

**DeKalb County Child Advocacy Center
Compliance Report**

Covering the Period

March 14, 2007 – September 14, 2007

Submitted by Karen B. Baynes, Compliance Agent

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Chapter 1. Background: The *Kenny A* Settlement – Second Reporting Period

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 *Kenny A* lawsuit has been resolved through three separate consent decrees; one with the State and one with each county.

The single claim against DeKalb 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. DeKalb County entered into a consent decree with the Plaintiffs on February 10, 2006. The first Reporting Period spanned from September 13, 2006 – March 13, 2007. Karen Baynes, Esq., was appointed as the Compliance Agent and submitted the first compliance report to both parties on July 30, 2007. It was subsequently submitted to the federal court. Although the report indicated several areas for continued improvement, plaintiff's counsel did not assert areas of noncompliance in the first Reporting Period. DeKalb County has now entered into its second Reporting Period.

During the second Reporting Period, the Compliance Agent held a training session with the DeKalb County Child Advocacy Center (DCCAC) staff to discuss the first compliance report and areas for considered improvements. All attorneys, investigators, and staff of the Center were present and had been instructed to read the report prior to the training session. Throughout the second Reporting Period, the Compliance Agent conducted random case count checks to ensure that caseloads did not exceed the maximum 130 active cases per attorney at any point in time. The Director of the Center provided the information required in the Consent Decree and all information was independently verified. In addition, an in-depth file review was conducted by randomly pulling 45 files with representation from each attorney in the office, including the Director who carries a very small caseload. Melinda Moore Williams, M.S.W., assisted in the file review, by reviewing the same files as the Compliance Agent from the perspective of good social work practice in meeting the needs of each child-client. Follow-up interviews were held with individual attorneys to glean more information regarding efforts and to understand the absence of documentation in the files. Scores were assigned and data was collected for quantifiable analysis of representation efforts. Random court observations were conducted and stakeholder interviews were held with judges and Special Assistant Attorneys General.

The following chapter outlines the Consent Decree and current activity levels regarding each of its requirements. Chapter 3 will discuss identified barriers to effective legal representation from the first Reporting Period and any efforts taken to overcome these challenges. Additional barriers to effective representation that are both internal and

external to the DCCAC identified during the second Reporting Period will also be discussed, as well as remedies undertaken or recommendations for future Reporting Periods.

As in the first compliance report, it is important to note that due to the nature of this legal practice, outcomes for children cannot always be directly correlated to the level of effort and zealous representation provided by their attorneys. Many other external factors exist that both enhance and impede the attorneys' abilities to ensure positive and developmentally appropriate plans and results for child-clients. The Compliance Agent also notes that the standard reiterated throughout the Consent Decree is "reasonable exercise of professional judgment." This prevents a "20/20 hindsight" perspective on case reviews and instead supports a review that places the reviewer in the stead of the Child Advocate Attorney during the various decision points of a case.

Summary of Findings

Overall, the DCCAC continues putting forth deliberate efforts to comply with the spirit and the language of the Consent Decree. After noting several areas for improvement during the first Reporting Period, the Director held training sessions in an attempt to improve performance in specified areas while emphasizing the need to comply with all standards and expectations. The following are some highlighted findings from the more comprehensive report that follows:

Caseload Obligation

- In accordance with Section 5 of the Consent Decree, the caseloads during the second Reporting Period remained below the maximum limit of 130 cases per attorney.
- The office continues to be staffed with a Director, 11 full-time attorneys, (two of whom have supervisory responsibilities), 4 Investigators, and 4 Paralegals. The DCCAC has moved into the new Gregory Adams Juvenile Justice Center and has adequate space that includes child-friendly areas.
- Child Advocate Attorneys continued seeing clients on a regular basis in their placements, schools, and at the courthouse. Client interview sheets more consistently indicated that the role of the attorney and the process were explained in age appropriate ways, and the child clients' desires were documented.

Reporting Requirements

- In accordance with Section 6 of the Consent Decree, The Director of the DCCAC provided all required documentation to the Compliance Agent who then independently verified the information. (See **EXHIBIT A**).

Responsibilities of Child Advocate Attorneys

In assessing the nine responsibility areas required in the Consent Decree, the Compliance Agent conducted file reviews, court observations, attorney interviews and stakeholder interviews. The following points are worth noting here as examples of the second Reporting Period findings:

- Child Advocate Attorneys attended and actively participated in all court-ordered judicial proceedings; attended more Citizen Panel Reviews than the first Reporting Period; and developed a documented a systemic approach to addressing the child's presence in court.
- Child Advocate Attorneys continued being barred from Family Team Meetings and overall communication between the DCCAC and DeKalb DFCS improved but still presents challenges.
- Several cases reviewed contained lapsed court orders. The DCCAC is exploring additional measures to prevent this occurrence in the future.
- There is a need for court-wide discussion, policy, and practice development for undocumented immigrant children in foster care. The risk of allowing this population to age out without addressing immigration issues is too great. These children risk delayed services beyond their 18th birthday or ultimate deportation.
- Although the motions practice remained predominately oral in nature, the DCCAC developed a sample motions file that is more widely used by Attorneys.
- Special Assistant Attorneys General continue drafting court orders. They now forward draft orders to the DCCAC for review. However, the process was still not consistent and timing issues need to be addressed.
- Child Advocate Attorneys exhibited excellent advocacy for clients jointly committed to the DFCS and the Department of Juvenile Justice.
- Training and in-service workshops were consistent, comprehensive, and required for all attorneys, investigators and paralegals employed by the DCCAC.

Barriers to Effective Representation

On-going communication issues between the DCCAC and DeKalb DFCS and its attorneys seemed to be at the core of barriers to effective representation. While the DCCAC's Director has continued her efforts in overcoming these barriers, sustained dialogue among all stakeholders needs to occur on an on-going basis. It is highly recommended that the stakeholders in DeKalb consider jointly drafting a communications policy and hosting cross-training on the issue. Other barriers are more fully addressed in Chapter 3 of this report.

Conclusion

The documentation of efforts and overall operation of the DCCAC improved during the second Reporting Period. In addition to areas of this report noted for improvement, there are also areas of good practice that should continue.

Chapter 2. The Consent Decree

Consent Decree Section 5 – Caseload Obligation

In accordance with Section 5 of the Consent Decree, DeKalb County has ensured that no full-time Child Advocate Attorney has been responsible for more than 130 cases at any given time. In addition, no less than full-time attorney has held a caseload that proportionately exceeded this maximum number of cases. The Compliance Agent was given full access to the Client Profiles Case Management System and ran periodic reports to ensure compliance with this agreed upon caseload. The Compliance Agent conducted unannounced caseload counts on the following dates: May 15, 2007, June 29, 2007, August 17, 2007, and September 11, 2007. The total number of child clients fluctuated throughout the second Reporting Period, but at no time exceeded more than 900. Periodic transfer of cases occurred during the period in order to balance the number of cases held by each attorney. The Director ensured that this was done with in-depth staffings and only in cases in which a change in attorney would not cause great interruption to the representation of the child-clients. The Compliance Agent reviewed several files with detailed memos informing new attorneys regarding the details of the case and activities to date.

As of September 11, 2007, no full-time Child Advocate Attorney was responsible for more than 90 cases. The following chart reflects the distribution of caseloads on that date:

Attorney	Total Caseload
Karimah Boston	76
Rachel Davidson	30
Glenda Harper	88
Donna Hibler	87
Danielle Lynch	66
Mary Moore	59
Aver Oliver	71
Jennifer Satija	65
Trenny Stovall***	8
Dyca Tricoche	77
Temika Williams	80
Fatimah Ziyad	57

*** Director Trenny Stovall represents a total of eight (8) children from three (3) families in an effort to maintain continuity in the attorney-client relationship and to address specialized issues within the cases.

Attorneys Rachel Davidson and Mary Moore worked on a full-time, contractual basis for the DCCAC during the first Reporting Period. Both have now been hired as full-time county employees.

TOTAL NUMBER OF CLASS MEMBERS REPRESENTED BY DCCAC	- 764
TOTAL NUMBER OF FULL TIME ATTORNEYS	-11
TOTAL NUMBER OF PART-TIME ATTORNEYS	- 2
(Rosalind Zollicoffer and Aviance Jenkins)	
*Both serve in an “as needed” capacity and do not maintain a caseload	
CASELOAD OF EACH ATTORNEY	- SeeTable
TOTAL NUMBER OF CHILD-CLIENTS REPRESENTED BY DCCAC	- 765

In addition to complying with the caseload obligations, DeKalb County maintained its staffing in accordance with Section 5(B) that required nine full-time Child Advocate Attorneys within 120 days after entry of the Consent Decree and 11 full-time Child Advocate Attorneys no later than March 31, 2007, not including the Director. The office initially met this obligation on (insert date) and maintained this staffing level since that time. The contract Investigators transitioned into full-time county employment. Special attention was given to social work skills and further diversifying the office staff to reflect the population of child clients served (including a male investigator). Investigators attended all in-house trainings and staffings. The Director and each of the attorney teams regularly evaluated the performance of each investigator. A job description for the DCCAC Investigator Position is included within **EXHIBIT A**. The following information lists each investigator employed by the DCCAC as well as his/her relevant expertise:

