

FIRST FULTON COUNTY *KENNY A*. REPORT

January 11, 2008

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Accountability Agent

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Executive Summary

First Fulton County – *Kenny A* Compliance Report –
for the period beginning July 1, 2007 and ending December 31, 2007

Kenny A Lawsuit & Fulton County Consent Decree

On June 6, 2002, *Kenny A.*, by his next friend, Linda Winn; et al., brought suit in Fulton County Superior Court against Sonny Perdue, in his official capacity as Governor of the State of Georgia; et al. The complaint sought declaratory and injunctive relief for foster children in Georgia based on alleged violations of constitutional and statutory rights under state and federal law. Among the claims was an allegation that Fulton County failed to provide adequate and effective legal counsel to the plaintiff class in deprivation and termination of parental rights proceedings. The defendants removed the case to federal court where it was assigned to the Honorable Marvin H. Shoob, Senior Judge, United States District Court, NDGA. On February 10, 2006, the parties settled the allegations against Fulton County by entering into a Consent Decree which was approved by Judge Shoob following a Fairness Hearing on May 16, 2006.

The Fulton County Consent Decree, attached as Appendix 1 consists of three primary requirements:

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

The Fulton County Child Advocate Attorney Office is now independent of the Court and is a division of Fulton County government, under the

management of the Child Advocate Board. The CAA Office is currently staffed with one Managing Attorney, 16 full time CAAs, three administrative staff, four investigators and one masters level social worker.

2. *Workload Study: a workload study conducted by the Carl Vinson Institute of Government to decide how to appropriately measure the workloads of child advocate attorneys, the result of which will provide the basis for ongoing determinations of staffing requirements for the CAA Office.*

The Workload Study has been completed and the County has provided additional staffing for the CAA Office. The analysis of internal and external reform is ongoing, however, and the appropriate number of child clients per CAA has yet to be determined.

3. *Principles & Guidelines for Child Advocate Attorney Representation: Fulton County Child Advocate Attorneys will abide by the Principles contained in the Consent Decree which “guide the provision of adequate, effective and zealous legal representation to children in deprivation and termination of parental rights cases,” and the Guidelines contained in Appendix A to that Decree which sets the standards for CAAs and provides direction on CAA methodology to achieve compliance with the Consent Decree. Appendix A also contains requirements for Child Advocate Attorneys for Training and Qualifications and the Role of the Child Advocate Attorney.*

Much remains to be done to fulfill these expectations, but efforts to do so are underway and improvement in CAAs’ performance is evident.

The Consent Decree remains in effect until Fulton County has maintained substantial compliance with all provisions of the decree for a continuous eighteen month period. Compliance with the Decree is to be monitored by

an independent accountability agent, Judge William Jones of Charlotte, North Carolina, who will issue reports at every six-month interval following completion of the workload study.

This is the first such report for the period beginning July 1, 2007 and ending December 31, 2007

Workload Study Recommendations – Internal and External Reforms

The Workload Study:

- Described the caseload and work patterns of the existing Child Advocate Attorneys' office, using data derived from a time study, focus groups, file reviews and court observations;
- Concluded the existing Child Advocate Attorneys' office lacked sufficient time and staff to implement the Principles and Guidelines specified in the *Kenny A* Consent Decree;
- Identified internal reforms for the Child Advocate Attorney's Office, and external reforms for DFCS and Juvenile Court that would facilitate CAA Office compliance with the Principles and Guidelines specified in the *Kenny A* Consent Decree; and
- Recommended caseloads for the Child Advocate Attorneys contingent on the implementation of the internal and external reforms.

Internal CAA Office Reforms Recommended by the Workload Study:

- Vertical Representation (each child has the same attorney from the beginning to the end of the case)
- Increase the number and use of investigators;
- Improve caseload management and use of case management software; and
- Implement and enforce office policies and procedures;
- Implement and enforce written standards of practice on topics including model of representation, client contact, client counseling,

client home visits, file documentation and uniform forms, case investigation, document review, resource referrals, development and maintenance of the attorney client relationship, how to end the attorney client relationship and help the client transition into adulthood, child's appearance for court hearings, appeals, conflict of interest, and staffings with other attorneys and DFCS;

- Regular and specialized training in all the foregoing topics;
- Increased funding for and decreased restrictions on client-related travel; and
- Develop and increase the use of other available resources, including data and brief banks, CASA's and other volunteers, as well a broader range of community referral sources.

External Reforms Recommended by the Workload Study

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

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

- **Juvenile Court**

- Implement a “One Judge, One Family” system, in which each child and family appear before the same judge from the beginning to the end of the case;
- Implement a docketing system that permits CAA’s to plan for days in court and to have regular and consistent days without any in-court obligation;
- Refuse to sign court orders without review by all attorneys and/or parties, and promptly calendar motions to correct or amend existing orders; and
- Affirmatively enforce a child’s right to counsel as a party to the case and the right to attend and participate in each hearing concerning his/her family.

Highlights of Reforms

Over the preceding six months, Fulton County has seen numerous internal changes in the CAA Office; and some external changes by DFCS and by the Fulton County Juvenile Court. While these changes have furthered the goal of *Kenny A* compliance, the pace of progress for fully implementing all the recommendations of the Workload Study would best be described as “slow but steady”. The core building blocks for implementing the internal and external reforms are essentially in place; and many of the reforms are currently implemented. The remaining recommendations for reform may require additional funding, further direction or negotiation by the parties and the three affected institutions, or procedural changes by stakeholders or entities not subject to the Consent Decree. The following chart summarizes the reforms and reported progress that have been accomplished to date.

Reform	Progress
Internal CAA Office	
Vertical representation	Vertical Representation by CAAs established as a goal & in process of implementation;
Increase the number of & use of investigators	Increase in number of CAAs to 17 & CAA investigators to 4;
Improve caseload management & use of case management software	JCATS Deprived (computer software tracking system) funded & in process of implementation;
Implement /enforce office policies & procedures	CAA Office Policy written & in process of implementation;
Implement & enforce written standards of practice	Standards of Practice written & in process of implementation;
Regular & specialized training on child advocacy topics	Regular & frequent trainings for CAA & staff are scheduled;
Increase funding for & decrease restrictions on client-related travel	Travel costs are reimbursed for child visits, witness or party interviews when a county vehicle is not available;
Develop& increase use of other available resources	Pending

External – DFCS	
Keep CAA’s informed of the child’s location, changes in location & contact information	Pending
Bring children to hearings on a consistent basis	Pending
Permit CAA review of information under DFCS control, & permit CAA communication with third party service providers under contract with DFCS	Pending
Regularly include CAA’s in meetings & staffings concerning the child	Pending
External – SAAGs	
Present proposed court orders to the CAA’s before submission to the judge	Court established policy for SAAGs to submit draft court orders to CAAs prior to Judge signing order & allowing CAAs 48 hours to review draft orders;
Provide CAAs with reports, evaluations, & other documents prepared for submission to court in a timely manner	Pending
External – Juvenile Court	
Implement a “One Judge, One Family” system	Pending
Improve docketing / calendaring system	Pending

<p>Modify court order process to provide CAAs the opportunity to review draft order</p>	<p>Court established policy for SAAGs to submit draft court orders to CAAs prior to Judge signing order & allowing CAAs 48 hours to review draft orders;</p>
<p>Affirmatively enforce a child's right to counsel as a party to the case & the child's right to attend & participate in hearings</p>	<p>Pending</p>

Monitoring Activities and Methodology

During this monitoring period the Accountability Agent has spent considerable time interacting with County administration; Tayo Alli, Managing CAA; DFCS Director, Danette Smith; Fulton County Juvenile Court Judges and Chief Administrative Officer; community child advocates and Workload Study team members, Karen Baynes and Mary Hermann. Monitoring activities included:

- Courtroom observation of each child advocate attorney;
- Documentation of court observation;
- Observation of office interactions between CAAs and support staff including investigators and staff social worker;
- Observation of interactions between CAAs and parent attorneys, SAAGs and DFCS case managers;
- Observation of interactions between CAAs and CAA supervisors in reference to staffing pending cases;
- Limited observation of CAAs with child clients;
- Review of CAA staff training and resumes;
- CAA file review and documentation of results;
- CAA Board meeting attendance and review of CAA Board meeting minutes;
- Current case count activities and analysis of case distribution;

- Extensive review of CAA policy, procedure and standards of practice; and
- Recommendations regarding same.

The details and results of these monitoring activities are included in this report, as are recommendations for further actions which may facilitate Kenny A compliance. An Appendix is also attached to the report which includes the original documents referenced in the body of the report.

The report also contains a detailed chart relating to each Kenny A Guideline as stated in Appendix A of the Kenny A Consent Decree along with the Workload Study identified “Barrier” to compliance, the Workload Study “Recommendation” associated with each Guideline, the positive developments associated with each guideline and finally the performance expectation for each guideline.

SUMMARY OF LITIGATION & CONSENT DECREE REQUIREMENTS

On June 6, 2002, *Kenny A.*, by his next friend, Linda Winn; et al., brought suit in Fulton County Superior Court against Sonny Perdue, in his official capacity as Governor of the State of Georgia; et al. The complaint sought declaratory and injunctive relief based on alleged violations of constitutional and statutory rights under state and federal law. Among the claims was an allegation that Fulton County failed to provide adequate and effective legal counsel to the plaintiff class in deprivation and termination of parental rights proceedings. The defendants removed the case to federal court where it was assigned to the Honorable Marvin H. Shoob, Senior Judge, United States District Court, NDGA. On February 10, 2006, the parties settled the allegations against Fulton County by entering into a Consent Decree which was approved by Judge Shoob following a Fairness Hearing on May 16, 2006.

The Consent Decree required the establishment of an independent Fulton County Child Advocate Attorney Office and the employment at the outset of at least twelve full-time Child Advocate Attorneys (CAAs) "...to represent children in deprivation and termination of parental rights cases." Two full-time investigators and three full-time support staff were also mandated.

The Consent Decree further specifies the performance expectations of the CAAs by reference to Ten "Principles" included in the Consent Decree and listed below. These 10 Principles are incorporated and defined with greater specificity in the "Guidelines for Fulton County Child Advocate Attorneys" which are attached to this Report as Appendix 1.

PRINCIPLES – As stated in the Kenny A Consent Decree

The parties to this Consent Decree agree that the following principles guide the provision of adequate, effective and zealous legal representation to children in deprivation and termination of parental rights cases. These principles are not separately and independently enforceable under the terms of this Consent Decree.

1. Class member children are entitled to receive adequate, effective, and zealous legal representation at all stages of deprivation and termination of parental rights proceedings throughout the time they are subject to the jurisdiction of the Fulton County Juvenile Court.
2. Child advocate attorneys should perform the basic tasks any trial lawyer would, including obtaining all court filings, attending all court appearances, filing motions, and being an active participant in all hearings and settlement discussions.
3. Child advocate attorneys should establish an attorney-client relationship and maintain that relationship throughout the duration of the representation.
4. Child advocate attorneys should investigate all cases through formal and informal discovery and other means, including updated investigations before all review hearings and other stages of a deprivation case.
5. Child advocate attorneys should be aware of all staffings, administrative reviews, family team meetings, special education conferences, and all other non-deprivation proceedings involving the child and should attend such meetings to the extent that the child advocate attorney, in the exercise of considered professional judgment, deems necessary or desirable.
6. Child advocate attorneys should advocate for the service needs of their clients and their client's families to further their client's safety, permanency, and well-being.
7. Child advocate attorneys should monitor their clients' status between court appearances, including the implementation of Juvenile Court orders benefiting their clients, the case plan, and issues relating to clients' foster care placement.

