KENNY A. INTERIM REPORT

June 22, 2007
William G. Jones
Accountability Agent

SUMMARY OF LITIGATION AND CONSENT DECREE REQUIREMENTS

On June 6, 2002, Kenny A., by his next friend, Linda Winn; et al., brought a lawsuit 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 upon 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's 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 Decree further specified the performance expectations of the CAAs as follows:

PRINCIPLES

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.

GUIDELINES FOR FULTON COUNTY CHILD ADVOCATE ATTORNEYS

The Fulton County Juvenile Court recognizes the important role child advocate attorneys play in ensuring that the child's best interests are protected in court proceedings involving child abuse and neglect . Children lack the capacity to speak for themselves in court proceedings and need someone else to speak and act on their behalf. For that reason, the Court is committed to

ensuring that children have access to adequate and effective child advocate attorneys . The Court is dedicated to ensuring that child advocate attorneys are diligent and knowledgeable professionals and that they have adequate resources to carry out their responsibilities.

Currently, there are no uniform standards for attorneys representing children in Georgia. Georgia law has no special requirements regarding quality, training or qualifications for child advocate attorneys . These guidelines were developed by the Court with three goals in mind. First, to outline the role of Fulton County child advocate attorneys. Second, to promote guidelines for the adequate and effective representation of children. Third, to ensure that child advocate attorneys are sufficiently trained and educated in the field of child representation.

The Court recognizes that every case is unique and will present its own difficulties and challenges. In addition, each child will have different needs and require different levels of advocacy. As a result, these guidelines are by no means an exhaustive listing of the responsibilities of child advocate attorneys . Instead, they provide a framework that will assure adequate and effective legal representation for children involved in child abuse and neglect proceedings in Fulton County Juvenile Court.

I. QUALIFICATIONS AND TRAINING

All Fulton County child advocate attorneys shall be an active member and in good standing with the State Bar of Georgia. In addition, all Fulton County child advocate attorneys shall have sufficient training. Training is especially important for child advocates due to the unique needs of children. Child advocate attorneys shall receive a minimum of four (4) hours of training each year in one or more of the following areas:

• role and responsibilities of the child advocate
• applicable laws governing child abuse, neglect, deprivation, foster care and termination of parental rights
• child development
• child abuse and neglect
• foster care
• domestic violence
• mental health
• ethical considerations which are unique to child law practice
• school law
• substance abuse
• custody-visitation
• adoption
• cultural and ethnic awareness
• social services programs and availability of community resources
• any other topic which the child advocate may select as helpful to a given caseload

The training need not be Georgia Continuing Legal Education (CLE) training, and may instead include formal or informal training from organizations such as Court Appointed Special Advocates (CASA), local public schools systems, mental health programs, DFCS, youth centers, and other community based agencies.

A certification of attendance or some other form of evidence of attendance at training shall be placed in the child advocate attorney's personnel file.

All Child Advocate Attorneys will also receive and be familiar with the Fulton County Child Advocate Attorney Trial Notebook.

In addition to the training listed above, attorneys for children are encouraged to join and participate in at least one professional group or organization that will be a resource for needed information about child advocacy . Such groups may include, National Court Appointed Special Advocates (CASA), the National Association of Counsel for Children (NACC), the Georgia Association of Counsel for Children, and State Bar committees focusing on child law issues.

II. THE ROLE OF THE FULTON COUNTY CHILD ADVOCATE ATTORNEY

Georgia state law does not fully define the role of attorneys who represent children. In Fulton County, child advocate attorneys represent the best interests of the child, while at the same time representing the child's expressed preferences. This model allows the child to explain what he or she believes is in his or her best interests. If the child advocate determines that the child's expressed preference would be seriously injurious to the child (as opposed to merely being contrary to the lawyer's opinion of what would be in the child's interests), the child advocate attorney may request appointment of a separate guardian ad litem and continue to represent the child's expressed preference as the child's attorney, unless the child's position is prohibited by law or without any factual foundation.

III DUTIES OF THE CHILD ADVOCATE

Child advocate attorneys are expected to provide adequate and effective legal representation. The work performance of each child advocate attorney will be evaluated annually pursuant to Fulton County's Personnel Regulations.

