucasian	140	4%
Hispanic	69	2%
MultRacial	35	1%
Other	11	<1%
Unknown	287	7%
Total	3,861	100%

ACTIVITIES

During a month's time from February 14, 2007 to March 14, 2007 (20 working days), Child Advocate Attorneys were asked to keep detailed time logs for individual activities performed on behalf of the children whose cases they handled. In all, the CAAs filled out over 10,100 individual activity reports.

Time Spent by CAAs and Other Staff

The following Table outlines the amount of time spent on CAA activities during the study period.

Table 18: Activity Report [4] February 14, 2007 – March 14, 2007	
Advocate	**Sum of Time in Minutes**
Supervising Attorney	333
Attorney 1 (significant annual leave)	5,682
Attorney 2	7,906
Attorney 3	8,519
Attorney 4	11,547
Attorney 5	9,839
Attorney 6	9,986
Attorney 7	11,276
Attorney 8	9,679
Attorney 9	10,958
Unassigned	443
Investigator (activity reports for approximately 2 weeks of time)	4,883
Total Time Accounted For	91,051
Time Equivalent in Person Weeks	38
FTE for the Time Period	9.48
Time Needed for one CAA to Account for the 4 Weeks of the Study	9600
Time for 1 hour of Lunch/personal Time Per Day	1,200
Time Needed for one CAA to Account for the 4 Weeks of the Study with Lunch Reported	10,800
Average CAA Time for 8 CAA with Complete Study Period Reports	10,019

Major Phases

Table 19 presents the amount of time and the percentage of total reported time spent on the major tasks performed by the CAAs. The two largest categories of case phase were 1) general activities that were related to office operations, administration, and staff development (i.e., activities not directly related to casework) or 2) general activities that were related to case-work but not to a specific case or case phase (i.e., case-related activities).

When we analyzed the more detailed activities reported by CAAs, we discovered that in a number of instances the CAA reported activities that were case related (e.g., Investigations Key Parties) under the non-case related category. The data that we report below has been adjusted for this mis-coding. Specifically, mis-coded reports were moved from the non-case-related to the case-related category.

[4] Approximately two weeks of time study data were also collected from the CAA Office Investigator. During this period, the Investigator reported 4,883 minutes of activity. This activity is included in the analysis unless it is specified that it has been filtered out in order to focus exclusively on the activity of the CAAs.

The largest category is the set of tasks that are non-case-related. This category is more descriptively stated as activities that cannot be associated with only one or a few specific cases; rather these activities are ones that support the general ability of the CAAs to continue to work in a professional manner. For example, training and model court activities would be included in this category. A more specific breakdown of these activities is presented in the section on detailed activities.

Similarly, case-related activities are activities of a general nature that are in support of work on specific cases but that are difficult to assign to just one or a few cases in particular. For example, checking one's email for communications about cases or casework would be included in this category. In terms of specific case phases or types, Adjudication, Reviews, and Probable Cause Hearings appear to take up the most time, while activities that are not likely to be part of the *Kenny A* class (e.g., Delinquency, Legitimation, Drug Court, And Guardianships and Termination of Guardianships) appear to account for only a minor part of the CAAs' time, specifically, these categories account for a total of approximately 6.5 percent of the CAAs' time.

Table 19: Total Time on Primary Task or Case Phase
February 14, 2007 – March 14, 2007[5]

Task	Time in Minutes	Percent
CASE-RELATED	18,794	20.6%
NON-CASE-RELATED	16,986	18.6%
Adjudication	12,917	14.18%
Reviews	8,584	9.42%
ProbableCause	8,317	9.13%
PermancyPlan	4,845	5.32%
Motion Other	4,668	5.12%
Disposition	3,454	3.79%
10DayHearing	2,799	3.07%
DrugCourt	2,699	2.96%
Termination	1,465	1.61%
Guardianships	1,389	1.52%
Termination of Guardianship	1,238	1.36%
PreTrial	633	0.69%
RuleNisi	626	0.69%
PostTermination	555	0.61%
Legitimation	346	0.38%
Delinquency	287	0.32%
Motion for Reunification	280	0.31%
Citizen Panel Review	143	0.16%
Mediation	61	0.07%
All Major Tasks	91,086	100%

[5] The adjusted percentage of time spent on non-specific case-related activities is approximately 18.6%

Number of Cases by Phase

Table 20 presents the number of cases that the CAAs worked on during the time-study period case phase. CAAs dealt with the largest number of cases in the Review phase followed by the Adjudication, Permanency Plan and Disposition phases. There were 128 cases handled in the Probable Cause Hearing phase during the 4-week time-study period, suggesting rate of approximately 32 new cases per week for the CAAs' Office.

Table 20: Count of Cases by Case Phase
February 14, 2007 – March 14, 2007

Case Phase	CaseCount
Adjudication	297
PostTermination	43
Guardianships	50
Motion for Reunification	16
DrugCourt	103
NON-CASE-RELATED	57
10DayHearing	103
CASE-RELATED	245
Mediation	4
Citizen Panel Review	25
Disposition	170
Reviews	340
Termination	61
Delinquency	9
PreTrial	36
PermancyPlan	189
Legitimation	27
TerminationOfGuardianship	19
ProbableCause	128
Motion Other	213
RuleNisi	21

Case Flow

Because of the relatively short period in which the time study took place, our ability to conduct a case flow analysis was limited. For example, we did identify all the cases in the study period that went through both a Probable Cause Hearing and a 10 Day Hearing. See Table 21.

Table 21: Probable Cause Cases with 10DayHearings
February 14, 2007 – March 14, 2007

Count of Probable Cause Cases with 10DayHearings	11

This finding however should be interpreted in light of the number of cases in the time study period that might yet go through the 10 Day Hearing process.

If we assume, for example, that only the probable cause cases that entered the court during the first two weeks of the study period are likely to trigger some work on the 10 Day Hearing, we might conclude that 64 of the 128 probable cause cases would be eligible for 10 Day Hearing work of which 11 or 17% led to CAA activity at the next case phase.

Average and Range of Time Per Activity

Table 22 presents the average time per individual activity that CAAs spent during each of the case phases as well as the CAAs assessments regarding the need for additional time on each task. Because the CAAs in general did not use the "Additional Time" reporting field, the specification of additional time needs is generally null. The average time spent on individual tasks contributes to a descriptive picture of CAAs work as one of a series of diverse moments of effort that rarely allow the CAA to have concentrated periods of time in which to focus on a single case or client. However, as Table 23 ("Range of Time Spent on Case Phases) shows, CAAs do occasionally spend a greater amount of concentrated time on individual activities.

Table 22: Average Time Spent on Major Tasks
February 14, 2007 – March 14, 2007

Task	Time in Minutes	Additional Time Needed for Perfect Representation 1=None 5=A great deal
Adjudication	8	0
PostTermination	3	0
Guardianships	6	0
Motion for Reunification	9	0
DrugCourt	4	0
NON-CASE-RELATED	24	0
10DayHearing	6	0
CASE-RELATED	9	0
Mediation	15	0
Citizen Panel Review	3	0
Disposition	7	0
Reviews	5	0
Termination	7	0
Delinquency	11	0
PreTrial	11	0
PermancyPlan	7	0
Legitimation	5	0
TerminationOfGuardianship	8	0
ProbableCause	10	0
Motion Other	5	0
RuleNisi	8	0

Table 23: Range of Time Spent on Individual Case Phases in Minutes February 14, 2007 – March 14, 2007			
Task Category	**Avg. Time**	**Maximum Time**	**Minimum Time**
Adjudication	8	140	0
PostTermination	3	18	0
Guardianships	6	45	0
Motion for Reunification	9	30	1
DrugCourt	4	90	0
NON-CASE-RELATED	24	480	1
10DayHearing	6	60	0
CASE-RELATED	9	105	0
Mediation	15	25	8
Citizen Panel Review	3	10	0
Disposition	7	80	0
Reviews	5	120	0
Termination	7	60	0
Delinquency	11	30	2
PreTrial	11	80	1
PermancyPlan	7	60	0
Legitimation	5	45	1
TerminationOfGuardianship	8	150	1
ProbableCause	10	150	0
Motion Other	5	180	0
RuleNisi	8	45	2

Detailed Activities

For each case phase CAAs were asked to specify the activity in which they were most engaged. Most activities could be performed in most of the case phases. Table 24 presents the amount of time and the percentage of total time that the CAAs as a group spent on each of the activities. As one might expect, CAAs spent the greatest portion of their time on case investigation making direct contact with key parties to a case. However, CAAs also spent a large portion of time on both general office administration as well as on specific handling of case documents and files.

Table 24: Time Spent on Detailed Activities February 14, 2007 – March 14, 2007		
Detailed Task	**Time in Minutes**	**Percent**
INVESTIGATION Key Parties	13,471	14.79%
NON-CASE-RELATED Personal/Social	10,837	11.9%
FILE Notes	8,736	9.59%
INVESTIGATIONS Document review	7,771	8.53%
HEARING in Court	7,642	8.39%
OFFICE ADMINISTRATIVE	6,664	7.32%
HEARING Wait Time	5,503	6.04 %
INVESTIGATION Travel	2,910	3.19%
INVESTIGATION Counseling Client in Person	2,597	2.85%
CASE-RELATED Consultation	2,429	2.67 %
CALENDAR CALL	2,085	2.29%
NON-CASE-RELATED Training/CLE	2,006	2.2%
FILE CLOSING	1,792	1.97%
INVESTIGATION Other	1,763	1.94%
INVESTIGATION Staffing	1,486	1.63%
NON-CASE-RELATED Office Meetings	1,450	1.59%
NON-CASE-RELATED Meetings with Agencies/Others	1,244	1.37%
ASSUME CASE RESPONSIBILITY	1,180	1.3%
POST-HEARING Review Orders	868	0.95%
PREHEARING Legal Research	656	0.72%
NON-CASE-RELATED Consultation	623	0.68%
INVESTIGATION Medical	608	0.67%
POST-HEARING Other Monitoring	571	0.63%
INVESTIGATION Home Evaluation	541	0.59%
SERVICES Referral	534	0.59%
NON-CASE-RELATED Speaking Engagement	467	0.51%
INVESTIGATION PsychoSocial	424	0.47%
MOTION Continuance	400	0.44%
NEGOTIATION Informal	399	0.44%
INVESTIGATION Placement Visit	381	0.42%
NON-CASE-RELATED Other Consultation	321	0.35%
POST-HEARING Other Documents	297	0.33%
NEGOTIATION Conference	276	0.3%
INVESTIGATION Counseling Client Not in Person	270	0.3%
MOTION Extend Custody	249	0.27%
POST-HEARING Initiate Orders	235	0.26%
MOTION Other	230	0.25%
Miscellaneous	220	0.24%
INVESTIGATION Expert Other	189	0.21%
INVESTIGATION Educational	172	0.19%
INVESTIGATION Law Enforcement	122	0.13%
POST-HEARING Initiate Monitoring	121	0.13%
MOTION Modify Custody	110	0.12%
HEARING Travel	85	0.09%
INVESTIGATION Group Meeting	83	0.09%
NON-CASE-RELATED JC Activities	38	0.04%
MOTION In-Court Review	22	0.02%
APPEALS Preparation	8	0.01%
All Detailed Tasks	91086	100%

Table 25 presents the average, maximum and minimum amount of time that CAA reported spending on individual detailed tasks.

Table 25: Range of Time on Spent on Individual Detailed Tasks in Minutes
February 14, 2007 – March 14, 2007

Task Category	Avg. Time	Maximum Time	Minimum Time
INVESTIGATION PsychoSocial	6	20	1
PREHEARING Legal Research	20	60	2
NEGOTIATION Conference	17	50	2
INVESTIGATION Medical	15	120	2
ASSUME CASE RESPONSIBILITY	7	35	1
INVESTIGATION Home Evaluation	14	50	2
INVESTIGATION Law Enforcement	7	15	2
INVESTIGATION Educational	10	37	5
INVESTIGATIONS Document review	8	60	1
POST-HEARING Initiate Monitoring	6	15	1
CASE-RELATED Consultation	8	40	1
POST-HEARING Other Documents	6	10	2
POST-HEARING Review Orders	7	18	1
FILE CLOSING	9	53	0
POST-HEARING Other Monitoring	5	25	1
INVESTIGATION Staffing	12	105	0
HEARING in Court	15	150	0
INVESTIGATION Placement Visit	4	11	1
INVESTIGATION Counseling Client Not in Person	13	45	2
INVESTIGATION Travel	26	95	5
HEARING Wait Time	13	150	1
CHOOSE CASE ACTIVITY	3	10	1
INVESTIGATION Group Meeting	16	50	3
INVESTIGATION Counseling Client in Person	12	60	1
NEGOTIATION Informal	10	30	2
NON-CASE-RELATED Training/CLE	17	40	5
POST-HEARING Initiate Orders	4	10	2
HEARING Travel	12	20	5
FILE Notes	9	60	0
MOTION Continuance	6	15	1
SERVICES Referral	9	25	1
MOTION Extend Custody	10	25	3
NON-CASE-RELATED Personal/Social	5	5	5
MOTION Modify Custody	5	10	2
INVESTIGATION Key Parties	7	60	0
NON-CASE-RELATED Office Meetings	22	35	10
OFFICE ADMINISTRATIVE	6	30	1
NON-CASE-RELATED Consultation	8	15	5
CALENDAR CALL	7	25	1
MOTION Other	10	45	1
INVESTIGATION Expert Other	18	50	2
INVESTIGATION Other	7	50	1
NON-CASE-RELATED Other Consultation	6	8	5

Detailed Tasks by Case Phase

Table A6: Time on Detailed Tasks (Appendix C) presents the time and percentage of time that the CAAs spent on specific activities by the case phase in which the activity occurred.

Average and Range of Time on Detailed Tasks

Table A7: Average and Range of Time on Detailed Tasks (Appendix C) presents the average time, maximum time, and minimum amount of time that the CAAs spent on detailed tasks and is categorized by tasks.

Time Spent with Major Parties to the Case

Whenever a CAA was interacting with major parties to a case either in an investigation, counseling, or hearing process, they were asked to specify these parties as part of a time-activity report. The CAAs were able to specify multiple parties for any individual report, so the time spent with any particular party was not mutually exclusive. Table 26 presents the time spent and the percentage of time spent with parties playing specific roles. It should be noted that the percentage here is a percentage of the time where a least one party or case actor has been listed as being involved in the activity (rather than a percentage of all the activity time).

Table 26: Time Spent with Major Parties to the Case February 14, 2007 – March 14, 2007		
Role	**Minutes Spent**	**Percent of Minutes with Some Role Specified**
Time with DFCS Caseworker	6706	14.4%
Time with SAAG	6343	13.6%
Time with MotherAttorney	4485	9.6%
Time with Mother	3745	8.0%
Time with Other	3680	7.9%
Time with Child	3160	6.8%
Time with CASA	2292	4.9%
Time with FatherAttorney	1723	3.7%
Time with Child Advocate	1641	3.5%
Time with Maternal Grandmother	1502	3.2%
Time with Foster Parent	1402	3.0%
Time with OtherAttorney	990	2.1%
Time with Father-Legal	875	1.9%
Time with Judge	837	1.8%
Time with Maternal Aunt	666	1.4%
Time with Medical Provider	653	1.4%
Time with Paternal Grandmother	578	1.2%
Time with DFCS Supervisor	408	0.9%
Time with CPS Caseworker	365	0.8%
Time with Legal Custodian	343	0.7%
Time with Investigator	333	0.7%
Time with Probation Officer	266	0.6%
Time with Father-Biological	253	0.5%
Time with OtherRelative	233	0.5%
Time with Psychologist	228	0.5%
Time with Maternal Uncle	225	0.5%
Time with Cousin	185	0.4%
Time with Father-Putative	176	0.4%
Time with Paternal Grandfather	171	0.4%
Time with GuardianAttorney	170	0.4%
Time with Paternal Aunt	166	0.4%
Time with Paternal Uncle	165	0.4%
Time with Maternal Grandfather	91	0.2%
Time with Counselor	87	0.2%
Time with Non-Relative Caregiver	78	0.2%
Time with Step-Father	30	0.1%
Time with Teacher	10	0.0%
Time with Nephew	0	0.0%
Time with Niece	0	0.0%
	46663	100%

Chapter 4. Initial Focus Group

On November 13, 2006, the project team (Ms. Karen Baynes, Mr. Alex Scherr, Dr. John O'Looney, Ms. Melinda Williams, and Ms. Rachel Hagues) conducted a focus group with the Fulton County Child Advocate Attorneys and the CAA Office Investigator. The following themes, ideas, and observations were identified from a transcription of the statements made by the participants in the focus group. The focus group began with the participants being asked to tell a little about how they came to enter the CAA profession, what roles they see themselves playing, and what they see as "quality representation" in the profession.

EXPERIENCE, QUALITY, AND CAA ROLE

Longevity as Child Advocates:

The majority of the child advocates who participated in the focus group had only been working as actual Child Advocate Attorneys for approximately one year. Most had some experience in dealing with legal and other issues that impact children, but had just recently begun to work as legal representatives of children. The backgrounds of the child advocates included experiences working with CASA, private practice in family law, work as a child protective services investigator, work as a SAAG and a guardian ad litem, work as a probation officer, and work with the prosecutor's office and in labor and employment law.

Definitions of Quality and Success:

The Child Advocate Attorneys (CAAs) seemed to agree that a good definition of "quality representation" having an adequate amount of time to contact the child and explain the court process to the child and to the child's caregiver.

Most of the CAAs agreed that success in their work is defined by the adequacy of their client's care: are they receiving shelter, an education, special services they may need, and are they safe? Many of the CAAs emphasized the importance of a child receiving the services he or she needs.

The CAAs also stressed the need for a CAA to have a vision of what permanency for a child looks like and what is possible in this regard. A key limitation noted by the CAAs, was the lack of a common standard for making decisions about permanency and the meaning of "a good home." For example, it was noted that some judges will give orders to DFCS, who often do not have the resources to accomplish those orders. As a consequence, the mandated activity is not performed.

The CAAs also emphasized the importance of having a vision of balance in a child's life. Success occurs if all of the components of a child's life are adequately dealt with (e.g., shelter, education, special services, an evaluation that is needed, etc.). In this regard, the

CAAs are often caught between the need to perform attorney roles and those roles more traditionally performed by social workers.

The CAAs suggested that "quality representation" involves ensuring that children have their rights represented. They provided an example of a time when DFCS once forced a youth to have a child when the youth did not want or benefit from this.

Case Roles:

The CAAs identified a problem with the various players in the case (including the CAAs themselves) understanding what the CAAs role is. Specifically, the CAAs reported that they "sometimes get sucked into being a case manager [or guardians ad litem] rather than an advocate attorney." In order to play this attorney role, the CAAs indicated that they need more support from the court to ensure that deadlines for completing case tasks are set and the various actors in the case are accountable for meeting these deadlines. The CAAs recognized a need to use the more formal tools of legal process to put pressure on the systems and the players, but report that they are stymied in this effort because they often do not receive the paperwork in time to make the appropriate motions. Instead, what they receive is hearsay (e.g., a social worker relaying what a doctor said). They are unable to take appropriate legal steps based on only hearsay.

The CAAs reported some difficulty in maintaining the advocate role (as opposed to a GAL role). They indicated that while they did not have a problem in this regard with respect to older children with whom they can discuss their issues and provide advice, they did have problems with younger children who "do not know what is best for themselves." These children, the CAAs have reported, would all want the CAA to get the court to send them back with their parents, even if this meant more abuse or neglect.

Some of the role conflicts that CAAs experience can be heard in their remarks about their sense of success in the job:

- When I was a Public Defender, I knew that effective work was when I won the case. As a CAA, I feel I have done a good job if I have gotten my clients the best that I can get them.
- I feel that I have done a good job when I hear positive feedback from the judge and other attorneys.
- I feel that I have done a good job when my client says thank you, you did a good job.
- I feel that I have done a good job knowing I am a voice for a child that is voiceless. They feel like no one is listening to them. We can listen and be their voice.

DISCOVERY AND WORKING WITH DFCS

Working with DFCS and Case Discovery:

One of the major concerning themes from the focus group has to do with the difficulty CAAs have in ascertaining key information needed to move a case forward. This difficulty

was described as stemming from: 1) the lack of time that CAAs have to get in touch with the child/children; 2) problems obtaining the clients' records from DFCS due to the high turnover in DFCS case managers; 3) DFCS contracting with third parties, which adds another step in the process of making contacts with important case actors; and 4) the informality of the juvenile court, which makes it difficult to maintain and conduct an organized set of discovery requests.

One of the main themes in the CAAs' discussion of "the system" was the difficulty that the attorneys had in getting information from DFCS in a timely manner. This information, they noted, was important to the CAAs' efforts to ensure that DFCS would take reasonable actions within a reasonable time period. Insufficient and untimely information also worked to undermine the ability of the CAAs and DFCS to work together rather than against one another. One of the CAAs reported that often they would not know that a child client was to be present at the hearing until just before the hearing began, i.e., because the Department did not inform them of this. By the time they realize that the child is present the CAA usually has little or no time (e.g., less than 5 minutes) to work with and prepare their representation of the child. This problem is more acute in cases where there are multiple children in one family. In this instance, one court proceeding is actually multiple cases, becoming problematic when there is only 5 minutes to distribute among up to eight children.

The CAAs reported that their ability to use legal tools to improve discovery is limited by several factors and dynamics. The CAAs do not have time to perform appeals to a denied discovery request. Initial discovery requests are not likely to be approved since DFCS will move to quash these. At the next stage (i.e., after approval of the discovery), there would be an in-camera proceeding which adds additional work for judges. Consequently, there is a built-in disincentive for a judge to approve the discovery motion. In general, the court tends to subtly dissuade the CAAs from pushing the discovery process.

The CAAs reported that they cannot question service providers that are hired by DFCS, i.e., they cannot question them outside of court about their services, and can question them only about their qualifications in court.

CASELOADS

Caseloads and Client Interaction:

The Child Advocate Attorneys also emphasized the magnitude of their caseloads. Because their caseloads are often so high, they reported not having the time they would like or need to interact sufficiently with their clients. Consequently, CAAs indicated they are forced to prioritize by degree of need, thereby preventing them from meeting with children whose cases do not seem as urgent. Since most of the Child Advocate Attorneys agreed that their primary responsibility is to represent the child's wishes and to be the voice of the child, they expressed a concern about how well they are able to do this in cases where they are unable to meet with the children they are representing.

Caseloads and Casework:

The CAAs reported that they would enter more motions for reconsideration (e.g., of a child's going home earlier than the CAA thought was appropriate) if they had time.

CAAs suggested that the court has not effectively set standards for reasonable efforts, i.e., on the part of DFCS. From the CAAs' point of view, judges should more often decide that "no reasonable efforts" were made.. The CAAs report that they would appeal this issue (in order to help to build a standard for reasonable effort), but that they do not have sufficient time to do so.

COURT PROCESSES AND SYSTEMS

Court Calendar and Court Time Management:

Child Advocate Attorneys stressed that the court calendar was not particularly well organized or efficient in terms of helping them to provide quality representation. They reported that sometimes cases are pulled the week before they are on the calendar (Early Action), which requires the attorneys to attempt to represent their child clients before they are fully prepared.

The CAAs also indicated that cases that should be seen by the same judge over the course of the case process are sometimes handed off to a different judge (e.g., after a probable cause hearing, a case is sent to another judge for the 10 Day Hearing). In some instances, judges will share cases.

Another problem noted with the court calendar was that similar cases may occur in multiple courtrooms at the same time, requiring the child advocates to be present in multiple places at once. Since this is physically impossible, the CAAs report that they must prioritize their cases and only be present for the most demanding cases, while another child advocate attorney, who may not know the case as well, fills in on the less demanding cases.

CAAs reported that the timing of the calendar calls is not always efficient (e.g., making a calendar call at four o'clock in the afternoon).

The CAAs also noted that some judges take too much testimony leaving no time for other cases. As a result, the court may spend a great deal of time on cases in the morning but only a few minutes on cases in the late afternoon.

Finally, the CAAs also noted that sometimes the Court will put a case on the calendar without informing all of the key players in the case.

Court Standards and Consistency:

The CAAs report that the judges are not consistent in how they handle similar cases. For example, with regard to dismissing a case based on attendance, some judges will dismiss everything; while others will dismiss nothing.

