

**Georgia CAPTA Annual Grant Report**  
**Peer Review Project, Georgia Administrative Office of the Courts**  
**September 29, 2014**  
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Introduction

Pursuant to the June 30, 2013 contract between the State of Georgia Department of Human Services (“DHS”) and the Georgia Administrative Office of the Courts, a team of Child Welfare Law Specialists conducted the Peer Review Project in Georgia’s Juvenile Courts. As fully supported by DHS, the goal of the project was to provide quality improvement of the legal representation of children in Georgia’s dependency cases pursuant to the State’s new Juvenile Code and pursuant to guidelines outlined in the Child Abuse Prevention and Treatment Act. In 2013, Georgia’s Governor signed into law legislation that ensured children have a right to an attorney, in addition to a Guardian ad Litem, at all stages of dependency and termination of parental rights proceedings. Pursuant to O.C.G.A. § 15-11-1, the goal of this legislation is to “guarantee due process of law, as required by the Constitutions of the United States and the State of Georgia, through which every child and his or her parents and all other interest parties are assured fair hearings at which legal rights are recognized and enforced.” O.C.G.A. § 15-11-1. Beginning on January 1, 2014, children across the State of Georgia began attending and participating in dependency and termination of parental rights hearings, with the benefit of legal counsel advocating for the child’s position and a Guardian ad Litem advocating for the child’s best interests. Based upon statistics obtained from the Department of Family and Children Services (“DFCS”) through SHINES, the percentages of children in dependency and termination of parental rights cases represented by legal counsel were as follows for fiscal year 2014:

- 1) Region 1 (Catoosa, Chattooga, Dade, Fannin, Gilmer, Gordon, Murray, Pickens, Walker and Whitfield Counties): 94%
- 2) Region 2 (Banks, Dawson, Forsyth, Franklin, Habersham, Hall, Hart, Lumpkin, Rabun, Stephens, Towns, Union and White Counties): 85%
- 3) Region 3 (Bartow, Cherokee, Douglas, Floyd, Haralson, Paulding and Polk Counties): 88%
- 4) Region 4 (Butts, Carroll, Coweta, Fayette, Heard, Lamar, Meriweather, Pike, Spalding, Troup and Upson Counties): 93%

- 5) Region 5 (Barrow, Clarke, Elbert, Greene, Jackson, Jasper, Madison, Morgan, Newton, Oconee, Oglethorpe and Walton Counties): 89%
- 6) Region 6 (Baldwin, Bibb, Crawford, Houston, Jones, Monroe, Peach, Putnam, Twiggs and Wilkinson Counties): 94%
- 7) Region 7 (Burke, Columbia, Glascock, Hancock, Jefferson, Jenkins, Lincoln, McDuffie, Richmond, Screven, Taliaferro, Warren, Washington and Wilkes Counties): 86%
- 8) Region 8 (Chattahoochee, Clay, Crisp, Dooly, Harris, Macon, Marion, Muscogee, Quitman, Randolph, Schley, Stewart, Sumter, Talbot, Taylor and Webster Counties): 94%
- 9) Region 9 (Appling, Bleckley, Candler, Dodge, Emanuel, Evans, Jeff Davis, Johnson, Laurens, Montgomery, Pulaski, Tattnall, Telfair, Toombs, Treutlen, Wayne, Wheeler and Wilcox Counties): 85%
- 10) Region 10 (Baker, Calhoun, Colquitt, Decatur, Dougherty, Early, Grady, Lee, Miller, Mitchell, Seminole, Terrell, Thomas and Worth Counties): 83%
- 11) Region 11 (Atkinson, Bacon, Ben Hill, Berrien, Brantley, Brooks, Charlton, Clinch, Coffee, Cook, Echols, Irwin, Lanier, Lowndes, Pierce, Tift, Turner and Ware Counties): 90%
- 12) Region 12 (Bryan, Bulloch, Camden, Chatham, Effingham, Glynn, Liberty, Long and McIntosh Counties): 90%
- 13) Region 13 (Clayton, Henry and Rockdale Counties): 94%
- 14) Region 14 (DeKalb and Fulton Counties): 90%
- 15) Region 15 (Cobb and Gwinnett Counties): 85%

According to the data entered by DFCS into SHINES, 837 children in Georgia lacked legal representation in dependency and termination of parental rights cases for fiscal year 2014. 7,236 children in Georgia were represented by legal counsel in dependency and termination of parental rights cases for fiscal year 2014.

The goal of the Peer Review Project was to measure the quality and provide quality improvement of the legal representation of children in Georgia's dependency cases. The Peer Review team focused on evaluating, measuring quality and assisting children's attorneys and Guardians ad Litem working in Georgia's Juvenile Courts, as well as identifying continuing

education needs for children's attorneys and Guardians ad Litem. The team reviewed initial and ongoing qualification standards for child's attorney appointments, conducted courtroom observations to assess the representation and advocacy provided, and utilized the courtroom observations to assess the bond between the attorney and the child—such bond tends to develop through repeated meaningful contact between the attorney and the child. The team was composed of six Child Welfare Law Specialists, Ashley Willcott, Kristi Lovelace, Faye McCord, Kellie Rogers, Marie Watson and Stephany Zaic.

### Selection of Participating Juvenile Courts

The Peer Review team conducted observations in the Juvenile Courts that were initially identified by DHS and subsequently approved by the respective Juvenile Court judges. At the outset of this project, based upon statistics obtained from the Department of Family and Children Services (“DFCS”) through SHINES, DHS identified DFCS Regions 2 and 10 as having the highest percentage of children in foster care without legal representation during fiscal year 2014, as compared to other DFCS regions in Georgia. Region 10 is comprised of Baker, Calhoun, Colquitt, Decatur, Dougherty, Early, Grady, Lee, Miller, Mitchell, Seminole, Terrell, Thomas and Worth Counties. In fiscal year 2014, 17% of children involved in Juvenile Court dependency cases in Region 10 lacked legal representation. 52% of children in foster care in this region did not have legal representation after 61 days or more in foster care during fiscal year 2014. Region 2 is comprised of Banks, Dawson, Forsyth, Franklin, Habersham, Hall, Hart, Lumpkin, Rabun, Stephens, Towns, Union and White Counties. In fiscal year 2014, 15% of children involved in Juvenile Court dependency cases in Region 2 were without legal representation. 40% of children in foster care in this region did not have legal representation after 61 days or more in foster care during fiscal year 2014. In comparison, the other DFCS regions in Georgia had percentages of children in foster care for 61 days or more ranging from 2-28%, with an average of 11%. In fiscal year 2014, the other DFCS regions in Georgia had an average of 10% of children lacking legal representation. The higher percentage rates of children in foster care in Regions 2 and 10 who lacked legal representation were thus an initial reason for focusing the Peer Review team's efforts in those locations.

The Georgia Juvenile Courts chosen for participation in the Peer Review Project were also identified through analysis of the Fostering Court Improvement statistics for the time period

of June 2013 through May 2014. The Fostering Court Improvement statistics involve rankings based upon the respective county's population size.

- 1) Camden County: For the time period in question, 44% of the children in care in Camden County experienced lateral placement moves. 33% of the children in care experienced placement moves away from permanency—the 24<sup>th</sup> highest rate in the State. 8% of the children in care experienced more than three placements in less than six months. 12% of the children in care on March 31, 2014 had a permanency goal of long-term foster care—the 25<sup>th</sup> highest rate in the State.
- 2) Cobb County: For the time period in question, 62% of the children in care in Cobb County experienced lateral placement moves. 8% of the children in care experienced placement moves away from permanency, and 9% of the children in care experienced more than three placements in less than six months. 31% of the children in care were reunified with their parents, guardian or custodian within 72 hours of removal—the 34<sup>th</sup> highest rate in the State.
- 3) Cook County: For the time period in question, Cook County Department of Family and Children Services had Georgia's 21<sup>st</sup> highest rate of removal of children from their homes. For the county's population size, Cook County had the 30<sup>th</sup> highest rate in the State for the total days children spent in foster care between April 2013 and March 2014. 56% of the children in care experienced lateral placement moves. 22% of the children in care on March 31, 2014 were in care over 24 months.
- 4) Floyd County: For the time period in question, Floyd County received the sixth highest number of child maltreatment reports in the State. Floyd County Department of Family and Children Services had Georgia's third highest rate of removal of children from their homes. Floyd County had Georgia's second highest average number of children in care per day, and the county ranked second in the State for the total number of days the children spent in foster care. 33% of those children in foster care achieved permanency within 12 months. 71% of the children in care experienced lateral placement moves, and 12% of the children in care experienced placement moves away from permanency.
- 5) Glynn County: For the time period in question, Glynn County Department of Family and Children Services had Georgia's 29<sup>th</sup> highest rate of removal of children from their homes. 52% of the children in care in Glynn County experienced lateral placement

moves. 26% of the children in care experienced placement moves away from permanency—the 28<sup>th</sup> highest rate in the State. Eight percent of the children in care on March 31, 2014 had a permanency goal of long-term foster care—the 35<sup>th</sup> highest rate in the State. 36% of the children in care on March 31, 2014 had been in care for over 24 months—the 29<sup>th</sup> highest rate in the State.