A. Initial Responsibilities

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

B. Preparation for and Representation at Hearings

1. Participate as an attorney at all hearings concerning the child.
2. Make informed recommendations for specific and clear orders for evaluation, services, and treatment for the child and the child's family.
3. File all necessary pleadings and papers .
4. Ensure that relevant testimony and documentary and physical evidence is introduced to the court and, when necessary, subpoena witnesses.
5. Monitor the implementation of court orders and determine whether services ordered by the court for the child or the child's family are being provided in a timely manner and are accomplishing their purpose. Where necessary and appropriate, take steps to ensure compliance .
6. Promote a cooperative resolution of the matter.
7. Consult with other persons knowledgeable about the child and the child's family to identify the child's interests, current and future placements that would be best for the child, and necessary services for the child.
8. Where necessary and appropriate for legal representation, attend all meetings involving the child.
9. When appropriate, collaborate with the CASA to provide the best possible representation for the child.
10. Inform the court of the child's wishes.
11. Adequately maintain case file.
12. Explain to the child the disposition of his or her case.

C. Post Dispositional Representation

1 . Inform the child of his or her right to appeal,
2 . Exercise child's right to appeal, if under the reasonable judgment of the attorney, an appeal is necessary.
3 . Where necessary and appropriate, represent the child's interests in an appeal filed by another party.

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

IV. CONFLICTS OF INTEREST

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

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

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, a former Associate Judge in the Fulton County Juvenile Court. This aspect of the litigation is discussed in detail in a separate report from Ms. Baynes and her colleagues.

HISTORY OF INTERIM REPORT

The Decree provided that the Accountability Agent would make an initial report six months after completion of the Workload Study. When it became apparent that the Study would require more time to complete than had been anticipated, Plaintiffs' counsel requested that an Interim Report be submitted to the Court and the Parties. The initial due date for that Report was March 15, 2007, but at the request of the Accountability Agent, with the

concurrence of the parties, the Court extended the due date until June 15, 2007 for the draft report and June 22, 2007 for the completed report.

MONITORING ACTIVITIES

In order to better understand how the Child Advocate's Office and its leadership and attorneys, the Fulton County Juvenile Court, DFCS, and Fulton County government operate; and to prepare for fulfilling the responsibilities of Accountability Agent, the following activities were undertaken:

Numerous conversations, phone calls, emails and meetings with counsel for both Plaintiffs (Ira Lustbader, Shirim Northenberg, Erik Pitchal, John Bramlett, and Corey Hirokawa) and Defendants (Willie Lovett, Paula Nash, and Audrey Baggett) about a wide range of issues regarding the Consent Decree, the County's compliance and other actions, the Court's practices, and the performance of the Child Advocate Attorneys

Private interviews with and Court observations of all but the most recently hired attorneys, some file reviews, and interview with the only Investigator, until very recently

Several conversations with Chief Judge Sanford J. Jones and some with Judge Belinda Edwards regarding a variety of Court practices and how they might be improved

Frequent interactions by phone, email, and in private meetings with former Managing Attorney Suparna Malempati and more recently, with Acting Managing Attorney Omatayo Alli, regarding policies, procedures, personnel, best practices, and other issues related to the development and improvement of the Child Advocate's Office and how it serves its clients

Numerous interactions with Karen Baynes, under whose direction the Workload Study was completed, regarding a wide range of issues having to do with CAA practice, Court practice, County policy and national Best Practices

Meetings with the Fulton County Juvenile Court's Chief Court Administrator, Michael Wilson, regarding multiple court-related issues, as well as the performance of the Child Advocate's Office, and with his staff, including Linda Sanders, Ed Garnes, and IT personnel

Meetings or conversations with Vernon Pitts, Michelle Barclay, Suzanne Alliegro, and Dr. Boxill

Conversations with Marvin Ventrell from the National Association of Counsel for Children, Mark Hardin and Howard Davidson from the ABA Center on Children and the Law, and Shari Shink from the Rocky Mountain Children's Law Center, primarily regarding the Workload Study and to obtain publications from them for the Child Advocate Attorneys and Managing Attorney

Contact with Jennifer Renne and Mimi Laver, also from the ABA Center on Children and the Law, regarding conflict of interest policies and models, and to obtain the ABA Center's Standards of Practice for both lawyers who represent children and those who represent parents and to secure permission to use the ABA's Survey for Children regarding how they perceived their legal representation

