



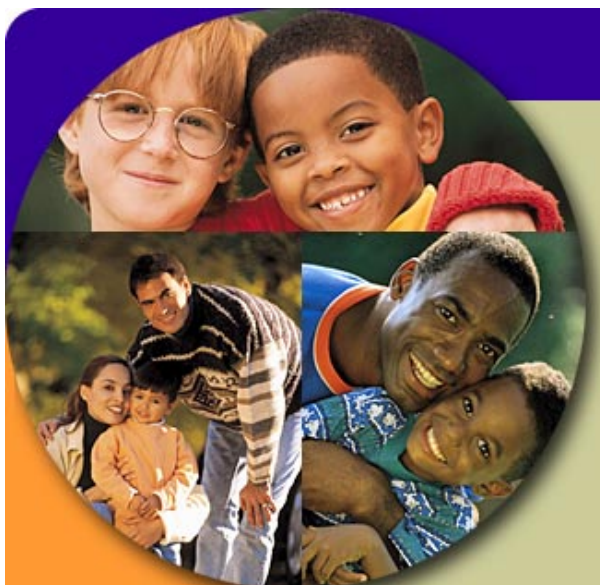
OCA Office of Child Advocate

OFFICE OF THE CHILD ADVOCATE

For the Protection of Children

ANNUAL REPORT

FY 2006 and 2007



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INTRODUCTION

In accordance with my statutory responsibility as the Child Advocate for the Protection of Children, I respectfully submit this report reviewing the period from July 1, 2005 to June 30, 2007. With funding approved by Governor Perdue and the General Assembly in FY 2006 for a new data tracking system, this report contains significantly greater statistical analysis than has been possible in past reports. During this reporting period, the new system was installed, tested, and data entered from prior years in order to provide the reader with the most detailed information possible.

This report also marks the end of an era and the beginning of another at the Office of the Child Advocate. It has been my privilege and honor to serve as the state's Child Advocate for more than six years. Throughout my tenure, I have tried to faithfully fulfill my oath of office and serve our state's most vulnerable children in a capable, compassionate, and professional manner. In controversial and public cases, I have never wavered in offering honest and independent assessments of situations, even if those assessments were unpopular or politically unwise. I wish to thank Governors Barnes and Perdue for their confidence and trust in me as the state Child Advocate during my service. The Honorable Tom Rawlings succeeds me as Child Advocate on July 16, 2007. Judge Rawlings is an able and knowledgeable professional. I wish him all the best.

I also wish to acknowledge the dedication of our DFCS case managers and supervisors on the front lines who work so hard to ensure the safety and well-being of Georgia's children. Their jobs are often thankless and without reward, other than occasional expressions of gratitude from thankful families and children when their efforts result in positive outcomes. Finally, I wish to thank the OCA team for their efforts to improve the lives of children and for their contributions toward making our child welfare system more responsive to those served by both OCA and DFCS.

MISSION

The mission of the Office of the Child Advocate is to oversee the protection and care of children in Georgia and to advocate for their well-being. In furtherance of this

mission, OCA seeks to promote the enhancement of the State's existing protective services system to ensure that our children are secure and free from abuse and neglect. We do so through the operation of three programs:

1. Investigations - OCA staff investigate complaints and referrals from every geographical area of the state. Recommendations for improvement are rendered based upon OCA's investigative findings. As problem areas are identified in the course of OCA investigations, OCA conducts on-site DFCS audits to provide a more thorough assessment of local county DFCS operations.
2. Advocacy - OCA seeks changes in laws affecting children and promotes positive revisions in the child protection system's policies and procedures. OCA also provides individual advocacy services to child abuse victims and families so that they receive appropriate services to reduce their trauma when prosecution of the offender is warranted.
3. Education - OCA promotes better training of all professionals involved in child deprivation cases and cases warranting criminal prosecution through opportunities for professional development, as well as facilitation of more public awareness about the issues surrounding the child protective services system.

A detailed discussion of our activities within each of these three programs is contained herein.

INVESTIGATIONS

Since the opening of the office in January of 2001, OCA investigators have completed 2,918 investigations, consistently finding concerns in approximately 27-30% of those cases. OCA again recognizes and acknowledges solid practice in the many cases we review and in which we find no concerns. The frontline workers have a tremendously difficult job, and, again in this reporting period, we saw caseload sizes incompatible with the requirements of that job. Given the caseload numbers, it is quite notable that no concerns were found in almost 70% of investigative cases reviewed by OCA. We extend our gratitude to those DFCS workers for their commitment to protect the children of Georgia.

During this reporting period, the Office of the Child Advocate again received a large number of calls requesting services from our investigative division. OCA investigative staff responses range from provision of information, consultation and advice, and referrals to other agencies to full complaint investigation and response.

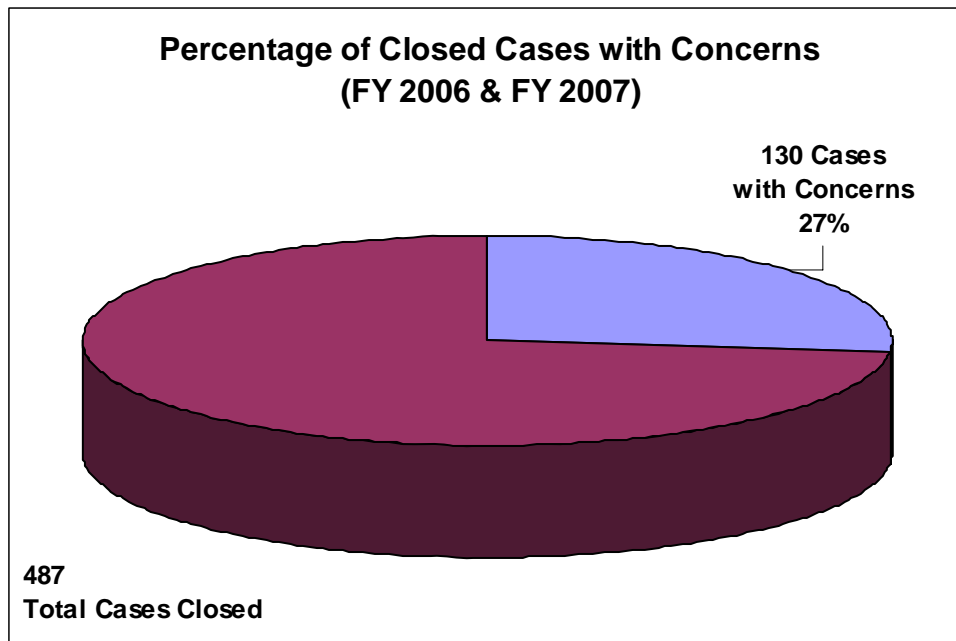
Three hundred seventy two cases were opened for full investigation by OCA in this reporting period while an additional 503 cases were received from the Governor's Office of Constituent Services ("GOCS") for investigative monitoring and oversight by OCA. The cases received from GOCS are referred jointly to the Office of the Child Advocate and to constituent services within the Department of Human Resources ("DHR"). OCA has monitored DHR's handling of such complaints to ensure the appropriateness of the response to the complaining constituent. This gives DHR the opportunity to resolve such complaints without the necessity of OCA opening a full investigation. OCA only opens for further investigation those cases where DHR's response does not address the issues in the constituent's complaint or where OCA identifies practice or policy concerns needing additional review or advocacy. OCA opened 22 of these cases for full investigation after receiving a final response from DHR. This represented approximately 4% of cases referred jointly from the Governor's office to OCA and DHR. OCA noted 203 assistance and referral cases during the period of this report.

Investigative Statistics

During this reporting period, OCA closed 467 cases yielding a concern rate of 27%. The tables on the following pages show the number of cases closed per county, the number of cases closed with concerns per county and the percentage of cases closed with concerns.

Case management issues again topped the list of concerns noted by OCA during this period. While much emphasis has been put on lowering DFCS caseloads, OCA investigators continued to note a strong correlation between high caseloads and poor practices in protecting children. In particular, Georgia's rural counties have been heavily

impacted by the methamphetamine crisis and consequently suffer the largest caseloads. The rural counties facing this methamphetamine crisis cannot be ignored simply because their caseloads have a minimal effect on statewide caseload averages or compliance with the *Kenny A.* consent decree as to Fulton and DeKalb Counties. There is a direct link between workloads and the resulting safety of children because of the vital importance of the relationship among the child, the child's family and the caseworker. In over 53% of cases where OCA found practice and policy problems, the caseload of the primary worker was above 20 with some caseloads rising above 70. State agency management cannot allow caseloads as dangerously high as these under any circumstances. Otherwise, they place their frontline workers and the children they are attempting to serve in a position of guaranteed failure.



