



COUNCIL FOR COURT EXCELLENCE  
A THIRD PROGRESS REPORT

# District of Columbia CHILD WELFARE SYSTEM REFORM

DECEMBER 2006

## Foreword

*This report has two purposes: to increase community understanding of the District of Columbia's child neglect and child abuse system, and to promote continued public accountability of that system.*

*The report results from the Council for Court Excellence's role for the past seven years as facilitator of the DC Child Welfare Leadership Team, comprised of leaders of the city's judicial and executive branches. The Team's mission has been to reform the District's child welfare system to bring it into compliance with legal standards, and to improve the safety, permanency, and well-being of the District's most vulnerable children. Remarkable progress has been made in those seven years, and it is detailed in this report. However, much remains to be done, especially to reduce the time too many DC children spend in foster care. Achieving that goal will require sustaining the sense of urgency, high-level focus, and investment of resources made by all three branches of the District of Columbia government for the last five years.*

*CCE extends its thanks to the organizations and individuals who*

*contributed to this report, particularly Uma Ahluwalia, Interim Director of the Child and Family Services Agency, and CFSA chief of staff Janet Maher; Catherine Motz, Deputy DC Attorney General, and members of the Family Services Division; DC Superior Court Family Court Presiding Judge Anita Josey-Herring and Family Court Director Dianne King; and Judy Meltzer, Deputy Director of the Center for the Study of Social Policy. This CCE project has been led for its full seven years by our Children in the Courts Committee, chaired by Deborah Luxenberg, Esq.*

*We thank the full Board of Directors of the Council for Court Excellence. Since 1999, our Board has made improving the performance of the District's child welfare system a top organizational priority, and it has committed a substantial proportion of CCE resources to that goal.*

*Finally, we express our sincere appreciation to the generous financial supporters of this project over the past two years—the Freddie Mac Foundation and the Trellis Fund—both of which have been our invaluable partners in this system reform effort since 1999. CCE also thanks*

*the law firm McDermott Will & Emery LLP for generously underwriting the design and printing of this report.*

*Founded in 1982, the Council for Court Excellence is a nonpartisan, nonprofit local civic organization that works in a variety of ways to improve the administration of justice in the local and federal courts and related agencies in the Washington metropolitan area. The Council will celebrate its 25th anniversary in 2007.*

**DECEMBER 2006**





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## INTRODUCTION

### **This is the Council for Court Excellence's (CCE) third progress report to the community on the District of Columbia's efforts to improve the performance of the city's child welfare system.**

CCE's first public report, District of Columbia Child Welfare System Reform: A Progress Report, released in 2002, noted that while the system had begun improving since the city began implementing the Adoption and Safe Families Act (ASFA) in 2000, much more work was required to bring the system into compliance with ASFA standards. At the time the first progress report was written, implementation of the DC Family Court Act of 2001 requirements had not begun. The 2002 report can be read or downloaded from CCE's website: [www.courtexcellence.org](http://www.courtexcellence.org).

CCE's second progress report, District of Columbia Child Welfare System Reform: A Second Progress Report, released in 2004, was more comprehensive than the first. Because the Family Court's computerized case-tracking system had not yet been implemented, CCE gathered data by reviewing a statistically reliable sample of 1,708 child neglect and abuse court

case files for children who had entered the DC child welfare system over a six-year period, January 1998 through June 2003. CCE studied the children's cases that entered the system each year as a separate group or "cohort" based upon their year of admission into the system. This "admission cohort" approach allowed CCE to track the system's performance for children over time, as each new law was implemented. CCE's 2004 report showed steadily increasing compliance rates with federal and local ASFA deadlines, as well as nearly complete compliance with the Family Court Act. More importantly, those improvements were beginning to translate into shorter stays in foster care for some, though not all, DC children. The 2004 report can also be read or downloaded from CCE's website: [www.courtexcellence.org](http://www.courtexcellence.org).

This third progress report covers performance data through the first quarter of 2006, while also displaying

some important performance trends since 1998. For the 2004, 2005, and 2006 data in this report, CCE has relied on data produced by three public agencies (DC Superior Court Family Court, the Child and Family Services Agency [CFSA], and the Office of the Attorney General), because all are now producing reliable data, and also on data reported by the private Center for the Study of Social Policy, the federal-court-appointed monitor of the performance of the District's child welfare system.

The availability of comprehensive statistical and analytic data generated as a matter of routine by the public agencies involved in the child welfare system is an important system improvement since CCE's 2004 report that warrants praise. It is not exaggeration to say that much of the progress reported in the remainder of this report can be traced to system leaders having performance data, sharing it with each other, monitoring it regularly to identify trends, making mid-course corrections when warranted, and coordinating policies and procedures with other system partners. None of these factors was in place when CCE first began working with the system in fall 1999.

## ***The families who come to the attention of the child welfare system have multiple serious problems.***

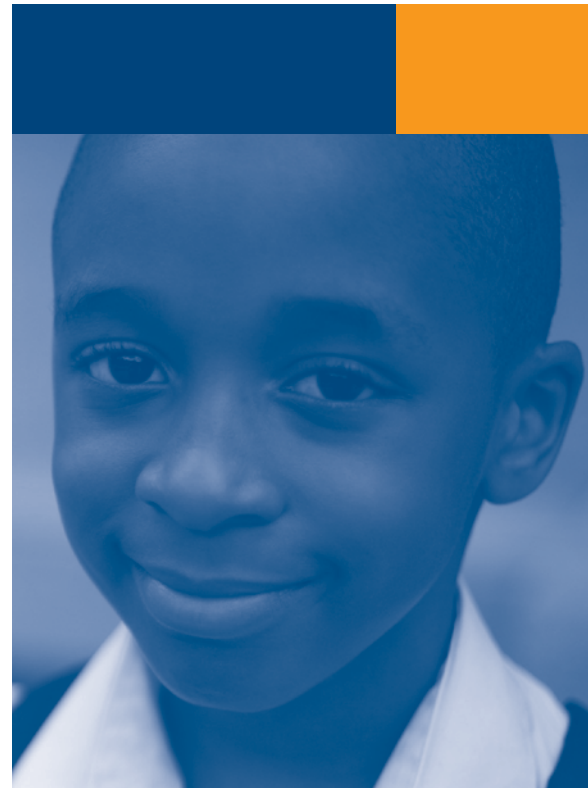
CCE has some general conclusions after focusing for seven years on the issue of child welfare system reform in the District of Columbia:

- *The DC child welfare system is vastly improved since CCE began measuring its performance in 1999. It is now in nearly full compliance with the several federal and DC laws under which it operates, though some serious performance challenges remain.*
- *The families who come to the attention of the child welfare system have multiple serious problems. Running a good quality child welfare system is very difficult, even when the system has very well-qualified and well-motivated people working very hard, and with adequate resources.*
- *Interagency coordination and public/private partnerships are essential.*
- *Having a good quality child welfare system overall does not preclude mishaps or weak performance in particular cases and may not produce good outcomes for every child or family.*

- *Helping children and families in need stabilize their lives is among the most important work the District's government does, both in the short term and for the future well-being of the city. Those who devote their lives to this work deserve the community's thanks.*