Participation in the Workload Study, particularly in its early stages and in the kick-off meeting with the CAAs to launch the 30 day period of analysis

Attended a number of meetings including a meeting of the Fulton County Model Court Committee; the initial meeting of the Child Advocate Board; the Fostering Court Improvement Workshop at Emory University; DeKalb County training for judges, attorneys, social workers and other professionals serving deprived children; the Child Advocate's Office's public meeting regarding the Kenny A. litigation in June, 2007; and the Justice for Children Committee (Georgia's CIP Program)

Met with other individuals and organizations interested in the outcome of the Kenny A. litigation as it relates to Fulton County, including Lila Bradley from One Family/One Lawyer, a project of Atlanta Volunteer Lawyers; and Robin Nash, Karen Worthington, and Andy Barclay from the Barton Clinic at Emory University

Reviewed with Mary Hermann the policies, procedures, practice models, and other forms she developed for the Child Advocate's Office and for the Workload Study

The observations and recommendations that follow are based on the preceding activities.

ADMINISTRATIVE IMPROVEMENT

Fulton County initially placed management responsibility for the Child Advocate's Office with the Public Defender. It quickly became apparent that this arrangement was unsatisfactory and in March, 2007, management of the Office was reassigned by Resolution of the Fulton County Commission to a newly created five-member Child Advocate Board.

The 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 will meet monthly. Its five members are Dr. Nancy Boxill, Attorneys Beth Locker, Elizabeth Reimels and Renata D Turner, and Dr. Sharon E. Williams. Each has excellent credentials for the responsibilities vested in her by the Commission. Dr. Boxill, herself a Commissioner, was appointed Chair of the Board.

The Resolution creating the Board, the Bylaws, the biographies of the Board members, and the Child Advocate Board Resource Manual are submitted to the Court with this report.

IMPEDIMENTS TO IMPLEMENTATION OF THE CONSENT DECREE

1) The Decree called for hiring twelve attorneys, including a supervising Attorney (now managing Attorney), but only recently has a full compliment of attorneys been available, and the managing Attorney's responsibilities are such that she cannot carry a caseload, reducing the number of CAAs to eleven instead of "at least twelve full-time Child Advocate

Attorneys" as contemplated by the Decree. Also required were two full-time Investigators, but again, until quite recently, the County permitted only one Investigator position to be filled. The County has, however, added an additional Investigator so that there are now a total of three such positions, each of which is currently filled. Three full-time support staff were also required and have been working in that capacity from the inception of the CA's Office. The biographies of all employees of the Child Advocate's Office will be submitted to the Court with this report.

2) Case files from the years preceding the Consent Decree were in disarray; CAAs didn't know how many or which cases were assigned to them, and many children were being represented by two or more attorneys. Some files reflect that as many as five attorneys represented a single child one or more times during the pendency of that child's case. One tragic result of the practice of more than one attorney representing a child was the November 2006 death, allegedly at the hand of her mother, of a two year old girl. Three CAAs appeared in court on her behalf, two of them at critical, but different hearings. DFACS made an ill-advised recommendation at the first of those hearings that the child be returned to her mother on a trial basis and at the second hearing that the case be closed, despite numerous warning signs and complaints from relatives that she would not be safe with her mother. The poorly-grounded decisions made in the courtroom by the CAAs, DFACS representatives and Judge to first return her home and then close her case, are a vivid reminder of how important consistent and well-informed CAAs are to the safety and well-being of deprived children.

3) In April, 2007, the Managing Attorney since the inception of the Office, Ms. Suparna Malempati, resigned and was

replaced by Ms. Omotayo Alli, who serves as Interim Managing Attorney pending a recruitment and selection process to be initiated by the Child Advocate Board to fill that position. Uncertainty regarding the leadership of the Office has created unease among the employees.