INVESTIGATOR EXPERIENCE

Ericka D. McClam

- 11/03-Present DeKalb County Child Advocacy Center, Decatur, GA
Chief Investigator
- 8/00- 11/03 DeKalb County Juvenile Court, Decatur, Georgia
Senior Probation Officer (Community Service Division/Status Offender)
- 9/98 to 8/00- Fulton County DFACS College Park, Georgia
Social Services Case Manager (Foster Care and Adoption Unit)
- 4/96 to 6/98- Dallas County Mental Health/ Mental Retardation Center Dallas, Texas
Individual Service Coordinator (Treatment Foster Care) 9/96 –6/98
Case Manager (Hillside Day Treatment Program) 9/96-10/97
Intake Worker (Eastside Family Center) 4/96-9/96
- 9/94 to 3/96 Gulf Coast Mental Health Center, Gulfport, Mississippi
Family Service Specialist Adolescent Division
- 1/94 to 9/94 C.P.C. Sandhill Psychiatric Hospital, Gulfport, Mississippi
Psychiatric Technician
- Certified Anger Management Specialist
- Certified HIV/AIDS Awareness Facilitator
- Desktop Guide to Good Probation Practices Trainer
- Georgia Office of Dispute Registered Mediator

- Certified Trainer of Alcohol and Drug Awareness
- Certified Trainer of Conflict Resolution
- DeKalb County Juvenile Court Shoplifting Awareness Trainer

Gari Jackson

- Charter Peachford Hospital, Expressive Therapist Assistant Director 5-21-97 to 5-21-00.
- Dekalb County Community Service Board, After school drug Program for Adolescents” Lead Therapist” from 5-23-00 to 5-23-01.
- Anchor Hospital Director of Expressive Therapy 5-26-01 to 4-16-06.
- Morris Brown College –BS in Psychology.
- Shorter College coursework in Business Management (MA expected 12/08)

Shannon Dollar

- DeKalb DFCS case manager: 11/01/04 – 04/01/06
- DeKalb County schools teacher: 08/15/06 – 11/01/06
- Georgia State University – BS in Social Work -1996
- Capella University – masters student in Mental Health Counseling (MS expected 04/09)
- Prior to 04 I volunteered as part of a committee that developed a 501(c) (3) community based service center for Scottdale. The agency provided after-school tutorial, referrals to agencies outside of the community, food giveaways, clothes giveaways, and holiday gift giveaway.
- In 2002 – Led HIV education and prevention outreach program for DeKalb County Board of Health.

Anisha Stackhouse

- Dekalb County Department of Family and Children Services (Child Protection Investigator), 2005-2006
- (Education) Master’s Degree in Social Work, Georgia State University, 2003-2005

Documentation to further support the level of client contact and field investigations was provided in the form of mileage reimbursements, number of field investigations, and total miles logged.

MARCH 2007-AUGUST 2007

Mileage Reimbursement
\$17,589.74

Field Investigations
2,313

Total Miles
46,225

Individually, each attorney and investigator logged the following number of home visits and mileage during the second six-month reporting period:

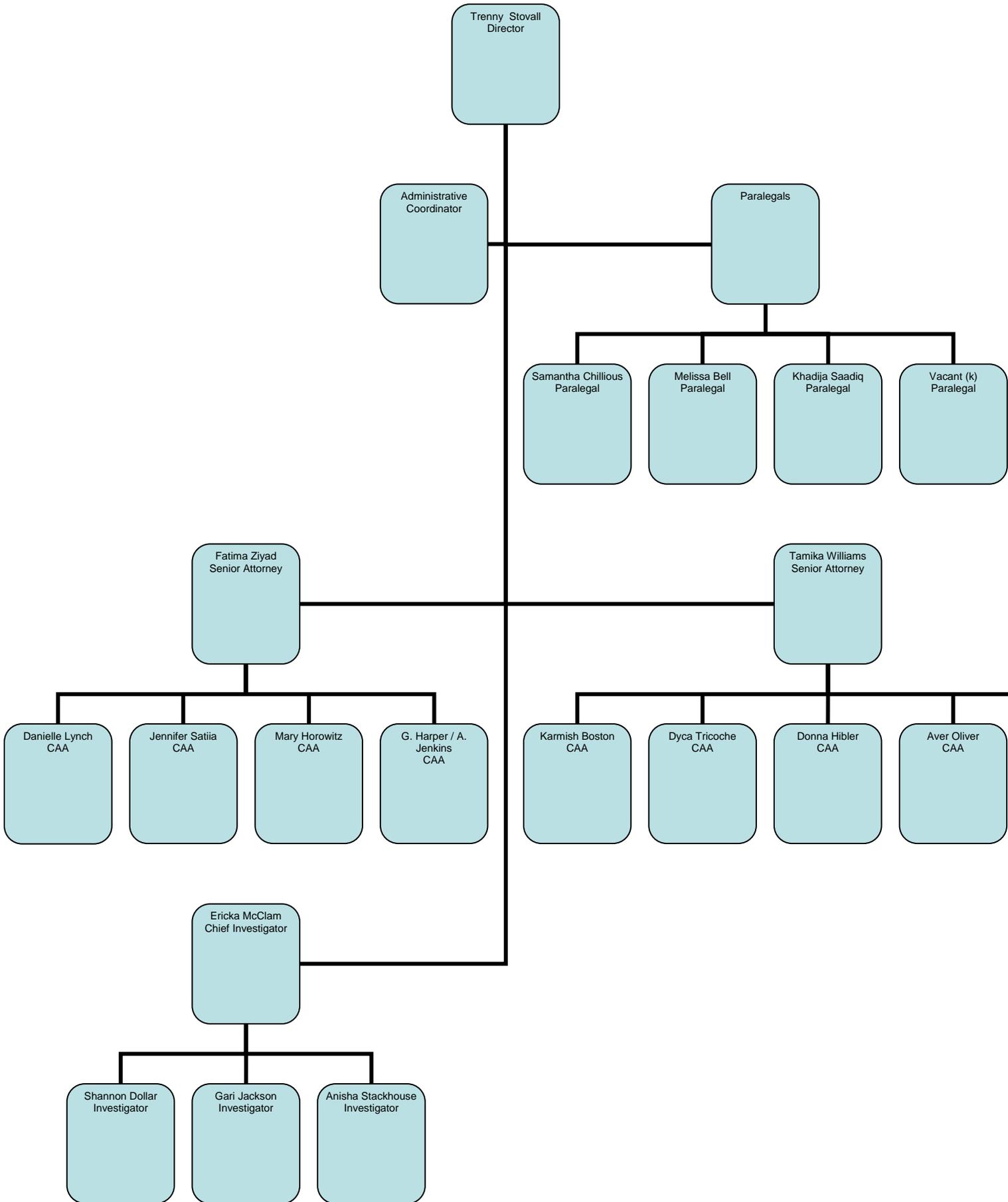
Attorneys	Home Visits	Miles	Mileage Costs
BOSTON, KARIMAH	248	3992	1,936.14
DAVIDSON, RACHEL	104	3308.1	1,604.45
HARPER, GLENDA	150	2251	1,091.76
HIBLER, DONNA	191	3816.1	1,850.79
HOROWITZ, MARY	171	4541	2,202.40
LYNCH, DANIELLE	158	3268.1	1,585.02
OLIVER, AVER	166	3008.1	1,458.91
SATIJA, JENNIFER	307	5027	2,438.13
TRICOCHÉ, DYCA	160	3564.3	1,728.69
WILLIAMS, TEMIKA	125	3634	1,762.50
ZIYAD, FATIMA	174	3072	1,489.94
TOTAL VISITS	1954		
TOTAL MILES		39481.7	
TOTAL EXPENSES			\$19,148.73

Investigators	Home Visits	Miles	Mileage Costs
CHILLIOUS, SAMANTHA	25	524	254.15
CLEMENTS, KIMBERLY	12	426	206.61
JACKSON, GARI	259	6097	2,974.03
JENKINS, AVIANCE	79	1440	698.36
McCLAM, ERICKA	241	4353	2,111.23
MURPHY-DOLLAR, SHANNON	371	6750.1	3,273.80
SHENODA, ANDREW	13	345	167.33
STACKHOUSE, ANISHA	343	5844	2,834.36
TOTAL VISITS	1343		
TOTAL MILES		25779.1	
TOTAL EXPENSES			\$12,519.87

Defendant DeKalb County continued supporting the staffing and resource needs of the Child Advocacy Center. The space for the Center in the new courthouse is now fully operational and is conveniently located across the hall from two of the courtrooms and one floor below the remaining two courtrooms. This enables Child Advocate Attorneys to operate more efficiently between hearings and provides for confidential and child-friendly spaces for client interviews. It is evident that the attorneys, investigators and staff have fully implemented use of the Client Profiles Database Management System discussed in the first Reporting Period. Notations in the system were observed to be much more detailed and useful during the review.

Since the prior reporting period, all investigative staff and most attorneys received laptop tablet computers. This assists with documentation of efforts and case management especially since staff works remotely and from the field a considerable portion of the time. Additionally, the paralegal support staff took over the responsibility of maintaining documentation of all efforts within hardcopy files and the Client Profiles system for all staff. Attorneys and investigators maintain one form for all efforts on all cases. This form is submitted on a daily basis to the paralegals, who then input the information into each case file for which efforts were made. This reduces the amount of time attorneys and investigators spend documenting, thereby leaving more time for case management. The process has also served to increase the comprehensive documentation of all efforts on all matters by deferring the responsibility to the paralegals as a primary task. The Director meets with the paralegal staff monthly to ensure that information flow is occurring timely and she conducts periodic data base checks to ensure accuracy of entries. Staff was given remote access into the county and the department's database systems. The county maintains sufficient safety mechanisms to ensure confidentiality. This allows staff to work remotely, documenting files, case managing and interacting with paralegals, investigative, and administrative support without necessarily being required to physically return to the office. A job description for the paralegals is also included in **EXHIBIT A**.