OCA CONCERNS REPORT (7/1/2005 – 6/30/2007)

County	# of Cases Closed	Closed with Concerns	%	County	# of Cases Closed	Closed with Concerns	%
Atkinson	1	0		Houston	4	0	
Baldwin	3	2	67	Jackson	4	1	25
Banks	2	0		Jasper	2	0	
Barrow	6	2	33	Jones	9	1	11
Bartow	5	1	20	Lamar	1	0	
Ben Hill	2	0		Lanier	1	0	
Bibb	50	4	8	Laurens	3	0	
Brantley	2	0		Liberty	3	1	33
Butts	2	1		Lincoln	1	0	
Carroll	5	4	80	Long	1	1	100
Catoosa	2	0		Lowndes	4	4	100
Chatham	2	0		Lumpkin	5	0	
Chattahoochee	1	0		Madison	2	0	
Cherokee	12	5	42	McDuffie	1	0	
Clarke	2	2	100	Meriwether	1	0	
Clayton	2	0		Monroe	2	0	
Cobb	13	6	46	Morgan	2	0	
Coffee	3	0		Murray	7	2	29
Colquitt	2	1	50	Muscogee	4	2	50
Columbia	1	0		Newton	5	2	40
Cook	3	0		Paulding	8	3	38
Coweta	6	1	17	Peach	2	2	100
Crawford	5	0		Pickens	8	4	50
Crisp	3	1	33	Pierce	1	0	
Decatur	2	0		Pike	5	1	20
DeKalb	23	10	43	Polk	6	1	17
Dodge	1	0		Pulaski	1	0	
Dooly	1	0		Putnam	1	0	
Dougherty	5	2	40	Rabun	8	5	63
Douglas	12	2	17	Richmond	11	2	18
Echols	1	0		Screven	1	0	
Effingham	1	0		Spalding	15	3	20
Elbert	1	0		Stephens	6	3	50
Emmanuel	2	0		Sumter	4	0	
Fannin	1	0		Thomas	2	0	
Fayette	4	0		Toombs	4	2	50
Floyd	5	1	20	Towns	1	1	100
Forsyth	7	2	29	Troup	5	2	40
Franklin	1	0		Twiggs	2	0	
Fulton	34	10	29	Union	2	1	50
Gilmer	2	1	50	Upson	4	1	25
Glynn	3	1	33	Walker	9	5	55
Gordon	1	1	100	Walton	1	0	
Greene	2	0		Ware	3	1	33
Gwinnett	21	5	24	Washington	7	2	29
Habersham	3	1	33	Wayne	1	0	
Hall	7	0		White	2	1	50
Haralson	3	1	33	Whitfield	2	1	50
Harris	2	0		Wilkinson	1	0	
Hart	2	0		Worth	2	0	
Heard	3	1	50				
Henry	15	7	47	TOTALS	487	130	27

OCA's investigations program also includes unannounced on-site audits of DFCS operations in selected counties. These audits were conducted in addition to the investigation of the individual case complaints received by OCA during the reporting period. OCA conducts these audits in order to more aggressively pursue our mission to enhance the protection of the state's children by taking a closer examination of local DFCS' services to children and families.

The following counties were audited during FY 2006 and FY 2007: Floyd, Rabun, Muscogee, Peach, Pickens, DeKalb, Forsyth, Whitfield, Lowndes, Fulton, Carroll, and Cherokee. The counties selected for these audits were chosen either because OCA received a large volume of complaints in these counties or because the complaints received were of such a nature or severity that they warranted closer inspection by OCA. The full text of each report can be found on our website at www.gachildadvocate.org.

The scope of each audit was tailored, where possible, to the nature of the concerns noted by OCA and included a review of randomly selected Child Protective Services case files and/or foster care placement case files. In addition to the case file audits, OCA also sought to interview community partners such as juvenile court judges, foster parents, law enforcement, district attorneys, child advocates, and others in order to assess their perceptions of local DFCS responsiveness.

Identified Practice Concerns

This section is organized consistent with how a child protective services case flows through DFCS within three specialized practice areas: Child Protective Services Investigations ("CPS"); Ongoing Child Protective Services Cases ("Ongoing"); and Foster Care. CPS includes the investigative phase that follows a report of alleged abuse or neglect. Once the investigation is complete, a determination is made whether to substantiate or unsubstantiate the allegation. Ongoing CPS involves active supervision and work with a family after the case has been substantiated but a determination was made that the children could safely remain in the home. Foster Care involves substantiated cases of child abuse and neglect deemed sufficiently serious to necessitate removal of the children from the home. While the child is in foster care, DFCS works

with and provides services to the family so that, when possible, the children may return home.

OCA findings in each of the practice areas are distinguished by the results achieved in individual case investigations and those achieved in OCA audits of the selected counties. In many instances, the reader will note that case investigation results were significantly better than those attained in OCA audits. Such disparity suggests that the concerns identified through individual case investigations were an appropriate basis upon which to select the audited counties. It also indicates that the agency has a long way to go in reforming our child welfare system for the benefit of all children across Georgia, and especially for those in the rural areas of our state.

CPS Investigations

Response Times: The correct response time in which to initiate an investigation was assigned by DFCS correctly in 91% of the cases reviewed during this reporting period, while an average success rate of 93% was achieved in OCA audits during this same period. A timely response is a must if DFCS is to make appropriate case determinations. Too often, if response times are not met, valuable evidence is lost, thereby resulting in bad case outcomes. OCA found that assigned response times were met in only 75% of the cases reviewed. In OCA audits, an average success rate of only 65% was achieved.¹ Failure to meet the assigned response time clearly had a direct correlation to the caseload of the workers. For example, in one suburban Atlanta community with a serious methamphetamine problem, DFCS received a referral alleging sexual abuse. While the referral was correctly assigned a 24-hour response time, no attempt was made to contact the family until six days later. While OCA is pleased to report that a strong focus on reducing caseloads seems to be working in some counties, a focus on the counties affected so strongly by the methamphetamine crisis will be necessary to reduce the caseloads in these counties as well.

Investigative Contacts: The safety and well-being of the children who are the subject of child maltreatment reports to DFCS must be paramount. The best way to ensure the safety of children is to see them and have substantive contacts with those

closest to them. Investigators failed to interview child victims of physical and sexual abuse in a setting away from the alleged perpetrator or interview non-victim children in the household in 15% of cases reviewed and an even higher 23% of cases reviewed in OCA audits. In one case, the interview of the alleged perpetrator of sexual abuse occurred via telephone rather than in person, as is required by policy and which is critical to the assessment of the allegations.² In another case involving a southeast Georgia county, the parents of the child had prior CPS involvement in three counties. A referral alleging concern for the child's safety was made to one county DFCS that made diligent efforts to locate the family. When it was determined that the family lived in another county, a referral was made to that county DFCS office. That county failed to ever make contact with the family. Such failures in this most critical of areas are inconsistent with ensuring child safety. Similarly poor practice was identified in a south Georgia case in which the agency closed the case without speaking to parties involved and without making contact with the family or with the alleged perpetrator.

Timely Completion of Investigations: DFCS must prioritize the timely completion of all investigations. In 50% of the cases reviewed by OCA, the initial assessment exceeded 45 days and occurred following a policy change to allow an additional 15 days to complete an investigation.³ For example, in one Atlanta area case, an investigation of allegations of sexual abuse spanned nearly 60 days without any indication as to the reasons why such a protracted assessment was necessary, thereby causing great anxiety and fear to the child victim while the alleged perpetrator remained in the home. In one west Georgia case, a mandated reporter contacted the agency concerned for the well-being of children. The report was not assigned for investigation. A subsequent investigation was inexplicably not completed until 55 days following the referral. Taking too long to complete an investigation is difficult for everyone involved. Information the case worker needs may be lost or destroyed. Stress within the family under investigation has the potential to increase because of the scrutiny from the agency.

¹ OCA investigators differentiated between cases where multiple attempts were made by caseworkers to meet assigned response times and cases where no such attempts were made.

² See DFCS Policy 2104.16

³ DFCS Policy 2104.28 previously required that child protective services investigations be completed within 30 days unless a waiver was approved to extend the initial assessment.

Risk and Safety Assessments/Plans: Assessing the safety of a child within the family and the resulting development of Safety Plans continued to be an issue of great concern in too many cases investigated by OCA. Not only were OCA investigators concerned with the number of serious safety issues missed during the assessment, but they were also troubled by the number of identified safety issues that went unaddressed in the development of a safety plan. Of the investigative cases reviewed, 12% had no risk or safety assessment, while 38% of audit cases had neither assessment. Similarly, case investigations revealed no safety plan in 16% of cases, while 33% of audit cases had no safety plan in the record.

For example, in one northeast Georgia case, no safety assessment was ever completed by the agency until it was requested by another county DFCS nearly 16 months after the initial referral. A safety assessment in a south metro Atlanta area case was not conducted by or requested of the receiving county for more than three weeks following the children's placement with a relative. In yet another instance, a north Georgia family having 16 previous DFCS referrals was the subject of yet another referral alleging that a 4-year-old child was left alone at night. The required safety assessments were not completed as required by policy. The case was unsubstantiated. Neglect of the child apparently continued and a continued lack of supervision may have contributed to his death. He died as a result of accidental hanging on January 1, 2006.

We must emphasize that this issue is at the very core of the responsibilities assigned to case managers. A case manager must be able to ascertain safety issues when conducting an investigation and must be able to develop an appropriate safety plan that addresses each and every safety concern identified and will likely result in safety for the child. Much work remains to be done in training the DFCS workforce in this responsibility. Supervisors should always have an active role in the approval of each plan, and the state needs to give serious consideration to intensive training on proper safety assessment and planning. Of the investigative cases reviewed, 15% of the safety assessments and plans and 20% of risk assessments were not signed and approved by a supervisor. Twenty-nine percent (29%) of audit cases did not contain a risk assessment signed by a supervisor in the record.

Safety Resources: In nearly 4 out of 10 cases in which children were placed with “safety resources” to prevent children from entering foster care as a result of child abuse or neglect, a home assessment was not completed on the resource family within three business days as required by policy, if at all.⁴ While OCA strongly supports the appropriate utilization of safety resources and extended families who are often familiar faces to children during a time of personal crisis, DFCS cannot abdicate its responsibility to ensure that such placements will be safer than the circumstances from which the children are removed. This finding is consistent with OCA’s extensive review of safety resource cases in our 2006-2007 audit of Fulton County DFCS following the death of Nateyonna Banks. In Fulton County, 75% of the cases reviewed failed to meet the agency’s minimum standards for approving safety resource placements.⁵ In the strongest possible terms, OCA urges the agency, and policymakers if necessary, to take all reasonable steps and precautions to assess the suitability of safety resources.