The CAAs argued that a key problem with inconsistency is that it undermines the legal process. For example, because some judges prefer to talk informally about the issue rather than ensure that the parties testify and produce a case record, the CAAs do not consistently enjoy the benefits of having procedures that would allow an appeal.

Case Types and Casework:

The CAAs reported that they never have enough time to get the needed work done in preparing for the 10 Day Hearing. This appears to be the case in part because termination of parental rights hearings take priority. In contrast to the 10 Day hearing crunch, the CAAs said that for Special Set Cases they have a lot of time to work on the case.

Court Process:

The CAAs reported that there are too many times when the SAAGs, parents attorneys, and caseworkers don't show up for hearings. As a consequence, the court provides for "way too many continuances." However, the CAAs also reported that they tend not to object to continuances (e.g., so as to not appear uncooperative).

Role in the Courtroom and Court Process:

The CAAs stated that they believe that their ability to do a good job on a case often depends on the judge's view of the CAAs' functions and roles. The CAAs reported that some judges do not even give them an opportunity to speak. Similarly, the CAAs stated that they believe that the court does not always respect the boundaries of their role. For example, they indicated that they are sometimes asked to act "act like a go-fer" or "a pseudo bailiff" or court staff rather than an independent advocate (e.g., being asked to say who is present in court, find an attorney, or give notice to different parties).

The Probable Cause Stage:

The probable cause hearing is one in which if all goes well, a case can, be quickly processed or dismissed entirely. However, Child Advocate Attorneys reported that that the potential forefficient working of cases at this stage is frequently undermined by the employment of more inexperienced SAAGs at this stage. An inexperienced SAAG is less likely to provide the CAAs with that extra bit of support that would convince a judge to take the appropriate action at that time. The CAAs reported that these inexperienced SAAGs are often times too cautious to take the immediate actions on the case that are needed.

The CAAs reported that SAAGs leave the child advocates out of the negotiations that lead to stipulation. The CAAs viewed this exclusion of their role as a sign of their not being taken

seriously. The Child Advocates said that if they try to negotiate something to be in the stipulation, the SAAGs are often resistant.

Information Systems and Communications:

CAAs reported that a child's placement may change from hearing to hearing. Because this information is never entered into JCATS, the CAAs are forced to attempt to get this information from DFCS. However, this information is not included in the set of DFCS case plan information to which the CAAs have access. Moreover, the CAAs reported that it is too frequently the case that the DFCS caseworker with whom they work will not know where the new placement is, and needs to contact a worker in another unit to discover this information.

CAAs believe that they can be of benefit to their clients by participating in the negotiations on case plans. However, they reported that they often do not receive the case plan until the day of the hearing. These plans are supposed to be on CPRS (a DFCS information system that the CAAs have access to), but the CAAs reported that a frequently the DFCS caseworkers are just finishing the draft plan right before the hearing.

The Court Reform Process:

The CAAs reported that the key process for reform of the court (i.e., Model Court) is held on their heaviest court day, so they are somewhat stymied with regard to providing much input into the adoption of new court policies and procedures.

Additionally, the CAAs reported that Model Court meetings tend to involve "fussing without much resolution."

WORKING/MEETING WITH KEY PARTIES

Working with Schools:

The CAAs reported that school systems tend to use their own evaluation process—one that is perhaps overly involved and too slow to be of help in the case. As one CAA said, "we have to go through months of meetings to learn what we knew in the first place."

Working with Clients:

CAAs reported that they prefer to see children at home rather than at school since the children are more likely to feel comfortable in the former setting. However, this preference tends to present a scheduling problem with foster parents.

The CAAs reported that a good number of their clients are immigrants, but the CAA office does not have access to interpreters.

Meeting With DFCS:

While there is an approved authority for CAAs to attend the DFCS case reviews, the CAAs reported that these reviews are typically scheduled for times when the CAAs are in court.

Working with SAAGs and Orders:

The CAAs reported that they have a problem with a number of SAAGs putting things in orders that did not happen in court. Some of the CAAs suggested the need to use form orders in court that all attorneys would review, while others were not sure of how they felt about form orders, (i.e., they still want the order to reflect the individuality of the case).

The CAAs suggested that the SAAGs email their orders, they report that to date only one SAAG consistently emails drafts of orders ahead of time.

Other issues regarding orders that wereidentified by the CAAs include the following:

- In some cases, there is no order that has been filed preventing the CAAs from proceeding with the next hearing.
- In some cases the orders are not signed or filed. This can result in a case being dismissed if certain orders are missing from the official court file.

The CAAs suggested that the best practice is to draft the order in the days immediately following the hearing, but because many SAAGs are recent law school graduates, they will tend to take more time drafting an order.

The CAAs reported that some neophyte SAAGs sometimes have to be "rescued" because their case strategy would lead to the child going back to a dangerous home. In addition, if a SAAG does not prepare their witnesses, a good deal of wasted time is added to the case processing. .

Working with Parents' Attorneys:

The CAAs reported that while the assignment process for parents attorneys has improved substantially, the parents attorneys still may not see their clients until the hearing day. However, for the most part, parents attorneys are afforded vertical representation. There may be a problem in instances where it is alleged that the parent has a mental health problem or is in jail. In such instances, the court is supposed to assign an attorney before probable cause. However, the CAAs reported that the court will sometimes appoint a different attorney even when a parent has had a particular attorney for a number of previous cases.

Working with CASA:

The CAAs reported that they have a wonderful relationship with CASA.

Working Private Cases/Clients:

The attorneys emphasized that private cases take up much more time (on a per case basis) than DFCS cases. There seems to be more leg-work that has to be done by the Child Advocate Attorneys with private cases. In addition, the CAAs end up being the point-person on these cases because there is no designated person that works directly with the private cases. Often, the Child Advocate Attorneys end up being responsible for linking the child/children up with social services—a job done by DFCS in all other cases. The private cases also tend to require more mediation.

THE CHILD ADVOCATE ATTORNEYS' OFFICE

The Child Advocate Attorneys' Office:

The CAAs reported that the Office does not currently have a practice of staffing cases; There are staff meetings, but could benefit from talking more about issues such as how to handle cases of a certain type, etc. could be beneficial.

Some CAAs indicated that there is a need for more formal procedures regarding how things are done (e.g., a set of forms, orientation, meetings,).

The CAAs suggested that the work of the Office Investigator, who was a temporary employee during the time study, needs to be more clearly integrated with the work of the other staff. It was reported that the work processes, procedures, and priorities for the investigator are still not fully formalized, leading to the Investigator being pulled in many different directions.

The CAAs offered differing opinions regarding the need for more meetings but agreed on a desire to have meetings with good agendas.

The CAAs indicated that the office needs to establish policies and procedures for the following issues:

- Attendance,
- leave time,
- handling of cases,
- guidelines for judicial by-pass cases (e.g., CAAs should not be called down to represent a child on a speeding case).
- guidelines on the criteria for a deprivation case that the office will handle.

Office Staff Development:

The CAAs reported that they do receive some training but that the recent training in Savannah was better suited for those who are new to the field than to most of the members of their office.

Some of the CAAs indicated that they would like to see someone trained in sexual abuse and for this person to specialize in this type of case. However, other CAAs suggested that this arrangement would be a drain on that one person.

The CAAs believe that they could benefit from some training in the details of the DFCS policies and procedures (e.g., related to the definition of special needs).

POTENTIAL PROGRAM/SYSTEM IMPROVEMENTS SUGGESTED BY THE CAAS

- The court should take it upon itself to tighten up on continuances and non-appearances by key attorney actors and professional staff.

- The court should develop a common standard for reasonable efforts,

- The court should develop policies regarding when it is and is not appropriate for a case to be handled by more than a single judge.

- There need for official scheduled meetings with DFCS social workers.

- The CAAs office, in conjunction with the court, needs to draft a discovery motion that can be used to make the discovery process more efficient. In terms of accessing DFCS and DFCS contractors' records, the CAAs' office is included in a discretionary category; the office needs to be place in the "automatic" category (i.e., the CAAs would automatically be provided with their clients' records). Currently, CAAs who approach third parties are told that the parties must first get permission from DFCS before providing the records.

- The CAAs office would benefit from having its own professional social workers. A key role for these social workers would be to monitor the DFCS social workers, particularly those who are new or not well trained. They could also monitor DFCS's tendency to move children through the system in ways that are not truly in the best interests of the child. By having their own social workers, the CAAs could maintain the integrity of an advocate attorney's role (i.e., not have to continually switch to a social worker role).

- The CAAs should better utilize the DFCS court liaison staff.

- CAAs should automatically have access to the DFCS-initiated sociological report on the child and family, i.e., the CCFA.

- CAA should be provided with more complete access to the various DFCS information systems that are needed to discover basic information (e.g., the current placement of a child).

- Some parents have to wait a long time to get an appointed attorney. A better system would be to have "Bar days" where there are attorneys on site who are responsible for picking up appointed cases.

- There should be a way to ensure that CAAs know what cases they would have in the coming months.

- The CAAs salaries should be sufficient to attract and maintain qualified CAAs

- The CAAs office is recognized as independent from the juvenile court and from the Public Defenders' Office.

Longer Term Improvements

A general conclusion from the focus group was that more experience affords greater efficiencies. Seasoned attorneys who know juvenile law are more effective and efficient in working things out and more likely to be "good at being frank with their clients, so as to move the case forward."

Chapter 5. Review of the Data: Focus Group

The Fulton County Child Advocate Attorneys participated in a second focus group led by Mr. Alex Scherr on May 30 and June 5, 2007. Ms. Mary Herman, Dr. John O'Looney, Ms. Melinda Williams and Mrs. Rachel Hagues were also in attendance. There were five focus group sessions. These focus groups followed data collection and analysis.

The purpose of the focus groups was to gain insight and gather data from the Child Advocate Attorneys on topics affecting the quality and quantity of their representation of children in the Fulton County Juvenile Court.

The topics for discussion included:

- The Child Advocate Attorney role and what defines quality Child Advocate Attorney representation
- The barriers or obstacles to providing quality Child Advocate Attorney representation
- Reactions to the data and findings as pertaining to the quality of Child Advocate Attorney representation
- Suggestions for programmatic and systemic changes to enable quality Child Advocate Attorney representation and to uphold *Kenny A* compliance standards

A summary of the first and second focus groups is given in the following sections, and the final section contains suggestions for programmatic and systemic changes from the Child Advocate Attorneys that may allow for better compliance with the *Kenny A* performance standards.

CHILD ADVOCATE ATTORNEY ROLE AND QUALITY REPRESENTATION

Throughout the focus group process, the Child Advocate Attorneys provided suggestions to improve quality representation. The Child Advocate Attorneys identified the following as elements of quality representation for children in the deprivation process:

- Adequate time for meaningful client contact, including child placement visits
- Adequate time to explain the deprivation court process to the child and caregiver
- Child is safe and receiving services to address education, special needs
- A permanency place for the child client that include a reality of what is possible; and a universal standard for permanency planning decisions
- Maintaining balance for the child
- Insuring representation of the child client's rights
- Representing the child client's wishes and being a voice for the child
- Representing the child client's best interest

The Child Advocate Attorneys expressed confusion as to the exact role and responsibilities of the Child Advocate Attorney throughout the deprivation process. The attorneys alternated between the best interest-substituted judgment model based on *guardian ad litem* based role in the court, and a more client directed-expressed preferences model. The attorneys stated that there is not a clearly defined model of representation. In one instance, they expressed that they represent the child client's best interest and then later state they represent the child client's expressed preference.

The attorneys also indicated other juvenile court participants are not educated on the roles and responsibilities of a Child Advocate Attorney. The Child Advocate Attorneys stated that the Court expects the attorneys to fulfill the role of a social worker or guardian, rather than an attorney for the child client's legal interest. In addition, the attorneys declared that Court personnel, including judges, do not consistently respect the boundaries of the Child Advocate Attorney role. The attorneys confirmed that the most positive relationship exists between the Child Advocate Attorneys and the Court Appointed Special Advocate (CASA) program.

BARRIERS OR OBSTACLES TO QUALITY CHILD ADVOCATE ATTORNEY REPRESENTATION—INTERNAL AND EXTERNAL

The Child Advocate Attorney office structure, supervision, and personnel underwent considerable change in the preceding two years. The office has evolved from four attorneys under the direct supervision of the Juvenile Court judges, to ten attorneys under the Public Defenders Office, to a current office staff of thirteen attorneys, three administrative support staff, and two investigators all under the supervision of a Board and independent of the judiciary.

This maturation process had led to obstacles to the provision of quality representation. In addition to these internal factors, the Child Advocate Attorneys described external barriers to quality representation. Some of these external barriers include current DFCS practices, the Court and other attorneys involved throughout the deprivation process. As a possible response to these issues, the Child Advocate Attorneys suggested practice and policy changes that are critical to *Kenny A* compliance in the office.

Internal Issues of the Child Advocate Attorneys' Office

The Child Advocate Attorneys discussed internal issues that conflict with quality representation for children. The following is a list of internal issues as perceived by the Child Advocate Attorneys:

- The magnitude of the current caseload for the attorneys; in addition, there are more cases opening continually than cases closing, leading to ongoing increases in caseload;
- There is not a current child client list for each Child Advocate Attorney; as a result, the attorneys do not know the number of their current caseload;
- Court calendaring system results in each Child Advocate Attorney spending the majority of their time in court either for a hearing or waiting for their case to be called;

- No common standard for permanency decision-making;
- No common standard for defining "a good home" for the child;
- No time or resources for appeals;
- No time or resources for meaningful client contact, which preferably takes place in the child's placement or home;
- No clearly defined role / model of representation which is published for the other participants in the deprivation process and the juvenile court;
- No procedure for staffing cases with other Child Advocate Attorneys;
- No formal, written procedures for the office operation;
- No written criteria for types of cases appropriate for handling by the Child Advocate Attorneys, and there are non-standardized forms;
- No guidelines for how to handle the different types of cases;
- More specialized training is need in the areas of sexual abuse, DFACS policies, special needs children, resources available;
- No formal protocol for use of the investigator;
- Need better procedures for use of the DFCS liaison;
- Need a case tracking system for the attorneys;
- Need a case management software system to assist in case activity, as well as providing a tickler system for cases;
- Need a Discovery Motion implemented, supported by the Court and complied with by DFCS;
- Need staff social worker(s) to assist with monitoring of services to children and identifying resources for children;
- Need an appeals attorney or specialist;
- Need a vehicle or mileage compensation for home visits to children;
- Private deprivation cases consume more attorney time and there is no protocol established or additional resources for these cases.

External Issues of the Child Advocate Attorneys' Office

The Child Advocate Attorneys gave several statements regarding external factors that hinder quality representation. The following is a list of these identified external deficiencies:

- DFCS:
  - Child Advocate Attorneys report difficulty in accessing key information from DFCS in a timely manner, such as placement information, name of current case manager, staffing dates and time, issues affecting the child's immediate well being;
  - Child placements frequently change without notice to the Child Advocate Attorneys;
  - DFCS brings children to Court without notifying the Child Advocate Attorney until just before the hearing time, leaving no opportunity to interact with the child;
  - DFCS fails to bring the child to hearings, even after a court order or subpoena;
  - DFCS prevents third party service providers to the child or family from providing the Child Advocate Attorney with information about the child;

- DFCS does not keep the Online Case Reporting System (CPRS) updated resulting in the Child Advocate Attorneys having to search for the case manager name and the child's placement information;
- Case plans are not timely loaded into the CPRS system and the Child Advocate Attorneys are frequently left out of the case plan development process, case plans are often completed just hours before the court hearing leaving the Child Advocate Attorney with virtually no time to review, request modification, or explain to the child;
- Family Team Meetings (FTM), Multidisciplinary meetings (MTD), staffing and other important meetings for the child are scheduled during and conflict with Court schedules;
- High turnover in DFCS case managers makes information gathering and case monitoring difficult;
- DFCS takes the position the Child Advocate Attorney should not have access to the Comprehensive Child and Family Assessment, third party service providers, or records from third parties that are in the DFCS file;

- Court / Judges:
  - Deprivation cases are frequently switched between different judges resulting in reduced accountability to the parties and inconsistent rulings;
  - Deprivation cases are calendared in such a way that a particular Child Advocate Attorney may have cases in several different courtrooms at the same time;
  - Judges routinely sign court orders presented by one party, usually DFCS, without confirming all the other attorneys have had an opportunity to review the proposed order or make any objections; if there are any errors or omissions in these signed court orders then the order can only be corrected by the filing of a motion;
  - An assumption that the Child Advocate Attorneys are on call for any type of case;
  - No set standards for reasonable efforts;
  - Judges do not use reasonable efforts as a tool to enforce services to child and family;
  - Judges are inconsistent in the handling of cases, requirements of testimony, appointment of parent attorneys, dismissals;
  - Judges do not respect the role and boundaries of the Child Advocate Attorneys, may ignore the Child Advocate Attorney's presence in the courtroom or request activities outside of the attorney's job function;
  - Inefficient calendar calls;
  - Continuances are routinely granted without legal reason and parties do not show up on a regular basis;
  - Model court meetings are schedule on the day with the heaviest court calendars;
  - Child Advocate Attorneys are frequently not given adequate notice when a deprivation case is being calendared;
  - Deprivation cases are frequently calendared with other types of hearings, resulting in the Child Advocate Attorney waiting all day for one case;

- Special Assistant Attorney Generals (SAAGs):
  - Exclude Child Advocate Attorneys from the negotiation/stipulation process;

- Less experienced SAAGs are often assigned to the probable cause hearing and they lack the experience in setting the tone for the case, or, fail to take actions which might resolve the case at this earlier stage;
- Less experienced SAAGs are often unable to prove their case due to their strategy or insufficient witness preparation;
- All SAAGs except one give proposed court orders to the judge without providing the Child Advocate Attorney or the parent attorney an opportunity to review the order;
- SAAGs routinely make findings in the court order which were not part of the court testimony;
- SAAGs are generally late in getting orders filed with the court; frequently the orders from previous hearings are filed the day before or at the beginning of the subsequent hearing;
- SAAGs work in several different courtrooms at the same time, which results in a large amount of wait time for the Child Advocate Attorneys.

REACTIONS TO DATA ANALYSIS OF CURRENT LEVEL OF CHILD REPRESENTATION

During the second round of focus groups, the Child Advocate Attorneys examined the data in light of their current practice. In general, the Child Advocate Attorneys found the time documentation process difficult. They reported several instances of under-reporting due to frustration with the process, multi-tasking activities, and after-hours case work.

Several themes became clear throughout the focus group process. The Child Advocate Attorneys perceive a higher caseload and case activity than the data reveals. The attorneys report feeling overwhelmed with caseload volume and the responsibilities attached to a caseload. The attorneys stated that being constantly in court leaves them unable to adequately address other areas of child representation. The phrase “sad but true” was adopted by the attorneys to reflect much of their response to the data.

The format of this focus group involved a review of five data sets and eleven questions. The following is a summary of the Child Advocate Attorney response to each data set and question:

Data Set 1: Child Advocate Attorney Caseload

Data Set 1 included five tables showing a point-in-time caseload per Child Advocate Attorney as of January 1, 2007, Child Advocate Attorney hours available per case for 2006, and Child Advocate Attorney hours available per child for 2006. The Child Advocate Attorneys unanimously disapproved of the point-in-time caseload count and suggested an annual case count would better reflect the quantity of cases they handle. All agreed that 155 to160 point-in-time child clients are too high to provide quality representation. The Child Advocate Attorneys recommended cutting their current caseloads in half or between 80 and 100 point-in-time active cases. There was also a question of the validity of the JCATS data.

The Child Advocate Attorneys provided feedback regarding the data:

- 154 child cases was too low for a point-in-time count, versus an annual child case count in which they predict the case number would double to 300 to 400 child cases per year;
- The Juvenile Court Computer Database (JCATS) miscounted and under counted the number of children the Child Advocate Attorneys represent;
- The attorneys get more new cases every week, and close few to none on a weekly basis;
- Termination of Parental Rights cases do not close until the child is adopted; those same cases are reviewed every six months;
- The attorneys do not want a caseload of 155;
- Attorneys believe they have as many as 400 cases on their current caseload;
- Six hours per child per year is a dramatic number;
- The attorney's suggested that an active and inactive case list would be helpful for them.

Data Set 2: Variations in Total Work Time as Reported by Child Advocate Attorneys and Child Advocate Attorney Variations in Time Spent Counseling Child Clients

Data Set 2 included two tables reporting variations in total work time reported by each of the Child Advocate Attorneys and variations in the time each attorney spent counseling with their child clients. The variation from the highest reported attorney work time to the lowest reported attorney work time was 58 hours during the four-week study period.

The variation from the highest reported average attorney time counseling clients to lowest reported average attorney time counseling clients was 20 minutes; the average range was between 23 minutes and 3 minutes. The Child Advocate Attorneys reported variations were due to under-documentation for the attorneys who showed lower times. The attorneys expressed that everyone worked over and above the 40-hour work week, and routinely worked nights, early mornings, and weekends.

The attorneys attribute their lack of available time to counsel clients as being directly related to the court's calendaring system, which currently places the Child Advocate Attorneys in several different courtrooms at one time. In addition, the Child Advocate Attorneys reported spending significant amounts of time waiting for SAAGs or parent attorneys to arrive at the hearing. The attorneys frequently use the court wait time to work on various file tasks but are unable to make home visits due to waiting in court.

The most frequent comment by the attorneys on the counseling clients data was their time being consumed in court and waiting for court as a result of the court calendaring practices.

The Child Advocate Attorneys provided feedback on the Variations in Total Work Time:

- Underreporting is a matter of under-documenting, namely because it was a time consuming process;
- Variations were due more to reporting than to different levels of work;
- Variations exist in the efficiency of some Child Advocate Attorneys on certain tasks;

- A few attorneys rebelled against the time study process;
- It was difficult to document one-minute activities throughout the day;
- A few attorneys take work home and documented that time, whereas others did not;
- While in court, it was hard to be certain that the activities were being captured correctly;
- It is difficult to document activities that are multi-tasks;
- Not every attorney is a great record keeper, despite being good lawyers;
- There is a difference from attorney to attorney in case reviews;
- With so many cases, it is difficult to gauge the attorney's best practices.

The Child Advocate Attorneys provided the following feedback on the Variations in the Average Time Counseling Client:

- Based on time constraints, attorneys have to gauge the amount of time given to a case by the level of need of the child;
- During a delinquency week, some attorneys are in court every day. On average, all Child Advocate Attorneys have to spend 2-3 days in court during a delinquency week. This makes it impossible to see children;
- The time spent waiting on SAAGs makes it difficult to accomplish other activities.
- It is difficult to take a vacation due to the amount of work and court calendaring;
- Even if there are additional Child Advocate Attorneys, things will not improve if the court wait time still exists in its current form;
- The SAAGs will all report to the courtroom where the most important judge is. People know the cases that can be handled expeditiously;
- The file notes may be underreported;
- Some attorneys chose to take more breaks out of frustration with the study;
- One attorney was in court for three weeks straight during the time study;
- One attorney reported an incidence of waiting from 8:30 am to 1:30 pm waiting on the court to finish the delinquency calendar.

Data Set 3: Count of Cases by Case Phase and Percentage of Attorney Time Spent on a Case Phase

Data Set 3 included three tables:

1) Number of cases by case phase during the time study period;
2) Total time as a percentage the Child Advocate Attorneys spent on a particular case phase;
3) Average attorney time spent on different case phases.

During the focus group, the Child Advocate Attorneys generally agreed with this data. Several attorneys took the opportunity to restate the need to reduce caseloads in order to have more time to focus on home or placement visits.

Data Set 4: Time Spent on Different Activities and Range of Time on Different Activities

Data Set 4 consists of two tables. One table shows the amounts of time in minutes and as a percentage of time on different activities. The second table shows the average time on different activities. The attorneys agreed with the data in this section.

The Child Advocate Attorneys provided the following feedback regarding Data Set 4:

- While in court, there is no time available to visit children;
- The attorneys feel that there is a focus on significant activities, but the court does not provide enough time to do those activities (e.g., meet with children);
- More time is spent on filing notes than is reported;
- The "counseling of clients in person" may be underreported due to the fact that the attorneys often talk to their clients by phone over the weekend;
- The personal/social activity may include checking email.

Data Set 5: Time Spent with Parties

Data set 5 indicates the amount of time the Child Advocate Attorneys spent with major parties to the case.

