

Testimony Presented

Before the New York State Bar Association Task Force on the Family Court

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Good morning. I am Jim Purcell, the CEO of the Council of Family and Child Caring Agencies (COFCCA). COFCCA is the principal statewide membership organization for the not-for-profit providers of child welfare and juvenile justice services. Our 110 member agencies contract with the New York City Administration for Children's Services and nearly every county department of social services in the state to provide foster care, preventive services, and adoption, as well as services to at-risk youth and education for children on our facility campuses.

On behalf of the children and families we serve, all of whose lives are deeply affected by the actions of the Family Court, I thank you for the opportunity to address several critical issues here today. We are especially hopeful that the relationships our agencies have with the Courts here in New York City are improving because of the commitment of two key leaders. First, we are pleased to join with Commissioner Ron Richter who brings such a terrific set of experiences to his new position. Perhaps no one is better equipped to help all parties better understand each other, and to forge new and better efforts to be the best child welfare system for all of our families and children.

And we make special note of our thanks for the very significant efforts of Judge Richardson-Mendelson for her efforts to improve the Family Court process in New York City, and her recognition of the important role which our agency caseworkers must play in that work.

The problems confronting the family court are not new, they go back decades. During the crack epidemic of the late 1980's, when the child welfare system was overwhelmed with the problem of infants abandoned in hospitals at birth, and the need to provide foster care for thousands of children, all too often we all lost our focus on the critical issues related to permanency. As the crisis abated, a record number of foster children were in need of adoption and the family court was unprepared to cope efficiently with the volume of those cases. Not only New York, but many states were experiencing similar problems. The federal response to long delays in adoption came in the form of a new law to accelerate adoptions: the Adoption and Safe Families Act (ASFA).

From the outset, it was clear that New York City could not comply with the timeframes of ASFA, which called for considering termination of parental rights within the first 15 months of placement. In NYC many cases before the family court do not even come to disposition within that timeframe. In addition to shortening the timeframes, annual court reviews of permanency were expected to reduce the time to

adoption. By 2002, it was evident that the new law was not having the desired effect. New York, and every other state, failed the federal Child and Family Services Reviews.

Ironically, the New York State remedy for this failure was the 2005 Permanency Law. COFCCA strongly supported this law and urged its passage despite the fact that it virtually doubled the number of required permanency hearings, thus creating substantial increases in the number of times our workers were required to prepare and appear in court. We supported the law because it also promised to stop the practice of adjourning these cases for months on end. As we all know this second commitment has not been met. All too often we still find cases adjourned, and adjourned for up to 3, 4, or 5 months.

We know that the Judges and the court administrators, as well as the entire legal community are deeply concerned, as are we, about the protracted court processes and its impact on children who are waiting to go home, or be adopted, or, continue to receive a certain service. An adjournment of three to six months may not seem like a long time in the life of a court case, but it can seem like a lifetime to a waiting child and their family.

I don't think that there is anyone who could disagree with the fact that too many parts of the child welfare services system are overwhelmed and under-resourced. We have long recognized the need for more resources for the family court. COFCCA has consistently supported the call for more judges. We participated in the New York City Coalition of Family Court Advocates in 2008, which sought to amend the family court act by adding 39 family court judges, 14 of which would be for New York City. And we continue to support any effort to expedite permanency and the family court process.

At the same time, we would hope that the family court and the legal community also recognize the needs of the child welfare services providers. Permanency for vulnerable children, which is our mutual goal, is dependent on the efforts of caseworkers as well as on the decisions of judges. Caseworkers make it possible to stabilize families, reunify foster children with their families, facilitate adoptions when necessary, and enable severely troubled children in group settings to again reside with a family. Caseworkers are entrusted with keeping children safe, ensuring their well-being, and expediting their permanency.

Achieving permanency for children in foster care is the paramount responsibility of their caseworkers. Caseworkers recommend the goal for children as soon as they enter care and then the workers immediately develop a plan for achieving that goal—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.