Another improvement in DCCAC operations has been the restructuring of the management hierarchy. With the addition of a second supervising attorney's position and a supervising investigator's position, attorney management now occurs in five and six member teams, managed by the supervising attorneys, while all investigators report to the chief investigator. This modification from the former structure in which all staff reported to department Director, improves the consistent dissemination of information and allows for more efficient monitoring, supervision, and mentoring of staff. The following is the current organization chart for the DCCAC (It should be noted that Ms. Glenda Harper has tendered her resignation effective December 7, 2007):



The DCCAC Director and the Chief Judge of the Juvenile Court continued to meet regularly to discuss processes, barriers to effective representation, and the Child Advocate Attorneys' efforts in the litigation process. The Director also continued meeting with the Director of the DeKalb Department of Family and Children Services (DFCS). These conferences were productive in contributing to process improvement and addressing barriers to effective representation. The meetings also provided an opportunity for the Court and DFCS to discuss any concerns or issues regarding child advocate action or inaction.

Consent Decree Section 6 – Reporting Requirements

In accordance with Section 6 of the Consent Decree, DeKalb County is required to provide the following documents to the Compliance Agent:

- A. Report showing (i) the number of Class Members then being represented by DeKalb County Child Advocate Attorneys, (ii) the number of child Advocate Attorneys engaged full-time in such representation, (iii) the number of Child Advocate Attorneys engaged part-time in such representation, and (iv) the caseload of each Child Advocate Attorney;
- B. Copies of all child Advocate Attorney training and CLE records completed during the Reporting Period;
- C. Copies of all Child Advocate Attorney performance reviews and evaluations completed during the Reporting Period;
- D. Copies of any complaints alleging or appearing to allege inadequate and ineffective legal representation by a Child Advocate Attorney and documents relating to any such complaint; and
- E. Copies of any updates or revision to any of the documents attached to the Consent Decree as Appendix A, B, or C adopted during the Reporting Period.

The documents provided are attached hereto as **EXHIBIT A** (with the exception of performance reviews and evaluations that were submitted to plaintiffs' counsel, DeKalb County Attorneys office, and the court separately due to the sensitivity of confidential personnel information). All documentation was independently verified by the Compliance Agent by running periodic caseload reports, attending training sessions, conducting court observations, and initiating follow-up discussions with the Director, the Attorneys, the Investigators and various stakeholders such as Chief Juvenile Court Judge Peagler and the Special Assistance Attorneys General.

Training

During the second Reporting Period, the DeKalb County Child Advocacy Center continued being proactive in providing training and in-service opportunities for its attorneys, investigators and paralegals. Training modules included managerial subjects such as New Supervisors Training and Performance Plan Management Training; child and adolescent development subjects such as "The Effect of Violence & Chaos on Children's Neurological Development" and "ADHD"; and legal seminars such as NITA

Child Advocate Attorney Trial Skills Training and the ABA Child Advocacy Conference at Harvard Law School. (See **EXHIBIT A** for a detailed listing of training)

Performance Reviews and Evaluations

In reviewing the performance reviews and discussing evaluations with the Director, the Compliance Agent found that the process continued to be instructive for all involved. The Director and the two new Supervising Attorneys review files, observe court hearings, and discuss specific cases with stakeholders to ensure that each attorney is performing at maximum capacity. In instances when improvement is needed, a plan is developed with clear expectations and time frames. During the second Reporting Period, specific issues raised by the Compliance Agent, especially in the area of documentation of efforts, were discussed with the attorneys during their reviews. Since personnel information is sensitive, the performance reviews and evaluations for each attorney is provided in hard copy to plaintiffs' counsel, the Defendant County, and the Court. However, these documents should not be distributed in any public forum. Although not required by the Consent Decree, performance reviews and evaluations were also conducted for Investigators and Paralegals.

Complaints

During the second Reporting Period, the Compliance Agent received one complaint regarding alleged inadequate and ineffective legal representation. A mother whose children are being represented by the Center contacted the Compliance Agent to lodge a complaint regarding the Court, the Child Advocate Attorney assigned to represent her children and all of the other stakeholders involved in the process. Upon investigation, the Compliance Agent discovered that the complainant had also lodged complaints with the Governor's office and several other officials throughout the state. The Compliance Agent could not substantiate any of the issues raised by the complainant. Upon further review of the case, the Compliance Agent determined that the Child Advocate Attorney and other staff within the Center provided exceptional representation and advocacy efforts. Due to the mother's mental health status, she was unable to fully comprehend the court and foster care process. The Child Advocate Attorney put forth some efforts to assist the complainant. The child-clients continue to be well cared for and a permanent plan is in process.

Updates or Revisions to Appendices A, B, or C of the Consent Decree

The only notable change in DCCAC policy since the prior compliance reporting period is the specific directive that written home evaluations are required to be reviewed before Child Advocate Attorneys can consent to any placement of a child outside the custody of DFCS. This policy was created in response to limited circumstances wherein some case managers sought to place or transfer custody of children outside of DFCS authorized placements, with relatives or fictive relatives, and without submitting written home evaluations to the court. While DFCS presented oral testimony that such evaluations had been conducted, significant information that would otherwise be contained in written

home evaluations, such as criminal background checks, specific financial information and detailed information regarding all persons residing in the home, was often omitted. Without this detailed examination of the environment and assessment of the potential caretaker's ability to provide for the child, the DCCAC takes the position that it is unable to adequately assess the appropriateness of the placement.

As a result of consistent application of this new policy, the court and DFCS have become aware that the Child Advocate Attorneys will be raising the objection in court. Anecdotal reports indicated that over time, written home evaluations were submitted by DFACS on a more regular basis.

Consent Decree Section 7 – Responsibilities of Child Advocate Attorneys

Section 7 of the Consent Decree outlines the nine specific responsibilities of Child Advocate Attorneys. Each of these areas of responsibilities is further supported by Core Principles, Standards for Juvenile Advocacy Representation, and the Policies and Procedures contained in Appendices A, B, and C. In order to ascertain performance levels during the second Reporting Period, the Compliance Agent conducted file reviews, client profile reviews, court observations, stakeholder interviews, and more in-depth attorney interviews regarding information gleaned during the file reviews, court observations, and overall observations of the operations of the office.

During the second Reporting Period the office caseload at no time exceeded 900 child-clients. In order to gain an understanding of practice and performance, 45 cases were randomly selected with stratification to ensure that each attorney was adequately represented in the pool. In each of those cases, the files and client profiles were reviewed using the same objective checklist tool utilized during the first Reporting Period. A copy of each review is attached hereto as **EXHIBIT B**. In addition, each file was also reviewed by Melinda Williams Moore, M.S.W., to evaluate through good social work practices, whether the needs of each child-client was being adequately addressed and met. The Compliance Agent and Ms. Moore then discussed each case in detail in order to develop questions for attorney interviews. Following discussions and attorney interviews, some scoring was then adjusted up or down to reflect all of the information gathered. For each file, the Compliance Agent evaluated the representation efforts using the following scale: (0) for not applicable; (1) for poor performance; (2) for needs improvement; (3) for satisfactory performance; and (4) for excellent performance. The Compliance Agent awarded a score to each file as well as scores for every indicator of a performance required under the Consent Decree.

The following chart is the aggregate scoring for each performance indicator for all 45 files:

	Scores	0	1	2	3	4
Document in file						
Safe keeping - complaint	1	0	0	0	0	44
Petition(s)	1	0	0	0	0	44
Motion(s)	1	0	0	0	0	44
Caseplan	2	0	0	0	2	40
Psych Eval/Development	15	0	0	0	0	30
School Records	16	0	11	4	0	14
Medicals	29	0	1	2	0	12
Photos/video	40	0	0	3	0	3
Police Report	41	0	0	0	0	4
Drug Screens	38	0	0	0	0	7
Child Advocate Attorney Report	1	0	0	28	0	16
Attorney Hearing Notes	2	0	0	21	0	22
File Activity	2	0	0	18	0	25
Placement Information	2	0	0	4	0	39
Releases for Information	22	0	0	4	0	19
CCFA	1	0	24	0	0	20
Witness Interviews	2	0	0	38	0	5
Child Interviews	13	0	0	21	0	11
Referrals to Resources OR Programs	27	0	0	16	0	2
Investigative Cover Sheet	45	0	0	0	0	0
Any other non judicial events for child	5	0	0	36	0	4
Atty Hearing notes - Content						
Legible	1	0	2	3	0	39
Pre-trial	1	0	0	8	0	36
Type of Hearings Identified	2	0	0	0	0	43
Records open/close	43	0	0	0	0	2
Records Evidence (documents admitted)	2	0	0	9	0	34
Records Witnesses Testimony	2	0	0	26	0	17
Records Motions	2	0	1	25	0	17
Records Objections	2	0	2	30	0	11
Records Court Order	2	0	0	7	0	36
States Child Position	18	0	1	7	0	19
Documents Party presence/service	2	0	0	2	0	41
Documents Services received/needed	3	0	0	26	0	16
Next Hearing Date	2	0	1	4	0	38
Next Steps for each party	2	0	1	37	0	5
Would you know what happened in Hg	2	0	2	21	0	20
Would you know next steps for CAA	3	0	0	28	0	14

File Activity

Staffings w/DFCS or SAAGs	15	0	1	2	27
Staffings w/Director or designee	40	0	0	1	4
Staffing w/Invest. 48 Hours prior to Hg	3	0	0	31	11
Contact with other Attorneys	1	0	0	27	17
Discovery Issues	34	0	0	8	3
Telephone contacts - id & content record	4	0	0	9	32
Monitoring of court order	3	0	3	24	15
Conflict Analysis	1	0	28	8	7
Appeal Considered	45	0	0	0	0
All actions required under Consent documented in CAA file	41	0	0	2	2
	582	0	78	542	913

In addition to providing aggregate data, the Compliance Agent also notes the following statistically significant occurrences:

- 11% of cases reviewed (5/45) contained lapsed court orders. Given the small sampling of cases, this may indicate an even larger problem for the total population of cases. Although there is Georgia case law that supports the continuance of cases beyond the expiration date of the original order for instances of appointing attorneys for parents, this is not good practice.
- 6.66% of cases reviewed (3/45) involved child-clients jointly committed to the Department of Juvenile Justice and DeKalb DFCS. In spite of this complicated custody arrangement, the Child Advocate Attorneys demonstrated tremendous efforts in advocating seamless services for their clients.
- In 6.66% of cases reviewed (3/45) child-clients were within 4 months of aging out of care upon turning 18 years old. Two of the three cases documented good practice efforts in transitioning the client out of care or counseling to encourage them to remain in care to complete educational goals.
- 4.44% of cases reviewed involved minor mothers in foster care. The DCCAC attended well to the conflict and continued representing the minor mothers while requesting that the court appoint independent counsel to represent the involved infants.
- 24% of cases reviewed (11/45) received a (2) needs improvement score regarding school records. Although this was reported during the first Reporting Period, and considerable improvement is noted, this is still an area that requires more efforts in future Reporting Periods. Even in files in which the Child Advocate Attorney indicated a need for an Individual Educational Plan (IEP) or that the child was

receiving special education services, there was very little supporting documentation in the files reviewed.