Ongoing

Contacts with children and families: In ongoing cases, children remain in their homes with caregivers after a substantiated allegation of abuse or neglect. They do so while their parents work to achieve the goals and objectives of the safety plan. In order to ensure the safety of children in these homes, it is absolutely mandatory that our case workers regularly visit them. These visits must be substantive and related to the issues for which the case is opened. In some cases, OCA noted months with no visits or contacts with the family at all. There is simply no other way to adequately assure child safety than to routinely and frequently observe the child and family. Of the cases reviewed, contact requirements were met with the parent/caretaker and children 88% of the time. Far more disturbing results were identified in the audit cases, in which average success rates of 52% and 43% were achieved as to contact requirements with children and their caregivers.

Risk Assessment and Supervision: OCA is pleased to report substantial progress in appropriate risk assessment and supervision in the ongoing cases reviewed by OCA. In 100% of cases reviewed, risk assessments and case closures were staffed and approved

⁴ See DFCS Policy 2104.33.

⁵ See OCA Fulton County DFCS audit report, March 21, 2007, p.9-11.

by supervisors. An average success rate of 80% was achieved in the OCA audit cases as to case staffing with supervisors.

Foster Care

Visits: Visitation is an important tool in assessing the parents' commitment to achieving the case plan goals and reestablishing a positive relationship with children exposed to abuse and neglect. In addition, regular face-to-face contact with children and their foster parents is critical to ensuring that the children's needs are met and in promoting positive relationships between DFCS and its foster parents. Contact requirements were met with children and foster parents/caregivers 90% of the time. Where visits did not occur, the most oft cited reasons for such failures were caseload limitations and turnover that resulted in gaps of assigned case managers. These problems are no excuse to the children whose lives remain filled with uncertainty and anxiety until their cases are resolved. In the audit cases, contact requirements were met with children and foster parents/caregivers in only 67% of cases reviewed.

For example, in one Atlanta area case, only one visit to the foster home occurred during a five month period. Such protracted absences from the child's life are inexcusable, given that it was the state who removed the child from her home only to leave her with the impression that she had been forgotten. In a west Georgia case, no contact was made with the children in their foster home while the case manager was on maternity leave and the case appeared to be left completely untended to during her absence.

Court Orders: Maintaining copies of current court orders in the DFCS files is a continuing problem. Fourteen percent of case records in both investigations and audit cases reviewed were found to have expired court orders or no court orders at all. While this situation is not always within the control of the agency as it relies on its Special Assistant Attorney General (SAAG) and juvenile court to issue such orders, there should always be detailed documentation in the DFCS file as to what transpired and was decided at court hearings. Far too often this is not happening, leaving gaps in the case record and history of the case.

Case Plans: Timely case plan development and participation by families in the process was once again an area of concern albeit in fewer investigative cases (12%) than in the last reporting period. However, an average success rate of only 56% was achieved in audited cases. In addition, OCA still found many case plans to be inconsistent with the findings of the investigation and the issues leading to the removal of the children from the home. Without a case plan that adequately addresses the parenting issues, many of the parents are left without a true understanding of the expectations they must meet in order to have their children returned home.

Sibling Placements: OCA is pleased to report significant progress in efforts to place siblings together. DFCS is making such efforts in more than 90% of cases; however, the actual placements are not realized in a substantial number of cases. To compound matters, the agency failed far too often to ensure that sibling visits occurred on a regular basis. This is unacceptable and should be of the highest priority when siblings cannot be placed in the same home. Siblings may very well be the only biological ties some of these children maintain.

Appropriate and Stable Placements: With the agency's strong focus on relative placements to avoid the need to place children with strangers in our foster care system, efforts to make such placements were identified in 91% of the cases reviewed and in 98% of audited records. However, Georgia maintains a critical need for more family foster homes and particularly for families that will accept sibling groups and teenagers.

Despite the passage of a Foster Parents' Bill of Rights in 2004, relationships between foster parents and DFCS are too often not maintained at a partnership level. We continued to see cases where children were placed in basic foster care when it was clear that the children had mental health needs warranting a more appropriately trained and resourced placement. As a result, OCA saw too many children suffer through multiple placements that did not address the children's needs as identified through the assessment process. Some case managers frankly acknowledge not reviewing recommendations contained in the assessment documentation. If the professional services for which the state pays are not going to be used, then the assessment process is a complete waste of time and money.

Permanency: Children need safe and permanent homes as quickly as possible so that they do not languish in an already overloaded foster care system that does not adequately meet their needs. In 86% of the cases reviewed where the child had been in foster care for 15 months, DFCS filed the statutorily required petition to terminate parental rights or documented compelling reasons why it was not in the best interest of the child. An average success rate of only 76% was achieved in OCA audit cases. Moreover, such petitions were properly filed in only 58% of appropriate cases where the juvenile court had already approved a non-reunification case plan. The results were the same for both case investigations and audited records. For example, in one northwest Georgia community, the agency failed to file a petition to terminate parental rights as required by federal and state law after the children had been in care for more than two years, despite evidence that the parents had made little to no progress on their case plan. In an Atlanta area case, a petition to terminate parental rights was not filed for nearly one year beyond what is permitted by law.

The negative consequences to children who spend too much time in foster care are far reaching. Research demonstrates that children who grow up in foster care are less likely to graduate from high school and are at significantly greater risk of juvenile delinquency, adult criminality, homelessness, and public dependency as adults. We owe our children an opportunity for a far brighter future. Priority must be given to ensuring compliance with existing federal and state mandates to achieve more timely permanency for our children.

State DFCS Death and Serious Injury Review Committee

OCA continued to participate in the State DFCS Death and Serious Injury Review Committee. This committee is an internal review team comprised of DFCS staff as well as staff from other invited agencies such as the DHR Communications Office, the Office of the Child Advocate and the State Office of Child Fatality Review. During these reviews, consideration is given to policy and procedure compliance by counties as well as identifying procedures to improve protective practices. OCA regrets to report that the serious injury and death review process is not as meaningful or effective as it once was.

While the Committee meets regularly to review such cases, it does not aggressively monitor county responsiveness to the Committee's questions, concerns, and findings. For example, the Committee questioned the local agency's practice and decision-making in a particular case and requested additional information and justification for its actions. The local agency was utterly unresponsive to the Committee's request – but no further action was taken by the Committee or anyone else. OCA strongly urges substantial overhaul of the serious injury and death review process so as to restore its goal of learning from experience. The committee should assert leadership in identifying policy and practice improvements that will help prevent recurrence of similar tragedies in the future.

ADVOCACY

OCA investigations and audits often reveal systemic challenges and opportunities for improvement in both the policy and legislative arenas. Solutions rest not only on DFCS, but on the entire system established to protect children from abuse and neglect. In FY 2006-2007, OCA achieved mixed results in our Advocacy program, with some success in the most recent sessions of the General Assembly, but not in securing important policy improvements within the DFCS system.

Policy Recommendations

Medically Fragile Children⁶

Although medically fragile children comprise only a small percentage of the children in foster care, they deserve the same opportunity to grow and thrive in a loving, family-like setting as do all children. Sadly, that does not occur for some of our most needy children: those with acute medical conditions that require twenty-four hour monitoring and supervision. In some cases, these children languish in group home facilities for a year or more awaiting transition to a real foster or adoptive family.⁷

⁶ OCA made these same observations and recommendations in its 2004-2005 Annual Report and had no success in subsequent and numerous attempts to engage DFCS in policy reforms on this issue during FY 2006 and 2007.

⁷ For example, 60% of the infants and toddlers placed in one group home for medically fragile children have been placed in that facility for more than 6 months, with 67% of these children so placed for more than one year. (IDS Online, June 27, 2007)

Clearly, more families trained and equipped to care for this special population are needed. The state must also ensure that children in such congregate care environments do not remain in them, at great expense to the state, any longer than is medically necessary.

For more than two years, OCA has unsuccessfully advocated for a policy to require that DFCS case managers maintain quarterly contact with a medically fragile child's physicians in order to obtain accurate and first-hand information about the child's medical needs, progress, and the advisability of transitioning the child to an appropriate family environment. OCA provided a draft policy to DFCS to facilitate this change within the agency, a copy of which is included in this report in Appendix D.⁸ Despite our best and sustained efforts and no apparent opposition from DFCS, no such policy has been adopted to date. OCA encourages policymakers to take all necessary action, including passage of legislation if necessary, to ensure that our medically fragile children enjoy the same opportunity to grow up in a loving family rather than in group homes that, although providing adequate medical care, are no substitute for a family.

Cross-County Home Evaluations⁹

Children entering foster care have been separated from their parents and perhaps even their siblings and neighborhood school. Anything and anyone familiar to them are gone and no one knows for how long. In such circumstances, where ready, willing, and able relatives step forward to care for children, we must do everything possible to facilitate a child's speedy placement with that relative who is a familiar face in a sea of strangers. OCA commends the agency for placing emphasis on increasing the numbers of children placed with relatives; however, a significant barrier remains in the case of relatives who happen to live in a different county than that of the county DFCS which placed the child in foster care.

⁸ OCA correspondence concerning policy recommendations as to medically fragile children dates to January 4, 2005. Please see Appendix D to review OCA's recommended minimum contact policies for children in foster care.

⁹ OCA made these same observations and recommendations in its 2004-2005 Annual Report. We had no success in subsequent and numerous attempts to engage DFCS in these policy reforms during FY 2006 and 2007.

