

# ACCOMPLISHMENTS

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YEAR REPORT  
*15*



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NEW YORK STATE  
PERMANENT JUDICIAL COMMISSION  
ON JUSTICE FOR CHILDREN





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## Introduction

**H**aving been vitally connected to the Permanent Judicial Commission on Justice for Children from its beginnings, for me *Accomplishments* is pleasure reading. I hope all readers will feel as excited as I do about the Commission's achievements.

From Day One, the Commission resolved to use its energies and resources to produce results, not reports, and we have been faithful to that pledge. Our first (five-year) report in 1996, and second (twelve-year) report in 2003 were, I believe, essential. It's important at some point to comprehensively set out initiatives and measure progress. Our three reports over the past fifteen years are indeed excellent descriptions of the Commission's considerable work on behalf of children in the courts, particularly children in foster care.

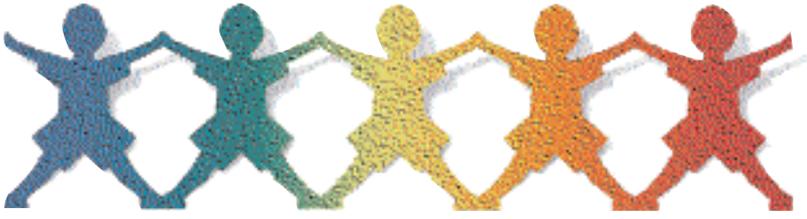
Having now read the three reports as one, I am delighted by their coherence, reflecting a well-informed choice of projects in this boundless enterprise of "justice for children," assiduous development of collaborations to implement them, and then the gradual replication of promising results throughout the New York courts and affected communities. Children's centers in the courts, the health of children in foster care and, most recently, education matters are three examples of this methodology.

It saddens me that justice for children remains an elusive goal, yet I have no doubt that the work of the Commission has contributed to the unquestioned progress that has been made. The staggering reduction of New York's foster care population from 64,886 in 1991 to 28,285 in June 2005 is surely not the work of the Commission alone, but just as surely the Commission has had a role.

In large part I attribute our success to the *permanency* of the Permanent Judicial Commission on Justice for Children. There are no overnight solutions. Permanency has afforded us the critical luxury of research and reflection to determine where we begin and where we go. But in no respect has permanency been a greater blessing than in our phenomenal Executive Director, Sheryl Dicker — with us from the start — whose unparalleled instincts, knowledge and skills include as well the selection, and retention, of a first-rate staff. Then, too, we have enjoyed the incredible benefit of a largely constant, invariably outstanding, interdisciplinary Commission membership — dedicated representatives from all three branches of government, from the bar, and from fields such as medicine, social work, child development, education and child advocacy. What unites us, and what keeps us, is the belief that we can improve the lives of children.

Finally, I express gratitude to Ellen Schall, now Dean of the Wagner School of New York University, who from 1991 to 1999 co-chaired this extraordinary Commission with me, and to the law firm of Proskauer Rose, which has sustained us throughout — by hosting our meetings and thus facilitating our work.

Judith S. Kaye  
*Chief Judge of the State of New York*



## *Executive Summary*

**T**he Permanent Judicial Commission on Justice for Children (the “Commission”) was established to improve the lives and life chances of children affected by New York State’s court system. At the outset, the Commission determined it would produce reforms, not reports, and it has upheld that pledge. Chief Judge and Commission Chair Judith Kaye has often reflected on the permanent status of the New York State Permanent Judicial Commission on Justice for Children, reminding us that lasting reform takes time and challenging us to be boldly creative in our change efforts. Heeding this advice, the Commission has emerged as a statewide and national pacesetter for court-based innovation and judicial leadership on behalf of children and those who care for them. Our unique position as the nation’s first interdisciplinary children’s Commission based in the judiciary has allowed us to harness the authority and prestige of the judiciary to launch and sustain projects and to shape policy that improve court proceedings and maximize the well-being of children in foster care. The permanent nature of the Commission enabled us to take risks and to explore uncharted terrain to test new practices, create new resources and cultivate new relationships.

The Commission has long recognized the value in partnering with all those who work to promote better outcomes for children. Commission members include not only judges but also lawyers, advocates, child welfare administrators, physicians, legislators and state and local officials. All of our initiatives have encouraged creating collaborations to affect change. The Commission has worked closely with national leaders in the fields of child welfare, child development, early intervention, early childhood education and special education. We have completed independent research, brought cutting-edge child welfare and early childhood researchers to the Commission and used research as the basis of our projects to enhance the lives of children in foster care. These collaborations and our commitment to research-driven, court-based initiatives have become a hallmark of the Commission’s accomplishments.

As Justice for Children is a limitless, lofty goal, we have targeted our efforts — securing early intervention, establishing a statewide system of Children’s Centers in the Courts, improving court

proceedings, promoting the healthy development of children in foster care and focusing on the needs of infants involved in child welfare proceedings. In all of these endeavors, we have utilized a systemic methodology of convening stakeholders, conducting research, developing pilot projects, creating written materials and trainings, and initiating policy and practice change. Additionally, all of our efforts are premised on the court's authority under state and federal law and consistent with the legal standards for services to children.

These efforts began in 1991 when we first studied the process for obtaining services for infants and toddlers with developmental disabilities through the Family Court, and then worked to secure passage of laws establishing a system of early intervention services for New York's children. More recently, our efforts have spurred the passage of federal law requiring that all infants and toddlers in foster care be referred to the Early Intervention Program.

Early on, the Commission also was alerted to the needs of children brought to court by caretakers with no child care alternatives and we conducted research to document and understand that problem. We designed a new program — Children's Centers in the Courts — and established a network of these Centers throughout our State. Today, 32 Centers annually serve over 52,000 children, providing not only quality child care but also a site to connect children and families with vital services. Our Children's Center Literacy Project infuses each Center with a reading-rich environment and gives every child the gift of a new, age-appropriate book.

Over ten years ago, the Court of Appeals designated the Commission to spearhead a new challenge — implementation of the federal State Court Improvement Project to assess and improve foster care proceedings. Following our earlier efforts, we convened stakeholder and expert working groups, conducted research assessing the court's handling of proceedings and designed a plan for reform. Our reform plan included two pilot projects in Erie and New York Counties and efforts to develop resources to assist Family Courts statewide. Today, the learning from those pilots have been refined and replicated in best practice courts throughout the State. To help actualize innovation and reform, the Commission created new resources for the court — funding staff to grow local court improvement efforts, increasing the availability and strengthening the ability of New York State Court Appointed Special Advocates,

The Commission exemplifies the commitment to light a candle rather than curse the darkness, a description used by Eleanor Roosevelt. It has identified those areas of judicial and public policy in which its efforts, and those of the courts, can make a difference. In doing so, it lights up the world for our most vulnerable children.

*Nancy Dubler, Director,  
Division of Legal and Ethical  
Issues in Health Care,  
Montefiore Medical Center*

designing a Masters of Social Work judicial internship program to assist judges in identifying and addressing unmet needs and gaps in services, and creating an accessible website containing all of the

The work of the Permanent Judicial Commission on Justice for Children under the leadership of Judge Kaye is unique among court improvement initiatives because it addresses both the process and the substance of decision making regarding children's safety and well being within a system of "due process." A number of states are now using materials produced by the Commission in training judges and the legal community as to the needs of children and families.

The focus on the children involved in court proceedings, meaningful and timely case management conferences, and attentiveness to permanency outcomes has produced a Court Improvement Program that not only formalizes compliance with federal requirements but actualizes the vision of the federal legislation to support improved decision making in systems which are attentive to children's safety, well-being and their need for a permanent family. Judge Kaye has created an atmosphere of permission for judges to exert leadership in their communities to improve outcomes for children subject to maltreatment. She has brought the agencies to the table to discuss the importance of judicial oversight and most significantly created expectations of the judiciary that they give the cases the time, attention and informed decision making which families deserve.

*Hon. Richard J. FitzGerald, Retired Chief Judge, Jefferson County, Louisville, Kentucky*

research, writings and other tools developed by the Commission.

Additionally, we have initiated three statewide well-being projects to focus the attention of the court and child welfare systems on the healthy development of children in foster care. These projects are premised on the underlying belief that children's well-being must be addressed to improve their prospects of growing up in a permanent family. The Healthy Development Initiative, Babies Can't Wait Project and the Education Project provide checklists, written materials and trainings to help all those involved in child welfare proceedings enhance the well-being of foster children and understand its link to permanency. Our tools are now used throughout the country and have helped to shape child welfare policy and practice in New York and nationwide.

Many of the Commission's reforms have been institutionalized as a vital part of the court system such as the Children's Centers and the Healthy Development and Infant Checklists. Our advocacy efforts have been enshrined in law and practice including the New York State Early Intervention legislation

and new provisions in federal law under the Child Abuse Prevention and Treatment Act (CAPTA) and Individuals with Disabilities Education Act (IDEA) that require referral of all children under age

three with substantiated cases of abuse and neglect to the Early Intervention Program. The 2005 New York State permanency law further captures the Commission's CIP and well-being reforms by requiring expedited procedures and continuing jurisdiction of cases, permitting case conferencing and mandating permanency hearing reports that contain information on a child's health, early intervention referral and services and education.

This report tells the story of the Commission — its inspiration, challenges, achievements and the promise it holds for future accomplishments.



## *Achieving Early Intervention*

**I**n 1991, the Commission began formulating its agenda by interviewing key informants — people knowledgeable about young children in the courts. They bemoaned the lack of services for young children displaying serious developmental delays and voiced dismay at New York’s failure to implement the federal Infant and Toddler Early Intervention program for children with developmental delays, now known as Part C under the Individuals with Disabilities Education Act. Efforts to implement the federal law in New York had stalled. Unlike any other state in the nation, New York had a system that required the Family Court, under section 236 of the Family Court Act, to enter orders for preschool special education services. The state and counties split the costs of these services, with no federal reimbursement.