The Child Advocate Attorneys made the following responses in reference to Data Set 5:

- Time spent with DFCS case worker looks low, 20% probably more accurate;
- DFCS caseworker contact time underreported;
- Time with investigators may have been reported under the referral code;
- Fathers often don't get notice of a hearing.

SUGGESTIONS FOR PROGRAMMATIC AND SYSTEMIC CHANGES TO ENHANCE THE QUALITY OF CHILD ADVOCATE ATTORNEY REPRESENTATION AND PROMOTE *KENNY A* COMPLIANCE

Throughout the five focus groups, the attorneys addressed the challenges of being a Child Advocate Attorney as well as made suggestions and requests for change in policies, development of protocol, and implementation of procedures that would enhance their ability to become *Kenny A* compliant. The following sums up the Child Advocate Attorney statements:

In relating to the court, the Child Advocate Attorneys had several suggestions:

- The court should take it upon itself to tighten up on continuances and non-appearances by key attorney actors and professional staff;
- The court should develop a common standard for reasonable efforts;

- Policies should be developed by the court as to when it is and is not appropriate for a case to be handled by more than a single judge, each judge should keep their cases.
- "One judge-one family" would solve most of the calendar problems;
- The court should have "Bar days" where attorneys are on site who are responsible for picking up appointed cases;
- Need a standing discovery order (beyond medical records) that will not block the calendar.

Suggestions relating to DFCS:

- There needs to be official scheduled meetings with DFCS social workers
- Child Advocate Attorneys should be able to automatically have access to the DFCS-initiated sociological report on the child and family, i.e., the Comprehensive Child and Family Assessment;
- Child Advocate Attorneys should be provided with more complete access to the various DFCS information systems that they need to discover basic information (e.g., the current placement of the child).

Suggestions relating to SAAGs:

- Child Advocate Attorneys would like to be emailed the court orders before they are given to the judges
- Child Advocate Attorneys would like to be able to have the option of informal discovery

Suggestions relating to Internal Child Advocate Attorneys' Office:

- The Child Advocate Attorneys' Office, in conjunction with the Court, needs to draft a discovery motion that can be used to make the discovery process more efficient;
- In terms of accessing DFCS and DFCS contractors' records, the Child Advocate Attorneys' Office falls into a discretionary category; the Office needs to be place in the "automatic category," i.e., where the Child Advocate Attorneys would automatically be provided with their clients' records. Currently, Child Advocate Attorneys who approach third parties, are told that they first have to get permission from DFCS before obtaining the records;
- The Child Advocate Attorneys would benefit from having professional social workers as a part of their office. A key role for these social workers would be to monitor the DFCS social workers, particularly those who are new or not well trained. They could also monitor DFCS's tendency to move kids through the system in ways that are not truly in the best interests of the child. By having their own social workers, the Child Advocate Attorneys could maintain the integrity of an advocate attorney's role (i.e., not have to continually switch to a social workers role);
- There should be a way to ensure that the Child Advocate Attorneys would know what cases they would have in the coming months;
- The Child Advocate Attorneys' salaries should be sufficient to attract and maintain good Child Advocate Attorneys

- More investigators would help the Child Advocate Attorneys be better lawyers. At the time of the focus group, there was one investigator per six attorneys;
- The Child Advocate Attorneys need more resources for children;
- Child Advocate Attorneys would like more specialized training;
- Child Advocate Attorneys would like more books, resource manuals, reference materials;
- Child Advocate Attorneys would like case management software.

Chapter 6. Court Observations

Throughout the period of the time study, court observations were conducted. The workload study team attempted to observe each attorney during all phases of their hearings and in the hallways as they prepared for court and participated in pre-trial negotiations and conferences. Although an objective checklist was produced for purposes of future compliance reviews, many changes in office practice expectations, assignment of cases, and court calendaring during the time study limits the study team's ability to quantify observed factors. Thus, the following qualitative observations are offered as generalized thematic areas for potential efficiency and effectiveness reform.

ADMINISTRATIVE ROLE

Prior to becoming an independent office, the Child Advocate Attorneys used to be employed by the court and reported directly to the juvenile court judges. As court staff, they were responsible for determining which cases were ready to proceed, gathering all of the parties, and announcing the case on the record. Since becoming an independent office, the Child Advocate Attorneys' office has chosen to keep this administrative role.

During the focus group sessions, several of the attorneys suggested that this administrative role enabled them to control the flow of cases in court, while taking a leadership role in convening all of the parties. Court observation found some merit in this desired outcome, we also observed how the role may interfere with the attorneys' ability to effectively participate in pre-trial conferencing. This role also seems to potentially limit the amount of time the Child Advocate Attorneys have to spend counseling with their clients before court and debriefing with them after each hearing. On several occasions, while the Child Advocate Attorney was in the hallway gathering parties for one case, Special Assistant Attorney Generals and parent attorneys often approached the bench to discuss other cases without the Child Advocate Attorneys being present. On one occasion, the Child Advocate Attorney just happened to reenter the courtroom and realized that the judge was getting ready to make a decision on one of her cases. Fortunately, she was able to intervene and effectively advocated for her client. However, it is difficult to ascertain how often this may occur with different results.

The administrative role may also perpetuate the difficulty in transitioning the Office of the Child Advocate Attorney into independence from the court. Many of the former expectations regarding Child Advocate Attorneys and their role with the court still exist. In the future, the newly independent Office of the Child Advocate Attorney should weigh the importance of maintaining this administrative role with some of the unintended consequences that may be detrimental to effective representation of their clients.

PROBABLE CAUSE HEARINGS

At the beginning of the time study period, the office was structured so that one Child Advocate Attorney heard all of the probable cause hearings and then transitioned each case to the other eight attorneys in the office. This mirrored the court structure in which one Associate Judge hears all of the probable cause hearings, keeps some of the cases as they move into subsequent hearing stages, and transitions the majority of cases to three other Associate Judges and the two Judges.

The caseload for the probable cause stage is extremely high and becomes even more difficult to manage when compressed into two days per week. In spite of this inherit structural difficulty, (including the administrative role discussed in the above section), the Child Advocate Attorney did a good job in staying on top of which cases were ready to proceed and the facts and potential plan for each case. However, this leaves very little time for proactively and zealously representing one's client(s). The attorney at this stage spends so much time preparing cases for the court's purpose and taking enough notes to pass on to the next assigned Child Advocate Attorney, that we did not observe any interaction with child clients. Often this was because the child clients were not brought to court. It is unclear as to whether this has become a stated or constructive policy/practice among the court, DFACS, and the Office of the Child Advocate Attorney.

The Resource Guidelines published by the National Council of Family and Juvenile Court Judges, as well as several other publications regarding model and aspirational court practices, recognize the probable cause hearing as one of the most important stages in the dependency case process. At this early stage, an enormous amount of information is gleaned and the court makes a pivotal decision as to whether the child/children should remain in care and whether the case should be dismissed or proceed to adjudication. Thus, providing resources, time, and effort at this stage of the process is critical.

During the period of the time study, in spite of the court's current structure of having one Associate Judge hear all probable cause hearings, the Office of the Child Advocate attempted to move to a vertical representation model in which each attorney is assigned cases at probable cause and keeps their cases throughout the process. During court observation, this became somewhat complicated as attorneys were now juggling cases in more than one courtroom and judges were often asking other attorneys to fill in for them in their absence. Should the court decide to move to a "one judge - one family" model, vertical representation will enable the Child Advocate Attorneys to have set days for court and set days for conducting placement visits, monitoring progress on cases, and each of the other expectations as outlined in the consent decree. When the office went through a leadership transition at the end of the time study, the new Director abandoned the effort to accomplish vertical representation until additional resources are allotted to the office and/or the court conducts its own reform efforts.

HEARINGS AND IN-COURT PRACTICE

Once the Child Advocate Attorney announces the case, the SAAG proceeds to establish the state's case, followed by the parent attorney, and the Child Advocate Attorney at the end. Not once during court observation did we observe a child client present in the courtroom. The courtroom is designed in a way that while the Child Advocate Attorney is afforded his/her own table in the courtroom, it is smaller than the other attorney tables and does not have room for a child client to be present. It is not clear as to whether the Office of the Child Advocate Attorney has written policies or consistent practice regarding the presence of child clients in court hearings / being brought to court. File documentation did not indicate whether attorneys were contacting their clients following hearings to discuss the court's findings and next steps in the process. If this follow-up is not occurring and children are routinely not being brought to court, this may severely limit the Child Advocate Attorneys' ability to zealously and effectively represent and counsel their clients as required by the consent decree.

The practice of each Child Advocate Attorney during hearings varied widely. Some presented evidence and cross-examined witnesses in such a way that indicated a great deal of pre-trial preparation and investigation. Others took a much more passive role of gathering information during the actual trial and depending upon DFACS and others as opposed to first-hand investigation. Child Advocate Attorneys routinely asked questions about placement, visitation, siblings, and other services specific to their clients.

It was unclear during the time study what model of representation was consistently used throughout the Office of the Child Advocate Attorney. Some attorneys seemed to be using a substituted judgment model and functioning as pure *guardian ad litem* (GAL); while others seemed to practice the dual role of GAL / Attorney. During the time study, no conflicts were discussed or dealt with by the office or the court. The office has now decided to move to a client directed model. In order to do this effectively, more client contact will be required to include the presence of children in court. In addition, the court through CASA, appointed private attorneys, or other means will need to have a substantial pool of GAL's available to assign to cases.

Evidentiary rules during adjudicatory hearings seemed lax, with very few objections raised from any of the attorneys involved in each case. Evidence presented by DFACS appeared to be given to the Child Advocate Attorneys just prior to the hearings or during the hearings themselves – leaving very little preparation time to object or develop sound cross-examination. Reasonable efforts were not discussed in any detail during any of the court observations. The SAAGs have however developed a practice of asking the judge to find reasonable efforts at the end of each hearing and including such findings in the court orders that they draft on behalf of the court. Neither the parent attorneys nor the Child Advocate Attorneys objected to these findings or asked for evidence to be presented to support such findings. This may indicate a need for additional training in the importance of reasonable efforts as well as trial practice instruction to hone skills regarding evidentiary issues and trial strategy. This, coupled with additional resources to decrease the caseload for each attorney

and cooperation from DFACS in the discovery process will enable the observed reactive / passive practice to move toward a zealous / proactive practice that may conform to the expectations as outlined in the consent decree.

NEGOTIATION AND PRE-TRIAL CONFERENCES

The court currently holds a morning session and an afternoon session for court. All cases are called for 9am calendar call and announcements from each of the attorneys indicate whether cases are ready / whether there is a request for a continuance. Very few objections to continuance were made during court observations. Neither the court nor any of the attorneys questioned what the continuances would mean for the "best interest of the child(ren)." Continuance orders merely indicated that the case was continued for cause. The Child Advocate Attorneys were observed participating in pretrial conferences with other attorneys in the hallways prior to and in between cases. The volume of cases for each attorney prevented their presence during some of these informal pretrial conferences. SAAGS and parent attorneys routinely met while the Child Advocate Attorneys were in court conducting other hearings. The results of the negotiation would then be shared with the Child Advocate Attorney just prior to entering court. Again, with a lower caseload, the attorneys will be able to utilize these informal pre-trial conferences more effectively.

CONCLUSIONS

In general, the office is staffed with experienced litigators who have a great deal of passion and commitment to the profession. Until recently, however, the attorneys had no record of how many cases they handle or which cases belong to whom. All records were kept in a central file room, attorneys were paired in teams and routinely filled in for each other, and the practice seemed to be driven by court calendaring instead of the needs of clients. No database currently exists to track cases and flag expiring court orders. The perceived caseload is exponentially higher than the actual caseload count at any point in time. With these factors in place, the court observations revealed an office that was overwhelmed, understaffed, and inefficiently organized to meet the needs of clients. The court observations also revealed a need to work with stakeholders in understanding the paradigm shift that has occurred with the independence of the Office of Child Advocate Attorney. Leadership within the office must work with the Court and DFACS to outline a clear sense of the role of the Child Advocate Attorney and protocol as to the function of the office today versus when the attorneys reported directly to the judges. Although the vertical representation model is difficult under the current court calendaring structure, the office must develop an assignment of cases model such that attorneys take ownership of their cases, follow them from beginning to end, and track the needs of their clients independent of cases being calendared for court.

Chapter 7. File Review

SAMPLED CASES: RISKS AND NEEDS

In order to help understand the challenges that are presented in the cases handled by the CAAs, the project team selected a stratified random sample of cases on which activities were recorded during the time study. The sample was stratified based on selected case phases in which activity reports occurred. The phases chosen for sampling included: Probable Cause, 10 Day Hearing, Adjudication, and Disposition. In total, 69 case files were examined by project team staff which included Masters of Social Work students who had been trained to identify the existence of a specific set of case risks.

Table 27 presents for all sampled cases the counts of cases that presented specific risks as well as the percentage of the examined cases that presented these risks.

Table 27: Risks of ALL Sampled Cases

Risk	Count	Percent
DFCS Case	47	68
Lack of Supervision	39	57
Child in State Custody	34	49
Abandonment	31	45
Substance Abuse by Parent	29	42
Unstable Home	24	35
Severe Injury to Child	18	26
Privately Filed	16	23
Lack of/Unstable Employment	14	20
Parent/Guardian Mental/Developmental Limitations	14	20
Child Mental/Developmental Limitations	12	17
Medical Neglect	9	13
Emotional Abuse Exposure to Domestic Violence	8	12
Protective Order	8	12
Child and Parent/Guardian Conflict	5	7
Unclean/Unsafe Housing	5	7
Educational Neglect	4	6
Sexual Abuse Perpetrator Unknown	4	6
Emotional Abuse Other	3	4
Sexual Abuse by Sibling	3	4
Parent Discipline Uncontrolled	2	3
Sexual Abuse by Parental Friend	2	3
Failure to Thrive	1	1
Parent is a Minor	1	1
Sexual Abuse by Parent/Adult Relative	1	1

Table 27a presents a summary of the risk data for all the sampled cases, and suggests that an average CAA case involves nearly 5 different risk factors.

Table 27a: Summary of Risk Factors in Sampled Cases	
Total Count of Risks	335
Total Unique Cases	69
Average Risks per Case	4.9

RISKS IN SUB-SAMPLES OF CASE PHASES

The following tables present for the individual case phases the count of cases involving a risk and the percentage of cases in the case phase where that risk element was identified.

Risks in Probable Cause Hearing Phase

Table 28: Risks of Sampled Probable Cause Cases		
Risk	**Count**	**Percent**
DFCS Case	12	60
Abandonment	10	50
Child in State Custody	8	40
Lack of Supervision	8	40
Severe Injury to Child	6	30
Privately Filed	5	25
Substance Abuse by Parent	5	25
Child Mental/Developmental Limitations	4	20
Emotional Abuse Exposure to Domestic Violence	4	20
Lack of/Unstable Employment	4	20
Medical Neglect	4	20
Child and Parent/Guardian Conflict	3	15
Parent/Guardian Mental/Developmental Limitations	3	15
Unstable Home	3	15
Sexual Abuse by Sibling	2	10
Educational Neglect	1	5
Sexual Abuse Perpetrator Unknown	1	5
Substance Abuse by Child	1	5

Table 28a presents a summary of the risk data for sampled probable cause cases, and suggests that an average CAA case of this type involves just over 4 different risk factors.

Table 28a: Summary of Risk Factors in Sampled Probable Cause Cases	
Total Count of Risks	84
Total Unique Cases	20
Average Risks per Case	4.2

10 Day Hearing Cases

Table 29: Risks of Sampled 10 Day Hearing Cases		
Risk	**Count**	**Percent**
Abandonment	6	75
Child in State Custody	5	62
Child Mental/Developmental Limitations	1	12
DFCS Case	7	88
Emotional Abuse Exposure to Domestic Violence	1	12
Lack of Supervision	6	75
Lack of/Unstable Employment	2	25
Medical Neglect	1	12
Parent/Guardian Mental/Developmental Limitations	2	25
Privately Filed	1	12
Protective Order	2	25
Severe Injury to Child	2	25
Sexual Abuse Perpetrator Unknown	1	12
Substance Abuse by Parent	4	50
Unstable Home	4	50

Table 29a presents a summary of the risk data for sampled 10 day hearing cases, and indicates that an average CAA case of this type involves over 5.6 different risk factors.

Table 29a: Summary of Risks of Sampled 10 Day Hearing Cases	
Total Count of Risks	45
Total Unique Cases	8
Average Risks per Case	5.6

Adjudication Hearing Phase

Table 30: Risks of Sampled Adjudication Cases		
Risk	**Count**	**Percent**
Abandonment	8	35
Child and Parent/guardian conflict	2	9
Child in State Custody	10	43
Child Mental/Developmental Limitations	5	22
DFCS Case	14	61
Educational Neglect	2	9
Emotional Abuse Exposure to Domestic Violence	2	9
Emotional Abuse Other	1	4
Failure to Thrive	1	4
Lack of Supervision	16	70
Lack of/Unstable Employment	3	13
Medical Neglect	4	17
Parent/Guardian Mental/Developmental Limitations	4	17
Privately Filed	6	26
Protective Order	4	17
Severe Injury to Child	5	22
Sexual Abuse by Parent/Adult Relative	1	4
Sexual Abuse by Parental Friend	1	4
Sexual Abuse by Sibling	1	4
Substance Abuse by Parent	12	52
Unclean/Unsafe Housing	3	13
Unstable Home	7	30

Table 30a presents a summary of the risk data for sampled ten day hearing cases, and indicates that an average CAA case of this type involves approximately 5 different risk factors.

Table 30a: Summary of Risks of Sampled Adjudication Cases	
Total Count of Risks	112
Total Unique Cases	23
Average Risks per Case	4.9

Disposition Hearing Phase

Table 31: Risks of Sampled Disposition Cases		
Risk	**Count**	**Percent**
DFCS Case	12	100
Child in State Custody	9	75
Unstable Home	9	75
Lack of Supervision	7	58
Substance Abuse by Parent	6	50
Abandonment	5	42
Lack of/Unstable Employment	5	42
Parent/Guardian Mental/Developmental Limitations	5	42
Severe Injury to Child	4	33
Parent Discipline Uncontrolled	2	17
Protective Order	2	17
Sexual Abuse Perpetrator Unknown	2	17
Child Mental/Developmental Limitations	1	8
Educational Neglect	1	8
Emotional Abuse Other	1	8
Unclean/Unsafe Housing	1	8

Table 31a presents a summary of the risk data for sampled disposition cases, and indicates that an average CAA case of this type involves approximately 7 different risk factors.

Table 31a: Summary of Risks of Sampled Disposition Cases	
Total Count of Risks	84
Total Unique Cases	12
Average Risks per Case	7.0

Chapter 8. Time Study and Casework Standards

Mandates of the *Kenny A* Consent Decree and guidelines and standards of practice for Child Advocate Attorneys suggested by the American Bar Association, require attorneys to spend substantial amounts of time on a number of specific activities related to the deprivation case and representation of the child client. Each of the following sections addresses a specific mandated area of activity and presents the data from the workload study indicating the amount of time the Fulton County Child Advocate Attorneys spent on each activity during the study. Additionally, the data indicate the amount and type of resources needed by the Fulton County Child Advocate Attorneys in order to comply with the *Kenny A* standards and any internal or external barriers and obstacles to the Child Advocate Attorneys' compliance with the standards. Also included at the end of each Casework Standard is a sub-section, "Action Pending by Child Advocate Attorney Office." This sub-section indicates what activities are currently under consideration by the Director of the Fulton County Child Advocate Attorney Office and the governing Board. Upon approval, many of the referenced activities will require additional resources, attorney or staff training, and a period of implementation prior to the beginning of the compliance period. The implementation period will provide the accountability agent an opportunity to assess the effectiveness of the implemented activity and the impact on recommended caseloads for the Child Advocate Attorneys.

COUNSELING CLIENTS

Principles and Guidelines Applicable from *Kenny A* Consent Decree:

Guidelines

- **A-1**. Determine the facts of the case by interviewing the child, family members, caseworker, CASA volunteers, and others as necessary and appropriate.
- **A-5**. Meet with, observe, and establish and maintain a relationship with the child. Assess the child's needs and wishes with regard to the representation and the issues in the case, and explain the proceedings to the child according to the child's ability to understand.
- **B-12**. Explain to the child the disposition of his or her case.

Principles

11. Class member children are entitled to receive adequate, effective, and zealous legal representation at all stages of deprivation and termination of parental rights proceedings throughout the time they are subject to the jurisdiction of the Fulton County Juvenile Court.

3. Child Advocate Attorneys should establish an attorney-client relationship and maintain that relationship throughout the duration of the representation. The child's presence at court hearings should be decided in consultation with the child client. If the child client waives their presence for a court hearing or for a nonverbal, incompetent child client, the Child Advocate Attorney may, when deemed

appropriate, waive the child's presence on the Court record and should document the CAA file accordingly.

The ABA Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases Further Require:

A-3. Developmentally Appropriate. "Developmentally appropriate" means that the child's attorney should ensure the child's ability to provide client-based directions by structuring all communications to account for the individual child's age, level of education, cultural context, and degree of language acquisition.

B-1. Basic Obligations. The child's attorney should:

(5) Counsel the child concerning the subject matter of the litigation, the child's rights, the court system, the proceedings, the lawyer's role, and what to expect in the legal process.

B-4. Client Preferences. The child's attorney should elicit the child's preferences in a developmentally appropriate manner, advise the child, and provide guidance. The child's attorney should represent the child's expressed preferences and follow the child's direction throughout the course of litigation.

B-5. Child's Interests. The determination of the child's legal interests should be based on objective criteria as set forth in the law that are related to the purposes of the proceedings. The criteria should address the child's specific needs and preferences, the goal of expeditious resolution of the case so the child can remain or return home or be placed in a safe, nurturing, and permanent environment, and the use of the least restrictive or detrimental alternatives available.

D-2. Client Explanation. The child's attorney should explain to the client, in a developmentally appropriate manner, what is expected to happen before, during and after each hearing.

D-6. Whether Child Should Testify. The child's attorney should decide whether to call the child as a witness. The decision should include consideration of the child's need or desire to testify, any repercussions of testifying, the necessity of the child's direct testimony, the availability of other evidence or hearsay exceptions which may substitute for direct testimony by the child, and the child's developmental ability to provide direct testimony and withstand possible cross-examination. Ultimately, the child's attorney is bound by the child's direction concerning testifying.

D-7. Child Witness. The child's attorney should prepare the child to testify. This should include familiarizing the child with the courtroom, court procedures, and what to expect during direct and cross-examination and ensuring that testifying will cause minimum harm to the child.

E-2. Communicate Order to Child. The child's attorney should discuss the order and its consequences with the child.

General Findings:

A little less than 3% of CAAs time was spent counseling their clients in person, while another 0.3 % of CAAs time was spent counseling clients over the phone. Of the total time spent with major parties to a case, approximately 6.8% was spent with the child in the case. In addition, CAAs were asked to indicate for any particular activity whether or not specific persons were involved or present at the activity. For example, a child client might be present at a case negotiation or settlement conference or be part of the Investigations Key Parties activities.

Of the total time spent with involved parties to the recorded case activities approximately 6.8% of this time was spent with the child in the case. However, this represents only 3.5% of the total time reported by the participants in the time study.

Based on a close look at the data and on discussions with the time study participants, we discovered that not all of the participants coded their time with clients in the same manner. For example, some of the participants included a child as an involved party whenever they specified that they were counseling their clients and other participants did not check this option. Consequently, in order to get a more accurate estimate of the time the participants spent with child clients, we first identified the amount of time that was coded as "Counseling Clients" that was not also coded for the participation of the child as an involved party. We then added this figure to the minutes reported as being spent with the child as an involved party in order to arrive at a total number of minutes spent with the child clients as well as a percentage of the total available time during the time study (see Table 33).

Table 33: Estimate of Total Time Spent with Clients

Area	Minutes
Total Counseling Client Codes	2867
Total Counseling Client Codes included in Involved Person Coding	1187
Additional Time with Client Not Accounted for in Involved Persons Coding	1680
Time with Client Coded as "Involved Person"	3160
Total Time with Clients	4840
Total Time with Clients as a Percent of All Time Study Time	5.31%

Because one of the time study participants, the CAA Office Investigator, was not a Child Advocate Attorney, we also estimated the amount of time that this person spent with the child clients. (See Table 34 below).