### **The remainder of this third Council for Court Excellence progress report will:**

- *First, describe the basic structure of the DC child welfare system.*
- *Next, describe the complex legal framework under which the system operates.*
- *Third, follow the chronology of a child neglect or child abuse case in DC, giving data on how the DC system performance has improved over time.*
- *Fourth, focus on the system's performance on finding permanent homes for the DC children who have been placed in foster care.*
- *Then, conclude with a few recommendations for the future.*





***The strong, consistent commitment since 1999 of the DC public officials to the Child Welfare Leadership Team's collaborative process has been a major factor in the improved performance of the District's child welfare system.***

## THE DC CHILD WELFARE LEADERSHIP TEAM

The organizational structure of the DC child welfare system is comparable to a three-legged stool. The legs are the three public agencies that share principal responsibility for making the system work well: 1) the Child and Family Services Agency (CFSA), which receives and investigates reports of child neglect or abuse and provides services to children and their families; 2) the Office of the Attorney General Family Services Division (OAG), which prosecutes the cases and provides legal support until the child is in a permanent home or the case is otherwise closed; and 3) the DC Superior Court Family Court, which adjudicates the cases and oversees progress toward permanency for the children and case closure. Additional DC agencies have important responsibilities to help achieve good outcomes for the children and families who become involved in the child welfare system. Those agencies include the DC Public Schools, the Department of Mental Health, the Department of Human Services, the Addiction Prevention and Recovery Administration, and the DC Housing Authority.

Recognizing that a well functioning child welfare system requires

interagency coordination, the public officials who lead the system have worked together since fall 1999, as the DC Child Welfare Leadership Team, to improve system performance by jointly planning and synchronizing the necessary reforms in each of their agencies and by jointly tracking their progress. Working according to the plan crafted by the DC Child Welfare Leadership Team, the District began its effort to comply and measure compliance with ASFA in February 2000.

The Leadership Team's principal shared goals since 1999 have been to bring the DC child welfare system's performance into compliance with the requirements of the federal and DC Adoption and Safe Families Acts (ASFA), the District of Columbia Family Court Act of 2001, and most recently the Child in Need of Protection Amendment Act of 2004. For the past two years, with compliance with ASFA and the Family Court Act mostly achieved, the Team's goals have expanded to stress a more qualitative measure: helping children achieve a safe, permanent home promptly.

The members of the 2006 Child Welfare Leadership Team are listed on the inside back cover of this report.

Over the years since 1999, leaders of various other DC public agencies which provide services to the children and families served by CFSA have also participated on the Team. At the request of the public members of the Team, the Council for Court Excellence has facilitated the work of the Leadership Team since the Team formed in 1999. The Center for the Study of Social Policy, the court-appointed monitor of the District's child welfare system under the continuing LaShawn litigation, has also participated actively in the Leadership Team from the start.

The strong, consistent commitment since 1999 of the DC public officials to the Child Welfare Leadership Team's collaborative process has been a major factor in the improved performance of the District's child welfare system.



## LEGAL FRAMEWORK

**The DC child welfare system operates within a framework of laws and a negotiated federal court order. The primary elements of the framework are described briefly below.**

### The Adoption and Safe Families Acts

The federal Adoption and Safe Families Act of 1997 (ASFA)<sup>1</sup> recognized what child development experts have long known: childhood is a critical time for personality formation and brain development. To thrive and grow, children need a consistent, protective, and nurturing relationship with an adult.<sup>2</sup> When a child becomes a victim of neglect or abuse, ASFA deadlines impose a sense of urgency that did not exist previously, requiring parents to act quickly to remedy the cause of neglect or abuse—or risk losing their children. ASFA represents a public policy shift away from prolonged efforts at family reunification toward prompt, permanent, and safe placement of children. All of the federal and DC ASFA deadlines are shown on the diagram on page 11.

The major provisions of the federal ASFA include:

#### Clarification of Reasonable Efforts

Under ASFA, child safety is the top priority in determining whether the social service agency or police will remove a child from home.<sup>3</sup> The social services agency must make “reasonable efforts” to prevent the child’s removal from home prior to removal, unless to do so would put the child in danger.<sup>4</sup> Once the child has been removed from home, the social services agency must make “reasonable efforts” to reunite the child safely with his or her family.<sup>5</sup> However, the agency need not make “reasonable efforts” if the court finds that “aggravated circumstances” exist. In that event, the agency must make reasonable efforts to find a timely permanent placement for the child.<sup>6</sup> Federal reimbursement to the District for the cost of foster care is available

only if the court makes the required “reasonable efforts” finding within 60 days of a child’s removal from home.

#### Contrary to the Welfare

At the first court hearing after a child’s removal from home, the court must determine whether it is contrary to the child’s welfare to remain at home. A “contrary to the welfare” finding also is required before there can be federal reimbursement to the city of foster care expenses.

#### Permanency Hearings

Within 12 months of a child’s entry into foster care (or 14 months after the child’s removal from home, since a child is considered to have entered foster care 60 days after removal), the court must decide the child’s permanency goal—reunification with his or her family, adoption, permanent guardianship or custody with a relative, or an alternative living arrangement—and set a timetable for its achievement.

#### Termination of Parental Rights

A motion to terminate parental rights (TPR) of the child’s birth parents must be filed if the child has been in foster care for 15 of the last 22 months. This is aimed at freeing the child for prompt

<sup>1</sup> Pub.L.No. 105-89, codified at 42 U.S.C. § 670-72 & 675.

<sup>2</sup> Developmental Issues for Young Children in Foster Care, American Academy of Pediatrics, Vol 106, Number 5 (2000) at 1145-1150.

<sup>3</sup> D.C. Law 2-22, as codified at D.C. Code §§4-1301.07, 4-1301.09a, and 16-2309(a).

<sup>4</sup> D.C. Code §4-1301.09a(b)(2).

<sup>5</sup> D.C. Code §4-1301.09a(b)(3).

<sup>6</sup> D.C. Code §4-1301.09a(d).

## Helping children and families in need stabilize their lives is among the most important work the District's government does.

adoption. The TPR requirement does not apply if: 1) the child is living with a relative, 2) the agency (CFSA) failed to provide necessary services to assist the family, or 3) other compelling reasons exist.

### The Adoption and Safe Families Amendment Act of 2000<sup>7</sup>,

which is DC's ASFA statute, was enacted by the DC Council to conform DC law to the federal ASFA. In addition to mirroring the federal ASFA requirements, the DC ASFA sets additional early deadlines for the trial and the disposition hearing that vary depending upon whether the child is removed from home.