- 6) Haralson County: For the time period in question, Haralson County received the second highest number of child maltreatment reports in the State. Haralson County Department of Family and Children Services had Georgia's tenth highest rate of removal of children from their homes. On March 31, 2014, Haralson County had the 7<sup>th</sup> highest rate in the State for the number of children in care in relation to the county's population size, and the sixth highest rate in the State for the total days children spent in foster care between April 2013 and March 2014. 75% of the children in care in Haralson County experienced lateral placement moves.
- 7) Houston County: For the time period in question, 28% of the children in care were reunified with their parents, guardian or custodian within 72 hours of removal—the 36<sup>th</sup> highest rate in the State. 31% of the Houston County children in care were discharged from care within one month of removal—the thirty-sixth and a half highest rate in the State. 74% of the children in care in Houston County experienced lateral placement moves, and 12% of the children in care experienced placement moves away from permanency.
- 8) Muscogee County: For the time period in question, Muscogee County Department of Family and Children Services had Georgia's 14<sup>th</sup> highest rate of removal of children from their homes, and Georgia's 26<sup>th</sup> highest rate for the daily average number of children in care. Muscogee County had the 26<sup>th</sup> highest rate in the State for the total days children spent in foster care between April 2013 and March 2014. 49% of the children in care experienced lateral placement moves, nine percent of the children experienced more than three placements in less than six months, and 12% of the children experienced placement moves away from permanency.
- 9) Polk County: For the time period in question, Polk County received the eighth highest number of child maltreatment reports in the State. Polk County Department of Family and Children Services had Georgia's fifteenth and a half highest rate of removal of

children from their homes. On March 31, 2014, Polk County had the eighth highest rate in the State for the number of children in care in relation to the county's population size, and the 11<sup>th</sup> highest rate in the State for the total days children spent in foster care between April 2013 and March 2014. 56% of the children in care in Polk County experienced lateral placement moves, and 17% of the children in care experienced placement moves away from permanency.

- 10) Richmond County: For the time period in question, 65% of the children in care in Richmond County experienced lateral placement moves. 16% of the children in care experienced placement moves away from permanency, and nine percent of the children in care experienced more than three placements in less than six months. Eight percent of the children in care on March 31, 2014 had a permanency goal of long-term foster care—the thirty-fifth and a half highest rate in the State.
- 11) Sumter County: For the time period in question, Sumter County Department of Family and Children Services had Georgia's 32<sup>nd</sup> highest rate of removal of children from their homes. 100% of the children in care experienced lateral placement moves, and seven percent of the children in care experienced more than three placements in less than six months. Eight percent of the children in care on March 31, 2014 had a permanency goal of long-term foster care—the thirty-fifth and a half highest rate in the State. 33% of the children in care were reunified with their parents, guardian or custodian within 72 hours of removal—the 33<sup>rd</sup> highest rate in the State.
- 12) Tift County: For the time period in question, Tift County received the eighteenth plus highest number of child maltreatment reports in the State. Tift County Department of Family and Children Services had Georgia's 23<sup>rd</sup> highest rate of removal of children from their homes. Tift County was the ninth highest county in the State for the number of days children spent in foster care for the time period of April 2013 through March 2014. 35% of Tift County's foster care children had been in care over 24 months on March 31, 2014—the thirty-one and half highest rate in the State. 30% of the children experienced placement moves away from permanency—the 29<sup>th</sup> highest rate in the State.
- 13) White County: For the time period in question, White County Department of Family and Children Services had Georgia's 17<sup>th</sup> highest rate of removal of children from their homes. White County had Georgia's 25<sup>th</sup> highest rate of children re-entering foster care

within twelve months of previous discharge. White County was the 15<sup>th</sup> highest county in the State for the number of days children spent in foster care for the time period of April 2013 through March 2014. 38% of the children in care experienced placement moves away from permanency--the 21<sup>st</sup> highest rate in the State. 35% of the children in care on March 31, 2014 had been in care for over 24 months--the thirty-first and a half highest rate in the State.

Of the above listed counties, the Juvenile Courts in Camden, Cook, Floyd, Glynn, Haralson, Muscogee, Polk, Richmond, Tift and White Counties invited the Peer Review team to observe and provide support to the children's attorneys. Cobb and Houston Juvenile Courts declined the Peer Review team's request to observe, and Sumter County Juvenile Court did not respond.

#### Development of the Evaluation Tool and Standards of Practice for Attorneys Representing Children

In preparation for performing courtroom observations, the Peer Review team conducted research on evaluation tools utilized in peer review processes of child legal representation by other states. The team developed an evaluation tool based in part upon the results of reviewing evaluation processes conducted in other states, the relevant portions of Georgia's new Juvenile Code, and the American Bar Association's Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases. Pursuant to O.C.G.A. § 15-11-103, children involved in dependency cases have the right to an attorney at all stages of the dependency proceedings. Likewise, pursuant to O.C.G.A. § 15-11-262, children involved in termination of parental rights cases have the right to an attorney at all stages of the termination of parental rights proceedings. As stated in both statutes, a "child's attorney owes to a child the duties imposed by the law of this state in an attorney-client relationship." O.C.G.A. § 15-11-262(c); See O.C.G.A. § 15-11-103(c). Thus, all obligations owed by an attorney to a client under the Georgia Rules of Professional Conduct are owed by an attorney representing a child in dependency and termination of parental rights proceedings.

In addition to a review of evaluation processes conducted in other states and a review of relevant Georgia law and professionalism rules, the Peer Review team considered the American Bar Association's Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases in the development of the team's evaluation tool. These standards address the

basic obligations of a child's attorney, actions to be taken during representation, the handling of hearings and post-hearing issues, appeals, and the role of Juvenile Courts as regards child's attorneys. The ABA's standards for children's attorneys are attached as Exhibit 1.

Following an analysis of the above, the Peer Review team developed and honed the evaluation tool, a copy of which is attached as Exhibit 2. At the invitation of Judge Willie Lovett, the Peer Review team held a training session by observing and discussing Fulton County Juvenile Court hearings in December 2013. The Peer Review team additionally prepared a resource list for children's attorneys and attorney Guardians ad Litem, to be distributed by the respective Juvenile Court judges to the attorneys practicing in their courtrooms. The resource list includes relevant information and training available from the Georgia Supreme Court Committee on Justice for Children, Emory University's Barton Child Law Center, Georgia ICLE, Georgia Office of the Child Advocate, State Bar of Georgia's Child Protection and Advocacy Center, Georgia Association of Counsel for Children, National Association of Counsel for Children, Parent Attorney Advocacy Committee, and the American Bar Association's Center on Children and the Law. A copy of the resource list is attached as Exhibit 3.

#### Court Observations: Camden County

Peer Review team member Marie Watson observed Camden County Juvenile Court on June 4, 2014. Ms. Watson noted that a court reporter was present for all hearings. The children involved in each case were represented by an attorney, and their best interests were advocated for by a Court Appointed Special Advocate and sometimes also an attorney Guardian ad Litem. Ms. Watson found the children's attorneys to be prepared for their hearings, knowledgeable about their clients' issues, and vocal in bringing those issues before the Court. The CASAs were well prepared on their cases and provided valuable information to the Court. Ms. Watson noted that the older children were transported to the Court, and each child was provided an opportunity to speak with the Court in chambers.

- 1) In re .M. and .M.: This case was before the Court for a review of visitation issues. The mother and her attorney were present, the father was present and given the opportunity to apply for an attorney, and the children's attorney, attorney GAL and CASA present. One of the two children was present in the courthouse, but not in the courtroom. The child's attorney asked appropriate questions during the hearing, addressing the child's concerns



about visitation. Following the Court's in chambers conference with the attorneys, the Court granted the father's request for unsupervised visitation.

- 2) In re \_\_.C.: This case was before the Court for a custody modification. Both parents were present, and both parents waived their respective right to an attorney. The child was not present, but the child was represented by an attorney. The Court had previously awarded custody to the mother pursuant to a Protective Order, following the child's stay in foster care. The mother was now incarcerated pursuant to a probation violation, and the Court modified the Protective Order to award custody to the father, thus preventing the child from returning to foster care. The child's attorney did not ask any questions during the hearing, but he expressed agreement with the change in custody.
- 3) In re \_\_.W.: This case was before the Court for termination of parental rights proceedings. The parents were not present, and the parents were not represented by attorneys. The child was not present, but the child was represented by an attorney. The child's CASA was also present. The testimony presented to the Court did not include any information on the child's present condition or well-being. As stated during testimony, the child is placed in a pre-adoptive home. The Court granted the Petition for Termination of Parental Rights.
- 4) In re \_\_.J.: This case was before the Court for a judicial review hearing. The mother was present and was not represented by an attorney. The father was not present and was not represented by an attorney. The child's attorney and the child's CASA were present, but the child was not present. According to the testimony, the mother is making good progress on her reunification case plan, and she has begun transitional visits with the child. The Court awarded the mother unsupervised visits with the child.
- 5) In re \_\_.R.: This case was before the Court for a hearing on the Department's Motion for Non-Reunification. The father and his attorney were present. The mother was not present, and she was not represented by an attorney. The child's attorney and the child's CASA were present. The child was present in the courthouse, but not in the courtroom. The child's lack of attendance in the courtroom during the hearing appeared reasonable as the father is alleged to have molested the child. All parties were in agreement with the Department's motion and proposed permanency plan. The Court granted the Department's motion and then left the bench and talked with the child in chambers.