The list of demands on caseworkers seems endless, and yet it keeps growing. Just in the last month a new federal rule has been introduced requiring workers to coach teens on avoidance of identity theft while a bill before the City Council will require that all foster children be offered assistance in gaining a library card. No one would dream of suggesting that either isn't a wonderful idea....and no one will pay any attention to the time it will require every caseworker to address these requirements for the children other caseload. Unless we really believe these caseworkers spent a morning a week literally sitting at their desks daydreaming....some other activity, no doubt also required, will be delayed or go undone.

In 2004, prior to implementation of the new Permanency law, we conducted a study of the amount of time our NYC caseworkers spent in the court building. Our study documented that that caseworkers spent an average of 3 hours in the court house every time they went to court and only 32 minutes in the court room. If they ever got to the court room, as, after the average 3 hour wait, between 25 and 30% of the hearing were adjourned. Some workers spent as much as 8 hours, from 9:30 am to 5:30 pm only to learn that their case had been adjourned. During their waiting time, caseworkers cannot maintain contact with the children or families on their caseload or even address the considerable documentation required to report on the progress of their cases.

Recognizing that caseworkers are heavily overburdened—and sometimes overwhelmed, the New York State Legislature, in 2006, ordered a study of how caseworkers spend their time. The study was conducted by a national expert in consultation with the Office of Child and Family.

The study found that after workers attend court, make required case contacts, after they undertake all of their required work, and spend many more hours each week documenting that work in the Connections computer system, after many hours ensuring that the foster home is up to par, that teachers have been contacted, that medical visits are made...after all of that they have only **an AVERAGE of one hour** a month in face to face contact with the child and/or the family. (Assuming a caseload of about 20 children). The OCFS study recommended foster care caseloads of 11 or 12 children per worker; not the current average which is about 20.

Reducing the amount of time that caseworkers spend in court waiting for their case to be called, or adjourned, should be a priority for everyone in child welfare. Clearly, there are some court actions that require the caseworker to be in court, such as in termination proceedings. But there are some early court hearings such as dispositional hearings, at which protective workers are the appropriate representatives and foster care caseworkers have almost nothing to contribute. At such hearings, and at other appropriate times in a court case, it should be possible for caseworkers to be available to the court by telephone or video conference.

For the hearings at which a child welfare caseworker is required, there should be "time certain" notification to avoid the long waits that too often turn into too much time lost in a child's life. We would hope that as the stakeholders in the family court system, we can pursue collaborations that will result in expediting permanency for all the children who are waiting.

Another area of concern in the relationship between caseworkers and the Family Court is the issue of the need for civility and mutual respect in the courtroom, including with referees. In some instances caseworkers may miss a court appearance, or come late due to an emergency in the life of one of the children in her/his care. At such times, judges or referees have sometimes insulted or threatened workers. Such behavior has led to the resignations of some caseworkers and a general feeling of intimidation and disrespect. COFCCA's Training Consortium has been working with member agencies to help workers better understand the Family Court processes and their role in it. It is very important that Family Court personnel understand the pressures on caseworkers and that we strive to create a more mutually appreciative atmosphere in which everyone is acting in the best interests of children and families.

And I want to acknowledge that our agencies need to do more to ensure that workers appear in court when needed, fully prepared to participate and appear in a respectful and professional manner. Ten years ago the Marisol Panel reported that their observations in Family Court included seeing some workers appear not only unprepared, but even dressed in a manner inappropriate to the decorum of the court. Recently Commissioner Richter asked all of our agency CEO's to spend a day in court to observe the work. Most reported how impressed they were with the quality of the proceedings as well as the interactions among the judges, court staff, ACS attorneys and our caseworkers. But they also saw one court house where simply finding the right court room presented a significant challenge; where some of our workers were treated in a disrespectful manner, and where some other workers were frankly dressed inappropriately.

All parties have the responsibility to make this process, so vitally important to the future of the families and children we all serve, work better. I have a simple test for this. The question is simply "does the child welfare system, and very specifically including the court, work in a way that I would be comfortable if the next case being called was mine? My family? My child in foster care? Would I feel that I was heard? That all of the professionals there were fully committed to justice and to what is best for my child? Until we can all answer those questions in the affirmative, we have a lot of work to do.

Thank you for this opportunity to address the problems in the Family Court process. We think that our collaboration is an important step in expediting permanency for children for whom the quality of life—and sometimes life itself—depends on the actions of the court.