In some instances, the receiving county will act quickly to approve relative placements or will authorize the placing county to cross county lines and conduct its own relative home evaluation in order to expedite placement. However, in far too many counties, relatives are forced to wait weeks or even months for their home to be approved by the receiving county. The receiving county has no incentive to approve the relative because they will be forced to supervise the placement and thereby increase their own caseloads. State level leadership is needed in this area to eliminate or address this institutional barrier. For more than two years, OCA has advocated for the development of a statewide cross-county home evaluation protocol, to no avail. OCA urges policymakers to prod the agency to remedy this problem.

Transitioning Older Foster Youth to Independence¹⁰

Once foster youth reach their eighteenth birthdays, some are given the option of “signing themselves” back in to the foster care system while others do not receive this same option. Children who elect to sign themselves back into care enjoy a multitude of benefits, including assistance with food, medical care, clothing, housing, and education expenses, along with the support of a case manager and independent living coordinator. Research shows that youth who voluntarily extend their stays in foster care achieve better life outcomes as adults as compared with foster youth who do not. These life outcomes include a greater likelihood of having a high school diploma or GED and reduced risk of homelessness, incarceration, and future dependence on public assistance.

Whether foster youth are given the option of extending their stay in foster care is largely a local decision, made everyday by each of the state’s 159 county Departments of Family and Children Services. Anecdotal evidence suggests that youth who are given this option are considered the relatively high achievers who have maintained a steady residential placement, fared well in school, and have not had involvement with our juvenile justice system. Troubled youth who have presented challenges to the Department may not be given the same choice to extend their stay in foster care, though such youth are perhaps more in need of state assistance than youth not presenting these same challenges.

¹⁰ OCA made these same observations and recommendations in its 2004-2005 Annual Report.

OCA believes that this situation should be addressed at the state level with a consistent policy and expectations of all parties. All foster youth should be extended the option of remaining in foster care after their eighteenth birthdays so that they, and particularly those most in need of services, have the support of the state that has served as their parent prior to reaching age 18. Perhaps nowhere is this as important as it is in the area of health care. The federal Foster Care Independence Act of 1999 authorizes, but does not require, states to extend Medicaid benefits to former foster children from age 18 to 21. Georgia apparently extends such benefits to at least some youth who are given the option of and elect to remain in foster care. It does not do so for youth who otherwise age out of and exit the system. Georgia's foster children in all 159 counties deserve the same treatment and access to services, regardless of where they happen to live.

Georgia foster youth themselves have identified expansion of Medicaid eligibility as their greatest priority as they face emancipation from the child welfare system into adulthood and independence.¹¹ House Bill 866, introduced in the final days of the 2007 legislative session, would make expanded Medicaid eligibility a reality for our foster youth. OCA urges our lawmakers to hear the voices of our state's foster youth and respond affirmatively to their expressed and pressing need for health care.

Transitioning Children from Foster Care to Permanent Homes

The reunification and adoption processes should be joyous occasions for all involved. Unfortunately, for many families this celebration is short lived or fraught with anxiety. After spending years in foster care, children are too often returned to their birth homes or placed in adoptive homes with little to no transition or introduction to their new surroundings. Consider the following scenario as related in an OCA referral.

A little girl is taken from her birth mother at an early age because of severe neglect. She is fortunate enough to stay in the same foster home for several years. All of a sudden, the little girl learns that she is going to be adopted. A strange couple comes to the child's foster home to visit and even takes her

¹¹ See EmpowerMENT: "Hearing the "Me" in the Voices of Georgia's Foster Youth," page 5. (2006)

to McDonalds®. Then, after one overnight visit and duration of a few weeks, this couple arrives at the foster home to take the little girl with them to her “permanent home.” The foster parents are ready for her departure with all of her belongings packed. The girl goes with this couple, whom she is supposed to call Mom and Dad, to her new home. Besides the new family, these unfamiliar surroundings include a new school, new friends, and a new neighborhood. With this little preparation and transition, it should be expected that the girl would misbehave and cause trouble. However, the new adoptive parents were expecting a happy and adjusted child and are unaware that such behaviors may surface. These difficulties become too much for the parents to contend with, and it starts putting a strain on their marriage. The couple feels they are left with no other choice but to “disrupt” the placement, and the little girl is taken back to DFCS, once again rejected.

The juvenile courts, Division of Family and Children Services, and all parties must coordinate their efforts and adopt explicit standards outlining the transition process to aid children, birth parents, foster and adoptive parents, and case managers in their common purpose of successfully transitioning children from foster care to permanent homes. They can make certain that all of these persons and most importantly - the children – actively participate in the process, with provision of age-appropriate services and thoughtful, unhurried transitions that give the children the best odds of a permanent and secure future.

Legislative Advocacy

Child Representation

Under existing federal and state laws, Georgia’s foster youth are entitled to the services of a Guardian ad Litem (GAL) to represent their best interests in juvenile court abuse and neglect proceedings. The GAL may be an attorney, court appointed special advocate (CASA/lay guardian), or both. Georgia law also requires children to have an attorney represent them in proceedings to terminate their parents’ rights. Statutes and

caselaw are less clear, however, as to a child's right to legal counsel in other juvenile court deprivation proceedings. A federal court opinion in the *Kenny A.* lawsuit against Fulton and DeKalb Counties concerning representation of children in foster care held that children do in fact have the right to a lawyer – in addition to a GAL.

In 2006, OCA undertook an exhaustive review of child representation statutes and programs nationally and in Georgia, including an assessment of various models to ensure the best representation of our children in juvenile court deprivation proceedings. Later that year, we presented our findings to Governor Perdue's senior policy and budget staff, along with legislative and budgetary proposals, to ensure that our foster children have access to constitutionally required legal counsel. Governor Perdue's staff subsequently directed OCA not to pursue these proposals in the 2007 session of the General Assembly, but to continue dialogue with them on this issue in the future. This directive marked the first official challenge to OCA's independence and assertion of control over OCA's legislative agenda. In acquiescing to this directive, OCA took into account a number of considerations, including political ones, such as the likelihood of success in the legislative arena without strong gubernatorial support, the possibility of a veto, and the practical need for the Governor's support in other arenas. The Advocate must walk a fine line between fulfilling an oath of office to zealously serve the children of this state and executing that charge in a manner that does not alienate our state's elected leaders and maximizes opportunities for success.

OCA recommends that the next Child Advocate and Governor Perdue continue this dialogue and support legal representation of our state's foster children, while urging lawmakers to act favorably upon such proposals.

Mandated Reporter Statute

Senate Bill 442 (2006)

In the nearly seven years since OCA's creation, several gaps in our state's mandated reporter statute emerged and were addressed in the 2006 session of the General Assembly. First, the law now clarifies that oral reports of suspected abuse be made "immediately, but no later than twenty-four hours" from the time reasonable cause to believe a child has been abused is established. Prior law was subject to widely varying

interpretations, even among professionals. The proposed change provided sorely needed clarity in defining what is expected of our mandated reporters.

Second, our mandated reporter law now unequivocally requires designees within large institutional settings, such as schools and hospitals, to make reports of suspected abuse as conveyed to them by first-hand observers, such as teachers and nurses, while also clarifying that these same designees are appropriate sources of consultation who may add supplemental information to the report as they deem necessary. OCA expresses its sincere appreciation and gratitude to Senator Dan Moody for his leadership in securing Senate Bill 442's passage.

Juvenile Court Jurisdiction

House Bills 987 (2006) and House Bill 599 (2007)

Current Georgia law provides that all adoption cases are heard in superior court. These include both private adoptions and those involving children in DFCS' custody due to abuse and neglect. Children in DFCS' custody awaiting permanency face numerous barriers on the road to adoption, some bureaucratic in nature and others not. These include child-specific recruitment efforts, approval of home studies, appeals by the biological parents, conversion of foster homes to adoptive home status, and others. In some judicial circuits, children wait three to five months for their adoption cases to be docketed on the superior court calendar. Consequently, Georgia continues to lag behind the nation and federal standards in securing timely adoption of foster children.

In the 2006 and 2007 sessions of the General Assembly, OCA advocated for legislation that would grant juvenile courts concurrent jurisdiction over adoption matters in which the juvenile court has previously terminated parental rights. Such a change would permit prospective adoptive parents to choose the most expeditious venue for their adoption hearing, whether in superior or juvenile court. Moreover, the juvenile court, as trier of fact in the prior proceedings and with extensive knowledge of the child's needs over a number of years, is perhaps most qualified to make a best interest determination as to the suitability of the adoption. Child welfare professionals, adoptive parents, practitioners, and most importantly, the children, stand to benefit immeasurably from a

proceeding in which a positive outcome is achieved and witnessed by all who played a role.

Unfortunately, circumstances beyond OCA's control precluded passage of House Bill 987 (2006) and House Bill 599 (2007) to achieve their intended purposes. Nevertheless, OCA should continue to advocate for this important legislation. OCA acknowledges and expresses its appreciation to Representatives Edward Lindsey and Roger Lane for their efforts and leadership on these bills during the 2006 and 2007 legislative sessions.

OCA Confidentiality & Federal Compliance Legislation

Senate Bill 128 (2007)

As originally drafted, S.B. 128 provides that persons seeking records found in Office of the Child Advocate investigative files, i.e. DFCS case records and law enforcement/prosecution records, must petition the agency of origin to obtain those records. The purpose of this legislation was to ensure that OCA was not placed in the inappropriate position of making Open Records Act determinations as to the public's access to another state agency's records.