8. Child advocate attorneys should raise issues of DFCS's non-compliance with court orders, or other issues of concern, with appropriate decision-makers, including if necessary the Juvenile Court through appropriate motion practice.
9. Child advocate attorneys should file appeals when necessary and participate in appeals filed by DFCS or parents.
10. Child advocate attorneys should attend to the possibility of conflicts and resolve them.

In the Standards of Practice for CAAs, developed by the Fulton CAA Office and attached as Appendix 2, two additional “Principles” have been adopted by the Fulton CAA Office:

11. Child Attorneys assume all children involved in the deprivation process want and need their safety, permanency and well being promoted and protected first within their family of origin and if not there, then in another permanent placement..
12. Child Attorneys should be vigilant concerning the issue of DFCS’s/ use of reasonable efforts at every hearing concerning the child. Child Attorneys should seek to hold DFCS accountable for the use of reasonable efforts throughout the child’s stay in foster care.

SUMMARY OF WORKLOAD STUDY STANDARD

Also required by the Consent Decree was a Workload Study to be designed and completed by the Carl Vincent Institute of Government at the University of Georgia, under the direction of Karen Baynes, former Associate Judge for the Fulton County Juvenile Court. The Study concluded that the appropriate CAA caseload given existing internal and external conditions as of June 25, 2007, would be 80 cases per attorney. It went on, however, to state that if specified “solely internal office reforms” were made by the CAA Office, including a computerized case management system, increased training of CAAs, implementation of a vertical representation model, additional investigators, and the ability of CAAs to be reimbursed for the use of their own vehicles to visit with their clients, then each CAA would be more efficient and “should maintain a point in time caseload of no more than 100 cases.”

The Workload Study further opined that if certain external reforms or improvements in practice were made by the Fulton County Juvenile Court and by the Fulton County Department of Family and Children’s Service (DFCS), the appropriate caseload per CAA would be 120 cases.

Among the recommended reforms for the Court were implementation of a one judge-one family system, and a more consistent and predictable scheduling system that maximizes in-court and out-of-court time for the CAA’s.

It is recommended that a time-certain calendaring process (a specific and unique time setting for each case) be established by the court as opposed to the current process of morning and afternoon dockets that require attorneys to remain in or around the courtroom until their case or cases are concluded and inconvenience witnesses, parents, foster parents, and children. Time-certain calendaring would also obviate the need for a calendar call at the commencement of each morning and afternoon session, and would create an estimated 30 – 60 minutes of additional trial

time per day in each court. These calendaring changes would increase the likelihood that the County can successfully satisfy the Consent Decree's exit criteria of compliance for eighteen months.

Court implementation and strict enforcement of a Continuance Rule is also recommended. This reform would improve efficiency by significantly reducing the extraordinarily high percentage of continued deprivation cases. Continued cases are costly in manpower, paperwork and court time; they require rescheduling and re-notification of participants; result in crowded dockets; and frustrate litigants, attorneys and witnesses who must return to court another day which negatively affects their view of the court.

The Workload Study also identified other external factors controlled by DFCS that warrant improvement including notification to the CAA of any change in a child's placement; arranging for the child to be present at his or her hearing; timely delivery of draft court orders to the CAAs (before they are submitted to the judge). The CAA Managing Attorney and the new Director of Fulton County DFCS, Ms. Dannette Smith, have met to discuss these reform recommendations and have a future meeting scheduled, but as of this writing there is no other action on these recommendations.

Finally, the Workload Study concluded "...that with both external and internal reforms in place, to achieve compliance with *Kenny A.*, each advocate should maintain a point in time caseload of no more than 120 cases."

SUMMARY OF INTERNAL & EXTERNAL RESPONSES TO THE MANDATES OF KENNY A & THE WORKLOAD STUDY RECOMMENDATIONS

INTERNAL: CHILD ADVOCATE ATTORNEY OFFICE

Although the CAA Office has made substantial progress toward fulfilling the recommendations regarding internal office reforms to increase the CAAs efficiency, the computerized case management system is still not operational (although the implementation process has begun) and until it is, determining an accurate current case count for the Office and each CAA remains a significant challenge.

The CAA Office is

- Conducting regular, ongoing in service trainings on trial skills, child advocacy issues and community resources;
- Planning more trainings in the coming year with both guest speakers and the development of special topic trainings by the CAA office staff;
- Implementing a client-directed model of representation for children with pending deprivation cases;
- Providing mentoring and supervision to less experienced CAAs;
- Committing to vertical representation despite a temporary lapse necessary to balance caseloads among attorneys;
- Implementing a protocol for transferring cases and providing continuity of representation through staffings and client contact;
- Determining, as best it can by hand, accurate case counts for each CAA, pending the availability of an automated case management system;

- Establishing the duty of all CAAs to maintain files assigned to them in their respective offices and creating spreadsheets for each CAA caseload containing case name, file number, type of case, DFCS custody or not, Judge, and case status, including next hearing date; (Appendix 3, copy of Caseload Spreadsheet);
- Establishing a structured chain of supervision that includes administrative staff, investigators, MSW and interns; and
- Implementing a computerized file management, case tracking system. JCATS Deprived has been purchased for use by the CAA Office and has undergone a test run. The CAA staff have had one training on the system and it is scheduled to be fully operational on January 19, 2008.

Additionally, the CAA Office has provided CAA staff members with:

- the “Office Policy Notebook” which is attached as Appendix 4 and details the current administrative policies for the CAA office;
- the “Fulton County CAA Trial Notebook” which covers each type of deprivation hearing and the legal requirements of each hearing including practice points for the CAA and is available on line at <http://www.gaccchildlaw.org/trialmanual2index.html> or www.gajusticeforchildren.org;
- the “Standards of Practice,” attached as Appendix 2, which contains further details regarding compliance with each of the Principles and Guidelines set forth in the *Kenny A* Consent Decree; and
- the “Fulton County CAA Training Notebook” which is a compilation of child advocacy topics, juvenile court issues, and general trial skills, and which also includes written materials presented at the CAA monthly training sessions.

The Fulton CAA Office has established a client-directed model of representation for children involved in deprivation cases. This model is described in the Fulton CAA Standards of Practice attached to this report as Appendix 2 and stated below:

II. THE ROLE OF THE FULTON COUNTY CHILD ATTORNEY MODEL OF REPRESENTATION

1. The Fulton County Office of Child Advocate Attorneys supports the position that a child is a party in a deprivation action. This position is consistent with the summary judgment Order of Judge Marvin Shoob, 2-5-2005, in the Kenny A suit.
2. In as much as the child is a party in a deprivation case, the Fulton County Office of the Child Attorney has determined a client-directed model of child advocacy best serves the interest of children who have pending deprivation cases before the Fulton County Juvenile Court.
3. The client-directed model follows the standards set out by the American Bar Association and places the Child Attorney in the role of a traditional attorney.
4. The expressed preferences of the child client are always relevant, should always be elicited from the child and be a part of the “child’s position” as presented to the Court.
5. The client-directed model requires developmentally appropriate lawyering, understanding that diminished capacity involves degrees of competency and that the child client should always be part of the decision making process whenever possible.
6. The client-directed model is applicable to all child clients through the Child Attorney’s use of objective criteria to analyze the totality of the child client’s circumstances, the cultural context of the child client and family, input from other professionals and interested parties, and thorough investigation of the child client’s need for safety, permanency and well being.
7. Through the application of this objective criteria the Child Attorney can be client-directed to arrive at the child’s position even for non-verbal, incompetent or diminished capacity child clients.
8. The client-directed model requires the Child Attorney to provide the child client with legal counseling and information as to the legal consequences of any proposed course of action in formulating the child client’s position. Legal counseling includes, in developmentally appropriate language, advising the child client of the risks, benefits and other options available through the Court deprivation process, the likelihood of success of the child client’s expressed preferences given the facts of the case and the relevant law, alternative outcomes available through the court deprivation process, and how the child

client might ultimately achieve her expressed preference, if not immediately, then through time and the legal process.

9. In circumstances where the child client's position is deemed by the Child Attorney to be seriously injurious to the child client, and after use of legal counseling to the child client, then the Child Attorney must request the Court appoint a separate Guardian Ad Litem for the child client.
10. The client-directed model does not require the Child Attorney to advocate for child client-directed positions which are contrary to the facts or prohibited by law. This model also requires the Child Attorney to counsel with the child client in formulating the child client's position.

Additionally, the attitudes of the CAAs are evolving as they gain experience and knowledge regarding the best practice principles of *Kenny A*, and are realizing that those principles are achievable. This transition is evident from statements by CAAs such as: "*Kenny A* says we have to;" "Why doesn't (the SAAG or DFCS or the parent attorney, etc.) understand it's in the Consent Decree;" "*Kenny A* says;" "*Kenny A* compliance is the goal" is even posted around the CAA office. These statements are an indication that the CAAs are embracing *Kenny A* and are committed to fulfilling its practice expectations.

It is recommended that the CAAs consistently and vigorously insist that Reasonable Efforts be made in every case and move that the court state on the record the specific findings of fact which support the Court's ruling.

The CAAs should not request continuances and should object to such requests by other parties, except in the most compelling of circumstances. Routine continuances should be vigorously opposed because they waste court time, inconvenience other parties in the case, and most significantly, delay permanency for children. During both the file review and the court observation, both of the above issues were noticeably absent.

EXTERNAL: FULTON COUNTY JUVENILE COURT

The Juvenile Court has drafted a Continuance Policy, but has not yet implemented it. The Court has also expressed its intention to convert to a One-judge – One-family model for deprivation cases but has not yet done so, citing the need for additional funding from Fulton County for a third judge to facilitate the transition. As of this writing, however, it appears that such funding will not be forthcoming. An alternative for the Court would be to include one of the Associate Judges in the one judge – one family model.

EXTERNAL: DEPARTMENT OF FAMILY AND CHILDREN'S SERVICES (DFCS)

Fulton County DFCS is also operating under a *Kenny A* Consent Decree, and collaboration and cooperation between the CAAs and DFCS, including the administration of both organizations, the front line staff, and DFCS lawyers, is an important step toward expeditiously achieving best practices for the deprived children of Fulton County. Fulton County DFCS has a new County Director, Dannette Smith, and she has expressed her intention to establish a positive working relationship with the Court and the CAA Office. The DFCS Director has met with the CAA Managing Attorney to discuss establishing a protocol for the timely, informal exchange of information between the two agencies without the necessity of formal discovery and a protocol for the attendance of children at court hearings. During a meeting in November 2007, a verbal understanding was reached, but as of this writing the verbal understanding has not been reduced to writing nor has there been compliance with the terms of the verbal agreement. There are meetings scheduled for January 17, 2008 and February 1, 2008 to further discuss protocols for discovery and child attendance at court hearings

These meetings and their results are subject to scrutiny for any violation of Paragraph 5 – B of the *Kenny A* Consent Decree which provides:

If the ability of Fulton County child advocates to perform their responsibilities under the Guidelines set forth in Appendix A is impaired by any ongoing failure on the part of State Defendants, DHR or DFCS to provide child advocates with information necessary and appropriate to the performance of their responsibilities, Fulton County shall give prompt notice of the specifics of the informational problem to Class Counsel.