- 6) In re \_F. and \_Y.: This case was before the Court for a judicial review hearing. The mother and both fathers were present. The mother and one father were represented by an attorney, and the second father was provided the opportunity to apply for court-appointed counsel. The children's attorney, the children's CASA and the children's relative placement were present. The older child was present, and the infant was not. The children's attorney was actively involved in asking questions and advocating for moving the case forward. Following the hearing, the Court spoke with the older child in chambers.

#### Court Observations: Cook County

Peer Review team member Stephany Zaic observed Cook County Juvenile Court on April 10, 2014. She was impressed with the high quality of legal work being conducted in Judge Clayton Tomlinson's court room, as well as the level of expertise and standards he seeks from the attorneys who practice before him. Judge Tomlinson and the attorneys who practice before him take the opportunity to attend every available continuing legal education course. For example, child's attorney Bonnie Spears attended a new Juvenile Code training conducted by Tift County Juvenile Court Judge Render Heard in 2013, and Judge Tomlinson and the Cook County Special Assistant Attorney General's Associate Samantha Edwards attended the Georgia Association of Counsel for Children's 2014 Checklist training on the new Juvenile Code. In addition to ensuring that the Juvenile Court attorneys are qualified and participating in ongoing relevant training, the children's attorneys are expected to and supported in providing full and proper legal representation for the children. Ms. Zaic noted comments from various members of the community sitting in the court room that one of the parent attorneys is "on fire", the SAAG's associate is "stern but fair", and the child's attorney Bonnie Spears is "passionate" about her legal representation of children.

The Court ensured due process for each of the parties who appeared before him, including the children. The Court frequently appoints the child's attorney in the dual role as an attorney Guardian ad Litem, and many cases also have a CASA appointed. The services of a certified court interpreter were provided as needed, and all children in attendance were given the opportunity to speak with Judge Tomlinson in chambers before the hearings began. The Court's standing rule is that all children ages ten years and older are required to be transported to his or

her hearing. The Court is assessing the impact of this rule on the children's educational needs and is considering possible alternatives that still ensure compliance with the new Juvenile Code.

The only concern that Ms. Zaic observed during the hearings was the placement of the children and the children's attorneys during the hearings. As with many (probably most) Juvenile Court rooms in Georgia, Cook County's court room has two attorney-client tables, and those are utilized by the State, the parents and their attorneys. As a result, the children's attorneys were seated in the jury box, and the children were seated on one of the courtroom benches. Functionally, attorney-client representation is most effective during a hearing when the attorney and client are able to sit together and communicate as the hearing proceeds. During Ms. Zaic's meeting with Judge Tomlinson and his attorneys following the hearings, Ms. Zaic requested that the children's attorneys and children be given the opportunity to sit together during the hearings. Judge Tomlinson was immediately supportive of this change.

During many of the hearings, Ms. Zaic noted that the children's attorneys did not make any statement about the position of the child in question. However, prior to the call of the calendar, the Court held pre-trial conferences in chambers regarding each of the hearings. While Ms. Zaic was not present for those conferences, it is her understanding that the children's attorneys made their positions known to the Court during those pre-trial conferences.

- 1) In re   J. and   F.: This case was before the Court for a hearing on the Department's Motion for Unsupervised Visitation. Neither of the parents were represented by an attorney, the child's attorney held the dual role as attorney Guardian ad Litem, and the child had a CASA. The Court received testimony from the Department's case manager and received the recommendation of the child's CASA. The child's attorney was in agreement with the Department's motion for the mother to receive unsupervised overnight and extended visitation. The Court showed a good rapport with the mother during the hearing, encouraging her regarding her case plan progress, asking her about her employment and job skills, and providing the mother with positive reinforcement regarding her reunification efforts.
- 2) In re   B. and   B.: This case was before the Court for a preliminary protective hearing. The parents and the children were each represented by an attorney, the children's attorney held the dual role of attorney Guardian ad Litem, and the child had a CASA. The Department provided the mother with notice of the hearing, but she failed to appear for

the hearing. The father waived the hearing, and he was provided with written notice of the adjudicatory hearing. The child's CASA reported having contacted the children's grandmother in Maryland, and a discussion regarding the Interstate Compact on the Placement of Children ensued. The child's attorney did not make a statement regarding the child's position.

- 3) In re   .CA and   .S.: This case was before the Court for a disposition hearing. The mother was represented by legal counsel, the father was not, and the children's attorney held the dual role of attorney Guardian ad Litem. The child's attorney had notified the Court of his legal conflict, and the Court held the evidence open to hear from the child's attorney before making a ruling. In response to the Department's request for a non-reunification case plan as to the mother, her attorney obtained direct and cross examination testimony in support of his client's request for a reunification case plan. The mother's attorney also made a solid closing argument, citing the new Juvenile Code, the children's wishes and the GAL's position.
- 4) In re   .D.: This case was before the Court for a hearing on the Motion for Permanent Guardianship. The child's mother had passed away, the father was not present, and the father was not represented by an attorney. The child was present, but there was no child's attorney or CASA present. The Court showed a good rapport with the child, remembering and referring to a prior conversation with the child, and explaining the concept of permanent guardianship to the child in understandable terms.
- 5) In re   .C. and   .C.: This case was before the Court for a disposition hearing. The parents were not represented by legal counsel, despite the fact that both parents were previously given the opportunity to apply. The children's attorney held the dual role of attorney Guardian ad Litem. The Department's case manager testified about the dispositional issues of case plan preparation, diligent search, relative home evaluation and reasonable efforts. The children were placed with their paternal grandparents, and the children's attorney stated the children did not have an objection to the proposed concurrent case plans.
- 6) In re   .S.: This case was before the Court for a hearing on the Motion for Dispositional Review. Neither of the parents were represented by an attorney, the child's attorney held the dual role as attorney Guardian ad Litem, and the child had a CASA. The child

attended the hearing in the courtroom, but he sat with his pre-adoptive foster father rather than with his attorney. The Court showed a good rapport with the child, referring to the child's "big ambitions". The child's attorney did not make a statement regarding the child's position.

- 7) In re   R.: This case was before the Court for an adjudicatory hearing on the Department's Petition for Temporary Custody (Dependency). The mother was represented by an attorney, and the putative father was not. The child's attorney held the dual role of attorney Guardian ad Litem. The child was recently appointed a CASA who had not had an opportunity to investigate the case, but the CASA Coordinator stated that she had met with the child. The parties, including the child's attorney, stipulated to dependency as to the mother based upon parental substance abuse. The child's attorney effectively voiced the child's position during the hearing.
- 8) In re   D. and   D.: This case was before the Court for a hearing on the Department's Petition for Permanent Guardianship. The mother was represented by an attorney, and the putative father was not. The children's attorney held the dual role of attorney Guardian ad Litem. One of the children was present, and she sat with her parents rather than with her attorney. The Court explained the concept of permanent guardianship to the parties in understandable terms, and the parents were in agreement with the Department's Petition.
- 9) In re   H.: This case was before the Court for a preliminary protective hearing. Neither of the parents were represented by an attorney, and the child's attorney held the dual role as attorney Guardian ad Litem. The parents did not appear for the hearing. The Department's temporary custody of the child was going to expire on April 13, 2014, and the Department had requested a Dependency Removal Order to obtain a dependency ruling under the new Juvenile Code. The child's attorney did not make a statement regarding the child's position.
- 10) In re   L.: This case was before the Court for a preliminary protective hearing. Neither of the parents were represented by an attorney, the child's attorney held the dual role as attorney Guardian ad Litem, and the child had a CASA. The Department announced that the parents had executed Surrenders of Parental Rights, and the SAAG proffered where

the child was placed, diligent search information, and the child's proposed permanency plan. The child's attorney did not make a statement regarding the child's position.

#### Court Observations: Floyd County

Peer Review team members Kristi Lovelace and Stephany Zaic observed Floyd County Juvenile Court on May 12, 2014. Judge Gregory Price has been undertaking consistent efforts to safely decrease the number of children in foster care in Floyd County, and he would appreciate support and targeted training toward this effort. The Court's dependency case numbers are at a level such that the two Special Assistant Attorney Generals for the Floyd County Department of Family and Children Services are often in court five days a week. Similar to many other county DFCS offices, Floyd County DFCS has been experiencing a fair amount of case manager turn over, as well as struggles in complying with new Code requirements, which in turn impacts the Court's hearing process.

To assist in the efforts to safely decrease the number of children in foster care and to ensure compliance with the new Juvenile Code requirements, Floyd County created two in-house positions for children's attorneys in the dual role as attorney Guardian ad Litem. These attorneys are required each year to participate in as many child-related continuing education courses as are available. In addition, Judge Price and all of the attorneys who practice before him take the opportunity to attend every available continuing legal education course. Judge Price recently attended a Juvenile Court judges' training in Reno, Nevada, and his Juvenile Court attorneys regularly attend child welfare trainings. Several of the attorneys are interested in becoming Child Welfare Law Specialists certified through the National Association of Counsel for Children. Ms. Lovelace and I were impressed that, despite a sizeable case load, the child's attorney Kelli Freeman was consistently a knowledgeable and very vocal advocate for the children she represented during the hearings.