During the 2007 legislative session, DHR requested and received substantial assistance from OCA in passage of state legislation to bring Georgia into compliance with recently enacted federal laws,¹² thereby protecting more than \$60 million in federal funding support for our child welfare system. As a courtesy to the agency, OCA attached the compliance legislation to our own bill, S.B. 128, to ensure its passage.¹³ As modified, the new law:

- Strengthens foster parents' rights to notice of and to be heard in juvenile court deprivation proceedings;

¹² Federal Child and Family Services Improvement Act of 2006; Safe and Timely Interstate Placement of Foster Children Act of 2006.

¹³ Senate Bill 293, sponsored by Senator Michael Meyer von Bremen, initially introduced the federal compliance legislation at OCA's request. Due to the lateness of the session, its provisions were attached to S.B. 128 and successfully passed both the Senate and House.

- Requires juvenile courts to consult with children in permanency hearings and hearings concerning an older foster child’s transition from foster care to independent living;
- Requires courts to consider in-state and out-of-state placements for children whose permanency plan provides that they will not be returned to their birth parents;
- Prohibits DFCS from disclosing or utilizing other states’ child abuse registry information other than for the purpose of conducting background checks on foster/adoptive parents; and
- Requires DFCS to provide children leaving foster care because they have turned 18-years-old with a free copy of their health and education records.

OCA expresses its sincere gratitude and appreciation to Senator Joseph Carter for his extensive work on behalf of and support for Senate Bill 128.

Special Assistant Attorneys General (SAAGs)

Since its inception, OCA has and continues to advocate for those who provide quality legal representation to their DFCS clients and acknowledges their service to the state for providing that representation at rates substantially below prevailing business practice in both the public and private sectors. The following chart illustrates the disparity in compensation to SAAGs representing various departments and agencies within state government.

Type of Case	Hourly Rate
DOT/Certain Business Loss Cases	\$140.00
DOT/Standard SAAG rate	\$125.00
Tort Cases	\$125.00
Inmate Litigation - Inmate Represented by Counsel	\$125.00
DOAS/DOT Worker's Comp Cases/Standard Rate	\$100.00
Inmate Litigation - Pro Se Cases	\$ 75.00
Post-Conviction Habeas Corpus Cases	\$ 60.00
DFCS - Termination of Parental Rights Cases	\$ 55.00
DFCS – Deprivation Cases	\$ 52.50
Child Support Enforcement	\$ 52.50

As before, OCA continues to advocate for competitive and appropriate compensation for the attorneys representing DFCS in juvenile court proceedings. Such parity can only be achieved with leadership from the Governor and General Assembly.

Victim Advocacy Grant

OCA continues to operate its Victim Advocacy Program with funding from a federal Victims of Crime Act ("VOCA") grant awarded by the Criminal Justice Coordinating Council (CJCC). Through this program, OCA is able to assist children who are simultaneously involved with the child welfare, law enforcement and various court systems in order to ensure the protection of the child victim's rights.

The Victim Advocacy Program served 94 victims in this report period. These victims were from 24 counties around the state. Services provided by the Victim Advocate include: petitioning the court for protective orders; acting on the victim's behalf with law enforcement and DFCS; helping victims and their families understand the voluminous paperwork associated with their cases; accompanying child victims and their families to court; and providing assistance in completing the necessary paperwork to receive victim compensation funds. During the reporting period, 43 victims were assisted in receiving Temporary Protective Orders. We offer our sincere appreciation to the CJCC for its generous grant award that makes this program possible for our children.

OCA Enabling Legislation

Since the creation of OCA more than 6 years ago, a number of important concerns related to the Office's enabling legislation have arisen and should be addressed so as to preserve the independence of the Office and maximize its effectiveness on behalf of the children it serves. Proposed recommendations include:¹⁴

- A requirement that the Advocate for the Protection of Children be an attorney. Effective service as the Child Advocate requires extensive knowledge and understanding of the intricacies of federal and state

¹⁴ Please see Appendix E for draft recommended legislation.

juvenile law. Having an experienced and trained attorney is thus advisable and lends credibility to the Office and person serving as Child Advocate.

- That the term of the Advocate be lengthened from three years to a minimum of 5 years, so as to transcend changes in the Executive Branch, of which DFCS is a part. Given the Advocate's statutory mandate to serve in a watchdog capacity over DFCS, the Advocate will necessarily, at times, be critical of the agency. The Advocate must be able to operate free of political pressure and without fear of reprisal. Extension of the Advocate's term will provide some protection in this area.
- That a mechanism be created to compel action by the Governor following the expiration of the Advocate's term of office. No appointee having a statutorily defined term of office should be left in limbo for months on end awaiting a decision as to their professional future. Without a mechanism to provide for prompt action at the expiration of the Advocate's term, the Advocate may interpret such inaction as a means by which to keep the Advocate "in check" and reluctant to fully perform the duties of office.
- A provision stating that the Advocate may be removed only for just cause shown. OCA's enabling legislation is silent as to removal of the Advocate. The Advocate must be empowered to perform his or her statutory duties without fear of reprisal or removal for being critical of the agency.
- A requirement that notice of the existence of the Office and procedures for making a complaint be furnished to each child's foster parent or caregiver, GAL, and attorney. Such a provision would ensure greater access to OCA by children in state care and those serving them. Far too often, youth tell us that they did not know of OCA's existence and availability to assist them.
- A right to communicate privately with DHR and DFCS staff. To obtain accurate and candid information from agency staff, we must offer them guaranteed anonymity so that our state employees do not refuse contact from OCA due to fear of retaliation.
- A right to access data held by DFCS, whether or not it concerns or relates to a specific child. In order to fairly and accurately report on the agency's

work, OCA must be given complete access to its data and reports without having to leap legal hurdles or rely on the goodwill of the agency to be forthcoming.

- To subpoena persons to appear, give testimony, or produce documents or other evidence that the Advocate considers relevant to a matter under inquiry. Information obtained from a person in this manner should be considered private information. Such provisions are vital to OCA's ability to gather all relevant information in order to make informed assessments and recommendations, both in individual cases and policy enhancements.
- To be notified by DFCS of the death of any child known to the agency within twenty-four hours of the child's death. The reason for such a requirement is obvious, but necessary. In the widely publicized case of Nateyonna Banks, OCA was not notified of her death until three weeks after the fact - on the evening prior to an agency press conference in which OCA was invited to participate.
- A requirement that DFCS shall, within a reasonable time, inform the Advocate about actions taken on its recommendations or the reasons for not complying with them. Such a requirement would bring greater accountability and responsiveness by the agency in appropriate cases and situations. Without such a provision, the agency is at liberty to ignore circumstances that may warrant prompt attention.
- Protection of the identity of a complainant and persons having communicated with the Advocate in the performance of the Advocate's duties. Such protection should be afforded to all persons, whether state employees, foster parents, and others with a genuine concern for children in the state's care or whose circumstances warrant intervention.

EDUCATION

OCA's third program is education. OCA facilitates and promotes the professional development of all parties involved in our child protection system, including DFCS staff, Guardians ad Litem and child advocates, district attorneys, law enforcement, educators,

and others. OCA participated in numerous training conferences and collaborative efforts in order to promote a well-trained workforce across the various disciplines.

Guardian ad Litem/Child Advocate Conference

In previous Annual Reports, OCA identified significant deficiencies in the legal representation of our children in juvenile court deprivation proceedings. OCA case investigations consistently indicate that many attorneys often do not meet children or other interested parties before court, nor do they conduct the necessary case investigation so critical to making recommendations to the court consistent with children's best interests. Effective advocacy requires knowledge of the child's circumstances, adequate preparation, and training. Our children depend on their court-appointed representatives to navigate them through the complex juvenile court and foster care systems to ensure that their needs are met and that they do not slip through the cracks.

OCA twice sponsored the only annual training opportunity of its kind for child advocates during the reporting period. More than 150 attorney and volunteer child advocates from across Georgia attended each conference. Participant evaluations overwhelmingly affirmed the need for this specialized training and more. Highlights of the 2006 conference included compelling presentations by the Honorable Nancy Salyers, Co-Director of *Fostering Results*, a program of The Pew Charitable Trusts, as well as Ira Lustbader, lead co-counsel for Children's Rights, Inc. in the *Kenny A.* litigation.

Training seminars were conducted on such topics as trial skills, permanency planning, interviewing children, legislative and caselaw updates, DFCS programs and services, and many others. One hundred percent (100%) of participants rated their overall conference experience as "Excellent" or "Good" and the majority of written comments stated that the "variety and relevance of the workshops and the quality of the information provided by presenters" were the best things about the conference.

OCA expresses sincere appreciation to the DHR for its award of a Children's Justice Act grant that made the Conference possible. OCA will host its fifth Child Advocate Conference on July 18-20, 2007. Featured speakers include Dr. Vicky Youcha, a nationally recognized expert on *Zero to Three* and the impact of abuse and neglect on

the early years of child development. Dr. Youcha will present practical guidelines for working with children who have been victimized by abuse and neglect to mitigate the consequences of such trauma. OCA is also pleased to present a youth forum at which participants will hear firsthand accounts of what foster care is really like, the status of current youth efforts toward self-organization and advocacy, and most importantly, what they want their court-appointed representatives to know.

Finding Words Georgia

The Office of the Child Advocate was successful in its bid to make Georgia one of the first “*Finding Words*” sites in the country in 2003. The National Center for the Prosecution of Child Abuse and CornerHouse Children's Advocacy Center developed this model multi-disciplinary forensic interviewing course entitled *Finding Words* and offers the training through approved states in a program called Half a Nation by 2010. The week-long training presented quarterly at the Georgia Public Safety Training Center in Forsyth is designed to instruct multi-disciplinary teams in forensic interviewing of children. To date, *Finding Words Georgia* has trained 654 participants representing 99 counties. Training sessions scheduled for FY 2008 already have waiting lists, demonstrating the continuing need for such a training program in Georgia. Sustained commitment to the continuation of *Finding Words Georgia* will continue to promote consistency in the investigation and prosecution of child abuse throughout the state.