Based on the opportunity presented by the federal Early Intervention program and the pivotal role of the court in the existing system, the Commission established an Early Care Working Group to consider how it might best achieve reform. The group’s review confirmed that the existing system was seriously flawed. Unlike other judicial procedures, it seldom presented the Family Court with a controversy for adjudication. Analysis of the available statewide data also revealed geographic and economic disparities in access to services.

Armed with an understanding of the deficiencies in the existing system and the opportunity presented by the federal law, Commission members met with legislators, service providers, local government officials and families in an effort to break the impasse that had stalled past reform efforts. The Commission joined with State legislators in sponsoring two public hearings focused on the existing system and legislation proposed to implement the federal program.

After a protracted legislative battle, New York implemented the federal law with passage of the Early Intervention laws of 1992 and 1993. These laws created an entitlement program for children with, or at risk of, developmental delay or disabilities to ensure that they had access to a comprehensive system of educational, therapeutic and family support services. These cases no longer pass through Family Court, reducing the court’s dockets by more than 15,000 cases. Most

importantly, thousands more children and their families throughout New York State now receive individually-tailored services, thus enhancing their lives and life chances.

The Commission continued its commitment to improving children's access to the Early Intervention Program by pressing for the referral of all young children in foster care. In the late 1990s, the Commission emerged as one of the earliest advocates nationwide to spotlight the developmental needs of young children in foster care and the connection between Early Intervention and permanency.

Through extensive outreach and research, Commission staff found that more than half the young children in foster care in New York State and nationwide have developmental delays and disabilities that would entitle them to Early Intervention services. Yet, in New York, barely one-fifth of these children under age three are enrolled. The Commission surveyed all the Early Intervention coordinators in the state and learned that only a few counties had aggressive outreach efforts to identify and evaluate young children in foster care. To address this gap, the Commission worked with

several counties to bring together stakeholders from the court and the child welfare, health and early intervention systems to develop formal mechanisms to ensure that young children in foster care are evaluated and, when appropriate, receive services. As a result of these efforts, several counties, with strong judicial leadership, developed procedures to refer all foster children under age three for Early Intervention.

While all parties involved in the court process expressed interest in the Early Intervention program, many were unsure about the role of the court in referring children and the workings of the program. To address this need, the Commission published articles and developed a training curriculum on the Early Intervention program. These materials provide an overview of the Early Intervention law and highlight the challenges in accessing the program for these children. At every training, the Commission shared its Checklist for the Healthy Development of Foster Children — the centerpiece of our strategy to focus all those involved in child welfare proceedings on the well-being of children in foster care. The Checklist contains questions to identify a child's developmental needs and gaps in services and asks specifically whether a child has received a developmental screening.

At the invitation of a Special Committee of the Dutchess County Legislature, composed of legislators, local commissioners, a Family Court Judge and citizens, Commission staff made several presentations on the health of children in foster care and the Early Intervention program.

At its July 2001 meeting, the Special Committee adopted the Commission's recommendation to refer every foster child under age three in the county to the Early Intervention program within 48 hours of placement.

The Commission has brought early intervention professionals to the courts to help judges and advocates understand child development and translate information about the developmental needs of children in foster care in ways that aid in decisionmaking about placement, visitation, services and permanency. As a result of the Commission's

A CASA using the Commission's Healthy Development Checklist to inquire about a child's developmental needs learned that an infant was receiving Early Intervention services at her foster home, but the success of those services was cited as a reason to delay reunification. Further inquiries by the court facilitated a change in the child's Individual Family Service Plan (IFSP) to allow services to take place at the home of the biological mother. The child was soon reunified with her mother with all needed services. The Judge estimates that the child was returned home months earlier due to the use of the Checklist and access to the Early Intervention program

Early Intervention training efforts, many judges, Court Appointed Special Advocates (CASAs) and attorneys throughout New York State now routinely refer foster children under age three to the Early Intervention program.

Additionally, the Commission embarked on a statewide and national advocacy effort to ensure that children involved in child welfare proceedings were identified and referred and served under the Early Intervention program. Commission staff have made presentations, shared our written materials and provided consultation to the New York State Early Intervention Coordinating Council and local Early Intervention Officials. The Commission also provided a response during the comment period for the revised federal Early Intervention

regulations urging the inclusion of foster children in mandated Child Find activities. Our correspondence with the United States Department of Education resulted in clarification of regulations defining "parent" under the Federal Early Intervention law, an issue of particular concern to children in foster care. We also wrote a detailed commentary in response to a draft Early Intervention protocol for children in foster care developed by the New York Department of Health and the Office of Children and Family Services, recommending language to encourage identification and screening of children in foster care and urging inclusion of an automatic referral provision for all foster children under three.

In 2000, the Commission Director met with Congressional staff to share our concerns about the gap in Early Intervention referral and services for young children in foster care. When the Child Abuse Prevention and Treatment Act (CAPTA) was being reauthorized in 2004, Congressional staff solicited the views of the Commission. Through this work, Commission staff contributed greatly to opening the door to the Early Intervention Program for young children in foster care and their families. Reflecting an idea long proposed by the

Commission, Congress amended and reauthorized CAPTA — now known as the Keeping Children and Families Safe Act of 2003 (P.L. 108-36) and the 2004 IDEA — to require states to develop provisions and procedures for referral of a child under age three who is involved in a substantiated case of child abuse or neglect to early intervention services funded under Part C of the IDEA. The Commission published the first article nationwide on this new initiative in the American Bar Association's Child Protection Report in Spring 2004.

Since the reauthorization of CAPTA, the Commission staff has been invited to provide training and consultation to the courts, child welfare administrators and policy makers nationwide on implementing the referral provision and using Part C as a tool for permanency planning and for complying with federal Child and Family Service Reviews. Additionally, Commission staff has written extensively on the topic for several national publications including a bulletin for the United States Department of Health and Human Services' Children's Bureau's National Clearinghouse on Child Abuse and Neglect.



## Creating and Growing Children's Centers in the Court

**E**very day hundreds of young children are brought to New York State's courthouses because their caregivers have nowhere else to leave them. Their presence in the waiting rooms, hallways and courtrooms precludes the full participation of caregivers in important judicial proceedings, jeopardizes the well-being of children and compromises orderly, efficient court operations. To provide a safe haven for children

The Children's Centers Program filled an important void in the court system. At Albany County Family Court, the Children's Center offers a warm, caring and friendly environment for children while their caregivers take care of court business. The Center allows children to avoid the noise, confusion and all too often the trauma, of the waiting room in Family Court. As the Family Court judges have expressed on numerous occasions, the Court and the people it serves have benefited tremendously from the valuable services provided by the Children's Center.

*Hon. Helena Heath-Roland, co-chair, Advisory Committee to the Albany County Family Court Children's Center*

in the courts, the Commission spearheaded the development of a statewide system of Children's Centers in the courts. There are today 32 centers in New York State's network of Children's Centers in the courts, serving more than 52,000 children annually.

Transforming a problem into an opportunity, the Commission created the Children's Centers to provide a two-pronged service: quality drop-in child care services while their caregivers attend to court business, and a site — possibly the only place until a child enters school — where families can learn about and gain access to vital services.

In 1993, with funding from the New York State Legislature and a unique partnership with the Department of Social Services, the Commission issued a request for

proposals for not-for-profit agencies to operate Children's Centers. Through this process, the first six centers were established in Albany, Buffalo, Manhattan, Rochester, Staten Island and Yonkers. Based on the success of these centers, the Commission obtained state and federal funding for the start-up and enhancement of Children's Centers in the courts throughout New York State.

Early on, the Commission realized that the Children's Centers users are among New York's most vulnerable children. The vast majority of these children live in low-income families. An alarming number have chronic health problems and disabilities. Yet many of the children are not receiving vital services to which they are entitled through the federal Women, Infants and Children (WIC) program, Head Start or Early Intervention. And fewer than ten percent of the children are enrolled in any early childhood education program.

The Centers were designed to be a site to connect children and families with these essential services. All Centers offer information on a wide array of programs and services. At intake, Center staff identify possible service gaps and provide information and referral services to families. To ensure actual enrollment to services, the Centers have utilized several additional strategies. Center staff have been deputized to begin the enrollment process for services such as WIC and NYNEX Lifeline telephone service. Staff also have been outstationed at the Centers from Head Start and Child Health Plus to link children with those services. As a result of this variety of approaches, many of New York's most vulnerable children have been enrolled in essential programs.

Studies reveal that children in low-income families are eight times more likely to read to and share books with their young children when provided with books and encouragement. In 2001, the Commission launched the Children's Center Literacy Project, which creates a literacy-rich environment in the Centers. The Project views the time children spend in the court-based Children's Centers as an opportunity to immerse children in a literacy-rich environment and to encourage parents to stimulate their child's language and literacy development. The program features the gift of a new, age-appropriate book for every child who visits the Center and a literacy-enhanced

In Monroe County the Children's Center is operated by the University of Rochester's School of Medicine Department of Psychiatry. This unique partnership between the courts and a university brings experts in the field of child well-being into the Rochester Children's Center. Children visiting the Center receive vision and hearing screenings as well as on-site developmental screenings. Caregivers leave the Center with a greater understanding of their children's health and development as well as referrals to services that can address any detected delays.

At a time when far too many children lack the support they need to become life-long learners, the Permanent Judicial Commission on Justice for Children is taking extraordinary measures to ensure children in the courthouse childcare centers have positive experiences with books and literacy. The court's Reading Is Fundamental program is a shining example of the innovative ways communities can collaborate and share a love of reading with children who are often not exposed to early education resources.