The timely production of the following information might be deemed “necessary and appropriate to the performance” of the Fulton CAAs:

- Placement information for children in DFCS custody, including all contact information for the placement resource;
- Copies of the CCFA (Comprehensive Child and Family Assessment) or other reports produced by contract service providers working with the child or the child’s family;
- Home evaluations for relative placements;
- Interstate Compact for the Placement of Children evaluations;
- Copies of the child’s psychological or developmental assessment;
- Copies of progress notes from the child’s treatment providers;
- Copies of any reports DFCS prepares for submission to the Court;
- Any safety plan and case plan applicable to the child;
- Notice of the FTM (Family Team Meeting) and MDT (Multidisciplinary Team Meeting) which the CAAs will be entitled to attend;
- Notice of any IDEA or disciplinary actions taken by the school system and the right to participate in any such proceedings;
- Visitation schedule for the child and parents; and
- The diligent search for relatives.

DFCS’ attorneys are State Assistant Attorneys General (SAAGS). There are too few of them in Fulton County, which makes it more difficult than it should be for the CAAs, Parent Attorneys and DFCS case managers to speak with them to negotiate case resolutions or to discuss other aspects of a case.

Until recently, the SAAGs prepared substantially all deprivation court orders and sent the orders to the judges without providing the CAAs or attorneys for the other parties an opportunity to review the proposed orders. Following a meeting facilitated by the Court, this procedure has been modified. Currently, the SAAGs prepare the proposed court order

and when it is sent to the judge, the order is also sent to designated administrative staff in the CAA office who then distributes the draft order to the assigned CAA. The judge then holds signing the proposed court order for a period of 48 hours to allow the CAA to review the proposed order and make objections if necessary. The SAAGs take the position that they can only send the proposed court order to the CAA office generally and not the particular CAA representing the child or the CAA who appeared at the court hearing because of the number of CAAs. The SAAG position is stated in Robert Hall's letter to the Court preceding the aforementioned meeting. In the letter, attached as Appendix 5, the SAAGs also take the position that it is too costly and burdensome for the SAAG preparing a draft court order to send the order to the parent attorney before sending it to the judge. The SAAGs propose to have the parent attorney object after the signing and filing of the court order. This position is contrary to standard litigation practice and may warrant further consideration and correction by Director Smith, the Fulton County Juvenile Court Judges, or *Kenny A* Plaintiffs' counsel.

An alternative would be for the Court to issue "real time orders" that are prepared in the courtroom during and immediately after each hearing, and distributed to counsel and the parties at the conclusion of the hearing. This practice allows for contributions from all lawyers and results in more timely and accurate orders. The practice also avoids the costs associated with mailing copies of court orders to those who participated in the hearing. And finally, it would also provide CAAs, DFCS and parents with prompt notice of what is required of them and when and of their next court date.

EXTERNAL: FULTON COUNTY ADMINISTRATION

The County has actively participated in addressing barriers to *Kenny A* compliance through funding assistance, creation of the CAA Board and direct assistance to the CAA Managing Attorney on issues of county policy for both personnel and budgetary processes. Other supportive actions by Fulton County have been:

- Assistant County Attorney Willie Lovett participated in an information session on *Kenny A* compliance which was presented by the CAA office for the Court, DFCS and SAAGs;
- A fourth CAA investigator was funded;
- Funding for a masters level social worker on the CAA staff;
- Providing reimbursement at the rate of \$0.44.5 for work-related travel expenses incurred by the Investigators, Social Worker, and CAAs when using their private vehicles for CAA Office purposes, if a county vehicle is not available;
- Funding for five additional CAAs bringing the attorney staff to 16 attorneys and the Managing Attorney;
- Additional funding for two supervisory positions included in the 2008 proposed budget; and
- Procurement and implementation of JCATS Deprived, a computer software case management system for use by the CAA Office.

The ongoing support of the County Manager's Office, the County Attorney's Office, and the CAA Board, and their collective understanding of what it will take for the CAAs to achieve *Kenny A*. compliance has been exemplary.

EXTERNAL CHILD ADVOCATE ATTORNEY BOARD

Fulton County initially placed management responsibility for the Child Advocate Attorney Office with the Public Defender. That arrangement proved to be unsatisfactory and in March, 2007, management of the CAA Office was reassigned by Resolution of the Fulton County Commission to a newly created five-member Child Advocate Board.

The County Commission also established Bylaws for the Board, including “ARTICLE III – DUTIES AND FUNCTIONS OF BOARD,” which provides as follows:

“The Board shall have such duties as are set forth in the Resolution as follows: (1) to establish policies and procedures with the Office of the Child Advocate Attorney to ensure compliance with the Kenny A Consent Decree and Fulton County’s Policies and Procedures; (2) to directly supervise the managing Child Advocate Attorney to ensure that the managing Child Advocate Attorney and the Office of the Child Advocate Attorney comply with the Kenny A Consent Decree and Fulton County Policies and Procedures; (3) to evaluate and make hiring and firing recommendations to the County Manager regarding the managing Child Advocate Attorney; and (4) to assist the managing Child Advocate Attorney in prioritizing budgetary requests and evaluating the performance of the Office.”

The Board members are Dr. Nancy Boxill as Board Chair, Attorneys Beth Locker, Elizabeth Reimels, Renata D Turner, and Thomas Woody Sampson. The Resolution creating the Board, the Bylaws, the Child Advocate Board Resource Manual, Minutes of Board meetings, Reports

to the Board from the CAA Office and a recent Resolution passed by the Board are submitted to the Court with this report as Appendices 6, 7 & 8.

Following the formation of the CAA Board there have been monthly meetings reviewing the structure, management, procedures, policies and general work of the Fulton CAAs. The Board appointed Ms. Omatayo Alli as Managing Attorney for the CAA office, effective November 15, 2007. The Board has exhibited substantial working knowledge of child advocacy and the requirements of the Kenny A Consent Decree and its support of the CAA Office has contributed significantly to its internal reforms.

The Board is encouraged to promote action by the County Commission to raise the salaries of the CAAs and support staff to at least the same level as their counterparts in the offices of the Public Defender and the District Attorney. The work they do is equally important and difficult and hiring and retaining experienced and skilled attorneys and other personnel will be critical to successful fulfillment of the Kenny A. exit criteria.

The Board is also encouraged to promote the transfer of responsibility for providing attorneys for indigent parents in deprivation cases from the Fulton County Juvenile Court to the Office of the Public Defender. This change would ultimately enhance the quality of representation and achieve better outcomes for parents and children by increasing the likelihood that parent(s) are able to overcome their problems and to provide appropriate care for their children.

STATUS OF THE FULTON COUNTY CHILD ADVOCATE ATTORNEY OFFICE

STAFF, STAFF QUALIFICATIONS & TRAINING

STAFF and Staff Qualifications:

Fulton County was initially obligated to, and did hire and fund twelve Child Advocate Attorneys (one of whom was the Managing Attorney); three Administrative Assistants; and two Investigators. As a result of the Workload Study, the County at its own initiative has since funded five additional attorney positions, two more investigators, and an M.S.W (masters level social worker).

The Child Advocate Attorney Office currently employs the following persons. Their names, dates of hire and job descriptions are listed below. Their resumes, which describe their experience and credentials are attached as Appendix 9.

Name	Title	Hire Date
Omatayo Alli	Managing Attorney	Acting 4/09/07 Permanent 11/15/07
Roberta Cooper	Supervisor	11/29/2006
Cassandra Kirk	Supervisor	6/13/2007
Sonya Hunt, M.S.W.	Social Worker	9/19/2007
Angela Wilson	Admin. Assistant	Temporary, 11/30/05 Permanent, 4/4/07
Tonya Lovelace	Admin. Assistant	Temporary, 11/30/05 Permanent, 4/4/07
Maggie Broadnax	Admin. Assistant	4/1/87
Heather Jett-Browning	Investigator	Temporary, 11/16/05 Permanent, 4/4/07
Cinzia Thomas	Investigator	12/26/2007
Candace Stafford	Investigator	0/4/2007

Bertram Ennett	Investigator	8/29/07
Carla Friend	Child Advocate Atty	4/21/2004
Wayne Grannis	Child Advocate Atty	5/18/2005
Lashawn Mikell	Child Advocate Atty	11/30/2005
Julia Neighbors	Child Advocate Atty	11/30/2005
Jannquell Peters	Child Advocate Atty	11/30/2005
Anissa Patton	Child Advocate Atty	7/26/2006
LaMia Saxby	Child Advocate Atty	5/30/2007
Lakeisha Heard	Child Advocate Atty	6/13/2007
Tamara Denson	Child Advocate Atty	9/4/2007
Jodie Gentile	Child Advocate Atty	9/19/2007
Chandra Wilson	Child Advocate Atty	10/9/2007
Carol Riley	Child Advocate Atty	10/31/2007
Kimberly Aaron	Child Advocate Atty	9/5/2007
Amber Patterson	Child Advocate Atty	1/7/2008

Another expectation of the CAAs is that they join and participate in at least one professional group or organization that will be a resource for needed information about child advocacy.

The Child Advocate Attorneys and other CAA Office staff are members of the following organizations:

Name	Organization
Omotayo Alli	Georgia State Bar, National Association of Council for Children, Georgia Association of Council for Children, Fulton County Juvenile Adolescent Substance Abuse Prevention Coalition (JASAP) National Association for Court Management, National Association of Criminal Defense Lawyers, Georgia Association of Criminal Defense Lawyers, Georgia Association of Black Women Attorneys and National Coalition of 100 Black Women, Inc. (Lithonia

	Chapter)
Roberta Cooper	Georgia State Bar. Association, New Jersey Bar Association, Association of Trial Lawyers of America, Georgia Association of Counsel for Children and National Association of Counsel for Children.
Cassandra Kirk	State Bar of Georgia, National Association of Counsel for Children, Georgia Association for Women Lawyers, Georgia Association of Black Women Attorneys, Dekalb Neighborhood Leadership Institute, Dekalb County Community Council Area 3; Dekalb Regional Youth Detention Center RYDC) Advisory Board and Hands on Atlanta Teamworks Volunteer.
Sonya Hunt, M.S.W.	Atlanta Women's Foundation, Destiny Fund 2008
Angela Wilson	
Tonya Lovelace	
Maggie Broadnax	
Heather Jett-Browning	
Cinzia Thomas	Juvenile Court Association of Georgia, Dekalb Task Force.
Candace Stafford	
Bertram Ennett	
Carla Friend	Georgia State Bar, National Association of Counsel for Children and Georgia Association of Counsel for Children.
Wayne Grannis	Georgia State Bar, National Association of Counsel for Children and Georgia Association of Counsel for Children.
Lashawn Mikell	Georgia State Bar, National Association of Counsel for Children and Georgia Association of Counsel for Children.
Julia Neighbors	Georgia State Bar National Association of Counsel for Children, Georgia Association of Counsel for Children, Juvenile Law Committee, State Bar of Georgia and Editor, Children's Legal Advocacy Coalition/State Bar of Georgia Newsletter
Jannquell Peters	Louisiana State Bar, Georgia State Bar, National

	Association of Counsel for Children. Louisiana Children and Youth Planning Board and Louisiana Mental Health Task Force.
Anissa Patton	Georgia State Bar, Ohio State Bar, National Association of Counsel for Children, Georgia Association of Black Women Attorneys
LaMia Saxby	State Bar of Georgia, National Association of Counsel for Children, Georgia Association of Counsel for Children, American Trial Lawyers Association; Georgia Association of Black Women Attorneys, Georgia Association of African American Attorneys, Fulton County Truancy Intervention Project and Guardian Ad Litem, Board of Director, What a Day Adult Day Care Center, Inc.; Notary Public; Instructor, Wills and Estate Planning Seminars.
Lakeisha Heard	State Bar of Georgia, National Association of Counsel for Children, Georgia Association of Counsel for Children
Tamara Denson	National Association of Counsel for Children, Georgia Association of Counsel for Children.
Jodie Gentile	National Association of Counsel for Children, Georgia Association of Counsel for Children
Chandra Wilson	State Bar of Georgia, National Association of Counsel for Children, Georgia Association of Counsel for Children.
Carol Riley	State Bar of Georgia, National Association of Counsel for Children, Georgia Association of Counsel for Children, Georgia Association of Black Women Attorneys. (GABWA)
Kimberly Aaron	National Association of Counsel for Children, Georgia Association of Counsel for Children.
Amber Patterson	State Bar of Georgia, National Association of Counsel for Children and Georgia Association of Counsel for Children.