### The DC Family Court Act of 2001

The District of Columbia Family Court Act of 2001<sup>8</sup>, enacted by Congress in late 2001, lays out the structure and tools necessary to meet ASFA deadlines. The Family Court Act requires:

- *Transfer to the DC Superior Court Family Court of child neglect and abuse cases that were previously being handled by judges assigned to other divisions of the Superior Court;*
- *Creation of a Family Court whose judicial officers have experience and expertise in family law and have volunteered to serve extended terms of service;*
- *Implementation of the One Family/One Judge approach, whereby the same Family Court judicial officer*

*hears a neglect or abuse case from beginning to end and also presides over all related family law cases involving the same family;*

- *Implementation of a computerized case tracking and management system;*
- *The Mayor to establish and maintain a social services liaison office on-site at the Family Court to address the service needs of children and families who come before the court;*
- *Use of alternative dispute resolution techniques; and*
- *Expansion of the courthouse's physical facilities to accommodate all Family Court functions in a family-friendly environment.*

### The Improved Child Abuse Investigations Amendment Act of 2002

The Improved Child Abuse Investigations Amendment Act of 2002<sup>9</sup> was passed by the DC Council and became effective in October 2002. This law updated and elaborated the definitions of abuse and neglect to re-define the scope of parental discipline, to cover drug presence in newborns, to expand definitions of sex abuse, and to provide for emotional injury as a sign of abuse. The law also provided for multi-disciplinary and multi-agency investigations of serious child abuse.



<sup>7</sup> D.C. Law 13-136, codified at D.C. Code §§ 4-1301 et seq. and D.C. Code §§ 16-2301 et seq.

<sup>8</sup> Pub.L.No. 107-114, codified at D.C. Code § 11-1101 et seq.

<sup>9</sup> D.C. Law 14-206, codified at D.C. Code §§4-1301 et seq. and 16-2301 et seq.

## The Child in Need of Protection Amendment Act of 2004

The Child in Need of Protection Amendment Act of 2004<sup>10</sup> was passed by the DC Council and became effective in early 2005. It was aimed at increasing the involvement of families in the early stages of child neglect and abuse cases, with the hope of improving the quality of decisions that can be made in initial court hearings on those cases. The law's major provisions relevant to this report are:

- *Requiring CFSA to start an investigation of alleged child abuse or neglect within 24 hours of receiving a report and to complete that initial investigation within 24 hours of starting the investigation;*
- *Requiring CFSA to complete its full investigation of alleged child abuse or neglect within 30 days of receiving a report;*

- *Requiring that a guardian ad litem be appointed for every child within 24 hours of the child's being removed from home;*
- *Extending the deadline for holding the initial Family Court hearing from 24 hours after a child is removed from home to 72 hours after removal; and*
- *Authorizing CFSA to convene a family team meeting during that 72-hour period to solicit the assistance of family members, relatives, caregivers, social service workers, and the guardian ad litem in developing a safety plan for the child.*

## The LaShawn Modified Final Order and Implementation Plan

The U.S. District Court for the District of Columbia issued a Modified Final Order in 1993 in the 1989 *LaShawn A. v. Williams* lawsuit concerning the

performance of the District's child welfare system, and particularly the Child and Family Services Agency. The LaShawn Implementation Plan was approved by the federal judge presiding over the LaShawn case in May 2003. The plan sets the outcomes to be met and the strategies that the District of Columbia must implement to reach compliance with the system reforms required under the Modified Final Order. The plan covers outcomes and activities through December 31, 2006, the target date for full compliance. The Center for the Study of Social Policy is the court-appointed monitor of the District's performance under the LaShawn requirements, and its detailed periodic reports on that performance can be read or downloaded from the Center's website: [www.cssp.org](http://www.cssp.org).





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## ASFA COMPLIANCE

**This section outlines the process and timeline for handling child neglect and abuse cases in the District of Columbia and reports the city's compliance with ASFA hearing deadlines. A flowchart is included as a visual aid.**

### A. Case Chronology

#### 1. Reports of Neglect or Abuse and Investigation

Anyone who suspects child neglect or abuse<sup>11</sup> may report it through the CFSA Hotline (202-671-SAFE), which was established in late 2001. CFSA reports that, for the first seven months of 2005, the Hotline received an average of 717 calls per month, of which 270 were requests for information and referral and 447 were reports of suspected neglect or abuse. There are substantial variations in the volume of calls from month to month.<sup>12</sup>

Hotline workers assess those calls which allege neglect or abuse, and approximately 85% are accepted for investigation, with the remainder screened out. Both pre-existing CFSA policy and the Child in Need of Protection Amendment Act of 2004

require social workers to begin an investigation of a report of child neglect or abuse within 24 hours of a call to the Hotline, to complete that initial investigation within the next 24 hours, and to complete the full investigation within 30 days. The Center for the Study of Social Policy reports that, as of December 2005, 72% of investigations are started within 48 hours, 45% of investigations are completed within the 30-day deadline, and 82% are completed within 60 days. These delays raise concern about children's safety and well-being, and CFSA must continue to improve its record on timely performance of investigations.

After investigating, CFSA substantiates the allegations in approximately 30% of the cases, a figure the Center for the Study of Social Policy reports is consistent with national experience.

Even though neglect or abuse allegations may not be substantiated in a given case, CFSA may refer any family it finds at risk to one of the city's seven Healthy Families/Thriving Communities Collaboratives or to other community resources. The Collaboratives are nonprofit civic organizations with which CFSA contracts to provide neighborhood-based services to families and children in need.

#### 2. Substantiated Cases – The ASFA Clock Begins to Run – Day 1

Every substantiated case in which CFSA determines that the child's safety requires removal from home must be referred to OAG and the Family Court in the form of a complaint. Upon notification of the complaint, within 24 hours of the child's removal, the Family Court appoints a guardian ad litem for the child. If, after reviewing the complaint, the assistant attorney general (the government's prosecutor) determines that there is a factual and legal basis for alleging neglect or abuse, OAG files a petition in Family Court at the shelter care hearing, within 72 hours of the child's removal.

<sup>11</sup> The definitions of neglect and abuse used in the DC child welfare system are set forth at D.C. Code §16-2301(9) through (37).