- 73 % and 55% of cases reviewed received a (3) satisfactory or (4) excellent for child interviews and documented child position respectively. This is a marked improvement from the first Reporting Period.
- None of the cases reviewed documented appeals considerations. In the overwhelming majority of cases, this was not warranted. However, the DCCAC may want to consider this for cases dismissed by the court due to clients being on runaway status.

The Compliance Agent also conducted periodic court observations to gain a greater understanding of in-court practice and advocacy efforts. An attempt was made to observe each attorney during different phases of a case. The use of an objective tool for court observations was less beneficial than noting overall observations of in-court activities and follow-up interviews with the child advocate attorneys and other attorneys on particular cases.

Stakeholder interviews were conducted with the Chief Judge and one Special Assistant Attorney General. The interviews served as a tool to gain general information regarding the perceived performance and functioning of the Child Advocacy Center and its attorneys as well as to address potential barriers to effective representation.

In the following sections, each of the nine performance responsibility areas and required performance standards are outlined. Following each section is a review of the performance level during the First Reporting Period, a discussion of whether any concerns/recommendations were addressed, and finally, a brief description of findings regarding the performance level during the second Reporting Period.

Responsibility #1

To prepare for, attend and participate in all court-ordered, judicial hearings and proceedings: to stay as reasonably aware and informed as possible of the existence and outcome of non-judicial reviews, meetings and conferences; and to attend such non-judicial reviews, meetings, and conferences when necessary in the reasonable exercise of professional judgment.
(See also Performance Standards 1, 7, 8, and 9)

Findings During the First Reporting Period

The Compliance Agent found that the practice in the DeKalb County Child Advocacy Center was generally proactive both in-court, as well as in preparation for court and other non-judicial reviews, meetings, and conferences. In addition, follow-up on cases and monitoring of services and court-ordered activities was evident in each of the cases

reviewed or observed in court. There was an expectation in the office and the court that no case would go forward without the presence of the Child Advocate Attorney. According to interviews with the judges and the Child Advocate Attorneys, every child in the class was represented in all judicial hearings during the first Reporting Period. While there were varying levels of experience and expertise among the attorneys, less experienced attorneys were paired with more experienced attorneys for mentoring and inner-office staffing of cases. The following areas were noted for explanation or future considerations for improvement:

Citizen Panel Reviews

- The Citizen Panel Review is conducted in DeKalb County for a majority of the cases after a child has been in care for 6 months. Not all panel reviews were attended by Child Advocate Attorneys; however, the attorneys and their investigators were aware of each panel conducted and attended when deemed necessary in accordance with the requirements outlined in the Consent Decree. Attendance by the Child Advocate Attorneys was often difficult because of scheduling conflicts with hearings taking place in court. The office however did keep track of the resulting recommendations for each panel review and submitted objections to the court when determined to be in their client's best interests / desires. It was recommended that in the future, the Child Advocacy Center and the Court consider revising the process such that the Child Advocate Attorneys or their investigators could attend Panel Reviews on a more regular basis.

Family Team Meetings

- In accordance with its own policies, the DeKalb County Department of Family and Children Services (DFCS) are required to conduct Family Team Meetings for every child as they enter foster care. At the beginning of the first Reporting Period, Child Advocate Attorneys were routinely informed of and invited to Family Team Meetings. The Attorneys reported that the meetings were extremely helpful in discovering information about their clients, their client's family, and many of the facts surrounding the case. If the attorney could not attend due to scheduling conflicts, an investigator from the office would attend each of the meetings. However, during the first Reporting Period, DFCS changed its policy and no longer invited or allowed attorneys or investigators to attend.

The Compliance Agent met with Director Walker Solomon to address concerns regarding the new policy. Mr. Solomon explained that the Family Team Meetings were never intended for discovery purposes; the meetings were intended for the family; and that attorney presence was disruptive to the process. He did however, indicate that information gleaned during these meetings would be made available to the attorneys and that invitations to staffings were still occurring. The Compliance Agent highly recommended that the Child Advocacy Center Director and the Director of DFCS continue revisiting this shift in policy. Past participation in Family Team Meetings by the Child Advocate Attorneys greatly enhanced their ability to zealously and effectively represent their clients.

Unfortunately, the stated new policy regarding Family Team Meetings was further complicated by the SAAGs issuing a new policy that case managers were not to talk to the Child Advocate Attorneys about cases without the SAAG being present or giving express permission. In some instances, service providers revealed that they too were told not to communicate information with Child Advocate Attorneys about their clients. DFCS committed to working internally to clear up the policy regarding Family Team Meetings and on-going communications with Child Advocate Attorneys. However, during the first Reporting Period this occurrence greatly impaired the Child Advocate Attorneys' ability to prepare for hearings. They spent an inordinate amount of time during the first Reporting Period trying to glean information that was once readily available. The Center turned to more consistent use of formal discovery motions while it continued to attempt resolution with DFCS and its SAAGs.

Placement Information and Overall Communications Between DFCS and the DCCAC

- The performance standards state that the child's lawyer should be aware at all time of the placement location and contact information for the client. While the Child Advocate Attorneys spent a great deal of time during the first Reporting Period ascertaining their client's placement, this was not without great effort and systemic difficulty. The Director of the Child Advocacy Center negotiated receipt of a monthly listing of every child in foster care in DeKalb County with their stated placement address. While DFCS provides this list on a routine basis, the Child Advocate Attorneys discovered that the list was not frequently updated and that many of the placements listed were incorrect. The file reviews uncovered many emails and voice mails requesting placement information from DFCS. In addition, this shift in communications policy was misinterpreted by some case managers to include not disclosing information such as placement with the Child Advocate Attorneys without permission from the SAAGs. Thus, although DFCS policy requires informing parties and the court of placement changes, this was not consistently occurring in DeKalb County. In addition, during the first Reporting Period DFCS organized its caseloads such that an Intake Caseworker would conduct the initial investigation and then transfer the case to a placement worker. Thus, often during the initial hearings and investigation, the case manager interacting with the Child Advocate Attorneys had no information regarding the child's placement. DFCS was reportedly reorganizing in order to alleviate this gap in information.

Presence of Child-Client in Court

- During the first Reporting Period, it was unclear as to whether there was a consistent policy or practice in place to assess and determine whether a child-client should be present and participate during judicial hearings. Not many child-clients were observed in court during court observations. Some file reviews indicated that child-clients were interviewed at the court; however, no file reviewed documented a child's actual presence and participation in court. Given the extremely high caseload of teen clients in this jurisdiction, it was recommended that either a clearly stated office policy or guideline be developed

or greater efforts of documenting this factor take place during future Reporting Periods. When Child Advocate Attorneys issued subpoenas to DFCS requiring the presence of child-clients in court, the subpoenas were sometimes ignored.

Actions Taken by the DCCAC Regarding First Reporting Period Findings

Citizen Panel Reviews

- The attorneys and investigators stayed aware of non-judicial reviews, meetings and conferences and attended when possible. This included Citizen Panel Reviews, staffings, school meetings, etc. Following recommendations during the first Reporting Period, the Child Advocacy Center made a concerted effort to attend more Citizen Panel Review proceedings. A system was worked out to ensure more timely notices of the proceedings. When scheduling conflicts occurred (such as in-court cases), trial partners or investigators often attended the panel reviews on behalf of the assigned attorneys. When attendance was not possible, the attorneys remained informed of the outcomes of each of these proceedings and each file reviewed contained panel review documents and recommendations. Child Advocate Attorneys contacted panel and other stakeholder committee coordinators or case managers to inform them of specific concerns with relevant cases. Coordinators were very responsive in communicating concerns to stakeholders. In instances when unresolved issues were identified following a panel review, Child Advocate Attorneys moved for judicial review of matters. Child Advocate Attorneys reported that DFCS has generally been responsive in addressing concerns following panel reviews.

Family Team Meetings

- The child advocate attorneys continued to be excluded from Family Team Meetings conducted at the DeKalb DFCS. The policy of the Department changed during the first Reporting Period and the meetings that the Child Advocate Attorneys found very useful in their representation efforts remained closed to the office. The Department's conduct in this regard is not governed by this Consent Decree; however, the Compliance Agent recommends that plaintiff's counsel address this issue with the Compliance Agents assigned to monitor the Department's adherence to their own Consent Decree. In addition, although the Comprehensive Child and Family Assessments (CCFAs) continue to be conducted by the Department, in most cases, the Department no longer provided these reports to the Child Advocacy Center. During file reviews, the most recent CCFA found was conducted in January 2007.