- 1) In re   .A.,   .G. and   .G.: This case was before the Court for an adjudicatory hearing on the Department's Petition for Temporary Custody (Dependency). At the beginning of the hearing, the Court provided the parents with an explanation of the purpose of the hearing in understandable terms. The father and his attorney were present. The mother was present and provided the opportunity to apply for a court-appointed attorney. The children's attorney was appointed in the dual role as an attorney Guardian ad Litem. The

children were not present for the hearing, despite the request of the children's attorney that they be transported. During the hearing, the children's attorney exhibited knowledge of the children's needs and placement. The Court and the children's attorney addressed the fact that neither parent had been offered visitation during the six weeks the children had been in care.

- 2) In re \_\_T.: This case was before the Court for a preliminary protective hearing. The parents did not appear for the hearing, and the parents were not represented by counsel. The child was represented by an attorney holding the dual role of attorney Guardian ad Litem. The Court had removed the child from a relative/fictive kin who had custody of the child and no longer had the capacity to care for the child. During the hearing, the child's attorney provided strong advocacy for the child, arguing for placing the child with her siblings and addressing the child's emotional and behavioral needs. The child's attorney also exhibited knowledge of the case history.
- 3) In re \_\_S.: This case was before the Court for a hearing on the Department's Motion for Contempt. The mother was present and waived her right to counsel. The father was not present, and the child was represented by a child's attorney in the dual role as attorney Guardian ad Litem. The Court heard testimony regarding the child's truancy issues and the mother's failure to comply with the case plan. The child's attorney provided especially strong advocacy for the child in this case, having been the child's attorney in the child's truancy case and through that role filing the subject dependency petition against the parents. During the subject hearing, the child's attorney argued that her dependency petition had been based upon educational neglect and the parents were continuing not to ensure the child's educational needs were met. The child's attorney exhibited knowledge of the case history, referencing the prior contempt motions.
- 4) In re \_\_S., \_\_S. and \_\_S.: This case was before the Court for a hearing on the Department's Motion for Contempt. The mother was present and represented by counsel. The father was not present, and the children were represented by a children's attorney in the dual role as attorney Guardian ad Litem. The Department's motion was based upon the mother's failure to comply with the court-ordered case plan, as the mother had signed herself out of residential substance abuse treatment against the provider's advice. The Department sought strict compliance with the Court's order, and the mother stipulated to

a finding of willful contempt. During the hearing, the children's attorney described the children's placement history to the Court, advocated for the children's visitation with the mother, and pushed for completion of the relative home evaluation.

- 5) In re   .M.: This case was before the Court for a permanency hearing. The mother was present and represented by counsel. The father was not present, and the child was represented by a child's attorney in the dual role as attorney Guardian ad Litem. The child was present in the courtroom for the hearing, and she sat next to the child's attorney and communicated with the child's attorney during the hearing. The mother requested to surrender her parental rights, and the Department advocated for the concurrent permanency plans of reunification and permanent guardianship. During the hearing, the child's attorney pushed for the completion of the relative home evaluation, described the child's experience in her current placement and addressed visitation issues, including the mother's refusal to visit the child.
- 6) In re   .V.: This case was before the Court for a preliminary protective hearing. Both parents were present and waived the right to counsel for the purposes of this hearing. The child was represented by a child's attorney in the dual role as attorney Guardian ad Litem. The Special Assistant Attorney General proffered the basis for the Dependency Removal Order. The Court heard testimony from the parents regarding their denial of the allegations, and the Court found credibility issues with the mother's testimony and that of the parents' witnesses. The child's attorney provided active legal representation during the hearing, questioning the witnesses.
- 7) In re   .C.,   .C. and   .M.: This case was before the Court for an adjudicatory hearing on the Department's Petition for Temporary Custody (Dependency). The mother and the fathers were present for the hearing and provided the opportunity to apply for court-appointed counsel. The children were represented by a children's attorney in the dual role as attorney Guardian ad Litem, and the children has a CASA. The mother and one of the fathers stipulated to dependency, and the children's attorney expressed the stipulate was appropriate and reflective of the parents' prior court-ordered case plans. The interveners and their legal counsel argued for the case to proceed to termination of parental rights in order for the interveners to adopt the children, and the Court found advancing to termination proceedings at this point was not appropriate. The children's



attorney raised the issue with the Court that the mother should be made aware of her right to attend the interveners' hearing. During the hearing, the children's history also exhibited knowledge of the case history, describing the length of the case, legal case status and case plan goals.

- 8) In re   .F.,   .F.,   .F. and   .F.: This case was before the Court for a hearing on the Petition for Legitimation. The parents were present and not represented by legal counsel. The children were represented by a children's attorney in the dual role as attorney Guardian ad Litem. The Court found the father's petition to be legally insufficient. The mother stated that she had no objection to the Court granting the father's petition. She confirmed the father was the biological father of all four children. The children's attorney stated that she had no objection to the father's petition.
- 9) In re   .D.,   .F.,   .F. and   .U.: This case was before the Court for a hearing on the Department's Motion for Contempt. The mother was present and represented by her attorney. The father was present and provided the opportunity to apply for court-appointed counsel. The children were represented by a children's attorney in the dual role as attorney Guardian ad Litem. The Department sought strict compliance from the parents with the court-ordered case plan. The Court advised the father of his legitimation option through Juvenile Court and requested that the Department refer the father to Child Support Services. The children's attorney demonstrated knowledge of child safety issues, family needs and dynamics, and case history. She requested input from the children's therapist regarding the development of a visitation plan, exhibited knowledge of provider services for the family and the children, referenced the father's lack of involvement in the children's lives, and exhibited knowledge of the case plan goals.
- 10) In re   .G.: This case was before the Court for an initial judicial review and dispositional hearing. The mother was present and represented by legal counsel. The father was present and represented by legal counsel. The child was represented by a child's attorney in the dual role as attorney Guardian ad Litem. The child was not present for the hearing due to the child's severe mental health issues. The child is placed at Devereux, and the child's attorney spoke with the child in advance of the hearing and waived his presence at the hearing. During the hearing, the child's attorney was knowledgeable about visitation and how the child is doing in his placement. She argued for the child's panel review to

occur sooner, and she advocated for the child's position of completing the program at Devereux and returning to his mother's custody. The child's attorney clarified the spelling of the child's name on the record, and she demonstrated knowledge of the current case plan goals and the content of prior court-ordered case plans for the family.

- 11) In re \_\_.G. and \_\_.G.: This case was before the Court for a permanency hearing. The mother was present and represented by her attorney. The father was present and waived his right to legal counsel. The children were represented by a children's attorney in the dual role as attorney Guardian ad Litem. Given the children's young ages, the children's attorney waived their presence at the hearing. The children's attorney talked with Department's case manager in advance of the hearing regarding the permanency planning report. The Court received evidence regarding the parents' case plan compliance, services provided and the proposed permanency plan. In understandable terms, the Court notified the parents of the legal impact of the children being in care fifteen out of twenty-two months, and the Court expressed appreciation for the father maintaining contact with the children while he was incarcerated. The children's attorney demonstrated knowledge of the case history and case facts, including her statements about the number of the children's placements and the placement's willingness to be a long-term placement for the children, if needed.
- 12) In re \_\_.R.: This case was before the Court for a permanency hearing. The mother was not present and she was not represented by an attorney. The father was not present, but he was represented by an attorney. The child was represented by a child's attorney in the dual role as attorney Guardian ad Litem. The child was not present for the hearing because he has run away again. The child previously ran away from three group homes and three foster homes. His most recent placement provided watchful oversight, and he was still able to run away. The child's attorney expressed to the Court that the child would like to reunify with his family in New York, and she reminded the Department of the upcoming expiration of its temporary custody of the child.
- 13) In re \_\_.A.: This case was before the Court for a permanency hearing. The mother was not present, but she was represented by an attorney. The father was not present, but he was represented by an attorney. The child was represented by a child's attorney in the dual role as attorney Guardian ad Litem. The child was present during the hearing, and she sat

and communicated with her attorney throughout the hearing. The Court received testimony that the father is regularly visiting the child, but the mother has not had contact with the child since early in the case. The child's attorney presented information to the Court regarding the child's opinion on placement, presented oral argument on the parents' respective custody rights and the Winshape contract with the father, and advocated for the child's wishes to move forward with permanency.

14) In re \_\_L. and \_\_P.: This case was before the Court for a judicial review hearing on a relative placement. The mother was not present, but she was represented by her legal counsel. Neither of the children's fathers were present, but legal counsel for one of the father was present. The children were represented by a children's attorney in the dual role as attorney Guardian ad Litem. The Court heard evidence that the mother has not had any contact with the child, and both fathers are paying child support. The Court reviewed the Department's written report on the child, and the child's attorney did not have any issues with the report. The Court continued the child's temporary custody with the grandmother.

15) In re \_\_B.: This case was before the Court for a judicial review hearing on a relative placement. The parents were not present and were not represented by legal counsel. The children's relative placement was present. The child was represented by a child's attorney in the dual role as attorney Guardian ad Litem. The Court heard evidence that the parents are continuing to visit the child. The child's attorney exhibited knowledge of the child's needs during the hearing.