*Carol Rasco, President /CEO of Reading Is Fundamental, Inc.*

curriculum that promotes activities focused on reading readiness. Golden Books Family Entertainment donated 40,000 books to sustain the program during its first year of operation. Partners in this initiative include the America Reads Challenge and the agencies that operate the Children's Centers. Our brochure, Promoting Literacy, has aided Children's Center providers in their efforts to secure book donation and reinforced the importance of the literacy project to Center and court staff.

Since 2003, the Children's Centers in Dutchess, Erie, Genesee, Orange, Rockland and Westchester Counties have enhanced their promotion of literacy and reading readiness

through participation in the Reading Is Fundamental Program (RIF). RIF prepares and motivates children to read through fun-filled reading activities and by delivering free books and literacy resources to those families who need them most. The RIF Children's Centers distribute 22,000 books to over 12,000 children annually. The RIF literacy campaign in these counties was made possible by the generous donation of unused campaign funds to match RIF funds by Judges Joan Cooney, Janet DiFiore and Sharon Townsend. Subsequent donations have been received from Judges Joan

*In Memoriam: Pat Kennedy, First Children's Center Coordinator*

With the passing of Pat Kennedy in April 2003, the early childhood field lost an exceptionally committed advocate. Pat's formidable energy fueled the rapid growth of the Children's Center network. During her tenure, the number of children served increased ten fold to more than 52,000 children annually throughout New York State. The Commission and the Children's Centers staff valued Pat's concern and ability to make things happen. The Commission established a Patricia Kennedy Literacy Fund to support the purchase of children's books for the Centers. As a tribute to her vision and commitment, each Center received new books for their library on the first anniversary of her passing. In 2003, the Dutchess County Family Court renamed its Center, the Patricia A. Kennedy Children's Center, to keep alive her memory and honor her many contributions.

Lefkowitz and Alfred Weiner and Attorney Robert Neary.

The Children's Centers continue to receive visitors from around the country and to help other jurisdictions develop similar centers in their courts. The Children's Centers have welcomed judges, court officials and even White House staff. Our manual, *A Good Place for Children: A Guide to Starting, Building and Operating Children's Centers for New York Courts*, and our video, *A Good Place for Children: Children's Centers in New York State's Courts*, have been widely disseminated to courts, social services officials, child care providers and other interested persons.

In the Yonkers Children's Center, parents are encouraged to read to children or lead literacy activities while Center staff gather information and applications for community services. Parents have enjoyed the reading activities so much that a waiting list was established for parents who wanted to return to the Center for reading hours.



## *Improving Foster Care Proceedings: The Court Improvement Project (CIP)*

**I**n 1993, Congress provided four-year funding to the highest court of each state to assess and improve foster care, termination of parental rights and adoptions proceedings. Pursuant to federal legislation, New York's highest court, the Court of Appeals, designated the Commission to carry out the State Court Improvement Project (CIP) in New York. Those funds have since been renewed by Congress. In authorizing these funds, Congress recognized that significant improvements in the child welfare system also depended on improvements in the court process.

During Phase I of the New York State CIP, the Commission conducted the federally required assessment to determine how New York State Family Courts were handling child welfare cases and undertook two additional research efforts. First, it reviewed benchmarks of court and social service delivery innovations in other states to assess their possible applicability in New York. Second, the Commission reviewed the history of the Family Court in New York State and court reform within the context of child welfare and other social reform efforts in New York State and nationally. In addition to quantitative studies, the Commission conducted interviews, meetings and focus groups with judges, court administrators, law guardians, counsel for respondents, agency attorneys, child advocates, adoptive and foster parents, social service commissioners, child welfare historians and social scientists to gain an understanding of the issues and challenges faced by individuals involved in the child welfare and court systems.

At the conclusion of Phase I, the Commission developed a reform agenda, with Effective Judicial Leadership as its core. Effective judicial leadership has three components:

- creating a clear philosophy regarding the court's role in protecting the rights of children and families by preventing unnecessary placements and promoting permanency;

- overseeing the implementation of effective case planning by keeping a tight rein on cases; and
- working to create services needed by children and families involved in the court process.

Phase I goals are implemented by the following activities:

- communication and cooperation with the Department of Social Services;
- development of internal court mechanisms to expedite and improve outcomes for children; and
- use of non-adversarial alternative dispute resolution mechanisms.

The Commission shared the reform agenda with Family Court Judges at the 1998 Mohonk Conference, Foster Care Improvement Forum: Judicial Leadership in Child Welfare. At the Conference, the Phase I research findings came alive as Judges discussed the feasibility of change, the need for judicial leadership and the importance of the reform elements.

After the Mohonk Conference, the Commission began implementation of Phase II by initiating pilot projects in two counties — New York and Erie — and by developing reform activities to seed best practices throughout the State. Statewide activities include developing tools to focus on the individual needs of children in foster care, creating new resources to assist Family Courts in decisionmaking and increasing resource capacity to improve outcomes for children. The centerpiece of our efforts has been statewide training on court innovations and issues related to the pilot courts’ best practices and the well-being of children in foster care and their families. A key component of these initiatives has been our collaboration with local social services districts and the New York State Office of Children and Family Services.

## ***The CIP Pilot Projects***

The pilot projects in Erie and New York counties have been designated National Model Courts by the National Council of Juvenile and Family Court Judges. These Model Courts have developed new court processes to improve outcomes for children. Close judicial monitoring of cases is at the heart of these reforms, resulting in quicker resolution of cases, less time in foster care and more adoptions. These “best practices” are replicated statewide.

### **New York County**

Under the leadership of New York Family Court Judge Sara P. Schechter, the New York County Model Court developed new mechanisms to expedite and monitor child protective cases. These court innovations include judicial leadership to keep a tight rein on cases, extensive use of conferencing both at the outset of a case and

*New York County  
Model Court Data*

- 1059 cases
- 63.5% of the cases met goal of disposition within 90 days compared to 16.2% of such cases in other parts in previous years
- 92.7% of the cases reached disposition within targeted time frame as opposed to 38.4% of cases in other parts

throughout its life to ensure compliance with timeframes and service plans and additional court staff to monitor compliance with court orders. A Model Court team comprised of the judge, court attorney, court attorney referee and court social worker provided oversight and coordination of all aspects of a case from the filing of the original petition to the final permanency decision. The outcome of this approach has been both shortened timeframes and more meaningful dispositions. Protocols from the project are now being replicated as Best Practice Parts in courts throughout New York City.

Recognizing the importance of child-specific data in the courts, the Model Court worked with the Commission to modify the Juvenile Case Tracking System (JCATS), the data system first developed for Hamilton

County, Ohio, one of the benchmark courts studied in Phase I. JCATS-NY provides an innovative tool to track dependency cases in the court. The system generates weekly and monthly reports to help determine trends and compliance with court orders and timeframes. The New York County Model Court Project has continued to collect and analyze data, generating reports that focus on child-specific permanency goals. The reports use ASFA benchmarks and assist in managing caseloads and tracking permanency planning efforts. These reforms are now part of a new statewide system called the Universal Case Management System.

New York County's Abandonment/Permanency Part was initiated to develop a new way to identify and fast-track cases of abandoned infants. In the past, these cases were processed exactly like other cases, resulting in infants — even those abandoned at birth — languishing for years in foster care. Under the leadership of New York City Family Court Judge Rhoda Cohen, an abandonment protocol was developed to expedite cases. Its key features are entering orders at the first hearing for production of the birth certificate, the diligent search for relatives and review

The Permanent Judicial Commission on Justice For Children has been an inventive, industrious partner in so many major child protective reforms that the New York City Family Court has engaged in for the past ten years. Their guidance, ideas and energy have helped to challenge our thinking and educate the work of the Court and the child welfare community in New York City. We commend them and look forward to their continuing assistance in serving the children of the State of New York.

*Hon. Joseph Lauria, Administrative Judge, New York City Family Court*

hearings every four to six weeks. The Abandonment protocols are being replicated throughout New York City.

The New York City Family Court now has seven Best Practices Parts in its Child Protection Division – one in Manhattan and two each in Brooklyn, Queens and the Bronx. All child protective parts utilized some, if not all, of the recommended procedures, conferencing and early identification of services and back-end tracking to keep cases on the calendar for judicial review. All of the best

In 2004, the New York City Family Court participated in the National Adoption Day initiative by holding a week-long event one day in each of the five courthouses. Hundreds of participants attended, including judicial officers, other court staff, attorneys and agency personnel. The cumulative efforts resulted in 479 children being newly adopted during this week. Additionally, 103 adoption cases were finalized in the New York City Family Court during “Law Day” celebrations held in the Spring of 2004.

practices parts are using permanency mediation. The court also continues to work with the Commission to expand the work of the Babies Can’t Wait project, making consultants available to the Judges in both Queens County and Kings County for infant cases.

### **Erie County**

The hallmarks of the Erie County Court Improvement Project are judicial leadership and a close collaboration between the Court and the Department of Social Services (DSS). Through the partnership of the Supervising Judge of the Family Court, Sharon Townsend and the Commissioner of the Department of Social Services,

Debbie Merrifield, a stakeholder group of more than 175 members, representing foster care agencies, service providers and the legal community, has worked together to implement best practices in the child welfare system. These efforts support the many initiatives underway within the Court and across the county. The results have been a significant increase in adoptions, quicker and more meaningful dispositions and a dramatic reduction in the number of children in foster care.

The Expedited Adoption Project, known as “Spring into Permanency,” represented Erie County’s first successful initiative. The Court and DSS collaborated to create new court mechanisms to expedite adoptions including developing special adoption databases to track key timeframes and share case management information, increasing supervision of the contract agencies and providing overtime incentives to finalize the cases of children freed for adoption. A major result of this effort has been to finalize many of the most challenging adoptions — those of adolescents and those subject to the Interstate Compact. Erie County began the project in November of 1998. In November 2002, the Erie County CIP project was awarded the HHS

Adoption Excellence Award by Secretary Tommy Thompson, one of only 18 awards given annually to states, organizations and individuals “for giving abandoned, neglected or abused children a loving family and a safe and nurturing home.” Erie County was one of only three programs recognized for judicial or child welfare system improvement.