4) The practice at Probable Cause (PC) Hearings, the initial hearing in every deprivation case, was that one or two attorneys would represent the children in all cases on the calendar and those cases would then be handed off to a different attorney for further proceedings. Despite the skills of the attorneys who did the work, this practice was unsatisfactory because it assured that the child wouldn't have consistent representation. Additionally, the PC hearing is arguably the most critical stage of a deprivation case and requires more time than was allotted to lay the essential groundwork for effectively addressing the needs of the child and parent(s) and successfully resolving the case. (See RESOURCE GUIDELINES, Improving Court Practice in Child Abuse and Neglect Cases, National Council of Juvenile and Family Court Judges, 1995.)

5) Another barrier to compliance is the practices of DFCS and its Attorneys, the State Assistant Attorney Generals or SAAGs. It has been reported that some SAAGs refuse to permit DFCS caseworkers to speak with Child Advocate Attorneys. Additionally, the Comprehensive Child and Family Assessment (CCFA) prepared in all cases that go beyond the PC hearing, court reports, and case plans are rarely submitted to the CAAs until the day of the hearing, and often just prior to it, with the result that court time is wasted while these documents are being read by CAAs and Judges, or that they are merely scanned, creating the risk of overlooked information critical to the safety and well-being of the child(ren).

6) Additionally, the SAAGs are responsible in the vast majority of cases for preparing the court orders that result from deprivation hearings. Delivery of those orders to the appropriate Judge usually takes weeks and sometimes months. Moreover, the CAAs and the parents' attorneys have no opportunity to review, comment upon or correct errors in the orders unless they do so after the orders have been signed by the Judge.

7) According to Michael Wilson, the Chief Administrative Officer of the Fulton County Juvenile Court, 47% of all deprivation hearings are continued, or nearly half of them. Considering that every case has multiple hearings, it is apparent that continuances significantly delay the resolution of cases. While there are good reasons for some continuances, the frequency of postponements in Fulton County is unusually high and results in wasted court time for judges, lawyers, DFCS staff, litigants and witnesses, and delayed permanence for children.

8) A related factor that contributes to delay and inconvenience for parties and attorneys is the practice of setting all cases at either 9 am or 1:30 pm and hearing them as the necessary participants are present and ready to proceed. Calendar call, which addresses readiness for hearing, consumes the first portion of every session.

POSITIVE PRACTICE DEVELOPMENTS

A. The CAAs Office recently integrated probable cause hearing practice with its vertical representation model which now requires that each child have the same attorney beginning with the PC Hearing and continuing through the conclusion

of the case, including any termination of parental rights, guardianship or adoption.

B. Chief Judge Sanford J. Jones and Judge Belinda Edwards have expressed a willingness to convert to a one judge/one family model from the current practice of having an Associate Judge conduct all Probable Cause hearings and then transferring responsibility for each case to Judge Jones or Edwards or one of the other four Associate Judges. This change would enhance the substance of the Probable Cause Hearings by precluding unnecessary entries into substitute care and by enabling prompt action to address the needs of the child(ren) and parent(s). It would also provide judicial consistency in the hearing and management of each child's case. The change is made possible by the enactment of legislation eliminating the right to "a judge in the first instance" as opposed to an Associate Judge. Because this model will require CAAs to be in court only every other week, it also expands the time they will have for meeting and establishing relationships with their young clients; identifying needed services or other resources; doing research; conducting discovery; reading reports, case plans and assessments; interviewing witnesses; and otherwise preparing their cases for hearing. Ultimately, it will also make fulfilling the mandates of the Consent Decree more feasible for the CAAs and increase the likelihood that the County can successfully satisfy the Decree's exit criteria of compliance for eighteen consecutive months.

C. The benefit of these changes by the Child Advocate Attorneys and the Judges is that attorneys will be assigned to a Judge and will be present in court when that Judge's deprivation cases are being heard, thereby avoiding the currently common situation which delays and frustrates both

judges and attorneys, of CAAs not being available in one court because they're in another.

D. Another change Judge Jones is contemplating to avoid absent attorneys is a secured leave policy that would allow attorneys to set aside in advance dates when they will be on leave, with the assurance that none of their cases will be scheduled for hearing during that time.

E. Mr. Michael Wilson Chief Administrative Officer for the Fulton County Juvenile Court has indicated an intent to draft a proposed continuance policy which, if adopted by the Court, would significantly reduce wasted time for all participants in deprivation cases and would also increase the likelihood of permanence for children at an earlier stage of the process, of compliance with the timelines established by the Adoption and Safe Families Act (P.L. 105-89), and of fulfillment of the mandates of Kenny A.