Placement Information and Overall Communications Between DFCS and the DCCAC

- As a follow-up to the first Reporting Period, the Compliance Agent examined on-going communication issues between the Child Advocacy Center staff and personnel of the Department of Family and Children Services. Although the previously reported policy of no communication from Department Case Managers to Child Advocate Attorneys was not strictly enforced, there continued to be issues and barriers to effective information sharing. One issue continued to be

communication regarding placement and placement changes of child-clients. During the 2007 General Assembly, the law in Georgia was changed and requires written notice upon placement change for foster children. Although the Department has created a form that is mailed out to all parties regarding placement changes, the file review and subsequent attorney interviews revealed that this notification was inconsistent, not timely, and the form was often missing information, such as the reason for placement change. This will be discussed further in Chapter 3 of this report.

Child-Clients Presence in Court

- The DCCAC conducted extensive training on issues associated with attorney-client relationships and responsibilities. Specifically, Child Advocate Attorneys were required to discuss, among other significant aspects of the rights of the child-clients, the right to attend hearings. Documentation was maintained in case files verifying these communications. Child Advocate Attorneys also received directives as to appropriate procedure to implement when a child-client requests to attend court or when his or her presence is necessary for the disposition of the case.

Second Reporting Period Findings and Recommendations

During the second Reporting Period, the Compliance Agent conducted court observations of individual attorneys, conducted file / client profile reviews, and interviewed stakeholders such as judges, DFCS personnel, Child Advocate Attorneys, and the Director of the DCCAC.

In accordance with the consent decree, the child advocate attorneys participated in all court-ordered, judicial hearings and proceedings. A system of pairing allowed for coverage when attorneys were not able to attend hearings due to illnesses, etc. In cases in which coverage by another attorney would adversely impact the representation of the child-client (for example, during contested adjudicatory hearings or termination of parental rights hearings), continuances were requested.

Few child-clients were present during court observations. This was noted during the first Reporting Period as well. Although there are large numbers of teenaged clients (approximately 20%), the attorneys report that most of their clients do not want to come to court. For those that do and for those who need to be present for testimony or cross-examination, the Child Advocate Attorneys requested that either case managers or placement providers bring the child to Court or issued subpoenas for a child's presence. DFCS' compliance with Child Advocate Attorney requests and subpoenas for child-clients appearances improved greatly since the initial monitoring period. In some instances, providers or case managers were informally asked to bring children. Generally, subpoenas are issued for the presence of the child-client. When subpoenas were not complied with, some judges either held the case for the case manager to secure the child or continued the case for the child-client's presence. The Child Advocate Attorneys usually show proof of service of subpoenas. In a minority of cases, the Court

decided to proceed over the objection of the Child Advocate Attorney and without the presence of the subpoenaed child-client.

It appeared that the Child Advocacy Center deliberately placed complex cases with the most seasoned, experienced and skilled attorneys. Often these cases had multiple children whose families had long histories with court and the DFCS. In addition, the supervising attorneys took on responsibility of identifying training needs and there was an active mentoring process taking place within the office.

Overall, the practice within the office has improved from the first Reporting Period. The Attorneys and Investigative staff embraced recommendations and continued participating in training sessions in order to improve trial techniques, enhance development of client relationships, and tweak operational processes to improve efficiencies. The following areas are new observations worth noting for explanation or future considerations for improvement:

- There were several cases reviewed that had lapsed court orders. Although the client profiles data system marks cases that are approaching expiration and sends a message to each attorney, it is categorized with other case activities that need attention. Follow-up interviews with attorneys revealed that there are so many pop-up reminders that it is difficult to keep track of expiring cases. In at least two of the files, once the child advocate attorney realized that court orders were getting ready to expire or had expired, they documented efforts to notify the Special Assistant Attorneys General and other stakeholders. Thus, although the system has not prevented court order lapses, it still seems to be working in the overwhelming majority of cases. The Compliance Agent met with the Director of the Child Advocacy Center and suggested exploring ways in which the system could flag expiring cases differently than other case activities. In addition, the Director indicated that once DeKalb County finalizes the implementation of a new county-wide calendaring system, notification of expiring cases would be sent to each attorney's calendar.
- The Compliance Agent observed several cases involving undocumented child clients from other countries. While the Child Advocate Attorneys displayed strong advocacy efforts in each of these cases, there did not appear to be a policy in place to address immigration issues of children who remain in care. In light of the fact that the court also does not have a policy to address the unique needs involved in these cases (i.e. international home evaluations, etc.), each judge approached these cases differently. It will be important moving forward for the Center to offer more training on immigration issues and perhaps explore pro bono assistance to file citizenship paperwork on behalf of clients when appropriate. One file reviewed involved a 14 year old child from a West African country whose permanent plan is another planned living arrangement through long term foster care. Unless this child's immigration paperwork is completed and filed, he risks being deported upon aging out of foster care. Advocacy efforts in this area

need to be stronger and start earlier to ensure that citizenship status and services are in place upon aging out of care.

- Several file reviews revealed cases in which child-clients had histories of running away from their placements. The Center has a policy that none of these cases should be dismissed because the child is on runaway status. In spite of this policy, the court has dismissed some of these cases, but often not upon first request by the Department. Advocacy efforts on behalf of this population of children are very difficult, but the Center is to be commended for efforts as documented in files. Future consideration of appeals may be warranted in instances in which cases are closed over the objections of the Child Advocate Attorneys.

Responsibility #2

To prepare, make and/or file oral and/or written motions, and responses to same, when necessary in the reasonable exercise of professional judgment.
(See also *Performance Standards 7 and 8*)

Findings During the First Reporting Period

Motions

- The motions practice in DeKalb County Juvenile Court was primarily conducted orally in court. Court observations and file reviews indicated that the attorneys were generally proactive in making evidentiary objections as well as objections to court findings. The one area that was being explored by the Center for future use involved written discovery motions. Given the shift in DFCS' communication policy/practice, the Center developed a form discovery motion that they have used judiciously in order to prevent total collapse in communication in a system that has historically been amicable among attorneys.

Actions Taken by the DCCAC Regarding First Reporting Period Findings

Motions

- As noted during the first Reporting Period, the motions practice continued to be predominately an oral practice during court hearings. However, the form motions regarding discovery were more widely used by Child Advocate Attorneys and as a result, they experienced more timely responses to information requests. The form motions are attached hereto as **EXHIBIT C**.
- Due to on-going communication barriers between the DCCAC and the DFCS, and upon the recommendation of the Compliance Agent, the motions practice became more formalized than it appeared during the first Reporting Period. Case specific issues relating to the filing of motions and pleadings were regularly discussed during attorney training and conferencing for the benefit of all Child Advocate Attorneys. Additionally, form motions and orders databases were created within

the DCCAC's electronic database. (See **EXHIBIT C** (Motions) and **EXHIBIT D** (Orders)). The DCCAC purchased significant litigation practice and discovery forms, and resource and reference materials in support of increased motions practice. (See **EXHIBIT E**).

Second Reporting Period Findings and Recommendations

- It should be noted that during several court observations, the Child Advocate Attorneys made oral motions on behalf of their clients, objected to judicial decisions, and preserved issues on the record for appeal.
- In one case observed, the judge dismissed the case because the Department was not prepared and the case manager could not be located when the case was brought into court. In spite of the Child Advocate Attorneys objections and statements regarding the needs of her client, the case remained dismissed. Upon locating the case manager (who was testifying on another case in another courtroom), the judge still maintained his decision to dismiss the case, but agreed to review it in order to ensure that services were put in place. It is not clear as to how a dismissed case can be reviewed, however, none of the attorneys objected.
- The documentation of motions and orders in the files improved significantly. In addition, the Center provided a sampling of actions taken by Child Advocate Attorneys during the second Reporting Period. (See **EXHIBIT F**).

Responsibility #3

To attend to the possibility and/or existence of professional conflicts of interest and the resolution of same.

(See also Performance Standard 11)

Findings During the First Reporting Period

Documentation of Role

- As outlined in the Performance Standards, the Child Advocate Attorneys declined to represent children when they or another attorney in the office represented the Defendant parent or guardian; when a sibling group had conflicting accounts of the deprivation facts; and when positions taken on behalf of a sibling group were mutually exclusive and conflicted in a material way. In addition, Child Advocate Attorneys were also observed attending to the existence of conflicts when their role as guardian ad litem conflicted with their role as attorney. There was some question as to when the attorneys were advising their clients of this dual role in order to safeguard attorney – client confidentiality. The files reviewed lacked documentation of this vital step in establishing role and attending to potential conflicts. Although the Consent Decree is somewhat vague on the model of representation expected, the Director has continued clarity regarding her expectation of a dual role model. In order to ensure a uniform and consistent dual

role practice, the Director agreed to add this topic to the training modules scheduled during the second Reporting Period.

Court Response to Request for Appointment of Independent Guardian ad Litem

- One issue arose regarding resolving conflicts in several cases reviewed. When the Child Advocate Attorney raised the presence of a conflict and requested a separate guardian ad litem be appointed by the court, the court requested information regarding the nature of the conflict and then refused to appoint a separate guardian due to costs to the County. Both the Compliance Agent and the Director raised this issue with Chief Judge Peagler who agreed to address the issue with the other judges.

Actions Taken by the DCCAC Regarding First Reporting Period Findings

Documentation of Role

- Following a training session with the Compliance Agent and the entire staff of the DCCAC, documentation of these efforts became much clearer during the second Reporting Period. In client interview sheets, Child Advocate Attorneys noted explanation of their role. In several files, requests for appointment of Guardian ad Litem were made due to conflicts of interest.

Court Response to Request for Appointment of Independent Guardian ad Litem

- Chief Judge Peagler addressed this issue with the juvenile court judges. Unlike the first Reporting Period, the Child Advocate Attorneys did not report any instances of the court refusing to allow outside counsel to be appointed in cases of conflict.