#### Court Observations: Glynn County

Peer Review team members Faye McCord and Kellie Rogers observed Glynn County Juvenile Court on April 10, 2014. As with many of the Juvenile Courts around the state, Judge George Rountree is experiencing time pressure on his Court docket from the additional requirements of the new Juvenile Code. In order to become attorneys on the Juvenile Court appointment list, attorneys must have participated in two continuing legal education courses on Juvenile Law. The attorneys on Judge Rountree's appointment list are experienced trial attorneys familiar with Juvenile Law and Juvenile Court proceedings, including those in the new Juvenile Code. Judge Rountree runs an efficient courtroom, and Ms. McCord and Ms. Rogers

were impressed that he regularly spoke directly to the parents during the hearing, providing them with words of encouragement and words of warning as appropriate. The attorneys were well prepared for their hearings and provided effective legal advocacy.

- 1) In re \_J., \_P. and \_P.: This case was before the Court for a termination of parental rights trial. The mother was represented by legal counsel. The children were represented by a children's attorney in the dual role as attorney Guardian ad Litem, and the children have a CASA. The children were present for the hearing. They met with the Court in chambers, and Judge Rountree determined the children were too young to interview. The children's attorney participated throughout the hearing and actively advocated for permanency for the children.
- 2) In re \_L. and \_L.: This case was before the Court for the initial judicial review hearing. The mother was represented by legal counsel, and the father did not have an attorney. The children were represented by a children's attorney in the dual role as attorney Guardian ad Litem. During the hearing, the Court received evidence on the parents' substance abuse and the mother's housing issues, the parents' case plan compliance and visitation issues. The children's attorney did not question any witnesses or present oral argument to the Court regarding the child's position.
- 3) In re \_H.: This case was before the Court for the initial judicial review hearing. The mother was represented by legal counsel. The father was present, but he did not have an attorney. The child was represented by a child's attorney in the dual role as attorney Guardian ad Litem. The child was present for the hearing and had the opportunity to meet with Judge Rountree in chambers. The child's attorney was familiar with her history—permanent custody awarded to a relative in the year 2000 and the relative passed away in the year 2005; custody awarded to another relative in the year 2005 and that subsequently passed away; and custody awarded to the child's cousin, who subsequently requested that the child be removed from her home because the cousin was unable to parent the child as a result of the child's behavioral issues. The child's attorney appeared to be thoroughly prepared for the hearing. During the hearing, the child's attorney did not present any evidence or present oral argument to the Court regarding the child's position.

- 4) In re .M., .M. and .M.: This case was before the Court for the initial judicial review hearing. The mother and one of the fathers were represented by legal counsel, and the second father did not have an attorney. The children were represented by a children's attorney in the dual role as attorney Guardian ad Litem. The Court heard evidence on the parents' case plan compliance and visitation issues. The children's attorney appeared to be thoroughly prepared for the hearing. During the hearing, the children's attorney did not present any evidence except the questioning of a relative, and the children's attorney did not present oral argument to the Court regarding the children's position.
- 5) In re .L.: This case was before the Court for a hearing on the Motion for Custody. The mother previously surrendered her parental rights, and the identity of the biological father is unknown. The intervener was represented by legal counsel. The child was represented by a child's attorney in the dual role as attorney Guardian ad Litem, and the child had a CASA. The child's former foster parent had filed an objection to the child being removed from her home. Throughout the hearing, the Court maintained the focus on the best interests of the child and maintained the standard as having a higher priority than other issues, such as minor procedural items. The child's attorney demonstrated knowledge of the child's safety issues and special needs, case facts and case history, and relevant state law.
- 6) In re .M. and .M.: This case was before the Court for an adjudicatory hearing on the Department's Petition for Temporary Custody (Dependency). The mother is deceased, and the father does not have legal counsel. The children were represented by a children's attorney in the dual role as attorney Guardian ad Litem. The children were placed at Safe Harbor and were present for the hearing. The Department had requested an evaluation of the father's Nevada home through the Interstate Compact on the Placement of Children, and the children's attorney advocated for the evaluation to be expedited—a Regulation 7 order was not an option under the facts of the case. The children's attorney effectively advocated for the children, as well as protected the children by requesting the children be permitted to leave the courtroom when testimony was given which appeared to be appropriate since the maternal grandfather testified regarding the mother's father abusing and killing her.

- 7) In re   .M.,   .M. and   .M.: This case was before the Court for a preliminary protective hearing. The parents did not have legal counsel. The children were represented by a children's attorney in the dual role as attorney Guardian ad Litem. The Court heard evidence on the dependency allegations regarding the triplets, including dependency allegations regarding the mother's other children who are in the temporary custody of the State of Florida or a relative. The children's attorney was focused upon ensuring the children's safety, which position which appeared to be appropriate given the children's tender age of four weeks old.
- 8) In re   .K.: This case was before the Court for a preliminary protective hearing. The parents did not have legal counsel. The child was represented by a child's attorney in the dual role as attorney Guardian ad Litem. Although the child was thirteen years old, he was not present for the hearing. The child had been living with the maternal grandfather while the mother was incarcerated. The grandfather refused to continue providing a home for the child because the child allegedly molested her sister and a four-year old child. During the hearing, the child's attorney actively sought information on the case, including the father's name and home address and information regarding the pending charges against the child.

#### Court Observations: Haralson County

Peer Review team member Kristi Lovelace observed Haralson County Juvenile Court on April 1, 2014. Judge Mark Murphy has established set standards for attorneys seeking to become appointed attorneys in his Juvenile Court. The attorneys must be in good standing with the Georgia State Bar, and Judge Murphy informally evaluates the attorneys for competence in handling legal work, preferring attorneys with more experience and a passion for child representation for appointments as children's attorneys. For example, child's attorney Nathaniel Wheelwright has about ten years of experience in the practice of Juvenile Law. Mr. Wheelwright handles about twenty Juvenile Court cases per year, he has handled child representation for two to three years, and he regularly attends continuing legal education on child-related topics. As another example, child's attorney Kimberly Mullins is certified as a Child Welfare Law Specialist by the National Association of Counsel for Children.

- 1) Case number 71-13J-176: This case was before the Court for a judicial review hearing. The child was not present for the hearing due to her medical fragility and her young age, but she was represented by a child's attorney. A proposed Order Restoring Custody was presented to the Court, but the proposed order had not been shared with all parties prior to the hearing. The child's attorney was very soft spoken and difficult to hear until she stood up to speak. She conducted herself in a professional manner during the hearing, arguing against certain provisions of the proposed order and suggesting alternative protective order conditions that still allowed for the child's reunification with the parents. The child's attorney exhibited knowledge of the child's special needs, the family's needs and dynamics (including domestic violence and substance abuse history), and she effectively advocated for the child's position.
- 2) Case number 71-14J-010: This case was before the Court for a disposition hearing. The child was present for the hearing and represented by a child's attorney. While the child's attorney provided effective representation in communicating with the child before the hearing, the child appeared to have very little contact with the child's attorney during the hearing. All parties consented to a proposed return of the custody to the father, and the child's attorney expressed the child's agreement with reunification.
- 3) Case number 71-14J-059: This case was before the Court for an adjudicatory hearing on the Department's Petition for Temporary Custody (Dependency) and a disposition hearing. However, the child's attorney objected to lack of service of the petition on the child, and the Court thus handled the hearing as a preliminary protective hearing. The child and his attorney sat together during the hearing, and the child's attorney appropriately asserted the child's legal rights during the hearing, including advocating for the child's placement preference.
- 4) Case number 71-13J-197: This case was before the Court for a disposition hearing following termination of parental rights. The child was present and represented by legal counsel. The child sat with her pre-adoptive parents and directly behind her attorney during the hearing, thus supporting the child's comfort level during the hearing and providing the child access to her legal counsel. The child's attorney had communicated with the child before the hearing, as well as the other parties, regarding a proposal that the Department be awarded permanent custody of the child for the purposes of adoption.

During the presentation of the proposed order to the Court, the child's attorney provided oral argument on the factual basis for the proposed order, as well as a clear statement of the child's position and needs. The child's greatest need appear to be the need for permanency, and her attorney effectively advocated this position.

#### Court Observations: Muscogee County

Peer Review team members Kristi Lovelace and Stephany Zaic observed Muscogee County Juvenile Court on May 28, 2014. As with most of the Juvenile Courts in the State, Muscogee County Juvenile Court has experienced significant budgetary issues with its Indigent Defense Fund due to an increased number of dependency cases and the new Juvenile Code requirements for the appointment of children's attorneys. The number of Muscogee County Juvenile Court's dependency cases has doubled, and the costs for both parents' attorneys and children's attorneys/attorney Guardian ad Litem have increased as a result. Other than conflict cases, the county is using the services of one child's attorney in the dual role as attorney Guardian ad Litem to handle legal representation for all of the children involved in Muscogee County's dependency cases. While this level of responsibility would be overwhelming for a less experienced attorney, Muscogee County Juvenile Court is utilizing the legal services of Robert Wilson, an attorney with eighteen years of experience in Georgia's Juvenile Law. Mr. Wilson is an active member of the National Association of Counsel for Children and he regularly attends continuing legal education courses on child-related issues. Due to sheer case load and the number of days in court, Mr. Wilson experiences time pressure in preparation for hearings. However, that pressure did not show in the courtroom. Mr. Wilson consistently exhibited knowledge of his clients' positions, regularly asked focused and relevant questions and effectively argued for his clients' positions. Despite the high case load, Mr. Wilson manages to attend all hearings, attend family team meetings, review the child's history on the current and all prior cases, maintain a good working relationship with the Department and CASA, communicate with the parents as needed, and meet with his clients at the courthouse, his office, the Department's office and the children's foster homes. His time management skills alone appear highly impressive.