Additionally, CAA staff resumes are attached as Appendix 9.

TRAINING:

The Consent Decree requires Fulton County to “...ensure that all Child Advocate Attorneysabide by the principles, standards, policies, and procedures set forth in the ‘Guidelines for Fulton County Child Advocate Attorneys,’ ” which is attached to this report as Appendix 1. Providing training opportunities for CAAs on a wide range of subjects related to deprivation cases is a critical component of the Performance Standards set forth in the Consent Decree.

The Child Advocate Attorneys have completed trainings on the subjects and dates set forth below:

Training	Date	Attendees
CPRS – Online Caseplan Reporting System, Presented by Regina Roberts, Georgia’s Committee for Justice for Children	October 12, 2007. Fulton County Juvenile Justice Center	Omotayo Alli, Roberta Cooper, Sonya Hunt, M.S.W., Heather Jett-Browning, Cinzia Thomas, Candace Stafford, Bertram Ennett, Carla Friend, Wayne Grannis, Lashawn Mikell, Julia Neighbors, Jannquell Peters, Anissa Patton, LaMia Saxby, Lakeisha Heard, Tamara Denson, Chandra Wilson, Carol Riley, Cassandra Kirk, Kimberly Aaron, Jodie Gentile, Angela Wilson, Tonya Lovelace, Maggie Broadnax
Casemaker – Online legal research tool, current caselaw & statutes, presented by State Bar Representative	State Bar Building. December 7, 2007	Omotayo Alli, Roberta Cooper, Sonya Hunt, M.S.W., Heather Jett-Browning, Cinzia Thomas, Candace Stafford, Bertram Ennett, Carla Friend, Wayne Grannis, Lashawn Mikell, Julia Neighbors, Jannquell Peters, Anissa Patton, LaMia Saxby, Lakeisha Heard, Tamara Denson,

		Chandra Wilson, Carol Riley, Cassandra Kirk, Kimberly Aaron
<p>Parent Attorney Training & Deprivations Appeals</p> <p>Although the training was geared to Parent Attorneys, the sections on appeals & <i>Kenny A</i> were applicable</p>	<p>Nov. 30, 2007 Fulton County Juvenile Justice Center</p>	<p>Omatayo Alli, Roberta Cooper, Sonya Hunt, M.S.W., Heather Jett-Browning, Cinzia Thomas, Candace Stafford, Bertram Ennett, Carla Friend, Wayne Grannis, Lashawn Mikell, Julia Neighbors, Jannquell Peters, Anissa Patton, LaMia Saxby, Lakeisha Heard, Tamara Denson, Chandra Wilson, Carol Riley, Cassandra Kirk, Kimberly Aaron, Jodie Gentile,</p>
<p>Client-directed Child Advocacy, Ethics and Training</p>	<p>9/7/07 In-House</p>	<p>Omatayo Alli, Roberta Cooper, Sonya Hunt, M.S.W., Heather Jett-Browning, Cinzia Thomas, Candace Stafford, Bertram Ennett, Carla Friend, Wayne Grannis, Lashawn Mikell, Julia Neighbors, Jannquell Peters, Anissa Patton, LaMia Saxby, Lakeisha Heard, Tamara Denson, Chandra Wilson, Carol Riley, Cassandra Kirk, Kimberly Aaron</p>
<p>State Child Advocate Conference, sponsored by State Office of Child Advocate and Georgia Association of Counsel for Children</p>	<p>7/18-2007 to 7-20-2007, Atlanta, Georgia</p>	<p>Omatayo Alli, Roberta Cooper, Carla Friend, Lakeisha Heard, Cassandra Kirk, LaMia Saxby,</p>
<p>National Association of Counsel for Children, National Juvenile and Family</p>	<p>8-15-2007 to 8-18-2007 Colorado</p>	<p>Omatayo Alli, Wayne Grannis Lashawn Mikell, Lakeisha Heard</p>

Law Conference		
Mediation – 5 hour Training, Justice Center of Atlanta	Nov. 16, 2007	Omatayo Alli, Roberta Cooper, Sonya Hunt, M.S.W., Heather Jett- Browning, Cinzia Thomas, Candace Stafford, Bertram Ennett, Carla Friend, Wayne Grannis, Lashawn Mikell, Julia Neighbors, Jannquell Peters, Anissa Patton, LaMia Saxby, Lakeisha Heard, Tamara Denson, Chandra Wilson, Carol Riley, Cassandra Kirk, Kimberly AaronJodie Gentile, Angela Wilson, Tonya Lovelace, Maggie Broadnax
Children’s Bureau for Agencies and Courts	Dec 10 to 13, 2007 Arlington, Va.	Roberta Cooper
14 th Annual ADR Institute & 2007 Neutral Conference	October 19, 2007	Omotayo B. Alli
Child Placement Conference, Savannah, Georgia		Sonya Hunte and Jodie Gentile
Child Welfare Attorney Training by Institute of Continuing Legal Education in Georgia	October 24, 2007	Jodie Gentile, Amber Patterson, Kimberly Aaron, Chandra Wilson, Tamara Denson
National Institute of Trial Advocacy (Child Advocacy Trial Techniques)	May, 2007	Julia Neighbors and Annisa Patton

ABA 12 th National Conference on Children and the Law with Harvard Law School.	April 13-15, 2007	Omotayo Alli
Guardian ad Litem Training, State Bar of Georgia.	April 2007	Roberta Cooper, Annissa Patton and Omotayo Alli
The National Center For Victims of Crimes	October 18, 2007	

Pursuant to the CAA Guidelines, certification of attendance or some other evidence of participation in the training events they attended is attached to this Report as Appendix 10.

Consistent with another Consent Decree requirement, the CAAs have each received the Fulton County Attorney Trial Notebook.

Future Trainings Planned

NITA – National Institute of Trial Attorneys designed for Georgia’s Child Welfare Attorneys	March 2008	
Each CAA is assigned a trial advocacy topic to research & present to the CAA staff; Investigators & MSW will also be included to expand the knowledge base & specialized knowledge for CAA staff	Every other month, in house	

Every month presentations by outside speakers provided by the Supreme Court Committee for Justice for Children, also includes a monthly caselaw update	Every other month,	
National Association of Counsel for Children, National Juvenile and Family Law Annual Conference	August 2008 Savannah, Ga.	
National Institute of Trial Attorneys designed for Child Welfare Attorneys, Colorado	May 19-23, 2008	
NITA – National Institute of Trial Attorneys designed for Georgia’s Child Welfare Attorneys	March 2008	
Each CAA is assigned a trial advocacy topic to research & present to the CAA staff; Investigators & MSW will also be included to expand the knowledge base & specialized knowledge for CAA staff	Every other month, in house	
Every month presentations by outside speakers provided by the Supreme Court Committee for Justice for Children, also includes a monthly caselaw update	Every other month,	

National Association of Counsel for Children, National Juvenile and Family Law Annual Conference	August 2008 Savannah, Ga.	

CASE COUNT

The Child Advocate Attorneys' Office has had considerable difficulty determining an accurate caseload count. Several factors contributed to this challenge:

- There was no continually maintained list of the cases assigned to the CAA office;
- The CAAs didn't know how many cases were assigned to them; and
- After nearly two years in operation the CAA Office still lacks a case management information system for tracking open CAA cases, and the Court's JCATS system counts open/closed cases quite differently than either *Kenny A* or the CAAs.

Happily, JCATS Deprived is now being implemented and the CAAs and staff are being trained in its use, but it is not yet on line and as of this writing cannot be used to determine the case count necessary for this report.

Given these circumstances, Tayo Alli, the CAA Managing Attorney and Mary Hermann, Faculty Attorney with the Carl Vinson Institute of Government, University of Georgia, who is supporting the Accountability Agent with assistance from the Committee on Justice for Children, made a hand count on December 11, 2007, of the open deprivation and/or termination of parental rights cases in each of the 16 CAAs' offices. The 12-11-07 case count produced the following caseload numbers:

- 1504 open cases with DFCS as the legal custodian (*Kenny A* class members);
- 422 open cases in which DFCS is not the legal custodian (non *Kenny A* class members) for
- a total of 1926 open cases assigned to the CAAs.

See Table A below.

Table A

CAA	DFCS Custody Cases	Non DFCS Custody - Private Filing	Non DFCS Custody - Other	Total per CAA
Aaron	44	3		47
Cooper	252	20		272
Denson	41	26	8	75
Drug Court	50		44	94
Friend	122	13	2	137
Gentile	41	21	6	68
Grannis	142	19	16	176
Heard	127	6	14	147
Kirk	74	7	13	94
Mikell	134	20	17	171
Neighbors	79	26	22	127
Patterson	0	0	0	0
Patton	87	28		115
Peters	210	19	10	239
Riley	3	2		5
Saxby	52	37	9	98
Wilson	46	11	3	60
Totals	1504	258	164	1926

The cases of children who are not class members include private deprivations, (on Thursday, October 25, 2007, seven of fourteen new probable cause cases were private filings), guardianships of various types, protection orders, parental notification waivers, delinquency proceedings for children who are also class members, and Drug Court where DFCS is not the legal custodian. The Consent Decree does not speak to these children's needs for legal representation. Historically, those services have been provided by the same lawyers who represent deprived children and children who are the subject of termination of parental rights proceedings. That continues to be the practice, but the added burden of these cases is a significant impediment to the ability of the CAA's to fulfill the expectations of the consent decree for class members.

On December 14, 2007, the CAA's Office leadership recounted and re-evaluated the status of the same cases that were counted on December 11 (Table A). This process identified cases which should have been closed, cases which would be closed when the final order was drafted, signed and entered; and other cases of children who were not *Kenny A* class members. This 12-14-07 re-evaluation resulted in case count adjustments. The number of DFCS cases dropped to 1464; the number of non-DFCS cases increased to 457; a total of 1921 cases of all types, just 5 fewer than that of the initial count of 1926 made on December 11. The consistency of these numbers strongly suggests that they are reliable. The 12-14-07 re-evaluation also resulted in a case re-assignment in order to better equalize case counts as reflected in summary in Table B below.