Building Successful Teams

OCA participated as a partner in sponsoring the sixth annual *Building Successful Teams* multi-disciplinary conference for the investigation and prosecution of serious injury and fatal child abuse during the reporting period. Other sponsoring partners included the Georgia Department of Human Resources Division of Family and Children Services, the Georgia Bureau of Investigation and the Office of Child Fatality Review. Plans for the 2008 annual conference are already underway. The conference’s mission is to foster teamwork among those investigating and prosecuting child abuse at every level through education and training, and by providing accessible expert support services to those working on the front lines of the battle against abuse and neglect.

Stakeholder sponsors of this conference include representatives of every discipline having the legal responsibility of protecting the lives of Georgia children. Each sponsoring agency strongly believes that it is only through working together that the enormous task of preventing child death or injury can become a reality. A multi-disciplinary team approach in investigations is critical for accurate identification of child abuse and neglect when it occurs and in successful prosecution of the perpetrator. Each year approximately 700 persons attend the Building Successful Teams conference, making it one of the largest conferences in the southeast with the purpose of collaboratively training those working in the child abuse fields in order to strengthen investigations and prosecutions in child serious injury and child death cases. Attendees from various disciplines include the judicial branch, prosecutors, child welfare professionals, medical examiners and coroners, medical professionals, law enforcement and mental health professionals.

Child Placement Conference

Since OCA's creation, we have been an active participant in the Child Placement Conference, the largest annual cross-training conference offered to professionals working with foster children in Georgia. Conference hosts include DFCS, the Georgia Association of Homes and Services for Children ("GAHSC"), the Supreme Court of Georgia Committee on Justice for Children, Georgia Court Appointed Special Advocates ("CASA"), and the Department of Juvenile Justice ("DJJ"). Over 500 participants attend this conference annually, including: new and experienced DFCS case managers and supervisors, juvenile court judges, attorneys, CASAs, DJJ staff, mental health professionals, group home staff, citizen review panel volunteers, and others working in foster care and placement.

Each year, the conference expands its collaborative partnership and the cross-section of topics offering the most current information available on working with children at risk. Unique to this conference is the highlighting of the many services available to children and families in Georgia, how our communities can work together to leverage these resources and how each of us can do our part. The overall evaluations from the

Child Placement Conference show consistently high marks and the workshops are well attended. Now in its eighth year, the Child Placement Conference has emerged as the best cross-training opportunity available to child welfare professionals in Georgia. OCA highly recommends the Child Placement Conference to all people working in or connected to the child welfare system.

Strengthening Families Through Early Care and Education

Georgia's *Strengthening Families Initiative* (SFI) is a research-based, cost-effective strategy to prevent child abuse and neglect by assisting early childhood centers in their work with families to build protective factors around children. These factors include: parental resilience; social connections; knowledge of parenting and child development; concrete support in times of need; and healthy social and emotional development of children. Georgia is one of more than 20 states adapting the SFI framework into early care and education systems and state policies and practices designed to prevent child abuse and neglect. SFI represents a partnership of the Georgia Children's Trust Fund Commission, Bright from the Start, DFCS, OCA, Prevent Child Abuse Georgia, and Sheltering Arms Early Education and Family Centers.

SFI activities include development and production of "KIDS COUNT ON YOU: Protecting Children by Strengthening Families," a video-based child abuse training module specific to early care and education settings designed to teach child abuse prevention and recognition, as well as mandated reporting requirements. The SFI training will be provided to Bright from the Start Georgia Department of Early Care and Learning consultants, child care resource and referral consultants, Head Start family service workers and Pre-K resource coordinators. OCA is proud to be an active participant in the SFI leadership team.

A Final Word

This report would not be complete without mentioning the federal Child and Family Services Review. The findings of this review confirm my bittersweet feelings on the state of Georgia's child welfare system. Sweet is the fact that, in my six years of

Child Advocate, DFCS has made some progress to areas crucial to child safety. Bitter, however, is the fact the DFCS still faces an arduous journey to protect and provide for Georgia's most vulnerable children. I leave knowing that Georgia's leaders have reliable information to steer DFCS on its journey. The federal report is but one small part of the available information.

On May 18, 2007 federal officials conducted an exit conference to brief state child welfare leaders and community partners on the preliminary findings of a week-long Child and Family Services Review. This review included Fulton, Floyd, and Walton Counties and validated the highly publicized OCA audit of Fulton County. OCA stands by its report. The federal government will issue its final report concerning the review at some time in the future, but the concerns raised by our federal government cry out for immediate attention and must be addressed now.

First, the agency appropriately deserves praise for its performance in several areas as noted by the federal reviewers, including: meeting the educational needs of children in foster care; very strong praise for the state's Independent Living Coordinators, as expressed by our own foster youth; and as to Floyd and Walton Counties, agency responsiveness to and collaboration with community partners was reported to be outstanding.

Although preliminary, several findings of the federal reviewers are of such a nature that they warrant immediate attention and commitment by policymakers to effect change. The reviewers noted that:

1. Allegations of child-on-child sexual abuse are NOT accepted by the agency as reports of maltreatment. Reporters are: (a) simply turned away; (b) referred to a child advocacy center; or (c) referred to law enforcement.
2. In ongoing cases, new incidents/reports of suspected abuse are not treated as such, and therefore do not trigger an investigation, assessment, or a requirement to meet response times. These new allegations, even though arising from incidents separate from those that brought the family to the agency's attention, are simply

incorporated into the existing case record documentation. They are emphatically not captured or tracked as "recurrence of maltreatment." By not capturing this critical data, the agency is seriously under-reporting the incidence of repeat maltreatment, thereby potentially leaving the public with the false impression that children are safer than they really are.

3. Safety resource cases were noted to be a form of "pseudo-foster care" by reviewers. They noted little attention was paid to assess children placed in these homes, to provide them with services, or to reunify them with their families or otherwise provide for their permanency.
4. Reviewers noted premature closing of cases even when continuing safety issues remained for the families, and inappropriate diversion of cases in which serious maltreatment was alleged.
5. In ongoing cases, reviewers noted a pattern of the agency not delving deeply to assess the real risks and needs of children and their families, but addressing only the issue(s) presented in the initial referral of suspected abuse or neglect.
6. In assessing risks to children, reviewers noted that the services provided to families to enhance their capacity to provide for their own children do NOT match the risks identified in the agency's own assessment or information gathered in the course of the agency's work with families. Further, reviewers noted that the intensity of services provided to families does not sufficiently match the assigned level of risk to our children.
7. As part of the federal review, stakeholders, including older foster youth, were interviewed. They raised serious concerns about their continuing medical and dental health needs as they age out of foster care. This is a priority for our youth and should be for our policy makers as well.

I leave office with a heavy heart and grave concern for all that remains to be done to create a child protection system of which Georgia can be proud. In response to the

Federal Child and Family Services Review, I urge DHR and policymakers to consider the following reforms:

- A. DFCS should complete a full agency review in cases of reported child-on-child sexual abuse, both for the victim and the alleged perpetrating child. In such cases, it is quite common for the perpetrating child to have been a victim of sexual assault him or herself, thereby learning the behavior of which they are accused. We have a moral responsibility to all child victims to see to it that they receive every service available to reduce the trauma associated with sexual exploitation and further re-victimization.
- B. DFCS must completely and accurately record and track new allegations of suspected abuse and neglect in ongoing cases where children remain in the homes of their caregivers. We must track and monitor such reports in order for the state to accurately measure recurrence of maltreatment, as required by the federal government.
- C. We cannot simply place children with “safety resources” and walk away from them. We do these children no favors when we ignore their needs, which are often no different and are just as great as those of children placed in foster care. OCA requests a commitment, backed by written policy, from the state to serve these children – as we would want our own children to be served if we could not provide them with care.
- D. We can no longer ignore what our risk assessments tell us about the safety of children and what we must do to serve them. OCA calls upon leadership to address this specific issue in the training of case managers and supervisors, with substantial oversight by appropriately trained higher level managers.
- E. DFCS must choose not to look the other way when serious safety concerns remain in families, even if they are not the specific concerns that initially brought the family to the agency’s attention – and even if it means that the numbers move in the “wrong” direction. By closing and diverting cases

prematurely or unwisely, and failing to fully assess the real risks children face in their homes, we cannot say with confidence that our child welfare system is engaged in meaningful “reform.”

As to Diversion, OCA has consistently supported the agency’s appropriate usage of it to reduce the number of families who are investigated for suspected child abuse and to reduce the number of children who enter foster care unnecessarily. Inappropriate removal of a child from her family is as great a tragedy as failing to remove a child who must, of necessity, enter foster care. We again request that the state office establish clear guidelines on the appropriate usage of diversion.

As was noted by the federal reviewers and OCA’s own agency’s audit of Fulton County DFCS, the agency is viewed as one that is not in the business of protecting children, but rather in keeping families together – at times in apparent disregard for the risks in doing so. OCA is a huge proponent of keeping families together and reunifying them – when it is safe to do so and when we as a state can say that we have done all we can to be sure that they are.

As I leave the Office of the Child Advocate, I want to wish success for the new Advocate, Tom Rawlings. Tom inherits a staff that has proved most capable in serving to improve Georgia’s child welfare system. I trust the staff will continue to do so, and I thank them for their service. Good luck to all of you as you continue the work on behalf of Georgia’s children.

APPENDIX A

CHILD ADVOCATE FOR THE PROTECTION OF CHILDREN

Effective date. - This article became effective April 6, 2000.