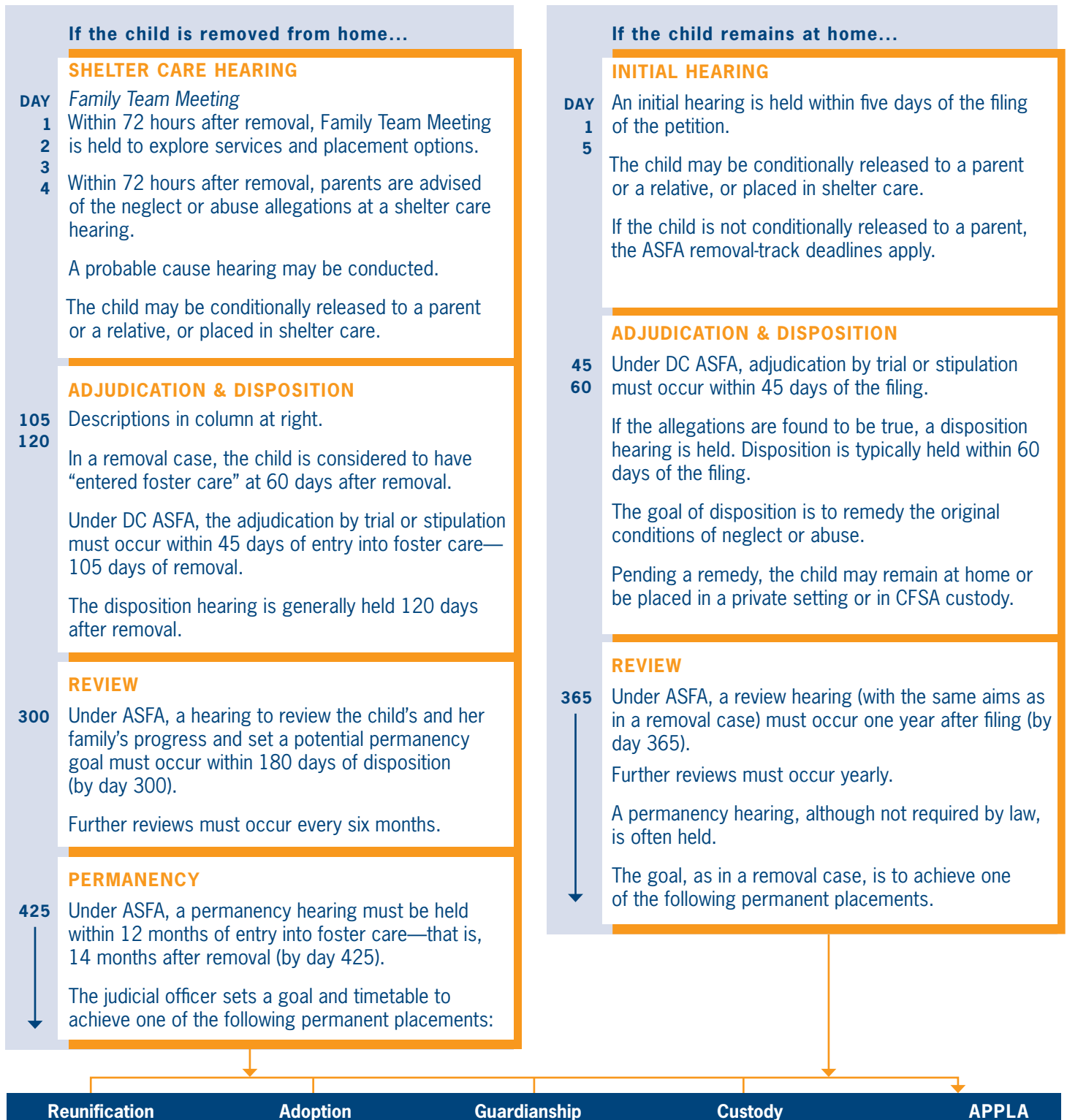
<sup>12</sup> Facts and figures in this report on the CFSA Hotline were obtained from *LaShawn A. v. Williams, An Assessment of The District of Columbia's Progress as of June 30, 2005, Center for the Study of Social Policy* (November 3, 2005) and from *Progress Report on LaShawn A. v. Williams, Center for the Study of Social Policy* (February 13, 2006), both available at [http://www.cssp.org/major\\_initiatives/litigation.html](http://www.cssp.org/major_initiatives/litigation.html).

## Progress through the D.C. Child Welfare Court System

**CALL TO CSFA HOTLINE** Investigation of neglect and abuse reports must begin within **24 hours** of a call. If the

allegations are substantiated and OAG files a neglect or abuse petition, the ASFA clock begins to run. The case

proceeds along one of the two paths depending upon whether or not the child is removed from home.



For ASFA purposes, the permanency timeline begins to run from the date the child is removed from home.

If a child is not removed from home but CFSA believes that the Family Court's authority would be helpful in enforcing necessary services, CFSA may ask that OAG file a petition in the case. For ASFA purposes, the clock in "in-home" cases begins to run from the date OAG files a court petition. The Family Court appoints a guardian ad litem for the child when a petition is filed.

Charges of child neglect are consistently far more common than charges of child abuse both nationally and in the District of Columbia. Of all the new neglect and abuse cases filed in Family Court, in 2003 72% were for neglect, 28% for abuse; in 2004, the percentages were 74% and 26%; and in 2005, the percentages were 85% and 15%.

Two trends about new cases are clear since the District began ASFA implementation in 2000.

First, there has been a substantial decrease in the total number of new child neglect and abuse cases filed in Family Court: 1419 in 2000, 1492 in 2001, 1133 in 2002, 854 in 2003, 800 in 2004, 952 in 2005, and 170 in the first quarter of 2006 (projected

to 680 for the full year if the filing rate holds steady). Keeping in mind that the total number of new cases is down substantially, the second trend is that there has been a significant increase in the proportion of new cases in which the child has been removed from home: 80% in 2000, 74% in 2001, 81% in 2002, 74% in 2003, 89% in 2004, 89% in 2005, and 90% in the first quarter of 2006. This latter trend is most likely the result of CFSA's decision to handle most substantiated cases that don't require removing the child from home as "agency cases," without involving the Family Court.

### **3. Family Team Meeting – Day 2, 3, or 4 (Removal Cases)**

To implement the Child in Need of Protection Amendment Act of 2004, CFSA began in March 2005 a practice of convening a family team meeting (FTM) prior to or within the 72-hour interval between removal of a child from home and the Family Court shelter care hearing. One key to achieving good and prompt permanent solutions for children who must be removed from their homes for safety reasons is "front-loading" the process, which includes doing everything possible as early as possible to find relatives or family friends who are willing to help. The District's performance on "front-

loading" has greatly improved in the past several years. The intent of the family team meeting is to solicit the assistance of family members, relatives, social service workers, and the child's guardian ad litem in developing a safety plan for the child, to be presented to the judge at the Family Court shelter care hearing. The goal is to be able to craft a safety plan, acceptable to the judge, which will permit the child to remain at home whenever possible.

The new FTM initiative had a highly productive first 13 months, based on the following statistics provided by CFSA for the March 2005 through March 2006 period. In that time, of the 421 cases referred for FTM because a child had been newly removed from home, 384 cases or 91% had a family team meeting held, with an average of more than eight people attending each FTM. Those 384 FTMs involved 749 children. Though it may be necessary for a child's safety, removing a child from home is always traumatic. Another measure of the success of the new FTM program is that more than 250 of the 384 FTMs were successful in identifying either a relative placement or an in-home placement for the children involved in the cases, thus possibly reducing the need to place children with strangers.

CFSA has used the resources of two of the seven neighborhood Collaboratives (Edgewood-Brookland and Columbia Heights-Shaw) as its major partners in coordinating and conducting family team meetings since the program's start in March 2005. This public/private partnership is a strong example of the improvement over the past several years in services to families at risk in the District, and of the positive trend toward recognizing the potential strengths of those families rather than only their needs.

Report child abuse and neglect in DC



202/671-SAFE

...it could save a child's life.





***Charges of child neglect are consistently far more common than charges of child abuse both nationally and in the District of Columbia.***

CFSA has gone beyond the mandate of the Child in Need of Protection Amendment Act of 2004 to conduct family team meetings at other critical stages of child welfare cases. In the same March 2005 through March 2006 period discussed above, in addition to the 384 initial-removal FTMs, 25 FTMs were held when there was a risk that a child would need to be removed from home, and 147 FTMs were held when children's placements needed to be changed. CFSA itself coordinated nearly all of these two additional types of FTMs.