Table B

CAA	DFCS Custody	Non DFCS Custody - Private	Non DFCS Custody	Total per CAA	Comments
Aaron	44	3		47	Kimberly Aaron goes out on maternity leave in February. Carol Riley will manage her cases while she is out on leave for about eight weeks. Her case count will be revisited when she comes back.
Cooper	130	20		150	Roberta's case load needs to come down in order for her to have ample time to supervise and help other attorneys manage their cases. I am keeping her case load at 150 until January of 2008.
Denson	87	34		121	
Drug Ct	50	44		94	
Gentile		41		41	Plus Drug Court
Friend	122	15		137	
Grannis	106	35		141	
Heard	127	20		147	
Kirk	74	20		94	
Mikell	103	37		140	
Neighbors	79	48		127	

Patterson	90	21		111	Amber will receive mostly TPR reviews and cases that are in the final stages of being finalized. Attorneys transferring cases to her will also be instructed to work with her on the transferred cases for a period of two months.
Patton	109	28		137	
Peters	111	29		140	
Riley	78	2		80	Carol will manage Kimberly's cases while she is out on leave. Her case load will be revisited when Kimberly comes back from maternity leave.
Saxby	83	46		129	
Wilson	71	14		85	
Totals	1464	457		1921	

Additionally, on December 14, in order to better balance the caseload the CAA Managing Attorney redistributed cases from lawyers with larger caseloads to those who had fewer cases. This case re-distribution was effective immediately. Table C below reflects that redistribution.

Table C

Transferred Cases		
From	To	No. of Cases
Grannis	Denson	36
Mikell	Saxby	31
Peters	Patterson	90
Peters	Denson	10
Cooper	Patton	22
Cooper	Wilson	25
Cooper	Riley	75
Gentile	Patterson	21

All attorneys transferring cases were instructed to work with the new lawyers for a period of two months.

Unfortunately, the cases which were closed, except for entry of the final order, were re-filed with all closed cases, with the exception of 9 such cases which had not yet been placed in the cabinets containing closed files. It is unknown how many other closed (except for entry of the final

order) cases there may have been. A process for tracking those cases has been developed for future use. It includes maintaining them as open cases until the final order has been entered, and tracking the length of time between the court hearing when the case was “closed” until the final order is produced, signed by the judge and entered in the record.

Note that 11 of the 16 CAA’s and one Supervisor have caseloads exceeding 120 cases, which according to the Workload Study is more than the number of cases a CAA should have even if the CAA Office, DFCS, and the Fulton County Juvenile Court are all operating at peak performance.

Care must be taken prospectively to allocate cases to CAA’s in a manner that maintains their caseloads as nearly as possible at equal levels and that doesn’t produce individual caseloads in excess of what is determined to be the appropriate number. Additionally, redistribution of caseloads should attempt to preserve vertical representation and provide for continuity of CAA representation through CAA staffings.

The similarity between the case counts made on December 11 and December 14, 2007 as compared to the DFCS records of children in care on those dates confirms the accuracy of the manual case counts.

12-11-07 DFCS count of DFCS custody	Revised 12-14-07 CAA count of DFCS custody	12-21-07 DFCS count of DFCS custody	Average	Average DFCS custody per CAA
1447	1464	1455	$4366 / 3 = 1455$	$1455 / 16 = 91$

The average number of class members per CAA is therefore **91**. Below are the additions for open CAA cases in which the children are not in DFCS custody but are nevertheless open cases for the Fulton CAA office.

12-11-07 CAA count non DFCS custody	12-14-07 CAA count non DFCS custody	Average	Average per CAA
422	457	$879 / 2 = 439$	$439 / 16 = 27$

Adding the average of the December 11 and December 14 case counts plus the nine cases which were listed as closed but are still awaiting court orders, the total is 1912. Divided by the 16 CAAs produces a rounded average caseload of 120 for each CAA.

$$1464 + 439 + 9 = 1912 \text{ divided by } 16 = 120 \text{ (rounded)}$$

Non Kenny A Child Clients

At any point in time, the Fulton CAA office has some 400 plus child clients who are NOT members of the *Kenny A* class. Some of these child clients have recently moved from being a *Kenny A* class members, but many of these children have never been *Kenny A* class members and it is unlikely they will ever become *Kenny A* class members. These non *Kenny A* cases are included in the CAA case count as these cases typically require as much if not more attorney / investigator time for adequate representation due to the lack of involvement by DFCS. At some point the County administration and the Child Advocate Board are strongly encouraged to address whether these cases should continue to be assigned to the Fulton CAA office or whether some other entity, or perhaps contract attorneys, would be better positioned to represent these children who are not members of the *Kenny A* class, while the Fulton CAAs concentrate on meeting the mandates of *Kenny A* .

A non *Kenny A* Case is defined as child who is NOT in DFCS custody but who has an open deprivation type case pending before the Fulton Juvenile Court for deprivation, guardianship, termination of guardianship, parental notification or transfer from Probate Court.

It is essential that these non *Kenny A* child clients be factored into any analysis of the CAA caseloads. It is also essential to fully appreciate the time involved and the complexity of these non *Kenny A* cases and for all parties to understand the various sources of the non *Kenny A* child clients. Understanding the nature of these cases and their origins may assist the stakeholders in developing appropriate attorney representation for these children. The following is a summary of the types of Non *Kenny A* Cases being handled by Fulton CAAs.

A. Guardianship/Termination of Guardianship – there are five types of guardian cases;

1. Transfer of Contested Termination of Guardianship from Fulton County Probate Court:

- Parent files to terminate the probate court guardianship;
- the guardian is given notice of the pending action to revoke;
- the guardian is given the opportunity to respond & file written objections to the termination of the guardianship;
- a hearing is set in probate court, where the probate court judge has the option of sending the contested hearing to juvenile court for hearing and ruling (*sua sponte*);
- the guardian alleges the parent is unfit, that the parent has neglected the child or abused the child or abandoned the child; and
- once this case gets to juvenile court, it is assigned to the CAA Office which must investigate the allegations.
- DFCS is NOT involved.

2. Guardianship – new filing in juvenile court:

- Individual (relative or non relative) has physical possession of child, then it comes time to enroll in school or there is difficulty obtaining medical treatment without legal status as guardian or custodian;
- rather than filing a third party custody action in superior court (cost more money), the individual goes to file a guardianship in the probate court (usually less costly than a third party custody action EXCEPT when the parents' whereabouts are unknown then probate court costs soar to over \$150.00 including the publication fees & filing fees);
- probate court does not encourage paupers affidavits (even though they are legally available) when the individual tells the probate court clerk they can't afford it, the clerk may suggest they try juvenile court;
- although the juvenile court could charge filing fees, it doesn't & the intake office may offer a paupers affidavit for the publication;
- the juvenile court staff take care of all the paperwork as juvenile court is more user friendly;
- these cases also require investigation as usually abuse, neglect or abandonment is the underlying reason for the guardianship;
- DFCS has been known to advise an individual, usually a grandmother, who calls DFCS for help to send her to juvenile court to get a guardianship, but it is not considered by DFCS as their responsibility or an open case for DFCS.

3. Guardianship –

- new filing & parent objects, then case might be converted to a private deprivation case in juvenile court;
- no DFCS involvement or DFCS only involved b/c of benefits (TANF / Food Stamps / child care / Medicaid);
- court will want investigation (why do they need a guardianship); and

- a home evaluation which CA office is not equipped or trained to provide;
4. Guardianship – filed subsequent to a deprivation case filed by DFCS to move child from foster care to the level of permanency attainable through guardianship;
- EARLY –
 - These guardianships can happen early (within the first year) in the deprivation case & are used as a form of diversion;
 - guardian gets TANF, food stamps if they qualify, and Medicaid;
 - DFCS closes their case unless ordered by the judge to provide services to stabilize the placement (as allowed by *Kenny A*);
 - DFCS usually provides the Court the home evaluation & there is a dismissal of the underlying deprivation action;
 - LATE
 - after child has been in foster care for at least one year, DFCS suggests a guardianship to a relative to move the child out of foster care & relative is entitled to “guardianship subsidy” paid by DFCS either enhanced or regular; even though DFCS is paying a subsidy & having to re-certify the subsidy annually, DFCS closes its case unless ordered by the judge to provide services to stabilize the placement (as allowed by *Kenny A*);
 - DFCS usually provides the Court the home evaluation & there is a dismissal of the underlying deprivation action.
5. Termination of the Guardianship where DFCS was the custodian

- In either of the above, when the parent files to terminate the guardianship, DFCS is reluctant & sometimes refuses to reopen the deprivation case;
- DFCS states the case does not meet their criteria for reopening because the child is safe with the guardian; DFCS may even go so far as to say “call us back if the judge terminates the guardianship AND the child is at current risk”;
- Work for CAA Office involves investigation, home assessments, and determining whether the underlying issues of deprivation as originally alleged by DFCS now been resolved.

B. Private Filings

- Individual alleges child is deprived by parents & individual needs some help, usually monetary or child care services, and parents whereabouts are unknown;
- Individual sent to juvenile court to file deprivation because DFCS will tell the individual to call the police & have the child picked up or DFCS will threaten to put child in foster care if they get involved;
- DFCS requests an individual be given temporary or permanent custody by the juvenile court following the child having been in foster care, court grants transfer of child’s custody out of DFCS & to the individual and DFCS closes its deprivation case. Individual has custody & parent then files to modify custody, DFCS says our case is closed even though they may be providing a placement subsidy & re-certifying annually if the placement is a relative.

C. Parental Notification – Bypass Hearings

- Not too many of them, not sure CAA should be involved b/c there is not any allegation that the child is deprived, child entitled to an attorney but Court could appoint outside counsel & there is

a firm doing these cases pro bono with the Women's Health Center.

D. Private Termination of Parental Rights

- There are a few private termination of parental rights cases; usually cases involve parent against parent.

The non *Kenny A* cases are generally complicated and made even more so by the lack of ongoing social work services to the child or the family.

CAA File Review

As part of the Accountability Agent's monitoring of Fulton County CAAs' compliance with the *Kenny A* Consent Decree, a file review was conducted in December 2007. This file review consisted of a random sample of 35 CAA files. For comparison purposes, the December file review report also includes the results of the June / May 2007 file review of an additional 33 files. The CAA files were individually reviewed and scored using the form below and referencing the CAA Guidelines of the *Kenny A* Consent Decree. The file review not only considers the CAA's documentation of in court hearing activities, but it also looks for evidence of other out of court CAA activity relative to the child's representation.

In summary, there was some improvement in CAA file documentation even though there were several barriers which delayed improvement to this CAA duty. First, the CAA Office was operating with an interim Managing Attorney and it was difficult for her to implement and enforce standardized file documentation and file organization. Also the CAA office was and still is operating without a computerized file management system. The CAA office now has a Managing Attorney, two supervising CAAs and is finalizing the standardized CAA documentation forms and procedures. It is anticipated the JCATS Deprived file management program will further provide structure and assistance to the CAAs as they document all the activities related to their cases. File organization needs further consideration by the CAA Office supervisors. The two prong file structure is woefully inadequate to contain all the documents and recording of the many activities required when representing children. The two prong file structure also limits the ability to document the CAA file in a chronological order. The CAA managing attorney has indicated her intention to revise the structure of the CAA files to a four prong file. Additionally, the decrease in CAA caseloads and increase in CAA support staff / investigators should alleviate any further barriers to adequate CAA file documentation.

The results of each measure of performance in the file reviews are reflected below. It is obvious from the increase in the amount of information in the CAA files, the attorneys are working hard at representing the child clients. The score on “file activity” was consistently “3”. Some areas improved are: court orders, case plans, other relevant documents included in the file, Psych Eval / Developmental, Child Interviews, any other non judicial events for child, Conflict Analysis, CAA Recommendations, Records Evidence (documents admitted), Records Witnesses Testimony and States Child Position.