F. Another positive note is that Chief Judge Sanford J. Jones has stated his intention to issue "real time orders" in his court, orders that would be prepared in the courtroom during and immediately after each hearing, and that would be distributed to counsel and the parties shortly following the conclusion of that hearing. This practice, unlike the one now in place, will allow for contributions from all lawyers and result in more accurate orders. It would also provide DFACS and parents with timely notice of what is required of them and when, and of the next court date. This practice also avoids the costs associated with mailing copies of court orders to those who participated in the hearing.

G. Also positive has been the support of the Supreme Court of Georgia Committee on Justice for Children which, consistent with its mission to improve the processing of deprivation

cases across the state, has provided resources to the Fulton County Child Advocate's Office to help implement the reforms required by the Kenny A. Consent Decree. More specifically, the Committee has aided the CAA Office by providing training, and by supporting the attendance of the Managing Attorney and several CAAs and Investigators at national conferences regarding legal representation of deprived children. Additionally, the Committee has contracted with former CAA Mary Hermann to facilitate regular in-service training and to develop policies, procedures and standards of practice for the office.

RECOMMENDATIONS FOR FULTON COUNTY:

- The Child Advocate Board and the County should take all actions within their power to expedite the hiring process for the position of Managing Attorney.

- Additionally, the County should reconsider the pay scale for CAAs, Investigators, and support staff and raise it to the same, if not a higher level, than that of the Public Defenders and District Attorneys and their investigators and support staffs. The work CAAs do is at least equally important and hiring and retaining experienced and skilled attorneys and other personnel will be critical to successful fulfillment of the Kenny A. exit criteria.

- The CAAs should receive mileage reimbursement for work-related use of their personal vehicles. The requirements of the Decree make travel a necessity and it is unreasonable to expect them to bear that expense.

RECOMMENDATIONS FOR THE CHILD ADVOCATE'S OFFICE AND FOR CHILD ADVOCATE ATTORNEYS:

- Child Advocate Attorneys should disengage from the practice of identifying which cases are ready to be heard, organizing the participants and otherwise administering the Court calendars. These activities detract from their primary responsibilities of representing their young clients, speaking with DFCS personnel, witnesses, parents, substitute care or other service providers and reviewing reports, case plans, etc. in preparation for their next hearing(s).

- The Managing Attorney should arrange for the CAAs to engage in a fatality review analysis of the Banks case to identify where and how the process, and particularly the actions or lack of action by the CAA participants, failed the child. The purpose would not be to blame anyone, but to learn from any mistakes that were made in that case, with the goal of avoiding any such mistakes prospectively. This process is routinely employed in the medical field, and by many child welfare agencies, domestic violence coalitions, and some courts. It's a process that could also be used on an ongoing basis, in other cases with undesirable outcomes, to identify practice issues that may need to change. Models for this process are widely available.

- The Child Advocate's Office should strictly maintain the vertical representation model and not permit the use of substitute counsel.

- Counsel should not request continuances and should object to such requests by other parties, except in the most compelling of circumstances. The practice of routine continuances should be vigorously opposed in the interest of the child client, whose greatest need is for permanence as soon as possible.

- The Managing Attorney should tap the Office budget for the technological devices the CAAs require to function efficiently in today's world and to have convenient access to the myriad persons with whom they must speak for each case and make notes about the conversations and a record of their activities.

- The Managing Attorney should initiate a process for the creation of a management information system that maintains records of each case and that would produce management reports for her, the CAAs, the Child Advocate Board, and the Accountability Agent, reports that include information regarding the Kenny A. performance criteria, ticklers for court appearances, deadlines and other critical events, case specific details that track the Kenny A. expectations, timelines to permanency, and number of assigned cases for each CAA. Such a system may result from the Workload study, or could be created by the Court, but in the absence of a system that performs those essential functions, the Managing Attorney should pursue an alternative.

- If the DFCS practices that are outlined in paragraphs 5 and 6 at pages 15-16 of this report continue, they must be challenged by the CAAs through discovery, including subpoenas and depositions if necessary. Without advance access to the DFCS documentation it will be virtually

impossible for the CAAs to provide the quality of representation dictated by the Consent Decree.