Second Reporting Period Findings and Recommendations

- In several cases involving minor mothers in foster care, the Child Advocacy Center continued representing the minor mother and requested outside counsel be appointed to represent the minor mother's newborn. In other cases, the interview notes indicated that the attorney did not agree with the child's position and after counseling the client, if the child's position remained the same, the attorney requested a separate Guardian ad Litem.
- Court appointed attorneys, in instances of conflict, serve as guardian ad litem for child-clients. While this is good practice to allow the ability to conduct cross-examination, etc., it is important for those attorneys to be properly trained and fully understand their role. During the third Reporting Period, the Compliance Agent will address this issue with the court.

Responsibility #4

To investigate matters relevant to judicial proceedings affecting the legal interests of Class Member clients, including the formal process of propounding and responding to discovery, as well as informal investigation and discovery, and to conduct such investigation and discovery as is necessary in the reasonable exercise of professional judgment to adequately and effectively represent Class Member clients.

(See also Performance Standard 6)

Findings During the First Reporting Period

Investigations

- Overall, the investigatory process in the Child Advocacy Center was found to be deliberately employed and systemically monitored. The investigators that are hired to work with each Child Advocate Attorney had social work backgrounds and in many instances direct experience working with DFCS. This enabled them to navigate that system effectively while conducting investigations. The communication between investigators and attorneys was consistent. Use of in-person staffing, emails, and client profiles enabled the teams to utilize the necessary skill sets of both attorneys and investigators.

Discovery

- The practice throughout the first Reporting Period relied heavily on the informal process of discovery. Attorneys routinely called, emailed or visited DFCS case managers, service providers and other attorneys. During the first Reporting Period, several of the SAAGs told case managers not to communicate directly with the Child Advocate Attorneys without the presence of the SAAGs. The Child Advocate Attorneys quickly adjusted their practice under the guidance of their Director and began to formally seek information through the SAAGs directly. This created quite a bottleneck as the SAAGs attempted to respond to all of the requests for information. Shortly after instituting the policy, some of the SAAGs withdrew this mandate and allowed the case managers to communicate with the Child Advocate Attorneys directly once again. Others did not. This resulted in disparate and confusing case management practice.
- The one area that was not resolved using informal discovery process involved information gleaned from the Family Team Meetings and several of the other comprehensive assessments conducted by DFCS. Although these documents were present during file reviews, court observations and attorney interviews revealed that the documents were often shared the day of trial or upon seeking to enter them into evidence. The formal use of discovery motions for certain cases was recommended by the Compliance Agent to ensure on-going and timely sharing of information for case preparation and monitoring.

Actions Taken by the DCCAC Regarding First Reporting Period Findings

Discovery

- Primarily, Child Advocate Attorneys continued to secure documentary evidence informally, by making requests to SAAGs and case managers. As a general matter, documents containing child-client information exclusively were provided, though it often took several requests to contact case managers. Secondly, as it relates to reports and other documents where the child is the subject, Child Advocate Attorneys secured them by subpoena or informal request from the provider. In some instances, however, providers objected to subpoenas or refused to provide documents reporting that DFCS has instructed them not to comply with Child Advocate Attorney requests. Further, certain providers reported that their contracts with DFCS would be terminated if information was provided directly to the Child Advocate Attorney. When DCCAC Director discussed the issue with the DFCS Director, it was explained that as a matter of state-level DHR policy such directives and requests were to be made directly through SAAGs and not directly to providers.
- When neither effort was successful, Child Advocate Attorneys motioned the Court for documents. Oral motions remained the primary method for judicial requests. However, written motions were filed as necessary. It appeared that even with the Court's order, documents were not always provided expeditiously. Child Advocate Attorneys reported that motions were made repeatedly for discovery. There seemed to be no penalty for failure to comply. In the next Reporting Period, the DCCAC indicated that it would formally request that parties show cause as to why there has been failure to comply with the Court's order for discovery.

Second Reporting Period Findings and Recommendations

As a matter of state-level DHR policy, documents containing parents or guardians information cannot be provided to Child Advocate Attorneys. This includes, but is not limited to psychological evaluations, intervention provider reports and CCFAs. DeKalb DFCS' procedure requires that upon motion to the Court by the Child Advocate Attorney, documents are to be submitted to the Court for in-camera review and then should the Court rule that information contained therein is relevant for the Child Advocate Attorneys case presentation, it would be provided for Child Advocate Attorney inspection. This resulted in significant delays in the filing of requested documents with the Court, if at all. The effect was that the Child Advocate Attorneys did not receive the requested documents or when received, the issue was often resolved, or the information was no longer timely, accurate or relevant. This process was practiced by some SAAGs.

- The Compliance Agent recommends that while the DCCAC continues its advocacy efforts by using a formal discovery process, all stakeholders should convene to discuss the overall issue of communications and policy. It is recommended that a formal communications policy be established similar to the

policy in place at the Administration for Children and Families in the state of New York.

Responsibility #5

To establish and maintain an attorney-client relationship with each Class Member client and to maintain such contacts with the client as are necessary in the reasonable exercise of professional judgment to ensure adequate and effective legal representation.

(See also Performance Standard 5)

Findings During the First Reporting Period

Attorney-Client Relationship

- Training and expectations regarding the establishment and maintenance of an attorney-client relationship were found to be deliberate and consistently conveyed to all Child Advocate Attorneys throughout the first Reporting Period. The Center set forth protocol and procedures regarding the initial investigation, client interviews, and on-going client contact. In accordance with policies and procedures, each child-client is interviewed or seen no more than 30 days prior to the first setting of all scheduled formal hearings; child-clients should be seen and interviewed (if of a verbal age) in their living environments at least once a year; and a minimum of quarterly visits shall be conducted so long as children are in care, and any time an emergency or other circumstance arises that would require additional visits. Moreover, during those visits and additional contacts with child-clients, Child Advocate Attorneys are expected to explain the role of guardian-attorney to the child-client and regularly explain the status of the case and potential outcomes in order to keep the client informed and allow the client to participate in his/her representation.

Client Profiles System

- The DCCAC was found to be going to great lengths to ensure compliance in this area. The Center was staffed with paralegals and investigators who systematically assisted the Child Advocate Attorneys by keeping track of visits and other forms of client contacts. In order to comply with the quarterly visits, the Client Profiles System flagged them for the attorneys and investigators. While the attorneys personally saw their clients prior to the adjudicatory and dispositional hearings, as well as when critical incidents arose in the case or within the child's placement, the investigators also visited children in their placements on a quarterly basis and kept the attorneys apprised of the status of the placement and service provision. Although the visits and contacts by attorneys and investigators was well documented, the substance of the visits was not routinely outlined to include discussions regarding role and whether the child had expressed a particular desire or direction that would impact his/her representation or indicated the presence of a conflict for the attorney. During file/client profile reviews it was also not clearly documented as to whether the child-clients were regularly given the option of

attending court and participating in hearings. However, during subsequent interviews with Child Advocate Attorneys, there was general agreement that these activities were taking place, but were not being clearly documented in the case file. Future training on documentation of efforts as well as clearly defining and discussing role with child-clients was recommended in order to improve supporting evidence of performance within this responsibility area during future Reporting Periods. There was also a glitch discovered in the Client Profiles System that impacted quarterly visits during the first Reporting Period.

Actions Taken by the DCCAC Regarding First Reporting Period Findings

Attorney-Client Relationship

- Training was provided to the entire staff of the DCCAC regarding documentation of client interaction and developmental ways to explain the Child Advocate Attorneys' roles in representation to their clients.

Client Profiles System

- The glitch in the Client Profiles System was alleviated and there was no longer an issue regarding notification of quarterly visits.

Second Reporting Period Findings and Recommendations

- Training and expectations regarding the establishment and maintenance of an attorney-client relationship continued to be deliberate and consistently conveyed to all Child Advocate Attorneys throughout the second Reporting Period. Child Advocate Attorneys and Investigators regularly contacted clients and documented these visits in the files. In training, special attention was given to the dual-role of the advocate-attorney, related ethical issues, and to the importance of explaining in an age appropriate manner these duties to child-clients. This too was evident in the client interview sheets contained in each file.
- When Child Advocate Attorneys identify conflicts of interests in the dual-role or for any other reason, a motion for the appointment of a separate Guardian ad Litem was made. In some instances, the Court inquired as to the reason for the conflict, contrary to ethical rules, and on occasion refuses to appoint a separate Guardian to represent the child. In those instances, Child Advocate Attorneys had been directed to raise an objection and to inform the court that it cannot act in the dual role and must act solely as client-directed attorney, leaving the child without a guardian to protect that child's interest. This occurrence has diminished greatly since the first Reporting Period.

Responsibility #6

To maintain contacts with social workers, service providers and family members, as reasonably possible, and as necessary to adequately and effectively represent Class Member clients.

(See also Performance Standard 6)

Findings During the First Reporting Period

Maintaining Contacts with social workers, service providers, and family members

- Child Advocate Attorneys documented contacts with social workers, service providers and family members through their file activity logs, client profile incident reports, as well as copies of emails sent and received regarding requests for information and monitoring of services. Although school records were present in some of the files reviewed, they were not present in all of the files of school aged children. This was recommended by the Compliance Agent as an area that needed some improvement in the future. The activity logs and incident reports indicated when witnesses or service providers were interviewed; however, the results of the interview and any information gleaned were not always well documented. This was found to be bad practice, especially for those cases that had to transfer to another attorney in the instance of an emergency absence or departure of an attorney from the Center's employment. Again, documentation training was recommended in order to improve this area for future Reporting Periods.

Active and Zealous Representation

- Overall, the Child Advocate Attorneys exhibited proactive, zealous attempts to maintain vital contacts on behalf of their clients. Some of the communication issues with DFCS and shifts in policies impaired or complicated this process. Whenever case specific concerns remained unresolved between Child Advocate Attorneys and case managers, the Directors of the DCCAC and DeKalb DFCS established a cooperative process for assessment and immediate response. In each instance where case specific process occurred, the issues were resolved promptly and immediately.