Erie County’s Permanency Court has become a model for best practices in child welfare proceedings. The Court has implemented expedited timelines that meet or exceed the standards set by the Adoption and Safe Families Act and the National Council of Juvenile and Family Court Judges Resource Guidelines. It ensures continuous legal representation of parents by a panel of attorneys identified by the Assigned Counsel Program. The Court attaches a completed “Important Dates Form” to all court orders so that timeframes are clear to all parties and developed a kinship policy to coordinate efforts by the Court and DSS to place a child in the care of appropriate relatives. The Court employs a court attorney referee who reviews all neglect cases post-adjudication, prior to termination, and post-termination for adherence to timeframes and compliance with court orders. Teamwork among the professionals appearing in the Permanency Parts is fostered by bi-monthly “troubleshooting” meetings. As a result of these innovations, the time from filing of the petition to disposition on neglect cases has decreased significantly.

*Erie County Spring into Permanency Project Data*

- Finalized adoptions for more than 1500 children
- Reduced adoption caseload by more than 50%
- Reduced time in foster care for children by two years
- 12 Adoption Day events resulting in 354 adoptions

In 2003, Judge Patricia Maxwell assumed leadership of the Erie County Model Court, now known as the Erie County Collaborative for Children. Under her guidance, the Model Court Project continues to set annual goals with its stakeholders and has implemented several new projects — Babies Can’t Wait, Benchmark Hearings for Adolescents and systematic court review work regarding Title IV-E findings. Additionally, the court is home to the Education Liaison Project where the Buffalo Public Schools have provided an on-site liaison at the Erie County Family Court to assist children in foster care, or at-risk of out-of-home placement, who are entering,

enrolled in, or leaving the Buffalo public school system. The liaison facilitates access to education records, ensures timely school enrollment and transitions, expedites appropriate educational referrals and placements and collects data on children served and services provided.

## **County Court Improvement Projects**

To share the learning from Phase I and II of the CIP, the Commission has assisted courts statewide in the replication of the reform elements and Model Court practices. The Commission has seeded best practices by helping counties augment existing resources and identify new resources including the funding of CIP liaisons in those counties with large populations of children in foster care. Most importantly, the Commission has provided ongoing, tailored technical assistance to help local projects succeed and has shared its Healthy Development, Babies Can't Wait and Education initiatives with local stakeholders in several counties.

### **Albany County**

As in all pilot projects, Albany County Family Court first convened a stakeholder group. It chose to begin its efforts with a Permanency Mediation Program. The group also has begun to explore the use of early case conferencing by visiting the Model Part in Oneida County and requesting the Court Attorney Referee from Oneida County and Commission staff to provide technical assistance to the effort.

### **Dutchess County**

The Family Court Advisory Committee in Dutchess County began meeting in early 2004. The group decided to focus on two issues — increasing the quantity and quality of visiting and meeting the needs of adolescents in foster care. A Court Attorney Referee holds both pre- and post-dispositional conferences for all abuse and neglect cases in Dutchess County.

### **Eighth Judicial District**

Under the leadership of Supervising Judge Michael Griffith, the Family Courts in the Eighth Judicial District (Allegany, Cattaraugus, Chautauqua, Genesee, Erie, Niagara, Orleans and Wyoming counties) are building on the success of the Erie County Collaborative for Children by involving their DSS counterparts in a variety of reform efforts including training that reflect the best practices of the CIP Model Courts and the work of the Commission. The CIP Director based in Erie County oversees this replication work.

The Permanent Judicial Commission on Justice For Children has been responsible for planting the seeds of best practices in every county in New York State to speed permanency for children in foster care and focus attention on their health, education and well-being. As a result, the children in foster care in the rural counties of New York State as well as the urban areas of Buffalo and New York City, have reaped the benefits of these collaborative efforts by achieving health, well-being and permanency in the shortest possible time. I have been proud to be a part of this effort.

*Hon. Sharon Townsend,  
Administrative Judge, Eighth  
Judicial District*

### ***Monroe County***

In 2004, the CIP funded the new position of Court Improvement Project Coordinator to serve as a liaison between the Family Court and the Monroe County Department of Health and Human Service (DHHS), collect data and track cases for compliance and coordinate training for the judges, attorneys and child welfare professionals.

The Monroe County Family Court Best Practices Project has developed a system of conferences to discuss and monitor placement, case plans and visitation. Additionally, the Court has enhanced its efforts to comply with ASFA and Title IV-E eligibility requirements by appointing a team to review Family Court files within the Seventh Judicial District. The Family Court and University of Rochester also are collaborating to pilot a Therapeutic/ Mentor Visitation Program in the Family Treatment Court.

### ***Nassau County***

Nassau County has convened a stakeholder committee to advise the development of the Best Practice Part which became operational on January 2005. The Part has begun to conference cases and use mediation. Part staff consists of one judge, one court attorney and a case coordinator funded by the CIP. With the assistance of Commission staff, the Part has hosted several trainings on issues relevant to children in foster care including a Babies Can't Wait Project.

### ***Oneida County Model Court***

Oneida County Family Court's Model Permanency Court Program became operational in May 2003. Piloted with a lead Judge and his Court Attorney applying best practice principles to that Judge's child welfare caseload, the program achieved significant success in insuring compliance with ASFA mandates and expediting permanency for children in abuse and neglect cases through intensive case management and review. Building on its first-year success, the program was expanded county-wide in September 2004. The Oneida County Family Court judges apply a uniform approach to permanency for children in their child welfare proceedings by referring child welfare matters to a designated Court Attorney Referee who presides over all cases involving the abuse and neglect of children and conducts all permanency hearings for children removed from their homes.

The Model Court Program has had a ripple effect at the Oneida Department of Social Services, encouraging a more meaningful exploration of permanency alternatives and long-term goals. The Family Court and DSS collaborate on team reviews of cases for the longest-waiting children, Adoption Now panel reviews and have partnered to create new forms that improve case analysis and tracking.

### ***Westchester County Family Court***

Under the leadership of Commission member, Supervising Family Court Judge Joan Cooney, the Permanency Part was established. It works collaboratively with the Westchester Department of Social Services (DSS) to establish a multi-disciplinary Advisory Council on

Permanency for Children and initiated local well-being projects. The Part's full-time Court Attorney Referee conducts permanency hearings for every child in foster care who has not been returned home within one year after placement. The hearings establish an updated permanency plan for the child and set a specific timeframe to accomplish the plan. The Court Attorney Referee conducts compliance conferences for cases that require intensive court monitoring.

The Part also employs a part-time educational consultant who reviews records and makes recommendations related to school placement, focusing on children with special educational needs. Additionally, the Court assigns each child in foster care under age five to a Court Appointed Special Advocate (CASA) who monitors the health and development of the child.

## ***Consultation and Training***

The Commission has seeded best practices statewide through an intensive consultation and training strategy which focuses on best practices developed by the Model Courts, implementation of the federal Adoption and Safe Families Act (ASFA), the Healthy Development Initiative and the Babies Can't Wait and Education Projects. Every training highlights the critical link between child well-being and permanency. As a result of our training efforts, New York State judges, attorneys, CASAs, child welfare administrators, caseworkers and policymakers have gained access to national leaders in court reform, child health and development experts and cutting-edge child welfare research. Our trainings reflect local need and resources and encourage sensitivity to the court process and culture. We have moved from providing training for judges to a strategy that convenes cross-disciplinary audiences including the child welfare agency, representatives for parents, law guardians, CASAs and foster care agency staff. To encourage participation, continuing legal education (CLE) credits are provided to attorneys and judges. Providing training in different Family Courts also has allowed the Commission to assess local interest in pursuing reforms and to help allocate resources.

During the past five years, the Commission has worked closely with Judge Richard Fitzgerald, a New York native and Retired Chief Family Court Judge from Louisville, Kentucky, to develop and present trainings in all judicial districts statewide. These trainings have focused on best practices and lessons learned from the Model Courts, the importance of collaboration with the child welfare agency and other stakeholders, and the need for judges and judicial officers to make judicial findings that comply with ASFA and protect federal IV-E funds. As the Commission's collaboration with the Office of Children and Family Services grew, these sessions spotlighted the role of the court

The Permanent Judicial Commission on Justice For Children in New York has significantly changed the judiciary's outlook regarding the legal and social problems facing the state's most vulnerable children. Judge Kaye and her staff have focused on outcomes for children, particularly infants, and have encouraged the New York judiciary to engage in the work of the juvenile court as never before. Even as a non-New Yorker, it has been inspirational to watch the work of the Commission and see how it has transformed the judiciary and ensured timely permanency for children.

*Hon. Len Edwards, Santa Clara, California*

in the Child and Family Services Reviews and the resulting Program Improvement Plan (PIP) and Title IV-E. At a 2004 judicial training in the Fifth Judicial District where representatives from three native nations were in attendance, Judge FitzGerald stressed the importance of the Indian Child Welfare Act considerations in all child abuse and neglect proceedings.

## **Creating New Resources for the Court**

Augmentation of existing resources and identification of new resources to facilitate the court's new problem-solving role has been a centerpiece of the Commission's court improvement efforts. The Commission has funded CIP liaisons in counties with large populations of children in foster

care including Albany, Erie, Monroe, Oneida and Nassau. These liaisons promote best practices, convene stakeholders, disseminate Commission materials, produce trainings and jumpstart local Healthy Development, Babies Can't Wait and Education initiatives. The Commission has worked closely with several New York State judges to augment the role of their court attorneys and court attorney referees who now hold case conferences and hearings and use the Commission's Healthy Development Checklist as a tool to guide permanency decisionmaking. Court attorney referees' most active role has been in the post-disposition phase, holding reviews to assure compliance with court orders and the provision of needed services.