15-11-170

(a) This article shall be known and may be cited as the "Georgia Child Advocate for the Protection of Children Act."

(b) In keeping with this article's purpose of assisting, protecting, and restoring the security of children whose well-being is threatened, it is the intent of the General Assembly that the mission of protection of the children of this state should have the greatest legislative and executive priority. Recognizing that the needs of children must be attended to in a timely manner and that more aggressive action should be taken to protect children from abuse and neglect, the General Assembly creates the Office of the Child Advocate for the Protection of Children to provide independent oversight of persons, organizations, and agencies responsible for providing services to or caring for children who are victims of child abuse and neglect, or whose domestic situation requires intervention by the state. The Office of the Child Advocate for the Protection of Children will provide children with an avenue through which to seek relief when their rights are violated by state officials and agents entrusted with their protection and care.

15-11-171

As used in this article, the term:

- (1) "Advocate" or "child advocate" means the Child Advocate for the Protection of Children established under Code Section 15-11-172.
- (2) "Agency" shall have the same meaning and application as provided for in paragraph (1) of subsection (a) of Code Section 50-14-1.
- (3) "Child" or "children" means an individual receiving protective services from the division, for whom the division has an open case file, or who has been, or whose siblings, parents, or other caretakers have been the subject of a report to the division within the previous five years.
- (4) "Department" means the Department of Human Resources.
- (5) "Division" means the Division of Family and Children Services of the Department of Human Resources.

15-11-172.

(a) There is created the Office of the Child Advocate for the Protection of Children. The Governor, by executive order, shall create a nominating committee which shall consider nominees for the position of the advocate and shall make a recommendation to the Governor. Such person shall have knowledge of the child welfare system, the juvenile justice system, and the legal system and shall be qualified by training and experience to perform the duties of the office as set forth in this article.

(b) The advocate shall be appointed by the Governor from a list of at least three names submitted by the nominating committee for a term of three years and until his or her successor is appointed and qualified and may be reappointed. The salary of the advocate

shall not be less than \$60,000.00 per year, shall be fixed by the Governor, and shall come from funds appropriated for the purposes of the advocate.

(c) The Office of the Child Advocate for the Protection of Children shall be assigned to the Office of Planning and Budget for administrative purposes only, as described in Code Section 50-4-3.

(d) The advocate may appoint such staff as may be deemed necessary to effectively fulfill the purposes of this article, within the limitations of the funds available for the purposes of the advocate. The duties of the staff may include the duties and powers of the advocate if performed under the direction of the advocate. The advocate and his or her staff shall receive such reimbursement for travel and other expenses as is normally allowed to state employees, from funds appropriated for the purposes of the advocate.

(e) The advocate shall have the authority to contract with experts in fields including but not limited to medicine, psychology, education, child development, juvenile justice, mental health, and child welfare, as needed to support the work of the advocate, utilizing funds appropriated for the purposes of the advocate.

(f) Notwithstanding any other provision of state law, the advocate shall act independently of any state official, department, or agency in the performance of his or her duties.

(g) The advocate or his or her designee shall be an ex officio member of the State-wide Child Abuse Prevention Panel.

15-11-173

The advocate shall perform the following duties:

(1) Identify, receive, investigate, and seek the resolution or referral of complaints made by or on behalf of children concerning any act, omission to act, practice, policy, or procedure of an agency or any contractor or agent thereof that may adversely affect the health, safety, or welfare of the children;

(2) Refer complaints involving abused children to appropriate regulatory and law enforcement agencies;

(3) Report the death of any child to the chairperson of the child fatality review subcommittee of the county in which such child resided at the time of death, unless the advocate has knowledge that such death has been reported by the county medical examiner or coroner, pursuant to Code Section 19-15-3, and to provide such subcommittee access to any records of the advocate relating to such child;

(4) Provide periodic reports on the work of the Office of the Child Advocate for the Protection of Children, including but not limited to an annual written report for the Governor and the General Assembly and other persons, agencies, and organizations deemed appropriate. Such reports shall include recommendations for changes in policies and procedures to improve the health, safety, and welfare of children and shall be made expeditiously in order to timely influence public policy;

(5) Establish policies and procedures necessary for the Office of the Child Advocate for the Protection of Children to accomplish the purposes of this article including without limitation providing the division with a form of notice of availability of the Office of the Child Advocate for the Protection of Children. Such notice shall be posted prominently, by the division, in division offices and in facilities receiving public moneys for the care and placement of children and shall include information describing the Office of the Child Advocate for the Protection of Children and procedures for contacting that office; and

(6) Convene quarterly meetings with organizations, agencies, and individuals who work in the area of child protection to seek opportunities to collaborate and improve the status of children in Georgia.

15-11-174

(a) The advocate shall have the following rights and powers:

(1) To communicate privately, by mail or orally, with any child and with each child's parent or guardian;

(2) To have access to all records and files of the division concerning or relating to a child, and to have access, including the right to inspect, copy, and subpoena records held by clerks of the various courts, law enforcement agencies, service providers, including medical and mental health, and institutions, public or private, with whom a particular child has been either voluntarily or otherwise placed for care or from whom the child has received treatment within the state. To the extent any such information provides the names and addresses of individuals who are the subject of any confidential proceeding or statutory confidentiality provisions, such names and addresses or related information which has the effect of identifying such individuals shall not be released to the public without the consent of such individuals;

(3) To enter and inspect any and all institutions, facilities, and residences, public and private, where a child has been placed by a court or the division and is currently residing. Upon entering such a place, the advocate shall notify the administrator or, in the absence of the administrator, the person in charge of the facility, before speaking to any children. After notifying the administrator or the person in charge of the facility, the advocate may communicate privately and confidentially with children in the facility, individually or in groups, or the advocate may inspect the physical plant. To the extent possible, entry and investigation provided by this Code section shall be conducted in a manner which will not significantly disrupt the provision of services to children;

(4) To apply to the Governor to bring legal action in the nature of a writ of mandamus or application for injunction pursuant to Code Section 45-15-18 to require an agency to take or refrain from taking any action required or prohibited by law involving the protection of children;

(5) To apply for and accept grants, gifts, and bequests of funds from other states, federal and interstate agencies, independent authorities, private firms, individuals, and foundations for the purpose of carrying out the lawful responsibilities of the Office of the Child Advocate for the Protection of Children;

(6) When less formal means of resolution do not achieve appropriate results, to pursue remedies provided by this article on behalf of children for the purpose of effectively carrying out the provisions of this article; and

(7) To engage in programs of public education and legislative advocacy concerning the needs of children requiring the intervention, protection, and supervision of courts and state and county agencies.

(b) (1) Upon issuance by the advocate of a subpoena in accordance with this article for law enforcement investigative records concerning an ongoing investigation, the subpoenaed party may move a court with appropriate jurisdiction to quash said subpoena.

(2) The court shall order a hearing on the motion to quash within 5 days of the filing of the motion to quash, which hearing may be continued for good cause shown by any party or by the court on its own motion. Subject to any right to an open hearing in contempt proceedings, such hearing shall be closed to the extent necessary to prevent disclosure of the identity of a confidential source; disclosure of confidential investigative or

prosecution material which would endanger the life or physical safety of any person or persons; or disclosure of the existence of confidential surveillance, investigation, or grand jury materials or testimony in an ongoing criminal investigation or prosecution. Records, motions and orders relating to a motion to quash shall be kept sealed by the court to the extent and for the time necessary to prevent public disclosure of such matters, materials, evidence or testimony.

(c) The court shall, at or before the time specified in the subpoena for compliance therewith, enter an order:

- (1) Enforcing the subpoena as issued;
- (2) Quashing or modifying the subpoena if it is unreasonable and oppressive; or
- (3) Conditioning enforcement of the subpoena on the advocate maintaining confidential any evidence, testimony, or other information obtained from law enforcement or prosecution sources pursuant to the subpoena until the time the criminal investigation and prosecution are concluded. Unless otherwise ordered by the court, an investigation or prosecution shall be deemed to be concluded when the information becomes subject to public inspection pursuant to Code Section 50-18-72. The court shall include in its order written findings of fact and conclusions of law.

Annotations

The 2001 amendment, effective July 1, 2001, designated the existing provisions of this Code section as subsection (a) and added subsections (b) and (c).

15-11-175. Penalty provision.

(a) No person shall discriminate or retaliate in any manner against any child, parent or guardian of a child, employee of a facility, agency, institution or other type of provider, or any other person because of the making of a complaint or providing of information in good faith to the advocate, or willfully interfere with the advocate in the performance of his or her official duties.

(b) Any person violating subsection (a) of this Code section shall be guilty of a misdemeanor.

15-11-176

The advocate shall be authorized to request an investigation by the Georgia Bureau of Investigation of any complaint of criminal misconduct involving a child.

15-11-177

(a) There is established a Child Advocate Advisory Committee. The advisory committee shall consist of:

- (1) One representative of a not for profit children's agency appointed by the Governor;
- (2) One representative of a for profit children's agency appointed by the President of the Senate;
- (3) One pediatrician appointed by the Speaker of the House of Representatives;
- (4) One social worker with experience and knowledge of child protective services who is not employed by the state appointed by the Governor;
- (5) One psychologist appointed by the President of the Senate;
- (6) One attorney appointed by the Speaker of the House of Representatives from the Children and the Courts Committee of the State Bar of Georgia; and

(7) One juvenile court judge appointed by the Chief Justice of the Supreme Court of Georgia.

Each member of the advisory committee shall serve a two-year term and until the appointment and qualification of such member's successor. Appointments to fill vacancies in such offices shall be filled in the same manner as the original appointment.