- 1) In re   .P. and   .V.: This case was before the Court for an adjudicatory hearing on the Department's Petition for Temporary Custody (Dependency). The children were



represented by a children's attorney in the dual role as attorney Guardian ad Litem. The children sat and communicated with their attorney during the hearing. Hearing preparation by the children's attorney, including having communicated with the children prior to the day of the hearing, was apparent based upon his questions during the hearing. The questions of the children's attorney included addressing the children's mental health care.

- 2) In re   .M. and   .M.: This case was before the Court for a judicial review hearing. The children were represented by a children's attorney in the dual role as attorney Guardian ad Litem, and the children's attorney waived their presence for the hearing. The Court strongly expressed its position from the bench on child protection during this hearing, maintaining the focus on child safety. The child's attorney questioned a witness about the basis for jurisdiction at the beginning of the hearing, questioned the foster mother about risks to the child and what the Court should know, and addressed the child's visitation schedule.
- 3) In re   .D.: This case was before the Court for an adjudicatory hearing on the Department's Petition for Temporary Custody (Dependency). The child was represented by a child's attorney in the dual role as attorney Guardian ad Litem, and the child's attorney waived her presence for the hearing. The child's attorney presented evidence on behalf of the child's position, questioning a witness about the child's siblings and the mother's incarceration history.
- 4) In re   .C.,   .C. and   .R.: This case was before the Court pursuant to a Motion to Return Custody. The children were represented by a children's attorney in the dual role as attorney Guardian ad Litem. The youngest child was present, and the children's attorney waived the presence of the older two children for the hearing. The children's attorney demonstrated knowledge of the children's educational needs and the family's needs and dynamics, including the mother's initial discipline methods that included the use of a belt. The children's attorney asked about the plan for transitioning the children back to the mother's custody and advocated for the application of the recommendations of the older two children's therapist.
- 5) In re   .S.: This case was before the Court for a judicial review hearing. The child was represented by a child's attorney in the dual role as attorney Guardian ad Litem. The

Department and the mother's attorney presented the position that the mother had substantially completed her case plan. Rather than simply accepting this position, the child's attorney asked excellent questions during the hearing, asking pointed questions and pushing for answers. The child's attorney advocated for permanency and child safety at the same time, asking questions about the mother's psychological evaluation recommendations and her position on corporal punishment. He addressed the child's concerns as to whether the mother's anger management issues have been sufficiently remediated to ensure no future harm to the child.

- 6) In re   .R.: This case was before the Court pursuant to a Motion to Return Custody. The child was represented by a child's attorney in the dual role as attorney Guardian ad Litem, and the child sat and communicated with the child's attorney during the hearing. The child's attorney presented evidence on the child's behalf and advocated for expedited permanency, asking about the results of the mother's drug screens, recommendations from providers about overnight visits, and expressing the child's wish to live with his mother. The child's attorney also demonstrated knowledge of the case facts and the child's needs, asking questions about the child's siblings, the child's mental health diagnosis and related child services.
- 7) In re   .J.,   .R. and   .R.: This case was before the Court for a judicial review hearing. The children were represented by a children's attorney in the dual role as attorney Guardian ad Litem, and the children's attorney waived their presence. During the hearing, the children's attorney demonstrated knowledge of child safety issues, advocating for a Department-approved caregiver or the mother's voluntary return of the children to the foster parents' home during the instances when the mother is called in to work during a visit with the children. In addition, the children's attorney presented evidence on the child's behalf, asking questions about visitation and the father's incarceration, and expressing concern about the children's day visits in the home after the father is released from jail.
- 8) In re   .N. and   .S.: This case was before the Court for an adjudicatory hearing on the Department's Petition for Temporary Custody (Dependency). The children were represented by a children's attorney in the dual role as attorney Guardian ad Litem, and the children's attorney waived their presence. The mother was present and she was

provided the opportunity to apply for court-appointed counsel. The father was present and he waived his right to counsel for the purposes of this hearing. The Court gave the parents a strongly worded message from the bench, putting the parents on notice that it was time to decide whether they wished to continue using drugs or parent their children. The children's attorney maintained a focus on child safety and the need for permanency during the hearing, asking questions about the father's legal status, the children's medical and developmental issues, the parents' positive drug screens, parental and grandparent visitations, the children's placement and relative placement options.

- 9) In re \_\_C.: This case was before the Court for a permanent guardianship hearing. The infant child was represented by a child's attorney in the dual role as attorney Guardian ad Litem. The child's attorney demonstrated knowledge about state and federal law, as well as case facts. He questioned witnesses about the father's legal status, placement issues, the appropriateness of the proposed permanent guardian, custody of the child's siblings, and whether the child was eligible to receive Social Security benefits.
- 10) In re \_\_P., \_\_S. and \_\_S.: This case was before the Court for a judicial review hearing based upon a motion filed by the children's attorney. The children were represented by a children's attorney in the dual role as attorney Guardian ad Litem, and the children sat and communicated with the children's attorney during the hearing. The children's attorney was a particularly strong and effective advocate for the children in this hearing, pushing for the Department to file a Petition for Termination of Parental Rights rather than continuing to wait for the mother to surrender her parental rights and trying to figure out how to serve the fathers (one father resides in India, raising service complications). One of the children also stated during the hearing that the children are frustrated with the delay and wish for the adoption to proceed. She stated that she has waited for three years for termination of parental rights and adoption, she is now seventeen years old, and time is running out for her to be adopted. The child and the children's attorney effectively described the impact of prolonged foster care on the children.
- 11) In re \_\_J.: This case was before the Court for an adjudicatory hearing on the Department's Petition for Temporary Custody (Dependency). The child was represented by a child's attorney in the dual role as attorney Guardian ad Litem, and the child's attorney waived the child's presence. The child is currently participating in the Muscogee County

Juvenile Drug Court. Following the Department's presentation of evidence in support of the petition, the child's attorney stated that the Department had met its burden of proof.

- 12) In re \_\_.V.: This case was before the Court for an adjudicatory hearing on the Department's Petition for Temporary Custody (Dependency). The child was represented by a child's attorney in the dual role as attorney Guardian ad Litem. The child's attorney waived the child's presence, as the child is in runaway status. Following the Department's presentation of evidence in support of the petition, the child's attorney stated that the Department had met its burden of proof.
- 13) In re \_\_.S.: This case was before the Court for an adjudicatory hearing on the Department's Petition for Temporary Custody (Dependency). The child was represented by a child's attorney in the dual role as attorney Guardian ad Litem, and the child's attorney waived the child's presence. During the hearing, the child's attorney asked excellent questions about the physical abuse of the child. The child's attorney also demonstrated knowledge of the child's needs and the child's position, as shown by his questions regarding visitation and the child's medications.
- 14) In re \_\_.P.: This case was before the Court for an adjudicatory hearing on the Department's Petition for Temporary Custody (Dependency). The child was represented by a child's attorney in the dual role as attorney Guardian ad Litem, and the child's attorney waived the child's presence. The child is in the Regional Youth Detention Center because he allegedly molested his sister. The legal father is not the biological father, and he is in the military. Following the Court's ruling on the adjudication hearing, the Court proceeded with addressing dispositional issues, including relative placement options, child services and issues with an evaluation through the Interstate Compact on the Placement of Children ("ICPC"). The child's attorney demonstrated knowledge of federal and state law, along with the child's position and preferences. He asked questions about multiple relative placement options and explored the ICPC home evaluation issues.
- 15) In re \_\_.T.: This case was before the Court for an adjudicatory hearing on the Department's Petition for Temporary Custody (Dependency). The child was represented by a child's attorney in the dual role as attorney Guardian ad Litem. The child's attorney waived the child's presence, as the child is in runaway status. During the hearing, the child's attorney asked questions about the Department's communications with the mother

and information about the child's location. Following the Department's presentation of evidence in support of the petition, the child's attorney stated that the Department had met its burden of proof; this was the final statement/"closing argument" of the attorney.

16) In re   .T.: This case was before the Court for an adjudicatory hearing on the Department's Petition for Temporary Custody (Dependency). The child was represented by a child's attorney in the dual role as attorney Guardian ad Litem, and the child sat and communicated with her attorney during the hearing. The child's attorney asked questions about relative placement and case plan options. He demonstrated knowledge of the child's position and preferences, expressing during the hearing that the child does not wish to visit with her mother.

17) In re   .D.,   .D. and   .D.: This case was before the Court for an adjudicatory hearing on the Department's Petition for Temporary Custody (Dependency). The children were represented by a children's attorney in the dual role as attorney Guardian ad Litem, and the children's attorney waived the children's presence. The mother's whereabouts were unknown, and she had not been working on her reunification case plan goals or visiting the children. The children were placed with their grandparents, and the permanency plan was reunification concurrent with permanent guardianship. The children's attorney did a great job promoting expedited permanency for the children, making oral argument that it was time for the parties to move forward with the alternative permanency plan of permanent guardianship. The children's attorney demonstrated knowledge of the case facts and case history by referencing the length of the case and the mother's lack of participation since the early days of the case.