Table 34: Estimate of Investigator's Time with Clients	
Area	**Minutes**
Total Counseling Client Codes	120
Total Counseling Client Codes Included in Involved Person Coding	107
Additional Time with Client Nnot Accounted For in Involved Persons Coding	13
Time with Client Coded as "Involved Person"	152
Total Time with Clients	165

By subtracting the Investigator's time with clients from the total time with clients and the Investigator's activity time from the total activity time, we were then able to estimate the amount of time that CAA in particular spent with child clients (see Table 35 below).

Table 35: CAA-Specific Time Spent with Child Clients	
Area	**Minutes**
Total Time w/o Investigator Time	86203
Total Child Contact Time w/o Investigator Time	4675
Percent of CAA-Specific Time Spent with Clients	5.42%

Specific Findings:

In order to attempt to identify the proportion of children who were counseled prior to a hearing, we divided the time study period into halves or two separate 2-week periods. Next, we identified the cases that went to a hearing during the second 2-week period. Then we performed a query on the activity reports to identify children whose hearings were in the second two week period who were also counseled during that period either in person or not in person. The results of this query, presented in Table 36, indicate that approximately a quarter of the children were counseled in the two week period prior to their hearing.

Table 36: Counseling Children Prior to Hearings	
Count of Eligible Children For Pre-Hearing Counseling	243
Count of Child Counseling Within 2 weeks prior to hearing	60
Percent of Eligible Children Counseled	25%

The amount of time CAAs spent counseling clients (in person or by phone) during any one period of time varied somewhat among the CAAs as is indicated in Table 37 and 38 below.

Table 37: Range of Time on Counseling Clients				
AdvocateID	**Records**	**Avg. Time**	**Maximum Time**	**Minimum Time**
53426	34	16	50	2
53471	21	12	60	1
53972	6	7	10	4
54010	26	11	45	2
54067	1	5	5	5
54091	4	14	30	1
54185	14	3	8	1
54282	12	12	30	5
54453	4	14	25	7
58386	3	23	42	13
63195	7	19	45	4

Table 38: Time on Counseling Clients by Advocate	
Advocate	**Minutes**
53426	929
53471	466
Not Specified	90
53972	86
54010	431
54091	109
54185	176
54282	153
54453	162
58386	120
63195	139
54067	5

Barriers or Obstacles to Meeting Principles, Guidelines and ABA Standards:

Counseling Clients is a time intensive attorney activity requiring special skill sets for the Child Advocate Attorney.

As a result of data gathered during focus group sessions with the Child Advocate Attorneys and other juvenile court participants, observation of deprivation hearings, review of the Child Advocate Attorney case files, and analysis of data collected during the time study the following internal and external factors were identified as barriers or obstacles for *Kenny A* compliance by the Child Advocate Attorneys:

Internal Factors

- Travel costs reimbursements
- Specialized training in building the child client relationship

- Specialized training in child client interview skills
- Attorney manpower resources in relation to the number of child clients needing counseling
- Standardized office policies with expectations on topic of client counseling

External Factors Regarding DFCS

- Difficulty in locating the child client's placement information
- Client location outside metro area
- DFCS unwillingness to bring child clients to court for hearings

External Factors Regarding Juvenile Court

- Court calendaring practices have attorneys constantly in the courtroom waiting for their case to be called

Recommendations:

Given the current practices of the Fulton County Child Advocate Attorneys, internal and external barriers, the following recommendations are made:

Internal Recommendations

- Client location outside metro area
    - Travel costs reimbursements
    - Sufficient attorney time to make visits to clients
    - Flexible hours for attorneys to make visits to clients after regular hours
- Specialized training for attorneys in building the child client relationship
- Specialized training for attorneys in child client interview skills
- Increase attorney manpower resources in relation to the number of child clients needing counseling
- Standardized office policies with expectations on topic of client counseling
- Increase the number of investigators

External Recommendations Regarding DFCS

- Child Client location
    - DFCS should keep Child Advocate Attorneys informed as to the child's placement location within 24 hours of the child's placement or placement changes; use of email or access to DFCS placement data base
- DFCS unwillingness to bring child clients to court for hearings
    - Enforceable subpoena power for child clients

External Recommendations Regarding Juvenile Court

- Court Calendaring:
  - Implement a "one judge – one family"model for deprivation cases
  - Set specific days for deprivation cases only and have specific Child Advocate Attorneys for each specific day
  - Meaningful calendar calls with cases being ordered by expected time to handle the case

Actions Pending by Child Advocate Attorneys' Office Since Workload Study:

- Standardized office policies with expectations on topic of client counseling
- Training opportunities are being developed and scheduled
- Request for a staff social worker has been made

REVIEWING DOCUMENTS

Principles and Guidelines Applicable from *Kenny A* Consent Decree:

Guidelines:

A. Initial Case Responsibilities:
Where appropriate and necessary to the case, obtain and review the court files and agency records of the child and any siblings; school records; medical records; social services records; psychiatric, psychological, and drug and alcohol records; law enforcement records; photographs; audio/videotapes and other physical evidence.

B. Preparation and Representation at Hearings

11. Adequately maintain case file.

*Principles***:**

1. Class member children are entitled to receive adequate, effective, and zealous legal representation at all stages of deprivation and termination of parental rights proceedings throughout the time they are subject to the jurisdiction of the Fulton County Juvenile Court.
2. Child Advocate Attorneys should perform the basic tasks any trial lawyer would, including obtaining all court filings, attending all court appearances, filing motions, and being an active participant in all hearings and settlement discussions.
4. Child Advocate Attorneys should investigate all cases through formal and informal discovery and other means, including updated investigations before all review hearings and other stages of a deprivation case.

The ABA Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases Further Require:

C-2. Investigate. To support the client's position, the child's attorney should conduct thorough, continuing, and independent investigations and discovery which may include, but should not be limited to:

. (1) Reviewing the child's social services, psychiatric, psychological, drug and alcohol, medical, law enforcement, school, and other records relevant to the case;

. (2) Reviewing the court files of the child and siblings, case-related records of the social service agency and other service providers;

(5) Obtaining necessary authorizations for the release of information;

(7) Reviewing relevant photographs, video or audio tapes and other evidence.

General Findings:

The workload study accounts for the time and the cases on which a document review was conducted by the Child Advocate Attorneys. The data indicate a substantial amount of time was spent reviewing documents, approximately 9% of the total Child Advocate Attorney work time. The workload study did not differentiate what specific documents the Child Advocate Attorneys reviewed. Of the 1254 cases worked on in this period, the Child Advocate Attorneys reported reviewing document in 47% of the cases.

Specific Findings:

The workload study did not afford a direct answer to the question of whether the documents reviewed by the Child Advocate Attorneys included the broad range of documents required by the guidelines, principles and standards or whether such documents were in the Child Advocate Attorney case file or whether the document was in the control of an outside agency. However, the presence and prevalence of attorney contacts with parties that would have such documents may be an indicator of the attorneys' actions with regard to review of these documents.

Table 39 presents the time and percent of all available time that the Child Advocate Attorneys spent with parties who might be able to provide the kinds of documents that would be relevant to meeting this standard. Overall, Child Advocate Attorneys spent approximately 8% of their time with parties who could provide relevant documents.

Table 39: Actions and Interaction with Parties Providing a Breadth of Non-Legal Information		
Activity	Minutes	Percent
Investigations Key Parties		
Time with DFCS (Caseworker, CPS and Supervisor)	3228	3.5%
Time with Other Service Professionals (Medical, Psychologist, Counselor, Teacher)	823	0.9%
INVESTIGATION Staffing	1486	1.6%
INVESTIGATION Medical	608	0.7%
INVESTIGATION PsychoSocial	424	0.5%
INVESTIGATION Expert Other	189	0.2%
INVESTIGATION Educational	172	0.2%
INVESTIGATION Group Meeting	83	0.1%
INVESTIGATION Law Enforcement	122	0.1%
Summary		
Investigation Non DFCS	2421	3%
Only Partial DFCS	1486	2%
DFCS	3228	4%

Barriers or Obstacles to Meeting Principles, Guidelines and ABA standards:

As a result of data gathered during focus group sessions with the Child Advocate Attorneys and other juvenile court participants, observation of deprivation hearings, review of the Child Advocate Attorney case files, and analysis of data collected during the time study, the following factors were identified as barriers or obstacles for *Kenny A* compliance by the Child Advocate Attorneys:

Internal Factors

- Written office policies and standards of practice for attorneys with detailed directions for achieving this standard
- Uniform procedures for Child Advocate Attorneys to document the activity of document review and what documents were considered

External *Factors Regarding DFCS*

- DFCS refusal to share relevant documentary evidence in their control, such as the Comprehensive Child and family Assessment (CCFA)

Recommendations:

Internal Recommendations

- Development and implementation of written office policies and standards of practice for attorneys with detailed directions for achieving this standard

- Uniform procedures for Child Advocate Attorneys to note the activity of document review in their case files
- Forms for Release of Information
- A computer based case-tracking software system which will assist in compliance for these standards
- Standing Discovery Order with enforcement mechanisms
- More investigator staff to locate and obtain relevant documentary evidence

External Recommendations Regarding DFCS

- DFCS agree to the sharing of relevant documentary evidence in their control, such as the Comprehensive Child and family Assessment (CCFA)

Actions Pending by Child Advocate Attorneys' Office Since Workload Study:

- Written office policies and standards of practice for attorneys with detailed directions for achieving this standard have been created
- Uniform procedures for Child Advocate Attorneys to notate document reviews and which documents were considered have been standardized for the office
- A computer based case-tracking software system which will assist in compliance for this standard

CONTACTS WITH LAWYERS

Principles and Guidelines Applicable from *Kenny A* Consent Decree:

Guidelines

A-3. Initial Case Responsibilities:
Where appropriate and necessary to the case, contact the attorney(s) for the biological parents, and other persons who are respondents to the case.

Principles

1. Class member children are entitled to receive adequate, effective, and zealous legal representation at all stages of deprivation and termination of parental rights proceedings throughout the time they are subject to the jurisdiction of the Fulton County Juvenile Court.

The ABA Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases Further Require:

B-1. Basic Obligations. The child's attorney should:
(3) Inform other parties and their representatives that he or she is representing the child and expects reasonable notification prior to case conferences, changes of

placement, and other changes of circumstances affecting the child and the child's family.

C-2. Investigate.
(3) Contacting lawyers for other parties and non-lawyer *guardian ad litem* or court-appointed special advocates (CASA) for background information.

General Findings:

The workload study data indicate that 46% of the cases involved interactions with other attorneys.

Specific Findings:

Table 40 presents the count and percentages of cases where the Child Advocate Attorneys had some interaction with a legal representative. This data does not include reports where the Child Advocate Attorneys were interacting with other Child Advocate Attorneys. The data indicate that nearly half of the cases involved such interactions with other attorneys. This finding may appear puzzling in that one would probably expect for the Child Advocate Attorneys to have contact with at least a Special Assistant Attorney General (SAAG) on every deprivation case. In fact, we would probably find that Child Advocate Attorneys do have contacts with SAAGs on all or nearly all deprivation cases. However, in the time study we report on all case activities during the period of the study. Some of these activities may take place before and after interactions with SAAGs and other attorneys, and some activities simply represent files or document reviews that one would not expect (at least at that point in the case) to include interaction with other attorneys or advocates.

Table 40: Cases with Interactions with Some Legal Representation	
Count of Cases with Activity Reports	1254
Count of Cases where Child Advocate Attorneys report interaction with Mother, Father or Guardian Attorney, SAAG, Other Attorney, or CASA	578
Percent of Cases where Interaction Occurred	46%

Table 41 presents the available time study data on the Child Advocate Attorneys' interactions with attorneys and other quasi-legal representatives such as Court Appointed Special Advocates (CASA). The reader is cautioned that the time reported by Child Advocate Attorneys as being spent with one party (e.g., SAAG) may also be time that was spent with another party at the same meeting or discussion. Nevertheless, in terms of total time the Child Advocate Attorneys appear to be spending a fair proportion of their time with legal representatives to the cases.

Table 41: Interaction with Attorneys and Other Representatives of the Legal System			
Role	**Minutes**	**Percent of Total Time**	**Percent of Time w/ Major Parties**
Time with SAAG	6343	7.0%	13.6%
Time with Mother Attorney	4485	4.9%	9.6%
Time with CASA	2292	2.5%	4.9%
Time with Father Attorney	1723	1.9%	3.7%
Time with Guardian Attorney	170	0.2%	0.4%
Time with Other Attorney	990	1.1%	2.1%
TOTAL	16003	17.6%*	34%

* There is some double counting in this figure.

Barriers or Obstacles to Meeting Principles, Guidelines and ABA standards:

As a result of data gathered during focus group sessions with the Child Advocate Attorneys and other juvenile court participants, observation of deprivation hearings, review of the Child Advocate Attorney case files, and analysis of data collected during the time study, the following factors were identified as internal and external barriers or obstacles for *Kenny A* compliance by the Child Advocate Attorneys:

Internal Factors

- The large number of cases and children assigned to each child advocate attorney, excessive caseload size
- No time for or policy directing case staffings with opposing attorneys

External Factors

- The number of SAAGs is limited and the Child Advocate Attorneys report difficulty in accessing the SAAGs even on court days because the particular SAAG is in another courtroom
- The same is true for parent attorneys with the addition that the parent attorneys are appointed by the judges hearing the case.
- Case staffings and pretrials with the attorneys are rare prior to the day of a court hearing
- Court Calendaring system

Recommendations:

Internal Recommendations

- Regular scheduling of case staffings with the other attorneys

External Recommendations Regarding DFCS

- Additional SAAGs need to be appointed

External Recommedations Regarding Juvenile Court

- Parent attorney appointment should not be under the direct control of the judge but rather an independent agency, such as the public defender
- A One Judge – One Family calendar for deprivation cases

Action Pending by Child Advocate Attorneys' Office Since Workload Study:

None

CONFERENCES AND STAFFING

Principles and Guidelines Applicable from *Kenny A* Consent Decree:

Guidelines

A. Initial Case Responsibilities:

4. Where appropriate and necessary to the case, contact other individuals involved with the child such as school personnel, foster parents, neighbors, relatives, medical and mental health providers, family friends and any other potential witnesses or sources of information.

B. Preparation for and Representation at Hearings:

7. Consult with other persons knowledgeable about the child and the child's family to identify the child's interests, current and future placements that would be best for the child, and necessary services for the child.
8. Where necessary and appropriate for legal representation, attend all meetings involving the child.
9. When appropriate, collaborate with the CASA to provide the best possible representation for the child.

Principles

1. Class member children are entitled to receive adequate, effective, and zealous legal representation at all stages of deprivation and termination of parental rights proceedings throughout the time they are subject to the jurisdiction of the Fulton County Juvenile Court.
5. Child Advocate Attorneys should be aware of all staffings, administrative reviews, family team meetings, special education conferences, and all other non-deprivation proceedings involving the child and should attend such meetings to the extent that the Child Advocate Attorney, in the exercise of considered professional judgment, deems necessary or desirable.

The ABA Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases Further Require:

B-1. Basic Obligations.
The child's attorney should:
(2) Participate in depositions, negotiations, discovery, pretrial conferences, and hearings;

C-2. Investigate.
(8) Attending treatment, placement, administrative hearings, other proceedings, involving legal issues, and school case conferences or staffings concerning the child as needed.

General Findings:

The workload study data indicate the Child Advocate Attorneys spend less than 2% of their available time meeting this standard.

Specific Findings:

Table 42 summarizes the amount of time and percentage of time that Child Advocate Attorneys were involved in either a DFCS staffing or other group meeting that was specifically designed for the discussion of a child's challenges and issues.

Table 42: Actions and Interaction with Parties Providing a Breadth of Non-Legal Information

Activity	Minutes	Percent
INVESTIGATION Staffing	1486	1.6%
INVESTIGATION Group Meeting	83	0.1%
Total	1569	1.7%

Barriers or Obstacles to Meeting Principles, Guidelines and ABA standards:

As a result of data gathered during focus group sessions with the Child Advocate Attorneys and other juvenile court participants, observation of deprivation hearings, review of the Child Advocate Attorney case files, and analysis of data collected during the time study, the following factors were identified as barriers or obstacles for *Kenny A* compliance by the Child Advocate Attorneys:

Internal Factors

- Given the number of child clients, other duties in representing the children and the current court calendar, Child Advocate Attorneys report they have insufficient time to attend these meeting even if they were aware of the meetings

External Factors

- Child Advocate Attorneys report difficulty in meeting this standard due to insufficient time and lack of information as to the planning, timing or location of such conferences or staffings
- DFCS does not inform the Child Advocate Attorneys as to the time or location of the Family Team Meeting (FTM) or the Multidisciplinary Team Meeting (MDT) and DFCS takes the position the Child Advocate Attorneys are not invited to these meetings
- When invited to these meetings, CAAs report that they are held during their court days and they are therefore unable to attend
- Regular case staffings are not scheduled with DFCS or SAAGs

Recommendations:

Internal Recommendations

- Improve communication and notice from DFCS to the Child Advocate Attorneys regarding meetings or staffings concerning the well-being of the child
- Establish regular case staffings between DFCS and Child Advocate Attorneys
- Child Advocate Attorneys should be more proactive in asserting their desire to attend these meetings
- Additional investigator staff

External Recommendations Regarding DFCS

- Improve communication and notice from DFCS to the Child Advocate Attorneys regarding meetings or staffings concerning the well-being of the child
- Establish regular case staffings between DFCS and Child Advocate Attorneys
- Improve communication and notice from DFCS to the Child Advocate Attorneys regarding meetings or staffings concerning the well-being of the child
- Establish regular case staffings between DFCS and Child Advocate Attorneys
- DFCS should not prohibit the Child Advocate Attorney or the investigator from attending these meetings

External Recommendations Regarding Juvenile Court

- Changes in the deprivation court calendaring to reduce the number of in-court days for each Child Advocate Attorney

Actions Pending by Child Advocate Attorneys' Office Since Workload Study:

None.

MEETING WITH PARENTS/LEGAL GUARDIANS/CARETAKERS

Principles and Guidelines Applicable from *Kenny A* Consent Decree:

Guidelines

A. Initial Case Responsibilities
1. Determine the facts of the case by interviewing the child, family members, caseworker, CASA volunteers, and others as necessary and appropriate.
3. Where appropriate and necessary to the case, contact the attorney(s) for the biological parents, and other persons who are respondents to the case.

Principles

1. Class member children are entitled to receive adequate, effective, and zealous legal representation at all stages of deprivation and termination of parental rights proceedings throughout the time they are subject to the jurisdiction of the Fulton County Juvenile Court.

The ABA Standards of Practice for Lawyers Who Represent Children In Abuse and Neglect Cases Further Require:

C-2. Investigate.
(4) Contacting and meeting with the parents/legal guardians/caretakers of the child, with permission of their lawyer.

General Findings:

The workload study data indicate Child Advocate Attorneys met with parents, guardians or caretakers in 34% of their deprivation cases. The location of the meetings was not recorded.

Specific Findings:

The time study is not able to answer the question of whether or not the attorneys of the parents/legal guardians/caretakers in the case gave permission for these parties to meet with the Child Advocate Attorneys. The workload study data indicate the percentage of cases where there was some contact with these parties and/or their legal representatives and the amount of time that was spent with these parties.

In this regard, Table 43 outlines the count and percentage of cases that included some interaction with Family or Guardian legal representatives.

Table 43: Cases with Interactions with Family or Guardian Legal Representation	
Count of Cases with Activity Reports	1254
Count of Cases where CAAs report interaction with Mother, Father, or Guardian Attorney	327
Percent of Cases where Interaction with Family or Guardian Representation is Reported	26%

Table 44 presents the number and percentage of cases where there is some contact with family, guardian, or caretaker parties. It is perhaps worth noting that the percentage of cases where this kind of family contact occurs is larger than the percentage of case where legal representative contact occurs.

Table 44: Cases with Interactions with Family or Guardian or Caretaker Parties	
Count of Cases with Activity Reports	1254
Count of Cases where CAAs report interaction with at least one Family, Guardian, or Caretaker Parties	428
Percent of Cases where Interaction is Reported	34%

Barriers or Obstacles to Meeting Principles, Guidelines and ABA standards:

As a result of data gathered during focus group sessions with the Child Advocate Attorneys and other juvenile court participants, observation of deprivation hearings, review of the Child Advocate Attorney case files, and analysis of data collected during the time study, the following factors were identified as barriers or obstacles for *Kenny A* compliance by the Child Advocate Attorneys:

Internal Factors

- Child Advocate Attorneys report insufficient available time to fully interact with all parties and interested persons in the deprivation actions
- The large number of open cases for each Child Advocate Attorney makes interaction with other parties and interested persons difficult to achieve without sufficient internal support and staff investigators

External Factors

- Child Advocate Attorneys report these time constraints are the direct result of the current court calendar system which has the attorneys in court or waiting for a hearing during the majority of their work time

Recommendations:

Internal Recommendations

- Additional investigator staff to make these contacts when the attorney is unavailable
- Protocol and standards for file documentation of these interactions
- Travel compensation if travel is required for these interactions

External Recommendations Regarding Juvenile Court

- Changes in the deprivation court calendaring to reduce the number of in-court days for each Child Advocate Attorney and reduce Child Advocate Attorney waiting time

Actions Pending by Child Advocate Attorneys' Office Since Workload Study:

None.

HOME AND PLACEMENT VISITS

Principles and Guidelines Applicable from Kenny A Consent Decree:

Guidelines

A. Initial Case Responsibilities:
   5. Meet with, observe, and establish and maintain a relationship with the child. Assess the child's needs and wishes with regard to the representation and the issues in the case, and explain the proceedings to the child according to the child's ability to understand.
   6. Maintain available information concerning the child's location and contact information for the child and other necessary parties or witnesses readily accessible in the child's file. Take reasonable steps to ensure that the placement and contact information in the Child Advocate Attorney's file is current.

B. Preparation for and Representation at Hearings:
   7. Consult with other persons knowledgeable about the child and the child's family to identify the child's interests, current and future placements that would be best for the child, and necessary services for the child.

Principles

1. Class member children are entitled to receive adequate, effective, and zealous legal representation at all stages of deprivation and termination of parental rights proceedings throughout the time they are subject to the jurisdiction of the Fulton County Juvenile Court.

4. Child Advocate Attorneys should investigate all cases through formal and informal discovery and other means, including updated investigations before all review hearings and other stages of a deprivation case.

The ABA Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases Further Require:

C. ACTIONS TO BE TAKEN

C-1. Meet With Child. Establishing and maintaining a relationship with a child is the foundation of representation. Therefore, irrespective of the child's age, the child's attorney should visit with the child prior to court hearings and when apprised of emergencies or significant events impacting on the child.

C-2.Investigate.

(6) Interviewing individuals involved with the child, including school personnel, child welfare case workers, foster parents and other caretakers, neighbors, relatives, school personnel, coaches, clergy, mental health professionals, physicians, law enforcement officers, and other potential witnesses;

General Findings:

During the workload study, 43 children were visited by the Child Advocate Attorneys. In percentage terms, approximately 3.4 percent of the 1254 children whose cases were worked on during the study period received either a home or a placement visit. Fifteen children were visited more than one time and one child was linked to six visit reports.

Specific Findings:

During the workload study, over half a percent of the available Child Advocate Attorney time was spent conducting home investigations and a little less than half a percent of their time was spent conducting placement visits. A total of 6 Child Advocate Attorneys reported conducting one or the other of these types of visits. The total time on these visits was approximately 921 minutes or 15 hours and 35 minutes which translates into approximately an hour and a half a month per Child Advocate Attorney. However, it should be recognized that a fair amount of the investigation travel time (49 hours) was spent in travel for home and placement visits.

Barriers or Obstacles to Meeting Principles, Guidelines and ABA standards:

Visiting the child client in their placement, observing the child, and obtaining information from the placement provider are essential duties for the Child Advocate Attorney to obtain a clear understanding of the child's needs, whether these needs are being met during the child's out of home placement, establishment of the attorney client relationship and development of the child's position. Placement visits and client counseling probably make up the most time consuming portions of the Child Advocate Attorneys' available time. They also require special skills for the Child Advocate Attorney or the investigator.