(b) The advisory committee shall meet a minimum of three times a year with the advocate and his or her staff to review and assess the following:

(1) Patterns of treatment and service for children;

(2) Policy implications; and

(3) Necessary systemic improvements.

The advisory committee shall also provide for an annual evaluation of the effectiveness of the Office of the Child Advocate for the Protection of Children.

APPENDIX B

STAFF

DeAlvah Hill Simms - Child Advocate¹⁵

Tammy Walker - Administrative Assistant to the Child Advocate

Allyson W. Anderson - Director of Policy and Evaluation

Russell A. Lewis, Sr. - Chief Investigator

Matt Gazafy - Investigator

Robert Z. Hernandez - Investigator

William A. Herndon - Investigator

Bobbi Nelson - Investigator

Chris Williams - Investigator

Vickie Morgan - Intake Technician

Sherry Bryant - Victim Advocate Program Manager

The Victim Advocate Program Manager is funded through the Criminal Justice Coordinating Council's ("CJCC") Victims of Crime Act Grant Program.

OCA also enjoyed the services of four students made possible through the generosity of the Barton Child Law and Policy Clinic at Emory University, Georgia CASA, the Child Advocacy Project of Central Georgia CASA, and Mercer University School of Law. They include: Alexandra Cornwell, Rebekah LeMon, Lanchi Nguyen, and Elizabeth Rose. We offer our sincere gratitude to each of these students for their hard work on behalf of Georgia's children and to each of the named programs and schools for providing these exceptional interns to our office.

¹⁵ Effective July 16, 2007, the Honorable Tom C. Rawlings becomes the state Child Advocate.

APPENDIX C
ADVISORY COMMITTEE

OCA is fortunate to have an Advisory Committee comprised of seven individuals dedicated to helping fulfill our mission of protecting our children.¹⁶ The members include:

- **Dr. John Adams** is a practicing psychologist in Statesboro and was appointed by former Lieutenant Governor Mark Taylor.
- **Ms. Laura Eubanks** is a social worker with the Gwinnett County School System and was appointed by Governor Sonny Perdue.¹⁷
- **Judge Tracy Graham** is a juvenile court judge in Clayton County and was appointed by Georgia Supreme Court Chief Justice Leah Ward Sears.
- **Mrs. Kathy O’Neal** is Region VI Community Facilitator with Family Connection and was appointed by Governor Perdue. Ms. O’Neal also serves as Chairperson of the Committee.
- **Dr. Jose Rodriguez** is a pediatrician and was appointed by the Speaker of the House of Representatives, the Honorable Glenn Richardson.
- **Ms. Ellen Williams** is an attorney and lobbyist on children’s issues and was appointed by Speaker Richardson.

¹⁶ The Advisory Committee currently has one vacancy in the appointment of a representative of a for profit children’s organization appointed by the Lieutenant Governor.

¹⁷ Ms. Eubanks was appointed by Governor Perdue during her employment with Children’s Healthcare of Atlanta, pursuant to O.C.G.A. 15-11-177 (a) (4) as a social worker who is not employed by the state. OCA has notified Governor Perdue of Ms. Eubanks’ current employment status and of the need to make a new appointment to the Committee.

APPENDIX D

RECOMMENDED MINIMUM CONTACT STANDARDS FOR CHILDREN IN CARE

For medically fragile children placed in group homes and/or child care institutions:

In the case of a child who is deemed to be medically fragile, the SSCM shall document face-to-face, telephone, mail, or email contact with the child's primary care physician (PCP) no later than thirty days following the child's entry into care. Thereafter, the SSCM shall document one of these same forms of contact with the PCP no less than every ninety days.

Suggested questions:

How long have you been treating the child?

For what medical conditions?

Is the child being treated by any other physicians for specialized illnesses or conditions? Note that if the answer to this question is "yes," you are required to contact these specialists for their individual assessment of the child's situation.

How is the child responding to treatment?

What is the child's immediate and long-term prognosis?

Is the child sufficiently medically stable to successfully transition to a more family-like setting? If not, when do you anticipate achieving such stability or what must occur before the child is deemed to be sufficiently medically stable?

Please provide the PCP/specialist with your contact information and ask that DFCS be contacted immediately if the child's medical circumstances change.

APPENDIX E

Proposed Amendments to OCA Enabling Legislation

Item #1

Article 5 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the Office of the Child Advocate for the Protection of Children, is amended by revising Code Section 15-11-172, relating to the advocate, as follows:

(a) There is created the Office of the Child Advocate for the Protection of Children.

The Governor, by executive order, shall create a nominating committee which shall consider nominees for the position of the advocate and shall make a recommendation to the Governor. Such person shall ~~have~~ be an attorney having knowledge of the child welfare system, the juvenile justice system, and the legal system and shall be qualified by training and experience to perform the duties of the office as set forth in this article.

(b) The advocate shall be appointed by the Governor from a list of at least three names submitted by the nominating committee for a term of ~~three~~ seven years and until his or her successor is appointed and qualified and may be reappointed. If the Governor fails to reappoint the advocate or name a successor within ninety days of the expiration of the advocate's term, the advocate shall be deemed to be reappointed for another term commencing from the expiration of the ninety day period. Prior to the expiration of a term, the advocate may be removed only for just cause shown. The salary of the advocate shall not be less than \$60,000.00 per year, shall be fixed by the Governor, and shall come from funds appropriated for the purposes of the advocate.

(g) The advocate or his or her designee shall be an ex officio member of the

~~State-wide Child Abuse Prevention Panel~~ Georgia Child Fatality Review Panel.

Item #2

Article 5 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the Office of the Child Advocate for the Protection of Children, is amended by revising paragraph (5) of Code Section 15-11-173 as follows:

~~(5) Establish policies and procedures necessary for the Office of the Child Advocate for the Protection of Children to accomplish the purposes of this article including without limitation providing the division with a form of notice of availability of the Office of the Child Advocate for the Protection of Children. Such notice shall be posted prominently, by the division, in division offices and in facilities receiving public moneys for the care and placement of children and shall include information describing the Office of the Child Advocate for the Protection of Children and procedures for contacting that office~~
To prepare and distribute to each institution and facility where a child has been placed by a court or the division in this state a written notice describing the Office of the Child Advocate and the procedure to follow in making a complaint, including the address and telephone number of the advocate. The administrator or person in charge of such institution and facility shall give the written notice required by this paragraph to each child, his or her legally appointed counsel, and guardian ad litem upon first providing services. The administrator or person in charge shall also post such written notice in conspicuous public places in the institution and facility in accordance with procedures provided by the advocate and shall give such notice to any child, his or her legally appointed counsel and guardian ad litem who did not receive it upon first receiving services; and

Item #3

Article 5 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the Office of the Child Advocate for the Protection of Children, is amended by revising subsection (a) of Code Section 15-11-174, relating to the rights and powers of the advocate, as follows:

(a) The advocate shall have the following rights and powers:

(1) To communicate privately ~~, by mail or orally,~~ with department and division staff, any child, and with each child's parent or guardian, foster parents or other caregivers, attorney, and guardian ad litem;

(2) To have access to all data, records and files of the division ~~concerning or relating to a child~~, and to have access, including the right to inspect, copy, and subpoena records held by clerks of the various courts, law enforcement agencies, service providers, including medical and mental health, and institutions, public or private, with whom a particular child has been either voluntarily or otherwise placed for care or from whom the child has received treatment within the state. To the extent any such information provides the names and addresses of individuals who are the subject of any confidential proceeding or statutory confidentiality provisions, such names and addresses or related information which has the effect of identifying such individuals shall not be released to the public without the consent of such individuals; The Office of the Child Advocate for the Protection of Children is bound by all confidentiality safeguards provided in Code Sections 49-5-40 and 49-5-44. Anyone wishing to obtain records held by the Office of the Child Advocate shall petition the original agency of record where such records exist;

(3) To enter and inspect any and all institutions, facilities, and residences, public and private, where a child has been placed by a court or the division and is currently residing. Upon entering such a place, the advocate shall notify the administrator or, in the absence of the administrator, the person in charge of the facility, before speaking to any children. After notifying the administrator or the person in charge of the facility, the advocate may communicate privately and confidentially with children in and the staff of the facility, individually or in groups, or the advocate may inspect the physical plant. To the extent possible, entry and investigation provided by this Code section shall be conducted in a manner which will not significantly disrupt the provision of services to children;

Item #4

Article 5 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the Office of the Child Advocate for the Protection of Children, is further amended by adding the following:

(8) To subpoena a person to appear, give testimony, or produce documents or other evidence that the advocate considers relevant to a matter under inquiry. The advocate may petition the appropriate court to enforce the subpoena. A witness who is at a hearing or is part of an investigation possesses the same privileges that a witness possesses in the courts or under the laws of this state. Information obtained from a person under this paragraph shall be considered private information;

(9) To be notified by the division of the death of any child known to the Division within twenty-four hours of the child's death; and

(10) At the advocate's request, the agency shall, within a reasonable time, inform the advocate about actions taken on its recommendations or the reasons for not complying with them.

Item #5

Article 5 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the Office of the Child Advocate for the Protection of Children, is amended by adding a new subsection (c) to Code Section 15-11-175, relating to the penalty provision, as follows:

(c) The advocate shall not be compelled to reveal the identity of a complainant and persons having communicated with the advocate in the performance of the advocate's duties.

Item #6

Article 5 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the Office of the Child Advocate for the Protection of Children, is amended by revising Code Section 15-11-177, relating to the Child Advocate Advisory Committee, as follows:

- (a) There is established a Child Advocate Advisory Committee. The advisory committee shall consist of:
- (2) One representative of a not for profit children's agency appointed by the President of the Senate;