#### **4. The Shelter Care Hearing or Initial Appearance—Day 4 (Removal Cases) or Day 5 (In-Home Cases)**

When a child has been removed from home, the first Family Court hearing, called a shelter care hearing, must take place within 72 hours after removal, excluding Sundays, a change from the “next day, excluding Sundays” deadline that was in effect prior to the

Child in Need of Protection Amendment Act of 2004. If the child is not removed from home, the first hearing, called the initial appearance, must take place within five days of the filing of the petition. The District has consistently held shelter care hearings and initial appearances within statutory time frames.

At the shelter care hearing, information (including the information and placement recommendation developed during the family team meeting) is presented by the child's social worker, the guardian ad litem (the child's attorney), and the parents' attorneys. Unless the parents waive presentation of facts about the allegations in the petition, the judicial officer will conduct a “probable cause” hearing. Then the judicial officer makes four important decisions, with the child's safety and best interests as the determining factors. First, the court decides whether there is “probable cause” to believe the allegations in the petition are true. Second, the court decides

whether remaining at home is “contrary to the welfare” of the child. Third, the court determines whether CFSA made “reasonable efforts” to prevent the child's removal.<sup>13</sup> Finally, the court decides where the child will live until adjudication. The court may conditionally release the child to her parents, or place her with a relative, or in shelter care (temporary foster care). Shelter care is the most common placement in the District of Columbia. If the court does not find probable cause, the child is released to go home without conditions, pending the fact-finding hearing.

#### **5. Adjudication and Disposition**

When the District charges that a child has been neglected or abused, the Family Court must “adjudicate” or decide whether the allegations of neglect or abuse are valid, either through an agreement, called a stipulation, or by trial. If the parties are unable to come to an agreement during mediation (which is conducted by the Superior Court in all newly filed neglect and abuse cases) or at any time prior to the scheduled trial date, the case will proceed to trial. The trial is a fact-finding hearing where the government must prove the neglect or abuse allegations “by a preponderance of the evidence,” showing that the allegations are more probably true than not.

If the government succeeds in proving its allegations, the “disposition” hearing takes place. This hearing focuses on correcting the conditions of neglect or abuse and determining where the child will live until conditions are remedied—at home, with a relative, or in foster care (“committed to CFSA”). The most common placement of DC children at the disposition hearing is in foster care. The parties also begin to plan for the child's permanent placement by identifying potential permanency goals, and at this stage of the case it is proper to plan two alternative goals, in case the preferred goal cannot be achieved.

<sup>13</sup> The Court actually has 60 days from the date the child is removed to make this finding; however, in DC this finding is generally made at the shelter care or initial hearing.

### **a. Children Removed From Home – Day 105 and Day 120**

The federal ASFA has no deadline for either adjudication or disposition of cases, but DC ASFA does have those deadlines. The District has made steady progress in reaching compliance with DC ASFA's 105-day deadline for adjudication, rising from 40% for cases filed in 2000 to 96% for cases filed in 2005. The District has also made considerable progress in complying with the DC statute's 120-day disposition deadline, rising from 26% for cases filed in 2000 to 91% for cases filed in 2005.

### **6. Review Hearing – Day 300 (Removal Cases) or Day 365 (In-Home Cases)**

The Family Court must hold a review hearing for children who have been removed from their home within six months of the disposition and every six months thereafter unless a permanency hearing has been held instead. In practice, this results in a 300-day deadline for the first review hearing (180 days from the disposition hearing, which must be held by day 120). For in-home children, a review hearing must be held once a year.

### **7. Permanency Hearing – Day 425 (Removal Cases)**

Because ASFA was designed to prevent children from lingering in foster care, the law sets a firm date for making decisions about a child's future. The Family Court is required to hold a permanency hearing for any child who has been removed from home within 12 months of the child's entry into foster care (or 14 months after the child's removal from home, since a child is considered to have entered foster care 60 days after removal). In addition to covering the issues that must be addressed at review hearings, the court must decide what the child's permanent placement goal will be – reunification with the birth parent(s), adoption, guardianship, custody, or another planned permanent living arrangement. Alternative or concurrent permanency goals are no longer permitted after this date. At the permanency hearing, the court must also set a timetable for achieving the permanency goal.

After a slow start, the DC system has been doing an excellent job for several years of complying with the permanency hearing deadline. For cases filed in 2000, 51% had their permanency hearing within the deadline or had been dismissed before the deadline. For cases filed in 2001, the compliance rate was 79%; for 2002 cases, 91%; for 2003 cases, 94%; and for the 513 cases filed in 2005 which had reached the permanency hearing deadline by the end of March 2006, 99% were in compliance.

The District has also made recent progress toward fulfilling the two substantive requirements for a permanency hearing. Data from CCE's 2004 research showed that the court had made a decision about the child's permanent placement goal from 80% to 85% of the time for cases filed from 1998 through 2002; that compliance rate has since risen to 95% for 2004 and 2005 cases. Performance on setting a date for achieving the placement

### **b. Children Remaining in the Home – Day 45 and Day 60**

Compliance with DC ASFA's short deadlines for adjudication and disposition of cases where children have remained at home continues to be a challenge for the system, but it is one the Child Welfare Leadership Team continues to focus on, and compliance rates are improving. Compliance with the 45-day deadline for adjudication has risen from 18% for cases filed in 2000 to 69% for cases filed in 2005. Compliance with the 60-day deadline for disposition has risen from 29% for cases filed in 2000 to 60% for cases filed in 2005.

At the review hearing, the court determines whether the child's current placement is safe and appropriate, evaluates whether the family and CFSA are complying with plans to remedy the neglect, and reviews plans for the child's potential permanent placement. If it appears that the primary permanency goal may not be feasible, an alternative or concurrent permanency goal should be pursued. For example, a child may have a primary goal of reunification, but CFSA may also begin to plan for adoption in the event that the reunification is not successful.

was far lower according to CCE's 2004 research, being in the 30% range for cases filed from 1998 through 2002. Since 2004, that compliance rate has increased dramatically, to 83% for cases filed in 2004 and 2005.

## B. Achieving Permanency

Under ASFA, there are four preferred permanency options available to DC children removed from their homes because of neglect or abuse – reunification, legal custody, adoption, or guardianship. If, for compelling reasons, none of these options is appropriate, a child may have a permanency goal of another planned permanent living arrangement, or “APPLA,” defined as kinship care, placement with another relative, or independent living.

At the end of 2005, of all the DC children under Family Court supervision because they had been removed from home due to child neglect or abuse, 43% had the permanency goal of reunification, 1% had the goal of custody, 21% had the goal of adoption, 10% had the goal of guardianship, and 21% had the goal of APPLA. The cases of the remaining 5% of removed children had not yet reached the point in the court process of setting a permanency goal.<sup>14</sup>

### 1. Reunification and Legal Custody

Traditionally, child welfare legislation across the country has reflected the philosophy that children should remain with their parents unless it is not in the children's best interests. As discussed above, ASFA requires that the social service agency must make “reasonable efforts” both to prevent the removal of a child from home and, if the child must be removed for safety reasons, to reunite the child with his or her parents. CFSA, in recent years, has embraced this policy by providing ser-

vices aimed at preventing unnecessary family disruptions through the seven neighborhood-based “Collaboratives” located throughout the city. CFSA may also continue providing supportive services directly or through the Collaboratives to children and families who have been reunified and whose Family Court cases have been closed.