As a result of data gathered during focus group sessions with the Child Advocate Attorneys and other juvenile court participants, observation of deprivation hearings, review of the Child Advocate Attorney case files, and analysis of data collected during the time study the following factors were identified as internal and external barriers or obstacles for *Kenny A* compliance by the Child Advocate Attorneys:

Internal Factors

- Travel costs reimbursements needed
- Lack of Specialized training in building the child client relationship, elements of home visits, child client interview skills, knowledge of available resources

- Insufficient Attorney manpower resources in relation to the number of child clients requiring placement visits.
- No standardized office policies with expectations on topic of client home visits

External Factors Regarding DFCS

- Difficulty in locating the child client's placement information
- Client location outside metro area

External Factors Regarding Juvenile Court

- Court calendaring practices have attorneys constantly in the courtroom waiting for their case to be called

Recommendations:

Given the current practices of the Fulton County Child Advocate Attorneys, as well as external and internal barriers, the following recommendations are made:

Internal Recommendations

- Client location outside metro area
    - Travel costs reimbursements
    - Sufficient attorney time to make visits to clients
    - Flexible hours for attorneys to make visits to clients after regular hours
- Specialized training for attorneys in building the child client relationship, child client interview skills, and resource identification and referral
- Increase attorney manpower resources in relation to the number of child clients needing counseling
- Standardized office policies with expectations on topic of client home visits
- Increase number of investigators

External Recommendations Regarding DFCS

- Child Client Location
    - DFCS should keep Child Advocate Attorneys informed as to the child's placement location within 24 hours of the child's placement or placement changes; use of email or access to DFCS placement data base

External Recommendations Regarding Juvenile Court

- Court Calendaring
    - Implement a "One Judge – One Family" model for deprivation cases
    - Set specific days for deprivation cases only and have specific Child Advocate Attorneys for each specific day

- Meaningful calendar calls with cases being ordered by expected time to handle the case

Actions Pending by Child Advocate Attorneys' Office Since Workload Study:

- Standardized office policies with expectations on topic of client counseling
- Training opportunities are being developed and scheduled
- Request for a staff social worker has been made

FILE PLEADINGS

Principles and Guidelines Applicable from Kenny A Consent Decree:

Guidelines

B. Preparation for and Representation at Hearings
1. Participate as an attorney at all hearings concerning the child.
2. Make informed recommendations for specific and clear orders for evaluation, services, and treatment for the child and the child's family.
3. File all necessary pleadings and papers.

Principles

1. Class member children are entitled to receive adequate, effective, and zealous legal representation at all stages of deprivation and termination of parental rights proceedings throughout the time they are subject to the jurisdiction of the Fulton County Juvenile Court.

2. Child Advocate Attorneys should perform the basic tasks any trial lawyer would, including obtaining all court filings, attending all court appearances, filing motions, and being an active participant in all hearings and settlement discussions.

Consent Decree

7. ACCOUNTABILITY
   B. Fulton County shall ensure that all actions required under this Consent Decree for Plaintiff class members are documented within the individual Child Advocate Attorney case file of each class member on a timely and accurate basis.

The ABA Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases Further Require:

C-3. File Pleadings. The child's attorney should file petitions, motions, responses or objections as necessary to represent the child. Relief requested may include, but is not limited to:

(1) A mental or physical examination of a party or the child;
(2) A parenting, custody, or visitation evaluation;

(3) An increase, decrease, or termination of contact or visitation;
(4) Restraining or enjoining a change of placement;
(5) Contempt for non-compliance with a court order;
(6) Termination of the parent-child relationship;
(7) Child support;
(8) A protective order concerning the child's privileged communications or tangible or intangible property;
(9) Request services for child or family; and
(10) Dismissal of petitions or motions.

D-3. Motions and Objections. The child's attorney should make appropriate motions, including motions *in limine* and evidentiary objections, to advance the child's position at trial or during other hearings. If necessary, the child's attorney should file briefs in support of evidentiary issues. Further, during all hearings, the child's attorney should preserve legal issues for appeal, as appropriate.

General Findings:

During the workload study, the data indicate Child Advocate Attorneys made at least one motion in 29% of the cases and attorney time spent on motions was 6.24% of the attorney's available time. Due to the nature of the practice, most Child Advocate Attorney motions are made orally in court during a hearing.

Specific Findings:

Table 45 presents the count and percentage of cases in which the Child Advocate Attorneys reported filing or working on a motion that was considered a separate case phase (e.g., a Motion for reunification or other motion).

Table 45: Cases with Primary Case Phase as a Motion	
Count of Cases with Activity Reports	1254
Count of Cases where CAAs Reported a Motion Activity	216
Percent of Cases where Motion is Reported	17%

Table 46: Time on Motions as a Primary Task		
Detailed Task	**Time in Minutes**	**Percent**
Motion Other	4668	5.12
Motion for Reunification	280	0.31
Total	4948	5.43

In addition Child Advocate Attorneys were asked to report on activities related to motions that are part of a major case phase (e.g., Adjudication). The number of cases where a motion of this type is indicated is show in Table 47 below.

Table 47: Cases with Secondary Activity Coded as a Motion	
Count of Cases with Activity Reports	1254
Count of Cases where CAAs Reported a Motion Activity	142
Percent of Cases where Motion is Reported	11%

Table 48: Time on Motions as a Secondary Task		
Detailed Task	**Time in Minutes**	**Percent**
MOTION Continuance	400	0.44
MOTION Other	230	0.25
MOTION Modify Custody	110	0.12
Total	740	0.81

Table 49: Summary of Motion Data	
Percent of Cases where Some Motion is Reported	29%
Total Time Spent on Motions as a Percent of Available Time	6.24%

It should be recognized that there are a number of other pleading activities that are not captured in these figures. Some of these activities are discussed in the section dealing with Hearings.

Barriers or Obstacles to Meeting Principles, Guidelines and ABA standards:

As a result of data gathered during focus group sessions with the Child Advocate Attorneys and other juvenile court participants, observation of deprivation hearings, review of the Child Advocate Attorney case files, and analysis of data collected during the time study, the following internal and external factors were identified as barriers or obstacles for *Kenny A* compliance by the Child Advocate Attorneys:

Internal Factors

- Lack of attorney training on available motions and perfecting the hearing record
- Lack of attorney training on appropriate file documentation of motions made during court hearings

External Factors Regarding Juvenile Court

- Negative judicial response to assertive child advocacy and litigation strategy

Recommendations:

Internal Recommendations

- Increase attorney training opportunities on motions practice in juvenile court
- Increase attorney training opportunities on perfecting the hearing record
- Attorney training on appropriate file documentation of motions made during court hearings is needed
- Create a motions bank available to the Child Advocate Attorneys
- Develop a case activity tracking system or forms which aid in the documentation of hearing activity

Actions Pending by Child Advocate Attorneys' Office Since Workload Study:

Child Advocate Attorney training is being developed and scheduled.

MARSHALLING RESOURCES

Principles and Guidelines Applicable from Kenny A Consent Decree:

Guidelines

B. Preparation for and Representation at Hearings
   2. Make informed recommendations for specific and clear orders for evaluation, services, and treatment for the child and the child's family.
   7. Consult with other persons knowledgeable about the child and the child's family to identify the child's interests, current and future placements that would be best for the child, and necessary services for the child.

Principles

1. Class member children are entitled to receive adequate, effective, and zealous legal representation at all stages of deprivation and termination of parental rights proceedings throughout the time they are subject to the jurisdiction of the Fulton County Juvenile Court.
2. Child Advocate Attorneys should perform the basic tasks any trial lawyer would, including all court filings, attending all court appearances, ciling motions, and geing an active participant in all hearings and settlement discussions.
6. Child Advocate Attorneys should advocate for the service needs of their clients and their client's families to further their client's safety, permanency, and well-being.

The ABA Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases Further Require:

C-4. Request Services. Consistent with the child's wishes, the child's attorney should seek appropriate services (by court order if necessary) to access entitlements, to

protect the child's interests, and to implement a service plan. These services may include, but not be limited to:
(1) Family preservation-related prevention or reunification services;
(2) Sibling and family visitation;
(3) Child support;
(4) Domestic violence prevention, intervention, and treatment;
(5) Medical and mental health care;
(6) Drug and alcohol treatment;
(7) Parenting education;
(8) Semi-independent and independent living services;
(9) Long-term foster care;
(10) Termination of parental rights action;
(11) Adoption services;
(12) Education;
(13) Recreational or social services; and
(14) Housing.

C-5. Child With Special Needs. Consistent with the child's wishes, the child's attorney should assure that a child with special needs receives appropriate services to address the physical, mental, or developmental disabilities. These services may include, but should not be limited to:
(1) Special education and related services;
(2) Supplemental security income (SSI) to help support needed services;
(3) Therapeutic foster or group home care; and
(4) Residential/in-patient and out-patient psychiatric treatment.

General Findings:

During the workload study, the Child Advocate Attorneys made referrals for services in 4% of the cases.

Specific Findings:

As Table 50 indicates, less than 1 percent of the Child Advocate Attorneys' time was spent on referrals to service providers.

Table 50: Time Spent on Service Referrals

Detailed Task	Time in Minutes	Percent
Services Referral	534	0.59

Additionally, Child Advocate Attorneys reported making service referrals in only about 4% of all the cases where there was some Child Advocate Attorney case activity (See Table 51 below). This relatively low percentage of cases with service referrals may be explained in part by a tendency for Child Advocate Attorneys to make referrals informally (e.g., through

general contacts with DFCS caseworkers which would be documented as a different activity) rather than directly to a service provider.

Table 51: Cases with Service Referrals	
Count of Cases with Activity Reports	1254
Count of Cases where CAAs Reported Making a Service Referral	53
Percent of Cases where Referral is Reported	4%

CAAs varied considerably with regard to the number of times they reported making a service referral. Table 52 below presents the number, average, maximum and minimum time spent making service referrals. It should be recognized that only 7 out of 10 advocates indicated making a referral.

Table 52: Range of Time on Services Referrals				
AdvocateID	**Records**	**Avg. Time**	**Maximum Time**	**Minimum Time**
53471	3	12	20	2
53972	2	22	25	20
54010	3	6	10	5
54185	5	6	20	2
54282	23	7	20	1
58386	3	15	20	8
63195	2	15	15	15

Barriers or Obstacles to Meeting Principles, Guidelines and ABA standards:

As a result of data gathered during focus group sessions with the Child Advocate Attorneys and other juvenile court participants, observation of deprivation hearings, review of the Child Advocate Attorney case files, and analysis of data collected during the time study, the following factors were identified as are barriers or obstacles for *Kenny A* compliance by the Child Advocate Attorneys:

Internal Factors

- Lack of knowledge of available resources for children and families outside of DFCS
- Child Advocate Attorney position/belief that DFCS should be making the referrals to services
- Lack of documentation of informal referrals
- Need for establishment of network of service providers with a referral protocol for the Child Advocate Attorneys

- Documentation of formal referral
- Lack of knowledge the child or family needs a referral due to insufficient investigation, insufficient contact with child or their family

Recommendations:

Internal Recommendations

- Build stronger relations with service providers and a network of referral resources
- Improve use of CASA and help to develop more CASA volunteers
- Develop training on available resources and how to access the resources
- Increase contact with family and child to identify the need for referrals to outside resources

Actions Pending by Child Advocate Attorneys' Office Since Workload Study:

None.

NEGOTIATIONS AND MEDIATION

Principles and Guidelines Applicable from Kenny A Consent Decree

Guidelines

A. Initial Case Responsibilities
   1. Determine the facts of the case by interviewing the child, family members, caseworker, CASA volunteers, and others as necessary and appropriate.

B. Preparation for and Representation at Hearings
   6. Promote a cooperative resolution of the matter.

Principles

1. Class member children are entitled to receive adequate, effective, and zealous legal representation at all stages of deprivation and termination of parental rights proceedings throughout the time they are subject to the jurisdiction of the Fulton County Juvenile Court.

2. Child Advocate Attorneys should perform the basic tasks any trial lawyer would, including obtaining all court filings, attending all court appearances, filing motions, and being an active participant in all hearings and settlement discussions.

The ABA Standards of Practice for Lawyers Who Represent Children In Abuse and Neglect Cases further require:

C-6. Negotiate Settlements. The child's attorney should participate in settlement negotiations to seek expeditious resolution of the case, keeping in mind the effect of continuances and delays on the child. The child's attorney should use suitable mediation resources.

General Findings:

During the workload study, Child Advocate Attorneys reported mediation or negotiation activities in 5% of the cases and less than 1% of the Child Advocate Attorney time was spent on mediation or negotiation.

Specific Findings:

Table 53: Cases Involving Mediation or Negotiation	
Count of Cases with Activity Reports	1254
Count of Cases where CAAs Reported Involvement	62
Percent of Cases where Involvement is Reported	5%

Table 54: Time Spent on Mediation or Negotiation		
Task	**Time in Minutes**	**Percent**
Mediation	61	0.07
NEGOTIATION Conference	276	0.3
NEGOTIATION Informal	399	0.44
Total	736	0.81

Barriers or Obstacles to Meeting Principles, Guidelines and ABA standards:

As a result of data gathered during focus group sessions with the Child Advocate Attorneys and other juvenile court participants, observation of deprivation hearings, review of the Child Advocate Attorney case files, and analysis of data collected during the time study the following factors were identified as internal and external barriers or obstacles for *Kenny A* compliance by the Child Advocate Attorneys:

Internal Factors

- Attorney training specific to mediation and negotiation skills is needed.
- Child Advocate Attorneys need sufficient time and resources to complete thorough investigation of the facts of a case, available resources or options, and development

of the child client's position in order to effectively mediate or negotiate the deprivation case.
- Effective Child Advocate Attorney trial skills promote a stronger position from which to mediate or negotiate the case. Additional training to enhance trial skills is needed.

External Factors Regarding DFCS and Juvenile Court

- Lack of training for all stakeholders, including the judiciary, on the effectiveness and potential use of mediation.
- Additional time for the parties and their attorneys to mediate and negotiate can be achieved through improved one judge one family calendaring, time specific scheduling of cases, and additional attorney and investigator resources.
- Recognition and acknowledgment by the court, judges and other interested parties that the child is a party to the deprivation action.

Recommendations:

Internal Recommendations

- Thorough investigation of the facts of a case, available resources or options, and development of the child client's position are essential to effective mediation and negotiation, therefore Child Advocate Attorneys need sufficient time and resources to complete these tasks.
- The Office of the Child Advocate Attorney should continue working with the court and other stakeholders to improve the case calendaring system in order to achieve increased efficiencies.

External Recommendations Regarding DFCS and Juvenile Court

- Stakeholder training specific to mediation, negotiation, and trial skills.
- The Office of the Child Advocate Attorney should continue working with the court and other stakeholders to improve the case calendaring system in order to achieve increased efficiencies.

Actions Pending by Child Advocate Attorneys' Office Since Workload Study:

None.

EXPANDED SCOPE OF REPRESENTATION AND OBLIGATIONS AFTER DISPOSITION

Principles and Guidelines Applicable from Kenny A Consent Decree:

Guidelines

B. Preparation for and Representation at Hearings
12. Explain to the child the disposition of his or her case.

C. Post Dispositional Representation
4. Discuss the end of the legal representation with the child and determine what contacts, if any, the attorney and child will continue to have.

Principles

1. Class member children are entitled to receive adequate, effective, and zealous legal representation at all stages of deprivation and termination of parental rights proceedings throughout the time they are subject to the jurisdiction of the Fulton County Juvenile Court.

The ABA Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases further require:

D-12. Expanded Scope of Representation. The child's attorney may request authority from the court to pursue issues on behalf of the child, administratively or judicially, even if those issues do not specifically arise from the court appointment. For example:
(1) Child support;
(2) Delinquency or status offender matters;
(3) SSI and other public benefits;
(4) Custody;
(5) Guardianship;
(6) Paternity;
(7) Personal injury;
(8) School/education issues, especially for a child with disabilities;
(9) Mental health proceedings;
(10) Termination of parental rights; and
(11) Adoption.

D-13. Obligations after Disposition. The child's attorney should seek to ensure continued representation of the child at all further hearings, including at administrative or judicial actions that result in changes to the child's placement or services, so long as the court maintains its jurisdiction.

Specific Findings:

Table 55 outlines the proceedings that Fulton Child Advocate Attorneys have participated in that may not arise strictly from the Child Advocate Attorneys appointment as representing a child in a deprivation case or that involve obligations after disposition of the deprivation case.

Table 55: Time on Tasks Not Specifically Associated w/ Court Appointment for Deprivation		
Task	**Time in Minutes**	**Percent**
Drug Court	2699	2.96
Termination	1465	1.61
Guardianships	1389	1.52
Termination of Guardianship	1238	1.36
RuleNisi	626	0.69
PostTermination	555	0.61
Legitimation	346	0.38
Delinquency	287	0.32
Motion for Reunification	280	0.31
Citizen Panel Review	143	0.16
Mediation	61	0.07

Barriers or Obstacles to Meeting Principles, Guidelines and ABA standards:

As a result of data gathered during focus group sessions with the Child Advocate Attorneys and other juvenile court participants, observation of deprivation hearings, review of the Child Advocate Attorney case files, and analysis of data collected during the time study, the following factors were identified as internal and external barriers or obstacles for *Kenny A* compliance by the Child Advocate Attorneys:

Internal Factors

- Child Advocate Attorneys do not have a formal protocol or policies for establishment or maintenance of a relationship with the child clients, nor do they have policies for ending the relationship.

External Factors Regarding Juvenile Court

- Child Advocate Attorneys report the current court calendaring system and the excessive number of child clients on their caseloads as barriers to pursuing expanded representation opportunities.

Recommendations:

Internal Recommendations
l

- Child Advocate Attorneys should adhere to vertical representation principles in deprivation cases.
- Child Advocate Attorneys need formal policies and specialized training in the development and maintenance of the attorney client relationship with a child.
- Child Advocate Attorneys need formal policies and specialized training in how to end the attorney client relationship and help their client transition into adulthood.

External Reommendations Regarding Juvenile Court

- The court should consider developing a calendaring system incorporating the "One Judge, One Family" model in deprivation cases.

Actions Pending by Child Advocate Attorneys' Office Since Workload Study:

None.

CASE MONITORING

Principles and Guidelines Applicable from Kenny A Consent Decree:

Guidelines

B. Preparation for and Representation at Hearings
   5. Monitor the implementation of court orders and determine whether services ordered by the court for the child or the child's family are being provided in a timely manner and are accomplishing their purpose. Where necessary and appropriate, take steps to ensure compliance.

Principles

1. Class member children are entitled to receive adequate, effective, and zealous legal representation at all stages of deprivation and termination of parental rights proceedings throughout the time they are subject to the jurisdiction of the Fulton County Juvenile Court.

7. Child Advocate Attorneys should monitor their clients' status between court appearances, including the implementation of Juvenile Court orders benefiting their clients, the case plan, and issues relating to clients' foster care or other placement.

8. Child Advocate Attorneys should raise issues of DFCS's non-compliance with court orders, or other issues of concern, with appropriate decision-makers, including if necessary the Juvenile Court through appropriate motion practice.

The ABA Standards of Practice for Lawyers Who Represent Children In Abuse and Neglect Cases further require:

C-4. Request Services**.** Consistent with the child's wishes, the child's attorney should seek appropriate services (by court order if necessary) to access entitlements, to protect the child's interests and to implement a service plan.
These services may include, but not be limited to:
(1) Family preservation-related prevention or reunification services;
(2) Sibling and family visitation;
(3) Child support;
(4) Domestic violence prevention, intervention, and treatment;
(5) Medical and mental health care;
(6) Drug and alcohol treatment;
(7) Parenting education;
(8) Semi-independent and independent living services;
(9) Long-term foster care;
(10) Termination of parental rights action;
(11) Adoption services;
(12) Education;
(13) Recreational or social services; and
(14) Housing.

C-5. Child With Special Needs. Consistent with the child's wishes, the child's attorney should assure that a child with special needs receives appropriate services to address the physical, mental, or developmental disabilities.
These services may include, but should not be limited to:
(1) Special education and related services;
(2) Supplemental security income (SSI) to help support needed services;
(3) Therapeutic foster or group home care; and
(4) Residential/in-patient and out-patient psychiatric treatment.

D-13. Obligations after Disposition. The child's attorney should seek to ensure continued representation of the child at all further hearings, including at administrative or judicial actions that result in changes to the child's placement or services, so long as the court maintains its jurisdiction.

E. POST-HEARING

E-1. Review of Court's Order. The child's attorney should review all written orders to ensure that they conform with the court's verbal orders and statutorily required findings and notices.

E-3. Implementation. The child's attorney should monitor the implementation of the court's orders and communicate to the responsible agency and, if necessary, the court, any non-compliance

General Findings:

During the workload study period data indicate Child Advocate Attorneys spent 2.3 % of their total work time on case monitoring activities. These monitoring activities also included review of citizen panel review documents and other case plan reviews.

Specific Findings:

In the workload study, the Child Advocate Attorneys identified all post-hearing activities, including activity that would involve reviewing and initiating orders and monitoring the services to children, implementation of the court order, progress on the case plan and other case outcomes. Table 56 presents the time and percentage of time that the Child Advocate Attorneys spent on these post-hearing activities.

Table 56: Time on Case Monitoring

Detailed Task	Time in Minutes	Percent
POST-HEARING Review Orders	868	0.95
POST-HEARING Other Monitoring	571	0.63
POST-HEARING Other Documents	297	0.33
POST-HEARING Initiate Orders	235	0.26
POST-HEARING Initiate Monitoring	121	0.13
Total	2092	2.3

CAAs varied with regard to the number of times they reported post hearing monitoring activities. Table 57 below presents the number, average, maximum and minimum time spent in one or more of the post-hearing activities. It should be recognized that one advocate did not report any activity of this type.

Table 57: Range of Time on Post-Hearing Activities				
Advocate ID	**Records**	**Avg. Time**	**Maximum Time**	**Minimum Time**
53426	9	10	18	5
53471	24	3	10	1
53684	6	2	5	2
53972	5	9	15	1
54010	5	5	10	2
54185	8	7	15	3
54282	19	6	15	2
54453	14	8	25	1
63195	21	6	18	2

Barriers or Obstacles to Meeting Principles, Guidelines and ABA standards:

As a result of data gathered during focus group sessions with the Child Advocate Attorneys and other juvenile court participants, observation of deprivation hearings, review of the Child Advocate Attorney case files, and analysis of data collected during the time study, the following factors were identified as internal and external barriers or obstacles for *Kenny A* compliance by the Child Advocate Attorneys:

Internal Factors

- When the child advocate attorneys find errors or omissions in the court order, the court order has usually already been signed by the judge and filed with the court necessitating a formal Motion to Correct the Court Order or Motion to Amend the Court Order to conform to the evidence and the ruling made on the record.
- Due to the volume of deprivation cases at the adjudication stage and the number of child clients, it is difficult for Child Advocate Attorneys to schedule and attend in-court reviews.

External Factors Regarding DFCS

- DFCS routinely transfers deprivation cases between case managers without notice to the attorneys making it difficult to determine the identity of the current case manager.

- SAAGs routinely present proposed court orders to the judges without prior review or agreement with the court order by either the Child Advocate Attorneys or the parent attorneys.

External Factors Regarding Juvenile Court

- Judges routinely sign court orders without first confirming the attorneys for the other parties have had an opportunity to review the proposed court order and raise objections to the proposed court order.

- Citizen Panel Reviews are routinely scheduled and convened without prior notice to the Child Advocate Attorneys.

Recommendations:

Internal Recommendations

- Child Advocate Attorneys should request in-court reviews or the next hearing dates at the conclusion of each hearing so that notice can be provided to all parties and their attorneys.

External Recommendations Regarding DFCS

- DFCS should notify Child Advocate Attorneys of any changes in the case manager within 24 hours of the deprivation case transfer.
- SAAGs should present proposed court orders to the Child Advocate Attorneys prior to submission to the judge.

External Recommendations Regarding Juvenile Court

- Judges should not sign proposed court orders without first confirming the attorneys for the other parties have had an opportunity to review the proposed court order and raise objections to the proposed court order.
- Motions to Correct the Court Order or Motions to Amend the Court Order should be calendared within 5 days of filing.
- Child Advocate Attorneys should be given adequate notice of the Citizen Panel Reviews.
- In-court reviews or the next hearing date should be scheduled at the conclusion of each hearing and notice provided to all parties and their attorneys.