The Commission's Court Appointed Special Advocate (CASA) Project harnesses the resources and expertise of CASA volunteers to assist the courts in identifying and addressing the needs of children in foster care. CASA volunteers throughout New York State now provide information to help shape court orders and monitor compliance with court orders and permanency plans. This initiative has strengthened the New York State CASA program and increased its availability as a resource for judges statewide. Recognizing the importance of CASAs, in 2004, Judge Kaye appointed a high-level committee, headed by retired Court of Appeals Judge Howard Levine to study ways in which the New York State Court System can support CASA.

The Commission also has developed a Masters of Social Work (MSW) judicial internship program that places MSW students in Family Court to assist judges and court staff in reviewing case plans, shaping dispositions and identifying unmet needs of foster children. Over the past seven years, MSW judicial interns have worked in Manhattan, Brooklyn, Westchester, Erie and Suffolk Counties.

The Commission first identified mediation as a resource for improving the court process during our initial CIP assessment. In 2000, the Erie County and New York City Model Court Projects initiated child permanency mediation programs. The success of these pilots spurred the Commission to fund mediation projects in additional counties and introduce statewide training initiatives on permanency mediation. In 2002, the Commission partnered with the Office of Court Administration's

Office of Alternative Dispute Resolution program and the New York State Office of Children and Family Services to co-support seven permanency mediation projects serving ten counties — Albany, Chemung, Erie, Kings, Monroe, New York, Niagara, Oneida, Rockland and Westchester. Across the state, 273 cases have been referred, 223 cases have been mediated, 190 mediations were completed and 145 cases resulted in a mediation agreement. The counties were chosen based on their strong judicial leadership, strong mediation agencies and large foster care populations. All three state groups worked with the

counties to provide small planning grants and technical assistance in convening local stakeholder groups and training. Additionally, the three groups collaborated to develop a statewide structure for the mediation initiative and pooled resources to provide funding, training, monitoring, data collection and evaluation.

The Commission maintains a comprehensive website [www.nycourts.gov/ip/justiceforchildren](http://www.nycourts.gov/ip/justiceforchildren) to share all of its research, writing and tools as well as links to other sites relevant to court reform and the well-being of children in foster care.

Although mediation is time-consuming, I find the time well spent because mediation productively utilizes the time between court adjournments, the litigants come to view each other in a less adversarial light, the litigants have the opportunity to be heard in a manner that court does not permit, and the participatory settlements creatively generated are more likely to be honored.

*Hon. Bryanne Hamill, Kings County Family Court*



## *Collaboration: The Central Strategy for CIP Success*

**D**uring the first phase of the CIP, the Commission's research identified communication and cooperation with the Department of Social Services and other agencies that served foster children as a key element of court reform. As a result, growing and supporting multi-system collaborations at the local, state and national levels has been a guiding force of the Commission's work. Our commitment to building relationships that could blossom into true partnerships has required all of our resources — leadership, creativity and flexible funding. We are proud that these efforts have stimulated child-focused reform in policy and practice in the Family Courts and child welfare communities.

At the local level, the Commission's first pilot projects tested the efficacy of convening stakeholder groups to guide local project activities. These groups grew into collaborations that targeted activities responsive to the needs and resources of the community. This learning was utilized by the Commission in all subsequent projects requiring the convening of stakeholders as the first step in every reform effort. Local stakeholder groups proliferated around the State to facilitate discussion and to identify common issues and areas for technical assistance from the Commission. Local, regional and state trainings and conferences sponsored by the Commission are specifically designed to encourage and support relationship-building and collaboration at the local level.

At the state level, building collaborations required new approaches. The efforts were jump-started by the U.S. Department of Health and Human Services Child and Family Services Review (CFSR) and Title IV-E reviews which found serious problems in the state's compliance with ASFA and required court and child welfare cooperation to solve those matters. The Commission staff actively participated in the development of the Program Improvement Plan (PIP) and was a major force in developing the Statewide Team to

implement one of the PIP's strategies — strengthening the collaboration between the courts and Office of Children and Family Services (OCFS).

These activities resulted in a groundbreaking collaboration effort. In September 2003, the Commission partnered with OCFS to plan and conduct the Sharing Success Conference, the first conference in New York State to bring together Family Court Judges, Court Attorneys, Court Attorney Referees, DSS Commissioners, DSS attorneys, DSS program staff, and attorneys who represent children and parents. The Commission used its Court Improvement funds to

Family Court judges from across the State attended [Sharing Success] together with representatives from local Departments of Social Services, and lawyers who work in the courts. I attended this with a representative group from my county, and out of that experience came the impetus for creating Monroe County's "best practices" permanency court.

*Hon. Anthony J. Sciolino, Monroe County Family Court, The Changing Role of the Family Court Judge: New Ways of Stemming the Tide, Cardozo Public Law, Policy and Ethics Journal, vol. 3, issue 2 (2005).*

enable judges and court staff to attend the two-day conference while OCFS made it possible for local district staff to attend. The Conference was co-sponsored by the National Council of Juvenile and Family Court Judges which brought a number of judges and agency staff from several Model Courts including Essex County, New Jersey, Salt Lake City, Utah and Tucson, Arizona who spoke about their stakeholder groups and collaborations. The conference provided jurisdictions in New York State an opportunity to share their collaborations and model practices. A number of counties including Erie, Oneida, St. Lawrence and Ulster discussed their preliminary steps using early case conferencing. Erie County and New York City presented on their collaborations

and best practice parts. The agenda also featured presentations on the unique needs of infants and adolescents. As a result, Sharing Success became the launching pad for collaborations and implementation of best practices by many courts and child welfare agencies throughout New York.

In the Fall of 2004, the Commission and OCFS sponsored Sharing Success Two — a series of 11 Regional Forums which were held in Syracuse, Saratoga, Middletown, Long Island, Canandaigua, Buffalo and all five counties of New York City. Regional forums across the state made it possible for more local court and agency staff to attend in teams. Each forum focused on how to hold a "model" freed child permanency hearing, featuring a training video starring a New York City judge, and actual agency attorneys, CASAs and law guardians with actors playing the role of the foster parent and child. Presentations were co-led by staff from OCFS and the courts. Additionally, several

forums enjoyed a dynamic presentation on best practices in visitation, innovative visiting models and visit coaching as practiced by the New York City Administration for Children's Services (ACS).

During this time, Chief Judge Kaye attended an adoption day event in Albany where she learned that 6068 children in New York State had their parental rights terminated but awaited adoption. Believing that collaboration could address this serious statewide problem, Judge

The collaboration between the Commission and the Office of Children and Family Services continues to produce results that neither organization could achieve alone. The Commission is an integral member of a multi-agency Statewide Permanency Planning Team and the Commission's leadership in the area of health care for children in foster care is resulting in heightened awareness in courtrooms across the State. Elements of the Commission's Healthy Development Checklist have been found to be so essential that they are incorporated into the OCFS SACWIS system, CONNECTIONS.

*Larry Brown, Deputy Commissioner of Development and Preventive Services, OCFS*

Kaye convened the Commissioners of OCFS and ACS and asked them to work with her to address the critical issue. In May 2003, Judge Kaye and her child welfare partners were joined by Governor Pataki and key state legislators to unveil the Adoption Now initiative. Adoption Now created adoption panels in every corner of the state to review and expedite cases, developed new adoption policies and practices and resulted in 4,450 adoptions in 2003. As a result of this impressive increase in adoptions, New York State received a federal adoption bonus of \$3.5 million dollars and ACS was awarded the HHS Adoption Excellence Award.

The Commission also spearheaded statewide collaborative efforts to strengthen the statutory framework to better comply with the letter and spirit of ASFA. In 2004 and 2005, Judge Kaye and the Family Court Advisory and Rules Committee convened two Child

Welfare Roundtables to bring together the Family Court and child welfare communities to discuss the need for legislative reform. This unprecedented collaboration resulted in a compromise permanency bill that will improve ASFA compliance and promote permanency and well-being for children.

At the national level, the Commission has engaged in collaborative activities to bring the unique needs of children in foster care to the attention of child advocates, early childhood professionals and policymakers. In partnership with the Zero To Three National Center for Infants, Toddlers and Families, the National Center on Children in Poverty, the National Council on Juvenile and Family Court Judges, the American Bar Association and the Children's Bureau, the Commission has published a range of articles, booklets, and checklists.

Commission staff also participate on a number of national committees including the American Bar Association, American Academy of Pediatrics, the American Academy of Child and Adolescent Psychiatry and the Child Welfare League of America. These collaborations have facilitated a broad-based national dialogue about the needs of children in foster care and led to new partnerships and resources for Family Courts and child welfare professionals in New York State.



## *Improving the Well-Being of Children in Foster Care*

### ***The Healthy Development of Children in Foster Care Initiative***

Since its inception, the Commission has focused on the well-being of children involved in cases before New York State's courts. Our CIP research found few court orders for services for children in foster care, little indication in court records or proceedings that services were being provided to them, and only rare inquiries about their health and developmental status. The Commission's monitoring of the New York Early Intervention law also revealed that young children in foster care were not being connected to vital Early Intervention services. Our Early Intervention and CIP efforts began to flow together as the Commission learned of research nationwide that documented the fragile health and disabilities among children in foster care and their inadequate access to vital entitlements and programs that can address their needs.