- Alternatively, The Consent Decree provides in paragraph 5B that "(i)f 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." CAAs should consider this remedy if DFCS persists in the untimely delivery of necessary information.

- CAAs should insist on reviewing all orders prepared by SAAGs or others before they are submitted to judges for signature.

RECOMMENDATIONS FOR DFCS:

- DFCS in Fulton County should implement policies requiring that the CCFAs, case plans and court reports be routinely delivered in each case to the assigned CAA at least three days in advance of any scheduled hearing.

- Another source of tension which DFCS should address is the difficulty CAAs often have in determining where their clients are living. Some courts require that attorneys be notified in advance of all placement changes and the reasons for them, except in emergency situations, and that the attorneys be promptly advised of the location and phone number of any

new placement. DFCS could avoid court orders by implementing a policy consistent with this recommendation.

- Strong leadership at DFCS and positive, collaborative interactions among the Agency, including the SAAGS, the CAAs, Parent Attorneys, and the Court are essential to best outcomes for deprived children. DFCS is encouraged to seek assistance in facilitating less contentious and more collaborative interactions among these participants through the no-cost services of the Regional Office and National Resource Centers of the Administration for Children,Youth and Families.

RECOMMENDATIONS FOR THE COURT:

- Adopt and enforce a strong policy that severely reduces the frequency of continuances.

- Implement a one judge/one family model in all courts.

- Alter the court calendar to set cases at specific times or in multiple, shorter blocks of time.

- Adopt a secured leave policy to protect against scheduling cases when attorneys are on vacation or otherwise on leave approved in advance.

- Implement “real-time” orders in as many courts as possible and devise a process in those without that capacity which allows attorneys to view and comment on every order before it is submitted to the judge for signature.

- **U**nless DFCS adheres to the recommendation above regarding reports, etc., the Fulton County Juvenile Court

should adopt a uniform rule requiring that all reports, case plans, CCFAs and other assessments or diagnoses produced or obtained by any party be filed with the Court and served on opposing counsel for all other parties at least three working days in advance of each hearing date. Such a rule should also include sanctions for any failure to comply.

RECOMMENDATIONS FOR THE COUNTY AND THE COURT:

- Deprivation cases initiated by private individuals without DFCS involvement, abortion waiver proceedings for minors, contested guardianships, and youth in the delinquency system who have also been determined to be deprived are four categories of cases which the children's attorneys in Fulton County have historically handled. Whether the CAAs should represent the children in all, some, or none of these proceedings is an issue which the County and the Fulton County Juvenile Court are encouraged to resolve.

- Additionally, attorneys are no longer as available through the Public Defender's Office to represent youth who cannot be represented by the CAAs because of a conflict of interest. Who will represent those youth and at whose expense is also an issue the County and the Court are encouraged to discuss and determine.

NEXT STEPS:

"The Accountability Agent shall…issue public record reports on Fulton County's performance under the terms of the Consent Decree (para. 7A., p.6), which further provides that the CAAs must "…abide by the principles, standards, policies, and procedures set

forth in Appendix A, "Guidelines for Fulton County Child Advocate Attorneys," and the principles listed above at pp 2-3.

The Decree also requires that a report be issued at six-month intervals after completion of the Workload Study. The date of that report will be December 21, 2007.

The reports will be based primarily on court observations; case file reviews; interviews with CAAs, clients, judges, DFCS personnel, parent attorneys, and others; client surveys; and on whatever data and documentation can be obtained from the Court and/or DFCS regarding CAA activities and performance. These activities will be more frequent and intense now that the Workload Study has been completed.

WORKLOAD STUDY

Regarding the Workload Study and its recommendations, it is the opinion of the Accountability Agent that the workload standard should initially be set at 80 cases per CAA. If, however, after 180 days (December, 2007), the Child Advocate's Office, DFCS, the Court, or any combination of them implements reforms recommended in this Report and/or the Workload Study Report, prior to the Period of compliance (p.5, para. 6D of the Consent Decree) that the workload standard be reconsidered to determine whether the impact of those reforms warrants a higher workload number. Changes that make more efficient practice possible will tend to increase the workload standard and to reduce the County's cost.