In 2004, 325 DC foster children were reunified with their parents and their Family Court cases were closed. In 2005, 215 children were reunified, with the decline in numbers reflecting the declining overall number of DC children in foster care, which is a sign of progress. To measure one aspect of the quality of case management and decision-making in the DC child welfare system, the Child Welfare Leadership Team is also monitoring whether cases once closed return to court with new allegations. Of the 325 foster children reunified with their families in 2004, 25 children or 8% had returned to care by the end of 2005.

Legal custody is a goal related to reunification. Generally, a goal of legal custody is chosen when a non-custodial parent who is not involved in the neglect or abuse case is identified as a prospective caregiver for the child. To achieve permanency for the child, that parent must obtain legal custody of the child. In 2004, 77 DC foster children reached permanency through legal custody and their Family Court cases were closed. In 2005, 51 foster children reached permanency through legal custody.<sup>15</sup>

### 2. Adoption

If reunification or legal custody is not possible, ASFA's preferred alternative is adoption. The Adoption and Safe Families Act requires that, whenever a child has been in foster care for 15 of the preceding 22 months, the District

must file a petition in Family Court to terminate the parental rights of the child's birth parents, unless there are compelling reasons not to do so. The public policy purpose of this “TPR” provision is to get children out of foster care limbo and free them for adoption. Prior to fall 2004, the District had not rigorously implemented or tracked compliance with this provision of ASFA, and the DC Child Welfare Leadership Team set achieving full compliance as a priority for 2005.

CFSA and the Office of the Attorney General (OAG) worked together to identify the 448 DC children who had been in foster care for 15 of the previous 22 months, or longer. CFSA, OAG, and the Family Court, working as the Child Welfare Leadership Team with the strong research and drafting support of the Center for the Study of Social Policy, crafted and published a joint policy on what would constitute appropriate “compelling reasons” not to file a TPR.<sup>16</sup>

The CFSA/OAG team then did a joint case-by-case review of the 448 children, and they identified and documented 230 children's cases which had a compelling reason not to terminate parental rights. In 47 of the remaining 218 children's cases, CFSA and OAG helped the child achieve legal permanency without a TPR filing. In the remaining 171 children's cases, CFSA worked with OAG to prepare the cases for TPR, and the OAG filed all 171 TPRs in Family Court by June 2005, completely eliminating the backlog of overdue TPR filings and bringing the District into compliance with ASFA. CFSA and OAG also worked together to establish a system to prevent any current or future case from missing the TPR-filing deadline, and the OAG filed an additional 73 TPR petitions in Family Court in the second half of 2005 for

<sup>14</sup> The statistics on permanency goals were provided by the D.C. Superior Court Family Court.

<sup>15</sup> The statistics on reunification and custody were provided by the D.C. Superior Court Family Court.

<sup>16</sup> *Criteria and Procedures for Determining a “Compelling Reason” Not to File a TPR: Discussion Paper and Approved Recommendations*, prepared by the Center for the Study of Social Policy for the DC Child Welfare Leadership Team, and published March 10, 2005. The policy paper may be downloaded from <http://www.cssp.org/whatsnew.html>

such current cases. The OAG/CFSA team prevailed in 43 of the 44 TPR cases that reached trial in 2005 and resolved an additional 15 cases without going to trial. In the first quarter of 2006, the OAG filed 20 more TPR cases and tried 30 TPR cases, for a total of 74 TPR trials in the first year of this ASFA compliance initiative.<sup>17</sup>

This successful joint undertaking on the part of CFSA and the Office of the Attorney General was the result of both agencies' leaders paying priority attention to the goal and committing the necessary resources, followed by exceptional effort by both agencies' staff members. The Family Court also deserves praise for its partnership in this successful ASFA compliance initiative, through its strong efforts to prepare for, accommodate, and expedite the resolution of this increased caseload of TPR petitions.

In a further effort to expedite permanency for DC foster children, the Child Welfare Leadership Team placed high priority in 2005 on better tracking the cases of children with a permanency goal of adoption. Beginning in late 2004, CFSA performed a case-by-case review of the 987 DC foster children its FACES computer records showed having adoption as their permanency goal. CFSA worked purposefully to ensure that only those children who needed a goal of adoption retained that goal. Adoption is no longer used as a "default" goal for children who have been in care for long periods. After the review of the 987 cases, by March 2005 the number of children with the adoption goal had been reduced to 836. By the end of 2005, the number had been reduced to 583 children. Adoptions were completed for 279 children in 2005. Of the 583 DC foster children still awaiting adoption at the start of

2006, 404 or 69% were living with either a pre-adoptive family or a foster parent who is considering adoption, and the remaining 179 or 31% needed CFSA to find them an adoptive home.<sup>18</sup>

As shown on the figure below, the District has made dramatic progress in reducing the number of foster children awaiting adoption, from more than 1100 children in 1999 and 2003 to the 583 children at the start of 2006.

To measure the quality of the adoption decisions that are being made in the DC child welfare system, the Child Welfare Leadership Team has begun monitoring to see if any of the adoptions are disrupting. Of the 425 DC foster children who were adopted in 2004 and the 279 who were adopted in 2005, none had reentered foster care in DC by the end of 2005 due to a disruption of their adoptions after finalization by the Family Court. This is obviously a good record.

### 3. Guardianship

Guardianship is a legal arrangement in which the court appoints an adult to care for the child, without terminating the parental rights of the child's biological parents. This legal arrangement is well-suited to relative caregivers who want to provide a stable, permanent home for the child but are not able to assume the legal and financial obligations of becoming an adoptive parent or do not want to end the child's ties to her parents. Legal guardianships present tremendous potential in the District, where between 20% and 25% of children in foster care are placed with relatives.