18) In re   .C.: This case was before the Court for a judicial review hearing. The child was represented by a child's attorney in the dual role as attorney Guardian ad Litem, and the child's attorney waived the child's presence. The Department presented evidence regarding the parents' partial compliance with the court-ordered case plan, and a referral was made for the parents to be transported to visitation with their daughter. The child's attorney demonstrated knowledge of child safety, asking about law enforcement's investigation and the child's explanation of events. The child's attorney also demonstrated knowledge of state law and case facts, including his questions regarding the relative home evaluation through the Interstate Compact on the Placement of Children.

19) In re \_\_.H.: This case was before the Court for a judicial review hearing. The child was represented by a child's attorney in the dual role as attorney Guardian ad Litem, and the child's attorney waived the child's presence. The child is receiving treatment for sexualized behaviors at Twin Cedars, and the mother and the child are both compliant with the court-ordered reunification case plan. The child's attorney had no objections to the case plan goals.

20) In re \_\_.D.: This case was before the Court for an adjudicatory hearing on the Department's Petition for Temporary Custody (Dependency). The child was represented by a child's attorney in the dual role as attorney Guardian ad Litem. The Department requested a continuance of the hearing based upon the parents' expressed interest in permanent guardianship. The child's attorney supported the continuance in the interests of judicial economy and expedited permanency for the child.

#### Court Observations: Polk County

Peer Review team members Faye McCord and Ashley Willcott observed Polk County Juvenile Court on March 5, 2014. Polk County Juvenile Court is experiencing an insufficient supply of Court Appointed Special Advocates in relation to the number of children in foster care, and Judge Mark Murphy is utilizing the option of appointing children's attorneys in the dual role as attorney Guardians ad Litem to ensure compliance with the new Juvenile Code while limiting the financial pressure on the county's Indigent Defense Fund. Judge Murphy requires children's attorneys to have completed the continuing education course for attorney Guardians ad Litem in order to be included in the Court's appointment list. He requested additional child welfare training opportunities for his Juvenile Court attorneys.

1) In re \_\_.D., \_\_.D. and \_\_.T.: This case was before the Court for an adjudicatory hearing on the Department's Petition for Temporary Custody (Dependency). At the beginning of the hearing, the local CASA office announced there were no CASAs available to be appointed on this case. In response to questioning by the Court, the children's attorney announced that he did have a conflict acting in the dual role as attorney Guardian ad Litem. The Court thus appointed a new attorney as the children's attorney Guardian ad Litem. The newly appointed attorney appropriately requested a continuance in order to

conduct an independent investigation prior to the adjudicatory hearing, and the request was granted.

- 2) In re   .L. and   .L.: This case was before the Court for an adjudicatory hearing on the Department's Petition for Temporary Custody (Dependency). At the beginning of the hearing, the local CASA office announced there were no CASAs available to be appointed on this case. In response to questioning by the Court, the children's attorney announced that she did not have a conflict acting in the dual role as attorney Guardian ad Litem. The children's attorney stated that, as she had been appointed one week ago, the hearing was her first opportunity to talk with the parties. The children's attorney waived their presence at the hearing, given their tender years. During the hearing, the parties presented evidence regarding the mother's substance abuse issues and the father's mental health issues. The parties submitted a proposed consent protective order to the Court, pursuant to which the parents maintained legal custody and physical custody was awarded to the maternal grandparents. The children's attorney announced the children's agreement with the proposed protective order and case plan. On behalf of the children, the children's attorney expressed agreement with supervised visitation due to the mother's substance abuse issues and the father's mental health issues. The children's attorney/attorney Guardian ad Litem announced her intention to conduct a home visit with the children. During the hearing, the children's attorney exhibited a good working relationship with the Department's Special Assistant Attorney General and the case managers. As the children's attorney had been appointed one week prior to the hearing and had not yet conducted a home visit with the children, the observers were unclear as to the basis for the children's attorney to announce the children's consent to the proposed protective order, case plan and supervised visitation with the parents.
- 3) In re   .T. and   .T.: This case was before the Court for an adjudicatory hearing on the Department's Petition for Temporary Custody (Dependency). The children were represented by a children's attorney, and the children attended the hearing with their attorney. At the beginning of the hearing, the local CASA office announced there were no CASAs available to be appointed on this case. In response to questioning by the Court, the children's attorney announced that he did have a conflict acting in the dual role as attorney Guardian ad Litem. The Court thus appointed a new attorney as the

children's attorney Guardian ad Litem. The newly appointed attorney appropriately requested a continuance in order to conduct an independent investigation prior to the adjudicatory hearing. The father requested a continuance to have the opportunity to determine whether he is the children's legal or putative father (i.e., if he did in fact complete administrative legitimation). Based upon the attorney Guardian ad Litem and the father's request, the Court continued the hearing.

#### Court Observations: Richmond County

Peer Review team members Kristi Lovelace and Ashley Willcott observed Richmond County Juvenile Court on May 6, 2014. The Richmond County Juvenile Court has a strong local CASA program that provides initial and ongoing training to its volunteers. The CASAs are generally appointed as the children's lay Guardian ad Litem, with attorneys separately appointed as the children's attorneys. Richmond County Juvenile Court utilizes a contract attorney for the legal representation of children. In order to obtain the contract position, the child's attorney was required to submit a resume to the county. She was not required to have prior relevant legal experience or to have attended prior child welfare training—her prior legal experience was primarily in Probate Court. The child's attorney is not paid mileage through her contract, and she stated that she therefore does not visit with the children in their placements. The child's attorney communicates frequently with the CASA appointed to advocate for the child's best interests, and she receives detailed reports from the CASAs. In general, children over fourteen years old are transported to Court to attend the hearings on their cases. Ms. Lovelace and Ms. Willcott expressed an appreciation for the openness with which the child's attorney talked with them about her Juvenile Court work, her newness to the area of Juvenile Law, and her desire for additional training.

- 1) 13-J-97: This case was before the Court for a judicial review hearing. The child was represented by an attorney and the child was not present for the hearing. The child's attorney did not present any evidence or present oral argument regarding her client's position. She asked a relevant question on cross examination, seeking additional information regarding the mother's ability to meet the child's needs.
- 2) 14-J-72 through 79: This case was before the Court for a final disposition hearing. The children were represented by a children's attorney. The children were not present, but the



children's attorney had requested that they be transported to the hearing. During the hearing, it was apparent that the children's attorney had thoroughly prepared for the hearing, particularly as to the issue of allowing media in the courtroom. The children's attorney had communicated with the other attorneys on the case prior to the hearing. She argued against the media being allowed in the courtroom for the hearing, citing relevant case law and presenting oral argument about the impact of media coverage on the children.

- 3) 13-J-25: This case was before the Court for a hearing on the Department's Petition for Termination of Parental Rights only as to the unknown putative father. The child was represented by a child's attorney. Given the brief and limited nature of the hearing, the child's attorney did not present evidence or present oral argument.
- 4) 14-J-92: This case was before the Court for a judicial review of a Protective Order. The child was represented by a child's attorney, and the child was not present due to the child being of tender years. The child's attorney effectively presented the child's position independent of the parents' and the Department's positions. She asked questions regarding the Department's efforts to locate the mother, the provision of Medicaid services, placement issues, and the Department's timeline for permanency for the child.
- 5) 14-J-89/13-J-264: This case was before the Court for a hearing on the Motion for Return of Custody. The caretakers brought the nineteen-month old child to Court, but a child's attorney had not been appointed to represent the child.

#### Court Observations: Tift County

Peer Review team members Kellie Rogers and Marie Watson observed Tift County Juvenile Court on April 16, 2014. For quite some time, Judge Render Heard has been actively working on developing a group of qualified attorneys who will provide legal representation to children on a court-appointed basis. Judge Heard has extended multiple continuing legal education opportunities to members of the local Bar Association in an effort to develop a trained pool of attorneys who can provide legal representation to children appearing before Juvenile Court. He currently does not have set qualifications for attorneys to be added to and remain on the Court's appointment list for child representation because there are so few attorneys who have agreed to provide the legal representation.

Tift County Juvenile Court has a very active local CASA program. If a CASA is appointed to advocate for the best interests of the child, then Judge Heard only appoints the attorney as a child's attorney. If a CASA is not available to take a child's case, then Judge Heard appoints the attorney in the dual role as child's attorney and attorney Guardian ad Litem, barring a legal conflict. To ensure compliance with the new Juvenile Code and to assist children's attorney in their legal representation, Judge Heard requires all children ages ten years and older to be transported to his or her hearing. Ms. Rogers and Ms. Watson noted that Judge Heard enforces this policy with reprimands from the bench and the threat of a future contempt of court ruling. The Court additionally is consistent in asking the children about their wishes and their opinions regarding what would move their cases forward.

The Peer Review team members observed that the children's attorneys did not appear to be actively engaged or provide much information to the Court during the hearings. These observations are likely due, at least in part, to the children's attorneys being appointed at the beginning of four of the hearings.