Actions Taken by the DCCAC Regarding First Reporting Period Findings

Maintaining Contacts with social workers, service providers, and family members

- In-service documentation training occurred as a result of the recommendations and findings during the first Reporting Period.

Active and Zealous Representation

- The Director of DCCAC and DeKalb DFCS continue to meet regarding general barriers to effective representation as well as case specific issues.

Second Reporting Period Findings and Recommendations

- Communications with DFCS generally improved since the previous reporting period. The directive prohibiting direct communications between case managers and Child Advocate Attorneys appeared in most instances, to have been relaxed. Case managers generally communicate directly with Child Advocate Attorneys. Nevertheless, this exchange continued to require significant efforts by the Child Advocate Attorneys to reach case managers as reflected in case file

documentation of efforts. There continues to be a minority of case managers who did not have direct communication with Child Advocate Attorneys, which greatly impeded the Child Advocate Attorneys' efforts to protect child-clients' interests, insure the adequacy of services and to promote permanency.

- As discussed previously, most child welfare litigation practice as well as case management efforts occur orally. Child Advocate Attorneys were generally successful in securing documentary evidence, staffing cases, addressing concerns and requesting child-clients presence in court through informal communications with case managers. However, written motions were filed as necessary to ensure the protection of the child and to prompt an appropriate resolution of the case. As it relates to documentary evidence, case managers generally provided the same information to Child Advocate Attorneys as long as the subject of the requested information is limited to the child and did not contain "protected" information about the parents or other custodians.
- The communication between DCCAC Director and DFCS Director and designee continued to provide mutual benefit and support for both agencies. Meetings were held several times and both directors were responsive to all concerns identified. This communication continued to improve the processes and policies of the DCCAC.
- The practice of assigning two separate case managers (intake and placement) to each case continued within DFCS. This affected communication and case management because each case manager maintains a different role and often has differing levels of knowledge, information and involvement with each case.
- Although the presence of school records in the files improved, there was still a need to conduct and document efforts regarding educational services and the needs of child-clients. There is no dispute that children in foster care often require remedial and support educational services and many are in need of Individual Education Plans (IEPs). Although some of the files documented that child-clients had IEPs, none were present in the files reviewed. It is recommended that more direct contact with school systems take place in order to better ascertain child-client educational needs and advocate for services accordingly.

Responsibility #7

To monitor the implementation of Juvenile Court orders relating to the child, to raise issues of non-compliance, and to advocate the child's best interests with the Court and other judicial decision-makers, as necessary in the reasonable exercise of professional judgment.

(See also Performance Standard 10)

Findings During the First Reporting Period

Court Orders

- During the first Reporting Period, the Special Assistant Attorneys General (SAAGs) that represent DFCS, prepared Court Orders and forwarded them directly to the Juvenile Court Judges for approval and signature. Thus, the Child Advocate Attorneys did not have the opportunity to review the orders until they had been approved by the court. Many of the orders were found to be inaccurate and to contain findings that were not discussed in court, such as favorable reasonable efforts findings. The Child Advocate Attorneys then expended time to request amendments and in some cases were forced to have hearings transcribed (there are no live court reporters during hearings in this jurisdiction) in order to support their requests. During a regularly scheduled meeting between the Director of the Center and Chief Juvenile Court Judge Peagler, the Judge informed the Director that she had met with the SAAGs to address this issue. The orders would be forwarded to all attorneys involved in the case for review and revisions prior to court approval. Thus, during the second Reporting Period, this should not present as a time barrier to effective representation of children. In spite of the time consumed revising orders, the Compliance Agent found that the Child Advocate Attorneys kept all orders in the files and documented efforts in monitoring enforcement.
- Documentation of monitoring of the orders was prevalent throughout each of the file / client profile reviews. Child Advocate Attorneys routinely monitored activities set forth in the court orders including the developed and court approved case plan that was present in each of the files reviewed. In some cases, there seemed to be a lag time in zealously moving cases to permanence, however, during attorney interviews decisions made reflected reasonable exercise of professional judgment and therefore did not warrant further discussion.

Actions Taken by the DCCAC Regarding First Reporting Period Findings

Court Orders

- Orders continued to be prepared primarily by SAAGs. Following discussions with Chief Judge Peagler, the SAAGs generally forwarded draft orders, usually via email, to the Child Advocate Attorneys to review. However, most draft orders were also forwarded to the Court at the same time. The Child Advocate Attorney was then required to rush to review drafts and recommend changes, hoping that their email recommendations were reviewed by SAAGs and changes made before the Court signs the original draft. Child Advocate Attorneys sent recommended changes to the Court as well in an effort to ensure that amendments were noted and recorded.
- The DeKalb County Child Advocacy Center (hereinafter DCCAC) Director has addressed this issue with the Court and the judges individually. Additionally, Child Advocate Attorneys have been directed to discuss this issue with the

SAAGs. However, the practice continues. That being said, Child Advocate Attorneys have compensated, by reviewing orders as soon as reasonably possible—usually within 24 hours. This places an additional burden on Child Advocate Attorneys and could result in less than comprehensive review of orders for accuracy, though no such concern has actually been identified. Child Advocate Attorneys report that on occasion motions must be filed to correct or amend orders, but generally, SAAGs comply with recommendations by Child Advocate Attorneys. Child Advocate Attorneys do maintain copies of all orders in case files as soon as they are signed by the court. Some files reviewed showed a longer time period between hearings and filings or the court order than other cases. This may be due to the drafting and review process.

- In spite of some of these challenges, the new process allows the Child Advocate Attorneys the opportunity to review draft orders and has greatly improved the accurate and comprehensive submission of orders to the Court. It is likely that further improvements will be noted in the upcoming reporting period.

Second Reporting Period Findings and Recommendations

- In July 2007, the state of Georgia created a new law that requires the Department of Family and Children Services to immediately notify all parties to a deprivation action when a placement change is occurring for any child in foster care. Although it was evident from the file reviews that the Department has developed a form, it is still not being sent on every impacted case and when sent, it is often one week or more after the placement change has occurred. Unfortunately, implementation of the new law has not yet assisted the Child Advocacy Center with locating their clients. Documented efforts still indicate that a great deal of time is being spent merely trying to find out where clients are placed so that attorneys and investigators can contact them.
- Child Advocate Attorneys report that draft orders are not prepared or submitted within any consistent timeframe. Some orders are prepared within days of hearings while others might not be prepared until more than thirty days following hearings. This places an undue burden on the part of the Child Advocate Attorney to monitor cases following hearings to ensure that orders are accurately prepared. An established timeframe in which orders are due to be submitted to the Court would help to regulate the process and improve efficiency by ensuring that all hearings receive accurate, written orders. Some orders that require modification are re-submitted for the Court to *nun pro tunc* in instances where draft orders are signed by the Court without Child Advocate Attorney review.
- Several of the files reviewed involved children in the joint custody of the Department of Family and Children Services and the Department of Juvenile Justice. The Child Advocate Attorneys have done a good job of attending to issues in both systems and providing effective advocacy efforts in both.

Responsibility #8

To participate in settlement negotiations as necessary in the reasonable exercise of professional judgment.

(See also Performance Standard 1)

Findings During the First Reporting Period

Settlement Negotiations

- The settlement negotiation process occurred during different phases of a case and in the midst of various activities. Regular staffings were held for each case and at the beginning of the first Reporting Period, Child Advocate Attorneys routinely attended these staffings to discuss the perspective of each party and attempted to negotiate a common plan. The rift in communication with DFCS hampered this opportunity, but hopefully improvements will be made during the next Reporting Period.
- In addition, negotiations are often held in the hallways prior to actual court hearings. During court observations, the Compliance Agent observed Child Advocate Attorneys actively engaged in settlement negotiations on behalf of their clients.

Actions Taken by the DCCAC Regarding First Reporting Period Findings

Settlement Negotiations

- In the context of overall communication barriers between the DCCAC and the DeKalb DFCS, the Director of the DCCAC continues to meet regularly with the Director of DeKalb DFCS in attempts to alleviate case specific and overall communication barriers. This includes the occurrence of staffings and timely notification to the DCCAC.

Second Reporting Period Findings and Recommendations

- During the second Reporting Period, fewer staffings were noted in the files and client profile data system. Follow-up interviews with the Director and attorneys indicated that in some instances, Child Advocate Attorneys reported that staffing case schedules were sometimes distributed only the day before staffings and were conducted only for new cases. This seemed limited to two specific SAAG caseloads and did not appear to be common practice among all SAAGs. For those caseloads, the assigned Child Advocate Attorneys were working with those SAAGs to re-establish a more comprehensive staffing policy and process.
- Another concern raised by Child Advocate Attorneys was that case managers did not consistently attend staffings, which affected the comprehensive review of matters listed for scheduled staffings.

- Scheduled staffings regularly conflicted with court calendars for one Child Advocate Attorney team. This affected both the Child Advocate Attorneys and the SAAGs ability to participate. In the absence of Family Team Meetings, these staffings were extremely useful in preparing cases and negotiating with parties.
- If these trends continue, it is highly recommended that the Director address these issues with DFCS and that the Compliance Agents for DFCS be notified.

Responsibility #9

To prepare, file and participate in appeals affecting the legal interests of Class Member clients as necessary in the reasonable exercise of professional judgment.
(See also Performance Standard 12)

Findings During the First Reporting Period

Appeals

- During file / client profile reviews and court observations, preserving issues for appeal, preparing, filing and participating in appeals was an area that was not well attended to by the Child Advocate Attorneys. Not many cases were appealed by any of the attorneys involved in these cases and therefore the practice did not reflect any anticipation of or utilization of proactive strategic appellate recourse for court findings.
- Future training modules were being considered to identify issues ripe for appeal, process and procedures for filing appeals, and the importance of appellate decisions in this area of litigation.
- In spite of the absence of documented appeals considerations, no case reviewed seemed to be hampered by its absence. Without deliberate consideration however, future cases may be harmed and therefore the Compliance Agent recommended that the Center should pay particular attention to this responsibility during future Reporting Periods.