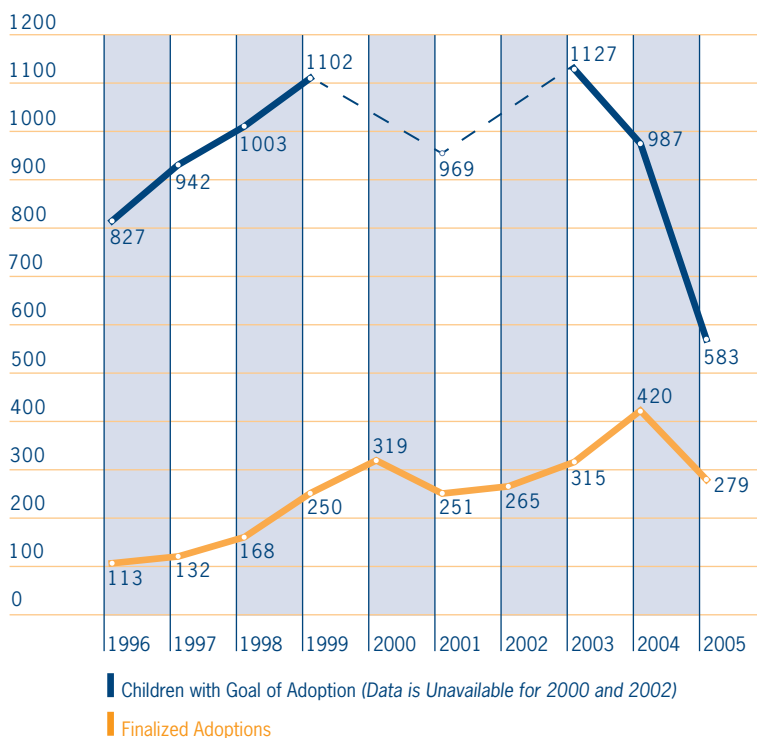
#### SOURCES:

DC Action for Children  
2002

Center for the Study of Social Policy  
February 2004

DC Superior Court Family Court  
March 2006

**Adoptions of DC Children in Foster Care, 1996–2006**



<sup>17</sup> The TPR statistics in this paragraph were presented to the D.C. Child Welfare Leadership Team by the Office of the Attorney General.  
<sup>18</sup> The statistics on adoption were provided by the Child and Family Services Agency and the D.C. Superior Court Family Court.

Recognizing this potential, the District of Columbia Council created a subsidized guardianship program, through the Foster Children's Guardianship Act of 2000.<sup>19</sup> The subsidy is available to relative caretakers who are appointed as legal guardians by the Family Court and who qualify on the basis of financial need. By easing the financial burden of caring for a child, the program gives the child a permanent home and also allows her to maintain her relationship with her biological family.

The subsidized guardianship program has grown quickly in the past four years. Thirteen guardianships were completed in fiscal year 2002, when the program began. In fiscal year 2003, the number grew to 110. In calendar 2004, 293 DC foster children reached permanency through guardianship and had their Family Court cases closed. In 2005, guardianships were granted for 218 foster children, closing their Family Court cases. As a quality control, the Child Welfare Leadership Team is also monitoring disruptions of guardianships. Ten of the 2004 guardianships had disrupted by the end of 2005, and those children have reentered foster care; none of the 2005 guardianships had disrupted by the end of 2005.<sup>20</sup>

#### **4. Another Planned Permanent Living Arrangement/ Independent Living**

ASFA recognizes that some flexibility is necessary to find the best homes for children. However, under ASFA, another planned permanent living arrangement, or "APPLA," is acceptable as a case goal for a child in foster care only as the last option, after reunification, legal custody, adoption and guardianship have all been ruled out as possibilities. APPLA is most frequently assigned by the Family Court as a case goal for older children who are placed in independent living.

According to Family Court statistics, at the end of 2005 21% of all DC children with open child neglect or abuse cases had the court-approved permanency goal of APPLA.<sup>21</sup> Because that proportion seems high, the Child Welfare Leadership Team is working in 2006 to develop and publish a joint policy on when it is appropriate to approve the goal of APPLA for a DC child in foster care, and what procedures to use for periodic review of cases with that permanency goal.

Also according to Family Court statistics, at the end of 2005 38% of all DC children with open child neglect or abuse cases were 15 years old or more. To some extent, the high number of older children in DC foster care is due to the District's commendable commitment to providing care for children up to the age of 21, unlike most states where children must leave the system at age 18. Sixteen percent of the DC foster children under Family Court supervision are 18 and older.

But the high proportion of older children in the DC child welfare system can also be traced to federal and local policies that were in place prior to passage of federal ASFA in 1997: longer deadlines for permanency decisions, fewer preventive resources available to the District, fewer federal incentives for adoption, no structure for permanent guardianship, and a fragmentation of responsibility and services for children in the District prior to 2001.<sup>22</sup>

The resulting failure in those earlier years to emphasize finding permanent families for foster children in a timely manner has resulted in the high proportion of older children in the DC child welfare system. Of the District's 3,167 open child neglect cases in Family Court at the end of 2005, 34% were originally filed in 2000 or earlier: 22% (697 cases) were filed between



1996 and 2000, and 12% (380 cases) were filed between 1986 and 1995.

In 2004, 117 DC children left the child welfare system and had their Family Court cases closed without achieving a permanent family because they had reached age 21; in 2005, 90 children did the same. In 2004, 122 DC children younger than 21 chose to leave the child welfare system and have their Family Court cases closed without achieving a permanent family because they no longer wanted to participate in the system; in 2005, 98 such children made that decision.

National statistics show that children who "age out" of child welfare systems are at high risk of unemployment, homelessness, and contact with the criminal justice system. Thus, it is very important for the District to continue working to find permanent families for all the children in foster care, no matter what their age or special needs.

<sup>19</sup> The Foster Children's Guardianship Act of 2000, D.C. Law 13-273, became effective in April 2001 and is codified at D.C. Code §§16-2381 through 16-2399.

<sup>20</sup> The statistics on guardianships were provided by the Child and Family Services Agency for years 2002 and 2003 and by the D.C. Superior Court Family Court for years 2004 and 2005.

<sup>21</sup> The statistics in this section were provided by the D.C. Superior Court Family Court.

<sup>22</sup> The Child Welfare Leadership Team has collaborated since its formation to reform these institutional impediments.

# TIME TO ACHIEVE PERMANENCY FOR DC CHILDREN

Once a child's permanency goal has been decided, neither federal nor DC ASFA sets a statutory deadline for actually achieving that permanency goal, though certainly the hope of the federal and local legislation was that prompt permanency decisions would result in prompt final permanency for foster children. ASFA does require regular review hearings on each child's case in court, aimed at ensuring that all necessary services and legal steps are being taken to achieve a permanent home as soon as possible for the child. In addition, the Modified Final Order in the LaShawn case requires adoption to be achieved within 12 months of a child's being placed in a pre-adoptive home.

Since the beginning of 2005 when they had achieved compliance with nearly all statutory requirements, the DC Child Welfare Leadership Team has placed special focus on expediting the achievement of permanency for the District's children in foster care. While significant improvements have been made on many measures of performance, even with regular review hearings DC children who are removed from their families are still spending far too long in foster care before finding a permanent home.

Reducing time in foster care for most children remains a serious challenge to the District's child

welfare system and one on which the Child Welfare Leadership Team needs to continue its strong focus.

As discussed earlier, agency data systems are much improved since CCE's 2002 and 2004 progress reports. Thus, tracking progress and identifying and overcoming roadblocks to permanency will be more possible than in the past. The Leadership Team is using two different tools to measure how long it takes to resolve cases of children who have been removed from their homes. The Child and Family Services Agency measures time to permanency by "entry cohorts" (called

"admission cohorts" in CCE's 2004 progress report); that is, CFSA tracks cases by grouping all children who enter the system in the same fiscal year. The Family Court measures time to permanency by "exit cohorts;" that is, the Family Court tracks cases by grouping all children who exit the system in the same calendar year. Both ways of sorting the case data are good, but each gives only a partial picture, so having both measures available gives a more complete picture of how well the District's child welfare system is serving children's need for permanency.