Actions Pending by Child Advocate Attorneys' Office Since Workload Study:

- Recently drafted Child Advocate Attorney standards and office policies require:
    - attorneys to review of the court orders and monitor case activities post disposition and between hearings.
    - attorneys request next hearing dates at the conclusion of each hearing.

FILE DOCUMENTATION

Principles and Guidelines Applicable from Kenny A Consent Decree:

Guidelines

B. Preparation for and Representation at Hearings

11. Adequately maintain case file.

Principles

1. Class member children are entitled to receive adequate, effective, and zealous legal representation at all stages of deprivation and termination of parental rights proceedings throughout the time they are subject to the jurisdiction of the Fulton County Juvenile Court.
2. Child Advocate Attorneys should perform the basic tasks any trial lawyer would, including obtaining all court filings, attending all court appearances, filing motions, and being an active participant in all hearings and settlement discussions.

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7. ACCOUNTABILITY
   B. Fulton County shall ensure that all actions required under this Consent Decree for Plaintiff class members are documented within the individual child advocate attorney case file of each class member on a timely and accurate basis.

The ABA Standards of Practice for Lawyers Who Represent Children In Abuse and Neglect Cases Further Require:

Even though the ABA Standards do not make a specific reference to file documentation requirements, this attorney function is essential to all standards of zealous representation.

General Findings:

During the time study portion of this workload analysis, the Child Advocate Attorneys were asked to keep daily logs of all their workday activity both case specific and non case related. There was no specific measurement category for file documentation during the time study. Data on the current level of file documentation was obtained from actual file reviews of randomly selected Child Advocate Attorney case files. The case files were evaluated in accordance with the *Kenny A* mandates in the following areas:

- Attorney Hearing Notes
- Child Client Contact
- General Case Activity
- Presence of Necessary Documents, Pleadings, Reports
- Conflict Analysis
- Appeal Consideration
- General Organization

The case files reviewed did not meet the standard of documenting all actions required under the *Kenny A* Consent decree. After studying the files and included pleadings, the reviewer was able to determine a general sense of what the case was about but not specific actions needed or taken, case goals, and in one instance, who had custody of the child.

Specific Findings:

The Child Advocate Attorney case files reviewed lacked organization and uniformity. It appeared each different child advocate attorney had a different way of maintaining and

documenting their case file. There were some forms used in some files but the completion and use of the forms was inconsistent between files and between attorneys.

The following is the list of criteria used in evaluating the Child Advocate Attorney file documentation.

- Attorney Hearing Notes
    - Legible
    - Pre-trial
    - Records Open / Close
    - Records Evidence (documents admitted)
    - Records Witnesses Testimony
    - Records Motions
    - Records Objections
    - Records Court Order
    - States Child's Position
    - Documents Party Presence / Service
    - Documents Services Received / Needed
    - Next Hearing Date
    - Next Steps for Each Party
    - Would you know what happened in Hearing
    - Would you know what needs to be done next
- Child Client Contact
    - Number of Contacts
    - Location of Contact
    - Length of Contact
    - Child's Position
    - Whether Attorney - Client Relationship Established
- General Case Activity
    - Staffings
    - Investigations
    - Telephone Contacts - identity and content record
    - Visits
    - Monitoring of Court Order
    - All actions required under Consent Decree documented in CAA file
- Presence of Necessary Documents, Pleadings, Reports
    - Safe Keeping - Complaint
    - Petition (s)
    - Motion (s)
    - Court Order (s)
    - Caseplan
    - Psych Evaluation / Developmental Evaluation
    - School Records
    - Medicals
    - Photos / video
    - Police Report
    - Drug Screens

  - Placement Information
  - Releases for Information
  - Checklist for *Kenny A* Compliance
  - CCFA
  - Witness Interviews
  - Referrals to Resources, Invest, Programs
  - Any other non judicial events for child
- Conflict Analysis
- Appeal Consideration
- General Organization

The files reviewed were evaluated to be in the categories of "needs improvement" or "unsatisfactory." During the focus group discussions, the attorneys expressed frustration at the required level of record keeping and seemed unaccustomed to documentation of all their case activity.

Barriers or Obstacles to Meeting Principles, Guidelines and ABA standards:

As a result of the information gathered during focus group sessions with the child advocate attorneys and review of the Child Advocate Attorney case files the following factors are barriers or obstacles for *Kenny A* compliance by the child advocate attorneys:

Internal Factors

- No written or enforced policy for Child Advocate Attorneys' case files contents or manner of documentation.
- The forms currently used are inadequate to fully document the requirements of the *Kenny A* Consent Decree.
- Number of cases per attorney.
- No file management software or case tracking system.
- Lack of Attorney training on appropriate file documentation of both in and out of court case activity.

Recommendations:

Internal Recommendations

- Written policy for Child Advocate Attorney case file contents and manner of documentation.
- Forms need to be designed to adequately document the requirements of the *Kenny A* Consent Decree.
- Reduce the number of open cases per child advocate attorney to provide additional time for file documentation.
- Develop a file management software or case tracking system with specific references to the *Kenny A* mandates.

- Attorney training on appropriate file documentation of both in and out of court case activity.

Actions Pending by Child Advocate Attorneys' Office Since Workload Study:

New Child Advocate Attorney practice guidelines are under review and they include new forms for *Kenny A* compliance documentation.

CONFLICTS OF INTEREST AND ETHICAL CONSIDERATIONS

Principles and Guidelines Applicable from Kenny A Consent Decree:

Guidelines

IV. Conflicts of Interest:
Child Advocate Attorneys should decline to represent children in conflict of interest situations, including in the following circumstances:

i. The attorney, or other Child Advocate Attorneys on staff in the Fulton Juvenile court, represents, or has represented, the biological parent in a deprivation proceeding.
ii. Children in a sibling group have conflicting accounts of facts material to the deprivation or TPR determination.
iii. Positions to be taken on behalf of children in a sibling group are mutually exclusive and conflict in a material way.

Principles

1. Class member children are entitled to receive adequate, effective, and zealous legal representation at all stages of deprivation and termination of parental rights proceedings throughout the time they are subject to the jurisdiction of the Fulton County Juvenile Court.

10. Child Advocate Attorneys should attend to the possibility of conflicts and resolve them.

The ABA Standards of Practice for Lawyers Who Represent Children In Abuse and Neglect Cases Further Require:

B-2. Conflict Situations.
(1) If a lawyer appointed as *guardian ad litem* determines that there is a conflict caused by performing both roles of *guardian ad litem* and child's attorney, the lawyer should continue to perform as the child's attorney and withdraw as *guardian ad litem*. The lawyer should request appointment of a *guardian ad litem* without revealing the basis for the request.

(2) If a lawyer is appointed as a "child's attorney" for siblings, there may also be a conflict which could require that the lawyer decline representation or withdraw from representing all of the children.

B-3. Client Under Disability. The child's attorney should determine whether the child is "under a disability" pursuant to the Model Rules of Professional Conduct or the Model Code of Professional Responsibility with respect to each issue in which the child is called upon to direct the representation

B-4. Client Preferences. The child's attorney should elicit the child's preferences in a developmentally appropriate manner, advise the child, and provide guidance. The child's attorney should represent the child's expressed preferences and follow the child's direction throughout the course of litigation.

(1) To the extent that a child cannot express a preference, the child's attorney shall make a good faith effort to determine the child's wishes and advocate accordingly or request appointment of a *guardian ad litem*.

(2) To the extent that a child does not or will not express a preference about particular issues, the child's attorney should determine and advocate the child's legal interests.

(3) If the child's attorney determines that the child's expressed preference would be seriously injurious to the child (as opposed to merely being contrary to the lawyer's opinion of what would be in the child's interests), the lawyer may request appointment of a separate *guardian ad litem* and continue to represent the child's expressed preference, unless the child's position is prohibited by law or without any factual foundation. The child's attorney shall not reveal the basis of the request for appointment of a *guardian ad litem* which would compromise the child's position.

B-5. Child's Interests. The determination of the child's legal interests should be based on objective criteria as set forth in the law that is related to the purposes of the proceedings. The criteria should address the child's specific needs and preferences, the goal of expeditious resolution of the case so the child can remain or return home or be placed in a safe, nurturing, and permanent environment, and the use of the least restrictive or detrimental alternatives available

General Findings:

In consideration of Judge Shoob's ruling that the child in a deprivation proceeding is a party to that deprivation proceeding, a decision should be made as to whether this child as a party is entitled to an attorney. Furthermore, it must be decided if this attorney is serving in a traditional attorney role or a dual role attorney (*guardian ad litem* or a traditional attorney and a separate *guardian ad litem*).

Although Fulton County's Child Advocate Attorneys are constantly confronted with both conflict of interest situations and ethical challenges, the attorneys only address these issues

on a limited and somewhat inconsistent basis. The Child Advocate Attorneys are without any formal or articulated policies for the conflict of interest situation. Until there is a clearly stated and defined model of representation for the attorneys, their ethical considerations are ambiguous, unsolvable, and generally ignored. Some stakeholders in the field of child advocacy believe there is an inherent conflict of interest for attorneys serving in a dual role of *guardian ad litem* and attorney for the child.

The conflict of interest situations arise from the Child Advocate Attorney's direct representation of the children. The following is a list of some these conflicts:

- The parent or guardian in the deprivation proceeding is currently or was previously represented by an attorney in the office;
- Children in a sibling group have conflicting accounts of facts material to the deprivation proceedings;
- Positions to be taken on behalf of children in a sibling group are mutually exclusive and conflict in a material way;
- Positions to be taken on behalf of children are contrary to the law or unsupportable by the facts of the case;
- Positions to be taken on behalf of children are considered to be seriously injurious to the child.

In addition to and in conjunction with the conflict of interest situations, there are numerous ethical dilemmas caused by no clearly articulated model of representation. Examples of the ethical challenges:

- Is the attorney serving in a dual role of *guardian ad litem* and child attorney?
- Is there an inherent conflict in serving in this dual capacity?
- As a *guardian ad litem*, who or what is your client; some suggest the *guardian ad litem*'s client is the court who is seeking a "best interest of the child" recommendation from the attorney?
- Or is the attorney's client the child's best interest? If so then from what perspective is the child's best interest determined?
- Are there objective criteria from which the attorney should evaluate best interest?
- Is the child ever a client?
- Is the child under a disability?
- Is the child able to make express preferences as to any or all issues in the deprivation case?
- What does the attorney do with the child's expressed preferences?
- What is the role of legal counseling in relation to a child client who may be under some disability?
- How does the attorney make adjustments for the child client developing out of the disability?
- Is there a difference between "client directed" and "expressed preferences" in child representation?
- What is and how does the attorney achieve developmentally appropriate lawyering?

Once a model of representation is defined and written guidelines developed in accordance with the model, then many of the ethical considerations may be addressed in a uniform and consistent manner by the Child Advocate Attorneys.

Specific Findings:

During the time study portion of this workload analysis, there was no indication the Child Advocate Attorneys made any conflict of interest analysis on their cases or considered other ethical issues. During the focus group sessions, the attorneys alternately referred to themselves as "best interest attorneys," attorneys *guardian ad litem*, Child Advocate Attorneys, and child's attorneys. Also during the focus group sessions, the attorneys expressed concern for the conflict of interest issues and the lack of direction as to the model of representation.

Barriers or Obstacles to Meeting Principles, Guidelines and ABA standards:

As a result of the information gathered during focus group sessions with the Child Advocate Attorneys, court observations, and reviews of the Child Advocate Attorneys case files, the following factors were identified as barriers or obstacles for *Kenny A* compliance by the Child Advocate Attorneys:

Internal Factors

- No written, formal or articulated policies for the conflict of interest situation
- No a clearly stated or defined model of representation for the attorneys
- No written, formal standards of practice relating to a model of representation
- No direction or policies on how to document in the case file any conflict of interest resolutions and any objective criteria used in representing the child's legal interests

Recommendations:

Internal Recommendations

- Written policies, protocol and procedure for conflict of interest situations
- Clearly stated and defined model of representation for attorneys representing children in deprivation cases
- Written, formal standards of practice relating to a model of representation
- Policies and method of implementation for documenting the case file for conflicts of interest resolution and objective criteria used in representing the child's legal interests
- Develop software to automatically check client database for conflicts arising from current or prior representation
- Attorney training on the model of representation, standards of practice, and developmentally appropriate lawyer to client counseling

Actions Pending by Child Advocate Attorneys' Office Since Workload Study:

New Director of Child Advocate Attorney Office has under consideration and presentation to the Board a proposal for a "client directed" model of representation, attorney practice guidelines, and proposed name change to "child attorney" consistent with the *Kenny A* mandates and ABA standards.

APPEALS

Principles and Guidelines Applicable from Kenny A Consent Decree:

Guidelines

C. Post Dispositional Representation
   1. Inform the child of his or her right to appeal.
   2. Exercise child's right to appeal, if under the reasonable judgment of the attorney, an appeal is necessary.
   3. Where necessary and appropriate, represent the child's interests in an appeal filed by another party.
   4. Discuss the end of the legal representation with the child and determine what contacts, if any, the attorney and child will continue to have.

Principles

1. Class member children are entitled to receive adequate, effective, and zealous legal representation at all stages of deprivation and termination of parental rights proceedings throughout the time they are subject to the jurisdiction of the Fulton County Juvenile Court.

9. Child Advocate Attorneys should file appeals when necessary and participate in appeals filed by DFCS or parents.

The ABA Standards of Practice for Lawyers Who Represent Children In Abuse and Neglect Cases Further Require:

F. APPEAL

F-1. Decision to Appeal. The child's attorney should consider and discuss with the child, as developmentally appropriate, the possibility of an appeal. If after such consultation, the child wishes to appeal the order, and the appeal has merit, the lawyer should take all steps necessary to perfect the appeal and seek appropriate temporary orders or extraordinary writs necessary to protect the interests of the child during the pendency of the appeal.

F-2. Withdrawal. If the child's attorney determines that an appeal would be frivolous or that he or she lacks the necessary experience or expertise to handle the appeal, the lawyer should notify the court and seek to be discharged or replaced.

F-3. Participation in Appeal. The child's attorney should participate in an appeal filed by another party unless discharged.

F-4. Conclusion of Appeal. When the decision is received, the child's attorney should explain the outcome of the case to the child.

Specific Findings:

The data on this activity is presented in Table 58.

Table 58: Time on Appeals		
Task	**Time in Minutes**	**Percent**
APPEALS Preparation	8	0.01

General Findings:

During the period of the workload study, Child Advocate Attorneys spent virtually no time on appeals.

Barriers or Obstacles to Meeting Principles, Guidelines and ABA standards:

As a result of data gathered during focus group sessions with the Child Advocate Attorneys and other juvenile court participants, observation of deprivation hearings, review of the Child Advocate Attorneys' case files, and analysis of data collected during the time study, the following factors were identified as internal and external barriers or obstacles for *Kenny A* compliance by the Child Advocate Attorneys:

Internal Factors

- Due to limited attorney resources, appeals are not pursued.
- There does not appear to be any protocol for notice to Child Advocate Attorneys when a case has been appealed.
- Child Advocate Attorneys have little to no training on appeals or how to specifically preserve the issues on the record for appeal or what are appealable issues.

Recommendations:

Internal Recommendations

- Establish an appeals division for the Child Advocate Attorney Office.
- Develop protocol with the Court for notice to Child Advocate Attorneys when a case has been appealed.
- Develop training specifically directed at appellate practice and preservation of the issues for appeals.

Actions Pending by Child Advocate Attorneys' Office Since Workload Study:

None

HEARING ACTIVITIES

Effective casework during hearings is particularly important to assessing the adequacy of the CAAs work for deprived children in Fulton County. This section of the report provides data related to the class of activity reports that were for "Hearings in Court" in particular.

Principles and Guidelines Applicable from Kenny A Consent Decree:

Guidelines

Preparation for and Representation at Hearings

1. Participate as an attorney at all hearings concerning the child.
2. Make informed recommendations for specific and clear orders for evaluation, services, and treatment for the child and the child's family.
3. File all necessary pleadings and papers.
4. Ensure that relevant testimony and documentary and physical evidence is introduced to the court and, when necessary, subpoena witnesses.
7. Consult with other persons knowledgeable about the child and the child's family to identify the child's interests, current and future placements that would be best for the child, and necessary services for the child.
10. Inform the court of the child's wishes.
11. Adequately maintain case file.

Principles

1. Class member children are entitled to receive adequate, effective, and zealous legal representation at all stages of deprivation and termination of parental rights proceedings throughout the time they are subject to the jurisdiction of the Fulton County Juvenile Court.
2. Child Advocate Attorneys should perform the basic tasks any trial lawyer would, including obtaining all court filings, attending all court appearances, filing motions, and being an active participant in all hearings and settlement discussions.
3. Child Advocate Attorneys should investigate all cases through formal and informal discovery and other means, including updated investigations before all review hearings and other stages of a deprivation case.

Consent Decree

7. ACCOUNTABILITY
   B. Fulton County shall ensure that all actions required under this Consent Decree for Plaintiff class members are documented within the individual Child Advocate Attorney case file of each class member on a timely and accurate basis.

The ABA Standards of Practice for Lawyers Who Represent Children In Abuse and Neglect Cases Further Require:

B-1. Basic Obligations. The child's attorney should:
(1) Obtain copies of all pleadings and relevant notices;
(2) Participate in depositions, negotiations, discovery, pretrial conferences, and hearings;
(3) Inform other parties and their representatives that he or she is representing the child and expects reasonable notification prior to case conferences, changes of placement, and other changes of circumstances affecting the child and the child's family;
(4) Attempt to reduce case delays and ensure that the court recognizes the need to speedily promote permanency for the child;
(5) Counsel the child concerning the subject matter of the litigation, the child's rights, the court system, the proceedings, the lawyer's role, and what to expect in the legal process;
(6) Develop a theory and strategy of the case to implement at hearings, including factual and legal issues; and
(7) Identify appropriate family and professional resources for the child**.**

D-1. Court Appearances. The child's attorney should attend all hearings and participate in all telephone or other conferences with the court unless a particular hearing involves issues completely unrelated to the child.

D-2. Client Explanation. The child's attorney should explain to the client, in a developmentally appropriate manner, what is expected to happen before, during and after each hearing.

D-3. Motions and Objections. The child's attorney should make appropriate motions, including motions *in limine* and evidentiary objections, to advance the child's position at trial or during other hearings. If necessary, the child's attorney should file briefs in support of evidentiary issues. Further, during all hearings, the child's attorney should preserve legal issues for appeal, as appropriate.

D-4. Presentation of Evidence. The child's attorney should present and cross examine witnesses, offer exhibits, and provide independent evidence as necessary.

D-11. Conclusion of Hearing. If appropriate, the child's attorney should make a closing argument, and provide proposed findings of fact and conclusions of law. The child's attorney should ensure that a written order is entered.

General Findings:

During the workload study, Child Advocate Attorneys spent 8.39 % of their time in court hearing activities. The most time attorney time was spent on adjudication, reviews, drug court, and probable cause type hearings. Child Advocate Attorneys reported several in court hearing activities with the most time spent on oral presentations, making recommendations,

cross examination, making objections, presenting evidence, and presenting witnesses. Child Advocate Attorneys reported at least one hearing activity in every hearing.

Specific Findings:

Table 59: Time on Hearing Activities		
Detailed Task	**Time in Minutes**	**Percent**
HEARING in Court	7642	8.39

Table 60 identifies the number and percent of activity reports by the phase of the case. This number and percent can be viewed as a proxy for the number of individual cases that are addressed in a particular phase of a case process.

Table 60: Hearings by Case Phase		
Phase	Count	Percent
None specified	8	1%
10 Day Hearing	73	9%
Adjudication	125	16%
Delinquency	1	0%
Disposition	47	6%
Drug Court	110	14%
Guardianships	11	1%
Legitimation	12	2%
Motion for Reunification	4	1%
Motion Other	74	9%
Permancy Plan	53	7%
Post Termination	19	2%
Pre-trial	7	1%
Probable Cause	104	13%
Reviews	111	14%
Rule Nisi	7	1%
Termination	21	3%
TOTAL	787	100%

Table 61 identifies the amount of time and percent of time spent in hearings by the phase of the case. These data suggest the level of CAA resources applied at each case phase.

Table 61: Hearing Report TimeSpent by Case Phase		
Phase	Count	Percent
Adjudication	2322	18%
Post Termination	65	0%
Guardianships	147	1%
Motion for Reunification	47	0%
Drug Court	384	3%
NON-CASE-RELATED	2650	20%
10DayHearing	729	6%
Disposition	687	5%
Reviews	1401	11%
Termination	338	3%
Delinquency	60	0%
Pre-trial	121	1%
Permancy Plan	593	4%
Legitimation	80	1%
Termination of Guardianship	266	2%
Probable Cause	2748	21%
Motion Other	538	4%
Rule Nisi	54	0%
TOTAL	13230	100%

The workload study data tracked the following activity in court hearings:

1. Presented witnesses
2. Presented evidence
3. Cross-examined witnesses
4. Initiated objections
5. Made oral presentations
6. Recommendations

Table 62 and 63 report summary data with regard to whether CAAs performed at least one of the specified activities.

Table 62: Hearing Reports Involving At Least One of the Specified Activities	
Count Hearing Activity Reports	787
Count of Cases where CAAs reported Making a Service Referral	581
Percent of Cases where Referral is Reported	74%

Table 63: Hearing Activity Reports with At Least One Specified Activity by Case Phase	
Case Phase	**Activity Report Count**
No Case Phase Specified	6
10 Day Hearing	48
Adjudication	91
Delinquency	1
Disposition	34
Drug Court	45
Guardianships	11
Legitimation	10
Motion for Reunification	4
Motion Other	59
Permancy Plan	45
Post Termination	15
Pre-trial	7
Probable Cause	87
Reviews	90
Rule Nisi	7
Termination	21

Hearing Specific Behaviors

Table 64 below outlines the count of hearing activity reports that included a specified Child Advocate Attorney hearing activity and shows the percentage of all the hearing activity reports that included this activity. Hearing activity reports could include more than one hearing activity therefore the percentages do not sum to 100 percent.

Table 64: Hearing Specific Activities		
Hearing Specific Activity	**Count of Hearing Activity Reports**	**Percent of All Hearing Activity Reports**
Present Evidence	92	12%
Made Oral Presentation	442	55%
Cross-Examined	154	19%
Initiated Objections	148	19%
Present Witnesses	41	5%
Made Recommendation	378	47%

This self report data by the Child Advocate Attorneys was supplemented by courtroom observations of the attorneys and review of the Child Advocate Attorneys' case files.

Barriers or Obstacles to Meeting Principles, Guidelines and ABA standards:

As a result of data gathered during focus group sessions with the Child Advocate Attorneys and other juvenile court participants, observation of deprivation hearings, review of the Child Advocate Attorneys' case files, and analysis of data collected during the time study, the following factors were identified as barriers or obstacles for *Kenny A* compliance by the Child Advocate Attorneys:

Internal Factors

- Even though the Child Advocate Attorneys reported at least one hearing activity per hearing, in-court observations found the attorneys performance falling short of the "zealous" advocacy contemplated by the standards.
- Child Advocate Attorneys missed opportunities to advocate for such items as reasonable efforts findings, visitation issues between parents and siblings, services for the child or family, amendments to case plans, promotion of expeditious permanency, opening statements, closing arguments, statements to the court of the child client's position, drug screens for parents, objections, and diligent search requirements and legal service to parties.
- Review of Child Advocate Attorney case files showed no uniformity in file documentation of the in-court hearing activities, the court's findings of fact, or specifics of the court's rulings on objections, accountability issues for parents or DFCS, motions, or ultimate issues before the court.

Recommendations:

Internal Recommendations

- Additional trial skills training
- Uniform file documentation of in-court activities
- Additional training on *Kenny A* mandates, state deprivation law and DFCS policies

Actions Pending by Child Advocate Attorneys' Office Since Workload Study:

Recently drafted attorney practice standards address issues of file documentation and in-court hearing activities
Training opportunities are being developed and scheduled.

CHILD'S PARTICIPATION IN HEARINGS

Principles and Guidelines Applicable from Kenny A Consent Decree:

Guidelines

A. Initial Case Responsibilities

5. Meet with, observe, and establish and maintain a relationship with the child. Assess the child's needs and wishes with regard to the representation and the issues in the case, and explain the proceedings to the child according to the child's ability to understand

B. Preparation for and Representation at Hearings
   10. Inform the court of the child's wishes.
   12. Explain to the child the disposition of his or her case.