Areas which need increased CAA activity or documentations included: Photos / videos, Drug Screens, Forensic Results, Diligent Search, Releases for Information, Referrals to Resources or Programs, Reasonable Efforts (analysis or challenge), Pre-trial, Open Statement, Closing Argument, Records Objections, Documents Party presence, service, Documents Services received/needed, Next Steps for each party, Length of Contact & Explain Court Process (to the child client), Staffings w/ DFCS or SAAGs, Negotiations / Mediations and CASA Collaboration. While many of the aforementioned CAA activities might have been performed by the CAAs They were not documented in CAA file.

File Review Form – Blank

Fulton County File Review			File Reviewed Date & By:	
File #		# of Children		
Date Opened	# of Judges	# of CAs	# of Hearings	
Scores 4 = Excellent 3 = Satisfactory 2 = Needs Improvement 1= Poor 0 = Not Applicable				
Score	Document In File		Score	Content
Complaints & Pleadings			Atty Hearing Notes	
	Safe Keeping - Complaint			Legible
	Petition (s)			Pre-trial
	Motion (s)			Type of Hearings Identified
				Open Statement
Orders				Closing argument
	PCH			CA Recommendations
	Formal			Records Evidence (documents admitted)
	Cont			Records Witnesses Testimony
Reports				Records Motions
	Caseplan			Records Objections
	Psych Eval / Developmental			Records Court Order
	School Records			States Child Position
	Medicals			Documents Party presence / service
	Photos / video			Documents Services received / needed
	Police Report			Next Hearing Date
	Drug Screens			Next Steps for each party
				Would you know what happened in Hg
				Would you know next steps for CAA
Case Notes				
	Attorney Hearing Notes		Child Interview	
	File Activity		Ch Position	Length of Contact
	Placement Information		Number of Contacts	Atty/ CI Rel
	Releases for Information		Explain Court Process	
	Checklist for <i>Kenny A</i> Compliance			
	CCFA		File Activity	
	Witness Interviews		Score	Activity
	Child Interviews			Staffings w/ DFCS or SAAGs
	Referrals to Resources OR Programs			Negotiations / Mediations

	Investigative Cover Sheet			CASA Collaboration
	Indications of Investigations			Contact with other Attorneys
	Any other non judicial events for child			Discovery issues
	Appeal Considered			Telephone Contacts - id & content record
	Conflict Analysis			Monitoring of court order
	Reasonable Efforts			

File Review Form with Compliance Data

Fulton County Child Advocate Attorney File Review for <i>Kenny A</i> Compliance			
Item in File Reviewed	June 2007 File Review	Dec. 2007 File Review	Comments
Scores 4 = Excellent 3 = Satisfactory 2 = Needs Improvement 1= Poor 0 = Not Applicable			
Complaints & Pleadings	score & comment	score & comment	Comments
Safe Keeping - Complaint	3 - in 95% of the files reviewed	3.5 All files contained the most recent pleading, observed notes on pleadings, problem w/ organization of file, difficult to follow progression b/c not in order or uniformly in same place b/n different CAAs	Marked improvement in the CAA files containing the relevant pleadings. Improvements would be increased by the use of a 4 prong file system, uniform placement of pleadings in CAA file. Having CAA files in the individual office may have contributed to increased accountability.
Petition (s)	2 - missing in many files, even where adjudication had already occurred		
Motion (s)	3 - present when appropriate		
Orders			
PCH	4- a real time order, always in file	4- a real time order, always in file	
Formal	2 - frequently not in file even after months, computer check revealed formal orders had NOT been presented to the Court by SAAG. When formal orders were in file there was no indication order had been reviewed by CAA for accuracy.	3.5 - More orders in file. Still many missing orders but order had NOT been presented to the Court by SAAG, not attributable to CAA. Where order was in file several CAAs noted the date the CAA reviewed the order for accuracy. Not all CAAs indicated review of the court order.	CAAs need a consistent procedure for tracking the timely submission of court orders to the judge for signature, for reviewing the submitted court orders for accuracy and an effective procedure for requesting corrections to the proposed court orders. CAA appear to appreciate their responsibility in overseeing the court order process.
Cont	2 - in file but routinely lacked adequate legal basis for continuance, CAA position on continuance also lacking.	2.5 More of the continuance orders stated objections by CAA or CAA noted their objection in file. Too many continuances for avoidable reasons.	CAAs should make their objection or consent to continuance on the record & request the court order reflect the CAA position. CAA Policy, Procedures & Standards of Practice discourage continuances except when absolutely necessary & not solely for the convenience of the parties.
Reports			
Case plan	2 - present in half, no indication CAA reviewed	3 - More case plans in files, where present initials & date indicated review by CAA. Still need more case plans in file, should be 100% or clear documentation case plan was reviewed on line by using the CPRS.	CAAs have been trained in CPRS, the online case plan reporting system. CAAs have a responsibility to review the case plan prior to any court hearings, confirm timely updates of case plan to reflect the completion of goals or other changes. When appropriate, CAAs should make recommendation to the case plan which are consistent with the reasons of removal and articulated risk factors and which promote the safety, permanency and well being of the child.

Psych Eval / Developmental	2 - rarely present, only where CCFA in file	3 - Increase in child & parent evaluations in file, where present CAA indicates review of document by notes & highlights.	These documents are frequently the basis for the delivery of or the denial of services to the child & the family. CAAs should know what evaluations have been done, which ones are needed, how to interpret the results, when to consult with experts and whether the appropriate services are being delivered based on the evaluation.
School Records	2 - rarely present	2.5 - present as part of CCFA, several files contained child's IEP outside of CCFA contents	CAAs should have information concerning the child's educational level, progress, problems and any special educational needs. Whether there is an IEP and is it appropriate.
Medicals	2 - rarely present	2.5 more medical documents present in relevant cases, also indication of review by CAA	CAAs should have information concerning the child's medical status, medications and any special needs.
Photos / video	2 - rarely present, copies of photos for home assessments present but infrequent of abuse or child	2 - rarely present, copies of photos for home assessments present but infrequent of abuse or child	CAAs should know whether there are any photos of the child's injuries, who have the photos, and obtain copies. Where there has been a video of the forensic interview, the CAA should at a minimum view the video & if possible obtain a copy of the video.
Police Report	2 - rarely present, even where notes indicate police activity	2 - rarely present, even where notes indicate police activity	CAAs should know whether there is any police action in relation to the child's abuse or neglect. Also whether there are any criminal charges or bond restrictions.
Drug Screens	2 - rarely present, even where notes indicate drug screen administered	2 - rarely present, even where notes indicate drug screen administered	CAAs should know whether there have been any drug screen & the results. Copies of any drug screen results should be included in CAA file and notation if results are submitted to the court.
Forensic Results	2 - report & video should be in CAA file, no indication of CAA viewing video or having a copy of video	2 - report & video should be in CAA file, no indication of CAA viewing video or having a copy of video	See "Photos / video" section above.
DFCS Report	3 - in file w/indication of review when presented by DFCS	3 - in file w/indication of review when presented by DFCS	CAAs should have a copy of any report submitted to the Court.
Diligent Search	2 - when case plan in file diligent search included but no indication CAA reviewed	2.5 Present with case plans & CCFA, no indication CAA reviewed or discussed w/ child	CAAs should review Diligent Search w/ the child is possible & confirm the case manager has made efforts to identify all relative resources or individuals who have shown an ongoing commitment to the child.
Case Notes			

Attorney Hearing Notes	2 - in all CAA files, different formats, inconsistent quality & quantity of information from hearing, many difficult to read, disorganized, lacked uniformity	2.5 in all CAA files, improved degree of detail but inconsistent quality & quantity of information from hearing, many difficult to read, disorganized, lacked uniformity	Hearing notes should be uniform & consistent format, legible, detailing the substance of each & every hearing. The format should include space for all required information & provide the CAA ample opportunity to document their zealous representation of the child. The Fulton County CAAs have made many improvements in the quality of their hearing notes. There is no consistent format and the currently reviewed hearing notes do not document all the required information or show the extent of the CAA representation activities in the courtroom.
File Activity	3 - chronological, indicated CAAs are actively involved in many aspects of the case on a continuous basis, could be improved with more uniform method of documentation	3 - increased details of chronological activities, this documentation shows CAAs are actively involved in many aspects of the case on a continuous basis, could still be improved with more uniform method of documentation	CAAs consistently show detailed, chronological activity in the files. Documentation includes all telephone call, interviews, staffings with investigators and items which need further attention. The Fulton CAA Office is still without a computerized file management system so all activity is recorded in the file itself which limits access to the physical file.
Placement Information	2 - difficult to find in file & no indication of timeliness	2.5 increased presence of placement information in file, still no uniformity or indication of timeliness	Placement information is inconsistently in the CAA file. CAA & DFCS Directors have worked out an agreement in reference to providing timely placement information and placement contact information to the CAAs. This is a relatively new development & will require time to determine effectiveness.
Releases for Information	1 - never	1 - never	CAAs should obtain releases to obtain information independent of DFCS or their providers.
Checklist for <i>Kenny A</i> Compliance	0 - not required but would be beneficial to focus CAAs on <i>Kenny A</i> compliance issues	0 - not required but would be beneficial to focus CAAs on <i>Kenny A</i> compliance issues	Not required but suggested as a tool to keep <i>Kenny A</i> compliance & best practices in the forefront of CAA activities
CCFA	2- rarely in file, no indication CAA made request for CCFA	2.5 more CCFA's in files & indications CAA reviewed document, should be 100%	CCFA document is inconsistently in the CAA file. CAA & DFCS Directors have worked out an agreement in reference to providing the CCFA to the CAAs in a timely manner. Although this is a relatively new development, CAA files contain more CCFA reports and the CCFA show signs the CAAs / investigators are reviewing the content of these reports..
Witness Interviews	3 - when interviewed, documented on witness interview form or case activity log, suggest more details	3 - when interview conducted, documentation present but not all files have witness interviews or have limited information on the case activity log, suggest more details & consistent use of witness interview form	CAAs & investigators frequently use the "witness interview" form. Improvement would consist of more witness interviews and increased details to document the independent investigation by the CAA.

Child Interviews	2.- when interviewed, documented on child interview form or case activity log, suggest more details, insufficient number child client interviews documented	2.5 - when interviewed, documented on child interview form or case activity log, suggest more details, insufficient number child client interviews documented, need additional information such as length & location of interview, details of whether case was explained to child, indices of Atty - client relationship	CAAs & investigators frequently use the "child interview" form. Improvement would consist of always documenting the child / attorney interaction on a interview form including the detail of length of contact & location of contact. The child's position should be clearly documented as well as any legal counseling provided to the child. Additional information would including notes about explaining the court process, preparation for child coming to court, any special request of the child and the CAAs impressions of the child. Some measure, even self reporting, of the establishment of the attorney client relationship. there is a marked increase in the quality & quantity of child interviews in the Fulton CAA files.
Referrals to Resources OR Programs	2- rarely in file, no indication CAA made referrals to resources or programs	2- rarely in file, no indication CAA made referrals to resources or programs	CAAs make few if any referrals to programs. There is now a MSW on staff who will be assisting the CAAs in identifying outside resources available for referral. Lower caseloads should also impact the ability of the CAAs to make referrals outside of DFCS.
Investigative Cover Sheet	3 - when referral made, documented w/ form	3 - when referral made, documented w/ form	CAAs routinely use the investigative referral form, identifying specific tasks for the investigator.
Indications of Investigations	3 - when investigator used, file contains notes of activity & staffing w/ atty	3 - when investigator used, file contains notes of activity & staffing w/ atty	Notes & reports from the investigators are in the files where referrals to investigators were made,
Any other non judicial events for child	1 -not documented in file	2.5 - several files contained documentation of CAA attendance at MDT, FTM, Panel Review	CAAs express they are willing to attend non judicial events for their clients but state lack of notice of these events as the primary reason they do not attend. Several CAAs have attended IEP or school tribunal , citizen panel reviews, FTM & MDT meetings.
Appeal Considered	1 -not documented in file	2 -not documented in file but CAAs discussed several cases were appeals were considered, need uniform method for evaluating & documenting appeal consideration	There is not a formal method to review cases for appeal nor is there a policy for documenting the CAA file when appealable issues are raised. No indication the CAAs discuss appeals with their clients. Each CAA file should contain documentation of whether an appeal was considered & any actions taken.
Conflict Analysis	1 -not documented in file	2.5 - Conflict Policy in place for CAA office, two files contained documentation conflict analysis considered, need uniform methodology for conflict consideration to be documented in each case per settlement	CAA Director has developed a "conflict policy" with procedure to review potential conflicts with CAA's immediate supervisor. There is a conflict analysis form to be completed by CAA & the CAA supervisor describing the nature of the conflict and actions taken as a result of the conflict. Each CAA file should contain documentation of conflict analysis & any actions taken.