## Children's Progress Toward Permanency by Foster Care Exit Cohort

Children who achieved permanency and exited foster care, by the year their Family Court case closed												
Data by calendar year, through April 30, 2006	Reunification			Adoption			Guardianship			Custody		
	2004	2005	2006	2004	2005	2006	2004	2005	2006	2004	2005	2006
Number of months to achieve goal												
% in 6 months	3	10	11	0	0	0	0	0	0	8	4	11
% in 12 months	5	15	18	0	1	0	0	0	0	9	14	11
% in 18 months	19	21	31	0	3	0	2	3	5	12	8	6
% in 24 months	13	9	14	1	3	2	7	3	0	4	6	0
% in > 24 months	60	44	27	98	94	98	91	94	95	67	69	72
Total number of cases closed by permanency outcome	325	215	85	420	279	52	293	218	43	77	51	18
Median time to achieve goal (in years)	2.4	1.6	1.3	5.3	5.0	4.5	3.4	4.4	2.9	2.8	3.8	2.4
Average time to achieve goal (in years)	2.9	2.6	1.8	5.8	5.4	5.2	4.3	4.9	4.0	3.2	4.0	3.0

SOURCE: DC Superior Court Family Court

## Children's Progress Toward Permanency by Initial Foster Care Entrance Cohort

Children Removed from Home Whose Child Neglect or Abuse Cases Were Filed In:					
(data by fiscal year, as of March 31, 2006)	2001	2002	2003	2004	2005
Number of Children	1,092	975	762	715	842
<b>PERCENT OF CHILDREN:</b>					
Reunified	28	34	24	26	34
within:					
0–12 months of removal	18	24	20	21	34
13–18 months of removal	3	3	2	3	—
19+ months of removal	7	6	4	2	—
With final adoption or guardianship orders	27	28	23	11	5
within:					
0–24 months of removal	9	3	12	10	5
25–30 months of removal	3	7	7	—	—
31–36 months of removal	4	7	2	—	—
37+ months of removal	12	5	—	—	—
Reached 21 or Emancipated	6	4	<1	1	<1
Living with other relatives in non-CFSA custody	9	11	13	8	4
Other permanency*	10	3	5	2	1
Remain in foster care on 3/31/06	21	21	35	52	59
Average months in foster care (for those who do not remain in foster care on 3/31/06)	28	23	20	16	8
*Other permanency reasons include the following: living with third party, death, or permanency/placement with another agency. Since the FACES database was new in FY2001, there are many children for whom no permanency exit reasons were provided in FACES. These unknown 2001 values are included in the "Other Permanency" category.					

**SOURCE:** Child and Family Services Agency

Using data from the Child and Family Services Agency, the table above shows the duration of foster care for all the children who entered the system between 2001 and 2005 and who had left foster care by the end of March 2006. Because many children from each entry cohort remain in foster care, the "average months in foster care" measures will increase for each cohort over time, as the children who are still in foster care reach permanency. Approximately 21% of the children who entered foster care in both 2001 and 2002 remain in care five or four years later, a record which needs improvement. On the positive side, the table shows that nearly half of the children who entered foster care in fiscal year 2004 and nearly 40% of those

who entered foster care in fiscal 2005 had already reached permanency by the end of March 2006. The table also shows the various permanency outcomes for the children and shows the percentages of children who have been reunified with their families or have been adopted or placed with guardians within certain measures of time.<sup>23</sup>

Using data from the Family Court, the table to the left shows the various permanency outcomes for all the DC foster children whose cases closed in 2004, 2005, and 2006 through April 30, and the median and the average times required for each permanency outcome for those closed cases. The table also shows the percentages of children who reached permanency



in 2004, 2005, and the first four months of 2006 within certain measures of time, with nearly all taking more than 24 months. The median and average times are high for all permanency outcomes other than reunification, and they will probably remain high in coming years as the District's significant proportion of older cases close. As discussed earlier, the Family Court reports that 34% of the children's cases which remained open at the end of 2005 were filed in 2000 or earlier, and an additional 14% were filed in 2001 and 2002, so nearly half the pending cases have been open for three years or more.

Though not shown in this table, the Family Court also reports that the District is making significant progress in achieving more prompt permanency for children in more recent cases: 63% of cases filed in 2003, 44% of cases filed in 2004, and 25% of cases filed in 2005 had closed by the end of 2005.

<sup>23</sup> CFSA's fiscal year runs from October 1 through September 30, and the Family Court's reporting year runs from January 1 through December 31, so there is some unavoidable variance between their case-count numbers.



## CONCLUSION AND RECOMMENDATIONS

**The District of Columbia child welfare system is performing far better now than a few years ago on measures of both timeliness and quality.**

Children and families are better served than before, and the number of District children in foster care has been significantly reduced. The District has created and funded programs that enhance the options available to relatives who want to care for children. The Family Court has fully embraced the changes and challenges presented by the Family Court Act. The principal agencies responsible for the child welfare system have established a strong collaborative partnership, a dramatic change from the practice in 1999 and before. Since CCE's second progress report in 2004, the Child Welfare Leadership Team has increased its attention to quality measures: reducing the time children spend in foster care and tracking re-entry to foster care after achievement of permanency. These accomplishments are well worth celebrating.

The Council for Court Excellence offers a few strong recommendations for the future, which are apparent from the content of this third progress report:

1. To reduce the risk to children's safety, CFSA must continue to improve its record on timely investigations of child neglect or child abuse allegations.
2. DC children who are removed from their families are still spending too long in foster care before finding a permanent home. The DC Child Welfare Leadership Team must continue its efforts to identify and then overcome impediments to prompt permanency for the District's foster children, and the District's elected leaders must continue their strong support for this important governmental priority.
3. The District must continue working to find permanent families for all the children in foster care, no matter what their age or special needs.

### **District of Columbia 2006 Child Welfare Leadership Team**

*The DC Child Welfare Leadership Team is comprised of the public officials from the judicial and executive branches of the DC government who share responsibility for managing the city's child protection system in accordance with federal and District of Columbia statutory mandates. The Team meets quarterly. The private sector participants facilitate Team meetings, keep meeting minutes, and provide staff and research support as needed for Team activities. Team members for 2006 have been:*

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Judge Anita Josey-Herring

DEPUTY PRESIDING JUDGE  
Judge William M. Jackson

FAMILY COURT DIRECTOR  
Dianne King

FAMILY COURT COORDINATOR  
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ATTORNEY ADVISOR  
Despina Belle-Isle

ATTORNEY ADVISOR  
Andrea Larry

### **D.C. Child and Family Services Agency**

INTERIM DIRECTOR  
Uma Ahluwalia

CHIEF OF STAFF  
Janet Maher

### **Office of the Attorney General for D.C.**

ATTORNEY GENERAL  
Robert Spagnoletti

DEPUTY ATTORNEY GENERAL,  
FAMILY SERVICES DIVISION  
Catherine Motz

ASSISTANT ATTORNEY GENERAL  
Yewande Aderoju

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