The Commission initiated activities to alert policymakers about this research. Commission staff spoke at state and national conferences, seeking reform in the Early Intervention system and for the first time securing a focus on children in foster care in the 1998 Early Head Start Request For Proposals issued by the Head Start Bureau of the United States Department of Health and Human Services. But these efforts were not enough. It became clear that a more focused initiative was required to spotlight the health needs of children in foster care and their impact on permanency. In September 1998, the Commission launched the Healthy Development for Children in Foster Care initiative premised on our belief that every court proceeding presents an opportunity to inquire about a child's needs and the caregivers' capacity to meet those needs. To guide our efforts, the Commission convened a Health Care Working Group comprised of Judge Kaye, Commission staff, judges, lawyers, pediatricians, child advocates and state and local officials. Judge Kaye encouraged the Working Group to create a court-based innovation — a hallmark of the Commission's prior successes.

In November 1999, the Commission published the Healthy Development Checklist for Foster Children and the booklet, *Ensuring the Healthy Development of Foster Children: A Guide for Judges, Advocates and Child Welfare Professionals*. The Checklist contains ten questions to identify a foster child's health needs and gaps in services. The booklet is a companion tool to the Checklist, providing reasons for asking each question and references to expert sources. In developing the Checklist and booklet, the Commission worked with the New York State chapter of the American Academy of Pediatrics to identify the most critical guideposts for children's health. The Checklist also incorporates the more stringent standards of health care for children in foster care as recommended by the American Academy of Pediatrics and the Child Welfare League of America and reflects the court's authority under state law and federal law — the Adoption Assistance and Child Welfare Act of 1980 and the Adoption and Safe Families Act.

Chief Judge Kaye formally unveiled the booklet during her keynote address at the November 1999 Millennium Conference in Washington D.C. sponsored by the United States Department of Health and Human Services Children's Bureau, the National Council of Juvenile and Family Court Judges, and the Department of Justice Office of Juvenile Justice and Delinquency Prevention. As of August 2005, more than 28,000 copies of the booklet have been disseminated throughout New York State and nationwide. Use of the Checklist and booklet at the earliest possible point to elicit information about a child's health, developmental and emotional needs, identify services to address these needs and shape permanency planning helps assure that children receive the basic health care to which they are entitled under federal and state law.

*Checklist for the Healthy Development of Children in Foster Care*

1. Has the child received a comprehensive health assessment since entering foster care?
2. Are the child's immunizations up-to-date and complete for his or her age?
3. Has the child received hearing and vision screening?
4. Has the child received screening for lead exposure?
5. Has the child received regular dental services?
6. Has the child received screening for communicable diseases?
7. Has the child received a developmental screening by a provider with experience in child development?
8. Has the child received mental health screening?
9. Is the child enrolled in an early childhood program?
10. Has the adolescent child received information about healthy development?

The goal of the booklet is to expand awareness of the importance of these health issues for children's life prospects. Addressing these needs will both enhance their physical health and decrease the probability of placement disruption. That means it will increase the likelihood that these children will grow up in stable, loving, permanent homes.

*Judge Judith S. Kaye, 1999  
Millennium Conference,  
Washington D.C.*

To make use of the Checklist an integral part of the court process, the Commission embarked on an intensive effort to provide court and child welfare professionals with training on child development, available community resources and the impact of a child's health and development on decisions about placement, visitation and permanency. To this end, the Commission developed an impressive roster of trainers. For most judges and attorneys, this training was their first exposure to child development research as well as entitlements and programs such

as EPSDT, Early Intervention and Head Start. Every training session highlights the link between healthy development and permanency and offers strategies to build collaborative partnerships between those involved in the court and child welfare systems and professionals working in the fields of health, child development and early childhood education. Commission staff also developed companion materials to the Checklist and made

presentations at meetings sponsored by national organizations including the National Council of Juvenile and Family Court Judges, the American Bar Association, the National Association of Court Appointed Special Advocates, Zero to Three, the American Academy of Pediatrics and the American Academy of Child and Adolescent Psychiatry and also made presentations at Grand Rounds at several university medical centers throughout the country.

Implementing the Checklist has required resources to assist the court in asking the questions, gathering information, and translating the results of screenings and evaluations relevant to permanency decisionmaking. The Commission provided training to meet this need to Court Appointed Special Advocates (CASA), court attorneys and court attorney referees, and nonlegal resources including Masters' level social work students and public health nurses.

Working closely with New York State CASA Association, the Commission has trained all the New York State CASA directors to use the Checklist and the directors have trained their local volunteers. As a

A CASA volunteer used the Checklist to determine that an infant had not received the mandatory comprehensive examination since entering foster care. The court ordered an examination and the child was found to have a tumor behind her eye. A court order facilitated an immediate operation, which not only saved the child's sight but also assured her healthy development.

result, CASAs throughout New York State are using the Checklist and routinely incorporating a child's health and developmental needs in their reports to the court. CASA involvement has encouraged judges to write orders specifying health and developmental screenings and services for individual children and to make the connection between a child's healthy development and permanency planning. In Erie and

Using the Checklist, a CASA volunteer discovered that a young child with severe burns required dressing changes several times each day. The child's mother had a history of substance abuse and limited cognitive ability. CASA shared this information with the judge, who entered an order specifying training for the mother to meet her child's physical and emotional health needs to facilitate visitation and eventual reunification.

Westchester Counties, CASAs are using the Checklist on every case involving a foster child under age five.

In November 2001, our issue brief, *Improving the Odds for the Healthy Development of Young Children in Foster Care*, co-authored with the National Center for Children in Poverty, was published. The document is part of the National Center's policy paper series to help the most vulnerable families. The publication focuses on what government agencies, the courts and other partners can do to improve the physical, developmental

and emotional health of young children in foster care. The Commission's Healthy Development Initiative is highlighted. More than 2000 copies of *Improving the Odds* have been disseminated to Family Court Judges, Model Court Judges, State Health Departments, CASAs, child welfare agencies, social services commissioners and child welfare advocates.

The Checklist has become an institutionalized component of child welfare practice. The Office of Children and Family Services has included the checklist in its Connections computerized case management system, requiring the checklist information be gathered and recorded for all child welfare cases. In 2005, the New York Permanency Act embraced the centrality of children's health and well being for permanency by mandating this information as part of the required permanency report.

One of the Commission's greatest accomplishments is the Healthy Development booklet. The recognition in New York's recent permanency bill of the importance of asking questions about healthy development and education is a testament to the impact of that publication. The legislature has through the enactment of this bill made it a law to ask in court the very questions, which we have been encouraging judges to ask through the booklet.

*Hon. Joan O. Cooney, 9th Judicial District Supervising Family Court Judge*

## Babies Can't Wait Initiative

In 2001, the Robert Wood Johnson Foundation awarded a grant to the Commission to develop the Babies Can't Wait Initiative as a

The Commission's innovative educational program, Babies Can't Wait, presents recent advances in research in early childhood issues and provides practical applications for decision-making in the Courtroom. It is a national model for its feasibility and impact in improving maltreated babies' access to health care and early intervention services. Based on its success, we have received a federal grant to replicate this model program in Philadelphia, Pennsylvania.

*Judith Silver, Ph.D., Director, Child Welfare Early Childhood Initiative, The Children's Hospital of Philadelphia.*

specialized, court-based strategy to maximize the healthy development and permanency prospects for infants in foster care. The initiative builds on the knowledge and experience of the Model Courts as well as the Commission's activities to promote the Healthy Development Initiative. As part of this work, the Commission found that the needs of infants, regarded as the easiest to deal with, are often invisible to the court and child welfare systems. Yet the most recent child welfare research confirms that these babies have the greatest risk to enter, remain in and re-enter foster care.

Our initial efforts focused on two research projects — to understand the needs of infants in foster care, and to understand the system of services to infants in the

Bronx. Commission staff developed a preliminary profile of infants in the Bronx by reviewing court case files. Research revealed that a vast majority of these infants were placed in foster care from the hospital at birth, were removed due to positive toxicology and had parents whose parental rights for older children had been terminated. Very few of the files contained court orders for services to the infant or information on the infant's health and development.

To guide the work of the project, the Commission convened an Advisory Committee composed of Commission members and staff, the Bronx Family Court Supervising Judge Clarke Richardson and Family Court Judge Gayle Roberts, the Administration for Children's Services staff, Legal Aid, CASA, the Bronx Early Intervention program and Bronx health care and early childhood providers. The Committee identified three tasks:

- conduct a multidisciplinary training series about infant health and development for those involved in the court and the child welfare system;
- develop an infant checklist and booklet focusing on the unique needs of infants for those involved in the court process; and

- work with the child welfare system to change policy and practice concerning infants.

With the assistance of the Advisory Committee, the Commission conducted a lunchtime training series, *Infant Health and Development: What Courts and Child Welfare Personnel Need to Know*, to educate those involved in the court process about infant health and development. Local experts including doctors, psychologists, social workers and early intervention officials were brought to the court to conduct the trainings. Topics included the health care needs of infants,

### A Checklist for the Healthy Development of Infants in Foster Care

1. What are the medical needs of this infant?
  - What health problems and risks are identified in the infant's birth and medical records (e.g. low birth weight, prematurity, prenatal exposure to toxic substances)?
  - Does the infant have a medical home?
  - Are the infant's immunizations complete and up-to-date?
2. What are the developmental needs of this infant?
  - What are the infant's risks for developmental delay or disability?
  - Has the infant had a developmental screening/assessment?
  - Has the infant been referred to the Early Intervention Program?
3. What are the attachment and emotional health needs of this infant?
  - Has the infant had a mental health assessment?
  - Does the infant exhibit any red flags for emotional health problems?
  - Has the infant demonstrated attachment to a caregiver?
  - Has concurrent planning been initiated?
4. What challenges does this caregiver face that could impact his or her capacity to parent this infant?
  - What are the specific challenges faced by the caregiver in caring for this infant (e.g. addiction to drugs and/or alcohol, mental illness, cognitive limitations)?
  - What are the learning requirements for caregivers to meet the infant's needs?
  - What are specific illustrations of this caregiver's ability to meet the infant's needs?
5. What resources and supports should be tapped to enhance this infant's healthy development and prospects for permanency?
  - Does the infant have Medicaid or other health insurance?
  - Is the infant receiving services under the Early Intervention Program?
  - Have the infant and caregiver been referred to Early Head Start or another quality early childhood program?

infant development, the emotional needs of infants and the Early Intervention program and early childhood education program. The final session provided participants with an infant case to review. The training was well attended by judges, court attorneys, CASAs, Legal Aid attorneys and social workers, parents' attorneys, ACS legal and program staff and advocates. To reinforce this highly successful training series, the Commission developed monthly consultation clinics bringing the trainers back to the Bronx Family Court to answer questions about infant health and development. Based on these training achievements in the Bronx, the Commission, in concert with ACS, developed a special training for hundreds of ACS staff, and staff at foster care agencies throughout New York City. This training has been repeated eight times.