Reasonable Efforts	1 -not documented in file, but CAAs stated RE considered during hearings	1 - not specifically documented in CAA file even though CAAs state RE is discussed during their hearings & RE is in every court order prepared by the SAAGs	The CAA files do not have any notations concerning reasonable efforts, whether the CAA challenged DFCS RE assertion or whether CAA made any arguments on behalf of the child based on RE. All court orders recite RE findings from the hearings. CAAs should document the CAA file of the RE considerations made during each & every court hearing. CAAs could significantly bolster their recommendations for services if coupled with RE arguments
Atty Hearing Notes			
Legible	2 - inconsistent legibility & location of essential information	2.5 - improved legibility & details	Showing improvement. Case management software is on the way & increased standardization should help resolve any legibility issues.
Pre-trial	1 -not documented in file	1 -not documented in file	Although, CAAs state they are involved in pretrial negotiations there is not a standardized method of documenting this activity.
Type of Hearings Identified	3 - always present	3 - always present	
Open Statement	1 -not documented in file uncertain whether ever used	1 -not documented in file uncertain whether ever used	CAAs should consider the value & use of the opening statement. There is no indication in the CAAs file an opening statement was used at any of the hearings.
Closing Argument	1 -not documented in file uncertain whether ever used	1 -not documented in file uncertain whether ever used	Although, CAAs report & their files indicate recommendations to the court are made, the closing argument is different in that it is an argument based on the law applicable to the facts of the particular case. There is little indication the CAAs are currently making closing arguments and incorporating case law or statutory law.
CA Recommendations	2 - inconsistent documentation of delivery in Court & no indication of how CAA arrived at recommendation	2.5 -More files specifically state the recommendation made in Court but all files should reflect the CAA position at each hearing and how CAA determined position	CAAs routinely make recommendations to the Court during hearings but these recommendations are not clearly documented in the CAA file. The Fulton CAA are now operating under a client-directed model and the CAA file should reflect the process of structured decision making in arriving at the child's position.
Records Evidence (documents admitted)	2 - inconsistent recording	2. 5 - some files contained indices on document whether it was admitted but inconsistent recording methodology across CAAs	CAA files show some improvement. CAA file should clearly document who said what, on direct, or cross, whose witness, and any documents admitted into evidence. The current hearing notes forms could be modified to assist the CAA in documenting the hearing testimony. CAAs should obtain a copy of any document admitted into evidence & make a notation on

Records Witnesses Testimony	2 - content of testimony but inconsistent & rarely who gave testimony, direct, indirect or cross	2.5 - improved notes reflecting content of testimony but inconsistent: rarely documentation of who gave testimony, direct, indirect or cross	the face of the document showing the date & exhibit number of a document admitted. When the Court takes judicial notice of prior court orders, best practice would be for CAA to request the admittance into evidence of a certified copy of the order; this method best preserves the record.
Records Motions	2 - rarely present	2.5 - few motions noted, oral in Court & CAA supervisors have noted the need for more office wide motions	Although CAAs report making motion & objections during hearings, this activity is not documented in the CAA files. Sufficient documentation would include the substance of the motion or objection & the courts ruling. CAAs have a responsibility for perfecting the record at all hearings.
Records Objections	2 - some files noted an objection but not court's ruling or disposition on objection	2 - some files noted an objection but not court's ruling or disposition on objection	
Records Court Order	2 - portions of Court orders documented, but given type of hearing need to improve completeness of documentation	2.5 - improved recording of Court's orders, but given the different types of hearing CAAs need to improve completeness of documenting the Court's directions to each participant	CAAs files show partial documentation of the court's order but lack sufficient specificity to direct the CAA's responsibility of monitoring the court orders.
States Child Position	2 - where file documented child position, there was rarely indication if Court was informed of child position or CAA recommendation, CAA stated to reviewer they always gave child position when in Court but it was not documented in file	2.5 -increased instances of file documenting child position, child's presence in Court & CAA stating child position to Court but it should be 100 % & documented in the file at every hearing	With the increase in child visits, there is increased documentation of the child's expressed preferences but no indication of legal counseling or the methodology of the CAAs process with the child of arriving at a principled child's position. The child's position is not clearly documented in the CAA file where it should reflect the process of structured decision making in arriving at the child's position.
Documents Party presence / service	2 - files show when parties present, but never sufficiency of service when parties not present or waiver of service issues	2 - files show when parties present, but never sufficiency of service when parties not present or waiver of service issues	CAA file show whether a party was present, but rarely the method of service or sufficiency of the service. No mention of notice to the foster parents, whether they are present or made a statement to the court.
Documents Services received / needed	2 - some documentation of services provided by DFCS & what DFCS will provide but appeared to be DFCS driven rather than CAA driven by independent CAA analysis	2 - some documentation of services provided by DFCS & what DFCS will provide but appeared to be DFCS driven rather than CAA driven by independent CAA analysis or requests to the court	CAA files reflect the delivery of services is driven by DFCS assertions of funding & availability. CAA files do not document the use of the RE arguments to the extent allowable to encourage increased services for the child or family.
Next Hearing Date	3 - always present	3 - always present	CAA files regularly indicate the date of the next hearing & record the type or purpose of the next hearing.
Next Steps for each party	2 - not clearly stated	2 - not clearly stated	As with the recording of the court's order, the CAA file does not contain sufficient details to allow the CAAs to effectively monitor the court's order

Would you know what happened in Hg	2 -lacked uniform method of documentation, disorganized content	2.5 improved presence of court orders & better hearing notes but file organization make it difficult to follow	Improved but only in general terms. More specifics are needed to document the in court hearing activity.
Would you know next steps for CAA	2 - only after interview w/ CAA	2.5 - only after interview w/ CAA	Improved but only in general terms. More specifics are needed to document the actions needed to be taken by the CAA before the next hearing.
Child Interview			
Ch Position	2 - when interviewed file documents position	2.5 - when interviewed file documents position	Some improvement. With the increase in child visits, there is increased documentation of the child's expressed preferences but no indication of legal counseling or the methodology of the CAAs process with the child of arriving at a principled child's position. The child's position is not clearly documented in the CAA file where it should reflect the process of structured decision making in arriving at the child's position.
Length of Contact	1 - never in file	1 - never in file	Should be noted on child interview form to assist in evaluating the quality of the attorney client relationship.
Number of Contacts	2 - only determinable by number of interview entries, no method keeping track of when next contact is needed	2.5 - increased child client contact , only determinable by number of interview entries, no method keeping track of when next contact is needed	Should be noted on child interview form to assist in evaluating the quality of the attorney client relationship. Also the location of the contact should be noted.
Atty/ CI Rel	2 - only discernible through review of interview notes, not objective or clear	2.5 - as a result of increased child contacts but existence or quality of relationship only discernable through review of the interview notes	CAA should indicate establishment on child interview form & show any explanation provided to the child..
Explain Court Process	2 - can only be assumed, never clearly stated	2 - can only be assumed, never clearly stated	CAA should indicate whether the court process was explained to the child & some indication of whether the child appeared to understand the court process. Also when the CAA representation of the child is completed, the CAA should have documentation that the child was informed the CAA representation has ended.
File Activity			
Activity	2.0 - the CAAs appear to be sporadically active in the cases, around hearing time, lack consistent methodology for follow up or documentation of next steps needed	2.5 -file activity appears to have increased as the number of CAAs has increased, but caseload volume still makes CAAs activity sporadic w/ peaks in activity around hearing time or crisis rather than a systematic monitoring of the case	CAAs have improved this documentation function. With the arrival of CAA casemangement computer system, is recording should improve even more. The Fulton CAAs seem to understand that given the posture of the <i>Kenny A</i> settlement, the CAAs have the burden of proving and documenting all the hard work and zealous representation they extend on behalf of the children.

Staffings w/ DFCS or SAAGs	2 - rarely present	2 - not documented in file even if it occurred	Although CAA files show communication w/ DFCS, SAAGs & parent attorneys, the staffing, negotiation & mediation activities needs to be clearly documented. This documentation would include details and report the outcome.
Negotiations / Mediations	2 - rarely present, although CAAs indicate they routinely negotiate at hearings	2 - not documented in file even though CAAs indicate they routinely negotiate at hearings	
CASA Collaboration	2 - when CASA referred case, referral form in file, no indication of staffings w/ CASA	2 - infrequent CASA referral by CAA, uncertain current CAA policy as to CASA	CASA referrals & staffings should be documented in the CAA file.
Contact with other Attorneys	2 - rarely present, although CAAs indicate they routinely contact other attorneys for State or parents	2.5 - some but inconsistent documentation in file activity log; CAAs indicate they routinely contact other attorneys for State or parents before & after hearings	Although CAA files show communication w/ SAAGs & parent attorneys, this communication needs to be clearly documented to include details and report the outcome.
Discovery issues	2 - no formal requests seen, although some indications informal requests were made but no record of follow up when informal request not granted	2.5 - CAA director has resolved some discovery issues directly with DFCS director, improved exchange of information with placement information and CCFA; no individual motions in files	The understanding between the CAA & DFCS directors concerning what information will be readily shared (CCFA, placement information) is relatively new. Discovery will continue to be an issue and the CAAs state they are prepared to file discovery motions. Each CAA file should contain documentation of requests for information & when the information was received. Even where investigators request information, the CAA file should include that request.
Telephone Contacts - id & content record	3 - CAAs routinely document their telephone calls & the content	3 - CAAs routinely document their telephone calls & the content	CAAs have routinely recorded their telephone activity, including who & the content. This documentation function will improve even more with the of CAA casemangement computer system. Investigators should also have their telephone contacts recorded in the CAA file.
Monitoring of court order	2 - no uniform method for documenting follow up or whether monitoring has occurred	2.5 - absent a scheduled review hearing there is not a uniform method for documenting follow up or whether monitoring has occurred	Although, CAAs report they are following up on the court orders, the CAA files do not uniformly record monitoring function activity. Some improvement is indicated in the case activity log, but it is sporadic in the files reviewed. With the increase in number of CAAs, the CAA ability to monitor court should also increase. CAAs should have a uniform method for documenting this activity.

COURT OBSERVATION

Court observations over time revealed that the CAAs are improving the quality of their representation, the vigor of their advocacy and their compliance with the dictates of *Kenny A*.

