

**Testimony of Dianne Heggie
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Before the
New York City Council General Welfare Committee
January 11, 2007**

Good morning, I am Dianne Heggie, the Associate Executive Director of the Council of Family and Child Caring Agencies. COFCCA is the principal statewide membership organization for child welfare services providers, representing 110 not-for-profit agencies that contract with the New York City Administration for Children's Services and the county departments of social services to provide foster care, preventive services, adoption, and aftercare services as well as education for children on our facility campuses. These agencies serve 80% of all children and families in the state's child welfare system.

On behalf of the vulnerable children and families served by the 33 New York City foster care agencies, 32 of which are represented by COFCCA, I thank you for the opportunity to review the workings of the Family Court in relation to the City's child welfare system. We also want to thank Chair deBlasio for his leadership on child welfare issues—especially his strong advocacy for Preventive Services.

As you well know, foster care is a temporary service that ensures the safety of children deemed at imminent risk of harm due to abuse or severe neglect in their own homes. The foster care agencies entrusted with monitoring the well-being of children, who are suffering the trauma of past abuse and dislocation and other symptoms related to their previous risk, are also charged with working towards permanency for these children as soon as they are placed in their care.

Permanency planning for foster children involves setting goals—whether for reunification (as in most cases) or adoption—based on the ability of families to regain responsibility for their children. Caseworkers must assess the needs of the children and the capabilities of their families. Following these assessments, caseworkers must ensure that the services provided to the child are appropriately responsive to his/her physical, mental health, and educational needs. Concurrently, caseworkers must engage the child/children's families to facilitate visitation and move toward reunification. Throughout this process, the caseworker must document all contacts and progress in meeting the established goals toward permanency.

An ever-increasing part of the caseworker's job involves the Family Court. The Family Court has always been a key component in determining permanency and care for the

children, whom the court has decided to remove from their homes for their own protection. In response to the rapidly escalating number of foster children with a goal of adoption resulting from the crack epidemic of the 1980's, COFCCA issued a report in the 1990's documenting that the increasing percentage of children needing adoption was not met with a commensurate increase in the number of judges available to finalize these life-altering events. The delays in the adoption process for tens of thousands of children nationwide brought on by a child welfare system that was focused on expanding to accommodate all the babies and children left without parents because of this epidemic brought national attention to the issue—resulting in the monumental changes wrought by the enactment of the federal Adoption and Safe Families Act (ASFA).

Since state compliance with ASFA and its emphasis on adoption, the amount of time caseworkers spend in court increased fourfold. A 2005 COFCCA study (attached) of a sampling of caseworkers found that they spent more than 80% of their time in court just waiting for a case to be called. Too often, those waits only resulted in adjournments to another date—and another wait.

The amount of time caseworkers spend in court waiting for hearings is directly subtracted from the time that they can spend working with children and families to accelerate reunification. The more time a worker spends in court, the less time the worker has for spending time with a child to assess the quality of the interactions between the foster parent/s and child, and between the birth parent and child.

This is a brief list of a typical month's activities for a foster care caseworker based on a caseload of 20- plus children:

- Casework contacts/visits with birth family
- Casework contacts/ visits with foster family
- Face-to-face contacts with siblings under age 18
- Paperwork--progress notes, four Family Assessment Service Plans per month, correspondence, etc.
- Meetings—case conferences, four Service Plan Reviews per month, trial discharge conferences, etc.
- Court dates and hearings—contact with law guardians, etc.
- Other activities—supervision, staff meetings, crisis/disruptions, foster home re-certifications, school contacts, making referrals and follow-up, contact with Administration for Children's Services personnel, etc.
- Time involved in waiting for Connections computer slow downs.