C. Post Dispositional Representation
   1. Inform the child of his or her right to appeal

Principles

1. Class member children are entitled to receive adequate, effective, and zealous legal representation at all stages of deprivation and termination of parental rights proceedings throughout the time they are subject to the jurisdiction of the Fulton County Juvenile Court.
3. Child Advocate Attorneys should establish an attorney-client relationship and maintain that relationship throughout the duration of the representation. The child's presence at court hearings should be decided in consultation with the child client. If the child client waives their presence for a court hearing or for a non-verbal, incompetent child client, the Child Advocate Attorney may, when deemed appropriate, waive the child's presence on the Court record and should document the CAA file accordingly.

The ABA Standards of Practice for Lawyers Who Represent Children In Abuse and Neglect Cases further require:

B-5. Child's Interests. The determination of the child's legal interests should be based on objective criteria as set forth in the law that are related to the purposes of the proceedings. The criteria should address the child's specific needs and preferences, the goal of expeditious resolution of the case so the child can remain or return home or be placed in a safe, nurturing, and permanent environment, and the use of the least restrictive or detrimental alternatives available.

D-5. Child at Hearing. In most circumstances, the child should be present at significant court hearings, regardless of whether the child will testify.

D-6. Whether Child Should Testify. The child's attorney should decide whether to call the child as a witness. The decision should include consideration of the child's need or desire to testify, any repercussions of testifying, the necessity of the child's direct testimony, the availability of other evidence or hearsay exceptions which may substitute for direct testimony by the child, and the child's developmental ability to provide direct testimony and withstand possible cross-examination. Ultimately, the child's attorney is bound by the child's direction concerning testifying.

D-7. Child Witness. The child's attorney should prepare the child to testify. This should include familiarizing the child with the courtroom, court procedures, and what to expect during direct and cross-examination and ensuring that testifying will cause minimum harm to the child.

D-8. Questioning the Child. The child's attorney should seek to ensure that questions to the child are phrased in a syntactically and linguistically appropriate manner

D-9. Challenges to Child's Testimony/Statements. The child's competency to testify, or the reliability of the child's testimony or out-of-court statements, may be called into question. The child's attorney should be familiar with the current law and empirical knowledge about children's competency, memory, and suggestibility and, where appropriate, attempt to establish the competency and reliability of the child.

E-2. Communicate Order to Child. The child's attorney should discuss the court's order and its consequences with the child.

F-5. Cessation of Representation. The child's attorney should discuss the end of the legal representation and determine what contacts, if any, the child's attorney and the child will continue to have.

General Findings:

During the workload study period, 5.5% of the child clients appeared in court for their deprivation hearings.

Specific Findings:

Table 65 presents the overall Count of Hearing Records with Child Indicated as Present while Table 66 presents this same count broken down by case phase.

Table 65: Child's Presence in Hearings	
Count of Hearing Records with Child Indicated as Present	Percent
43	5.5%

Table 66: Child's Presence in Hearings by Case Phase		
Phase	**Count of Hearing Records w/ Child Indicated as Present**	**Percent**
10 Day Hearing	8	19%
Adjudication	4	9%
Motion Other	11	26%
Permanency Plan	3	7%
Probable Cause	4	9%
Reviews	7	16%
Rule Nisi	1	2%
Termination	5	12%
Total	43	100%

Barriers or Obstacles to Meeting Principles, Guidelines and ABA standards:

As a result of data gathered during focus group sessions with the Child Advocate Attorneys and other juvenile court participants, observation of deprivation hearings, review of the Child Advocate Attorney case files, and analysis of data collected during the time study the following factors were identified as barriers or obstacles for *Kenny A* compliance by the Child Advocate Attorneys:

Internal Factors

- There is no current protocol for accommodating the child's educational needs if the child is at court during the school day
- There is no written protocol or agreement between the Child Advocate Attorneys, DFCS, and the court concerning the child's presence

External Factors Regarding DFCS

- Both DFCS and the SAAGs are reluctant to acknowledge the child is a party to the deprivation action and therefore entitled to be present at every deprivation hearing
- Frequently case managers and SAAGs view the child's presence at court as an option to be used at their discretion, rather a decision to be made by the child and the child's legal representative
- The current case manager who is responsible for transporting the child to court may not have notice that the child's presence is required at court because:
    - There is a high turnover rate in DFCS case managers
    - A lack of communication with the SAAGs
    - Late or incomplete preparation of the court order directing the child's presence at the next hearing
    - Transfer of the child's case between different DFCS units with different case managers may result in difficulty communicating the child's placement to the Child Advocate Attorney

- There is no current protocol for accommodating the child's educational needs if the child is at court during the school day
- There is no written protocol or agreement between the Child Advocate Attorneys, DFCS and the court concerning the child's presence
- The child's placement information is often difficult to determine from DFCS

External Factors Regarding Juvenile Court

- The court does not consistently support the child's right to be present at court; and some judges are reluctant to have the child involved in the deprivation process

Recommendations:

Internal Recommendations

- Child Advocate Attorneys should have an internal written office protocol concerning the child client's presence for hearings.
- Child Advocate Attorneys should have written protocol established with DFCS concerning the child's appearance for court hearings.
- In the event the child client waives their presence for the court hearing, then the Child Advocate Attorneys should document their case file accordingly and make such an announcement to the court.

External Recommendations Regarding DFCS

- DFCS should be mandated to provide the Child Advocate Attorneys written notice of the child's current placement and any changes within 24 hours of the placement in accordance with their own internal policies.

External Recommendations Regarding Juvenile Court

- The court and DFCS should affirmatively acknowledge the child's rights as a party to the deprivation action

Actions Pending by Child Advocate Attorneys' Office Since Workload Study:

The Child Advocate Attorneys have new policies and procedures under consideration concerning the child's attendance at court hearings.

COURT PROCEDURES

Wait Time

During the focus group session with the CAAs, a key theme in terms of issues that made it difficult for the CAAs to do their job in an efficient manner was the problem of spending a great deal of time waiting on others in order to be able to complete their work. In order to

identify the degree of the wait time problem, CAAs were asked to document this issue in three potential ways: 1) to specify whether they could have completed their task more effectively with more or less time, i.e., if they could have done the work in less time if there had not been so much wait time. 2) to use the "Wait" activity code, and 3) to use their case notes to talk about any particular experiences of waiting that needed more explanation.

Findings

We found that the CAAs did not feel comfortable making explicit judgments regarding the need for more or less time on any particular activity. Rather, they formed a consensus regarding a general need for more time on most activities.

With regard to the use of the Wait activity code, the time accounted for by the code represented approximately 6.04 percent of all the time recorded by the CAAs. It should be noted that the Wait code was specifically designed to identify wait time in a hearing setting as this is the setting where the amount of waiting, theoretically speaking, can be addressed through court policies and procedures.

Finally, in about 1% of the activity reports where there were case notes, the case note mentioned an issue of waiting. Many of these instances were related to events that were not strictly organized by the court but that involved the behavior of officers of the court (e.g., SAAGs) and other parties (e.g., other attorneys).

Financial Costs

Based on the financial modeling assumptions outlined in the introduction, the wait time that is theoretically under control of the court system is estimated to cost approximately $36,000 per year in lost productivity.

Chapter 9. Recommendations

The foregoing sections describe and analyze the data obtained from the time study and from qualitative sources, including focus groups, case observations and file reviews. The immediately preceding chapter reviews that data in light of the standards for CAA activity set forth in the *Kenny A* decree. That chapter suggested that, under current practices, the CAA office does not comply with the requirements of *Kenny A*, and suggests various changes that might permit the CAA office to meet those requirements, including changes in both office and juvenile court practices.

This chapter presents the study team's recommendations for caseloads that would permit compliance with the *Kenny A* decree. It reviews the earlier discussion of the CAA office's current caseload. It then discusses the impact that full compliance with the *Kenny A* mandates would have on that caseload, assessing in particular the need for additional time that full compliance would require. Next, it assesses the effects of various contextual factors on the ability of the CAAs to handle cases, including factors within the control of the office (e.g. improvements in practice management; additional investigators) and those within the control of other roleplayers (e.g. the court; the SAAGs; DFCS.) The chapter then analyzes the weight to be given to these factors, separately and together, in reducing or increasing the point-in-time caseload. Finally, the chapter concludes with recommendations based on the weights we have suggested for the various factors.

This analysis relies heavily on quantitative assessments of time spent and spendable by the child advocate attorneys. The quantitative data have allowed the project team to assess the extent of CAA time spent on the activities required by *Kenny A*. The data have also permitted the project team to separate and distinguish between various types of behaviors, and to some extent to assess causes for failures of performance in certain areas. It has allowed the team to notice patterns of performance, by identifying areas in which the CAAs spend more or less time. Finally, analysis of the data on current practices permits similar analysis of projected practices, and has thus permitted the project team more carefully to assess the scale of the impact of proposed changes in practice.

Qualititative data also play a significant role in formulating these recommendations. The identification of the changes required to bring office practices into compliance derives largely from file reviews, court observations and the focus groups. The effects of other roleplayers derive from these same sources. Recommendations for improvements in practice and context incorporate expressions of opinion by current CAAs, and on assessments by the lawyer / practitioner members of the project team.

Ultimately, the recommendations about caseload numbers set forth below reflect qualitative judgments by the project team that integrate both quantitative and qualitative assessments of the CAAs current practices. The project team has concluded that it cannot make reliable projections of the necessary caseloads based solely on quantitative data. The time actually spent on behaviors that do not comply with *Kenny A* does not provide a purely numerical basis from which compute the amount of time that ought to be spent. Instead, the project

team has appraised how changes in various specific categories of performance, coupled with significant contextual changes, would produce a caseload that would permit compliance. These appraisals reflect qualitative judgments, structured and informed by both the time study and the qualitative data.

CURRENT CASELOAD

Section 3.1 of this study contains our assessment of the CAAs' current caseloads. We have defined this as a "point-in-time caseload," that is, the number of children a given advocate would represent at a given point in time; we use a caseload of children per advocate, not cases per advocate, consistent with the requirements of *Kenny A*. We calculated a current point-in-time caseload per CAA of 162.9. This figure represented a count of cases in January 2007, reduced by the number of expired cases, and adjusted to reflect seasonal peaks as determined over a ten year period. See Section 3.1. The caseload of 162.9 reflects a starting point for analysis of potential caseloads.

In assessing this caseload, several other pieces of information deserve review. First, in assessing current caseload numbers, we have assumed a current staffing level of 10 CAAs in the Fulton CAA office. This assumption has permitted us to divide the total point-in-time caseload figures for the office (seasonally adjusted at 1,629 cases) by ten to produce the point in time caseload of children per advocate.

Second, in considering a recommended caseload, we assume in Section 3.1 that each CAA has 2000 hours of available work time per year. The precise number of hours per year is 1792, which assumes a 40 hour week and deductions for all available holidays, vacation days and sick time. However, these assumptions do not match what the project team observed. CAAs typically work more than 40 hour weeks; and advocates vary in the amount of vacation and sick time both available to and taken by them. As a result, we have raised the assumed time to an even 2000 hours.

Third, we have assessed the number of new children taken on each year as clients by the CAA office. In Section 3.1, based on data derived from JCATS, we arrived at a number of 2947 children in 2006 seen by the office in 2006. We stress that significant questions exist about the accuracy of the data reported to the project team from JCATS, the CAA office, and the court. However, we believe that the count of 2947 reflects the best available data, and serves as a basis for analysis.

These data points permit more detailed analysis of the relationship between staffing levels, caseloads and hours spent per child. First, these numbers permit the ready translation of caseloads into full-time advocates. If we assume that the point-in-time caseload for the entire office remains steady at roughly 1629, changes in the numbers of advocates available for work affects the size of the caseload, and vice versa. For example, increasing the number of CAAs from 10 to 15 would result in a caseload decrease per from 162.9 to 108.6.

Second, this data permits us to derive a figure for the average hours spent per child. For example, currently 10 full-time CAAs represent roughly 2947 children per year. Assuming 2,000 hours available for each CAA, the total hours per year for the whole office is 20,000. Dividing this number in turn by the number of children per year leads to a figure for average hours per child of a little under 7 hours. Different assumptions would of course produce different estimates. For example, changing the number of CAAs from 10 to 15 results in an hours-per-child number of slightly over 10 hours average.

IMPACT OF COMPLIANCE WITH KENNY A

The hours spent representing each child reflects a useful data point in considering the impact of *Kenny A* on caseload numbers. It has proven impossible to measure quantitatively the number of hours per activity that *Kenny A* requires. However, the project team has found it useful to consider modest increases in the time spent by advocates on *Kenny A* relevant activities for each child. The size of any individual increase reflects a judgment call at best; and the project team does not directly base its recommendation on any such estimates. At the same time, considering the impact of increased time spent on a given behavior, as well as the aggregate impact of time spent on all *Kenny A* behaviors, has helped us to assess the scale of the potential impact of mandating *Kenny A* behaviors for all advocates.

In formulating our recommendation, we track the categories of *Kenny A* behavior we discuss in Chapter 8 above. Specifically, we consider the overall impact of increasing time spent on the following list of behaviors: contact with the child; filing of pleadings and motions; meetings with caregivers; home and placement visits; conferences and staffing; contacts with other lawyers; negotiation and mediation; hearing activities; reviewing documents; appeals; case monitoring; marshalling resources; dealing with ethical issues; and more consistent documentation of case files.

This section first discusses an example of an individual behavior: the impact of increasing the amount of time spent meeting with clients. This discussion permits a richer assessment of the role of different factors in meeting *Kenny A* requirements more generally. After this discussion, we turn to a more comprehensive assessment of how aggregating increases in all of the foregoing activities might produce effects at different scales of magnitude.

Relationship with Children

The *Kenny A* settlement calls for CAAs to "meet with, observe, and establish and maintain a relationship with the child." We have noted in Chapter 3 above that CAAs spend about 6.5% of their time overall with children. This constitutes roughly 2.5 hours out of a 40 hour work week, on all the children in a single advocate's caseload. Viewed another way, if CAAs spend an average of 6 hours on all tasks relating to a single child, the contact with the child would constitute an average total of roughly 23.5 minutes with that child. The project team concludes that, under current conditions, the CAAs do not satisfy the mandate of establishing and maintaining a relationship with the child.

The focus group discussions identified several factors that contribute to the low amount of time spent with children, a fact which the CAAs acknowledged as both accurate and undesirable. Some of these explanations involve caseload pressures, the subject matter of this study. Other contributing factors include

- fiscal and office practice limits. The CAAs indicate that they do not receive mileage for travel in their own vehicles to visit with children. They must use county vehicles that in turn require them to travel with two people, increasing scheduling difficulties.
- court docketing practices. As noted above, CAAs spend a substantial portion of every week in the juvenile court building, so as to maintain availability for court hearings. Efforts to reform the docket to permit more days without court obligations have proved unavailing.
- DFCS practices: the CAAs indicate that DFCS does not keep them informed of the location of their clients, and that DFCS personnel cannot always provide them with that information on a speedy basis. These practices those create additional time for the CAA in locating their own client. Moreover, the CAAs indicate that DFCS does not consistently bring children to hearings, even after requests; this practice would further reduce time spent between attorney and client.

Finally, in the focus groups and in court observations, the project team has observed that the existing CAAs do not believe that they must spend substantial amounts of time with every child whom they represent. Instead, the CAAs appear to believe that they should have discretion to allocate their scarce time to meet with those children with whom contact is the most important or productive, in the judgment of the CAA.

The CAAs opinion may reflect no more than the judgments required by normal time management. However, in the view of the project team, it also reflects more categorical judgments: first, that some groups of children do not merit more than a minimum amount of time (e.g. babies or infants unable to communicate with counsel); or more generally, that contact with children deserves a lower priority than other tasks related to representation. To the extent that these latter opinions do affect the amount of time, they indicate a need for changes in both training and supervisory expectation, in order to assure that advocates place greater weight on contacting their clients.

We discuss these other influences in the next subsection, and the weight to accord them in the subsection after that. Here, we note only that the presence of all of these influences renders it practically impossible to identity the optimal amount of time to spend with a child so as to establish and maintain an effective relationship with that child. Nothing in current practice in the CAA office indicates how much time would be required to meet the *Kenny A* standards.

Having said that, it is possible to examine the impact that allocating more time to child contact would have on the overall number of CAA and thus on the caseload necessary to satisfy this single component of *Kenny A*. The following discussion explores those effects, providing a range of estimates of the numbers of hours spent on a relationship with a child, and thus on the numbers of CAAs and on their caseloads.

In producing the range of estimates we made the following assumptions:

- we use the number of distinct children seen in 2006 of 2947.
- we assume that each CAA has 2000 work hours in each year.
- we assume that in a given representation, a CAA would visit a child twice, and that travel time for each visit would average one hour.
- we assume that CAAs may achieve some time savings in cases involving multiple children. We attempted to calculate the savings a CAA might achieve, especially in visiting a home in which multiple children reside. This calculation suggests a savings of roughly 30%.
- to the extent that contact with children occurs during a home or placement visit by the CAA, we also assume that the CAA would spend some time speaking with the child's current caregivers, and still additional time in observing and documenting the child's living environment. The table below refers only to the time an advocate spends with the child.
- similarly, we assume that the CAA knows where to find the child, and needs to spend no time determining the child's location from DFCS. Without this assumption, we might add between 15 minutes and 1 hour to the time necessary for each visit outside the court.

The table below sets forth how many Child Advocate Attorneys would be necessary for between one and seven hours of contact time between attorney and child. The first three columns reflect solely contact time; the second three include an additional two hours of travel time; and the final three reflect a discount of 70% reflecting efficiencies when visiting a household with multiple children. In each case, we multiply the proposed time by the total number of new children in a year (2947), and divide the total by the number of hours available to each advocate (2000). The result in each case reflects the number of total CAAs needed to meet each hours requirement.

Table 9-1

Hours w/child	Total hours	CAAs	Time + 2 hours travel	Total (w/travel)	CAAs (with travel)	Discounted for multiple children	Total hours	CAAs (adjusted)
1	2947	1.47	3	8841	4.42	1.75	5157.25	2.58
2	5894	2.95	4	11788	5.89	2.8	8251.6	4.13
3	8841	4.42	5	14735	7.37	3.5	10314.5	5.16
4	11788	5.89	6	17682	8.84	4.2	12377.4	6.19
5	14735	7.37	7	20629	10.31	4.9	14440.3	7.22
6	17682	8.84	8	23576	11.79	5.6	16503.2	8.25
7	20629	10.31	9	26523	13.26	6.3	18566.1	9.28

This table illustrates how adding time to a given task increases the number of CAAs necessary for working with a child. Increasing time with a child from the current average of 23 minutes to a single hour requires 1.47 full-time CAAs, or about 15% of current staffing levels. Adding time for travel raises that number to 4.42 full-time CAAs, nearly 45% of

current staffing levels. With a discount for multiple children, an hour of contact with a child would take up 25% of current staffing levels. Increasing the amount of time necessary to establish a relationship would increase these numbers proportionately. For example, an assumption of 2 actual contact hours would produce a figure of 4.72 CAAs, when adjusted for travel and multiple children, nearly 45% of current staffing.

Standing alone, the proposition that each advocate should on average spend at least one hour with a child client seems at least initially plausible. The idea that 25% of current staff time would be necessary to establish and maintain a relationship with a child also seems at least rational. These calculations also do not assess the influence of other factors that might further increase the efficiency of child contact, including reforms to office practices and to DFCS' interactions with the CAAs about the location of children and about children's attendance at court.

On the other hand, these calculations isolate the CAA's relationship with the child from all other tasks performed by the CAA for the child. Several external factors impede CAAs from finding the time necessary to visit children outside of court; for example, court docketing practices which require CAA attendance on virtually every day may limit a CAA's access to the time necessary for client visits. More fundamentally, the CAA's relationship with the child is one among a number of tasks that *Kenny A* would require the CAA to perform in representing the child. The next section considers how these factors taken together might affect number of full-time child advocates, and in turn the size of the point-in-time caseload.

Compliance with All *Kenny A* Factors

It proved impossible to calculate the amount of time necessary to satisfy the *Kenny A* standards with respect to the relationship between advocate and child. A similar reality obtains for all of the behaviors discussed in Chapter 8 as relevant to *Kenny A*. That chapter indicates that, for virtually all of these behaviors and under current conditions, the CAAs do not meet the criteria set forth in *Kenny A*. We thus lack a firm empirical basis from which to specify the number of hours necessary to satisfy each of the *Kenny A* factors.

At the same time, it is possible to assess the impact that increases in the CAAs' current allocations of time to these practices might have on the overall caseload. The next table posits baseline hours of work for each category of *Kenny A*. In each case, these represent increases over what we have determined that the CAAs have spent in the time study. In each case, the figure derives from discussions between the legal members of the project team, which includes a long-term child advocate, a former juvenile court judge, and a law professor with both non-profit and clinical supervision experience. We stress that we posit these figures for purposes of illustration only, and not as a recommendation on how many hours the CAAs should spend on any given task.

The next table presents a calculation of the full-time CAA positions that result from these hypothetical hour allocations. The first column identifies the relevant activity; the second states the hours designated for that activity. The third column multiplies the hours by the total number of children per year, to derive the total hours the entire office would spend on all children for that activity. The final column divides the adjusted total by 2000, our

assumed figure for the available time per year for each CAA, resulting in a figure for the number of CAAs necessary for each activity. Totals appear at the bottom of each column.

Table 9-2			
	Hour / Task	***Total Hours***	***CAAs***
Contact with Child	2.0	5894	2.95
File Pleadings / Motions	1.0	2947	1.47
Meetings w/ Caregivers	1.5	4420.5	2.21
Home / Placement Visits	4.0	11788	5.89
Conferences and Staffing	2.0	5894	2.95
Contacts with Lawyers	2.0	5894	2.95
Negotiation and Mediation	2.0	5894	2.95
Hearing Activities	4.0	11788	5.89
Reviewing Documents	2.0	5894	2.95
Appeals	0.5	1473.5	0.74
Case Monitoring	2.0	5894	2.95
Marshalling Resources	2.0	5894	2.95
Ethics audit	0.5	1473.5	0.74
Standard documentation	3.5	10315	5.16
Totals	29.0	85463	42.73
Caseload			38.12

Several features of this calculation merit discussion. First, the assumed hour allocations include travel time, especially for such activities as contact with the child and home/placements visits. These allocations also assume that the CAA advocate has no assistance from investigators or social workers in handling the case. The total amount of time produced by these individuals runs to 29 hours per child on all aspects of representation. This reflects a slightly over four-fold increase in the time currently spent by advocates on all aspects of representation.

With our hour allocations as assumptions, compliance with *Kenny A* would require nearly 43 full-time child advocates. Table 9-2 also presents a calculation of the caseload that would result from 43 CAAs handling the existing caseload. The calculation divides the total number of advocates into the figure for adjusted point in time caseload, or 1629. That would suggest a caseload figure of 38.12 children per advocate.

We again stress that we do not place any weight on our allocations of hours, on the total number of CAAs, or the caseload that results from those allocations. However, the calculations do permit us to derive a range of different caseloads, depending on assumptions about hours per case. The following table calculates how different allocations of hours per child relate to different caseload numbers

Table 9-3			
Hours / Child	***Total Hours***	***CAAs***	***Caseload***
6.79	20010	10.01	162.82
10	29470	14.74	110.55
15	44205	22.10	73.70
20	58940	29.47	55.28
29	85463	42.73	38.12

We have included in the first row the calculation that results when we use the current hours per case, comparing it to other higher assumptions about hours per case.

It is also possible to determine the effect that changes in caseload size have on the the number of CAAs and on the figures for hours per child. The following table presents those calculations, this time without any discount for multiple children. The first column presents ranges of point-in-time caseloads from a low of 50 to the current caseload of 162.9. The second column divides that number into the adjusted office point-in-time caseload of 1629. The third column multiplies that figure by the total hours available to each advocate (2000) to produce the total annual hours for all CAAs on that caseload. The fourth divides that figure by the number of children per year to produce an hours per child figure.