Points of Zealous Advocacy Observed

Child's Presence During Court Hearings

CAAs have been observed making stronger and more assertive requests for the child, a party in the case, to participate in court hearings. The CAAs have been making these motions despite knowing that some Judges and SAAGs generally oppose the presence of children in court in some circumstances. A protocol regarding participation by children has been developed by the CAA Office and has been presented to the CAA Board for additional comments, Appendix 6 & 7. The CAA Managing Attorney is actively pursuing protocols with DFCS and the Court regarding the child client's presence and attendance at court hearings and transportation the child. Additionally, CAAs have been conscientiously perfecting the record and preserving for appeal the issue of the child client's exclusion. CAAs have been observed during in-office case staffings discussing this issue and the possibility of appeal.

Trial Skills

CAAs get high marks for interacting constructively with opposing counsel, DFCS case managers, court personnel, and child clients. CAAs trial practice skills are commendable. Direct and cross examination are targeted and effective and CAAs have been utilizing objections and motions constructively.

Advocacy Areas Requiring Improvement

A major deficit in the performance of the CAA's generally is their inability to achieve permanence for their young clients as required by

state law and ASFA. One observed case involved a child who had been cleared for adoption by TPR in 1999 and was still in an Another Planned Permanent Living Arrangement rather than a permanent home.

There are several barriers which the CAAs should assertively address on behalf of the child's permanence:

- Parents who fail to make the necessary changes to allow them to parent their children safely including many who are substance abusers and who appear to live in dire poverty;
- Advocacy for parents is often deficient and agency efforts to support their reunification with their children are not as effective as they should be;
- Some CAA's are less knowledgeable than others about service providers, including what they do and how well, where they are, how to access them, etc., and less likely as a result to advocate for specific services to meet the needs of clients or their parent(s);
- Service delivery delays;
- Continuances, which as recently as June, 2007, occurred in 47% of all deprivation hearings; (To the credit of the CAA's continuances appear to be far less frequent in their cases);
- Delays (often lengthy) in the preparation, signing, filing and distributing of court orders;
- Placement disruptions and serial placements;
- Reasonable Efforts; CAA failure to advocate that Reasonable Efforts be made to meet the child's needs, including the need for

permanency, including post TPR efforts to locate adoptive placements or guardianships; and

- Perhaps most concerning, some CAAs lack a sense of urgency about the overarching needs of children for permanency and stability and awareness that independent living, aging out, alternative planned permanent living arrangements, and awaiting adoption are not satisfactory alternatives to real permanency.

Additional CAA advocacy areas requiring further improvement include the following:

- **Educational Needs of Child.** Children's educational placements and performance are frequently addressed in court. Many children are moved to a new school when their placements change. Some CAAs request alternatives to school placement changes, while others seem resigned to another significant disruption in their client's life. There is also little discussion of IDEA and its processes and McKenny Vento was never mentioned.
- **Case Plans and CCFA.** Case plans and the CCFA (comprehensive child and family assessment) should guide the direction of the case, including its treatment objectives, expectations or responsibilities of parents and agency, visitation and other services, and performance criteria for fulfilling the expectations, yet they were rarely mentioned and even less frequently discussed or relied upon as the blueprint for resolution of the case. Case plans provide CAAs a significant opportunity to advocate for the child's position and the child's objectives.
- **Health and Mental Health Issues.** Addressing health and mental health issues is critically important for most foster children, many of whom have lived in environments that didn't adequately afford them those services. Research estimates regarding the prevalence of

mental health issues among foster children range as high as 80%. Federal law requires that all foster children be provided with EPSDT services (Early and Periodic Screening, Diagnosis and Treatment.) yet these needs (not to mention rights) were rarely mentioned in the courtroom by CAAs.

- **Visitation (Quality & Quantity).** Some research has shown that visitation is the service most correlated with reunification, but as important as it is to children and parents it is rarely mentioned in the Fulton County Juvenile Court. Presumably it is occurring, but its availability, accessibility, frequency, duration and quality cannot be determined from court observations.
- **Relative Placement Resources.** There appears to be a paucity of quality out of home placements for deprived children which places a high premium on increasing the number of such placements. CAAs sometimes identify known relatives who might be placement options, but could also advocate for utilization of the Federal Parent Locator Service or a widely known service called Family Finding, both of which have frequently located previously unknown relatives who become placement options.

Over the past year, courtroom observation of CAAs has revealed a steady improvement in the quality of their representation, the vigor of their advocacy and their compliance with the dictates of *Kenny A*. Given the future trainings planned and other resources being accessed by the CAA administration, it is anticipated the improvements in CAA advocacy will continue.

The Court Observation Form shown below was used to gauge CAA performance in 30 cases in October and December of 2007. Observations were made in every deprivation court and of every CAA in Fulton County, though some of the newer CAAs were observed less frequently. Additionally, numerous observations were made of CAA's in deprivation cases over the course of 2007 which helped inform the report below.

The evaluation scale ranges from zero to four.

- 0 is not applicable;
- 1 is poor;
- 2 needs improvement
- 3 is satisfactory, and
- 4 is excellent.

45 measures were scored. Of those, 9 (20%) were satisfactory, 12 (27%) were poor, and 24% were “needs improvement.”

These are composite scores that include overall CAA performance in all of the cases observed and it must be recognized that;

- Not all of the measures are applicable to every case;
- It is likely that CAAs were better prepared than these scores indicate to do or say more, but as the case evolved, it became unnecessary to do so; and
- Every CAA performed excellently on some measures, but collectively, there were no excellent performances on any single measure;

Finally, this report represents a baseline against which future court observations will be compared.

COURT OBSERVATION Form - Blank

Fulton County Court Observation	Date	Judge	CAA
Type of Hearing		Ct Observation By:	
File #	# of Children		
Scoring Of Compliance: 4 = Excellent; 3 = Satisfactory; 2 = Needs Improvement; 1 = Poor; 0 = Not Applicable			
Score	Activity	Comment	
	Service Confirmation to Legal Parties	(B-1)	
	Notice to Foster Parents Issue	(B-1)	
	Continuance Issues	(B-1)	
	Case Timelines Issue (federal & state)	(B-1)	
	Opening Statement (Theory of Case)	(B-1)	
	Closing Argument / Child's Position	(B-1)	
	Cross Examination	(B-1)	
	Direct Examination	(B-1)	
	Objections	(B-3)	
	Motions	(B-3)	
	Case Plan Considerations / Amendments	(B-2)	
	Visitation Considerations	(B-2)	
	Child's School / Educational Needs	(A-4, B-2)	
	Child's medical needs	(A-4, B-2)	
	Child's mental health needs	(A-4, B-2)	
	Handling of Expert witness	(B-4)	
	Handling of Document / Photo evidence	(B-4)	
	Reasonable Efforts Considerations		
	Releases for Information	(A-6)	
	Checklist for <i>Kenny A</i> Compliance		
	CCFA – Comprehensive Child & Family Assessment		
	Witness Interviews	(B-4)	
	Referrals to Resources, Programs	(B-2)	
	Diligent Search		
	Interaction between attorneys	(A-3,B-6)	
	Interactions with other legal parties	(A-4)	
	Interactions with other interested person	(A-3)	
	Handling of child presence at Court	(B-10)	
	Handling of child NOT present at Court	(B-10)	
	Actions which promoted permanency		

	Child Position	(B-10)
	Would you know what needs to be done next	
Comments:		

COURT OBSERVATION Form with Compliance Data

Fulton County Court Observation		October and December, 2007
Scores 4 = Excellent 3 = Satisfactory 2 = Needs Improvement 1= Poor 0 = Not Applicable		
Activity Observed	Comment	Score
Service Confirmation to Parties	addressed in 33% of cases	2
Notice to Foster Parents	never addressed	1
Continuances	10 % continued this is a far better continuance rate than the normal (nearly 50%) rate for deprivations	2
Case Timeliness Issue (federal & state)	aging out, appla, awaiting adoption	2
Opening Statement (Theory of Case)	never addressed	1
Closing Argument / Child's Position	infrequent, but a few were passionate	3
Cross Examination	occurred in 50% of cases and was generally effective permanency not addressed in substantial majority of cases, but when it was (25%) CAAs were zealous advocates	3
Direct Examination	infrequent, but effective	3
Objections	infrequent	2
Motions	frequent and effective	3
Caseplan Considerations / Amendments	almost never mentioned	1
Visitation Considerations	addressed in only 20% of cases	1
Child's School / Educational Needs	addressed in 33% of cases	2
Child's medical needs	almost never mentioned	1
Child's mental health needs	20% of cases, a figure significantly below estimates of mental health needs of deprived children	1

Handling of expert witness	NA	0
Handling of document / photo evidence	only 3 instances, but each was handled well	2
Reasonable Efforts considerations	never mentioned	1
Releases for information	NA	0
CCFA	mentioned in only one case	1
Witness Interviews	mentioned in only 4 cases	2
Referrals to Resources, Programs	less than 20% of cases	2
Diligent Search	mentioned in less than 20% of cases but should have been far more often	1
Interaction between attorneys	generally excellent, but did observe one CAA grimace, gesture, and otherwise express displeasure with opposing counsel	3
Interactions with other legal parties	positive from what I was able to observe	3
Interactions with other interested persons	positive from what I was able to observe	3
Handling of child presence at Court	consistently good	3
Handling of child NOT present at Court	NA	0
Actions which promoted permanency	Recommending TPR, Adoption, Guardianships, Reunification,	2
Raised issues of DFCS non compliance	none observed	1
Placement Information Obtained	rarely	2
Filed Pleadings on behalf of Child	none observed	1
Negotiation / Mediation Participation	none observed, but did observe that many cases are settled	2
Court informed of Child's Position	almost always	3
CASA collaboration	yes, but not often	2
Appeal Issues Reserved on Record	none observed	1
Conflict of Interest - raised?? Or should have	no	0

Overall level of Active Participation (B-1)	it is improving significantly	2
Advocated for service needs Ch & Fam	yes, although more frequent and vigorous advocacy is needed	2
Demonstrated Knowledge of topic.....	yes	2
Case Facts	Yes to all, but there is still room for significant improvement on the part of most CAAs regarding each of these topics. Happily, it is apparent from court observations that the CAAs are growing and learning and becoming increasingly more accomplished in their advocacy for the children they represent.	
Case History	yes	2
Juvenile Court Procedure	yes	2
Federal Law	yes	2
State Law	yes	2
<i>Kenny A</i> Mandates for DFCS & CAA	yes	2
Child's needs	yes	2
Family needs	yes	2
Child Position	yes	2
Would you know what needs to be done next		

Chart

Chart relating to each Kenny A Guideline as stated in Appendix A of the Kenny A Consent Decree along with the Workload Study identified “Barrier” to compliance, the Workload Study “Recommendation” associated with each Guideline, the positive developments associated with each guideline and finally the performance expectation for each guideline.

Appendix Contents

Document	Appendix No.
Fulton County <i>Kenny A</i> Consent Decree including Consent Decree Appendix A (Guidelines for CAA)	1
Fulton CAA Standards of Practice	2
CAA Caseload Spreadsheets	3
Fulton CAA Office Policy	4
SAAG Robert Hall Letter to the Court	5
CAA Director Reports to Fulton County Child Advocate Board 2007	6
Minutes of Fulton County Child Advocate Board Meetings and Board Member Resumes	7
Fulton County Child Advocate Board Resolution to Implement One Judge, One Family System & Time Certain Docketing System	8
CAA Staff Resumes	9
CAA Certification of Participation in Trainings	10
2008 Budget & Enhancement Requests	11
JCATS Deprived Documentation	12