This listing doesn't include travel time and downtime associated with the above activities. Now add to this list the new demands that come with the increased schedule of Permanency Legislation passed last year. The new law, enacted to comply with ASFA, doubles the number of court reviews of a child's status--requiring an initial hearing for every child placed in foster care eight months after removal from his or her

home and every six months thereafter. Previously, permanency hearings were only required every 12 months. The implementation of this new law has resulted in a skyrocketing increase in the amount of time caseworkers spend in court. Contrary to the intent of the legislation, many Family Court Judges have begun adjourning cases for additional, interim updates of routine information, resulting in more court appearances by workers. The State Office of Child and Family Services completed a time study that was conducted in September 2006, after the implementation of the new Permanency laws, which documents the time demands on foster care caseworkers and concludes that given all their obligations-- caseworkers spend less than one hour per month with the children in their care.

The problems confronted in Family Court since the implementation of the new Permanency law have been the subject of much discussion by foster care directors. The following is a summary of their observations and concerns.

- Workers are spending “endless” amounts of time writing reports and appearing in court every three months or even monthly on permanency hearings due to judicial insistence on follow-up of issues that should not require full court hearings such as minor school issues, Independent Living training, and foster parents requests for special rates;
- The 23- page Permanency Hearing Reports are onerous and so poorly designed that the inadequate information and background may actually contribute to the demand for more hearings.
- Termination of Parental Rights hearings are sometimes held in front of referees when a judge is needed to decide or approve the next step, thus delaying that most significant step in the adoption process.
- High turnover of ACS Division of Family Court Legal Services attorneys often results in delays due to new lawyers who are ill-prepared to handle difficult hearings—requiring follow-up with their supervisors to remedy problems.
- Judges making casework decisions and ordering services without any basis in need: such as a judge ordering family therapy when a therapist may think a child or parent not yet ready for it, or it may not even be a need.
- Judges ordering parenting skills for every parent, no matter what the issues present; ordering psychological evaluations without regard to need or the fact that the child had received an evaluation just a month prior to the hearing. Psychologists recommend only one per year.
- Judges ordering specific visitation plans, regardless of the caseworkers observations and recommendations.

- Judges ordering children into kinship homes after placement in a licensed foster home, before a full home study of the relative home is completed, or if the family is out-of-state, before the full Interstate Compact is completed—thus jeopardizing the safety of the child.
- Too often, judges and referees demonstrate a lack of respect for the caseworkers by yelling at or ridiculing them.

We do not want to leave the City Council with the impression that there has not been any cooperation or collaboration between the foster care providers and the Family Court administration. New York’s Chief Justice Judith Kaye and the Chief Administrative Judge of the Family Court in New York City, Joseph Lauria have dedicated much time and effort to addressing many of the problems confronting the processing of adoptions in family court. Stakeholders meetings in each of the boroughs have been opened to representatives from the voluntary agencies, a pilot program was established in the Bronx to reduce the number of court appearances required of workers through the submission of a comprehensive report, computerization to streamline and unify reporting requirements, and attempts have been made to reduce the amount of time caseworkers spend in court by authorizing the substitution of written submissions for appearances at certain types of hearings.

While we appreciate the efforts that have been underway, any benefits from those endeavors have been negated by the impact on the caseworker’s workload of the new Permanency Law. We offer the following recommendations with the certainty that everyone involved in the family court process holds the same hopes of improving the outcomes for the very vulnerable children whose lives depend on the foster care system for their protection and permanency.

Recommendations

1. Add more Family Court judges, giving them flexible hours to make caseloads more manageable, and thus making Time Certains more reliable to reduce the amount of time that caseworkers must spend in court.
2. Build on existing collaborations to enhance communication among the stakeholders and practitioners –facilitating ways to identify day-to-day barriers and joint problem-solving. Bring together Family Court Legal Services staff (FCLS) and foster care agency workers to establish communication in a way similar to the meetings between FCLS and Child Protective Service (CPS) workers. Instituting periodic meetings to review obstacles.
3. Develop an oversight panel to support the Administrative Judge in taking action to address offensive or obstructive behavior by judges and/or referees.

4. City Council support for efforts to secure Connections computer access at family court so workers can record required progress on their cases and maximize their waiting time.