To further assist judges, attorneys and child welfare professionals, the Commission has written an infant booklet published by the National Zero to Three Policy Center designed to spotlight the unique needs of infants and the resources available to address those needs entitled *Ensuring the Healthy Development of Infants in Foster Care: A Guide for Judges, Advocates and Child Welfare Professionals*. As a complement to our first booklet, the Commission envisions the infant booklet as a tool to enhance an infant's healthy development as well as to shape permanency planning and decisionmaking.

In 2004, Babies Can't Wait Phase II was funded in New York City by the New York Community Trust. During Phase II, the Commission placed a Family Court Early Childhood Specialist to assist judges and attorneys in different boroughs of New York City Family Court in developing infant-focused court practice. The Early Childhood Specialist brings an additional resource to the court by providing child development expertise to individual cases and arranging core training on infant health, development, mental health and attachment and early intervention. The Specialist also organizes follow-up clinics on topics identified by the court, including Shaken Baby Syndrome, Head Start, the Impact of Maternal Depression on Infant Development and Assessing Parental Capacity of Parents with Infants in Foster Care. As in Phase I, the Commission created borough-specific resources for infants, provided ongoing training and consultation, and collected and analyzed data involving infant cases. Additionally, the Project continues to provide a vehicle for the Commission to encourage courts to partner with CASA to monitor infant cases and identify gaps in services.

To further encourage a focus on the needs of infants in Brooklyn, the Commission worked with Judge Susan Danoff to develop a specialized court project and model court orders for infant cases. At the first hearing on all infant cases, using the infant checklist the judge appoints CASA to report on the health and development of the infant and orders a referral to the Early Intervention Program, a comprehensive medical examination and a diligent search for both parents. She also sets the date of the six month permanency hearing.

Husayn was born in the winter of 2003 with a heart murmur, Down syndrome, hearing loss, asthma and reflux problems. A few days after his birth his mother abandoned him at the hospital. The Judge assigned the case to CASA to closely monitor his very special situation and ordered a referral to Early Intervention.

ACS placed Husayn in the home of a couple who wanted to adopt him. With CASA's help, the couple kept up with the multiple medical appointments and coordinated the delivery of early intervention services for his developmental delays. After a few months, Husayn's path hit a snag: ACS received a call from his foster mother reporting domestic violence. Husayn needed to be removed immediately. ACS placed him in an emergency foster home.

The CASA called the emergency foster parent to follow-up on Husayn's medical appointments, but learned that the emergency foster parent knew nothing about Husayn's appointments or medical conditions. Fortunately, CASA had kept track of all of Husayn's medical needs and appointments and relayed this information. After a few weeks, the CASA discovered that Husayn was still missing all his appointments. CASA had to obtain a court order to enforce compliance. At last, Husayn resumed getting the care and services so important to his well-being.

It was clear to CASA that Husayn needed a more suitable placement, and CASA advocated for Husayn to be placed in a "therapeutic foster home." Husayn was moved into a home with a certified nurse as his new foster mother. Today, Husayn no longer has a foster mom. He was adopted in November 2004.

A second hearing is held in four to six weeks to review the initial order and check progress toward permanency. A third review hearing is held if the child is in care 90 days. Every 30 days, the Early Childhood Specialist reviews the case and updates the progress.

Early in Phase I, ACS appointed a Babies Can't Wait Working Group to help change child welfare practice toward infants. The Commission has been an active participant in this Group which developed projects to place infants in foster care/adoptive homes, created policy for referral to Early Intervention and expedited permanency, designated Early Childhood Specialists in each borough and generated initiatives for more frequent, quality visitation for infants in foster care. Babies Can't Wait Phase II has funded foster care agencies in New York City to replicate a successful model of parent-infant visitation and has presented training on infant development for the new ACS Early Childhood Specialists, supervisors and foster care agency caseworkers.

Phase II also has continued to provide training and consultation throughout New York State and nationwide for the courts and child welfare systems on issues relevant to infants foster care. In 2004, the project hosted two symposia. The first featured Leonard Edwards, Lead Judge from the Model Court in Santa Clara, California discussing efforts to increase the quantity and quality of visits between children in foster care and their parents. The second featured Mary Dozier,

Ph.D. from the University of Delaware who shared her groundbreaking research on infants in foster care from an attachment theory perspective.

The success of the Babies Can't Wait Project is evident in the new partnerships created among the courts, child welfare and infant-

The Permanent Judicial Commission on Justice for Children has played a groundbreaking role in raising awareness of the special needs of young children involved in Family Court and in ensuring that these children under the age of three have access to vital early intervention services that foster their healthy development.

*Katherine Locker, Attorney Director, Children's Services Education Unit, New York City Administration for Children's Services*

toddler specialists in New York City and in Erie and Monroe counties. These collaborations have enhanced the capacity of each system, and of staff working in each system, to serve infants in foster care with an informed focus on their specific needs and an awareness of services and best practices to address those needs. Perhaps most importantly, these partnerships have become part of the culture in the courts and foster care agencies throughout New York State, sustaining the impact of the Babies Can't Wait Project and helping babies grow up healthy and in permanent homes. The 2005 New York State Permanency Law also recognizes

the learning from the Project by adding provisions to expedite infant cases and require information on Early Intervention Program evaluations and services in permanency hearing reports.

Additionally, the Babies Can't Wait Project has been a catalyst for national attention to the needs of infants involved in child welfare proceedings. Through the Commission's advocacy and writing on the Babies Can't Wait Project, a national spotlight has been shone on young children in foster care and their needs are now woven into the fabric of federal child welfare, early intervention and education laws. The Commission staff also serves on several national workgroups and committees that enable dissemination of the work of the Healthy Development for Foster Children and Babies Can't Wait projects. The committees and workgroup include:

- The Infant Mental Health sub-committee of the National Council of Juvenile and Family Court Judges
- The National Academy of Child and Adolescent Psychiatrists and the Child Welfare League of America Birth to Five Workgroup
- Early Head Start National Resource Center at Zero to Three
- Child Welfare League of America and American Academy of Pediatrics Health Care for Foster Children Collaborative
- American Academy of Pediatrics Health Care Summit

## Education Project

The Commission has long recognized that tapping the educational system can prevent, shorten or improve foster care placements, particularly for adolescents. The Commission initiated its Education Project to begin to address a critical, yet often ignored aspect of the well-being of children in foster care. Replicating the successful approach used in our other well-being efforts, the Commission convened an Advisory Group of Commission members and experts to shape the education project. The Group identified three tasks:

- review of the research and the law concerning the education of children in foster care;
- develop written materials and a training program for the courts and the child welfare communities; and
- work with local stakeholders to shape court and child welfare practice to better address the education needs of children in foster care.

Our review of the research literature confirmed that foster children face unique challenges to educational achievement—the vast majority have serious medical problems, developmental delays and disabilities that can undermine their ability to learn and function in schools and they experience gaps in school enrollment and attendance because of the foster care placement, sometimes even multiple placements. Perhaps most significant, children in foster care often lack consistent advocacy and support from parents or other adults to help them meet the challenges of school. Not surprisingly, children in foster care do more poorly in school than other children; lagging in achievement, repeating grades and failing classes. Yet, the children in foster care have clear rights to have their education needs addressed under federal and state law. A child's educational needs must be included in permanency planning and decisionmaking.

With the assistance of the Advisory Group and an educational consultant funded through the CIP, the Commission developed a training curriculum and manual, *Education Matters: Addressing the Educational Needs of Children in Foster Care*. *Education Matters* contains our research, a detailed overview of the law related to the education of children in foster care and forms concerning school attendance, enrollment, school records, special education and transition to adulthood. The publication is housed in a binder that can be easily updated and is available on the Commission's website. In 2004, the Commission unveiled *Education Matters* at a series of trainings in several counties with large populations of children in foster care. These sessions provided judges, lawyers, CASAs and child welfare practitioners with an introduction to the issue using lectures, videos and hypothetical cases. More than ten regional trainings have been held. As a complement to the manual, the project will publish a law review article concerning the educational

needs of children in foster care and how to use the law as a tool to improve their educational outcomes.

As in all other Commission projects, a local initiative was developed to test and refine our work. Working with the community stakeholders and the Buffalo school district, the Commission's

It is a tremendous help not only to the court, but also to the families we service, to be able to get quick answers to school issues. Having the Liaison in the courtroom to get immediate answers to attendance and enrollment questions has proven to be a great benefit to us all.

*Hon. Patricia A. Maxwell, Erie County Family Court*

education consultant spearheaded a pilot in Buffalo as part of the Erie County Collaborative for Children. Using *Education Matters*, the pilot tested three strategies for bringing information about the education needs of individual foster children to the court:

- developing a brown bag luncheon series, Bridges to Education, held for all judges, lawyers, CASAs, education and child welfare officials

- out-stationing a liaison from the Buffalo school district in Erie County Family Court to provide information on individual children; and

- creating a benchmark hearing protocol for adolescents over the age of 16 in foster care that invites educators, adolescents and the important people in their lives to a hearing that focuses on the adolescent's hopes and dreams and develops a transition plan.