Table 9-4			
Caseload	***CAAs***	***Total Hour, All CAAs***	***Hrs/Child/Yr***
50	32.58	65160.00	22.11
80	20.36	40725.00	13.82
90	18.10	36200.00	12.28
100	16.29	32580.00	11.06
110	14.81	29618.18	10.05
120	13.58	27150.00	9.21
130	12.53	25061.54	8.50
140	11.64	23271.43	7.90
150	10.86	21720.00	7.37
160	10.19	20375.00	6.91
162.9	10.00	20000.00	6.79

Finally, it remains to express caseloads and hours per children as a function of the number of CAAs, using the same overall assumptions as above, with no discount for multiple children.

Table 9-5			
CAAs	***Caseloads***	***Hours per year***	***Hours per child***
10	162.90	20000	6.79
11	148.09	22000	7.47
12	135.75	24000	8.14
13	125.31	26000	8.82
14	116.36	28000	9.50
15	108.60	30000	10.18
16	101.81	32000	10.86
17	95.82	34000	11.54
18	90.50	36000	12.22
19	85.74	38000	12.89
20	81.45	40000	13.57
25	65.16	50000	16.97
30	54.30	60000	20.36

Taken together, these tables lead us to a series of conclusions about how increasing the time spent on *Kenny A*-mandated activities affects the overall caseload:

- First, none of this data suggests how much time per child an advocate *ought to spend* with a child. However, it does delimit the range within which discussions about this figure can occur, in the context of the pragmatic choices facing the parties to *Kenny A* about staffing and thus funding. To that extent, these calculations also provide useful information about the scale within which change in staffing, advocacy practice, and judicial reform might occur.

- Second, the values allocated for time per child remain a key determinant in assessing both caseloads and staffing. As a variable, we assume that time has a direct relationship to the quality of representation: the more time available to a CAA for a child, the more opportunity to represent that child in accordance with *Kenny A*. standards. As the tables illustrate, time per child can also be expressed in terms of staffing and caseloads. Finally, time per child serves as a useful basis from which to assess influences other than staffing and caseload on the CAAs' ability to meet the requirements under *Kenny A*.

- Third, even modest increases in the amount of time each child advocate spends on representation of children (including but not limited to a relationship with the child) would require a substantial decrease in caseloads and a corresponding increase in the number of advocates. *See* Table 9-3. For example, adding only 3 hours per child to the current number, to achieve 10 hours per CAA per child, results in a caseload of about 110 cases involving a total of slightly less than 15 CAAs. Doubling the amount of time spent on each child's cases further reduces the caseload to roughly 74, involving a total of about 22 CAAs.

- Fourth, increases in CAA staffing produce diminishing reductions in the overall caseload. The caseload reduction that results from increasing from 10 CAAs to 11

(14.81) is less from the reduction that results from increasing from 15 CAAs to 16 (6.79), and still less than what results from an increase from 19 – 20 (4.29). This may prove useful in setting an upper limit to increases in staff and reductions in caseload.

- Fifth, for similar reasons, decreases in caseload also produce increasing returns in terms of time spent per child. The increase in time per child resulting from decreasing the caseload from 90 – 80 (1.54 hours) is greater than the increase resulting from a decrease from 160 to 150 (.46 hours). Gains of an hour or more in time per child begin at around a caseload of around 120. The decrease in caseload from 120-80 results in a increased time per child (4.61 hours) that doubles the increased time per child resulting from a drop from 160 – 120 (2.3 hours).

This subsection analyzes solely the relationship between the number of CAAs and the hours they spend on representation, within the context of overall children per year and children at any point in time. It does not account for the effect of contextual factors on the overall practice of the office. As discussed with respect to the CAA / child relationship, a variety of influences affect the efficiency with which the CAAs can accomplish their goals. The next subsection identifies those influences, and discusses the weight to be given them in our calculations.

IMPACT OF CONTEXTUAL FACTORS

Improvements in Office Practices and Staffing ("Internal" Reforms)

Vertical representation: at present, the CAA office does not operate on a vertical representation model; instead, some attorneys handle probable cause hearings, and transfer cases to other attorneys, who handle the remainder of the representation. The CAAs also transfer cases regularly between each other. A vertical representation model would minimize these transfers, and thus reduce the amount of repetition necessary in familiarizing another advocate with the file upon each transfer. More generally, a "one advocate per child" approach allows advocates to develop a more in-depth understanding over time of each case, and thus increases their opportunity to plan more effectively for each case.

We cannot quantify the average time savings achieved by reducing file transfers and increasing depth of advocate understanding of each case. The amount of time advocates report on file consultations is relatively minimal, typically less than 1%. As a result, we would place relatively little weight on this factor, somewhere between 2% and 5%.

Use of investigators: during the time study, the CAA office had one investigator serving the needs of all child advocates. In focus group conversations, the investigator reported substantial time on home visits and general investigative tasks. In assessing advocate time, the project team sought to estimate the impact that a larger staff of investigators might have on the CAAs' ability to manage cases. We assumed that investigative staff might have an impact on CAA time in six different areas: contact with the child; meetings with caregivers; home and placement visits; conferences and staffing; case monitoring, and marshalling resources.

We estimated that an investigator might reduce advocate time in these areas by as much as 30% to 50% of total advocate time for a given case in those specified activities. The corresponding range of reductions in overall required CAA time ranged from 14% to 23.5% for a given case. Increases in caseload would occur in similar percentages. These numbers reflect the maximum range for savings. Smaller time savings would occur in cases resolved at or near probable cause, when a relatively lower percentage of the tasks of representation would require investigator assistance. Since little CAA time would be saved in these early-resolving cases, the primary savings in time would occur in longer-running cases, a subset of the overall caseload.

Moreover, even these ranges would occur only if sufficient investigative staff existed to help CAAs in every case in which their assistance might be required. More modest increases in investigative staff would produce correspondingly lower decreases in CAA time per representation.

The project team concluded that addition of investigative staff reflects a significant tool for reducing the time required for CAAs on cases, and could permit a shifting of emphasis in CAA work towards activities deemed important by the *Kenny A* order, including a relationship with the child and assertive legal advocacy. At the same time, we note that adding investigators does not produce a one-to-one reduction in CAA time. Thus, considering funding realities, adding a CAA would produce larger overall caseload efficiencies than adding an investigator. In sum, we weight the probable increase in caseload from a modest increase in investigative staff at somewhere between 5 and 10% overall.

Improvements in caseload management: the project team encountered significant difficulty in determining the size of a given CAA's caseload, or for that matter, the total number of cases currently handled by the office. We report on those difficulties in earlier sections of this study. Here, we note only that our difficulty in getting a reliable count of cases was mirrored in the office's own difficulty in gaining a complete picture of what the office or any individual advocate has as their caseloads. In focus group discussions, advocates reported substantial confusion about exactly how many cases they had; on occasion, they vigorously contested the assertion that the average number of children that they handled was as low as 160 children per advocate.

The lack of a reliable picture of any given advocate's caseload also reflects a more deep-seated lack of any coherent case management system. CAAs do not receive regular reports of their caseloads; they have no coherent system of tracking tasks, time per task, or deadlines, beyond what any individual advocate is able to achieve on his or her own. Advocates thus lack a systematic base of information on which to identify the overall size of their load, and for prioritizing time between different cases, or between different tasks within a given time period.

The project team concluded that implementing a coordinated case management system would result in achieving efficiencies that would have a notable impact both on the amount of time per case and on overall caseload sizes. Such a system would permit advocates to

manage overall case pressures with more foresight and planning. Comprehensive, accurate, and clearly reported information about caseloads would permit advocates to attend to case needs early, to identify trouble points in advance, and to take more proactive measures to avoid them. Moreover, this information would ease the inevitable burden of prioritizing between tasks when time is scarce.

We have no firm empirical basis to estimate how much more time such a system would save, and thus how far such a system might permit advocates to increase their caseload. To some extent, such an estimate assumes a significant shift in the model of representation from one rooted in responsiveness to external pressures to one based on a more well-informed, proactive mangement of cases in advance. While the potential for significant efficiencies is great, we hesitate to assign great weight to such improvements, and thus weight this at somewhere between 2% and 5% of the total.

Training on *Kenny A* behaviors: as noted in early sections of this report, our focus groups allowed us to detect a disparity between the current CAAs' assessment of their role and the prospective requirements under *Kenny A*. In its most relevant form, this disparity emerged in specific disagreements that particular behaviors (e.g. meetings with infants or with non-communicative children) or overall roles (e.g. resource coordination, appellate strategies) were necessary or appropriate parts of the job of a child advocate.

In principle, one might see these differences of opinion as having no impact on the overall time spent per representation. This view would suggest that CAA compliance with *Kenny A* would result only in shifting the time spent on representing children from one group of behaviors to another. Compliance would thus result in a change in priorities in what the CAAs do, with no overall change in the amount of time required to represent a child. Indeed, in this view, compliance with *Kenny A*. might be seen to require an increase (and possibly an unwarranted one) in the amount of time per case, assuming that *Kenny A* requires behaviors on top of those currently performed by the CAAs.

The project team sees reason to suggest that more fully trained and informed compliance with the *Kenny A* requirements would result in more efficient management of the time available for representation of children. Since we assume that *Kenny A* sets a baseline for those behaviors that the decree requires of CAAs, we suggest that, in determining efficiency, the proper comparison is <u>not</u> between what *Kenny A*. requires and current practice. Instead, we have sought to assess the disparity in practice between a staff that implements the *Kenny A* decree with no training and a staff that has adequate training to implement the decree's requirements.

We see two distinct ways in which training on *Kenny A* behaviors would be likely to produce corresponding efficiencies. First, in its most fundamental form, training on *Kenny A* behaviors may well lead advocates to accomplish certain tasks that they now perform infrequently or not at all. This in turn would mean a reshifting of priorities between tasks, and (assuming *Kenny A*'s specific requirements will assure the overall goals of more effective representation of children) a reduction in time spent on tasks less relevant to effective representation.

Second, training will permit more self-conscious and reflective performance of the key requirements of *Kenny A*. This in turn will permit CAAs to develop task-specific expertise more rapidly and with greater consistency than they might without such training. In effect, training provides a starting point for the development of a staff that can make the most effective use the increased time made available by reduced caseloads.

As in other areas, we have no empirical basis on which to assess how much of an impact training of CAAs will have on their overall efficiency. However, and especially in light of the disparities in role identification between *Kenny A*'s requirements and current CAA opinion, we think it reasonable to assume that training would produce both an increase in *Kenny A* required advocacy and an increase in the effectiveness and efficiency of that advocacy. Accordingly we have assigned somewhere between 2% and 5% weight to this initiative.

Travel: as noted earlier, county regulations prohibit CAAs from receiving mileage for the use of their own vehicles for visiting children. This requires CAAs to engage in unreimbursed visits or to use county vehicles for out-of-office travel. The use of county vehicles in turn typically requires that two or more people travel, doubling CAA (or CAA/investigator) time on activities that could be performed by a single individual.

Given this, the removal of restrictions on travel will achieve noticeable gains in the amount of time available for representation. Increasing advocate flexibility to use their own vehicles for travel related to their representation at a minimum increases their ability to manage their time within the persistent demands of an active court docket. Eliminating the requirement that two staff members participate in all travel produces savings for at least one of those staff members, and a corresponding increase in available time for that individual. Coupled with other reforms, this could permit two CAAs to engage in the twice the amount of work-related travel than currently possible.

Since work-related travel constitutes a relatively small part of the overall time spent on representation, the overall increases in time necessary would remain smaller than those achieved by, for example the introduction of investigators.

Reinforcement of *Kenny A* behaviors: during the time study, the project team observed a transition in supervisory responsibility from one individual to another, and a series of efforts to reform internal practices in a number of different dimensions. Some of these efforts achieved limited success, while others failed for lack of follow-through. Still others remain in process, under the overall supervision of a manager who, as of the date of this report, is still relatively new in this office.

The project team assumes that ongoing compliance with *Kenny A* will depend in the first instance on continued focus on *Kenny A* requirements within the office. If *Kenny A* works, it will do so because of persistent and continuous efforts to make them work within the CAA office after all possible reforms occur. While to some extent this ongoing compliance will

have to rest on individual CAAs, effective management and supervision can assure each CAA gets what they need for compliance.

We suggest that consistent managerial and supervisory support for *Kenny A*'s requirements will both increase the amount of time spent on *Kenny A* activities and the efficiency of CAA time on task. First, we note that many of these "internal" factors depend on effective office management to maximize their effect: implementing a vertical representation model; hiring and assigning of investigators; selecting and implementing a case management system; and arranging for training. Consistent managerial support is necessary to realize the potential of these reforms.

Second, we suggest that consistent supervisory oversight of each CAA's work will also serve to increase their ability to provide effective representation to children. Regular (and well-informed) reviews of caseloads, coupled with informed conversation about the mechanics of a practice rooted in *Kenny A*'s requirements, should reinforce the judicial mandate through clearly stated work expectations.

We have no empirical basis for assessing the weight to accord this potential reform, but, as with other internal reforms, suggest that it should amount to somewhere between 2% and 5%.

Improvements in DFCS and Court Practices ("External" Reforms)

Access to DFCS information: CAAs report spending substantial amounts of time attempting to collect information from DFCS that is needed to perform their duties as counselors. This information consists of key data for effective representation: the child's caseworker, the identity and location of a placement or foster parent; contact information for treatment providers; and similar data. Other data falls in the category that an attorney would normally acquire through discovery. However, the speed with which deprivation cases move, and especially the need for quick remediation for an at-risk child, frequently restricts the CAA's ability to perform any discovery, much less thorough and sifting factual development.

We have no empirical base for assessing the impact that requiring fuller and readier disclosure of baseline data from DFCS would have on CAA practices. It is potentially quite large: in the project team's view, early access to critical information serves both to make other tasks (e.g. placement visits) more efficient, and to improve the ability of the CAA to plan for and advocate on the key aspects of each case. On the other hand, not every case involves unavailable information; and even when available, the information might not produce significant efficiencies in a particular case. Accordingly, we weight this factor in the same range as the preceding factors, at roughly 2% - 5%.

DFCS Bringing Children to Hearings: Current advocates report that DFCS does not consistently bring children to hearings involving the child, even when requested to do so by the CAAs' office. This failure prevents the child from participating in the hearing and eliminates a major opportunity for advocates to engage in counseling and to renew and sustain their contact with their client. Changing this DFCS practice would increase child

advocate contact with their client, and might reduce (to a limited extent) the need for other visits to the child. While we note this increase in efficiency, we accord it no greater than a 1%-2% weighting.

Advance Distribution of Court Orders: Currently, CAAs report that with one exception, they do not see proposed court orders until the orders are entered by the judge. Instead, SAAGs draft the orders and send them directly to the judge without any review by CAAs (or often by any other attorney.) The CAAs report that this practice results in the entry of orders that are either inaccurate to the underlying hearing or erroneous in the stated requirements. When true, this results in the addition of court time to revise and reform the order after the fact. Advance review of proposed orders by all parties, including CAAs, would (in many if not all cases) foreclose the need for later corrective measures.

We have no empirical base on which to track the impact of reforming this behavior. It does not appear to result in post-hoc corrections in every case; reform would thus not represent a consistent savings of time over all cases. We estimate a possible increase in available time of around 2% – 3%.

"One Judge – One Family": currently, the Juvenile Court does not assign a child (or a family of related children) to a single judge. Instead, cases frequently move between judges, resulting in each judge needing to renew their understanding of the case. In addition, to the extent that CAAs appear predominantly in front of one judge, the appearance of previously unseen case in that judge's docket requires the CAAs' office either to assign a new CAA to the case, or to assure the appearance of the original CAA in a court that is different than their "normal" assignment.

At the very least, the absence of a "One Judge – One Family" system poses a major barrier to the child advocate's achieving a system of vertical representation, with the attendant increase in efficiencies that such a system produces. We also see to reason to believe that implementation of a "one judge – one family" system in the court's practices would produce savings for CAAs above and beyond those that the office would achieve solely through internal operation of a vertical representation system. Reduction in the time of transition, efficiencies achieved through greater judicial familiarity with each individual case, and efficiencies in docket management would have a distinct spill-over effect on the ability of all parties (including CAAs and their clients) to advocate within that system.

Strict Differentiation of Delinquency and Deprivation Court Calendars: within the past year, the Juvenile Court has attempted to separate its docket for deprivation cases from the docket for delinquency cases, so that the two types of cases appear in alternate weeks. If successful, this would permit CAAs to spend alternate weeks free of scheduled court hearings, allowing more extended time for work directly with clients and for more extended development on particular cases, including both case planning, investigation, and case monitoring.

Interview data suggests that this intended separation has not occurred, and that the court hears deprivation cases every day of every week. As a result, CAAs report an inability to be

away from court for extended periods on any day, restricting their ability to take advantage of the flexibility that additional large blocks of time would permit.

As with other barriers, we cannot assess with precision the impact that having this freedom from docket pressures in alternate weeks might have. However, at the very least, it would free up time for those portions of the CAAs' time that require out-of-court activity, including visits with children and staffings with DFCS. More generally, it would reduce the amount of "wait time" substantially; and would permit advocates to spend a significant portion of the time they spend on in-office activities with greater assurance of freedom from unexpected interruption for unanticipated hearings.

RECOMMENDATIONS

On the basis of the analysis in the previous subsections, we now present our recommendations for caseloads. We arrive at these numbers through the following analysis. First, we assess how far to reduce the current caseload in order to assure reasonably adequate time to represent children under *Kenny A*; we determine this number under current conditions, without accounting for improvements within and outside the CAA office. Second, we assess the impact of internal office improvements, and suggest how changes within the office might alter our caseload recommendations. Third, we make a similar assessment with respect to "external" reforms, those not directly within the control of the Child Advocate Attorneys' Office, including changes in the court, and DFCS.

We attribute the most importance to the need for CAAs to increase the time they spend on *Kenny A* activities. This has both qualitative and quantitative dimensions. Qualitatively, the lack of time for CAAs with their cases represents the primary difficulty for achieving a level of quality approaching what *Kenny A* requires. Quantitatively, we note that increasing the amount of time that each advocate spends per children has the greatest numerical impact on the resulting outcomes: no other factor produces such significant changes in caseloads and thus on potential staffing.

Under current conditions, 10 CAAs handle an average of about 162 children each at any point in time, resulting in a time spent per child of around 6.79 hours. The project team concludes that that time is insufficient to meet the requirements of *Kenny A*. At the same time, the project team also concludes that it does not make sense to assume that *Kenny A* requires that CAAs spend the maximum or the perfect amount of time on each child. In Table 9-2, we calculated what spending nearly 30 hours per child would require. We conclude that a caseload of 38 cases per advocate and a total of 43 advocates goes well beyond what is advisable or pragmatic for experienced attorneys engaged in the representation of children.

In determining what *Kenny A* would require under current conditions, we are also mindful that those conditions impose significant barriers. Fiscal and staffing limits, coupled with various office practices, restrict the office's ability to achieve optimal efficiency. External

influences severely affect each advocate's ability to control their own time and to assure proactive handling of problems before they arise.

Accordingly, we suggest that to achieve compliance with *Kenny A*, and in the absence of any internal or external reforms, each advocate should maintain a point in time caseload of no more than 80 cases. This caseload would require roughly 20 CAAs, and would result in each CAA having an average time of slightly less than 14 hours to spend on each child's case. This roughly doubles the time available for the representation of each child, including both relationship-building and assertive legal advocacy. To go lower would produce even larger increases in time per child, but those gains would come at the cost of decreasing the impact of each CAA on the overall caseload.

We stress again that these figures represent caseloads calculated solely on the basis of meeting *Kenny A*'s mandates under current conditions. This means that, of the 14 hours that this recommendation would allow, significant portions of time would be "wasted", in the sense that each CAA would spend time coping with both internal and external barriers to efficient representation of his or her client. We now turn to assessing the impact of these barriers.

Our report has identified a range of different initiatives that have already occurred within the Child Advocate Attorneys' Office, including changes in management, efforts to create a computerized case management system, and increased training and awareness of *Kenny A*. Other initiatives have been tried and have not yet taken hold, including implementation of vertical representation and addition of investigator staff. Still others would require alterations in county practices as they relate to child representation; in particular the ability of CAAs to use their own vehicles for transportation to visit with children.

We suggest that, taken together, all of these changes would improve the ability of CAAs to spend more time with their children. However, as demonstrated above, we think that only the addition of investigators might produce more than 5% increase in the amount of time a CAA has for representation; remaining changes would produce between 2% and 5% individually. Overall, we estimate that comprehensive and vigorously pursued changes in office policies, practices, training, and supervision would allow advocates to handle roughly 20 – 25% more cases.

Thus, with solely internal office reform, we suggest that to achieve compliance with *Kenny A*, each advocate should maintain a point in time caseload of no more than 100 cases. This caseload would require roughly 16.29 advocates, and, at least numerically, would reduce the time available per child to roughly 11 hours. However, we suggest that the lower number of hours per children is a figure calculated to remove the inefficiencies resulting from internal barriers. Each CAA would no longer spend "wasted" time on barriers which internal policy and practice had presented.

Finally, we suggest that changes in the context surrounding the Child Advocate Attorneys' Office would also have a significant impact on caseloads. Of these, we see changes in the Juvenile Court's handling of cases to have the greatest potential impact on the ability of the

CAAs to work efficiently. Specifically, implementing a "one judge – one family" system would permit more focused assignment of CAA staff to specific children and judges. A docket system that did not require the presence of the CAAs in court unpredictably and for extended periods, would significantly improve each CAA's ability to engage in representation that includes substantial blocks of time outside of court for relationships with children and for case planning.

Other external changes also play a significant role. Specifically, changing DFCS practices to provide regular updates to CAAs on the location of their clients, and to assure attendance of children at every hearing would significantly improve the CAA's ability to have regular, in-depth contact with children. Similarly, requiring SAAGs to review proposed orders with CAAs before submission to the judge would minimize the need for lengthy, and fundamentally unnecessary later efforts to revise or correct orders after signing.

Taken together, these changes in the practice environment within which the CAAs function should have an impact comparable to that of changes within the office. We cannot determine this with precision, but would suggest that it should permit advocates to efficiently handle roughly 20% more cases at the same level of quality than without those reforms.

Accordingly, we suggest that, with both external and internal reforms in place, to achieve compliance with *Kenny A*, each advocate should maintain a point in time caseload of no more than 120 cases. This caseload would require roughly 13.5 advocates, and, at least numerically, would reduce the time available per child to roughly 9.21 hours. Again, the decrease in hours per child reflects solely the time saved by not having to cope with inefficiencies already deeply ingrained in the current set of court, attorney, and agency practices.

In sum, we recommend caseloads as follows:

- if neither internal nor external reforms are implemented, we recommend a caseload of no more than 80 child clients per advocate. This would result in roughly 20 child advocate attorneys and roughly 14 hours per child.

- if only internal office reforms are implemented, but not external reforms, we recommend a caseload of no more than 100 child clients per advocate. This would result in roughly 16 child advocate attorneys and roughly 11 hours per child.

- if both internal and external reforms are implemented, we recommend a caseload of no more than 120 child clients per advocate. This would result in roughly 14 child advocate attorneys and roughly 9 hours per child.

We recognize that these recommendations create incentives towards reforming both the CAA office and the juvenile court. We stress that we see these reforms as an integral part of assuring that the county meet *Kenny A*'s mandates with a maximum of efficiency and minimum of unnecessary cost. Statistically, the range between a caseload of 80 and 120 children per advocate represents the range of greatest potential improvement in the time

each CAA can devote to representing children in a manner mandated by the court order. A caseload of lower than roughly 80 represents a range of diminishing returns, while higher than 120 represents an insufficient improvement in the time available to children, regardless of reforms within or outside the office.

Pursuant to the Consent Decree, the Court must review and approve the Workload Study's recommendations. Fulton County has 180 days from date of the Court's approval within which to achieve compliance with the recommendations. The Study presents a continuum of caseload ranges; and achievement of the higher caseload figures depends on achieving both internal and external reforms. We further recommend monitoring of the implementation of the reforms by the federal accountability agent with the final determination of caseload size by the accountability agent in consultation with the workload study project team, depending on which reforms have been achieved.

The monitoring would consist of the Child Advocate Attorneys' Office submitting reports to the accountability agent within 60 days and again within 120 days following the Court's approval of the Workload Study recommendations. These reports should contain statements and evidence of the internal and external reforms achieved since the Court's approval of the recommendations. The accountability agent would independently confirm the occurrence of those reforms occurred and assess the efficiencies that had resulted from them. Based on this assessment, the accountability agent would then in consultation with the workload study project team, determine the appropriate caseloads using the ranges recommended in this study.