Actions Taken by the DCCAC Regarding First Reporting Period Findings

Appeals

- Reference materials related to appellate practice were secured and made available to all Child Advocate Attorneys.
- An attorney with extensive experience in the appellate practice for deprivation cases was contacted for future training modules.

Second Reporting Period Findings and Recommendations

- Though Child Advocate Attorneys filed no appeals, there is no indication that any matter warranted such action during this reporting period.
- An extensive training by attorneys versed in the appellate practice area is scheduled as an in-service training during the next reporting period.
- Child Advocate Attorneys should consider the use of appeals in cases that are dismissed because their clients are on runaway status.

Chapter 3. Barriers to Effective Representation

The first Reporting Period began September 13, 2006 and ended March 13, 2007. Several recommendations were issued by the Compliance Agent in the first Monitoring Report based on the Responsibilities found in the Consent Decree. As noted in the above chapter, several areas of concern arose during the first Reporting Period that presented challenges and barriers to effective representation for the class. Many of these concerns were discussed and there was a reflection of different practice during the second Reporting Period. There are other potential barriers that still exist and warrant attention moving forward. Regardless of whether a remedy has taken place, it is important to note what external and internal factors were at play during the period that may have affected the review of current performance levels and ultimately outcomes for child-clients.

In the first Reporting Period, the Child Advocacy Center was revising the process for scheduling court hearings so that the attorneys or investigators could attend DeKalb County's Citizen Panel Reviews on a regular basis. During the second Reporting Period, the Child Advocacy Center attended DeKalb County's Citizen Panel Reviews on a more regular basis. As noted in the above chapter, a system is in place to ensure timely notices of Citizen Panel Reviews. Scheduling conflicts are averted through the allowance of Investigator attendance at the panel reviews in place of the attorneys.

As of the second Reporting Period, the Center is still excluded from the Family Team Meetings. In addition, despite changes in law, placement changes and case transfers are still difficult to obtain from DFCS.

During the last Reporting Period, SAAGs prepared court orders and forwarded them directly to the Court, not allowing the attorneys the opportunity to review the orders until they had been approved by the court. Since the first Reporting Period, a system has been put in place for SAAGS to email draft orders to all attorneys of record prior to submission to the court. The timeliness and consistency of the system seems to vary from SAAG to SAAG, but overall this has improved. It is recommended that the Director bring on-going issues to the attention of the Chief Judge to further improve this process.

In the first Reporting Period, it was noted that even when the Child Advocate Attorneys issued subpoenas to DFCS requiring the presence of child-clients in court, those subpoenas were ignored. During this Reporting Period, these instances diminished, although there were still occasions in which the Department does not bring the clients as requested by the attorneys.

The use of written motions was recommended in the last Reporting Period. There were improvements in this area during the second Reporting Period. While the motions practice was still predominately oral, the Child Advocates used the form motions order regarding discovery more often.

There were several barriers to effective representation regarding SAAGs and the Child Advocate Attorneys in the last Reporting Period. Some SAAGs instructed DFCS case managers not to communicate directly with the Child Advocate Attorneys without the presence of a SAAG. The Child Advocate Attorneys began to seek the information formally directly from the SAAGs, creating a bottleneck for information from the SAAGs. This communication barrier greatly improved and the “policy” of not communicating with case managers without the SAAGs being present was not strictly enforced. (See Responsibilities #6 and #8 above).

Child Advocate Attorneys were expected to interview or visit each child-client no more than 30 days prior to the first setting of all scheduled formal hearings; see and interview (if of a verbal age) in their living environments at least once a year; and a minimum of quarterly visits shall be conducted as long as child-clients are in care; and any time an emergency or circumstance arises. An improvement was seen in the documentation of these visits. More detailed notes indicated that Attorneys explained their role, the process, and encouraged clients to participate in their representation.

It was also noted that although school records were present in some of the files reviewed, they were not present in all of the files of school aged children. In the second Reporting Period, the improvement of school records in the files of school-aged children was noted; however there was still a need to better document Individual Education Plans and other educational needs, evaluations, and services.

Finally, during the last Reporting Period, the rift in communications with DFCS hampered the opportunity to attend staffings on each case. As of the second Reporting Period, staffings were not occurring at the rate and regularity that was to be expected.

In addition to the above on-going challenges and barriers, the Compliance Agent noted these additional areas for considered improvement in the second Reporting Period:

- Several of the cases reviewed had transitioned into Custody Modifications; however, the cases remained open. Although the attorneys are to be commended for their advocacy efforts to ensure the stability of these placements, the Center should consider establishing a case closure policy or inactive case policy. This also can pertain to protective order cases.
- Continuance orders were mostly general in nature stating “continued for good cause.” It is recommended that the Child Advocate Attorneys request more specific language in these orders so that cases do not get continued routinely. A documented history may also prevent unnecessary and duplicative requests.
- The communication between the Center attorneys, investigative staff, and the Department of Family and Children Services is still in need of improvement. Staffings do not seem to be taking place as much, the Center remains excluded from Family Team Meetings, and information as basic as placement of clients is still difficult to obtain.

- In 2004, the law regarding legal paternity was modified to include an administrative process for granting a legitimation. Prior to the new law, if you were unmarried at the time of the birth of your child, even if you signed the birth certificate and acknowledged paternity in the hospital, you still had not established legal fatherhood. In the deprivation process, these fathers were labeled “putative fathers” and paternal placement options would only be considered after the father filed for and was granted a legitimation in court or if the father and mother subsequently married. Since 2004, these same unmarried fathers can now sign a third form in the hospital and if the mother consents, legal fatherhood or a legitimation is established. However, the law did not speak to accessibility of these records and very few people within the court system check to see if an administrative legitimation has been granted. In order to prevent unnecessary delay in placement options and progress of case plans, the Child Advocacy Center should establish a system in which this information is gathered and provided to the court. File reviews, court observations, and interviews with Child Advocate Attorneys confirmed that there is currently no system in place and that seldom does any stakeholder discuss the new law and its impact on cases.
- There appear to be on-going challenges with effectuation of proper service on the parties for court. The Child Advocate Attorneys were observed in court questioning the Department in detail regarding service. The lack of proper service has led to many court continuances. In at least one file review, a court order lapsed because proper service had not been conducted. It is recommended that the Director address this issue with the court as well as the SAAGS in order to limit the number of continuances due to improper service.
- During file reviews, there were several files that had lapsed court orders and required new filings. The Client Profiles case management system notifies Child Advocate Attorneys prior to the expiration of orders. Child Advocate Attorneys are charged with monitoring these notices and taking action necessary to protect child-client interests. However, these notices are not currently differentiated in the system from other actions needed on a case, such as an assessment for development. Child Advocate Attorneys report that there are too many pop-ups and they have on occasion missed this reminder. However, once discovered, file reviews indicate that it is the Child Advocate Attorney who then contacts the SAAGs and other parties to inform them of the lapsing court order. It is recommended that the office explore ways to separate these reminders from others within their client profiles system.
- One file reviewed contained a case that had been scheduled, but not heard prior to the expiration of the court order. Although there is Georgia case law that allows this action in the instance of continuing for the appointment of counsel for parents, it is not good practice. It is the position of the DCCAC that Georgia law does not provide for the extension of an order finding deprivation and granting custody to DFCS beyond one year, except by the granting of a motion to extend,

following a hearing, prior to the original orders expiration. (O.C.G.A. sec. 15-11-58(k) and O.C.G.A. sec.15-11-58.1(a) (1)) This rationale is based on the interpretation of relevant statutes that by operation of law an order cannot be temporarily extended simply by the filing of a motion and agreement of the parties to continue the case beyond the expiration date. The code states that a prior order granting custody can only be extended follow a hearing on a motion.

- In instances in which the court continues hearings beyond the expiration of a prior order, Child Advocate Attorneys have been directed to object and to request or when necessary to file a new complaint. It appears that the Juvenile Court is unsettled as to its position regarding its authority to continue cases beyond the prior orders expiration, once a motion to extend the prior custody order is filed. Likewise, certain SAAGs continue to attempt this practice, sometimes filing motions just prior to the expiration of the prior order and requesting continuances, beyond the expiration date, for service or for the appointment of attorneys as a matter of course. It is recommended that a stakeholder meeting is held to discuss this issue or that an opinion is sought from the Georgia Attorney General.

The following two areas of practice are noted as exceptionally good practice observed during the second Reporting Period:

- Several cases reviewed involved teenagers approaching their 18th birthdays. Strong advocacy efforts were demonstrated to transition these children by either signing themselves back into care or facilitating the delivery of services needed prior to departure. In one instance a child advocate requested and took leadership for a staffing before the court.
- For medically fragile children, the Child Advocate Attorneys conduct research regarding diagnosis and medical treatment options. Several files contained copies of documents printed from internet sites that explained complex medical issues. This demonstrates that the attorneys and investigators are putting forth great efforts to understand the needs of individual clients in order to enhance their representation and advocacy.

Chapter 4. Conclusions

The second Reporting Period spanned from March 13, 2007 to September 14, 2007. Although there are several areas for considered improvements, as discussed above, the DeKalb County Child Advocacy Center has made significant strides in complying with the requirements as outlined in the Consent Decree. The Compliance Monitor submits this report along with supporting documentation to the parties for review and discussion regarding next steps and whether substantial compliance has been achieved. Should there be a need for follow-up; the Compliance Monitor will make herself available for conference calls or in-person meetings.