The Commission's education activities are now reflected in state law. The 2005 New York State Permanency Law specifically focuses the court's attention on the centrality of education in the lives of children in foster care. Additionally, passage of the 2004 IDEA and its regulations, and the 2005 New York State Special Education law prompted attention to the needs of children in foster care enrolled in special education. At a meeting of the Statewide Permanency Planning Team, the Commission highlighted the importance of the 2004 IDEA law to encourage the Team to become involved in shaping the new state regulations. The Commission staff helped to design an all-day session for the Team and collaborated with Team members to formulate recommendations that promote better education outcomes for children in foster care in the special education system.

## Education Matters

### Guiding Principles in the Education of Foster Children

1. Foster children should be enrolled in school and attend regularly.
2. Foster children benefit from continuity in family, social, community and school relationships.
3. Foster children's educational records should accompany the children as they move from school to school, with ease and speed.
4. Foster children should receive appropriate general and/or special education services to meet their individual needs.
5. Foster children suspected of having an educational disability should be referred to school district Committees on Special Education.
6. Foster children should receive continuity of all school services when transferred to a new school.
7. Foster children's school needs should override conflicts regarding confidentiality of records.
8. Foster children should have at least one adult who routinely participates in educational planning and school conferences regarding the child.
9. Foster children who are adolescents should receive services that facilitate their transition to adult living and adult services.
10. Foster children should have collaboration among all systems and individuals to ensure communication, good record keeping and individualized planning.



## *Conclusion*

**T**he innovations created and seeded by the Commission have supported meaningful change in local court and child welfare practice and grown lasting community partnerships to improve outcomes for children. These local efforts have since sprouted systemic reform and multidisciplinary collaboration throughout New York State and nationwide. We hope that our accomplishments will continue and expand through the efforts of local, regional, statewide and national stakeholders to improve the lives and life chances for all children affected by our court system.



## *Commission Publications*

***Seize the Promise of Early Intervention for the Abused and Neglected***, Early Childhood Report, April 2005

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***Education Matters: Addressing the Educational Needs of Children in Foster Care***. (2004)

***Ensuring the Healthy Development of Infants in Foster Children: A Guide for Judges, Advocates and Child Welfare Professionals*** (2004)

***Building a Pathway to Well-Being: The Story of the Healthy Development Checklist for Children in Foster Care***, Zero to Three Bulletin, vol. 22, number 5, April-May 2002

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## *Commission Members*

**Judith S. Kaye**

*Chair, Chief Judge of the State of New York*

**Richard Bartlett**

*Attorney, Bartlett, Pontiff, Steward, Rhodes & Judge, Glens Falls, NY*

**Steven Blatt**

*Director, ENHANCE Services for Children in Foster Care, SUNY Health Science Center, Syracuse, NY*

**Larry Brown**

*Deputy Commissioner of Development and Preventive Services, Office of Children and Family Services, Albany, NY*

**Sheryl-Brown Graves**

*Chairperson, Department of Educational Foundations, Hunter College, New York, NY*

**Geoffrey Canada**

*Director, Rheedlen Centers for Children and Families, New York, NY*

**Lizette Cantres**

*Attorney, Larchmont, NY*

**Michael I. Cohen**

*Pediatrician and Retired Chairman, Department of Pediatrics, Montefiore Medical Center, Bronx, NY*

**Joan O. Cooney**

*Supervising Family Court Judge, Ninth Judicial District, White Plains, NY*

**Monica Drinane**

*Family Court Judge, Bronx Family Court, Bronx, NY*

**Nancy Dubler**

*Director, Division of Legal and Ethical Issues in Health Care, Montefiore Medical Center, Bronx, NY*

**Lee Elkins**

*Family Court Judge, Kings County Family Court, Brooklyn, NY*

**Michael Gage**

*former Administrative Judge, New York City Family Court, New York, NY*

**Richard N. Gottfried**

*Chair, New York Assembly Standing Committee on Health, Albany, NY*

**Mary. F. Kelly**

*Attorney, Kelly and Knaplund, White Plains, NY*

**Susan Knipps**

*Supervising Family Court Judge, New York City Family Court, New York, NY*

**Jane Knitzer**

*Director, National Center for Children in Poverty, New York, NY*

**Joseph M. Lauria**

*Administrative Judge, New York City Family Court, New York, NY*

**Ian G. MacDonald**

*County Attorney, Dutchess County, New York, Poughkeepsie, NY*

**Sondra Miller**

*Appellate Justice, Appellate Division, Second Department, White Plains, NY*

**Elba Montalvo**

*Executive Director, Committee for Hispanic Children and Families, New York, NY*

**Nicolette Pach**

*Retired Family Court Judge, Suffolk County Family Court, Central Islip, NY*

**Jim Purcell**

*Executive Director, Council of Family and Child Caring Agencies, New York, NY*

**Mary Lou Rath**

*New York State Senator, Albany, NY*

**Clark Richardson**

*Supervising Family Court Judge, Bronx Family Court, Bronx, NY*

**William Scarborough**

*Chair, New York State Assembly Committee on Children & Families, Albany, NY*

**Anthony Sciolino**

*Family Court Judge, Monroe County Family Court, Rochester, NY*

**Charles Sims**

*Attorney, Proskauer Rose, LLP., New York, NY*

**Jane Spinak**

*Professor, Columbia University Law School, New York, NY*

**Alana Sweeney**

*Executive Director, New York State Council on Children and Families, Albany, NY*

**Sharon Townsend**

*Administrative Judge, Eighth Judicial District, Buffalo, NY*

**Michael Weiner**

*Commissioner, Erie County Department of Social Services, Buffalo, NY*

**Lucia Whisenand**

*Attorney, Lucia Beadel Whisenand, P.C., Syracuse, NY,*

**Additional Working Group Members**

---

Deborah Abramson	Stephanie Gendell	Ron Pawelczak
Dorothy Alicea	Virginia Gippetti	Gayle Roberts
Karen Carroll	Cynthia Godsoe	Loretta Rodriguez-
Susan Chinitz	Rafael Gomez-Vidal	Lagonia
Herbert Cohen	Henry Greenberg	Theresa Ross
Janice Chisola	Dorothy Henderson	Nellie Valez
Michele Cortese	Elysa Hyman	Darlene Ward
Kathleen DeCataldo	Katherine Locker	Amanda White
Barbara DeMayo	Andrew Mezey	Frank Woods
Sherlyn Frank	Karen Norlander	
Jan Fink	Molly Nozyce	

**Staff**

---

Sheryl Dicker	Executive Director
Azra Farrell	Deputy Director
Trista Borra	Court Improvement Projects Coordinator
Rob Conlon	Special Projects Director
Judith Gerber	Education Consultant
Elysa Gordon	Senior Policy Analyst
Diane Lloyd	Administrative Assistant, Children's Centers Program
Christina Recine	Administrative Assistant
Carol Roberts	Children's Centers Program Director
Renée Smalling	Early Childhood Specialist



## *Index to the Acronyms*

**W**e recognize that the abbreviations commonly used “in the field” can be confusing, and therefore offer this brief index of terms appearing in this report.

**ACS** — Administration for Children’s Services  
New York City agency charged with ensuring the safety, permanency and well-being of the children in or at risk of placement.

**ASFA** — Adoption and Safe Families Act  
Public Law 105-89 was enacted in November 1997 to promote safety, permanence and well-being for children who have been alleged or determined to be abused and/or neglected. It both provides incentives for states to change policies and practices to better promote children’s permanency options and establishes expedited timeframes for placing children in permanent homes.

**CAPTA** — Child Abuse Prevention and Treatment Act  
Public Law 108-36 was enacted in 1974 and has been the key federal legislation to support states and communities in their efforts to prevent, identify, and address child abuse and neglect. The Keeping Children and Families Safe Act of 2003 amends and extends CAPTA’s original goal of child safety to focus on child well-being and permanency. Among its provisions, the new law requires states to establish referral mechanisms to the EI program for children under age three involved in substantiated abuse and neglect cases.

**CASA** — Court Appointed Special Advocates  
Trained volunteers appointed by Judges to assist the court concerning the best interests of abused and neglected children.

**CFSR** — Child and Family Services Review  
United States Department of Health and Human Services review to ensure that State child welfare agency practice is in conformity with federal child welfare requirements.

**CIP** — Court Improvement Project

Funding provided by Congress to the highest court of each state to assess and improve foster care, termination of parental rights and adoption proceedings.

**DSS** — Department of Social Services

County-based government agencies charged with ensuring the health, safety and protection of vulnerable adults and children.

**EI** — Early Intervention Program

Statewide comprehensive, coordinated, multidisciplinary system of rehabilitative services, for children under age three experiencing developmental delays or a physical or mental condition with a high probability of resulting in delay.

**EPSDT** — Early, Periodic, Screening, Diagnosis and Treatment Services

Comprehensive and preventive child health program including periodic screening, vision, dental and hearing services, and any medically necessary physical or mental health services, for individuals under age 21 receiving Medicaid.

**IDEA** — Individuals with Disabilities Education Act

Public Law 108-446 federal special law to assist states in assuring that each child with a disability receives a free appropriate public education.

**JCATS** — Juvenile Case Activity Tracking System

Child-specific data system that tracks all aspects of a case from filing of original petition to final permanency decisions.

**MSW** — Masters in Social Work

Advanced degree in the studies of human growth and development, social policies and programs, methods of practice and social research.

**OCFS** — New York State Office of Children and Family Services

State agency that oversees programs related to child welfare, child care and youth services. Provides oversight of municipalities to encourage the provision of adequate youth development services and programs at the local level.

**Title IV-E** — Subpart of Federal Social Security Act

This federal program provides reimbursement to states for the costs of children placed in foster homes or other types of out-of-home care under a court order or voluntary placement agreement.