- 1) In re   .A.: This case is before the Court for a permanency hearing. The child's attorney was appointed at the beginning of the hearing. The mother is fifteen years old, and she and the child are placed with an aunt. The mother was represented by an attorney, and the mother and the child were not present for the hearing. During the hearing, the child's attorney asked relevant questions regarding the child's placement.
- 2) In re   .H.: This case is before the Court for a permanency hearing. The parents were not present for the hearing. The child was present, and he was represented by an attorney. During the hearing, the Court heard evidence that the child is experiencing anger management and behavioral issues. He was charged with the offense of affray in Perry, Georgia. The child's placement was unable to continue caring for him due to his behavioral issues. The child testified that he wished to remain at his current placement and did not wish to live with his aunt.
- 3) In re   .C.: This case is before the Court for a permanency hearing. The parents were not present for the hearing. The child was present, and the Court appointed an attorney to represent him during the hearing. The Court explored the child's permanency and placement wishes. The child stated that he wished to live with his grandmother and that he would maintain his behavior if placed with her. The Court changed the child's

permanency plan from concurrent to permanent guardianship with the child's grandmother.

- 4) In re   P.,   S. and   S.: This case is before the Court for a permanency hearing. The parents were not present for the hearing. The eleven-year old child was present, and all three children were represented by a children's attorney. During the hearing, the children's attorney demonstrated knowledge of the children's position and advocated for expedited permanency. The children's attorney asked questions regarding a relative home evaluation, stated one child's wishes to be placed with the grandmother and not the aunt, and advocated for a specific permanency plan.
- 5) In re   D.,   D. and   D. This case is before the Court for a permanency hearing. The parents were present and represented by legal counsel. The children, all under the age of four years, were not present but were represented by their attorney. The children's CASA requested a removal of the children from their parents' custody. The Court heard evidence regarding the mother's developmental delays, the children's developmental delays, the mother's testimony regarding child pornography on the father's cell phone, and the mother's efforts to make progress on her case plan goals. The children's attorneys advocated for the children's safety and demonstrated knowledge of the children's needs.
- 6) In re   C. and   C.: This case is before the Court for a hearing on the Department's Motion for Determination that Reunification Services Should not be Provided. The parents were present for the hearing. At the beginning of the hearing, the children were appointed legal counsel. The CASA objected to the Department's motion for non-reunification, as the parents had finally begun to make some progress in complying with reunification case plan goals. The Department subsequently withdrew its motion for non-reunification and instead requested that the Court order a concurrent permanency plan. The children's attorney announced the children's agreement with the concurrent permanency plan.
- 7) In re   C.: This case is before the Court for an adjudicatory hearing on the Department's Petition for Temporary Custody (Dependency). The father was present for the hearing, and the mother was not. She is currently incarcerated and was not transported for the hearing. The fifteen-year old child was appointed legal counsel at the beginning of the

hearing. The father announced that he no longer wants custody of his son. The Court inquired into the child's wishes, and the child stated a desire to remain in his current placement until his mother is released from incarceration.

#### Court Observations: White County

Peer Review team members Kristi Lovelace and Ashley Willcott observed White County Juvenile Court on April 21, 2014. The Enotah Circuit has an active local CASA program, and Judge Gerald Bruce regularly appoints a CASA as the child's lay Guardian ad Litem and an attorney to provide legal representation for the child. In the instances when there is no CASA available, Judge Bruce appoints the child's attorney in the dual role as an attorney Guardian ad Litem, barring no legal conflicts. White County Juvenile Court does not have set requirements in order for children's attorneys to be added to or remain on the Court's appointment list. Judge Gerald Bruce informally assesses the attorney's qualifications for appointment as a child's attorney, based upon their prior legal experience in Juvenile Court. Through the Indigent Defense Fund, children's attorneys are paid an hourly rate plus mileage only for their trips to visit the children.

- 1) 2014-JV-111: This case was before the Court for an adjudicatory hearing based upon the Department's Petition for Temporary Custody (Dependency), along with the putative father's Petition for Legitimation. The child was not present, and the Department announced that the child was in route to the hearing. He was represented by a child's attorney, who announced that she had spoken with the child prior to the hearing. She requested an opportunity to speak with the child upon his arrival and address the Court afterwards if needed. During the hearing, the child's attorney demonstrated knowledge of the child's wishes, the needs of the child and the family, and knowledge of the case facts. On behalf of her client and at the child's request, the child's attorney cross-examined witnesses and argued against the putative father's legitimation petition, bringing out on cross-examination the putative father's reluctance to have the child return to his custody.
- 2) 2009-JV-50: This case was before the Court for a permanency hearing. The child was present and represented by legal counsel. The child sat and communicated with his attorney during the hearing. The child's attorney reviewed documents with the child,

requested additional time to discuss unanticipated evidence with the child, and presented the child's position. The child's attorney called the child on direct to obtain evidence that contradicted the testimony of the Department's case manager. The child has been in the Department's custody for ninety-one months, and he does not wish to be adopted. While the attorney's hearing preparation and trial advocacy was strong, the child's attorney had not previously provided a copy of the child's court-ordered Written Transitional Living Plan ("WTLP") to him, despite the child's attorney having been previously served with a copy of the court-ordered WTLP.

- 3) 2014-JV-114 and 115: This case was before the Court for an adjudicatory hearing on the Department's Petition for Temporary Custody (Dependency). Represented by legal counsel, the children were not present at the beginning of the case. The children's attorney objected to the hearing being conducted until they were present. Once the children arrived, they sat with their mother and not with their attorney during the hearing. During the hearing, the children's attorney presented evidence on a relative home evaluation conducted by a private provider and presented oral argument in support of the children being removed from the Department's custody and placed in the relative's custody. Once the evidence in the hearing was closed, the children's attorney talked with them and asked the Court to hear a statement from the children.
- 4) 2014-JV-117 and 118: This case was before the Court for a judicial review hearing. The children were represented by legal counsel, and the children's attorney waived the children's presence, given the children's ages of two years and four years old. The children's parents are participating in the Enotah Family Treatment Court, and both parents are making moderate progress in complying with their case plan goals. The children were recently moved to a new placement because their former foster parents no longer wished to continue being foster parents. During the hearing, the children's hearing reviewed documents offered for evidence by other parties and she made proper objections. However, the children's attorney did not appear to be actively involved in the case, based upon her level of involvement in the hearing.
- 5) 2014-JV-122: This case was before the Court for an adoption status review hearing. The child was present for the hearing, and the child sat and communicated with the child's attorney during the hearing. The child's attorney appeared to be prepared for and

actively participated in the hearing, presenting the child's testimony and pursuing his own line of questions with the Department's case manager. The child's attorney demonstrated knowledge of state law and case facts, addressing issues relating to the Interstate Compact on the Placement of Children and questioning the Department's case manager about services available in the proposed placement's state.

### Conclusions

The Peer Review team had a great appreciation for the opportunity to conduct court observations at a time when the State was beginning to apply the requirements of the new Juvenile Code. With the brand new statutory requirement that children be appointed attorneys in dependency and termination of parental rights proceedings, in addition to Guardians ad Litem, Courts faced the task of developing systems and standards for child legal representation. The requirements or standards for becoming a contract or court-appointed child's attorney vary from county to county, and the majority of the counties observed do not have ongoing standards for attorneys to continue qualifying for legal representation of children. Consistency between the Juvenile Courts on at least a basic level, especially as to initial and ongoing continuing legal training requirements, would be very helpful in establishing more consistency in the provision of legal representation for children and in the provision of best interests advocacy by attorneys Guardian ad Litem.

Many attorneys across the State undertook the challenge of developing attorney-client relationships with and providing client advocacy for children. The Peer Review team observed that, while the children's attorneys had a solid understanding of the new Juvenile Code, many attorneys are struggling with how to communicate accurately with children regarding legal proceedings and how to speak with and interview children. The team also observed varying levels of involvement by the children's attorneys during the hearings, with some attorneys being very vocal in their advocacy and a small handful of attorneys appearing not to engage in the hearing. (Similar observations were made regarding both lay and attorney Guardians ad Litem.) The legal representation of children should look no different than that of Department and parent representation in terms of hearing preparation and trial advocacy, including the presentation of evidence and oral argument. A child's attorney "owes the same duties of undivided loyalty, confidentiality, and competent representation to the child as is due an adult client." American

Bar Association Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases, Part 1 A-1. It is the belief of the Peer Review team that more training is needed for children's attorneys on how to communicate accurately with children regarding legal proceedings and how to provide legal representation for children through a traditional attorney-client relationship. Additionally, more training is needed to assist attorneys with differentiating between the roles of the attorney Guardian ad Litem and the child's attorney, most especially when representing young children.

Based upon an analysis of the Fostering Court Improvement statistics, many of the counties in Georgia are experiencing high percentages of children in foster care for periods longer than a year, unstable returns to parental custody that result in re-entries into foster care in less than twelve months, and high rates of foster care children's placement moves laterally, away from permanency and/or occurring three or more times in less than six months. These factors create a significant level of instability in the lives of Georgia's foster care children. While the Peer Review team did not observe a general lack of child advocacy or a general lack of best interests advocacy that at least partly resulted in this instability, it is the belief of the Peer Review team that more training is needed for children's attorneys and Guardians ad Litem on how to advocate for children to have a stable foster care experience and how to advocate for stable permanency. Children's attorneys and Guardians ad Litem need continuing educational support on how to take the lead in their cases, where appropriate, to accomplish these goals.

The Peer Review team is grateful for the opportunity to support our colleagues in the improvement of legal representation and best interests advocacy for Georgia's children, and we look forward to continuing in this effort.